

# Exhibit H



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DEPOSITION OF  
WILLIAM "BILL" COOPER  
TAKEN ON  
WEDNESDAY, OCTOBER 2, 2024  
9:25 A.M.

THE REPORTER: Please raise your right hand.

Do you swear or affirm you shall tell the truth, the whole truth, and nothing but the truth in this matter?

THE DEPONENT: I do.

THE REPORTER: Thank you.

MS. BROYLES: Can you -- I'm sorry?

THE REPORTER: Appearances.

MS. BROYLES: Oh, appearances. I'm sorry. Jordan Broyles on behalf of the defendant.

MR. CUSICK: John Cusick, at the law firm of NAACP Legal Defense Fund, on behalf of the plaintiffs, along with my colleague, Leah Aden. And our co-counsel from the law firm of O'Melveny, Matthew Goldstein, is joining via Zoom. And his colleague, Michael Pierce, might also be making an appearance, as well.

MS. BROYLES: I should add, I think the

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only person in addition to me that's on the Zoom is Dylan Jacobs for the defendant. I don't -- there may be others, but they're not going to --

THE REPORTER: Okay.

MS. BROYLES: -- talk.

WILLIAM COOPER, having been first duly affirmed to tell the truth, was examined, and testified as follows:

EXAMINATION

BY MS. BROYLES:

Q. Can you please state your name for the record.

A. William Sexton Cooper.

Q. Mr. Cooper -- is that okay if I call you Mr. Cooper?

A. Call me Bill. I mean --

Q. Okay.

A. -- anything works.

Q. You've given a lot of depositions; is that correct?

A. I have over the years. I guess you would say a lot, yeah.

Q. Just to kind of cover some ground rules just very quickly. We're kind of sitting at a little bit of an interview kind of setting here.

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A. Yeah. It's like I'm applying to work at the General Assembly or something -- I mean, the state legislature.

Q. But that said, you know, if you need to take a break, need any documents, I'll hand them to you. If there's something that you don't have that you need, we can take a break and figure that out. Did you bring anything with you today?

A. Well, I have a cell phone in my pocket, but beyond that, nothing.

Q. I -- this is the first redistricting case that I have worked on, and so it is likely that I will ask a number of odd questions, or at least probably say something the wrong way. If the -- if there's a term of art or something to that degree that needs to be corrected in my question, just let me know, and I'll do that. I may have you explain a couple terms to me. But overall, I think it will be -- we'll just be here for a while to get through all of your documents, okay?

A. Okay.

Q. I'm handing you what I've marked as Exhibit Number 1 to your deposition, which is your Notice of Deposition.

(WHEREUPON, Exhibit 1 was marked for

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identification.)

THE DEPONENT: Yes.

BY MS. BROYLES:

Q. Have you seen that document before?

A. I did see it about a week ago, I believe. I mean, I've not looked at -- I mean, I assume it's the same document.

Q. Yeah. I think so.

A. Yeah.

Q. Should be. I've only seen one, but the -- the date on there is actually for when we were going to take your deposition last week. Everything else being the same, just for avoiding duplicative purposes. Obviously, we're here today on the 2nd of October, but otherwise, everything is the same. And you stated that you don't have any documents here with you today?

A. No. I mean, there's a cell phone in my pocket, but I -- I have no documents, per se, and -- but I'm just here, hands free.

Q. Okay. Do you -- I did not have a chance or -- to print a second copy of your report and things of that sort. I'm going to be asking a bunch of questions about that. Are you going to need a copy of your report in order to walk through the

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1 deposition with me today?

2 A. Well, I could access it off of my cell  
3 phone. So I -- I actually would have a copy if I  
4 could refer my cell phone.

5 Q. I'm not sure how productive that will be.  
6 We can keep going if someone can print a copy for  
7 him as we go forward. I think it will speed things  
8 up some, but if y'all don't mind doing that.

9 A. I -- I can go through my cell phone pretty  
10 quickly, though. I mean, it's almost faster than  
11 working off of a -- of a paper document. I have the  
12 cell phone kind of up to my face, and lower my  
13 glasses so I can see it better. But I mean, I can  
14 find the pages real fast.

15 Q. Well, we're going to be switching  
16 documents back and forth between the different  
17 reports, and --

18 A. Uh-huh.

19 Q. So if -- if they want you to use your  
20 phone, that's fine, or if they want to print it. I  
21 just don't have another copy for you. And so if it  
22 gets to a point that you want a copy, we'll have to  
23 stop and just have one done.

24 MR. CUSICK: If it's easier, we'll send an  
25 e-mail, right now, to Matthew here. Is there -- are

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1 there any other document -- besides his rebuttal and  
2 the original report, anything else that would be --

3 MS. BROYLES: I don't believe so at this  
4 time. I mean, does that include the exhibits, as  
5 well?

6 MR. CUSICK: Yes. I'll ask to --  
7 basically all the exhibits from both the original  
8 and the rebuttal.

9 MS. BROYLES: Okay.

10 THE DEPONENT: That -- that's the one  
11 thing I don't really have in an organized fashion on  
12 my cell -- on my cell phone. I just have the -- the  
13 declaration and not -- not the exhibits organized.

14 MS. BROYLES: And I know we're actually  
15 sitting by each other, but you're a little soft-  
16 spoken. If you could speak up just a little bit for  
17 me. My colleagues have been kind of laughing for  
18 whatever reason. My hearing has completely been  
19 depleted.

20 It's probably my AirPods. But  
21 nonetheless, I'm just -- I can't -- or I'm stuffed  
22 up, one of the two. But in any event, it sounds  
23 like your counsel is going to go ahead and have that  
24 printed, so we'll have it for you to review --

25 THE DEPONENT: Sure.

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1 MS. BROYLES: -- as may be necessary.

2 Next, I'm handing you what is titled William S.  
3 Cooper's Responses and Objections to Defendant's  
4 Notice of Deposition of William S. Cooper and  
5 Request for Production of Documents.

6 (WHEREUPON, Exhibit 2 was marked for  
7 identification.)

8 BY MS. BROYLES:

9 Q. And have you seen this document before?

10 A. My lawyers prepared this document.

11 Q. Okay.

12 A. I think.

13 Q. And by your lawyers -- who are you  
14 defining as your lawyers?

15 A. Well, the attorneys for the plaintiffs in  
16 this lawsuit.

17 Q. You are retained by them as a expert  
18 witness, correct?

19 A. Right.

20 Q. So did you have any other lawyer review  
21 any documents or provide you any assistance in your  
22 opinions, other than counsel for --

23 A. No.

24 Q. -- the plaintiffs?

25 A. No.

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1 Q. Okay. I just want to flip through this.

2 Did you review it in advance of your deposition and  
3 -- to the extent that you kind of are familiar with  
4 the contents of it?

5 A. I reviewed the original request for  
6 production and was aware that they were preparing  
7 some sort of a response. I've not actually read,  
8 word-for-word, this -- this particular document.

9 Q. Okay.

10 A. I'm sure I agree with it.

11 Q. Sure.

12 A. I've -- I've never had to produce  
13 documents for a deposition, that I'm aware, of ever  
14 -- in any deposition I've ever had.

15 Q. Wow. Okay. So just kind of starting  
16 there on Page 1, it states in there that you reserve  
17 the right to modify, amend, correct, or supplement  
18 or clarify your responses and objections if any  
19 additional information or documents come to light.  
20 Is there anything, at this point, that you feel that  
21 you need to complete your opinions in this case?

22 A. Well, things could happen that would -- as  
23 the attorneys have suggested, might require some  
24 response from me.

25 Q. If that occurs, would you agree to let

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1 plaintiff's counsel know, so that we can discuss  
 2 that and take any steps that may be necessary?  
 3 A. Yes.  
 4 Q. Would you agree, then, as well, that it  
 5 would be fair, for the same reasons, that Mr. Bryan  
 6 may need to supplement in the event that you also  
 7 supplement your report?  
 8 A. Not necessarily.  
 9 MR. CUSICK: Objection as to form.  
 10 THE DEPONENT: Not necessarily. That's --  
 11 that's something that I would leave up to the  
 12 attorneys, so I have no opinion on it one way or the  
 13 other.  
 14 BY MS. BROYLES:  
 15 Q. Okay. I'm going to turn now to Request  
 16 for Production number 1. It asked for your complete  
 17 file in this case, as far as all the documents that  
 18 you reviewed. Why did you not provide that  
 19 information?  
 20 A. Well, I believe it's attorney-expert  
 21 privilege. I -- I've never had to turn over  
 22 anything I've produced to the other side, except in  
 23 one unusual case in San Juan County, Utah, back in  
 24 the mid-2010s. And that was not before a  
 25 deposition. That was some other kind of a request.

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1 It really didn't have a lot to do with me, anyway.  
 2 It just -- they were just asking for everything. And  
 3 the attorneys, for whatever reason, asked us to give  
 4 stuff up.  
 5 Q. Have you taken any or made any record or  
 6 notes regarding how -- how many hours you've spent  
 7 in this case?  
 8 A. Yes.  
 9 Q. Okay. That was requested, and so I'm  
 10 wondering why that wasn't produced.  
 11 A. Well, it's -- it's kind of an -- an  
 12 informal accounting, but it's well over 70 hours in  
 13 this case.  
 14 Q. How do you keep track of your hours?  
 15 A. On an Excel spreadsheet.  
 16 Q. And do you -- how do you account -- I  
 17 mean, how do you do your kind of line item entries?  
 18 A. Well, it -- it's just the -- I put down  
 19 roughly the amount of time I spent, for a given day,  
 20 on a particular piece of the case.  
 21 Q. Have you submitted any bills or invoices  
 22 in this case?  
 23 A. I have not.  
 24 Q. What is the -- if it -- your 70 hours,  
 25 what is your billable rate?

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1 A. \$170 per hour. I don't charge for travel  
 2 time, so that's it.  
 3 Q. Are you paid on a retainer, and then your  
 4 hourly rate is charged against that?  
 5 A. No -- no. I just send a bill.  
 6 Q. So I'm not good at fast math, but if  
 7 you've spent over 70 hours -- how many more than 70,  
 8 do you think?  
 9 A. I mean, it -- it could be approaching 100,  
 10 but I just have not tallied it up. And may -- I may  
 11 clarify some of my entries.  
 12 Q. But for every hour spent, your rate will  
 13 be \$170?  
 14 A. Right.  
 15 Q. What about any notes that you have taken  
 16 as it relates to this case? Do you have any notes,  
 17 handwritten or typed, outside of your reports, that  
 18 regard the issues in this case?  
 19 A. No. I never take notes. Unless it's just  
 20 something really trivial, and I might put it on a  
 21 piece of paper, which I subsequently lose.  
 22 Q. With respect to any documents as it  
 23 relates to diagrams, data compilations, test  
 24 results, and reports, are there any such materials  
 25 that you used or relied upon in forming your

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1 opinions that were not included with the reports  
 2 that were produced in this case?  
 3 A. Which item is this?  
 4 Q. I'm still on number 1.  
 5 A. Oh, still on number 1.  
 6 MR. CUSICK: Just to the extent that that  
 7 question falls into any work product, I would  
 8 instruct Mr. Cooper not to answer on that front. But  
 9 otherwise, feel free to answer.  
 10 MS. BROYLES: What work product? Whose  
 11 work product?  
 12 THE DEPONENT: Well, could you repeat the  
 13 question.  
 14 BY MS. BROYLES:  
 15 Q. Yes. So the Request for Production number  
 16 1 seeks your file, including documents, office  
 17 records, notes, correspondence, e-mails, memos,  
 18 bills, diagrams, data compilations, test results,  
 19 and reports that you have --  
 20 A. What page are you on?  
 21 Q. Number 3.  
 22 A. You're on Page 3?  
 23 Q. Yeah. We're on Request number 1.  
 24 A. Okay -- okay. I'm sorry. I was still on  
 25 2. So what -- what I know -- my understanding is I



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1 don't need to give those to you. In fact, I --  
2 really, a lot of stuff, you know, you listed here,  
3 like diagrams and test results and notes and  
4 correspondence, that I just don't have. I mean,  
5 other than, you know, the draft I worked on.

6 **Q. Would all of that information as far as**  
7 **diagrams, bills, data, et cetera be contained in the**  
8 **reports that were produced, or are there other data**  
9 **compilations and things of that nature that you have**  
10 **in your possession, not produced, that you relied**  
11 **upon?**

12 A. Well, I think that, for -- for the most  
13 part, would cover everything. I'm not really --  
14 again, this is all new to me. I've never -- never  
15 had to respond to requests like this. And I'm not  
16 very organized, so I don't have, like, one file, you  
17 know, in a neat little box somewhere that directly  
18 relates to this case.

19 **Q. Do you have any -- have you reviewed any**  
20 **deposition testimony in this case?**

21 A. No, I have not.

22 **Q. Were you provided any deposition**  
23 **transcripts for the witnesses who have been deposed**  
24 **in this case?**

25 A. No, I have not been provided with that.

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1 **Q. What about photographs, videotapes, or**  
2 **slides related to this cause of action? Have you**  
3 **reviewed any of those types of materials?**

4 A. I did see a -- a PowerPoint slide that was  
5 given to me by the attorneys that showed the factors  
6 or considerations which the -- the legislature might  
7 take into account as they're doing the  
8 redistricting. And it was prepared by the -- I  
9 don't know if -- I'm -- I'm not sure what agency.  
10 Maybe by the Office of the Secretary of State,  
11 perhaps.

12 **Q. But you didn't read any deposition**  
13 **testimony as it --**

14 A. No.

15 **Q. -- related to that document?**

16 A. Oh, no -- no. It's just a -- I mean, I'm --  
17 - I assume that it might even be available on -- on  
18 the website somewhere. I -- but I didn't see it  
19 until the attorneys gave it to me.

20 **Q. But you don't have a copy of it, as you**  
21 **sit here today?**

22 A. No, I don't. I'm not -- I do not have a  
23 copy of it. But it's -- it's something that was put  
24 together for the purposes of the legislature to  
25 review, as they were in the process of

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1 redistricting.

2 **Q. And --**

3 A. Just a very simple table showing things  
4 you would want to consider, like one person, would  
5 vote, that sort of thing.

6 **Q. How do you know that?**

7 A. Because I saw the PowerPoint several weeks  
8 ago. I don't really remember all the items on it,  
9 but they appeared to be just general points that one  
10 might take into consideration as you're drawing a  
11 redistricting plan. It's not referenced in my  
12 report at all.

13 **Q. Right. That's why I'm asking --**

14 A. Yeah.

15 **Q. -- the materials you reviewed that aren't**  
16 **referenced in your report.**

17 A. Yeah. Well, that would be one that I  
18 looked at, but I spent no time on it at all.

19 **Q. Did you rely upon that in any way in**  
20 **forming your opinions in this case?**

21 A. No, because it was very -- very general,  
22 and basically the kind of thing that I would  
23 normally take into account as I'm drawing butting  
24 plans.

25 **Q. Have you ever been to Arkansas?**

Page 21

1 A. I have.

2 **Q. Where have you traveled to in Arkansas?**

3 A. Well, in my youth, so to speak, I -- I  
4 made several trips through Arkansas. Always seemed  
5 to be on the interstate heading to Texas or Mexico,  
6 so I didn't get to know the state that -- very well.  
7 But I was also involved in a judicial  
8 lawsuit, as you may be aware, in the late 2010s and  
9 even in the 2020s. And so I -- I had a chance to  
10 get a really good look at Arkansas when I came out  
11 to the trial in the spring of 2022.

12 So I -- I drove through the Delta, and  
13 then up to Little Rock for the trial, and then  
14 further west in the state. And I saw parts of the  
15 Ozarks and -- and, you know, I visited Saint --  
16 Petite Jean State Park, and --

17 **Q. Petite Jean?**

18 A. Yeah. I don't know -- I -- if that's --  
19 yeah, I'm not -- no hablo Frances. But anyway --  
20 and -- and then I took a couple of hikes at -- what  
21 is it? Radio Mountain or something like that,  
22 Antenna Mountain, further -- further east. It's a  
23 famous -- further west towards -- towards the  
24 Oklahoma line. It's in the Ouachita range. Nice  
25 hiking there, very -- very pretty. It was in the

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1 early spring. So I -- I did see a bit -- a good bit  
2 of the state at that point.

3 **Q. Did you conduct any interviews or, as you**  
4 **drove through the state, make any assessments or**  
5 **analysis about the state that you've incorporated**  
6 **into your report as far as background knowledge or**  
7 **things of that sort?**

8 A. Not -- not exactly, but it did make me a  
9 little bit more aware of where things changed from  
10 the Delta to Crowley Ridge and then all up into the  
11 Ozarks. And I did spend one evening in Mountain  
12 Home. So I saw, you know, the area there, right  
13 along the Missouri line.

14 Unfortunately, I had to get back to do  
15 other the redistricting work because I would have  
16 liked to spend some more time. It's very a pretty  
17 state. I really enjoyed the area west of -- of  
18 Little Rock, going over towards Petite Jean State  
19 Park.

20 Reminds me a lot of the Shenandoah Valley  
21 in Virginia. So it's -- it's I was very surprised  
22 at that. I didn't realize it was -- I -- I was  
23 expecting kind of the more rugged kind of landscape  
24 that I saw as I was going up towards Mountain Home,  
25 which is more like driving through East Kentucky or

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1 something.

2 **Q. Did -- where -- the trial that you**  
3 **attended -- you said there was one or two occasions**  
4 **that you've been to Arkansas?**

5 A. Well, I've been -- I've been in Arkansas  
6 probably --

7 **Q. I'm sorry, for -- for expert work.**

8 A. Oh, no. That's the only time I've worked  
9 on a -- a case in -- as an expert in Arkansas.

10 **Q. And --**

11 A. And that a judicial case.

12 **Q. And that case was in -- excuse me, Little**  
13 **Rock?**

14 A. The trial was in Little Rock.

15 **Q. And I'm not sure if I got this covered,**  
16 **but did you look at any photos, videos, or anything**  
17 **else, other than the slides that you mentioned, in**  
18 **forming your opinions in this case?**

19 A. No, I don't think so.

20 **Q. Going over to Page 4, it requests all**  
21 **documents containing facts or data considered by you**  
22 **in forming your opinions, any other materials that**  
23 **you reviewed: slides, things of that sort, that you**  
24 **used to gain background knowledge in this case.**

25 A. I mean, I -- I've looked at things, like

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1 the Encyclopedia of -- of Arkansas, and I've looked  
2 at maybe some websites that have historical  
3 information. I spent some time walking around  
4 Helena on the -- my trip out here, so I -- I learned  
5 a few things about Phillips County, and -- and so,  
6 you know, you can add that in. I have, you know,  
7 that kind of background knowledge.

8 I grew up in the South, so I understand  
9 the importance -- and certainly knew about the  
10 Little Rock Nine, not as a -- not while -- not while  
11 -- I was aware of it, but I learned about it later.  
12 So, you know, I have a basic knowledge of -- of the  
13 state, as -- as one would if you grew up in the  
14 South and were cognizant in the 1990s. When the  
15 Clinton family was in Washington, DC, you always  
16 heard a lot about Arkansas.

17 **Q. The next one is for all documents that**  
18 **you've reviewed in preparation for the deposition.**  
19 **So have you reviewed any discovery responses of any**  
20 **party?**

21 A. No.

22 **Q. Have you been provided any?**

23 A. No, I don't think so.

24 **Q. What about any pleadings? As far as the**  
25 **complaints filed or motion, any other legal papers**

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1 **that you've reviewed?**

2 A. Well, I -- I did review the complaint.  
3 There's a website now called the American  
4 Redistricting Project set up by the Republican  
5 Party. And there's also one -- I think it is sort  
6 of a Democratic Party connections.

7 And both of those sites publish a lot of  
8 the material that is generated during the course of  
9 a lawsuit, so I did see the complaint. And I may  
10 have seen something else along the line. But I  
11 think, really -- the only thing I really recall  
12 looking at very carefully would have been the  
13 complaint itself.

14 **Q. Did you review the amended complaint?**

15 A. I may have read the amended complaint  
16 instead of the original complaint. I don't recall.

17 **Q. With respect to text publications,**  
18 **articles, reports, experimental data, or other that**  
19 **you relied upon, would all of those different**  
20 **document types be referenced in your report as far**  
21 **as what would have been reviewed to form your**  
22 **opinions?**

23 A. I think so, yes. I mean, I -- again, the  
24 fact that I looked at the Encyclopedia of Arkansas  
25 is not -- maybe not referenced in that. I don't



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1 know, but that -- I was not, like, directly copying  
2 something from the Encyclopedia of Arkansas. Just  
3 general knowledge that probably -- I mean, it's  
4 quite good and very detailed.

5 So some people in Arkansas probably  
6 wouldn't know about some of the things in the  
7 Encyclopedia of Arkansas. And I haven't read it all  
8 the way through. I've just glanced at certain  
9 things. But I didn't rely on that from my for my  
10 declarations. Just background information.

11 **Q. We were provided, I believe as Exhibit A,**  
12 **a copy of your most recent CV. Is that your -- is**  
13 **that correct?**

14 A. Yeah. I will go back and mention that I  
15 did see a -- an award-winning documentary that was,  
16 I think, released last year, maybe called The Barber  
17 of Little Rock. I think that's the title. And I  
18 saw another NPR or Arkansas Public Radio documentary  
19 on Little Rock and how it was being renovated in the  
20 2000s, certain areas -- certain neighborhoods, as  
21 well as some historical background about what it was  
22 like in the late 1800s, and then on into the present  
23 day.

24 **Q. But --**

25 A. So I -- I -- there was not -- it's not

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1 directly included anything with my report.

2 **Q. The Request for Production number 6 also**  
3 **asked for all publications authored in the previous**  
4 **ten years. The response states that you have not**  
5 **authored any such publications; is that true?**

6 A. That's true. I never -- I've never  
7 attempted to have anything published.

8 **Q. Have you --**

9 A. And never been refused.

10 **Q. Have you -- so you've never authored any**  
11 **article, book chapter -- any kind of literature, so**  
12 **to speak, on redistricting?**

13 A. No. I -- I mean, if you go back further  
14 than ten years, I had a -- a newspaper article or  
15 two published that had nothing to do with  
16 redistricting it had to do with anti-hunger efforts  
17 I was involved in in Virginia in the late '80s. But  
18 beyond that, nothing.

19 **Q. What about any presentations that you've**  
20 **given on redistricting? Do you give presentations**  
21 **or speak on behalf of redistricting at any**  
22 **conferences or things of that sort?**

23 A. Very rarely. I hate doing it because I'm  
24 a really bad public speaker. But I -- I -- the most  
25 recent one would have been a -- a session in Salt

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1 Lake City, sponsored by a number of -- of the  
2 indigenous tribal nations in, not just Utah, but  
3 also in South Dakota -- other parts of Rocky  
4 Mountain West.

5 So I -- I just gave a short presentation  
6 on census data and ways you could maybe use that  
7 data by using something like Dave's redistricting.  
8 In other words, a free way to get to draw your own  
9 voting plan. I think that's what my presentation  
10 was about.

11 **Q. When was that presentation?**

12 A. It was almost exactly five years ago.  
13 Would have been late September of 2019. The aspen  
14 in Utah were gorgeous.

15 **Q. Have you been asked, but declined to speak**  
16 **at any events in the past ten years?**

17 A. I'm -- I'm sure I have, but I can't really  
18 think of specific ones that I've declined.

19 **Q. Are you a member of any associations --**  
20 **professional associations?**

21 A. No.

22 **Q. Are you a member of any professional**  
23 **organizations or anything -- groups? I'm, you know,**  
24 **I'm trying to kind of be broad, but any kind of**  
25 **group that studies or kind of collectively discusses**

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1 **redistricting?**

2 A. No -- no, I -- I would -- that would be  
3 horrible. You'd have to be doing this sort of as a  
4 form of employment, and then become, also, a member  
5 of some organization, which, just for fun, discusses  
6 redistricting, so no.

7 **Q. Is there any literature or publication**  
8 **that you follow regularly to keep abreast of**  
9 **redistricting issues in the country?**

10 A. Well, I typically read to Washington Post  
11 on a -- pretty much a daily basis. I do see -- like  
12 -- like I said, I follow the websites, The American  
13 Redistricting Project, and Democracy Docket, so I  
14 get news that way every day. American Redistricting  
15 Project puts up all the cases that have had some  
16 activity for the prior day or the prior week, so  
17 it's a great place to get that information.

18 **Q. Is that information peer-reviewed or**  
19 **published for the purpose of establishing a standard**  
20 **in any way?**

21 A. Oh, no. It's just -- it's just providing  
22 details on all active voting rights cases  
23 nationwide. So if you go to American Redistricting  
24 Project and go to their litigation page, today -- I  
25 haven't looked at it today. You will see, maybe, a

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1 case in Washington State that's had some activity or  
2 a state in -- or -- or a case in Texas.

3 And they'll have the -- they'll have the  
4 document itself posted to the website and you -- or  
5 -- and you can go review it. Great resource for  
6 someone like me. I'm not a lawyer, so I just don't  
7 have a way to get access to that.

8 **Q. The next one is Request for Production**  
9 **number 7 that asks for demonstrative evidence and**  
10 **exhibits that you plan to use in this case. Is all**  
11 **such information referenced or otherwise**  
12 **incorporated in your report?**

13 A. Well -- well, yeah. I -- I don't know  
14 what the pretrial disclosure deadline date is, but  
15 everything I've done is in my declaration and in the  
16 exhibits. So beyond that, other than -- I mean,  
17 that -- that's it. I just -- I just filed the  
18 report and -- and their declarations there, and  
19 responded to Mr. Bryan's declaration.

20 **Q. Have you had any conversations with other**  
21 **experts disclosed in this case: Lou, Birch, and**  
22 **Smith --**

23 A. No.

24 **Q. -- about your opinions?**

25 A. No. I never do that, ever.

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1 **Q. Have you reviewed their reports?**

2 A. I have not -- I don't look at their  
3 reports, either, although -- well, in some cases,  
4 you might be able to get some of those reports on  
5 the Democracy Docket website or on the American  
6 Redistricting Project website. But I've not looked  
7 at any reports filed in Arkansas.

8 **Q. Do you know any of those individuals?**

9 A. I've met Dr. Lou.

10 **Q. Do you work on -- I'm sorry. Did I cut**  
11 **you off?**

12 A. Well, no. I -- I've just gotten to know  
13 Dr. Lou over the years. We've worked on different  
14 cases, so I've -- I've gotten to know him and -- but  
15 -- but we've not really talked specifically about  
16 this case at all in any kind of general way.

17 **Q. Do you -- has anyone communicated to you**  
18 **that any of the testimony any of the other plaintiff**  
19 **experts have given in this case?**

20 A. No, I'm not aware of the testimony at all.

21 **Q. Do you have any contracts that you've**  
22 **signed or agreements between yourself and plaintiffs**  
23 **themselves individually, or a firm in connection**  
24 **with your --**

25 A. With the plaintiffs --

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1 **Q. Yeah.**

2 A. -- or the plaintiffs' attorneys?

3 **Q. Either the plaintiffs individually, or the**  
4 **-- the law firm representing them.**

5 A. Well, I've signed a retainer agreement  
6 with LDF that goes back maybe -- I -- I'm not sure  
7 if the law firm was involved. I mean, that was some  
8 time ago, when I -- when I signed that retainer. I  
9 don't remember exactly.

10 **Q. When would that have been?**

11 A. Well, I think it probably would have been  
12 in -- it might have been in 2024, in early 2024.  
13 Might have been in 2023. Probably was in 2023.

14 **Q. What is LDF?**

15 A. Legal Defense Fund.

16 **Q. And is that the -- a firm that you**  
17 **frequently are retained by to provide expert**  
18 **testimony?**

19 A. Well, yes. I mean, it's -- it's the --  
20 the fund that -- the firm that both of the attorneys  
21 here today are -- are associated with. It's NAACP  
22 LDF, so I -- I've worked on a number of cases with  
23 them, but not exclusively with them. I've done lots  
24 of other cases.

25 **Q. And how many other cases have you worked**

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1 **with the firms representing the plaintiff and the**  
2 **plaintiffs in this case?**

3 A. Oh. I -- I mean, I -- I didn't really  
4 start working for LDF until the early 2010s. I  
5 think the first -- well, I think the first case  
6 would have been involving Fayette County, Georgia  
7 around 2011. And so I've done some cases -- quite a  
8 number. I haven't really counted them up, since  
9 then, with LDF.

10 **Q. When you ultimately do submit an invoice**  
11 **in this case to be paid for your time, who does that**  
12 **invoice go to?**

13 A. I would send it to either Leah or John,  
14 probably, initially. I'm not sure of the endpoint.

15 **Q. Are the checks that you typically receive**  
16 **-- or payments that you receive from LDF or -- as it**  
17 **relates to -- or -- or under the conditions of your**  
18 **contract with them, or -- where does your -- where**  
19 **does the money come from?**

20 A. I'm not sure. I mean, I have gotten  
21 checks directly from LDF, and I've other -- I've --  
22 other times have gotten checks from a cooperating  
23 private law firm. I think that's correct.  
24 Certainly, when I'm working on cases for the ACLU,  
25 sometimes I get the check from ACLU, and sometimes

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1 from a cooperating law firm. And I know for a fact,  
2 I did get -- I have gotten cooperating law firm  
3 checks for LDF related cases.

4 Q. Have you had ever been paid above what  
5 your billed amount was?

6 A. No.

7 Q. Is there any term in the agreement that,  
8 if the case is not successful, that you were not  
9 compensated?

10 A. No.

11 Q. Are there any terms that would say that,  
12 if it is successful, you'd be compensated in  
13 addition to your billed rate?

14 A. No.

15 Q. I believe your reports and also your CV  
16 that were -- that was incorporated outlined the  
17 cases that you've participated in over the years; is  
18 that accurate?

19 A. Yes, that's accurate. And those -- those  
20 are the ones that I remember. There may be some  
21 there in the '80s and '90s that I just -- you know,  
22 was -- was not involved with heavily, that don't  
23 show up on that listing. But it's pretty close.

24 Q. Have you ever testified on behalf of a  
25 state in a redistricting case in the sense that the

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1 -- I mean, typically the -- for the defendant or the  
2 respondent? If -- if termed in that way.

3 A. Well, I -- I have testified on behalf of a  
4 -- a defendant in a case -- in more than one case.  
5 At least in Alabama, I worked for the City of  
6 Decatur in a redistricting issue. That would have  
7 been in the 2010s.

8 Q. Was that in defense of a -- an adopted  
9 redistricting plan?

10 A. Yes.

11 Q. And you said that was 2010?

12 A. Well, the -- I think I signed on in that  
13 case in 2011, and finally completed sometime in the  
14 late teens, maybe even the 2020s. Most of my work,  
15 though, was in the first half of that decade.

16 Q. Any other cases where you have defended an  
17 enacted redistricting plan?

18 A. Yes. In 2021, I testified in federal --  
19 you know, in the Decatur case, I did not testify in  
20 court. But the case I'm going to mention, the  
21 Quincy Florida case with City Council, Quincy,  
22 Florida redistricting plan, I was their expert.

23 I didn't draw the plan, but I -- I helped  
24 defend the plan. And that was a preliminary  
25 injunction trial. The -- the Court ruled in our

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1 favor -- the City of Quincy's favor. And the  
2 defendants -- or the plaintiffs, rather, chose to  
3 just dismiss the case after the ruling.

4 Q. Have you ever been retained at the -- the  
5 state government level on behalf of a defendant that  
6 -- defending an enacted plan? Or only on the local  
7 level?

8 A. Well, in the late teens, I did serve as a  
9 consultant to the Governor Wolf intervenors in a  
10 state lawsuit filed regarding the -- regarding the  
11 Congressional plan in -- in Pennsylvania. And in  
12 that case, I -- I think he would have been the  
13 defendant, but I could be confused. I did -- I did  
14 not testify at trial, but I was retained and -- and  
15 worked for them and prepared maps, but --

16 Q. Were you disclosed as an expert, or were  
17 you a consulting expert, kind of assisting behind  
18 the scenes?

19 A. I'm not sure -- I'm not sure about that.  
20 I don't know if I was disclosed.

21 Q. Did you draft a report?

22 A. I don't think I that drafted a report.  
23 Did a lot of plans, but I -- I believe -- I -- I  
24 don't recall the exact set up, but I -- I do recall  
25 that some of my work was -- was incorporated into

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1 the final brief of the Governor Wolf intervenors.

2 Q. Are you currently acting as a -- I'm going  
3 to say disclosed expert witness? I -- I will have  
4 questions about this since kind of knowing a little  
5 more after what you just said. So it sounds like  
6 sometimes you may be a consultant to a client, where  
7 you are not necessarily disclosed as the expert on  
8 their behalf at trial or -- or deposition or  
9 whatever level of proceeding, but you are  
10 consulting, and so -- is that accurate?

11 A. Well, yeah, but that would be extremely  
12 rare. I mean, almost invariably, if I'm -- if I'm  
13 doing some sort of a -- a -- participating in some  
14 sort of legal action, I've been retained as an  
15 expert. I mean, I -- I recall the Pennsylvania  
16 issue where I was not, maybe, disclosed as an expert  
17 because I just don't remember, but I was retained.

18 And otherwise, I -- I'd be hard pressed to  
19 think of any situation where I was just serving as a  
20 consultant. If it was going to be a live case and  
21 was a live case, then I was hired as an expert.

22 Q. Are you employed?

23 A. Self-employed, yes.

24 Q. And what is the name of your employer?

25 A. Me.

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1 Q. Just your -- okay.

2 A. William S. -- yeah.

3 Q. I -- I didn't know if you had a LLC or  
4 anything.

5 A. No. I -- I'm very -- very informal.

6 Q. When was the last time that you were  
7 employed, other than self-employed?

8 A. It would have been in the mid '90s. For  
9 the first ten years or so that I was working on  
10 redistricting plans, I was employed by the American  
11 Civil Liberties of Virginia. And at the same time,  
12 working on redistricting plans all over the South.

13 By the early '90s, Virginia was pretty  
14 much done, so I was doing a lot of work for the  
15 Southern Regional office of the ACLU. And a lot of  
16 that was not just in the South, but also in the  
17 Rocky Mountain West with the indigenous -- the  
18 nations in Montana, South Dakota, Colorado,  
19 Nebraska, probably leading out of state with --  
20 well, Wyoming. So I -- I did a lot of work out  
21 there, as well, during that time frame.

22 Q. When did you graduate from Davidson?

23 A. 1975.

24 Q. Did you go work for the ACLU upon  
25 graduating?

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1 A. No -- no. I hopped in a car and went to  
2 work at Arby's Roast Beef on Minola Avenue in  
3 Albuquerque, New Mexico. I wasn't going out there  
4 with that in mind. That's just what popped up, so I  
5 just took that job.

6 Q. And so after Arby's -- I guess, when did  
7 you start working for ACLU?

8 A. Oh, that was -- that was in the late '80s.  
9 I -- I was actually working in that office in 1987  
10 to maybe -- well, even before that. Like, 1985 to  
11 around 1990 before I was an actual employee of the  
12 ACLU.

13 I was doing some volunteer work in '86, I  
14 think. I was -- I was working for another  
15 organization there on anti-hunger efforts and had  
16 shared an office with them. And they got involved  
17 -- "they" being the ACLU of Virginia -- involved in  
18 examining certain counties in the south -- south  
19 side Virginia, where the boards were all white, and  
20 the counties had significant black populations. And  
21 I helped them, just on a volunteer basis, in a  
22 couple of pretty straightforward lawsuits.

23 Beyond that, then, I started working with  
24 the ACLU, I think, around 1987 or '88 as a part-time  
25 employee, and once in 1991, and just kept my part-

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1 time job on anti-hunger and -- and -- but by 1991,  
2 it was just -- it was getting all consuming. And so  
3 I -- I eventually just resigned my position with  
4 Delmarva Rural Ministries organization I was working  
5 with, and just worked for the ACLU of Virginia for  
6 the next seven years.

7 And some of that also -- I mean, really,  
8 most of that work, after 1992 or so was strictly  
9 involving states like Georgia and South Carolina,  
10 North Carolina, all -- the Rocky Mountain area. The  
11 -- the Montana case I worked on lasted from like,  
12 1991 to 2001. I was involved in a state legislative  
13 case in Tennessee with the ACLU Southern Regional  
14 office.

15 So most of my work, really, from 1992 on,  
16 was through the ACLU Southern Regional office. And  
17 I did a lot of work at that time, also for Lawyers'  
18 Committee of -- for Civil Rights out of Washington,  
19 DC.

20 Q. The Lawyers' Committee?

21 A. Lawyers' Committee. Right.

22 Q. Were you also employed by them, or was  
23 that on a volunteer basis?

24 A. No, I was -- they -- they -- essentially,  
25 what they did is, they paid the ACLU of Virginia for

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1 my time. And the same thing for ACLU Southern  
2 Regional office, I believe. I was not getting  
3 checks from either one of those organizations. It  
4 was going to the ACLU of Virginia, and I was just  
5 paid a regular salary through them.

6 Q. Through your employment with the ACLU?

7 A. Right -- right.

8 Q. Was the volunteer work that you originally  
9 did in the late -- or mid to late '80s, was that  
10 your first introduction into redistricting issues,  
11 or did you have prior experience?

12 A. No, it was -- it was first introduction.  
13 I mean, I was aware of redistricting, the concept,  
14 but I had never tried to draw a voting plan. Until  
15 I was asked to try to draw a voting plan for the  
16 town of Warrenton, Virginia, which is just up the  
17 road from here.

18 And so I drew the plan, and I think,  
19 eventually, something like the plan I drew, using  
20 paper maps, was adopted, and a lawsuit was settled.  
21 The lawyer in Washington, DC, was named Vic  
22 Glasberg. He may still be practicing. I never  
23 really met him. And I don't know who the lawyers  
24 were on the other side.

25 Q. Is there any -- are there any

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1 certifications or other certificates, licenses,  
2 things of that sort that you hold in connection with  
3 your redistricting work?

4 A. Not that -- no. I -- I don't know how you  
5 get a degree in redistricting, exactly.

6 Q. Do you have any -- do you attend any  
7 conferences regularly or meetings of ACLU, for  
8 instance, or any other organizations where  
9 redistricting is part of the subject matter to be  
10 discussed?

11 A. Almost ever -- never. The most recent  
12 occasion that comes to mind was my participation in  
13 the redistricting and the census conference  
14 sponsored by the -- the Navajo Nation, and I think  
15 the Sioux Nation also was involved in putting  
16 together. It was a big group of indigenous people,  
17 mainly, and also other persons interested in civil  
18 rights work and voting rights work. It was in Salt  
19 Lake City over about a three or four-day period.

20 Q. When was your employment with ACLU -- when  
21 did it end?

22 A. It would have ended in 1997, the -- the  
23 direct employment with the ACLU of Virginia. After  
24 1997, I was still doing a lot of work for the ACLU  
25 of -- the Southern Regional office in Atlanta, as I

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1 had been doing, really, in the '90s.

2 Q. Can you kind of explain the purpose of  
3 leaving a -- I'll call it, you know, formal  
4 employment relationship to working with them, but in  
5 a different way. I mean, I -- I'm not sure --

6 A. Yes. Well, I mean, the -- the thing is  
7 that by -- by the mid '90s, as I think I already  
8 mentioned, there was just very little redistricting  
9 work that I was involved in, if any, in Virginia.  
10 I mean, there -- we -- we won almost all the  
11 lawsuits that we filed, and there was just nothing  
12 more, really, for me to do that would involve  
13 Virginia.

14 So it just made sense for me to just go  
15 off on my own and continue to work, mainly for the  
16 ACLU Southern Regional office, based in Atlanta.  
17 But that organization was doing work nationwide,  
18 particularly in the Rocky Mountain West, also known  
19 as Indian Country.

20 Q. So I get -- just tell me if I'm saying  
21 this right. Just to kind of summarize, you left  
22 formal employment to, essentially, start doing  
23 consulting for ACLU on the national scale?

24 A. Well, I was always doing it on the  
25 national scale, starting probably around -- even in

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1 1989.

2 Q. But I mean --

3 A. I recall doing -- doing a -- I was in a  
4 trial in Augusta, Georgia, I recall, in 1989 with  
5 the Southern Regional office. So that's how far  
6 back in time one would go for me to be saying I was  
7 doing national work. And so all through the '90s, I  
8 was doing national work.

9 While I was employed with the ACLU of  
10 Virginia, I was working on the legislative lawsuit  
11 in Montana that lasted -- my work on it lasted from  
12 1991 to 2001. And a lot of that was up front in the  
13 early '90s when I was, like, going out there and  
14 visiting the various reservations with -- with  
15 attorneys. So, you know, I was involved in  
16 nationwide stuff, really, starting around 1989.

17 Q. I didn't ask the question correctly. So I  
18 guess, at that point, would you be an independent  
19 contractor to ACLU or --

20 A. Well, yes. I mean, they just paid me  
21 directly, and there was no middleman. I -- I wasn't  
22 -- I -- only reason I left the ACLU of Virginia is  
23 there's just no reason for me to really be working  
24 in that office -- a very small office, anyway --  
25 because I was just not really doing anything related

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1 to Virginia.

2 Q. Was the -- was the ACLU, just generally --  
3 I'm not so worried about the Virginia version, but  
4 just ACLU in general. Were they your primary -- is  
5 client the right way to say, at that point, or were  
6 you --

7 A. Well, that's -- yeah. I mean, I was -- I  
8 -- yeah, I would say they were primary, but not --  
9 not the only organization that I would've been  
10 working for that was involved in voting rights work.

11 Q. How many -- what's the percentage of your  
12 work that you do today that is derivative of or --  
13 or kind of directed -- not directed by, but  
14 associated with the ACLU?

15 A. Well, it's probably at least half, even  
16 today.

17 Q. What --

18 A. And it was probably more than half in the  
19 early '90s.

20 Q. What makes the other half?

21 A. Well, I -- I've been involved in a lot of  
22 cases with Legal Defense Fund, a little bit with the  
23 Lawyers' Committee. I've worked with private  
24 attorneys in other -- in other situations. So  
25 there's no -- I mean, I -- I guess you could still



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1 say that I've worked more for the ACLU.  
 2 Particularly if you include the  
 3 affiliates, because I've done some work for the  
 4 affiliates in places like -- I've done a lot of work  
 5 in Maryland even very recently, and also in  
 6 Washington State very recently. In the 2010s, I  
 7 worked for the ACLU of New Mexico on a state level  
 8 case. All this is redistricting related.

9 Q. Sure. Did -- I guess -- so would it be  
 10 fair to say that any work that you do with a private  
 11 attorney that is not associated with one of the  
 12 organizations you've listed is far and few between?

13 A. Well, it's -- it's less common, but I have  
 14 done work strictly working with a private attorney.  
 15 For example, I worked with Jim Blacksher, who's an  
 16 attorney in Alabama, on the City of Decatur case. He  
 17 was representing the City of Decatur.

18 Q. Would the --

19 A. He contacted me, and so I was working  
 20 directly with him, not with the -- the local  
 21 officials of the City of Decatur.

22 Q. In the past five years, would you say that  
 23 your work with a private firm, as you just  
 24 described, as opposed to the situation in this case,  
 25 is less than 10 percent of your work?

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1 A. Overall, it's probably less than 10  
 2 percent, yes.

3 Q. Less than 5 percent?

4 A. Currently, it would be less than 5  
 5 percent, but there have been times when it would  
 6 have been more than that. I mean, I did -- I did a  
 7 lot of work on a case called Alabama Legislative  
 8 Black Caucus. That was with Jim Blacksher and Judge  
 9 U.W. Clemont, who was in private practice. So, you  
 10 know, in that situation, that was taking up a lot of  
 11 time, but that was, you know, almost ten years ago  
 12 now.

13 Q. Were -- in that case, was the NAACP  
 14 involved as a party, as well?

15 A. Not that I'm aware of. Unless there was  
 16 some relationship between the NAACP as plaintiffs --  
 17 like, local NAACP. I'm not -- I'm not sure who the  
 18 plaintiffs were, exactly, in that lawsuit. There  
 19 probably were several -- there may have been chapter  
 20 heads of NAACP. I don't know.

21 Q. Would it be fair to say, then, that your  
 22 compensation in connection with your expert role or  
 23 as a consultant, the -- the -- 90 percent of it  
 24 would be from the organizations that we've  
 25 identified?

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1 A. Yes, over time, that -- that's true. I  
 2 mean, I -- I'm just thinking back to -- to the San  
 3 Juan County, Utah case involving the Navajo Nation.  
 4 I was work for private attorneys in that instance,  
 5 also, who were representing the Navajo Nation. But --  
 6 -- but the payment went went -- through the private  
 7 attorneys.

8 Q. Do you have any other sources of income,  
 9 separate from your expert work?

10 A. No, I don't -- I don't do -- I mean, I --  
 11 I sometimes take on projects that I very rarely  
 12 charge for. For example, for, like, 25 years now,  
 13 I've been providing technical assistance to a -- a  
 14 nationwide organization called the Food Research and  
 15 Action Center, pinpointing areas in various counties  
 16 around the country -- well, the whole country,  
 17 really, that would qualify for special stipends from  
 18 the government to set up summer feeding programs in  
 19 -- summer meal programs in -- in rural and urban  
 20 areas around the -- around the nation. So I always  
 21 do that, every year. I -- I used to charge them,  
 22 but I don't charge them anymore.

23 Q. I meant to ask, and I think I may have.  
 24 But you're not a member of any -- of any of the  
 25 organizations we've talked about.

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1 A. I'm a -- I'm a card-carrying member of the  
 2 ACLU.

3 Q. Have you ever served on the board or any --  
 4 -- I'll just call it a titled capacity?

5 A. Well, in my prior existence as a advocate  
 6 on hunger issues in Virginia, yes, I was involved in  
 7 some very loosely formed coalitions. I think I was,  
 8 like, the secretary, in one instance, of the  
 9 Virginia Hunger Foundation.

10 Q. Have you ever been -- received any awards,  
 11 honors, or achievement recognitions from any  
 12 organizations?

13 A. None come -- none come to mind, really,  
 14 but maybe I've overlooked something.

15 Q. Sometimes if you do a certain -- like, for  
 16 attorneys, for example, if you do a certain  
 17 percentage of pro bono work or legal aid or  
 18 something, sometimes they'll, you know, give a award  
 19 or -- or otherwise just, you know, recognize your  
 20 service. And so anything of that sort?

21 A. Well, I -- I mean, I think I have gotten --  
 22 -- like, I -- I remember I got, like, a little trophy  
 23 from an organization, predominantly African-  
 24 American, in Rocky Mountain, North Carolina for work  
 25 I did on that case, which was really just directly



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1 with a community group, with no lawyers involved.  
 2 That was in, like, 2002. And I -- I think I did get  
 3 some sort of a little -- a little monument or some  
 4 -- something. And -- and I -- I got something like  
 5 that from the ACLU of Virginia that I still have.  
 6 And I've got --

7 **Q. When was that?**

8 A. Oh, that would have been sometime in the  
 9 '90s. And I got something from the ACLU of  
 10 Maryland, I think, somewhere along the line. So  
 11 I've gotten, you know, things like that. But they  
 12 were not, like, the kinds of awards that one would  
 13 have published in a -- a local newspaper even,  
 14 probably.

15 **Q. How --**

16 A. It was just between me and them.

17 **Q. How many case -- active cases are you  
 18 working on as an expert witness?**

19 A. I think it must be somewhere in the range  
 20 of 15. Just about every case I'm involved in  
 21 started in, you know, the fall of 2021 or  
 22 thereafter, and -- and all of them are still active  
 23 at some level, I think. Except for we -- we won the  
 24 Baltimore County case. I was working for ACLU of  
 25 Maryland in that, so we prevailed in that case. So

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1 that's one down.

2 And we also -- ACLU of Maryland prevailed  
 3 in a Section 2 lawsuit against the town of -- of  
 4 Federalsburg in Maryland. There was a trial in that  
 5 one and a trial in the Maryland case, so I testified  
 6 in both.

7 And we just recently in -- in -- just,  
 8 like, three weeks ago, judges signed off on a new  
 9 plan for the Sunnyside School District in Washington  
 10 State. I didn't have to testify at trial, but I  
 11 drew the plan that's now going to be in place for  
 12 that school district in the Yakima Valley of -- of  
 13 Washington. And I was working directly with the  
 14 ACLU of Washington on that case.

15 **Q. Are all the cases that you are currently  
 16 active working on -- actively working on as an  
 17 expert witness cases associated with the ACLU?**

18 A. No -- no. They're -- some of them with  
 19 LDF, some of them are with Elias Law. Some of them  
 20 with the ACLU of Maryland. I'm probably leaving  
 21 something out, but those are the three that  
 22 immediately come to mind.

23 ACLU of Maryland, ACLU National Office --  
 24 of course, the ACLU National Office also is the --  
 25 they would be the lead organization in a way, but

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1 that would include ACLU of Louisiana, ACLU of  
 2 Mississippi, ACLU of Georgia. So all the national  
 3 ACLU lawsuits also involve lawyers from -- from  
 4 those three states.

5 And that -- that involves Congressional  
 6 plans in Georgia and Louisiana, and state  
 7 legislative cases in all three of those states. And  
 8 so I -- you know, I can't think of any case, except  
 9 for the ones I've mentioned that are fully resolved  
 10 -- all of them are still ongoing on some level or  
 11 another.

12 **Q. Do you just -- and I may be  
 13 misunderstanding. But with respect to your expert  
 14 work, do you always submit a report like you've done  
 15 in this case? Or in the example you just gave where  
 16 you just drew the map, how -- how were you  
 17 identified in -- were you identified in that case?  
 18 Did you do a report? Can you -- are there any --**

19 A. Oh, you mean you mean the Sunnyside,  
 20 Washington case? That's -- that's one where I did  
 21 not testify at trial, that's now been resolved by  
 22 agreement with -- with the plan I drew. I -- I did  
 23 file a declaration in that case, yes, back in --  
 24 back in April.

25 But I -- I didn't have to testify at trial

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1 because, I mean, the idea in -- that -- that's under  
 2 the Washington State Voting Rights Act, which is set  
 3 up to resolve things before going to -- to some sort  
 4 of federal lawsuit. And it was resolved amicably, I  
 5 believe, between the school district and the ACLU of  
 6 Washington.

7 **Q. Do you distinguish or kind of categorize  
 8 the cases that you work on as either voting rights  
 9 cases or racial gerrymandering cases?**

10 A. Well, the bulk of the cases I work on are  
 11 cases involving Gingles 1.

12 **Q. Sorry?**

13 A. Cases involving Gingles 1. In other  
 14 words, whether or not you can create an additional  
 15 majority minority district.

16 **Q. Did you say Gingles 1?**

17 A. Gingles 1, yes. G-I-N-G-L-E-S. The  
 18 Gingles lawsuit that -- that was ruled on by the  
 19 Supreme Court back in the late 1980s that really  
 20 started the ball rolling with a lot of the local and  
 21 state litigation to ensure that minorities have a  
 22 fair say in -- in the election process.

23 But to win a Gingles related case, you do  
 24 have to show that the minority population can  
 25 comprise a majority, in other words, 50 percent plus

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1 one of a district. So that's where I come into  
2 play. I always do the Gingles 1 complaint. And  
3 there are Gingles 2 and Gingles 3, which involve  
4 looking at racially polarized voting.

5 **Q. In what category does this case fall?**

6 A. This case would be a Constitutional claim  
7 that would be associated with racial gerrymandering.

8 **Q. Nothing as it relates to the VRA?**

9 A. I'm not sure about that. I'll have to  
10 leave that to the attorneys. I -- I'm not sure.

11 **Q. But as far as you know, at this point, you**  
12 **haven't given any opinions that are based on the**  
13 **VRA? It would be on the law as it relates to the --**  
14 **relates to racial gerrymandering?**

15 A. Well, I'm not opining on the laws at all.  
16 I'm just producing information -- background  
17 information about demographics and -- and possible  
18 redistricting plans. So I don't -- I don't comment  
19 on the law.

20 **Q. Do you -- have you undertaken any study or**  
21 **research as it relates to -- would you call yourself**  
22 **an expert in demographics, or what do you feel as**  
23 **your expert expertise?**

24 A. Well, I'm always introduced to the Court  
25 when I testify at trial as an expert in demographics

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1 and redistricting. Or at least I have been,  
2 basically, since sometime in the early '90s, so  
3 that's what I call myself.

4 **Q. And what is your -- what's the basis of**  
5 **your expertise?**

6 A. A background in -- in redistricting that's  
7 now stretching out to more than 35 years.

8 **Q. Do you have any degrees or -- well, let me**  
9 **say this. So your underlying degree is in**  
10 **economics. Does that inform any part of your**  
11 **knowledge or the basis for any opinions?**

12 A. Well, as -- as an educational process,  
13 yes. I mean, I had a class in regional economics. I  
14 did spend about a year studying urban and regional  
15 planning at Virginia Tech around 1981. I decided I  
16 didn't want to be a planner. It would be too boring  
17 just working in one place, right?

18 But I did find academically, I just didn't  
19 want to pursue the -- the master's in that program  
20 since I didn't want to be a planner, ultimately. But  
21 I did take some classes there in regional economics  
22 and regional development.

23 I recall doing some work in the library,  
24 going back, look at the 1970s census because it --  
25 the 1980 census hadn't even been released for class

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1 projects. We'd go back and get those big old thick  
2 volumes and look for stats on some town somewhere.

3 **Q. Is there a degree, independent from**  
4 **science or within the science field or something to**  
5 **that degree -- math, maybe with statistics, that**  
6 **there is a -- some kind of formal certificate or**  
7 **underlying education as it would relate to the study**  
8 **of demographics?**

9 MR. CUSICK: Objection as to form.

10 THE DEPONENT: Well -- well, some  
11 universities might have a demographics department.  
12 So there -- there could be a few places where one  
13 could obtain a doctorate in demographics. I'm not  
14 sure.

15 BY MS. BROYLES:

16 **Q. I -- I don't know. I -- I was just --**

17 A. I don't either.

18 **Q. -- asking because I was curious. Yeah.**

19 A. There -- there are demographers out there  
20 at -- at universities, but I don't know their actual  
21 academic background in terms of what their degree is  
22 in, because it could be in something else.

23 **Q. All right. Would you consider yourself a**  
24 **demographer?**

25 A. I would consider myself an expert in

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1 demographics and redistricting, but my experience of  
2 demography really is directly associated with  
3 redistricting. Although I have a great interest in  
4 demography in a way. I mean, I'm fascinated by  
5 Latin America, for example, so I keep track of stuff  
6 down there that normal people probably wouldn't.  
7 But, you know, beyond that, it's -- it's on-the-job  
8 training.

9 **Q. What is demography?**

10 A. It's the study of populations.

11 **Q. Did you get a minor or anything like that**  
12 **in political science?**

13 A. No. If I had a minor, believe it or not,  
14 it would have been in English, I suppose. It's kind  
15 of sad --

16 **Q. Did --**

17 A. -- because I'm not a very good writer.

18 **Q. I should say that, if you need to take a**  
19 **break at any point, just let me know. I just kind**  
20 **of keep going until you tell me or someone else**  
21 **tells me. So if you do need something, just let me**  
22 **know. You said that you have kept track of your**  
23 **time that -- we've already talked about that?**

24 A. Yes.

25 **Q. When do you expect to produce or submit an**

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1 invoice in -- in this case?

2 A. I don't know. Maybe later this year.

3 Q. Do you have a -- have an accounting  
4 process where you, you know, quarterly, submit a  
5 spent your time or something of that sort?

6 A. Typically, if there's no real requirement,  
7 I'm -- I'm sort of slow in -- in following up with  
8 an invoice.

9 Q. Some of these, I think we've already  
10 talked about, so just I want to skip. Okay. You  
11 can set those aside. We'll move -- move on here.  
12 You good to -- you good to keep going?

13 A. Yes.

14 MS. BROYLES: Does anyone else need to a  
15 break?

16 MR. CUSICK: You don't mind if I -- if  
17 you're going to move on to the report, I have  
18 copies.

19 MS. BROYLES: Yeah.

20 MR. CUSICK: Can we maybe just take a  
21 quick five?

22 MS. BROYLES: Yeah. That's -- that's  
23 great. I'll -- I'm actually going to run to the  
24 restroom really quick, anyway, just -- if that's  
25 okay.

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1 MR. CUSICK: I'll give you this.

2 MS. BROYLES: Oh, sure. Yeah.

3 MR. CUSICK: These are the --

4 MS. BROYLES: Okay. So this --

5 We can go off -- off the record.

6 (WHEREUPON, a recess was taken.)

7 BY MS. BROYLES:

8 Q. Okay. So let's now turn to your report.  
9 When was the last time that you had an  
10 opportunity, I guess other than just now, to review  
11 it?

12 A. I glanced at it at approximately 5 a.m.  
13 this morning, just prior to driving in from Front  
14 Royal.

15 Q. How -- where -- where do you live?

16 MS. BROYLES: Are we -- we're on? Okay.  
17 Good.

18 BY MS. BROYLES:

19 Q. Where do you live?

20 A. I live in Bristol, Virginia, which is a  
21 city that's on the state line. So the other side of  
22 the state's -- other side of the city is in  
23 Tennessee, just straight down Highway 81.

24 Q. How far is that?

25 A. I think it's in the high three hundreds. I

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1 -- I'm not exactly sure, but I think that's probably  
2 about what it is.

3 Q. So when you are -- how are you generally  
4 contacted about a case that you're going to review  
5 or be an expert in?

6 A. Usually by e-mail or a phone call.

7 Q. What --

8 A. Not like there are many lawyers working on  
9 voting rights cases wandering around the city of  
10 Bristol, Virginia.

11 Q. What is your -- kind of walk me through  
12 what you do when you accept a case.

13 A. Well, it can be -- sometimes it's not a  
14 case, per se. I mean, I -- I do sometimes just draw  
15 plans at the request of a lawyer or, you know,  
16 sometimes -- while -- while I don't do defense work  
17 or have done very little for jurisdictions, I've  
18 drawn lots of local jurisdiction plans for various  
19 governments.

20 You know, probably a dozen or more of the  
21 counties and cities in -- in Mississippi. And I was  
22 a -- I drew redistricting plans for the city of  
23 Moab, Utah and city of Wenatchee, Washington, just  
24 in the past five years. So I -- you know, but --  
25 but those are always phone calls or e-mails.

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1 Q. So -- okay. So let's distinguish, then,  
2 for a second. So sometimes you aren't, per se, an  
3 expert. You just draw a map for -- at the request  
4 of whoever the client's going to be?

5 A. Yes. In fact, I have a meeting on Friday  
6 for another jurisdiction in the state of Maryland.

7 Q. Who are you meeting with?

8 A. I won't disclose that because it's not --  
9 there's nothing really official and -- and I  
10 probably shouldn't.

11 Q. Okay. So what -- what is the best way,  
12 just to make sure the record is clear, for me to  
13 refer to that type of service, versus what we're  
14 doing here, where it is in litigation and you're an  
15 expert -- things of that sort?

16 A. Well, just as someone who -- I -- I just  
17 draw redistrict plans upon request from local  
18 governments or local organizations, so I -- a lot of  
19 the plans I've drawn have been unrelated to  
20 litigation.

21 Q. Do you draw plans for fun?

22 A. No, I do not. I was appalled to learn  
23 that there is a -- an attorney in the attorney  
24 general's office, Bryan Tyson, who, along with  
25 another expert in redistricting -- even though Bryan

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1 Tyson is a lawyer, just for fun, somehow or another,  
2 uses Twitch to play games with redistricting. I  
3 don't do that. I can't imagine anything any worse.

4 **Q. Attorney general --**

5 THE DEPONENT: You know Bryan Tyson,  
6 right, from Fayette County? Talking to Leah.

7 BY MS. BROYLES:

8 **Q. Attorney general of what state?**

9 A. Georgia.

10 **Q. Okay. I don't know all the names, so --**

11 A. Yeah, I don't know the name of the  
12 attorney general of Georgia, either. I should  
13 probably, but I don't.

14 **Q. And then --**

15 A. But I've been -- Bryan Tyson's been on the  
16 other side of -- of cases that I've been involved  
17 in. And I -- I was just shocked that he had the  
18 time or even the desire to play games with  
19 redistricting on Twitch.

20 **Q. So all the maps that you draw, you're**  
21 **compensated for, essentially?**

22 A. No. I do some for free.

23 **Q. Is the process that you undertake to draw**  
24 **a map in the -- if you're just asked to draw a map,**  
25 **versus do a formal report, is the process any**

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1 **different for you?**

2 A. Probably not. I mean, it -- it just  
3 typically wouldn't require as much work in terms of,  
4 you know, preparing to write a declaration and have  
5 a formal deposition and that sort of thing. So  
6 there's lots of work involved, usually.

7 **Q. So --**

8 A. Although, going back into the '90s, when I  
9 was working for the ACLU of Virginia, I did many --  
10 many plans for for -- for local groups in Virginia  
11 that was independent of a lawsuit, and some of those  
12 were quite extensive and took a lot of time.

13 And I -- I may have set a record in terms  
14 of the actual number of redistrict plans I've drawn  
15 for any one jurisdiction when I was serving as a  
16 consultant to the Sussex County Board of Supervisors  
17 in Virginia in the year 2011 or 2012. I think I  
18 counted up that I'd drawn 45 different plans for  
19 that five member board of supervisors. I mean, lots  
20 of times, it's just a minor change, but -- yeah.

21 **Q. So from your early days in the map**  
22 **business, when did it become something that could be**  
23 **done on a computer? I think you said previously**  
24 **that you did hand drawing. And then I know,**  
25 **obviously, now, we're doing things on computers. So**

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1 **how has that process developed over time, as far as**  
2 **you're aware?**

3 A. Well, it all -- it became computer  
4 oriented almost immediately for me. Because when  
5 the ACLU was working on the town of Warrenton,  
6 Virginia, as I mentioned earlier --

7 **Q. So late '90s?**

8 A. Late -- late '80s.

9 **Q. Late '80s?**

10 A. I started working with -- I still worked  
11 with paper maps, but I was using a Lotus 1-2-3  
12 spreadsheet and -- and moving blocks around using  
13 macros. It was much faster than trying to work off  
14 of a -- of an old-fashioned tape calculator. Or  
15 worse yet, I've seen people who -- or in those days,  
16 saw people who were just kind of counting things up  
17 on a legal pad.

18 So I never really did any plans fully by  
19 paper ever, at all. I mean, I might have done  
20 Warrenton that way, just because it's so small that  
21 there were probably, like, 50 census blocks in the  
22 town at that time. I think it's gotten bigger now.

23 But other than that, I always used a -- a  
24 Lotus 1-2-3 spreadsheet up until 1991. And then I  
25 started using the Caliper Corporation software

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1 called GIS Plus, which was a precursor to Maptitude,  
2 for redistricting, and that allowed you to look at a  
3 map on screen.

4 **Q. Is that software something that you have**  
5 **to obtain a license to use?**

6 A. Well, yes, you did -- you did purchase the  
7 software. And then you could use it with Census  
8 Bureau created files to look at precincts and -- and  
9 census blocks. It was not as slick as modern day  
10 Maptitude for Redistricting, but it did the job. I  
11 mean, it was not even specifically set up to do  
12 redistrict, per se, but it allowed you to accomplish  
13 the same thing.

14 **Q. So Caliper is now Maptitude?**

15 A. Well, that's the organization that -- that  
16 sells and designs Maptitude for Redistricting. And  
17 a number of other GIS products, like just plain  
18 vanilla Maptitude, which is really quite useful and  
19 much cheaper. It's just that it's not really set up  
20 to do redistricting.

21 **Q. When you say "draw a map," what -- you're**  
22 **not hand drawing anything, right? You're everything**  
23 **is on a computer?**

24 A. Oh, yes. I don't hand draw anything.

25 **Q. And so when you are retained in a case and**

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1 you sit down to start your process, walk me through  
2 -- and I'll probably stop you intermittently, but I  
3 where do you start?

4 A. Well, I mean, it --

5 Q. Where did you start in this case?

6 A. Well, in this case, in a way, I started  
7 with the judicial case because that's the case where  
8 I already had put together a lot of information  
9 about the counties and cities in the state. And so  
10 I had a head start. I didn't have to go back and  
11 reinvent the wheel, in the sense of understanding  
12 where the different regions are in the -- in the  
13 state.

14 And I had precinct files that -- actually,  
15 I had precinct files up to 2020 because I did file a  
16 supplemental declaration in the Arkansas judicial  
17 case in the fall of 2021 that relied on 2020 census  
18 data.

19 Q. But that was not a Congressional  
20 redistricting case.

21 A. It was not, but it was still using 2020  
22 census data, so I had that in advance of my work on  
23 this case.

24 Q. So when -- then, I guess, the where did  
25 you, start then, in the judicial case?

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1 A. Well, that goes back to the mid-2010s, and  
2 --

3 Q. What I'm trying to -- let me -- I'm just  
4 trying to get an idea of what you do. I have no  
5 idea. So do you get into a program? I mean, just  
6 --

7 A. Well, yeah. I start with a map depicting  
8 counties, cities, voting districts in a particular  
9 state or jurisdiction, and then examine how one  
10 might draw a voting plan that can vary, depending  
11 upon the tasks requested.

12 Q. So how do you do that?

13 A. Using Maptitude, generally -- Maptitude  
14 for Redistricting, and I see a map on screen of all  
15 the VTDs and census blocks in the state. And  
16 because this is a Congressional plan, I was working  
17 almost exclusively at the precinct level and the  
18 county level.

19 Q. So what -- how do you get into Maptitude?  
20 Like, could I make an account on it? Is it just  
21 open --

22 A. Well, in the case of Maptitude, you would  
23 need to contact Caliper Corporation in Massachusetts  
24 and pay them, I think, \$1,500 for a one-year license  
25 for Maptitude for Redistricting. There are other

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1 ways to accomplish the same task, though, like the  
2 widely used Dave's Redistricting application on the  
3 Internet, which is for free. And you can do a lot  
4 of what you do in Maptitude for Redistricting just  
5 using that particular website.

6 Q. Do you pay a licensing fee yearly to use  
7 Maptitude?

8 A. Yes. There is a \$1,500 fee.

9 Q. And do you pay that?

10 A. I do, yes.

11 Q. Are -- are -- do you -- are you extended  
12 any license for any programs or software through an  
13 organization?

14 A. No.

15 Q. When did Dave's Redistricting come on  
16 scene?

17 A. I think it was probably around 2008 or  
18 2009.

19 Q. And did you start using it at that point?

20 A. I experimented with it a little bit. I --  
21 I mainly work in Maptitude, but I was aware of it at  
22 that time, and recall suggesting at another one of  
23 those redistrict conferences that I don't typically  
24 attend or -- or have occasion to go to, that that  
25 would be a good place for people to visit if they

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1 were interested in drawing their own plan. At that  
2 time, it was not nearly as sophisticated as it is  
3 now.

4 Q. When you purchase the yearly license, are  
5 you -- I guess, do you -- is it, like, a cloud based  
6 program where you log in and your work is maintained  
7 and -- you know, under your unique identifier? I  
8 mean, kind of how -- how do you interact with  
9 Maptitude?

10 A. Well, it's -- it's not cloud based. It's  
11 -- it's a -- a desktop software. It can be -- if  
12 you're a large organization, you can have multiple  
13 users and a web server. Like, the legislature  
14 probably has a copy of Maptitude for Redistricting.  
15 And they may have several different work stations  
16 where people -- and I'm just guessing because I  
17 don't really know, but some legislatures would.

18 And -- and you could use Maptitude for  
19 Redistricting not just for one person at one desk,  
20 but with a copy on the state legislature's own  
21 dedicated computer, with an additional fee, I think,  
22 have options for other people to be working  
23 simultaneously on a map of Arkansas, drawing various  
24 plans.

25 Q. So you don't know what Arkansas uses?



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1 A. I do not.

2 Q. Does that matter to you at all?

3 A. No.

4 Q. When you -- I guess, is the license, like,  
5 kind of like Office 365 where you get a -- a app  
6 shortcut on your desktop, and that's how you access  
7 in and out of the program?

8 A. Yes. You -- you -- there is a little icon  
9 that says Maptitude for Redistricting. You just  
10 click on it and it will pop Maptitude for  
11 Redistricting up.

12 Q. Do you get to it through Google and log in  
13 that way, or do you have to have it on your hard  
14 drive?

15 A. You have to have -- you have to have a  
16 desktop computer with a hard drive that has the  
17 program installed.

18 Q. So when you log in to your -- is it an  
19 account that you have? Is that the right way to say  
20 it?

21 A. Well, I guess it would be an account, but  
22 there's no -- once you have it on your desktop,  
23 there's no communication between you and Caliper  
24 Corporation. It's just standalone. And, you know,  
25 if -- at the end of the year, there's a little

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1 warning that pops up built into the program that  
2 says, your license will expire in 20 days. And sure  
3 enough, if you don't -- if you don't -- you know, if  
4 you don't re-up it, you end up not being able to use  
5 the program.

6 I mean, the soft -- the -- the files are  
7 still there, but the software won't work. But you  
8 could take those files and then open them up in  
9 plain vanilla Maptitude, which is a real bargain,  
10 actually. It costs like \$400 a -- \$400 for a one-  
11 year license. I mean, for -- for a multi-year  
12 license that doesn't expire.

13 Q. What -- so did you call that vanilla?

14 A. Oh, I call it plain vanilla Maptitude  
15 because there's no redistricting component to speak  
16 of in Maptitude. And what I'm calling plain vanilla  
17 Maptitude -- most people in the world who use  
18 Maptitude are not using Maptitude for -- Maptitude  
19 for Redistricting. They're using a program called  
20 Maptitude, which allows you to do a lot of stuff  
21 with census data and -- and all kinds of demographic  
22 analysis, but it's only very limited in terms of  
23 what you can do with redistricting.

24 Q. So by paying for the license, are you  
25 granted access to a different set of information

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1 than what is in the vanilla -- regular Maptitude ?

2 A. Well, yeah. I mean, yes, you get to --  
3 you're able to run reports, as you see in my  
4 exhibit, that -- those kinds of reports wouldn't be  
5 available in the regular Maptitude . Yeah, and --  
6 and it's, you know, you could -- you could do a  
7 redistricting plan with plain Maptitude, but it  
8 would be a slower process, and so I doubt if very  
9 many people to use it.

10 But -- but -- and that -- that's why I  
11 suggest, if you're doing a redistricting, it's --  
12 it's worth having plain vanilla Maptitude for all  
13 sorts of things. But if you just want to do a quick  
14 redistricting plan for a locality, just go to Dave's  
15 Redistricting, and you can do that.

16 In fact, I think I used that a lot in the  
17 -- in the employment I had with the San Juan County,  
18 Utah commission in in 2021 that I haven't mentioned  
19 again. That was for a county commission, not part  
20 of a lawsuit. That was after the end of the  
21 lawsuit. And I posted some information on Dave's  
22 Redistricting, and also posted some of the plans  
23 that various folks in Utah could upload. So that --  
24 that was on there, too.

25 Q. So I -- again, I'm just trying to

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1 understand. So was there information in a map that  
2 you started from to begin the process in this case?  
3 Or are you just saying, you were familiar with  
4 information about Arkansas in general, such that you  
5 didn't have just a zero base foundation? I mean, I  
6 -- I -- you know, what -- kind of how does it work?

7 A. Well, all of the -- there's -- there's  
8 2020 census data in there automatically when you get  
9 the program. You get a free state, and so I would  
10 have all of Arkansas. Unfortunately, I don't get a  
11 free state because I have other -- I have one  
12 license and I do have to pay for the -- I mean,  
13 it's, like, a \$5,000 fee for one state to get the  
14 entire Maptitude product file for one state.

15 Which means you're getting all of the  
16 census data, everything from census block to county  
17 to regional boundaries for core-based statistical  
18 areas, municipal boundaries. All of that can be  
19 brought up almost instantaneously when you first  
20 open up the map and put it on screen.

21 Q. So you don't pay for that type of access?

22 A. Well, I do. That's what I get. I mean, I  
23 -- I --

24 Q. I thought you said you paid 1,500 year?

25 A. Well, there's a -- there's a license -- a



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1 general license of \$1,500 a year to use Maptitude  
2 for Redistricting. But to get a state data set that  
3 works with Maptitude, you have to make a one-time  
4 payment of \$5,000. Except for the first state,  
5 which is free, I believe, but any follow-up states  
6 would cost \$5,000. The -- and that's why I'm  
7 touting Dave's Redistricting, because all of that's  
8 free.

9 Q. So with the -- so when did you pay 5,000  
10 to get access to all the Arkansas specific  
11 information?

12 A. Probably sometime in 2023.

13 Q. So you did not purchase the information  
14 during the judicial litigation?

15 A. I did not.

16 Q. Was that information provided to you in  
17 some other way?

18 A. No. I was using an older version of  
19 Maptitude, which did not require a license.

20 Q. Do you bill for reimbursement for the  
21 purchase of the state information?

22 A. No, because I -- I work in various states.  
23 And often, I'm doing different projects, and so I  
24 don't bill for that.

25 Q. So what steps did you take in this case,

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1 up and to when you made the \$5,000 purchase to get  
2 access to the full census data?

3 A. Well, sometime around when I signed the  
4 retainer agreement, that meant that -- I mean, it's  
5 useful to add that particular module -- official  
6 module that produces all these different reports.

7 Q. So you purchase the Arkansas information,  
8 and everything that you get in that data set is from  
9 the Census Bureau?

10 A. Well, it's -- it's from -- it's -- it's  
11 from the P.L. 94-171 file. It's -- it's Census  
12 Bureau data that the Caliper Corporation then  
13 converts into their format, so that you can use it  
14 with their program.

15 And -- and the package also includes other  
16 -- other geographic levels that may not necessarily  
17 be related to the P.L. 94-171 2020 census, like  
18 highways and roads and streets. Well, a lot of that  
19 is -- is in the 2020 census, but it's not part of  
20 the Public Law 94 data set. And also, it may be  
21 enhanced somewhat by another vendor to Caliper to  
22 update, from year to year, highways and roads going  
23 through time.

24 Q. Do you know the sources -- I mean, are  
25 there only certain sources that provide data to

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1 Maptitude? I mean, does it have a limitation on how  
2 you can -- who can submit data?

3 A. You can -- you can get data from just  
4 about anyplace if it -- it can be put into a  
5 geographic format, and then it can be imported at a  
6 Maptitude. If -- if, like -- like, say, if you had a  
7 voter file for the whole state of Arkansas with  
8 addresses and ZIP codes in a relative -- relatively  
9 precise entry, then you could just import it into  
10 Maptitude. And then Maptitude, will then geocode  
11 all registered voters in the state, or the vast  
12 majority. A tiny percentage might not geocode.

13 Q. So walk me through what happens -- I mean,  
14 up and to purchasing the state -- I'm just going to  
15 call it the state package of data. Is there  
16 anything that you do as far as your methods to up  
17 and to that point?

18 A. Well, not -- not really. I mean, I just  
19 -- I have -- I have the map and I have information  
20 about the state and about a potential -- a potential  
21 lawsuit or about a community that I'm working with,  
22 unrelated to a lawsuit. And then I go through the  
23 process of drawing an initial map.

24 Q. What -- well, you said -- so you have the  
25 map. When you say you have "the map," what do you

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1 mean?

2 A. Well, I have all of the census data from  
3 the 2020 census as part of the redistricting package  
4 that I get from -- from Caliper Corporation built  
5 into the redistricting software. So I can just open  
6 up Maptitude for Redistricting and go into the  
7 Arkansas folder and immediately bring up a map of  
8 the old Congressional plan.

9 And I can bring up different layers of  
10 geography, like census blocks, block groups, county  
11 lines. So it's -- it's complete. It has almost  
12 everything you would need, and it would be  
13 consistent with whatever the state would have had in  
14 the -- I guess, the fall of 2021, when they were  
15 working with that plan.

16 Q. Do you know what the state had?

17 A. Well, I know they were using 2020 census  
18 data. I don't -- I don't know all the different  
19 things they had in their data set. No, I have not  
20 been informed of that.

21 Q. Have you read any -- or I guess -- yeah,  
22 read any articles, conducted any research on the  
23 legislative process as it related to the 2021 map?  
24 And I think your report goes back 35 years. Any  
25 kind of research you've done on those particular

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1 legislative sessions?

2 A. No, I did not research those sessions.

3 Q. Did you watch any of the videos of any of  
4 the Congress -- or excuse me, the legislative  
5 meetings or votes?

6 A. No, I did not. That's not uncommon for  
7 me. I -- that's -- that's a rarity when I would do  
8 that as I'm drawing a plan.

9 Q. So what about newspaper articles?

10 A. I don't think that I reviewed any  
11 newspaper articles relating to the Arkansas  
12 redistrict. Sometimes I do, but I don't -- I don't  
13 think I did in this case.

14 Q. So where your report references statements  
15 about what went on in the legislature, w? Where did  
16 you get that information from?

17 A. Is there a part of my report that  
18 references statements in the legislature? Beyond  
19 just the general information from the PowerPoint,  
20 because I did review that. But I don't -- I don't  
21 recall reading anything directly from the  
22 legislature, but maybe I -- but -- but you'd have to  
23 point me to it. I -- so that I can refresh my  
24 memory.

25 Q. Okay. We'll get there when we go through

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1 the specifics, but --

2 A. Yeah.

3 Q. So is the first thing that you did -- when  
4 you say that there's a map there, did you pull up  
5 the 2021 enacted map, and then, like, the past maps  
6 that have been adopted in Arkansas, those are  
7 already loaded into the program?

8 A. Well, the -- the 2011 plan is in there.  
9 The 2021 plan is not. And I think I got that from  
10 -- I -- I know I did. I got it from the GIS website  
11 that's sponsored by the state of Arkansas.

12 Q. So explain to me what you do with that  
13 map. Do you download -- and I'm not a -- I'm not a  
14 computer person. So do you download that off of the  
15 -- an Arkansas website and then upload coding  
16 information into Maptitude for Redistricting?

17 A. Well, yes. You can take any -- any of the  
18 files that are posted on the Internet by the  
19 Arkansas office of GIS -- there's probably a better  
20 name for it. But they're -- they're released in a  
21 shapefile format, under which is another way to  
22 package geographic information. It's another  
23 company. It's Esri, E-S-R-I.

24 And so I just download those shapefiles  
25 and just import them back into Maptitude. It's real

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1 simple process. So it's essentially the same --

2 same kind of map that I would have gotten, had I  
3 gotten it directly from the Caliper Corporation. But  
4 Caliper Corporation doesn't compile all the possible  
5 maps that one could get for the state of Arkansas.

6 Q. Do you know why, by that point, it  
7 wouldn't have had that map uploaded or part of its  
8 package?

9 A. I -- I don't know, but they really should,  
10 I think. They -- they do not, though. They -- they  
11 released that data set just with the 2021 -- just  
12 with the 2020 census, and there is no -- there is no  
13 update to reflect the plan that would have been  
14 enacted in 2022.

15 It may have something to -- just with cost  
16 of, you know, find somebody to do that on their end.  
17 I don't know. I mean, it's a very simple process.  
18 You just -- also, the maps are constantly changing,  
19 so -- I mean, I -- I'm not talking Arkansas. I'm  
20 just saying, different states have different time  
21 tables, and so it would be difficult for them to  
22 keep going this current.

23 Q. Sure. So is it correct to say that once  
24 you purchase the Arkansas package and take the map  
25 off of the Arkansas site and upload the shapefile to

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1 Maptitude, that's the first step in your process?

2 A. It would be for working on the enacted  
3 plan, yes. I got the Congressional -- I got the  
4 enacted plan as I was beginning this project. Right.

5 Q. Did you do anything else, as far as your  
6 process or methodology, prior to -- that we haven't  
7 talked about?

8 A. Well, in terms of the initial plan,  
9 probably not, because it's so easy just to work with  
10 counties and VTDs that there's -- there's really  
11 nothing complex about drawing a plan that adheres to  
12 the original redistricting principles, just relying  
13 on the 2020 census data that's packaged with -- with  
14 the Maptitude for Redistricting software.

15 Q. Do you do any coding or create your own  
16 shapefiles?

17 A. Well, it's easy to -- it's easy to create  
18 your own shapefiles. All you do is just export a  
19 plan from Maptitude's format to a shapefile. So  
20 when I draw a plan, I can then export it to a -- a  
21 shapefile and send it to someone else, so that's  
22 easily done.

23 Or you can also do it another way, which  
24 is to export just the block number -- census block  
25 number and the district that it's assigned to,

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1 rather than a shapefile sort of format. And a lot  
2 of organizations or experts might prefer to get it  
3 in that fashion.

4 **Q. So once you upload the enacted map, what**  
5 **do you do?**

6 A. Well, then you proceed to examine it, and  
7 upon examination and upon discussions with whoever  
8 I'm contracted to do the plan, I begin to develop a  
9 plan and analyze different configurations. That's  
10 what I did in this case. I did Alternative Plan 1,  
11 Alternative Plan 2, and Alternative Plan 3.

12 **Q. All right. Right. But I'm talking on a**  
13 **more minute basis, and I don't know how this program**  
14 **works. And so do you -- what -- what do you -- how**  
15 **do you know where to start? What do you analyze**  
16 **about a map to test factor -- I mean, kind of what**  
17 **-- what are you doing, exactly?**

18 A. Well, I mean, I -- I get the data, and  
19 then I -- I mean, I also have the 2010 census data  
20 for Arkansas, so I was able to look at how  
21 malapportioned the 2011 plan was, because that's  
22 part of Caliper's data set. They send you the  
23 boundaries for the benchmark plan, and then I look  
24 for different ways the map could be changed.

25 And in this case, the focus is on Pulaski

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1 County and this odd freeway split in the south and  
2 central part of the county. And so I was -- I was  
3 examining that, seeing if we could draw a plan that  
4 adhere to traditional redistrict principles without  
5 splitting Pulaski County. And I think I  
6 demonstrated that conclusively.

7 **Q. But how do you do that?**

8 A. Well -- well, by moving blocks and moving  
9 counties and an occasional VTD from one place --  
10 from one district to another. I mean, some things  
11 had to change because the -- the state's 2011 plan  
12 was malapportioned. I think there was, like, a  
13 deviation of 26 percent or something like that.

14 Pulaski County CD 2 was overpopulated, and  
15 CDs 1 and 4 were underpopulated, so -- and CD 3 also  
16 grew. So -- so you had to -- and I think it had the  
17 largest difference from an ideal district size. So  
18 you had -- to -- to draw the 2021 enacted plan,  
19 counties had to be shifted around. There was no way  
20 around it. Or precincts, one or the other.

21 **Q. Do you know which party was the majority**  
22 **in Arkansas for each of the prior Congressional**  
23 **redistricting maps?**

24 A. Not for each one, but I can guess. I  
25 think that the Democratic Party would have been in

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1 charge in the 1980s, probably in the 1990s. By the  
2 2000s, I'm guessing Republicans -- for sure, the  
3 Republicans after 2011, but I think probably also in  
4 2000. But I don't know that to be a fact.

5 **Q. Yeah.**

6 A. You can tell me that.

7 **Q. I was going to say, they -- they're all**  
8 **Democrat plans until 2021.**

9 A. Oh, okay. Interesting. So there were --  
10 there was actually a majority of Democratic members  
11 of the legislature in 2011?

12 **Q. Yes.**

13 A. Okay. Interesting.

14 **Q. So you don't look into any of that**  
15 **historical context in looking through your -- or**  
16 **forming your opinions or doing research?**

17 A. Not so much when it comes to the  
18 composition of the legislature, no. I mean, I look  
19 at the plans, but I don't delve into the partisan  
20 composition of the of the legislature itself. I  
21 mean, I was fairly certain that 1980 and 1990 were  
22 Democratic, and probably -- I was thinking that by  
23 2011, maybe it had shifted to Republican, but I take  
24 that back.

25 **Q. So --**

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1 A. Assuming you're correct, and I assume that  
2 you are.

3 **Q. I am. Do you know -- or, well, I guess,**  
4 **so what -- again, what do you do to play with the**  
5 **data or move things around? I realize you've said**  
6 **what it is, but what are you actually doing? Are**  
7 **you putting in -- like, for instance -- well, I**  
8 **don't know. What are you putting in? What are you**  
9 **telling the program to do?**

10 A. Well, first of all, I just color code the  
11 districts so that one might be blue, one yellow, one  
12 orange, one green. I think something like that  
13 combination I'm using. And then I proceed to move  
14 counties and precincts around to -- to arrive at a  
15 plan that would meet one person, one vote  
16 requirements and adhere to other traditional  
17 redistricting principles. That was the first step I  
18 took in this case.

19 **Q. Okay. So what -- we'll kind of go through**  
20 **it more specifically, and maybe we'll be able to get**  
21 **into the -- the detail.**

22 Starting with -- so if you turn to Page 4,  
23 Paragraph 8 says, "In preparing this report, I  
24 relied on the materials cited throughout Exhibit B,  
25 described sources and methodology I have employed in

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1 preparing the report, as well as additional  
2 materials I considered in forming my opinions, other  
3 than those cited." What additional materials were  
4 you referencing when you made the statement in the  
5 report?

6 A. Well, I had knowledge of the demographics  
7 of the state as a result of my work in the judicial  
8 case. As I've mentioned, I have seen some  
9 historical information about Arkansas and the South  
10 in general, but -- I certainly had that in the back  
11 of my mind.

12 Q. And what -- where was that from?

13 A. Just being an educated citizen of America,  
14 right? I mean, we all know that things happened in  
15 the South -- bad things, for a long time. The Jim  
16 Crow era, in short, and that was a big problem in  
17 Arkansas. It was a big problem in Virginia.

18 Q. So are you starting -- when you start your  
19 process, you're starting from a place based upon a  
20 historical background of, like -- you're talking  
21 about Jim Crow, things of that sort. I mean, I  
22 guess the -- just the fact that it's a Southern  
23 state?

24 A. No. I mean, I -- I'm just saying that  
25 stuff -- that kind of information was in my head.

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1 But my task here was just simply to show that there  
2 was absolutely no reason, according to traditional  
3 redistricting principles, that it was necessary to  
4 split Pulaski County into three pieces when there  
5 were other solutions, which would accomplish the  
6 same thing and have fewer statewide county splits.

7 I mean, I think the issue, maybe, with the  
8 legislature was that they wanted to eliminate the  
9 splitting of five counties. Because in the 2011  
10 plan, there were five county splits. And I as I  
11 understand it, part of the reason that they wanted  
12 to make the changes was to eliminate those five  
13 counties that were split. And they did. They --

14 Q. And what --

15 A. But -- but in so doing, they ended up in  
16 the same number of -- of county splits. They split  
17 three times in -- in -- they had three pieces in --  
18 in Pulaski County and one piece in Sebastian County.  
19 And then there's another county split somewhere that  
20 escapes me.

21 Q. So --

22 A. Maybe -- maybe they cut it -- I'd have to  
23 look -- look at my table and I'll tell you.

24 Q. Where does that -- the information that  
25 you have as far as their wanting to address splits

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1 or whatever you just said -- where does that come  
2 from?

3 A. I'm not sure. But I think that was -- it  
4 was -- I think I, somewhere along the line, learned  
5 that it was -- that that was a goal. An objective  
6 was to reduce the number of county splits.

7 Q. But you don't know where that came from?

8 A. I can't cite an exact source at the  
9 moment.

10 Q. But you didn't review any testimony at  
11 either the legislature or any testimony in this  
12 case, correct?

13 A. I've not reviewed testimony, no.

14 Q. So what I said is true? You haven't  
15 reviewed anything in either of those categories?

16 A. No testimony. Somewhere along the line, I  
17 understood that they -- there was a desire to reduce  
18 the number of split counties.

19 Q. From whom?

20 A. I don't know. I don't have an  
21 encyclopedic, photographic memory, so I can't tell  
22 you exactly who that is. I think that it's also  
23 acknowledged in -- in Mr. Bryan's report, but I knew  
24 that before Mr. Bryan. Not -- not necessarily  
25 before he knew it, but I knew it before I saw it in

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1 the report.

2 Q. Yeah. And part of being an expert is, I  
3 get to ask you about all the basis for your opinion.

4 A. Uh-huh.

5 Q. And if you don't know, then you don't  
6 know, but --

7 A. Okay. I don't know. I mean, I know I --  
8 I know I knew it, and I just don't know the original  
9 source of that information.

10 Q. What other -- or are there any other  
11 additional materials that you were referencing in  
12 that past sentence that are not listed in your  
13 report that we haven't talked about?

14 A. Off the top of my head, I can't think of  
15 anything else --

16 Q. Okay.

17 A. -- at this point.

18 Q. So with respect to Paragraph 1, it talks  
19 about the purpose of your report. And it appears  
20 that you were tasked specifically with developing a  
21 plan where one -- was it one person, one vote was  
22 the prime -- you know, the primary factor or the  
23 only factor? I mean --

24 A. No. I'm constantly balancing traditional  
25 redistricting principles. In other words, I'm

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1 striving for one person, one vote; trying to  
2 minimize county splits; trying to minimize VTD  
3 splits; trying to minimize municipal splits; trying  
4 to draw districts that are compact and contiguous.  
5 So I'm always dealing with that. And sometimes one  
6 or more of the traditional redistricting principles  
7 is -- is not quite as strong as the other in -- in  
8 one sense or another.

9 **Q. But --**

10 A. But unquestionably, the plans I've  
11 developed -- well, specific to this case, that  
12 involves really just Pulaski County in many ways,  
13 have met traditional redistricting principles.  
14 Looking at the state as a whole, there is a very big  
15 problem with the cracking of the black population,  
16 not just in Pulaski County, but throughout the Delta  
17 and lower Arkansas.

18 And that's not being addressed in this --  
19 in this case, but I just want to make that clear up  
20 front. That's a -- my big problem with this map,  
21 and it goes back 40 years. And each time, the state  
22 continues to cut the black population, as you see in  
23 my report, from -- I think, originally around 24, 25  
24 percent, all the way down to 20 percent now. And  
25 who knows what's going to happen in 2030?

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1 **Q. Have you observed in your study that**  
2 **Arkansas has a -- well, I think you did mention,**  
3 **too, but is a very rural state and the rural -- or**  
4 **excuse me, rural VTDs in Arkansas, the populations**  
5 **are shrinking?**

6 A. Yes, I have observed that. I have a table  
7 in there, showing how the population loss has  
8 occurred in -- in the Delta. And some of that is  
9 just death of older generations. Some of it is out  
10 migration -- out migration to Pulaski County or to  
11 Memphis, to be fair. That's a -- a center of some  
12 population growth, as well that's out of state,  
13 actually.

14 **Q. So as far as this first point under 9-A,**  
15 **you were specifically tasked with developing a plan**  
16 **with a specific focus on the composition of one of**  
17 **the -- on Congressional District 2?**

18 A. Right.

19 **Q. Okay. So in the -- how do you go about**  
20 **moving or changing the data that's there? Do you --**  
21 **are there -- like, the traditional principles that**  
22 **you've referenced, are there things that you have to**  
23 **input into the computer for it to derive a result or**  
24 **just -- I mean, I'm just trying to figure out what**  
25 **happens.**

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1 A. Well -- well, basically, I'm just using a  
2 mouse. And so at the outset, because I can see  
3 clearly that it's highly unlikely that you really  
4 needed to split Pulaski County three ways, I made  
5 Pulaski County whole.

6 And then I began to work on a -- an  
7 alternative plan that -- that achieved the same  
8 level of traditional redistricting principles as  
9 embodied in the enacted plan with, always in the  
10 background, the reality that even if Pulaski County  
11 is fixed, there's still an issue as it relates to  
12 the cracking of the black population in Jefferson  
13 County and the Mississippi Delta -- I mean, the  
14 Mississippi River counties or the Arkansas Delta  
15 Counties. And lower Arkansas, for that matter.

16 **Q. So you're just dragging lines around and**  
17 **saying where it falls, or how --**

18 A. No -- no. I'm just looking -- I just take  
19 a -- I -- I take a mouse, and I -- I start a plan.  
20 In this case, I probably started with Pulaski  
21 County. I had the enacted plan and the benchmark  
22 plan, and I was just looking for different ways to  
23 configure a plan that would adhere to the  
24 traditional redistricting principles; would not  
25 split more than one or two counties at most, and one

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1 of which would not be Pulaski County; and meet one  
2 person, one vote; be compact and contiguous.

3 And I would just be balancing, constantly  
4 looking around -- I mean, it -- it doesn't -- this  
5 is not a complex problem. That's what's so odd  
6 about this case. There's nothing complex about it.  
7 It's very easy, just working at the county level, to  
8 develop a plan that adheres to traditional  
9 redistricting principles; that corrects the one  
10 person, one vote issue; that is compact and  
11 contiguous; that doesn't split a lot of cities and  
12 towns, and simultaneously, keeps Pulaski County  
13 whole.

14 **Q. So what do you -- you -- but again -- I'm**  
15 **-- I'm sorry, I'm not understanding. So do you just**  
16 **pull lines on the map, or do you, like -- say, you**  
17 **set parameters to it. Do you input, you know, some**  
18 **data here, or you say, I want to move 10,000 people**  
19 **out of this -- I mean, how does it calculate the**  
20 **result?**

21 A. Oh. Well, the -- as you're clicking, you  
22 can also look at a data view. So you can get -- in  
23 the data view, you can get a running tab of the  
24 population that you have in the configuration you've  
25 clicked on. So -- so you're constantly able to see



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1 how population changes, if you so desire.  
2 Oftentimes, I don't even bother to look at it  
3 initially, because I know I need more people -- many  
4 more people.

5 I mean -- I mean, between -- between  
6 Pulaski County and Jefferson County. I think you've  
7 got close to 500,000 people. But Jefferson County  
8 was not linked with Pulaski County in the enacted  
9 plan or in the benchmark plan. And that is a sign,  
10 to my -- to my mind, that there is some cracking of  
11 the black population alone between those two  
12 counties.

13 But in any event, you're just -- you're  
14 just clicking on counties. Or VTDs, which are  
15 precincts. And -- and you're just doing it with a  
16 mouse. There's no dragging the lines. And you're  
17 working with census data. I mean, it -- it -- and  
18 it's just -- and -- and you can see, as you click --  
19 you can click on a precinct and immediately see,  
20 okay, that added 800 people to CD 2 or whatever.

21 So you're -- you're able to look at it  
22 constantly, if -- if you wish. I typically don't do  
23 that, but one could. You could always have a data  
24 view up there, showing how each move you make  
25 changes the population from one district to another.

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1 Q. Your map, you made, correct?

2 A. Pardon?

3 Q. Your -- the maps that -- that you've got  
4 in your plan, they did not derive in any way from  
5 maps that were proposed at the legislative level?  
6 In other words, you did not take, like, a plan that  
7 was, you know, reduced to a bill and proposed at the  
8 legislature, that was not adopted, and conduct any  
9 analysis of the other options that were presented?

10 A. Okay. That -- that's true. I -- I start  
11 at a tabula rasa. I had the -- the enacted plan.  
12 I had the benchmark plan. I was aware of what plans  
13 looked like in 1980, 1990, 2000. '80 and '90, I  
14 probably wasn't aware of, but I -- I had seen the  
15 2000 map.

16 And I -- that -- that's how I started the  
17 process. Now, further along, as I was reviewing my  
18 declaration, I also did see some of the plans that  
19 were submitted to the Senate in November of 2021, I  
20 guess. And I also saw, although I didn't analyze,  
21 some of the maps that were submitted by House  
22 members.

23 Q. And where did you see those?

24 A. I think the attorneys for the plaintiffs  
25 provided me with those maps.

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1 Q. Did you look at any of the plans that were  
2 proposed by any of the black legislators?

3 A. I -- I don't know. I did not know the  
4 race of the individuals who were involved in the  
5 plans that I saw. It it was, like, four Senate  
6 bills and -- and maybe four House bills. But I -- I  
7 don't know the race or the party of the people who  
8 submitted those plans. And I didn't take any kind  
9 of attempt -- I did make -- did not make an attempt  
10 to reconfigure those districts or anything. I  
11 didn't use them for Alternative Plan 1, Alternative  
12 Plan 2, or Alternative Plan 3 at all.

13 Q. So would it be fair to say, then, that --  
14 well, we can agree that, in order to adopt a plan,  
15 someone has to propose it at the --

16 A. Right.

17 Q. -- legislative level?

18 A. Right.

19 MR. CUSICK: Objection as to form.

20 You can answer.

21 THE DEPONENT: Well, yeah. Well, I -- I  
22 think someone would have to propose it. But I'm not  
23 a -- a legislative analyst, so maybe I don't really  
24 know the process in Arkansas.

25 BY MS. BROYLES:

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1 Q. Are you aware of any plans in any  
2 jurisdiction across the country that don't require a  
3 vote of a legislative body?

4 A. Well, there are court-ordered plans. But  
5 other than that, usually, there needs to be at least  
6 one legislator sponsor, who would then submit the  
7 bill. And -- and then there would be a vote by the  
8 legislature, presumably, on -- on that particular  
9 plan.

10 Q. So you are not offering, and do not intend  
11 to offer, any opinions that the legislature should  
12 have adopted a different plan than what they did  
13 among the options that were proposed?

14 MR. CUSICK: Objection as to form.

15 THE DEPONENT: Well, I -- I'm not offering  
16 that opinion, and I'm not even sure -- I think there  
17 may have been some plans that kept -- well, the --  
18 the four Senate plans I'm -- I'm reminded that I did  
19 look at, all split Pulaski County three ways. I  
20 don't know about the House plans. I can't recall,  
21 so I'm not --

22 And what was your question again? I'm  
23 just -- I lost -- I lost your question somewhere.

24 MS. BROYLES: Just that you're not  
25 offering that opinion and do not plan to undertake



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1 any such analysis to offer that opinion.  
 2 THE DEPONENT: Which -- but what is the  
 3 opinion?  
 4 MS. BROYLES: That -- that the -- among  
 5 the proposed plans that were before the legislature,  
 6 another plan would have been better than the one  
 7 that was ultimately adopted.  
 8 MR. CUSICK: Objection as to form.  
 9 You can answer.  
 10 MS. BROYLES: What the basis of the  
 11 objection?  
 12 MR. CUSICK: Outside the scope.  
 13 MS. BROYLES: I'm sorry?  
 14 MR. CUSICK: Outside the scope.  
 15 MS. BROYLES: What's outside the scope  
 16 about it?  
 17 MR. CUSICK: Asking him a question to  
 18 evaluate plans that he isn't sure he reviewed.  
 19 MS. BROYLES: Well, I'm asking him if he  
 20 intends to, and clarifying whether he did review it,  
 21 and establishing limitations to his opinion.  
 22 BY MS. BROYLES:  
 23 **Q. So again, you are not going to be opining**  
 24 **that they should have adopted a different plan that**  
 25 **was proposed to the legislature?**

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1 A. I am not going to opine on that because I  
 2 don't -- I have not seen the full slate of maps,  
 3 presumably, that were discussed in the legislature.  
 4 It went beyond just the submitted bills, but other  
 5 plans that might have been drawn, without actually  
 6 becoming a bill itself.  
 7 **Q. So in -- in evaluating the plan -- the**  
 8 **enacted plan, 2021, your entire focus was around**  
 9 **Pulaski County, and not adjusting things across the**  
 10 **state to reach whatever necessary traditional**  
 11 **redistricting principles exist? I mean, you're just**  
 12 **more or less playing with those lines there in the**  
 13 **center of the state?**  
 14 A. Well, I -- I mean, I was -- I was focused  
 15 on Pulaski County, but it affected the whole state.  
 16 So I was paying attention to the rest of the state,  
 17 as well, for sure. But I'm just saying that the  
 18 focal point of this lawsuit is the splitting of  
 19 South Central Pulaski County, Little Rock -- parts  
 20 of North Little Rock, also, into three separate  
 21 Congressional districts, so that neighborhoods are  
 22 in -- you know, your friend down the street is in  
 23 another -- is -- is suddenly in another  
 24 Congressional district. That is just completely  
 25 unnecessary.

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1 **Q. Well, boundaries are -- exist somewhere,**  
 2 **right? I mean, at some point, you may live on the**  
 3 **same -- you and I could live on the same street. And**  
 4 **like in Arkansas, you can be in Texarkana, Arkansas**  
 5 **and Texarkana, Texas.**  
 6 A. That's true.  
 7 **Q. So you --**  
 8 A. You can be in Bristol, Virginia and be in  
 9 Bristol, Tennessee.  
 10 **Q. Right. So that's -- at some point, a line**  
 11 **is drawn somewhere, such that there will be a**  
 12 **division. It can't not be divided; fair to say?**  
 13 A. Well, it -- you have to divide the state  
 14 into four pieces, that's right -- for a  
 15 Congressional plan, right. So -- so -- but it's --  
 16 it's better, to the extent you can, to follow county  
 17 and municipal boundaries, so that you're not -- not  
 18 splitting a lot of counties to draw that plan. So  
 19 the fact that the legislature wanted to eliminate  
 20 five county splits -- five split counties is  
 21 admirable because you can stay within one person  
 22 vote -- one vote, and only split one county. You  
 23 know what plan that is?  
 24 **Q. Well, let me back up for a second.**  
 25 A. That plan -- that plan is a hypothetical

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1 plan that would not crack black population outside  
 2 of Pulaski County. It would bring Pulaski County  
 3 and Jefferson County into a -- into an Congressional  
 4 district that would encompass a number of the more  
 5 rural counties along the Mississippi River.  
 6 It would be more compact. It would just  
 7 split one county. It would abide by one person, one  
 8 vote. It's compact, contiguous -- I mean, it meets  
 9 all the metrics --  
 10 **Q. Which one is that?**  
 11 A. -- all the metrics. That's the  
 12 hypothetical plan that we are not proposing in this  
 13 -- in this lawsuit, though, because it's focused on  
 14 Pulaski County.  
 15 **Q. So it's not any of the things in your**  
 16 **plan?**  
 17 A. Oh, yes, it's in my plan. I think it's  
 18 very important to get that out, because that really  
 19 show --  
 20 **Q. Which one is it?**  
 21 A. Well, it's the -- it's --  
 22 **Q. You got three in there.**  
 23 A. I have a hypothetical plan, based on the  
 24 2020 census, that not only fixes the issue with  
 25 Pulaski County, but also eliminates the cracking of

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1 the black population elsewhere in the state,  
2 creating a district that would include -- and I'll  
3 show it to you. Here it is.

4 **Q. Has to be either Alternative 1, 2, or 3?**

5 A. No, it -- it's not -- it's not, because  
6 it's not really on point in this lawsuit. This  
7 lawsuit is about the unnecessary division and  
8 cracking of the black population -- predominantly  
9 black, some Latino, in -- in South and Central  
10 Pulaski County. And the point of the whole case is  
11 that none of that is necessary. Even if you take  
12 into account partisan metrics, which -- which are  
13 not a traditional redistricting principle, you can  
14 still accomplish that.

15 **Q. So why don't -- why didn't you offer this?**

16 A. Because this just shows what could be done  
17 to eliminate the cracking of the black population  
18 statewide. It's a more complicated case, I assume,  
19 and so I'm not going to speak on that any further.

20 **Q. But the only factor that you're looking**  
21 **at, then, in the alternate plans that you have**  
22 **proposed is to eliminate cracking?**

23 MR. CUSICK: Objection as to form.

24 THE DEPONENT: I -- I am trying to  
25 eliminate the cracking of the black population in

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1 Pulaski County. Right.

2 BY MS. BROYLES:

3 **Q. But how, then, do you prioritize other**  
4 **traditional principles, as far as -- let's just --**  
5 **we're going to just -- scratch that.**

6 We'll get to the specifics here --

7 A. Okay.

8 **Q. -- because I think I think I'm getting a**  
9 **little bit ahead of myself. So with respect to the**  
10 **three plans, your goal was to, first and foremost,**  
11 **resolve the issue with cracking of the black**  
12 **population of Pulaski County?**

13 A. While adhering to the traditional  
14 redistricting principals, exactly.

15 **Q. Okay. So I'm going to ask you about that.**  
16 **But that's where you're starting from?**

17 MR. CUSICK: Objection as to form.

18 MS. BROYLES: What is the basis of that?

19 MR. CUSICK: Vagueness. That's one.

20 Mischaracterizes to the portion of report you're  
21 referring to.

22 MS. BROYLES: Vague?

23 BY MS. BROYLES:

24 **Q. Are you -- are you confused?**

25 A. Well, I mean, I -- the focal point of the

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1 lawsuit is Pulaski County. I mean, I -- I agree on  
2 that. And -- and the point is, it's not necessary  
3 to split it three ways because you end up having  
4 five county splits, which is essentially the same  
5 number of county splits that you have with the  
6 benchmark plan, in a way.

7 **Q. You had no knowledge, in this case, of any**  
8 **-- any goals of the legislature whatsoever in**  
9 **adopting the 2021 plan?**

10 A. Well, my understanding is it had something  
11 to do with partisanship. Or at least that's what  
12 I've been told or -- or understand that that was  
13 also a factor, but that's not a traditional  
14 redistricting principle.

15 **Q. Well, so what I said is true? You have no**  
16 **knowledge of any intent of any legislature with**  
17 **respect to their vote for a particular plan?**

18 A. I don't know anything about how the vote  
19 went for the plans.

20 **Q. Do you -- have you seen anything that says**  
21 **the Republican Party's goal is to do X with respect**  
22 **to any particular plan?**

23 A. No.

24 **Q. Have you seen the opposite, that the --**  
25 **the Democrats in Arkansas had a goal of proposing X**

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1 as it relates to --

2 A. No.

3 **Q. And you understand that when -- when the**  
4 **legislature is evaluating -- well, I think you --**  
5 **you say in here, because of the significant change**  
6 **in population of the state, that being Pulaski goes**  
7 **up, but others significantly went down, there was no**  
8 **option but to make changes. I mean, they couldn't**  
9 **stick with the 2011 plan, right?**

10 A. I agree. That's -- that's true -- that's  
11 true. They had to make changes to adhere to one  
12 person, one vote requirements.

13 **Q. Okay. And so you have no knowledge of**  
14 **what factors went into any plan that was proposed?**

15 A. I have no specific knowledge about the  
16 work that went into any single plan, no, in terms of  
17 the background discussions.

18 **Q. Nor do you have any data or information**  
19 **whatsoever about any, quote/unquote, "goals" of any**  
20 **particular party, legislator, or the legislature in**  
21 **enacting a plan, correct?**

22 A. Well, I -- I've seen the PowerPoint, which  
23 is just very general, about, you know, following one  
24 person, one vote requirements going to impact  
25 contiguous districts. So I knew that much, but I

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1 don't know --

2 Q. Well --

3 A. -- the backroom discussions that would  
4 have been involved between --

5 Q. Right. Well, I guess on that point, in  
6 reviewing the PowerPoint, did you see anything in  
7 there that was inappropriate?

8 A. In the Power --

9 MR. CUSICK: Objection as to form.

10 THE DEPONENT: Yeah. In the PowerPoint,  
11 my recollection is I did not see anything there.  
12 But I -- I -- you know, maybe -- I probably should  
13 remind myself. If anyone has a copy of the  
14 PowerPoint slide, I should look at it, probably. I  
15 don't want to sign off on it, exactly --

16 MS. BROYLES: Do you -- do y'all have a  
17 copy of whatever he looked at?

18 MR. CUSICK: Do you -- do you want -- I  
19 mean --

20 MS. BROYLES: I don't know what he looked  
21 at.

22 MR. CUSICK: I don't want to -- I don't  
23 want to testify on his behalf.

24 MS. BROYLES: Well, y'all -- I mean, I  
25 assume you -- you provided it to him?

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1 MR. CUSICK: It was -- it was materials  
2 produced in discovery.

3 MS. BROYLES: Okay. And so I --  
4 obviously, I mean, I can pull it up and look for  
5 myself. But if you know what you sent to him that  
6 he reviewed as it relates to the PowerPoint -- I  
7 don't know if you sent him the whole thing, parts of  
8 it, or what have you.

9 BY MS. BROYLES:

10 Q. But would you like to review it?

11 A. Well, I mean, I don't -- I don't know. I  
12 mean, it -- it -- my recollection is, there was  
13 nothing there that wasn't just sort of generic to  
14 any process of drawing a new redistricting plan. In  
15 other words, it focused on one person, one vote. And  
16 I think there was a mention of reducing the number  
17 of county splits, but I could be wrong about that.

18 So I mean, it -- it's neither here nor  
19 there, as far as I'm concerned, with the report I  
20 wrote. And I -- I think it was generally okay in  
21 terms of the objectives, but I may be overlooking  
22 something.

23 So I -- I don't want to sign off on  
24 something, which suggested something that might not  
25 mesh with traditional redistricting principles. But

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1 I -- I don't -- I don't think I saw anything there  
2 that did not mesh with traditional redistricting  
3 principles.

4 Q. And so are there any -- so we've talked  
5 about -- well, we kind of haven't, but -- we  
6 haven't, but we have a little bit. So when you say  
7 "traditional redistricting principles," and we may  
8 be turning there here shortly -- yeah, or the --  
9 yeah. This is next Section C, what are the  
10 traditional principles that you are referring to?

11 A. Well, one person, one vote should be a --  
12 a goal. Drawing districts that are reasonably  
13 compact and -- and reasonably shaped. Drawing  
14 districts that are contiguous. In other words, if  
15 you don't add in Jonesboro with Texarkana or  
16 something.

17 Districts that are observant of , which  
18 can include lots of different things, which perhaps  
19 you could subsume under that. Districts that don't  
20 split counties excessively and don't split VTIDs  
21 excessively, that don't split municipalities  
22 excessively. Sometimes you do have to make those  
23 kinds of splits.

24 So those are -- those would be the key  
25 traditional redistricting principles. Oftentimes,

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1 an additional one would be the non-dilution of  
2 minority voting strengths. And that's it. There's  
3 nothing in there about partisan or core retention.  
4 Those are not traditional redistricting principles.

5 Q. What was the other one?

6 A. Partisanship or core retention.

7 Q. Okay. So with respect to the first six  
8 that you listed: one person, one vote; reasonably  
9 compact; reasonably shaped; contiguous; communities  
10 of interest. And did you say vote dilution is a  
11 traditional principle?

12 A. It is often recognized as a traditional  
13 redistricting principle, but there are those who  
14 would say it's not.

15 Q. Okay. So where are -- so let's just start  
16 with the first five, then. What are you relying  
17 upon as far as a traditional principle? Where --  
18 where does that come from?

19 A. Constantly balancing those factors.  
20 There's no -- I'm -- I'm not prioritizing any single  
21 metric. I'm -- I'm looking at all of them and  
22 making adjustments, and I come to something of a  
23 subjective conclusion as to whether or not all of  
24 those, taken together, allow for one to say that  
25 you've drawn a plan that meets traditional

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1 redistricting principles.

2 Q. So with respect -- so are these -- when  
3 you say "traditional redistricting principles," is  
4 that phrase something that is taken from the courts,  
5 or is that your categorization personally?

6 A. I think that's generally taken from case  
7 law.

8 Q. Okay.

9 A. And I think most legislatures, when they  
10 set about drawing a new plan, would -- would list  
11 those as being principles which should be followed.  
12 And I think that that PowerPoint did -- power plan  
13 did, in fact, mention some of those.

14 Q. Did -- so among the -- these five --  
15 again, we're starting with the five, are any one  
16 more important than the other?

17 A. No.

18 Q. So --

19 A. Except one person, one vote. I mean, that  
20 would stand out as being one that is essential.

21 Q. Is there an authority that you rely upon  
22 for that, or is that your opinion?

23 A. Well, yes. I would rely on Tennant v.  
24 Jefferson County, where the -- the Supreme Court  
25 allowed deviation that amounted to 0.79 percent.

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1 There are people -- there are legislatures that  
2 insist on plus or minus one person, or even less  
3 than that.

4 I mean, if it doesn't -- if it adds up  
5 right, they're going to claim that maybe you should  
6 have five districts that are zero, and one that's  
7 plus one. I think that's a misreading and a  
8 misunderstanding of what one person, one vote is  
9 meant to be because going over that slightly, as  
10 Arkansas wisely does in their enacted plan, is okay.

11 It's just at some point, you do have to  
12 call a halt to it because you don't want a plan  
13 that's, like, five percent overpopulated and five  
14 percent underpopulated as a Congressional plan. So  
15 something in the range of plus or minus 1,500, plus  
16 or minus 2,000 should be okay.

17 But even that may exceed 0.79 percent. So  
18 what -- whatever the 0.79 percent parameter is, is  
19 what I would have to abide by, based on Tennant v.  
20 Jefferson County, a West Virginia case.

21 And in fact, in Mr. Bryan's report, he  
22 indicates that the attorney he was speaking with in  
23 your office suggested that 0.7 percent should be --  
24 0.7 percent should be the maximum deviation of any  
25 alternative plan or -- or hypothetical plan that he

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1 was drawing as he was working on his declaration.

2 Q. So that's even more --

3 A. I -- I mean, I think what that means is,  
4 you might end up with a plan that's plus or minus  
5 1,500 people, and still meet 0.7 percent. But once  
6 you get up to, say, plus or minus 2,000, you  
7 probably wouldn't. I -- I -- but I'm not  
8 calculating that now. That's just roughly.

9 Q. So the -- what are the -- are there  
10 standard deviations for any of the other four  
11 traditional principles that you've applied?

12 A. No, there are not, really. A legislature  
13 often will split a number of counties. Legislature  
14 will often draw a plan that's not very compact.  
15 Almost invariably, plans are contiguous. But it's  
16 okay not to have a contiguous plan if, in fact,  
17 there's a body of water concerned, as is the case  
18 with Lake Pontchartrain in Louisiana.

19 Q. So -- again, so in evaluating the other  
20 four principles, there is no stated standard  
21 deviation?

22 A. Well, and -- yeah. Meaning, like, a -- a  
23 metric that you absolutely have to meet in order to  
24 draw a plan that would pass muster with the courts?

25 Q. Yes.

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1 A. I don't think so. I think you -- I think  
2 you could produce a plan that is pretty far removed  
3 from the ideal in terms of compactness or political  
4 subdivision splits, and that might survive court  
5 scrutiny. But it really -- it's really got to be  
6 done on a case-by-case basis.

7 Q. So which traditional principle is  
8 connected to cracking?

9 A. That would be non-dilution of minority  
10 voting strength.

11 Q. Okay. And so that is one that sometimes  
12 is traditional, and sometimes not. People disagree  
13 on whether it is a "traditional principle"?

14 MR. CUSICK: Objection as to the form.

15 THE DEPONENT: There -- there seems to be  
16 some of that out there, yes.

17 MS. BROYLES: So how -- and you -- okay.  
18 So that goes to cracking. Okay. So we'll -- we'll  
19 get to that.

20 BY MS. BROYLES:

21 Q. And then the partisan aspect, are there  
22 any standard deviations for it or core -- the core  
23 retention principle?

24 A. No, there are not. And the core retention  
25 -- yeah, core retention and -- to backtrack, core

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1 retention and partisanship are not -- are not  
2 traditional redistricting principles. Now, the one  
3 thing I haven't mentioned, that also is not a  
4 traditional redistricting principle, but something  
5 that you could take into account, reasonably, is  
6 avoiding incumbent conflicts.

7 **Q. Oh, yeah, I saw that. And that's not an**  
8 **issue in this case.**

9 A. Not in this case, no.

10 **Q. Would it be inappropriate to draw a plan**  
11 **with the intention of creating a super majority?**

12 MR. CUSICK: Objection as to form.

13 MS. BROYLES: But what's -- what's the  
14 basis of that?

15 MR. CUSICK: To the extent it calls for  
16 legal conclusion, and vagueness to the extent you're  
17 defining a majority. It was open-ended.

18 BY MS. BROYLES:

19 **Q. Did you have any questions about it?**

20 A. Well, yeah. Super majority of what?

21 **Q. Any -- under any whether that's a party**  
22 **base, race based, if you want to create a super-**  
23 **majority of everyone that lives in Southeast**  
24 **Arkansas. I mean, I don't -- I don't know. I'm**  
25 **just trying to decide where --**

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1 A. Well, I -- I don't either. I have no way  
2 to answer that.

3 **Q. Okay. Let's see. So you've got -- we'll**  
4 **get to it, too, but as far as the 1981 to 2021 --**  
5 **bearing, you know, historical background, I guess,**  
6 **again, you don't have any knowledge, other than what**  
7 **I've told you today, what parties controlled at the**  
8 **time or any of the information that went into any of**  
9 **those plans?**

10 A. Well, I don't have any knowledge, other  
11 than it was my assumption that the legislature was  
12 Democratic in the 1980s and 1990s, and then flipped  
13 at some point. And you've advised me that my  
14 thinking that it probably flipped before the 2011  
15 plan -- that my assumption was wrong, and that the  
16 Democrats were still in -- in power in 2011.

17 **Q. So what -- why did you --**

18 A. That's not going to change anything I've  
19 said in my declaration at all. It has no bearing at  
20 all on what I've said at any point in my  
21 declaration.

22 **Q. So I guess, what was the point of going**  
23 **through, then, 35 years of plans?**

24 A. Because it's demographic reality. I'm not  
25 looking at party composition. I'm just looking at

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1 what happened. And the Democrats were doing it just  
2 as much -- almost as much as Republicans. They did  
3 not split Pulaski County three ways.

4 But other than that, there was a slow  
5 progression down from -- from CD 4, which is almost  
6 25 percent in 1980 -- in the 1981 plan, according to  
7 1990 census data, down now to just barely over 20  
8 percent in CD 2, which is the highest in the state.

9 The rest are in the teens, or -- of  
10 course, Northwest Arkansas is -- is kind of in a  
11 different demographic arena, and the black  
12 population is nowhere even in the teens there.

13 **Q. You have to resort to speculation to say**  
14 **that if a different party -- if the Democrats were**  
15 **the majority party in Arkansas, Pulaski County**  
16 **wouldn't have ultimately been split three ways?**

17 A. Well, I'm not -- I -- I have no idea -- I  
18 have no idea. What I'm saying is that there was no  
19 reason for Pulaski County to be split and to divide  
20 the southern part of it, maybe extending into the  
21 central, into three different Congressional  
22 districts. And -- and there is a race factor there  
23 because that population is predominantly black.

24 **Q. So it is your testimony that there --**  
25 **there could not be a single reason whatsoever to**

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1 **have reached the map that was proposed?**

2 A. I can't think of a good one, really. I  
3 mean, the best they could come up with was  
4 partisanship, and even that's really in question  
5 now.

6 **Q. What about the fact that that was all that**  
7 **was -- that your map, basically, wasn't recommended**  
8 **to them?**

9 A. Well, I was not drawing plans for the  
10 state legislature in 2021. I was working on a  
11 number of other cases at the time. So I mean -- I  
12 mean, and I'm not a -- not a citizen of Arkansas.

13 **Q. Could it be that it was the best plan of**  
14 **the options that were presented?**

15 MR. CUSICK: Objection as to form.

16 BY MS. BROYLES:

17 **Q. Could that be a reason?**

18 A. You mean my plans?

19 **Q. No, the one that was enacted. You said**  
20 **there was no basis for the plan --**

21 A. Well, I -- I don't -- I don't -- I --

22 **Q. -- under any circumstance, I guess --**

23 A. Well, I mean, I -- that -- that's just --  
24 I -- I don't know all the plans that were presented  
25 to the legislature, so I really can't say. I can



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1 say this. They made a bad choice. But I can't say  
2 that they had any other choice before them. That, I  
3 don't know.

4 I mean, they had other options. I know  
5 there were other plans out there, but -- four Senate  
6 bills, all of which split Pulaski County three ways,  
7 which is curious. And I don't know about the House  
8 plans. I've seen a couple that I think were House  
9 bills, and I don't recall -- I -- I think they left  
10 Pulaski County whole, but I could be wrong about  
11 that.

12 Q. Would you agree that plan -- a -- a  
13 redistricting map can be all -- drawn all kinds of  
14 ways, and still satisfy all the traditional  
15 principles?

16 A. Yes. I mean, I've got three on the table  
17 here, as long as we're isolating just the Pulaski  
18 County and the ripple effect it has around the  
19 state.

20 Q. But you agree that you were operating from  
21 the end, not the beginning --

22 A. Yes, but --

23 Q. -- like what the legislature was?

24 A. Right, but I -- I would have started -- I  
25 -- I would not have split Pulaski County three ways

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1 if I had started working on it on August the 13th,  
2 2021, when the data was released. I mean, that's  
3 just not something I would have done, even if I had  
4 been told that I needed to reduce the total number  
5 of county splits.

6 I would have looked for ways to just maybe  
7 change a couple of counties and -- and end up with a  
8 plan that just split two counties, instead of -- in  
9 -- into four pieces, instead of a plan that split  
10 two counties into ten pieces.

11 Q. Are you saying that your -- you -- you  
12 made no sacrifices to the other traditional  
13 principles in the plans that you have offered, the  
14 -- the three alternative plans?

15 A. Well, I'm -- I'm balancing traditional  
16 redistricting principles. For example, you could  
17 split a lot of VTDs and split a lot of counties, and  
18 probably draw more compact plans. But what would be  
19 the point of that?

20 Q. How were you balancing any of the  
21 principles? So for instance, how were you  
22 prioritizing the various factors when you were  
23 drawing your plan? Are you just -- just simply  
24 saying, we're not going to -- we're going to get out  
25 of the cracking issue, but we don't care about or --

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1 A. No. I -- I cared -- I --

2 Q. -- compactly shaped?

3 A. I -- I cared about all of that, and I was  
4 balancing those as I was drawing them, so that I  
5 didn't attempt to draw a crazy-looking district that  
6 might have met one person, one vote. I was trying  
7 to take all of those factors into play as I was  
8 drawing the plans.

9 Q. And you said, in doing that, you didn't  
10 look at any of the data that Maptitude provided to  
11 evaluate the other -- I -- I maybe -- tell me what  
12 you did. So when you go in and you're kind of  
13 moving things around, I realize you are balancing  
14 them in your head, but how could your methodology be  
15 repeated by someone else?

16 A. Well, anyone could take a -- a map, a -- a  
17 GIS program, and look at my map and basically  
18 recreate it. In fact, that's -- oddly, Mr. Bryan  
19 didn't ask for the shapefiles of Alternative Plans  
20 1, 2, and 3. And he just basically recreated them  
21 -- perhaps with some minor inconsistencies in  
22 Sebastian County. I'm not sure because I was mainly  
23 just working with whole counties.

24 So anybody could take my maps and recreate  
25 it, with the possible exception of exactly how the

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1 line was drawn in Sebastian County. In -- in  
2 several instances, I think -- I think maybe  
3 Alternative Plan 1 or Alternative Plan 2 -- I know  
4 -- I think Alternative Plan 2 and Alternative Plan 3  
5 divides Sebastian County in exactly the same way the  
6 -- the legislature divided it.

7 So your own expert has basically been able  
8 to replicate my plans without a shapefile, just  
9 looking at the map. It's that simple. It's  
10 extremely simple in Arkansas, unlike some states,  
11 because you just -- you can work with whole  
12 counties. There's -- and there's no -- there's no  
13 need to go beyond that.

14 Q. But how do you -- how do we know -- well,  
15 okay. Well, we'll -- again, we'll just go through  
16 the specifics. So Plan 1 says -- where it says,  
17 "From what I understood to be the relevant  
18 criteria," what are you referring to there?

19 A. Well, the -- well -- well, what are we  
20 looking at?

21 Q. The -- sorry. Page 6, Section 5, I -- you  
22 have -- it says that, "Alternative Plan 1 is drawn  
23 for the purpose of my report from what I understand  
24 to be the relevant criteria." What -- what are --  
25 what criteria are you operating from?



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1 A. Well, the -- the criteria would be  
2 traditional redistricting principles. And what I  
3 understood to be at least an objective that I picked  
4 up somewhere early on, that the -- the legislature  
5 wanted to reduce the number of split counties. In  
6 other words, instead of having five split counties,  
7 they wanted to cut that. And -- and they did that  
8 by splitting Pulaski County three ways, resulting in  
9 a total of ten county splits.

10 Q. Any other criteria that you took into  
11 consideration?

12 A. Well, all the traditional redistricting  
13 principles, which presumably the -- the legislature,  
14 obviously, did okay on -- on -- reasonably well on  
15 compactness and reasonably well on one person, one  
16 vote and --

17 Q. So we'll get that.

18 A. -- and reasonably well on contiguity.

19 Q. Okay.

20 A. It's just this odd, inexplicable decision  
21 to divide Pulaski County three ways.

22 Q. So --

23 A. Why not two?

24 Q. Well, we're going to get that -- get to  
25 that.

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1 A. Okay.

2 Q. So then on Alternative Plan 2, you say  
3 that it is drawn with the purpose of maintaining  
4 partisan advantage, so -- and then again, you say,  
5 "From what I understood to be the relevant criteria,  
6 maintains the partisan tilt in the enacted plan." So  
7 if it's so obvious, why did you even need three  
8 alternatives?

9 MR. CUSICK: Objection as to form.

10 THE DEPONENT: Well, I think that  
11 alternative plans now have to be provided by the  
12 plaintiffs in a lawsuit of this nature, as a result  
13 of Alexander v. South Carolina, and the 2024 ruling  
14 by the Supreme Court. You have to -- you have to  
15 show that you could draw a plan that would match or  
16 exceed the partisan advantage that was one of the  
17 factors that the legislature was looking to enhance  
18 in their plan.

19 BY MS. BROYLES:

20 Q. And none of your maps match the partisan  
21 -- or exceed the partisan advantage that is clear  
22 from the enacted map?

23 A. Well, that's not true. Alternative Plan 3  
24 clearly exceeds it, when you look at the Trump-Biden  
25 contest and the US Senate contest. Alternative

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1 Plans 1 and 2 are --

2 Q. 2. I want to --

3 A. -- slightly lower. Well, Alternative Plan  
4 1 is slightly lower, like, off by one percentage  
5 point. I was not looking at partisan advantage in  
6 Alternative Plan 1. I was just look at adhering to  
7 traditional redistricting principles.

8 For Alternative 2, I wanted to get to a  
9 level that is about the same as the enacted plan,  
10 but it's still slightly less partisan, when you look  
11 at Trump v. Biden, than the enacted plan. But it's  
12 under a percentage point and ought to be close  
13 enough, but -- because it's not over the partisan  
14 tilt of the enacted plan.

15 And based on my -- my review of -- of Mr.  
16 Bryan's report, I felt like it would be important to  
17 go ahead and submit an Alternative Plan 3 that  
18 proved that you could have exceeded the partisan  
19 advantage under the enacted plan with a plan like  
20 Alternative Plan 3. That would have also been  
21 superior on traditional redistricting principles and  
22 included all of Pulaski County in a single district.

23 Q. Would you agree, to do that, you had to  
24 sacrifice other traditional principles?

25 A. No, I would not agree to that.

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1 Q. Okay. We'll get there, then.

2 A. Okay. We -- we should, because -- I don't  
3 know where you're coming from, but I'm -- I don't  
4 see that.

5 Q. Let's see. In reviewing the complaint --  
6 or did you -- you thought -- you said you probably  
7 reviewed the amended complaint. Do you know if you  
8 did?

9 A. I reviewed a complaint. I'm not sure if  
10 it was the amended complaint or the original  
11 complaint. I think, though, I reviewed the amended  
12 complaint. I think they're very similar, but there  
13 must be some differences there.

14 Q. I haven't gone back and taken it. I just  
15 -- I -- since an amended complaint, you know, takes  
16 the place of a original complaint, I just, you know,  
17 for the purpose of being most -- you know, whatever  
18 the priority or whichever one is still "in effect."

19 I just wanted to see -- because I was  
20 curious to know if, in developing your plans, you  
21 looked to the criticisms lodged in the complaint to  
22 inform any of your balancing of the various  
23 traditional principles.

24 A. Well, yes. I mean, the primary criticism  
25 in the complaint and -- and the amended complaint,

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1 I'm sure, is the cracking of the black population in  
2 Pulaski County, dividing the south and central  
3 portions -- parts of the central portion of Pulaski  
4 County into three pieces for no known reason that I  
5 can see. Because it had -- has nothing to do with  
6 reducing the number of county splits. It has  
7 nothing to do with reducing the number of municipal  
8 splits. It has nothing to do --

9 **Q. Let's get off the splits for a second**  
10 **because --**

11 A. Yeah.

12 **Q. -- I think your -- you've already**  
13 **testified that your -- your reference to a goal of**  
14 **reducing splits, you don't know where that**  
15 **information came from and that you're basing that**  
16 **off an assumption.**

17 A. Well, what I will say is just because I've  
18 drawn a plan -- there is a traditional redistricting  
19 principle which states that you should reduce the  
20 number of political subdivision splits. I mean, you  
21 should try to keep counties whole, keep VTDs whole.  
22 Keep regions whole, for that matter. And -- and if  
23 you understand that, then you can see that the plans  
24 I've drawn are generally superior, across all  
25 traditional redistricting principles, than the

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1 enacted plan.

2 **Q. So for the purpose of your report, you put**  
3 **vote dilution as your top priority?**

4 A. No.

5 **Q. That being the cracking.**

6 A. Well -- well, the -- the cracking of the  
7 predominantly black, Latino neighborhoods in -- in  
8 South Central Pulaski County is -- is, to my mind,  
9 pretty obvious. And so at the outset, I wanted to  
10 see if that could be avoided, while also adhering to  
11 traditional redistricting principles. And I  
12 concluded --

13 **Q. What is your --**

14 A. -- very quickly that that certainly could  
15 have been avoided.

16 **Q. What is your threshold for adherence for**  
17 **each of the principles?**

18 A. Well, it's -- it is subjective. I mean,  
19 you know, if I have a plan that's reasonably  
20 compact, but not quite as good as the enacted plan,  
21 then -- if it's, like, a massive difference, then  
22 that's -- that's an issue. But there is no massive  
23 difference here.

24 Where -- where the Alternative Plan 1 and  
25 Alternative Plan 2 may be slightly less -- might not

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1 match what the enacted plan has, although I'm hard  
2 pressed to think of anything, except maybe overall  
3 compactness. That's okay because my plan is clearly  
4 within the norm. I mean, there's no question about  
5 that.

6 **Q. What's the --**

7 A. Mr. Bryan, in his report --

8 **Q. What's the norm?**

9 A. The norm is -- is looking at all --  
10 looking at all counties, nationwide -- I mean, all  
11 Congressional districts nationwide, and determining  
12 whether the alternative plans I've drawn and whether  
13 the enacted plan I've drawn are within the norm on  
14 compactness.

15 **Q. And how do you make that determination?**

16 A. Well, you look at -- you -- you just  
17 compare the compactness scores of the various  
18 states. And I have a table in there, showing all  
19 states that are at least three districts that -- I  
20 think there are 36 of them. And the plans I've  
21 drawn -- and the enacted plan, for that matter, are  
22 all in the upper quartile.

23 **Q. Is it --**

24 A. In fact, Alternative Plan 3 ranks number 7  
25 in the country. So that's -- if that's not in the

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1 norm, what is?

2 **Q. So on the -- so if the -- if an enacted**  
3 **plan, with respect to each of the traditional**  
4 **principles -- and we can even do -- should we**  
5 **include cracking and -- or excuse me, vote dilution,**  
6 **partisan, and core retention, as far as -- so what**  
7 **I'm trying to decide is -- let's just say it's a**  
8 **pie.**

9 Because at some point, you have to have --  
10 if you're balancing -- you know, you can cut eight  
11 pieces that are all the same, and it's possible. Or  
12 if you don't use an exact pie cutter, some may be a  
13 little less to -- to prioritize one, even only  
14 slightly, may have an unintended consequence to  
15 another principle.

16 A. Well, it -- it may --

17 **Q. Are we in agreement with that?**

18 A. There may be something of a ripple effect  
19 across all traditional redistricting principles.  
20 What I'm saying is, unquestionably, the three plans  
21 I've drawn -- provided you accept the fact that we  
22 are only looking at, in this case, the issue with  
23 Pulaski County, these plans meet traditional  
24 redistricting -- traditional redistricting  
25 principles with flying colors.

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1 Now, I've mentioned at the outset that  
 2 there is this other issue about the black population  
 3 being cracked as it relates to the Mississippi River  
 4 counties and the Delta and Jefferson County and its  
 5 black population, and the black population in -- in  
 6 Pulaski County. But that's an issue for another  
 7 lawsuit, some other time in the future.  
 8 There's no question in my mind that this  
 9 plan, Alternative Plan 1, Alternative Plan 2, and  
 10 Alternative Plan 3, as it relates to Pulaski County,  
 11 fully adheres to traditional redistricting  
 12 principles, even though the numbers are slightly  
 13 different here and there, across my three plans and  
 14 in relation to the enacted plan.  
 15 **Q. So would you agree that, in -- in enacting**  
 16 **a new plan, the legislature -- you -- you said the**  
 17 **benchmark is the -- you know, the prior plan --**  
 18 A. Right.  
 19 **Q. -- based on the prior census.**  
 20 A. Right.  
 21 **Q. A state cannot go back and cure any issues**  
 22 **with past Congressional maps in one sweep.**  
 23 A. Oh, sure, I can. Tomorrow -- what is  
 24 today, Wednesday? On Thursday, the legislature  
 25 could meet, and they could say, you know, we've come

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1 to the conclusion that we should draw a plan that  
 2 allows for the black population not to be split and  
 3 cracked. And so we're going to adopt the  
 4 hypothetical plan.  
 5 **Q. No. My -- my --**  
 6 A. That plan would be unassailable. It is  
 7 more compact, and scores higher across almost every  
 8 single traditional redistricting principle compared  
 9 to the active plan. Nobody could challenge it. They  
 10 could try, and they'd get nowhere.  
 11 **Q. So you -- that -- that is, you start it**  
 12 **from scratch?**  
 13 A. No, I didn't start from scratch. I  
 14 started with glancing at the -- at the existing, in  
 15 place supreme -- appellate court district that  
 16 includes some of the Mississippi Delta -- no,  
 17 Mississippi River -- or I'm sorry, Delta counties in  
 18 a majority black district. And I just extended that  
 19 district to pick up more of the Mississippi River  
 20 counties and also add it in --  
 21 **Q. How many court of appeals districts are**  
 22 **there in Arkansas?**  
 23 A. I believe that, in Arkansas, there are --  
 24 there are seven. And I've drawn -- as you can see  
 25 on Page 15, I've shown Arkansas Appellate Court

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1 District 7, adopted by the legislature in 2003, that  
 2 creates a majority black district that extends from  
 3 Jefferson County and picks up Arkansas County, and  
 4 then --  
 5 **Q. Does Arkansas have four seats or seven**  
 6 **seats?**  
 7 A. Well, it has seven -- it has four seats.  
 8 That's why -- that -- that's why I then went beyond  
 9 that with the hypothetical plan and added in a  
 10 couple of other counties along the Mississippi  
 11 River, plus Pulaski County.  
 12 **Q. Could some say that your plan is so that**  
 13 **-- operating from the prior plan, your plan would be**  
 14 **significant in breaking or cracking existing**  
 15 **communities --**  
 16 MR. CUSICK: Objection as to form.  
 17 THE DEPONENT: Well, first of all -  
 18 BY MS. BROYLES:  
 19 **Q. For the purpose of some other goal?**  
 20 MR. CUSICK: Same objection.  
 21 THE DEPONENT: They -- they could try  
 22 that, but it doesn't -- it only splits one county,  
 23 Sebastian. And it's more compact than the existing  
 24 plan -- slightly more compact. It scores a -- a 66  
 25 on the DE composite score -

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1 BY MS. BROYLES:  
 2 **Q. And this is the plan that you're not even**  
 3 **proposing in this lawsuit?**  
 4 A. No, I'm just saying, that could be -- you  
 5 -- you could propose that tomorrow, and this -- this  
 6 lawsuit is over.  
 7 **Q. Well, then why didn't you just stick with**  
 8 **that?**  
 9 A. Huh?  
 10 **Q. Why didn't you just do that?**  
 11 A. Oh -- oh, because the -- the courts would  
 12 probably question whether that plan would fit into  
 13 this partisanship parameter that's now out there as  
 14 it relates to the Alexander v. South Carolina case.  
 15 **Q. So --**  
 16 A. And it's -- and also, it's not a Gingles 1  
 17 compliance plan, so there -- there would be issues  
 18 raised if someone filed a lawsuit, trying to get the  
 19 state to create it. But if the state created it --  
 20 if the state legislature said, okay, we're just  
 21 going to do it, and they did it tomorrow, there's  
 22 just no way in hell that anybody could prevail in a  
 23 lawsuit against that law -- against that plan.  
 24 **Q. You just said it violates the Gingles**  
 25 **factors?**

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1 A. It -- well, it -- it doesn't -- it doesn't  
 2 rise to that level. You cannot very easily -- I  
 3 can't say you cannot create a majority black  
 4 district if you worked at it, but you cannot use  
 5 whole counties and create a majority black district.  
 6 This district would only be -- only be 38 percent  
 7 black, as the way I drew it. There might be other  
 8 ways to draw it. That was just an example.  
 9 **Q. But again, this hypothetical plan that you**  
 10 **keep pointing to, it's not even one that you're**  
 11 **actually proposing?**  
 12 A. It's -- it's totally outside the context  
 13 of this lawsuit. I -- I just did it to show that --  
 14 that part of the black population is being  
 15 completely left out of the picture, given the focus  
 16 of this lawsuit. That being the population running  
 17 from Jefferson County all the way into -- over to  
 18 the Mississippi River counties.  
 19 That are basically part of Appellate Court  
 20 District 7 that the legislature, in 2003, drew,  
 21 based on another plan that I think goes back to,  
 22 like, 1980 that needed to be changed, I think,  
 23 maybe, for one purpose, one vote. I'm not sure  
 24 exactly. But that -- but that may have been --  
 25 there may not have been a majority black appellate

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1 court district until 2003. I am not sure. I'd have  
 2 to go back and look.  
 3 **Q. Okay. I think that, for our purpose going**  
 4 **forward, because you are not offering your -- the --**  
 5 **just that plan as an actual plan in this case, as we**  
 6 **move through, we need to focus on the ones that**  
 7 **you've actually proposed.**  
 8 A. Understood.  
 9 MR. CUSICK: Objection as to form.  
 10 BY MS. BROYLES:  
 11 **Q. Fair?**  
 12 A. Well, understood, but -- but I think you  
 13 brought that up, though. I didn't.  
 14 **Q. No, you brought it up. Because you've**  
 15 **said there's another one in there, and I'm just**  
 16 **curious, if that was the case, why you didn't you**  
 17 **just offer that as the plan?**  
 18 MR. CUSICK: Objection.  
 19 BY MS. BROYLES:  
 20 **Q. Instead of working off of a specific**  
 21 **allegation, why did you not look at the plan, as the**  
 22 **-- the legislature did, and -- in analyzing the case**  
 23 **and look at the entire state, as opposed to**  
 24 **isolating one particular area?**  
 25 MR. CUSICK: One second. Just objection

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1 as to form.  
 2 You can answer.  
 3 THE DEPONENT: Well, I -- I'm looking at  
 4 the demographics of -- of Arkansas. I'm not living  
 5 in an alternative reality. So I fully understand  
 6 that one could draw a plan that met every single  
 7 traditional redistricting principle, that split  
 8 fewer counties, more compact, fewer municipal  
 9 splits. It just stacks up superior to the enactment  
 10 plan on all counts -- on all counts. And for that  
 11 reason, I wanted to make that point. And -- and I  
 12 think I only make that point because of something  
 13 you said earlier.  
 14 BY MS. BROYLES:  
 15 **Q. Well, you made the point before you'd ever**  
 16 **met me, because it's in your report.**  
 17 A. Right -- right. And just -- just leave it  
 18 in there, just -- just for the record, to show the  
 19 demographic reality of Arkansas. Setting aside the  
 20 law, setting aside everything else under the sun,  
 21 there's no question that the black population could  
 22 be joined together in a district that would be about  
 23 38 percent black, and adhere to every single  
 24 traditional redistrict principle.  
 25 **Q. Okay. So where are you -- well, never**

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1 **mind. We'll -- we'll go forward.**  
 2 MR. CUSICK: Not to -- to jump in, but is  
 3 there a chance for a quick restroom break at some  
 4 point, when you have a natural stop?  
 5 THE DEPONENT: No. I'm just kidding.  
 6 MS. BROYLES: Yeah, that's fine. Yeah.  
 7 MR. CUSICK: Whenever -- whenever --  
 8 MS. BROYLES: Yeah, we can go off. I have  
 9 a granola bar, so I just kind of roll. But if y'all  
 10 need to take a longer break, it's 12:30. This may  
 11 be a point to --  
 12 MR. CUSICK: We're happy to do a shorter  
 13 one. I don't know if they planned -- I think we  
 14 also have food for -- for everyone here, so --  
 15 MS. BROYLES: Oh, I didn't know that.  
 16 Okay.  
 17 MR. CUSICK: So let me go check real quick  
 18 and just see if it's here, and then we --  
 19 MS. BROYLES: Okay. Sure.  
 20 MR. CUSICK: We're happy to do maybe,  
 21 like, a -- 30 minutes or shorter.  
 22 (WHEREUPON, a recess was taken.)  
 23 BY MS. BROYLES:  
 24 **Q. Okay. Dr. Cooper, we're back on the**  
 25 **record. And so let's go ahead and turn to the**

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1 specific plans that you've recommended: Alt 1, 2,  
2 and 3. You said in here something with respect to a  
3 stipulation. It's on Page 8, a stipulation that the  
4 legislature didn't have regarding minimal deviation.

5 Is that back to the one-to-one thing -- or  
6 excuse me, not one-to-one, but the one person, one  
7 vote? And we've talked about that, right?

8 A. Well, yeah. You know, because there are  
9 some states which, essentially, require you to draw  
10 up zero deviation plans -- in other words, no more  
11 than one person over or under the ideal district  
12 size. Which is crazy, but they do it. And I  
13 applaud Arkansas for being in the forefront to not  
14 have zero deviation plans.

15 Q. Yeah. So turning to Page 9, along those  
16 lines, you have here that the enacted plan is well  
17 within the deviation range approved by the Supreme  
18 Court in the Tennant case, right?

19 A. Absolutely.

20 Q. Okay. And then on to B, you -- that  
21 covers the cracking issue that we'll delve into  
22 further detail. But that's what B is covering,  
23 correct?

24 A. Correct.

25 Q. C is in reference to contiguous districts.

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1 And you say that, like the enacted plan -- or excuse  
2 me, that the enacted plan is contiguous?

3 A. Exactly.

4 Q. And the enacted plan, as well, is  
5 reasonably shaped and compact?

6 A. Yes.

7 Q. Then you say -- goes to the communities of  
8 interest. And -- and again, that goes to the  
9 cracking point there in Subpart E?

10 A. Right.

11 Q. Okay. So we'll get to that -- that detail  
12 too. E and F, really, I think goes to cracking, and  
13 then resulting communities of interest issue. Is  
14 that -- are those really distinct, or are they kind  
15 of the same thing? I mean, if you -- like, let's  
16 say, the Court were to find -- I mean, would there  
17 be an instance where you'd have cracking, but not a  
18 communities of interest issue, or vice versa?

19 MR. CUSICK: Objection as to --

20 BY MS. BROYLES:

21 Q. Does that makes sense? I'm not sure how  
22 to ask the question, but --

23 A. Well, there -- there would, generally, if  
24 there's -- if there's cracking, there's going to be  
25 a community of interest issue.

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1 Q. Okay. Is the reverse true, that if you  
2 have communities of interest, then -- I mean, can  
3 you have a communities of interest issue without  
4 having a cracking issue?

5 A. Well, you could. It might be in the  
6 context of another kind of lawsuit, though.

7 Q. Okay. And then we've already talked  
8 about, there's no issue with impairing incumbents.  
9 But you do say, in Paragraph 15 on Page 10, "To the  
10 extent practicable, election plan should keep the  
11 core population together in new districts." And  
12 then, like the enacted plan, they have high levels  
13 of core retention?

14 A. Right.

15 Q. So I mean -- meaning, too, that the  
16 enacted plan has high levels of core retention; is  
17 that fair?

18 A. Well, it does, as -- as does the  
19 alternative plan. It's entirely acceptable to have  
20 a plan that only has a 73-percent core retention  
21 rate, all other things equal, so the alternative  
22 plans are just fine in that regard, in my opinion.

23 It's not a -- it's not a traditional  
24 redistricting principle, and there is no bright-line  
25 rule as to what would constitute a -- an

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1 unreasonably modified change. Because all other  
2 things equal, the legislature could adopt a plan  
3 with 35-percent core retention.

4 Q. So going into Page 12, under Enacted Plan,  
5 there in the Figure 1, I'm a little confused. You've  
6 got 1981 benchmark, and then 1990 census.

7 A. Right.

8 Q. Should that be 1980?

9 A. Well, I would have had to add another row  
10 there with the -- from the 1980 census. And that --  
11 say, what page is that, 20?

12 Q. It's 12.

13 A. Oh, 12.

14 Q. And I'm -- we're -- there in the  
15 parentheses, I guess. Because 2021 says 2020  
16 census, and then 2011 benchmark says 2020 census,  
17 and then 2001 says 2010 census. So I'm -- I guess  
18 I'm just a little confused on that.

19 A. Yeah, it -- it is a little confusing, but  
20 when the -- when the legislature met in 2001 to draw  
21 the -- what became the plan -- the 2001 plan that  
22 lasted all the way through the decade of 2000s, they  
23 initially started with a map that reported data from  
24 -- from the 2000 census. In other words, they --  
25 they had the 1991 benchmark plan that they were



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1 working with, but using the 2000 census.  
 2 And so they created a plan that was in  
 3 place all through the 1990s, that was based on the  
 4 2000 census. And then in 2001, that benchmark plan  
 5 would have -- would have been in place all the way  
 6 through to 2011, and -- and that plan would have  
 7 been based on the -- the benchmark would have been  
 8 based on the 2010 census, when it was adopted.

9 I could have added another row in there  
 10 that showed the 1980 benchmark -- I mean, the -- the  
 11 1980 census for the 1971 plan or whatever. But I  
 12 mean, you can only go -- I -- I think I've made the  
 13 point just with those five decades.

14 **Q. Okay. So Section 3, on Demographic**  
 15 **Profile of Arkansas, as it relate -- is it relevant**  
 16 **at all to the actual allegations in the case? I**  
 17 **mean, in the sense that it -- the only thing that**  
 18 **they're complaining about is the 2021 enacted plan,**  
 19 **so how does any of this relate to the actual**  
 20 **alternatives that you've recommended?**

21 A. Well, it's just --

22 MR. CUSICK: Objection as to form.

23 THE DEPONENT: It's just a -- it -- it  
 24 shows the population change over time, over the past  
 25 35 years and -- or actually, going back -- yeah, all

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1 the way back to 1990. And it shows that the black  
 2 population has grown somewhat, and the white  
 3 population has shrunk.

4 So to that extent, it -- it's  
 5 demonstrating that there's nothing changed in terms  
 6 of the overall percentage of the black population in  
 7 the state that would in, any reason, somehow or  
 8 another, justify the way the enacted plan was drawn.  
 9 And it's really just for general information  
 10 purposes, so someone could look at this chart and  
 11 see how the population has changed.

12 BY MS. BROYLES:

13 **Q. So I guess what -- the way that -- I mean,**  
 14 **you say, 1980s to 2020s, cracking the black**  
 15 **population. I mean, it's -- I guess my point is, it**  
 16 **appears that you're -- you're making the effort to**  
 17 **suggest that the Arkansas legislature has been**  
 18 **racist all this time, and they still are?**

19 MR. CUSICK: Objection as to form.

20 THE DEPONENT: I'm -- I'm not making that  
 21 allegation. I'm just reporting the fact that over  
 22 the past 30-plus years, the population in a given  
 23 district, which for the first three decades, was CD  
 24 4, beginning with the 1981 benchmark as reported  
 25 under the 1990 census, it was 24.66 percent. That

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1 was the highest percentage in any one of the  
 2 Congressional districts in Arkansas.

3 By the 2021 plan, the district with the  
 4 highest percentage is now still CD 2 at 20.33  
 5 percent. So about 4.5 points have been lopped off  
 6 of the BVAP percentage in any particular  
 7 Congressional district when compared against the  
 8 1981 plan.

9 BY MS. BROYLES:

10 **Q. But can that --**

11 A. I'm not accusing anyone of being a racist.  
 12 It's just a demographic fact.

13 **Q. Okay. Well, I guess --**

14 A. Even in -- even -- even though the black  
 15 population has increased a little bit in terms of  
 16 percentage, and the white population has fallen  
 17 quite a bit in terms of percentage. A large part of  
 18 that is due to the influx of the Latino population.

19 **Q. Well, and is some of this also explained**  
 20 **by people in the Delta moving more to Central**  
 21 **Arkansas?**

22 MR. CUSICK: Objection as to form.

23 BY MS. BROYLES:

24 **Q. Or moving out of the Delta, wherever they**  
 25 **go. But certainly, there's -- the population of the**

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1 **counties of CD 2 -- or excuse me CD 4, is -- has**  
 2 **gone down.**

3 A. Right.

4 MR. CUSICK: Objection as to form.

5 THE DEPONENT: It's gone -- it's gone  
 6 down, and there has been some out migration. And  
 7 you can see that in the table, looking at Pulaski  
 8 County, which is over on -- what page that's on? I  
 9 can find that. There's a table there. It breaks  
 10 out Pulaski County.

11 And you can see how, in -- in 1990, the  
 12 black population in Pulaski County was 26.3 percent.  
 13 And in 2020, it had climbed to 38 percent, so it's  
 14 gone up in Pulaski County. And some of that would  
 15 have been -- although I can't give you a precise  
 16 number, but I'm sure some of that would have  
 17 involved out migration from the Delta Counties into  
 18 Pulaski.

19 BY MS. BROYLES:

20 **Q. So Paragraph 22, the hypothetical plan in**  
 21 **Figure 3, that is not one of the 1, 2, and 3**  
 22 **alternative plans that you're recommending? It's**  
 23 **just a hypothetical plan --**

24 A. Well --

25 **Q. -- that -- we talked about that.**

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1 A. I would highly recommend it, but I realize  
2 that it doesn't exactly fit into the context of this  
3 case from a legal standpoint. I'm not a lawyer, but  
4 I -- I do understand that. I -- I just wanted to  
5 point out the demographics of it all.

6 And the reality that the black population  
7 could be put into a plan that is adhering to all the  
8 traditional redistricting principles -- all of them,  
9 to a better extent than the enacted plan, or even  
10 any of the alternative plans. And it would be, as I  
11 said earlier, unassailable. Somebody might try to  
12 sue over something, but it's a perfect plan from the  
13 standpoint of traditional redistricting principles.

14 Q. But that's not what you were asked to do  
15 in this case.

16 MR. CUSICK: Objection.

17 THE DEPONENT: I was asked to provide some  
18 demographic background, which would include looking  
19 at population change by county over time, and so  
20 that is part of the demographic backdrop. That, in  
21 reality, you could have a district in Arkansas that  
22 is over 38 percent black, and probably going higher  
23 over the course of the decade.

24 But you don't. In fact, you hardly even  
25 have any district that's even in the teens. So

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1 there is clear cracking of the black population that  
2 extends beyond Pulaski County.

3 But this lawsuit is only about Pulaski  
4 County, so we want to fix that first. We -- I mean,  
5 I'm just suggesting, using the royal "we." I'm not  
6 involved in any sort of decision making in terms of  
7 legal plans for the future.

8 BY MS. BROYLES:

9 Q. So let's skip ahead to -- what is  
10 excluding unpopulated splits? I'm not you've got a  
11 asterisk there at the bottom of Page 18. I'm just  
12 not sure what that means.

13 A. Well, it -- it just means that there are  
14 some municipalities that are split. I think maybe  
15 there's only one that shows up in this case, but --  
16 or that may -- there may only be one instance where  
17 that's happened where a VTD boundary is split or a  
18 municipality is split.

19 And in this case, because I don't split  
20 any VTDs, really, it's almost -- almost of no  
21 importance. But -- but sometimes you end up making  
22 -- doing a split, and the -- one of the splits  
23 doesn't have any population in it. So because it  
24 had no population in it, it really has no impact on  
25 voters, at least at the time of the 2020 census.

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1 Q. Going to Figure 7, at least -- on Page 18,  
2 you know, I'm setting aside the hypothetical plan  
3 column and just looking at what you've got for 2011  
4 to 2021. Total split counties is decreased to two,  
5 correct?

6 A. Between the 2011 benchmark and the 2021  
7 plan, that is correct. It goes from five to two. As  
8 you can see, the hypothetical plan just drops all  
9 the way down to one.

10 Q. Sure. And I want to I -- I get that, but  
11 since you're not offering it as an --

12 A. That's okay.

13 Q. -- and it's -- I just I want to look at  
14 the chart for this part of it, okay?

15 A. That's fine -- that's fine.

16 MR. CUSICK: Objection.

17 THE DEPONENT: Oh, but there's an  
18 objection.

19 MS. BROYLES: What's the basis of that?

20 MR. CUSICK: To the extent you're  
21 testifying that he's not offering this as part of  
22 his expert report.

23 MS. BROYLES: He -- he said that.

24 THE DEPONENT: Oh, I'm sorry. It is part  
25 of the expert report. What -- what it's not being

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1 offered is as a -- one of the alternative plans.

2 MS. BROYLES: Right. So I just want to --  
3 I'm just asking you between 2011 and 2021, these two  
4 columns on this chart.

5 THE DEPONENT: Yes.

6 BY MS. BROYLES:

7 Q. Okay. County splits goes from ten to  
8 five, correct?

9 A. That is true. It goes from -- from ten to  
10 five.

11 Q. And then voting district splits goes from  
12 one in 2011 to zero?

13 A. Right.

14 Q. I see -- obviously, you know, you've got  
15 that the municipalities increased?

16 A. Well, there is a typo there. The split  
17 municipalities were -- would be six. Mr. Bryan  
18 pointed out. And the municipal splits are 12,  
19 because you -- you have six split towns, including  
20 Little Rock and -- and North Little Rock. And you  
21 have -- therefore, you have 12 splits, because  
22 you're cut -- putting them in two pieces.

23 It's really -- another way to look at it  
24 is, split municipalities and municipal pieces that  
25 are parts of different Congressional districts. So

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1 it's -- it's 6 and 12, not 12 and 6, that's all.  
 2 It's just a typo.  
 3 **Q. Okay -- okay. And then core-based**  
 4 **statistical area splits decreased from 13 to 11?**  
 5 A. Yes.  
 6 **Q. School district splits has decreased from**  
 7 **100 to 84?**  
 8 A. Yes.  
 9 **Q. One person, one vote deviation, it -- can**  
 10 **you explain -- I mean, that -- that's an**  
 11 **improvement, correct?**  
 12 A. Yes, it is. It takes what would be a -- a  
 13 major violation of one person, one vote  
 14 requirements, which happens in almost every state  
 15 Congressional plan.  
 16 **Q. Okay.**  
 17 A. Because the 2011 plan, under the 2020  
 18 census, had an overall deviation of 20.26. By  
 19 dropping it down to 0.09 percent, the legislature  
 20 got it right within that -- you know, very close to  
 21 minimal deviation, and well within the range spelled  
 22 out by the Supreme Court in Jefferson County.  
 23 Jefferson County, West Virginia, not -- not  
 24 Arkansas.  
 25 **Q. Okay. Oh, I'm glad you said that, because**

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1 **yeah, that does get kind of confusing.**  
 2 A. Yeah. Three's a -- a lot of Jefferson  
 3 Counties.  
 4 **Q. Yeah. So DRA compactness, 41 to 59. So**  
 5 **that's better, correct?**  
 6 A. That -- that's right.  
 7 **Q. Core retention, it's better, correct?**  
 8 A. Well, it's -- t's --  
 9 **Q. Or not -- not applicable to 92.16 percent.**  
 10 **So that's -- I mean, that's very good. I believe**  
 11 **you said -- did you say anything over 90 is good?**  
 12 A. Well, to me, there's no -- there's no  
 13 fixed figure. Anything -- virtually anything, all  
 14 other things equal, would be okay. 73.5 percent is  
 15 clearly okay as we're looking at the hypothetical  
 16 plan. The --  
 17 **Q. Well, 90 --**  
 18 A. Three -- the three-judge panel in Milligan  
 19 in Alabama --  
 20 **Q. Hold on. We got to --**  
 21 A. Okay. All right.  
 22 **Q. Just answer the --**  
 23 A. Well, go ahead -- go ahead. Okay.  
 24 MR. CUSICK: Hold on. I think you should  
 25 just let the witness finish answering the question.

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1 MS. BROYLES: Well, he's --  
 2 MR. CUSICK: He's in the middle of  
 3 answering your question.  
 4 MS. BROYLES: He's going beyond what the  
 5 question is.  
 6 You're allowed -- you can finish, but  
 7 their -- they can ask you any questions they want  
 8 once I'm done. And I'm trying to get through where  
 9 we are, so -- go ahead and finish, but --  
 10 THE DEPONENT: Well, I'm just saying that  
 11 the three-judge panel in the Milligan case in  
 12 Alabama had a special master draw plan -- special  
 13 master plan that had an 87-percent core retention  
 14 rate, and the Court had no problem with that. And  
 15 they ordered that plan, rather than the state's  
 16 plan, into place.  
 17 BY MS. BROYLES:  
 18 **Q. So at least from a core retention**  
 19 **standpoint, the 2021 does better than the**  
 20 **hypothetical plan?**  
 21 A. It does.  
 22 **Q. Okay.**  
 23 A. That's true, based on core retention. But  
 24 core retention is not a traditional redistricting  
 25 principle.

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1 **Q. But you've got it here, and it's not**  
 2 **worse. Is that fair to say?**  
 3 MR. CUSICK: Objection as to form.  
 4 THE DEPONENT: Oh, I mean, just -- if you  
 5 look, it -- it is clearly okay.  
 6 MS. BROYLES: Okay.  
 7 THE DEPONENT: I mean, it's 92 percent.  
 8 So if the only thing that mattered core -- was -- is  
 9 core retention, then the enacted plan is -- is very  
 10 good. But very few states require you to do a -- a  
 11 measure of core retention as part of the  
 12 redistricting process. In other words, they're not  
 13 going to -- they're not going to enact a plan that --  
 14 - they're not holding fast to some figure that has  
 15 to be met.  
 16 Apparently, Mr. Bryan has pointed out that  
 17 in -- in Wisconsin, there's some sort of a  
 18 stipulation that it has to be 90 percent. I -- I  
 19 don't know. I mean, that's -- that's what he says,  
 20 though. I have no way of knowing that.  
 21 BY MS. BROYLES:  
 22 **Q. Regardless, there's nothing wrong with**  
 23 **that?**  
 24 A. No, there's not, just looking at the  
 25 number.

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1 Q. And then CD 2 BVAP, 22.64 percent to  
 2 20.33. Is there a standard deviation that is  
 3 required for that line item?

4 A. No. That's not a -- that's not a  
 5 traditional redistricting principle, either. That's  
 6 why Figure 7 says, redistricting metrics as opposed  
 7 to traditional redistricting principles, because  
 8 core retention is not a traditional redistricting  
 9 principle. And CD 2 BVAP, or even BVAP district by  
 10 district is not, taken alone, a traditional  
 11 redistricting principle. And incumbent conflicts  
 12 aren't either. So those three items are really not  
 13 traditional redistricting principles.

14 Q. Well, but for all the others that you've  
 15 included, at least the 2011 and 2021, the only item  
 16 that you criticize is split municipalities, correct?

17 A. Well, I'm not necessarily criticizing  
 18 split municipalities, except to the extent that  
 19 municipalities are being split in Pulaski County,  
 20 along with the three-way split in -- in the -- the  
 21 total number of county splits.

22 Q. So --

23 A. And the three-way split in Pulaski County.

24 Q. So you don't actually criticize the fact  
 25 that it goes from 6 to 12. The only criticism is

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1 it's specifically Pulaski County?

2 A. Well, that's part of it. It goes -- it  
 3 goes there -- there are five split municipalities in  
 4 the 2011 benchmark and ten municipal splits. And in  
 5 the 2021 plan, there are six split municipalities  
 6 and 12 municipal splits. Because recall, I have an  
 7 error in that table, transposing those two rows. So  
 8 there are six split municipalities in the 2021 plan  
 9 versus five in the 2011 plan. So on that score, the  
 10 2011 plan is better because it splits fewer  
 11 municipalities.

12 Q. It's 6 to 12, but you -- you compared --

13 A. Well, but see -- see, the 6 here should be  
 14 above -- 6 and 12 should be flipped so that there  
 15 are 5 split municipalities in Arkansas under the  
 16 2011 plan. And yet there are 6 under the 2021 plan,  
 17 so one more municipality has been split under the  
 18 2021 plan.

19 And that means that you have a total of 12  
 20 municipal splits. In other words, 12 pieces versus  
 21 just 10 in the 2011 plan. So on that metric,  
 22 involving how one splits municipalities in a -- in a  
 23 voting plan, the 2011 plan is slightly better.

24 Q. Well, I mean, if you take --

25 A. But I'm not saying that you can look at

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1 that table -- just look at that -- those two lines  
 2 and say that a plan necessarily fails because it  
 3 splits one more municipality.

4 Q. Right.

5 A. I mean, but we're constantly balancing  
 6 factors. And there could be occasions where you  
 7 would -- it would be okay to go ahead and split one  
 8 more municipality in the one plan versus another.

9 Q. All right. So that's a good point. So  
 10 with respect to total county splits -- and I'm not  
 11 even saying five to two. Is there an accepted  
 12 standard deviation amongst demographers or  
 13 redistricting experts like yourself as to what is  
 14 acceptable?

15 MR. CUSICK: Objection as to form.

16 THE DEPONENT: There is not. But what is  
 17 -- what can be seen --

18 MS. BROYLES: Hold on -- hold on.

19 BY MS. BROYLES:

20 Q. What about total county splits? Is there  
 21 a standard deviation that is acceptable?

22 A. Well, one thing: I wasn't using the term  
 23 "standard deviation," which is a statistical term. I  
 24 think what you mean is, is there a difference,  
 25 maybe, or some other -- probably -- we should

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1 probably be using some other word than standard  
 2 deviation.

3 There is none, though. There are  
 4 Congressional plans that are enacted and not  
 5 problematic that would have more split counties than  
 6 the 2011 benchmark, even.

7 Q. Well, so in a lot of your charts, like,  
 8 even the hypothetical plant, you've got percent  
 9 deviations, and I want to use the term standard  
 10 deviation. Because my point is, to some degree,  
 11 there could be -- you know, 20 seems like too many,  
 12 but is 2? You know, I don't know, so that's why I'm  
 13 asking you. Is there an acceptable deviation  
 14 amongst experts? Do you know?

15 A. No, but --

16 Q. Similar to the 0.79 percent.

17 A. No. That's -- that's the only one that is  
 18 -- is a hard and fast rule. And there -- there  
 19 really is no precise measure for any of the others  
 20 that would necessarily disqualify a plan on that  
 21 measure alone.

22 And the fact that the 2021 plan splits two  
 23 counties into five pieces -- if you just looked at  
 24 in the abstract, you could not necessarily say the  
 25 2021 plan fails. The reason why you have to say

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1 that it fails is because it splits Pulaski County  
2 three ways, dividing up neighborhoods when there are  
3 other alternatives that could be in place that would  
4 not split Pulaski County -- indeed, ones that would  
5 split as few as one county, as you see in the  
6 hypothetical plan. And the alternative plans would  
7 just split two.

8 **Q. So there's no standard that dividing a**  
9 **county more than -- into more than two voting**  
10 **districts is unacceptable?**

11 MR. CUSICK: Objection as to form.

12 THE DEPONENT: Well, not -- not just  
13 looking across all Congressional plans nationwide. I  
14 mean, you have to look at that why that -- why that  
15 split occurred. And here, it seems -

16 BY MS. BROYLES:

17 **Q. But you don't know why, because you don't**  
18 **have any information as to why when that isn't --**

19 A. Well, I know the end -- I know the end  
20 result, that black neighborhoods in Pulaski County  
21 have been placed into three Congressional districts  
22 for the first time ever, then I -- at least going  
23 back into the 1960s. And it has nothing to do with  
24 needing to arrive at a better deviation number.

25 It has nothing to do with producing fewer

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1 county splits, because there are actually ten county  
2 splits in the -- in the -- I'm sorry. There are --  
3 there -- there are five county splits in the -- in  
4 the 2021 plan: three in Pulaski County, one in  
5 Sebastian, then there's another county. So you're  
6 still producing more splits than necessary.

7 **Q. But voting district splits -- I guess, how**  
8 **are you balancing municipal splits as more important**  
9 **than voting district splits?**

10 MR. CUSICK: Objection as to form.

11 THE DEPONENT: Well, first of all, when  
12 you're using the term "voting district," do you mean  
13 voting tabulation districts, as in VTDs, or do you  
14 mean Congressional districts?

15 MS. BROYLES: Sorry. VTDs.

16 THE DEPONENT: VTDs. Well, there's really  
17 no problem with the 2021 plan. It doesn't split any  
18 VTDs. And there's probably no -- no problems with  
19 the 2011 plan, because it just splits one.

20 BY MS. BROYLES:

21 **Q. Well -- so are you -- is there any kind of**  
22 **priority amongst experts for the literature or any**  
23 **standards that you're aware of that says county**  
24 **splits are prioritized over municipalities, or**  
25 **municipalities over VTDs? I mean, is there any kind**

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1 **of standard as to how to weigh those balancing**  
2 **factors?**

3 A. No. It's --

4 MR. CUSICK: Objection as to form.

5 THE DEPONENT: It's -- it's case-to-case.  
6 It's -- there's no -- there's no bright-line rule.  
7 And the -- the only bright-line rule would be one  
8 person, one vote. And even that, now that it's  
9 understood that you don't need to hit zero, perfect  
10 deviation, there's variation there. So there's not  
11 even a bright-line the rule there, except for the  
12 Supreme Court case, Tennant v. Jefferson County,  
13 that allowed a 0.79-percent deviation.

14 BY MS. BROYLES:

15 **Q. When you say, in Paragraph 30 on Page 19,**  
16 **"within an expected norm," what is an "expected**  
17 **norm"? What are you using as a standard?**

18 A. Well, there is no -- I mean, I -- I think  
19 it holds up well when compared against other plans,  
20 particularly those that had been drawn to meet a  
21 Gingles 1 lawsuit, where you have to have dramatic  
22 changes in an existed -- in a -- in an enacted plan.  
23 There simply is no core retention rate that I'm  
24 aware of that has to be met.

25 **Q. So --**

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1 A. I mean, if you can point me to one, I'll  
2 reconsider, but it's -- I -- I mean, the core  
3 retention rates generally aren't even discussed in a  
4 lot of cases. It's kind of a new thing and --

5 **Q. Why do you --**

6 A. -- just because a plan was drawn ten years  
7 ago, which would then have problems based on the  
8 2020 census, doesn't mean that you need to do a plan  
9 that has a 90-percent -- a 90-percent core  
10 retention. There is no hard and fast rule at all.  
11 It's not a traditional redistricting principle.

12 And if you draw a plan that doesn't meet  
13 the core retention rate of an enacted plan, then  
14 that's okay if there's another reason why the plan  
15 should be changed beyond that 92-percent core  
16 retention rate, which is what we're arguing here.

17 Because we've shown that a plan that would  
18 be perfectly acceptable in terms of core retention,  
19 i.e. Alternative Plan 1, I believe it is, has an 87-  
20 percent core retention rate. I've -- I've got it  
21 listed here. We'll have to look.

22 **Q. Well, I guess, again, I'm going back to --**  
23 **you -- please listen to my question, because you're**  
24 **go --**

25 A. Well --



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1 Q. What "expected norm" are you talking  
2 about? What is the expected norm?

3 A. Something that I would consider to be  
4 normal for a change in plan between 2011 and 2021 in  
5 a small Congressional plan, like Arkansas has.

6 Q. What -- what is that?

7 A. Well, I -- I think anything -- I mean,  
8 there is no hard number, but I -- I think clearly  
9 anything over 50 percent would be okay under certain  
10 circumstances. In fact, as I suggested earlier, the  
11 legislature can do anything they want to. They  
12 can't do anything they want to do on compactness,  
13 but if they want to draw a plan that has 20-percent  
14 core retention, they could do that, I think, as I  
15 understand it.

16 Q. So --

17 A. There's no limit to how they might change  
18 the plan, as long as it's admissible in terms of one  
19 person, one vote, compactness, contiguity. They  
20 don't need to draw exactly the same plan that they  
21 had in 2011. Obviously, they do have to make minor  
22 changes along the way just to deal with one person,  
23 one vote, but they could go way beyond that.

24 Q. Well, I guess my point is, that's a  
25 subjective opinion that you have about what is the

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1 expected norm. There is no -- no "norm"?

2 A. There -- there -- yeah. I -- I do not  
3 have a chart that shows exactly what the norm is  
4 nationwide. That's right. But I -- I think, in my  
5 opinion, all the plans I've drawn would be within  
6 the expected norm. I have no doubt that -- that  
7 that would hold up.

8 Q. But you don't know what that is?

9 A. I don't have the -- I don't have a full  
10 chart showing core retention of all the plans  
11 nationwide, no.

12 Q. So if you're saying it doesn't matter, why  
13 did you include it?

14 MR. CUSICK: Objection as to form.

15 THE DEPONENT: Well, because I think it's  
16 within the expected norm after eliminating cracking  
17 of the black population in Central Arkansas and the  
18 Delta. Well, excuse me, in Central -- Central and  
19 Southeast Arkansas -- Central and Southeast Pulaski  
20 County, excuse me.

21 BY MS. BROYLES:

22 Q. But again, you can't say what the expected  
23 norm is, or point to any literature, cases, or any  
24 other expert --

25 A. Well --

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1 Q. -- that shares any opinion with you on  
2 what a -- what the norm is?

3 A. Well, I -- I've worked on a number of  
4 Congressional plans since 2020 in Louisiana,  
5 Georgia, Arkansas now. I've looked at a couple of  
6 others, maybe. And I can say comfortably that it's  
7 within the expected norm.

8 But I'm not going to give you a suggested  
9 range, because I've not looked at every single state  
10 and tried to -- you know, any -- any plan that's  
11 enacted right now is, arguably, within the norm. So  
12 if there's another state out there with a -- a core  
13 retention rate of 50 percent, then that would be the  
14 norm as of today. It's like Illinois and  
15 compactness scores. There --

16 Q. So the norm is always subject to change?

17 MR. CUSICK: Objection as to form.

18 THE DEPONENT: It would be -- it would be,  
19 potentially.

20 BY MS. BROYLES:

21 Q. What are CBSAs?

22 A. Those are regions of the state that are  
23 defined by the Office of Management and Budget and  
24 the Census Bureau, based on commuting patterns,  
25 which would be a kind of community of interest that

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1 can be quantified. That's explained in the Footnote  
2 7 of my declaration. And so I was just --

3 Q. What's the relevance of it?

4 A. -- measuring the number of splits. Huh?

5 MR. CUSICK: Objection.

6 BY MS. BROYLES:

7 Q. What's the relevance of it?

8 A. What's the relevance of it?

9 Q. Well, you -- yeah. I'm -- I'm just -- I'm  
10 not suggesting there is or isn't. I'm -- that's  
11 just my question. You've talked about core  
12 retention not being a major factor in your mind. Is  
13 CBSAs a aspect of core retention?

14 A. Not really, no. CBSAs are based on  
15 statistical data collected by the Office of  
16 Management and Budget and the Census Bureau that  
17 shows commuting patterns. And by defining regions  
18 based on commuting patterns, that shows kind of an  
19 economic relationship, and is a way to examine a  
20 regional community of interest that go beyond just  
21 reporting county splits.

22 Q. So what -- what did you observe about  
23 Arkansas, regarding core-based statistical area?

24 A. Well, I observed that the 2011 plan had  
25 split 13 core-based statistical areas, and the

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1 enacted plan improved it a little bit down to 11.  
2 The hypothetical plan gets it down to nine. The  
3 alternative plan is the winner -- Alternative Plan 3  
4 is the winner on this metric because the core-based  
5 statistical area splits, under the Alternative Plan  
6 3, drop to three. I'm -- I'm sorry -- yeah, dropped  
7 to three.

8 **Q. So --**

9 A. So it's really a major improvement over  
10 that metric.

11 **Q. On that isolated metric?**

12 A. Well, it's not isolated. It's all going  
13 to -- the -- the -- you've heard of references to  
14 the -- the Little Rock MSA, right, somewhere along  
15 the line? Yeah. Well, isn't that relevant, that  
16 you read information about -- about population  
17 changes in the -- in the Little Rock MSA or new  
18 transportation corridors in the Little Rock MSA,  
19 that sort of thing? I mean, it's -- it's highly  
20 relevant.

21 **Q. Well, didn't -- you -- you've already**  
22 **testified earlier that the most important**  
23 **traditional principle is one person, one vote,**  
24 **correct?**

25 A. That's -- that's right.

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1 MR. CUSICK: Object as to form.

2 You can answer, though.

3 BY MS. BROYLES:

4 **Q. And which plan in Figure 7 does the best**  
5 **on that?**

6 A. On what?

7 **Q. One person, one vote.**

8 A. In -- on one person, one vote, the plan  
9 that is -- in Figure 7, the -- the plan that is  
10 closest to a perfect deviation, which I -- I would  
11 suggest is not necessary, would be the 2021 enacted  
12 plan. But if you want to plan that --

13 **Q. No. That -- that --**

14 A. Well, I'm -- well, let me finish.

15 MR. CUSICK: Hold on.

16 THE DEPONENT: Because -- because the --  
17 the -- I -- I specifically created an additional  
18 county split in Alternative Plan 1 to deal with the  
19 issue you're raising, that somehow or another, we've  
20 not drawn a plan that was as close to perfect  
21 deviation as the '21 enacted plan. And Alternative  
22 Plan 1 takes the deviation down to the double  
23 digits. So it is closer to zero population than the  
24 2021 enacted plan and still has fewer county splits.  
25 BY MS. BROYLES:

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1 **Q. In every one of these plans -- so in**  
2 **Alternative 1 Plan, what was the most important**  
3 **factor you took into consideration?**

4 A. I'm constantly balancing factors. There  
5 is no importance. Other than being aware that I  
6 could only, you know, fall within that range,  
7 roughly, of 0.7 percent or 0.79 -- 0.7 percent  
8 deviation, there -- there is no one factor that I  
9 was prioritizing. I was balancing these things  
10 across a -- a number of the -- all the traditional  
11 redistricting principles. And also --

12 **Q. How did you --**

13 A. And also simultaneously making sure that I  
14 didn't divide neighborhoods in Pulaski County that  
15 don't need to be split, or dividing neighborhoods  
16 anywhere in the state. Because I don't -- I don't  
17 create any kind of sub-county neighborhood split  
18 anywhere else in the state at all in the -- in the  
19 alternative plans that I've drawn.

20 They're whole county plans. There, of  
21 course, is that split of Sebastian County in a -- in  
22 a couple plans. I just left it exactly the way the  
23 -- the state drew it, but there's no municipality  
24 split there. And essentially, it's the same as  
25 enacted 2023.

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1 **Q. Explain to me how you get the numbers on**  
2 **-- as to Paragraph 30 -- excuse me, not 30, 32.**

3 A. Paragraph 32?

4 **Q. Because what does it matter to include**  
5 **1981?**

6 A. It matters because it's showing that there  
7 is an actual demographic reality that the black  
8 population has been cracked in -- in Arkansas for  
9 decades. And I've just shown the 1980 numbers up to  
10 -- the 1980 plan up to -- up to 2021. And you can  
11 see that there were alternative ways of drawing that  
12 plan that would not crack in the black population  
13 that would keep -- that would -- that would keep  
14 Pulaski County whole.

15 **Q. But --**

16 A. And that's all the hypothetical plan is --  
17 is doing. It's just showing demographic reality,  
18 and showing that a plan could be drawn today that  
19 would be about 20 percentage points higher in terms  
20 of BVAP in CD 1 than that -- what -- than what we  
21 have in the enacted 2021 plan.

22 So the alternative plans are acceptable  
23 for Pulaski County in the sense that the black  
24 population remains in one single Congressional  
25 district. And so the cracking of the black

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1 population at the sub-county level, within -- within  
 2 the -- the alternative plans, is fixed.  
 3 But the overall cracking of the black  
 4 population in neighboring Jefferson County, which is  
 5 part of what is known as a combined statistical  
 6 area, which means that it is a -- it is an MSA with  
 7 a close connection to -- to Little Rock. In other  
 8 words, there's a -- there's a commuting link there.  
 9 That particular county could easily be  
 10 included in a plan, along with Pulaski County, and  
 11 serving as the bridge into the Delta where, as we  
 12 see in the hypothetical plan, you could have a  
 13 district that is about 38 percent black. But I -- I  
 14 mean, we're getting back to the hypothetical plan  
 15 here, but --  
 16 **Q. You are, okay?**  
 17 A. Well, no -- no, I'm --  
 18 **Q. You keep bringing it back up.**  
 19 A. You asked me -- you're asking me questions  
 20 that have --  
 21 MR. CUSICK: Objection. For a moment,  
 22 just -- okay.  
 23 BY MS. BROYLES:  
 24 **Q. I asked: What is the relevance of**  
 25 **including 1980 to a hypothetical plan and comparing**

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1 **it, as well, to 2021?**  
 2 A. Asked and answered.  
 3 **Q. It's not --**  
 4 A. Asked and answered. I've answered it --  
 5 I've answered repeatedly, and you complain about my  
 6 -- my referring to a plan that could have been  
 7 created at any point over the past 40 years. I've  
 8 made the point. I don't need to go beyond that.  
 9 Because to a certain extent, it -- it is certainly  
 10 beyond the focus of this particular lawsuit.  
 11 **Q. You understand that you put it in the**  
 12 **report, so I have to ensure and verify what you --**  
 13 **you're saying is beyond this lawsuit. So which**  
 14 **parts of your report are beyond this lawsuit?**  
 15 A. No part.  
 16 MR. CUSICK: Objection as to form.  
 17 THE DEPONENT: This -- this is demographic  
 18 reality that I've placed in my -- in my declaration.  
 19 And it's explaining where the black population  
 20 lives, explains how the black population is being  
 21 cracked in the enacted plan, in the benchmark plan,  
 22 in the 1990 plan, in the 1981 plan, and probably  
 23 going back in time.  
 24 That's all it's doing. It's giving you a  
 25 picture of where the black population lives in

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1 Arkansas, okay? Simple as that. But we can move on  
 2 from that. Because the focus of this is just trying  
 3 to fix this -- this extra cracking that suddenly  
 4 appears out of nowhere when Pulaski County is split  
 5 -- split three ways. Why three ways? Why not two?  
 6 Why even split it at all?  
 7 There's no answer. I've not seen any  
 8 answer from your side from anyone that can -- that  
 9 can explain what happened there and why. Because it  
 10 certainly doesn't have anything to do with  
 11 deviation. Has nothing to do with the number of  
 12 county splits. Has nothing to do with core-based  
 13 statistical area splits. Has nothing to do with  
 14 compactness.  
 15 So why did they do that? That's the  
 16 question, the unanswered question. If you can tell  
 17 me, I would be very pleased.  
 18 MS. BROYLES: I can't testify because I'm  
 19 the attorney. But the point is --  
 20 THE DEPONENT: Okay. Well, you --  
 21 MS. BROYLES: -- that you don't know,  
 22 either.  
 23 MR. CUSICK: Objection. Argumentative.  
 24 THE DEPONENT: Let -- you know, perhaps  
 25 you'll get somebody who can explain why they did

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1 that. We'll see.  
 2 MS. BROYLES: Your Paragraph 38 talks  
 3 about population loss in many rural counties along  
 4 the Delta, Lower Arkansas, parts of the Ozarks,  
 5 "coupled with strong growth in Northwest Arkansas,  
 6 meant that the Congressional map would have to  
 7 change after the 2020 census to comply with one  
 8 person, one vote."  
 9 BY MS. BROYLES:  
 10 **Q. Did I read that correctly?**  
 11 A. Yeah. True statement.  
 12 **Q. And the plan -- the enacted plan performed**  
 13 **better than 2011 with respect to one person, one**  
 14 **vote, correct?**  
 15 A. Well, I don't know if -- I don't know if  
 16 the -- the deviation range in the 2011 plan -- I --  
 17 I'm not sure what the deviation was in that plan,  
 18 based on the 2010 census. But clearly, it had to  
 19 change because there was a -- there was an imbalance  
 20 in the population of the Congressional plan.  
 21 **Q. Well, what --**  
 22 A. Not just in Arkansas, probably in all --  
 23 probably in every state in the country.  
 24 **Q. Look at Figure 7, and that's -- and that's**  
 25 **the -- specifically, what we're talking about there.**

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1 And just confirm that 2021 did better on one person,  
2 one vote than 2011.

3 MR. CUSICK: Objection as --

4 THE DEPONENT: Under the 2020 census.

5 MR. CUSICK: -- to form.

6 THE DEPONENT: What I don't know is, did  
7 it do better under -- did -- did the 2011 plan do  
8 better on one person, one vote than the 2020 plan,  
9 based on the 2010 census, when the plan was enacted.  
10 But it's really almost --

11 MS. BROYLES: Is that not --

12 THE DEPONENT: It's almost immaterial  
13 because I'm not complaining, in my declaration, at  
14 all, about the deviation that was the final result  
15 of the 2021 enacted plan. It's fine. The -- the  
16 one -- it meets one person, one vote. I have no --  
17 no complaints about that.

18 BY MS. BROYLES:

19 Q. So the percent population -- Figure 11, I  
20 guess, how -- it says 2021, Caliper. Where does  
21 that copyright come from?

22 A. That comes from the Maptitude software  
23 that I was using. That -- that is their little logo  
24 that shows up when you produce a map based on -- on  
25 -- using their plan. I developed the map. I put

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1 the percentages in there. But I was using the  
2 Caliper program, Maptitude for Redistricting, to  
3 produce the map.

4 Q. How -- where did you get the percentage --  
5 how did you get to the percentages?

6 A. Well, I just took the population of -- of  
7 the individual counties in 2010, and then add the  
8 2020 data. So I, you know, looked at 2020  
9 population, got the -- subtracted 2010 from 2020,  
10 and then looked at how the population had changed,  
11 in terms of percentages, since 2010.

12 And so you can see, as -- as you just  
13 mentioned -- I think everybody agrees, there's been  
14 very significant population loss just in the past  
15 decade in the rural counties along the Mississippi  
16 River, and elsewhere in lower Arkansas, and even in  
17 -- even into the Ozarks in a couple of spots. The --  
18 Central Arkansas more or less hardly changed,  
19 really. So that's the other reason why one wonders  
20 why they bothered -- why --

21 Q. You said Central Arkansas hardly changed?

22 A. That -- well, Central Arkansas being CD 2.  
23 I mean, it was very close to being okay by deviation  
24 standards. All you had to do is remove Van Buren  
25 County and make a -- a minor change, and -- and

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1 you're good to go. The -- the driver of population  
2 growth in Arkansas, as we all know, is Northwest  
3 Arkansas, the deep greens.

4 Q. What's Figure 12?

5 A. That is the benchmark plan. That's the  
6 2011 plan.

7 Q. And what are the numbers in there?

8 A. Oh, that shows population by county under  
9 the 2020 census.

10 Q. And did you type all that in there?

11 A. No, I did not.

12 Q. Okay. How does that get there?

13 A. I just tell the program to label the  
14 populations. And so I had it label the county  
15 populations. And it's almost an instantaneous  
16 operation, so it was very easy to do. It's just  
17 helpful. And I found it helpful to have total  
18 populations in there, so that people can see how the  
19 districts were changed and which counties were moved  
20 around.

21 Q. Is there a recognized deviation in  
22 population that is just -- I mean, as far as, like,  
23 an -- above a certain amount would be almost an  
24 anomaly?

25 A. Well, I mean, you could have dramatic

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1 population in some areas of Arkansas or elsewhere,  
2 where -- yeah, it would seem like, you know, you  
3 could have huge population growth somewhere, and it  
4 would get into the high double digits, for sure. I  
5 mean, I -- I can't think of a state, necessarily,  
6 where that happens, but it could.

7 And the population growth in Northwest  
8 Arkansas was pretty -- pretty major. I mean, the  
9 deviation -- have to go back to that table, but most  
10 of the deviation has -- was caused by the big jump  
11 in population in -- in CD 3, right?

12 I mean, we'd have to go back to one of  
13 those tables that has the deviation under the --  
14 under the benchmark plan. I mean, we were just  
15 looking at it. Where is it?

16 Q. In Paragraph 48 on Page 28, is there a  
17 plan that that is referring to -- one of your  
18 alternative plans?

19 A. Paragraph 48?

20 Q. Yes.

21 A. Yes. In a -- in a sense, I -- I have,  
22 almost, another plan buried within the text here. I  
23 didn't present it as an alternative plan, but if you  
24 wanted to fix the deviation problem in CD 2, all you  
25 really had to do was put Van Buren County into

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1 another district, because that would have reduced  
2 the size of CD 2, 714 persons.

3 Done. You could have just -- you could  
4 have just locked in that CD 2 as drawn, with that  
5 one move, and never gotten -- gone any further with  
6 it. Over and done with. That's all you need to do.

7 **Q. And that's only based off BVAP?**

8 A. No. All -- has nothing to do with BVAP --  
9 nothing to do with BVAP. All you have to do is --  
10 is focus solely on one person, one vote, which is  
11 the critical factor. So the -- you could have  
12 resolved any issues relating to one person, one vote  
13 in Congressional District 2 by simply removing Van  
14 Buren County from CD 2.

15 And you would have ended up with a  
16 district that was 714 persons over the ideal  
17 district size, well within the 0.79 -- 0.79 or 0.7  
18 percentage deviation range. It -- it would have  
19 been fixed. That's it. No need -- it would have  
20 been -- like, for CD 2 itself, it would have been a  
21 core retention rate of -- I don't know. Would have  
22 been probably 99 percent for CD 2.

23 **Q. You don't know that because the -- you**  
24 **didn't look at any of the other traditional factors**  
25 **--**

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1 A. Oh, but I did -- I did. I mean, the --  
2 the fact is, if you did that, deviation would be --

3 **Q. Let me finish question.**

4 A. Well -- okay. Go ahead.

5 **Q. This paragraph is not one of your**  
6 **alternative maps, correct?**

7 MR. CUSICK: Objection. Asked and  
8 answered.

9 THE DEPONENT: No, but what -- what -- it  
10 is --

11 MS. BROYLES: Hold on.

12 BY MS. BROYLES:

13 **Q. Correct?**

14 A. Well, you asked me, correct, so I was  
15 going to answer you.

16 **Q. Yeah. Okay. That -- you did answer it,**  
17 **and so let me ask my next question.**

18 MR. CUSICK: Hold on. I would -- I would  
19 say, again, I think --

20 Bill, were you planning to say anything  
21 else?

22 THE DEPONENT: Yeah, I don't -- I don't  
23 think you did allow me to respond to your question.  
24 But I would like you to repeat it one more time  
25 because now I've lost the -- the question you asked.

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1 BY MS. BROYLES:

2 **Q. Okay. Paragraph 48, you just -- you've**  
3 **already testified that you did not offer an**  
4 **alternative map that is what you have stated in**  
5 **Paragraph 48?**

6 A. I -- I did not. But what I am saying is  
7 that, if you removed -- if you remove Van Buren  
8 County from CD 2, that's all you need to do to fix  
9 one person, one vote. If they -- if -- if the  
10 legislature were truly concerned about one person,  
11 one vote, that's all you need to do. That fixes CD  
12 2.

13 Now, they could -- they had -- they would  
14 have had to do other things in other Congressional  
15 districts to correct the deviation there, but CD 2  
16 would be fixed. There would be no split Pulaski  
17 County, right? So -- so it would be fixed. Over  
18 and done with.

19 **Q. Only Pulaski County?**

20 A. No -- no. CD 2 would be over and done  
21 with. It would be -- it would be a district that  
22 was over by 714 persons. Lock that in, and then do  
23 whatever else you need to do in the rest of the  
24 plan. There was no need to go beyond that. And so  
25 in a sense, that is an alternative plan. You can

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1 call it Alternative Plan 1-A for Pulaski County.

2 **Q. So that -- that -- you are adding that as**  
3 **a new plan now?**

4 MR. CUSICK: Objection. Mischaracterizes  
5 testimony.

6 THE DEPONENT: It's not a plan, but it's a  
7 component of a plan that, I would say -- indicates  
8 to me that a plan that started that way would  
9 probably, or could still continue to be a plan that  
10 adhere to all traditional redistricting principles.

11 BY MS. BROYLES:

12 **Q. Where's your data reflecting what would**  
13 **happen in other parts of the state?**

14 A. My data is in my head, knowing that that's  
15 all you would need to do to effectively draw a plan  
16 that met traditional redistricting principles:  
17 reasonably compact; one person, one vote would be  
18 okay; about the same number of --

19 **Q. For CD 2?**

20 A. CD 2. It's just CD 2, but you'd have to  
21 fill in the rest of the map.

22 **Q. What about -- so you don't have any idea**  
23 **-- or your report does not have any information**  
24 **about what result that would cause in any other**  
25 **Congressional --**



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1 A. Well, let me explain why I didn't use this  
 2 simple solution, which should have been what the  
 3 legislature would do, I mean, if they really wanted  
 4 to keep CD 2 --

5 **Q. Based on what?**

6 MR. CUSICK: Again, can you -- can you --

7 THE DEPONENT: Well, let -- let me -- let  
 8 me finish. The -- the --

9 MR. CUSICK: Can you let him finish. This  
 10 is now the fourth time.

11 THE DEPONENT: Yeah -- yeah. I mean, the  
 12 point is it -- there was no need to hardly change CD  
 13 2 at all. You just take -- you just take Van Buren  
 14 County out. The reason why I did not do an  
 15 alternative plan like that is because -- well, I  
 16 mean, Van Buren is -- is significantly Republican,  
 17 right?

18 So if you take Van -- Van Buren out of CD  
 19 2, then the partisanship and CD 2 would end up being  
 20 about the way it is under the 2011 enacted plan. In  
 21 fact, a little bit worse, right? And since you only  
 22 seem -- you know, the legislators seem to be really  
 23 hyper-focused on partisanship.

24 So it would not have been a plan that they  
 25 would necessarily have considered, even though there

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1 would have been every reason to take that approach,  
 2 had they not been so obsessed with partisanship.  
 3 Because they were already electing a Republican  
 4 under the 2011 enactment plan.

5 So I don't I don't even know -- it's --  
 6 it's just mind-blowing that they felt the need to  
 7 make the plan even more partisan, because it was  
 8 already consistently electing a Republican. But it  
 9 is what it is.

10 And for that reason, even though this was  
 11 a simple solution that would have left CD 2  
 12 unscathed -- it would have had probably 99 percent  
 13 core retention, I didn't offer it as -- as a -- as  
 14 an alternative plan because it didn't -- it didn't  
 15 make the partisan split even wider in CD 2.

16 It's all very unfortunate. That's all  
 17 I'll say. It's just very unfortunate. Very simple  
 18 solution, but it was not good enough for the  
 19 legislature.

20 BY MS. BROYLES:

21 **Q. Does that not, in and of itself, show**  
 22 **partisan being the factor?**

23 MR. CUSICK: Objection as to form.

24 THE DEPONENT: I -- I -- you know --

25 BY MS. BROYLES:

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1 **Q. That doesn't -- I mean, I guess my point**  
 2 **is that, what you just said explains why there's no**  
 3 **racial motivator here, fair?**

4 MR. CUSICK: Objection as to form.

5 BY MS. BROYLES:

6 **Q. Because as you just said, what you've**  
 7 **somewhat suggested in 48 does not perform even**  
 8 **better than 2011, correct?**

9 MR. CUSICK: Hold on one second, Bill.  
 10 There's multiple questions there. Do you  
 11 mind asking one single, so that I can object to it,  
 12 and then allowing him to answer?

13 BY MS. BROYLES:

14 **Q. Paragraph 48, which you -- you said you**  
 15 **did not offer as an alternative because it would**  
 16 **perform worse than the benchmark in 2011 --**

17 MR. CUSICK: Object --

18 MS. BROYLES: -- on a partisan -- on a  
 19 partisan basis, correct?

20 MR. CUSICK: Objection as to form.  
 21 You can answer.

22 THE DEPONENT: Yeah. Well, there would be  
 23 a minor reduction in the Trump-Biden vote count for  
 24 CD 2 in percentage terms.

25 BY MS. BROYLES:

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1 **Q. And what would that be?**

2 A. Oh, it would be very minor.

3 **Q. Do you know what it is?**

4 A. I don't have it off the top of my head,  
 5 but it would be less than the Trump-Biden vote count  
 6 in the enacted plan.

7 **Q. How do you --**

8 A. I mean, I'm sorry, not the enacted plan.  
 9 It would be less than the -- the margin would be  
 10 less than in the benchmark plan, but very little  
 11 difference -- very little difference --

12 **Q. How do I know --**

13 A. -- because it's only 15,000 people.

14 **Q. How do I know that from anything that in**  
 15 **-- on paper here?**

16 A. You -- you would know it if you researched  
 17 the percentage of the population -- voting  
 18 population on election day in 2020. You would see  
 19 that Trump won handily in Van Buren -- Van -- Van  
 20 Buren County. So taking that county out would  
 21 enhance Democratic voting strength in CD 2, but only  
 22 at a -- at a very minor level compared to the 2011  
 23 enacted plan, which had a margin that clearly  
 24 favored Trump in 2020.

25 **Q. Is there a standard deviation that's**

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1 acceptable as far as establishing what is the norm  
 2 for partisan improvement -- for partisan advantage?  
 3 MR. CUSICK: Objection as --  
 4 THE DEPONENT: I'm not a political  
 5 scientist.  
 6 MR. CUSICK: Sorry, Bill. Let me just  
 7 object, and then I'll --  
 8 THE DEPONENT: Yeah.  
 9 MR. CUSICK: Objection.  
 10 You can answer.  
 11 THE DEPONENT: I -- I'm not a political  
 12 scientist, so I -- I will not opine on that.  
 13 MS. BROYLES: You don't know if there is,  
 14 or --  
 15 THE DEPONENT: I don't think there is, but  
 16 --  
 17 BY MS. BROYLES:  
 18 Q. Have you done any analysis on how people  
 19 function within the various districts that you've  
 20 addressed? So as, for instance, someone might live  
 21 in one part of CD 2, but every part of their  
 22 engagement with their community is in a different  
 23 Congressional -- I mean, how do -- how do you know  
 24 that they stay within a certain distance as far as  
 25 their functions and behaviors?

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1 MR. CUSICK: Objection as to form.  
 2 You can answer.  
 3 THE DEPONENT: I don't -- I don't really  
 4 understand the question at all, so I have not done  
 5 that. BY MS. BROYLES:  
 6 Q. Okay. On Paragraph -- or excuse me, Page  
 7 29, down in your Footnote 11, you said, "I estimated  
 8 neighborhood populations by overlaying a shapefile  
 9 onto 2020 census blocks." What -- can you explain  
 10 that.  
 11 A. Yes. I got the shapefile from the City of  
 12 Little Rock, showing neighborhoods in Little Rock.  
 13 And then I examined those neighborhoods that are  
 14 right on the line between CD 2 and CD 4 and  
 15 determined which -- which neighborhoods were on the  
 16 line and being excluded from CD 2 for the first time  
 17 in a number of decades. And so I report that in --  
 18 Q. How did you estimate it, though?  
 19 A. Well, the -- the thing is that some of  
 20 these neighborhood lines split census blocks. So  
 21 it's not absolutely precise, but it's very close to  
 22 being correct.  
 23 Q. What's the accepted standard deviation?  
 24 A. There is no --  
 25 MR. CUSICK: Objection as to form.

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1 THE DEPONENT: There is no accepted  
 2 standard.  
 3 BY MS. BROYLES:  
 4 Q. So what -- here is your data on the -- on  
 5 what you had estimated the populations to be?  
 6 A. Your expert has the shapefile of the  
 7 neighborhoods, so --  
 8 Q. And there -- are there any figures in here  
 9 that show the numbers?  
 10 A. Well, I mean, I -- I do have -- I do have  
 11 the percentages in here, don't I?  
 12 Q. Well -- but what -- but what did you say  
 13 was the population?  
 14 A. Well, the --  
 15 Q. How do I know what --  
 16 A. I looked at -- I looked at 23 VTDs that  
 17 were on the border, but between CD 2 and CD 4, where  
 18 the neighborhoods are. And that area has a total  
 19 population comprised of 23 VTDs that is 64 percent  
 20 black, with a total population of 71,506.  
 21 Q. Did you look at -- I mean, I -- how do you  
 22 know how many people live there? Like, is there a  
 23 number that you -- or data that you pulled that  
 24 from, or you guessed?  
 25 A. Yes. I -- I used 2020 block -- block data

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1 to arrive at that. Census block data.  
 2 Q. So why do you say "estimated"?  
 3 A. Because the file I got from the City of  
 4 Little Rock does not, in all spots, follow census  
 5 block boundaries. So because of that -- because  
 6 some census blocks are split, the number I'm giving  
 7 you here is not 100 percent precise. And I don't  
 8 guess we could ever really know what the precise  
 9 number is, but it's pretty close to it.  
 10 Q. How do you know it's close to it?  
 11 A. Because there are not very many split  
 12 census blocks.  
 13 Q. So you said there's some information in  
 14 here that you say what you estimated each of the  
 15 neighborhoods to be -- their population to be or --  
 16 A. Well, I -- I just reported the aggregate  
 17 total there.  
 18 Q. Okay.  
 19 A. Your expert's got it. He may come up with  
 20 some other number. Maybe he comes up with only  
 21 70,382. I'm just pulling out of the -- out of the  
 22 air, and it's only 62 percent black. I don't know.  
 23 But if that were the case, I still wouldn't --  
 24 wouldn't -- it wouldn't change my opinion at all  
 25 that black neighborhoods are being divided as a

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1 result of the unnecessary split of CD 2 and CD 4 and  
2 CD 1. I mean, you've got --

3 **Q. This --**

4 A. People who were previously in CD 2. Those  
5 neighborhoods, a lot of them are being placed into  
6 CD 4 or CD 1.

7 **Q. How would one be able to evaluate the  
8 percentage you reached?**

9 A. What do you mean? I mean, I'm -- I'm just  
10 --

11 **Q. We don't know your starting numbers, and  
12 so how do we know -- how -- how can we verify the  
13 percent that you have stated?**

14 A. Well, you have an expert who could do  
15 that, so that --

16 **Q. But -- okay.**

17 A. That -- that -- there's no published  
18 result. I'm just telling you, based on my  
19 experience -- I do this kind of analysis a lot for  
20 different projects -- that -- that that percentage  
21 of a population that has been shifted from -- I  
22 mean, there's another table there, Figure 17, that  
23 breaks it out even further, showing you that in CD  
24 1, now --

25 **Q. We're going to get there.**

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1 A. Okay. Well, anyway, I --

2 **Q. But --**

3 A. It's an estimate, but it's very close to  
4 being accurate.

5 **Q. So it --**

6 A. And if it's not accurate, we'll hear from  
7 Mr. Bryan tomorrow.

8 **Q. The -- the shapefile, if you open it, does  
9 it show the number you've assigned to each  
10 neighborhood -- the population number?**

11 A. The shapefile does not, which is why I  
12 overlaid the shapefile on the census blocks, and  
13 then tagged those blocks, based on whether or not  
14 they were within the neighborhood, or at least  
15 partly within the neighborhood.

16 And because some census blocks are split,  
17 this is an estimate, and not a perfect count as  
18 these neighborhoods were counted in the 2020 census.  
19 Because the Census Bureau does not count population  
20 below the census block level.

21 **Q. Do you take into account where the actual  
22 residential areas are on these -- in each of these  
23 neighborhoods?**

24 A. Well, yes. I mean, I'm -- I'm counting  
25 populated areas there. You can see that it's a area

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1 with a fairly dense population, once you get in  
2 closer to the city and within the city itself.

3 **Q. So in whatever you provided on the shape  
4 overlay, or what have you, Mr. Bryan would be able  
5 to pull it up and precisely see what you calculated  
6 as the population?**

7 A. That's right.

8 **Q. So you have a chart or something?**

9 A. He would not -- he would not necessarily  
10 come up with exactly the same number, but it would  
11 be something close to it. So in other words, the --  
12 the --

13 **Q. How do we know that?**

14 A. Well, I -- I'm telling you that. Because  
15 I testify in a lot of cases and I do a lot of  
16 demographic work that's unrelated to redistricting.  
17 As I mentioned earlier, I work -- do a project with  
18 Food Research and Action Center every year, based on  
19 identifying areas of the country that are  
20 potentially able to receive a special subsidy from  
21 the federal government to open up summer feeding  
22 programs.

23 I'm not hyper-focused just on  
24 redistricting. I do work on school -- school level  
25 redistricting, like Mr. Bryan. So I'm not some

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1 single-purpose plan drawer. I do other things, and  
2 I'm confident that these numbers are correct or  
3 close to correct.

4 I don't think you could ever come up with  
5 an absolutely correct number because census blocks  
6 are split, and there's no way to know which side of  
7 the census block that population actually lives in  
8 when a -- when a neighborhood splits a census block.  
9 I -- I hope -- I don't know if I made myself clear,  
10 but I'm confident these numbers are roughly correct.

11 **Q. So in Figure 17, is it your -- are you  
12 saying that the color code -- the VTDs are -- touch  
13 one another, those three, or -- or -- tell me what --  
14 --**

15 A. Well -- well -- okay. Figure 17 does --  
16 this is based on VTDs, not -- not neighborhoods. And  
17 so I am really confident with these numbers because  
18 census block groups -- census blocks are not split  
19 by VTDs. So we know that out -- from -- from the  
20 old CD 2 under the enacted plan, three VTDs were  
21 shifted out of CD 2 and put into CD 1.

22 That's yellow, like the map. And you can  
23 see that population amounted to 8,612 persons, of  
24 whom 60.7 percent were black. So these are  
25 predominantly black VTDs that have been moved into

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1 CD 1.  
 2 Then you can go down into the blue area.  
 3 That's the other part that was shifted out of CD 2  
 4 into CD 4. And you can see there that the total  
 5 population shifted out was 22,523 persons, of whom  
 6 58.1 percent are black. And then you get a bottom  
 7 line total of 71,506 persons shifted -- I'm sorry.  
 8 That -- that's the total for that general adjacency  
 9 area.  
 10 To actually get the number of black -- get  
 11 the population that was shifted out of CD 1 and CD  
 12 4, into CD -- shifted out of CD 2 into either CD 1  
 13 or CD 4, you'd have to add up to two subtotals  
 14 there: 8,612 persons plus 22,523. And the -- the  
 15 point is, it's a majority black population that was  
 16 moved out of CD 2 into CD 1 and a majority black  
 17 population that was moved out of CD 4 -- out of CD 2  
 18 into CD 4.  
 19 **Q. Do you have a map in here that shows all**  
 20 **of the VTDs by district number?**  
 21 A. No, I do not. I think maybe Mr. Bryan  
 22 may. I don't know if he has district numbers,  
 23 though. I don't think he does. I'm not sure. I do  
 24 not know.  
 25 **Q. Have you --**

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1 A. You mean -- well, wait a minute -- wait a  
 2 minute. What -- what was your question again? You --  
 3 -- you said district number, I'm sorry. Excuse me.  
 4 I -- I thought you said precinct number. What --  
 5 will you say that again.  
 6 **Q. Sorry, I might -- I don't know. Do you**  
 7 **have a figure in here that represents the VTD --**  
 8 **each of the numbered VTDs as far as where they are**  
 9 **in relation to one another?**  
 10 A. Well, yes. Actually, Figure 18 is showing  
 11 VTD boundaries. And they -- and unfortunately, the  
 12 color copier made CD 2 very dark green, so it's a  
 13 little hard to see. But those -- those blue lines  
 14 that you see on the map are 2020 VTDs.  
 15 **Q. I know, but we don't know what number each**  
 16 **of those are, is what I'm saying. Like --**  
 17 A. Well -- well, we do. We -- we actually --  
 18 we don't know the individual ones, but we know the  
 19 bottom line totals from Figure 17.  
 20 **Q. Right. But I want to know whether 11 is**  
 21 **beside 47.**  
 22 A. Whether 11 --  
 23 **Q. Yeah. Which one of those is 11? Do you**  
 24 **know?**  
 25 A. I don't -- I don't have the VTD numbers on

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1 there, so I can't tell you exactly. I'm not sure  
 2 why that matters.  
 3 **Q. Well, I'm -- I'm trying -- do you know**  
 4 **which one is 47?**  
 5 A. Well, we know that 11, 47, and 55 are  
 6 associated with CD 1. So you can see that those are  
 7 North Little Rock precincts.  
 8 **Q. How do I know to -- how can I verify that?**  
 9 **Because those numbers aren't on this diagram.**  
 10 A. The best way would be to check with your  
 11 expert. But I reserve a right to criticize anything  
 12 he does because some of the things he does are  
 13 incorrect.  
 14 **Q. Well, do you have any diagram of that,**  
 15 **with that information on a chart or a figure or a**  
 16 **file or anything of that sort?**  
 17 A. I do not have a document that has the  
 18 district -- the precinct numbers on it, no. I don't  
 19 think so.  
 20 MR. CUSICK: When you come to a natural  
 21 break, maybe we can take five whenever --  
 22 MS. BROYLES: Okay. That's fine.  
 23 MR. CUSICK: Whenever -- whenever your --  
 24 makes sense for your outline.  
 25 MS. BROYLES: Yeah, we can go off the

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1 record. That way, y'all can get a break.  
 2 (WHEREUPON, a recess was taken.)  
 3 BY MS. BROYLES:  
 4 **Q. Okay. Let's turn to Page 35 of your --**  
 5 A. Time out for one moment. I wanted to  
 6 clarify one thing about the VTD maps. That is, I  
 7 think that -- that Mr. Bryan has a map in there,  
 8 showing VTDs in South and Central Pulaski County.  
 9 And I know there are numbers on it. I don't know if  
 10 they are VTD numbers or not.  
 11 But if they're population numbers and not  
 12 VTD numbers -- and true population numbers, then you  
 13 can just match those population totals to the chart  
 14 in my declaration by population, and then this chart  
 15 on Page 17. So you -- if you see a precinct that  
 16 has a total population of 3,822 people in it, then  
 17 that would match up with VTD 11, because the  
 18 population totals and all the VTDs are going to be  
 19 different.  
 20 So that -- that's another way to get to  
 21 your answer about the VTD number, even if there's  
 22 not a VD number on his map. But VTD number might be  
 23 on there. I don't -- there are numbers on it. I  
 24 know that.  
 25 **Q. I was just wondering what you had to that**

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1 effect.

2 A. Well, I mean, I could produce a map like  
3 that, but I didn't. I didn't think it was  
4 necessary.

5 Q. So in -- on this page, on Paragraph 35,  
6 you talk about composite compactness measures. Can  
7 you please explain what that is.

8 A. Yes. That is a calculation that comes  
9 from Dave's Redistricting website that takes the  
10 Reock score and the Polsby-Popper scores and  
11 normalizes both. In other words, a zero is awarded  
12 to a -- a district that has a Reock score of 0.10,  
13 which is quite low.

14 Q. So --

15 A. In fact, it -- it might be 0.15. And 100  
16 is -- is awarded to a district that has a Reock  
17 score of 0.5 or higher. With Polsby-Popper, I think  
18 it runs from 0.10 to 0.15. And then those are put  
19 onto a scale, awarding points, so that you then have  
20 a composite score for each district that is, in  
21 effect, calculating a combined score for Reock and  
22 Polsby-Popper. And then you add up those scores  
23 across the plan and divide by the number of  
24 districts. And you get an average score, and that's  
25 the composite score.

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1 And this -- this particular metric has  
2 been used by Dr. Bernard Grofman and Dr. Sean  
3 Trende, two well known experts. Grofman's been  
4 around since Gingles lawsuit, the Garza lawsuit back  
5 in the '80s, with lots of different plans all over  
6 the country. Dr. Trende's been used by the  
7 Republican Party primarily, I think. Certainly over  
8 the past ten years, particularly over the past five.

9 And they submitted a letter to the  
10 Virginia Supreme Court, describing their work in the  
11 Virginia -- in the -- with the Virginia  
12 Congressional plan and -- and their -- their work on  
13 that plan, in conjunction with the Virginia  
14 Redistricting Commission -- or does Virginia have a  
15 redistricting commission? Bottom line is, they  
16 referenced those scores.

17 And I referenced those scores in Milligan  
18 v. Allen. And it's my understanding that Dr. Trende  
19 didn't have any trouble with my use of those  
20 figures. It's a good way to simplify the different  
21 measures by taking the Reock and the Polsby-Popper  
22 and putting it into a -- an understandable -- an  
23 understandable range from 0 to 100. So 100 would be  
24 perfect. You'd never see any plan like that. And 0  
25 would be the worst.

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1 In this case, and -- and nationwide, if  
2 you look at my rebuttal declaration, you'll see that  
3 the Alternative Plan 3, I think, ranks maybe eighth  
4 in the country in terms of compactness. And -- and  
5 the enacted plan does okay. It's within the norm.  
6 The worst states are -- in terms of compactness, are  
7 Texas and Illinois, according to the composite  
8 scores of compactness.

9 And those are both two states where your  
10 expert, Mr. Bryan, worked for the legislatures. So  
11 I will -- I will point out that I don't know his  
12 involvement, exactly, in those cases. But those  
13 are, really, the -- the two worst states. Texas may  
14 not be as bad as Illinois, but Illinois is, like, a  
15 10. I have to look at my rebuttal report. The  
16 scores are in there.

17 Q. So where do you get the data for these  
18 composite compactness measures? Where -- where is  
19 it --

20 A. I -- I upload the plan into Dave's  
21 Redistricting. And then as I explained, I think, in  
22 my declaration, there is an article written by one  
23 of the developers of Dave's Redistricting that  
24 describes how they arrive at that figure.

25 That's published in a online article,

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1 which is in my footnote, and explains how they  
2 arrive -- I basically explained it just now, but he  
3 goes perhaps into a little more detail -- Alec  
4 Ramsay, who wrote the article. And it was rubber-  
5 stamped by Dr. Grofman and Dr. Trende.

6 And I think it's a -- a good approach to  
7 take because these compactness scores do get  
8 confusing. You can have a great Reock score and a  
9 great Polsby-Popper score, and the other one's  
10 really bad, and this is a way to kind of average  
11 things out into an understandable metric.

12 Q. So where did the numbers come from?

13 A. Do we have my rebuttal declaration? Oh,  
14 that's it. Yeah. This is Figure -- Figure 4. You  
15 can see that it's sort of split in half, but you can  
16 see that the worst state is Illinois --

17 Q. I don't care about other states.

18 A. Yeah. Well -- well, it came from Dave's  
19 Redistricting.

20 MR. CUSICK: Excuse me just one second.

21 Can you let him finish for a moment what  
22 he was saying.

23 MS. BROYLES: Well, I -- I just I wanted  
24 to know -- I just said, where did you get the  
25 numbers for -- I don't want to hear about other



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1 states. I -- I just want to know where these numbers  
2 came from.

3 THE DEPONENT: Well, I import --

4 MR. CUSICK: Yeah, I -- I think it's  
5 getting a little argumentative. This is now the  
6 sixth time we've had to talk about you cutting them  
7 off in between. All I'm just asking is -- Bill will  
8 answer the question. When he's finished answering,  
9 you can say -- you can object if you want to the  
10 extent it's not responsive. But he's entitled to  
11 say his answer, and if you don't like it, you can  
12 ask a follow-up question or disagree.

13 And just for the record, if -- Bill --

14 THE DEPONENT: Yeah?

15 MR. CUSICK: I don't think this has been  
16 introduced yet.

17 So I don't know if -- if you want to  
18 introduce this as an exhibit yet --

19 THE DEPONENT: Oh, sure.

20 MR. CUSICK: -- his rebuttal report.

21 I don't know -- I don't know what papers  
22 you have in front of you.

23 THE DEPONENT: Well, I -- I'm just going  
24 to read out the score for Arkansas. That's --  
25 that's -- well, that's actually in my report, too.

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1 But it would -- it would rank the Arkansas plan  
2 fairly high, certainly within the norm, with a score  
3 of 59.

4 The numbers come from Dave's Redistricting  
5 application on the Internet. And if you go to -- I  
6 imported all the states in the country to analyze  
7 these compactness scores. So this table was created  
8 by me, using Dave's Redistricting application. And  
9 I -- I used the 2024 plans for all states that have  
10 at least three redistricting -- three Congressional  
11 districts.

12 And that -- so -- so you can get the  
13 bottom line number. And you can do that for any  
14 plan, not just -- not just an enacted plan. You can  
15 import any plan into it, which is what I with the  
16 alternative plans. Because I developed or report  
17 the positive compactness score for the three plans I  
18 drew.

19 And I was only -- at the outset, I was  
20 just stating that -- that the worst state in the  
21 country is Illinois. And Dr. -- Mr. Bryan was one  
22 of the experts or a consultant in that case,  
23 although it may have just -- may have just involved  
24 CVAP. I hope not, though, because he's made a major  
25 error in his calculations here in Arkansas.

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1 And then the fourth worst state is Texas,  
2 coming in at 26. And in that case, I -- you know, I  
3 -- I think Mr. Bryan was working pretty closely with  
4 the plan drawers there because he was a -- a special  
5 consultant or something to the State Center. So  
6 that's a very low score. But they're all within the  
7 norm, technically, I mean, because all these plans  
8 are currently in place -- not been struck.

9 BY MS. BROYLES:

10 Q. Have you read this article that you have  
11 cited here recently?

12 A. I have.

13 Q. Did you -- do you recall the limitations  
14 of the -- the numbers?

15 A. Well, there -- there will be some  
16 limitations in the sense that it's an average. And  
17 it -- it show -- it -- it's fair to say that just  
18 because a plan scores 59, and a plan that I  
19 developed, the hypothetical plan, scores a 66  
20 doesn't necessarily mean that the -- the  
21 hypothetical plan or Alternative Plan 3 or whatever,  
22 which I think has a higher compactness score than  
23 the enacted plan, somehow or another -- so much more  
24 compact that the compactness score for the enacted  
25 plan is not acceptable.

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1 It clearly is acceptable. It's within the  
2 norm and above average when compared against all 50  
3 states or -- or the 37 -- the 36 states that have at  
4 least three Congressional districts.

5 Q. Do you recall in the article where it says  
6 the ratings are meant to be comparable across  
7 states?

8 A. I don't -- I don't -- I have not seen  
9 that. Is that in there?

10 Q. It is.

11 A. Oh, that's interesting.

12 Q. It says, "Moreover, the ratings aren't  
13 meant to be comparable across states, how good or  
14 bad maps can be on each of the dimensions. A and  
15 what the trade-offs are between the dimensions  
16 depends on the political geography of each state and  
17 type of map: Congressional, state upper, and state  
18 lower house.

19 MR. CUSICK: Objection as to form,  
20 testimony.

21 THE DEPONENT: Okay. Well, I will say  
22 this much. The -

23 BY MS. BROYLES:

24 Q. Do you recall that?

25 A. I -- I don't recall reading that, but let

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1 me -- let me make one thing clear. I'm comparing,  
2 in effect, just the plans that were developed for  
3 Arkansas. In other words, Arkansas is the same  
4 state, no matter whether it's Alternative Plan 3, 2,  
5 1, or the enacted plan. So in that sense, it's  
6 perfectly justified to compare the plans in my  
7 declaration using the Dave's Redistricting composite  
8 score, because it's the same state.

9 **Q. The article also says, "Rating scales are**  
10 **subjective. There's nothing magical about our**  
11 **ratings. As you will see below, we had to make a**  
12 **bunch of decisions about what scale to use to**  
13 **normalize raw measurements into 0-to-100 ratings.**  
14 **All our decisions are well motivated, but at the end**  
15 **of the day, they are also subjective."** Would you --

16 A. Okay. Let me -- I -- I just reiterated  
17 that -- that point or made that point earlier, when  
18 I described the range that the DRA compactness score  
19 generates. In other words, I -- I think it goes  
20 0.10 to 0.50 for Reock -- or for Polsby-Popper, and  
21 0.15 to 0.50 for Reock.

22 **Q. Where is that?**

23 A. Well, it's in the -- it's in the -- it's  
24 in the article that I've -- that I've footnote --  
25 that I referenced.

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1 **Q. Where is it in your report?**

2 A. Well, the -- the footnote has the -- has  
3 -- has the reference to the article, right, and  
4 you're reading it. And it's in the article.

5 **Q. Okay. It says, "The bottom line is that**  
6 **ratings are not a substitute for critical thinking.**  
7 **Use your judgment."** What critical --

8 A. Well, first of all --

9 **Q. I haven't asked the question yet.**

10 A. Oh, okay. Go ahead.

11 **Q. What information did you put in to analyze**  
12 **-- none of the numbers, you came up with; is that**  
13 **true?**

14 A. Well, let me -- let's back up a little  
15 bit.

16 **Q. No -- no.**

17 A. That paragraph you just read was  
18 referencing not just the compactness scores, but  
19 also partisan scores and other things that the  
20 Dave's Redistricting application will generate. And  
21 I'm not producing any of those results. I'm just  
22 producing the compactness scores.

23 And so I do agree that there's some  
24 subjectivity. And you do -- if you're comparing  
25 across states, you do have to make allowances,

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1 because some states just are generally not very  
2 compact-looking to begin with, which would make it  
3 more problematic to match up with another state that  
4 is nice and square, like Arkansas or Iowa. But  
5 there are extremes in -- in the -- the nation in  
6 terms of the composite compactness scores.

7 I can't think of a good reason why  
8 Illinois would have a compactness score of --  
9 composite average of 0.1. I can't think of any  
10 reason why Texas would have such a low average.  
11 It's not exactly a -- a state with a -- a lot of  
12 geography that would lead to weird, unusual shapes.  
13 But I digress. Go ahead with whatever you were  
14 saying.

15 **Q. What measurements does the study -- or**  
16 **this compact -- raw compactness measurements, do you**  
17 **understand how they do that? I mean, that's within**  
18 **the systems.**

19 A. Yes -- yes, I do -- yes, I do. I  
20 understand it completely. They start with the Reock  
21 and the Polsby-Popper score. They normalize it  
22 between a range of 0.10 for the Polsby-Popper and  
23 0.5 for the Polsby-Popper, because anything below  
24 0.10 is started to get pretty --- pretty low in  
25 terms of Polsby-Popper.

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1 And they take it a little higher for  
2 Reock, up to, I believe, 0.20 and then 0.50. And I  
3 may not have those numbers quite right, but that's --  
4 -- I mean, I could -- I could look it up, but in any  
5 event, it's -- it's a -- it's a logical approach  
6 that's been used by experts.

7 And in this case, I'm focused, not on  
8 other states, just on Arkansas. And all of the  
9 alternative plans that I've developed are within a  
10 range that should be acceptable in Arkansas. Because  
11 the lowest score of all the ones that I examined --  
12 composite score was actually the 2011 enacted plan,  
13 which was the norm for Arkansas for ten years.

14 And so 0.43 should be acceptable. And all  
15 the plans I've drawn are above 0.43, as is the  
16 enacted plan. So you're not going to get anywhere  
17 on -- on compactness with the plans I've developed  
18 at all. I mean, that's -- you know, you can try  
19 something else, but not on compactness. Those plans  
20 are extremely compact --

21 **Q. What's --**

22 A. -- all of them.

23 **Q. What's "winner's bonus"?**

24 A. What's winner's bonus?

25 **Q. Uh-huh.**

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1 A. What are you talking about? I've never  
2 heard that.

3 Q. It says, "One additional wrinkle is that,  
4 as part of the rating process, we adjusted the  
5 simple disproportionality to incorporate a two-times  
6 'winner's bonus,' like the efficiency gap. In other  
7 words, the greater the statewide vote share, the  
8 more you expect the seats won to be  
9 disproportionately more than the vote share."

10 A. Okay. Well, that --

11 MR. CUSICK: I'm going to object for a  
12 moment.

13 THE DEPONENT: Let --

14 MR. CUSICK: No, I think we should print  
15 out the article here, because you're just relying on  
16 your --

17 THE DEPONENT: Yeah.

18 MR. CUSICK: -- testimony of what you're  
19 introducing it. I think it'd be helpful if you  
20 actually -- are you introducing this as an exhibit,  
21 so he can see it?

22 MS. BROYLES: No. He said he read it.

23 THE DEPONENT: Well -- okay --

24 MR. CUSICK: Hold on one second.

25 MS. BROYLES: If he doesn't remember, he

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1 doesn't remember. If you want to print it and ask  
2 him about it, you're welcome to when I'm done.

3 MR. CUSICK: Okay.

4 THE DEPONENT: No, it -- it -- well, I  
5 would just say that it does not matter. Because I  
6 only used the composite scores as they relate to  
7 compactness. I did not rely on the partisan  
8 measures or proportional measures or any of the  
9 other ratings. I'm just focusing on compactness  
10 because it simplifies the final analysis of whether  
11 or not a plan is compact.

12 And -- and I did read that particular  
13 article a long time ago, and I think I read the  
14 whole thing, but I -- I was not paying any  
15 attention, really, with any detail to the scores for  
16 proportionality or communities of interest or -- or  
17 minority strength or whatever they raised.

18 I was only looking at compactness as a  
19 simple solution to a sometimes confusing problem  
20 about whether Reock is good score; Polsby-Popper not  
21 so good. Is that a good plan or a bad plan? This  
22 is a way to simplify it.

23 BY MS. BROYLES:

24 Q. How did you change their -- how did you  
25 account for what you did or did not include with

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1 respect to compactness when it's offered as a single  
2 number? Like, what -- why did you make it two?

3 A. All -- well, yeah. What -- what I did is,  
4 I upload a plan, like the enacted plan or  
5 Alternative Plan 2 or 3. And then Dave's  
6 Redistricting website will generate the composite  
7 compactness score. So that's it. I just take the  
8 composite compactness score that's generated by  
9 Dave's Redistricting website.

10 Q. And it's saying that it includes things  
11 that you're saying you don't include in your number.  
12 But they are there, because that's the number --  
13 that's the source of whatever number --

14 A. No -- no, you're -- you're really terribly  
15 confused. That is not talking at all about  
16 compactness. And if you scroll down, you'll see how  
17 they -- how they describe compactness. What you're  
18 reading is how they rank minority proportionality or  
19 how they rank partisanship. And I did not look at  
20 any of those scores. I'm not a political scientist,  
21 so I'm not really ranking proportionality in -- in  
22 my testimony. I am looking at compactness.

23 It's a simple way to do it, but you can  
24 also just break out Reock and Polsby-Popper, and you  
25 can look at those scores, and you will see

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1 unquestionably that every plan I have produced falls  
2 within the norm when it comes to compactness.

3 Because we have tables that Mr. Bryan has produced  
4 that rates or -- or shows some of the -- some of the  
5 rankings for the enacted plan, and it also shows  
6 other scores.

7 There's one score for the enacted plan --  
8 one of the Congressional districts that ranks 400 --  
9 number 402 nationwide. That is, you know, out of  
10 435 districts. So that's -- that's pretty darn low.  
11 But it is the enacted plan, so technically, it's  
12 within the norm.

13 And none of my plans go anywhere near the  
14 400 level in terms of the Reock score or the Polsby-  
15 Popper score. I think the worst is somewhere in the  
16 380s, maybe. So overall, there's no possible  
17 argument about compacts in Arkansas. It's -- it's a  
18 dead horse.

19 I mean, you may have some other legal  
20 angle or something, but the plans I've produced  
21 adhere to traditional redistricting principles  
22 across the board. And you can try all you want, but  
23 you're not going to get anywhere with me if you try  
24 to claim that, somehow or another, my plans are not  
25 roughly the same, if not better in terms of

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1 traditional redistricting principles than the  
2 enacted plan.

3 **Q. Where in your report does it say how you**  
4 **adjusted for the composite scores that were produced**  
5 **by -- well, first of all, you did not produce the**  
6 **composite scores, correct?**

7 A. Correct.

8 **Q. So --**

9 A. I didn't produce the Polsby-Popper scores.

10 **Q. What did you -- how --**

11 A. Nor -- nor does Mr. Bryan. We just use a  
12 number that's generated by a generally understood  
13 software module. I don't -- I don't know if -- if  
14 Mr. Bryan is using Maptitude for Redistricting or  
15 not. There are other programs out there. He might  
16 use RGIS. But -- but I'm just accepting the number  
17 that's generated.

18 **Q. You've got to let me finish my question.**

19 A. Well, let me -- let me jump in first --

20 **Q. No --**

21 A. -- and just -- no, I'm going to tell you  
22 that I did not do any adjustment at all, just to  
23 make that clear.

24 MR. CUSICK: Bill, just let her finish,  
25 and then you'll get a chance answer.

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1 THE DEPONENT: Yeah.

2 BY MS. BROYLES:

3 **Q. Okay. So tell me what you -- so you took**  
4 **what plan -- you took the enacted plan, and you**  
5 **loaded it into Dave's Redistricting?**

6 A. Exactly.

7 **Q. And then what did you say -- what did you**  
8 **tell Dave's Redistricting to generate for you.**

9 A. I hit a tab called Analyze once the plan  
10 was imported, and it produced a set of results that  
11 included proportionality, compactness, I think  
12 minority proportionality or something like that. I  
13 utilized only one of their five or six different  
14 rankings. And as you're reading off the page, you  
15 can see what they are.

16 And that was the core -- that -- that was  
17 the compactness score, which I call composite  
18 compactness because it includes Reock and Polsby-  
19 Popper. I didn't do any kind of adjustment. I just  
20 took the score as reported from Dave's Redistricting  
21 software.

22 **Q. Right. And so you did not do anything but**  
23 **take information from Dave's, correct?**

24 A. That's right -- that's right, like Dr.  
25 Grofman and Dr. Trende.

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1 **Q. So --**

2 A. And -- and like Mr. Bryan and myself when  
3 we're -- when we're reporting Polsby-Popper and  
4 Reock scores. If -- if the composite compactness  
5 score is, for some reason or other, unacceptable,  
6 then okay. We'll just go look at the Reock and  
7 Polsby-Popper scores. And if you do that, you have  
8 to walk away, saying, okay, all of the alternative  
9 plans are reasonably compact and in a story, as is  
10 the enacted plan.

11 The problem with the enacted plan is not  
12 the compactness score. It is the inexplicable  
13 division of Pulaski County into three parts for no  
14 reason. And it cannot be a reason of trying to  
15 strengthen partisanship because Alternative Plan 3  
16 is on the table that has, at least according to the  
17 Trump-Biden metric, as well as the US State Senate  
18 metric, a better partisan score than the enacted  
19 plan. Slightly better, not way better, but it's  
20 better.

21 **Q. Why did you include this information?**

22 A. Why did I include it? To support my  
23 argument that there is no violation of traditional  
24 redistricting principles in the plans that I have  
25 presented. In fact, they all score very well when

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1 matched up against the enacted plan or the 2011 plan  
2 or any of the states.

3 **Q. So this article references ratings and,**  
4 **like, a target position. Do you have that for all**  
5 **of the states somewhere?**

6 A. Ratings and target position? I don't --

7 **Q. That's what they say, it looks like.**

8 A. That's right. That's where I got the  
9 score, exactly -- right there.

10 **Q. So do you have --**

11 A. Yeah. What is North Carolina's?

12 **Q. You have that for all the states, this**  
13 **diagram?**

14 A. That -- that's what I got. You see the 36  
15 -- is it 36 for North Carolina? Okay. So if you go  
16 to Figure -- are you looking at the enacted plan,  
17 the recently --

18 **Q. This is just from the article. So what**  
19 **I'm trying to decide is --**

20 A. Yeah. Okay -- okay. So --

21 **Q. So you picked this one, and you**

22 **disregarded this stuff. Is that what you're saying?**

23 A. Yeah. That's the 106th Congress, though,  
24 so that's not the present Congress, so --

25 **Q. I -- I know.**

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1 A. You can't use that for analyzing Arkansas.  
 2 **Q. I'm not -- I'm not.**  
 3 A. Yeah.  
 4 **Q. What I'm saying is, Dave's Redistricting,**  
 5 **when you pressed Analyze, generated a circle with**  
 6 **various numbers by those five -- let's see. What is**  
 7 **it? The dimension that it's picked.**  
 8 A. Right. And if you look there, you see  
 9 there is a score for compactness. And that's the  
 10 number that you see in the tables and charts that  
 11 I've produced, that bottom line total. Or bottom  
 12 line average -- it's actually an average.  
 13 **Q. But you have no knowledge of how Dave's**  
 14 **Redistricting gets to that number?**  
 15 A. Oh, yes, I do. It's in -- it's in that  
 16 article. It explains that they take the Reock and  
 17 Polsby-Popper scores and rank them in a range of  
 18 anything below ten, zero, and anything -- for -- for  
 19 Polsby-Popper anyway, anything below ten is zero,  
 20 and anything above -- below ten -- I'm sorry,  
 21 anything below ten for Polsby-Popper is zero. And  
 22 anything above a 50 is -- is 100.  
 23 So within that range, then, you can -- you  
 24 can get these composite scores, after normalizing  
 25 them to a 0-to-100 range. I don't know the exact

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1 math that they use to arrive at that, but I know  
 2 that -- I do know that other experts have used it,  
 3 and it makes sense.  
 4 **Q. So you -- yeah, that's my point. You**  
 5 **don't know what math they use?**  
 6 A. No. And I'm -- that's -- that website's  
 7 been there for, like, four years now. That article  
 8 was published in 2020 and Medium Magazine. And if  
 9 there were an error, I'm sure they would have fixed  
 10 it.  
 11 **Q. You don't know how they reach that number?**  
 12 A. Yes, I do. They normalized it to a 0-to-  
 13 100 scale and took the average. But it doesn't  
 14 matter. You can forget about that and just score --  
 15 go line by line, comparing the Polsby-Popper and  
 16 Reock compactness scores for my plans and the  
 17 enacted plan. And you will see that, generally  
 18 speaking, my plan outperforms, district by district,  
 19 the Reock and Polsby-Popper scores in the enacted  
 20 plan.  
 21 There -- there are differences. It's  
 22 clearly within the norm. Any plan, arguably, that  
 23 is a currently enacted plan that will have elections  
 24 this November will be within the norm on Reock and  
 25 Polsby-Popper, which means that there's no way that

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1 my plan could be determined to not be within the  
 2 norm.  
 3 Now, if you want to say the norm is really  
 4 the mean average, and here's where Mr. -- Mr.  
 5 Bryan's report -- rebuttal report or whatever is way  
 6 off. He -- he claims that, somehow or another,  
 7 because the ranking by Reock and Polsby-Popper in --  
 8 in one or two of my districts -- I'm not sure which  
 9 one or which measure -- dropped by 100 points, oh,  
 10 that's not within the norm.  
 11 Well, sure, it was. You had a very high  
 12 score, and the Reock and Polsby scores that I  
 13 produced for that district or whatever, dropped by  
 14 100 points. So instead of being in the 100s, it's  
 15 in the 2000s. Well, that's the average of 435  
 16 Congressional districts, so this is just a silly  
 17 argument. And I'm getting too animated, so I'll  
 18 stop.  
 19 **Q. With respect to how they conduct their**  
 20 **averaging, you don't know what numbers they put**  
 21 **together to reach an average score, correct?**  
 22 MR. CUSICK: Objection. Asked and  
 23 answered.  
 24 THE DEPONENT: I -- I don't have their  
 25 calculations. But I have confidence that it's a --

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1 an acceptable compactness measure.  
 2 BY MS. BROYLES:  
 3 **Q. Do you know where they get their numbers?**  
 4 A. Yes. That's -- they get their numbers  
 5 from the Reock and Polsby-Popper compactness scores,  
 6 normalize it to a 0-to-100 percent range, and then  
 7 apply 100 points to any Reock score that's over 0.5,  
 8 and 0 to under 0.1, on, for example, Polsby-Popper.  
 9 So that -- that's how they arrive at their numbers.  
 10 And it makes sense, because 0.1 on Polsby-  
 11 Popper is pretty low, but it can happen. And even a  
 12 score under 0.1 sometimes can be okay if it  
 13 involves, say, a river, like the Mississippi River,  
 14 with lots of twists and turns. So there -- there's  
 15 just no argument about whether or not my plans were  
 16 compact.  
 17 In fact, you could just look at the plan  
 18 and see they're compact. They're regularly shaped,  
 19 they involve whole counties, and there is no need --  
 20 no need at all to split Pulaski County three ways.  
 21 But I will say, just to be nice, that the  
 22 compactness scores on the enacted plan are okay,  
 23 even though they split Reock and Polsby -- even  
 24 though they split Pulaski County.  
 25 What's not okay is going into Pulaski



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1 County for no good reason and dividing up all the  
2 neighborhoods and -- and precincts in the south end  
3 of the county. It -- it -- there's no -- I cannot  
4 think of any way you can explain that away. You  
5 might have been able to if you had actually reduced  
6 the number of county splits, somehow or another  
7 dramatically improved compactness or reduced  
8 municipal splits.

9 But that didn't happen. There has to be  
10 another reason. It remains to be seen what that  
11 reason is, but I'm sure you will have people up  
12 there testifying to explain exactly why they did  
13 that.

14 **Q. What was the composites score for the**  
15 **enacted plan?**

16 A. Fine. It was 59. I'm not -- I'm not  
17 disputing that. It's 59. I -- I have a compactness  
18 score of, I think -- what was it, 62 in Alternative  
19 Plan 2. Maybe it's Alternative Plan 1. It -- you  
20 know, that's fine. There's no problem with that.  
21 I'm not saying the enacted plan is not compact.

22 What I'm saying is, what they've done in  
23 Pulaski County clearly is odd, unusual, and  
24 inexplicable to me if the point of doing that was to  
25 draw a compact plan. Or if the point of that plan

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1 was to draw a plan which met one person, one vote,  
2 or to reduce county splits. Because there are ways  
3 to do all of that, and even still have roughly the  
4 same or superior partisan scores, which is not  
5 traditional redistricting principle, anyway.

6 So I mean, in my mind, this -- this case  
7 should be over because we've demonstrated that you  
8 can draw a plan that has the same partisan effect or  
9 higher and we've met all of the traditional  
10 redistricting principle requirements and we avoid  
11 splitting Pulaski County. And it would be easy for  
12 the State to fix it. Might have to go into a  
13 special session.

14 **Q. Anything else on that?**

15 A. No, nothing else at this point, unless you  
16 have further questions.

17 **Q. Why did you only look at one political or**  
18 **one -- one election?**

19 A. Because I think that was the election that  
20 was used in Alexander v. South Carolina. I've been  
21 told that. And that's a perfect metric to use  
22 because it's a -- a well known contest, Trump-Biden.  
23 And I think that pretty much shows the partisan  
24 divide precinct by precinct, county by county.

25 **Q. So you --**

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1 A. And I did -- I did not only use the 2020  
2 election. I also looked at the US Senate contest  
3 from 2022, once I received Mr. Bryan's rebuttal that  
4 had that information in it. I did not have access  
5 to precinct-level returns when I was working on my  
6 initial -- when I was working on my initial report.

7 **Q. How did you not have access to it? And**  
8 **you just didn't know he was going to say something**  
9 **about it, is what you --**

10 A. No -- no, I -- I was not aware that there  
11 was a website that actually had that information,  
12 that would allow for the numbers to be exported into  
13 a common (inaudible) file.

14 **Q. Didn't you --**

15 A. I'd seen earlier elections in -- in  
16 Arkansas where it seemed like it was always in a PDF  
17 format, which made it really kind of difficult to  
18 convert.

19 **Q. So these numbers, the 43.3 percent for all**  
20 **of that, where did you take that from?**

21 A. 43.3 percent for what?

22 **Q. That -- that Biden got verse --**

23 A. Well, it's -- I -- I took that from --  
24 from the Redistrict Data Hub, as I've indicated,  
25 that compiled votes for Trump.

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1 **Q. It doesn't say that.**

2 A. It does. There's -- there's a reference  
3 in there. If -- if it's not in there, it's in my  
4 exhibit that describes the methodology. It is  
5 basically just the 2020 election results,  
6 disaggregated by voting age to precincts, and then  
7 reagggregated back up. And so that's -- and -- and  
8 it's a head -- head-to-head contest. I did not  
9 include third-party candidates.

10 So my numbers may differ slightly from  
11 what Mr. Bryan has, but that's because I'm only  
12 looking at Trump-Biden because that's the clear  
13 partisan divide. And if there was a Libertarian  
14 candidate there or something like that, there may  
15 have been -- then you're not -- it's not really  
16 clear.

17 **Q. Will you go to where -- where you're**  
18 **talking about where you say that you have the source**  
19 **for the -- this information. Because there's not a**  
20 **footnote, so --**

21 A. Well, okay. It's in -- it's in the --  
22 it's in Exhibit B. Says -- it's on Page 3. It  
23 says, "For the 2020 presidential contest results, I  
24 relied on a data set prepared by election data  
25 social scientists and available via the

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1 Redistricting Data Hub link below." And there's the  
2 link, so there it is.

3 Q. Which number was that? I'm sorry.

4 A. Paragraph 11, Exhibit B.

5 Q. Do -- so did you do anything to verify the  
6 data?

7 A. Yes, I did. I looked at some vote totals  
8 on another website that's well respected, called  
9 PlanScore, just to see what the difference might be.  
10 And it was identical.

11 Q. So you're saying that Redistricting Data  
12 Hub did not have any information about any of the  
13 other races?

14 A. It had some information about 2016, 2018  
15 contests, but nothing else about the -- I -- I think  
16 there -- I actually did have information, I believe,  
17 about the 2020 senate contest, but I had to discard  
18 that because there was no Democratic candidate  
19 running, so it made no point -- there was no point  
20 in producing a total for 2020 US Senate. Just Tom  
21 Cotton -- Senator Cotton ran, and the Democratic  
22 candidate apparently fell ill or something and was  
23 not in the race at the end. So I -- I discounted  
24 that.

25 Q. But you didn't look to see if there was

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1 any data for any other races?

2 A. Well, there would have been, if I had gone  
3 back to 2016.

4 Q. Well, I mean, there's --

5 A. But -- but my point is, as I understand  
6 it, the Trump-Biden contest was important in  
7 Alexander-South Carolina case, and so that's the  
8 data set that I initially looked at. And once I got  
9 the 2022 US Senate contest, which did have a  
10 Democrat running, I reported that in my rebuttal  
11 declaration.

12 Q. Is it your opinion, though, that as far as  
13 dilution goes, that impact is on the state level  
14 elections, not the larger federal elections?

15 MR. CUSICK: Objection as to scope. Calls  
16 for a legal conclusion.

17 THE DEPONENT: I don't know what you mean.  
18 I didn't understand the question. John did, but --  
19 but I didn't understand the question.

20 BY MS. BROYLES:

21 Q. Why was Trump-Biden important in the  
22 Alexander case, based on your understanding?

23 MR. CUSICK: Objection to the extent it's  
24 being offered as a legal conclusion.

25 THE DEPONENT: I -- I'm only saying it

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1 because I -- I think that it was utilized as a  
2 measure of partisan performance.

3 BY MS. BROYLES:

4 Q. Did -- was there anything in the opinion  
5 that you're aware of that limited the scope of the  
6 analyzing political advantages to one single race?

7 MR. CUSICK: Same objection.

8 You can answer, Bill.

9 THE DEPONENT: Yeah, I -- I'm not I'm not  
10 sure. I mean, I -- I have not really carefully  
11 looked at the Alexander opinion.

12 BY MS. BROYLES:

13 Q. So Alternative Plan 1, how did you -- what  
14 did you do to create this plan?

15 A. As you can see, Alternative Plan 1 is not  
16 all that different from the -- from -- from the 2011  
17 plan. And in many ways, not all that different from  
18 the 2021 enacted plan. Let me bring up Alternative  
19 Plan 1 here. I'll find it. Yes, there you are.

20 You can see it, and it looks like -- a lot  
21 like the existing plan, the enacted plan. I removed  
22 Van Buren County, as I was suggesting, and I think I  
23 added White County compared to the -- let's see. Let  
24 me go back to the 2011 benchmark plan. Fumbling  
25 around here finding it.

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1 No, I did not add -- I did not add White  
2 County. That was already in there. I took Van  
3 Buren out. And also, because I wanted to hit  
4 something in the double digits on deviation, so that  
5 you couldn't, due to some technicality, complain  
6 that I did not match the one person, one vote  
7 measure.

8 So I did create a split -- in my mind, an  
9 unnecessary split, and removed a single precinct  
10 from White County, so that the deviation in -- in  
11 Alternative Plan 1, which you can see in Table --  
12 Figure 24, is only in the range of plus 51 persons  
13 and -- for District 1, and minus 31 for District 3.  
14 And it is, for all intents and purposes, perfect in  
15 District 2, over by 20 people.

16 So that's it. That was the -- that was  
17 the only way I -- that -- that's all I did to change  
18 CD 2. And then I -- I -- of course, I had to fix  
19 the had the -- had -- I had to correct the overall  
20 deviation. So I did make some changes to CD 3 and  
21 CD 4 and CD 1 to do that.

22 Q. Did you -- so -- okay. Let's slow down a  
23 second. So you have here, "It prioritizes core  
24 retention without splitting Pulaski County." So how  
25 do you -- what does "prioritize" mean respective to

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1 the other traditional -- well, first of all, you've  
2 already told me it's not a traditional principle,  
3 right?

4 A. Right.

5 Q. So why, then, did you prioritize core  
6 retention?

7 A. Well, because for one thing, I -- I knew  
8 that the alternative plan had a 92-percent core  
9 retention. So I did one that was basically in the  
10 same league, 87 percent, and I knew that was more  
11 than the Court-ordered remedial plan in Alabama v.  
12 Milligan, which is also around 87 percent, so I  
13 thought that was sufficient.

14 I would imagine that maybe if I  
15 experimented a little more, I could improve on that.  
16 I don't know. May have been ways to get much closer  
17 to the enacted plan's for District 3. And if so, I  
18 could have gotten very close. I mean, it -- it  
19 could have been extremely close.

20 I probably should do an Alternative Plan  
21 1-B. I think we've already discussed 1-A, which is  
22 basically CD 2 as I've drawn it and -- and I mean,  
23 1-A is what we were talking about a while ago is --  
24 is basically Alternative Plan 1 insofar as -- as CD  
25 2 is concerned. Except that I did remove one

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1 precinct in White County to make sure that it was a  
2 double-digit deviation instead of triple-digit.

3 So there may -- I -- I think Alternative  
4 Plan 1 is as compact or more compact than the  
5 enacted plan; is it not? Let's see the table.  
6 Exactly the same in terms of compactness, 59  
7 according to the DRA compactness score.

8 Q. What page did you turn to look at?

9 A. Figure 25. 59, 59. I've repeatedly said  
10 there's no problem with the compactness score in the  
11 enacted plan. 59 is fine. And the compactness  
12 scores that I've generated in my three alternative  
13 plans and the hypothetical plan are also fine.

14 Q. So when you prioritize core retention, how  
15 are you balancing the other factors? How do we know  
16 what weight you put each of the other factors?

17 A. Well, to a certain extent, it's -- it is  
18 subjective, but you can look at the numbers. The  
19 enacted plan split two counties. I split two  
20 counties. Arguably, one of them was not necessary.  
21 And so there are a total of five county splits in  
22 the enacted plan, whereas there are only four county  
23 splits in the alternative plan.

24 There are two splits in Sebastian County  
25 and two splits -- well, there are two pieces in

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1 Sebastian County and two pieces in White County  
2 under my plan. In your plan, there are two pieces  
3 in Sebastian County and three pieces in Pulaski  
4 County.

5 So again, I -- I reiterate, why was it  
6 necessary to split Pulaski County three ways when  
7 there were other options? Or why didn't you just  
8 split Pulaski County two ways? That would be less  
9 bad. It's still bad, but -- I'm curious about that.

10 There are clearly fewer split  
11 municipalities in the Alternative Plan 1, three  
12 versus six. In terms of core-based statistical area  
13 splits, 11 versus 9. Unified school district  
14 splits, 84 versus 71. So the Alternative Plan 1 is  
15 winning on all of those.

16 It's also technically winning on one  
17 person, one vote. Tied on compactness. Slight edge  
18 to the enacted plan on core retention. So really,  
19 when you get right down to it, Alternative Plan 1  
20 is, across the board, superior to the 2021 plan,  
21 except for the core retention rate, which is not a  
22 traditional redistricting principle.

23 Q. So why did you start with it, then?

24 A. Why? Just to demonstrate that there was a  
25 way to draw a plan that adhered to traditional

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1 redistricting principles that did not require a  
2 three-way split in Pulaski County. That's what this  
3 case is about. That's all.

4 Q. What about political advantage? Did you  
5 assess political advantage for Alternative Plan 1?

6 A. Only after the fact. After I drew it, I  
7 said, wonder what it is, because I thought it would  
8 probably be pretty close. And it's pretty close.

9 Q. What is it?

10 A. Trump-Biden, it would be -- have to find  
11 it. Well, I -- I think I must have -- I -- I did  
12 not -- see, I didn't -- the purpose of Alternative  
13 Plan 1 was -- was not to focus on partisan  
14 performance at all, but I --

15 Q. So you didn't do that?

16 A. Well, yes, I -- I did check it in the end,  
17 but I knew it couldn't be very different because I  
18 only changed one county. So then I went over -- I --  
19 - I -- but in my rebuttal declaration, I do explain  
20 that -- I -- I think I have a -- a table in here  
21 that shows the partisan performance, do I not, for  
22 Alternative Plan 1 and all plans.

23 The Alternative Plan 1 -- well, I did not  
24 report it, did I? I just see 2 and 3 in there. I  
25 did -- I did check it, though. It's slightly lower,

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1 but not much because the plan hardly changes.

2 **Q. What was it?**

3 A. What is the partisan performance in --

4 let's see. The partisan performance in -- in the

5 enacted plan, Trump is 56.7 percent. I believe that

6 -- and I'm just guessing here. I -- I could get it.

7 I think it's, like, 55.8 or maybe -- not -- not

8 quite 56 percent. So it's, like, seven-tenths of a

9 percentage point lower.

10 It's in Mr. Bryan's report, by the way, so

11 we don't need to speculate. We can just refer that

12 because whatever -- whatever is in his report

13 appears to be accurate.

14 **Q. I'm just asking -- I don't care what's in**

15 **his report. I'm asking you what you did.**

16 A. Well, I do -- I do.

17 **Q. I do, but I can still ask you what you**

18 **did.**

19 A. I've already instructed you what I did. I

20 drew the plan without looking at the partisan

21 performance because I knew there couldn't be much

22 different -- difference. And then in the end, when

23 I was working on my rebuttal report, I did look at

24 it and confirm that, basically, the compactness --

25 the partisan score that Bryan reports in his report

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1 is correct. Except that he's not looking at head-

2 to-head contests, so I think there's a slight

3 difference.

4 **Q. So Alternative Plan 2 prioritizes partisan**

5 **goals over traditional redistricting criteria --**

6 A. No, it does not. It -- it takes that into

7 consideration, but it --

8 **Q. But that's literally the words from your**

9 **--**

10 MR. CUSICK: Let --

11 MS. BROYLES: Go to Page 41. That's

12 literally what it says.

13 MR. CUSICK: Excuse me, can you just let

14 him finish. Again, you asked the question. He said

15 no, and he was explaining why, and then you --

16 THE DEPONENT: Let me get there.

17 MS. BROYLES: First and foremost, I didn't

18 get to finish my question because he keeps jumping

19 in. But most importantly, I am literally reading

20 off of his paper. So please slow down and let's get

21 through this.

22 And I'm sorry for interrupting you, but --

23 you're experienced; you probably know where I'm

24 going. But I have to get a very distinct

25 understanding of what methods you follow, so I am

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1 trying to understand these parts of your report.

2 THE DEPONENT: Okay. I will -- like, I

3 will try to --

4 MR. CUSICK: The only thing I would say

5 is, if you're going to read his report, as you

6 represented right there, it would be helpful to

7 direct him to that so he can follow along, so we

8 know where --

9 MS. BROYLES: I just said Page 41 before

10 we even started. He's been -- I mean, he -- we've

11 been going page-to-page the whole time --

12 THE DEPONENT: Okay.

13 MS. BROYLES: -- but --

14 THE DEPONENT: Go ahead with Paragraph 70.

15 BY MS. BROYLES:

16 **Q. Okay. Read Paragraph 70 out loud from**

17 **Page 41.**

18 A. "Alternative Plan 2 demonstrates that,

19 even if the legislature prioritized partisan goals

20 over traditional redistricting criteria, splitting

21 Pulaski County was still unnecessary." That's a true

22 statement. And it doesn't say that I prioritized

23 it.

24 What it does say is that I was able to

25 draw an Alternative Plan 2, adhering to traditional

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1 redistricting principles, that basically had the

2 same partisan margin as the enacted plan. Not quite

3 the same, but -- but almost the same.

4 **Q. Okay. So what -- how did you prioritize**

5 **the other traditional redistricting criteria?**

6 A. I don't know what you mean. I -- I adhere

7 to traditional redistricting principles, but I

8 determined to draw an Alternative Plan 2 that would

9 score a little bit higher on Trump-Biden -- closer

10 to the enacted plan.

11 **Q. How do you do that in Maptitude? Are you**

12 **putting in the result you need, like, if you -- if -**

13 **- for instance, if you need the number to be close**

14 **to 59, you put in 59, and it spits a map out to you?**

15 **Is -- or how -- how are you --**

16 A. Oh -- oh, yeah. Well, you -- you just

17 basically point and click until you get to a -- a

18 configuration that you think may -- may result in a

19 higher partisan effect. And I don't -- I don't know

20 if I even was looking, when I was drawing

21 Alternative Plan 2, at partisan scores until after

22 the fact. And -- and you can see that, under

23 Alternative Plan 2, Trump had 55.7 to Biden's 44.3,

24 so --

25 **Q. So -- okay. So let -- let me ask a**

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1 question here. So in making this map, what did you  
2 put into Maptitude to get this result?

3 A. I didn't -- I didn't put anything into  
4 Maptitude. Although at some point -- and I don't  
5 remember if it was before or after I did Alternative  
6 Plan 2, I had the Redistricting Data Hub's data set  
7 that included the results of the 2020 presidential  
8 election.

9 And so I did -- I certainly had that in  
10 the -- in the Alternative Plan 3, where I was  
11 playing -- paying great attention to partisan  
12 impact. In this particular table, I was still  
13 focused on -- on trying to develop a plan that  
14 adhered to traditional redistricting principles, and  
15 also somewhat, some way, improved the partisan  
16 margin.

17 Q. Okay. I -- I must not be asking it  
18 correctly.

19 A. And I probably don't understand, but --

20 Q. So --

21 A. -- I think you're getting repetitive.

22 Q. No, I'm -- you haven't answered the  
23 question. When you go into Maptitude and you're  
24 trying to get a score of 100 on one factor -- like,  
25 here, it -- the way that I'm reading this, the

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1 Alternative Plan 2, the goal was to get as close to  
2 the partisan advantage as the enacted plan; is that  
3 correct?

4 MR. CUSICK: Objection as to form.

5 THE DEPONENT: Well, the goal was to  
6 follow traditional redistricting principles. In  
7 other words, don't split more than one county or two  
8 counties --

9 BY MS. BROYLES:

10 Q. So do you --

11 A. -- and -- and have a good compactness  
12 score, and simultaneously have a partisan advantage  
13 that is about the same as the existing plan, if not  
14 better. And I don't remember if I was actually  
15 looking at the Trump-Biden results as I was  
16 developing the alternative plan. In fact, I don't  
17 -- I don't think I was, but I did look at it,  
18 obviously, after -- after the fact.

19 And I knew that when I went north -- when  
20 I went north into the Ozarks, I was confident that  
21 picking up some of those counties would result in a  
22 higher compactness score because I know those to be  
23 predominantly Republican in nature.

24 The -- I live in Appalachia, and  
25 Appalachia is a heart of Trump country right now.

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1 And so are the Ozarks, I think. There are a lot of  
2 similarities between the Ozarks and the  
3 Appalachians. So I had no problem making the  
4 assumption that I could push north with District 2  
5 and enhance the -- the partisan effect. And I  
6 succeeded.

7 Q. I'm going to ask it again.

8 A. Asked and answered, but I'll try. Again,  
9 I don't know what you want me to answer.

10 Q. What do you tell Maptitude to do to  
11 generate the plan back? What I don't understand is,  
12 if you're trying to get an end result related to  
13 partisan goals, how are you -- what are you telling  
14 this system to do as far as those other factors?  
15 What -- how do you manipulate that?

16 MR. CUSICK: Objection. Asked and  
17 answered.

18 THE DEPONENT: Well, it's -- it --

19 MR. CUSICK: Hold on, Bill.

20 And continuing to mischaracterize his  
21 testimony.

22 Go ahead, Bill.

23 THE DEPONENT: Yeah. I mean, the way I do  
24 it with Maptitude is -- I started with the  
25 Redistricting Data Hub's data set, imported it, so

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1 that I had disaggregated votes down to the block  
2 level, using that -- that's how --  
3 BY MS. BROYLES:

4 Q. Do you disaggregate it?

5 A. No, they do. And that -- that data set's  
6 been used over and over, in case after case. And  
7 when I tallied it up, it matched the totals that I  
8 saw in PlanScore. So I know those numbers are  
9 correct, and that's that.

10 So I do that, and then I can get -- like,  
11 I'm looking at population total. As I'm moving  
12 blocks -- precincts around or counties around, I can  
13 see what the Trump total is and the Biden total is  
14 and the percentage that went for both, I mean, using  
15 Maptitude. Just as I -- just as I would know how  
16 many people are added, I know how many votes were  
17 added.

18 Now, I was not doing it laser focused on  
19 Alternative Plan 2, as opposed to Alternative Plan  
20 3, where I really was paying attention. Because I  
21 wanted to make sure that there was at least one plan  
22 on the table that was even better than the enactment  
23 plan, that did not split any neighborhood, black or  
24 white, anywhere in the state in an unusual and  
25 inexplicable fashion. Or any fashion, for that



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1 matter, because there are no split neighborhoods in  
2 Alternative Plan 2 or Alternative Plan 3 or  
3 Alternative Plan 1.

4 I -- I don't know what more I can say. I  
5 mean, I'm -- I'm looking at -- it is possible to --  
6 to take the data from Redistricting Data Hub, import  
7 it into Maptitude, and get instant read-outs of  
8 population votes as you're changing precincts and  
9 counties.

10 **Q. Do you know where Redistricting Data Hub**  
11 **got its information?**

12 A. From the state -- from the state -- just  
13 from Secretary of State. It's in the -- I have a  
14 link there. If you go to the link, you'll see a --  
15 a --

16 **Q. Where's the link?**

17 A. Well, the link is in -- is -- is in my --  
18 in the -- in the Appendix B attached to my  
19 declaration that we just went over. If you go  
20 there, there will be a link to the Redistricting  
21 Data Hub where you can download that file. And  
22 also, embedded in that .zip file, is a text file  
23 that explains their methodology.

24 In effect, all they did was take the  
25 precinct level data and disaggregate it to the block

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1 level by precinct, based on voting age. And then  
2 it's reaggregated, as you click on counties, back up  
3 to the county level.

4 And in this case, it's okay to do that  
5 process because, even though there might be some  
6 possible errors in -- in how the disaggregation is --  
7 - is developed at the precinct level, in the end,  
8 there wouldn't be. It's all washed out, and the  
9 vote totals match up.

10 **Q. Where did PlanScore get its data?**

11 A. I don't know where PlanScore got its data,  
12 but I do know that the Redistricting Data Hub has 11  
13 -- had -- has the -- has numbers that match  
14 PlanScore and --

15 **Q. Did PlanScore get their data from**  
16 **Redistricting Hub?**

17 A. I -- I don't know -- I don't know. I -- I  
18 mean, the -- the percentages that I've generated are  
19 very similar to the percentages that Mr. Bryan has  
20 generated, except that I'm using a head-to-head  
21 contest because I feel like that's more meaningful.

22 I think there was someone else on the  
23 ballot for president, anyway, in 2020, aside from  
24 Trump and Biden. There was -- I believe it was a  
25 Libertarian candidate, maybe. And it's not -- not

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1 really clear to me how that person would vote if  
2 they had no other choice but to vote for Trump or  
3 Biden, so I discounted those votes.

4 **Q. What did you do with the numbers to**  
5 **discount the votes?**

6 A. I just did not count the votes that went  
7 for the Libertarian candidate. Had I done so, I  
8 think it's likely the Libertarian candidates would  
9 probably lean toward Trump, I mean, if those voters  
10 had to pick one or the other. Which would mean my  
11 plan -- Alternative Plan 2 is even more partisan in  
12 favor of the -- of -- of the Republican Party than  
13 -- as I've presented it.

14 **Q. Where -- where's your numbers on which one**  
15 **-- where's that number? Where -- show me where**  
16 **yours is better.**

17 A. Well, I mean, if we go to -- I got to go --  
18 - those numbers, I actually reported in my rebuttal  
19 declaration. And you can see that Alternative Plan  
20 --

21 **Q. Why didn't you put it in with the plan**  
22 **where that was your goal?**

23 A. Good question. I didn't, but it's -- it's  
24 in Figure 5, so it doesn't matter. You know, 55.7  
25 percent was the -- was the figure for Trump-Biden.

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1 **Q. What page are you on in your rebuttal?**

2 A. I'm on Page 10, Figure -- Paragraph 20.  
3 It is about one percentage point less than the 2021  
4 enacted plan.

5 **Q. So it's not as good?**

6 A. Not quite as good, but good enough, very  
7 close. And it's really not going to be that  
8 predictive when it's that close, so that's why I  
9 developed Alternative Plan 3.

10 **Q. Okay. Hold on. I'm not --**

11 A. And -- and if you look at Alternative Plan  
12 3, by your standards, Trump smokes in that district.  
13 He's got 58.3 percent. It's -- it's -- you know,  
14 it's almost 2 percentage points or 1.5 percentage  
15 points higher than Alternative -- than the -- than  
16 the enacted plan. It's more than that. It's --  
17 well, it's 1.5 -- yeah, 1.6, so --

18 **Q. By what standard are you talking about?**

19 A. Well, the 2021 plan, head-to-head, Trump  
20 garnered 56.7 percent of the votes. Under  
21 Alternative Plan 3, Trump garners 58.3 percent, so  
22 it's a more partisan plan. Not by lot, but it is  
23 more partisan. And that's all I needed to show,  
24 because 2021 is already by lot compared to the  
25 benchmark plan, which I think was around 55 or so.

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1 54, maybe.

2 **Q. That's your opinion about it being close**  
3 **enough? There's no --**

4 A. Well, I -- I'm not a political scientist,  
5 but -- but by your standards, it's -- it's easily  
6 close enough because Trump got 58.3 percent of the  
7 votes.

8 **Q. What standard?**

9 A. It's -- well, it's common knowledge in  
10 political --

11 **Q. You're saying my standard.**

12 A. In political parlance, it's common  
13 knowledge to call a 60-40 election a landslide  
14 election. This election is 58.3 percent to 41  
15 percent -- 41.7 percent. And again, a higher margin  
16 than the enacted plan, which only has a 13.4  
17 percentage point margin. Here, we've got a 16.6  
18 percent margin.

19 So there's no question that Alternative  
20 Plan 3 is better on partisanship, at least looking  
21 at that one metric -- which is probably the best  
22 metric out there, than the enacted plan, while  
23 simultaneously adhering --

24 **Q. What's "the best metric out there"?**

25 A. I'd say the best metric out there because

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1 it's very current --

2 **Q. What's the best metric? What are you**  
3 **saying is --**

4 A. The -- the Trump-Biden election in 2020.  
5 And -- and this plan is -- is superior on that  
6 metric, and it's superior on most, if --

7 **Q. It's not, though.**

8 A. Yes, it is.

9 **Q. The number is lower.**

10 A. What are you talking about? Alternative  
11 Plan 3 is 58.3 percentage points.

12 **Q. Oh, I'm sorry. I thought we were still --**  
13 **I'm not at 3. I'm -- I'm talking about --**

14 A. Yeah, you might as well skip over 3. I  
15 mean, let's go to 3 because that's the one where  
16 there's no question.

17 **Q. Are you trashing 2?**

18 A. No. I'm not -- I'm not trashing any of  
19 these. And again, I would reiterate, you know, it'd  
20 be wonderful if the legislature would meet next week  
21 and adopt the hypothetical plan because that plan is  
22 the only one that does not crack black voters  
23 statewide -- black population statewide.

24 **Q. I ain't got time for the legislature to**  
25 **meet next week. I got too much other things to do.**

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1 A. Well, I -- I mean, I'm being facetious.

2 I'm not thinking that they're going to do that.

3 **Q. I know. I'm being facetious back. Okay.**  
4 **So let's go to your Exhibit B, Methodology and**  
5 **Sources.**

6 A. Okay. Yes.

7 **Q. Do you -- have you ever used AutoBound?**

8 A. One time, I was sort of forced to try to  
9 use it over a web connection when I was consulting  
10 with the Miami-Dade County Commission, I think both  
11 in 2001 and 2011 in drawing their -- drafting --  
12 drawing their redistricting plans. Miami-Dade  
13 County Commission, by the way, is Republican.

14 I was working with them, along with the  
15 Democratic representatives, to come up with a --  
16 with a new commission plan. It involved several  
17 different redistricting consultants. The final  
18 arbiter was a -- their official redistricting  
19 consultant was a guy named Guillermo Del Rio  
20 (phonetic).

21 **Q. Are -- is it less, more sophisticated -- I**  
22 **mean, how would you compare AutoBound to Maptitude**  
23 **for Redistricting?**

24 A. I can't compare it because I really  
25 haven't worked with it since 2011. I found it to be

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1 not as good as Maptitude 15 years ago. I -- I don't  
2 know that now. But that's partly because that's the  
3 program I always use, so it's always easier to use  
4 the program you're already using, right? Generally  
5 speaking.

6 **Q. So before a map is drawn, are there, like,**  
7 **empty box -- like, what I'm picturing is, you know,**  
8 **directives or some kind of instruction you're giving**  
9 **it to generate the map. And so how -- how does that**  
10 **work?**

11 A. Well, you always see the map on-screen,  
12 but then you can -- if you want to, like --

13 **Q. Well, and what is the map? Like, where --**  
14 **what is the starting point that you're seeing before**  
15 **you go in to make adjustments?**

16 A. Well, it -- it depends on -- I mean, if  
17 you just load the -- the precincts and the county  
18 boundaries, that's all you're going to see. And  
19 then as you click on a county or a precinct, you can  
20 assign a color to it. So ultimately, in the end,  
21 you have a map with -- that is multicolored and  
22 completely filled in, as the maps I produced and the  
23 maps you see that the State produced in color.

24 **Q. Yeah, but --**

25 A. That's how you do it.

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1 Q. No, I know. So you're just clicking until  
2 you add up to a total or something or --

3 A. That's right.

4 Q. -- when you say --

5 A. That -- that's right. But you don't have  
6 to do it one-by-one. I can -- I can do a sweep and  
7 -- and, you know, get all the precincts and -- I can  
8 click in a county and get all those precincts in one  
9 fell swoop, or I can do a -- a lasso and get a whole  
10 bunch of counties in, say, North Arkansas along the  
11 mid-Missouri line into one district.

12 So -- so you can do -- you -- you could --  
13 you could peruse an Arkansas Congressional plan real  
14 fast using Maptitude or any other -- any other  
15 redistricting applications. Because they're just  
16 four county -- four -- four Congressional districts,  
17 and there's no need to do any kind of significant  
18 county splitting.

19 Q. And then what you said, as you click,  
20 there's data on the side or some -- you said that it  
21 -- it -- there's some sort of side thing on it?

22 A. Well, there -- there is a data view, and  
23 you can set that up to show total population,  
24 population by race. You can ask it to show where  
25 college dorms are, where -- where prisons are. So

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1 you -- you can get that kind of information that  
2 comes from the P.L. 94-171 redistricting file.

3 And that's -- that's the file that you get  
4 with Maptitude, and presumably, that's a file that  
5 you would get with AutoBound. But you could also  
6 get that same information independently, directly  
7 from the Census Bureau, to use with any other  
8 software and create your own data set.

9 Q. So -- but, like -- so for a county split,  
10 for instance, would someone just zigzag a line  
11 magically, and it would tell you what percentage of  
12 the population is black and white on each side or --

13 A. Well, no. I mean, you -- you -- after  
14 you've done a plan or in the process that you're  
15 doing a plan, there's a module in Maptitude called  
16 Reports, and you can get it to give you a report on  
17 county splits, report on municipal splits. And  
18 that's -- that's like these plans here that are in  
19 my -- these exhibits that I produced show the --  
20 like, this one shows split counties under -- I'll  
21 see which plan this is. Under the hypothetical  
22 plan. I just happened to open it up.

23 And there are two split -- there --  
24 there's one split county, Sebastian County, and  
25 split two ways, and you get a population total. So

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1 -- but there are other tables in here that do the  
2 same thing with the enacted plan and with -- you  
3 know, you can also look at the school district  
4 splits, and of course, those are much more  
5 complicated because there are a lot of school  
6 districts.

7 Then -- and that's automated. And that's  
8 the one good thing about Maptitude for  
9 Redistricting. It's why I like it, really, is you  
10 can get these automated reports, and they're very  
11 detailed, and you really -- I don't think you can  
12 get that kind of report, exactly, from Dave's  
13 Redistricting.

14 Q. If you up --

15 A. You can get the total count, but you don't  
16 get the detail on a particular unified school --

17 Q. If data is uploaded from Dave -- Dave's  
18 Redistricting into your map, does that change how  
19 Maptitude generates numbers?

20 A. It wouldn't, but I rarely would ever  
21 import information directly from Dave's  
22 Redistricting. Because I already have, generally  
23 speaking, the shapefile or a -- a block equivalency  
24 file from another expert or something if I'm  
25 analyzing plans. However --

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1 Q. I thought on the compactness score, for  
2 instance, it does --

3 A. On the compactness score -- on the  
4 compactness score, I don't need to load it into  
5 Maptitude. But if I want to get a compactness score  
6 on a plan I don't have, that's posted on Dave's  
7 Redistricting website, and I wanted to I come up  
8 with something other than Reock or Polsby-Popper --  
9 because those scores you are actually reported on  
10 Dave's Redistricting.

11 If I wanted to get say, convex hull or one  
12 of the lesser known compactness scores that -- that  
13 can be generated by Maptitude, then I would have to  
14 import that from Dave's Redistricting into  
15 Maptitude, using a file called a -- either a  
16 shapefile or a -- and the best way to do it is to  
17 use a -- a block equivalency file.

18 And it -- it takes about, you know, a  
19 minute to load it in the Maptitude. And it would  
20 take, to generate the compactness scores, another  
21 minute. It's a real fast process.

22 Q. Do you know how Redistricting Data Hub  
23 disaggregates data sets?

24 A. Yes. They -- they disaggregate the voting  
25 age population -- they -- they disaggregate data

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1 sets, as I've mentioned, in terms of precinct level  
2 election data down to the block level, based on  
3 voting age.

4 **Q. Have you reviewed the terms and conditions**  
5 **on the Maptitude Redistricting Hub website?**

6 A. You mean the -- you mean, Redistricting  
7 Data Hub website?

8 **Q. Excuse me. Yes.**

9 A. I have not read the terms and conditions.  
10 At least not -- not recently, anyway.

11 **Q. Are you aware of the -- they're --**  
12 **basically, they all say, we're not -- we're not**  
13 **making any warranties that the data contained there**  
14 **is correct?**

15 A. Well, it wouldn't surprise me. They have  
16 a lot of data up there, so it's not -- it's not a  
17 surprise that they might say that when they're  
18 working with something other than direct census  
19 data. Which presumably, then, it would be correct,  
20 although I don't ever use the census boundaries or  
21 anything like that directly from Redistricting Data  
22 Hub. I just rely on Maptitude for Redistricting,  
23 which is used by state legislatures all over the  
24 country.

25 **Q. What about Dave's Redistricting? Have you**

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1 **seen the limitations that it places on the data that**  
2 **are -- that is uploaded?**

3 MR. CUSICK: Objection as to form.

4 THE DEPONENT: Well, I mean, they -- they  
5 would have that disclaimer, I'm sure, as -- as would  
6 most websites that are distributing data, just  
7 because there's -- you know, mistakes can be made.  
8 BY MS. BROYLES:

9 **Q. But you don't undertake any analysis to**  
10 **verify the data that's given to you from those**  
11 **sources?**

12 A. Well, yes, I did. I double checked on  
13 PlanScore and saw that the -- the vote totals for  
14 Trump in 2020 and Biden in 2020 were identical to  
15 the disaggregated total -- disaggregated blocks that  
16 I was working with from Redistricting Data Hub. And  
17 then I also looked at Mr. Bryan's report, and so  
18 noticed minor differences.

19 And that's because he was not doing a  
20 head-to-head analysis. He was doing the percentage  
21 that Trump got, I think, including the other  
22 candidate that was in -- that was in the contest,  
23 and Biden. So it was a three-way contest, not head-  
24 to-head. I think that's correct. I could be  
25 mistaken about that. There's not much difference

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1 between what I have and what Mr. Bryan has on  
2 partisan performance.

3 **Q. So the maps, as far as the old plans,**  
4 **these are -- that's just something you took off of a**  
5 **website that -- you didn't make those plans,**  
6 **correct?**

7 A. I did make those maps. I took them  
8 directly from the US Census Bureau. I looked at the  
9 1990 census, and they -- they have block assignments  
10 for every single census block in Arkansas as to  
11 which district it's in. And I merged that into --  
12 into Maptitude, and those are the maps we get. And  
13 so I'm almost 100 percent certain that those plans  
14 represent what the Census Bureau reported in the  
15 1990 census, the 2000 census, and the 2010 census,  
16 because I was using block level assignments.

17 **Q. So on the Population Summary Report, I**  
18 **guess, Exhibit D-1, this is all related to the**  
19 **hypothetical plan and nothing else; is that**  
20 **accurate?**

21 A. Let's see. Exhibit D-1? I'm going to  
22 break this thing. Let's see what I'm looking at.

23 MR. CUSICK: And this is Exhibit --

24 MS. BROYLES: D-1.

25 THE DEPONENT: What -- what's the name of

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1 the table you're looking at? Population Summary,  
2 Arkansas Hypothetical Plan?

3 MS. BROYLES: Uh-huh.

4 THE DEPONENT: Yeah, I think so.

5 BY MS. BROYLES:

6 **Q. Okay. So this is just about that plan.**  
7 **It's not undertaking any comparison, right? It's**  
8 **just data?**

9 A. Straight from the US Census, 2020. Right.

10 **Q. Okay. Well, you have here, "Note: citizen**  
11 **voting age and citizens all ages percentages are**  
12 **disaggregated." Where is that from?**

13 A. That is from the Redistricting Data Hub.  
14 And because those numbers are taken down to the  
15 block level, and then reaggregated back up to the  
16 Congressional level, which is an average district  
17 size of 751,750 some people, I'm confident that  
18 those numbers for the Latino population are very  
19 close to being accurate.

20 What is not accurate are the maps that Mr.  
21 Bryan has in his initial declaration, purporting to  
22 show turnout. Because you cannot disaggregate CVAP  
23 from the block group level, down to the block level,  
24 based on all ages voting age.

25 Because you then end up allocating non-

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1 citizens to precincts that -- that are all citizen,  
2 and vice versa. And the vice versa is really the  
3 one that matters.

4 **Q. Non-citizens? What do you mean?**

5 A. Because if you look at voting age, non-  
6 citizens are reported in voting age. And so when  
7 you disaggregate from the voting age at the -- when  
8 you -- when you disaggregate a block group -- CVAP  
9 down to the block level, based on voting age, you're  
10 creating an error at the precinct level, almost  
11 always, if you have a high Latino population.  
12 Because unfortunately, many of them are not  
13 citizens.

14 And so his maps are incorrect. They have  
15 to be. I don't really consider it a major issue in  
16 this case, but in fact, they are. But when he  
17 reports other -- other numbers for citizens, like,  
18 at the Congressional district level, those errors  
19 are washed out because you're combining literally  
20 thousands of precincts, and -- and, ultimately, the  
21 error is -- washes out, if that makes any sense.

22 So I -- I think the numbers I'm reporting  
23 here for Latino CVAP are correct. I think that many  
24 of the numbers that he's reporting for precincts in  
25 his map that is in his -- I guess it's his initial

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1 declaration or report or whatever he calls it, those  
2 maps are not trustworthy.

3 Some of the numbers could be right. But  
4 wherever there's a big Latino population -- and  
5 there is a significant Latino population in South  
6 Central Pulaski, you have to take that with a grain  
7 of salt.

8 **Q. Explain to me Exhibit D-4 --**

9 A. D-4.

10 **Q. -- and what the source is for it.**

11 A. D-4 is simply overlaying all of the towns  
12 in -- the -- the source is Maptitude. All these --  
13 all these reports that have this kind of a -- of a  
14 heading on it are -- are from Maptitude. So that's  
15 -- it's a report generated by Maptitude.

16 **Q. All right. But what the source of this  
17 data is?**

18 A. Well, it's the 2020 census. All these  
19 population numbers I report in my declaration come  
20 directly from the 2020 census. Except for the  
21 citizen voting age population, which comes from the  
22 2018, 2022 five-year survey, which is not a complete  
23 count. It's -- it's a -- a -- an estimate, based on  
24 a survey sample that, I think, goes to 1 out of  
25 every 40 households every year.

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1 **Q. What -- so you've got District 2**

2 **Alexander, 3 Alpena, 4 Alexander, 4 Alpena. What  
3 does that mean?**

4 A. Well, that means that those are propounds  
5 that were split between district -- Alexander is  
6 split between Districts 2 and 4, with 220 people  
7 going into 2 and 4 people going into District 4 --  
8 not 4 people, with 3,165. And with Alpena, 84  
9 people are in District 3, and Alpena also sent 290  
10 people to District 4.

11 Now, I'll -- I do know that Alpena is  
12 actually a town that is split by a county. And so  
13 arguably, there's no split there because the town's  
14 already split by counties.

15 So if you take out -- if you take out the  
16 splits -- the split -- if -- if you eliminate -- if  
17 you stop counting -- if you don't count towns that  
18 cross county boundaries that are already split, then  
19 the hypothetical plan has zero splits because both  
20 Alexander and Alpena are split by a county line. And  
21 I assigned one county to one district and another  
22 county to another, so I mean --

23 **Q. What difference does that split make?**

24 A. Well, it may not make any difference at  
25 all.

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1 **Q. Do you know if any black people live in  
2 Alpena?**

3 A. I could have -- I could find that out.  
4 It's -- it's -- I think it's in -- isn't it in  
5 Northern -- isn't it -- it's kind of in -- in  
6 Northern Arkansas, I believe.

7 **Q. Do you know where the population densities  
8 lie within these cities?**

9 A. Well, yes. I mean, we know that the part  
10 of Alpena that is in one county -- and I don't know  
11 the name of the county -- that is in District 4, has  
12 290 people in it. And the part that's in another  
13 county is 84, so it's a very tiny town.

14 **Q. Did you look at -- so you didn't undertake  
15 to look to see how many of the 220 people were --  
16 what the racial demographics were of these groups?**

17 A. No. I'm not obsessed with race at all in  
18 -- in my work. Actually, I -- I think it's probably  
19 predominantly white, because I believe Alpena -- I  
20 guess we can look at the map.

21 **Q. Well, yeah --**

22 A. But I think Alpena is in the north, and so  
23 it's predominantly a white population, I'm sure.

24 **Q. So you're not -- you're not including, for  
25 instance, the split between Alexander and Alpena as**



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1 concern -- or excuse me, Alexander between 2 and 4  
2 as a issue? That's not an issue?

3 A. I don't -- I don't consider it an issue,  
4 especially when you take into consideration that the  
5 towns are already split by different -- by -- by --  
6 the county line goes right down through the town. So  
7 it's -- it's a town that's in -- in two -- in two  
8 counties.

9 Q. In which --

10 A. Just like I live in a town called Bristol  
11 in Southwest Virginia that's in two states.

12 Q. Is -- so is this Hypothetical Plan 3 that  
13 this is from?

14 A. No, this is the hypothetical plan -- the  
15 one that does not split the black population  
16 statewide because it adds Pulaski and Jefferson  
17 County in -- into a district with the counties in  
18 the Delta. It does not split any counties. It has  
19 a higher compactness score. It's, across the board,  
20 higher on everything that has to do with traditional  
21 redistricting principles.

22 Q. With respect to -- we already talked about  
23 that. Anything -- oh, that's -- again, that's the  
24 hypothetical. Let's keep going.

25 A. See, this exhibit shows the core-based

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1 statistical areas.

2 Q. What's this from?

3 A. Well, that's -- that's Exhibit E.

4 Q. I know. What's the source?

5 A. The US Census Bureau. You see that? It's  
6 an official US Census Bureau publication.

7 Q. Okay.

8 A. And it shows each MSA, along with smaller  
9 counties that have at least an urban center of  
10 10,000 people. These are called micropolitan  
11 statistical areas. And then there's a broader area  
12 that would show connections between two MSAs, and  
13 occasionally between an MSA and micropolitan  
14 statistical area. Those are called combined  
15 statistical areas.

16 And you can see that Pine Bluff would be  
17 joined with the Little Rock -- North Little Rock  
18 area as a region that would be known as a combined  
19 statistical area, because there is a -- at least a  
20 five-percent commuting pattern on a daily basis  
21 between the two counties -- or between this two  
22 MSAs.

23 Q. Okay. What about -- so the Population  
24 Summary Report in Exhibit F-1, this is just stuff  
25 taken around Maptitude?

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1 A. Yes. This is the exact same report. It's  
2 -- it's not a direct spread out from Maptitude. I  
3 take it from Maptitude, and then copy and paste it  
4 into an Excel spreadsheet because it looks better.  
5 It's easier to read than a Maptitude report, I  
6 think. But of this -- the numbers should be the  
7 same.

8 Q. So on the -- on that Population Summary  
9 Report, it does not reference citizen all ages  
10 percentages?

11 A. It does not, but I could have -- I could  
12 have done that.

13 Q. Why did you not -- why did you do it for  
14 --

15 A. Well --

16 Q. -- the hypothetical, and not that one?

17 A. Wait a minute. What -- what do you make?  
18 I'm sorry. What's the --

19 Q. When you look at the hypothetical, Exhibit  
20 D-1, it says, "Citizen voting age and citizen all  
21 ages percentages are disaggregated from the block  
22 group level." But that does not say it on Exhibit F-  
23 1.

24 A. Oh, that -- that's true. The -- I  
25 probably should just have -- have cut out that last

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1 part there.

2 Q. Which part?

3 A. Well -- well, not the -- it does not --  
4 this -- this does not show all ages citizens. It  
5 just shows -- what is that?

6 Q. I thought you said you couldn't -- that  
7 you had to break those out.

8 A. No. Where -- where do you see "all ages"  
9 on here? That's what I'm a little bit confused  
10 about.

11 Q. Under your hypothetical plan on D-1.

12 A. D-1.

13 Q. On your source, it says -- it references  
14 citizen all ages percentages, and that's not --

15 A. Oh, okay.

16 Q. -- stated in Exhibit F. And I'm just  
17 curious why.

18 A. Right. Well, I have that information.  
19 But in a redistricting case, typically, you would  
20 only look at citizen voting age. Particularly in a  
21 -- say, a Gingles 1 case, where you need to show a  
22 district that is a majority minority. And sometimes  
23 you can do that with voting age.

24 And it might be real close to 50 percent,  
25 and there might be some issue, so you might want to

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1 report that the district is actually 51 percent  
2 black CVAP, as opposed to 50.01 voting age black so  
3 that -- that's why that's in there.

4 I use this table in all -- all the  
5 declarations I file. Sometimes I report citizen  
6 population because that may give -- that's, in -- in  
7 a way, a leading indicator of how the voting age  
8 population might change in coming years. Because  
9 typically, the Latino citizen all ages percentage is  
10 higher than the citizen voting age population  
11 percentage.

12 Because when -- when someone has come to  
13 the United States and still is not a citizen, they  
14 may have children who are citizens, who are, like,  
15 anywhere from 6 from 17 or something, and they will  
16 become eligible to vote because they were born here.

17 **Q. What -- what is the significance of**  
18 **referencing a survey midpoint of July 2020? What**  
19 **does that mean?**

20 A. Well, the -- the ACS is distributed by the  
21 Census Bureau to households on an annual basis. And  
22 one year is not enough to arrive at a reliable  
23 estimate for the citizenship of a community. You  
24 need, really, more surveys.

25 So they combine those five years' surveys

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1 -- five years worth of surveys every year, and  
2 release a new batch. So the most recent batch,  
3 which will be the 2019, 2023 ACS, will come out, I  
4 think, in early December.

5 And so they -- these numbers change on a  
6 yearly basis. So over the course of the decade,  
7 even though the population may not change, you get  
8 updates from the American Community Survey, showing  
9 what the citizen voting age population is.

10 **Q. But what's the mid -- why does it say what**  
11 **a midpoint is --**

12 A. Well, the midpoint is the midpoint of the  
13 survey. Like, 2018, 2022, so the survey midpoint  
14 would be census year 2020. So it is -- it's a good  
15 match for the citizenship rate at the time of the  
16 census.

17 **Q. The benchmark Congress, Exhibit -- Exhibit**  
18 **F-3, is this from 2011?**

19 A. Yes. This is just the same set of tables:  
20 F-1, F-2, F-3, F-4, whatever. Goes up to 6, I  
21 think, for -- for the benchmark plan, based on the  
22 2020 census. So we can see that the benchmark plan,  
23 if you look at F-3, indicates there are five split  
24 counties.

25 **Q. Explain to me the communities of interest.**

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1 **How are -- what are you doing to put something in or**  
2 **outside a community of interest?**

3 A. Well, it's a -- a broad category, and  
4 there's no clear-cut way to define a community of  
5 interest. I have put in there, in my report, a  
6 fairly good, solid statement from the Brennan  
7 Center.

8 But for a community of interest, I would  
9 -- you know, I -- I think you can -- can subsume  
10 community of interest -- or subsume political  
11 subdivisions into, in effect, a community of  
12 interest. Because at the county level, and even at  
13 the city level, there is a community there.

14 So to the extent you can avoid splitting a  
15 county or avoid splitting a -- a municipality, you  
16 are, in a way, protecting a community of interest.  
17 Because people who live in one county often have  
18 something in common that they want to accomplish for  
19 their town. Like, a -- I don't know, a new high  
20 school football field or whatever it is, but --

21 **Q. But drilling down to the municipality**  
22 **level, how are you assessing community --**  
23 **communities of interest?**

24 A. Well, one way to do it is to, first of  
25 all, look at the municipality and see if it's split.

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1 And I have split, as we just saw, a couple of very  
2 tiny towns: Alpena and Alexander. So there is a  
3 community of interest there. Even though they're  
4 different community -- different counties, there is  
5 a community of interest there. So that is kind of a  
6 split of a community of interest --

7 **Q. So it's --**

8 A. -- in a way. But it is not, by any means,  
9 anywhere near as severe as a split of community of  
10 interest in Southeast and Central Arkansas, where  
11 there are three districts involved, not just two,  
12 and where there is a large population that is split  
13 off from their neighbors and their neighborhoods,  
14 into one of three districts.

15 **Q. So you're -- this community of interest,**  
16 **this Exhibit F-4, you're saying that all of these**  
17 **towns are communities of interest to one another?**

18 A. No. They are communities of interest  
19 within themselves. And so there's Tiller, with 32  
20 people in it in District 1, and Tiller in District  
21 4. These are very tiny towns, for the most part. So  
22 that Tiller has a town -- has a total of -- but  
23 these are municipalities, not just -- you know,  
24 they're not just --

25 See, the Census Bureau has defined

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1 municipalities in their -- in their P.L. 94-171  
 2 file. But they also defined unincorporated places.  
 3 In this particular exhibit, I just took the  
 4 municipalities that actually have a mayor,  
 5 presumably, if it's a municipality. There's a mayor  
 6 of Tiller. There are 32 people there in District 1,  
 7 and 140 in District 4.

8 **Q. So what makes these okay?**  
 9 A. Well, it'd be better if you didn't --

10 **Q. And how do you know whether the split was**  
 11 **correct?**  
 12 A. Well, I'm -- I'm trusting the report that  
 13 -- that Maptitude generates. And these kinds of  
 14 tables have been -- have been --

15 **Q. Does Maptitude decide the community of**  
 16 **interest?**  
 17 A. No -- no, I decide. I mean, I -- I told  
 18 Maptitude to show me every single municipality in  
 19 the state of Arkansas that is split by the benchmark  
 20 Congress, and this is what I got back. So it's not  
 21 very many, so I -- you know, it -- it's not that big  
 22 of a deal. But it could be a big deal for somebody  
 23 who lives in Fairfield Bay, which is split between 2  
 24 and 1 under the --

25 **Q. They fight all the time. They're probably**

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1 happy to be split.  
 2 A. They do?  
 3 **Q. Yes.**  
 4 A. Okay. I --

5 **Q. Do you -- so how do you tell it to**  
 6 **generate that information?**  
 7 A. I just -- I just -- that there's a  
 8 reporting module in Maptitude, and I -- I go to the  
 9 level of geography that I'm interested in, which in  
 10 this case, would be the city and town boundaries.  
 11 And I tell Maptitude, just -- and I just say, select  
 12 all places in Arkansas that are actually  
 13 incorporated, and it does that in just a couple of  
 14 seconds.

15 And then I say, produce a report showing  
 16 every one of those municipalities -- I think it's  
 17 501, and show every -- every single municipality in  
 18 the state that is split. And under the benchmark  
 19 Congress, there are -- I don't know what -- well,  
 20 there -- there are ten -- ten town splits and five  
 21 split towns. That's what it is.

22 **Q. But you're okay with all of those?**  
 23 A. You know, I -- this is a -- this score is  
 24 okay. I mean, I don't have any -- I don't have any  
 25 problem with the numbers generated in the enacted

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1 plan or -- except for Pulaski County. It doesn't  
 2 affect very many people, and in many cases, it's --  
 3 the -- the splits really are as a result of a county  
 4 line. Whereas, with the enacted plan, the major  
 5 splits involve parts of Little Rock and North Little  
 6 Rock. And it's not a county line; it's just VTDS  
 7 and neighborhoods that are --

8 **Q. Did you -- or did you make any**  
 9 **determination on how the -- how these are split?**  
 10 **Like, based on a county line or something like that.**  
 11 A. You know, initially, I did. I've done  
 12 that before and just eliminated all of those places  
 13 that are in two counties. And just to -- to clarify  
 14 whether the split involved a county line, or if it's  
 15 just a split of a -- of a -- a county that's already  
 16 split. Really, in -- in Arkansas, for the most  
 17 part, the only time you're going to have a split  
 18 county -- a split city is when there's a county  
 19 split, because almost all the counties are whole.

20 In other states, that's -- particularly  
 21 legislative plans, you can't tell whether a split  
 22 involves a -- a town that crosses into another  
 23 county. You can, but there could be many instances  
 24 where there's a split, and it doesn't involve county  
 25 lines, is what I'm saying.

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1 **Q. On your communities of interest, based on**  
 2 **the schools where you have population, how are those**  
 3 **being drawn?**  
 4 A. Same thing. Anytime there's a split of a  
 5 -- of a school district between two districts, that  
 6 split is tallied. And there's no -- you know, the  
 7 subset is the same regardless. You have -- I don't  
 8 know. I guess it's, like, what? 296 school  
 9 districts in the state, maybe.

10 **Q. When was this data generated?**  
 11 A. Well, this -- all this is from the 2020  
 12 census. So if -- if a school district's boundaries  
 13 have changed or -- or if a school district was  
 14 eliminated, then -- since 2020, that would be  
 15 different. I mean, the same would hold true for  
 16 municipal splits, if there's been an annexation or  
 17 something like that.

18 This is what the -- the Arkansas  
 19 legislature -- assuming they had the Maptitude  
 20 software, and I don't know if they did. But this is  
 21 the kind of report they would have generated in  
 22 November of 2021.

23 **Q. They use AutoBound.**  
 24 A. Okay. Well, probably with AutoBound, it's  
 25 the same thing. They would have been working for

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1 the 2020 data, so they -- they would have not --  
2 they -- they -- if -- if they reported anything  
3 having to do with county splits or city splits, it  
4 would have been based on the 2020 data, which had  
5 just come out two months earlier. And so it should  
6 match up almost perfectly with these reports.

7 **Q. Do you know the differences in, like,**  
8 **statistical sensitivity between what the**  
9 **capabilities are of Maptitude versus AutoBound?**

10 A. I do not, no. As I mentioned, I -- I  
11 briefly experimented with it a little bit, using an  
12 online version of AutoBound when I was working as a  
13 consultant to the Miami-Dade County Commission.  
14 Because they were using the software, so sometimes I  
15 had to import a plan into that software. But I  
16 didn't really work with it very much. Internet was  
17 slower back in those days. It was kind of annoying,  
18 anyway.

19 **Q. On the Exhibit F Population Summary**  
20 **Report, it looks -- it -- it doesn't say the source,**  
21 **but I guess it's the same as everything else?**

22 A. Well, yes. The -- the source of all of  
23 these exhibits is the 2020 P.L. 94-171 data file, as  
24 delivered by Maptitude -- by the Caliper  
25 Corporation, in the software known as Maptitude for

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1 Redistricting.

2 **Q. Okay. All right. Going to your rebuttal.**

3 MR. CUSICK: Did you need that? Did you  
4 give this to me?

5 THE DEPONENT: He --

6 MR. CUSICK: Yeah.

7 BY MS. BROYLES:

8 **Q. Core constituencies, how is that done**  
9 **within Maptitude?**

10 A. That report -- that's a direct report from  
11 Maptitude, and it just shows how the population in a  
12 given district was shifted around. The shaded areas  
13 are the pieces that have the core largest population  
14 that stayed together from the enacted -- from the  
15 benchmark plan to the enacted plan. Shaded areas  
16 show that.

17 So the way to get the core retention  
18 number -- unfortunately, it doesn't get directly  
19 reported in Maptitude for Redistricting, is to just  
20 export that to an Excel file, filter the gray rows,  
21 and tally it up, and then you get the core  
22 retention. That -- that's the number that stay  
23 together from one plan to the next.

24 And I think Bryan has indicated that he  
25 starts with the enacted -- he starts with the 2011

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1 plan and goes to the enacted plan. But the results  
2 are the same.

3 **Q. Did you tell me you or Maptitude decides**  
4 **communities of interest?**

5 A. Maptitude has a report they call  
6 Communities of Interest and --

7 **Q. Do -- but you don't know how it -- other**  
8 **than by a -- you know, a city boundary line, you**  
9 **don't have any information on how they decide what a**  
10 **community of interest is?**

11 A. Well, they're -- they're just using that  
12 terminology for the report. And in this instance,  
13 it's showing, at least in the details we're looking  
14 at, the municipal splits, which I think is a  
15 legitimate sort of community of interest.

16 But it's also just a political subdivision  
17 split. And -- and you can do that, not just with  
18 municipalities. You can do it with core-based  
19 statistical areas. You -- you can do it with any  
20 kind of region that has got geographic benefits.

21 **Q. But other than the geographic boundaries,**  
22 **what a community of interest is -- you don't know**  
23 **how it would make that determination, other than**  
24 **just a geographic boundary?**

25 A. Well, and -- and a population base.

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1 That's right, yeah.

2 **Q. The Exhibit J-1, is this from Maptitude or**  
3 **-- how did you come to this result?**

4 A. Exhibit J-1 would have been from an Excel  
5 spreadsheet, just reporting what I had already  
6 reported in the declaration, but summarized in a --  
7 in a single page.

8 **Q. What is the Exhibit J-2?**

9 A. Exhibit J-2 is just the most recent report  
10 from the American Community Survey -- one-year  
11 survey for the state of Arkansas, comparing  
12 socioeconomic characteristics statewide of non-  
13 Hispanic whites, and I believe that's showing, also,  
14 African-Americans and Latinos. Just -- can I see  
15 that again. Well --

16 **Q. Sure.**

17 A. Well, what's the -- what's the heading?

18 **Q. I don't -- J --**

19 A. Yeah. Okay. No, never mind. It's -- its  
20 just showing black population and white population,  
21 socioeconomic characteristics.

22 **Q. Does it -- did this come into play in any**  
23 **of the reports?**

24 A. It did not. It's just there for general  
25 information.

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1 Q. Did you --

2 A. I always report that kind of information  
3 for Gingles lawsuits.

4 Q. Okay. But --

5 A. But in this case, it's just the most  
6 recent data. It just came out, like -- it came  
7 out, like, one or two days before I -- before I  
8 filed my declaration.

9 Q. So you didn't, like, upload this to  
10 Maptitude or something like that, the survey?

11 A. No. Typically, I would upload it. If I  
12 had a little more time, I would have just summarized  
13 it in a chart format, which is what I usually do.  
14 But in this case, I just -- I just gave -- I gave  
15 you the table.

16 Q. So why did you draw Map 3 -- Alternative  
17 Plan 3?

18 A. Well, my intention was to see if I could  
19 exceed the partisan effect in a plan that adhered to  
20 the traditional redistricting principles, that  
21 didn't split any more counties than the enacted plan  
22 and that did not split Pulaski County.

23 And had compactness scores that were as  
24 good or better and was contiguous -- meeting all the  
25 traditional redistricting principles while, at the

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1 same time, having a higher partisan advantage, based  
2 on Trump-Biden and the 2022 US Senate race. And so  
3 that's it, and I think I succeeded.

4 Q. What is that based on?

5 A. What is it based on? Well, it's based on  
6 Trump-Biden and -- and --

7 Q. Where's the -- which data?

8 A. Well, it should be in my -- in my rebuttal  
9 report. Let's -- I mean, it's -- it's a -- there's  
10 a table in the rebuttal report.

11 Q. Oh, and I should add, on Section 4,  
12 regarding a 2030 redistricting plan, you have no  
13 idea what that would be, correct?

14 A. Well, I -- I've just -- yeah. Well,  
15 there's no way to predict the future. I mean, it  
16 does appear to me that the Mississippi River  
17 counties are losing population. I mean, I just  
18 stumbled across, a couple of days ago, an article in  
19 a -- a online -- news weekly, maybe, describing a  
20 school district in Southeast Arkansas, maybe in  
21 Desha County, that may have to shut down. So it's  
22 in the --

23 Q. Desha?

24 A. Desha, yeah. It's -- it's in -- it's in  
25 -- it's -- I think it's called Arkansas Advocate.

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1 And I don't -- I don't know anything about the  
2 publication, but they interviewed the school  
3 superintendent, and there was just a general concern  
4 that if they don't get enough students, they're  
5 going to have to shut down one of those schools. And  
6 I sort of got the impression -- maybe I'm jumping to  
7 a conclusion, but I think it almost meant, like, the  
8 school district itself would have to go away. And  
9 then.

10 Q. Yeah, you have to have a threshold number  
11 of students and --

12 A. Yeah.

13 Q. So based on that, there's nothing that  
14 you're attributing to the legislature, as it relates  
15 -- with respect to the enacted plan, upon which  
16 you're suggesting people would leave the Delta just  
17 in general?

18 A. Well, I'm just basically making the point  
19 that there is a -- an institute at the University of  
20 Virginia that has done population projections by  
21 state. It's a -- it's a -- a well recognized  
22 demographic center, looking at -- they look at data  
23 nationwide. They've produced estimates for all  
24 states. And it's named Cooper, but there's no  
25 relation to me, unfortunately.

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1 Q. Well, if -- if a bunch of people leave the  
2 Delta just move and continue to consolidate in  
3 Central and Northwest Arkansas, isn't it possible  
4 that you would need more splits in those areas to --  
5 in order to be more -- you know, to divide up the --  
6 the population densities?

7 A. I don't --

8 MR. CUSICK: Object as to form.

9 THE DEPONENT: I -- I really don't think  
10 you need more splits in Arkansas. I could be -- I  
11 mean, we -- we did --

12 MS. BROYLES: No, I'm saying in 2030.

13 THE DEPONENT: Well, who knows? But I  
14 think it's likely that you wouldn't really need more  
15 -- more splits in Arkansas, that you could -- you  
16 could get things to work pretty close to zero  
17 deviation without doing additional splits. You  
18 might have to split different counties, for sure.

19 But I mean, the point I was trying to make  
20 is that Arkansas's population is projected to grow a  
21 little bit. And unfortunately, the -- this Cooper  
22 Center doesn't break it down at the county level.  
23 But the Arkansas Economic Development Institute at --  
24 - at University of Arkansas, Little Rock, it did  
25 that in 2010, but they have yet to do it in 2020.



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1 I mean, there was already county level  
2 estimates, in 2010, for the year 2020. But that --  
3 we'd need 2020 -- we need 2030 estimates by county,  
4 which they will do at some point. Probably later in  
5 the decade, I assume, because they did it in 2010.

6 So the -- the University of Virginia is  
7 projecting a -- a modest increase from 3,084,000 --  
8 I'm sorry, 3,011,524 to 3,084,795. So that's 73,000  
9 people statewide, and a lot of that gross would come  
10 probably from Northwest Arkansas, possibly from --  
11 from Pulaski County. Who knows?

12 But it's going to mean, maybe, that --  
13 well, it will be interesting to see what they do  
14 with the three of -- if the enacted plan is still in  
15 place, how will that be handled? That's -- that's  
16 the open question I have. How will that be handled?  
17 We don't know, of course. Will the --

18 BY MS. BROYLES:

19 **Q. Let's see. So you have quite a few more**  
20 **splits in your Alternative Plan 3, as compared to**  
21 **the enacted plan?**

22 A. Well, I think it's about -- I think it's,  
23 like, two more splits, isn't it? We looked at the  
24 comparison.

25 **Q. Well, one and two, for some -- you know,**

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1 to you, haven't been characterized as severe, from  
2 two to one in parts of your report.

3 A. Well -- well -- oh, wait. I'm sorry. I  
4 -- I must have misunderstood. But the -- the number  
5 of split counties is -- in -- in Alternative Plan 3  
6 is just one, right? I have to look at the table.

7 **Q. I'm sorry. No, I -- I'm going for -- so**  
8 **the cities and towns. So you've got 16 on the**  
9 **cities and towns?**

10 A. Yes. And again, I think almost all of  
11 those splits are cities and towns that are split by  
12 a county line.

13 **Q. Do you have any data to show that?**

14 A. In my mind. I -- I did look at that  
15 number initially, and I think it may be all of them,  
16 except for two towns, so it's not a problem.

17 **Q. For you?**

18 A. Well, that -- that's true. But this --  
19 and this is -- this, again, is just looking at -- at  
20 the number of municipalities, as opposed to total  
21 population involved. So it would -- it would  
22 definitely be lower than -- than eight splits if you  
23 discounted the towns that are split by a county  
24 line. That -- that, again, drops to, like, two  
25 split municipalities and four municipal splits.

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1 **Q. Where does Alternative Plan 3 perform**  
2 **worse than Alternative 2?**

3 A. It -- compared to Alternative Plan 2, it  
4 -- it splits three more unified school districts.  
5 But that's essentially the same, right?

6 **Q. Well, I'm just -- I'm trying to understand**  
7 **why you even need both of them. I don't understand**  
8 **why you need 2 and 3.**

9 A. Well, 2 has a slightly higher core  
10 retention rate. You've made a big issue of that, so  
11 that's one reason to consider Alternative Plan 2.

12 **Q. I've just asked you the questions in your**  
13 **report. I haven't --**

14 A. Yeah.

15 **Q. -- made a thing about anything, because I**  
16 **don't know what any of it means.**

17 A. Well -- okay. Well, you seem to be very  
18 focused on core retention, and this does have a  
19 lower core retention rate.

20 **Q. So --**

21 A. But it is, again, slightly more compact  
22 than the enacted plan and doesn't have any incumbent  
23 conflicts. It has a higher partisan margin for  
24 Trump than the enacted plan, which is apparently an  
25 important issue.

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1 **Q. Do you have any information regarding how**  
2 **many people were moved under each of your plan?**

3 A. What do you mean by "moved"?

4 **Q. Moved out that Congressional District 2**  
5 **under each of your plans.**

6 A. Well, that -- that particular number is  
7 sort of summarized in the core retention.

8 **Q. In what way?**

9 A. Well, 92 percent of the population stayed  
10 together under the enacted plan. Whereas in  
11 Alternative Plan 3, 73.5 percent of the population  
12 stayed together.

13 **Q. But what is -- what does that come --**  
14 **what's the number?**

15 A. Well, I -- I mean, I -- I'm not very good  
16 at just doing stuff in my head, but it's 92 percent  
17 of 755,000 or whatever it is for the enacted plan,  
18 versus 73 percent. So whatever that number is. I  
19 guess it's like almost 75,000 in the enacted plan,  
20 and well above that in Alternative Plan 3. But core  
21 retention is not a traditional redistricting  
22 principle --

23 **Q. So --**

24 A. -- and there's no bright-line rule as to  
25 what is or is not a -- an acceptable core retention.

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1 Q. Is there a acceptable standard deviation,  
2 something to that degree, with respect to the number  
3 of people to move in and out of a district?

4 A. No, because that is essentially what a  
5 core retention figure represents.

6 Q. So the amended complaint says that, "Fewer  
7 than 16,510 residents needed to be moved out of D 2  
8 to achieve one person, one vote parity after the  
9 2020 census." Which one of your plans supports that  
10 allegation?

11 MR. CUSICK: Objection as to form.

12 THE DEPONENT: Well, Alternative Plan 1  
13 does.

14 BY MS. BROYLES:

15 Q. How many did it move?

16 A. Out of CD 2? It's actually in -- in the --  
17 - it's in the paragraph that we were looking at  
18 earlier today, where I suggested all they had to do  
19 was move -- move Van Buren County out. And so that  
20 number is in my report.

21 Q. And that's 16,510?

22 A. Yeah, that's -- that's it. That's all  
23 that really needed to be moved.

24 Q. Will you show me which page. Sorry.

25 A. Unless I got too far into it -- it's

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1 definitely in there. I don't know why I can't put  
2 my hand on it because we discussed it. So in one of  
3 the paragraphs that you singled out.

4 Q. The only thing I recall was speaking in --  
5 with respect to percentages that you had, but I  
6 didn't see anything as it related to the number of  
7 people who moved.

8 A. Oh, it -- it's definitely in there. Oh, I  
9 don't -- I can't find it. I think it -- maybe it's  
10 where I discuss the benchmark plan. Must be. So  
11 it's really further in this report. Yeah. It's --  
12 it's in -- on Page 27, where I say, "For example,  
13 rural Van Buren County, population 15,796, 0.05  
14 percent black, could have been the perfect candidate  
15 for a minor modification shift out of CD 2."

16 Q. But they say 16,510 residents. So do you  
17 know what that's numbers based on?

18 A. Who's "they"?

19 Q. This is in the amended complaint.

20 A. Well, that's probably to get down to a  
21 zero deviation.

22 Q. Do you have any idea?

23 A. I think that may be it. Because I -- I --  
24 the -- the -- if you just move Van Buren County out,  
25 then you're left with 714 person over the ideal

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1 district size. So you could choose to do as I did  
2 with Alternative Plan 1, and try to reduce that  
3 further by splitting a county, which is what I did  
4 in White County, and took a precinct out so that it  
5 gets right down to being just 20 persons over the  
6 ideal district size.

7 In retrospect, I would suggest that that's  
8 not necessary and White County should be kept whole.  
9 But just to be on the safe side, I went ahead and  
10 did that because of -- and this isn't related to  
11 anything you've said or done. I've just experienced  
12 that kind of complaint, you know, that if -- if I  
13 don't draw a zero deviation plan -- exactly zero  
14 deviation plan, there's some sort of a red flag.

15 So I did Alternative Plan 1 to make sure  
16 that the deviations in the four districts were  
17 better than the enacted plan. And I could have done  
18 that with all the plans, but it would have required  
19 one more precinct split, perhaps, somewhere.

20 Q. With respect to any criticisms that you  
21 have of Mr. Bryan's report, what -- are all of those  
22 stated in your rebuttal?

23 A. No, they wouldn't be all -- all stated in  
24 the rebuttal, but I -- I just hit some highlights.  
25 He just makes some claims that don't mesh with

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1 reality. As we were discussing earlier, how he  
2 defines the term "norm" is -- well, it doesn't match  
3 up with my definition of norm.

4 Q. Well -- well, I think we've identified --

5 A. We -- we reviewed that -- we reviewed  
6 that.

7 Q. -- why that's an issue, right?

8 A. Well, it shouldn't be an issue. But he's  
9 made it an issue, so I've explained why I think the  
10 plans that I've drawn are within the norm on  
11 compactness and --

12 Q. But those are your norms, right? I mean  
13 --

14 A. No, those are the -- Mr. Bryan has a table  
15 in there showing the Polsby-Popper scores and Reock  
16 scores for all 435 districts in the country. And I  
17 don't want to belabor on this, but arguably, because  
18 those are enacted plans, those are the norm.

19 That would include some incredibly low  
20 scores in places like Texas and, apparently, in  
21 Illinois. I don't know why they would be so low in  
22 Illinois. Or Texas, for that matter, except maybe  
23 along the coast.

24 But anyway, the -- the -- if you look at  
25 those tables carefully, you'll see that no plan that

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1 I've drawn has a Reock score or a Polsby-Popper  
2 score that would be anywhere close to the bottom 35.  
3 There -- there's no Reock or Polsby-Popper  
4 score that I have that is anything worse than  
5 somewhere in the 380s. And in most cases, they're  
6 in the 250s or higher. And if you're in the 250s,  
7 you are exactly -- roughly -- a little bit below the  
8 average score nationwide. So it doesn't -- doesn't  
9 make any sense.

10 **Q. So for the purpose of your opinions, the**  
11 **only alternative plans that you're suggesting are**  
12 **the ones titled Alt 1, 2, and 3?**

13 A. That is my belief. I guess we would  
14 reserve the right to, somehow or another, make a  
15 modification, but that's all I have right now, as of  
16 we speak today.

17 **Q. Well, we can't continue to keep changing**  
18 **it, right? I mean, at what point do we decide that**  
19 **-- how many more times are you going to need to**  
20 **change it?**

21 A. Well, I don't know. I don't even know if  
22 I need to change it. But if -- if there's some  
23 objection to Alternative Plan 3 that I'm not aware  
24 of, then I could take another look. I mean, there  
25 are probably other ways to either enhance the

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1 partisan effect by maybe splitting another county,  
2 or somehow or another modify Alternative Plan 3 at  
3 the county level.

4 What I do know is there cannot possibly be  
5 a good reason for splitting Pulaski County three  
6 way. No way at all by traditional redistricting  
7 principles or by partisan effect. So I don't know  
8 why we're here.

9 **Q. We'll see.**

10 A. I guess we will.

11 MS. BROYLES: Let me just double-check  
12 real quick with everything, and then I think we'll  
13 be good. I don't know if y'all -- are y'all going  
14 to ask questions? If you are, then I can just look  
15 at my notes while y'all are going. How long do you  
16 think y'all are going to go?

17 THE DEPONENT: Can we just take a real  
18 quick break before we go on?

19 MR. CUSICK: Yeah. I think we'd probably  
20 need about maybe a 10 -- 10 to 15-minute break so we  
21 can just streamline the questions we have. And we  
22 might have about ten -- ten minutes or so.

23 MS. BROYLES: Of questions?

24 MR. CUSICK: Maybe. I just want to --

25 MS. BROYLES: Oh, yeah. No, that's -- I'm

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1 not going to hold you to it. I just -- I didn't  
2 know if it was going to be, like, an hour or  
3 something. I mean, I -- you can take as long as you  
4 want. I just was trying to kind of think through  
5 what -- with the rest of my --

6 MS. ADEN: But we need a quick break.

7 MR. CUSICK: Yeah.

8 MS. BROYLES: Yeah -- yeah, that's fine.

9 THE DEPONENT: My responses could run to  
10 30 or 40 minutes per question.

11 MS. BROYLES: Oh, I know it.

12 MR. CUSICK: We'll go off record for a  
13 moment.

14 (WHEREUPON, a recess was taken.)

15 MS. BROYLES: Just -- we said off the  
16 record before we took a break -- or after we took  
17 the break, yesterday, we produced the supplemental  
18 report of Mr. Bryan to your third plan. And based  
19 on what we said off the record, it's my  
20 understanding you have not seen that or reviewed any  
21 of that?

22 THE DEPONENT: I have not.

23 MR. CUSICK: I'll -- just for the record,  
24 I'll let him ask afterwards. As we stated in the e-  
25 mail correspondence, we didn't think it would be

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1 fair for Mr. Cooper to have less than 24 hours with  
2 the supplemental report, especially because he and  
3 counsel were traveling, at times, anywhere from four  
4 to six hours, and so getting the report at 4:00 p.m.  
5 yesterday just made that logistically difficult and  
6 not able to do.

7 From my understanding in Mr. Jacobs'  
8 initial correspondence with us, he would not be  
9 asked any questions on the supplemental report from  
10 Mr. Bryan in the initial outreach. I don't know if  
11 that has changed. But for the record, we'll  
12 continue, in addition to the correspondence we had  
13 with Mr. Jacobs, to reserve the right for Mr. Cooper  
14 to address that supplemental report in a declaration  
15 separately.

16 And then we can discuss how to handle it  
17 tomorrow, separately, off the record, but I'll let  
18 Bill -- or if there's something you want to say  
19 back.

20 MS. BROYLES: Well, yeah. I was just  
21 going to say, our correspondence was that we would  
22 provide it to you on the 1st, and we did. And so  
23 Mr. Bryan is prepared to answer any questions that  
24 you may have. If Mr. Cooper needs to send  
25 something, that's fine. We'll reserve the right to

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1 take his deposition on that limited basis. And we  
2 would do it by Zoom, most likely, if -- if it's even  
3 necessary.

4 We'll just need some indication as to when  
5 we would know if he's going to reply. Because we,  
6 obviously, have summary judgment in all those  
7 deadlines and so, you know, just kind of  
8 coordinating in that sense. But as far as I'm  
9 concerned, the -- y'all -- he -- Mr. Bryan is ready  
10 to testify on all of it, and so feel free to ask him  
11 any questions you want.

12 I mean, that's your prerogative, of  
13 course, but he is certainly prepared to give any  
14 opinions as necessary. I just wanted to make sure,  
15 on the record, that it wasn't something that was  
16 reviewed, you know, after kind of going through all  
17 the materials.

18 MR. CUSICK: Just one question. I just  
19 want to understand if this is a change in our  
20 correspondence. In Mr. Jacobs' September 24th e-  
21 mail, he says that, "We do not plan to ask any  
22 questions of that supplemental report in his  
23 declaration." And he says, "We will not need to seek  
24 to further depose Cooper on anything in that report  
25 declaration in response to the supplemental report."

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1 So I just want to understand, is that a changed  
2 position as of today?

3 MS. BROYLES: No. It's just, I have no  
4 idea what he's going to say. If he decides to come  
5 up with a whole another alternative plan that --  
6 then, you know, that's just kind of -- I don't think  
7 we will need to. I'm just saying that it really  
8 depends on what his response is.

9 Expert discovery has to end. It can't  
10 continue to bounce back and forth. So, you know, we  
11 can figure that out, but we're -- I'm certainly not  
12 super concerned about it. Absent it generating a  
13 whole new opinion that hasn't already been disclosed  
14 in some respect.

15 Okay. The last thing.

16 BY MS. BROYLES:

17 **Q. When you testified earlier, when you were**  
18 **drawing R-2 -- Alt 2, you did not look at partisan**  
19 **data as the initial goal; is that correct?**

20 A. No, that's not correct. I wanted to  
21 produce Alt 2 to show that I could approach or  
22 possibly exceed the partisan impact that is present  
23 in the enacted plan using Trump-Biden metric, and  
24 also adhering to traditional redistricting  
25 principles.

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1 **Q. But again -- so you did that with both Alt**  
2 **2 and 3, but still could not achieve greater than**  
3 **the enacted plan?**

4 MR. CUSICK: Objection as to form.

5 THE DEPONENT: Well, with Alt 2, I was  
6 just trying to meet it, really. And -- and I  
7 thought that would be good enough because it's under  
8 a percentage point and it's in the mid 50s. You  
9 know, like, a 56-45 split or something like that.  
10 So, you know, that's a pretty big spread.

11 But I -- you know, at some point, I guess  
12 it became apparent that maybe we needed to do one  
13 that actually exceeded on Trump-Biden. So I  
14 prepared Alternative Plan 3, which also adheres to  
15 traditional -- traditional redistricting principles.  
16 BY MS. BROYLES:

17 **Q. But it doesn't exceed enacted plan?**

18 MR. CUSICK: Object as to form.

19 THE DEPONENT: I believe it does.

20 MS. BROYLES: Okay. We'll -- we'll just  
21 let the report speak for itself, but -- okay. That's  
22 all I've got.

23 MR. CUSICK: I just have a few questions.  
24 I'll just -- if you don't mind, I'll use the exhibit  
25 markers for a moment.

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1 Mr. Cooper, I'm quickly just going to mark  
2 as Exhibit 3 your initial report, dated September  
3 16th.

4 (WHEREUPON, Exhibit 3 was marked for  
5 identification.)

6 MR. CUSICK: We'll mark as Exhibit 4 all  
7 the underlying exhibits that were attached to that,  
8 including your CV.

9 (WHEREUPON, Exhibit 4 was marked for  
10 identification.)

11 THE DEPONENT: Okay.

12 MR. CUSICK: And then as the fifth  
13 exhibit, this is your rebuttal declaration, dated  
14 September 23rd, 2024.

15 (WHEREUPON, Exhibit 5 was marked for  
16 identification.)

17 THE DEPONENT: Yes.

18 MR. CUSICK: If I could have you turn to  
19 Exhibit 3, which is your initial report, to  
20 Paragraph 8, Page 4 for a moment. If you can go to  
21 that.

22 THE DEPONENT: (No audible response.)

23 MR. CUSICK: Paragraph 8 on Page 4.

24 THE DEPONENT: Yes.

25 EXAMINATION

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1 BY MR. CUSICK:  
2 Q. And do you recall being asked questions in  
3 relation to the last part of that paragraph, where  
4 it says, "As well as additional materials I  
5 considered in forming my opinions, other than those  
6 cited in this report"?  
7 A. Yes.  
8 Q. Do you recall -- and you were asked  
9 questions about -- about PowerPoints that you  
10 reviewed.  
11 A. Yes.  
12 Q. Do you recall that testimony?  
13 A. Yes, I did see a PowerPoint. I did not  
14 have -- I think I saw that on a Zoom call, I think.  
15 Q. I'm going to mark as Exhibit 6 and 7 --  
16 MS. ADEN: Can you repeat your answer,  
17 please.  
18 MS. BROYLES: Sorry -- I'm sorry. I  
19 couldn't hear it. Did you say a Zoom call?  
20 THE DEPONENT: Yes. I don't know if I  
21 actually have the document on my computer, but I  
22 might.  
23 MR. CUSICK: If you can take a moment to  
24 review, first, Exhibit 6, which is the first  
25 PowerPoint.

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1 (WHEREUPON, Exhibit 6 was marked for  
2 identification.)  
3 BY MR. CUSICK:  
4 Q. Does that refresh your recollection of --  
5 for what you might have reviewed?  
6 A. Yes -- yes, it does. That first part,  
7 anyway.  
8 Q. And if you could go to the last page, all  
9 the way on the back.  
10 A. All the way on the back. Okay.  
11 Q. Yeah. Do you see the contact information  
12 there?  
13 A. Yes.  
14 Q. And who is the contact information for?  
15 A. Well, it's -- it's for the individuals, I  
16 think, who were involved in preparing this -- this  
17 pamphlet -- series of PowerPoints, maybe. Yes, I --  
18 I remember that whoever put this together was  
19 associated with a state agency.  
20 And Lori Bowen sounds like -- I mean, it's  
21 been, you know, several weeks since I looked at it.  
22 But these would -- this seems to be the -- the same  
23 document. Although in some ways, I -- I think it  
24 was in a somewhat different format. It didn't have  
25 everything kind of on the state capitol, so it was

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1 easier to read, right?  
2 Q. Yeah. The printouts are not great.  
3 A. You got words that are obscured by trees,  
4 actually. I mean, it's not behind the trees, but  
5 you would need to be very careful to be in the right  
6 light to see what those words are.  
7 Q. And then I'm going to hand you what is  
8 Exhibit 7, which is a similar PowerPoint.  
9 (WHEREUPON, Exhibit 7 was marked for  
10 identification.)  
11 BY MR. CUSICK:  
12 Q. Do you recall that one?  
13 A. You know, I -- I recall -- I recall seeing  
14 the text and seeing a blurry map. I just don't  
15 recall seeing the state capitol in the background.  
16 Maybe -- maybe it was, and I just don't -- but go  
17 ahead.  
18 Q. Just -- I know the printout's very  
19 difficult. But on the front page, do you see what  
20 the contact information is for the entity that  
21 created that?  
22 A. Yeah. Matthew Miller, Michelle Davenport,  
23 Bureau of Legislative Research. I probably said  
24 Secretary of State in my testimony. That's only  
25 because I just -- I didn't really -- I -- I knew it

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1 was a state level office, but I -- I just didn't  
2 remember the name of it. And I think -- well, it  
3 wouldn't be within the state -- within the Secretary  
4 of State's purview, but it's legislature.  
5 Q. You can -- you can put that down. Mr.  
6 Cooper, you were asked some questions about your  
7 qualifications. How many cases have you served as  
8 an expert?  
9 A. Well, "served as an expert" would be --  
10 you know, we're -- we're in the hundreds. Those  
11 would be cases where -- I mean, I've testified in, I  
12 think, close to 70 trials in federal court, of which  
13 some have not been Section 2 Gingles cases, but the  
14 majority have been.  
15 Q. Okay.  
16 A. And some of those testimony -- and that --  
17 and that is that is strictly the voting related  
18 cases. Because I have testified in federal court on  
19 desegregation cases and -- seems like I'm leaving  
20 something out. I mean, I've testified in state  
21 court on redistricting work in New Mexico and in  
22 Mississippi. And in -- not in Virginia, Mississippi  
23 and -- and New Mexico. Mississippi, that was  
24 actually an annexation case, but it's state board.  
25 So I -- I think I'm leaving something out



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1 here. I -- I've testified in federal court on a  
2 food stamp issue. That's the very first time I ever  
3 appeared in -- in federal court. This is in the  
4 1980s, before Judge Merhige in Virginia. The  
5 attorney was Anne Holton of the Virginia Legal Aid  
6 Society, who is the spouse of Tim Kaine, the former  
7 Secretary of Education in Virginia, if that's any  
8 help. Probably not, just trivia.

9 **Q. And, Mr. Cooper, for the cases you've**  
10 **testified in, were you -- were you ever not credited**  
11 **in -- as an expert?**

12 A. The only one that comes to mind was a  
13 judicial case in Alabama, where the judge determined  
14 that I was not credible when it comes to communities  
15 of interest. Because I spent a lot of time in that  
16 case, for some reason -- I'm not sure why the  
17 attorney did it, but we focused a lot on my usual  
18 information demographic information, which includes  
19 socioeconomic data.

20 And we went over a lot of socioeconomic  
21 data by way of charts, and I thought the judge  
22 understood it was quite interested in it. But in  
23 his opinion, he did -- he did knock that. So that's  
24 -- I mean, I -- I don't -- I mean, it wasn't like he  
25 didn't take my testimony at all. He didn't ask me

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1 to leave the stand or anything. Very friendly, and  
2 I -- I don't know.

3 I mean, I but I don't think -- I mean, I  
4 think that's one case where the judge -- he just  
5 pointed out that one opinion. And then the rest of  
6 it was really more oriented towards legal issues, as  
7 to whether Alabama would be required to change from  
8 what is it at-large judicial system to a district  
9 based system, because they don't have appellate or  
10 supreme court districts designed by district. It's  
11 all at large.

12 **Q. And that's one case out of 70 or 100?**

13 A. Well, out of my trial testimony, yes,  
14 that's the only -- only time I can think of that. I  
15 mean, there may have been -- I recall in the East  
16 Ramapo School District case in New York State, I had  
17 hurriedly put together what I thought might be  
18 correct statistics to infer the percentage of the  
19 students in the school district in Westchester  
20 County who were Jewish.

21 And I was looking at the status from the  
22 state and had a -- an estimate in mind, and I was,  
23 somehow or another, in that case, producing numbers  
24 for various schools, and I said that it looked like  
25 I don't know, several dozen of the Jewish kids went

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1 to the Hackley School. And I should have known  
2 better.

3 That's a highly costly and -- I -- I don't  
4 know how academically high it is, but it's extremely  
5 expensive in Westchester County. And the judge,  
6 who's from Westchester County, corrected that. But  
7 she -- she did -- she mentioned it in the  
8 declaration, but she -- I mean, we won the lawsuit.

9 And I drew the plan, although apparently,  
10 what I thought was all my work may have also  
11 involved some of Thomas Bryan's work, because he's  
12 claiming that he drew the plan. I just discovered  
13 that in his declaration. I didn't know he was on  
14 the other side. He's been on a lot of cases I've  
15 been involved in, but he's been in the background.

16 And it's only recently that I've  
17 discovered that he's been involved in these cases.  
18 Like in the Yakima County case, where the judge  
19 ordered my plan into effect in 2015. Apparently, he  
20 was working in that case for Dr. Morrison drawing  
21 voting plans.

22 I've always wondered who that person was,  
23 and it was Thomas Bryan. And the judge agreed with  
24 our arguments and the plan that we drew. And it  
25 didn't even go to trial. That's a case that we won

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1 on summary judgment, so I never really testified in  
2 the Yakima County case.

3 **Q. And, Mr. Cooper, you were recently cited**  
4 **in the US Supreme Court decision, based on a three-**  
5 **judge panel of being highly credible for a**  
6 **redistricting case?**

7 A. Yes.

8 **Q. And what case was that?**

9 A. Milligan -- Milligan v. Allen.

10 **Q. And based on some questions about**  
11 **partisanship and partisan performance, I just want**  
12 **to make sure the record's clear. Mr. Cooper, you're**  
13 **not a political scientist?**

14 A. I am not, and I do not opine on partisan  
15 metrics, other than just to report them. I mean, I  
16 will -- I can import them into my software and --  
17 and run a -- a set of numbers. But I -- I'm not  
18 going to try to interpret them beyond just what any  
19 basic citizen might do when looking at something  
20 like Trump -- Trump v. Biden.

21 **Q. And you only measured political**  
22 **performance in your original report based on the**  
23 **2020 presidential elections?**

24 A. That's right.

25 **Q. And you're offering no opinion on how to**

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1 interpret those elections for forecasting purposes  
 2 or any other purpose other than just aggregating  
 3 them and reporting them in your report?  
 4 A. That's correct.  
 5 Q. And then in your rebuttal report, you also  
 6 include 2020 election results for the Alternative  
 7 Plan 3, correct?  
 8 A. 2020, and then I added in the 2022 US  
 9 Senate contest, as well --  
 10 Q. And --  
 11 A. -- that I -- that -- that -- I didn't -- I  
 12 did not have the information when I did the  
 13 supplemental report -- I mean, when I did the  
 14 initial declaration.  
 15 Q. And that was based on reviewing Mr.  
 16 Bryan's report?  
 17 A. Yes, and the data he had compiled,  
 18 precinct by precinct, from 2022 election --  
 19 Q. And like the --  
 20 A. -- that he got from the Secretary of State  
 21 website, apparently.  
 22 Q. And like the 2020 election results data,  
 23 you are not opining on how to interpret the 2022  
 24 election results for performance -- partisan  
 25 performance, other than simply aggregating those

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1 results?  
 2 A. Well, aggregating and determining which  
 3 one was higher, right? I -- I can tell the  
 4 difference between higher and lower. But beyond  
 5 that, I'm not -- I'm certainly not a political  
 6 scientist.  
 7 Q. You were asked questions about traditional  
 8 redistricting principles and whether there was any  
 9 prioritization. Do you recall that testimony?  
 10 A. I do. We rambled on those so long, I -- I  
 11 recall it.  
 12 Q. Do I recall your testimony that you did  
 13 not prioritize any one traditional redistricting  
 14 principle over another when drawing Alternative Maps  
 15 1, 2, or 3?  
 16 A. That's right.  
 17 MS. BROYLES: Object to the form.  
 18 MR. CUSICK: You can answer.  
 19 THE DEPONENT: Yes. I -- I repeatedly  
 20 said, I think, during my testimony today that I was  
 21 constantly balancing those principles and not -- not  
 22 trying to prioritize one thing or another. Other  
 23 than I did understand that, above all else, I had to  
 24 hit one person, one vote that would be in within an  
 25 acceptable range.

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1 BY MR. CUSICK:  
 2 Q. You don't consider partisanship a  
 3 traditional redistricting principle?  
 4 A. Oh, absolutely not.  
 5 Q. And you were only reporting partisanship  
 6 performance based on election results, correct?  
 7 MS. BROYLES: Object to the form.  
 8 THE DEPONENT: Well, that's correct. I  
 9 only had partisan -- I only had partisan information  
 10 by the election results. I did not have any  
 11 information by voter registration, for example,  
 12 which I don't think -- I think is -- is not  
 13 tabulated in Arkansas.  
 14 BY MR. CUSICK:  
 15 Q. Mr. Cooper, in Footnote 12 of your  
 16 original report, do you recall questions about the  
 17 composite score and the article -- the underlying  
 18 article you cited in that?  
 19 A. Yes.  
 20 Q. I'm going to mark as Exhibit 8 the article  
 21 from Footnote 12.  
 22 (WHEREUPON, Exhibit 8 was marked for  
 23 identification.)  
 24 THE DEPONENT: Uh-huh.  
 25 BY MR. CUSICK:

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1 Q. Do you recall getting questions about --  
 2 and I heard -- you had testimony about compactness  
 3 and partisanship questions. And I think, at one  
 4 point, your testimony might have referenced that  
 5 there would have been some confusion, based on what  
 6 was being represented in this report and how it  
 7 related to compactness.  
 8 Do you recall that testimony?  
 9 A. Well, yes. The -- the State's attorney  
 10 reviewed some text in this article and -- well, I  
 11 think I did read the whole article at -- at some  
 12 point over the past year. My only interest in this  
 13 article, for the purposes of this lawsuit -- and  
 14 really any other lawsuit, would be the compactness  
 15 scores.  
 16 And I did not -- I -- I think if you read  
 17 the text of the article, when -- when -- there's  
 18 discussion in there about -- about ratings and  
 19 scales and -- and all that. That is covering not  
 20 just compactness, but more importantly, more  
 21 complicated conclusions, which one might draw from  
 22 things like proportionality or competitiveness.  
 23 And -- and when you start comparing one  
 24 state to another on something like competitiveness  
 25 or proportionality, probably would not allow for a

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1 very good state-to-state comparison. I think  
2 compactness would, with the understanding, though,  
3 that some states do have more regular boundaries  
4 than others.

5 So there are factors that would mean that  
6 you should sort of take the -- the 37-state table  
7 with some -- some grain of salt. Although I think  
8 you could assume that the number 1 state is better  
9 than the -- say, the number 20 statement.

10 Q. Mr. Cooper, you -- do you recall being  
11 asked questions about your hypothetical plan in your  
12 original report?

13 A. Yes.

14 Q. As you understand it, your expertise in  
15 this case is not to assess the relevance of how your  
16 expert report or rebuttal report is going to be used  
17 to support any plaintiff's claim in this case,  
18 correct?

19 A. What was the question? What was the --

20 Q. Your understanding of your expert report  
21 here -- or your expertise in this case is not to  
22 assess the relevance of how your report might be  
23 used to support any of the plaintiffs' claims in the  
24 lawsuit, right?

25 MS. BROYLES: Objection to the form.

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1 THE DEPONENT: Well -- well, that's true.  
2 I -- I just put that in there, primarily, as a way  
3 to take another look at the demography of Arkansas,  
4 and -- and to take note of the fact that the Delta  
5 is left out of the equation in this particular case.  
6 BY MR. CUSICK:

7 Q. And that's because you're not a lawyer,  
8 correct?

9 A. Exactly. Nor have I ever attempted to be  
10 one.

11 Q. Do you recall being asked some questions  
12 about what the Arkansas General Assembly's intent or  
13 motives may be during the map-drawing process?

14 A. In a -- in -- maybe in a roundabout way. I  
15 -- I hope I explained that I had no direct knowledge  
16 of the legislature's intent.

17 Q. And just --

18 A. Or indirect knowledge.

19 Q. And so you're not offering any expert  
20 opinion on the intent of the Arkansas General  
21 Assembly for the enacted map?

22 A. No. I mean, I -- I sort of got the idea  
23 that they were aiming to have a higher partisan  
24 margin in -- in Congressional District 2, and they  
25 wanted to also split fewer counties. But I -- I

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1 don't even really know the source of the latter  
2 point, but somewhere along the line. I thought that  
3 that was something that the legislators had wanted  
4 to do. But not based on anything directly I heard  
5 from a legislator.

6 Q. And you're not --

7 A. I've had no conversations with any  
8 legislator in Arkansas, ever, that I know of.

9 Q. And that's because you don't know what was  
10 of the minds of the legislators during the map-  
11 drawing process, right?

12 A. No -- no, I have no idea.

13 Q. In fact, you don't know what public-facing  
14 data -- or aside from public-facing data, you don't  
15 know what data the Arkansas General Assembly  
16 relied on during the map-drawing process?

17 A. No. It was only today that I learned they  
18 were relying on AutoBound for their redistricting  
19 package. And I don't know what data they had as  
20 they were drawing the plans.

21 Q. And you have no direct knowledge of the  
22 Arkansas General Assembly's objectives during the  
23 map-drawing process?

24 A. No direct knowledge, no. Not -- not at  
25 all.

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1 Q. And so, to sum up, your testimony and your  
2 expert report is based on your expertise, your  
3 experiences, and the publicly available information  
4 before you?

5 A. That's it, yes.

6 Q. Based on that expertise, Mr. Cooper, did I  
7 hear you say that not splitting political  
8 subdivisions is a traditional redistricting  
9 principle that is considered across the country?

10 A. Or at least being cognizant of political  
11 subdivisions. And when in the process of balancing  
12 traditional redistricting principles, you want to  
13 try to minimize political division splits.

14 Q. Do you recall a few errors or  
15 inconsistencies that were identified in Mr. Bryan's  
16 rebuttal report?

17 A. Yes. Somehow or another, I -- I think I  
18 inadvertently left a -- a population estimate for  
19 the total population in Table -- where is my report  
20 at? In Figure --

21 Q. Could it be Figure 2?

22 A. Figure 2, yes, which I will get to  
23 somewhere here. Yes, Figure 2. Not sure how it  
24 happened, but the number for the total population in  
25 that figure for 2020 is incorrect, and it -- it's

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1 not reported anywhere outside of this table. In  
2 other words, it has nothing to do with any of the  
3 plans I've drawn or any of my analysis at all.

4 MS. BROYLES: Which value? Like, what --  
5 can you say which column you're talking about.

6 THE DEPONENT: Well, it's -- it's the  
7 third from the right column, saying 2020 Number. Mr.  
8 Bryan pointed this out, it should be 3,011,000 and X  
9 -- I don't have the number in my head. And this has  
10 3,013,544.

11 So the total population number is actually  
12 -- the change from '90 to 2020 is actually a couple  
13 thousand people less than 662,000. But still over  
14 60 -- still about -- a little bit over 660,000, I  
15 think.

16 The minority subtotal is also affected by  
17 that era -- error. So the minority population in  
18 Arkansas is going to be a little bit higher,  
19 actually, than reported. I'm sorry, that -- that's  
20 not -- that's not correct. It would be a little bit  
21 lower.

22 So the percentage would change a little  
23 bit, and the total pop change and the minority  
24 population would change slightly. Other than that,  
25 the totals I report for non-Hispanic white, Latino,

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1 and any part black are not erroneous. So that table  
2 would be just a matter of fixing those spots.

3 And I think maybe somewhere in the text  
4 here, I've referenced back to that table, but I'm  
5 not 100 percent sure. So there may be one spot  
6 where the text may need to be slightly changed. I  
7 mean, we were talking about tenths of a percentage  
8 point. So it has no impact on anything, but I'm  
9 glad he pointed out it was an error.

10 BY MR. CUSICK:

11 Q. And that's -- I think the other figure you  
12 were referring to is -- could it be Figure 10 that  
13 Mr. Bryan pointed out, which -- which had the -- the  
14 similar or repeated error in the total number?

15 A. Yes, that -- that is true. There is the  
16 other table in here that has an error, right. But  
17 there could be an error in the text somewhere. But  
18 I don't know if I'm going to put my hand on it. It  
19 -- but I can fix it. I actually started fixing it,  
20 so it can be fixed. I mean it's -- again, it's a  
21 minor error. I'm sorry it happened.

22 Q. So you'd be able to easily correct with a  
23 declaration, for peace of mind?

24 A. Oh, easily, yes.

25 Q. I believe you were also asked questions

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1 about a potential error with the total number of  
2 municipal splits. Do you recall that testimony,  
3 when it -- 6 and 12 were --

4 A. Yeah -- yeah. That was a --

5 Q. -- a copying error?

6 A. -- just a stupid, late night copy-and-  
7 paste error or something. It just transposed. A  
8 and it's easy to figure out what happened.

9 Q. And that also could be easily supplemented  
10 with a --

11 A. Yes -- yes.

12 Q. -- correct declaration? Other than that,  
13 Mr. Cooper, the last two questions I have for you:  
14 Do you recall the testimony about Pulaski County and  
15 it being split in the enacted map?

16 A. Well, I do recall talking about the  
17 enacted map and the splits, yes.

18 Q. Was it split in the benchmark plan?

19 A. No.

20 Q. In the maps that you reviewed, going back  
21 to 1981, was Pulaski County ever split?

22 A. No. And I -- I think I also looked at  
23 earlier maps that one could see on the Secretary of  
24 State's website, going back to a -- a time when  
25 there were more Congressional districts in Arkansas.

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1 Back to around 1940 when, I think, there were, like,  
2 six Congressional districts. And Pulaski County was  
3 not split in any of those. So at least for a  
4 century, it has not been split. I did not look back  
5 into the 19th century.

6 MR. CUSICK: That's it for me. Thank you.

7 THE DEPONENT: Thank you.

8 FURTHER EXAMINATION

9 BY MS. BROYLES:

10 Q. So I think we clarified this, but you did  
11 not undertake or review the other plans that were  
12 proposed in the legislature to be considered for the  
13 2021st enacted?

14 A. Well, I look at the -- I -- I --

15 MR. CUSICK: I'll just say, objection to  
16 form. I don't know if that was covered in my  
17 redirect, looking at alternative maps.

18 MS. BROYLES: Well, he said that he  
19 reviewed plans as it related to any prior plan that  
20 split Pulaski County.

21 MR. CUSICK: No, dating back to -- the  
22 ones for the hypothetical map from 2021 into 1981.  
23 In those maps, was it ever split.

24 MS. BROYLES: Right, but once --

25 THE DEPONENT: No, it was not. It was

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1 never -- it was -- Pulaski County has not been  
2 split, as best I can tell, since at least 1940.  
3 Maybe going further back in time.

4 MS. BROYLES: But I'm about to establish  
5 this foundation.

6 BY MS. BROYLES:

7 Q. So my point is, you did not go back and  
8 look at any of the maps to see what had been  
9 recommended in anything, as far as breaking up  
10 Pulaski County, in the other proposed plans?

11 A. You mean the proposed plans from 2020s or  
12 proposed -- or -- or something from -- in the past?

13 Q. 2020.

14 MR. CUSICK: Same objection. I -- I don't  
15 think that was within the redirect here.

16 MS. BROYLES: Okay. It's still a  
17 deposition, so it's okay.

18 BY MS. BROYLES:

19 Q. But anyway, you didn't go back and look at  
20 those?

21 A. Well, I looked at four Senate plans that  
22 were introduced as a -- as -- as Senate bills, and  
23 every single one of them split Pulaski County three  
24 ways.

25 Q. Do you know who recommended those plans?

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1 A. I do not.

2 Q. Did you include in your report anywhere  
3 that you looked at any plans?

4 A. No. I, in fact, may have not looked at  
5 those plans until after my report was filed. I  
6 can't remember now. I just looked at them, and it  
7 was just interesting to me that there were four  
8 plans, and all four appear to split Pulaski County  
9 three ways.

10 Now, there may have been many others that  
11 were developed within the legislature. These --  
12 these became Senate bills. And I saw the House  
13 bills about the same time -- I think they were House  
14 bills, but it had less detail.

15 And I think maybe some of those House  
16 plans did not split Pulaski County. But I -- I  
17 could be wrong. I didn't have shapefiles, so I  
18 couldn't really do much with it.

19 Q. Are you aware that there was a lawsuit  
20 filed in state court, challenging the 2021  
21 redistricting plan?

22 A. Yes.

23 MR. CUSICK: Objection. Outside the  
24 scope, and also to the extent it calls a legal  
25 conclusion.

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1 BY MS. BROYLES:

2 Q. What do you know about that lawsuit?

3 MR. CUSICK: Same objections.

4 THE DEPONENT: I just know it was filed,  
5 and that -- and, ultimately, dismissed. I believe I  
6 know that, too.

7 BY MS. BROYLES:

8 Q. Have you reviewed any of the documents  
9 from that case?

10 MR. CUSICK: Same objections.

11 THE DEPONENT: No, I don't think I have.

12 BY MS. BROYLES:

13 Q. Well, how do you know about the case?

14 MR. CUSICK: Same objections.

15 THE DEPONENT: Because -- thanks to -- oh.  
16 Thanks to American Redistricting Project, I can see  
17 cases that have been filed that have something to do  
18 with voting rights, and also on -- on Democracy  
19 Docket. And I'm pretty sure that I did see that  
20 that case was filed.

21 I don't know if I actually looked at the  
22 -- at -- I -- I certainly haven't looked at the  
23 complaint or any of the documents since I signed the  
24 retainer agreement with LDF. And I'm not even sure  
25 if I looked at the -- at -- at that -- at that

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1 complaint or -- or the -- there's another case in  
2 federal court, also, right?

3 So I'm aware of that. I don't remember if  
4 I even looked at that complaint, either. There are  
5 lots of cases out there, and I -- I got enough  
6 trouble with the ones I'm in.

7 BY MS. BROYLES:

8 Q. Are you familiar with EDGE 2020  
9 Professional Redistricting?

10 MR. CUSICK: Objection. Again, this is  
11 continuing to be outside the scope of the redirect.

12 MS. BROYLES: Are you telling him not to  
13 answer, or are you just --

14 MR. CUSICK: He -- he can go ahead.

15 THE DEPONENT: No, I'm not familiar with  
16 it. What is it?

17 MS. BROYLES: It's -- so I was just going  
18 to show you. This is what, like, an AutoBound  
19 report looks like. So this is SB743.

20 BY MS. BROYLES:

21 Q. Have you seen any of -- like, and it just  
22 says EDGE 2020 down in the corner? I didn't know if  
23 you -- does that look familiar to you at all?

24 A. Well --


25 MR. CUSICK: Same objections.



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1 THE DEPONENT: I mean, the -- the plans I  
2 saw were not quite as clear as that one, maybe, but  
3 they could have been produced by EDGE. I don't  
4 know. I didn't really look to see exactly who  
5 produced it or why, other than that they were Senate  
6 bills, so that's all I know.  
7 MS. BROYLES: That is all the questions  
8 I've got. Thank you.  
9 MS. ADEN: Off the record?  
10 MR. CUSICK: Off the record.  
11 (WHEREUPON, the deposition of WILLIAM  
12 COOPER was concluded at 6:12 p.m.)  
13  
14  
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19  
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Page 323

1 CERTIFICATE  
2  
3 I, Gary Euell, do hereby certify that I  
4 reported all proceedings adduced in the foregoing  
5 matter and that the foregoing transcript pages  
6 constitutes a full, true and accurate record of said  
7 proceedings to the best of my ability.  
8  
9 I further certify that I am neither related to  
10 counsel or any party to the proceedings nor have any  
11 interest in the outcome of the proceedings.  
12  
13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 15th day of October, 2024.  
15  
16  
17  
18   
19 Gary Euell  
20  
21  
22  
23  
24  
25

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1 CORRECTION SHEET  
2 Deposition of: William Cooper Date: 10/12/24  
3 Regarding: Christian Ministerial vs. Thurston  
4 Reporter: Euell.Schneider  
5 \_\_\_\_\_  
6 Please make all corrections, changes or  
7 clarifications to your testimony on this sheet,  
8 showing page and line number. If there are no  
9 changes, write "none" across the page. Sign this  
10 sheet and the line provided.  
11 Page Line Reason for Change  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
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22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 Signature: \_\_\_\_\_  
25 William Cooper

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1 DECLARATION  
2 Deposition of: William Cooper Date: 10/02/2024  
3 Regarding: THE CHRISTIAN MINISTRAL ALLIANCE vs JOHN THURSTON  
4 Reporter: Gary Euell  
5 \_\_\_\_\_  
6  
7 I declare under penalty of perjury the following to be  
8 true:  
9  
10 I have read my deposition and the same is true and  
11 accurate save and except for any corrections as made  
12 by me on the Correction Sheet herein.  
13  
14 Signed at \_\_\_\_\_,  
15 on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
16  
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24 Signature: \_\_\_\_\_  
25 William Cooper

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