

Appendix B

Deposition of Bernard Grofman



In the Matter Of:

DAVID TANGIPA

vs

GAVIN NEWSOM

BERNARD GROFMAN

December 04, 2025

CERTIFIED COPY

DAVID TANGIPA vs GAVIN NEWSOM
Bernard Grofman on 12/04/2025

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAVID TANGIPA; et al,

Plaintiffs,

vs.

No. 2:25-cv-10616 JLS (KESx)

GAVIN NEWSOM, in his official
capacity as the Governor of California;
et al,

Defendants.

CERTIFIED COPY

DEPOSITION OF BERNARD GROFMAN

Irvine, California

Thursday, December 4, 2025
Volume I

Reported by:
ANGELA METZ
CSR No. 12454, CLR

JOB No. 103369

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Bernard Grofman on 12/04/2025

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<div>1UNITED STATES DISTRICT COURT</div> <div>2CENTRAL DISTRICT OF CALIFORNIA</div> <div>3</div> <div>4DAVID TANGIPA; et al,</div> <div>5Plaintiffs,</div> <div>6vs. No. 2:25-cv-10616 JLS (KESx)</div> <div>7GAVIN NEWSOM, in his official</div> <div>8capacity as the Governor of California;</div> <div>9et al,</div> <div>10Defendants.</div> <div>11</div> <div>12</div> <div>13Deposition of BERNARD GROFMAN,</div> <div>14Volume I, taken on behalf of Plaintiffs,</div> <div>15at 4675 MacArthur Court, Suite 1410,</div> <div>16Irvine, California, beginning at 10:02</div> <div>17a.m. and ending at 4:31 p.m. on Thursday,</div> <div>18December 4th, 2025, before ANGELA METZ,</div> <div>19Certified Shorthand Reporter No. 12454.</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>1APPEARANCES (Continued):</div> <div>2</div> <div>3For Defendant LULAC:</div> <div>4John Freedman, john.freedman@arnoldporter.com</div> <div>5Sofia Fernandez Gold, sofia@democracydefenders.org</div> <div>6Jacob Kovacs-Goodman, jacob@democracydefenders.org</div> <div>7Sana Sinha, sana@democracydefenders.org</div> <div>8</div> <div>9For Defendant DCCC:</div> <div>10Lalitha Madduri, lmadduri@elias.law</div> <div>11</div> <div>12Audio visual technician:</div> <div>13Matthew Bates</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>
<div>1APPEARANCES:</div> <div>2</div> <div>3For Plaintiffs:</div> <div>4DHILLON LAW GROUP, INC.</div> <div>5BY: MARK P. MEUSER</div> <div>6BY: DOMENIC AULISI</div> <div>7ATTORNEYS AT LAW</div> <div>84675 MacArthur Court, Suite 1410</div> <div>9Irvine, California 92660</div> <div>10(415) 433-1700</div> <div>11mmeuser@dhillonlaw.com</div> <div>12</div> <div>13U.S. DEPARTMENT OF JUSTICE UNITED STATES ATTORNEY'S</div> <div>14OFFICE:</div> <div>15BY: JULIE A. HAMILL</div> <div>16ATTORNEY AT LAW</div> <div>17300 North Los Angeles Street, Suite 7516</div> <div>18Los Angeles, California 92669</div> <div>19(213) 894-2464</div> <div>20julie.hamill@usdoj.gov</div> <div>21</div> <div>22For Defendant California Department of Justice:</div> <div>23CALIFORNIA DEPARTMENT OF JUSTICE, OFFICE OF THE</div> <div>24ATTORNEY GENERAL</div> <div>25BY: IRAM HASAN</div> <div>BY: RYAN EASON</div> <div>BY: CLINT WOODS</div> <div>BY: DAVID GREEN</div> <div>ATTORNEYS AT LAW</div> <div>455 Golden Gate Avenue, Suite 11000</div> <div>San Francisco, California 94102</div> <div>(916) 445-9555</div> <div>iram.hasan@doj.ca.gov</div> <div>ryan.eason@doj.ca.gov</div> <div>clint.woods@doj.ca.gov</div> <div>david.green@doj.ca.gov</div>	<div>1INDEX</div> <div>2WITNESS</div> <div>3BERNARD GROFMAN</div> <div>4Volume I</div> <div>5</div> <div>6BY MR. MEUSER7, 169</div> <div>7</div> <div>8BY MS. HAMILL152</div> <div>9</div> <div>10EXHIBITS</div> <div>11DEPOSITION</div> <div>12Exhibit 1Dr. Grofman's Report94</div> <div>13</div> <div>14Exhibit 2Report on Final Maps, 202094</div> <div>15California Citizens</div> <div>16Redistricting Commission,</div> <div>17Dated December 26th, 2021</div> <div>18</div> <div>19Exhibit 3Mike McGuire Press Release of110</div> <div>20August 19th</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>

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<p style="text-align: right;">Page 6</p> <p>1 Irvine, California, Thursday, December 4th, 2025</p> <p>2 10:02 a.m.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 THE REPORTER: Good morning. My name is Angela</p> <p>8 Metz and I am a Certified Shorthand Reporter for the State</p> <p>9 of California and my CSR number is 12454. Thank you.</p> <p>10</p> <p>11 BERNARD GROFMAN,</p> <p>12 having been first duly sworn, was examined and testified</p> <p>13 as follows:</p> <p>14</p> <p>15 MR. MEUSER: Before we get going with the</p> <p>16 deposition, would you like all of the attorneys to</p> <p>17 introduce themselves?</p> <p>18 THE REPORTER: Yes, thank you.</p> <p>19 MR. MEUSER: Mark Meuser here on behalf of the</p> <p>20 plaintiff of the matter, and I have my associate on the</p> <p>21 line, Domenic. He is also on behalf of the plaintiff.</p> <p>22 MS. HAMILL: Julie Hamill, appearing on behalf of</p> <p>23 the United States, Plaintiff Intervener.</p> <p>24 MR. EASON: Attorney Ryan Eason, appearing on</p> <p>25 behalf of the State Defendants, Gavin Newsom and Shirley</p>	<p style="text-align: right;">Page 8</p> <p>1 A. At least six.</p> <p>2 Q. And when was the last time you had your</p> <p>3 deposition taken?</p> <p>4 A. Give me a moment to think about that. Probably</p> <p>5 sometime before 2015.</p> <p>6 Q. Okay. Do you need me to go over the standard</p> <p>7 admonitions, or are you comfortable with your deposition?</p> <p>8 You know what this is all about?</p> <p>9 A. I've been deposed before, so I feel comfortable.</p> <p>10 If you wish to repeat, I'd be happy to repeat it.</p> <p>11 Q. As a general rule, as you know, the court</p> <p>12 reporter can only get one of us at a time, and I'm going</p> <p>13 to do my best not to interrupt you, and I would appreciate</p> <p>14 the same courtesy to allow me to finish my question even</p> <p>15 though you know where I'm going. You agree?</p> <p>16 A. Yes, certainly.</p> <p>17 Q. And the court reporter cannot get inaudibles, so</p> <p>18 we do need a verbal response to the questions --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- even though I can see you.</p> <p>21 A. Yes.</p> <p>22 Q. At any time you want a break, we are flexible to</p> <p>23 do that. My only request is that I prefer you to finish</p> <p>24 the question before we take the break, if at all possible.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 7</p> <p>1 Weber.</p> <p>2 MS. HASAN: Iram Hasan appearing on behalf of</p> <p>3 Defendants Governor Newsom and Secretary Weber.</p> <p>4 MR. GROFMAN: Bernard Grofman, an expert witness.</p> <p>5 MR. MEUSER: And then those who are appearing</p> <p>6 remotely, can you make your appearances.</p> <p>7 MS. MADDURI: Lali Madduri for DCCC, Defendant</p> <p>8 Intervener.</p> <p>9 MR. WOODS: Clinton Woods for the California</p> <p>10 Department of Justice for Defendants.</p> <p>11 MR. FREEDMAN: John Freedman from (Inaudible)</p> <p>12 Porter for Defendant Intervener LULAC, and I'm joined by</p> <p>13 my colleagues Sofia Fernandez Gold, Jacob Kovacs Goodman</p> <p>14 and Sana Sinha.</p> <p>15 MR. MEUSER: Anybody from yours?</p> <p>16 MS. HASAN: I see David Green from our office.</p> <p>17 MR. MEUSER: That looks like everybody.</p> <p>18</p> <p>19 EXAMINATION</p> <p>20</p> <p>21 BY MR. MEUSER:</p> <p>22 Q. Dr. Grofman, before we get into the admonitions,</p> <p>23 have you had your deposition taken before?</p> <p>24 A. Yes.</p> <p>25 Q. Approximately how many times?</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Okay. You have been retained in this matter that</p> <p>2 is before us here. Do you know when you were first made</p> <p>3 aware of this case?</p> <p>4 A. It would have been in early November, but I do</p> <p>5 not remember the exact date.</p> <p>6 Q. And how did you become aware of this case?</p> <p>7 A. I was called by a member of the California</p> <p>8 Department of Justice and asked whether I was familiar</p> <p>9 with the case and whether I might be interested in serving</p> <p>10 as an expert in it.</p> <p>11 Q. And what did you tell them?</p> <p>12 A. I told them that almost certainly, I would be</p> <p>13 uninterested in serving as an expert because I had been</p> <p>14 very -- well, that's the answer.</p> <p>15 Q. Okay. Let's -- had you heard about this case?</p> <p>16 A. Yes.</p> <p>17 Q. How did you hear about this case?</p> <p>18 A. I'm a California citizen, and I'm familiar with</p> <p>19 Prop 50 from the publicity and media reports on Prop 50,</p> <p>20 and I do generally follow litigation in areas of voting</p> <p>21 rights, so I was aware that there was a court case.</p> <p>22 Q. And why were you initially hesitant to be</p> <p>23 involved in this case as an expert?</p> <p>24 A. Because it's much more fun to work for federal or</p> <p>25 state courts as a special master, and it had been a long,</p>

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<p style="text-align: right;">Page 10</p> <p>1 long while since I had served as an expert witness for a 2 party. 3 Q. Okay. Approximately how much time have you spent 4 in preparing your report that was submitted to the court 5 yesterday? 6 A. I would guess a little bit over 100 hours. 7 Q. Okay. And I'm asking for your best estimate from 8 when you first heard that this case was filed to when you 9 were called by the California DOJ. Approximately how much 10 time do you believe that was? 11 A. I believe it would have been a few days. 12 Q. Okay. You prepared a report; correct? 13 A. Yes. 14 Q. What is -- what are the conclusions that you have 15 reached in this case? 16 A. Do you mind if I refresh my memory? 17 Q. You go right ahead. 18 A. As shown on Page 008 of my expert report, my 19 conclusions are that there is overwhelming evidence that 20 the map has the effects of being a partisan gerrymander. 21 And on the other side of the coin, in terms of 22 the relative balance of evidence for the map being a 23 partisan gerrymander in its effects and the map being a 24 racial gerrymander in its effects, the data supporting the 25 argument for the map being a racial gerrymander is either</p>	<p style="text-align: right;">Page 12</p> <p>1 achieve each of the three goals identified. Namely, 2 reducing the number of seats held by the other party -- in 3 this case, held by the Republicans -- the protection of 4 safe seats of the Democratic party, and the concern for 5 adding Democrats and/or subtracting Republicans from those 6 Democratic incumbents who would be regarded as most 7 vulnerable. 8 And those would be at least additional 9 conclusions. If you give me a moment, then I will review 10 quickly my report to see if I can find other things that 11 are there. 12 Yes. So in addition to those particular elements 13 of the tools for gerrymandering and the goals of 14 gerrymandering, I also look at very briefly the expert 15 witness report of Dr. Trende and the evidence he presents, 16 and I also have reviewed and have an opinion about the 17 expert witness testimony of Dr. Thomas Brunell. 18 In addition, I have reviewed some publicly 19 available information about the way in which particular 20 individuals -- or actually, not particular individuals -- 21 the way in which the public sentiment and legislative 22 description of the map was reported to the voters. And 23 those are the conclusions -- oh, sorry. 24 And then, in addition -- 25 Q. I'm going to stop you for a second.</p>
<p style="text-align: right;">Page 11</p> <p>1 minimal or nonexistent. 2 Q. Is that all of the conclusions you have come up 3 with? 4 A. No. There are a variety of other more specific 5 conclusions. 6 Please pardon me for a moment. 7 There are a number of other more specific 8 conclusions that has to do with the methods that are the 9 standard tools of partisan gerrymander, of which I 10 identified four, those to be found on Pages 007 through 11 008 of my report. 12 And with respect to those methods of partisan 13 gerrymandering, my report has conclusions as to exactly 14 how each of those four methods was employed to create the 15 partisan gerrymander that is the Prop 50 map. 16 In addition, in my report, I not only identify 17 the tools that are used in partisan gerrymandering. I 18 also provide a definition of what a partisan gerrymander 19 is, the definition which, in three parts, is identified on 20 Page 007 of Exhibit A, with a fourth element being the 21 durability of the gerrymander. 22 And with respect to each of those bulleted 23 points, I provide opinion based on my expert witness 24 knowledge and experience of exactly how the partisan 25 gerrymander was effectuated in the Prop 50 map in order to</p>	<p style="text-align: right;">Page 13</p> <p>1 You said that you have opinions about the report 2 of Brunell, but I am not seeing in your report any -- 3 other than saying that you reviewed his report, I am not 4 seeing that you have in your report any -- any 5 conclusions, opinions, or statements about Brunell. 6 Am I missing something? 7 A. Yes, you are. Sorry. You are not really missing 8 something, but yes, you are missing something. 9 Yes, it is true that there is no mention of 10 Dr. Brunell's report, and that's quite simply because 11 there is nothing in Dr. Brunell's report that I felt any 12 need to respond to. It is not -- it does not make 13 statements with respect to racial or partisan 14 preponderance in the Prop 50 map. 15 Q. Okay. I interrupted you. I'll let you go back 16 to the other conclusions that you had. 17 A. Other conclusions had to do with, again, publicly 18 available information about Hispanic demography and 19 Hispanic voting patterns. And those would be contained on 20 Page 15 of my exhibit, and they are conclusions based on 21 my knowledge and experience, but also my review of sources 22 that I regard as reliable about the degree to which 23 Hispanics are a very large -- indeed, the largest single 24 racial or ethnic group in the state -- their proportion of 25 partisan -- proportion of registration, the extent to</p>

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<p style="text-align: right;">Page 14</p> <p>1 which they are more likely to be registered as Democrats 2 than as Republicans, and also some information about the 3 degree to which Hispanic population, while partly 4 geographically concentrated, is also commingled with other 5 Democratic populations, including white populations that 6 also have a high propensity to vote Democratic. 7 The -- those are the conclusions that have to do 8 with the Prop 50 map and the relative balance of evidence 9 for partisan -- partisan as the key critical motivation -- 10 effect, I should say. I don't deal with motivation. The 11 critical effect versus race, and racial motivation being 12 the critical effect in the plan. 13 And then there is one last comment with respect 14 not to the case being brought by Plaintiffs but being 15 brought by Plaintiff Intervenors. And that is a 16 conclusion that the Plaintiff Intervenor brief contains no 17 analysis on a possible Section 2 claim. 18 Q. Okay. We're going to go into this a lot more, 19 but does that summarize all of the conclusions that you 20 have made in this case? 21 A. It summarizes all of the conclusions that are 22 contained in my report. 23 I would like, if I might, to simply note for the 24 record that I did look at two additional sources that were 25 not mentioned in the list of items that I had reviewed.</p> <p style="text-align: right;">Page 15</p> <p>1 One of these is a report of the Public Policy Institute of 2 California, dealing with voter survey data and voter exit 3 poll data by party on preferences for a yes vote or a no 4 vote on the Prop 50 ballot. 5 And that URL which identifies the particular 6 report that I examined has been shared with Ms. Hasan, and 7 therefore would be available to you to review. But I do 8 want to note for the record that that is something which I 9 also examined. 10 In addition, not in the list of items that I 11 examined, I did go back and reread portions -- or I should 12 say skimmed portions of the Citizens Redistricting 13 Commission report on the map that was used in the 2022 and 14 2024 elections. 15 Q. Okay. Those two documents that you just talked 16 about, were these documents that you found on your own, or 17 were they documents given to you by counsel? 18 A. These were document I found on my own. 19 Q. And you have shared both of those documents with 20 counsel -- your counsel? 21 A. I know that I have shared the California 22 Institute for Public Policy work or document that I 23 referenced. 24 The California Independent -- Citizens 25 Redistricting Commission report, again, is a matter of</p>	<p style="text-align: right;">Page 16</p> <p>1 public record, so I saw no need to share it. It is, of 2 course, readily available. 3 Q. Okay. Attached to your report is your CV; 4 correct? 5 A. Yes. 6 Q. And I don't want to belabor it very much, but 7 really quickly, let's talk about your educational 8 background here. 9 A. Yes. I have a master -- sorry. I have a 10 bachelor's of science degree in mathematics from the 11 University of Chicago in -- let's see if I get my years 12 right -- 1962. 13 I have a 1972 Ph.D. from the University of 14 Chicago -- actually, 1960. Let me get the years right. 15 Let me just verify with my own CV. I have trouble 16 remembering exactly what was what. 17 So the 1966 is the bachelor of science degree in 18 mathematics, and I have a master's degree in 1968, also 19 from the University of Chicago. But that is a -- on the 20 way to a Ph.D. degree, meaning you get it as you are 21 moving toward a Ph.D. 22 And then, of course, I have a Ph.D. in political 23 science from the University of Chicago in 1972. 24 And it's not clear exactly how to count an 25 honorary degree, but I have a Ph.D., a second Ph.D., if</p> <p style="text-align: right;">Page 17</p> <p>1 you will. It's an honorary doctorate from the University 2 of Copenhagen. That was in 2010. 3 Q. So let's talk about once you've earned your 4 Ph.D., from the date you earned your Ph.D. to the present, 5 have you predominantly been in academia? 6 A. Yes. 7 Q. Can you please briefly walk through the various 8 institutions that you have taught at and what your 9 subjects that you were teaching from when you got your 10 Ph.D. forward. 11 A. So the beginning of my career is as first an 12 instructor and then an assistant professor at the State 13 University of New York at Stony Brook, a university that 14 now refers to itself as Stony Brook University. 15 In 1976, I was given a tenured position as an 16 associate professor of political science and social 17 psychology at the University of California Irvine, and 18 then I became a full professor of political science and 19 social psychology in 1980. Those would be the formal 20 positions that I held that were professorial. 21 In addition to those professorial positions, I 22 served as the Director of the Center for the Study of 23 Democracy, which is an organized research unit at the 24 University of California Irvine. That center is now 25 referred to as the Jack Peltason Center for the Study of</p>
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<p style="text-align: right;">Page 18</p> <p>1 Democracy, and I was director of it for -- actually, 2 that's not quite right -- for -- that actually has to be a 3 typo on my CV because I was director of it for 12 years. 4 Q. Okay. 5 A. Those would be -- those would be the major 6 professorial positions that I held or research director 7 positions that I held over the last multiple, multiple 8 decades. And eventually, I became a distinguished 9 professor of political science at the University of 10 California Irvine. That happened in, I believe, 2015. 11 And I noticed, by the way, that the CV is correct 12 with respect to the years in which I served as director of 13 the Center for the Study of Democracy. Namely, I was the 14 Jack Peltason chair from 2008 to 2022. 15 And then I also received what is called a 16 courtesy appointment in economics from the Economics 17 Department of the University of California Irvine, and 18 that happened in 2001. 19 In 2022, I officially retired from the University 20 of California, and at that point, the title that I had was 21 Distinguished Research Professor Emeritus of the 22 University of California Irvine. 23 In addition to those positions and research 24 directorships in the United States, I've also had a fairly 25 extensive history of being invited to be a -- in some</p>	<p style="text-align: right;">Page 20</p> <p>1 Constance, and then I've been a visiting scholar at 2 Complutense University in Madrid, and then I've been a 3 visiting professor in economics at the University of Caen, 4 C-a-e-n, France. 5 And then I've been a visiting scholar at the 6 Central European University, then located in Budapest, now 7 relocated to Vienna. And then I've been a visiting 8 scholar at the Juan March Institute at the University of 9 Carlos III, University of Carlos III, in Madrid. 10 These have generally been relatively short 11 visits, usually one week. Sometimes they have been 12 longer. In some instances, they've been as long as one 13 month. Or in one case, I think they were three months. 14 Oh, sorry. And then more recently, I've been a 15 visiting scholar in Australia and New Zealand. So I've 16 been a scholar in residence at the University of Auckland. 17 That's 2024. Then I've been a scholar in residence at the 18 Australian University in Cambria. That also was 2024. 19 And then also in 2024, I've been a scholar in residence at 20 Victoria University of Wellington. 21 So I think that's it. I haven't counted, but 22 that's at least 10 countries. 23 Q. So all of these visiting professorships, were 24 they all in political science? 25 A. No. Some of them are in economics.</p>
<p style="text-align: right;">Page 19</p> <p>1 cases, a visiting professor, and in other cases, a 2 visiting scholar at a variety of institutions of higher 3 learning around the world in -- I don't remember exactly. 4 I'd have to consult the CV to get it specific -- roughly 5 10 different countries, including physician's visits at 6 Oxford University and Pompeii University in Barcelona, at 7 the University of Paris II, which is the University of 8 Paris Pantheon. Pantheon, P-a-n-t-h-e-o-n. 9 I've been a scholar in residence at Osaka, at 10 Kansai Daigaku University. I've been a visiting 11 professor, also, at universities here in the United 12 States, most notably the University of Michigan and the 13 University of Washington. 14 I've been a guest scholar at the Brookings 15 Institution. I've been a visiting lecturer in Germany at 16 the University of Mannheim. I've been a scholar at New 17 York University Law School for several different years. 18 I've been -- I think I may have mentioned -- if I 19 haven't, I'll repeat. I've been an official politics 20 visitor and then a visitor and then a conference 21 participant for something like five different years at 22 Nuffield College, Oxford University. 23 And let me see if I've missed something. 24 Oh, yes. Sure. In addition, I have been a 25 visiting scholar in Germany at the University of</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. Any of them in law schools? 2 A. Yes. 3 Q. Which ones? 4 A. There are several. There are repeat visits to 5 New York University Law School. 6 Q. But you're not a lawyer? 7 A. That is correct. 8 Q. Okay. And you've never taken any law school 9 classes or anything like that? 10 A. Yes, that is correct. 11 Q. I'm not going to ask you to go through the list 12 of all of the publications that are in this list. It's 13 quite extensive, your writings. But I am going to ask 14 you, before you submitted your list of publications in 15 your CV, did you review it? 16 A. Yes, briefly. 17 Q. To the best of your ability, is that a complete 18 list of all of your publications? 19 A. Yes. 20 Q. And when did you -- when was the last time you 21 reviewed this list of publications? 22 A. Sometime earlier this year. I believe I could 23 probably tell you, because it lists as Item P-7, as the 24 seventh item under my books and -- published books that 25 are either singly authored or jointly authored, there's a</p>

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<p style="text-align: right;">Page 22</p> <p>1 2025 book. And that book has only been recently actually 2 published. 3 So it must be the case that it would be -- sorry. 4 It would be a sufficiently short time ago that that book 5 would have been indeed a published book because that was 6 published in 2025. 7 Q. So I am seeing in your list Number 226, which is 8 2024, Effective District Magnitude that you wrote with -- 9 I'll probably butcher these names -- Daniel Bochsler? 10 A. It's Daniel Bochsler, as he pronounces it, as 11 best I can pronounce it. 12 Q. Is that the last publication that you have 13 written? 14 A. It's the last -- 15 Q. It's the last one on this list. I'm just making 16 sure that since you've -- 17 A. Right. Give me a moment to check. 18 It's not the last publication because there is a 19 2025 publication, which I previously identified for you. 20 So it is not the last publication. 21 Q. But that is a book, and these are, I think, 22 articles in this list? 23 A. Yes, that's right. 24 And the last article that I list is actually 25 forthcoming, and that would be 2026 forthcoming. That is</p>	<p style="text-align: right;">Page 24</p> <p>1 There are a large number of articles over a bunch 2 of -- over many years that are in the form of, hmm, I 3 really should go back and finish this. 4 Q. That is what you get to do when you're a 5 professor emeritus; right? 6 A. Yes. It is one of the things that one is able to 7 do as a professor emeritus who remains highly active 8 professionally. 9 Q. I want to shift our focus onto this specialized 10 field of redistricting that you have been a part of for 11 many years; correct? 12 A. Yes. 13 Q. Can you briefly share with us how you ended up 14 getting involved in the field of redistricting? 15 A. Yes. Again, just give me a moment to consult my 16 CV so I get the right years. 17 In roughly 1980 -- yes, in about 1980, I had been 18 working as a mathematically-oriented political scientist 19 on issues having to do broadly with the topic of 20 representation. 21 In 1972, there was an edited book published by a 22 very -- at the time, very well-known scientist at the 23 University of California Berkley whose name is Nelson 24 Polsby -- whose name was Nelson Polsby. And this was an 25 edited book on redistricting in the 1970's.</p>
<p style="text-align: right;">Page 23</p> <p>1 Item R-129. 2 Q. Okay. The R list? 3 A. Yes. Those would be research notes that are 4 shorter than the usual academic article. 5 Q. So the last -- but what I'm asking is about your 6 longer articles. 7 226, which is right above your R list, has 8 Affective District Magnitude. Is that the last -- 9 A. Yes, that is the last item on the CV under the 10 category Professional Articles in Print. 11 Q. Okay. And you're not aware of any other articles 12 that you've written that should be on there since that 13 day? 14 A. No, there are no additional published articles. 15 Q. And you used the word "published." Does that 16 mean that you are working on some other articles that are 17 in peer review right now? 18 A. At the moment, I'm not working on anything which 19 is in peer review, but I have a -- largely because my time 20 in 2025 was taken up with finishing the book that came out 21 in 2025. So 2024, '25, I really focused on the 2025 book. 22 There are a number of articles which are in a 23 form that I anticipate that I will complete them and 24 submit them. There are probably at least two or three of 25 those, perhaps -- perhaps more.</p>	<p style="text-align: right;">Page 25</p> <p>1 And I read this book or the articles in this 2 book, and I realized, given my interest in representation, 3 that looking at issues of redistricting was a natural area 4 given my combination of interests and talent. 5 And so I moved at that point somewhat away from 6 the previous area that I had been working on, to a large 7 extent. Namely, to study the process of jury-making 8 decisions and to focus -- for a while, at least, then 9 continuing now for decades -- on redistricting. 10 And that led me to, in 1981, organize a 11 conference at the University of California Irvine on 12 redistricting. That conference actually resulted in an 13 edited book with three co-authors. 14 Aaron Lippert (phonetic), who is the past 15 president of the American Political Science Association 16 and one of -- perhaps one of the two or three best-known 17 scholars in the comparative study of election rules and 18 processes. 19 Howard Scarrow, who was a colleague of mine at 20 the University of California -- sorry -- State University 21 of New York, though at that time I had already left the 22 State University of New York. But Scarrow was also 23 interested and had written about redistricting also in the 24 context of Canada, because he was a Canada specialist. 25 And then Robert McCay, who was -- I think he</p>

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<p style="text-align: right;">Page 26</p> <p>1 had --well, I should say had been. I don't believe he was 2 then, but he had been the dean at New York University Law 3 School. 4 So I was able to suggest to these other scholars 5 that the timing would be good to put together a set of 6 scholars, mostly political scientists, but at least some 7 others, as well. I believe at least one mathematician, 8 and I believe -- though I don't really remember -- at 9 least one law professor who were interested in 10 redistricting. And I organized that conference in 11 California, in Laguna Beach, California, in 1981, and as I 12 say, published the edited collection of papers from that 13 conference in 1982. 14 Do you wish me to continue? Because that takes 15 me up through the publications. 16 Q. Okay. 17 A. Then we move on, because I continue to have a 18 very, very strong interest in methods of representation 19 and, in particular, electoral rules. The rules of all 20 sorts that are used to elect candidates to legislative and 21 other offices. 22 And in the study of electoral rules, while the 23 particular voting rule that is used for, say, the state 24 legislative elections or Congressional elections in the 25 United States and other countries would be the central</p> <p style="text-align: right;">Page 27</p> <p>1 focus, there are also related questions about election 2 processes, things like, for example, term limits, which I 3 later wrote about. 4 And also redistricting. Because redistricting 5 clearly has an impact on which candidates choose to run 6 and which candidates are elected under different voting 7 rules and different maps. 8 I continued my interest in the study of 9 representation, continuing also with my friend and past 10 president of the American Political Science Association, 11 then at the University of California San Diego, Aaron 12 Lippert, and we co-edited two books, one called Choosing 13 an Electoral System, which is exactly what its name 14 suggests. 15 Namely, we look at different ways in which 16 different countries choose members of a legislature and 17 then electoral laws and their political consequences, 18 which, again, is exactly what its title would suggest. It 19 looks at different electoral rules and what consequences 20 they have for party representation, for voter turnout, and 21 for voter interest, et cetera. 22 Now, I continue my work on representation broadly 23 because representation is -- if you will, if you think of 24 a Venn diagram, representation is bordered by 25 Constitutional design. And so I have been interested in</p>	<p style="text-align: right;">Page 28</p> <p>1 issues of Constitutional design. 2 Q. Can I stop you there for a second? 3 A. Of course. 4 Q. Have you taken any Constitutional law classes? 5 A. No. 6 Q. Okay. So when you're talking about 7 Constitutional design, how did you get the -- how do you 8 frame that? 9 A. With respect to the particular book that we are 10 now talking about, it's the Federalist Papers. So it is 11 Constitutional design not from a current legal perspective 12 with respect to Constitutional questions and/or 13 interpretation by the U.S. Supreme Court, but it is going 14 back to the founding and asking how the founding fathers 15 and, in particular, James Madison, viewed representation, 16 viewed the role of the president and viewed the role of 17 the courts, viewed the role of the legislature, et cetera. 18 Q. Okay. And I'm generally wanting to go to where 19 you first became an expert witness. How did you first 20 become an expert witness on this topic? 21 A. I first became an expert witness -- here I'm 22 going to have to go back again and consult the CV to 23 remind myself of the sequence. 24 Ah, thank you. Having now refreshed my memory 25 with my CV.</p> <p style="text-align: right;">Page 29</p> <p>1 The first case in which I was involved was a case 2 called Carstens v. Lamm. And in that one, I was a 3 consultant to the Republican Party. And the issue there 4 was the legislature had failed to create a map, and so 5 there were, as I recall -- as best I can recall, 6 alternative maps that were being presented to the court. 7 And I testified about these alternative maps. That would 8 have been the very first court case that I was involved 9 in. 10 Q. And what year was that? 11 A. That would have been 1982. So this is roughly 12 coterminous with my work as in the redistricting area that 13 led to the publication of the 1982 book. And it is the 14 conference that I co-organized on redistricting and 15 representation issues more broadly which brought me to the 16 attention of various individuals who were involved or 17 potentially involved in litigation. 18 Then to continue the story, I go in 1982, again, 19 as a consultant, now to the special master. So this is -- 20 this is my earliest experience not as a special master but 21 as a consultant to a special master. 22 And again, the involvement comes because the 23 legislature failed to enact a plan in a timely fashion, at 24 which point a court became involved in crafting an 25 alternative map -- actually, maps, because it was Congress</p>
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<p style="text-align: right;">Page 30</p> <p>1 and both branches of the legislature -- in the event that 2 the legislature itself failed to enact a map in a timely 3 fashion. 4 As I recall, the legislature ultimately did enact 5 a map, and that map was the map that was actually used in 6 the subsequent election. 7 Q. Okay. I'm going to jump ahead here just a little 8 bit. 9 A. Uh-huh. 10 Q. Jingles. How did you first get involved in that 11 particular case? 12 A. In Jingles, I was approached by the NAACP Legal 13 Defense Fund, which was the principal plaintiff in that 14 case, and asked whether I could provide expert witness 15 testimony on issues having to do with the effects on 16 minority representation of multi-member districts. 17 And multi-member district is a district which 18 elects not just a single individual, as we are used to 19 thinking of for Congressional elections, say, but rather, 20 elects multiple individuals at once, often, not always, 21 under a rule something like those individuals who receive 22 the highest vote tally in a vote for K situation. 23 Where there are K seats to be filled, the K 24 individuals who receive the highest vote tally will, in 25 fact, be elected. That would be one of the standard</p> <p style="text-align: right;">Page 31</p> <p>1 methods of multi-member district elections. There are 2 other methods that I've testified to in other instances, 3 but that would be one of the -- perhaps the central thing 4 which I was initially asked to review. 5 Because I had -- I either had or was about to 6 write something about the rule of multi-member districts 7 in representation. 8 But there were also other issues in the Jingles 9 versus Edmondson case, which is the precursor to Thornberg 10 versus Jingles. This is a case where new language had 11 been added to Section 2 of the Voting Rights Act, and 12 there was an issue -- and there was a suit brought by the 13 Legal Defense Fund alleging that particular districts in 14 North Carolina, both single-seat districts and multi-seat 15 districts, violated the language of the Voting Rights Act 16 as it had been amended in, as I recall, 1980, 1982. 17 And so I was asked by the Legal Defense Fund to 18 provide testimony bearing on the Section 2 claim that was 19 being brought. 20 Q. And I'm assuming you weren't asked to be giving 21 legal opinions of what the VRA meant as a result of that 22 amendment in 1982; is that correct? 23 A. That is correct. I was being asked to provide 24 factual evidence about particular aspects of elections in 25 the State of North Carolina where the Legal Defense Fund</p>	<p style="text-align: right;">Page 32</p> <p>1 was challenging those districts as violations of Section 2 2 of the Voting Rights Act. 3 Q. Now, in the case that eventually went to the 4 Supreme Court -- and I believe I saw in your report a 5 couple mentions to footnotes of the Supreme Court 6 decision, where it directly mentions you. 7 A. Yes. 8 Q. Why don't you -- you know, I've seen that, but 9 why don't you, to the best of your recollection right now, 10 tell us what your conclusions were at the district court 11 level on this particular case. 12 A. My conclusions affected most of the multi-member 13 districts and were that those particular multi-member 14 districts violated Section 2 of the Voting Rights Act 15 because effectively, they were stacked -- stacked being 16 another technical term in the redistricting literature -- 17 in such a fashion as to submerge minority voting strength 18 in the voting strength of non-minority white voters whose 19 interests were not the same with respect to electing 20 minority officials to office. 21 And then I also -- at least -- there was at least 22 one, maybe more than one, single-seat district that was 23 also being challenged in the Thornberg versus Jingles 24 case. Actually, in Jingles versus Edmondson and 25 ultimately in Thornberg versus Jingles.</p> <p style="text-align: right;">Page 33</p> <p>1 Q. Okay. I think we're going to start going through 2 your report from top to bottom, so if you want to kind of 3 move to the first page of your report, and we'll just kind 4 of start moving through. 5 And again, the first thing I want to do is cover 6 the topic that you said is not in your report but that you 7 have opinions of, and that was your opinions of Tom 8 Brunell's report. So what are your opinions about Tom 9 Brunell's report? 10 A. The most -- single-most important opinion is that 11 there is no statement in Dr. Brunell's report that is 12 directly relevant to the question of whether or not race 13 or partisanship is the preponderant motive or has the 14 preponderant effect. There simply is nothing in the 15 report that deals with this question. 16 Q. Okay. Now, in preparing this report, you never 17 talked to Paul Mitchell; correct? 18 A. That is correct. 19 Q. And you did not talk to any state legislator; is 20 that correct? 21 A. Yes. 22 MS. HASAN: Objection; leading. 23 MR. MEUSER: Okay. 24 THE WITNESS: No, I did not speak to any member 25 of the state legislature.</p>
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<p style="text-align: right;">Page 34</p> <p>1 BY MR. MEUSER:</p> <p>2 Q. Okay. Did -- do you know what software Paul</p> <p>3 Mitchell used when putting the maps together?</p> <p>4 A. No, I do not.</p> <p>5 Q. Okay. Do you know what data he was looking at</p> <p>6 when he put the map together?</p> <p>7 A. Yes. It's the data -- to the best of my</p> <p>8 understanding, it's the data that is posted on the</p> <p>9 legislative website.</p> <p>10 Q. Okay. And do you know which -- what -- whether</p> <p>11 he was looking at politics or race when he was drawing the</p> <p>12 lines? You don't know, when he was actually drawing the</p> <p>13 lines, what was on the screen?</p> <p>14 MS. HASAN: Objection; compound.</p> <p>15 THE WITNESS: I don't no -- sorry. I have no</p> <p>16 knowledge of what Paul Mitchell did. Period.</p> <p>17 BY MR. MEUSER:</p> <p>18 Q. Okay. Have you ever talked to Paul Mitchell?</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. But let me clarify that. When I said I have no</p> <p>22 knowledge of what Paul Mitchell did, I meant with respect</p> <p>23 to the software and the question that you previously</p> <p>24 asked. I obviously have knowledge of what Paul Mitchell</p> <p>25 did because there is a Prop 50 map.</p>	<p style="text-align: right;">Page 36</p> <p>1 And thus, in an effects-based test for racially</p> <p>2 polarized voting at the general election level, voting</p> <p>3 indeed would be polarized along racial lines, where</p> <p>4 most -- where most of the voters who are white are</p> <p>5 Republican, and many of the voters who are Democratic or</p> <p>6 some of -- even some of the voters who are Democratic are</p> <p>7 Hispanic.</p> <p>8 Q. Now, in preparing your report, did you only look</p> <p>9 at Congressional elections?</p> <p>10 A. In -- no. That is -- no, that's not true,</p> <p>11 because there is mention of a variety of elections in</p> <p>12 Dr. Brunell's report. And in reviewing that report, I</p> <p>13 reviewed the things that he said about state legislative</p> <p>14 elections, gubernatorial elections, et cetera.</p> <p>15 And it also is the case that I reviewed</p> <p>16 Dr. Trende's report. And Dr. Trende reports information</p> <p>17 about, among other things, the U.S. presidential election</p> <p>18 and also a 2022 gubernatorial election and also, if I'm</p> <p>19 remembering correctly, a 2024 senatorial -- U.S. Senate</p> <p>20 election.</p> <p>21 And further, as I testified -- or sorry. As I</p> <p>22 stated in my report, I reviewed the electoral and</p> <p>23 demographic data that is available in the website of the</p> <p>24 legislature, and that includes a variety of data.</p> <p>25 And I also, as I indicated in my report, reviewed</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Fair enough.</p> <p>2 Do you have any other opinions about Tom</p> <p>3 Brunell's report?</p> <p>4 A. Other than its irrelevance to racial</p> <p>5 gerrymandering, there is a question about a conclusion</p> <p>6 that he reached with respect to racially polarized voting</p> <p>7 patterns. He finds that there are no -- that in the state</p> <p>8 as a whole, voting is not racially polarized.</p> <p>9 Whether or not that conclusion is correct --</p> <p>10 because I have not done -- redone his analysis -- it is</p> <p>11 not correct to say that there is no racially polarized</p> <p>12 voting in the state at the level of Congressional</p> <p>13 districts or state legislative districts.</p> <p>14 Q. Why do you say that, and what do you base your</p> <p>15 opinion on?</p> <p>16 A. I base my opinion on the fact that in</p> <p>17 Dr. Brunell's report, he indicates that elections in</p> <p>18 California are almost perfectly correlated with party.</p> <p>19 And I would add to that fact the fact which is in</p> <p>20 my report that Hispanics are very heavily Democratic</p> <p>21 voters.</p> <p>22 Combining those two facts, one reaches the</p> <p>23 conclusion that in an election where a Republican is</p> <p>24 elected, Hispanics in that district are extremely unlikely</p> <p>25 to be voting for the Republican rather than the Democrat.</p>	<p style="text-align: right;">Page 37</p> <p>1 the 2000 and -- the Prop 50 map and the CRC map using</p> <p>2 Dave's Redistricting App. And that app contained</p> <p>3 information about a number of different elections in</p> <p>4 California over the time period from roughly this century.</p> <p>5 I don't remember exactly what elections are in there, but</p> <p>6 it does include the elections referenced by Dr. Trende.</p> <p>7 Q. Okay. Do you know how many Republican Hispanic</p> <p>8 assemblymen there are?</p> <p>9 A. No.</p> <p>10 Q. Do you -- so you do not know how many Republican</p> <p>11 Hispanics have been elected in districts that have a</p> <p>12 Hispanic majority?</p> <p>13 A. No, I do not.</p> <p>14 Q. And do you know how many Republican Hispanic</p> <p>15 senators, state senators, there are?</p> <p>16 A. How many? No, I do not.</p> <p>17 Q. Okay. So when you made the statement that</p> <p>18 Hispanics predominantly vote for Democrats and that they</p> <p>19 don't vote for Republicans, you have no -- you have not</p> <p>20 looked at any of the state legislature races in reaching</p> <p>21 that conclusion that you made?</p> <p>22 MS. HASAN: Objection; leading.</p> <p>23 THE WITNESS: It is -- I have not looked at the</p> <p>24 state legislative races, but it is also the case that</p> <p>25 candidates who are Republican may be elected even in</p>

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1 heavily Hispanic seats if Hispanic turnout levels are low.
2 So without detailed analysis, I cannot respond beyond
3 saying I don't know.
4 BY MR. MEUSER:
5 Q. Have we completely gone through all of your
6 opinions regarding Tom Brunell's report?
7 A. Yes.
8 Q. Why don't we go ahead -- you have a lot more
9 opinions about Sean Trendy's report, so why don't we go
10 ahead and cover those now.
11 A. Yes.
12 Q. And that starts on Page 0012 of your --
13 A. Yes. Sorry for interrupting. Yes, it starts on
14 Page 0012 of my report.
15 Q. Okay. Let's go through it in detail.
16 What is your overall conclusion of Dr. Trende's
17 report?
18 A. That Dr. Trende's report does not support the
19 conclusion that race was a preponderant motive in the map
20 as a whole even, and it does not support the conclusion
21 that race was a preponderant motive in CD-13.
22 Q. Okay. And would you like to break that down?
23 A. That -- I gave you a two-part answer. The first
24 part was that race was not a preponderant motive in the
25 map as a whole for the very simple reason that Dr. Trende

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1 only talks about District 13, which is not the map as a
2 whole.
3 The next part of my answer was that Dr. Trende's
4 evidence about racial preponderance involves -- and I use
5 the words "nitpicking" or "cherry picking" the data.
6 And I also would add, though I don't say it in
7 this report, that essentially what he's saying is
8 irrelevant to a conclusion as to whether or not race was
9 the preponderant motive in even CD-13.
10 Q. Anything else?
11 A. Other than the specific facts that I cite to in
12 supporting the conclusion.
13 Q. So you claim that Dr. Trende nitpicks the data.
14 Isn't that -- wouldn't somebody else say that that's
15 paying attention to details?
16 MS. HASAN: Objection; leading. Calls for a
17 hypothetical.
18 THE WITNESS: I am quite specific as to why I
19 believe Dr. Trende nitpicked the data. He makes
20 comparisons about compactness scores between hypothetical
21 maps that he drew and the map that -- the Prop 50 map.
22 When you actually examine the specific numbers
23 that he used, it turns out that the compactness scores
24 differences to which he calls attention are essentially
25 trivial.

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1 And moreover, they do not point uniformly in the
2 direction that Dr. Trende apparently is claiming that they
3 point. Namely, in his view, as I read it, compactness
4 scores are improved in his hypothetical maps as compared
5 to the Prop 50 map.
6 But when you actually look at the numbers
7 reported in his report, what I found is that of the two
8 standard measures for compactness, the Polsby Popper
9 Measure and the Riat Measure (phonetic) -- Polsby Popper,
10 P-o-l-s-b-y. And Popper is P-o-p-p-e-r. The definitions
11 of these measures are given in Footnote 36 of the report,
12 on Page 13.
13 That of these two standard measures of
14 compactness, one of them has some minor -- very minor
15 improvements in Dr. Trende's maps as compared to the
16 actual Prop 50 map.
17 And the other goes the exact opposite direction.
18 But again, the differences are, in my view, minor,
19 effectively trivial. So that's why I refer to it as both
20 cherry picking and nitpicking, because -- cherry picking
21 because Dr. Trende is basically only calling attention to
22 one of the two standards of compactness. Nitpicking
23 because the differences to which he calls attention are so
24 minor that effectively -- I'm not sure how large a nit is,
25 but effectively, they are very minor.

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1 BY MR. MEUSER:
2 Q. And over the course of the last -- you know,
3 since you got your Ph.D. and you went into redistricting,
4 you have had the opportunity to draw maps many times;
5 correct?
6 A. Yes.
7 Q. And when you are drawing maps, you pay a lot of
8 attention to the lines that you draw; is that correct?
9 A. Yes.
10 Q. And you have -- have you ever drawn a map based
11 upon race, with race as a factor of why you were drawing
12 the lines?
13 A. Yes, in Section 2.
14 Q. Okay. So tell me about that. How had you
15 made the -- strike that.
16 When you were drawing a Voter's Rights Act
17 district, how did -- what was the process that you went
18 through that told you you had to draw a Voting Rights Act
19 district?
20 A. I would -- in the map drawing that I have done
21 for courts, I do not begin with voting rights districts.
22 I began -- I begin with the racial and population
23 demography. And I look to see whether it is -- whether
24 drawing a map according to neutral principles, one arrives
25 at a situation in which there are districts with

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<p style="text-align: right;">Page 42</p> <p>1 substantial Hispanic population.</p> <p>2 If there are demonstration maps available, then I</p> <p>3 would examine the question of whether or not a</p> <p>4 demonstration map presents an additional citizen voting</p> <p>5 age majority minority district, and in which case, I would</p> <p>6 consider whether or not that district, hypothetically</p> <p>7 drawn as an illustrative map, would be appropriate for a</p> <p>8 court to adopt in my view as a political scientist seeking</p> <p>9 to provide compliance with the political science</p> <p>10 definition of opportunity to elect or whether or not there</p> <p>11 might be other alternative configurations of districts</p> <p>12 which could also continue to provide minorities with an</p> <p>13 equal opportunity to participate in the political process</p> <p>14 and to elect candidates of choice that would not require</p> <p>15 the minority population to be as large as 50 percent</p> <p>16 citizen voting age.</p> <p>17 Q. Okay. Let's break that down.</p> <p>18 You said opportunity to elect, and you gave a</p> <p>19 political science definition to that. Where do you get</p> <p>20 that definition?</p> <p>21 A. That one, I think it would be fair to say I get</p> <p>22 from myself.</p> <p>23 Q. Okay. So that is -- when you say political</p> <p>24 science definition, that is your definition of an</p> <p>25 opportunity district?</p>	<p style="text-align: right;">Page 44</p> <p>1 THE WITNESS: Any analysis that I would perform</p> <p>2 is -- involves an intense local appraisal of circumstances.</p> <p>3 It is inappropriate to seek to generalize across all</p> <p>4 Hispanics. Rather, one looks specifically at particular</p> <p>5 areas.</p> <p>6 BY MR. MEUSER:</p> <p>7 Q. If you were looking at the State of California</p> <p>8 and Hispanics in California, how would you break out those</p> <p>9 areas?</p> <p>10 MS. HASAN: Objection; calls for speculation.</p> <p>11 THE WITNESS: Here I don't understand what you</p> <p>12 mean by the question.</p> <p>13 BY MR. MEUSER:</p> <p>14 Q. Well, I believe you just said it takes --</p> <p>15 A. Sorry. If you're asking me what -- to clarify,</p> <p>16 what I just said, then I'll be happy to do so.</p> <p>17 What I just said was it requires an intense local</p> <p>18 appraisal, which involves looking at the specific election</p> <p>19 which is at issue. So one would look at a particular</p> <p>20 Congressional district or a redrawn Congressional district</p> <p>21 to see how Hispanics in that area were voting.</p> <p>22 Q. So when you say local, in this particular case</p> <p>23 you're talking about a Congressional district?</p> <p>24 A. Yes, that is correct.</p> <p>25 Q. So you wouldn't look at L.A. County as a whole</p>
<p style="text-align: right;">Page 43</p> <p>1 A. No, it's a definition which I have offered and</p> <p>2 which I think it is fair to say would be used by most</p> <p>3 other experts. That is to say, it is by almost -- as a</p> <p>4 verbatim translation of the term, it is a district in</p> <p>5 which minorities have an equal opportunity to elect. That</p> <p>6 is to say, in both the primary election and the general</p> <p>7 election, they have a realistic opportunity to elect a</p> <p>8 candidate of choice.</p> <p>9 Q. And when you say candidate of choice, what do you</p> <p>10 mean by that?</p> <p>11 A. A candidate of choice is a candidate of</p> <p>12 preference of the minority community. That is to say, in</p> <p>13 a particular election contest, candidate of choice is the</p> <p>14 candidate whom a majority of the minority -- of the</p> <p>15 minority community would support.</p> <p>16 Q. And how do you determine what the minority</p> <p>17 community supports? Because I'm assuming that a Hispanic</p> <p>18 in Central Valley is going to have a different opinion</p> <p>19 than a Cuban in Florida and different than maybe a black</p> <p>20 American in Atlanta, Georgia.</p> <p>21 So as a -- as you are an expert witness trying to</p> <p>22 determine what the choice of this minority community is,</p> <p>23 what steps do you go through to figure that out?</p> <p>24 MS. HASAN: Objection; compound. Calls for</p> <p>25 speculation. Incomplete hypothetical.</p>	<p style="text-align: right;">Page 45</p> <p>1 because that's multiple Congressional districts?</p> <p>2 MS. HASAN: Objection; calls for speculation.</p> <p>3 Incomplete hypothetical. Leading.</p> <p>4 THE WITNESS: I would look at L.A. County as a</p> <p>5 whole or the state as a whole, only using one of the</p> <p>6 standard tools of racial block voting analysis, which I've</p> <p>7 used in many cases, which involves the projection of</p> <p>8 results from statewide races into particular local areas</p> <p>9 where we are effectively looking only at what is the case</p> <p>10 in the particular Congressional district or other</p> <p>11 legislative district or other local area.</p> <p>12 But we are inputting information about that</p> <p>13 district which comes from races -- contests, sorry --</p> <p>14 which are not solely limited to that district.</p> <p>15 BY MR. MEUSER:</p> <p>16 Q. So we used for the first time racial polarized</p> <p>17 voting, and so I'm going to -- you know, what is your</p> <p>18 understanding of the definition of racial polarized</p> <p>19 voting?</p> <p>20 A. My understanding is the testimony that I provided</p> <p>21 as a political scientist in Thornberg versus Jingles that</p> <p>22 racially polarized voting occurs in a two-racial</p> <p>23 situation. Life gets complicated when we have multiracial</p> <p>24 categories. But when there are two racial groups, white</p> <p>25 or nonwhite or Hispanic and nonHispanic, racial block</p>

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<p style="text-align: right;">Page 46</p> <p>1 voting occurs when a majority of the members of one group 2 vote against or for candidates of their own group and not 3 for candidates of the other group candidates. 4 And candidates of the other group means 5 candidates supported by the other group, not candidates of 6 a given ethnicity. 7 Q. So if I heard you right, racial polarized voting, 8 as you just defined it, was when there was a black and 9 white, when there is two choices; correct? 10 A. Black/white. Hispanic/nonHispanic. Yes. 11 Q. Okay. How does that formula change when you have 12 multiple racial categories? Black, white, Asian? 13 A. That now becomes a legal question. 14 Q. Okay. And you're not prepared to give that -- 15 A. That is correct. 16 Q. And I'm going to go ahead and finish my question 17 so we just have it clear. 18 So you're not prepared to give a legal answer 19 what racial polarized voting means when you have three or 20 four racial categories? 21 MS. HASAN: Objection; compound. 22 THE WITNESS: Let me clarify. 23 In a situation where we can present the 24 information about racially polarized voting as a two-group 25 situation, Hispanic/nonHispanic, then the standard methods</p>	<p style="text-align: right;">Page 48</p> <p>1 if I only mentioned Hispanic. There are other racial 2 categories, Asian-American, Pacific Islanders, for 3 example, who are found in California. So -- 4 MR. MEUSER: Okay. And I didn't ask my court 5 reporter. Is there a set time when you like to take short 6 breaks? 7 THE REPORTER: Every hour, usually. But I'm okay 8 right now. 9 MR. MEUSER: Okay. And the witness? 10 THE WITNESS: Yeah, shortly. But I'm fine right 11 now. 12 MR. MEUSER: Okay. Usually around the hour mark, 13 I like to check with everybody. 14 BY MR. MEUSER: 15 Q. Are you prepared to testify in court the week of 16 December 15th? 17 A. Yes. 18 Q. Between today, after your deposition, and that 19 hearing, what are you planning on doing? 20 MS. HASAN: Objection; calls for privileged 21 information, potentially. 22 THE WITNESS: I think my -- I believe the best 23 answer that I can give is enjoy my wife's company. 24 BY MR. MEUSER: 25 Q. There are no materials that you are anticipating</p>
<p style="text-align: right;">Page 47</p> <p>1 of racially polarized voting apply. 2 In a situation where one might be trying to 3 establish racially polarized voting patterns for specific 4 multiethnic categories across different other candidates 5 of other ethnic categories, that -- the question of how to 6 do racially polarized voting in that complicated situation 7 is at this stage a legal question. 8 BY MR. MEUSER: 9 Q. Okay. And you would agree with me that 10 California has more than two races? 11 MS. HASAN: Objection; leading. 12 THE WITNESS: This becomes a tricky question. 13 Is -- are Hispanics a race? My own personal view 14 and my view as an expert is -- the answer to that is no, 15 based on census data. Hispanics identify as often -- 16 sometimes identify as being Hispanic. Sometimes identify 17 as other. Sometimes identify even as white. 18 But more importantly, on the census there is a 19 separate question that addresses the issue of Spanish 20 heritage. So I personally -- as an expert, I do not 21 regard Hispanic as a racial category. 22 MR. MEUSER: Can you read back my last question. 23 (Record read.) 24 THE WITNESS: Yes, I believe that I responded to 25 that question by indicating there are races. I apologize</p>	<p style="text-align: right;">Page 49</p> <p>1 reviewing between now and then? 2 MS. HASAN: Objection; calls for speculation. 3 THE WITNESS: At this time, I have no -- I have 4 not been provided any materials for me to review. It 5 would -- again, it would be speculation as to whether or 6 not something might be given to me which would require me 7 to review it prior to December 15th. 8 BY MR. MEUSER: 9 Q. When you decided to take this case, were any 10 assumptions given to you by counsel as to -- in preparing 11 your report? 12 A. No. 13 Q. In preparing your report, I see that there is a 14 list of documents that were given to you by opposing 15 counsel. 16 A. Yes. 17 Q. Is that complete? 18 A. It is complete subject to the corrections that I 19 made earlier in this deposition by identifying two 20 additional documents. But they were not given to me by 21 counsel. They were ones that I independently sought out. 22 Q. Okay. I see in your report you talk about 23 looking at CVAP data from California Statewide Database. 24 A. Yes. 25 Q. Approximately how much time did you spend in that</p>

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<p>Page 50</p> <p>1 database?</p> <p>2 A. I personally spent relatively little because I</p> <p>3 had a research assistant do the conversion of that data to</p> <p>4 the DRA map. I did indeed review it to establish what was</p> <p>5 there.</p> <p>6 Q. When you say that you spent 100 hours on this</p> <p>7 project, is that 100 hours that you spent on it, or does</p> <p>8 that include the time that your research assistant spent?</p> <p>9 A. No, that would be my time. That's my time.</p> <p>10 Q. Do you know how much time your research assistant</p> <p>11 spent on helping you gather materials or whatever they did</p> <p>12 associated with this report?</p> <p>13 A. Something like 30 -- 30 hours, some number like</p> <p>14 that. Possibly 40.</p> <p>15 Q. And you only have one research assistant?</p> <p>16 A. Yes.</p> <p>17 Q. And is the only thing they did was dealing with</p> <p>18 the CVAP data from the California Statewide Database?</p> <p>19 A. No, they dealt with all of the data from the</p> <p>20 California database. They converted that data. And</p> <p>21 there's actually two different data sets that are on that</p> <p>22 website. Actually, three different data sets. Maybe it's</p> <p>23 four different data sets.</p> <p>24 Because you also need to have the block</p> <p>25 equivalency files and the shape files, so they have -- my</p>	<p>Page 52</p> <p>1 are the things that I asked him to do.</p> <p>2 Q. Prior to instructing your research assistant to</p> <p>3 do this work, had you researched any conclusions regarding</p> <p>4 this case?</p> <p>5 A. Let me think about that one for a moment. I'm</p> <p>6 honestly not sure because I brought the research assistant</p> <p>7 in who has been my research assistant in other cases where</p> <p>8 I've served as special master fairly early on.</p> <p>9 I believe that I had reached some preliminary</p> <p>10 conclusions simply by reviewing the -- Dr. Trende's report</p> <p>11 and Dr. Brunell's report and the documents that were</p> <p>12 provided me by counsel. So that anything after that would</p> <p>13 have been confirmatory to my initial beliefs about the</p> <p>14 relative balance of evidence for partial -- for racial as</p> <p>15 opposed to parts and preponderance.</p> <p>16 But much of -- most of -- perhaps close to all of</p> <p>17 the evidence that I relied on is the evidence that is</p> <p>18 reflected in Tables 1 through 3 and elsewhere in the</p> <p>19 report. And that comes after I got the materials -- data</p> <p>20 materials to facilitate my own analysis of the data.</p> <p>21 Q. So what was your preliminary -- after reading the</p> <p>22 pleadings and reading the stuff that the plaintiff or that</p> <p>23 your counsel gave you, but before you sent your research</p> <p>24 assistant off, what were your preliminary opinions that</p> <p>25 you had regarding Trende's report and Brunell's report?</p>
<p>Page 51</p> <p>1 research assistant has the technical skills that I do not</p> <p>2 have to do these conversions of data to input that data</p> <p>3 into Dave's Redistricting App.</p> <p>4 And at my direct instructions and only with</p> <p>5 respect to the things that I specifically asked him to do,</p> <p>6 my research assistant would provide data charts, charts</p> <p>7 that are now reflected in Tables 1 through 3 in my report.</p> <p>8 And because my research assistant is bright</p> <p>9 enough, I would also have my research assistant proof not</p> <p>10 for substance, but for typos and for things like that and</p> <p>11 verify that I did not inadvertently, when I was doing my</p> <p>12 own analyses, made typographical errors in summing or</p> <p>13 correcting -- or sorry -- or entering the data.</p> <p>14 Q. So what instructions did you give your research</p> <p>15 assistant?</p> <p>16 A. I believe I just answered that question.</p> <p>17 Q. So there's no other instructions that you have</p> <p>18 given your research assistant other than what you have</p> <p>19 just told us?</p> <p>20 A. As far as I can remember, to the best of my</p> <p>21 recollection, I instructed him to take data, enter it,</p> <p>22 take data, prepare charts, take data, prepare tables,</p> <p>23 review my own expert witness report to make sure that the</p> <p>24 numbers that I entered matched the numbers that he had --</p> <p>25 that he had generated at my direct instructions. Those</p>	<p>Page 53</p> <p>1 A. My preliminary opinion was that Trende's report</p> <p>2 did not sustain the claim that he was making for racial as</p> <p>3 a preponderant motive either in the CD-13 specifically or</p> <p>4 in the state as a whole. My preliminary conclusion was</p> <p>5 that Dr. Brunell's report contained no assertion that race</p> <p>6 was a preponderant motive.</p> <p>7 MR. MEUSER: Let's go ahead and take a five,</p> <p>8 ten-minute break.</p> <p>9 (Recess.)</p> <p>10 MR. MEUSER: Back on the record.</p> <p>11 BY MR. MEUSER:</p> <p>12 Q. Dr. Grofman, you do understand you're still under</p> <p>13 oath?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So let's go back to when you have drawn</p> <p>16 maps for the VRA, where you had to use race as a factor in</p> <p>17 drawing the maps because VRA analysis required it.</p> <p>18 You remember us talking about that before the</p> <p>19 break?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. When -- what is the criteria that you use</p> <p>22 that tells you you are permitted to use race in drawing</p> <p>23 lines?</p> <p>24 A. Now you're asking me a legal question.</p> <p>25 I take -- when I work for courts, I take</p>

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<p style="text-align: right;">Page 54</p> <p>1 instructions from courts.</p> <p>2 Q. So when a court tells you you can use race to</p> <p>3 draw this VRA district, that is when you do it; correct?</p> <p>4 A. Essentially, when the court gives me instructions</p> <p>5 to remedy a VRA violation, then I will try and draw a VRA</p> <p>6 compliant district. So it's -- it all depends on what</p> <p>7 the -- what the legal status of the case is. Is it one</p> <p>8 where there has been a court finding that there was a</p> <p>9 violation of Section 2, and is the court asking me to</p> <p>10 remedy that violation of Section 2 by drawing a VRA</p> <p>11 compliant district.</p> <p>12 Q. Other than a court, have you ever been asked to</p> <p>13 draw a VRA compliant district?</p> <p>14 A. Yes.</p> <p>15 Q. What were those circumstances?</p> <p>16 A. Those would be circumstances where a litigant was</p> <p>17 arguing that there had been a Voting Rights Act violation,</p> <p>18 and as part of the materials submitted by the litigant, a</p> <p>19 demonstration map would have been part of that -- of those</p> <p>20 materials.</p> <p>21 Q. And when was the last time you drew a</p> <p>22 demonstration map for a litigant?</p> <p>23 A. Give me a minute. I have to think.</p> <p>24 Twenty-five years ago, 30 years ago.</p> <p>25 Q. When was the last time you drew a VRA -- VRA</p>	<p style="text-align: right;">Page 56</p> <p>1 MS. HASAN: Counsel, these questions are getting</p> <p>2 pretty afield of the report. I think the question was</p> <p>3 supposed to be related to the report, as you said earlier.</p> <p>4 MR. MEUSER: Well, you can make your objections.</p> <p>5 BY MR. MEUSER:</p> <p>6 Q. Did you create any -- or did you use any mapping</p> <p>7 software as a part of your report?</p> <p>8 A. A part of this report?</p> <p>9 Q. Yes.</p> <p>10 A. Yes.</p> <p>11 Q. What software did you use?</p> <p>12 A. Dave's Redistricting App.</p> <p>13 Q. Is that the only thing you used?</p> <p>14 A. Yes.</p> <p>15 Q. Now, I personally have never -- I have heard of</p> <p>16 Dave's Redistricting App, but I have not used it. What --</p> <p>17 are there features in it that allow you to look at</p> <p>18 different demographic data?</p> <p>19 A. Yes.</p> <p>20 Q. What are the various demographic data that you</p> <p>21 are allowed to turn on or turn off?</p> <p>22 A. There is demographic data as to race and</p> <p>23 ethnicity, Hispanicity or Latino status. There is</p> <p>24 demographic data on voting age population. There is data</p> <p>25 on citizen voting age population. There's data on</p>
<p style="text-align: right;">Page 55</p> <p>1 district at the behest of a judge?</p> <p>2 A. Let's see. That would be -- give me a moment.</p> <p>3 Probably 2022, where I would be actually drawing a map.</p> <p>4 Q. Would that have been Virginia?</p> <p>5 A. That would have been North Carolina and also</p> <p>6 Virginia.</p> <p>7 Q. Okay. And Virginia, you worked with Sean Trende?</p> <p>8 A. Yes, that's correct.</p> <p>9 Q. And who did you work with in North Carolina?</p> <p>10 A. In North Carolina, I did not have anyone with</p> <p>11 whom I worked, though I had my research assistant.</p> <p>12 Q. Now, you have never been retained by a</p> <p>13 legislature to draw a set of maps from scratch; is that</p> <p>14 correct?</p> <p>15 A. To the best of my recollection, yes, that is</p> <p>16 correct.</p> <p>17 Q. Okay. But you would be capable of doing that if</p> <p>18 somebody asked you?</p> <p>19 A. I would be capable of doing it, but it is highly</p> <p>20 unlikely that I would choose to do it. I have avoided</p> <p>21 over the course of my entire career of working in</p> <p>22 situations that would require me to do anything other than</p> <p>23 neutral districting or districting in compliance with</p> <p>24 federal law.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 57</p> <p>1 population, again, broken down by various types of</p> <p>2 categories, and there would be available election data of</p> <p>3 various sorts.</p> <p>4 Q. Now, part of your -- strike that.</p> <p>5 In preparing for your report, did you create any</p> <p>6 maps for the State of California?</p> <p>7 A. No.</p> <p>8 Q. Okay. In preparing your report, when you were</p> <p>9 looking at Dave's App, did you have the opportunity to,</p> <p>10 you know, turn off the racial data?</p> <p>11 A. I'm sorry. That is a question only that makes</p> <p>12 sense in the context of actually doing maps.</p> <p>13 Q. Okay.</p> <p>14 A. The data is there.</p> <p>15 Q. Yes. But are you able to filter it? So let's --</p> <p>16 sorry?</p> <p>17 A. Sorry. My fault. I interrupted you.</p> <p>18 In principle, if I were doing maps, it is</p> <p>19 possible to eliminate the flag that is a racial or ethnic</p> <p>20 data, yes.</p> <p>21 Q. Okay. So when you were looking at Congressional</p> <p>22 District 13, Sean Trende's report, did you look at that</p> <p>23 district through Dave's Redistricting App?</p> <p>24 A. Yes.</p> <p>25 Q. And did you filter through and look at it in</p>

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<p style="text-align: right;">Page 58</p> <p>1 different ways by turning certain filters on and turning 2 certain ones off? 3 A. Yes. 4 Q. What were the various filters that you 5 experimented with as you were viewing the district before 6 submitting your report? 7 A. Citizen -- I used Citizen Age Voting Population 8 data from a legislative website. There are two kinds of 9 Citizen Voting Age Population data on that website. That 10 data is what is called Adjusted Citizen Voting Age 11 Population data, meaning that the prison population has 12 been reallocated, and therefore, it is different than the 13 ACS data from the ACS website. 14 I used that data both for the 2019 through 2023 15 CVAP five-year time period and for the 2015 through 2019 16 CVAP five-year time period. And also, with respect to 17 political data, I used initially a report in various other 18 tables in my report data on the 2024 presidential 19 election, but I also did look at data from some other 20 elections. Namely, the elections that Sean Trende looked 21 at, which would have been the 2022 California 22 gubernatorial contest and the 2024 U.S. Senate contest. 23 And I -- apologies, because I also realized that 24 I do need to correct an answer that I gave earlier. You 25 asked me what conclusions had I reached based on my review</p>	<p style="text-align: right;">Page 60</p> <p>1 So the first thing you do is you draw maps 2 without race, and then you check to make sure that you 3 don't have a VRA problem; is that correct? 4 A. That's essentially correct, yes. 5 I do know -- I should make it clear, however, 6 that I am not operating fully race blind. I do in fact 7 know whether there are geographic concentrations of racial 8 groups, but I do not use those geographic concentrations 9 of racial groups. Rather, I use neutral redistricting 10 principles. 11 Q. So you start with neutral principles. Then you 12 do a check to see if it violates the VRA? 13 A. Yes, that is correct. 14 Q. Now, I haven't read every single case that you've 15 been involved in where a judge told you to do something. 16 Let's say following that principle -- for a hypothetical, 17 let's say you're drawing a seat in the South, and you have 18 48 percent black CVAP, and you're told it needs to be to 19 50 percent. How would you address that problem? 20 MS. HASAN: Objection; calls for speculation. 21 Incomplete hypothetical. 22 THE WITNESS: Yeah. I have no idea who would be 23 telling me that. 24 BY MR. MEUSER: 25 Q. Okay. So have you ever had a situation where you</p>
<p style="text-align: right;">Page 59</p> <p>1 of Tom Brunell's expert witness report, and I would add to 2 that list of conclusions that I reached the conclusion 3 that voting in California at the statewide level is very 4 close to perfect party-line voting. 5 Q. So you're agreeing with Brunell on that point? 6 A. Yes. 7 Q. Okay. When you are drawing a map for a court 8 where the court has told you that there is a VRA district 9 or a VRA -- there is a Voting Rights Act problem, and you 10 need to draw a Voting Rights Act district, what are the 11 steps that you go through in drawing a district with race 12 to solve a Voting Rights Act problem? 13 MS. HASAN: Objection; incomplete hypothetical. 14 Calls for speculation. 15 THE WITNESS: I do not begin with race. I begin 16 with the geography, and I look to see, using neutral 17 districting principles, how one would comprise maps that 18 would be respecting city/county boundaries, when I am 19 working for courts, and maps that -- having done that, 20 having created hypothetical maps, I would then check to 21 see whether I had inadvertently created a problem for 22 Section 2. 23 BY MR. MEUSER: 24 Q. So I'm going to make sure I understand this 25 correctly.</p>	<p style="text-align: right;">Page 61</p> <p>1 draw a map starting with neutral principles, and you were 2 told that you needed to increase the minority population 3 in that district? 4 A. I think the best answer that I can give, to the 5 best of my recollection, is that, no -- that no court has 6 ever given me that instruction. 7 Q. Has any attorney ever given you that instruction? 8 A. I'm sorry. There are no relevant cases that I 9 can discuss. I mean, the last time I did any of this 10 stuff was decades ago. 11 Q. I understand. 12 So as you sit here today, you do not believe 13 you've ever been asked by an attorney to draw X amount of 14 districts with making sure that the district had a certain 15 percentage of a minority population? 16 A. Yes. 17 MS. HASAN: Objection; relevance. 18 THE WITNESS: The answer is, no, I have not. No, 19 I have not been asked to do this. 20 BY MR. MEUSER: 21 Q. Okay. In your report, you talk about the ACS. 22 A. Yes. 23 Q. 2019 and 2023. 24 A. Yes. 25 Q. And how, using the 2019 data, it shows that there</p>

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<p>Page 62</p> <p>1 are only 13 Hispanic majority districts; correct?</p> <p>2 A. Yes.</p> <p>3 Q. But using the 2023 ASC data, it shows that there</p> <p>4 are 16 -- the Prop 50 maps have 16 Hispanic majority</p> <p>5 districts.</p> <p>6 Am I understanding that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. And I've stated it correctly?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. You have no knowledge if Paul Mitchell</p> <p>11 used the 2019 ACS or the 2023 ACS; is that correct?</p> <p>12 A. Yes, that is correct.</p> <p>13 Q. And you don't even know if Mitchell used ACS data</p> <p>14 at all; is that correct?</p> <p>15 A. I have no knowledge of exactly what Mitchell did.</p> <p>16 I only have knowledge of what is posted on the legislative</p> <p>17 website, and that is both sets of data.</p> <p>18 Q. And the legislative data does have the ACS data</p> <p>19 on there; correct?</p> <p>20 A. That is correct. It has the adjusted ACS data on</p> <p>21 it.</p> <p>22 Q. Okay. And I know you said it before, but please</p> <p>23 explain to me one more time, because I am not as</p> <p>24 well-versed as you. What do you mean by adjusted ACS</p> <p>25 data?</p> <p>Page 63</p> <p>1 A. Yes. There is an issue about how to handle</p> <p>2 prison populations. So in some areas where there are</p> <p>3 prisons, it had been past practice in many states to count</p> <p>4 the population of that prison as population in the</p> <p>5 district.</p> <p>6 Because prisoners are often not able to vote,</p> <p>7 that changed the actual electoral dynamics in the district</p> <p>8 because a district which appeared to have a substantial</p> <p>9 minority population, even voting age population,</p> <p>10 nonetheless -- or even Citizen Voting Age Population,</p> <p>11 nonetheless did not have an actual number of Hispanic or</p> <p>12 black or Asian-American minorities who were eligible to</p> <p>13 vote. And the consequence of that was that districts were</p> <p>14 more white, to put it simply, than they would otherwise</p> <p>15 appear.</p> <p>16 As a corrective to this problem, some states --</p> <p>17 and I do not -- I cannot of my own knowledge tell you</p> <p>18 which states -- adopted the rule that they would use</p> <p>19 adjusted population -- CVAP population in particular --</p> <p>20 data, which is to say they would find the addresses of</p> <p>21 prisoners at the location from which they were arrested --</p> <p>22 sorry -- from which they were imprisoned, the best last</p> <p>23 home address, basically, and assign the prisoners to that</p> <p>24 district rather than to the prison location.</p> <p>25 And it is my understanding that California does</p>	<p>Page 64</p> <p>1 this and adjusts prison population accordingly.</p> <p>2 Q. Okay. The adjusted ACS number that you're</p> <p>3 talking about is not done by the census; correct?</p> <p>4 A. No, the adjustment is done by the State, as I</p> <p>5 understand it. And here it's possible that I am wrong,</p> <p>6 but I believe, to the best of my knowledge, that the</p> <p>7 adjustment is done by the State.</p> <p>8 Q. Okay. And that's that one database that we</p> <p>9 talked about a little earlier that -- where you went to</p> <p>10 that data -- the statewide database and pulled the data.</p> <p>11 That is where you got the adjusted ACS numbers?</p> <p>12 A. Yes, that is correct.</p> <p>13 Q. And so you know that the legislature published</p> <p>14 the adjusted ACS data numbers; correct?</p> <p>15 A. Yes. That is what I know, yes.</p> <p>16 Q. Okay. And were they -- were you able to check if</p> <p>17 they were publishing the adjusted 2019 numbers or the 2023</p> <p>18 numbers?</p> <p>19 A. They were publishing both.</p> <p>20 Q. Okay. So the legislature published the 2019</p> <p>21 adjusted numbers and the 2023 numbers?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. What other numbers did the legislature</p> <p>24 publish? Database sets. Sorry. It would take us a long</p> <p>25 time to do every single number they published.</p> <p>Page 65</p> <p>1 A. They also -- on the -- I believe -- and here I</p> <p>2 would have to really go back to the website to verify. I</p> <p>3 believe that they included other data, such as population</p> <p>4 data, voting age population data.</p> <p>5 Q. But no political data?</p> <p>6 A. I did not see political data on the California</p> <p>7 website. That doesn't mean that it's not there. I can</p> <p>8 simply say I did not see it. I wasn't looking for it, and</p> <p>9 I didn't see it.</p> <p>10 Q. Okay. Is it your experience that politicians</p> <p>11 sometimes use race to draw political lines?</p> <p>12 MS. HASAN: Objection; calls for speculation.</p> <p>13 Incomplete hypothetical.</p> <p>14 THE WITNESS: As I previously indicated, I</p> <p>15 actually do not personally know any legislators in</p> <p>16 California, and I actually don't -- I'm not sure that I</p> <p>17 presently know any legislators anywhere else either.</p> <p>18 BY MR. MEUSER:</p> <p>19 Q. But you're well-versed on the cases of</p> <p>20 redistricting; correct, over the last several decades?</p> <p>21 A. Yes. As a political scientist, yes.</p> <p>22 Q. Are you aware of any cases where the case came</p> <p>23 down to legislatures using race to draw political lines?</p> <p>24 A. Yes.</p> <p>25 Q. So legislatures have done that before?</p>
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<p style="text-align: right;">Page 66</p> <p>1 A. Under circumstances where the Department of 2 Justice, either under Section 5 of the Voting Rights Act, 3 when that Section 5 was still applicable, or under 4 Section 2 of the Voting Rights Act, have essentially 5 instructed legislatures that they must use race. There 6 are cases like that over the past several decades. 7 Q. You would agree with me that in the South, where 8 there's a -- much more of a black and white -- just, you 9 know, two main population groups -- strike that. 10 I'm going to ask you a different question. 11 Sorry. 12 Would you agree with me that the -- the amount of 13 race in redistricting has decreased over the last 20 years 14 since the Voting Rights Act amendment occurred in 1982? 15 MS. HASAN: Objection; compound. Vague. Calls 16 for speculation. 17 THE WITNESS: No. And I don't know the answer. 18 BY MR. MEUSER: 19 Q. Okay. In the 1980's and '90s, when a district 20 was being drawn as a Voting Rights Act district, is it a 21 fair statement to say that generally, the target was 22 around 60 percent CVAP for the minority community? 23 MS. HASAN: Objection; vague. Compound. Calls 24 for speculation. Incomplete hypothetical. 25 Counsel, could you please describe what you mean</p>	<p style="text-align: right;">Page 68</p> <p>1 remember right, that you think in some -- depends upon the 2 circumstances. It could be as low as 35, 40 percent; 3 correct? 4 A. Thirty-five or 40 -- 40-something percent in 5 particular cases, all dependent on case facts. 6 Q. Okay. And what are those case facts where you 7 believe you can have -- where you could -- where there 8 would be an opportunity for a minority community to get to 9 elect a candidate of their choice in a district that's not 10 50 percent or greater? 11 A. Here I would emphasize the two-step nature of 12 elections in the United States. Namely, that there is a 13 primary and a general. And in order for a minority 14 candidate of choice -- candidate of choice in the minority 15 community, not necessarily a candidate who is himself or 16 herself of a particular race or ethnicity -- in order for 17 a candidate of choice of the community to be elected, that 18 candidate would have to both win the primary election of 19 whichever party was nominating them and the general 20 election. And they would need to be a candidate of choice 21 in both the primary election and the general election, if 22 there was a relevant primary election. 23 Therefore, one would look to see the levels of 24 racial polarization in the primary and the levels of 25 racial polarization in the general to determine whether or</p>
<p style="text-align: right;">Page 67</p> <p>1 by a VRA district? 2 MR. MEUSER: I'm going to let the witness. If he 3 doesn't know, he can ask. 4 THE WITNESS: I will take the VRA district to be 5 a district which was under challenge as violating either 6 Section 2 or Section 5 of the Voting Rights Act. That's 7 my working -- that's my working definition. 8 Could you repeat the question, please? Because I 9 did not fully understand the question that you asked. 10 (Record read.) 11 MS. HASAN: Same objections. 12 THE WITNESS: No. It's impossible for -- 13 actually, I'll simply say no, but that is a question that 14 can't be answered with a "Yes" or "No" because it's a 15 question of who was proposing to the district. 16 It was the case that some individuals, some 17 litigants, believed that in order to draw a realistic 18 opportunity to elect district for minorities, it was 19 necessary to draw a district in the 60 percent or 65 20 percent range. 21 That position, however, was not generally a 22 position held by expert witnesses and, in particular, was 23 not a position held by me. 24 BY MR. MEUSER: 25 Q. And you've recently actually written, if I</p>	<p style="text-align: right;">Page 69</p> <p>1 not there was sufficient crossover voting. That is to 2 say, voting for a minority candidate who is not coming 3 from voters who are not themselves members of that 4 minority, where there was sufficient crossover of voting 5 to allow for the creation of a realistic opportunity, 6 equal opportunity, to elect district which was not a 7 50 percent or greater majority minority district. 8 Q. A lot to unpack there. 9 Let's talk about California, who does not have 10 the traditional primary or -- and general, like many 11 states do. We have this top two. How does the fact that 12 California has a top two -- how does that affect your 13 analysis? 14 A. That's a very difficult question for me to answer 15 because the top two primary will involve in some instances 16 contests between candidates who are both of the same 17 political party. Normally, even with the top two, there 18 are candidates of opposite political parties, but not 19 always. 20 I would have to go very carefully to analyze 21 situations in which the top two primary resulted in 22 candidates from the same party. Here, to the extent I 23 have anything that I can say, having thought -- having 24 thought about this, is that the top two primary has some 25 resemblance to a combination of a primary and a general in</p>

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<p style="text-align: right;">Page 70</p> <p>1 those situations where there are candidates of the same 2 party competing in the general election. 3 Q. And you did not do any crossover analysis of 4 California's top two primary system as a part of your 5 report here today? 6 A. That is correct. 7 Q. And you didn't do any crossover analysis of 8 California's general election under the top two primary 9 system in your report? 10 A. That is correct. 11 Q. Have you ever done an analysis of California, 12 since we've gone to the top two, of crossover voting in 13 the State of California? 14 MS. HASAN: Objection; relevance. 15 THE WITNESS: Here I am not sure what my answer 16 is. At one point, I did look at top two elections. I 17 don't honestly remember whether I ever wrote a report 18 about my conclusions. 19 BY MR. MEUSER: 20 Q. So there's nothing in your experience where you 21 have analyzed crossover voting in the State of California? 22 A. No, I've said that I've never written a report, 23 to the best of my recollection. There are a variety of 24 issues with crossover voting which I have thought about 25 and -- but not written about.</p>	<p style="text-align: right;">Page 72</p> <p>1 situations in which voters of one party cross over and 2 choose effectively to vote for or against candidates of 3 the other party. 4 Another issue with respect to crossover voting is 5 whether or not the crossover voting opportunity changes 6 the likelihood of ideological extremists being chosen in 7 the election. And these are questions that I have thought 8 about in general, even if I have not necessarily 9 specifically written about them. 10 BY MR. MEUSER: 11 Q. And none of those thoughts that you just 12 mentioned have any bearing in your report? 13 A. On the question of racial preponderance versus 14 partisan preponderance, no. 15 Q. Have you ever tried to do a racial polarized 16 analysis on the State of California? 17 MS. HASAN: Objection; relevance. 18 THE WITNESS: Give me a moment to think. 19 Here I am not -- here I am honestly not sure of 20 my answer because I have been involved as a consultant to 21 the U.S. Department of Justice on cases that involve 22 California, and one of those cases was the Los Angeles 23 County Board of Supervisors. And so I have done racial 24 polarized voting analyses for the Los Angeles County 25 elections, to the Los Angeles County Board of Supervisors.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. And what are those? 2 A. Those are -- 3 MS. HASAN: Objection; relevance. Privileged. 4 These are unformed conclusions. 5 MR. MEUSER: Go ahead. 6 THE WITNESS: One of -- there is a privilege 7 motion, yeah. 8 MS. HASAN: I would instruct him not to answer to 9 the extent it's privileged. 10 BY MR. MEUSER: 11 Q. Is it privileged? 12 A. I'm sorry. That is a legal question. 13 Q. Is any of the stuff that -- you've thought about 14 stuff that you've only talked with attorneys about? 15 A. No. 16 Q. Okay. Then go ahead and tell me, generally 17 speaking, the areas that you have thought about that you 18 may not have fully researched and written, but when it 19 comes to crossover voting in California, at least where 20 you've put a little bit of thought into the topic. 21 A. Yes. 22 MS. HASAN: Objection; relevance. 23 THE WITNESS: One issue with respect to crossover 24 voting has to do with the likelihood that there will be 25 rating, okay, using rating as a technical term to apply to</p>	<p style="text-align: right;">Page 73</p> <p>1 I also was brought in -- again, many years ago -- 2 as a consultant to the U.S. Department of Justice on 3 issues relating to voting rights compliance in the 4 Los Angeles City Council districts. There I honestly 5 simply don't remember whether I did racially polarized 6 voting analyses for the DOJ. 7 BY MR. MEUSER: 8 Q. In either of those cases? 9 A. No, in the L.A. County case, I did do issues of 10 polarized voting analyses, though I am not sure that those 11 were actually presented in court because there was another 12 expert witness also testifying in the case who also 13 presented testimony on racial block voting. 14 Q. What year was that? 15 A. 1990. 16 Q. And do you know if this analysis that you were 17 doing -- was it black and white? Was it black, brown and 18 white? Was it brown and white? 19 Do you recall what you were looking for? 20 A. That one was Hispanic/nonHispanic, as I remember. 21 But that's to the best of my recollection. 22 Q. And how did you deal with the fact that 23 Los Angeles really has more than just brown and white? 24 There's multiple racial capacities. Do you recall how you 25 handled that or did your racial polarized analysis?</p>

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<p style="text-align: right;">Page 74</p> <p>1 A. There were two different ways in which this 2 problem can be dealt with. The first and the most 3 straightforward and the one that I usually use is you 4 simply dichotomize. There are Hispanics, and there are 5 nonHispanics. And nonHispanics incorporate various types 6 of individuals and various racial groups, but they are 7 nonetheless not Hispanic. So one can look at the 8 polarized voting in a dichotomous fashion in this way. 9 The second approach, which is very technically 10 difficult to do, is to attempt to use multivariable 11 techniques to separately assess the voting behavior of 12 distinct racial and ethnic groups. 13 My memory, which may be in error, is that I used 14 the dichotomous approach, but I may well have also 15 attempted to use a multivariable approach that would use 16 separate racial and ethnic groups. As I -- it is very 17 technically difficult to do, and there are real problems 18 with interpreting the results you get. 19 Q. What are some of the real problems? 20 A. The problems are separated because what we have 21 in California and many other places, but particularly here 22 in California, are commingling of racial and ethnic 23 groups. So you have areas where there are blacks and 24 Hispanics, areas where there are Hispanics and whites. 25 And that makes it difficult to separately</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. But isn't it true that some of the minority 2 groups that you're putting opposed to the Hispanic groups 3 may actually prefer the same candidates as the Hispanic 4 groups do? 5 MS. HASAN: Objection; calls for speculation. 6 Incomplete hypothetical. 7 THE WITNESS: It is, in principle, possible for 8 different groups to have different attitudes toward 9 members of other ethnicities or races. But in dichotomous 10 analysis, one is looking to see whether or not, regardless 11 of the patterns of nonHispanics, those patterns are 12 such -- or in regards to which groups there are included 13 among the nonHispanics, the patterns demonstrate racially 14 polarized voting. 15 BY MR. MEUSER: 16 Q. Thank you. 17 Now, part of your report -- I believe it's the 18 very last sentence of your report, and I'm going to go 19 down there to make sure I properly state this. 20 The Paragraph 28, my report does not include any 21 analysis on this topic -- and you're talking about Voter 22 Rights Act Section 2 claims -- because 23 plaintiff-intervenor filings indicate no relevant facts; 24 correct? 25 A. Yes.</p>
<p style="text-align: right;">Page 75</p> <p>1 estimate using the standard techniques that statisticians 2 use in these instances, Goodman ecological regression, et 3 cetera, to separate out the groups. Because there is this 4 cross-correlation, what in the jargon of statistics is 5 called colinearity. 6 Q. What does that mean? 7 A. That means that they're commingled. 8 Q. Okay. I don't know the proper way to ask this, 9 but I'm going to stumble through this. And we're going to 10 use this 1990 example with Los Angeles County, where, if 11 you're doing the dichotomy, it could mean on one side, you 12 have whites, blacks, Asians, and you're comparing those 13 three groups against the Hispanics. 14 Am I understanding it correctly when you say the 15 dichotomy approach? 16 MS. HASAN: Objection; compound. 17 THE WITNESS: Yes. I take your question to be -- 18 and I will assist you, if you don't mind -- 19 BY MR. MEUSER: 20 Q. Please do. 21 A. -- that you have correctly stated that with the 22 dichotomous approach, you would classify individuals as 23 either Hispanic or nonHispanic, which is a classification 24 scheme that is available, and then apply whatever analysis 25 you are going to do to this dichotomous classification.</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Okay. What do you mean by that? 2 A. I mean that there are no relevant facts in their 3 report. Sorry. In their brief. 4 Q. Okay. What kind of facts would you have expected 5 to see? 6 MS. HASAN: Objection; calls for speculation. 7 THE WITNESS: A specification of districts where 8 it would be possible to add an additional 17th -- a 9 district with an equal -- where minorities would possess 10 an equal opportunity to elect candidates of choice. 11 I'm sorry. I have to correct that. Because the 12 16 number refers to Hispanic majority districts. So I 13 would have to say with respect to Hispanic voting rights, 14 it would be a claim that there is possible to create a 15 17th Hispanic majority district. Sorry. Hispanic 16 district which has a realistic opportunity to elect the 17 candidate of choice. 18 BY MR. MEUSER: 19 Q. Did you run a -- strike that. 20 When you hear the term that somebody has run a 21 VRA analysis -- and I've heard you use that a couple of 22 times before -- what is your understanding of what that 23 term means? 24 A. My understanding is that, at minimum, it would 25 involve an analysis of racially polarized voting and</p>

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<p style="text-align: right;">Page 78</p> <p>1 possibly also involve the compilation of fact-based 2 evidence on the other elements involved in a voting rights 3 claim, such as whether or not minorities regularly lost in 4 the contest and also possibly other totality of 5 circumstances elements.</p> <p>6 Q. And again, I think I know the answer to this, but 7 you have never done a VRA analysis; is that correct?</p> <p>8 A. Well, I've done many VRA analyses. I've never 9 done a VRA analysis in California with respect to this 10 case.</p> <p>11 Q. Okay. So you -- so you have actually sat down 12 and done VRA analysis on somebody else's map; is that 13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. But you did not do a VRA analysis on this map; 16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. When I use the term "Senate factors" in 19 relationship to a VRA analysis, what does that mean?</p> <p>20 A. I take that to mean the equivalent of what I was 21 previously referring to as totality of circumstances.</p> <p>22 Q. Okay. And that -- and why are they called the 23 Senate factors?</p> <p>24 A. Because they were in a Senate report on the -- 25 after the passage or during the passage of the VRA.</p>	<p style="text-align: right;">Page 80</p> <p>1 of California politicians, and so you're aware generally 2 of the process of Prop 50. Do you have any specific 3 recollection to statements made by legislatures or 4 political figures that's not contained in the record that 5 has in any way shaped your opinions about whether this is 6 a racial or political gerrymander?</p> <p>7 A. No. There are no particular statements made by 8 individuals, whether legislators or otherwise, that have 9 shaped my views. Again, I repeat: Statements by 10 individuals.</p> <p>11 Q. Okay. And why do you narrow it to that phrase?</p> <p>12 A. Because as a California voter, there is a 13 statement in the ballot about what Prop 50 was going to 14 do.</p> <p>15 Q. And you believe that that statement in the ballot 16 has an impact on your opinions here today?</p> <p>17 A. That one, I believe I have to answer that no and 18 yes. It certainly is the case that it is irrelevant to 19 the fact-based conclusions that I drew in the report that 20 have to -- that are summarized in table -- or captured in 21 Tables 1 through 3.</p> <p>22 But in terms of what I would add to this report, 23 were I rewriting it, I would indeed add a statement -- or 24 maybe there is already in there. I can't remember. I was 25 going to put it in, and I don't know that I actually got</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. Okay. And so when you -- when you hear people 2 talk about the Senate factors, is that something separate 3 and apart from a VRA analysis, or is it an additional step 4 to a VRA analysis?</p> <p>5 A. Now, that's a legal conclusion.</p> <p>6 Q. Okay. And you're not going to answer that?</p> <p>7 A. Correct.</p> <p>8 Q. In your report, you talk about that you looked at 9 some of the legislative material, and you looked at the 10 legislative vote; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Did you read any of the debate?</p> <p>13 A. No.</p> <p>14 Q. Other than the materials contained in the motion 15 for preliminary injunction that you have reviewed, is 16 there any other material out there that you have reviewed 17 regarding statements made by Paul Mitchell?</p> <p>18 A. No.</p> <p>19 Sorry. I must correct that slightly. There is a 20 reference to Paul Mitchell, I believe, in Dr. Trende's 21 report.</p> <p>22 Q. Okay. Which is technically attached to the 23 motion for preliminary injunction.</p> <p>24 A. Okay.</p> <p>25 Q. As you said at the very beginning, you're aware</p>	<p style="text-align: right;">Page 81</p> <p>1 it in. There was a statement of the record -- on the 2 record -- did I put this in?</p> <p>3 I was -- I had a note to myself to do this, so I 4 just have to check to make sure that I actually did this. 5 Let's just double-check here. On Page 17, there is a 6 paragraph, numbered Paragraph 27, on public messaging to 7 voters.</p> <p>8 Q. Okay. So you believe the lack of any statement 9 saying that this was a racial gerrymander has an impact on 10 your ultimate conclusions?</p> <p>11 A. No. I could delete that sentence, and it would 12 not change my conclusions.</p> <p>13 Q. Okay.</p> <p>14 A. It reinforces conclusions.</p> <p>15 Q. It reinforces. But without that sentence, it 16 doesn't change anything in your report?</p> <p>17 A. That is correct.</p> <p>18 MR. MEUSER: It is 12:30. I am conscientious 19 that everybody else may not be like me.</p> <p>20 Do you want to take a break at 12:30 or 1:00?</p> <p>21 THE WITNESS: I actually would prefer a break at 22 12:30.</p> <p>23 (Lunch recess.)</p> <p>24 MR. MEUSER: Back on the record.</p> <p>25 BY MR. MEUSER:</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. Dr. Grofman, you understand you're still under 2 oath?</p> <p>3 A. Yes.</p> <p>4 Q. Ready to continue?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Right before lunch, we were talking about 7 your statements that you weren't relying by individuals, 8 but you specified individuals, and then we talked about 9 real quickly the voter pamphlet statement. 10 You remember that testimony?</p> <p>11 A. Yes.</p> <p>12 Q. Can we turn real quickly to Page 16 of your 13 report. And on that page, you have a point number 4, a 14 brief discussion regarding evidence of intent.</p> <p>15 A. Yes.</p> <p>16 Q. So in that, you have multiple points of outside 17 people that were not necessarily the mapmaker or not 18 necessarily state officials who actually drew the map and 19 their view of the mapmaking process; correct?</p> <p>20 A. Yes.</p> <p>21 Q. Are you aware of any of these people or 22 organizations that you have listed, if any of them had 23 communications or inside knowledge of how Paul Mitchell 24 drew the maps?</p> <p>25 A. I have no knowledge on that front.</p>	<p style="text-align: right;">Page 84</p> <p>1 and if I were to say, "This map does X, Y, and Z," I 2 wouldn't know unless you told me what factors you had in 3 drawing that map; is that correct?</p> <p>4 MR. EASON: Objection; calls for speculation.</p> <p>5 MR. MEUSER: Only one of you is objecting here 6 today, so unless you're passing it off, I've heard two 7 objections from you. Only one of you is objecting, so who 8 is it?</p> <p>9 MS. HASAN: I don't think we agreed to that 10 limit, but --</p> <p>11 MR. MEUSER: Only one attorney at a time, so --</p> <p>12 MS. HASAN: We can go one at a time.</p> <p>13 I'll just object; compound, calls for 14 speculation, incomplete hypothetical.</p> <p>15 MR. MEUSER: Okay.</p> <p>16 THE WITNESS: And here I would like you to repeat 17 the question because it was a complex question.</p> <p>18 (Record read.)</p> <p>19 BY MR. MEUSER:</p> <p>20 Q. Okay. So I'll rephrase. 21 If you drew a map, and let's say you did not look 22 at race at all, and I then started spouting off that your 23 map was racial, what I say your map does doesn't really 24 matter to what you actually did to the map; is that 25 correct?</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. Okay. So like your very last sentence in 2 Paragraph 26 refers, you know, to Footnote 61, on the 3 other side, the leader of the No on Prop 50 movement was 4 directly identified with the Republican Party. 5 You see that?</p> <p>6 A. Yes.</p> <p>7 Q. That particular footnote, you're talking about 8 Jessica Patterson; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you have no knowledge here of Jessica 11 Patterson having any conversations with Paul Mitchell 12 about how he drew the lines?</p> <p>13 A. I have no knowledge whatsoever of whom 14 Mr. Mitchell communicated.</p> <p>15 Q. And in this section, you talk about the -- it was 16 the political groups that were donating, not necessarily 17 the minority groups that were donating money for the 18 expenditure; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you have no knowledge of any of the 21 nonpolitical groups -- them having any conversations with 22 Paul Mitchell; correct?</p> <p>23 A. That is correct.</p> <p>24 Q. And I think this goes without saying, but if I 25 were to review maps that you drew without talking to you,</p>	<p style="text-align: right;">Page 85</p> <p>1 MS. HASAN: Objection; compound, calls for 2 speculation, incomplete hypothetical.</p> <p>3 THE WITNESS: What I did with the map is a 4 question of the effects, not a question of intent. 5 Therefore, it is the type of information which can be 6 generated by individuals who are not mapmakers.</p> <p>7 BY MR. MEUSER:</p> <p>8 Q. So you're saying that somebody could tell what 9 the effect is, but they would not know what the intent 10 was?</p> <p>11 A. They would not know what the intent of the 12 particular mapmaker was, in general, yes.</p> <p>13 Q. Okay. And because of the strong correlation 14 between race and certain parties, not every time, but 15 there can be occasions where race and political and 16 politics can be very closely correlated, is it true that 17 the mapmaker may look at race, and people would say this 18 affects politics or vice versa?</p> <p>19 A. It's possible to separate out the relative 20 importance of party and race, and that is exactly what I 21 have attempted to do in my report.</p> <p>22 Q. On Page 5 of your report, in the Introduction, 23 second paragraph, second sentence, "I conclude that 24 partisanship was a predominant motive for drawing the 25 Prop 50 map, and the map was" --</p>

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<p style="text-align: right;">Page 86</p> <p>1 A. I'm sorry. I apologize. I'm not sure where you 2 are. 3 Q. Page 5, Introduction. 4 A. Page 5. 5 Q. 005. 6 A. Okay. First paragraph? 7 Q. Second paragraph. 8 "I conclude that partisanship was a dominant 9 motive in drawing Prop 50 map, and the map was fully 10 efficient partisan gerrymandering." 11 A. Yes. And that would be as -- in terms of 12 effects, relying on an effects-based analysis, then I 13 would conclude that this was intended as a partisan 14 gerrymander. 15 Q. And you are strictly doing that based upon the 16 effects? 17 A. That is correct. 18 Q. On Page 6, Section Roman numeral 3, you refer to 19 the report of -- or the report of Dr. Centeno. And how do 20 you say that, Cuellar? 21 A. Cuellar. 22 Q. I butchered that. 23 A. I believe it is Cuellar. Again, I don't speak 24 Spanish. 25 Q. Okay. How much time did you spend reviewing that</p>	<p style="text-align: right;">Page 88</p> <p>1 what I'd be referring to would be the report prepared by 2 the Legislative Reference Bureau for the legislature. 3 Whether that counts as a press release, I don't know. 4 MS. HASAN: I just want to note for the record 5 that Footnote 3 is not a press release. It's a report. 6 MR. MEUSER: Yeah, but I'm trying to figure it 7 out. Because if you read it, that is where the 8 punctuation mark is, so I'm trying to figure out if he's 9 talking about two different things. One thing -- and 10 that's why I'm here, is because it's a little confusing, 11 so -- 12 THE WITNESS: If I can attempt to clarify. I'm 13 sorry. 14 The question of what is a press release and 15 what's a report is difficult. Usually these reports are 16 accompanied by press releases. 17 BY MR. MEUSER: 18 Q. Okay. So Footnote No. 3 here. 19 A. Uh-huh. 20 Q. Is what is on that page, that web page, if I open 21 up that PDF, that is what you are referring to as a press 22 release and media report? 23 A. No, that one I'm referring to as a report because 24 that is my memory of where that URL will lead you to. 25 Q. Then what do you mean by the word "press</p>
<p style="text-align: right;">Page 87</p> <p>1 particular report? 2 A. Several hours. I really couldn't be more precise 3 than that. 4 Q. Other than the comments that you have later on in 5 your report about this, is there anything else that you 6 found significant about that report that you did not put 7 in your report? 8 A. Not that I can recall. 9 Q. Okay. The very next -- after that report, the 10 very next thing says, "Press releases and media reports to 11 which I cite in the Texas report." 12 Do you recall looking at any of the press 13 releases that were attached to the motion for preliminary 14 injunction? 15 A. I must have. I must have looked at them, but I 16 don't remember. 17 Q. But they didn't have a bearing on your report 18 because the only press releases you cite to are -- is in 19 this section? 20 A. Yes, that is correct. 21 Q. When we're talking about press releases, we're 22 only talking about the potential press release that is in 23 Footnote No. 3? 24 A. I think that what I'm referring to -- and here, 25 the term "press release" may be misleading. I believe</p>	<p style="text-align: right;">Page 89</p> <p>1 releases" in this instance? 2 A. In this instance, probably I mean that I ought 3 not to have included it because I did not rely on anything 4 that I would call a press release. I did rely on reports, 5 some of which have press releases attached to them. 6 And it is quite possible, in the case of NALEO, 7 that I saw the press release before I saw the report. 8 Because usually the way this works -- I shouldn't say 9 usually. One way in which things like this work is that 10 you go, and you go, and you call up NALEO. And what 11 you'll get is a press release. And inside the press 12 release, there will be an URL link to an actual report. 13 And so to the extent that I remember what I did, 14 what I believe I did was I went to the NALEO website. I 15 found what would be called a press release, and then 16 inside the press release, there was a link to a report. 17 Q. And you -- in this case -- 18 A. This should be the report. Yes, this should be 19 the report. 20 Q. Okay. But you're not talking about some other 21 press release out there that's not a part of this 22 particular report? 23 A. That is correct. 24 Q. Okay. Footnote No. 4, you are talking about 25 accessing publicly accessible election data on the</p>

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<p style="text-align: right;">Page 90</p> <p>1 California Secretary of State's website.</p> <p>2 A. Yes.</p> <p>3 Q. Looking at the footnote, it appears that you</p> <p>4 looked at 2024 general election, the PDF that's associated</p> <p>5 with that election; correct?</p> <p>6 A. Yes, I did look at that, among other things. It</p> <p>7 says, "Therefore, example."</p> <p>8 Q. Can you tell me which other election data you</p> <p>9 looked at from the California Secretary of State's</p> <p>10 website?</p> <p>11 A. From the California Secretary of State's website,</p> <p>12 I am not sure whether I looked at anything -- oh, no, no.</p> <p>13 Sorry.</p> <p>14 What did I look at? I looked at data -- just</p> <p>15 give me a moment to reflect on what I did look at.</p> <p>16 I probably -- so again, I'm not a hundred percent</p> <p>17 certain -- I did not look at anything on that particular</p> <p>18 website that was not the presidential election. But the</p> <p>19 DRA website, the DRA mapping software, changed --</p> <p>20 Q. Dave's redistricting app; right?</p> <p>21 A. Yeah, redistricting app, a-p-p, does contain</p> <p>22 information which is publicly accessible information on</p> <p>23 election returns. My belief is it is pulled off of the</p> <p>24 same website, but I do not know that for certainty.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 92</p> <p>1 them approximately 100 hours for your time, or did you</p> <p>2 bill them for 100 hours --</p> <p>3 A. No, I billed them for my time.</p> <p>4 Q. Okay. So you do not bill the State for the time</p> <p>5 that your research assistant --</p> <p>6 A. No, I expect to pay him out of whatever funds the</p> <p>7 State pays me because he acts as my research assistant.</p> <p>8 Q. Okay. And again, I'm just going to make sure --</p> <p>9 I think we are -- we're in agreement, but I just want to</p> <p>10 make 100 percent sure.</p> <p>11 So the time you spent, you're billing the State?</p> <p>12 A. Yes.</p> <p>13 Q. The time that your research assistant spends, you</p> <p>14 do not bill the State for?</p> <p>15 A. That is right.</p> <p>16 MS. HASAN: Objection; asked and answered.</p> <p>17 THE WITNESS: Yes, that is correct. He bills me.</p> <p>18 BY MR. MEUSER:</p> <p>19 Q. Thank you.</p> <p>20 I want to spend a little bit of time talking</p> <p>21 about the Hispanic majority districts.</p> <p>22 A. Yes.</p> <p>23 Q. Now, just because something is a minority</p> <p>24 majority district, that does not mean that it is a Voting</p> <p>25 Rights Act district; is that correct?</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Uh-huh.</p> <p>2 Q. And then you also say that you relied upon 2020</p> <p>3 U.S. Census data --</p> <p>4 A. Yes.</p> <p>5 Q. -- from -- publicly available?</p> <p>6 A. Yes, exactly.</p> <p>7 Q. What census data did you look at or did your</p> <p>8 research assistant look at?</p> <p>9 A. Just population data.</p> <p>10 Q. That was it?</p> <p>11 A. I believe so, yes.</p> <p>12 Q. Any breakdowns?</p> <p>13 A. It might have had breakdowns from -- it might</p> <p>14 have been population data and voting age population data.</p> <p>15 I really don't remember.</p> <p>16 Q. Okay. This is a clean-up question from earlier:</p> <p>17 How much does the defendant pay you for the time spent by</p> <p>18 your research assistant?</p> <p>19 A. \$200 per hour. Or actually, I pay my research</p> <p>20 assistant \$200 per hour.</p> <p>21 Q. And what do you bill him out at?</p> <p>22 A. No, I pay him out of my bills.</p> <p>23 Q. Okay. So it's not a separate line item?</p> <p>24 A. No.</p> <p>25 Q. Okay. So when you billed the State, did you bill</p>	<p style="text-align: right;">Page 93</p> <p>1 A. No, it -- there would -- first of all, I cannot</p> <p>2 answer that question in the abstract. There would have to</p> <p>3 be some type of lawsuit alleging that a district which was</p> <p>4 citizen voting age majority and some particular minority</p> <p>5 did not satisfy Section 2 of the Voting Rights Act.</p> <p>6 Q. Earlier today, you told me that you had reviewed</p> <p>7 the final report by the 2021 commission regarding the</p> <p>8 congressional districts; correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And would you agree with me that that</p> <p>11 report designates 14 districts as Voting Rights Act</p> <p>12 districts?</p> <p>13 A. I do not remember.</p> <p>14 Q. Okay. And you don't have that report with you</p> <p>15 here today?</p> <p>16 A. No, I do not.</p> <p>17 Q. We're going to take a quick break, and I'm going</p> <p>18 to print that out so he can see it.</p> <p>19 MS. HASAN: Okay.</p> <p>20 MR. MEUSER: Thank you.</p> <p>21 (Recess.)</p> <p>22 MR. MEUSER: For the record, this morning all</p> <p>23 counsel received from counsel for the State an e-mail that</p> <p>24 contained the complete file of Dr. Grofman. And what I</p> <p>25 did is I removed the responsive response to the request</p>

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<p style="text-align: right;">Page 94</p> <p>1 for production of documents and just started with 2 Dr. Grofman's report, and we're going to call that 3 Exhibit 1. I have e-mailed that to the court reporter of 4 which counsel for Plaintiff has received a copy of it in 5 the e-mail. 6 (Exhibit 1 was marked for 7 identification.) 8 MR. MEUSER: So that is Exhibit 1. 9 Exhibit 2 to the declaration (sic) is what's 10 already been marked as Exhibit 34 to our trial exhibit 11 list. I only made one copy because everyone should 12 already have Exhibit 34. And I do note that on the record 13 at this point in time, nobody has objected to this 14 document being admitted into evidence. 15 MS. HASAN: No objections. 16 MR. MEUSER: Okay. We're going to go ahead and 17 hand that to Dr. Grofman. 18 MS. HASAN: When we say the complete file of 19 Dr. Grofman, we mean his report -- his Appendix A with the 20 tables and his Appendix B with the CV? 21 MR. MEUSER: Yes, and all of the e-mails. 22 MS. HASAN: Okay. 23 MR. MEUSER: Exhibit 2 is Exhibit 34 of our trial 24 exhibits. 25 (Exhibit 2 was marked for</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. What does that mean to you? 2 A. It means that there were exactly 14 districts 3 which were compelled by the Voting Rights Act. 4 Q. Which means lines were drawn to satisfy the 5 Voting Rights Act? 6 A. That is correct. 7 Q. Now, those 14 districts, I saw you taking notes. 8 I'm assuming that you wrote down the districts? 9 A. Yes. 10 Q. Those 14 districts are 14 of the 16 districts 11 where, according to the commission maps, Hispanics were 12 the majority; correct? 13 A. They are 14 of the 16 maps in the 2000 -- I'm 14 sorry -- in the Prop 50, and they are also 14 of the 16 in 15 the -- let me double-check -- yes, they're also 14 of the 16 16 in the CRC districts, 14 of the 16 in both. 17 I'm sorry. Let me just double-check. 18 Q. I think you're going to see an issue with 41 19 versus 42. 20 A. Yes, that's correct. 21 Q. So the commission drew 14 VRA districts, but 22 there's two other districts that happen to be Hispanic 23 majority that were not designated as a voting rights 24 district? 25 A. That is correct. That is what this commission</p>
<p style="text-align: right;">Page 95</p> <p>1 identification.) 2 BY MR. MEUSER: 3 Q. Dr. Grofman, you have in front of you a report on 4 final maps, 2020 California Citizens Redistricting 5 Commission, dated December 26th, 2021; is that correct? 6 A. Yes. 7 Q. We are marking this as Exhibit 2 to your 8 deposition. 9 And the question I have for you first, is this 10 the report that you were referring to earlier today as 11 something that you had reviewed that was not given to you 12 by counsel, but that you said was a matter of public 13 record that you had reviewed? 14 A. Yes. 15 Q. Okay. I would like to ask you to turn to Page 45 16 of the report. 17 A. Yes, I am now on Page 45 of the report. 18 Q. Okay. I would like you to just read real quickly 19 the third paragraph, and then when you've done reading, 20 let me know, and I'll ask you questions about it. 21 A. Yes. 22 Q. Would you agree with me that this report says 23 that the commission drew 14 congressional districts to 24 address Voting Rights Act obligations? 25 A. Yes. That is the exact language in the report.</p>	<p style="text-align: right;">Page 97</p> <p>1 report says. 2 Q. And with Hispanics being a large proportion of 3 the state's population, you could see where there could be 4 a circumstance where a district following normal 5 districting procedures could be drawn that it would not be 6 a Voting Rights Act district, but it would be a minority 7 majority district? 8 A. Yes. 9 MS. HASAN: Objection; compound. Calls for 10 speculation. 11 THE WITNESS: Yes. 12 BY MR. MEUSER: 13 Q. Have you been presented with any evidence that 14 the Prop 50 maps of the 16 Hispanic majority minority 15 districts -- have any of them been designated as a Voting 16 Rights Act district? 17 A. I have no knowledge on that point. 18 Q. Okay. Who would be responsible for that 19 designation? 20 A. That's not a question which I can answer. 21 Q. Okay. Let's move back to your report. I think 22 we're going to be done with that exhibit, Exhibit 2. 23 So as you sit here today, you have no knowledge 24 of any of the 52 California Congressional districts, if 25 any of them has been designated as a Voting Rights Act</p>

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<p style="text-align: right;">Page 98</p> <p>1 district?</p> <p>2 A. Well, 14 of them were designated as Voting Rights</p> <p>3 Act districts in the CRC map -- CRC report in 2021. I</p> <p>4 have no -- yes, I do not know whether they have been</p> <p>5 designated as Voting Rights Act districts; that is,</p> <p>6 districts where there is a realistic opportunity to elect</p> <p>7 equal opportunity in 2025 but I also have absolutely no</p> <p>8 reason to believe otherwise.</p> <p>9 Q. Let me ask you this question: If a state was</p> <p>10 doing its traditional redistricting every 10 years after</p> <p>11 the census, and they -- let's say in 2010, they had</p> <p>12 designated a district as a Voting Rights Act district, and</p> <p>13 at the next census, just because an area has the same</p> <p>14 number, if they don't designate it as a Voting Rights Act</p> <p>15 district, does that mean it still remains a Voting Rights</p> <p>16 district?</p> <p>17 A. The question is a legal question of who is</p> <p>18 entitled to, quote, designate a district as a Voting</p> <p>19 Rights district. You could designate a district as a</p> <p>20 Voting Rights district. The legislature can choose to</p> <p>21 believe that a district is a Voting Rights Act district,</p> <p>22 and it is a Voting Rights Act district unless and until</p> <p>23 there is a section to challenge to it that suggest</p> <p>24 otherwise that demonstrates otherwise, such that a court</p> <p>25 will overturn it.</p>	<p style="text-align: right;">Page 100</p> <p>1 in those 16 districts between what the commission did and</p> <p>2 what Prop 50 did?</p> <p>3 A. No, I did not look at lines. I looked only at</p> <p>4 the CVAP numbers.</p> <p>5 Q. How they changed?</p> <p>6 A. Yes.</p> <p>7 Q. And based upon just the CVAP numbers, you</p> <p>8 concluded that 10 districts went down, five went up, and</p> <p>9 one remained the same?</p> <p>10 A. Yes, that's correct.</p> <p>11 Q. Okay. And that is reflected -- what is that --</p> <p>12 in your appendixes. Is that Table 3? Am I remembering</p> <p>13 right?</p> <p>14 A. No, it should be Table 2.</p> <p>15 Q. Okay. Sorry. 2-A; right?</p> <p>16 A. Yes.</p> <p>17 Q. Are you looking at Table 2-A right this second?</p> <p>18 A. Yes, I am.</p> <p>19 Q. Okay. So I see here you're using the 2023 CVAP</p> <p>20 numbers from the CRC; correct?</p> <p>21 A. Yes.</p> <p>22 Q. You're comparing what those numbers show for the</p> <p>23 commission maps versus Prop 50 maps?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And for -- just for example, paying</p>
<p style="text-align: right;">Page 99</p> <p>1 MS. HASAN: Just for the record, we object to</p> <p>2 that question as compound, incomplete hypothetical, and</p> <p>3 calls for speculation.</p> <p>4 BY MR. MEUSER:</p> <p>5 Q. And you're not aware of any statement by Paul</p> <p>6 Mitchell that he drew any of the lines of these 16</p> <p>7 Hispanic majority districts to comply with the Voting</p> <p>8 Rights Act?</p> <p>9 A. I have paid zero attention to statements by</p> <p>10 Mr. Mitchell.</p> <p>11 Q. And you're not aware of any of the legislative</p> <p>12 material that has designated any of these 16 Hispanic</p> <p>13 majority districts that they were drawn in compliance with</p> <p>14 the VRA; is that correct?</p> <p>15 A. I'm not aware of there being any such materials,</p> <p>16 and therefore, I'm not aware of the materials.</p> <p>17 Q. Earlier -- or not earlier. In your report, I'm</p> <p>18 looking at Page 0012, and I'm in Paragraph 11.</p> <p>19 A. Yes.</p> <p>20 Q. The second sentence says that "I find that 10</p> <p>21 districts went down in Hispanic CVAP. Five went up, and</p> <p>22 one remained the same."</p> <p>23 A. Yes.</p> <p>24 Q. Did you look at all 16 of the commission's</p> <p>25 Hispanic majority districts and see how the lines changed</p>	<p style="text-align: right;">Page 101</p> <p>1 attention to those first three columns, Commercial 13,</p> <p>2 that is one that you see goes down, but Congressional</p> <p>3 District 18 is one that goes up.</p> <p>4 Am I reading your chart right?</p> <p>5 A. Yes.</p> <p>6 Q. Just focusing in on the third column of the 2023</p> <p>7 Hispanic CVAP and the Prop 15 districts --</p> <p>8 A. Yes.</p> <p>9 Q. -- it appears to me that 13 of these districts,</p> <p>10 the percentage of CVAP is coming in between that 52</p> <p>11 percent and the 55 percent.</p> <p>12 Am I correct?</p> <p>13 A. That appears to be correct, yes.</p> <p>14 Q. Okay. Is there any significance in that</p> <p>15 particular instance that the Hispanic CVAP numbers coming</p> <p>16 in, you know, a little over 50 percent, but is not -- you</p> <p>17 know, does that show -- strike that.</p> <p>18 Does the fact that 13 of these 16 districts come</p> <p>19 in at the 52 to 55 percent show that race was a factor in</p> <p>20 how those lines were drawn?</p> <p>21 A. Not exactly. This is not one which I can answer</p> <p>22 yes or no. Basically, the answer is no because the racial</p> <p>23 composition of the district is a function of the racial</p> <p>24 demography in the area.</p> <p>25 Yes, insofar as the CRC made a voting rights</p>

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1 analysis of 14 of these districts, and in doing so, they
2 almost certainly ascertained whether or not the district
3 was a 50 percent CVAP Hispanic majority district because
4 that is a threshold for a claim that a Voting Rights
5 Act -- appears to be a threshold for a claim in litigation
6 that a district is a Voting Rights Act district satisfying
7 Section 2.
8 So if you wish to ward off a Section 2 challenge,
9 you're going to draw districts that are 50 percent citizen
10 majority Hispanic CVAP. And if there is some -- how can I
11 say -- realm of error around that 50 percent figure, it
12 would not at all be surprising that many of these
13 districts turn out to -- many of these districts labeled
14 by the CRC as districts required by the Voting Rights Act
15 are close to 50 percent.
16 Q. Now, if you were to start with a blank map of
17 California and you were to just draw districts, what do
18 you think the odds are that you would end up with 13
19 districts that had this 52 to 55 percent range of
20 Hispanic?
21 A. That's a speculation --
22 MS. HASAN: Objection.
23 THE WITNESS: -- that I cannot answer.
24 MS. HASAN: Compound. Calls for speculation.
25 Incomplete hypothetical.

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1 BY MR. MEUSER:
2 Q. Okay. But based upon your review of the
3 commission's maps compared to Prop 50 maps -- and I'm
4 going to pull out of this question the Congressional
5 District 41 and 42, which I believe you highlighted
6 earlier that -- let's look at the other 15 districts that
7 stayed -- I don't want to say they stayed relatively the
8 same, but they were -- they're predominantly the same.
9 Or would you have a different term?
10 A. They are in fact predominantly the same. They
11 are heavily the same, in fact. And in both Hispanic CVAP
12 and in geography.
13 Q. So for the -- again, not talking about 41 and 42.
14 The other 15 districts, your position is that the mapmaker
15 of Prop 50 held closely to the VRA districts that were
16 already drawn by the commission?
17 A. Yes, that is correct.
18 Q. And based upon the fact that 15 out of the 16
19 districts, the percentage of Hispanic CVAP changed, would
20 it be fair to assume that at least one line changed in 15
21 of the 16 districts?
22 MS. HASAN: Objection; calls for speculation.
23 THE WITNESS: I'm sorry. I don't understand the
24 question.
25 BY MR. MEUSER:

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1 Q. Okay. You said that one of the 16 districts, the
2 CVAP number stayed the same; correct? The Hispanic CVAP
3 number stayed the same?
4 A. Yes.
5 Q. So that means 15 of the districts, that number
6 changed?
7 A. Yes.
8 Q. Whether up or down?
9 A. Yes, that is correct, as I said in my reports.
10 Q. And the only way for that number to shift means
11 a -- some line in the district shifted; is that correct?
12 A. Yes.
13 Q. Okay. So at least 15 of the 16 Hispanic minority
14 majority districts, the mapmaker of Prop 50 shifted some
15 line. It may have been one block. It could have been 50
16 miles. You're not here to testify as to that; correct?
17 A. They shifted in these districts, and they shifted
18 dramatically in the Republican incumbency districts, and
19 they shifted to a lesser extent but still shifted in all
20 of the Democratic safe seats, which is to say that I
21 believe that they shifted in 45 out of 52 districts. I
22 believe that is correct.
23 Q. And correct me if I'm wrong. Did you in your
24 report state which districts did not shift at all?
25 A. No, I did not.

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1 Q. I might be getting confused in all the reports
2 I'm reading right now.
3 Okay. Again, this probably goes without saying,
4 but the commission did not rely upon the 2023 CVAP data
5 because that data did not exist at the time they were
6 drawing the commissions; correct?
7 A. That is correct.
8 Q. But the mapmaker, Paul Mitchell, could use both
9 the 2019 and the 2023 data; correct?
10 A. I don't know what he did, but in principle, he
11 could have, yes.
12 Q. So at the top of Page 12 --
13 A. Yes.
14 Q. -- the first sentence of that page starts right
15 after the word -- second word of the page.
16 A. Yes.
17 Q. Can you read that real quick?
18 A. "By projecting"?
19 Q. Yeah, just read that to yourself.
20 A. "By projecting 2019 CVAP data forward into the
21 Prop 50 map, the results showed 16 majority CVAP districts
22 in the CRC Map using the CRC's CVAP numbers, but only 13
23 Hispanic majority CVAP districts in the Prop 50 map."
24 Do you wish me to continue?
25 Q. No. That is what I wanted to ask you a question

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<p style="text-align: right;">Page 106</p> <p>1 about.</p> <p>2 So if I'm understanding that correct, if you used</p> <p>3 the 2019 numbers, there's only 13 Hispanic majority</p> <p>4 districts drawn by Paul Mitchell in the Prop 50 maps; is</p> <p>5 that correct?</p> <p>6 MS. HASAN: Objection to Paul Mitchell drawing</p> <p>7 the map. That is not established.</p> <p>8 THE WITNESS: I don't know who drew the map, and</p> <p>9 I don't know when the legislature adopted it. I'm simply</p> <p>10 in ignorance of those process details.</p> <p>11 BY MR. MEUSER:</p> <p>12 Q. Okay. Let me rephrase the question.</p> <p>13 The 2019 CVAP data --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- if you look at the new Prop 50 maps --</p> <p>16 A. Yes.</p> <p>17 Q. -- it would only show 13 Hispanic districts;</p> <p>18 correct?</p> <p>19 A. No. Hispanic -- please be precise.</p> <p>20 Q. Withdrawn. Sorry. Let me rephrase again.</p> <p>21 What you are saying in that sentence is that if</p> <p>22 you use the 2019 CVAP data, there would -- the Prop 50 map</p> <p>23 would only be 13 Hispanic majority CVAP districts?</p> <p>24 A. Yes, that is a direct statement of what I said.</p> <p>25 Q. Okay. But if you use the 2023 data, you come up</p>	<p style="text-align: right;">Page 108</p> <p>1 one for a moment.</p> <p>2 Only to point out that either -- if you use the</p> <p>3 2023 CVAP numbers, then the number of Hispanic CVAP</p> <p>4 majority districts remains unchanged. Whereas if you use</p> <p>5 the 2019 CVAP data, then the number of Hispanic CVAP</p> <p>6 districts has declined, which I would believe makes it</p> <p>7 harder to argue that increasing CVAP was used as a method</p> <p>8 of promoting the Democratic gerrymander.</p> <p>9 Q. In the materials that you got regarding the</p> <p>10 motion for summary judgement filed by the plaintiff, did</p> <p>11 you look at all at the press releases that were attached</p> <p>12 in the exhibits?</p> <p>13 A. I must have looked at those, but I paid</p> <p>14 essentially no attention to them since, as I indicated</p> <p>15 earlier and made clear in the report, I am focusing on the</p> <p>16 facts.</p> <p>17 Q. I'm going to read a sentence out of one of the</p> <p>18 press releases. I will -- for the record, I'll let</p> <p>19 everybody know which document I'm looking at, but I don't</p> <p>20 think I'm going to need him to look at it. If we do, I'll</p> <p>21 go have it printed out, but I'll let you make that call.</p> <p>22 But this is a part of Document 16, which was</p> <p>23 attached to my declaration, so ECF-16. I am looking at</p> <p>24 the Mike McGuire press release of August 19th, and I am on</p> <p>25 Page 2 of that document in the press release by Senator</p>
<p style="text-align: right;">Page 107</p> <p>1 with the fact that there are 16?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Do you have any significance -- do you see</p> <p>4 any significance in that?</p> <p>5 A. I'm sorry. That's a question that I have no</p> <p>6 way -- it's too imprecise for me to answer it.</p> <p>7 Q. Do you put any weight in your report on the fact</p> <p>8 that there is only 13 Hispanic majority CVAP districts in</p> <p>9 the Prop 50 maps by using the 2019 CVAP data?</p> <p>10 A. Only to the extent that it appeared at one time,</p> <p>11 and may yet appear again, that there is a claim that there</p> <p>12 are 16 Hispanic CVAP districts in the 2016 -- sorry -- in</p> <p>13 the Prop 50 map, but only 14 in the prop -- in the CRC</p> <p>14 map.</p> <p>15 And that claim is wrong because it confounds</p> <p>16 whether or not you have a citizen voting majority district</p> <p>17 and whether or not you have a district which was</p> <p>18 classified by the CRC as a Voting Rights Act district.</p> <p>19 If you're doing apples and apples, then you do</p> <p>20 CVAP and CVAP. But that also requires that you use the</p> <p>21 same CVAP metric for both the 2000 -- for both the CRC map</p> <p>22 and the Prop 50 map.</p> <p>23 Q. Is that the only significance that the 2019 CVAP</p> <p>24 data has to you for your report?</p> <p>25 A. I believe so, yes, though let me think about that</p>	<p style="text-align: right;">Page 109</p> <p>1 Mike McGuire.</p> <p>2 This is what he says on August 19th in the press</p> <p>3 release: "Protecting communities of color and</p> <p>4 historically marginalized voters, the new map makes no</p> <p>5 changes to historic black districts in Oakland and the</p> <p>6 Los Angeles area and retains and expands Voting Rights Act</p> <p>7 districts that empower Latino voters to elect their</p> <p>8 candidates of choice."</p> <p>9 Do I need to repeat that?</p> <p>10 MS. HASAN: Would you like to read it on paper?</p> <p>11 THE WITNESS: It would be better if I read it on</p> <p>12 paper.</p> <p>13 MR. MEUSER: Okay. If you want to give me a</p> <p>14 second, I will -- is it okay if I just print out this</p> <p>15 press release? Just the press release?</p> <p>16 MS. HASAN: Is it -- I don't recall --</p> <p>17 MR. MEUSER: It's a 57-page document, but it has</p> <p>18 all of my exhibits in this.</p> <p>19 MS. HASAN: And how long is the press release</p> <p>20 itself?</p> <p>21 MR. MEUSER: It's like three pages.</p> <p>22 MS. HASAN: Maybe the whole press release.</p> <p>23 MR. MEUSER: I'll pull it from the trial</p> <p>24 exhibits --</p> <p>25 MS. HASAN: Okay.</p>

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<p style="text-align: right;">Page 110</p> <p>1 MR. MEUSER: -- which will be a cleaner copy. 2 MS. HASAN: Thank you. 3 MR. MEUSER: For everybody on the record, I'm 4 going to have Exhibit 21 to our trial exhibit, which so 5 far nobody has been objecting to, and we're going to be 6 marking that as Exhibit 3. 7 (Exhibit 3 was marked for 8 identification.) 9 BY MR. MEUSER: 10 Q. I've handed that to the witness. 11 A. Yes. 12 Q. I want to focus on the phrase "and retains and 13 expands Voting Rights Act districts that empower Latino 14 voters." 15 You see that line? 16 A. Yes. 17 Q. Okay. Now, you've just walked me through your 18 chart, and we see that 10 of the 16 Hispanic minority 19 majority districts, the Hispanic CVAP number went down; 20 correct? 21 A. Yes, that is correct. 22 Q. Okay. So that would definitely mean that they're 23 not retaining the -- or it wouldn't be retaining or 24 expanding because the CVAP number goes down? 25 A. No.</p>	<p style="text-align: right;">Page 112</p> <p>1 And even so, Mr. McGuire indicates multiple 2 reasons for adopting the Prop 50 map, and at least some of 3 these are very clearly political reasons. 4 Q. So we're going to be in agreement that according 5 to this press release, President Pro Tem Mike McGuire had 6 political reasons for the map; correct? 7 A. He says he has. I have no -- again, I have no -- 8 I am not -- to go back many, many more years, I am not 9 someone who can see into the hearts and minds of 10 individuals, and therefore, I don't know what Mr. McGuire 11 intended. I know what Mr. McGuire said, and we both just 12 read it. 13 Q. Okay. Do you believe it's possible that the map 14 could have some racial aspect and political aspect to it? 15 A. The map almost certainly has both racial and 16 political aspects. The question that I address in my 17 report is whether the evidence is such that politics, 18 political considerations, predominated, and that racial 19 considerations were relatively minor in contrast to the 20 predominance of the political considerations. 21 Q. And when you're saying relatively minor, are you 22 putting like a percentage point to it? 23 A. No. I'm saying that if you put them on a scale, 24 the scales would clearly be such that partisanship is what 25 dominates, as I demonstrate throughout my report and as</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Okay. Explain. 2 A. As I indicated in previous responses to your 3 questions, what constitutes a realistic opportunity to 4 elect district requires an analysis of the voting patterns 5 in those districts. That is an analysis that I have not 6 done, so I have no way of knowing whether or not there is 7 an increase or a decrease in the ability of Hispanics to 8 elect candidates of choice in those districts because it 9 is not simply a question of the changes in the Hispanic 10 Citizen Voting Age Population. It is also reflected in 11 the changes in the Democratic share of those districts. 12 And, of course, this -- this particular quote is 13 only one of the several quotes on this page. If I may 14 read these other quotes into the record, that may be 15 useful. 16 This is more about -- more than drawing lines on 17 a map. It's about drawing a line in the sand to stop 18 Texas and Trump from rigging the election. That's what 19 Mike McGuire says, and then he continues to talk about a 20 variety of other issues, protecting the Golden State 21 access to healthcare, reproductive rights, et cetera. 22 Which is to say, A, I don't know the answer to what the 23 effects are, and I'm not at all clear that Mr. McGuire has 24 the requisite skills, however skilled a politician he may 25 be, to correctly answer that question.</p>	<p style="text-align: right;">Page 113</p> <p>1 indicated by the amount of time that I take to elaborating 2 the various reasons why this is a partisan map as compared 3 to the only expert witness testimony that there is in the 4 record from Mr. Trende on exactly one district, testimony 5 which I do not find very credible. 6 Q. In your review of the Prop 50 map, have you seen 7 any evidence that would corroborate what Mr. McGuire says 8 here, where this Prop 50 map expands Voting Rights Act 9 districts that empower Latino voters? 10 A. I have done no Voting Rights Act analysis of this 11 map, and I have stated in my report that there is a growth 12 in the Hispanic population which perhaps -- though, again, 13 I do not know -- is enough to explain some elements of 14 changes in the map. 15 Plus the fact -- which is the single-most 16 important explanatory factor in the map -- is that the 17 democrats, in drawing a partisan gerrymander, were 18 chopping to bits the Republican districts in the map, 19 which fragmentation of those Republican districts had 20 spill-over effects throughout the entire state or at least 21 a large portion of the state. 22 Q. So in order to confirm whether Mike McGuire is 23 telling the truth or not telling the truth, you would need 24 to do a voting rights analysis of the Prop 50 map; is that 25 correct?</p>

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<p style="text-align: right;">Page 114</p> <p>1 A. I would -- in order to see whether there has been 2 a gain in Hispanic representation, I would look to see 3 what has happened in the map. To the extent that I have 4 evidence of the map of -- the evidence suggests that in 5 some districts, the Democratic percentage goes up, in some 6 districts, the Democratic percentage goes down. 7 And so it -- but a full analysis would be 8 required to determine whether, on balance, there is a gain 9 in the ability of Hispanics to elect candidates of choice 10 above and beyond, at minimum, the 14 districts which they 11 had voting rights opportunity to elect constructed in the 12 CRC map and probably continued in the Prop 50 map. 13 Without doing the exact analysis, I have no way 14 of knowing whether Mr. McGuire's claim is correct. 15 Q. Okay. In your review of Sean Trende's analysis, 16 you talked about how districts are constrained based upon 17 the other shapes of the districts around it; is that 18 correct? 19 A. Yes. 20 Q. So if someone were to draw a district in the 21 middle of the map, all of the districts around it are 22 going to be affected by that first line drawn; is that 23 correct? 24 MS. HASAN: Objection; calls for speculation. 25 Incomplete hypothetical.</p>	<p style="text-align: right;">Page 116</p> <p>1 of political gerrymanders, partisan gerrymanders being the 2 most common. 3 Q. And of course, there is racial gerrymandering? 4 A. Yes. 5 Q. And my favorite that you say from one of your 6 publications is a dummymander. 7 A. Also correct. 8 Q. What is a dummymander? 9 A. It is a map drawn by one political party which, 10 when political circumstances change, acts to actually 11 benefit substantially the other party. 12 Q. Did you do any dummymander analysis on this? 13 A. Yes. 14 Q. And what did your analysis show? 15 A. This is about as far away from a dummymander as 16 it is humanly possible to get. 17 Q. How is that? 18 A. It is -- as I indicated in my report, if I can 19 call your attention to -- let's see. Let me find the 20 right page. 21 It is as far away from a dummymander as we can 22 get. Because if we turn to Page 007 in my report -- and I 23 will give you and fellow counsel an opportunity to find 24 that page -- and I call your attention to the section 25 numbered 4, What is a Partisan Gerrymander, "A partisan</p>
<p style="text-align: right;">Page 115</p> <p>1 THE WITNESS: Again, may possibly, yes, possibly, 2 no. Some districts around it will be affected, but it is 3 also possible to freeze other districts and limit the 4 scope of what is called a ripple effect. 5 BY MR. MEUSER: 6 Q. And if somebody were to -- I'm not saying this is 7 a testimony, but we see that there is like 16 VRA 8 districts, and there is, again, 16 VRA districts. 9 As a hypothetical, if the mapmaker said, "We had 10 16 districts; we need to have 16 districts; now I'm going 11 to politically deal with everything else," would the fact 12 that those 16 VRA districts -- or the 16 Hispanic majority 13 districts, would that have -- if you're starting with 14 those 16 districts, would that have an effect on how all 15 the other districts around it were shaped? 16 MS. HASAN: Objection; compound. Vague. Calls 17 for speculation. Incomplete hypothetical. 18 THE WITNESS: Now, that one you'll have to 19 rephrase to make it more clear. 20 BY MR. MEUSER: 21 Q. You would agree with me that there are multiple 22 types of gerrymander; correct? 23 A. Yes. 24 Q. There are political gerrymanders; correct? 25 A. Partisan gerrymanders. There are several types</p>	<p style="text-align: right;">Page 117</p> <p>1 gerrymander" -- I'm reading now from my report -- "A 2 partisan gerrymander is one that seeks to achieve three 3 goals. It can be expected to reduce the number of seats 4 held by the other party. It can be expected to preserve 5 and protect the safe seats of its own party. It can be 6 expected to shore up the seats of its" -- of -- again, 7 there is a typo here. The word "its" is wrong. I'll read 8 it the correct way. 9 "It can be expected to shore up the seats of 10 most, if not all, if its vulnerable incumbents." 11 And I refer to that as an efficient gerrymander, 12 and then I indicate that we will treat it as fully 13 efficient if, in addition, it satisfies those three goals, 14 it also creates a durable partisan gerrymander. 15 Now, a durable efficient partisan gerrymander, 16 which is what, in my view, as demonstrated by the evidence 17 that I adduce in the pages of my report, is exactly what 18 the Democrats or, in this case, actually, the voters of 19 California, have succeeded in creating, and therefore, it 20 is as far away from a dummymander as you can get. 21 Q. How is it durable? 22 A. How is it durable? Because the probability that 23 a majority of seats will shift to the Republican Party in 24 any conceivable real-world process is so close to zero 25 that we need not worry about it.</p>

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<p style="text-align: right;">Page 118</p> <p>1 If we -- looking -- again, let me call your 2 attention so I'm not simply talking in the abstract. Let 3 me call your attention in the report to pages -- let's see 4 here -- to the appendix. There are in this case 35 on 5 Table 1-B. This is on Page 20 in Exhibit A.</p> <p>6 Q. Okay. I'm there.</p> <p>7 A. So if you'll see the last row, you'll see there 8 are 35 districts which have an average vote share in the 9 2024 elections in the Prop 50 districts of 63.1 percent. 10 That is, by anyone's definition, a safe district.</p> <p>11 Furthermore, if I can call your attention to 12 Table 3-B, which is located on Page 0024 of my report, 13 if -- calling your attention to the last row in Table 3-B, 14 these are the characterizations of the 2022 and 2025 maps. 15 And what we see in the last row is, if we look at all 16 other Democratic-held districts -- and that's going to 17 be -- of the Democratic-held districts, there are 45 -- 18 sorry -- 44 -- 43 and 9? Yes, 52. 43 and 9 of the 19 Democratic districts. Basically, 43 minus the -- one, 20 two, three, four, five, six, seven, eight above -- are 21 going to be solid Democrat as they were solid Democrat.</p> <p>22 Basically, that is as far away from a dummymander 23 as you can get, and that's not counting the other three -- 24 six -- one, two, three districts, which now previously 25 Republican, have moved into the solid Democratic category,</p>	<p style="text-align: right;">Page 120</p> <p>1 we have not seen it in present-day recent politics is the 2 bipartisan gerrymander known as a sweetheart deal, in 3 which incumbents of both parties collude with each other 4 to guarantee that they will each, regardless of party, 5 have safe seats.</p> <p>6 Q. That was pretty prevalent in the '60s and '70s; 7 correct?</p> <p>8 A. It was prevalent in earlier decades, yes.</p> <p>9 Q. Out of curiosity --</p> <p>10 A. I'm sorry. In fairness to a complete -- 11 absolutely complete answer to your question, there is one 12 other kind of gerrymander which I would -- it doesn't 13 actually have a name in the literature, but I will, for 14 today, coin it "get Joe gerrymander." In this case, Joe 15 not being Biden but just a generic. That is a gerrymander 16 which is operating by members of probably both parties to 17 make basically ensure that some particular member of the 18 legislature will not return.</p> <p>19 Q. And that does happen?</p> <p>20 A. Yes, there's at least one -- at least one classic 21 instance.</p> <p>22 Q. And what was his name, Joe?</p> <p>23 A. No. I won't insult him by sharing his name with 24 you.</p> <p>25 Q. Politics.</p>
<p style="text-align: right;">Page 119</p> <p>1 according to Cook's report, and which show an increase in 2 Democratic voting strength, if you go back to my 3 Tables 1-A and 1-B.</p> <p>4 Q. So --</p> <p>5 A. So basically, this is not a dummymander. It is, 6 as I say it is, for the reasons that I have just given, a 7 highly efficiently done durable partisan gerrymander.</p> <p>8 Q. Am I correct in summarizing that in order for 9 something to be a dummymander, you are taking solid 10 Democrat seats, and now they are maybe a lean Democrat 11 seat? The seats need to go that direction? Is that what 12 you're saying?</p> <p>13 A. A majority of seats or a substantial number of 14 seats would need to go that direction. That is the 15 characterization of the Georgia map that led to the 16 coining of the term dummymander.</p> <p>17 Q. So it's taking safe seats and making them unsafe 18 seats? That is what creates a dummymander?</p> <p>19 A. No, it's taking seats that might be marginal and 20 making them even more marginal so that the expected number 21 of seats is no longer such that a majority for the party 22 doing the redistricting is essentially guaranteed.</p> <p>23 Q. Okay. Other than political, racial, and 24 dummymanders, what are the other manders in your world?</p> <p>25 A. Okay. The other most common kind of mander that</p>	<p style="text-align: right;">Page 121</p> <p>1 What is the threshold of a percentage of a vote 2 that Cook assigns to where it puts it in as a solid 3 Democrat category? Do you know where that line is?</p> <p>4 A. No, I do not know the exact calculations that the 5 Cook report uses.</p> <p>6 Q. Do you have a percentage point that you look at 7 when you call something a safe seat versus a toss-up seat?</p> <p>8 A. Usually in the political science literature, the 9 category of competitive is in the 45 to 55 percent range, 10 and anything that is clearly above 55, different scholars 11 might differ.</p> <p>12 And it really does depend on the politics of the 13 state, the extent to which there is inter-election 14 variability in election outcomes. And that's not a 15 question that I actually have examined for California.</p> <p>16 Q. So whether it's 55 percent or 60 percent, you're 17 not relying upon that in your report?</p> <p>18 A. No, I'm not relying. I am simply indicating that 19 the values that are given in the Cook report and the 20 values that I've indicated for the actual Democratic 21 percentage shares in the 2024 presidential election.</p> <p>22 Q. When the redistricting commission was meeting, 23 did you participate at all during the redistricting 24 commission's public input?</p> <p>25 A. I once -- I was asked by someone who was a staff</p>

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<p style="text-align: right;">Page 122</p> <p>1 person to -- to consult, and I believe that I did so.</p> <p>2 Q. You believe you provided consulting to the</p> <p>3 commission itself?</p> <p>4 A. No. No. Only to some staff person.</p> <p>5 Q. Okay. Do you recall what you were asked to</p> <p>6 consult on?</p> <p>7 A. I believe it had to do with voting rights, but I</p> <p>8 couldn't be more specific than that.</p> <p>9 Q. Do you know if that was the 2021 commission or</p> <p>10 the 2011 commission?</p> <p>11 A. I believe it was the 2021 commission.</p> <p>12 Q. And do you recall who that staff member was?</p> <p>13 A. No, I don't.</p> <p>14 Q. Okay. Do you recall how much time you spent on</p> <p>15 that?</p> <p>16 A. Not very much.</p> <p>17 Q. Did you participate as a citizen during the</p> <p>18 redistricting commission?</p> <p>19 A. No.</p> <p>20 Q. Did you read any of the transcripts or watch any</p> <p>21 of the videos of the commission?</p> <p>22 A. No.</p> <p>23 Q. Did you have any conversations with the any of</p> <p>24 the commissioners after they finished with the maps?</p> <p>25 A. That, honestly, I am not sure about because I</p>	<p style="text-align: right;">Page 124</p> <p>1 A. No.</p> <p>2 Q. Okay. Do you recall what your study found?</p> <p>3 A. Yes.</p> <p>4 Q. What did you find?</p> <p>5 A. It found that there was -- that the geographic</p> <p>6 evidence provided further compelling evidence that the map</p> <p>7 was a partisan gerrymander because the expectation for a</p> <p>8 partisan gerrymander is that the districts held by the</p> <p>9 other parties' incumbents will have one of two things</p> <p>10 happen to them.</p> <p>11 Normally, they'll be dramatically changed.</p> <p>12 They'll be literally cut to bits in order to reduce -- to</p> <p>13 crack the likelihood of the incumbent continuing to be</p> <p>14 able to represent the district, though there may be some</p> <p>15 districts which are packed.</p> <p>16 In either case, whether it's cracking or packing,</p> <p>17 which is the gerrymandering tool that is being used</p> <p>18 vis-à-vis incumbents of the other party, we would expect</p> <p>19 rather considerable change in the borders of those</p> <p>20 districts compared to what they were in the previous map.</p> <p>21 And that is one of the things which I found.</p> <p>22 Namely, for example, if we look at the districts which</p> <p>23 were five, which were the districts targeted by the</p> <p>24 Democrats in the Democratic gerrymander, we see that those</p> <p>25 districts are really, really eviscerated.</p>
<p style="text-align: right;">Page 123</p> <p>1 attended a couple of the conferences at which</p> <p>2 commissioners on independent redistricting commissions</p> <p>3 were present, but I really don't remember with whom I</p> <p>4 spoke.</p> <p>5 I remember having at least one conversation with</p> <p>6 a commissioner, but I don't believe -- I would be almost</p> <p>7 certain that it was not a California commissioner.</p> <p>8 Q. And have you had any conversations with any of</p> <p>9 the lawyers associated with the California Redistricting</p> <p>10 Commission about the California maps, the commission maps?</p> <p>11 A. I don't know who the lawyers are.</p> <p>12 Q. Okay. That makes it easy, doesn't it?</p> <p>13 Have you run any kind of analysis on the</p> <p>14 commission maps other than what's in your report here</p> <p>15 today?</p> <p>16 A. Yes.</p> <p>17 Q. What did you do?</p> <p>18 A. I looked at the mayoral geographic changes in</p> <p>19 composition of districts between the numerical CRC map and</p> <p>20 the Prop 50 map. That is to say, I looked to see what</p> <p>21 portion of the old district -- using numbers to keep</p> <p>22 district names constant, what portion of the old district</p> <p>23 was found in the new district and what other pieces of CRC</p> <p>24 districts were found in the Prop 50 districts.</p> <p>25 Q. And is that in your report?</p>	<p style="text-align: right;">Page 125</p> <p>1 And not just proposition -- not just 41, which,</p> <p>2 of course, is rendered nonexistent by removing its</p> <p>3 district number, but all five of those districts are now,</p> <p>4 on average, something like 40 percent of the district as</p> <p>5 it was in the CRC map.</p> <p>6 And even the districts which have been reinforced</p> <p>7 with Republicans packing, rather than cracking, the four</p> <p>8 of those, they, too, exhibit a fairly high level of</p> <p>9 redrawing. I believe they're about --</p> <p>10 Q. Is there a reason why you did not include this in</p> <p>11 your report?</p> <p>12 A. No. Basically it was because it was done too</p> <p>13 fast. I've done that very, very recently, and I've been</p> <p>14 finishing up the report.</p> <p>15 But if I may also complete my answer to your</p> <p>16 question.</p> <p>17 You indicated what I concluded. So I first</p> <p>18 concluded that one expectation of a hallmark of a partisan</p> <p>19 gerrymander is that the districts of the other side which</p> <p>20 have been targeted would basically be eviscerated to a</p> <p>21 large -- or if not eviscerated, at least dramatically</p> <p>22 reconfigured and chopped into pieces. And I did indeed</p> <p>23 find that to a remarkable extent.</p> <p>24 Secondly, I would expect that the districts that</p> <p>25 were Democratic districts, which were vulnerable, would</p>

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<p style="text-align: right;">Page 126</p> <p>1 also be changed to a larger degree but not nearly as large 2 as the degree to which the Republican incumbent districts 3 were being changed. And that, again, is what I found. 4 And finally, I believe that a hallmark of a 5 partisan gerrymander would be that those safe seats for 6 the Democrats would only be very marginally changed, and 7 that, again, is what I found. 8 Q. Okay. Did you -- 15 of the 16 Hispanic 9 majority -- Hispanic majority districts, one of them we 10 know that 41, 42, the number changed. Of the other 15, do 11 you recall what percentage of those districts stayed the 12 same? 13 A. It's about twice -- I'm sorry. I don't remember 14 exact numbers, but it's roughly twice as high a percentage 15 as was the case for the -- for the five districts which 16 were the Republican incumbent districts that were being 17 dismantled. 18 Q. So if I heard you right, you used the number 19 40 percent. 20 A. Somewhere in the high 70s, 80, something like 21 that. 22 Q. So the 15 of the 16 Hispanic majority districts 23 that were drawn by the commission, approximately 70 to 80 24 percent of the districts there remained the same? 25 A. That is my memory. Here I'm operating on memory.</p>	<p style="text-align: right;">Page 128</p> <p>1 A. Yes. NALEO. 2 Q. Okay. Staying on Page 15, Paragraph 22, second 3 sentence. 4 A. Yes. 5 Q. This seems to be some contention you have with 6 that Cal Tech report because -- 7 A. It's not a Cal Tech report. 8 Q. Well, okay. I'm sorry. I thought that was Cal 9 Tech. I'm sorry. 10 But you know which report I'm talking about? 11 A. Yes, I do. 12 Q. Okay. You seem to take a slight issue with them 13 over what influence -- you call it a murky term; correct? 14 A. That is correct. 15 Q. What is your definition of an influence district? 16 A. As I indicate, we need to do actual detailed 17 on-the-ground analysis that is -- that involves careful 18 analysis of local circumstances. Because, for the reasons 19 that I've given here, is the incumbent someone who is in 20 fact sympathetic and receptive to the views of the 21 minority community. What's the -- is the minority 22 community such that they are in a position to be pivotal 23 with respect to the politics within their own party. Is 24 there -- how high is the level of racial and partisan 25 polarization of the district.</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Yeah. Okay. 2 Page 15, Paragraph 22. And the sentence right 3 before Footnote 48, which is the middle of that first 4 paragraph. 5 A. Yes. Okay. Yes. 6 Q. Where they're talking about the Cal Tech report, 7 how it continues to have been -- they found that it 8 continues to have an increase in Hispanic population since 9 the CRC map was drawn; correct? 10 A. Yes. I believe -- yes, that is correct. 11 Q. And you are in agreement with that statement that 12 since the CRC map was drawn, there has been increase in 13 Hispanic population? 14 A. As a proportion of total California voters, yes. 15 Q. And how did you reach that understanding? 16 A. By reading reports that it actually had done 17 analyses. 18 Q. So that is not the CVAP numbers; correct? 19 A. No. Well, the exact numbers are reported -- 20 let's see. I would call your attention to Footnotes 54 to 21 56 -- 22 Q. Okay. 23 A. -- on Page 16. 24 Q. So that is the NALEO report that we talked about 25 earlier?</p>	<p style="text-align: right;">Page 129</p> <p>1 There are a whole set of facts that affect 2 whether or not it is reasonable to call something an 3 influence district for a given minority community. 4 Q. Okay. And in that same paragraph, there is a 5 sentence that talks about, "The present world is 6 hyperpolarized along party lines." 7 A. Yes, that's correct. 8 Q. What do you mean by that, and how do you define 9 that? 10 A. Polarization refers to a situation in which 11 voters of one party -- it's parallel to definitions of 12 racially polarized voting. Polarization is a situation 13 where members of one party support/endorse members of 14 their own party at extremely high numbers, high 15 proportions, and generally are unwilling to vote for 16 members of the other party. 17 Hyperpolarization is that process of polarization 18 carried to an extreme, though, again, there are different 19 ways to operationalize the concept. The definition that I 20 just gave you basically is, do you vote for members of the 21 other party? And that's the most straightforward way to 22 operationalize polarization and hyperpolarization. 23 Other political science scholars have offered 24 complementary definitions, such as, "I really don't like 25 the other party," as a measure, or "I hate the other</p>

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<p style="text-align: right;">Page 130</p> <p>1 party. The other party is a creature of Satan," as an 2 indication of hyperpolarization. And the political 3 scientists refer to this as affective polarization, 4 a-f-f-e-c-t-i-v-e.</p> <p>5 Q. Have you done a hyperpolarization study of the 6 State of California?</p> <p>7 A. No.</p> <p>8 Q. Has anybody done one that you're aware of?</p> <p>9 A. No, but the data in -- the data in Dr. Brunell's 10 report demonstrate hyperpolarization. And as I believe 11 you already are aware, Dr. Brunell is a co-author of the 12 book that is being cited here on polarization in Congress.</p> <p>13 Q. Yeah. Okay.</p> <p>14 Page 16, the first paragraph before the point 4, 15 the sentence that you have as Footnote 55. It's basically 16 the first full sentence on the top of Page 16.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. That sentence reads, "Second, Hispanic 19 voters are solidly Democrat in registration and voting 20 patterns."</p> <p>21 You see that?</p> <p>22 A. Yes.</p> <p>23 Q. What do you mean by "solidly Democrat"? Is that 24 50 percent plus one? Is that 90 percent? How do you 25 define solidly Democrat?</p>	<p style="text-align: right;">Page 132</p> <p>1 independents, with the number of independents 2 approximately twice the number of Republicans.</p> <p>3 Q. I'm not disagreeing with your numbers.</p> <p>4 So the question I go back to is what -- how -- 5 you use the term "solidly Democrat," and it sounds to me 6 by your answer you are comparing Republicans against 7 Democrat versus Democrat versus everything else.</p> <p>8 Am I correct?</p> <p>9 A. In this one, yes, you are correct. But I would 10 also note that we know with respect to the behavior of 11 independents, that independents tend to have what we might 12 call a weak partisan identification. And generally 13 speaking, what -- and again, I do not know that this -- 14 with certainty for California, but in general, the 15 affiliation of independents tends to parallel the ratios 16 for the party registration in the area.</p> <p>17 Q. Now, you and I are both -- you know, follow 18 politics, and we just know that intuitively. What are you 19 relying upon for that statement?</p> <p>20 A. Well, I'm relying on analyses of independents. 21 And the general point that is made in the political 22 science literature is that mostly there really are no such 23 things as independents. The people who call themselves 24 independents on the seven-point party affiliation scale 25 tend to actually be either Democrats or Republicans but</p>
<p style="text-align: right;">Page 131</p> <p>1 A. Well, in this instance, the data is provided in 2 Footnote 55, so you can see that the -- 53.5 percent of 3 Latinos affiliated with the Democrat party and 16.7 4 percent affiliate with the Republican party, which 5 basically means that more than three -- by a ratio of more 6 than three to one, Hispanics are Democrats in 7 registration.</p> <p>8 Q. Compared to the Republicans?</p> <p>9 A. Well, by racial, yes, exactly, compared to 10 Republicans.</p> <p>11 Q. Because some people would say, well, 47 percent 12 are not affiliated with the Democrats versus 53 that are 13 affiliated; correct?</p> <p>14 A. But there are independents.</p> <p>15 Q. Yes.</p> <p>16 A. And as the data here show, roughly 30 percent of 17 Latinos and roughly 30 percent, actually, of all 18 Californians are independents.</p> <p>19 Q. Yes. So there's -- based upon the data you 20 showed, 53.5 percent of Latinos are in the Democrat party, 21 and -- what is that -- 46-and-a-half percent are not 22 affiliated with the Democrat party; correct?</p> <p>23 A. Are not? Yes, are -- again, to state it 24 accurately, 53.5 percent are affiliated as Democrats, and 25 the remainder are either Republicans or they are</p>	<p style="text-align: right;">Page 133</p> <p>1 don't like to admit it.</p> <p>2 Q. And is there a particular publication that you -- 3 or a particular study that you're relying upon for the 4 statement you just made of this seven-point scale?</p> <p>5 A. There is, but it's -- that particular assertion 6 has been made by many, many different scholars over many 7 decades, and I really off the top of my head can't give 8 you a citation.</p> <p>9 Q. So this is -- this basically is an answer that is 10 relying upon your years of experience in the industry. 11 Your CV speaks for itself?</p> <p>12 A. No, it's relying on the fact that I've read 13 lots -- my years have allowed me to read a rather large 14 number of articles in political science, and those 15 articles are consistent in giving the answer to your 16 question that I just gave you.</p> <p>17 Q. And you notice I'm not arguing with your answer. 18 I know the answer. I was just kind of curious. 19 Is there something in particular that you relied upon, and 20 it's more of the depth of just general knowledge?</p> <p>21 A. Yes. I'm sure if you gave me time enough and 22 access to my library, I can find you many citations, but 23 no, I don't off the top of my head remember any one 24 specific one.</p> <p>25 Q. Same paragraph, couple of lines down, it says,</p>

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<p style="text-align: right;">Page 134</p> <p>1 "In general, Republican areas have a lower proportion of 2 Hispanics than Democrat areas because Hispanics are less 3 likely to be Republican than whites." 4 The part I want to focus on is Republican areas. 5 What do you mean by the word "Republican areas"? 6 A. A Republican area is an area where the Republican 7 vote share is high, and in particular, it would be areas 8 where there are Republican incumbents. Because in order 9 for there to be a Republican incumbent, there must be a 10 fairly high proportion of Republican sympathizers or 11 Republican affiliates within the district. 12 But more generally, any area where there is a 13 substantial number of Republicans tends to be areas that 14 are disproportionately white; therefore, less likely to be 15 Hispanic. Also, not Democratic. 16 One can work through the mathematics using basis 17 theorem to show that there has to be a relationship in 18 situations where you have one population that is a high 19 proportion of Hispanics and one portion where there is a 20 low proportion of Hispanics. And so you're going to find 21 correlations. 22 Q. Of the nine districts that currently have 23 Republican incumbents -- 24 A. Yes. 25 Q. -- are you aware of any of those districts that</p>	<p style="text-align: right;">Page 136</p> <p>1 off that Hispanics were in the majority, but they were 2 voting for a Republican? 3 A. Yes, there is a district which is a Hispanic CVAP 4 district, but where there's a Republican -- let us be 5 clear. There is a district in which a Republican 6 incumbent won. 7 The claim that that district is such that the 8 Republican incumbent won with Hispanic majorities voting 9 for him is not one that I am in a position to evaluate. I 10 have no knowledge about that. I have not done an analysis 11 of the racial ethnic voting patterns in that district. It 12 is possible that Hispanic turnout is low. I don't know. 13 Q. Okay. Congressional District 13 is currently 14 held by a Democrat; correct? 15 A. Yes. 16 Q. Okay. Are you aware that just two years ago, it 17 was held by a Republican? 18 A. Yes. 19 Q. Okay. And you would agree with me that 20 Congressional District 13 has a Hispanic CVAP? 21 A. Yes. 22 Q. So that would have been -- while not currently 23 held by a Republican, it is a Congressional district that 24 was majority Hispanic, but a Republican was able to win; 25 is that correct?</p>
<p style="text-align: right;">Page 135</p> <p>1 had a high percentage of Hispanics in them? 2 A. Well, just look at the numbers. If I remember 3 correctly, there are two of them. One is 20 -- I'm sorry. 4 That is going to be the seat, and then this is the Prop 50 5 district. 6 There is District 22, which is a Hispanic CVAP 7 district, but is a district where there is a very 8 competitive election with the Republicans, in the 9 presidential contest at least, winning a majority of the 10 votes. 11 There is District 41, which is a very special 12 case because of the movement of District 41 from -- from 13 its previous location. But basically, if we look at the 14 rest of these other districts -- if you look at the rest 15 of these districts, they tend to be lower in Hispanic than 16 is the case for the comparable districts shown in -- 17 overall, on average, in Democratic-held Congressional 18 districts. 19 And those are only the competitive Congressional 20 districts. If I looked at the full set of Democratic 21 Congressional districts, you'll see that they're always 22 around at least 30 percent Hispanic. 23 Q. So you said in general. 24 A. Yes. 25 Q. But here is one example that you were able to pop</p>	<p style="text-align: right;">Page 137</p> <p>1 A. Yes, that is correct. 2 Q. Did you analyze any of the other 52 districts 3 that are currently held by Democrats to see if, in the 4 2022 election, they were held by a Republican? 5 A. In the 2022 election? 6 Q. That -- let me rephrase it. 7 Did you look at the 2022 elections and compare 8 the Congressional seats won by Republicans in 2022 to the 9 Hispanic CVAP numbers in those districts? 10 A. No, I did not. 11 Q. Case in point, Congressional District 13? 12 A. Yes, in that particular election, yes. And, of 13 course, as you just said, in 2024, won back by a Democrat 14 by a very narrow margin as it had been lost by a Democrat 15 by a very narrow margin, as I recall, in the previous 16 election year. 17 Q. In 2024 -- and right now I am looking at 18 Table 1-B on Page 20. 19 A. Yes. 20 Q. And explain to me real quick what this particular 21 chart shows. What are -- these Congressional districts 22 that you've highlighted, what's so important about them? 23 A. Those are districts where, if you examine major 24 party vote share in the 2024 presidential election in the 25 prop -- in the CRC districts, these are districts which</p>

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<p style="text-align: right;">Page 138</p> <p>1 have a Democratic vote share very, very close to 2 50 percent.</p> <p>3 Q. These are what we call toss-up races?</p> <p>4 A. These are toss-up races. These are competitive 5 seats. If you want actual characterizations of them, some 6 of these are characterized in Table 3-B, but they are not 7 ever characterized as solidly Democratic seats. They're 8 sometimes characterized as toss-up or likely or lean, but 9 they are not characterized as solid.</p> <p>10 Q. Okay. And on this chart, we've already talked 11 about 13, but we also see in this chart Congressional 12 District 21 and 25, which both have a CVAP -- Hispanic 13 CVAP number over 50 percent; correct?</p> <p>14 A. Yes.</p> <p>15 Q. Now, 21 and 25 were won by Democrats, but they 16 were toss-up. They were close races; correct?</p> <p>17 A. Actually, I don't know who won those elections.</p> <p>18 MR. MEUSER: Okay. Do you want to take a 19 10-minute break?</p> <p>20 MS. HASAN: Sure.</p> <p>21 THE WITNESS: Yeah, fine. Whatever you like.</p> <p>22 (Recess.)</p> <p>23 MR. MEUSER: Okay. Let's ask a few more 24 questions here and see if we can kind of get counsel back 25 on a plane tonight.</p>	<p style="text-align: right;">Page 140</p> <p>1 THE WITNESS: Yes. That would be my answer.</p> <p>2 BY MR. MEUSER:</p> <p>3 Q. Can the goal in drawing a map be to achieve a 4 political goal but to use racial considerations to do so?</p> <p>5 A. Yes. But the issue in this case, at least as I 6 understand it from a political science perspective, is not 7 whether there was any race involved but whether party or 8 race is the preponderant motive.</p> <p>9 Q. Is it possible that one district, you lower the 10 Hispanic CVAP, and another one, you increase it -- strike 11 that.</p> <p>12 Is it possible to lower Hispanic CVAP in a 13 district while doing a worse job in adhering to 14 traditional redistricting criteria on a map?</p> <p>15 MS. HASAN: Objection; compound. Calls for 16 speculation.</p> <p>17 THE WITNESS: Can you -- it is always possible to 18 do worse with respect to traditional districting criteria, 19 and it's certainly possible that in some of the ways of 20 doing worse, there would be Hispanic populations involved, 21 and in others, there wouldn't be, depending, again, on the 22 specifics. But in the abstract, there are lots of 23 different ways to do badly.</p> <p>24 BY MR. MEUSER:</p> <p>25 Q. Let me ask you this: When I use the term</p>
<p style="text-align: right;">Page 139</p> <p>1 MS. HASAN: I appreciate it.</p> <p>2 BY MR. MEUSER:</p> <p>3 Q. Do you agree that a map can be drawn with 4 political considerations and racial considerations?</p> <p>5 A. Yes.</p> <p>6 Q. And is it possible that a -- racial 7 considerations is only done in a single district, and 8 political could be on the rest of the map?</p> <p>9 MS. HASAN: Objection; compound.</p> <p>10 THE WITNESS: Let me think about the answer to 11 that one.</p> <p>12 It would be very difficult to do racial 13 considerations in a single district, at least, because we 14 would be comparing what happened in the previous map to 15 what happened in the new map. And because of that, in 16 order for any claim of racial considerations to be 17 predominant, there would have to be racial populations 18 that have been moved from one district to another 19 district. But that would potentially at least indicate 20 race from which the populations have been moved.</p> <p>21 Q. Let me rephrase my question.</p> <p>22 Is it possible that race could be the predominant 23 reason for the drawing of the district lines in a single 24 district?</p> <p>25 MS. HASAN: Objection; calls for speculation.</p>	<p style="text-align: right;">Page 141</p> <p>1 "traditional redistricting criteria," does that have a 2 defined term in the political science world?</p> <p>3 A. Yes and no. There is general agreement on what 4 most of the elements of traditional districting criteria, 5 neutral districting criteria, are.</p> <p>6 If you would turn to the Citizen Redistricting 7 Commission report, they identify a number of different 8 criteria, most of which would be regarded as traditional 9 or neutral redistricting criteria. Compactness, 10 contiguity, equal population. These days, we would also 11 add nondilution of minority voting strength as a 12 traditional redistricting criteria.</p> <p>13 There's some others. Let's see if I can remember 14 what the entire list looks like. But basically, the list 15 that is provided in the Citizens Redistricting Commission 16 report would be a good illustration of what most political 17 scientists would regard as traditional.</p> <p>18 There are some criteria that some political 19 scientists or some lawyers would list as traditional that 20 I would not. For example, preservation of incumbents. 21 These change in district maps. These are criteria that -- 22 and some lawyers have argued in some courts are 23 traditional but that I would disagree about.</p> <p>24 Q. And when you talk about the Citizens 25 Redistricting Commission, the terms they use, that comes</p>

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<p style="text-align: right;">Page 142</p> <p>1 straight out of the California Constitution; correct?</p> <p>2 A. Yes. Yes, that is correct also.</p> <p>3 Q. Are you aware of any other states that have</p> <p>4 defined traditional redistricting terms like California</p> <p>5 has?</p> <p>6 A. Yes, there are a number of others. Off the top</p> <p>7 of my head, I'm not sure I could name them. I believe,</p> <p>8 for example, Michigan is in that category. I believe</p> <p>9 Florida is in that category. I'd have to go look to</p> <p>10 actually see.</p> <p>11 And it's also the case that legislatures, when</p> <p>12 they pass maps, also sometimes indicate that their map is</p> <p>13 satisfying traditional redistricting criteria and then</p> <p>14 provide a list of such criteria.</p> <p>15 Q. Did they do that in Prop 50? Did the legislature</p> <p>16 do that in Prop 50?</p> <p>17 A. I don't know.</p> <p>18 Q. In the material that you reviewed, you did not</p> <p>19 see that they stated that they were adhering to</p> <p>20 traditional redistricting criteria?</p> <p>21 A. That is correct.</p> <p>22 Q. In your analysis of the Prop 50 maps, did you</p> <p>23 have access to the addresses of where the incumbents</p> <p>24 lived?</p> <p>25 A. No, I did not.</p>	<p style="text-align: right;">Page 144</p> <p>1 I can respond to it.</p> <p>2 Q. Just examining the single data point of the</p> <p>3 Hispanic CVAP number, whether it goes up or down, that</p> <p>4 number alone does not automatically mean that you have a</p> <p>5 racial gerrymander; is that correct?</p> <p>6 MS. HASAN: Objection; compound.</p> <p>7 THE WITNESS: Movement in Hispanic CVAP, whether</p> <p>8 up or down, does not automatically tell you whether or not</p> <p>9 you have had a redistricting in which race was the</p> <p>10 preponderant motive since Hispanic CVAP, especially in</p> <p>11 California, and especially in a situation involving</p> <p>12 partisan gerrymandering, as in Prop 50, where there are</p> <p>13 lots of lines being moved, almost inevitably there will be</p> <p>14 movement of Hispanics both up and down in the districts</p> <p>15 even though the map is a partisan gerrymander rather than</p> <p>16 a racial gerrymander.</p> <p>17 BY MR. MEUSER:</p> <p>18 Q. I believe you said in Congressional District 13,</p> <p>19 we talked about how the Hispanic CVAP number declined;</p> <p>20 correct?</p> <p>21 A. The Hispanic CVAP number in District 13</p> <p>22 essentially stayed the same. It went from 54.0 to 53.8, I</p> <p>23 mean, which is to say numbers which are trivially</p> <p>24 different from one another.</p> <p>25 Q. But the Democrat percentage of that district went</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. So you did no analysis of how the reshuffling of</p> <p>2 the maps affect incumbency?</p> <p>3 A. No, that is not correct, because, as you know, I</p> <p>4 indicated that one of the incumbents in District 41</p> <p>5 actually had his district number taken out from under him.</p> <p>6 And you don't actually move a district. You only move a</p> <p>7 district number.</p> <p>8 And so presumably, wherever he lived, he wasn't</p> <p>9 living in his District 41 anymore. I didn't need to know</p> <p>10 exactly where in 41 he lived since there was zero overlap.</p> <p>11 I also looked up -- partly because I was</p> <p>12 interested in districts that were -- that Dr. Trende</p> <p>13 highlighted, namely, 13, 5, and 9. I also looked up the</p> <p>14 existence of an incumbent in District 9, and that's</p> <p>15 available on his website. I'm sorry if I didn't cite to</p> <p>16 his website among the list of thing that I had identified,</p> <p>17 but I did identify him as an incumbent in the City of</p> <p>18 Tracy, and that's where I got my information from.</p> <p>19 Q. Any others?</p> <p>20 A. No, I did not look at any other incumbents.</p> <p>21 Q. Okay. Would you agree with me that the fact that</p> <p>22 whether the Hispanic CVAP number goes up or down, that</p> <p>23 does not mean that a racial gerrymander has occurred?</p> <p>24 A. I'm sorry. That's a -- that's a strange</p> <p>25 question, and I'm not sure that, in the present phrasing,</p>	<p style="text-align: right;">Page 145</p> <p>1 up; is that correct?</p> <p>2 A. Yes, it went up in -- according to the Democratic</p> <p>3 share of the 2024 presidential contest. And it also went</p> <p>4 up, I believe, if you analyze some other elections, such</p> <p>5 as the 2024 U.S. Senate election or the 2022 gubernatorial</p> <p>6 election.</p> <p>7 Q. I believe in your report you state that Hispanics</p> <p>8 are the plurality in the state; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. There is no racial majority in the State of</p> <p>11 California?</p> <p>12 A. Not at present. That is correct.</p> <p>13 And let me be clear. There is no racial or</p> <p>14 ethnic majority group in the state.</p> <p>15 Q. Okay. When was the last time there was a racial</p> <p>16 white majority in the State of California?</p> <p>17 A. I'm -- exactly when, I am not sure. Certainly</p> <p>18 for most of the time that I've lived as a Californian.</p> <p>19 Q. I believe earlier you were talking about --</p> <p>20 correct me if I'm wrong. You used a number of 90 percent</p> <p>21 of blacks vote Democratic?</p> <p>22 A. Yes, that's correct.</p> <p>23 Q. What was the percentage that you associated with</p> <p>24 the Hispanics voting Democrat?</p> <p>25 A. Somewhere between 60 and 70 percent.</p>

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<p style="text-align: right;">Page 146</p> <p>1 Q. Where did you pull that number from?</p> <p>2 A. That one is partly based on Hispanic registration</p> <p>3 numbers. It's partly based on a report probably -- I've</p> <p>4 read so many things. So I believe the cite for that</p> <p>5 particular thing is the Public Policy Institute of</p> <p>6 California report on the 2024 election, but I may be</p> <p>7 wrong.</p> <p>8 I've read a lot of different sources. Many of</p> <p>9 them, I should indicate, before I was involved in any way</p> <p>10 in this lawsuit.</p> <p>11 Q. And have you read or are you aware of any reports</p> <p>12 that talk about Hispanic males starting to vote less</p> <p>13 Democrat than they have in the past?</p> <p>14 A. Yes.</p> <p>15 Q. When did this trend first begin that you are</p> <p>16 aware of?</p> <p>17 A. First -- it is first -- first begin, I do not</p> <p>18 know the answer to. First publicized, I would say within</p> <p>19 2024 with suggestions from those who wrote about it that</p> <p>20 the trend had actually begun even earlier than the 2024</p> <p>21 election.</p> <p>22 Q. But academia started publishing it in 2024, or</p> <p>23 that's when you became aware of the publications?</p> <p>24 A. Yes. I'm -- again, I'm not really sure. This is</p> <p>25 one I'm really truly not sure. I seem to remember reading</p>	<p style="text-align: right;">Page 148</p> <p>1 MS. HASAN: Objection; compound.</p> <p>2 THE WITNESS: There I simply don't know the</p> <p>3 answer. I don't believe the answer is yes because the --</p> <p>4 because we're not talking about dramatic -- dramatic</p> <p>5 changes. We're talking about changes in a particular</p> <p>6 subset of the Hispanic population. And then -- and I</p> <p>7 don't know the magnitude of those changes.</p> <p>8 BY MR. MEUSER:</p> <p>9 Q. Are you familiar with the Alexander Standard?</p> <p>10 A. That's calling for legal question.</p> <p>11 Q. Just the fact if you're aware of it, that's not a</p> <p>12 legal question.</p> <p>13 A. Okay. In that case, as a political scientist, I</p> <p>14 am aware of the Alexander Standard, yes, though I could</p> <p>15 not carefully -- I could not accurately characterize it.</p> <p>16 Q. Okay. Does the Alexander Standard -- let me</p> <p>17 strike that.</p> <p>18 Okay. As a political scientist aware of the</p> <p>19 Alexander Standard, does that shape the way you have to</p> <p>20 analyze problems?</p> <p>21 MS. HASAN: Objection; vague.</p> <p>22 THE WITNESS: And clearly, that requires a legal</p> <p>23 answer, so I'm not in a position to answer it.</p> <p>24 BY MR. MEUSER:</p> <p>25 Q. So you are not qualified to tell us whether these</p>
<p style="text-align: right;">Page 147</p> <p>1 about -- again, I'm not at all clear what exactly this has</p> <p>2 to do with this case, but in any case, we have -- my</p> <p>3 memory as a political scientist is that I read about</p> <p>4 changes in voting patterns in -- among young, male, poor</p> <p>5 Hispanics, particularly those who are -- came recently to</p> <p>6 the United States.</p> <p>7 Q. But could a change in voting patterns of young</p> <p>8 male Hispanics, could that have an analysis in a racial</p> <p>9 polarized voting that would need to be done?</p> <p>10 MS. HASAN: Objection; calls for speculation.</p> <p>11 THE WITNESS: I've never done or seen an analysis</p> <p>12 that breaks down things to that level of detail. Normally</p> <p>13 we do, as I suggested earlier, dichotomous analyses.</p> <p>14 And those who study -- political scientists who</p> <p>15 study other things might do other things, but in terms of</p> <p>16 racially polarized voting, the answer is no.</p> <p>17 BY MR. MEUSER:</p> <p>18 Q. I guess -- let me rephrase the question.</p> <p>19 The fact that there seems to be a group of</p> <p>20 Hispanics that are diverging from the known historical</p> <p>21 trend of Hispanics voting for Democrats, does that fact</p> <p>22 that that -- the historical norm might be becoming a lower</p> <p>23 percentage, would that require someone to have to do a new</p> <p>24 racial polarizing analysis and not be able to rely upon</p> <p>25 past racial polarizing analysis?</p>	<p style="text-align: right;">Page 149</p> <p>1 maps meet the Alexander Standard; correct, because you're</p> <p>2 not a lawyer?</p> <p>3 A. I can certainly indicate whether or not the map</p> <p>4 in its effects is one such that there is the -- there</p> <p>5 exists a more compact district which increases the number</p> <p>6 of Democrats while reducing the number of Hispanics while</p> <p>7 not changing anything else about any of the other</p> <p>8 districts in their partisan consequences.</p> <p>9 Q. Did you do that with the Prop 50 maps?</p> <p>10 A. No.</p> <p>11 Q. Okay. Suppose a state engaged in redistricting</p> <p>12 with the overall goal of increasing its Democrat</p> <p>13 Congressional delegation but constrained by a separate</p> <p>14 goal of maintaining a set number of Hispanic majority</p> <p>15 districts. In that scenario, would you agree that the</p> <p>16 partisan goal is subordinate to the racial goal at least</p> <p>17 on a statewide basis?</p> <p>18 MS. HASAN: Objection; compound. Incomplete</p> <p>19 hypothetical. Calls for speculation.</p> <p>20 THE WITNESS: That one I cannot answer in a clear</p> <p>21 yes or no fashion. Maintaining Hispanic districts is --</p> <p>22 has multiple purposes and multiple explanations. Hispanic</p> <p>23 districts can be maintained simply because the geography</p> <p>24 essentially compels the creation of such districts in</p> <p>25 overwhelming Hispanic areas.</p>

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<p style="text-align: right;">Page 150</p> <p>1 Hispanic districts could be maintained in order 2 to ward off a possible section to challenge or in the 3 belief that these districts, in fact, were required by 4 Section 2. 5 The partisanship of these districts also would be 6 important insofar as one would be trying to judge whether, 7 on balance, looking at the state as a whole, partisanship 8 rather than race was the preponderant motive. And, of 9 course, that is exactly what I have done in my own report. 10 BY MR. MEUSER: 11 Q. Does the ACS data have a lot of errors in it? 12 A. Errors, no. Limitations, yes. 13 Q. And what do you mean by that? 14 A. I mean by that that it is a sample and therefore 15 excludes a certain number of -- actually 5/6th, if I 16 remember correctly, of the population in the United States 17 during the years in which the sampling takes place. 18 And so you can apply it statewide or nationwide, 19 but when you move down below that to try to find estimates 20 of particular census blocks or even census tracts, then 21 you simply don't have enough information usually to be 22 able to do reliable estimates. 23 Q. Is that what you'd call an error margin? 24 A. Yes. An error margin, an error rate. Those 25 would be appropriate statistical terms.</p>	<p style="text-align: right;">Page 152</p> <p>1 MR. BATES: Yes. 2 3 EXAMINATION 4 5 BY MS. HAMILL: 6 Q. Thank you for sitting here today. 7 In your experience as a redistricting expert, is 8 it common to ascertain a motive for drawing lines based 9 only on the effects of a map? 10 A. Yes and no. The -- most of the analyses of 11 partisan gerrymandering that I am familiar with are about 12 effects. 13 Q. And in other cases? 14 A. Here we move away from political science 15 expertise to areas that touch on what is legal. But if we 16 look at the history of -- the technical history of the 17 Voting Rights Act, the Congress opted for an effects-based 18 test, at least as I understand it from the things like the 19 Senate report, because of the difficulty of identifying 20 motives. 21 Q. Would it be prudent here in this case to look at 22 the actual motives of the people who drew the maps? 23 A. That is an easy -- 24 MS. HASAN: Objection; calls for speculation. 25 THE WITNESS: That for me is a relatively easy</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. So does ACS have an error margin? 2 A. There is no single error margin for ACS because 3 the error margin is going to depend on the scale at which 4 the ACS data is being applied. 5 Q. Okay. So it might be different for Los Angeles 6 County than it would be for Trende County? 7 A. Exactly. 8 Q. Did you consider that error margin at all in your 9 analysis of your report? 10 A. No. 11 MR. MEUSER: I think I've asked all my questions, 12 but if you don't mind, I'd like to allow Julie to go while 13 I continue to review my notes to make sure I have 14 everything, if you don't mind. Otherwise, I'm going to 15 take a five-minute break to go through my notes. I'm just 16 trying to speed it along so we can get you on the plane. 17 MS. HASAN: I think either way is fine. 18 MR. MEUSER: I'm going to let Julie go, and I'll 19 just review my notes to make sure I have everything I 20 need. So I might have a couple follow-ups to her. 21 MS. HAMILL: Are you doing okay? Do you need to 22 take a break? 23 THE WITNESS: Yes. No. That's fine. 24 MS. HAMILL: All right. Will the people hear me 25 if I'm sitting here?</p>	<p style="text-align: right;">Page 153</p> <p>1 question to answer, and the answer is no. 2 BY MS. HAMILL: 3 Q. Why is that? 4 A. For several reasons. First of all, because the 5 motives of a mapmaker are essentially irrelevant, in my 6 view, to the motives that are the relevant ones from a 7 political science standpoint. 8 And here, let me give you an example from my own 9 experiences as a mapmaker to courts. I prepare a map or 10 sometimes alternative maps for courts, and the courts 11 choose a map. 12 Once the courts have chosen a map, it's not my 13 map. And it's not my intent in drawing the map that 14 matters. It is the intent of the court that adopts the 15 map. And that court may or choose not to, maybe, for 16 reasons or choose not to give reasons for why it is 17 adopting the map. 18 Here in California, the situation is further 19 complicated because there is at least one important -- in 20 my view, quite important -- intervening and critical final 21 step, and that is that the referendum put the map proposed 22 by the legislature to the voters. 23 So when I think of the Prop 50 map, I classify it 24 as the voters' map because it is the voters who adopted 25 it.</p>

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<p style="text-align: right;">Page 154</p> <p>1 Q. But the voters didn't see what the inputs were to 2 draw that map; correct? 3 A. No. 4 MS. HASAN: Objection; argumentative. Calls for 5 speculation. 6 THE WITNESS: No, the -- what -- the voters saw a 7 campaign. The voters saw a ballot statement which is 8 contained in my report. And as a California voter, I have 9 my own personal beliefs as to what the map was intended to 10 do. And I believe that the evidence is as demonstrated by 11 the partisanship of the voting patterns on Proposition 50. 12 The patterns of voting on Proposition 50 are that 13 Democratic voters overwhelmingly voted for the map. I 14 think certainly the survey data suggests somewhere in the 15 80 percent range or even higher, whereas Republicans 16 overwhelmingly voted against Prop 50. 17 BY MS. HAMILL: 18 Q. So it could have been a complete racial 19 gerrymander, but if the ballot statement said it was 20 partisan, then it's a partisan gerrymander? 21 A. If you're asking about intent, the intent of the 22 voters was the intent of the voters. The effects of the 23 map are the kinds of things that I look at in my reports. 24 Q. So it's not important for us in this case to 25 understand what the mapmaker input into the map when he</p>	<p style="text-align: right;">Page 156</p> <p>1 A. Why should I? 2 MS. HASAN: Objection; relevance. 3 THE WITNESS: I'm sorry. I wasn't arguing. 4 BY MS. HAMILL: 5 Q. Did anyone tell you not to speak to Paul 6 Mitchell? 7 A. No. 8 Q. Did you have any curiosity whatsoever as to how 9 he drew the map? 10 MS. HASAN: Objection; relevance. 11 THE WITNESS: Curiosity? If I did have any 12 curiosity, it is absolutely irrelevant to what I did in my 13 report. 14 BY MS. HAMILL: 15 Q. So the mapmaker's inputs are irrelevant to your 16 report? 17 A. To my report, in terms of the effects-based 18 analysis done, yes, that is correct. 19 Q. So it is correct in this case that you did not 20 talk to the map drawer? 21 A. That is correct. 22 Q. And you did not review what inputs were actually 23 used to create the map? 24 MS. HASAN: Objection; asked and answered. 25 THE WITNESS: The inputs actually used? I had</p>
<p style="text-align: right;">Page 155</p> <p>1 drew the lines? 2 A. The mapmaker's input is the mapmaker's belief 3 about what the map did. The map did something. What the 4 map actually did were the map's effects. 5 And insofar as intent is relevant, it's not the 6 intent of the mapmaker, but it's the intent of the 7 adopter. And whether -- and it's a legal question as to 8 whether the adopter should best be regarded as the 9 legislature or whether the adopter should best be regarded 10 as the voters of California, who voted 60-plus percent for 11 this map in a referendum. 12 Q. Have you been hired to do the kind of work you're 13 doing in this case now in other cases? 14 A. No. Actually, this is essentially a unique 15 situation for me in my expert witness testimony. This is 16 a situation where we have to look at the relative balance 17 of evidence on behalf of partisan gerrymandering as the 18 prime cause, principal cause, predominant cause, versus 19 race as the principal or prime or predominant cause. 20 I've never actually had a case like this. 21 Q. And throughout the day, I've heard you say 22 "preponderant" and "predominant." Do you use those two 23 terms interchangeably? 24 A. Yes, I'm using those terms interchangeably. 25 Q. Why didn't you speak to Paul Mitchell?</p>	<p style="text-align: right;">Page 157</p> <p>1 available to me the legislative data set, and that I take 2 to be the inputs used to create the map, that plus the 3 shape files plus the block equivalency files. 4 BY MS. HAMILL: 5 Q. Does that tell you whether or not race was used 6 to draw the lines? 7 A. No. The analysis in my report tells me whether 8 or not race was the preponderant motive as opposed to 9 partisanship being the preponderant motive. 10 Q. And you don't know if the map drawer used race to 11 draw the lines? 12 MS. HASAN: Objection; asked and answered. 13 THE WITNESS: Used race is -- let me say "used 14 race" is an imprecise term. Presumably, the issue is 15 whether race was the preponderant motive. 16 As I indicated in my report, for a variety of 17 reasons having to do with the demography and geography of 18 California, it's almost impossible to draw lines which 19 don't change the Hispanic composition of districts. 20 BY MS. HAMILL: 21 Q. I'll ask that one more time. 22 So you don't know if the map drawer used race to 23 draw the lines here? 24 MS. HASAN: Objection; asked and answered. 25 THE WITNESS: I'll take that as a different</p>

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<p style="text-align: right;">Page 158</p> <p>1 question than I did just answer, and I will take your 2 language to mean was race the preponderant motive. 3 BY MS. HAMILL: 4 Q. That's not what I asked. 5 A. You asked used race? I don't know what it means 6 to use race. 7 Q. I'm asking did the -- 8 MS. HASAN: And I'd ask that the witness be 9 allowed to finish his answer before you start your next 10 question. 11 MS. HAMILL: Thank you. 12 BY MS. HAMILL: 13 Q. You don't know if the map drawer clicked a box 14 for race to draw the specific lines for a specific 15 district because you didn't talk to the map drawer; right? 16 MS. HASAN: Objection; asked and answered. 17 THE WITNESS: Yes, I did not. I do not have 18 knowledge of exactly what the map maker did, as I have 19 previously stated. 20 BY MS. HAMILL: 21 Q. And it is possible that the map drawer used race 22 to draw these maps? 23 MS. HASAN: Objection; asked and answered. Calls 24 for speculation. It's been well-established throughout 25 this deposition that Mr. -- Dr. Grofman doesn't know what</p>	<p style="text-align: right;">Page 160</p> <p>1 by a federal court to draw a map in response to a finding 2 by that federal court that a given district -- sorry. 3 Actually, usually just given map -- was a racial 4 gerrymander. 5 I then have attempted to draw a map for the court 6 which was not a racial gerrymander. I did not need to 7 define a racial gerrymander for purposes of my expert 8 witness testimony because the court had already specified 9 that the map for which I was providing a remedy was, in 10 the court's view, a racial gerrymander. 11 Q. Do you recall which case that was? 12 A. Michigan would be one, I believe. I'd have to go 13 double-check to make sure, but I believe that is right. 14 Q. Michigan versus United States -- 15 A. Give me a moment. I'll find it for you. 16 Q. Thank you. 17 A. AGEE versus Benson, A-g-e-e, versus Benson. 18 Q. Thank you. 19 Did you see a request for proposals from the 20 State of California for what became the Prop 50 map? 21 A. Actually, I don't remember ever doing that, no. 22 Q. Did you see an RFP, request for proposals, from 23 the DCCC for what became the Prop 50 map? 24 A. That one, I know I didn't see. 25 Q. Okay. So if you were going to draw --</p>
<p style="text-align: right;">Page 159</p> <p>1 the map drawer did. 2 MS. HAMILL: I'll ask again. 3 BY MS. HAMILL: 4 Q. It's possible that the map drawer used race to 5 draw these districts? 6 MS. HASAN: Objection. 7 THE WITNESS: I do not know what the map maker 8 did. 9 BY MS. HAMILL: 10 Q. But it is possible? 11 A. Many things are possible. I do not know the 12 answer. 13 Q. And you're using statistical analysis to look at 14 effects only? 15 A. Yes, that is correct. 16 Q. Did you define racial gerrymander in your report? 17 A. I took racial gerrymander to mean that race was 18 the preponderant factor in the way in which particular 19 lines were drawn. That is how -- just as I would take 20 partisan gerrymander to mean that partisanship was the 21 primary factor in how particular lines were drawn. 22 Q. Have you defined racial gerrymandering in any of 23 your publications? 24 A. I'm not quite sure of the answer to that. I 25 certainly have, in situations where I have been brought in</p>	<p style="text-align: right;">Page 161</p> <p>1 A. No. I'm sorry. I take it back. I may well have 2 seen the request for proposals back in 2021 or so. 3 That -- it occurs to me that I might well have seen it and 4 just simply disregarded it. 5 Q. Okay. I was referring to this specific 6 Proposition 50. 7 A. This round, no. For this round, I can say with 8 confidence that I did not see. 9 Q. But in the past, you've seen the DCCC -- 10 A. No, never the DCCC. 11 Q. The State of California has issued an RFP for 12 people to submit maps? 13 A. In which year are we talking about? 14 Q. You mentioned you might have seen something in 15 2021. 16 A. Oh, in 2021. 17 Q. So the State of California then issued an RFP? 18 A. The special -- the Citizens Redistricting 19 Commission asked for public input into the maps. 20 Q. So does that allow people to submit maps? 21 A. Yes. 22 Q. So different groups would submit different maps? 23 A. Yes. 24 Q. And then the commission would decide which one 25 was best?</p>

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<p>Page 162</p> <p>1 A. Or adopt a map of its own.</p> <p>2 MS. HASAN: Objection; relevance.</p> <p>3 BY MS. HAMILL:</p> <p>4 Q. So if you were going to draw this -- what</p> <p>5 became this proposition 50 map for Partisan purposes only,</p> <p>6 without regard to race whatsoever, would it look different</p> <p>7 from the prop 50 map that we have?</p> <p>8 MS. HASAN: Objection; calls for speculation.</p> <p>9 Incomplete hypothetical.</p> <p>10 THE WITNESS: That one I cannot answer since I</p> <p>11 have not attempted to draw such a map.</p> <p>12 BY MS. HAMILL:</p> <p>13 Q. Were you aware that the attorneys who hired you</p> <p>14 filed 15 volumes of exhibits last night and early this</p> <p>15 morning?</p> <p>16 A. No, actually.</p> <p>17 Q. So I assume you have not reviewed them?</p> <p>18 A. That would be correct.</p> <p>19 Q. Okay. And I think we got this out earlier or</p> <p>20 discussed this, but to be clear, Latinos are not a</p> <p>21 minority in California; correct?</p> <p>22 A. Latinos are a plurality of Californians.</p> <p>23 Q. Okay.</p> <p>24 A. Let me try to be very precise because the</p> <p>25 definition of minority is not necessarily in terms of</p>	<p>Page 164</p> <p>1 Prop 50 map than they were in the CRC map.</p> <p>2 Q. Do you recall seeing whether the compactness</p> <p>3 scores around District 13, so for the districts touching</p> <p>4 District 13 -- did those shift dramatically in any</p> <p>5 direction?</p> <p>6 A. I'm sorry. I don't remember. I don't believe</p> <p>7 the answer is yes. I don't believe the answer is anything</p> <p>8 other than no because most of these shifts were fairly</p> <p>9 minor, but I don't remember.</p> <p>10 Q. And it's not in your report?</p> <p>11 A. It's not in my report.</p> <p>12 Q. Could a map drawer have drawn a map that was more</p> <p>13 partisan than this Prop 50 map that we have?</p> <p>14 MS. HASAN: Objection; calls for speculation.</p> <p>15 THE WITNESS: A mapmaker could, in principal,</p> <p>16 have drawn a map which is more partisan -- even more</p> <p>17 partisan than the Prop 50 map. But in order to do so, the</p> <p>18 mapmaker would have had to persuade -- sorry -- the</p> <p>19 legislature which would adopt such a map would have to</p> <p>20 have persuaded its members to sacrifice themselves on the</p> <p>21 altar of additional gains for Democrats.</p> <p>22 And one of the things that is very well known</p> <p>23 within the political science literature, going back to</p> <p>24 David Mayu (phonetic) at Yale's classic work on the</p> <p>25 electoral connection and other scholars, such as Tom</p>
<p>Page 163</p> <p>1 population. It is rather, at least in terms of the Voting</p> <p>2 Rights Act, in terms of groups which Congress has</p> <p>3 identified as having suffered from a previous history of</p> <p>4 discrimination and/or vote dilution, and those groups are</p> <p>5 named and enumerated in the Voting Rights Act, and</p> <p>6 Hispanics or those of Spanish heritage is one such group.</p> <p>7 Q. Have you seen Rodden's (phonetic) expert report?</p> <p>8 A. No.</p> <p>9 Q. Have you seen a Fairfax expert report?</p> <p>10 A. No.</p> <p>11 Q. Have you spoken to anyone at the DCCC about this</p> <p>12 case?</p> <p>13 A. No.</p> <p>14 Q. Have you spoken to anyone at LULAC about this</p> <p>15 case?</p> <p>16 A. No.</p> <p>17 Q. And did you analyze the compactness scores for</p> <p>18 districts adjacent to District 13 in this map?</p> <p>19 A. Yes, I did, but I don't remember the answer.</p> <p>20 That's not part of this, and I don't remember the -- I</p> <p>21 don't remember the numbers specifically other than to --</p> <p>22 other than to note that almost certainly, one of the</p> <p>23 things that will happen in a partisan gerrymander is that</p> <p>24 compactness scores will go down. And I can attest to the</p> <p>25 fact that compactness scores are somewhat lower in the</p>	<p>Page 165</p> <p>1 Mann's book on Unsafe at Any Margin, is that no incumbent</p> <p>2 ever believes himself or herself safe enough.</p> <p>3 BY MS. HAMILL:</p> <p>4 Q. So what do you mean they would have to sacrifice</p> <p>5 themselves?</p> <p>6 A. In order -- there are only so many Democrats to</p> <p>7 go around. As a consequence, if you're going to draw a</p> <p>8 successful partisan gerrymander, you have to balance the</p> <p>9 three goals of effective partisan -- efficient partisan</p> <p>10 gerrymandering that I've identified in my report.</p> <p>11 You have to simultaneously maintain the safe</p> <p>12 seats for your guys because -- or the gals. Because</p> <p>13 otherwise, they're going to be very upset with you.</p> <p>14 You have to protect insofar as possible most, if</p> <p>15 not all, of your most vulnerable incumbents, and then you</p> <p>16 have to somehow, after having done these two things, find</p> <p>17 enough Democrats to be able to -- I tend to use -- I'm</p> <p>18 tempted to use an expletive deletive term here -- to</p> <p>19 sufficiently reduce the Republican vote share in the</p> <p>20 districts where there are Republican incumbents that is</p> <p>21 feasible for a Democrat -- if not certain, for a Democrat</p> <p>22 to win those districts in the future.</p> <p>23 All of that requires you find Democrats. And as</p> <p>24 I say in my report, the key to partisan gerrymandering is</p> <p>25 efficient distribution of your supporters and your</p>

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<p style="text-align: right;">Page 166</p> <p>1 opponents.</p> <p>2 Q. So it's possible that this could have been drawn</p> <p>3 to be more partisan?</p> <p>4 MS. HASAN: Objection; calls for speculation.</p> <p>5 THE WITNESS: I've -- I mean, I've indicated that</p> <p>6 in order to do this, you would have to reach agreement.</p> <p>7 And I actually -- my own personal view as a political</p> <p>8 scientist is that would not be easy to do because now you</p> <p>9 would have to find enough Democrats to gain additional</p> <p>10 seats beyond five.</p> <p>11 Is it possible? I don't know for sure. I</p> <p>12 haven't tried doing it. Is it hypothetically possible in</p> <p>13 some world, if you didn't pay attention to other features,</p> <p>14 didn't care about what happened in other districts?</p> <p>15 Probably.</p> <p>16 BY MS. HAMILL:</p> <p>17 Q. So I'm going to take that as a yes, it's</p> <p>18 possible?</p> <p>19 A. It's possible.</p> <p>20 MS. HASAN: Objection; misstates prior testimony.</p> <p>21 THE WITNESS: I will be happy to give you a</p> <p>22 possible provided you allow me to state the addenda, the</p> <p>23 caveat, which is to say possible, but highly, highly</p> <p>24 unlikely and improbable in the real world.</p> <p>25 BY MS. HAMILL:</p>	<p style="text-align: right;">Page 168</p> <p>1 ripple effect. So if you're going to create an additional</p> <p>2 Democratic seat, then -- or strengthen the Democratic</p> <p>3 seats without -- you have to be able to find enough</p> <p>4 population to create a District 41 located in a different</p> <p>5 part of the state.</p> <p>6 And basically, that's done by rippling the</p> <p>7 population that was in District 41, as it previously</p> <p>8 existed, across the state in a series of movements that</p> <p>9 affects population shifts and boundary shifts in all --</p> <p>10 not all -- in almost all the districts that are in between</p> <p>11 old District 41 in the CRC map and new District 41 in the</p> <p>12 Prop 50 map.</p> <p>13 So that then has a ripple effect that allows the</p> <p>14 Democrats to draw on population areas that were in old 41</p> <p>15 to do various things, most importantly, boost the</p> <p>16 reelection chances of some Democrats, and create a new</p> <p>17 seat that will almost certainly elect a Democrat.</p> <p>18 Q. And you haven't read any of Paul Mitchell's</p> <p>19 comments regarding why he drew 41 the way he drew it;</p> <p>20 correct?</p> <p>21 MS. HASAN: Objection; asked and answered.</p> <p>22 THE WITNESS: Yes, this one is asked and</p> <p>23 answered.</p> <p>24 BY MS. HAMILL:</p> <p>25 Q. I haven't asked that question, actually.</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. So you mentioned earlier, when you were speaking</p> <p>2 to Mr. Meuser, that District 41 was a very special case.</p> <p>3 Can you tell me more about why District 41 is a very</p> <p>4 special case?</p> <p>5 A. Yes. District 41 is in some way the lynchpin to</p> <p>6 the efficient partisan gerrymandering that the Democrats</p> <p>7 did. Because what they did by basically taking</p> <p>8 District 41's number and moving it away from where that</p> <p>9 district had previously been located and a district in</p> <p>10 which the incumbent lived and moving it -- in this case, I</p> <p>11 guess west to a different area of the state. Not that</p> <p>12 far, but still a different area of the state. That had</p> <p>13 two important effects. Actually, three important effects.</p> <p>14 First and foremost, it really, really made it</p> <p>15 impossible for the then incumbent in District 41, who was</p> <p>16 a Republican, to win election. So that pretty much gave</p> <p>17 Democrats one seat.</p> <p>18 Secondly, it probably made that incumbent shift</p> <p>19 districts, as that incumbent actually did, to another</p> <p>20 district, which has the benefit of guaranteeing that</p> <p>21 there's a reduction by one incumbent in the number of</p> <p>22 Republican incumbents in place -- though, again, the new</p> <p>23 seat might be one -- and causing some friction within the</p> <p>24 Republican Party.</p> <p>25 Then you have the other effect, which is the</p>	<p style="text-align: right;">Page 169</p> <p>1 You haven't read any comments from Paul Mitchell</p> <p>2 regarding why he drew District 41 the way he drew</p> <p>3 District 41?</p> <p>4 A. No, because I haven't read any comment -- I'm not</p> <p>5 interested in comments from Paul Mitchell as to why Paul</p> <p>6 Mitchell did or didn't do particular things.</p> <p>7 MS. HAMILL: I think I've got -- those are my</p> <p>8 questions.</p> <p>9 I reserve the right to review my notes and ask a</p> <p>10 couple follow-ups.</p> <p>11 Thank you very much.</p> <p>12 THE WITNESS: You're welcome.</p> <p>13</p> <p>14 EXAMINATION</p> <p>15</p> <p>16 BY MR. MEUSER:</p> <p>17 Q. As you sit here today, you have no plans to do</p> <p>18 any more research on the Prop 50 maps to prepare for your</p> <p>19 trial testimony; is that correct?</p> <p>20 MS. HASAN: Objection; privilege.</p> <p>21 THE WITNESS: I would have also said asked and</p> <p>22 answered in the sense that's a hypothetical that I cannot</p> <p>23 respond to until I am aware -- until I actually receive or</p> <p>24 don't receive the materials from the California Attorney</p> <p>25 General's office, I have no idea what it is that I am</p>

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<p>Page 170</p> <p>1 going to be reviewing or not reviewing.</p> <p>2 As I indicated earlier, what I plan to do and</p> <p>3 hope to do is to spend a happy couple weeks with my</p> <p>4 wife --</p> <p>5 BY MR. MEUSER:</p> <p>6 Q. Again --</p> <p>7 A. -- before December 15th.</p> <p>8 Q. Again, my question is very specific. As you sit</p> <p>9 here right now, there is no other research that you need</p> <p>10 to do to work on your report?</p> <p>11 A. There is nothing which occurs to me at this point</p> <p>12 that I would need to do. Insofar as there is anything</p> <p>13 that would be needed to be done, it is simply what I would</p> <p>14 call footnotes, meaning I've given you some numbers which</p> <p>15 were not in the report.</p> <p>16 And in some version of a future report or in</p> <p>17 testimony, I might wish to specify those numbers. I was</p> <p>18 asked, for example, about compactness scores. I was</p> <p>19 asked -- I was asked about the degree to which particular</p> <p>20 districts had changed their configurations. And I gave</p> <p>21 answers, and those answers are not contained in the</p> <p>22 report.</p> <p>23 Q. So do you plan to go look at the compactness</p> <p>24 scores so that you're prepared for that testimony at</p> <p>25 trial?</p> <p>Page 171</p> <p>1 A. Yes, I would. In that one I would anticipate,</p> <p>2 because I was asked a question which I did not know the</p> <p>3 answer to that I would normally, as an expert -- in</p> <p>4 anticipation of being asked the same question, I would</p> <p>5 normally try to prepare to know it.</p> <p>6 MS. HASAN: I'm going to object to this line of</p> <p>7 questioning because it's getting at potential work</p> <p>8 product, and I think he's given a sufficient idea of what</p> <p>9 he may or may not do going forward.</p> <p>10 BY MR. MEUSER:</p> <p>11 Q. As a result of this deposition today, are there</p> <p>12 any new conclusions that you want to research to add to</p> <p>13 your conclusions?</p> <p>14 A. No.</p> <p>15 Q. Okay. Other than the two things that you've told</p> <p>16 us about, where we asked you questions that weren't in</p> <p>17 your report but you had researched it prior, is there any</p> <p>18 other research that you feel like you need to do to shore</p> <p>19 up your opinion?</p> <p>20 A. No. I believe my opinion is clear and concise</p> <p>21 and does not -- and is not in any real need of shoring up.</p> <p>22 In fact, any need of shoring up.</p> <p>23 MR. MEUSER: Nothing further.</p> <p>24 Anybody online? Our audience has greatly</p> <p>25 disappeared.</p>	<p>Page 172</p> <p>1 Going once. Going twice.</p> <p>2 I think this deposition is concluded. Thank you.</p> <p>3 THE WITNESS: I would simply note the famous</p> <p>4 definition of professor. A professor is someone who talks</p> <p>5 in other people's sleep.</p> <p>6 THE REPORTER: Counsel, do you need a copy?</p> <p>7 MS. HASAN: Can we do a same-day rough and the</p> <p>8 next-day final?</p> <p>9 THE REPORTER: Yes.</p> <p>10 MS. HASAN: DCCC requested the same. Lali</p> <p>11 Madduri is here for them. I'm not sure about LULAC, but</p> <p>12 Sofia is here for LULAC.</p> <p>13 MR. MEUSER: Sofia, are you here? Are you on</p> <p>14 mute?</p> <p>15 MS. MADDURI: This is Lali. For the transcript,</p> <p>16 we would like to order a same-day rough.</p> <p>17 MR. MEUSER: Yes, she just said that.</p> <p>18 MS. MADDURI: We're not ordering a next-day</p> <p>19 final. Thank you.</p> <p>20 MR. MEUSER: Okay. Sorry.</p> <p>21 Off the record.</p> <p>22</p> <p>23 [TIME NOTED 4:31 p.m.]</p> <p>24</p> <p>25</p> <p>Page 173</p> <p>1 -oOo-</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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2
3 I, BERNARD GROFMAN, do hereby declare under
4 penalty of perjury that I have read the foregoing
5 transcript; that I have made any corrections as appear
6 noted, in ink, initialed by me, or attached hereto; that
7 my testimony as contained herein, as corrected, is true
8 and correct.
9
10 EXECUTED this ____ day of _____,
11 20____, at _____, _____.
12 (City) (State)
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25

BERNARD GROFMAN

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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby certify:
3 That the foregoing proceedings were taken before
4 me at the time and place herein set forth; that any
5 witnesses in the foregoing proceedings, prior to
6 testifying, were duly sworn; that a record of the
7 proceedings was made by me using machine shorthand which
8 was thereafter transcribed under my direction; further,
9 that the foregoing transcript is a true record of the
10 testimony given.
11 Further, that if the foregoing pertains to the
12 original transcript of a deposition in a Federal Case,
13 before completion of the proceedings, review of the
14 transcript [] was [] was not requested.
15 I further certify I am neither financially
16 interested in the action nor a relative or employee of any
17 attorney of any of this action.
18 IN WITNESS WHEREOF, I have this date subscribed
19 my name.
20
21 Dated: 12/5/2025
22
23
24
25

Angela Metz

ANGELA METZ
CSR No. 12454, CLR

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