

Appendix D

Deposition of Rodden

1 ROUGH DRAFT

2 MR. MEUSER: Before we get going, Dr. Rodden, let's go
3 ahead and have everybody on line introduce themselves. I'll
4 start. Mark Meuser on behalf of the plaintiffs.

5 MR. BISHOP: Tyler Bishop on behalf of defendant and
6 intervener DCCC. DCCC, Democratic Congressional Campaign
7 Committee. And I'm joined by co-counsel Lalitha Madduri on
8 line and Chris Dodge on line as well.

9 MR. MEUSER: Anyone else on line?

10 MS. RIORDAN: -- Riordan for the United States.

11 MS. MCCALL: And we have Christina McCall on behalf of
12 the California state defendants, Governor Newsom and Secretary
13 of State Weber

14 MR. EASON: Ryan Eason also for state defendants.

15 MR. GREEN: David Green also for state defendants.

16 MR. HASAN: Iram Hasan also for state defendants.

17 MR. WOODS: Clint Woods also for state defendants.

18 MR. MEUSER: Did you get the first person or was she
19 cut off?

20 THE REPORTER: She was cut off a little bit.

21 MR. MEUSER: Maureen, can you go ahead and reidentify
22 yourself, somebody stepped on you.

23 MS. RIORDAN: Maureen Riordan on behalf of the
24 United States.

25 MR. MEUSER: Okay. The court reporter is good now.

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1 MS. RIORDAN: Great.

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4 EXAMINATION

5 BY MR. MEUSER:

6 Q Doctor, how many times have you had your
7 deposition taken?

8 A I'm not sure. That's a good question. It's
9 possible it's been seven or eight something like that.

10 Q When was the last time you had your deposition
11 taken?

12 A I think I've had one taken in the last year, less
13 than a year ago.

14 Q Okay. Are you familiar enough with the
15 deposition admonitions or do I need to repeat them for you at
16 this time?

17 A I think I'm familiar. I will make sure that you
18 finish asking your question before I speak and that sort of
19 thing but if I fail to do so then please let me know.

- 20 Q If you or I fail to do so there's a person at the
21 table who will remind us.
- 22 A Okay.
- 23 Q You are under oath.
- 24 A Yes.
- 25 Q Okay. So let's go ahead and start talking about

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- 1 the scope of your assignment. When were you first contacted
2 regarding being an expert witness if this case?
- 3 A Not very long ago. I think it was whatever I
4 don't have my calendar in front of me but whatever was the day
5 that Dr. Trende would have submitted his report I think it was
6 probably the day after that or something.
- 7 Q I believe that was Friday, November 6th if I'm
8 remembering right. So you believe you got a call like on
9 Saturday the 7th?
- 10 A That sound about right. It was somewhere around
11 there. I was unaware of any litigation.
- 12 Q Strike that. Friday was the 7th. So it would
13 have been Saturday the 8th if it was the next day if that
14 sounds about rite.
- 15 A That sound about right.

16 Q Okay. Were you aware of this litigation before
17 you were contacted by counsel?

18 A No.

19 Q You had not heard that there was this litigation
20 over the Prop 50 maps?

21 A Oh, I was at some events at the Stanford law
22 school in which people discussed various possible legal
23 questions that might emerge related to the map. I wasn't
24 aware of any specific litigation.

25 Q When was that conference you were at?

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1 A I believe it was right around it was in late
2 October, I believe.

3 Q And do you know who put that on?

4 A The Stanford law I think it was called the
5 election law student association had a pizza lunch and invited
6 some faculty to come and have pizza with the student and talk
7 about election law and restricting the focus was not on
8 California but it came up in discussion.

9 Q Did you make a formal presentation at that?

10 A No it was informal event in which faculty were

11 present and students asked questions and we gave our best shot
12 at answering them.

13 Q How many faculty were at that meeting?

14 A Three or four.

15 Q And did any of the faculty expressly talk about
16 Prop 50 and the legal challenges that could be brought?

17 A Yes, I believe Professor Nate percently gave just
18 some thoughts on what were some possible issues that might
19 come up but I don't have a very good recollection -- I think
20 they were more procedural issues there was a discussion about
21 the nature in which the bill that came up in the legislature
22 the legislative process for that there was some discussion
23 about the laws related to the California state legislature.
24 That's the part I remember. I don't recall any discussion of
25 race and restricting in that meeting.

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1 Q What was the professor's name again? You just
2 mentioned?

3 A Yes Nate percently.

4 Q Nate percently. Have you had any other
5 conversations with the professor since that sit down
6 discussion regarding Prop 50?

7 A No.

8 Q Did anything that he said at that meeting affect
9 your testimony today?

10 MR. BISHOP: Objection. Vague.

11 THE WITNESS: No.

12 BY MR. MEUSER:

13 Q What were -- strike that.

14 When you became aware that you were being asked
15 to be an expert witness this case, what were you told the
16 scope of your assignment would be?

17 A I was told the scope of my assignment would be to
18 provide a response to Dr. Trende's report, to evaluate his
19 claims and provide my evaluation of his claims.

20 Q Anything else?

21 A No, I don't believe so.

22 Q So you were not asked to review Tom Bernell's
23 declaration?

24 A No.

25 Q Have you seen Tom Bernell's declaration?

1 A No.

2 Q What was the material that you received to

3 evaluate Sean Trende's report?

4 A I received Dr. Trende's report and then I

5 requested to also receive backup materials, which is common in

6 this setting to ask for the data and underlying materials. I

7 was sent some files that I was told were the totality of the

8 backup materials, but that did not include Dr. Trende's

9 demonstration maps. So I requested and I don't know it's

10 possible that something was lost in translation I asked for

11 those demonstration maps and then a couple of days later those

12 were provided to me as well.

13 Q If you want to know, it was my fault.

14 A Okay.

15 Q He sent me a couple files and then he sent me a

16 couple zips and when I gave the information, I just took the

17 files and the zips were sitting in my e-mail. So I had to

18 pull the zips and put them in a separate e-mail. It wasn't

19 because Sean didn't know what you wanted, it was because the

20 lawyer didn't realize that there's two sets of documents.

21 A I was prepared to blame the lawyers.

22 Q I take full responsibility for that one. You

23 can't blame Sean on that one. I don't think you did.

24 A No.

25 Q How much time did you spend between getting Sean

1 Trende's report and producing your final report?

2 A I'm not sure. I had some days when I carved out
3 some days that I worked some rather full days and I think
4 there was about a week of that of really focusing on this
5 report. When I set aside other issues so I think about a week
6 of fairly intense tiff work on the report.

7 Q 40 hours, 50 hours?

8 MR. BISHOP: Objection. Leading.

9 THE WITNESS: That sounds plausible but it could be a
10 little bit more could be a little less.

11 BY MR. MEUSER:

12 Q When were you planning on preparing your invoice
13 for this case?

14 A Sometime after probably after this after I'm --
15 either after this deposition or perhaps if there is a
16 proceeding in a couple of weeks I might wait until that's all
17 finished.

18 Q You have a method of keeping track of your hours
19 that you will review at that time that you send your invoice?

20 A I have a spreadsheet when I work I just enter my
21 hours and move on.

22 Q Okay. And you don't have access to that
23 spreadsheet today to give us a more precise number?

24 A No, I don't believe I do.

25 Q Okay. So in addition to looking at Sean Trende's

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1 report and the replicating data, anything else counsel gave to
2 you to prepare for this assignment?

3 A I don't believe so, no.

4 Q Did you look -- did they send you any pleadings
5 in this case?

6 A Pleadings --

7 MR. BISHOP: Objection. Vague also league term of
8 art.

9 THE WITNESS: I don't believe so. I believe I really
10 just focused on and received that report from Dr. Trende.

11 BY MR. MEUSER:

12 Q Okay. Did counsel give you any assumptions that
13 you needed to be made when responding to this report?

14 A No.

15 Q Now that we've talked about what counsel has
16 given you. What are the resources that you went and used to
17 prepare for your report?

18 A Yes, hopefully be able to remember all of them.

19 There's a short section early in the report that documents the

20 sources that I went to. For the United States census is the
21 decennial census is a place that I went for data on voting age
22 population and used census data on citizen voting age
23 population. I examined data from just to get the boundaries
24 of the proposed districts I believe I downloaded those from a
25 state web site the old districts I believe I obtained from the

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1 redistricting Commission web site. There's also a set of even
2 older districts from 2001 that I got from the California
3 statewide database. There are also data that I believe
4 Dr. Trende and I both received from a kind of collaborative
5 group of scholars spearheaded by someone named David Bradley
6 who has developed something called Dave's Redistricting App,
7 which has become quite a useful on-line tool for redistricting
8 and I believe Dr. Trende has also used. It's not only just a
9 web app, it is a collaborative collaborative data collection
10 exercise and so both Dr. Trende and I used political election
11 results data that the team at Dave's redistricting has
12 assembled and those come from a number of sources. The data I
13 looked at were from 2016 through 2024. And those general
14 elections the sources for those varied somewhat. They were
15 different groups of scholars who matched precinct level

16 election results to geographic boundary files, assembled those
17 and then through a desegregation process, placed the data --
18 kind of made some inferences about those data at the level of
19 census block groups and so I made use of that data. And to my
20 understanding that's also the data that Dr. Trende used,
21 although I'm not entirely sure.

22 Q Okay. So you said you obtained district
23 boundaries from the Commission, we draw the lines I'm assuming
24 what you're talking about for 2021; correct?

25 A Yes.

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1 Q And then you said you got the Prop 50 maps from a
2 government web site you said; correct?

3 A Yes. I'm trying to remember had a exactly what
4 was that web site but I don't recall right now.

5 MR. BISHOP: To the extent you intend to keep asking
6 him about the report itself I assume you may be introducing
7 the report as an exhibit I would suggest we let him do that.

8 MR. MEUSER: Okay. We will go ahead and enter two
9 exhibits into the record. We'll go ahead -- at 9:22 a.m.
10 today I got an e-mail from your associate which is marked

11 which is a PDF called Rodden 1 to Rodden 5 PDF which is the
12 responsive documents to our request for document -- for this
13 deposition. We will go ahead and mark that as Exhibit 1 to
14 this declaration -- or to this deposition. And then I'm going
15 to go ahead and I don't have it to give to the court reporter
16 right now, but for everybody on line so you know what we're
17 going to mark as Exhibit 2 and give to the court reporter at
18 lunch we're going to give a document 112-3 starting at page
19 266 which is expert report of Dr. Jonathan Rodden in support
20 of D triple Cs response to opposition to plaintiff's and
21 United States motion for preliminary injunction and it's going
22 to be a 40 page PDF that ends at 112-3 page number 305. And
23 that entire file has 332 pages. So Exhibit 2 is only going to
24 be the pages that start at page 266 and goes through 305. So
25 everybody on line that is what is going to be marked as

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1 Exhibit 2 and I will give it to the court reporter at break.
2 MR. BISHOP: Just so he has an opportunity to have it
3 in front of him I would like to him to be able to refer to it
4 if you could take a look at that and make sure that matches
5 your understanding.
6 MR. MEUSER: Go ahead and give -- this stops at 296.

7 It does not include the last couple pages which is his CV.

8 MR. BISHOP: I have a copy of that as well.

9 MR. MEUSER: It's not the PDF, but it does match. This
10 together, if he wants to be looking at it, will be
11 Exhibit 2.

12 MR. BISHOP: Thank you.

13 THE WITNESS: Thanks.

14 BY MR. MEUSER:

15 Q Doctor, what has been marked in front of you as
16 Exhibit 2, have you seen that before?

17 A Yes, this is my report.

18 Q And we were going through, I believe, stuff
19 that's on 4 of your report materials consulted; correct?

20 A Yes.

21 Q Now, I believe when you were telling me from
22 memory what was on your report you mentioned the 2001
23 districts but I don't see that in this paragraph here.

24 A Right. So looks like I did not describe the
25 source for the AB 604 geographic boundary file. It's possible

1 that I used the file from Dr. Trende's backup materials and

2 it's possible that I downloaded it from the

3 Q Assembly web site?

4 A I believe it's from the assembly web site that I
5 received it.

6 Q The files were there and the shake files they're
7 going to be the same either way.

8 A Yes, I don't believe there's going to be any
9 dispute about the boundaries.

10 Q What about the 2001 maps that you said a few
11 minutes ago that you looked at?

12 MR. BISHOP: Objection. Vague.

13 THE WITNESS: The 2001 map I obtained from the
14 statewide database web site which has a past congressional
15 district bounds Liz.

16 BY MR. MEUSER:

17 Q Is there a reason why you did not put that in
18 your materials consulted?

19 A It's there it says I obtained boundaries of
20 precincts as well as past congressional districts from the
21 California statewide database.

22 Q That's what you meant by that. Okay.

23 A Yes.

24 Q But for that you did not indicate the year. So
25 is 2001 the only year that you pulled geographic files for?

1 A I believe I looked at images of other like PDF
2 images of other districting plans. But I think the only one
3 that I actually used in the report and discussed was the 2001
4 so that's the only one for which I down loaded geographic
5 boundary files.

6 Q Did you look at the 2011 district for the
7 Stockton to Fresno south from Stockton to Fresno area?

8 A I did. I don't have very good recollection what
9 it looked like, but I looked at several. It's one of the
10 things when I'm asked to exam a specific district one of the
11 things I do is look at past versions of a district kind of
12 early in the process to kind of inform myself about a bit of
13 the history and the numbers have changed in California
14 congressional plans so if we just said let's look at district
15 13 I believe we'd be look at Alameda or something in the
16 past.

17 Q Actually if I remember 2011 San Francisco was
18 district 13?

19 A Oh, is that right.

20 Q If I'm remembering. I think Nancy Pelosi had
21 that number for ten years.

22 A Okay.

23 Q I understand that you looked at the 2021 data,
24 you looked at the AB 604 data. Geographic boundaries file I'm

25 looking at those three words there, you've talked about

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1 looking at the old what this area congressional district

2 looked like back in 2001 and what it looked like in 2011.

3 Anything else that you have not described that would be in the

4 category of geographic boundary files?

5 A You're saying anything beyond what I've described

6 here.

7 Q Yes.

8 A I don't know that we've been through everything

9 in this conversation just yet. I believe I documented

10 everything that I consulted here.

11 Q Okay. You say that you got block level estimates

12 of citizen voting age population results of the 2020

13 presidential election. Does that CVAP data actually come from

14 the -- what is the date -- strike that.

15 What is the date of the CVAP numbers that you

16 used and analyzed?

17 A 2020.

18 Q You believe that is what the Commission was

19 looking at, is that why you were using that year?

20 MR. BISHOP: Objection. Calls for speculation.

21 THE WITNESS: I'm just trying to recall had a my
22 process was here in thinking about CVAP. I believe it was
23 probably also possible to get some more recent CVAP data. My
24 thinking was that you know, I guess, I'm so often in a mode of
25 decennial redistricting and the focus is on that decennial

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1 data. And so my thinking was that was the safest bet. The
2 most likely focal point for these discussions was the data
3 from the 2020 decennial census, but I would certainly not have
4 any objection to looking at data from more recent data. It
5 would be I suppose from 2023 ACS one could get CVAP data, but
6 that's not what I consulted here.

7 BY MR. MEUSER:

8 Q So you did not consult the census 2023 data to
9 get your CVAP numbers?

10 A In my report I only discussed 2020. I don't
11 believe I had the more recent data but I may have at some
12 point. I may have down loaded it at some point but I think I
13 made the decision to focus on decennial data on the theory
14 that was the most likely focal point in these discussions and
15 evaluations.

16 Q Did you ever have a conversation with a man named

17 Paul Mitchell?

18 A No.

19 Q Did you have any conversations with any state

20 legislatures?

21 A No.

22 Q Again, I'm framing it since you've been assigned

23 this project on roughly November 8th; correct?

24 A Yes.

25 MR. BISHOP: Just so it's clear for the record, your

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1 question was legislators -- conversations with legislators?

2 BY MR. MEUSER:

3 Q Yes. Since November 8th when you were first

4 contacted by counsel, have you had any conversations with a

5 California legislature @@@

6 A No.

7 Q Are there any individuals that you used to assist

8 you in researching the data or writing your report?

9 A No.

10 Q Would you agree with me that there are multiple

11 data sources where you can get your CVAP data from.

12 MR. BISHOP: Objection argumentative.

13 THE WITNESS: The CVAP data will come from the census
14 no matter what. There are various interfaces where one might
15 down load census data.

16 BY MR. MEUSER:

17 Q And we both know that there is the main census
18 that happens every ten years; correct?

19 A At one time that was correct. I mean, the
20 decennial census is now really just a piecing together of --
21 the old long form census where lots of questions were asked
22 every decade is no longer in operation. So there are still a
23 small set of questions that are asked every ten years. So
24 that's still the decennial census is still the big source for
25 redistricting purposes, but the ACS is a rolling survey that

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1 also -- that takes place every year and then we can aggregate
2 over some ACS years to get some sense of data between the big
3 decennial censuses.

4 Q You did not use any of the censuses ACS data as
5 a part of your report?

6 A I don't believe so. I think I stuck with

7 decennial data here.

8 Q Do you know if Sean Trende used ACS data when he
9 was doing his report?

10 A I don't recall. There was some -- the
11 documentation of David was not very clear in some parts of his
12 reports. I don't have a good recollection of what his source
13 was for hispanic age population.

14 Q Now, I have never looked at Dave's redistricting
15 app. Is there a way that you can toggle buttons and say I
16 wants to look at the 2020 data or I want to look at the 2010
17 census or I want to look at the 20 thousand census?

18 A It's possible that that exists. I don't think it
19 does. If that functionality is buried somewhere in there I'm
20 not really sure. I think the procedure on that app is to use
21 the decennial data but the only complication is that there are
22 occasional updates and I'm not sure what the latest might be
23 for whether something has been updated in California.

24 Q Okay. Are you aware if the yearly data is
25 automatically put into Dave's app?

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1 A Definitely not automatically. I think it's at

2 the basically when Dave has time things get updated and Dave
3 has been rather busy is my understanding.

4 Q So you do not believe he's updated his app over
5 the last couple including the 2023 or the 2022 numbers the
6 last time he's updated this data would have been the 2020
7 census?

8 MR. BISHOP: Objection compound and confusing.

9 THE WITNESS: I would have to say that I'm just not
10 sure honestly I'm not sure what the latest update for -- if
11 2022 data are available yet on Dave's redistricting app I
12 would have to go check I'm just not sure. I did not rely on
13 Dave's redistricting app for the data I used. For the
14 analyses I was conducting, I was using data that I got
15 directly from the census.

16 BY MR. MEUSER:

17 Q That was in 2020 presidential -- or not -- 2020
18 main census data?

19 A Yes, because that's the kinds of gold standard
20 for redistricting. The data that with a come from the ACS
21 from the single year snapshots will be based on a sample.
22 These are smaller samples. The idea of the ACS is to do these
23 smaller samples every year with the hope that and when you
24 aggregate three or four different versions of the ACS you
25 start to have observations within some small geography to be

1 able to characterize them in some way. But in the decennial
2 census, we have this full count that is so much more reliable
3 for redistricting purposes. That's the main reason it didn't
4 really occur to me that it would be superior to reach out to
5 the ACS only to get, you know, a slightly more updated
6 indicator.

7 Q Tell me after you read Trende's report, after you
8 downloaded your data, what was the methodology that you used
9 to go from understanding what the report was to now writing
10 your report? What were the steps of what you did, reviewed
11 and how you did it?

12 MR. BISHOP: Objection. Compound.

13 THE WITNESS: Whenever I receive a report that I'm
14 asked to respond to, I just try to familiarize myself with the
15 materials. So examine the data for myself and so in this case
16 Dr. Trende's report really did not include a lot of statistics
17 which is unusual. Typically -- and, you know, I have worked
18 on cases in the past where Dr. Trende submitted a report and
19 there's often some statistical analysis. In this case there
20 were some maps and there were some inferences drawn from
21 images of maps. So my first inclination was to go ahead and
22 collect the similar data for myself and examine those maps and
23 try to understand what was happening so there was a period of
24 time in which I was just familiarizing myself with district

25 13, with the boundary, with the geography of the area as

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1 someone who lives in California I know the area a bit, but
2 there there was still some more learning to do. As I
3 described in the report, one of the things I wanted to do was
4 as much as I like maps, I wanted to also supplement just
5 visualizations with some data. And so I examined the places
6 that were moved in and out of district 13 and did that in a
7 few different ways and that was something that Dr. Trende had
8 not done. It was something that I was surprised by his report
9 because he explicitly argues that the transition from the
10 previous district to the new district involved the use of race
11 but there was really not much discussion or really any
12 discussion of the previous district in his report. So that
13 was one thing I needed to start out by doing is looking at the
14 previous district and try to understand those changes and try
15 to put some numbers on those. And there's a section in my
16 report that does that.

17 BY MR. MEUSER:

18 Q How long did that take, that process that you
19 just described?

20 A That was a big chunk of the first part of my
21 exploration which I think probably took three days or
22 something like that. It's really very hard for me to think
23 back about how long various steps in the process took but it
24 was something like that.
25 Q Okay. Then what did you do next?

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1 A Well, the things I did are basically documented
2 in the report. There was -- after presenting some simple
3 descriptive statistics I then thought further about the
4 inferences that Dr. Trende wanted to draw from his maps and
5 try to evaluate those. I think it can't be difficult to
6 visualize some things on a map and then draw very conclusive
7 inferences and he draws a very strong inference here which is
8 there was racial pre dominance in the drawing of the
9 districts. So I took a closer look at how he formed that
10 judgment from those districts, from those visualizations and
11 tried to think through the task that I was given here was to
12 think through Dr. Trende's methodology and to evaluate it. So
13 that was the next step was to really think about some of the
14 potential inferential difficulties associated with that
15 analysis. So I spent some time evaluating those maps and

16 learning some things about, for instance, where are the actual
17 people located. Rather than just looking at census block
18 groups and some colored maps and a census block group, one of
19 the things about that type of map that it can be misleading is
20 a very large area on the map might have color that really
21 strikes your eye, but it might be the case that only five
22 people live there. And so if we form our judgements from that
23 sort of thing, we might be easily mislead. So there's a
24 period in the report where I work through some of the
25 inferential difficulties from that type of map and that's

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1 really the heart of the report is really thinking through some
2 of those difficulties. And then trying to examine if
3 Dr. Trende said it's along the border between district 5 and
4 district 13 that census blocks were moved around in a way that
5 enhanced the hispanic voting age population of the district,
6 that is something that can be counted and can be examined and
7 so I went ahead and did that.

8 Q Okay. What did you do next?

9 A The final thing I did is look at Dr. Trende's his
10 demonstration maps of which there were three. The exercise it

11 was really descriptive I don't do a lot of -- I would not
12 describe my report as doing a lot of analytical heavy lifting.
13 The question was just what is happening -- what has Dr. Trende
14 done in drawing these districts. So I have a section in which
15 I describe how the districts were changed. You know, we have
16 this clearly he started with district 13 in AB 604 and it
17 appears that he made some small reconfigurations in a couple
18 of spots and I described what those looked like and what
19 impact they had on the district and what impact they had on
20 the expected political performance of a district.

21 Q Okay. I'm going to go ahead and jump back to a
22 question I usually ask much earlier. What are your
23 conclusions that you have made as a result that are in this
24 report?

25 A At the highest level, my conclusions are that

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1 Dr. Trende has not provided any evidence of racial
2 predominance. And that I, upon further examination of his
3 methods and his claims, also don't see any evidence of racial
4 predominance. And, in fact, it's rather clear that especially
5 when we focus on the changes from the previous boundary to the
6 current boundary, that there is a very clear partisan logic to

7 the way the district was redrawn. And it is quite clear that

8 ethnicity was forethought to the redrawing of the district.

9 Q Do you have any conclusions that you have
10 reached?

11 A Related to, again, very descriptive analysis of
12 the demonstration maps I conclude that these maps change the
13 very small parts of the boundary and that they reduce the
14 hispanic voting age population of the district by relatively
15 small amounts. And that associated with those reductions also
16 comes some very small reductions in the democratic vote share
17 of the district. Again, that's just a descriptive finding,
18 conclusion, if you will.

19 Q Again, I'm just trying to make sure I understand
20 all of your conclusions. So I'm going to ask, any other
21 conclusions?

22 MR. BISHOP: Objection. Asked and answered.

23 THE WITNESS: I preface that by saying those are the
24 high-level conclusions. As we go through the report there are
25 specific reactions to claims that Dr. Trende makes here and

1 there that are really in service of the broader conclusion

2 that I don't see any evidence of racial predominance.

3 BY MR. MEUSER:

4 Q I'm going to go ahead and look at your CV at this
5 point in time and ask you a few questions about that.

6 A Sure.

7 Q Let's go ahead and briefly tell me about your
8 education.

9 A I was undergraduate at the university of Michigan
10 in Ann Arbor where I received a degree in political science.
11 After that I spent a year on a full bright fellowship at the
12 university of Iax I can in Germany. And after that I attended
13 Yale University where I received a Ph.D. in political
14 science.

15 Q And tell me about your -- have you held any jobs
16 outside of academia since getting your Ph.D.?

17 A No. I believe I've been an academic since 2000
18 when I received my Ph.D.

19 Q Okay. What got you into becoming an expert
20 witness in redistricting?

21 A It was an interest in something quite different
22 from redistricting. It was an interest in political
23 geography. I had an understanding -- some understandings --
24 or some ideas about the way in which the geographic clustering
25 of groups in advanced industrial societies shapes

1 representation when districts are drawn. And so I became
2 interested in countries like former British Colonies,
3 including the US, that draw these win-or-take-all districts.
4 That process became interesting to me and I started to try to
5 understand that.

6 For somebody who wanted to understand how that
7 works, it was an annoyance in the United States that the
8 districts are often drawn for partisan gain by politicians. I
9 wanted to understand just what would happen if we didn't have
10 politicians drawing the districts. And so that got me
11 interested in trying to draw alternative redistricting plans
12 via computer simulations. And I started working with a
13 graduate student of mine and we spent a lot of time doing
14 that.

15 That happened to become a very -- at some point
16 along the line it occurred to us and it occurred to others
17 that this is an excellent way of trying to disentangle the
18 role of underlying geography and the intentions of map drawers
19 in partisan gerrymandering context. And so I ended up working
20 in -- during the 2010 redistricting cycle in a case in Florida
21 looking at -- working with Professor Joey Chen who was my
22 student at Stanford then became a professor at the University
23 of Michigan, we were working together on drawing redistricting
24 simulations in Florida to examine whether the Florida enacted

25 plan looked different than its partisanship than the

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1 simulations.

2 So that was something that pulled me into the
3 world of redistricting and for better or worse I've been
4 bouncing around in that world ever since.

5 Q So what got you into this was simulations?

6 A An interest in political geography and the use of
7 simulations to get a handle on geography. I should add that
8 once we started doing this the idea of simulations really
9 caught on and a lot of other people started working on that.
10 People whose background is in computer science and mathematics
11 and other fields who I think had a comparative advantage in
12 doing that kind of work. So my contribution to the
13 advancement of the technology of simulation is really, shall
14 we say, stagnated at that time and others really took up the
15 mantle and others have really been pressing that agenda since
16 then. But my interest in political geography and the
17 demographics and the arrangement of groups in space and how
18 that interacts with the drawing of districts has remained and
19 I work on that in a number of ways. And sometimes it's useful

20 to apply simulations but in many settings it's not called for.

21 It's not something that I always do.

22 Q Did you run any simulations on Congressional
23 District 13?

24 A No. It's not something that I was asked to do
25 and it's not something that seemed relevant for the task of

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1 simply responding to Dr. Trende's report.

2 Q Why did you not think it was relevant?

3 A I guess I'd have to ask myself why would I think
4 it would be relevant. It's just not -- Dr. Trende didn't make
5 any didn't present any simulations. I was given a very short
6 time frame to respond to a report he had written. So really
7 going to draw simulations just not something that even
8 occurred to me honestly. I don't think about that until this
9 moment.

10 Q I was disappointed I was expecting you to do
11 simulations.

12 A You would love to have to read pages and pages of
13 that I'm sure.

14 Q I didn't say that. Have you ever run a
15 simulation on state of California?

16 A No, I have not.

17 Q So even though you love redistricting you love
18 simulations and you live in California you've never just said
19 I wonder what would happen if I did it to California?

20 MR. BISHOP: Objection. Argumentative.

21 THE WITNESS: I should take a step back and say that in
22 collaborating with Joey Chen on some academic papers in the
23 over a decade ago, we collected data from a number of states
24 and we did run simulations on a lot of states and so we have
25 some analyses where every state is an observation. I'm quite

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1 sure California was one of those. But I don't really have any
2 recollection about those simulations. So I haven't done
3 simulations of California in kind of narrow and sort of
4 focused way in which I was trying to learn things about the
5 redistricting process in California. I've noticed again the
6 technology and the kind of contributions to the academic
7 literature about simulations has really been carried on by
8 other scholars so there is a set of papers I think I was the
9 reviewer in a journal for some papers by [KOEZ] gay Imai and
10 his collaborate I-m-a-i, professor at Harvard who has written

11 some recent papers where they did simulations for 50 states.
12 So one of the interesting things about California at that time
13 was it had an independent Commission. So I recall looking at
14 some comparisons of the simulations that they had drawn to the
15 map drawn by the Commission but that's not something that I
16 undertook myself.
17 BY MR. MEUSER:

18 Q Nothing in the simulation that you may have done
19 ten years ago or that you read in a review has any implication
20 on your report here today?

21 A No. Those were all in the context of trying to
22 identify situations in which the partisanship of a district --
23 or of the districting plan looks similar to or different from
24 the simulations. Much of that apparatus was developed in the
25 context of trying to identify partisan gerrymandering. We're

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1 now in a situation in this case where the claim is that, in
2 fact, this was not partisan gerrymandering.

3 Q Kind of a reverse role that you find yourself
4 in?

5 MR. BISHOP: Objection. Leading.

6 THE WITNESS: I think I found myself in this setting --

7 for quite a while now I think I've been on different sides in
8 different cases where I've been able to analyze the data in
9 different ways sometimes for defense, sometimes for
10 plaintiffs. Many cases have had to do with partisanship, but
11 some cases have also had to do with race.

12 BY MR. MEUSER:

13 Q Did you rely upon any of your publications in
14 reaching your conclusions that are in your report?

15 A I don't think I relied on them -- well, to
16 reaching the point where I felt the need to do a
17 self-citation. I did mention my interest in the geographic
18 arrangement of groups and what happens when districts are
19 drawn when people, especially partisans, are not randomly
20 distributed in states, when they are clustered. So one of the
21 things I've noticed and I think lots of people have noticed as
22 well is that there is a strong correlation between population
23 density and voting behavior. And that's something I've
24 written about and there is some reflection of that interest
25 and that knowledge that comes through in the report. There is

1 a particular figure that examines the correlation between

2 population density and voting behavior in the Central Valley.

3 And it was relevant here because it was clear that the way

4 this district was reconfigured had very much to do with

5 population density. To essentially shed a very rural area and

6 add an urban area and, in so doing, became much more

7 democratic.

8 Q By any chance did you review the California

9 Redistricting Commission's final report associated with the

10 maps -- with that set of maps, the Commission map?

11 A No, I don't think I've ever seen that report.

12 Q Okay. Are you aware -- strike that.

13 Let's start with, are you aware of the term

14 Voting Rights Act district?

15 A Yes.

16 Q What does that mean to you?

17 A Well --

18 MR. BISHOP: Objection. Calls for a legal conclusion.

19 THE WITNESS: I was about to say I preface my answer by

20 claiming some ignorance about the law. I'm not a lawyer, I'm

21 not a legal expert. My expertise is in these issues of

22 political and economic geography as I've described. But I do

23 have some familiarity with the Voting Rights Act and the way

24 it works. And my understanding is that when there has been a

25 demonstration of racially polar eyed voting such that a

1 group in an area cannot elect it's candidates of choice and
2 when in such an area the group is arranged such that a
3 majority minority district can be drawn, then the district
4 drawer is compelled to take into consideration the
5 requirements of the Voting Rights Act. So that is a setting
6 in which someone whose drawing districts must be aware of
7 federal legislation. Otherwise, when drawing districts one is
8 less constrained by this class of issues, so one might be
9 drawing districts in some setting where there is no sense that
10 there's a constraint and then there's other settings where one
11 must consider the requirements of the voting right act and the
12 specific specifics of that in my sense is a realm of lawyers
13 and this is when lawyers step in and tell someone whose
14 drawing a district that they need to be aware of the Voting
15 Rights Act and how it shapes the constraints of the area.

16 BY MR. MEUSER:

17 Q Okay. Now, have you ever produced a set of maps
18 for a state legislature or a Commission?

19 A Well, I produced -- I drew the Pennsylvania
20 congressional plan that is currently in place in Pennsylvania.
21 And that was a process very interesting and unusual process
22 where there was an impasse in the state, I believe, between
23 the legislature and the governor and so the Pennsylvania State
24 Supreme Court had this process where they had a trial at which

25 lots of different parties submitted maps that explained what

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1 they had done and why they had done it and what were the
2 various features of the maps that might make them desireable.
3 I had drawn a map of that kind in Pennsylvania and it was
4 after this process selected by the Pennsylvania Supreme court
5 and implemented. So that's my experience in drawing a
6 statewide map.

7 Q Were there any instructions given to you about
8 how you needed to draw a VRA district?

9 MR. BISHOP: Objection asked and answered.

10 THE WITNESS: There were no instructions given to me in
11 Pennsylvania about drawing a VRA district. It was not a
12 setting -- the conditions I just described were evidently not
13 in place at the level of congressional districts in
14 Pennsylvania.

15 MR. BISHOP: I'm not sure if it's clear your question
16 was about the prior work or --

17 MR. MEUSER: I'm talking about Pennsylvania.

18 MR. BISHOP: Okay. I just want that to be clear.

19 MR. MEUSER: I'm talking about Pennsylvania and I'm

20 trying to understand what he did.

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21 BY MR. MEUSER:

22 Q And if I understand correctly, the court did not
23 give you any instructions about VRA districts, it was a clean
24 map across the board?

25 A Right. Neither the court, nor anyone else

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1 suggested that was something I had to be concerned about so it
2 was not something I was at all concerned about.

3 Q What were the parameters given upon you in
4 drawing the map? Were there any traditional redistricting
5 guidelines that you had to you know, keep counties together or
6 cities together or was it just you were allowed to do what you
7 wanted?

8 A Very much this trial I guess it was called a
9 trial this event that happened at the state Supreme court
10 where everyone presented their maps, all of us were presenting
11 the traditional redistricting criteria kind of indicators of
12 those associated with our map. So it was clear that the court
13 would be looking for a map that was maximizing the observe
14 answer of traditional redistricting criteria. So I tried very
15 hard to minimize county splits. There were several of the

16 alternative maps that minimized the county splits and mine was
17 one of them. I paid attention to avoiding split vote
18 tabulation districts avoiding split municipalities and
19 maximizing the compactness of the districts and then the other
20 thing that I really focused on was what it often referred to
21 as core retention. It was a map that had been drawn rather
22 recently as part of another court proceeding and so my focus
23 was on trying to minimize the changes to that map, but there
24 was I think Pennsylvania didn't lose a congressional district
25 in that time. So some changes were necessary of course.

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1 Q In drawing that map, did you do a simulation of
2 the state of Pennsylvania?

3 A No. That was not something that would seem to
4 facilitate the task ahead.

5 Q When drawing that map what software did you
6 use?

7 A At the time I believe I was using a software
8 called map [TAOUD] for redistricting.

9 Q And did you look at politics or partisanship when
10 drawing those lines?

11 A That was one of the many criteria for evaluation.
12 The court was also looking for maps that were considered fair
13 from a partisan standpoint meaning from my understanding how
14 the court was thinking about things that a 50 percent of the
15 vote share would yield an expectation of party of 50 percent
16 of the seats. In Pennsylvania where there had been a history
17 of extremely partisan map drawing that the Supreme court ruled
18 was inconsistent with the Pennsylvania Constitution. So as
19 part of their effort to up hold that decision, the map drawers
20 were encouraged to try to dry districts that were fair. And
21 so there's a number of indicators of partisan fairness that
22 all of the maps that were produced all of the experts who
23 produced maps presented those same indicators of partisan
24 fairness.

25 Q Were you looking at racial demographics when you

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1 were drawing your maps?

2 A No. In that setting because I was given no
3 instructions about potential voting rights considerations,
4 that was not something I looked at at all.

5 Q Any other time other than the Pennsylvania that
6 you have drawn maps?

7 A Yes. In Ohio I was asked to draw a set of maps
8 that conform to the rules in the Ohio Constitution about how
9 districts should be drawn. It's a very unusual setting with
10 very specific requirements about county splits, municipal
11 splits and so forth. It was a setting in which just drawing
12 districts that met those criteria was a challenge and that was
13 something I spent some time doing. So I drew a complete set
14 of maps. I believe for Congress and for the Ohio state lower
15 chamber and the upper chamber.

16 Q How long did that take you to do three sets of
17 maps?

18 A I don't remember but that one was time consume
19 being because of the difficulty of meeting these requirements.
20 I just don't remember how long it took.

21 Q Were you allowed to look at race when drawing
22 those lines?

23 MR. BISHOP: Objection. We may be getting into
24 privileged conversation, so I'm going to instruct the witness
25 that you're not revealing conversations with counsel in prior

THE WITNESS: Again this is not a setting where I

recall being given any Voting Rights Act constraints. I don't have any recollection examining racial data in drawing those maps.

BY MR. MEUSER:

Q And in drawing the three sets of Ohio maps, did you look at politics while drawing those maps?

A This was a setting in which the court sort of similar to Pennsylvania in a way, the requirements of the Constitution also called for very explicitly for partisan fairness. And for the pursuit of partisan fairness and so it was required it was part of the task was to look at partisan data and to try to in a way minimize the unfairness of the maps. And this is very related to some of the academic work that we were talking about earlier in Ohio Democrats Democrats are extremely concentrated in space. The arrangement of Democrats Democrats is such that if one just draws the districts without paying any attention, these indicators of partisan fairness will provide for substantial bias in favor of the Republican party. So all of the people who were drawing maps in that setting had to pay some attention to partisanship. Although I would have to add the constraints related to municipals, county splits were quite strong and it didn't really allow for that much discretion in the drawing of

1 districts.

2 Q Other than pens vein and other than Ohio, are
3 there any other times that you have been asked to draw maps?

4 A There was a brief period in Maryland when I was
5 engaged by a Commission like a citizens Commission in Maryland
6 to work on the districts in Maryland but I have very little
7 recollection about whether I completed drawing any maps there.
8 I think I started working and through whatever process I was
9 engaged it seemed to have fallen apart and I was never really
10 asked to submit a final report. I don't recall if I created
11 any complete Maryland redistricting plans.

12 Q So you have never been asked to draw a district
13 under the Voting Rights Act?

14 MR. BISHOP: Objection. Vague.

15 THE WITNESS: I believe that's right. I don't have any
16 recollection of being asked to draw a district that explicitly
17 complied with the Voting Rights Act. That is something that
18 to my recollection hasn't been a part of any of the things
19 that I've been asked to do. I would add a caveat to that that
20 in that initial Florida case that I described where professor
21 Chen and I conducted simulations, one of the things we were
22 concerned with that might be viewed as problematic about our
23 simulations if we just took all of the VTDs in Florida and let
24 our computer simulation run and ignored any consideration of

25 the Voting Rights Act that might be one way that someone could

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1 criticize the simulation. And our solution which was not high
2 tech at all at the time was to hold fixed the districts that
3 the state of Florida had defended as Voting Rights Act --
4 districts that required according to the voting right acts we
5 just held that fixed. So you might say that is a way in which
6 the Voting Rights Act was a factor in a case that I worked on,
7 but that's rather different than trying to draw a district and
8 then trying to ascertain whether it was compliant with the
9 voting right acts I believe that is the spirit of your
10 question and that's not something I've been asked to do.

11 Q Have you ever run simulations in any other state
12 other than Florida where you held the -- you had to hold the
13 VRA district static and let the simulations run on the rest of
14 the state?

15 MR. BISHOP: Objection. Vague. I'm probably going to
16 make that objection anytime you reference a VRA district just
17 so you're aware.

18 MR. MEUSER: You notice I'm not fighting you.

19 THE WITNESS: I'm just scanning my brain for things

20 I've been asked to do and simulations I've run related to

21 redistricting cases. I believe the answer is no, I don't

22 believe there's any other time I've had to do that.

23 BY MR. MEUSER:

24 Q What other states have you done simulations in as

25 a part expert testimony?

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1 A Yeah, as part of expert testimony I was recently
2 involved in a case in North Carolina in which another expert
3 had submitted some simulations. And so I used the data set
4 provided by the other expert of all of the simulated districts
5 and I did some further analysis of that but that was -- the
6 VRA was not a consideration in that work. Also, in north
7 Carolina this is very recent, there was a set of questions
8 about a particular district in north Carolina and I tried some
9 simulations to look at variety of different ways of drawing
10 that district but again the Voting Rights Act was not
11 explicitly or implicitly discussed as an issue in that work.
12 But I can't think of -- I believe in Michigan there was a case
13 in which I was working for the defense in a case where I was
14 working for the Michigan Independent Citizens Redistricting
15 Commission and that was a case in which Dr. Trende had

16 conducted simulations, but I don't recall whether I only
17 analyzed his simulations or also did some additional
18 simulations in response. I believe I was analyzing
19 Dr. Trende's simulations. And, again, that was a setting in
20 which while race was an issue it was a question in that case
21 of racial gerrymandering but I don't believe there was
22 anything in the simulations that was responsive to or
23 considered the Voting Rights Act. Those are the cases I can
24 think of sitting here right now that had to do with some
25 combination of -- that involved simulations.

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1 Q Okay. Were you aware that Congressional District
2 13 was designated a Voting Rights Act district by the
3 Commission?

4 MR. BISHOP: Objection. Vague and ambiguous.

5 THE WITNESS: No, not something I've heard.

6 BY MR. MEUSER:

7 Q So this is the first time you've heard CD 13 was
8 a Voting Rights Act district by the Commission?

9 MR. BISHOP: Objection vague and ambiguous.

10 THE WITNESS: You asked earlier whether I had read any

11 reports by the Commission and I have not so this is the first

12 I have heard that.

13 BY MR. MEUSER:

14 Q If you had known that Congressional District 13
15 was a Voting Rights Act district would there have been any
16 other analysis that you think you would have needed to have
17 done in analyzing Sean Trende's report?

18 MR. BISHOP: Objection speculation.

19 THE WITNESS: No, I don't believe Dr. Trende -- I'm not
20 sure if he himself mentioned the Voting Rights Act. I don't
21 believe he did, so it wasn't a part of his claim. Again, I
22 was hired to do a rather narrow thing which is respond to
23 Dr. Trende's report which I don't believe made any claims
24 about the Voting Rights Act one way or the other.

25 BY MR. MEUSER:

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1 Q Have you ever been asked to do a voting rights
2 analysis of a district?

3 MR. BISHOP: Objection. Form and vague.

4 THE WITNESS: That is something where I'm not sure what
5 you mean by the question. I might need some clarification
6 about what you have in mind.

7 MR. BISHOP: I'd also object on privilege grounds so
8 again I'll instruct the witness to only answer to the extent
9 it doesn't reveal conversations with attorneys.

10 BY MR. MEUSER:

11 Q Have you ever looked at a set of maps and was
12 asked to analyze it to see if there's racial polar eyedness
13 voting?

14 MR. BISHOP: Same objection, privilege, but the witness
15 can answer to the extent he doesn't reveal conversations with
16 counsel.

17 THE WITNESS: There was a very early case, one of the
18 first cases I worked on was in Ferguson-Florissant School
19 District in Missouri and I was working for the defense in a
20 case in which the plaintiffs accused the school district of
21 voting rights violation. The school district had an at large
22 system of voting. And the accusation -- which was required by
23 Missouri state law, but the claim was the at large system was
24 inconsistent with the Voting Rights Act. And so the claim of
25 the plaintiffs was that there was a voting rights violation.

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1 So one of the things I was asked to do was, in fact, to

2 analyze the voting -- look at precinct level data of voting
3 for school board candidates in this school district. And so
4 so it was a very -- as you can imagine, a small number of
5 precincts with lots of candidates in a relatively small school
6 district, but these are the things that one has to deal with
7 in these cases. And so, yes, both the defense and the
8 plaintiffs in that case examined the question of racially
9 polarized voting in the school board.

10 BY MR. MEUSER:

11 Q Which side were you working for?

12 A The defense.

13 Q What was your assignment regarding racial
14 polarized voting?

15 MR. BISHOP: Objection. Privilege. Same thing, I'll
16 instruct the witness to only answer to the extent it doesn't
17 reveal conversations with counsel in that prior litigation.

18 THE WITNESS: My report in the case, it's just
19 examine -- just used the typical approach in these cases,
20 which is to use what's called ecological difference analysis
21 to look at the votes for the candidates that came from
22 precincts with larger African-American versus white
23 populations and to examine whether the voting was racially
24 polarized.

25 BY MR. MEUSER:

1 Q And did you conclude whether there was racial
2 polarized voting or was not racial polarized voting?

3 A In that case my recollection is that there was
4 not any disagreement between the experts. We all had a
5 similar understanding of the data and it was a messy situation
6 in which there were some elections that appeared polarized and
7 others that looked less so. And there were elections where it
8 looked like there was no polarization at all and there were
9 others where there may have been a candidate that was
10 especially successful in black neighborhoods and less so in
11 white neighborhoods, but there were also candidates for whom
12 that was not true. And so it was really a mixed bag, but it
13 was one of those -- you know, my approach to these things as
14 an expert is to present the data and the other side's experts
15 did the same. And the court ultimately decided that there was
16 racially polarized voting.

17 Q And did you do any racial polarized voting on
18 Congressional District 13?

19 A No.

20 MR. MEUSER: I usually like to be kind to my court
21 reporter and take a break around about this time. Would that
22 be appropriate for the court reporter?

23 THE REPORTER: Sure. That would be great. Thank you.

24 MR. MEUSER: Would like, what, ten, 15 minute break.

25 THE REPORTER: Ten minutes is fine.

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1 MR. MEUSER: Is that okay with counsel.

2 MR. BISHOP: Ten minutes sounds great.

3 MR. MEUSER: Everybody on line, we're going to take a
4 ten minute break. We'll be back at 11:40 pacific time.

5 (Pause in the proceedings.)

6 MR. MEUSER: Back on.

7 BY MR. MEUSER:

8 Q Doctor, you understand you're still under oath?

9 A Yes.

10 Q Are you prepared to testify at a hearing for the
11 preliminary injunction that starts sometime on December 15th?

12 A I've been told there will be a hearing and I've
13 indicated my availability to be there.

14 Q Is there any other research that you feel you
15 need to do to prepare for your testimony?

16 MR. BISHOP: Objection. Vague.

17 THE WITNESS: No. My understanding is that I will be
18 responding to Dr. Trende's analysis and I've completed my
19 report successfully, I believe.

20 BY MR. MEUSER:

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21 Q Right before the break were were talking about
22 you personally doing racial polarized voting and you said you
23 had not done racial polarized voting on Congressional District
24 13; correct?

25 A Correct.

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1 Q And you mentioned one instance where you had to
2 do racial polarized voting and that was at a school district;
3 correct?

4 A Yes.

5 Q Any other times that you needed to do a racial
6 polarized voting analysis?

7 MR. BISHOP: Objection. Asked and answered.

8 THE WITNESS: I don't believe so.

9 BY MR. MEUSER:

10 Q When you did the racial polarized voting, what
11 were the steps that you did in order to do it?

12 A Collected data from elections to the school board
13 at the level of precincts, which I believe were identical to
14 VTEs in St. Louis County and then conducted ecological
15 inference analysis to get estimates and confidence intervals

16 for the voting levels for the various candidates by different
17 ethnic and racial groups. These were nonpartisan elections,
18 so there's no partisanship. There was just multiple
19 individual candidates running for election, used ecological
20 inference analysis to gain estimates of the votes for the
21 candidates from the mainly black voters and white voters.

22 Q So this particular school district there was
23 mainly two population groups?

24 A That's right. There also was some smaller
25 minority groups, but the analysis -- the legal claim was about

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1 the black voters.

2 Q Have you ever reviewed any racial polarized
3 analysis regarding hispanic voters?

4 MR. BISHOP: I'm going to object on relevance grounds
5 I'm not going to say you can run your deposition either way
6 you want to do but this may be getting a little far afield
7 what we're here to talk about with his report but you can
8 answer.

9 THE WITNESS: If you can repeat the question.

10 (Record read back by the court reporter.)

11 THE WITNESS: Is the question in reference to in my
12 work as an expert witness or kind of a broader question about
13 academic studies.

14 BY MR. MEUSER:

15 Q Let's start with academic studies.

16 MR. BISHOP: Objection. Vague.

17 THE WITNESS: Whether I've read an academic study about
18 racial polarized voting regarding hispanic voters, I believe
19 I've read studies on racial polarized voting that were broad
20 in nature and discussed in the same rubric race and ethnicity
21 in their analyses. So I think the answer to that would be
22 yes. But I don't really have any sense of specifics in which
23 the focus on race and ethnicity were really very different.

24 BY MR. MEUSER:

25 Q Okay. Regarding we just talked about academic.

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1 You said legal. Have you ever been involved in any racial
2 polarized voting in a case where racial polarized voting was
3 involved with hispanics?

4 MR. BISHOP: Objection. Vague and calls for a legal
5 conclusions.

6 THE WITNESS: I believe the answer is no.

7 BY MR. MEUSER:

8 Q When you did your racial polarized voting
9 analysis how far back did you go on election data?

10 MR. BISHOP: Objection vague.

11 THE WITNESS: In the Ferguson-Florissant School
12 District context this was some years ago. I don't recall. I
13 believe I presented data from elections going back several
14 years, but how many I just don't have a good memory for
15 that.

16 BY MR. MEUSER:

17 Q Can you turn to page -- I don't know what page
18 number of your report it is -- at the top of the page it's
19 page 271 of 332. It's where you're talking about population
20 density.

21 A Yes.

22 Q You talk about the population density of the
23 areas that were removed from the Commission map CD 13;
24 correct?

25 A Yes.

1 Q And you talk about the population density of the

2 people who were added to Congressional District 13?

3 A Yes.

4 Q And do you talk about the population density of
5 the core?

6 A I don't believe I included that here.

7 Q Do you recall what that number was?

8 A I don't even know if I calculated it, so, no.

9 Q Is there a reason why you didn't feel it
10 necessary to calculate the population density of the core?

11 MR. BISHOP: Objection. Form.

12 THE WITNESS: This was a response to Dr. Trende's
13 report where he only focused on a very small area. In my
14 effort here was to broaden the scope of analysis and say
15 something about the other part of the district that was
16 removed and contrast that with the area that was added. So it
17 didn't occur to me to think about the core. I was really just
18 trying to make a point about the impressive difference between
19 the areas that were removed and the areas that were added.

20 BY MR. MEUSER:

21 Q Now, when you did your study if I remember right
22 you spent a lot of time talking about the urban core and drawn
23 compact districts in the urban core and how because they're
24 more Democrat it made the state of Florida more naturally
25 Republican than Democrat probably not how you would summarize

1 your report?

2 MR. BISHOP: Objection to the extent it

3 mischaracterizes.

4 BY MR. MEUSER:

5 Q I guess the question I want to ask you is, you

6 have held in the past some pretty strong beliefs regarding

7 urban centers being more Democrat than Republican is that a

8 fair statement?

9 MR. BISHOP: Objection. Argumentative and leading.

10 THE WITNESS: I think it's just the case that I don't

11 think it would be something that anyone would disagree with.

12 That is true of American politics, yes.

13 BY MR. MEUSER:

14 Q So you would agree with the statement that urban

15 voters and rural voters are typically different?

16 MR. BISHOP: Objection. Vague and leading.

17 THE WITNESS: In their voting behavior, yes.

18 BY MR. MEUSER:

19 Q Okay. I believe you said it's very difficult

20 using the Florida example it was very difficult for you to

21 draw districts that spidered out from the big cities to draw

22 you know, equal districts. Am I paraphrasing your report

23 correctly?

24 MR. BISHOP: Objection. Mischaracterizes testimony.

25 THE WITNESS: I don't think this report discusses those

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ROUGH DRAFT

1 issues at all.

2 BY MR. MEUSER:

3 Q I'm not saying this report regarding Sean Trende
4 but your Florida analysis.

5 A The Florida analysis conducted simulations. I
6 don't remember a lot of discussion about cities and rural
7 areas in that report. It just conducted simulations and the
8 key finding was that the distribution of partisanship across
9 districts in the simulation was very different from the
10 distribution of partisanship across districts in the enacted
11 plan and that that was the function of intentional partisan
12 gerrymandering, which in the Florida Constitution was to be
13 outlawed. So there wasn't really much of a discussion about
14 these issues of urban concentration and so forth in that
15 report.

16 Q In your Florida analysis, other than the
17 districts that you already told me you kept the same because
18 they were VRA districts did you do any analysis of race on the
19 remaining districts that the computer modeled?

20 MR. BISHOP: Objection on relevancy. I think you

21 covered this in the background. It's not something that's

22 relevant to his report here, but, again, he can answer the

23 question.

24 THE WITNESS: I don't recall any analysis of race. It

25 was a partisan gerrymandering case, so I don't recall anything

50

ROUGH DRAFT

1 like that.

2 BY MR. MEUSER:

3 Q So in this report on page 271 you had identified

4 that the Democrat's share of the voters that were removed from

5 Congressional District 13 was about 45.9 percent; correct?

6 A If you would direct me to the paragraph that

7 you're --

8 Q Third full paragraph.

9 A Yes, I see that.

10 Q But the sections that were added was 71.4 percent

11 Democrat.

12 A Yes.

13 Q And what was the hispanic CVAP number for the

14 districts that were shed from district 13?

15 A In the first full paragraph of that page it says

16 in the rural area that was removed from district 13 in Fresno
17 County the hispanic citizen voting age population share was 60
18 percent.

19 Q And what was the percentage of the hispanic
20 citizen voting age that was added to the district?

21 A For citizen voting age population it was 62
22 percent.

23 Q So the district -- I'm going to just focus in on
24 Congressional District 13 what was shed. So what was shed was
25 60 percent hispanic CVAP; correct?

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ROUGH DRAFT

1 A This is not referring to the entire district.
2 This is just discussing kind of -- before getting into that,
3 this is a spot where I'm really just discussing a particular
4 comparson of this rural area to the south with this other area
5 to the north. The full accounting for all of the areas that
6 were removed or added to the district is documented in -- if
7 it's CVAP we want to talk about then it's documented in table
8 2.

9 Q So there's two columns here in table 2. The
10 first one is percent of hispanic CVAP in 2020 and the second

11 column is percent nonhispanic CVAP 2020, correct?

12 A Yes.

13 Q When you say 2020, you're talking about the
14 Commission's maps that were drawn in 2021?

15 A The 2020 refers to, as we were discussing
16 earlier, the decennial census data on CVAP.

17 Q So that's where the data is coming from. So
18 we're talking about CD 13. So you're talking about the
19 Commission map 13 and the core of that is the first line, what
20 was added into the district and what was taken out of the
21 district; correct?

22 A Exactly, yes.

23 MR. BISHOP: Objection. Form.

24 BY MR. MEUSER:

25 Q Do you do -- that's the CVAP numbers for what was

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ROUGH DRAFT

1 added and what was taken out; correct?

2 A Yes.

3 Q Do you see anywhere in your report where you do a
4 complete analysis of the Democrat share of what was taken out
5 and what was put in?

6 MR. BISHOP: Objection form.

7 THE WITNESS: Yes, that's in table 3.

8 BY MR. MEUSER:

9 Q So back at 271 when you're talking about this
10 area that was 60 percent hispanic voting age that was taken
11 out of district 13, that was the 100,000 people?

12 MR. BISHOP: Objection --

13 MR. MEUSER: 100,133 people.

14 MR. BISHOP: Objection. Form.

15 THE WITNESS: That was the -- yeah, the area around
16 Stockton that was added to the district contained that number
17 of people, yes.

18 BY MR. MEUSER:

19 Q The number of people that were removed that you
20 are highlighting here as being 60 percent hispanic, do you
21 know how many people were in that section of district 13 in
22 Fresno County that you removed?

23 A Couple lines before that it says 76,772.

24 Q So this initial section before you got to your
25 complete district wide section, you are comparing the section

1 out of Fresno County that had 76,000 people compared to the

2 section in San Joaquin County that was 100,000 people. Am I

3 understanding you correctly?

4 A That's right. After introducing figure 1 and

5 demonstrating that there was this large area removed to the

6 south and then this small but densely populated area moved to

7 the north I was comparing what kinds of places those were.

8 But there are of course other small changes being made in

9 other parts of the map and so I do that accounting the full

10 accounting a little bit later. In this spot I'm really just

11 focusing in on these kind of -- these areas that leap out when

12 you look at figure 1.

13 Q So when I'm looking at figure 1 and I'm looking

14 at the black line that's kind of the south part of district 13

15 and then there's this big red section that's south of the

16 black line, is that the 76,000 voter section that you're

17 talking about is that that entire section down there?

18 A Well, it's the part of it that's in Fresno

19 County. And the map does not include the county boundaries.

20 So it's not including the section of it that is around Madera,

21 for instance. I believe that is not in Fresno County. So it

22 was just kind of an initial analysis by focusing on specific

23 counties.

24 Q Okay. If my geography knows about where that

25 line is pretty much where the top of the city of Fresno -- the

1 border of Fresno County just goes slightly above that. So
2 kind of that section to the east in the Madera area, that
3 section is probably not included in your 76,000?

4 A I believe that's right.

5 MR. BISHOP: Object to the form.

6 BY MR. MEUSER:

7 Q I'll let you go ahead and repeat your answer.

8 A I would have to look at the county's boundary,
9 but that's right. The area that we're looking at here that is
10 being discussed in the text is the part of that extracted
11 region that is in Fresno County.

12 Q Okay.

13 A So it's not the entirety of everything in the
14 south. For that, we'd need to go to the full accounting a
15 couple pages later.

16 Q I understand. And then for the 100,000 --
17 roughly hundred thousand voters you're talking in the Stockton
18 area, you're talking about that top little square what is
19 above that little red line. Is that what you're predominantly
20 talking about when you talk about the 100,000 number?

21 MR. BISHOP: Object to the form.

22 THE WITNESS: This is again I used counties for this
23 analysis. So it's all of the folks in San Joaquin County
24 which is essentially I think -- I believe links up with what

25 you described.

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ROUGH DRAFT

1 BY MR. MEUSER:

2 Q I'm just trying to you know because as you said
3 you used numbers but not the full numbers and I'm just trying
4 to make sure I understand what areas you're talking about.

5 A Yeah, I tried to be clear in the text that this
6 is based on counties.

7 Q Got it. Did you break down the numbers for the
8 other counties like Madera County that were left out?

9 MR. BISHOP: Objection vague.

10 THE WITNESS: Later on in the report I do that. I kind
11 of come at this from a few different angles. In this section
12 I'm just looking at the areas that are this Fresno County
13 versus the areas that are added in San Joaquin County. Later
14 on I do an analysis where I compare the places that were
15 instead of doing counties I look at districts. So I look at
16 the places that were exchanged between districts 5 and 13
17 vis-a-vis places that were exchanged between district 9 and
18 13. So effectively the approach to looking at the exchanges
19 between 5 and 13 achieves what you just asked about.

20 BY MR. MEUSER:

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21 Q What page are you referring to for the analysis

22 that I would get of what you did in Madera County?

23 A Page if we go by the pages on the top right-hand

24 corner it would be page 284 in the third full paragraph I say

25 I have identified all of the census blocks removed from

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ROUGH DRAFT

1 district 13 and placed in district 5 and then I go on to also

2 do the same thing for blocks that had been moved the other

3 direction.

4 Q Do you identify the number of voters in a census

5 blocks that would transfer from 5 to 13?

6 A I don't see it here.

7 Q Do you remember if you looked at that?

8 A In calculating the numbers I'm sure I had it in

9 front of me but I didn't -- yeah, I'm sure I looked at it.

10 Q Do you recall how many voters were transferred

11 from 5 to 13 or 13 to 5?

12 MR. BISHOP: Objection. Vague.

13 THE WITNESS: No, I don't recall the numbers. But one

14 can look at that boundary and see that the changes were small.

15 The numbers were not large relative to some of the other

16 places in the map.

17 BY MR. MEUSER:

18 Q But you took the time to figure out what the CVAP

19 number of those districts were but you did not take the time

20 to figure out what the population was of those lanes?

21 MR. BISHOP: Objection to form.

22 THE WITNESS: My job here was to respond to

23 Dr. Trende's report it was making some claims about what the

24 impact of these changes were for the CVAP. He did not make

25 any claims about the population sizes so that wasn't something

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ROUGH DRAFT

1 I imagine ined was relevant to the task of examining

2 Dr. Trende's conclusions Dr. Trende focused on some very

3 specific areas so that was one of my approaches was to focus

4 on the same areas as Dr. Trende.

5 BY MR. MEUSER:

6 Q But you did find it important to go look at the

7 Fresno County and you found it important to look at San

8 Joaquin County but you didn't find it important to look at the

9 same exact numbers for Madera County?

10 MR. BISHOP: Objection to form.

11 THE WITNESS: Early part of the report I was trying to
12 make -- give some basic sense in the ways the districts
13 changed and get a sense to the court of how -- where the big
14 changes were. I think one can see from district 1 that there
15 were big changes that involved a lot of people around the
16 Southern part of the district and one might not necessarily be
17 able to visualize it from Stockton so that's why it was
18 important to convey the number of people to get a sense of
19 what the big changes in the district were. Later on when
20 analyzing Dr. Trende's claims about the boundary between
21 district 13 and 5, the overall numbers involved it didn't
22 occur to me to report that but we can tell from figure 1 that
23 the numbers are not especially large.

24 BY MR. MEUSER:

25 Q So did it appear to you that looking at the

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ROUGH DRAFT

1 hispanics in Fresno County compared to the Hispanics in San
2 Joaquin County which is the Stockton area that was added, one
3 was 60 percent the other was 62 percent, one voted 45 percent
4 for Democrats and one vote for 71.4 percent for Democrats
5 would it be say the voting patterns for the Hispanics in
6 Fresno County differ from the voting patterns from the

7 Hispanics in the Stockton area?

8 MR. BISHOP: Object to the form.

9 THE WITNESS: That's what those numbers indicate.

10 BY MR. MEUSER:

11 Q And you put a number of 25.5 percentage points;
12 correct?

13 A Oh, you're referring to the earlier analysis,
14 yes, I believe that's correct.

15 Q So the Hispanics that were shed from district 13
16 which were 60 percent of that area which you said was roughly
17 76,000 people or 76,772 people voted for Democrats 45.9
18 percent of the time; correct?

19 A Yes.

20 Q And the Hispanics that were added in Stockton
21 which was roughly 100,133 people which was roughly CVAP number
22 of 62 percent voted for Democrats 71.4 percent of the time;
23 correct?

24 A There is a misunderstanding here I'm not making
25 claims about the voting behavior of Hispanics in particular.

1 I'm just adding up the data and explaining what the impact was

2 of this change on voting behavior. I'm not drawing any
3 inferences about voting behavior of Hispanics versus whites or
4 anything like that.

5 Q So you don't know if that 71.4 percent is what
6 the Hispanics are doing or what the whites are doing or any
7 other racial group; correct?

8 A In presenting those raw statistics, that is
9 correct.

10 Q But of the 100,133 people that were added 68
11 percent of them were hispanic and 62 percent of them were
12 citizen voting age Hispanics correct?

13 MR. BISHOP: Objection form.

14 THE WITNESS: That's correct.

15 BY MR. MEUSER:

16 Q As for as the 76,772 that were shed from Fresno
17 County that doesn't include those that were taken out in
18 Madera County or any other part of the map but just the 76,772
19 that were taken out of Fresno County, of those 72 percent of
20 them were hispanic of which 60 percent of them were citizen
21 voting age Hispanics correct?

22 MR. BISHOP: Object to the form.

23 THE WITNESS: I wouldn't use the words of which. If we
24 look at all of the hispanic voting age population 72 percent
25 were hispanic and 60 percent were of the citizen voting age

1 population was hispanic in the census.

2 BY MR. MEUSER:

3 Q So of the 100, 133 people that's total population

4 that's not a CVAP number correct?

5 A That's correct.

6 Q So when we talk about -- that would be 68 percent

7 were hispanic of the 100, 133 people; correct?

8 MR. BISHOP: Object to the form.

9 THE WITNESS: Yes.

10 BY MR. MEUSER:

11 Q And as to Fresno, it's going to be 72 percent

12 were hispanic of the 76, 772?

13 A Not exactly, no, because just to go back the 100,

14 133 is total population.

15 Q Yes.

16 A Not voting age population so there are children

17 and so forth.

18 Q Exactly.

19 A And the job of a district drawer in trying to get

20 down to one single person population equality is to look at

21 total population. And so that's why those numbers are

22 reported or why they're relevant, but these percentages are of

23 the voting age population and of the citizen voting age

24 population.

25 Q What you did is you started with the population

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ROUGH DRAFT

1 number total population the first percentage you gave is the
2 total population, but then you also looked at the number of
3 those who were removed and of those removed you looked at what
4 the citizen voting age population was; correct?

5 MR. BISHOP: Object to the form.

6 THE WITNESS: Yes. In the areas in question I added up
7 all of the citizen voting age population and added up all of
8 the hispanic citizen voting age population and divided the
9 second thing by the first thing.

10 BY MR. MEUSER:

11 Q I'm just making sure it's not in this report.
12 You have the total population, but you do not actually list
13 what the voting age population for the people -- for the areas
14 that were removed out of Congressional District 13; is that
15 correct?

16 A I don't believe I report that here, but that
17 would be -- I have no objection to that one could have
18 reported that way, but that's just -- again, when drawing
19 districts one doesn't focus on voting age population, one

20 focuses on total population.

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21 Q But you took the time to tell us what the citizen

22 voting age percentage was, not the population?

23 MR. BISHOP: Object to the form.

24 THE WITNESS: That's exactly what Dr. Trende had done,

25 yes.

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ROUGH DRAFT

1 BY MR. MEUSER:

2 Q So just looking at the areas in Fresno County

3 that were removed from district 13, 45.9 percent of those

4 people removed voted Democrat; correct?

5 A No. Not everyone votes. This is just a

6 percentage -- this is just looking at the votes share from the

7 votes we have from the election information we have. But

8 these obviously are the people that show up to vote so it's

9 hard to relate that to the 100, 133 without knowing something

10 about turn out and registration and rates and so forth.

11 Q So looking at your footnote you only were looking

12 at this data from 2022 and 2024; is that correct?

13 A I approached the data a couple of different ways.

14 Most of the data in the report when I talk about politics is a

15 set of statewide elections from 2016 to 2024 that are

16 documented in footnote 3. Dr. Trende in his report presented
17 a lot of political data but never was clear about which
18 elections he was including. Later in his report when he was
19 presenting his demonstration maps, he provided some data from
20 2022 and 2024 which led me to think that maybe throughout his
21 report he might have been focusing on recent elections only.
22 So in order to potentially be in sync with Dr. Trende, I also
23 reported everything any type I reported political data I also
24 included an approach that only included 2022 and 2024 but both
25 approaches are there any time I talk about political data in

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ROUGH DRAFT

1 the report my preference is more data is better than less
2 data.
3 Q So looking at the sentence that ends with -- I
4 guess it's not a -- the whole paragraph appears to be one
5 sentence so I just want to look at the section after footnote
6 3 that leads to footnote 4. Do you see that section of the
7 paragraph?
8 A Yes.
9 Q You use the term average Democrat share of the
10 two party vote of 45.9 percent; correct?

11 A Yes.

12 Q And then you talk about the Democrat vote share
13 of around 71.4 percent; correct?

14 A Yes.

15 Q And both of those go to the same footnote number
16 4; correct?

17 A No. The first phrase in the sentence is based on
18 an average comprised of data from several statewide elections
19 from 2016 and 2024 and then the rest follows from that. So,
20 no, this is from a larger -- from the more encompassing index
21 and then in footnote 4 I explain what we would get if we
22 focused on only recent elections.

23 Q Okay. So if we only focus in I'm making sure I'm
24 understanding your footnote correctly if we only focus in on
25 2022 and 2024 the Democrat vote share in the Fresno County

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ROUGH DRAFT

1 section that was eliminated from Congressional District 13
2 would have been 42.8 percent; correct?

3 A Yes.

4 Q But if you take the data all the way back to 2016
5 that number would be a couple points higher at 45.9 percent;
6 is that correct?

7 A That's true. And when you look through the
8 report you'll see many in most of these comparisons there is a
9 two or three percentage point difference between the full data
10 set and the more recent election results.

11 Q Okay. Again, I'm just making sure I'm properly
12 comparing the apples with apples. So reading footnote 4,
13 reading footnote 3 and reading what you have in the text, is
14 it fair to say that if you were comparing the elections from
15 2016 all the way through 2024 the Democrat's share of the
16 section added around Stockton to Congressional District 13,
17 the Democrat vote share is 71.4 percent, but it is 67.5
18 percent if you only compare the 2022 elections with the 2024
19 elections?

20 MR. BISHOP: Objection to form.

21 THE WITNESS: That's correct.

22 BY MR. MEUSER:

23 Q Did you do any comparison in Fresno County in the
24 section that was removed as to what the hispanic population
25 change had been from 2016 to the present?

1 MR. BISHOP: Objection. Vague.

2 THE WITNESS: No, I don't believe I analyzed any data

3 on trends in hispanic population. I examined a static

4 indicator as I believe did Dr. Trende from the census.

5 BY MR. MEUSER:

6 Q So looking at Fresno County what was removed, you

7 say 72 percent of the population total population of the

8 section removed in Fresno County was 72 percent hispanic and

9 that is based upon the 2020 census; correct?

10 A Yes but just to be clear 72 percent of the voting

11 age population was hispanic.

12 Q I thought it was 60 percent of the voting age --

13 Oh, I see what you're saying.

14 A I'm just trying to be clear about this total

15 population versus voting age population. I'm just being

16 pandantic. I didn't analyze -- one could also talk about what

17 share of the total population was hispanic, but that appears

18 nowhere in the report.

19 Q So there's basically three numbers. The first

20 number is what the total population would have been, the

21 second is what the voting population age is and third number

22 would be what the citizen voting age population is?

23 A I mean, by the first number I assume you just

24 mean the raw population count. Again, it's really just to

25 give the reader a sense of how many people we're talking about

1 here. And then in the following Dr. Trende and is typical in
2 these cases when talking about race or ethnicity, I look at
3 those percentages for, if you want to call it the second
4 number, hispanic voting age population. And then the third
5 number being hispanic citizen voting age population, again, in
6 an effort to follow Dr. Trende.

7 Q I know, what I'm saying is we're going to take
8 the 76,772 that is a total population number. We could not as
9 a mathematician just say I'm going to multiply 72 percent which
10 is a hispanic voting age population because that would not be
11 apples to apples?

12 MR. BISHOP: Object to the form.

13 THE WITNESS: Right. We would need to know how many
14 people were below the age of 18 in each of these categories.
15 That's not like we don't know that, it's just not in my
16 report.

17 BY MR. MEUSER:

18 Q Again, I'm just making sure because -- you know,
19 I may be a little slow here. At first I was taking the
20 percentages straight off, but, no, there's a missing couple
21 numbers here --

22 A Right. Right.

23 Q So I'm trying to make sure I understand what
24 we're saying. So the first number is the total population.

25 These percentages we would need another number of what -- we

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ROUGH DRAFT

1 do not have in this report the total population of hispanic

2 voting age that was in congressional district 1 that were

3 removed in Fresno County that's not in your report?

4 A Not in my report but would be easily calculated

5 from my replication materials or from just raw numbers in the

6 census.

7 Q And we don't have in the report what the hispanic

8 citizen voting age what that total number was and what was

9 removed in Fresno County; correct?

10 A That is correct.

11 Q And the same I'm going to do the same thing with

12 you have listed the total population of those people that were

13 added in the Stockton area but you did not produce the number

14 of the hispanic voting age population; correct?

15 MR. BISHOP: Object to the form.

16 THE WITNESS: Right. That's, again, not in the report,

17 but easily obtainable in the other materials.

18 BY MR. MEUSER:

19 Q Same question, now asking you hispanic citizen

20 voting age what that total number is, that number is not in

21 your report here; correct?

22 MR. BISHOP: Same objection. Form.

23 THE WITNESS: That's correct.

24 MR. MEUSER: It's 12:30. I think we can break for one

25 hour.

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ROUGH DRAFT

1 (Lunch recess)

2 MR. MEUSER: Okay.

3 BY MR. MEUSER:

4 Q Ready to go?

5 A Yes.

6 Q You understand you're still under oath?

7 A Yes.

8 Q Okay. I want to go through some stuff on Sean

9 Trende's report that you reviewed. You have in front of you

10 what is going to be marked as Exhibit 3 and it is from ECF

11 filing 16-5 which is a copy of Sean Trende's report -- or

12 declaration, report and CV. Counsel, do you have any

13 objections?

14 MR. BISHOP: No objection to the entry of the Trende

15 report as described.

16

17 BY MR. MEUSER:

18 Q Have you had a chance to review that report?

19 A Yes.

20 Q This is what you were given at the start of your
21 assignment of this case; correct?

22 A Yes.

23 Q The first question I'm going to ask you, are you
24 aware of any numbers in Sean Trende's report that are
25 inaccurate? Not math, not interpretation, just the fact the

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ROUGH DRAFT

1 numbers that were put on the page -- any numbers that were
2 incorrect.

3 MR. BISHOP: Objection to form.

4 THE WITNESS: I'm not aware of any. There are not a
5 lot of numbers in the report, but I don't recall having a
6 moment where there was a number that I thought was wrong.

7 BY MR. MEUSER:

8 Q And there are multiple times where Trende does
9 some math. At any point in time, do you have a problem with
10 the math that Trende did?

11 A I don't recall any objections to that in

12 particular.

13 Q Okay. And Trende drew three demonstration plans;
14 is that correct?

15 A Yes.

16 Q Now, I understand that you quibble with him on
17 those plans, but do you agree that all three of the plans that
18 he drew reduce the hispanic number?

19 MR. BISHOP: Objection to form.

20 THE WITNESS: My report provides the data and, yes, one
21 of them reduces it by a small amount the other two by a
22 slightly larger amount.

23 BY MR. MEUSER:

24 Q Would that be on page 31 of your report?

25 A Well, the numbers are somewhere else. Page 31 is

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ROUGH DRAFT

1 the conclusion and it speaks in sort of generalities about
2 this. But the numbers are provided in the report. In fact,
3 one can visualize them in figure 15 on the horizontal axis.

4 Q So looking at figure 15 what does figure 15 show
5 us?

6 A We just see on the horizontal axis the amount by

7 which the hispanic voting age population decreases in
8 Dr. Trende's demonstration map vis-a-vis AB 604. So I can
9 just describe, the numbers are actually -- they are on page 28
10 in the last paragraph, a decline of 1.6 percentage points from
11 map A, 4.5 percentage points for map B and 5.4 percentage
12 points for map C. So I believe that is something that
13 Dr. Trende and I would agree.

14 Q So those numbers both of you are in agreement
15 that that number -- the alternative maps that he drew all
16 three of them reduce the hispanic voting age population;
17 correct?

18 MR. BISHOP: Objection to form.

19 THE WITNESS: I don't remember whether he had the
20 numbers, but, yes, this is just a straightforward calculation
21 from the boundaries to his districts. And that's my
22 conclusion is that each of them reduces the hispanic age
23 voting population.

24 BY MR. MEUSER:

25 Q In Trende's report he broke out each of these

1 districts and explained how they performed better than the --

2 performed better for Democrats than the district 13 did under

3 Prop 50. Did you look at Sean Trende's numbers of how he
4 described the district performing better?

5 MR. BISHOP: Objection. Compound question.

6 THE WITNESS: He included some data on specific
7 elections to my recollection. Yes, so, for instance, he has
8 table 1 where --

9 BY MR. MEUSER:

10 Q And this is page 24 of his report, page 39 of 42
11 of the ECF filing; correct?

12 A Yes. So he presents a kind of -- using just some
13 selected elections. I don't know how he selected these. Of
14 course, as I described, there are lots of statewide elections
15 available. He selected in a way that he doesn't describe only
16 one of the 2022 elections. His work with the Dave's
17 Redistricting App includes elections for many other 2022
18 elections. So he chose some and they look like a mixed bag.
19 So the democratic edge, as he calls it, decreased for
20 governor 2022, but increased a bit for presidential 2024.
21 And then there is this big increase for senate 2024. So the
22 democratic edge is -- I'm just trying to make sure I
23 understand his -- enacted enacted map versus A -- I can't
24 remember how to interpret this.

25 Q So the first column is the race that he's

1 comparing; correct?

2 A The first --

3 Q Governor, president --

4 A Yes.

5 Q And then there's three columns within the next

6 two sets of line; correct?

7 A Oh, I see. I think I understand the table now.

8 I just have to recall. Yeah, so he's calculating the

9 democratic edge in these individual elections in the enacted

10 map and finding negative point 8 meaning a Republican edge in

11 that election and some positive edge for the Democrats in the

12 other two if I'm understanding that correctly. And then we

13 have the enacted map over on the other side where these what

14 he calls the democratic edge is somewhat larger for those

15 elections for relative to the edge of the enacted map. So,

16 yes, that is his conclusion drawn from these selected

17 elections.

18 Q We're going to ask you some other questions but

19 just for the sake of this question, did you check his math on

20 these three races?

21 A I did not.

22 Q Now, you're still on Sean Trende's report. Let's

23 go to page 26 of his report which is table 2. Again, this is

24 where he's comparing the Democrat edge from the enacted map

25 compared to map B; correct?

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1 A Yes.

2 Q And in all three races that he viewed -- in two
3 of the races he viewed the Democrat edge was better and one it
4 remained the same. That was the senate 2024 remained the
5 same; is that correct?

6 MR. BISHOP: Objection. Vague.

7 THE WITNESS: Yes. One of them was almost the same and
8 the other one it was exactly the same. And then there was one
9 where it was a difference of point 4. So point 4 of a
10 percentage point.

11 BY MR. MEUSER:

12 Q And you didn't check his math on any of these?

13 A No.

14 MR. BISHOP: Objection to form.

15 BY MR. MEUSER:

16 Q And let's turn to the next page, 27, with table
17 3. In table 3 when you look at the enacted map versus map C
18 according to Sean Trende when he looked at these three races
19 he identified that his proposed map C performed better for the

20 Democrats than the enacted map; is that correct?

21 A I believe so.

22 Q Now, in your report did you analyze his map A,
23 map B or map C to more races than what Sean Trende did?

24 A Yes.

25 Q What additional races did you look at? If you

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1 could let us know what page you're on so I can follow along.

2 A This brings us back to those footnotes we were
3 discussing earlier. So footnote 3 describes the races I used,
4 which were the 2016 and '20 presidential, 2018 gubernatorial,
5 attorney general as well as '22 general elections for
6 treasury, secretary of state, lieutenant governor, attorney
7 general, governor and US Senator. And then in 2024 US senate
8 and presidential. So this is using all of the data for
9 statewide races that I had available to me.

10 But then, as we discussed, there's also this
11 other footnote where I said if we'd like to limit ourselves to
12 2022 and 2024, we have a number of elections to use. And so
13 just to be clear about what those are, the 2022 elections are
14 treasurer, secretary of state, lieutenant governor, attorney
15 general, governor and US Senator. And then the 2024 elections

16 are US senate and presidential. So by my count, that analysis
17 included one, two, three, four, five, six, seven, eight races.
18 Whereas, Dr. Trende, when he decided to use elections from
19 2022 and 2024, he selected out three of those.

20 Q Okay. So the footnote 3 and footnote 4 are
21 regarding your math and research of the races that were pulled
22 or the census blocks that were pulled out of Fresno County and
23 the ones that were put in in Stockton in the San Joaquin
24 County area. The question that I asked you was did you
25 analyze the district 13 map as enacted and compare it to the

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ROUGH DRAFT

1 map demonstration map A?

2 A Yes. I'm just using this footnote as a way of
3 clarifying when I speak throughout the report of a more
4 encompassing measure, the footnote 3 is the same -- it does
5 not change from one part of the report to another including
6 Dr. Trend yes's my analysis of his maps. It's the same set of
7 elections there's an encompassing one and then there's a more
8 focused 2022, '24 one. When I describe the partisanship of
9 his districts and compare them with the enacted map, I'm using
10 those same races.

11 Q Okay. So what was your analysis of the
12 difference between the Prop 50 map of district 13 and Trende's
13 demonstration map A?

14 MR. BISHOP: Objection. Vague.

15 BY MR. MEUSER:

16 Q And we are asking as to, you know --

17 A So your.

18 Q -- Democratic?

19 A Your question is about map A correct.

20 Q Yes, just map A.

21 A So map A went from 54. 41 percent to 54. 35
22 percent.

23 Q What page are you on?

24 A I am on page 27 near the top of the page right
25 above the figure. So using all of those races together, it

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1 goes from 54. 41 percent down to 54. 35 percent, but in
2 footnote 12 if we look at only the 22 and 2024 elections, I
3 state the district appears to be slightly more democratic
4 going from 51.3 percent to 51.4 percent. So that is the
5 one result from my analysis that is in harmony with
6 Dr. Trende's analysis. The others are in disagreement.

7 Q Okay. So I'm looking at the top and I want to
8 just make sure I understand this. When you compare all of the
9 elections that you've mentioned in footnote 3 from 2016 to
10 2024 and are you just adding up the Democrat total of it and
11 then dividing by the number of races? Or how are you doing
12 the equation when you're trying to figure out the Democrat
13 edge over races that span an eight year period?

14 A Yes. This is summing up the democratic votes and
15 dividing those by the Democratic votes plus the Republican
16 votes. So it's two the party votes you have. It's not
17 considering the votes for third parties.

18 Q But there would be votes for third parties in the
19 races you have identified. All of the races you identified
20 are Republican versus Democrat races in California's top two;
21 correct?

22 A I believe in the 2024 presidential election there
23 are probably some minor candidates. And, you know, this is
24 just a way of -- political scientists often use the two party
25 share the vote and that's what I'm doing here. There's no --

1 it would be fine to present also the vote shares. It's really

2 a question of the dominator. Is it Republican plus democratic

3 votes plus other votes or is it just Democrat plus republican?

4 I chose Democrat plus Republican votes.

5 Q So all of the state races we have a top two, so

6 it's just Republican versus Democrat, but in the presidential

7 races you just eliminate all of those but the Republican and

8 Democrat; correct?

9 A That is correct.

10 Q And let's say you have ten races, you added up

11 all of the differential and the ten races and then divided it

12 by ten. Is that how you figured out the ultimate democratic

13 edge?

14 A That would be one way of doing it. What I did is

15 simply added all of the democratic votes in each individual

16 election just added up all of those raw votes divided by all

17 of the raw votes for Democrat plus all of the raw votes for

18 republicans.

19 Q And then you calculated the percentage between

20 those two?

21 A Just the result of that -- of just dividing the

22 total votes by the total votes, that's what I'm presenting

23 here. It's a percentage of all votes cast in this period.

24 Q Okay.

25 A There are cost benefits to doing it that way or

1 doing it a way where we might just take every election take a
2 percentage and then take an average of those. That would also
3 be a fine thing to do, but what I did here was simply what I
4 thought was the most simple thing to do.

5 Q Some of these elections you're looking at four or
6 five races and some of them you're only looking at two races.
7 Is there any weight in your matter that in 2018 you were
8 looking at a handful of races but 2024 you're only looking at
9 two races?

10 MR. BISHOP: Objection to form.

11 THE WITNESS: That would be a problem if I was taking
12 only 2016 and saying that's one observation and then take the
13 average of every year. Instead what I'm doing is I'm adding
14 up all of the votes in all of those races so it really weights
15 each race the same except for perhaps a race where a turn out
16 is a bit higher will be weighted a bit higher. That's the
17 only thing that might be happening there if there's a higher
18 turn out election it gets a little more weight.

19 BY MS. RIORDAN:

20 Q Aren't presidential elections significantly more
21 higher turnout than state gubernatorial elections?

22 MR. BISHOP: Objection to form.

23 THE WITNESS: Yes, typically. So they'll be a bit
24 higher weight here for the presidential the years, but it's

25 also the case that we had a lot of races in 2022 that are

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1 included in the index.

2 BY MR. MEUSER:

3 Q Having more races in 2022 means that there's a
4 lot more total votes being dropped in in 2022 than there are
5 votes being dropped in from 2024; is that correct?

6 MR. BISHOP: Objection to form.

7 THE WITNESS: That is correct.

8 BY MR. MEUSER:

9 Q So when you added up all of the races that are
10 specified in footnote 3, you added up all of the Democrat
11 votes, all of the Republican votes and you looked at it just
12 for demonstration map A, you concluded that that had a
13 Democrat edge of 54.35; is that correct?

14 A Well, the democratic vote share was 54.35. The
15 edge would be, I guess, 4.35 or something, but that's just the
16 vote share -- the two party vote share.

17 Q So did you create an edge number like Trende did
18 or did you just look at it as, you know, what the vote share
19 was?

20 A I just presented the vote share. Page ID #:6278

21 Q So what you're saying is when you compare all the
22 races for demonstration map A, the vote share goes slightly
23 down for map A compared to CD 13 from 54.41 from CD 13 down to
24 54.35; correct.

25 A Correct.

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ROUGH DRAFT

1 Q Let's move to map B. That's page 29 is the map
2 itself; correct?

3 A Yes.

4 Q And your math for map B would be...

5 MR. BISHOP: If that's a question, objection to form.

6 THE WITNESS: Was there a question outstanding?

7 BY MR. MEUSER:

8 Q I said where's your math of what the voter share
9 is for demonstration map B?

10 A I thought you said map which I was confused by.
11 Okay. So using the larger partisan in a more encompassing
12 partisan index, again, the democratic vote share of the
13 district under AB 604 was 54.41 and -- I'm sorry, I'm already
14 on demonstration map C. I've got to find the data for B.

15 Q Footnote 13.

16 A I'm still trying to get my bearings. Okay. I
17 was looking too low. So I want to start with just to keep
18 things in the same order, I'll start with what's in the text.
19 So what I've done here is used the encompassing full text in
20 2022 and 2024 only in the footnotes. So the full index is in
21 the second paragraph, the fourth line and that is, again, 54.
22 41 percent under AB 604 and 53. 87 percent under the
23 demonstration map B.

24 Q But when you do it just on 2022 and 2024 that is
25 footnote 3 and it goes from 5 1.1 6 -- or it goes from how can

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ROUGH DRAFT

1 it go 5 1.3 to -- I'm sorry, yeah.

2 A To be clear, this is footnote 13.

3 Q 5 1.3 is what proposition 50 map Congressional
4 District 13 is when you only look at the two recent elections
5 correct?

6 A Yes, and then it's 5 1.3 for that and then for
7 Dr. Trende's map B it's 5 1.1 6 percent.

8 Q Okay. But you're not looking at Democrat edge,
9 you are looking -- you've taken different races or you've
10 added races but you're using a slightly different formula?

11 A Yes, if one wanted to see it as an edge since
12 this is a two party vote you could say this is compared to
13 5050 you know 5 1.1 6 if you'd rather think of that as 1.1 6
14 edge it all depends how one likes to think about these things
15 or if you want to take it as the difference between the two,
16 then one could certainly calculate that number and look at
17 that. I just thought it was easiest to compare the actual
18 percentages.

19 Q And then C for all the races you say went down
20 from 54. 41 down to 53. 76 correct?

21 A Yes.

22 Q And if you only look at races from 2022 and 2024
23 it's your position that it went down from 5 1.3 to 5 1.1 7?

24 A That's correct.

25 Q On page 28, second paragraph you talk about Tracy

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ROUGH DRAFT

1 is quite democratic in reference to demonstration maps B and
2 C; correct?

3 A Yes.

4 MR. BISHOP: Objection to form.

5 BY MR. MEUSER:

6 Q Isn't that had a Trende said he was trying to do

7 is find more Democrat areas and -- strike that.

8 You agree with Trende when he was adding Stockton
9 to demonstration map B and C that he was trying to add more
10 Democrats, an area that was more democratic than Stockton;
11 correct?

12 MR. BISHOP: Objection to form.

13 THE WITNESS: I don't have a very good understanding of
14 what Dr. Trende's instructions were and what he was trying to
15 do, so I try not to go too far in making inferences about what
16 he was trying to do. But it does seem clear he was attempting
17 to remove hispanics from the district while keeping the
18 partisanship the same. So that was my sense of what his
19 undertaking was. I'm really just describing how he achieved
20 what he achieved.

21 BY MR. MEUSER:

22 Q A little earlier on the page it's like the second
23 line of the very top from the top of the page you talk about
24 Garden Acres and the city of Garden Acres and August us.

25 A Yes.

1 Q I believe you say that those cities are entirely

2 within CD 13; is that correct? It's somewhere else in your
3 report I believe you talk about it.

4 A In the enacted plan. It's my understanding that
5 they are.

6 Q Okay. I think it's on page 17, second to the
7 last paragraph.

8 A Yes, it's my understanding from examining
9 boundary files of the city looking at the city boundaries that
10 they were fully contained.

11 Q What were you looking at to determine that those
12 two cities were entirely within CD 13? What were you relying
13 upon?

14 A I was looking at the boundaries for the cities
15 from the census department, which has a file that tells us the
16 boundaries of what are called census places of which these
17 cities are included. So it was a visual inspection noticing
18 the fact that the boundary followed the line of those two
19 periods.

20 Q I'm not sure I understand what you were looking
21 at when you did a visual inspection. Is this something you
22 saw in Dave's redistricting app or is this something -- it
23 sounds like you said you did a visual inspection. So I'm
24 trying to figure out what you were looking at?

25 A So I used my own GIS software it's called arc GIS

1 proand so I had the district and that's how these maps that
2 were made that we see in the report. So I had the district
3 boundary of the cities which I got from the US census
4 department which has a file called US places. I believe
5 Dave's redistricting app also uses the same boundaries I'm not
6 entirely sure about that I believe that's the case and those
7 boundaries I put them on a map and examined them relative to
8 the district boundary.

9 Q Would you agree with me that in demonstration map
10 B and C the city of Tracy is closer to the center of
11 Congressional District 13 than the appendage that includes
12 August us and Garden Acres?

13 MR. BISHOP: Objection to form.

14 THE WITNESS: If you would repeat that I would
15 appreciate it.

16

17 THE WITNESS: You mean the geographic center of the
18 district?

19 BY MR. MEUSER:

20 Q Yes.

21 A Something like the median of the XY coridinales
22 in either direction? Probably. I'm not really sure but that
23 seems -- the question is whether Tracy is closer to the center
24 of the district than Garden Acres, that's probably true.

25 Q Okay. Are you generally aware of academic

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1 literature that talks about a change in hispanic voting

2 patterns over the last couple years?

3 MR. BISHOP: Objection. Vague.

4 THE WITNESS: I don't know if I can think offhand of a

5 citation of a paper that is focused on that, but I can think

6 of more popular press accounts of this happening and sort of

7 based on surveys but also based on looking at precinct level

8 election results. There are various claims made, politico and

9 sources like that, about changing hispanic voting behavior in

10 lots of places around the US.

11 BY MR. MEUSER:

12 Q Have you looked at any of that data whether it's

13 cross tabs or publication? Have you studied that data at all?

14 MR. BISHOP: Objection. Vague.

15 THE WITNESS: Well, I present a lot of information in

16 the report about voting behavior in the Central Valley and

17 we've been discussing as we go through the larger group of

18 elections and the smaller group of elections, we I think agree

19 there's a two or three percentage point difference between

20 those so there has been a fall off in voting for Democrats in

21 this part of the state. But did I do something like

22 ecological inference to try to assess hispanic versus white

23 voting behavior, no, that's not something I did.

24 BY MR. MEUSER:

25 Q Let's go to your report and some of the images in

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ROUGH DRAFT

1 your report. I'm specifically talking about your -- what do

2 you call them when you have all of the dots on it, dot --

3 A Dot density map.

4 Q Dot density maps. I believe you have about three

5 of them in here total. One of them has a dot density of one

6 out of 30 and I think the other two are one out of 100. I'm

7 kind of scrolling here to make sure. We'll find the three of

8 them and then we can kind of talk about them, why you used

9 different matrix. That's kind of a header of where I'm going

10 so you know what I'm about ready to start asking you. But I

11 see a dot density map as a part of figure 5 and that is a 1 in

12 100. And then I see a dot density on figure 7, that is 1 of

13 100. I see a dot density at figure 13, that is one of 13 -- I

14 mean 1 of 30. There's another one on 14 that's one of 30. So

15 I see a total of four dot densities. ; Is that correct you

16 did four dot density maps?

17 MR. BISHOP: Object to the form.

18 THE WITNESS: That sounds right but I'll try to make
19 sure. I believe that's correct.

20 BY MR. MEUSER:

21 Q So let's start with the first dot density map
22 that's a part of figure 5 on page 16 of your report. And that
23 particular one uses a legend of one dot per 100. ; Is that
24 correct?

25 A Yes.

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ROUGH DRAFT

1 Q Why did you do one dot per 100? What was your
2 thinking on that?

3 A That's what I'm trying to make a dot density map
4 that is legible to a reader, I'm trying to make sure that the
5 dots are not all on top of each other. When that happens you
6 know so if I choose a number that is too small if I make every
7 dot, say, you know, at this level of Zoom if you made every
8 dot, say, 20 voters or 25 or 30, the dots would all appear
9 right on top of each other and it would be too hard to really
10 visualize. It doesn't give you the -- a good understanding

11 of -- it would give you some understanding but it would be
12 less useful to look at. So it's all a question of how Zoomed
13 in is the map and how are dots appear and how to make them
14 visually discernable from one other really.

15 Q So help me understand dot density maps. Let's
16 say there was only one person who lived in this entire section
17 would the thing show one dot or zero dots?

18 MR. BISHOP: Objection. Speculation.

19 THE WITNESS: Well, these are census block groups that
20 the census department is designing them so that they do have
21 some population. So you'll see there are no -- you can see
22 the boundaries of the block groups. So if there was one where
23 there was zero you know if that happened and there was no dots
24 you would see a block group of zero dots. So it provides one
25 dot per 100 people. So if it has 500 people in it then there

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1 would be five dots.

2 Q So if we're looking at a block and there's one
3 person in it would that mean there would be one dot because
4 there's at least one person in it or do you have to have 51
5 people before it's going to put a dot in it?

6 MR. BISHOP: Objection to form.

7 THE WITNESS: Well, I'm not entirely sure. I've not
8 gotten down to the point of -- that's why I choose the
9 population threshold in a way that avoids situations that
10 would -- I would have to worry much about rounding. But I
11 believe the way arc GIS the default would be that it would --
12 we would need to have -- I believe it's 51 but I really have
13 to check what the default settings are that I used.

14 BY MR. MEUSER:

15 Q Okay. And the lines that we're seeing on this
16 indicate that they are census blocks; is that correct?

17 A These are actually census block groups. Census
18 blocks would be much smaller.

19 Q Okay. I don't see any of these blocks -- Oh,
20 there is one that has maybe I'm trying to see I think I see
21 one that has two dots far right, middle of the diagram.

22 A I think that there's an issue there where I've
23 cutoff part of the block part of the block group. This is a
24 rural area where that thing properlyly extend well out to the
25 east of our map frame and so I'm not sure. You're asking some

1 questions -- you know when you cutoff the boundary in deciding

2 to present the map, I'm not sure again what the default is in
3 terms of whether there are other dots that are out of our
4 viewpoint. I believe there are I think there are other dots
5 that get cutoff because I've decided I'm going to show the
6 reed er this section of the map so there will be other dots
7 that are cutoff from the map.

8 Q About how many census blocks are there in each of
9 these census block sets or does it vary based upon urban
10 versus rural?

11 A It varies. I don't know the answer like on
12 average in California how many blocks are there per block
13 group. I don't have that number, so I would hate to just make
14 something up.

15 Q I'm just asking your best recollection. I don't
16 want you to guess.

17 A Yeah, I really don't know.

18 Q Since we're talking about figure 5, what does
19 figure 5 show us? It's the second image of figure 5 but what
20 does it mean what are you trying to show with it?

21 A It's very simple point I'm just trying to convey
22 the point that when we look at choropleth map that is colored
23 in there's a tendency for the eye to be drawn to some of these
24 really large areas, which in reality the reason why the block
25 group is large is because the census department when it was

1 drawing the block group there weren't very many people. It's
2 a rather rural place. So it's useful to know -- when you're
3 looking at a map and trying to draw some conclusions, it's
4 useful to know where the people are. This is just a useful
5 supplement. If one likes to look at the choropleth map,
6 that's fine but this map helps us understand where the people
7 are actually clustered.

8 Q Let's compare the choropleth map to the dot
9 density map. In this particular image, am I correct in
10 assuming the top image is an image created by Sean Trende?

11 A Yes.

12 Q What was the point Sean Trende was trying to make
13 with this particular map?

14 MR. BISHOP: Objection. Calls for speculation.

15 THE WITNESS: I imagine he discussed this map in a
16 couple of different places but I know there was one passage in
17 which he was drawing attention to the difference in color on
18 the eastern side of that appendage around -- kind of east of
19 the city of Ceres and I was pointing out that is a rather
20 sparsely populated area.

21 BY MR. MEUSER:

22 Q But you would agree that the area in Modesto
23 north of the line has a much lower HVAP number than that part
24 of Modesto immediately below the line; is that correct?

25 MR. BISHOP: Objection to form.

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ROUGH DRAFT

1 THE WITNESS: That's the thing about this figure that I
2 don't see it that way. There is a very sparsely populated
3 area where the hispanic population looks a bit different on
4 either side of the line, but through most when we're looking
5 just kind of at the appendage where much of the population
6 actually lies in Dr. Trende's map there's shades of green and
7 yellow that look similar on both sides of the boundary and
8 most of those are populated areas and on the eastern side of
9 that appendage his map looks similar shades of blue on both
10 sides of the boundary. So this is where I look at the maps
11 that Dr. Trende presents and believes provide evidence of
12 ethnic sorting and I'm puzzled. Really quite puzzled. If
13 anything, along this part of the boundary the change of the
14 district boundary only made the district slightly less
15 hispanic.

16 BY MR. MEUSER:

17 Q So you're referring to the part immediately north
18 of the city and east of the city, those two census block
19 groups sets you're talking about those two particular census

20 block sets is that what you're referring to?

21 MR. BISHOP: Objection to form.

22 THE WITNESS: I'm not sure which city you're referring

23 to. What you mean when you say the city. What I just

24 described there is a sparsely populated area that is -- that

25 sticks out to the east where it looks in Dr. Trende's map like

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ROUGH DRAFT

1 there is maybe one little spot where it's slightly blue er on

2 the district 13 side if we're just looking at the east

3 compared to the west.

4 BY MR. MEUSER:

5 Q Are you talking about the nose and the forehead

6 area?

7 MR. BISHOP: Objection to form.

8 THE WITNESS: Nice, yes. I see the nose and I see the

9 forehead. That's what I'm talking about, yes. So you know

10 there's a bit of a difference in the color there but it's also

11 a place that's rather sparsely populated. But then to the

12 north of that there's an area that's also sort of sparsely

13 populated where the shades of blue are similar on both sides

14 of the boundary and then as we move west along what might be

15 the hair of the person whose forehead and nose you're

16 referring to as we go back through that area, I see a lot
17 of -- I see a boundary that cuts right through a heavy area
18 that has a mix of hispanic and white residence and I don't see
19 much of the correspondence of the ethnicity to the west and
20 then there's this part that moves to the northwest where again
21 there's similar shades of green on both sides of the boundary.
22 So if Dr. Trende means for this to be presenting a kind of
23 clean sorting by ethnicity I guess reasonable people can
24 disagree but I don't see it.
25 BY MR. MEUSER:

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1 Q Question, the line at the top left of both images
2 is a fairly straight diagonal line; correct?
3 A Yes.
4 MR. BISHOP: Objection to the form.
5 BY MR. MEUSER:
6 Q And in a way you kind of see it going throughout
7 the whole entire document at least to the neck of the face
8 would you agree with that that you can kind of see that line
9 all the way through?
10 MR. BISHOP: Object to the form.

11 THE WITNESS: Yes.

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12 BY MR. MEUSER:

13 Q Do you know if that's highway 9 9?

14 A I was just going to say I'm pretty sure that's 9

15 9 or the 5. I think it's the 9 9.

16 Q I think it's 9 9 or the railroad I don't know

17 which one. So you don't know what that diagonal line is?

18 A I believe it's the 9 9 but I'm not 100 percent

19 sure.

20 Q Okay. The city of series I'm not sure if I'm

21 saying it right, it seems to have a high population density of

22 according to your dot map on each side of the 9 9 or the

23 railroad; is that correct?

24 MR. BISHOP: Objection to form.

25 THE WITNESS: It looks right around what we're thinking

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ROUGH DRAFT

1 is the 9 9. It looks relatively similar on both sides.

2 BY MR. MEUSER:

3 Q And if you look at the density map it seems to be

4 dark evident on the west side of the railroad but there are

5 some very strong hispanic neighborhoods on the east side of

6 the railroad or the freeway; is that correct?

7 MR. BISHOP: Objection to form.

8 THE WITNESS: It looks that way some of the you know
9 when we look at the dot density we can see some of the blue
10 evident places on Dr. Trende's map are places that have very
11 low population and that kind of the Southern part of what
12 actually is the city of Modesto. Modesto you can see with the
13 green they must have done some annexations overtime they have
14 some strange boundaries down there but some of that looks like
15 it's very sparsely populated and does have very on
16 Dr. Trende's map looks very large hispanic population.

17 BY MR. MEUSER:

18 Q So your understanding is that in Trende's report
19 he was focusing in on the forehead and the nose of the face?

20 MR. BISHOP: Objection to form.

21 THE WITNESS: I believe at one point he was -- that was
22 my understanding was that he was discussing that at one point.
23 I don't mean to characterize him as only referring to those
24 places. I believe his discussion it a bit broader.

25 BY MR. MEUSER:

1 Q Okay. Let's move to your next dot density map,

2 which is figure 7. This guy has a better nose.

3 A Oh, yeah, look at that. Quite a chin as well.

4 MR. BISHOP: We agree on that.

5 MR. MEUSER: I actually like his hair do on this one.

6 He does look like he came right out of a 9 0s cartoon.

7 BY MR. MEUSER:

8 Q Tell us about figure 7, what you're trying to
9 illustrate here and where this is in relation to Congressional
10 District 13?

11 A Yeah, this is just most of -- yeah, most of that
12 northern appendage. And what we can see here is the Stockton
13 city limits or city boundary in green and the city of August in
14 yellow and the Garden Acres in orange. And, again, we have a
15 dot density map that shows us where the people are and where
16 the kind of unpopulated -- largely unpopulated rural areas
17 are. And this is an area -- this part of California, you
18 know, when you drive around there you notice -- you pass sort
19 of an arbitrary boundary and you go from cul-de-sacs with lots
20 of houses very close to one another to an area where there's
21 just empty fields and so this map just shows you where those
22 things are.

23 Q So all you're trying to show is the dot density
24 of Prop 50 map for CD 13; correct?

25 A That's correct.

1 Q This is not the entire appendage, this is just
2 the northern more portion of the appendage; correct?

3 A It's most of it. It's certainly the part around
4 Stockton that was covered in Dr. Trende's report.

5 Q Okay. Let's go to your next dot density, looks
6 like on 13. Let's start with why you changed the dot density
7 to 30 from 100 which was on that last map.

8 A This is a bit of a closer zoom and it was -- I'm
9 also including a lot of different colors here. These choices
10 are partly driven by what allows the colors to kind of show up
11 and be visible to the human eye. Certainly I have no problem
12 using 100 would have been fine here as well, but I think it
13 would have been just been -- the dots would have been further
14 apart from one another.

15 Q And figure 13 compared to 7 that we just looked
16 at, this is actually further zoomed out, we're seeing the
17 entire appendage of Congressional District 13 as contained in
18 Congressional District 13; correct?

19 A Right.

20 Q And you have black outlined which represents the
21 Prop 50 map; correct?

22 A Yes.

23 Q And then you have a green line which represents
24 Trende demonstration map A; correct?

25 A Yes.

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1 Q And then you have orange which is demonstration
2 map B and purple which is demonstration map C; is that
3 correct?

4 A Yes.

5 Q It looks like in the footnote that you're telling
6 us where -- that you're using this from the GIS system that we
7 talked about earlier; correct?

8 A Yes. The information in the lower right corner
9 of the map is something that the [AR] shall IS is telling us
10 what are the sources for that gray map in the background. It
11 shows us where the different communities are located and where
12 the rivers are, those are the sources that-- Esray, the
13 company that makes this software, those are the sources for
14 the data of that background map.

15 Q And it is your understanding that this GIS
16 software is using census data from 2020; correct?

17 A I'm using my own. So I use the software, but
18 then I choose the data and I put the data in the software so I
19 can vouch for my use of 2020 census data.

20 Q Okay. So the hispanic CVAP, the white CVAP, the
21 black CVAP and the Asian CVAP all of those numbers are coming
22 from the 2020 data; correct?

23 A Yes.

24 Q Let's look at your final one, which is figure 14.
25 Here it looks like we've gone back down to the Modesto/Ceres

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1 area; correct?

2 A Yes.

3 Q Again, this is a little bit more zoomed out and
4 we've dropped the dots to 30 per 100, but instead of just
5 having one population, we have actually broken this out by the
6 CVAP numbers; correct?

7 A Yes. This is another reason to go down to 30 is
8 so that one can get a better appreciation for differences,
9 especially in some of the relatively sparsely populated place
10 some of the differences in the groups. One can actually have
11 enough dots to look at to understand what the distribution of
12 groups is across the space.

13 Q Would you agree with me that the portion of
14 Modesto north of the line has more green dots than red dots?

15 MR. BISHOP: Objection to form.

16 THE WITNESS: Which portion do you have in mind?

17 BY MR. MEUSER:

18 Q I'm kind of looking at that portion of Modesto
19 north of your black line that is going east to west, kind of
20 where the big population is of Modesto.

21 A I don't really see it. I see heterogeneous place
22 with green and red dots on both sides. This is why I think
23 these visual -- maybe one sees what one wants to see in these
24 maps, that's why I went ahead and conducted the analysis and
25 provided the information on the CVAP and the HVAP of the

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1 actual blocks that were moved in and out of district 13.

2 Q I'm going to step back and kind of round out a
3 few questions from this morning, if you don't mind. I've got
4 a couple more, Maureen.

5 MS. RIORDAN: I'm sorry. Good.

6 MR. MEUSER: I think I'll finish up here. I think I've
7 got a couple questions, we'll take a quick break and then
8 you'll come in after the break. Will that work for you?

9 MS. RIORDAN: Sure.

10 MR. MEUSER: Okay.

11 BY MR. MEUSER:

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12 Q You don't know the subject intent the subjective
13 intent of Paul Mitchell; correct in drawing the Congressional
14 District 13?

15 MR. BISHOP: Object to the form.

16 THE WITNESS: I'm not even sure I know who Paul
17 Mitchell is to be honest.

18 BY MR. MEUSER:

19 Q You don't know the subjective intent of the
20 individual who designed Congressional District 13 in 2025
21 correct?

22 A That's correct.

23 Q And you do not know the subjective intent of any
24 of the legislators who adopted AB 604 which became Prop 50?

25 A That's correct.

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1 Q You do not know what criteria the map makers used
2 in drawing Prop 50 map or Congressional District 13?

3 MR. BISHOP: Objection to form.

4 THE WITNESS: Right, I don't know anything about what
5 criteria they used.

6 BY MR. MEUSER:

7 Q You only studied Congressional District 13, you

8 did not study any other districts -- strike that.

9 You only studied Congressional District 13 and

10 adjoining parts with 9 and 5; correct?

11 MR. BISHOP: Objection to form.

12 THE WITNESS: I was just responding to Dr. Trende's

13 report, so I stuck with the areas that he looked at which

14 really focused on district 13, but also, as you suggest, the

15 district 9 and district 5.

16 BY MR. MEUSER:

17 Q So the other 49 congressional districts you did

18 zero analysis on them?

19 MR. BISHOP: Objection to form.

20 THE WITNESS: That's correct.

21 BY MR. MEUSER:

22 Q You're not offering any opinions about any other

23 portion of the state; correct?

24 A That's correct.

25 MR. BISHOP: Objection to form.

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1 BY MR. MEUSER:

2 Q Earlier we were talking about the core in and out
3 analysis of CD 13; correct?

4 A Yes.

5 Q And you did not do that in any other district in
6 the state; correct?

7 MR. BISHOP: Objection to form.

8 THE WITNESS: Correct.

9 MR. MEUSER: Let's take a ten minute break. Is that
10 good for you guys.

11 MR. BISHOP: Sure.

12 MR. MEUSER: And then, Maureen, you're on at the end of
13 the break.

14 MS. RIORDAN: Got it.

15 (Pause in the proceedings.)

16 MR. MEUSER: Back on the record. So I'm going to turn
17 over to DOJ to continue the questioning.

18 THE WITNESS: Okay.

19 BY MS. RIORDAN:

20 Q Good afternoon, Dr. Rodden. How are you?

21 A I'm fine. How are you?

22 Q I'm great. Look, I just have one question for
23 you because plaintiff's counsel was actually very, very
24 efficient in his questioning. And I just want to confirm for
25 the record that anything that you will be testifying to at the

1 preliminary hearing will be limited to what is contained in
2 your report and your testimony here today; is that correct?

3 MR. BISHOP: Objection to the extent that this calls
4 for privileged information, I'll instruct the witness to
5 answer to the extent it doesn't reveal conversations with
6 counsel. And also object on speculation grounds because it's
7 not December 15 yet.

8 THE WITNESS: My understanding is that Dr. Trende may
9 have the opportunity to file an additional report in response
10 to my report, so I would hope that I have the opportunity to
11 read that report and give some thought to it and so that if I
12 was asked a question about that report at the proceedings that
13 I would have the ability to speak about it. So that's my
14 understanding is I would still have that opportunity but
15 that's the extent to which I've thought about this question.

16 MS. RIORDAN: Okay. I would agree with that. I have
17 nothing further.

18 MR. MEUSER: So before we go off the line, I think the
19 court reporter is going to want on the record what people
20 want. On behalf of the plaintiffs, we would like a rough
21 today and an overnight, if possible. I believe DOJ is the
22 same as us. Counsel?

23 MR. BISHOP: For the DCCC we would like a same day
24 rough as well and expedited final on the same schedule, as

25 fast as possible.

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1 MR. MEUSER: California DOJ, what's your position on
2 transcripts?

3 MS. RIORDAN: I'm confirming what you just said, a
4 rough and then expedited.

5 MR. MEUSER: Is it anybody on the phone from LULAC?

6 MS. MCCALL: So that was a response apparently on
7 behalf of US DOJ. Speaking for California DOJ, yes, we would
8 like the final transcript tomorrow.

9 MR. MEUSER: Do you want a rough today?

10 MS. MCCALL: No. We can just wait for the final
11 tomorrow.

12 MR. MEUSER: LULAC, can you just repeat what your
13 position was again? Sorry.

14 LULAC REPRESENTATIVE: Yes, we would like the final
15 tomorrow.

16 MR. MEUSER: But not the rough today?

17 LULAC REPRESENTATIVE: Right.

18 MR. MEUSER: So for the record, everybody, there are
19 three exhibits attached to the exhibit. I think we specified

20 all three of them have been given to the court reporter. With

21 nothing further, this deposition is ended.

22 3:04 p.m.

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