

XAVIER BECERRA  
 Attorney General of California  
 THOMAS S. PATTERSON  
 Senior Assistant Attorney General  
 ANTHONY R. HAKL  
 Supervising Deputy Attorney General  
 GABRIELLE D. BOUTIN, SBN 267308  
 R. MATTHEW WISE, SBN 238485  
 Deputy Attorneys General  
 1300 I Street, Suite 125  
 P.O. Box 944255  
 Sacramento, CA 94244-2550  
 Telephone: (916) 210-6046  
 Fax: (916) 324-8835  
 E-mail: Matthew.Wise@doj.ca.gov  
*Attorneys for Plaintiff State of California, by and  
 through Attorney General Xavier Becerra*

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

CITY OF SAN JOSE, CALIFORNIA, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity  
 as President of the United States, et al.,

Defendants.

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity  
 as President of the United States, et al.,

Defendants.

Case No. 5:20-cv-05167-LHK-RRC-EMC  
 Case No. 5:20-cv-05169-LHK-RRC-EMC

**DECLARATION OF GABRIELLE D.  
 BOUTIN IN SUPPORT OF  
 PLAINTIFFS' REPLY IN SUPPORT OF  
 MOTION FOR PARTIAL SUMMARY  
 JUDGMENT AND IN OPPOSITION TO  
 DEFENDANTS' MOTION TO DISMISS,  
 OR IN THE ALTERNATIVE, MOTION  
 FOR PARTIAL SUMMARY  
 JUDGMENT**

Date: October 8, 2020  
 Time: 1:30 p.m.  
 Place: Courtroom 8, 4th Floor  
 Judge: Honorable Richard R. Clifton  
 Honorable Lucy H. Koh  
 Honorable Edward M. Chen

1 I, Gabrielle D. Boutin, declare as follows:

2 1. I am a Deputy Attorney General with the California Department of Justice, duly  
3 licensed to practice law in the State of California. I am counsel of record in this action for the  
4 State of California. I make this declaration in support of Plaintiffs' Reply in Support of Motion  
5 for Partial Summary Judgment and in Opposition to Defendants' Motion to Dismiss, or in the  
6 Alternative, Motion for Partial Summary Judgment. I have personal knowledge of the facts  
7 stated herein and, if called upon to do so, could and would testify competently thereto.

8 2. Attached hereto as Exhibit A are excerpts from the transcript of the January 11,  
9 2019 concurrent trial proceedings in *State of California, et al. v. Ross*, No. 18-cv-1865-RS (N.D.  
10 Cal. Jan. 11, 2019) and *City of San Jose, et al. v. Ross*, No. 18-cv-2279-RS (N.D. Cal. Jan. 11,  
11 2019).

12 3. Attached hereto as Exhibit B are excerpts from the transcript of the January 14,  
13 2019 concurrent trial proceedings in *State of California, et al. v. Ross*, No. 18-cv-1865-RS (N.D.  
14 Cal. Jan. 11, 2019) and *City of San Jose, et al. v. Ross*, No. 18-cv-2279-RS (N.D. Cal. Jan. 14,  
15 2019).

16 4. The excerpts in Exhibits A and B reflect the trial testimony of Dr. John Abowd,  
17 Chief Scientist at the U.S. Census Bureau.

18

19 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
20 September 21, 2020, in West Sacramento, California.

21

22

/s/Gabrielle D. Boutin  
Gabrielle D. Boutin

23

24

25

26

27

28

# **EXHIBIT A**

Volume 5

Pages 779 - 991

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE RICHARD SEEBORG, JUDGE

STATE OF CALIFORNIA, by and through	)	
Attorney General Xavier Becerra; et al.,	)	
	)	
Plaintiffs,	)	
VS.	)	NO. C 18-01865 RS
	)	
WILBUR L. ROSS, JR., in his official	)	
Capacity as Secretary of the U.S.	)	
Department of Commerce; et al.,	)	
	)	
Defendants.	)	
<hr/>		
CITY OF SAN JOSE, a municipal corporation;	)	
And BLACK ALLIANCE FOR JUST IMMIGRATION,	)	
A California Non-Profit Corporation,	)	
	)	
Plaintiffs,	)	
VS.	)	NO. C 18-02279 RS
	)	
WILBUR L. ROSS, JR., in his official	)	
Capacity as Secretary of the U.S.	)	
Department of Commerce; et al.,	)	
	)	
Defendants.	)	

San Francisco, California  
Friday, January 11, 2019

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS

(APPEARANCES, NEXT PAGE)

Reported By: Belle Ball, CSR No. 8785, CRR, RDR  
Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
Official Reporters

**APPEARANCES:**

For Plaintiff State of California:

CALIFORNIA DEPARTMENT OF JUSTICE  
Office of the Attorney General  
1300 I Street  
Post Office Box 944255  
Sacramento, California 94244-2550

**BY: GABRIELLE D. BOUTIN**  
**R. MATTHEW WISE**  
**NOREEN P. SKELLY**  
**ANTHONY R. HAKL**  
**Deputy Attorneys General**

CALIFORNIA DEPARTMENT OF JUSTICE  
Office of the Attorney General  
300 South Spring Street  
Suite 1702  
Los Angeles, California 90013

**BY: TODD GRABARSKY**  
**Deputy Attorney General**

CALIFORNIA DEPARTMENT OF JUSTICE  
Office of the Attorney General  
455 Golden Gate Avenue  
Suite 11000  
San Francisco, California 94102

**BY: ANNA FERRARI**  
**Deputy Attorney General**

For Los Angeles Unified School District:

DANNIS WOLIVER KELLEY  
115 Pine Avenue  
Suite 500  
Long Beach, California 90802

**BY: KEITH A. YEOMANS, ESQ.**  
**SUE ANN SALMON EVANS, ESQ.**

(Appearances continued, next page)

APPEARANCES, CONTINUED:

For County of Los Angeles:

HOLLAND & KNIGHT LLP  
50 California Street  
Suite 2800  
San Francisco, California 94111  
**BY: DAVID I. HOLTZMAN, ESQ.**  
**CHARLES L. COLEMAN, III, ESQ.**

For City of Los Angeles:

LOS ANGELES CITY ATTORNEY  
City Hall East  
200 North Main Street  
Room 700  
Los Angeles, California 90012  
**BY: VALERIE FLORES, ESQ.**

For City of Oakland:

OFFICE OF THE CITY ATTORNEY  
1 Frank H. Ogawa Plaza  
Sixth Floor  
Oakland, California 94612  
**BY: MALIA MCPHERSON**  
**Deputy City Attorney**

For City of San Jose and Black Alliance for Just Immigration:

MANATT PHELPS & PHILLIPS, LLP  
11355 West Olympic Boulevard  
Los Angeles, California 90064  
**BY: JOHN F. LIBBY, ESQ.**

MANATT PHELPS & PHILLIPS, LLP  
One Embarcadero Center  
30th Floor  
San Francisco, California 94111  
**BY: ANA G. GUARDADO, ESQ.**

MANATT PHELPS & PHILLIPS, LLP  
7 Times Square  
New York, New York 10036  
**BY: ANDREW C. CASE, ESQ.**

(Appearances continued, next page)

APPEARANCES, CONTINUED:

LAWYERS COMMITTEE FOR CIVIL RIGHTS  
UNDER LAW  
1500 K Street, NW  
Suite 900  
Washington, D.C. 20005  
BY: EZRA D. ROSENBERG, ESQ.  
DORIAN L. SPENCE, ESQ.

For Defendants:

UNITED STATES DEPARTMENT OF JUSTICE  
1100 L Street, NW  
Room 11014  
Washington, D.C. 20005  
BY: MARSHA S. EDNEY, ESQ.

UNITED STATES DEPARTMENT OF JUSTICE  
20 Massachusetts Avenue, NW  
Washington, D.C. 20530  
BY: CARLOTTA P. WELLS, ESQ.  
KATE BAILEY, ESQ.

UNITED STATES DEPARTMENT OF JUSTICE  
Post Office Box 883  
Washington, D.C. 20044  
BY: CAROL FEDERIGHI, ESQ.

I N D E X

Friday, January 11, 2019 - Volume 5

DEFENDANTS' WITNESSES

	<u>PAGE</u>	<u>VOL.</u>
ABOWD, JOHN		
(SWORN)	790	5
Direct Examination by Ms. Bailey	790	5
Cross-Examination by Mr. Libby	919	5

E X H I B I T STRIAL EXHIBITS

	<u>IDEN</u>	<u>EVID</u>	<u>VOL.</u>
PTX-161		965	5



1 Friday - January 11, 2019

9:00 a.m.

2 P R O C E E D I N G S

3 ---000---

4 **THE CLERK:** Calling case C 18-1865, State of  
5 California versus Ross, and C 18-2279, City of San Jose versus  
6 Ross.

7 **THE COURT:** Good morning.

8 Before we begin, let me just ask a question. I'm working  
9 on getting you an order probably at the lunch break just  
10 covering the various pending motions, evidentiary motions.

11 For the Reamer declaration there was back and forth about  
12 an agreement that I understood San Jose was making with respect  
13 to striking certain portions of the Reamer declaration. When I  
14 went and looked back at it all, I was unclear on the State of  
15 California's position because they were also offering  
16 Dr. Reamer.

17 Are you in agreement with the position that San Jose has  
18 taken on the Reamer declaration? In other words, I can assume  
19 that you jointly are agreeing that certain parts of that  
20 declaration are being amended, if you will.

21 **MS. FERRARI:** Anna Ferrari for the State of  
22 California.

23 Yes.

24 **THE COURT:** Okay. Thank you. That's what I needed to  
25 know.

1 As I say, hopefully I'll give you just an order covering  
2 all those pending issues over the lunch break.

3 Okay. So my understanding is we're going to begin today  
4 with Dr. Abowd. Am I pronouncing that right, by the way?

5 MS. BAILEY: It's Dr. Abowd, Your Honor.

6 THE COURT: Abowd? Okay.

7 MS. BAILEY: That's my best understanding.

8 THE COURT: Well, he can tell us one way or the other.  
9 Okay.

10 MR. WISE: I think we have a couple issues just to  
11 clarify with the Court first.

12 THE COURT: All right.

13 MS. FERRARI: Anna Ferrari again.

14 The State of California has three witnesses who will be  
15 testifying via any of the following: A trial deposition,  
16 New York trial testimony, and a trial affidavit submitted in  
17 the New York case. And we would appreciate the Court's  
18 clarification on whether it would be sufficient to lodge those  
19 transcripts and affidavits via ECF or if the Court would prefer  
20 that they be entered into evidence.

21 THE COURT: I don't feel strongly one way or the  
22 other.

23 Do the defendants have a view on how they think that  
24 process should play itself out?

25 MS. BAILEY: We think they should be entered into

1 evidence.

2 THE COURT: Okay. Well, then, why don't we just go  
3 through the process of you introducing each of those and  
4 entering it into evidence whenever you want to do it.

5 MS. FERRARI: Great. We expect that that might happen  
6 on Monday because there are several exhibits, and hopefully  
7 over the weekend we can come to an agreement with defendants  
8 about how to treat those.

9 THE COURT: Good.

10 MS. FERRARI: Thank you.

11 THE COURT: Thank you.

12 And then also with respect to the direct examination of --  
13 or not the direct examination, the examination of our next  
14 witness from New York, there was some reference to the trial  
15 transcript from Judge Furman's trial. Has that been lodged yet  
16 or is it about to be lodged?

17 MR. WISE: Yeah. We have a stipulation that we've  
18 reached -- basically reached. There's one minor issue that I  
19 wanted to go over with the Court.

20 So the stipulation essentially says, yes, that we're going  
21 to admit the New York testimony, that a number of exhibits  
22 would go in with it, and that the plaintiffs in both cases  
23 reserve the right to introduce exhibits and additional topics  
24 in a direct after Dr. Abowd testifies today.

25 The one issue is there was an exhibit that was shown in

1 the New York direct testimony. It's a map of Fort Myers. It  
2 was used for demonstrative purposes only. We're just asking  
3 that the Court be able to look at that as the Court reviews the  
4 testimony.

5 So in one of our -- we've got two versions of the  
6 stipulation. One it says we're admitting into evidence these  
7 exhibits and this particular exhibit for demonstrative purposes  
8 only. I believe there's an objection from defendants to that  
9 particular stipulation, but we'd just like the Court's guidance  
10 on, you know, what the Court would prefer.

11 MS. FEDERIGHI: Well, demonstratives usually are just  
12 shown in court and then they vanish into, you know, the ether.  
13 So this one he's purporting to file it with the testimony, and  
14 we believe that's improper. It was just used as a  
15 demonstrative in New York by filing it.

16 THE COURT: Well, it's all in how it's treated not --

17 MS. FEDERIGHI: Right.

18 THE COURT: -- whether or not my eyes see it or not.

19 MS. FEDERIGHI: So --

20 THE COURT: I mean, the issue is really is it  
21 something, for example, that in any disposition in the case I  
22 would -- if I were to say when it was actually offered as a  
23 demonstrative, but I would then say, "Well, there is admissible  
24 evidence that demonstrates X, Y, or Z," that would be improper.

25 But attaching it so I look at it, as long as I know it is

1 simply a demonstrative piece of information, I think it's --  
2 I'm not quite sure why, oh, it can't be attached because it's  
3 only a demonstrative and it would have evaporated from view  
4 and, therefore, it's -- you know, I don't feel strongly about  
5 it.

6 If you want to maintain that objection, what the  
7 plaintiffs can do is, you know, you can show it to me, if you  
8 want, I mean, when the witness is on the stand to get over  
9 this.

10 Is this -- are you really maintaining that objection? If  
11 you are, we'll do it that way.

12 **MS. FEDERIGHI:** We don't have an objection to you  
13 looking at it. If they want to provide it to you just in paper  
14 form so you can look at it, that would be fine with us; or if  
15 they want to show it -- put it up when Dr. Abowd is on the  
16 stand on redirect or whatever you call it, that would be fine  
17 as well.

18 **THE COURT:** Either way. I mean, you can do it either  
19 way and it will be made clear that it is a piece of  
20 demonstrative evidence and, therefore, it is not admitted as  
21 something that I would rely on in making a decision in this  
22 case.

23 So I leave it to the parties to decide how best I see this  
24 map of Fort Myers. Is that what I'm going to see? Okay.  
25 Fort Myers, Florida, or Fort Myers what?

1 MR. WISE: That's it, yep.

2 THE COURT: Okay.

3 MS. FEDERIGHI: Thank you, Your Honor.

4 THE COURT: Thank you.

5 MR. WISE: So we'll just hand the clerk so just so you  
6 can see what will be filed.

7 THE COURT: That's fine.

8 MS. FEDERIGHI: And which version?

9 MR. WISE: It's going to be the one without --

10 MS. FEDERIGHI: Oh, without. Okay.

11 MR. WISE: -- the reference to the demonstratives.

12 MS. FEDERIGHI: All right. Thank you.

13 THE COURT: Okay. But you're not asking me to enter  
14 this right now because you're still working on it or you want  
15 me to enter it?

16 MR. WISE: If the Court could enter it right now, that  
17 would be fine.

18 THE COURT: Okay.

19 (Pause in proceedings.)

20 MR. WISE: Apparently we need to put signatures on  
21 it --

22 THE COURT: All right.

23 MR. WISE: -- but that's what you'll see admitted.

24 THE COURT: All right. Fine. My view is that if the  
25 parties stipulate to something, I'm probably going to agree to

## ABOWD - DIRECT / BAILEY

1 it, unless it means an additional week of trial or something  
2 like that. Then I may weigh in.

3 Okay. So are we ready to proceed?

4 MS. BAILEY: Yes, Your Honor.

5 THE COURT: And I recognize we are still in the  
6 plaintiffs' case, if I'm not mistaken.

7 MS. BAILEY: Defendants call Dr. John Abowd.

8 THE COURT: Dr. Abowd.

9 THE CLERK: Please stand and raise your right hand.

10 JOHN ABOWD,  
11 called as a witness for the Defendants, having been duly sworn,  
12 testified as follows:

13 THE WITNESS: I do.

14 THE CLERK: Please be seated.

15 And state your name and spell your last name.

16 THE WITNESS: Good morning. My name is John Meron  
17 Abowd, A-B like bravo, O-W-D like delta.

18 MS. BAILEY: Judge Seeborg, I'd just like to confirm  
19 that although plaintiffs have not rested and they will be  
20 questioning Dr. Abowd after we finish, Dr. Abowd is being  
21 called as our expert as part of our case.

22 THE COURT: That's understood.

23 MS. BAILEY: Thank you.

24 DIRECT EXAMINATION

25

ABOWD - DIRECT / BAILEY

1 BY MS. BAILEY:

2 Q. Good morning, Dr. Abowd.

3 A. Good morning.

4 Q. I'd like to begin with a discussion of your academic and  
5 professional background.

6 Can we please call up DDX-25?

7 Can you tell us what this document is?

8 A. Oh, that document is my curriculum vitae.

9 Q. Is this a current and accurate copy of your curriculum  
10 vitae?

11 A. It's not quite current. There's one article that is  
12 marked as forthcoming that has appeared. Otherwise it is, yes.

13 Q. Can you please describe your educational background?

14 A. I received my Bachelor's degree in economics from the  
15 university of Notre Dame, and I received my Ph.D. in economics  
16 with a specialty in econometrics and on labor economics from  
17 the University of Chicago.

18 Q. And can you summarize your postgraduate professional  
19 experience?

20 A. I've been a university professor for more than 40 years.  
21 My first appointment was as an assistant professor of economics  
22 at Princeton University.

23 My second appointment was as an assistant and associate  
24 professor of econometrics and industrial relations at the  
25 University of Chicago Business School.



## ABOWD - DIRECT / BAILEY

1 My current appointment, which started in 1987, is as the  
2 Edmund Ezra Day professor of economics, statistics, and  
3 information science at Cornell University.

4 Q. What do you consider to be your fields of expertise?

5 A. So I'm an economist by training but my econometrics  
6 background and research has related to the large-scale uses of  
7 administrative and survey data in a variety of fields,  
8 including statistics and economics.

9 Q. Is econometrics related to statistics?

10 A. Econometrics is the specialty within an economics Ph.D.  
11 that is basically the equivalent of a statistics Ph.D., and in  
12 many universities economists who are econometrics specialists  
13 are also appointed in the statistics departments like I am at  
14 Cornell.

15 Q. Have you taught courses regarding economics, econometrics,  
16 and statistics?

17 A. Yes, I have. I've taught undergraduate microeconomics for  
18 two decades but the salient course, I think, on my CV is the  
19 one that's called "Understanding Social and Economic Data,"  
20 which is a course that was constructed as a part of a  
21 large-scale National Science Foundation Grant to instruct Ph.D.  
22 students in the uses of the microdata that are collected by  
23 federal statistical agencies primarily.

24 It's offered as a distance learning course every other  
25 year. It's been taken by hundreds of Ph.D. students and

ABOWD - DIRECT / BAILEY

1 faculty all over the country. It covers the design of the  
2 census of population in the United States, the design of the  
3 economic census in the United States, products produced from --

4 THE COURT: You may want to push that back a little.

5 THE WITNESS: Yeah. I think I'm too close. I'm  
6 sorry, Your Honor.

7 -- products produced from the American Community Survey,  
8 the current population survey; products produced by the Bureau  
9 of Labor Statistics, the National Center for Health Statistics,  
10 statistical agencies in other countries, including StatsCan and  
11 a statistical agency in Germany and France. Basically it's  
12 a -- it's an analysis of how the federal statistical system and  
13 its counterparts in other countries put together their  
14 statistical products.

15 One of the textbooks is Robert Groves, et al., *Survey*  
16 *Methodology*. Most of the other material is original material  
17 that I developed in collaboration with many other experts  
18 who've given guest lectures in that course.

19 THE COURT: Maybe if you slow down a little for our  
20 court reporter.

21 THE WITNESS: I'm sorry, Your Honor.

22 BY MS. BAILEY:

23 Q. Do you belong to professional associations within these  
24 fields?

25 A. Yes, I do. I've been a career-long member of the American

ABOWD - DIRECT / BAILEY

1 Economic Association; the American Statistical Association, I'm  
2 a fellow of the American Statistical Association; the  
3 Econometrics Society, which I'm also a fellow of; the  
4 International Statistical Institute, which I'm an elected  
5 member of; the International Association for Official  
6 Statistics; the American Association for the Advancement of  
7 Science; the American Association for Public Opinion Research;  
8 and the American Wine Economics Association; and the Society of  
9 Labor Economics of which I am also a fellow and past president  
10 of.

11 Q. About how many peer-reviewed papers have you published  
12 within these fields?

13 A. About 100.

14 Q. How long have you been employed by or working with the  
15 Census Bureau?

16 A. My first appointment at the Census Bureau was in 1998 when  
17 I was appointed as a distinguished senior research fellow on an  
18 Intergovernmental Personnel Act contract between Cornell and  
19 the Census Bureau. I continued in that capacity until May of  
20 2016 in the sequence of IPA or regular contracts. I worked  
21 with professionals throughout the Census Bureau in that  
22 capacity.

23 My current job I was appointed to in June of 2016. I'm  
24 currently the chief scientist and associate director for  
25 research and methodology.

ABOWD - DIRECT / BAILEY

1 Q. And what are your responsibilities as chief scientist and  
2 associate director for research and methodology?

3 A. So the research and methodology director at the Census  
4 Bureau has about 370 professionals in it who represent the  
5 research aspects of all parts of the Census Bureau's  
6 activity -- survey methodology specialists, mathematical  
7 statisticians, economists, sociologists, demographers,  
8 information scientists, computer scientists -- and they are  
9 organized into a collection of centers. The center chiefs all  
10 report to my assistant director and then to me. They  
11 coordinate the research at the Census Bureau that applies to  
12 virtually all of the products that the Census Bureau produces.

13 I also serve in a full managerial capacity as a member of  
14 the Operating Committee, which is the highest level  
15 decision-making committee at the Census Bureau; the Data  
16 Stewardship Executive Policy Committee, which is the committee  
17 that handles confidentiality and other aspects of the way we  
18 curate our data products; the 2020 Census Executives  
19 Steering Committee, which is the final guidance committee for  
20 the 2020 census; the committee that oversees and peer reviews  
21 all of the research and technical reports for the 2020 census  
22 and similar committees around the Census Bureau.

23 Q. And what specific aspects of the decennial census do you  
24 have experience working with?

25 A. In a supervisory capacity or as a member of these

ABOWD - DIRECT / BAILEY

1 executive committees are then exposed to the detailed documents  
2 and ongoing planning for the 2020 census, as well as the  
3 economic census, from the start of my appointment. So those  
4 committees generally see weekly status reports on all aspects  
5 of the operations, they see the interim and final technical and  
6 operational reports, and are asked to make the major managerial  
7 decisions when there's decision-making involved.

8 Q. Have you published peer-reviewed papers regarding the  
9 activities of the Census Bureau?

10 A. Yes, I have. Most of my peer-reviewed research since 1998  
11 uses data products that are curated by the Census Bureau;  
12 largely administrative record databases that include filings  
13 from businesses, filings from individuals, and survey answers,  
14 including the survey reports from the 2000 and 2010 censuses  
15 and all the American Community Surveys.

16 Q. And have you taught courses regarding census methodology?

17 A. The course that I referred to, Understanding Social and  
18 Economic Data, deals with the construction of the frame and the  
19 sampling for the various survey products in the Census Bureau,  
20 including the census of population and all of the steps in the  
21 production: The address management, the management of the  
22 master address file, the uses of the master address file, how  
23 it's updated.

24 MS. BAILEY: Your Honor, I move to certify Dr. Abowd  
25 as an expert in economics, econometrics, statistics, census

## ABOWD - DIRECT / BAILEY

1 operations, and census procedures.

2 MR. LIBBY: No objection.

3 THE COURT: Very well. Dr. Abowd will be so  
4 designated.

5 BY MS. BAILEY:

6 Q. Dr. Abowd, I'd like to turn now to the opinions you're  
7 prepared to offer in these cases. Have you prepared a slide  
8 listing the topics on which you will opine?

9 A. Yes, I have.

10 Q. I'd like to call up DTX-26.

11 Can you please give a brief summary of your conclusion  
12 with respect to testing?

13 A. My conclusion with respect to testing is that the American  
14 Community Survey question on citizenship was adequately tested  
15 and was properly placed on the census if that's the question  
16 that's going to be used.

17 Q. And throughout our discussion today, can we refer to the  
18 ACS to mean American Community Survey?

19 A. Yes.

20 Q. Can you please explain your conclusion regarding  
21 self-response?

22 A. My conclusion is that the research that was done under my  
23 supervision established that there was credible quantitative  
24 evidence that the introduction of a citizenship question on the  
25 2020 census could be expected to lower self-response rates.

ABOWD - DIRECT / BAILEY

1 Q. And throughout our discussion, can you define what you  
2 mean when you say "credible quantitative evidence"?

3 A. When I use the term "credible quantitative evidence," I  
4 mean that the research would stand up to internal and external  
5 peer review in the relevant scientific disciplines.

6 Q. And what is your conclusion regarding nonresponse  
7 follow-up?

8 A. My conclusion regarding nonresponse follow-up is that the  
9 nonresponse follow-up operation at the Census Bureau and the  
10 associated statistical analyses that surround it can mitigate  
11 the consequences of the decline in self-response with respect  
12 to the accuracy of the actual count.

13 Q. And can you explain what is meant by the quality of census  
14 data other than the count itself?

15 A. Yes. I probably should have added in my summary of the  
16 self-response conclusion that the consequence of the decline in  
17 self-response is that the quality of the census data will be  
18 affected, it will be lower quality.

19 When statisticians use the term "accuracy," they recognize  
20 that it is a multiple dimension thing. It's not -- there's not  
21 just one accuracy. So we usually talk about bias and variance.  
22 So bias means that the thing you're trying to estimate, you  
23 missed. And I think that the Court has already heard testimony  
24 about coverage measurement. So coverage measurement for the  
25 census is the way of assessing its bias.

ABOWD - DIRECT / BAILEY

1 But variability is also important. Although the census of  
2 population is an actual enumeration, meaning that everyone  
3 should have a record, the quality of the data on those records  
4 is affected by whether they were provided by a self-response or  
5 they were provided by a nonresponse follow-up interview of  
6 someone inside the household or a proxy or finally by count  
7 imputation.

8 In the cases where there's incomplete or inaccurate  
9 measurement of characteristics, the other uses of the census  
10 data, for example redistricting or allocation of funds, are  
11 affected because the quality of those characteristics affects  
12 the accuracy of the other uses, that they're more variable.  
13 They're not necessarily biased but they're more variable.

14 More variable means you're not actually sure that the  
15 right person got the subsidy, and you have to accept that  
16 variability as a part of the processing of the data.

17 Q. Are you expressing any opinion -- let me back up a bit.

18 Throughout this discussion, do you understand if I say  
19 "NRFU," I'm referring to nonresponse follow-up?

20 A. Yes, I do.

21 Q. Are you expressing any opinion with respect to NRFU and  
22 the integrated partnership and communications program?

23 A. So I believe I said NRFU and the associated operations of  
24 the Census Bureau. The integrated partnership and  
25 communications campaign is the operation of the 2020 census



CERTIFICATE OF REPORTERS

We certify that the foregoing is a correct transcript from  
the record of proceedings in the above-entitled matter.



/s/ Belle Ball

Belle Ball, CSR 8785, CRR, RMR, RPR



/s/ Jo Ann Bryce

Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR

Official Reporters, U.S. District Court

*Friday, January 11, 2019*

# **EXHIBIT B**

Volume 6

Pages 992 - 1111

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE RICHARD SEEBORG, JUDGE

STATE OF CALIFORNIA, by and through )  
Attorney General Xavier Becerra; et al., )

Plaintiffs, )

VS. )

NO. C 18-01865 RS

WILBUR L. ROSS, JR., in his official )  
capacity as Secretary of the U.S. )  
Department of Commerce; et al., )

Defendants. )

CITY OF SAN JOSE, a municipal corporation; )  
and BLACK ALLIANCE FOR JUST IMMIGRATION, )  
a California Non-Profit Corporation, )

Plaintiffs, )

VS. )

NO. C 18-02279 RS

WILBUR L. ROSS, JR., in his official )  
capacity as Secretary of the U.S. )  
Department of Commerce; et al., )

Defendants. )

San Francisco, California

Monday, January 14, 2019

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS

(APPEARANCES, NEXT PAGE)

Reported By: Belle Ball, CSR No. 8785, CRR, RDR  
Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR  
Official Reporters

**APPEARANCES:**

For Plaintiff State of California:

CALIFORNIA DEPARTMENT OF JUSTICE  
Office of the Attorney General  
1300 I Street  
Post Office Box 944255  
Sacramento, California 94244-2550

BY: GABRIELLE D. BOUTIN  
R. MATTHEW WISE  
NOREEN P. SKELLY  
ANTHONY R. HAKL  
Deputy Attorneys General

CALIFORNIA DEPARTMENT OF JUSTICE  
Office of the Attorney General  
300 South Spring Street  
Suite 1702  
Los Angeles, California 90013

BY: TODD GRABARSKY  
Deputy Attorney General

CALIFORNIA DEPARTMENT OF JUSTICE  
Office of the Attorney General  
455 Golden Gate Avenue  
Suite 11000  
San Francisco, California 94102

BY: ANNA FERRARI  
Deputy Attorney General

For Los Angeles Unified School District:

DANNIS WOLIVER KELLEY  
115 Pine Avenue  
Suite 500  
Long Beach, California 90802

BY: KEITH A. YEOMANS, ESQ.  
SUE ANN SALMON EVANS, ESQ.

(Appearances continued, next page)

APPEARANCES, CONTINUED:

For County of Los Angeles:

HOLLAND & KNIGHT LLP  
50 California Street  
Suite 2800  
San Francisco, California 94111  
BY: DAVID I. HOLTZMAN, ESQ.  
CHARLES L. COLEMAN, III, ESQ.

For City of Los Angeles:

LOS ANGELES CITY ATTORNEY  
City Hall East  
200 North Main Street  
Room 700  
Los Angeles, California 90012  
BY: VALERIE FLORES, ESQ.

For City of Oakland:

OFFICE OF THE CITY ATTORNEY  
1 Frank H. Ogawa Plaza  
Sixth Floor  
Oakland, California 94612  
BY: MALIA MCPHERSON  
Deputy City Attorney

For City of San Jose and Black Alliance for Just Immigration:

MANATT PHELPS & PHILLIPS, LLP  
11355 West Olympic Boulevard  
Los Angeles, California 90064  
BY: JOHN F. LIBBY, ESQ.

MANATT PHELPS & PHILLIPS, LLP  
One Embarcadero Center  
30th Floor  
San Francisco, California 94111  
BY: ANA G. GUARDADO, ESQ.

MANATT PHELPS & PHILLIPS, LLP  
7 Times Square  
New York, New York 10036  
BY: ANDREW C. CASE, ESQ.

(Appearances continued, next page)

APPEARANCES, CONTINUED:

LAWYERS COMMITTEE FOR CIVIL RIGHTS  
UNDER LAW  
1500 K Street, NW  
Suite 900  
Washington, D.C. 20005  
BY: EZRA D. ROSENBERG, ESQ.  
DORIAN L. SPENCE, ESQ.

For Defendants:

UNITED STATES DEPARTMENT OF JUSTICE  
1100 L Street, NW  
Room 11014  
Washington, D.C. 20005  
BY: MARSHA S. EDNEY, ESQ.

UNITED STATES DEPARTMENT OF JUSTICE  
20 Massachusetts Avenue, NW  
Washington, D.C. 20530  
BY: CARLOTTA P. WELLS, ESQ.  
KATE BAILEY, ESQ.

UNITED STATES DEPARTMENT OF JUSTICE  
Post Office Box 883  
Washington, D.C. 20044  
BY: CAROL FEDERIGHI, ESQ.

I N D E X

Monday, January 14, 2019 - Volume 6

DEFENDANTS' WITNESSES

	<u>PAGE</u>	<u>VOL.</u>
ABOWD, JOHN MARON		
(SWORN)	1000	6
Cross-Examination by Mr. Libby	1001	6
Cross-Examination by Mr. Wise	1017	6
Redirect Examination by Ms. Bailey	1064	6

E X H I B I T STRIAL EXHIBITS

	<u>IDEN</u>	<u>EVID</u>	<u>VOL.</u>
PTX-250		1030	6
PTX-263, under 703		1079	6
PTX-264, under 703		1079	6
PTX-265		1080	6
PTX-266, under 703		1079	6
PTX-272		1019	6
PTX-371, under 703		1079	6
PTX-470		1057	6
PTX-472		1044	6
PTX-614, under 703		1079	6
PTX-619, under 703		1079	6
PTX-620, under 703		1079	6
PTX-621, under 703		1079	6
PTX-622, under 703		1079	6
PTX-633, under 703		1077	6
PTX-646, under 703		1077	6

I N D E XE X H I B I T S

<u>TRIAL EXHIBITS</u>	<u>IDEN</u>	<u>EVID</u>	<u>VOL.</u>
PTX-647 through 656		1077	6
PTX-647		1077	6
PTX-648		1077	6
PTX-649		1077	6
PTX-650		1077	6
PTX-651		1077	6
PTX-652		1077	6
PTX-653		1077	6
PTX-654		1077	6
PTX-655		1077	6
PTX-656		1077	6
PTX-663B, under 703		1076	6
PTX-663C, under 703		1076	6
PTX-666, under 703		1076	6
PTX-667, under 703		1076	6
PTX-668, under 703		1076	6
PTX-672, under 703		1076	6
PTX-673, under 703		1076	6
PTX-820		1079	6
PTX-821		1079	6



## ABOWD - CROSS / WISE

1 the nonresponders?

2 A. I think that's what I testified, yes.

3 Q. Before Secretary Ross decided to add a citizenship  
4 question to the 2020 census, the Census Bureau did not design  
5 an experiment of this sort?

6 A. That's correct.

7 Q. Let's follow-up on Mr. Libby's discussion on data quality.  
8 Do you recall discussing zero-sum allocations with Mr. Libby?

9 A. Yes, I do.

10 Q. Local government decision-makers in particular depend on  
11 accurate characteristic data when allocating resources?

12 A. They depend on the data that the formula calls for being  
13 accurate, yes.

14 Q. These decision-makers allocate resources based on  
15 decennial census data on age, for example?

16 A. Yes, as far as I know.

17 Q. And they allocate resources based on decennial census data  
18 on race and ethnicity?

19 A. Yes.

20 Q. Because of the additional variability in the  
21 characteristic data, the equity of the distribution of  
22 resources will be affected?

23 A. If you mean by "equity" that some people will get a  
24 resource that they weren't entitled to and others will not get  
25 a resource that they were entitled to, then, yes.

## ABOWD - CROSS / WISE

1 Q. In other words, lower quality characteristic data will  
2 cause misallocation of resources?

3 A. Yes.

4 Q. And, again, this is particularly true at the local level?

5 A. I'm not sure I testified that it was particularly true at  
6 the local level, but it's certainly true at the local level as  
7 well.

8 Q. The results of a misallocation of resources is that one  
9 community will benefit at the expense of another community?

10 A. That's what's meant by zero sum in this case, yes.

11 Q. Let's talk about testing. You previously testified that  
12 if a citizenship question is going to be placed on the 2020  
13 census, the citizenship question that appears on the ACS has  
14 been adequately tested; is that right?

15 A. Yes.

16 Q. In particular, you believe that the citizenship question  
17 performs adequately in view of the cost, quality, and risk  
18 constraints at the time the question was added to the 2020  
19 census?

20 A. I think that's the correct quote, yes.

21 Q. The Census Bureau primarily faced time constraints because  
22 your team, the SWAT team as you've called it, found out about  
23 the request for a citizenship question in December 2017 and  
24 Secretary Ross was required by statute to decide by March 2018  
25 whether to add the question?

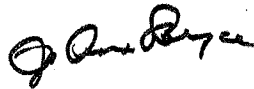
CERTIFICATE OF REPORTERS

We certify that the foregoing is a correct transcript from  
the record of proceedings in the above-entitled matter.



/s/ Belle Ball

Belle Ball, CSR 8785, CRR, RMR, RPR



/s/ Jo Ann Bryce

Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR

Official Reporters, U.S. District Court

*Monday, January 14, 2019*

### CERTIFICATE OF SERVICE

Case Name: State of California, et al. v.  
Donald J. Trump, et al.

No. 5:20-cv-05169-LHK-RRC-  
EMC

I hereby certify that on September 21, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DECLARATION OF GABRIELLE D. BOUTIN IN SUPPORT OF PLIANTIFFS' REPLY  
IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND IN  
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS, OR IN THE  
ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 21, 2020, at Sacramento, California.

Eileen A. Ennis  
Declarant

/s/ Eileen A. Ennis  
Signature

SA2020302398  
34425617.docx