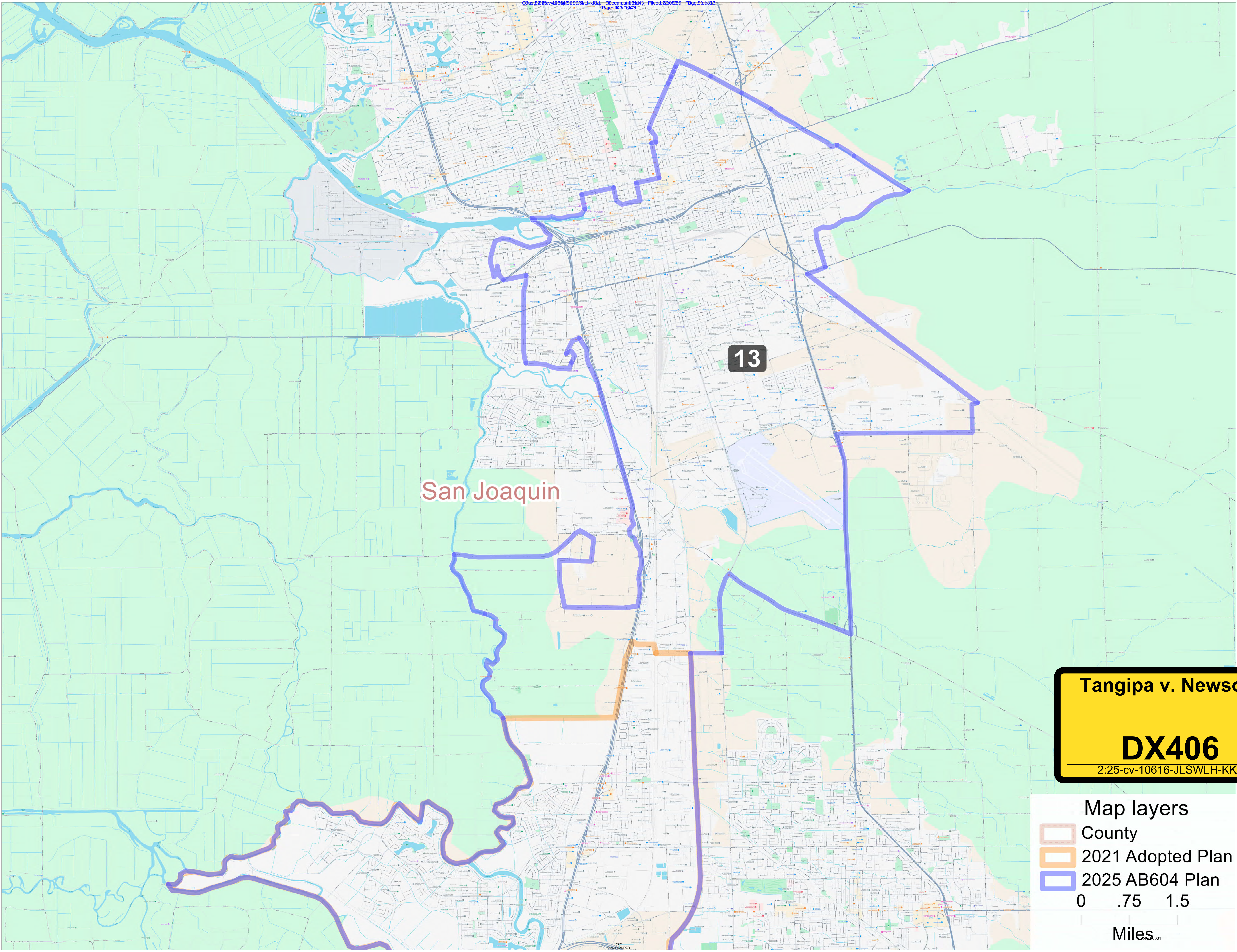


## **Exhibit 406**



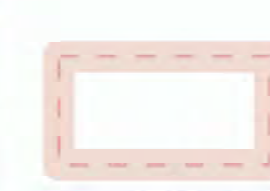




**Tangipa v. Newsom**

**DX406**

2:25-cv-10616-JLSWLH-KKL

**Map layers**

-  County
-  2021 Adopted Plan
-  2025 AB604 Plan

0 .75 1.5

Miles



## **Exhibit 407**

**From:** [Mark Meuser \(Dhillon Law\)](#)  
**To:** [Tom Brunell](#)  
**Subject:** Counties with VRA Districts  
**Date:** Sunday, October 26, 2025 9:58:55 AM

---

Commission VRA Districts:

13 – Fresno, Madera, Merced, San Joaquin, Stanislaus  
18 – Monterey, San Benito, Santa Clare, Santa Cruz  
21 – Fresno, Tulare  
22 – Kern, Kings, Tulare  
25 – Imperial, Riverside, San Bernardino  
31 – Los Angeles  
33 – San Bernardino  
35 – Los Angeles, Riverside, San Bernardino  
38 – Los Angeles, Orange  
39 - Riverside  
42 – Los Angeles  
44 – Los Angeles  
46 - Orange  
52 – San Diego

Prop 50 Minority/Majority Districts:

13 – Merced, Fresno, Madera, San Joaquin, Stanislaus  
18 – San Benito, Fresno, Kings, Monterey, Santa Clara, Santa Cruz  
21 – Fresno, Tulare  
22 – Fresno, Kern, Kings, Madera, Tulare,  
25 – Imperial, Riverside, San Bernardino  
29 – Los Angeles  
31 – Los Angeles, San Bernardino  
33 – Riverside, San Bernardino  
34 – Los Angeles  
35 – Los Angeles, Riverside, San Bernardino  
38 – Los Angeles, Orange  
39 - Riverside  
42 – Los Angeles, Orange  
44 – Los Angeles  
46 - Orange  
52 – San Diego

Mark P. Meuser  
Dhillon Law Group Inc.  
177 Post St., Suite 700  
San Francisco, CA 94108  
415.433.1700 (o)  
415.577.2850 (m)

**Tangipa v. Newsom**

**DX407**

2:25-cv-10616-JLSWLH-KKL

DX407-0001

**Brunell\_001458**







## **Exhibit 408**



**From:** [Mark Meuser \(Dhillon Law\)](#)  
**To:** [Tom Brunell](#)  
**Cc:** [Michael Columbo \(Dhillon Law\)](#)  
**Subject:** Prop 50: VRA Districts  
**Date:** Wednesday, October 22, 2025 8:56:02 AM

---

Tom,

For your information. There are 16 Congressional Districts that have Hispanic CVAP of over 50%. However, only 14 of these (per legislative testimony) are designated VRA. I have been unable to find a list of which of the Congressional Districts were designated the VRA Districts.

The 16 minority/majority districts are:

CD 13, 18, 21, 22, 25, 29, 31, 33, 34, 35, 38, 39, 42, 44, 46, and 52.

Please let me know if you need anything else.

Mark P. Meuser  
Dhillon Law Group Inc.  
177 Post St., Suite 700  
San Francisco, CA 94108  
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415.577.2850 (m)

Tangipa v. Newsom

**DX408**

2:25-cv-10616-JLSWLH-KKL

DX408-0001

**Brunell\_001833**



## **Exhibit 409**



**From:** [Mark Meuser \(Dhillon Law\)](#)  
**To:** [Tom Brunell](#)  
**Subject:** RE: Prop 50: List of Minorities who have won statewide office  
**Date:** Friday, October 24, 2025 9:30:38 AM

---

A couple of other general election cases would be:

2016, US Senate, Loretta Sanchez (Hispanic) lost to Kamala Harris (Black) – both Democrats  
2018, US Senate, Kevin de Leon (Hispanic) lost to Dianne Feinstein – both Democrats  
2018, Lt. Governor, Hernandez (R)(Hispanic) lost to Eleni Kounalaskis (Greek)(D)

Mark P. Meuser  
Dhillon Law Group Inc.  
177 Post St., Suite 700  
San Francisco, CA 94108  
415.433.1700 (o)  
415.577.2850 (m)

---

**From:** Tom Brunell <[tbrunell@gmail.com](mailto:tbrunell@gmail.com)>  
**Sent:** Friday, October 24, 2025 8:26 AM  
**To:** Mark Meuser (Dhillon Law) <[mmeuser@dhillonlaw.com](mailto:mmeuser@dhillonlaw.com)>  
**Subject:** Re: Prop 50: List of Minorities who have won statewide office

### External Email

Mark - have there been any latino candidates who have lost statewide in the last 10 years?

On Wed, Oct 22, 2025 at 1:08 PM Mark Meuser (Dhillon Law)  
<[mmeuser@dhillonlaw.com](mailto:mmeuser@dhillonlaw.com)> wrote:

Tom,

Here is a list of minority candidates who have won statewide office over the last 20 years:

Name	Type of minority	Office won	Year
John Chiang	Asian American	Controller	2006
Kamala D. Harris	Black / South Asian	Attorney General	2010
John Chiang	Asian American	Controller (re-elected)	2010
John Chiang	Asian American	Treasurer	2014

Tangipa v. Newsom

**DX409**

2:25-cv-10616-JLSWLH-KKL

DX409-0001  
**Brunell\_001834**



Kamala D. Harris	Black / South Asian	Attorney General (re-elected)	2014
Alex Padilla	Latino	Secretary of State	2014
Betty T. Yee	Asian American	Controller	2014
Kamala D. Harris	Black / South Asian	U.S. Senator	2016
Alex Padilla	Latino	Secretary of State (re-elected)	2018
Xavier Becerra	Latino	Attorney General	2018
Tony Thurmond	Black	Superintendent of Public Instruction	2018
Ricardo Lara	Latino	Insurance Commissioner	2018
Fiona Ma	Asian American	Treasurer	2018
Betty T. Yee	Asian American	Controller (re-elected)	2018
Alex Padilla	Latino	U.S. Senator (special election to complete term)	2022
Alex Padilla	Latino	U.S. Senator (full 6-year term)	2022
Shirley N. Weber	Black	Secretary of State	2022
Rob Bonta	Asian American (Filipino American)	Attorney General	2022
Ricardo Lara	Latino	Insurance Commissioner (re-elected)	2022
Fiona Ma	Asian American	Treasurer (re-elected)	2022
Tony Thurmond	Black	Superintendent of Public Instruction (re-elected)	2022
Malia M. Cohen	Black	Controller	2022

Mark P. Meuser  
Dhillon Law Group Inc.  
177 Post St., Suite 700  
San Francisco, CA 94108  
415.433.1700 (o)  
415.577.2850 (m)



## **Exhibit 410**





Outlook

---

[PROOF] 16 days until court.

---

From CAGOP <info@updates.cagop.org>

Date Mon 12/1/2025 10:13 AM

To Jocelynne Florian <jflorian@cagop.org>



Jocelynne, we have a date!

*In just 16 short days*, we have our first hearing on our lawsuit against Gavin Newsom's RIGGED maps.

We're making EVERY effort to defend California Republicans up and down the ballot.

December 3rd will come faster than we think, [will you PLEASE be one of the 16 patriots from 92627 to stand with California Republicans today?](#)

STAND WITH CAGOP

Thank you for your support,

CAGOP

Tangipa v. Newsom

**DX410**

2:25-cv-10616-JLSWLH-KKL

**PLAINTIFFS\_000028**



---

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Not Authorized by any Candidate or Candidate's Committee.  
1001 K Street, Fourth Floor, Sacramento, CA 95814  
P 916-448-9496 | F 916-448-9497  
Federal ID# C00140590 | State ID# 810163

This email was sent by: CALIFORNIA REPUBLICAN PARTY  
1001 K Street, 4th Floor, Sacramento, CA, 95814 US  
This email was sent to: [jflorian@cagop.org](mailto:jflorian@cagop.org)

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# **Exhibit 411**





---

[PROOF] DEVASTATING: Gavin Newsom's new Congressional map

---

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 11:02  
To Francisco Bedoya <fbedoya@cagop.org>



Gavin Newsom's redrawn Congressional maps were leaked, and they revealed something DEVASTATING!

**If Democrats succeed in passing this new map, we can say GOODBYE to a GOP House majority, and HELLO to the end of President Trump's Presidency.**

Jocelynne, CAGOP is leading the fight to stop this attempt to RIG our House races. [Please, we need you on the team now more than ever. >>](#)

The new map proposal would **GET RID OF at LEAST 5 GOP-held House seats...**

We currently only hold a ONE-SEAT majority.

We hate to bother you over the weekend, but this really can't wait. We need YOUR support if we're going to win this fight.

[Please join us today. >>](#)

Tangipa v. Newsom

**DX411**

2:25-cv-10616-JLSWLH-KKL

**PLAINTIFFS 000067**



## STAND WITH CAGOP

Thank you for your support,

CAGOP

---

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1001 K Street, Fourth Floor, Sacramento, CA 95814  
P 916-448-9496 | F 916-448-9497  
Federal ID# C00140590 | State ID# 810163

This email was sent by: CALIFORNIA REPUBLICAN PARTY  
1001 K Street, 4th Floor, Sacramento, CA, 95814 US  
This email was sent to: [jflorian@cagop.org](mailto:jflorian@cagop.org)

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## **Exhibit 412**





[PROOF] We're going to be blunt

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 11:09  
To Francisco Bedoya <fbedoya@cagop.org>



Jocelynne, we're going to be blunt about this.

**If Democrats succeed in passing their new Congressional map – it would GUARANTEE the END of our GOP House majority.**

**[CAGOP is leading the fight to stop Gavin Newsom's WAR against Republicans and we need as many grassroots supporters as we can gather to join us in the fight. >>](#)**

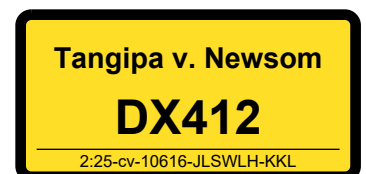
*Sorry to bother again about this, but here's what's at stake if Gavin Newsom wins: he's PROMISED to use this new Congressional map to put an END to President Trump's Presidency.*

We cannot risk giving Democrats even an INCH in this battle.

We're finalizing our list of day one supporters in this effort soon, and we need your name on it. **[Please, join us today. >>](#)**

STAND WITH CAGOP

Thank you for your support,



**PLAINTIFFS\_000071**

CAGOP

Page ID #:16828

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P 916-448-9496 | F 916-448-9497  
Federal ID# C00140590 | State ID# 810163

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1001 K Street, 4th Floor, Sacramento, CA, 95814 US  
This email was sent to: jflorian@cagop.org

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## **Exhibit 413**



[PROOF] Please? We need to hear from you.

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 11:10  
To Francisco Bedoya <fbedoya@cagop.org>



*Jocelynnne, will you confirm you stand with us on this?*

Gavin Newsom's Democrats are trying to RAM through a new Congressional map that would WIPE OUT our GOP House majority.

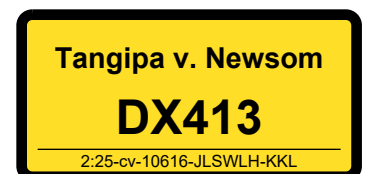
**CAGOP is leading the fight to STOP these efforts. Please, we're asking: will you join us in the fight?**

Our road to holding onto the House, keeping the America First agenda alive, all depends on what happens in California.

Winning this fight will require hard work and a huge team of grassroots supporters. **If you're seeing this email, we need you to help fuel the fight.**

STAND WITH CAGOP

Thank you for your support,  
CAGOP



**PLAINTIFFS\_000073**



---

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1001 K Street, Fourth Floor, Sacramento, CA 95814  
P 916-448-9496 | F 916-448-9497  
Federal ID# C00140590 | State ID# 810163

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1001 K Street, 4th Floor, Sacramento, CA, 95814 US  
This email was sent to: [jflorian@cagop.org](mailto:jflorian@cagop.org)

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## **Exhibit 414**





Outlook

[PROOF] Can you give just ONE day to protect the vote?

From CAGOP <info@updates.cagop.org>

Date Mon 12/1/2025 4:08 PM

To Jocelynne Florian <jflorian@cagop.org>



Jocelynne,

On November 4th, Californians will vote on Proposition 50 — Gavin Newsom's scheme to erase Republican congressional seats.

There is so much at stake, and we must ensure that our elections are safe and secure. [That's why we need YOU as a Poll Observer.](#)

Poll Observers are the front line of election integrity. Your presence ensures transparency, deters misconduct, and keeps Democrats accountable.

Without Republicans in the room, they win by default. We can't afford that. President Trump and America are counting on you.

**SIGN UP TO PROTECT THE VOTE**

-CAGOP

**Tangipa v. Newsom**

**DX414**

2:25-cv-10616-JLSWLH-KKL

**PLAINTIFFS\_000126**

---

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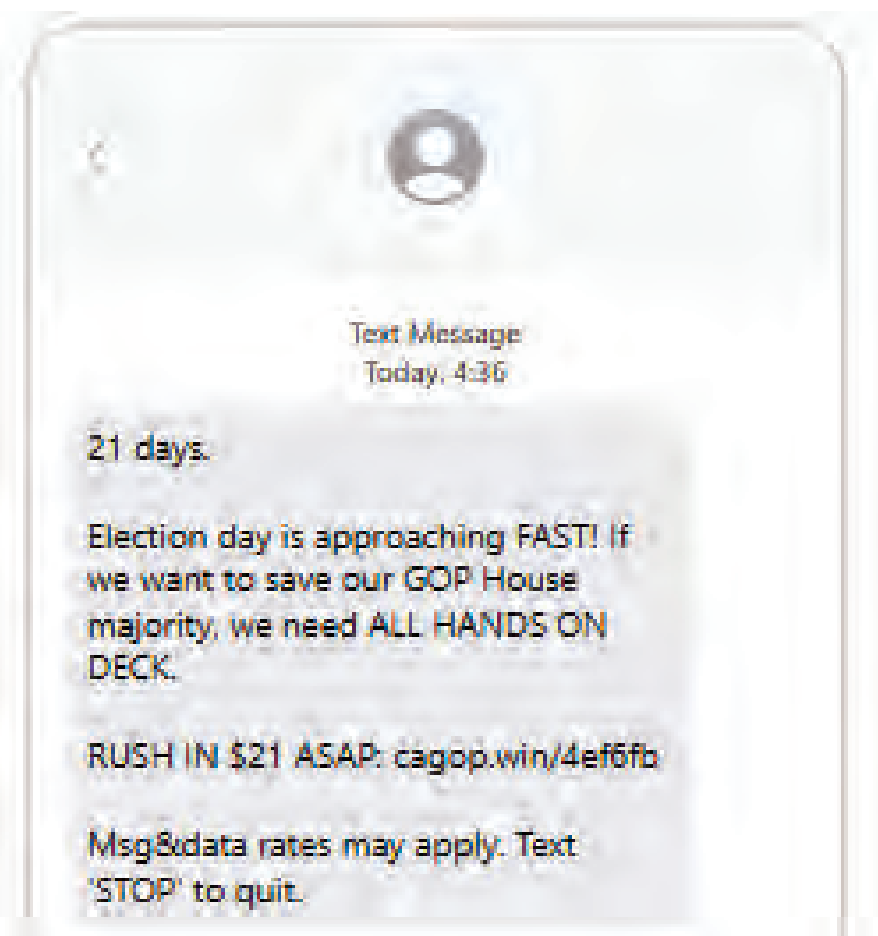
Paid for by the California Republican Party.  
Not Authorized by any Candidate or Candidate's Committee.  
1001 K Street, Fourth Floor, Sacramento, CA 95814  
P 916-448-9496 | F 916-448-9497  
Federal ID# C00140590 | State ID# 810163

This email was sent by: CALIFORNIA REPUBLICAN PARTY  
1001 K Street, 4th Floor, Sacramento, CA, 95814 US  
This email was sent to: jflorian@cagop.org

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## **Exhibit 415**



Tangipa v. Newsom

**DX415**

2:25-cv-10616-JLSWLH-KKL

DX415-0001

**PLAINTIFFS\_000415**



## **Exhibit 416**



Roxanne Hoge &lt;roxannehoge@gmail.com&gt;

**Re: Draft message for LAGOP volunteer**

1 message

**Roxanne Beckford Hoge** <roxannehoge@gmail.com>

Mon, Sep 29, 2025 at 2:03 PM

To: Melissa Lundie &lt;melissa@lagop.org&gt;

Cc: Brandon Herreman &lt;brandonherreman1@gmail.com&gt;

Agreed. They want to help and have been awaiting activation.

Suggested final:

Thank you for offering to volunteer for the LA County Republican Party.

We NEED your help spreading the NO on Prop 50 message to voters across LA County in the next 35 days.

Newsom's Prop 50 is an attack on our independent redistricting commission, our California members of the Republican House Majority and on fairness itself.

We cannot stop Prop 50 without your help.

Please respond and let me know if you would like to join a walk day, to talk to voters in your neighborhood or make calls against Prop 50. We will get you the resources to get started.

---

Roxanne Beckford Hoge

On Sep 29, 2025, at 1:54 PM, Melissa Lundie <melissa@lagop.org> wrote:

I would assume the sale. They expressed interest and already said they want to help. Don't say if Say something like, "Please respond to this email and let me know if you would like to make calls, join a walk day, or talk to your neighbors," and we will get you the resources to get started.

On Mon, Sep 29, 2025 at 1:30 PM Brandon Herreman <brandonherreman1@gmail.com> wrote:

Good afternoon,

I would like to send an email to all potential LAGOP volunteers today. Here is a draft message. Please edit as needed:

"Good afternoon,

Thank you for expressing interest to volunteer for the LA Republican Party.

We NEED your help spreading the NO on Prop 50 message to voters across LA County.

Newsom's Prop 50 is an attack on our independent redistricting commission, our Republican House Majority, and our President.

**Tangipa v. Newsom****DX416**

2:25-cv-10616-JLSWLH-KKL

PLAINTIFFS\_000442

DX416-0001



We cannot stop Prop 50 without YOU. If you would like to talk to voters in your neighborhood or make calls against Prop 50, please respond to this email. We will equip you with the tools and data needed to spread the No on Prop 50 grassroots campaign's winning message."

## **Exhibit 417**



Roxanne Hoge &lt;roxannehoge@gmail.com&gt;

**Re: Message from LAGOP to mid propensity Republican voters in LA**

1 message

**Roxanne Beckford Hoge** <roxannehoge@gmail.com>

Tue, Oct 7, 2025 at 7:23 PM

To: Mike Netter &lt;mikenetter2020@gmail.com&gt;

Cc: Larry Maloney &lt;larry@softnetworksolutions.com&gt;

Subject line—Gavin Newsom wants us gone.

Roxanne Beckford Hoge

On Oct 7, 2025, at 7:11 PM, Mike Netter &lt;mikenetter2020@gmail.com&gt; wrote:

Subject line  
Do you feel you were alone?  
Or.... Help me

Mike Netter  
[mikenetter2020@gmail.com](mailto:mikenetter2020@gmail.com)  
[rebuildcalifornia.com/](https://rebuildcalifornia.com/)  
Follow me and connect  
<https://x.com/nettermike>  
[linkedin.com/in/mike-netter-2889a9](https://www.linkedin.com/in/mike-netter-2889a9)  
<https://www.facebook.com/mike.netter.5/>  
<https://www.youtube.com/@mikenetter3414/streams>  
Subscribe to my free newsletter  
<https://netternews-dac43c.beehiiv.com/>

On Tue, Oct 7, 2025 at 7:09 PM Mike Netter &lt;mikenetter2020@gmail.com&gt; wrote:

Larry this what we want to load up as the test for LAGOP  
Lets talk tomorrow about target  
We will shoot for 250k folks  
NN domain vs REBUILD?  
Will tell you what entity to bill  
Yes lets do a unique from  
Roxanne copied for your professional critique

Roxanne you use first person  
Give me signature?

Mike Netter  
[mikenetter2020@gmail.com](mailto:mikenetter2020@gmail.com)  
[rebuildcalifornia.com/](https://rebuildcalifornia.com/)  
Follow me and connect  
<https://x.com/nettermike>

**Tangipa v. Newsom****DX417**

2:25-cv-10616-JLSWLH-KKL

PLAINTIFFS\_000452

DX417-0001



[linkedin.com/in/mike-netter-2889a9](https://www.linkedin.com/in/mike-netter-2889a9)  
<https://www.facebook.com/mike.netter.5/>  
<https://www.youtube.com/@mikenetter3414/streams>  
Subscribe to my free newsletter  
<https://netternews-dac43c.beehiiv.com/>

On Tue, Oct 7, 2025 at 7:00 PM Roxanne Hoge <[roxannehoge@gmail.com](mailto:roxannehoge@gmail.com)> wrote:

Did you ever think to yourself, "the problem with California is *too many Republicans* in office?"

Me neither—nowhere is it more clear that Democrats can't even run a lemonade stand than here in LA County.

Now, Gavin Newsom and friends have spent million for a special election with the goal of wiping out common sense for once and for all. It's called Proposition 50, and there's already a ballot in your home asking you to overturn our Independent Citizens Commission for the 2026 election. We are asking you to Vote NO on Prop 50 today! Did you know that the LAGOP is the largest Republican county party in the entire country?

- Did you know that the LAGOP is the largest Republican county party in the entire country? We have over 1 million registered Republicans in LA—**you are not alone!**
- Learn all you can about Prop 50 by watching [this video](#). And tell everyone you know to **vote NO before November 4**.
- **Join us in this fight** at our [Prop 50 info center](#), then keep with the party by following us on your preferred social media platform.

At its core, Proposition 50 takes power away from the people and gives it back to the politicians.

You may have heard that this is only a "temporary" change, in response to another state's redistricting. Neither is true, as you'll see from the video. Proposition 50 undermines fairness, accountability, and trust in government. As attorney Mark Meuser has said, "It's a bad deal for California and for voters who believe in honest representation."

Thank you for your attention to this matter.

## **Exhibit 418**



Roxanne Hoge &lt;roxannehoge@gmail.com&gt;

**Re: last pass at our door hanger copy**

1 message

**Roxanne Hoge** <roxannehoge@gmail.com>

Tue, Sep 16, 2025 at 1:56 PM

To: Nathan Baker &lt;nathan@madisonmcqueen.com&gt;

Cc: Melissa Lundie &lt;melissa@lagop.org&gt;, Owen Brennan &lt;owen@madisonmcqueen.com&gt;

This was the only comment from a Comms friend:

"It should read prop 50 all over not just 50"

I think it says both so I don't have a problem with it. Do you?

On Tue, Sep 16, 2025 at 1:37 PM Nathan Baker <nathan@madisonmcqueen.com> wrote:

Draft doorhangers attached for approval!

**Nathan D. Baker**

VP / Executive Producer

[Nathan@MadisonMcQueen.com](mailto:Nathan@MadisonMcQueen.com)

323-229-2187

**MADISONMCQUEEN****From:** Nathan Baker <nathan@madisonmcqueen.com>**Date:** Tuesday, September 16, 2025 at 12:35 PM**To:** Melissa Lundie <melissa@lagop.org>, Roxanne Hoge <roxannehoge@gmail.com>**Cc:** Owen Brennan <owen@madisonmcqueen.com>**Subject:** Re: last pass at our door hanger copy

Very helpful, thank you. We'll have a draft ready shortly.

Once that is approved we'll share a download link for both it and the (very large) full-res yard sign file.

**From:** Melissa Lundie <melissa@lagop.org>**Date:** Tuesday, September 16, 2025 at 12:31 PM**To:** Roxanne Hoge <roxannehoge@gmail.com>**Tangipa v. Newsom****DX418**

2:25-cv-10616-JLSWLH-KKL

PLAINTIFFS\_000447

DX418-0001



**Cc:** Owen Brennan <[owen@madisonmcqueen.com](mailto:owen@madisonmcqueen.com)>, Nathan Baker <[nathan@madisonmcqueen.com](mailto:nathan@madisonmcqueen.com)>

**Subject:** Re: last pass at our door hanger copy

Here's the raw copy if your designer wants to cut and paste

STOP

Sacramento politicians from pulling our strings

Protect the Independent Citizens Redistricting Commission.

Vote NO on Prop 50

WHY Vote No on 50?

- 
- **Takes Power Away From You:** More than 20 years ago, California voted to have citizens draw district lines via the Citizens Redistricting Commission. Prop 50 would let *Sacramento politicians* redraw district lines, diminishing your say in how your community is represented.
- **Brings Back Partisan Politics:** This initiative hid the redistricting process from the public, so that politicians can pick their voters to stay in power.
- **Rewards Backroom Deals:** Proposition 50 enables secret deals among Sacramento politicians, fueling partisan manipulation by corrupt special interest puppeteers.

Keep power in your hands

Vote NO on Prop 50

Visit [lagop.org](http://lagop.org) to volunteer & learn more

PAID FOR BY THE REPUBLICAN PARTY OF LOS ANGELES COUNTY [Does not need to be caps, needs to be a reasonable size to read]

On Tue, Sep 16, 2025 at 11:22 AM Roxanne Hoge <[roxannehoge@gmail.com](mailto:roxannehoge@gmail.com)> wrote:

Sorry for delay. Had to massage the copy a bit, but whatever you think is best is what we will go with. We are eternally grateful for your help.

Everything is up for grabs!

Thank you so much,

Page ID #:16846

Roxanne Hoge

## **Exhibit 419**

1 Lalitha D. Madduri (CA Bar No. 301236)  
lmadduri@elias.law  
2 Christopher D. Dodge\* (DC Bar No. 90011587)  
3 cdodge@elias.law  
4 Max Accardi\* (DC Bar No. 90021259)  
maccardi@elias.law  
5 **ELIAS LAW GROUP LLP**  
250 Massachusetts Ave. NW, Suite 400  
6 Washington, DC 20001  
7 T: (202) 968-4652  
8 F: (202) 968-4498

9 Abha Khanna\* (WA Bar No. 42612)  
akhanna@elias.law  
10 Tyler L. Bishop (CA Bar No. 337546)  
11 tbishop@elias.law  
12 **ELIAS LAW GROUP LLP**  
1700 Seventh Avenue, Suite 2100  
13 Seattle, WA 98101  
14 T: (206) 656-0177  
F: (206) 656-0180

15 Omar Qureshi (CA Bar No. 323493)  
16 omar@qureshi.law  
17 Max Schoening (CA Bar No. 324643)  
18 max@qureshi.law  
19 **QURESHI LAW PC**  
700 Flower Street, Suite 1000  
20 Los Angeles, CA 90017  
21 T: (213) 600-6096  
F: (213) 277-8989

22 *Counsel for Defendant-Intervenor DCCC*

23  
24 *\* Admitted pro hac vice*

25  
26  
27 Tangipa v. Newsom

28 **DX419**

2:25-cv-10616-JLSWLH-KKL



IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

**DAVID TANGIPA, *et al.*,**

Plaintiffs,

and

**UNITED STATES OF AMERICA,**

Plaintiff-Intervenor,

v.

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

Defendants,

**DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE, *et al.*,**

Defendant-Intervenors.

2:25-cv-10616-JLS-WLH-KKL  
Three-Judge Court

**DCCC RESPONSES TO  
PLAINTIFFS' FIRST SET OF  
INTERROGATORIES**

**RESPONSES AND OBJECTIONS**

**INTERROGATORY NO. 1**

For each of the Challenged Districts, describe all criteria that were actually applied in drawing the district's boundaries, including but not limited to: (a) race or ethnicity; (b) Hispanic or Latino CVAP; (c) historic partisan performance; (d) whether it is a VRA District; and (e) compliance with the VRA.

**DCCC RESPONSE:**

DCCC objects to Interrogatory No. 1 to the extent it calls for information not within DCCC's possession, custody, or control. DCCC further objects to the term "VRA District" because it is vague, confusing, and makes unfounded legal assumptions. Subject to these objections, DCCC responds as follows:

DCCC understands that various partisan metrics were applied in drawing the Proposition 50 map and the districts therein, including historical partisan performance information, but does not possess knowledge of how exactly partisan metrics were applied. DCCC has no knowledge of the use of any racial or ethnic data.

Contrary to the allegations in the complaint, DCCC did not learn about the existence of the Proposition 50 map until after an initial map was drawn by Paul Mitchell and Redistricting Partners. DCCC reviewed an initial draft of the map for the first time on August 3, 2025 (the "Draft Map"). DCCC liked the Draft Map because it substantially improved Democratic Party candidate political performance relative to California's existing congressional map, which had been drawn by the independent California Citizens Redistricting Commission in 2021. Specifically, DCCC determined that the Draft Map likely improved Democratic Party performance in Districts 1, 3, 9, 13, 22, 27, 41, 45, 47, and 48. Although DCCC liked the Draft Map because of its superior partisan performance for Democrats, DCCC had no knowledge of what criteria were used to draw the Draft Map other than partisan considerations.

1 Hoping that an even more favorable map for Democrats would be presented to the  
2 California Legislature, DCCC supported certain revisions to the Draft Map it reviewed  
3 on August 3, 2025. All of these proposed revisions concerned improving Democratic  
4 partisan performance, including in districts near San Diego and in the Central Valley. At  
5 no point did DCCC analyze racial data for the Draft Map, and none of its supported  
6 revisions were based on consideration of race or the Voting Rights Act. DCCC  
7 understands that Redistricting Partners later adopted some of the revisions supported by  
8 DCCC, including to improve Democratic performance in the Central Valley.

9 On August 14, 2025, the California State Assembly Committee on Elections and  
10 the Senate elections and Constitutional Amendments Committee opened a public portal  
11 for submissions regarding redistricting. On that same day, DCCC decided to purchase a  
12 revised version of the August 3, 2025 Draft Map from Redistricting Partners (the  
13 “Submitted Map”). DCCC received that map file on August 15, 2025 and submitted it to  
14 the Legislature’s public redistricting portal and via email on the same day.

15 DCCC understands that the map adopted by the Legislature and put before  
16 California voters had similar partisan characteristics to the Submitted Map.

17  
18 **INTERROGATORY NO. 2**

19 For each of the Challenged Districts, state whether, at the time the Proposition 50 Map  
20 was drawn, any target or minimum level of Hispanic or Latino CVAP, or of any other  
21 racial or ethnic group, was proposed or discussed. If so, identify: (a) the target or range;  
22 (b) when and by whom it was proposed; (c) all reasons given for pursuing that target;  
23 and (d) whether that target was described as necessary to create a VRA District or allow  
24 Hispanic or Latino voters to elect their preferred candidates.

25  
26 **DCCC RESPONSE:**

27 DCCC objects to Interrogatory No. 2 to the extent it calls for information not  
28 within DCCC’s possession, custody, or control. DCCC further objects to the term “VRA

1 District” because it is vague, confusing, and makes unfounded legal assumptions. Subject  
2 to these objections, DCCC responds as follows:

3 As explained in its response to Interrogatory No. 1—which DCCC incorporates  
4 here by reference—DCCC has no knowledge of any racial criteria used to draw the Draft  
5 Map and is aware of only partisan criteria used to evaluate and draw the Submitted Map.  
6 The revisions to the Draft Map that DCCC supported exclusively concerned improving  
7 the partisan performance of the Proposition 50 map for Democratic candidates—DCCC  
8 did not propose any racial targets or minimums for any district, nor was DCCC ever made  
9 aware of the existence of any racial targets or minimums for any district. Indeed, DCCC  
10 never analyzed racial data for the draft map, and accordingly none of its proposed  
11 revisions were based on consideration of race or the Voting Rights Act.

12  
13 **INTERROGATORY NO. 3**

14 Identify and describe all VRA Analyses prepared, received, or considered by You before  
15 or during the drafting and adoption of the Proposition 50 Map by the California  
16 Legislature that showed or purported to show a need to create more VRA Districts  
17 statewide than existed under the Commission Map, and for each such VRA Analysis,  
18 identify: (a) the person who prepared it; (b) the date on which it was prepared; (c) the  
19 geographic area or districts analyzed; and (d) the role it played in drawing the any of the  
20 Challenged Districts.

21  
22 **DCCC RESPONSE:**

23 DCCC objects to Interrogatory No. 3 to the extent it calls for information not  
24 within DCCC’s possession, custody, or control. DCCC further objects to the terms “VRA  
25 District” and “VRA Analyses” because they are vague, confusing, and make unfounded  
26 legal assumptions. Subject to these objections, DCCC responds as follows:

27 DCCC incorporates its responses to Interrogatories Nos. 1 and 2 by reference. As  
28 explained therein, DCCC’s evaluation of the Draft Map was limited to the partisan



1 performance of its districts, and its desired revisions to the Draft Map exclusively  
2 concerned improving the partisan composition of the Draft Map. At no time did DCCC  
3 undertake, receive, or consider so-called “VRA Analyses” of the Draft Map or Submitted  
4 Map of any kind—its limited input exclusively concerned partisan metrics meant to make  
5 the Draft Map even more favorable for Democrats.

6  
7 **INTERROGATORY NO. 4**

8 State whether, at the time the Proposition 50 Map was enacted, any state official, staff  
9 member, or non-attorney consultant or contractor concluded that, absent creation of the  
10 Challenged Districts, the State of California faced a significant risk of liability under  
11 Section 2 of the VRA. If so, identify: (a) the person(s) who reached or communicated  
12 that conclusion; (b) the date(s) on which that conclusion or advice was communicated;  
13 (c) all factual bases relied on in reaching that conclusion; and (d) all documents reflecting  
14 that conclusion or advice.

15  
16 **DCCC RESPONSE:**

17 DCCC objects to Interrogatory No. 4 to the extent it calls for information not  
18 within DCCC’s possession, custody, or control. Subject to this objection, DCCC  
19 responds as follows:

20 DCCC incorporates its responses to Interrogatories Nos. 1-3 by reference. Because  
21 DCCC was exclusively concerned with the partisan performance of Draft Map and  
22 Submitted Map, at no time did it ever undertake, seek, request, or review analysis of  
23 whether either map complied with Section 2 of the VRA.

24  
25 **INTERROGATORY NO. 5**

26 Identify all communications between any state official, staff member, consultant, or  
27 contractor and any outside organization or individual (including but not limited to  
28 Hispanas Organized for Political Equality (HOPE), the League of United Latin American

1 Citizens (LULAC), the Democratic Congressional Campaign Committee (DCCC), Paul  
2 Mitchell, and Redistricting Partners) in which the number or location of VRA Districts  
3 or the racial or ethnic composition of the Challenged Districts was discussed, and for  
4 each such communication, identify: (a) the parties to the communication; (b) the date of  
5 the communication; (c) the district(s) discussed in the communication; and (d) the  
6 substance of any requests regarding VRA Districts or Hispanic or Latino voting strength.  
7


8 **DCCC RESPONSE:**

9 DCCC objects to Interrogatory No. 5 to the extent it calls for information not  
10 within DCCC's possession, custody, or control. DCCC further objects to the terms "VRA  
11 District" because it is vague, confusing, and makes unfounded legal assumptions. Subject  
12 to these objections, DCCC responds as follows:

13 At no time did DCCC engage in any communications with any state official, staff  
14 member, consultant, or contractor concerning the number and location of VRA Districts  
15 or the racial or ethnic composition of any district within the Draft Map or Submitted  
16 Map.  
17  
18  
19  
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28

**VERIFICATION OF RESPONSES**

I, William Van Nuys III, have read the foregoing responses and believe, based on reasonable inquiry, that the statements contained therein are true and correct to the best of my knowledge, information, and belief.



---

William Van Nuys III

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 1, 2025, I electronically served the foregoing document via electronic mail on all counsel of record.

/s/ Lalitha D. Madduri

Lalitha D. Madduri (CA Bar No. 301236)



## **Exhibit 420**

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# Exhibit 64

Tangipa v. Newsom

**DX420**

2:25-cv-10616-JLSWLH-KKL

## Report on Racial Bloc Voting in South Carolina

Thomas L. Brunell, Ph.D

I am a tenured Professor of Political Science at the University of Texas at Dallas. I received a Ph.D. in Political Science from the University of California, Irvine in 1997. Currently I serve as the program head for the Political Science department and I have previously served as Senior Associate Dean for the School of Economic, Political, and Policy Sciences here at the University of Texas at Dallas. Last year, I was appointed by the Director of the U.S. Census Bureau to serve a three-year term on the Census Scientific Advisory Committee. My teaching and research interests revolve around American elections. I study redistricting, representation, political parties and the U.S. Congress. I teach classes on Election Law, Redistricting and Racial politics, Campaigns and Elections, and Congress. I have published a book on redistricting and dozens of peer-reviewed articles in the top journals in our field on redistricting, the Voting Rights Act, elections, and representation. I am lead author on a textbook on American federal government and for one on American state and local government. I have testified in state and federal courts in numerous prior lawsuits involving voting, redistricting, and the Voting Rights Act.

I was asked by counsel to evaluate the extent to which racial bloc voting was present in recent elections in the state of South Carolina prior to and during the redistricting effort. This is to help the state comply with the Voting Rights Act with respect to when and where majority minority districts ought to be drawn in the state. I am being compensated at the rate of \$500 per hour in this matter prior to the start of litigation, and \$750 per hour after the litigation process began.

I used two recent elections that pitted an African American Democrat against a white Republican in a statewide election. This type of election is appropriate to detect the presence of racially polarized voting. We are interested specifically in the second and third prong of the Gingles test (*Thornburg v. Gingles* (1986)), which ask whether the racial minority vote as a bloc and whether the white majority votes as a bloc and is usually able to defeat the minority preferred candidate.

The two elections I use are the 2020 Senatorial election in which Lindsey Graham (R) defeated Jaime Harrison (D) 55 percent to 45 percent, and the 2018 Secretary of State election in which Mark Hammond (R) beat Melvin Whittenburg (D) 57.1 to 42.8 percent.

First, I will use several standard statistical tools for detecting racially polarized voting looking at the statewide data – homogeneous precinct analysis, scatterplot, and ecological regression. Then I will use the same tools for the data from 25 separate counties in South Carolina (Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Chester, Clarendon, Darlington, Dillon, Dorchester,

Florence, Greenville, Horry, Lee, Marion, Marlboro, Orangeburg, Richland, Spartanburg, Sumter, Williamsburg, and York)

## Data

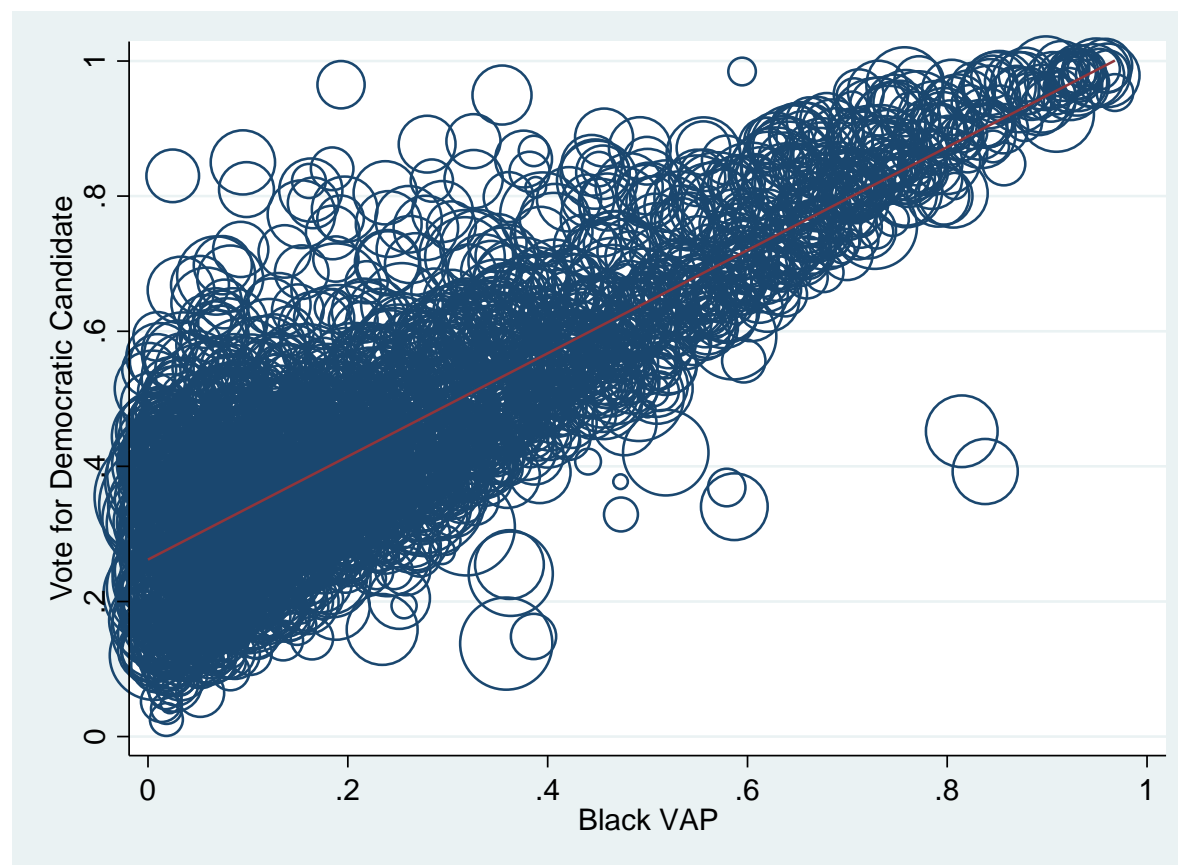
The unit of analysis for this type of analysis is the voting precinct. This is the smallest level of geography we can use in which we have actual vote totals combined with racial data. The election data and merged Census 2020 data were provided to me by counsel.

## Statewide Analysis

The first tool used is a simple scatterplot of the Black Citizen Voting Age Population (CVAP) proportion and the proportion of the vote for the African American candidate. If there is a relationship between the proportion of African Americans in a precinct (horizontal axis) and the proportion of the vote (vertical axis), we should see most of the data in the lower left quadrant (low Black CVAP and low vote for Black candidate) and the upper right quadrant (high Black CVAP and high vote for Black candidate).

## 2020 Senate Election - Graham v. Harrison

Figure 1. Scatterplot of Democratic Vote Proportion and Black Voting Age Proportion, 2020 Senate General Election, Statewide Data



Each circle represents a single South Carolina voting precinct – the size of the circle indicates the number of votes cast – larger circles are bigger precincts than smaller circles. Markers to the left of the graph have low proportion of Black citizens of voting age and as we move to the right, the precincts are more heavily populated by African Americans. The vertical axis is the proportion of the vote cast in the precinct for Jamie Harrison. So those nearer to the bottom cast most of their votes for Senator Graham, but those near the top heavily supported Harrison. Most of the precincts with very low proportion of Black citizens of voting age overwhelmingly supported Graham, though certainly not all of them. There are some precincts with very low black population that also heavily voted for Harrison. For precincts that are heavily Black, the support for Harrison is clear. This pattern is indicative of racially polarized voting. There is evidence of white support for Harrison in some districts, so we need some further analysis to better understand what is going on.

### **Homogeneous Precinct Analysis**

The most straightforward method for trying to relate voting behavior from a specific subgroup to a certain candidate is to look at voting precincts that are overwhelmingly populated by a single racial subgroup (Ards and Lewis 1992). Here we will look for precincts that are at least 90 percent voting age population White or Black. There are 26 precincts that are at least 90 percent Black VAP in the data for this election. The average vote percentage in these precincts is 97.2 percent for Jamie Harrison. There are 200 precincts with at least 90 percent Non-Hispanic White VAP and among these precincts the average percent of the vote is 29.1 percent for Harrison. This is indicative of racially polarized voting in the state of South Carolina.

### **Ecological Regression Analysis**

Lastly, we use data from all precincts in the state to test the relationship between percent of the population made up by Whites and Blacks, to the level of support for the Democratic candidate. This is called ecological regression in the literature (Duncan and Davis 1953, Goodman 1953, Grofman et al., 1985; Grofman and Migalski, 1988; Loewen and Grofman, 1989; Grofman, 1992; Grofman 1993). This establishes a linear relationship between these variables.

There are 2,253 observations for the regression and the estimates derived from the analysis indicate 27.7 percent of White voters supported Harrison, 100 percent of Black voters supported Harrison. All the results are statistically significant. The estimates of every Black voter supporting Harrison is obviously an over-estimate. There are some Black voters that voted for Graham, but results like the ones from this analysis are very typical when a minority group overwhelmingly supports one particularly candidate.



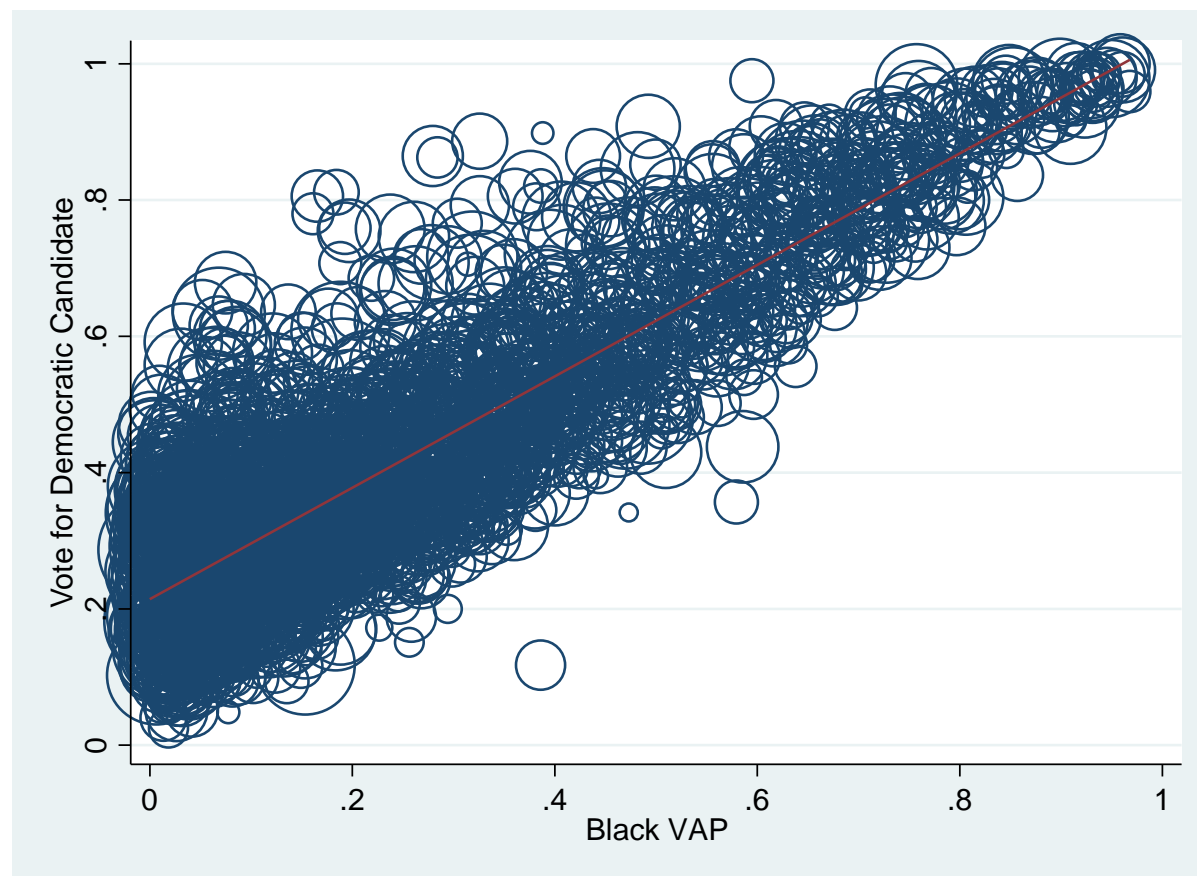
## 2018 Secretary of State Election - Hammond v. Whittenburg

Next, I examine the extent to which voting is polarized by race statewide in South Carolina using the 2018 Secretary of State race, in which Mark Hammond (R) beat Melvin Whittenburg.

### Homogeneous precincts

There are 26 precincts that are at least 90 percent Black VAP in the data for this election. The average vote percentage in these precincts is 96.7 percent for Melvin Whittenburg. There are 200 precincts with at least 90 percent Non-Hispanic White VAP and among these precincts the average percent of the vote is 24.7 percent for Whittenburg. These results indicate the presence of racially polarized voting in the state of South Carolina.

Figure 2. Scatterplot of Democratic Vote Proportion and Black Voting Age Proportion, 2018 Secretary of State Election



## Ecological Regression Analysis

There are 2,245 precincts in this regression. The estimate for support for Whittenburg among white voters is 22.64 percent. The estimate for Blacks is again 100 percent. Again, this is an overestimate of the support among these voters, but we can be sure that Black voters overwhelmingly voted for Whittenburg. These results indicate the presence of racially polarized voting.

## County Based Analysis

Next, I am going to look at the following 25 counties separately, using the same techniques as above: Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Chester, Clarendon, Darlington, Dillon, Dorchester, Florence, Greenville, Horry, Lee, Marion, Marlboro, Orangeburg, Richland, Spartanburg, Sumter, Williamsburg, and York.

## 2020 Graham v. Harrison

## Homogeneous Precinct Analysis

Table 1. Percent of vote for Harrison in Homogenous Precincts, 2020 Senate Election

	90%+ BVAP	90%+ NHWVAP
Allendale	97.7% 1 precinct	
Anderson		15.4% 10 precincts
Bamberg		11.1% 1 precinct
Barnwell		7.8% 1 precinct
Beaufort		39.2% 33 precincts
Berkeley		23.3% 5 precincts
Calhoun		
Charleston	95.7% 1 precinct	44.0% 34 precincts
Chester		
Clarendon		
Darlington	97.8% 1 precinct	
Dillon		
Dorchester		29.7% 2 precincts
Florence	97.6% 5 precincts	4.2% 1 precinct
Greenville		30.0%

		12 precincts
Horry		30.7% 17 precincts
Lee		
Marion		
Marlboro		
Orangeburg	97.5% 5 precincts	
Richland	97.6% 6 precincts	37.7% 4 precincts
Spartanburg		40.6% 4 precincts
Sumter	97.6% 4 precincts	
Williamsburg	93.1% 2 precincts	2.5% 1 precinct
York		27.2% 4 precincts

\*Entries indicate the percent of the vote for Harrison and the number of precincts in each county that are 90 percent or more Black VAP and Non-Hispanic White VAP. Blank entries indicate no homogeneous precincts exist in the county for that group.

In the counties that have homogeneous Black precincts, each one indicates overwhelming support for the Black candidate (93-97 percent). Among the counties with homogenous Non-Hispanic White precincts all of them indicate majority support for Senator Graham. These results support the conclusion of racially polarized voting in these counties.

Table 2. Ecological Regression Analysis for 2020 Senate Election

	White estimate	Black Estimate	Number of Observations
Allendale	8.7%	100%	8
Anderson	16.2%	100%	79
Bamberg	12.9%	100%	13
Barnwell	4.7%	100%	15
Beaufort	37.2%	98.3%	95
Berkeley	29.7	100%	94
Calhoun	12.7%	100%	12
Charleston	43.7%	100%	182
Chester	13.7%	100%	21
Clarendon	11.7%	100%	25
Darlington	14.2%	100%	32
Dillon	7.2%	100%	19
Dorchester	30.3%	100%	81

<b>Florence</b>	<b>14.1%</b>	<b>100%</b>	<b>63</b>
<b>Greenville</b>	<b>27.0%</b>	<b>100%</b>	<b>151</b>
<b>Horry</b>	<b>30.0%</b>	<b>100%</b>	<b>118</b>
<b>Lee</b>	<b>6.6%</b>	<b>100%</b>	<b>22</b>
<b>Marion</b>	<b>15.9%</b>	<b>100%</b>	<b>17</b>
<b>Marlboro</b>	<b>13.3%</b>	<b>100%</b>	<b>15</b>
<b>Orangeburg</b>	<b>17.2%</b>	<b>100%</b>	<b>53</b>
<b>Richland</b>	<b>40.5%</b>	<b>100%</b>	<b>149</b>
<b>Spartanburg</b>	<b>31.6%</b>	<b>62.0%</b>	<b>98</b>
<b>Sumter</b>	<b>18.2%</b>	<b>100%</b>	<b>58</b>
<b>Williamsburg</b>	<b>3.4%</b>	<b>100%</b>	<b>28</b>
<b>York</b>	<b>29.8%</b>	<b>100%</b>	<b>96</b>

In all 25 counties a majority of the white voters voted for Senator Graham. The estimates range from a low of 3.4 percent support for Harrison in Williamsburg County, to a high of 43.7 percent in Charleston County. For all the included counties, the regression estimates for Black support of Harrison indicate more than majority support. In 23 of the counties the estimates are above 100 percent (I round down to 100 percent in these cases). These are all typical results for racially polarized voting.

Figure 3. Scatterplot Allendale County

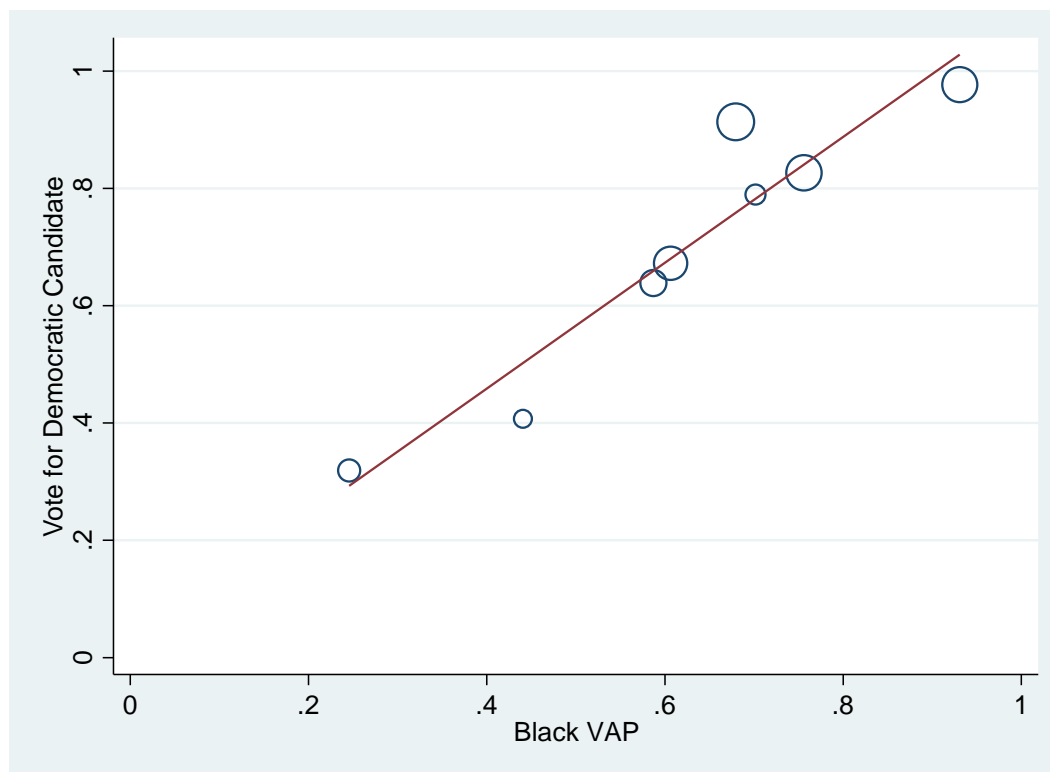


Figure 4. Scatterplot Anderson County

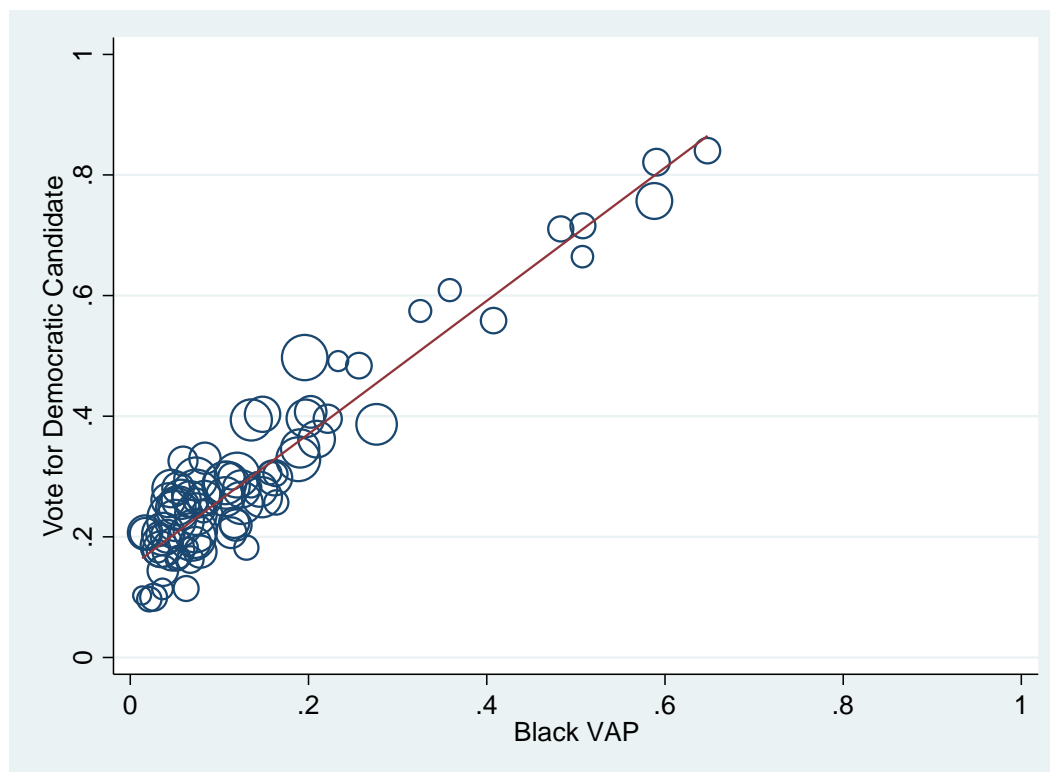




Figure 5. Scatterplot Bamberg County

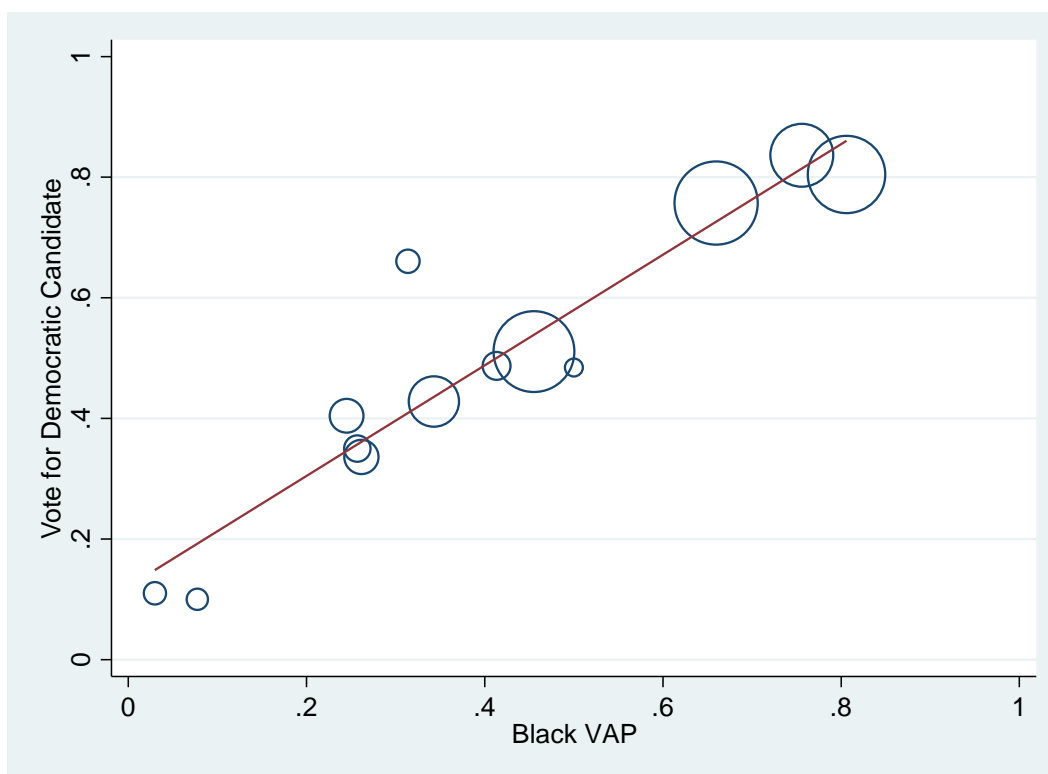


Figure 6. Scatterplot Barnwell County

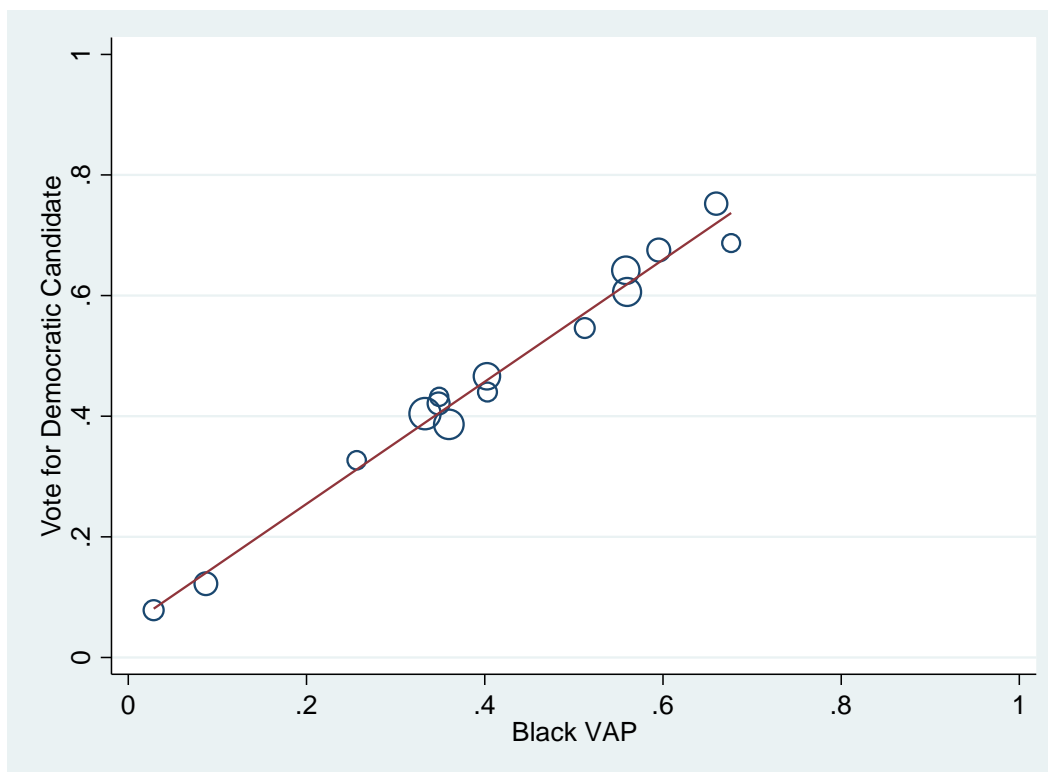


Figure 7. Scatterplot Beaufort County

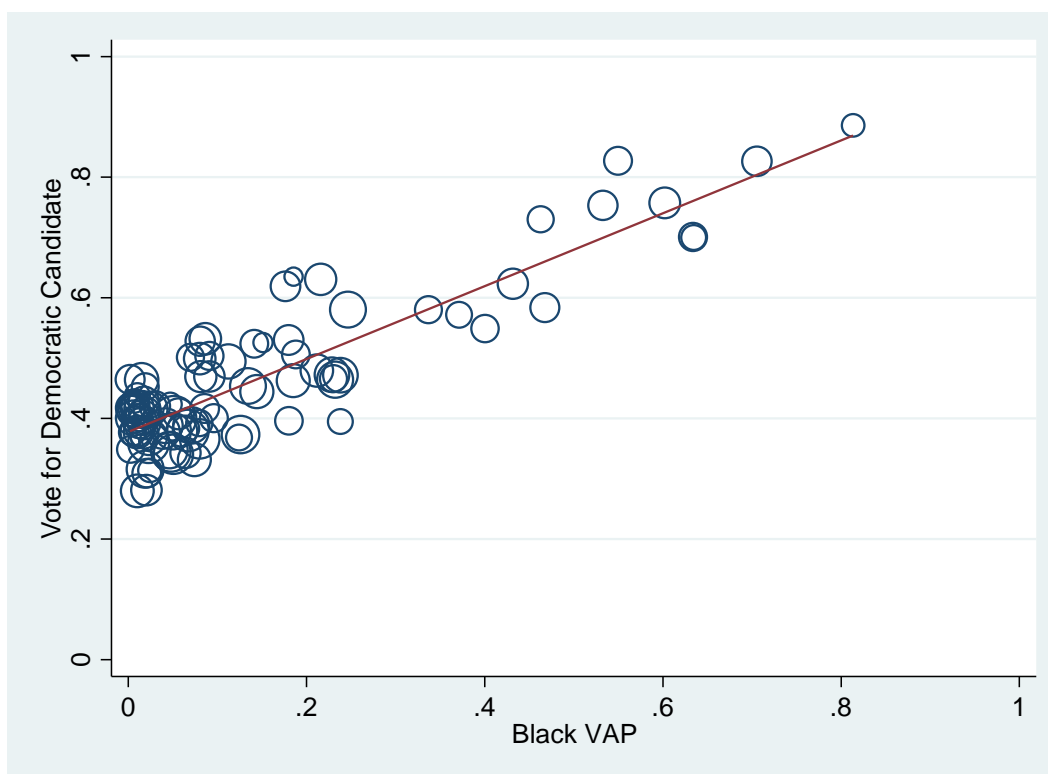


Figure 8. Scatterplot Berkeley County

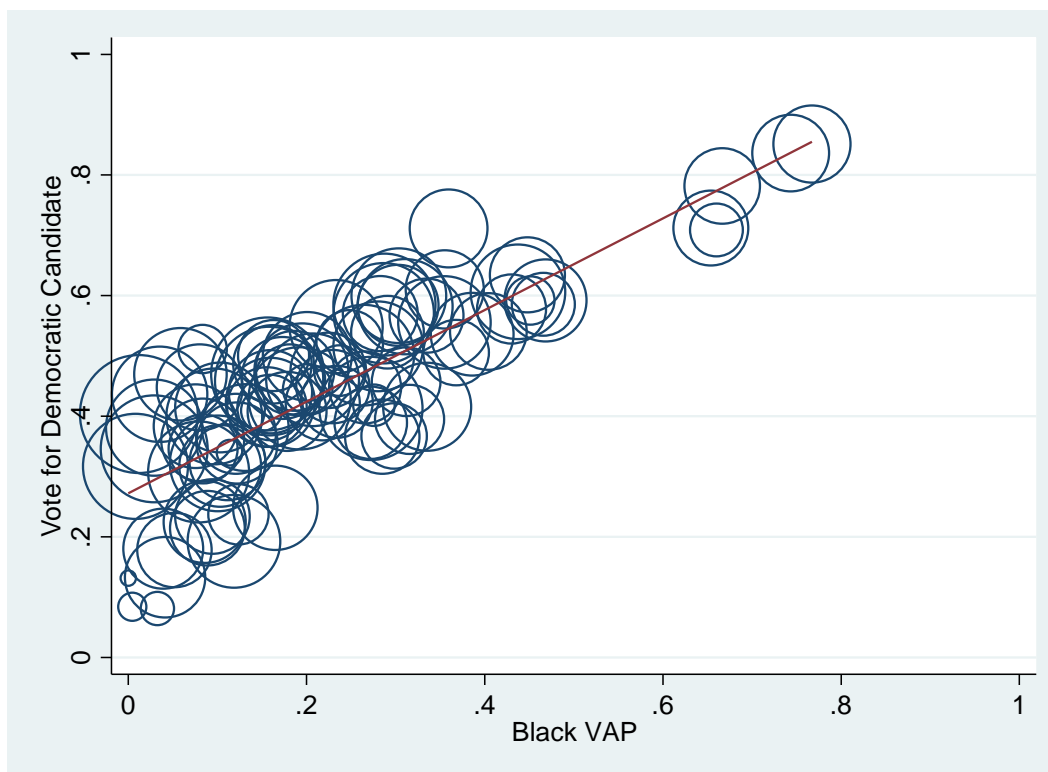


Figure 9. Scatterplot Calhoun County

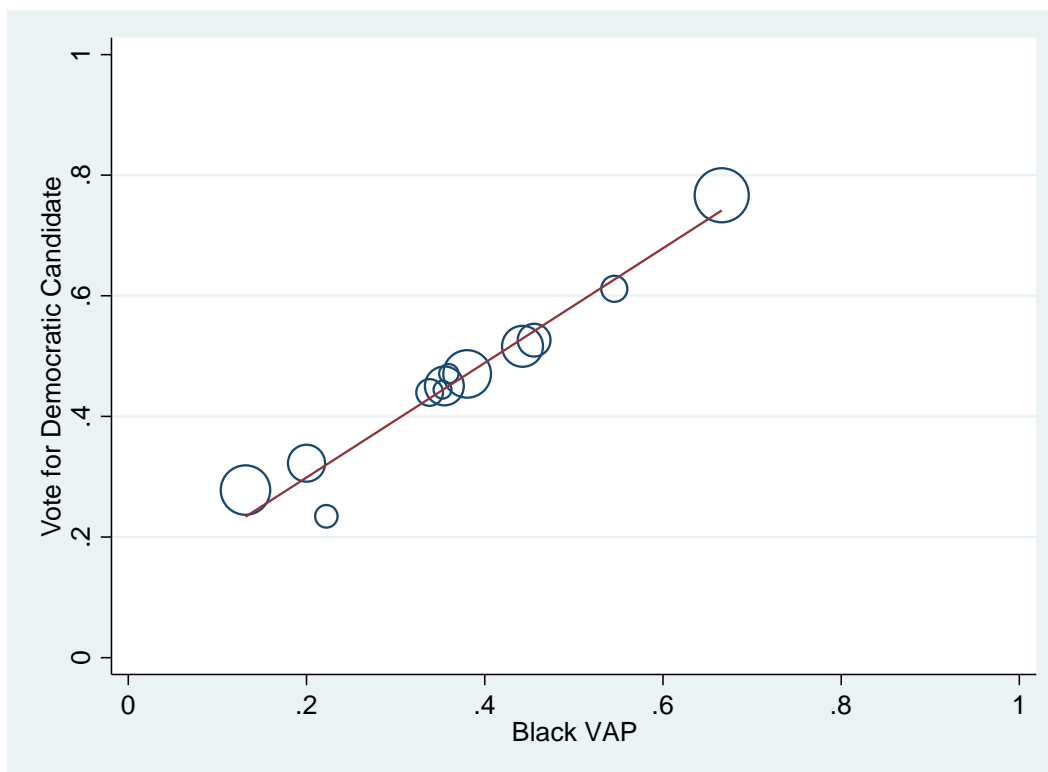


Figure 10. Scatterplot Charleston County

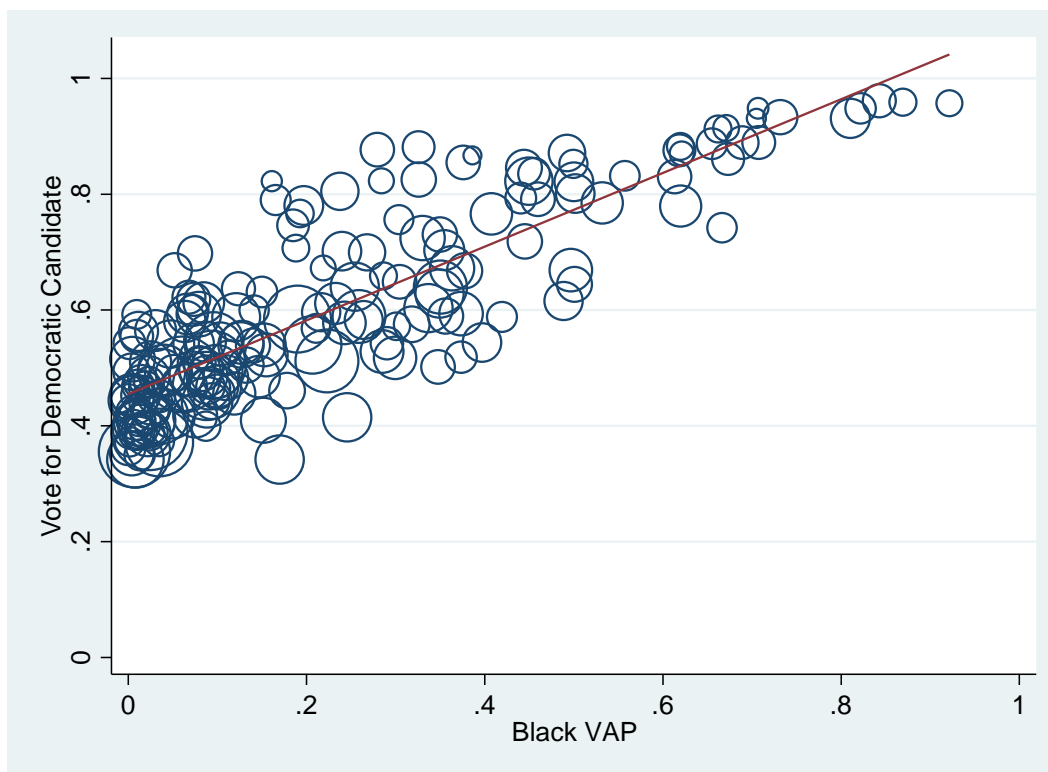


Figure 11. Scatterplot Chester County

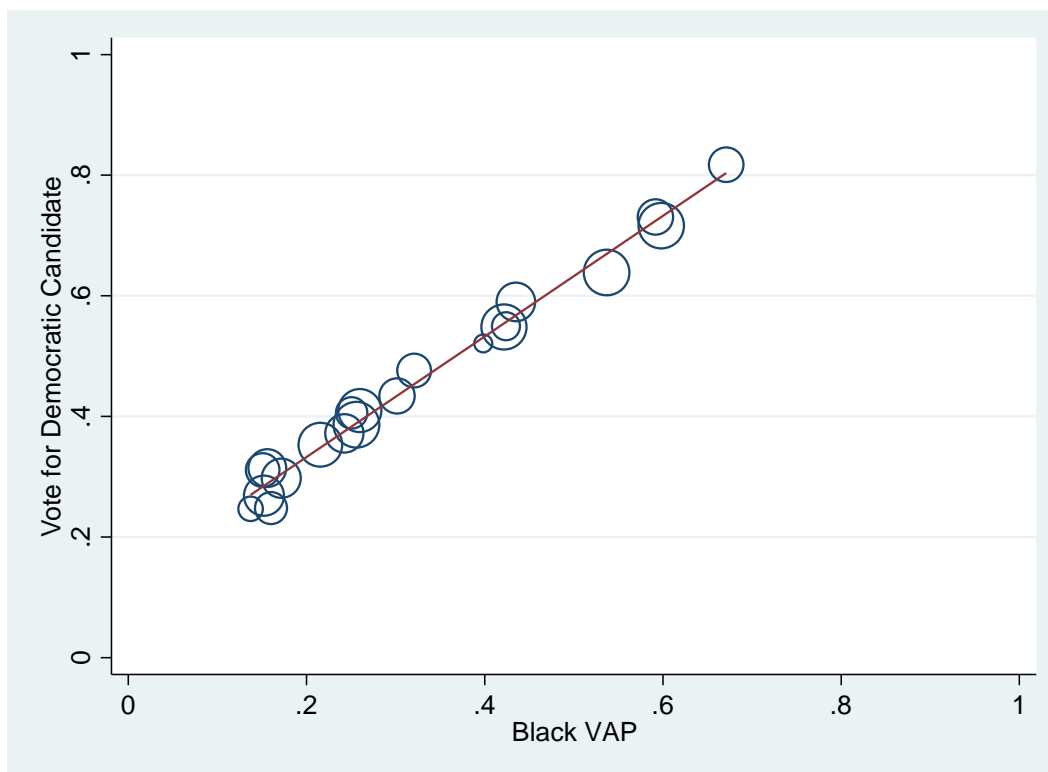


Figure 12. Scatterplot Clarendon County

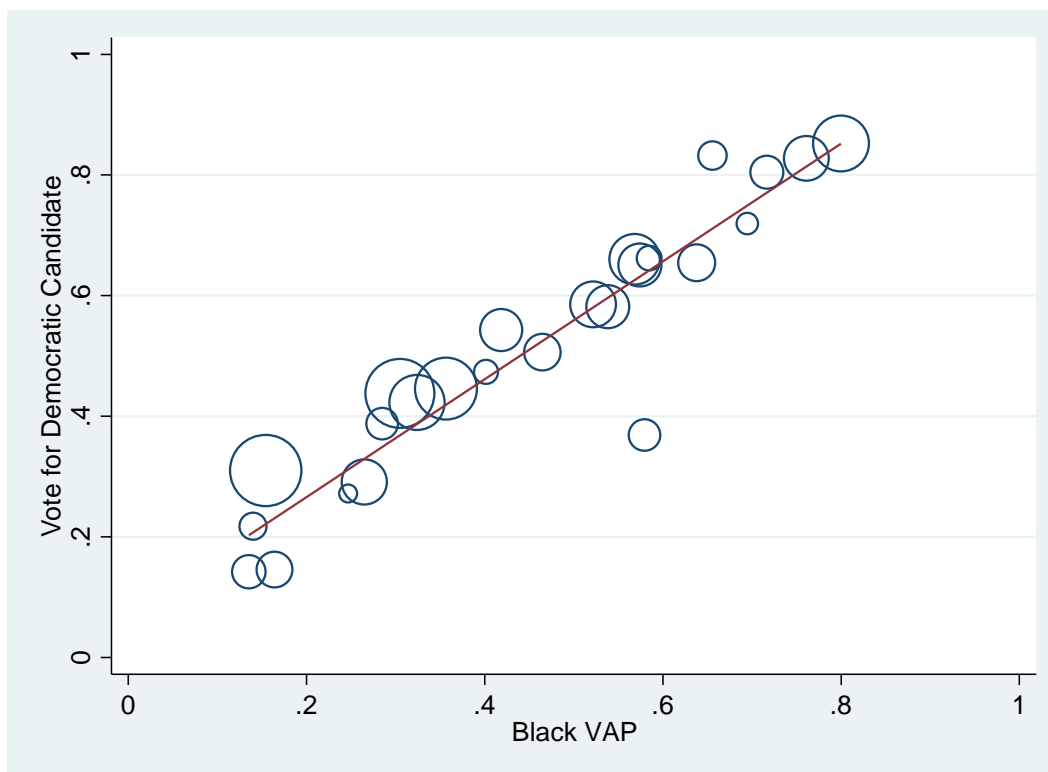


Figure 13. Scatterplot Darlington County

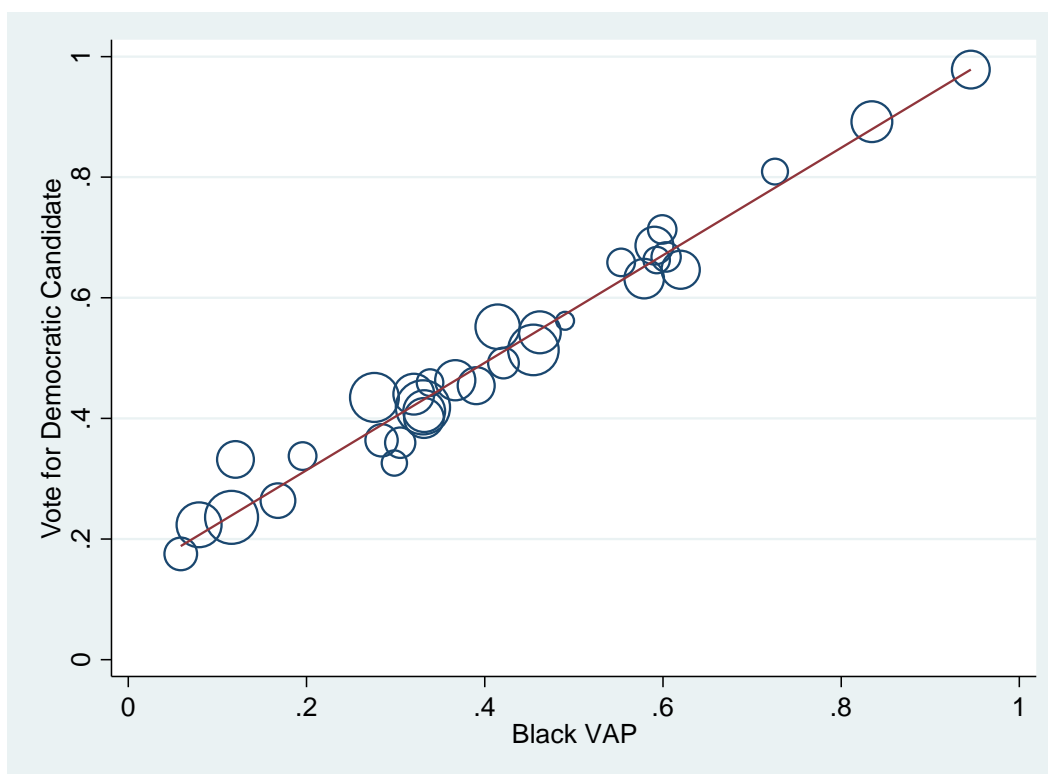


Figure 14. Scatterplot Dillon County

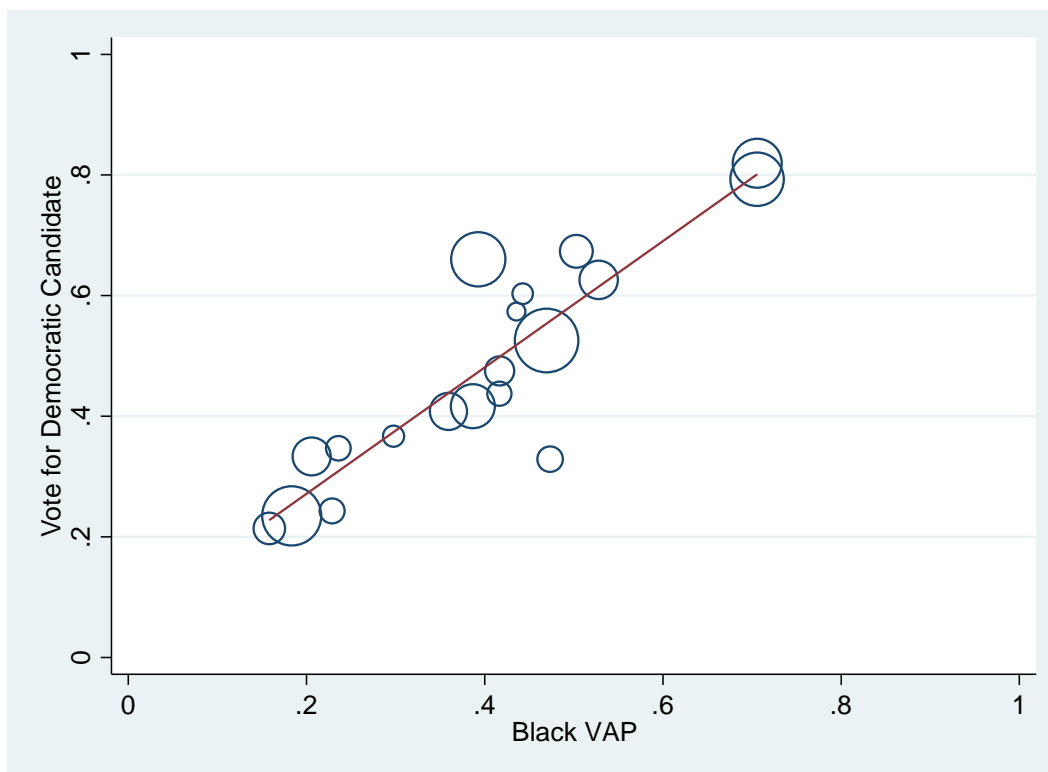




Figure 15. Scatterplot Dorchester County

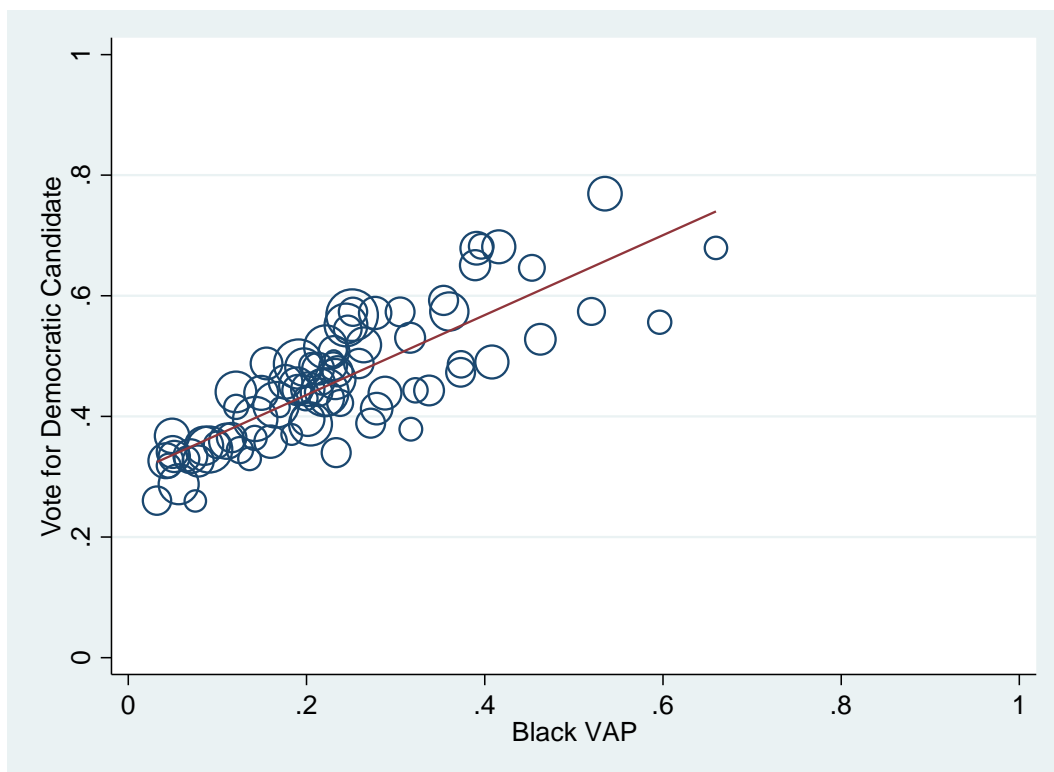


Figure 16. Scatterplot Florence County

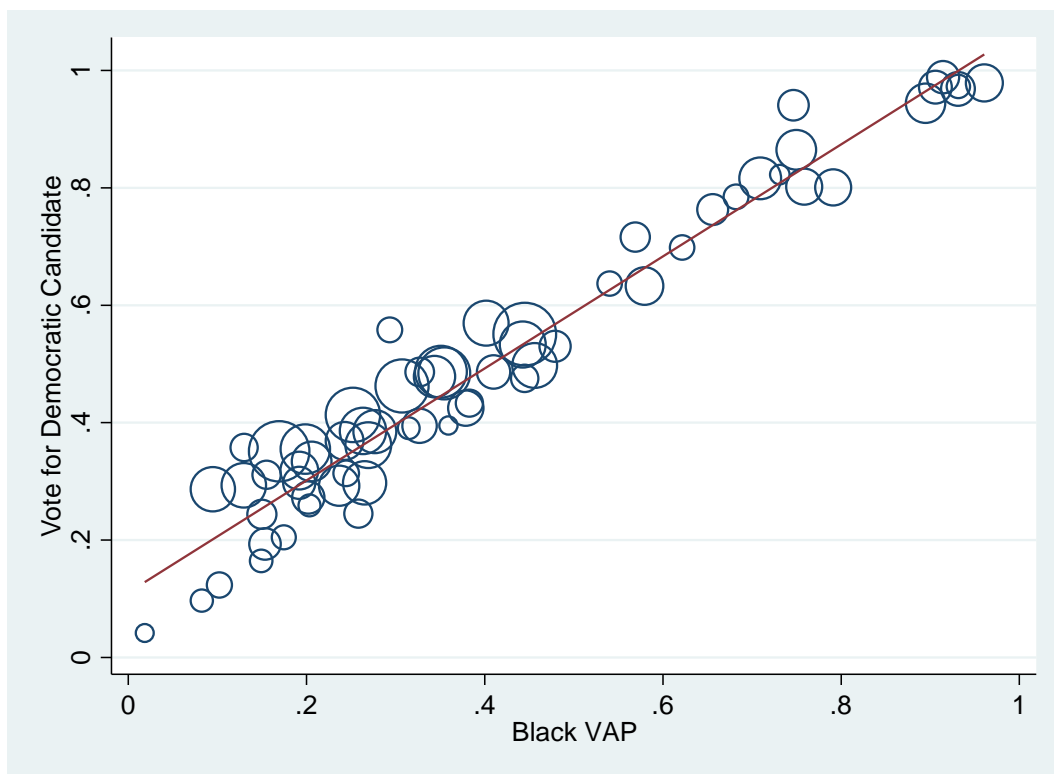


Figure 17. Scatterplot Greenville County

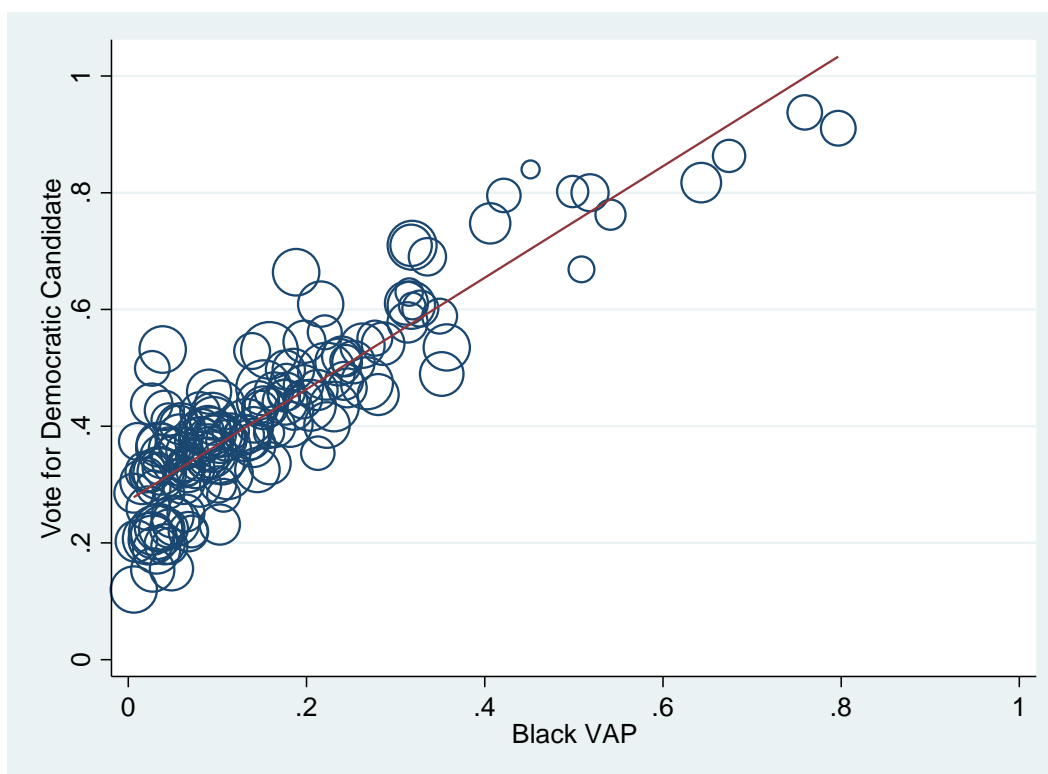


Figure 18. Scatterplot Horry County

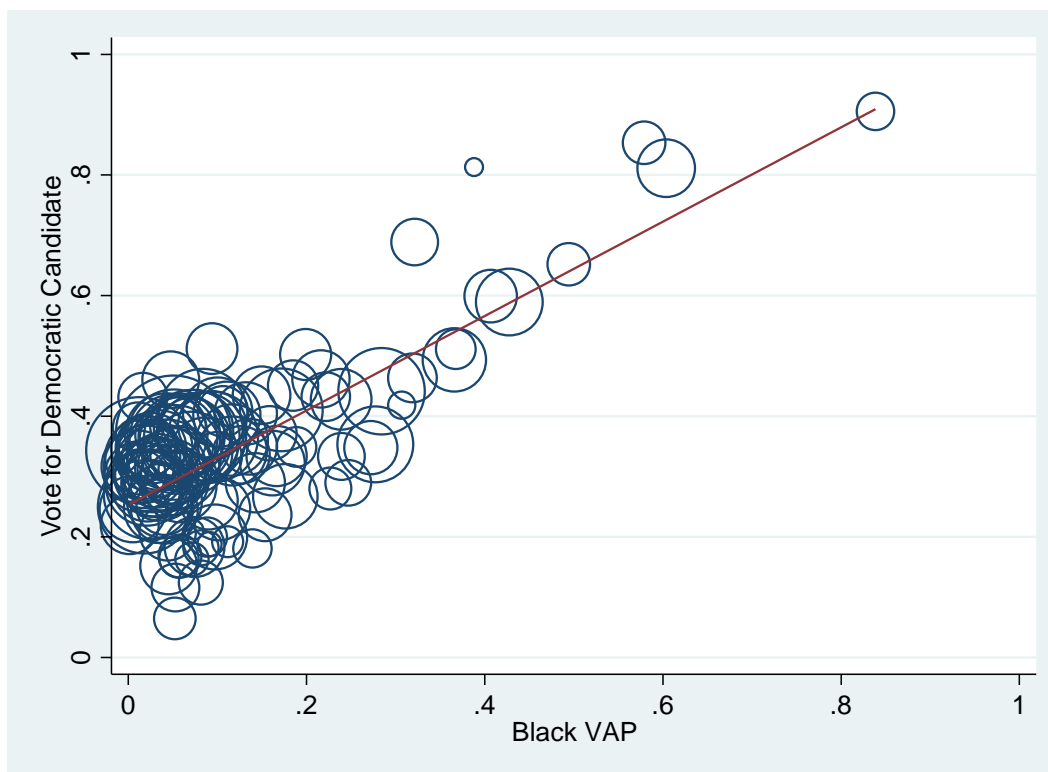


Figure 19. Scatterplot Lee County

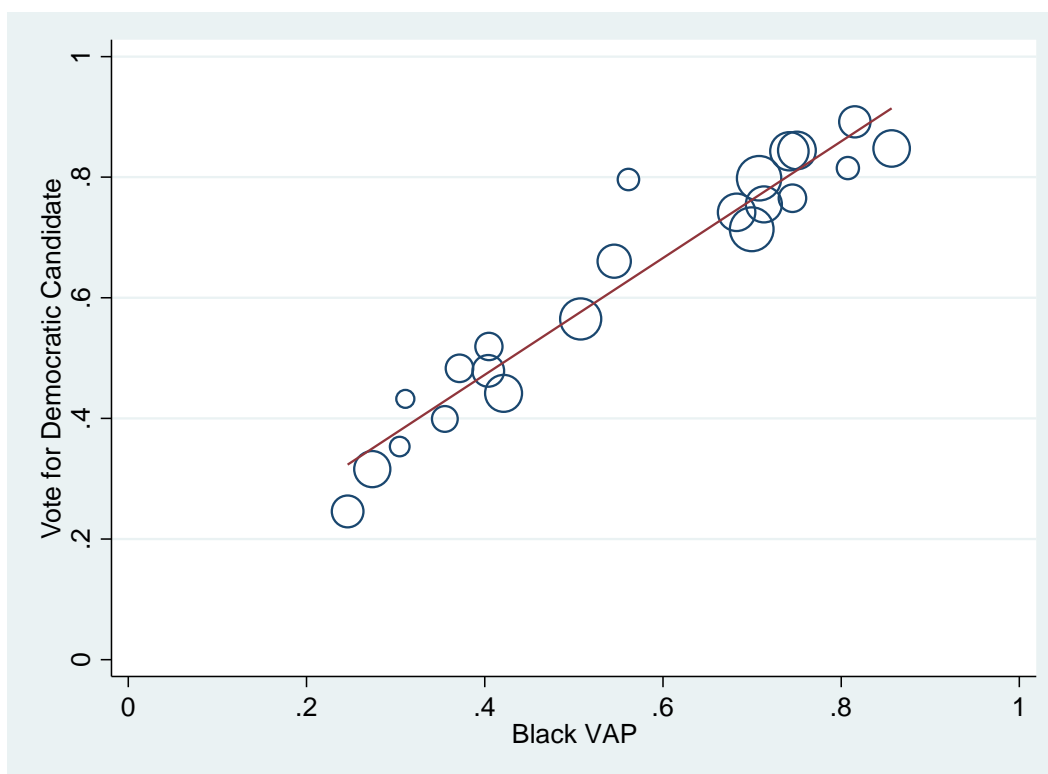


Figure 20. Scatterplot Marion County

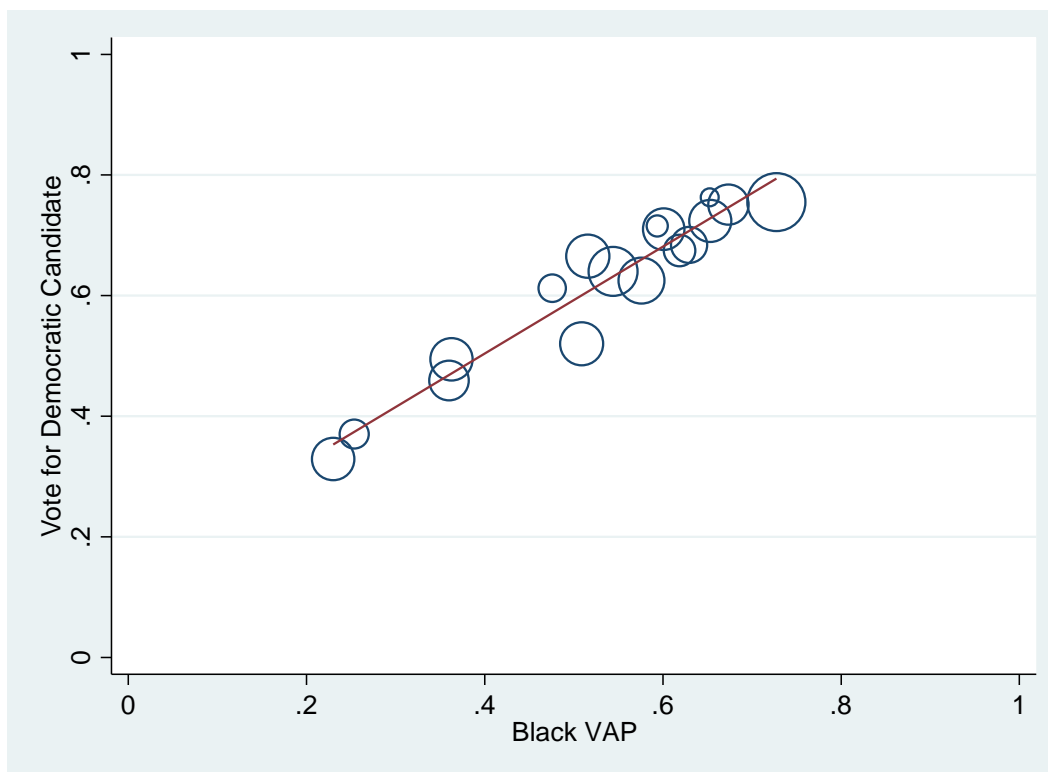


Figure 21. Scatterplot Marlboro County

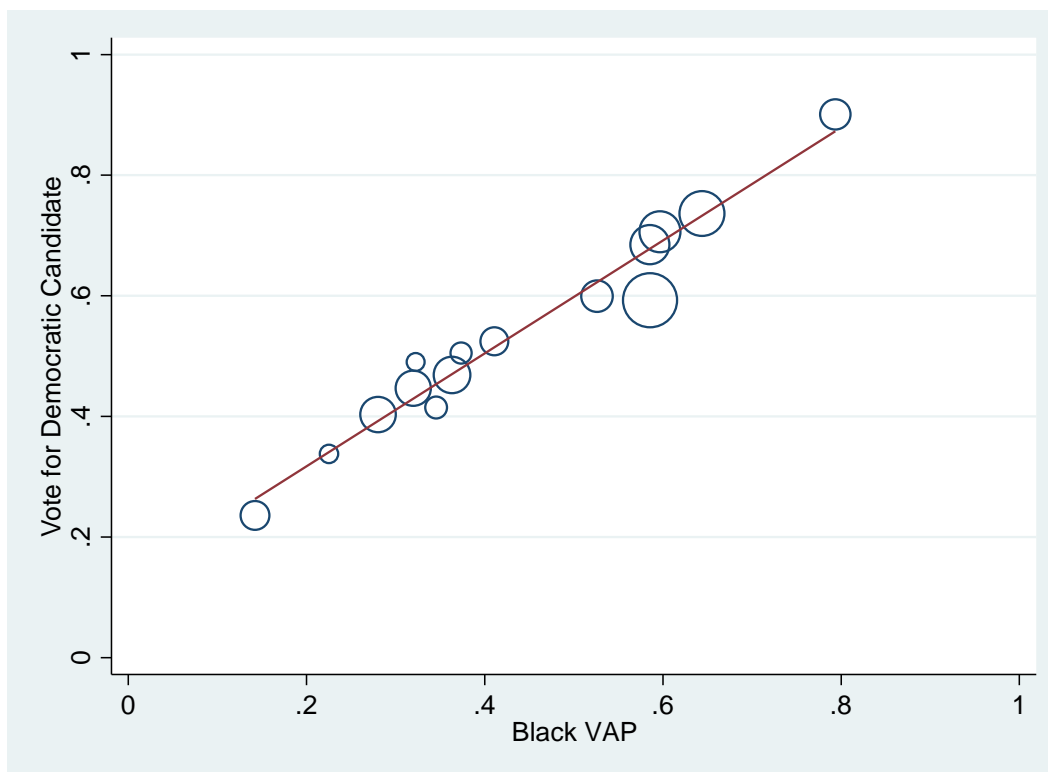


Figure 22. Scatterplot Orangeburg County

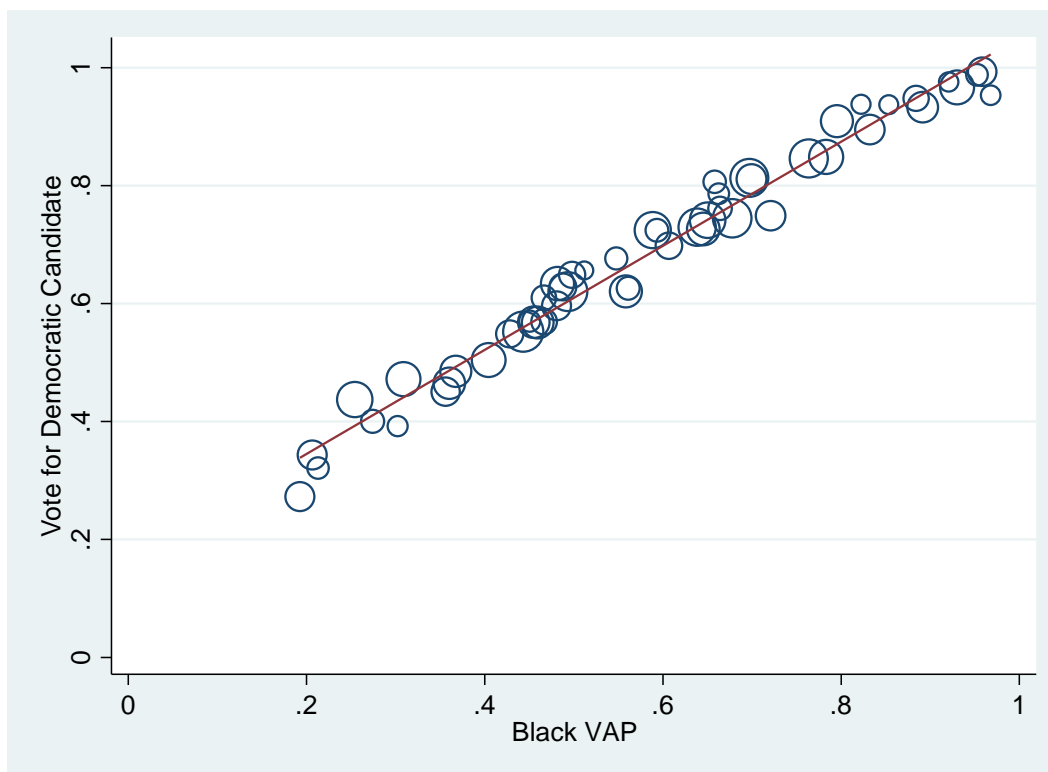


Figure 23. Scatterplot Richland County

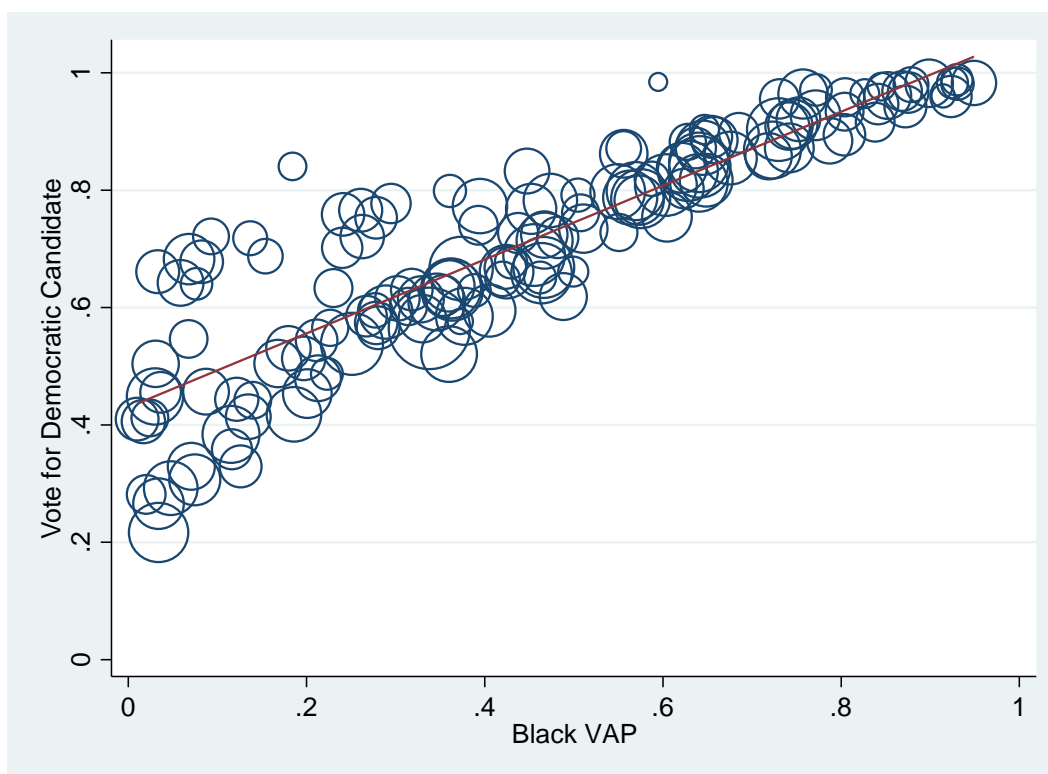


Figure 24. Scatterplot Spartanburg County

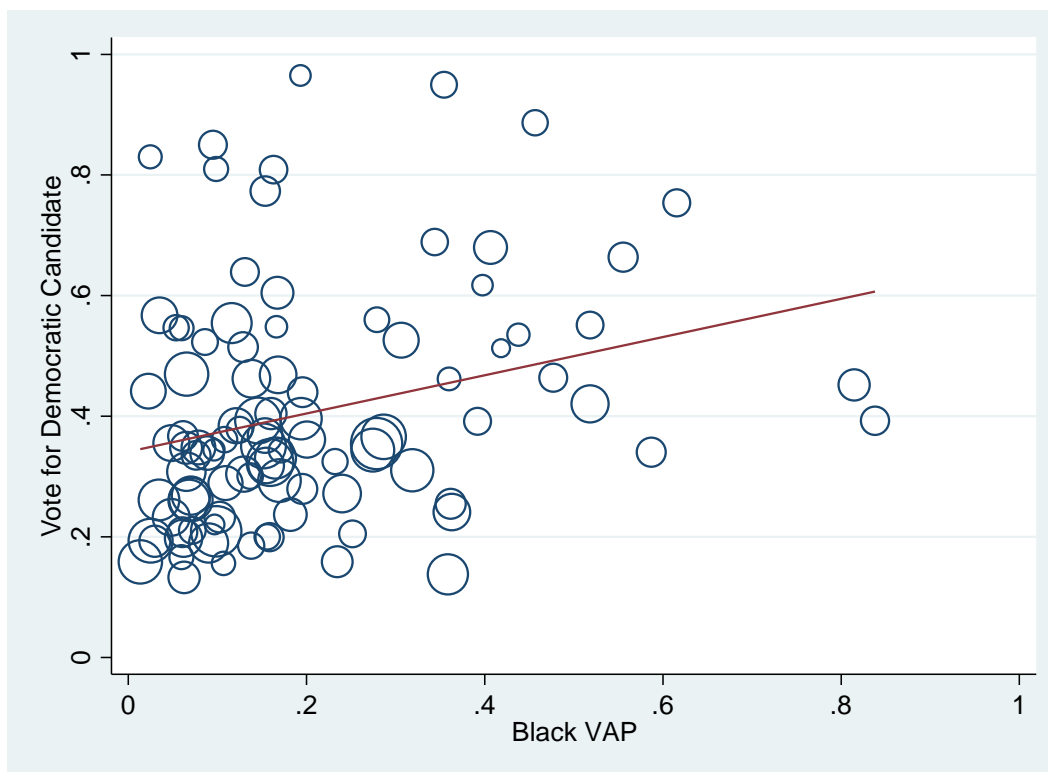




Figure 25. Scatterplot Sumter County

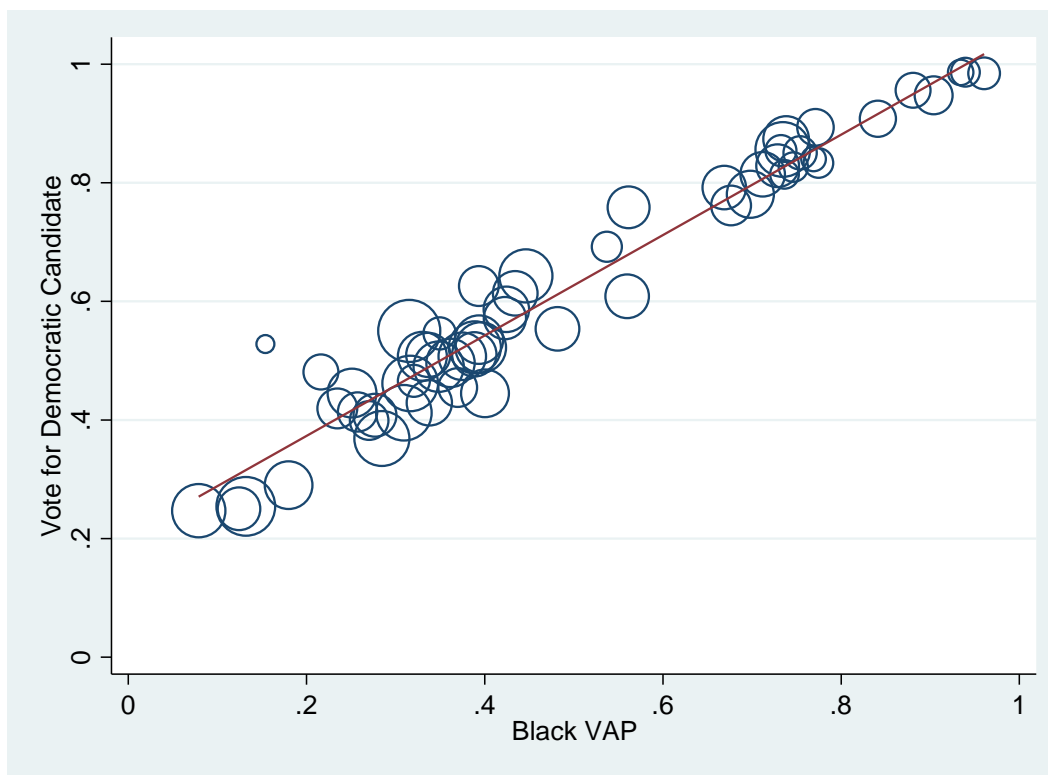


Figure 26. Scatterplot Williamsburg County

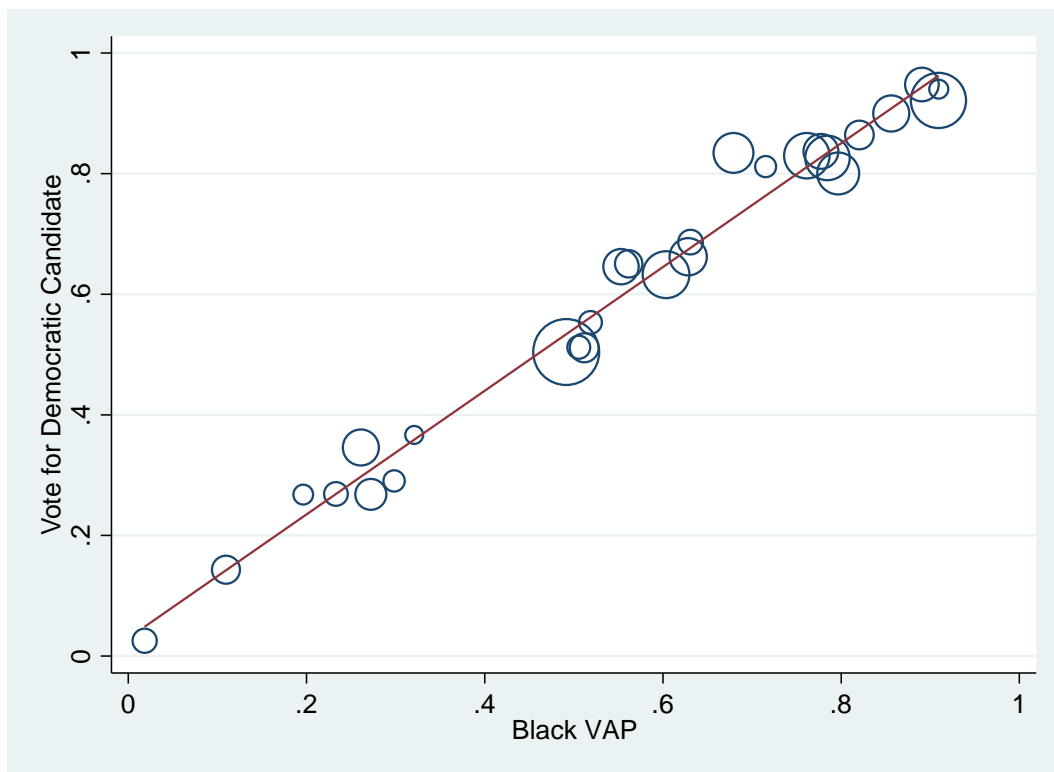
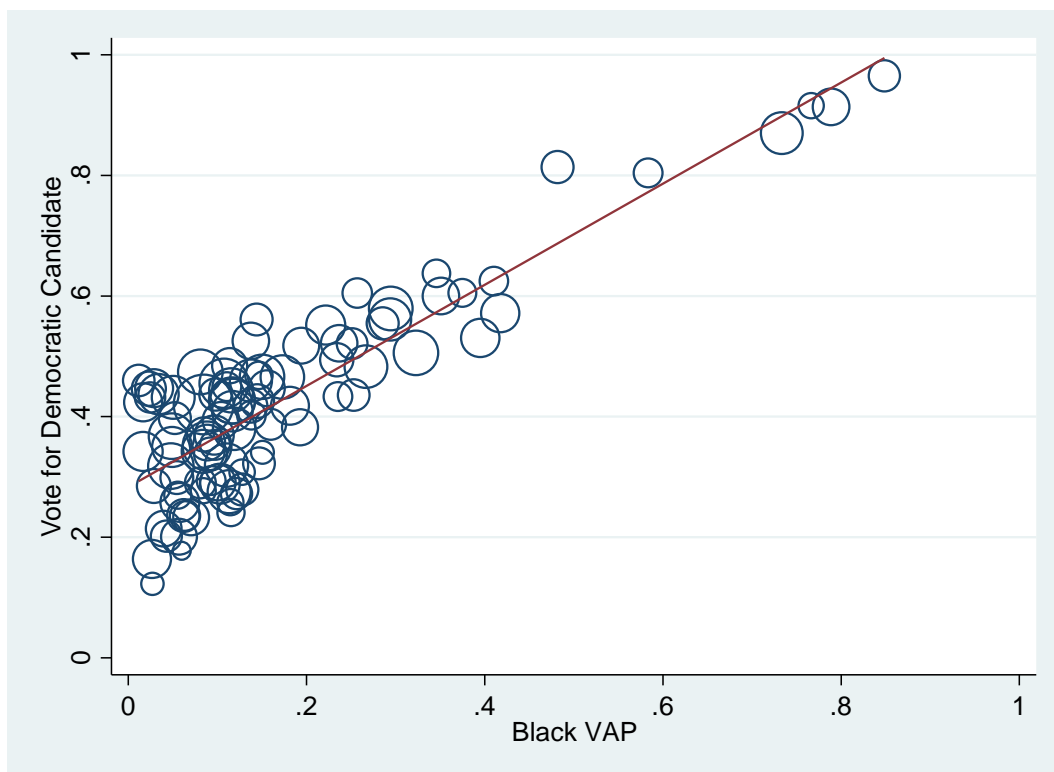


Figure 27. Scatterplot York County



**2018 Secretary of State Election (Mark Hammond v. Melvin Whittenburg)**

Below I repeat the same type of tests for racial bloc voting as above for the 25 counties of interest separately. Homogeneous precinct analysis indicates what we would expect with racial bloc voting – majorities in overwhelmingly Black precincts vote heavily in favor of Melvin Whittenburg – ranging from 95.9 percent to 98.1 percent, while the homogeneous White precincts demonstrate heavy voting for Mark Hammond.

**Table 3. Percent of vote for Whittenburg in Homogenous Precincts, 2018 Secretary of State Election**

	<b>90%+ BVAP</b>	<b>90%+ NHWVAP</b>
Allendale	96.0% 1 precinct	
Anderson		14.5% 12 precincts
Bamberg		16.2% 1 precinct
Barnwell		9.5% 1 precinct
Beaufort		33.4% 32 precincts
Berkeley		26.1% 2 precincts
Calhoun		
Charleston	97.4% 1 precinct	37.7% 34 precincts
Chester		
Clarendon		
Darlington	98.0% 1 precinct	
Dillon		
Dorchester		22.5% 2 precincts
Florence	97.4% 5 precincts	5.8% 1 precinct
Greenville		25.6% 12 precincts
Horry		28.7% 18 precincts
Lee		
Marion		
Marlboro		
Orangeburg	97.8% 5 precincts	
Richland	96.2% 6 precincts	25.8% 4 precincts

Spartanburg		16.2% 4 precincts
Sumter	97.6% 4 precincts	
Williamsburg	91.1% 2 precincts	2.5% 1 precinct
York		24.4% 4 precincts

\*Entries indicate the percent of the vote for Whittenburg and the number of precincts in each county that are 90 percent or more Black VAP or Non-Hispanic White VAP. Blank entries indicate no homogeneous precincts exist in the county for that group.

Table 4. Ecological Regression Analysis for 2018 Secretary of State Election

	White estimate	Black Estimate	Number of Observations
Allendale	0%	100%	8
Anderson	13.5%	100%	80
Bamberg	17.2%	100%	13
Barnwell	1.4%	100%	15
Beaufort	31.5%	96.0%	92
Berkeley	25.7%	100%	80
Calhoun	10.6%	100%	12
Charleston	38.9%	100%	182
Chester	12.2%	100%	21
Clarendon	4.2%	98.4%	25
Darlington	9.2%	100%	32
Dillon	3.8%	100%	20
Dorchester	24.7%	100%	81
Florence	8.0%	100%	63
Greenville	22.2%	100%	151
Horry	25.3%	98.3%	124
Lee	4.7%	100%	22
Marion	12.9%	100%	17
Marlboro	15.9%	100%	15
Orangeburg	12.3%	100%	53
Richland	31.7%	100%	149
Spartanburg	13.1%	62.0%	98
Sumter	9.8%	100%	58
Williamsburg	2.4%	100%	28

York	25.3%	100%	96
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Figure 28. Scatterplot Allendale County

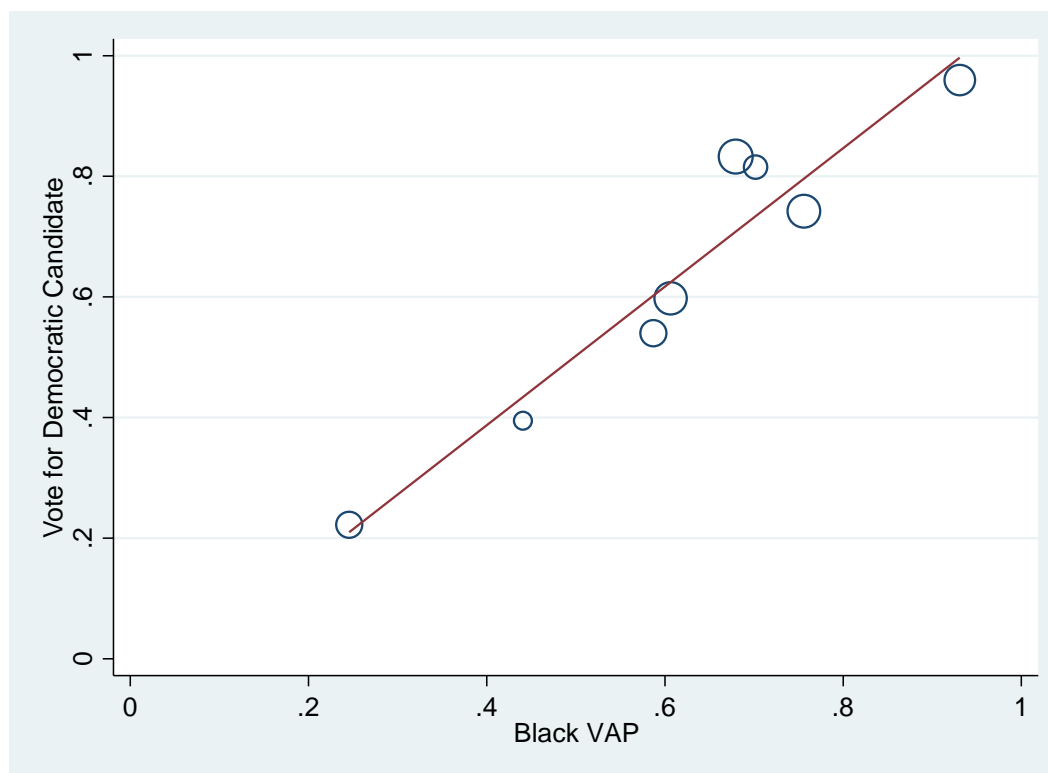


Figure 29. Scatterplot Anderson County

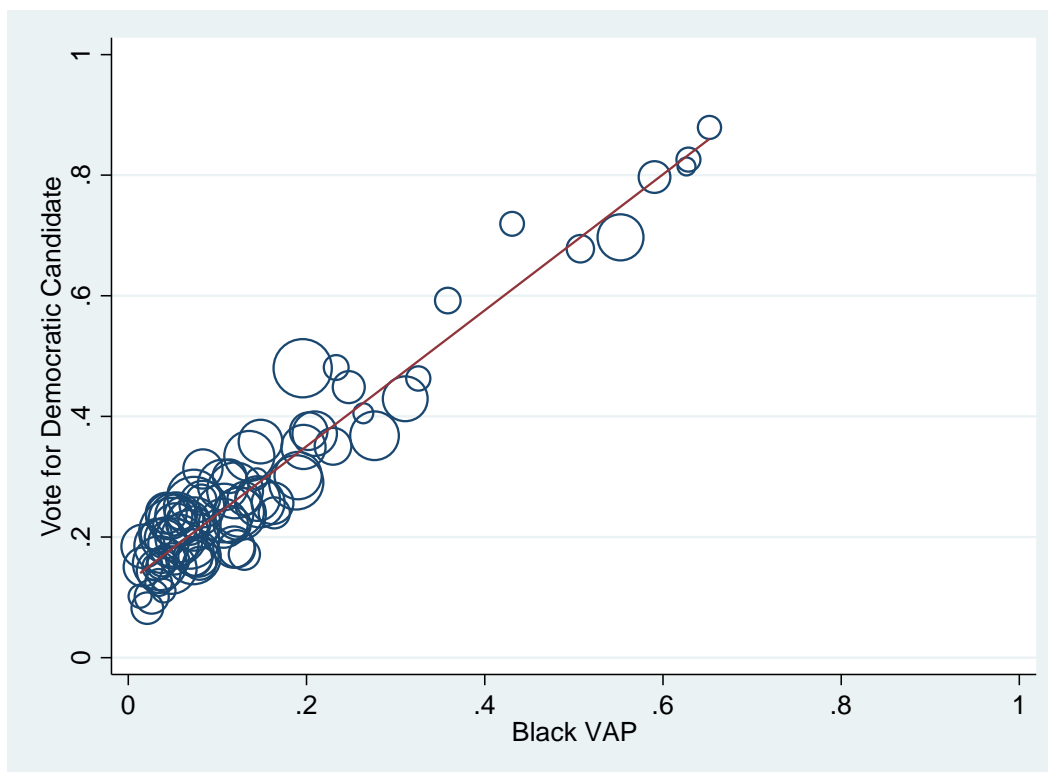


Figure 30. Scatterplot Bamberg County

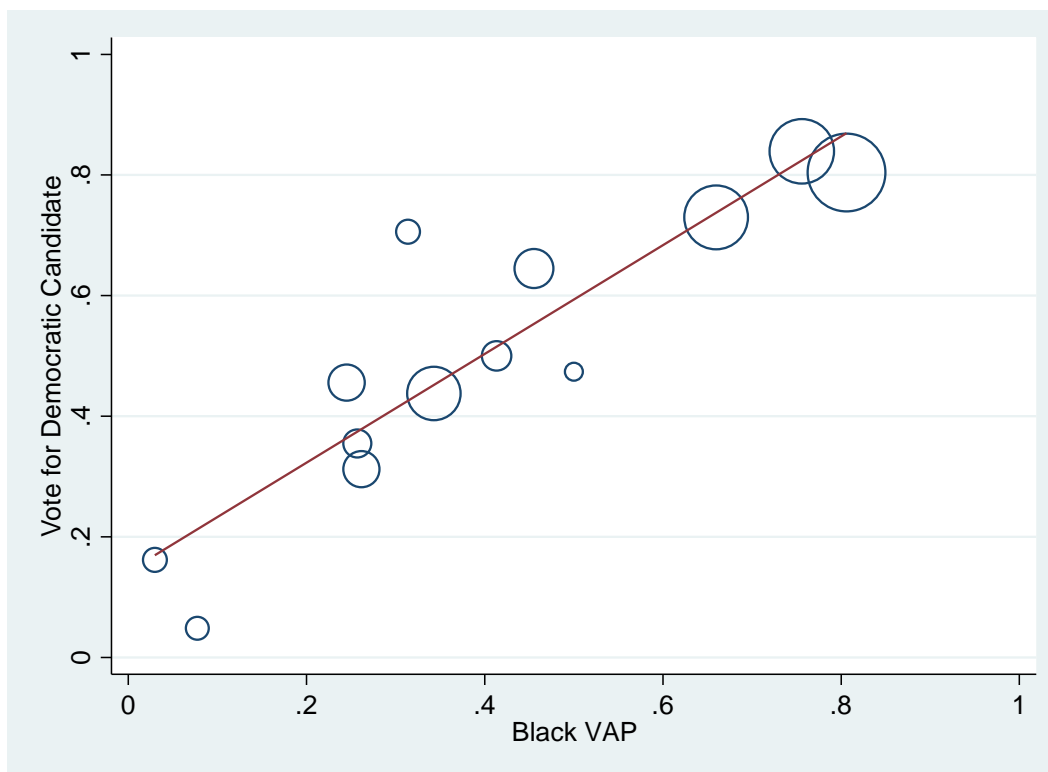




Figure 31. Scatterplot Barnwell County

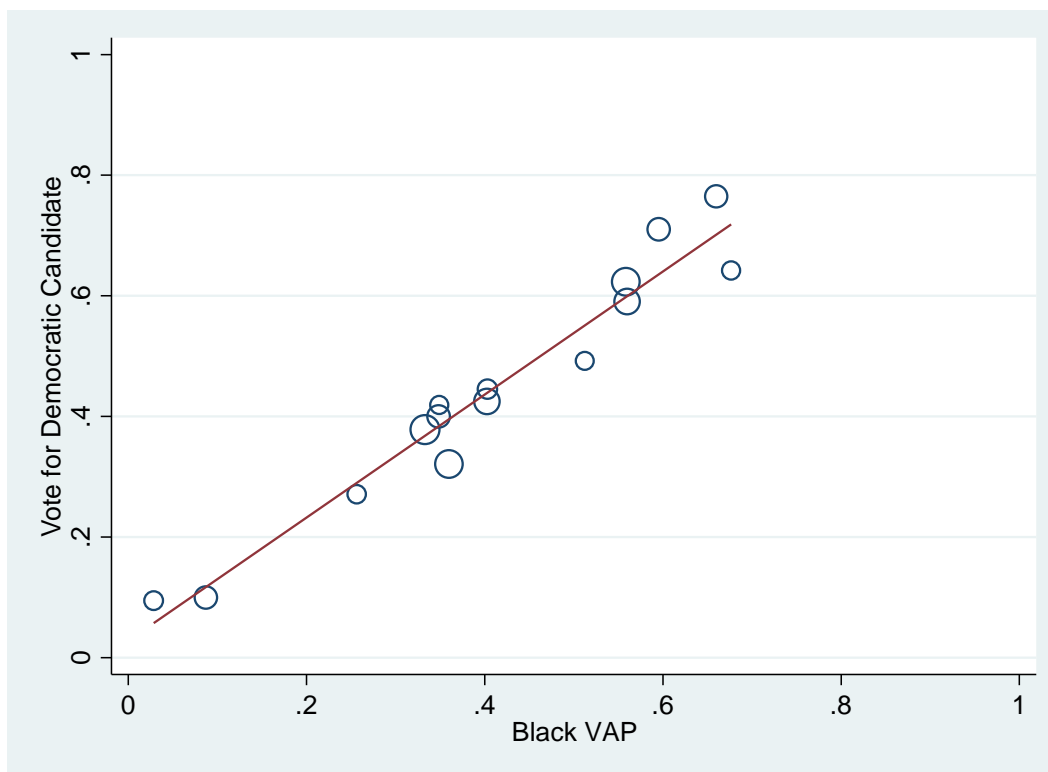


Figure 32. Scatterplot Beaufort County

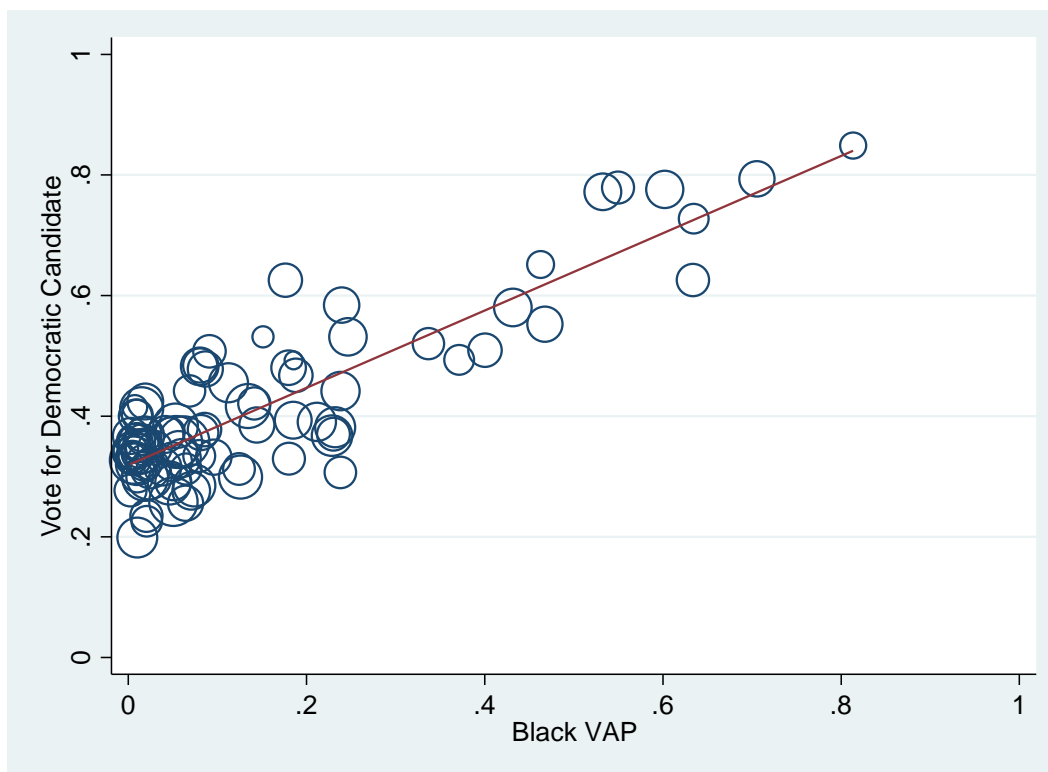


Figure 33. Scatterplot Berkeley County

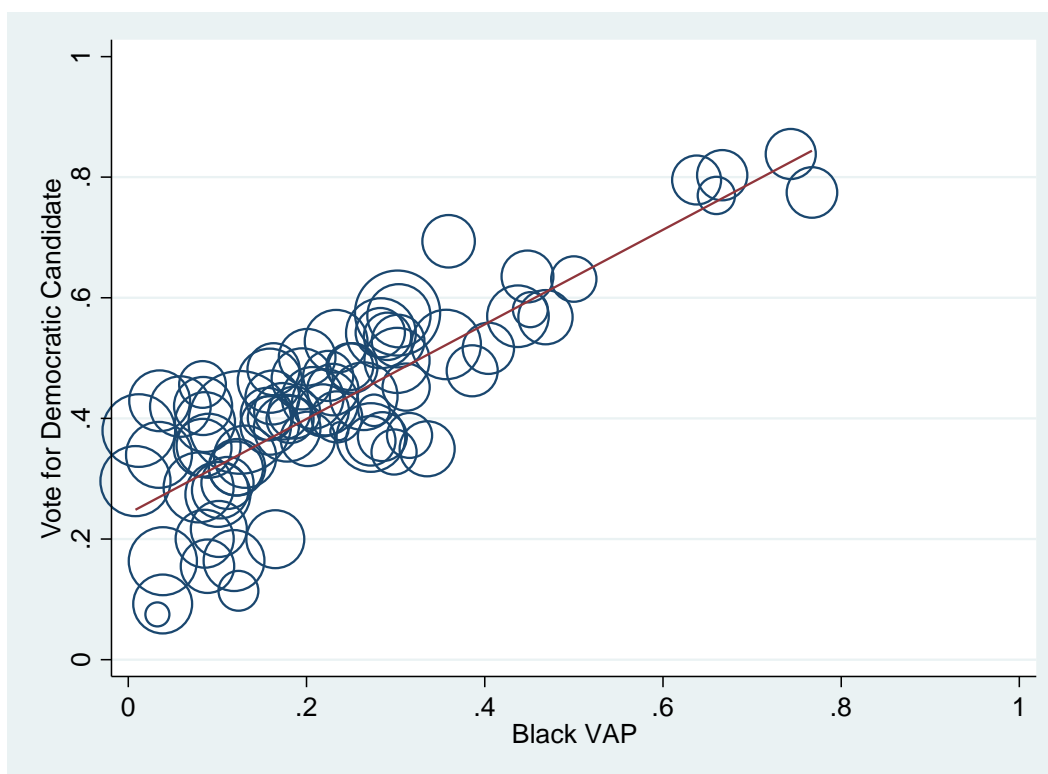


Figure 34. Scatterplot Calhoun County

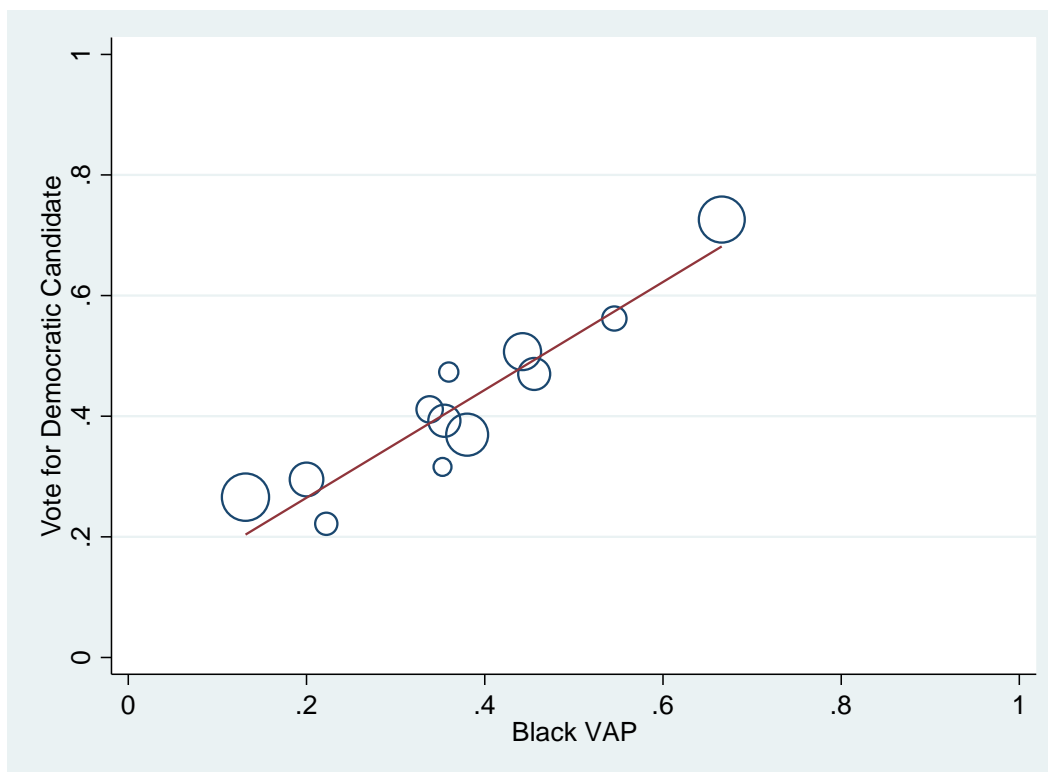


Figure 35. Scatterplot Charleston County

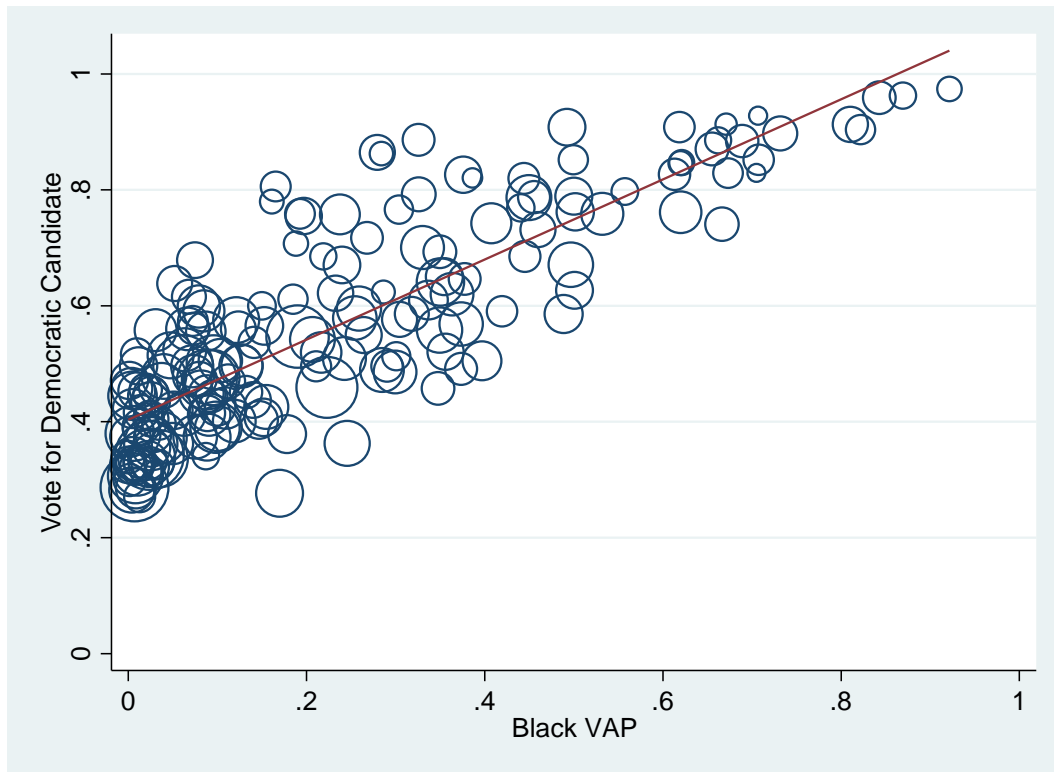


Figure 36. Scatterplot Chester County

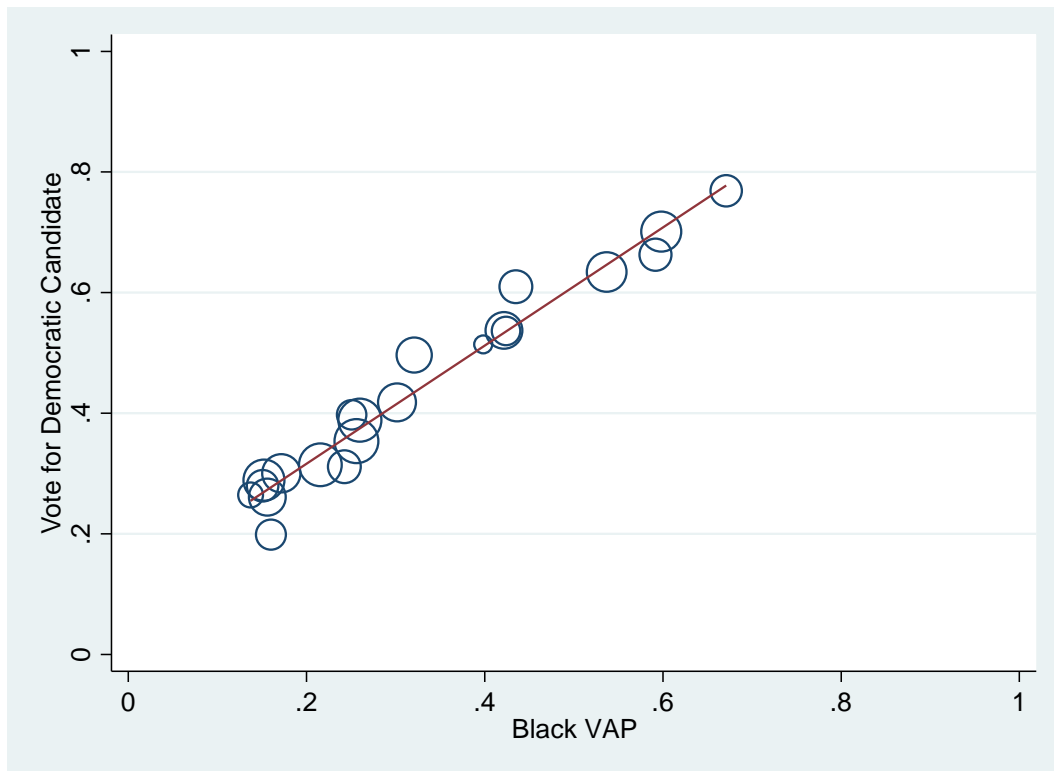


Figure 37. Scatterplot Clarendon County

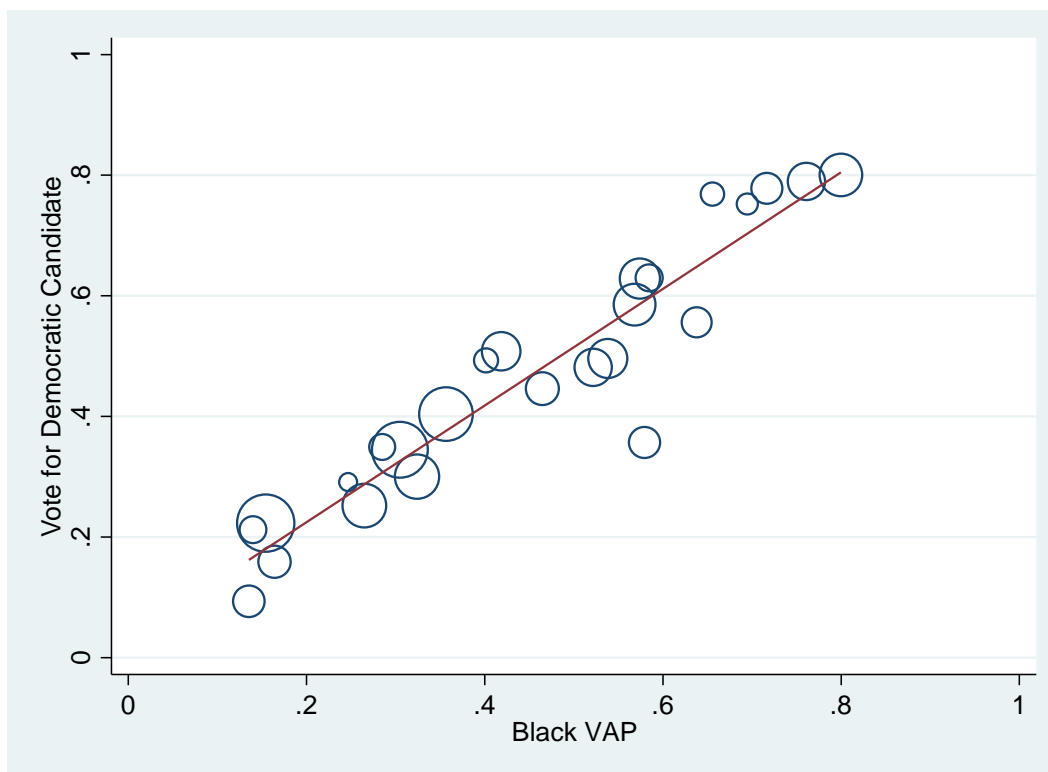


Figure 38. Scatterplot Darlington County

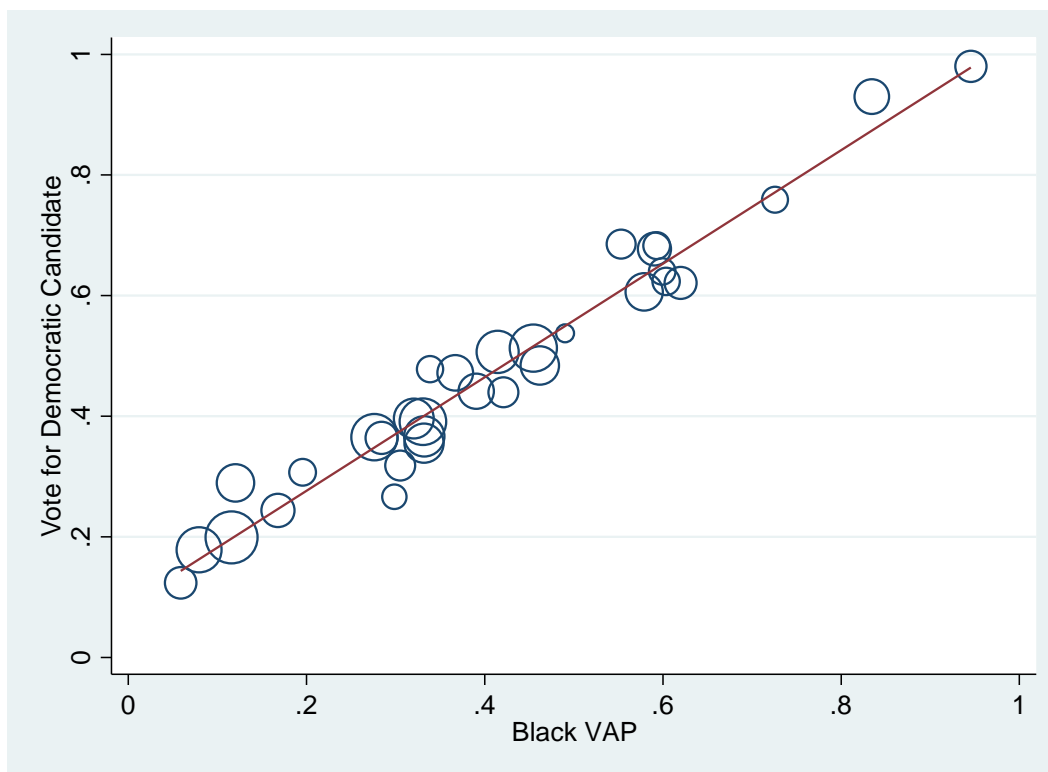


Figure 39. Scatterplot Dillon County

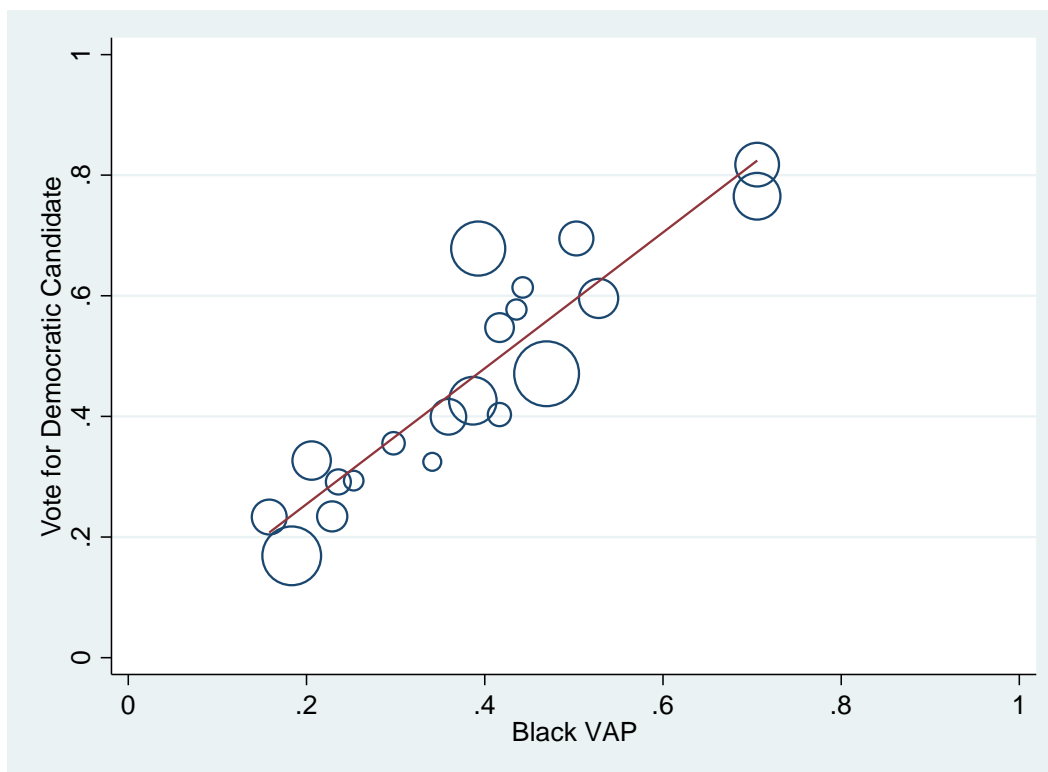


Figure 40. Scatterplot Dorchester County

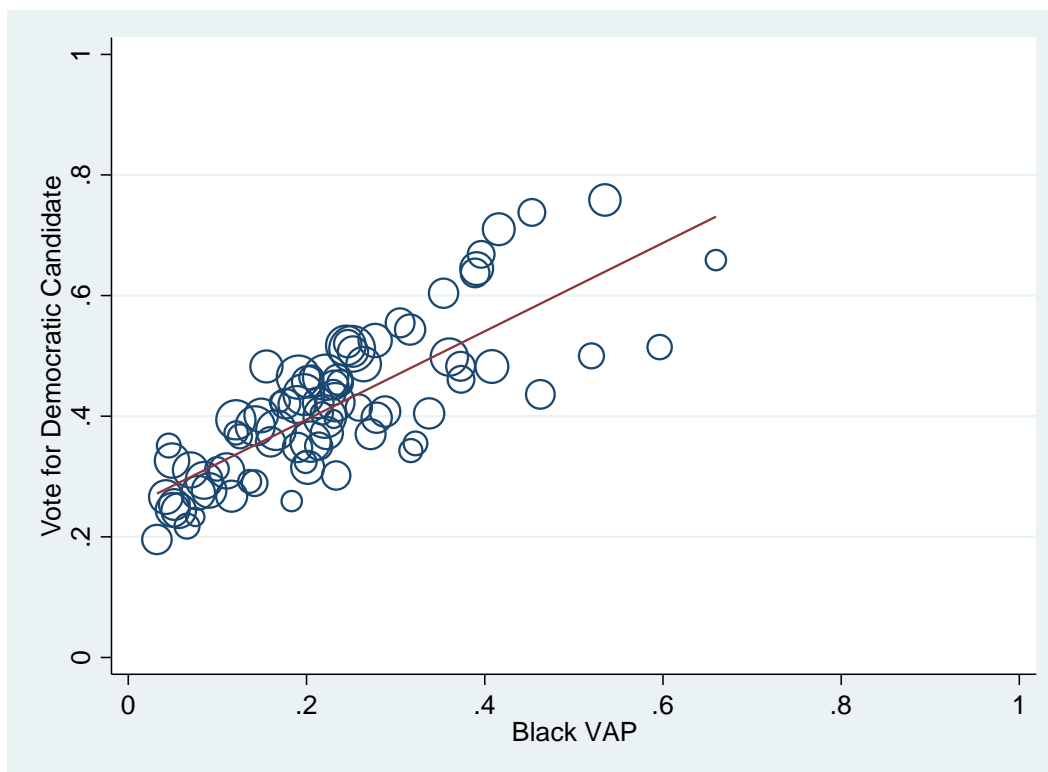


Figure 41. Scatterplot Florence County

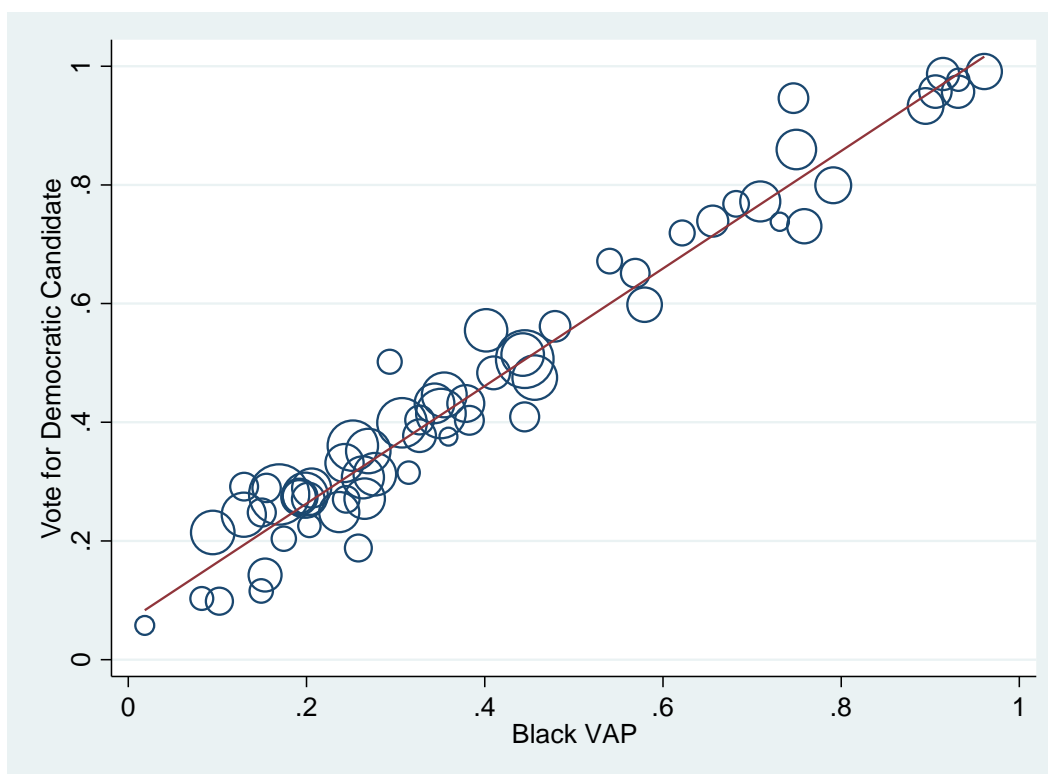


Figure 42. Scatterplot Greenville County

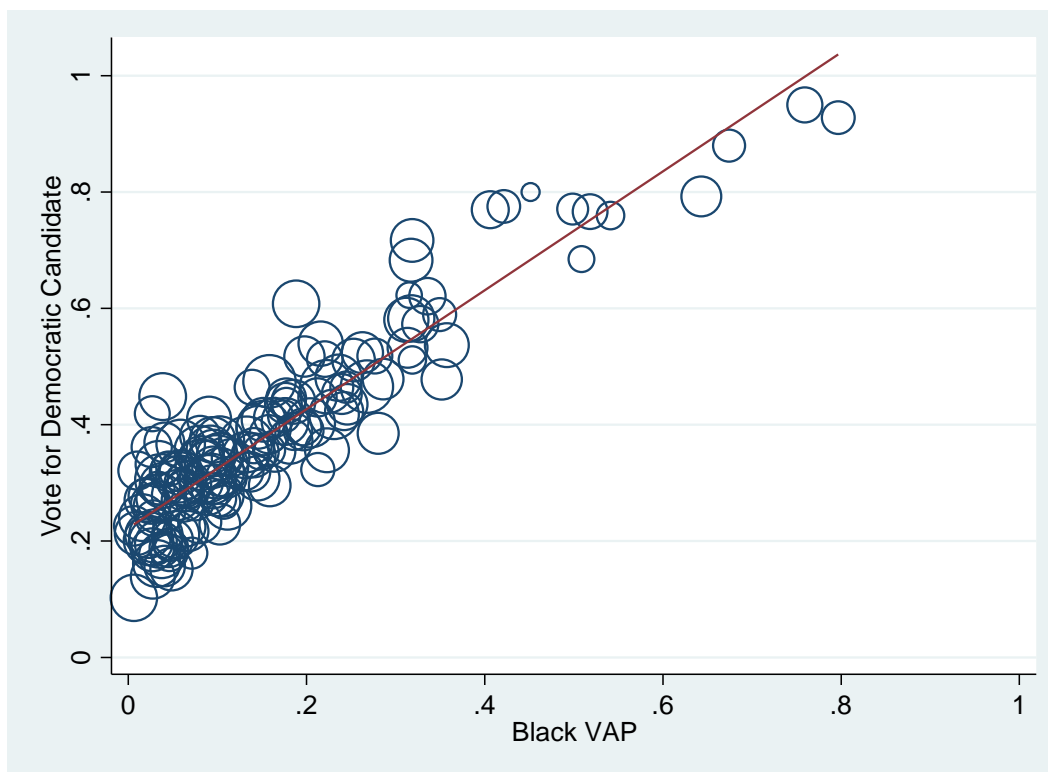




Figure 43. Scatterplot Horry County

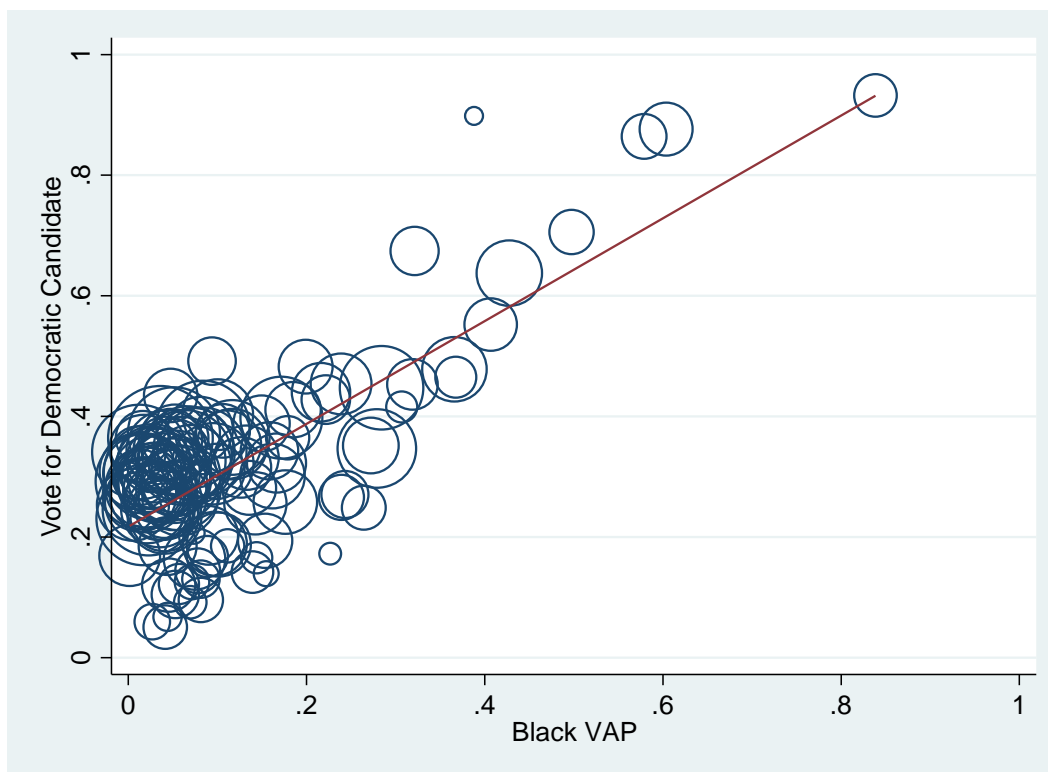


Figure 44. Scatterplot Lee County

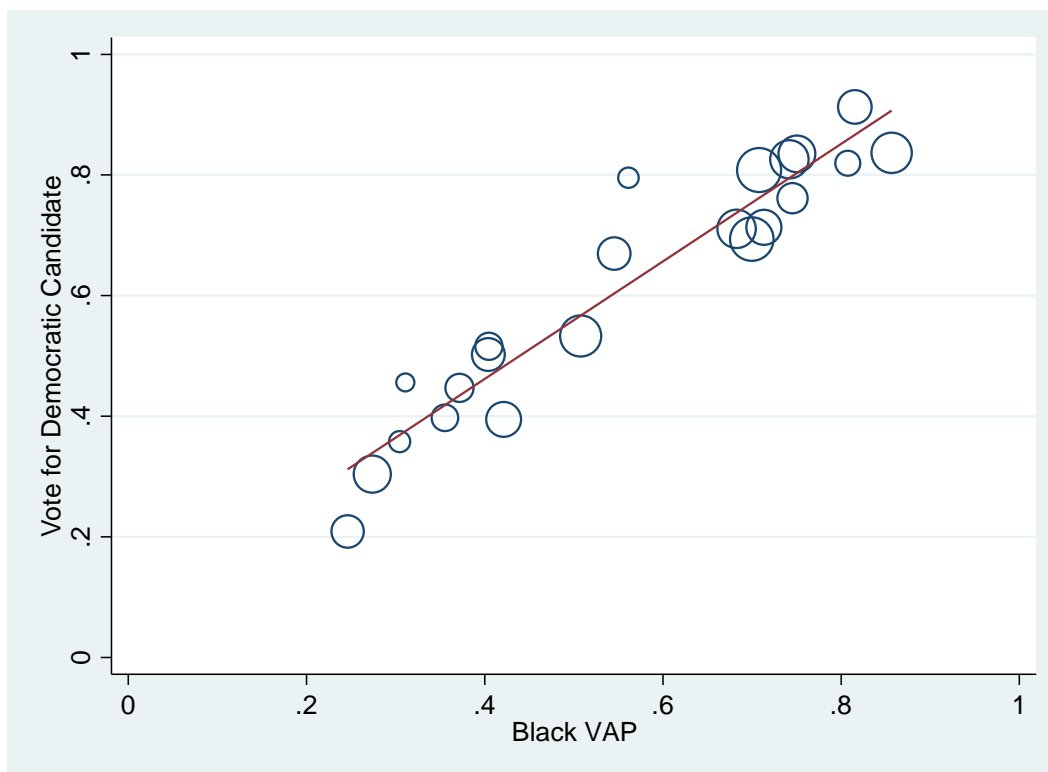


Figure 45. Scatterplot Marion County

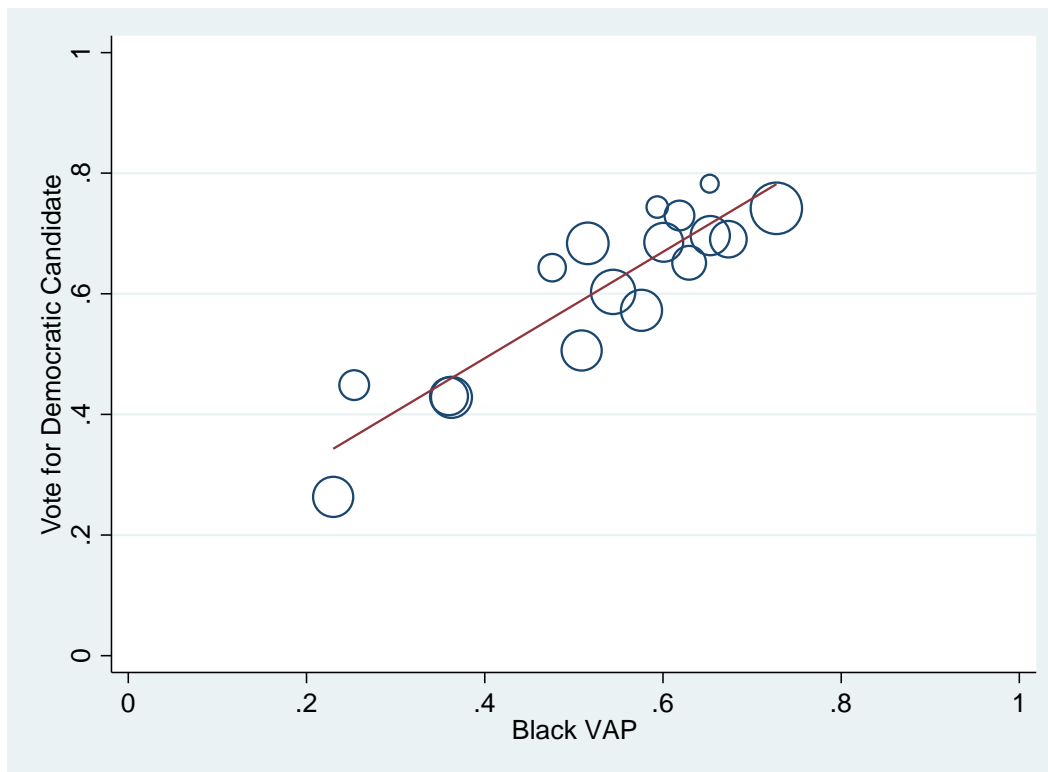


Figure 46. Scatterplot Marlboro County

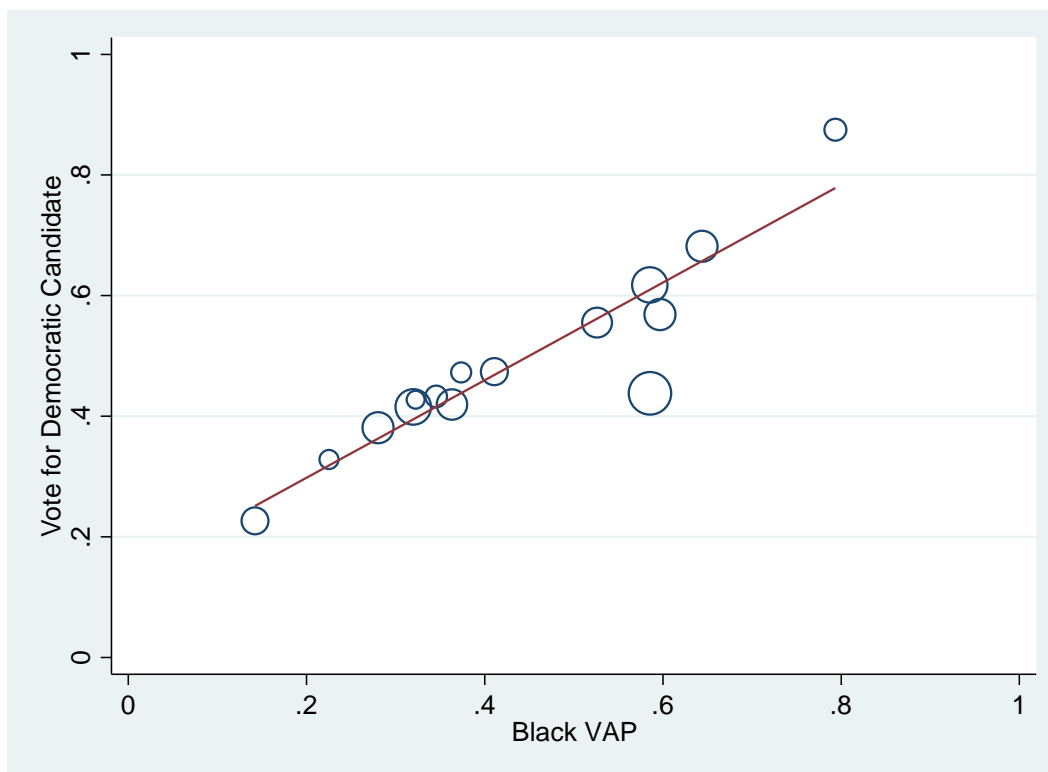


Figure 47. Scatterplot Orangeburg County

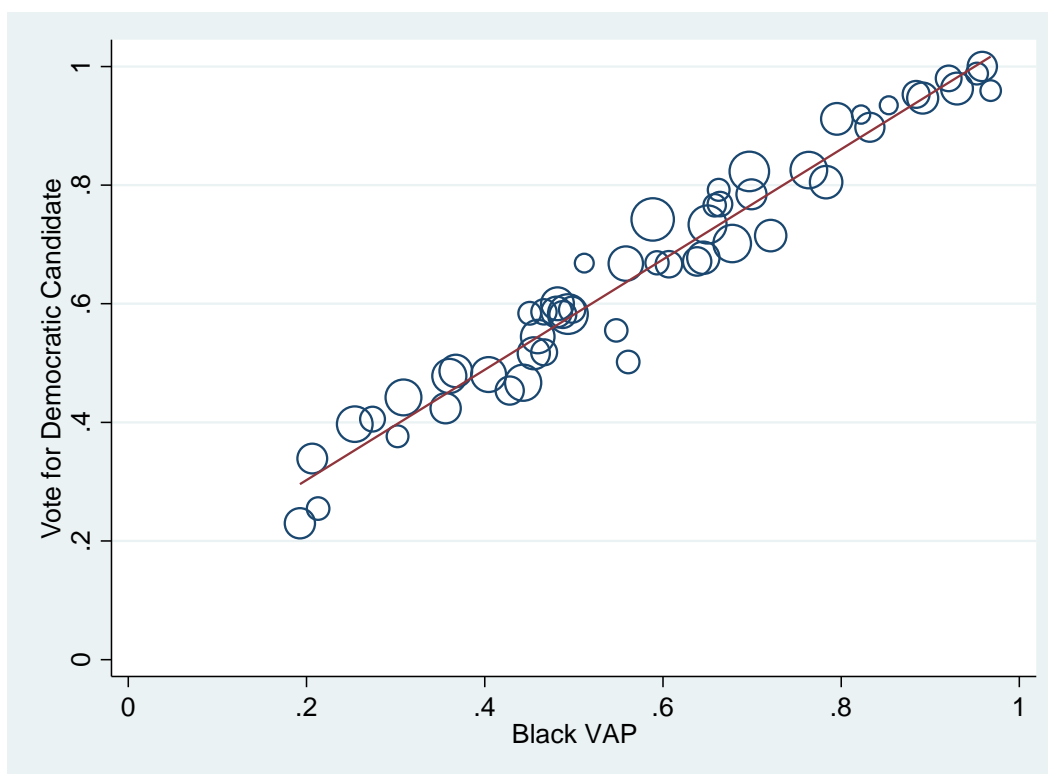


Figure 48. Scatterplot Richland County

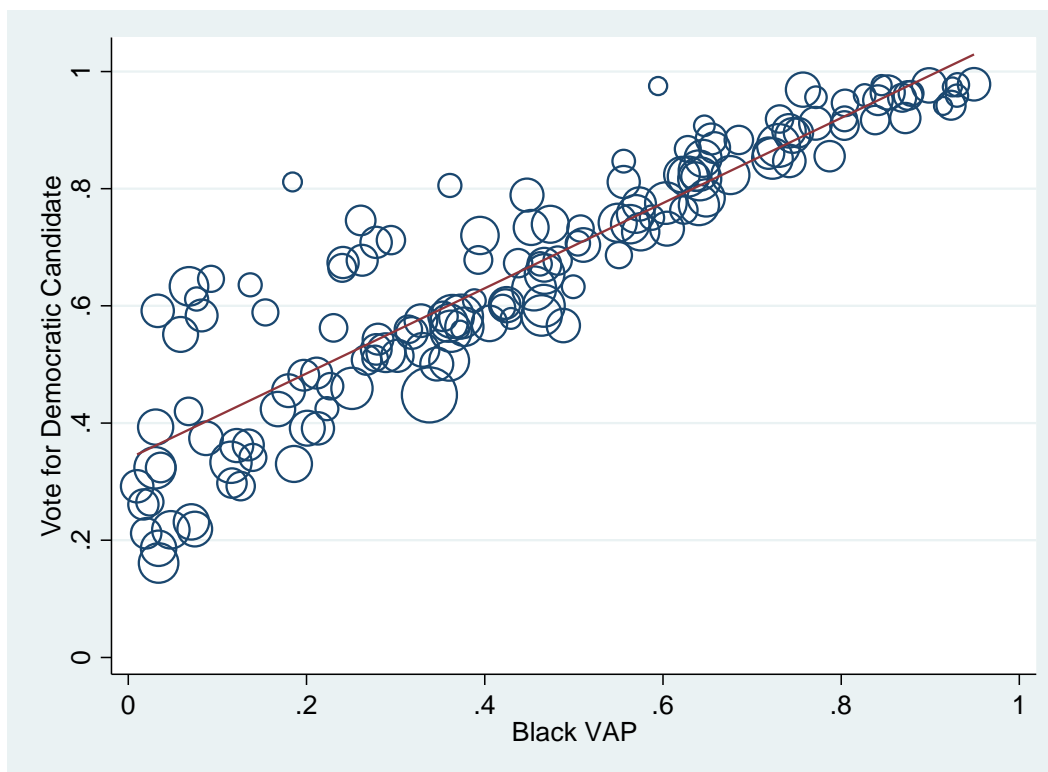


Figure 49. Scatterplot Spartanburg County

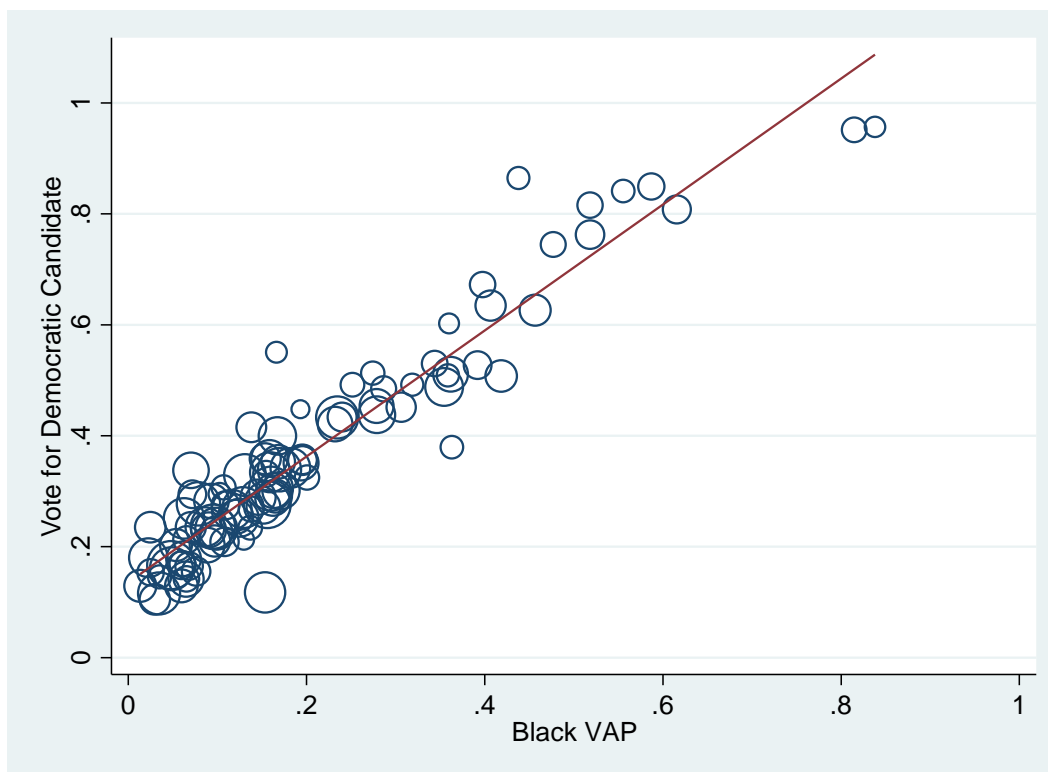


Figure 50. Scatterplot Sumter County

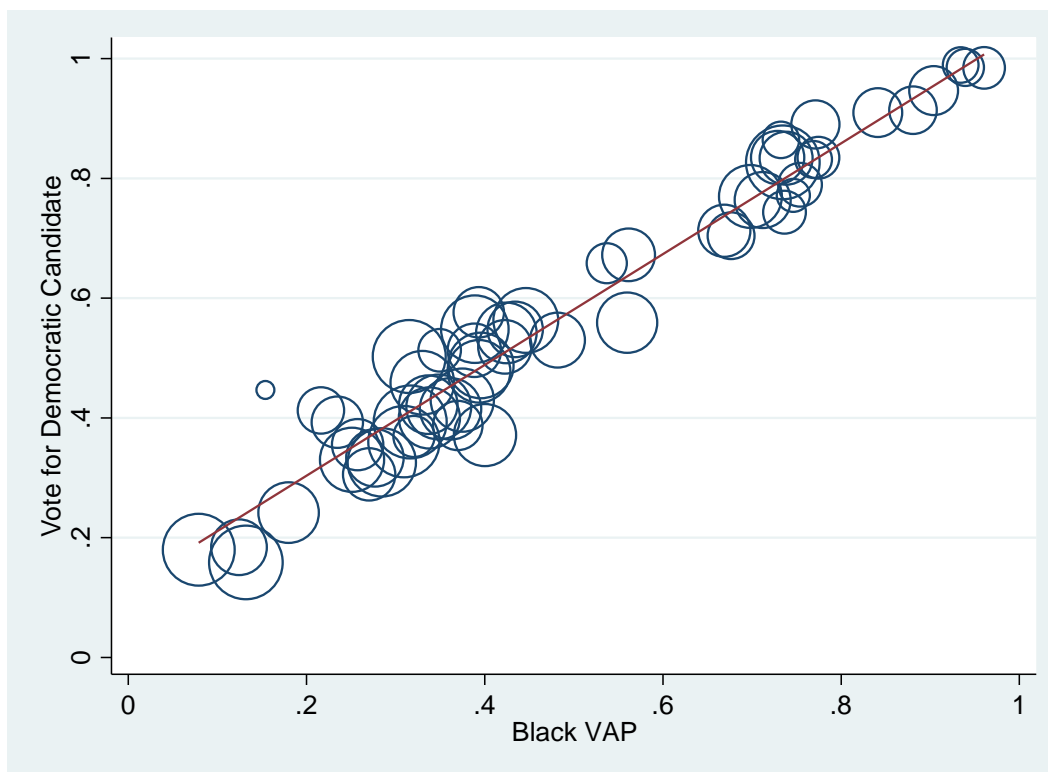


Figure 51. Scatterplot Williamsburg County

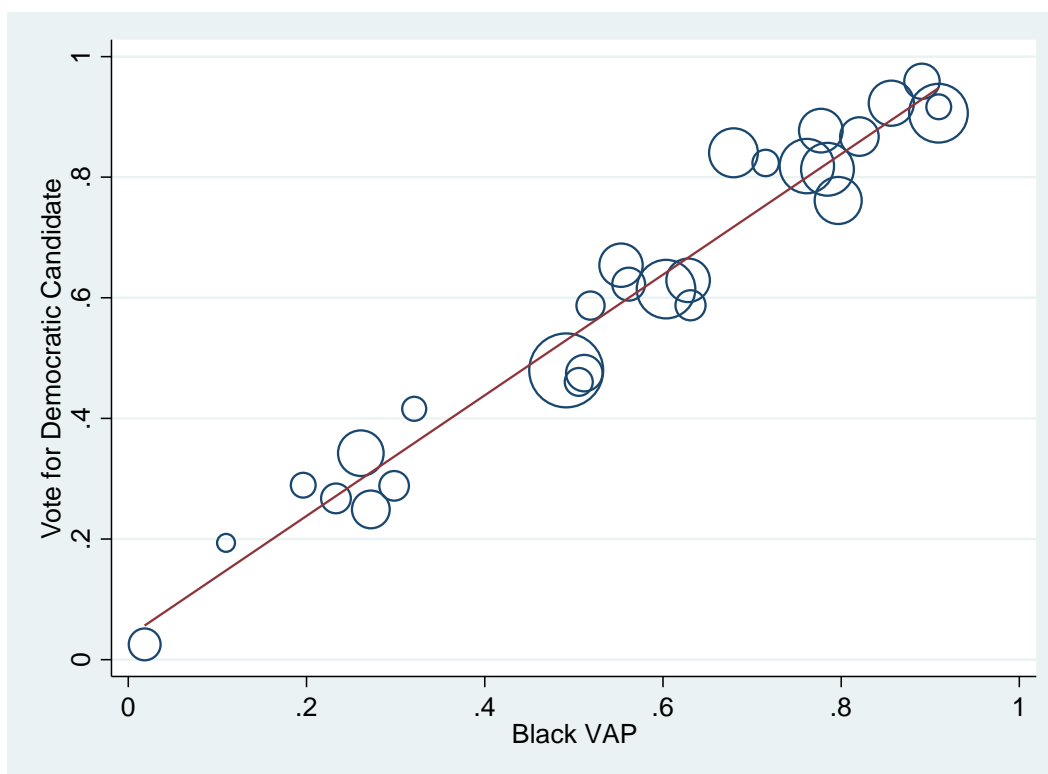
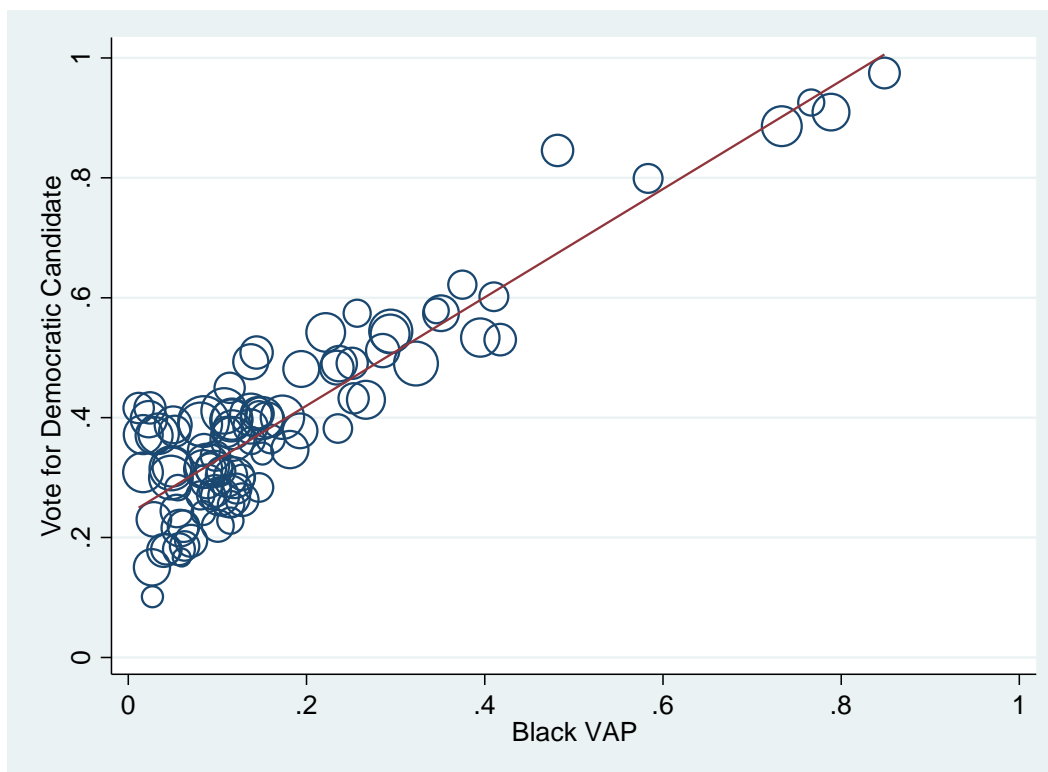


Figure 52. Scatterplot York County



The results of the above analyses indicate that racially polarized voting is present in South Carolina statewide, and present in all the counties analyzed.



Thomas Brunell

2/1/22

Date

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Loewen, J. and Grofman, B. (1989) Comment: recent developments in methods used in voting rights litigation. Urban Law 21(3), 589-604.



## **Exhibit 421**

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

CHRIS BROOKS, FRANCIS RENCOUNTRE, )  
GLORIA RED EAGLE, SHARON CONDEN, )  
JACQUELINE GARNIER, JENNIFER RED )  
OWL, EDWINA WESTON, MICHELLE )  
WESTON, MONETTE TWO EAGLE, MARK )  
A. MESTETH, STACY TWO LANCE, HARRY )  
BROWN, ELEANOR WESTON, DAWN )  
BLACK BULL, CLARICE MESTETH, )  
DONOVAN L. STEELE, EILEEN JANIS, )  
LEONA LITTLE HAWK, EVAN )  
RENCOUNTRE, CECIL LITTLE HAWK, SR., )  
LINDA RED CLOUD, LORETTA LITTLE )  
HAWK, FAITH TWO EAGLE, EDMOND )  
MESTETH, AND ELMER KILLS BACK, JR., )

Plaintiffs, )

v. )

JASON GANT, IN HIS OFFICIAL CAPACITY )  
AS SOUTH DAKOTA SECRETARY OF )  
STATE, SHANNON COUNTY, SOUTH )  
DAKOTA, FALL RIVER COUNTY, SOUTH )  
DAKOTA, SHANNON COUNTY BOARD OF )  
COMMISSIONERS, JOE FALKENBUERG, )  
ANNE CASSENS, MICHAEL P. ORTNER, )  
DEB RUSSELL, AND JOE ALLEN IN THEIR )  
OFFICIAL CAPACITY AS MEMBERS OF )  
THE COUNTY BOARD OF COMMISSIONS )  
FOR FALL RIVER COUNTY, SOUTH )  
DAKOTA, BRYAN J. KEHN, DELORIS )  
HAGMAN, EUGENIO B. WHITE HAWK, )  
WENDELL YELLOW BULL, AND LYLA )  
HUTCHINSON IN THEIR OFFICIAL )  
CAPACITY AS MEMBERS OF THE COUNTY )  
BOARD OF COMMISSIONERS FOR )  
SHANNON COUNTY, SOUTH DAKOTA, SUE )  
GANJE, IN HER OFFICIAL CAPACITY AS )  
THE COUNTY AUDITOR FOR SHANNON )  
AND FALL RIVER COUNTIES, AND JAMES )  
SWORD, IN HIS OFFICIAL CAPACITY AS )  
ATTORNEY FOR SHANNON AND FALL )  
RIVER COUNTIES, )

Defendants. )

Case No.: 12-5003

**AFFIDAVIT OF SARA  
FRANKENSTEIN**

**Tangipa v. Newsom**

**DX421**

2:25-cv-10616-JLSWLH-KKL

State of South Dakota        )  
  ) ss.  
County of Pennington        )

Sara Frankenstein, being duly sworn upon her oath, states as follows:

1. I am a partner with Gunderson, Palmer, Nelson & Ashmore, L.L.P., and counsel for Defendants Shannon County, South Dakota; Fall River County, South Dakota; Shannon County Board of Commissioners; Bryan J. Kehn, Deloris Hagman, Eugenio B. White Hawk, Wendell Yellow Bull, and Lyla Hutchinson in their official capacity as members of the county board of commissioners for Shannon County, South Dakota; Fall River County Board of Commissioners; Joe Falkenburg, Anne Cassens, Michael P. Ortner, Deb Russell, and Joe Allen, in their official capacity as members of the county board of commissioners for Fall River County, South Dakota; Sue Ganje, in her official capacity as the County Auditor for Shannon and Fall River Counties; and James Sword, in his official capacity as State's Attorney for Shannon and Fall River Counties, in the above-entitled action.

2. A true and correct copy of excerpts from the deposition of Secretary of State Chris Nelson taken July 16, 2012, is attached as Exhibit 1.

3. A true and correct copy of excerpts from the deposition of Sue Ganje taken July 18, 2012, is attached as Exhibit 2.

4. A true and correct copy of Michael P. McDonald and Samuel L. Popkin, The Myth of the Vanishing Voter, American Political Science Review, 95, 963-974 (2001) is attached as Exhibit 3.


5. A true and correct copy of Paul Gronke, Eva Galanes-Rosenbaum and Peter Miller, Early Voting and Turnout, PS: Political Science and Politics 40(4), 639-645 (2007) is attached as Exhibit 4.

6. A true and correct copy of Grant W. Neely and Lillard E. Richardson, Jr., Who is early voting? An individual level examination, The Social Science Journal 38, 381-392 (2001) is attached as Exhibit 5.

7. A true and correct copy of County Defendants' Expert Report of Thomas Brunell, Ph.D. is attached at Exhibit 6.

8. A true and correct copy of Secretary of State Gant's Response to Plaintiffs' Request for Production No. 17 is attached as Exhibit 7.

Dated: October 1, 2012.

  
Sara Frankenstein

Subscribed and sworn to, before me, the undersigned officer, this 1<sup>st</sup> day of October, 2012.

(SEAL)

  
Notary Public, South Dakota

My Commission Expires:

Sondra Smith  
Notary Public

My Commission Expires 5-12-2017

**CERTIFICATE OF SERVICE**

I hereby certify on October 1, 2012, a true and correct copy of **AFFIDAVIT OF SARA FRANKENSTEIN** was served electronically through the CM/ECF system upon the following individuals:

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Steven D. Sandven Law Offices  
300 North Dakota Avenue, Suite 106  
Sioux Falls, SD 57104  
E-mail: [ssandvenlaw@aol.com](mailto:ssandvenlaw@aol.com)  
*Attorney for Plaintiffs,*

and

Richard M. Williams  
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Sahr Building  
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Pierre, SD 57501  
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*Attorney for Defendant, Jason Gant*

By: /s/Sara Frankenstein  
Sara Frankenstein

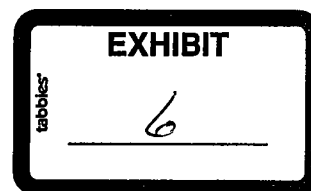
EXPERT REPORT OF THOMAS BRUNELL, Ph.D.

I am a Professor of Political Science at the University of Texas at Dallas, and I am also the Senior Associate Dean for Graduate Education in the School of Economic, Political and Policy Sciences. I received my Ph.D. in political science from the University of California, Irvine in 1997. I have published dozens of peer-reviewed articles and a book on elections, redistricting, the Voting Rights Act, and political parties (CV is attached). I have served as an expert witness on numerous cases around the country, and have testified in both state and federal courts. My hourly rate for this is case \$300.

In the past four years I have been involved as an expert witness in the following states and cases:

Colorado - *Moreno v. Gessler*  
Nevada - *Dora Guy v. Ross Miller*  
South Carolina - *Backus v. State of South Carolina*  
North Carolina - *Dickson v. Rucho*  
New Mexico - *Egolf v. Duran*  
Florida - *Romo v. Detzner*

For the matter at hand, I was asked by counsel to review the report of Dr. Braunstein and offer my opinions on the validity of his results and conclusions. I read Dr. Braunstein's report, the complaint, several articles quoted in the report, statistics on turnout in South Dakota from the Secretary of State's website, and I was briefed by counsel on the nature of the complaint and the history of satellite voting in Shannon County. My report was due before I was able to receive a copy of the transcript of Dr. Braunstein's deposition, so I would like to reserve the right to add further comments on that at a later date if necessary.





It is unclear to me why the *Gingles* case is implicated here. In my lay understanding of the law, the test outlined by the Supreme Court in the *Gingles* decision has to do with explicating the conditions under which a state is required to draw a legislative or congressional district designed to give minorities an equal opportunity to elect a candidate of their choice. This case is not about drawing majority-minority districts.

Moreover, the methods by Dr. Braunstein used to determine whether or not racial bloc voting is present in Shannon County are not among the handful used by experts and accepted by courts. Homogeneous precincts and bivariate ecological regression are two of the most common methods since they are cited in the *Gingles* decision. More recently, Professor Gary King of Harvard developed a method he calls ecological inference (EI) and there are related software packages that can implement this more complicated method. I am not opining whether racial bloc voting exists in Shannon County or not, but the evidence presented is not what one typically sees in an expert report, and since this case is not about redistricting, there is no particular reason to know if voting is polarized by race or not.

Given what I know about the case I would expect an expert to testify about how minorities in Shannon County are being discriminated against insofar as they have a larger burden to bear in terms of voting an absentee ballot in person. There is no data or evidence in the report that bears on this question.

Dr. Braunstein's survey is not useful for this case. It has fundamental design problems that doom it from the outset – namely it does not have a random sample

and the sample size is too small. In order to generalize from a sample to the general population (i.e. Shannon County) a survey needs to have sufficient number of respondents, and each person in the population should have an equal chance of being included in the sample. This is the reason that random sampling is the technique favored by pollsters. While a convenience sample may be cheap and efficient, these benefits come with a cost – accuracy and generalizability.

Dr. Braunstein claims in his report that his convenience sample is designed to “create a representative sample of Shannon County residents” (page 7), though he admits that his method necessarily restricts the sample to “individuals in public spaces” (page 8). How were the locations picked for the “survey”? How were the days and times picked to interview people? People that were on vacation at this time or do not visit these public places are necessarily excluded from the sample. Dr. Braunstein further claims “selection bias was avoided by simply asking each person within the view of the interviewer at the time the survey was conducted.” Is this statement to be taken literally? Every single person he saw that day was interviewed? What if he was in the middle of interviewing one respondent and another person walked by? Did he flag down cars on Main Street to speak to people? The important point here though is that even if he did talk to every person within his sight, the sample is too small and is not random. Thus, the results are not generalizable to the whole population (i.e. Shannon County).

In researching the phrase convenience sampling online one gets roughly the same answer regardless of the source – the gist of which is this is a quick and cheap

way to sample, but in no way can it be used to generalize to a population. Here is an example:

“A convenience sample is a sample of study subjects taken from a group which is conveniently accessible to a researcher. The advantage of a convenience sample is that it is easy to access, requiring little effort on the part of the researcher. The disadvantage is that it is not an accurate representation of the population, which can skew the results quite radically. In fact, convenience sampling is regarded as a form of sampling bias, meaning that the results from a study conducted with such a sample cannot be generalized to the population as a whole.”<sup>1</sup>

Sample size is also important in being able to generalize from a sample to a population. The smaller the sample size, the higher is the margin of error. This makes perfect sense since if someone polls 10 people in a state they naturally should not be overly optimistic about how reflective their sample is of the whole population. There are simple mathematical equations that define the margin of error given the sample size relative to the population. Typically pollsters like to have the margin of error relatively small, say plus or minus five points. For instance, using an online tool, I calculated the number of respondents necessary, in a random sample, in order to achieve a plus or minus five percentage point confidence interval with a total population of 14,000 – the pollster needs 374 respondents.<sup>2</sup> Using the same tool, I calculated that Dr. Braunstein’s confidence interval was on the order of plus or minus 11.14 points. Again, this is assuming a random sample, not a convenience sample, so we cannot really attribute a confidence interval to his survey.

---

<sup>1</sup> <http://www.wisegeek.com/what-is-convenience-sampling.htm>

<sup>2</sup> <http://www.surveysystem.com/sscalc.htm>

Some of the results of the survey are cause for concern. For instance the first question asks “Did you vote in the last national/statewide election?” The question references “the last federal/state election” which would be the June 5, 2012 primary election. But it may also be the case that the respondent thought the question referenced the last general election November 2010. Thus, there is a problem with the clarity of the question. We compare the results of question one to both of these elections. Over 70 percent of the respondents reported voting in the last election (Braunstein report page 33), but in the 2012 primary Shannon County turnout was only 3.3% and in the 2010 general election turnout was just 34.9%. While it is a well-known problem that people tend to over-report participating in elections, this gap is quite large. This problem could be a result of the convenience sample or from the vagueness of the question.

The one research question that may be of interest to the court is the number 10 – “Is there a statistical relationship between early voting provisions and turnout in minority communities?” While one would prefer evidence specifically about Shannon County on this question, the court could still be informed about this broader question. However, Dr. Braunstein presents no data specific to Shannon County or even South Dakota. Instead Dr. Braunstein relies on some of the extant research. In my own reading of these same articles however, I cannot come to the same conclusion that Dr. Braunstein does.

For instance this is the final paragraph of the Gronke et. al. article<sup>3</sup>:

---

<sup>3</sup> Paul Gronke, Eva Galanes-Rosenbaum, and Peter Miller. 2007. “Early Voting and Turnout.” *PS: Political Science and Politics*. 40(4): 639-645.

"In conclusion, we remain skeptical of those who advocate in favor of early voting reforms primarily on the basis of increased turnout. Both these results, and prior work in political science, simply do not support these claims. There may be good reasons to adopt early voting-more accurate ballot counting, reduced administrative costs and headaches, and increased voter satisfaction-but boosting turnout is not one of them."

Here is the conclusion from the Neely and Richardson article<sup>4</sup>:

"A basic question for any policy reform is whether or not the policy achieved the intended consequence. The main purpose of early voting is to facilitate the casting of a ballot. This may be accomplished in one of two ways: mobilizing those who would not have been likely to vote otherwise or providing a more convenient outlet of participation for likely voters. While mobilization and convenience may both be desirable goals, states have limited resources to use for increasing citizen participation. Mobilization of the electorate would help justify the higher costs of implementing early voting, but providing a convenience to those who would have voted anyway may not be an acceptable expenditure of precious resources for many governmental entities. If other states are to adopt electoral reforms, such as early voting or mail-in ballots, they may want to see some tangible evidence of increased turnout.

**The results of the logistic analysis on individual voters provide no support for the mobilization effect. No discernible differences emerge among the demographic groups that were expected to benefit from early voting. Low income voters, minorities, and senior citizens were not significantly more likely to use early voting.** Likewise, voters with low political efficacy, little interest in the campaign, and no strong partisan attachment did not appear to take advantage of early voting. On the contrary, the attitudinal factors suggest more support for the convenience effect.

Although we are cautious about the limitations of a one county survey of registered voters, the results suggest that future research on alternative voting methods needs to address the absence of a mobilization effect on the target population. Combined with other studies showing no mobilization effects for either vote-by-mail in Oregon (Berinsky, Burns, & Traugott, 1998) or early voting in Texas (Stein, 1998), our results on the early voting experience in Tennessee reinforce the argument that institutional barriers to voting do not inhibit participation by registrants as much as previously argued" (emphasis added).

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<sup>4</sup> Grant W. Neely and Lilliard E. Richardson, Jr. (2001) "Who is early voting? An individual level examination." The Social Science Journal, 38.

Based on his reading of this research Dr. Braunstein concludes: "The story is quite clear from the voting behavior literature. The sum of this work has demonstrated that the capacity of voters to cast an early ballot increases turnout because of the convenience and increased access to the ballot." I do not understand how this conclusion is reached given the quotations above. Both of the above articles are unequivocal – early voting does **not** increase turnout. Moreover the Neely article is explicit that their finding demonstrates no discernible effect for minority voters.

Counsel provided me with some data on turnout, absentee voting turnout, and the number of days that the satellite office for voting was open in Shannon County. Table 1 represents these data. Since we have a mixture of primary and general election data, as well as presidential election years and midterm election years, the best comparisons are those within each group. This is because primary elections always have lower turnout than general elections, and midterm elections always have lower turnout than presidential elections. I have grouped the data into the relevant comparisons. In the first grouping we have three elections, each with a different number of satellite office days. Shannon County turnout is inversely related to the number of days the office is open with a total turnout rate in Shannon County of only 3.3 percent when the office was open for a total of 32 days. The absentee balloting rate was higher that year, though only 248 votes were cast, of which 46 were cast in the satellite office. That is an average of less than 1.5 votes per day that the office was open.

The next group includes the general election turnout rates for 2004 and 2008. Turnout is higher both statewide and in Shannon County in 2004. The satellite office was open longer in 2004 as well. Absentee voting was also higher in 2004.

The next group is not particularly useful to look at since the satellite office was not open at all for both elections and we have some missing data.

The last group includes the 2006 and 2010 general election. In 2006 there was no satellite office and in 2010 the office was open for 22 days. Turnout in Shannon County is higher in 2010 even though statewide turnout was lower. Absentee balloting is higher in percentage terms as well.

So the evidence here is mixed, some years longer satellite hours correlate with higher turnout and some years it does not.

Table 1. Data on Turnout at Satellite Office Days in Shannon County

Year & Election	Shannon County Turnout %	Statewide Turnout %	Shannon County Absentee %	Number of Shannon County Satellite Office days
2004 Primary	32.8%	56.7%	2.8%	0
2008 Primary	21.8	37.1	1.4	2
2012 Primary	3.3	17.9	18.6	32
2004 General	57.0	78.6	36.8	16
2008 General	42.6	73.0	13.1	2
2006 Primary	4.1	19.0	?	0
2010 Primary	1.4	?	6.6	0
2006 General	31.3	67.3	2.8	0
2010 General	34.9	62.3	18.6	22



Table 2 includes data provided to me by counsel for the named plaintiffs in this case. This can be useful to examine to what extent the satellite office is used and whether turnout is increased as a result. The 2012 primary had the most office days with 32 and the data indicate that three of the 25 plaintiffs voted. Low turnout is the hallmark of primary elections so this is not too surprising. However none of the plaintiffs that voted used the satellite office, rather they voted on Election Day at their local polling place. The 2008 primary had just two days of satellite days and turnout was higher, and two of the plaintiffs used the satellite office to cast an early ballot in this election. The 2004 primary had no satellite days at all and 9 of the 25 plaintiffs voted in that election, which is just two votes shy of the eleven that voted in the 2008 primary. There are actually only a total of four instances among the 25 people across 11 elections in which a ballot was cast in the satellite office, so this is not a heavily used convenience.

Table 2. Shannon County Election Plaintiffs Voting Records

**Shannon County Election Records**

Plaintiff	2002 Prim	2002 Gen	2004 Prim	2004 Gen	2006 Prim	2006 Gen	2008 Prim	2008 Gen	2010 Prim	2010 Gen	2012 Prim
Chris Brooks	No	Elect Day	No	Elect Day	No	Elect Day	Elect Day	Elect Day	No	Elect Day	No
Francis Rencountre	No	No	No	No	No	No	In Shannon	No	No	No	No
Gloria Red Eagle	No	No	Sp Elect	Elect Day	No	Elect Day	No	Elect Day	No	Elect Day	No
Sharon Conden	No	Elect Day	No	Elect Day	No	Elect Day	No	In Shannon	No	No	No
Jacqueline Garnier	No	Elect Day	Sp Elect	Elect Day	No	No	Elect Day	Elect Day	No	Elect Day	No
Jennifer Red Owl	No	No	No	No	No	Elect Day	No	Elect Day	No	Elect Day	No
Edwina Weston	Elect Day	Elect Day	Sp Elect	Elect Day	No	Elect Day	Elect Day	Elect Day	No	Elect Day	Elect Day
Michelle Weston	No	No	No	No	No	No	No	No	No	No	No
Monette Two Eagle	Elect Day	Elect Day	Sp Elect	Elect Day	Elect Day	Elect Day	Elect Day	Elect Day	No	Elect Day	No
Mark A. Mesteth	No	Elect Day	No	Elect Day	No	Elect Day	No	Elect Day	No	Elect Day	No
Stacie Two Lance	No	Elect Day	No	Elect Day	No	No	No	Elect Day	No	No	No
Harry Brown	No	No	No	No	No	No	No	No	No	No	No
Eleanor Weston	No	Elect Day	Sp Elect	In Shannon	No	No	No	No	No	No	No
Dawn Black Bull	Elect Day	Elect Day	No	Elect Day	No	Elect Day	Elect Day	Elect Day	No	Elect Day	No
Clarice Mesteth	Elect Day	Elect Day	Sp Elect	Elect Day	No	No	Elect Day	Elect Day	No	Elect Day	Elect Day
Donovan L. Steele	No	Elect Day	No	Elect Day	No	Elect Day	Elect Day	Elect Day	No	Elect Day	No
Eileen Janis	No	No	No	No	No	No	No	No	No	Elect Day	No
Leona Little Hawk	No	No	No	Elect Day	No	No	No	Elect Day	No	Elect Day	No
Evans Rencountre	No	Elect Day	Sp Elect	No	No	No	In Shannon	Elect Day	No	No	No
Cecil Little Hawk, Sr.	No	Elect Day	Sp Elect	Elect Day	No	Elect Day	Elect Day	Elect Day	No	Elect Day	No
Linda Red Cloud	No	No	No	In Shannon	No	No	Elect Day	Elect Day	No	Elect Day	No
Loretta Little Hawk	No	Elect Day	No	Elect Day	No	No	No	Elect Day	No	Elect Day	No
Faith Two Eagle	No	No	No	Elect Day	No	No	No	No	No	No	No
Edmond Mesteth	No	No	No	No	No	Elect Day	No	Elect Day	No	Elect Day	Elect Day
Elmer Killis Back, Jr.	No	No	Sp Elect	Elect Day	No	No	No	No	No	No	No

In conclusion it is unclear to me that there is anything in Braunstein's report that bears consideration in answering the question at hand – are minority voters being discriminated against because they have less of an opportunity to vote than other races in the state? My own review of turnout statistics countywide and among the named plaintiffs does not demonstrate a clear correlation between more satellite hours and higher turnout.



31 Aug 2012

Thomas Brunell

## **Exhibit 422**

# Rethinking Redistricting: How Drawing Uncompetitive Districts Eliminates Gerrymanders, Enhances Representation, and Improves Attitudes toward Congress

Thomas L. Brunell, *University of Texas at Dallas*

Tangipa v. Newsom

**DX422**

2:25-cv-10616-JLSWLH-KKL

## Introduction

In every contested election there are inevitably winners and losers, both among the candidates and among the voters. Some candidates will take their seats as elected officials, and others will not. Some voters will be happy with the outcome, others will not. Here I seek to better understand the relationship between whether a voter casts a ballot for the winning candidate in U.S. House elections and that voter's evaluations of her representative. I build on a burgeoning literature on the relationship between voters and their elected governments to derive and test a theory about this connection. The data will show that voters whose preferred candidate wins a seat in the House of Representatives are systematically happier with their representative than those voters whom did not vote for the winning candidate. While this finding is not especially groundbreaking, the implications for the way in which we draw congressional and state legislative district lines are quite provocative. Specifically, since district lines in the House are necessarily an artificial construct, I argue that map makers ought to "pack" districts with as many like-minded partisans as possible. Trying to draw "competitive districts"<sup>1</sup> effectively cracks ideologically congruent voters into separate districts, which has the effect of increasing the absolute number of voters who will be unhappy with the outcome and dissatisfied with their representative. I discuss the benefits of fundamentally rethinking the way in which we draw congressional and state legislative districts, as well as address likely concerns that might be raised about drawing districts this way.

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## Winners and Losers

A developing literature suggests that voters' evaluations of government, including overall trust in government, is directly related to whether they cast a ballot for the winning candidate. Anderson and LoTempio (2002) show that citizens who voted for the winning presidential candidate have significantly higher levels of overall trust in government relative to voters whose candidate lost the election (even after controlling for other factors that affect trust). Thus, evaluations of the government depend, in part, on election outcomes. However, Anderson and LoTempio find no relationship between votes for congressional candidates and overall trust in government, although this is likely because voters are more likely to think about the president than Congress when asked how much trust they have in the federal government.<sup>2</sup> Clarke and Acock (1989) show that voting for the winning candidate in American elections increases voter efficacy as well.

These results are not unique to the American case. Anderson and Guillory (1997) demonstrate that a similar relationship exists in other advanced industrial democracies. Clarke and Kornberg (1992) show that winning voters in Canada have more positive evaluations of their members of parliament in terms of responsiveness to voters. This "winning effect" extends not only to voters, but also to the candidates who stand for election. Bowler and Donovan (2002) demonstrate that elites' attitudes toward electoral institutions are, in part, dependent on whether they win the election. Winning candidates, who have been delivered to parliament by the current electoral arrangement, are much more satisfied and committed to these institutions than are losing candidates.

## Theory and Data

The theory driving this investigation is simple: citizens who vote for the win-

ning candidate in a House election will be systematically more likely to have higher evaluations of said candidate relative to voters who vote for the losing candidate. Similarly, "winning" voters will have more positive and fewer negative things to say about their representative than "losing" voters. I test this proposition using the American National Election Study (ANES) cumulative file with survey data from 1948–2000, although the multivariate analysis only includes data from 1980 on, as some of the variables utilized in the analysis were not part of the survey until that time.

## Empirical Results

Using these data I test to see what effects voting for the winning candidate in a U.S. House of Representatives election has on evaluations of that representative, as well as voter evaluations of Congress as an institution. First, I examine the relationship between which candidate a respondent has voted for and that voter's affect toward the representative. In the National Election study, respondents are asked the following open-ended question: "Is there anything in particular that you liked about [U.S. House incumbent candidate] What is that? Anything else?" They are also asked if there is anything that they dislike about the incumbent representative. The survey records up to four responses for both likes and dislikes. Affect for a candidate is simply measured as the number of likes minus the number of dislikes. So if a voter has four positive and one negative things to say, the result is an affect of +3. This variable ranges from +4 to -4. Table 1 presents the results of a cross tabulation of affect for the incumbent and whether the respondent had voted for this candidate or an opponent (same party, different party). Clearly, the results indicate that when people vote for the winner, their affect for their representative is significantly more positive. The percentage of people who voted for the losing candidate and

**Table 1**  
**Relationship between Voting for Winning Candidate and Likes Minus Dislikes for the Incumbent Representative**

Incumbent Affect (likes-dislikes)	Losing Voter	Winning Voter	Total
-4	62 1.9%	7 0.1%	69 0.8%
-3	97 2.9	23 0.4	120 1.4
-2	218 6.6	79 1.5	297 3.4
-1	363 10.9	175 3.3	538 6.2
0	1,241 37.3	1,556 29.3	2,797 32.4
1	528 15.9	1,204 22.7	1,732 20.0
2	457 13.7	1,104 20.8	1,561 18.1
3	217 6.5	682 12.8	899 10.4
4	143 4.3	486 9.1	629 7.3
Total	3,326 100	5,316 100	8,642 100

Entries represent the number of respondents from the cumulative American National Election Study file 1948–2000 (study no. 8475) who answered questions about the number of likes and dislikes they have about their incumbent Representative, column percentages below entries. The overall affect is simply the number of likes (up to 4) minus the number of dislikes (up to 4). Chi-squared = 913.3,  $p < .001$ . Losing voters are those who reported voting for the candidate in the House election that lost, and winning voters are those who reported voting for the winning House candidate.

cumbent, while fully 21.9% of losing voters disapproved of the incumbent representative. Over 82% of winning voters express approval of the elected official. These results are not surprising—people who vote for the winning candidate are happier than people who voted for the losing candidate—and they fit with much of the other literature on the subject of how attitudes toward government are conditioned by how people cast their ballots. People are more satisfied with the government (or its component parts) when the candidates that they vote for are elected.

The relationship between winning and losing also moves beyond how a voter feels toward a specific representative. Election outcomes also influence the ways in which citizens connect with Congress as an institution. For instance, Table 4 is a cross-tabulation of a respondent's overall rating of Congress and whether the person they voted for in the House election won. Roughly the same percentage of people rate Congress as doing a "very poor job" in the winning and losing voter columns, so even among voters whose candidate is victorious a substantial number of people remain highly skeptical of our legislature. However, more losing voters rate Congress as doing a "poor job" and more winning voters rate Congress as doing a "good job." While the differences are not as large as those we saw in previous tables, they are statistically significant and any increase in satisfaction with our

had more negative than positive things to say (i.e., their affect score is negative) is 22.3%; that same measure for winning voters is only 5.3%. Similarly, voters for the winning candidate are far more likely to have more positive things to say about their incumbent representative than are losing voters. Over 65% of the people that voted for the winner had more positive than negative things to say.<sup>3</sup> Table 2 presents the multivariate analysis with the affect variable as the dependent variable. Even after controlling for other variables that influence how a voter might feel about his or her incumbent representative, the "Vote for Winner" variable is positive and statistically significant at beyond the .001 level. Other variables that influence the number of likes and dislikes include age, education, income, party identification, and responses to the congressional thermometer question.

Table 3 displays the relationship between voting for the winner and voter approval of the incumbent. Only 4.8% of winning voters disapproved of the in-

**Table 2**  
**Explanatory Model for Affect toward the Incumbent**

Independent Variable	Coeff.	SE
Constant	<b>-1.15</b>	0.218
<b>Age</b> (higher = older)	<b>0.013</b>	0.002
<b>Gender</b> (0 = female)	0.065	0.05
<b>South</b> (1 = from Southern state)	0.052	0.058
<b>Education</b> (higher = more education)	<b>0.062</b>	0.019
<b>Income</b> (higher = higher income)	<b>-0.061</b>	0.028
<b>Party Id</b> (1 = strong Dem, 7 = strong Rep)	<b>0.042</b>	0.012
<b>Congress Thermometer</b> (higher = positive evaluations)	<b>0.009</b>	0.002
<b>Federal Govt. Thermometer</b> (higher = positive evaluation)	0.0002	0.002
<b>National Economy</b> (higher = economy doing better)	0.024	0.035
<b>Personal Financial</b> (higher = better financial)	-0.010	0.035
<b>Vote for Winner</b> (1 = Resp. voted for winner)	<b>0.89</b>	0.054
N	3,429	
Adjusted R <sup>2</sup>	0.11	

The dependent variable is the number of likes (up to 4) minus the number of dislikes (up to four) with respect to the incumbent Representative. Entries are unstandardized OLS regression estimates. Data are from the American National Election Study Cumulative File 1948–2000. Bold entries are statistically significant at  $p < .05$  or better.



**Table 3**  
**Relationship between Voting for the Winning Candidate and Approval of Incumbent**

Approve of House Incumbent	Losing Voter	Winning Voter	Total
Approve	2,033 59.5%	4,447 82.4%	6,480 73.5%
Disapprove	750 21.9	260 4.8	1,010 11.5
Don't Know	635 18.6	688 12.8	1,323 15.0
Total	3,418 100	5,395 100	8,813 100

Entries represent the number of respondents from the cumulative American National Election Study file 1948–2000 (study no. 8475) who either approve or disapprove of the incumbent Representative, column percentages below entries. Chi-squared = 665.8,  $p < .001$ . Losing voters are those who reported voting for the candidate in the House election that lost, and winning voters are those who reported voting for the winning House candidate.

representative institutions is surely a positive development.

The relationship between voting for the winning candidate and which branch of government the respondent trusts most (Congress, the Supreme Court, the president, or political parties) is presented in Table 5. The biggest difference between winners and losers is related to voting for the winning House candidate. More than 23% of the voters on the losing side versus nearly 32% of voters whose can-

didate won chose Congress as the most trusted branch of the federal government. Thus, winning voters are much more likely than losing voters to choose Congress as their most trusted branch of the federal government.<sup>4</sup>

People who vote for the winning candidate are systematically more satisfied with their representative and with Congress as a whole. But the underlying story is not merely one of winning or losing, but rather ideological distance.

**Table 4**  
**Relationship between Voting for the Winning Candidate and Approval of Congress**

Performance of Congress Rating	Losing Voter	Winning Voter	Total
Very poor job	389 31.4%	532 30.3%	921 30.8%
Poor Job	289 23.3	333 19.0	622 20.8
Fair Job	443 35.8	657 37.5	1,100 36.8
Good Job	108 8.7	213 12.2	321 10.7
Very Good Job	9 0.7	19 1.1	28 0.9
Total	1,238 100	1,754 100	2,992 100

Entries represent the number of respondents from the cumulative American National Election Study file 1948–2000 (study no. 8475) who indicated how they rate the job that Congress is doing, column percentages below entries. Chi-squared = 16.4,  $p < .003$ . In the original dataset there are nine valid responses to the dependent variable, here they have been collapsed. Losing voters are those who reported voting for the candidate in the House election that lost, and winning voters are those who reported voting for the winning House candidate.

The greater the distance between the representative and the voter, the more likely the voter will be dissatisfied.<sup>5</sup>

## Implications

Based on these results, and since congressional districts are necessarily artificial constructs, there are clearly reasons to draw districts in such a manner as to increase efficacy and happiness with our government, particularly since Congress almost always has significantly lower approval ratings than the president, the Supreme Court, and state governments (see Hibbing and Smith 2001; Hibbing and Theiss-Morse 1995). Packing districts with like-minded partisans makes a great deal of sense, as long as both major political parties are packed to similar degrees. Drawing competitive districts or systematically “cracking”<sup>6</sup> one party or the other is not beneficial and ought not be present in redistricting plans. Thus, what we think of typically as competitive districts (those with roughly equal numbers of Democrats and Republicans) provide negligible benefits and come with significant costs. One of the most significant benefits from drawing a legislative map with packed districts is that it makes it significantly more difficult to effect a map that constitutes a partisan gerrymander. Districting plans that dilute one party’s vote must use a combination of packing and cracking to create a map that contains significant levels of partisan bias (i.e., where one party might win the statewide vote for the House, but still end up with fewer seats).

Preserving communities of interest is one of the main principles guiding map makers. Among these principles, preserving communities of interest is certainly the most ephemeral. What really constitutes a community of interest? Is any American city or county, really a community of interest? Sometimes—depending on the issue. A city is a unified community of interest when the issue is non-partisan, for example if the issue is obtainment of federal funds to repair bridges and roads, but it is not if the issue involves anything with ideological disagreement. Properly conceived, I argue, communities of interest should be composed entirely of either Democrats or Republicans (liberals or conservatives) in reflection of the primary cleavage in American politics (Poole and Rosenthal 1991). On controversial issues, ideological communities of interest will typically face issues in unison, increasing the likelihood that their representative will vote on legislation in Congress in congruence with the



**Table 5**  
**Relationship between Voting for the Winning Candidate and Which Branch of Government a Citizen Trusts the Most**

Branch Respondent Trusts the Most	Losing Voter	Winning Voter	Total
Congress	137 23.2%	245 31.7%	382 28.0%
Supreme Court	267 45.3	330 42.6	597 43.8
President	170 28.8	187 24.2	357 26.2
Political Parties	16 2.7	12 1.6	28 2.1
Total	590 100	774 100	1,364 100

Entries represent the number of respondents from the cumulative American National Election Study file 1948–2000 (study no. 8475) who chose each branch of the federal government that “they trust the most,” column percentages below entries. Chi-squared (3 df) = 13.99,  $p < .003$ . Losing voters are those who reported voting for the candidate in the House election that lost, and winning voters are those who reported voting for the winning House candidate.

vast majority of their constituents. Citizens living in knife-edged districts cannot expect this kind of representation. Drawing districts to increase competitiveness in the general election only optimizes the number of voters that will be upset with their representation. Thus, not only do competitive districts not provide a social “good,” they actually increase dissatisfaction and make it less likely that voters’ preferences are represented in government.

Drawing competitive districts also increases the volatility of the electoral system. If every district is a “50–50” district, then any small change in the voting behavior of the electorate could produce enormous changes in the partisan distribution of seats. While it is true, and oft-cited, that the Founders intended for the House to most closely mirror the wishes of the public, it is not reasonable to assume that they expected the institution to be hyper-sensitive to relatively small changes in the partisan leanings of the people. Districting this way also delivers a disproportionate share of the voting power to independents and moderate swing voters.<sup>7</sup> A district that packs voters from both major parties equally into districts (i.e., the average district is either 80% Republican or 80% Democratic) has the added benefit of sending congressional delegations to the House that closely mirror the overall distribution of partisans in that state. A plan with many competitive districts can easily send a delegation to the House that is truly unreflective of the underlying partisan divisions in a state.

Some states, like Arizona,<sup>8</sup> have passed laws or referenda specifying that a districting plan ought to maximize the number of competitive districts. This is not particularly surprising since the common wisdom among most voters and certainly among the media is that the House of Representatives does not have enough competitive districts currently, and that an increase in the number of competitive elections or in the amount of turnover in Congress will somehow enhance representation. There is absolutely no evidence that this is the case.<sup>9</sup> In fact, maximizing competitive districts is harmful rather than beneficial in many respects. The most obvious effect of drawing cracked or competitive districts is to maximize the number of voters who are dissatisfied with their representation.<sup>10</sup> Second, a state that draws all or most of its districts in this knife-edged fashion increases the likelihood that small swings in voting behavior translate into large swings in the percentage of seats that one party can win in a single election. This can result in statewide representation that is widely incongruent with statewide partisanship, which, in turn, leads to voting behavior in the legislature that does not accurately represent the views of the constituents.

From a utilitarian perspective, the ideal congressional district is one populated entirely by people with the same political preferences. Such a constituency would see its wishes effectively translated into votes by their representative and this type of district assures that the representative will remain faithful to the

voters through the threat of a primary challenge. Minimizing the ideological distance between the average voter and the likely representative fosters more effective representation and makes it easier for elected officials to discern our preferences, thus strengthening the bonds between the represented and representatives. Buchler (2005) develops this idea more formally and finds that homogeneous non-competitive districts “do a better job than competitive districts in achieving representative outcomes.” Further, these districts “produce legislators that are closer to their district medians and more representative of everyone in their district” (457).

The House of Representatives ought to be the closest of our national institutions to the people. We want the connection between the representative and the represented to be a close and faithful connection. The delegate theory of representation “posits that the representative ought to reflect purposively the preferences of his constituents” (McCrone and Kuklinski 1979, 278). Research on the connection between elected officials and the people that they represent has a long tradition in our discipline. Miller and Stokes’s (1963) seminal piece on this subject called into question the ability of the representative to know what her constituents want, as well as the ability of the constituents to know and understand how the elected official is voting in Washington.

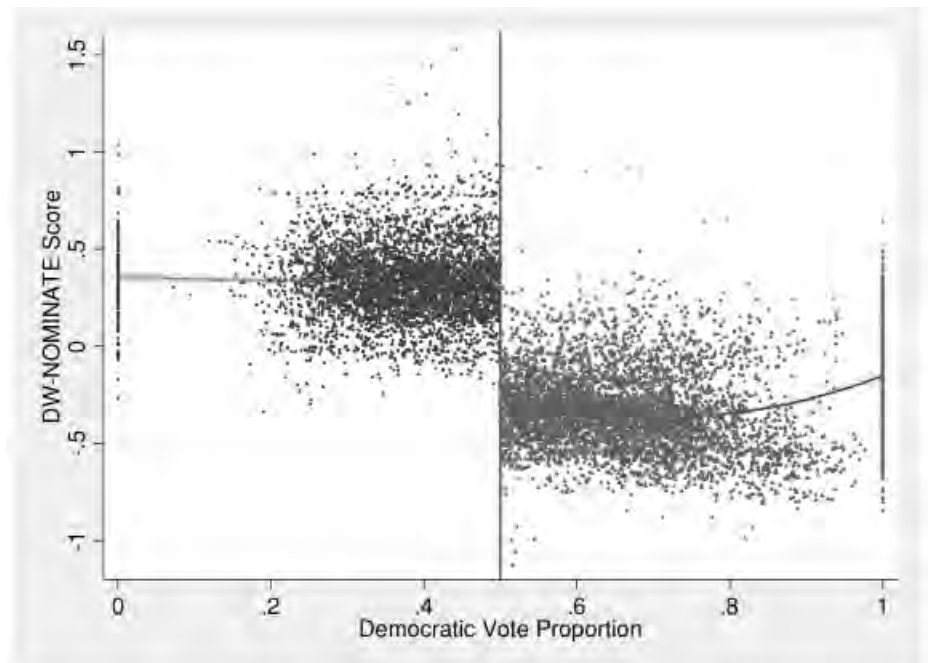
For example, Miller and Stokes (56) conclude: “The Representative has very imperfect information about the issue preferences of his constituency, and the constituency’s awareness of the policy stands of the Representative ordinarily is slight.” While other scholars have pointed out some methodological concerns with the original Miller and Stokes study and have questioned the validity of some of their conclusions (see Erikson, Luttbeg, and Holloway 1975; Erikson 1978), there is very little doubt that these connections between the representative and the constituency could be much stronger. Creating packed ideological districts will necessarily strengthen these bonds. If a Democrat is sent to Congress from a district heavily populated by like-minded partisans, she will have little doubt as to how her constituents prefer her to vote on policy proposals. Similarly, creating more “winners” out of voters alleviates some of the uncertainty with respect to how the representative votes on their behalf. This will also serve to encourage representatives to be more responsive to constituent needs.

Elections serve as the main catalyst for keeping representatives faithful to

their constituents. The threat of being replaced in a popular election incentivizes elected officials to respond to what their constituents want. A districting plan that maximizes the number of winners would clearly affect election outcomes. Most obvious is the likelihood that general election outcomes would not be particularly close. Districts packed with 80% or more of one party will deliver general election victories to the majority party in the district. Redistricting is already the oft-accused suspect of the decline of competition and turnover in the House of Representatives (Cox and Katz 2002; Hirsch 2003) and this type of plan may not help the current public image of this process. However, it is critical to keep in mind that general election competitiveness is neither a necessary nor sufficient condition for ideal representation. First, we utilize a two-stage process for electing members of Congress, where citizens are given the ability to choose, via a primary election, which candidate will represent their party in the general election.<sup>11</sup> Therefore, even in an 80–20 district, the incumbent can easily be removed if he fails his constituents. This type of districting plan encourages *intra*-rather than *inter*-party competition. By no means do homogeneous districts spell an end to electoral competition or responsiveness on the part of our elected officials. Increasing the relevancy of primaries may have other beneficial effects: turnout in primary elections might increase, the organized political parties may be more apt to get involved at the primary election stage, and more qualified candidates may choose to run against an incumbent in a primary. Another reason that incumbents, even in the absence of tough general election competition, will remain faithful to their constituents is that the specter of losing the next election is always prevalent in the minds of incumbents; this implied threat is what keeps our elected officials responsive.

There exists, I argue, sufficient uncertainty among elected officials with respect to their ability to win the next election which keeps them from behaving in ways that might contribute to a loss. My argument is not novel. David Mayhew wrote in 1974 that: “It is possible to conceive of an assembly in which no member ever comes close to losing a seat but in which the need to be reelected is what inspires members’ behavior. It would be an assembly with no saints or fools in it, an assembly packed with skilled politicians going about their business” (37). In *Unsafe at any Margin* Thomas Mann (1978) argued that congressional elections were becoming less

**Figure 1**  
**The Relationship between Margin of Victory and Ideology in the House**



\*The graph depicts the quadratic regression line for DW-NOMINATE scores regressed on margin of victory (done separately for Democrats and Republicans). The vertical line at .5 separates Republicans (to the left of the line) from Democrats (to the right of the line). The sample size for the regression models are 4,627 for Republicans and 6,318 for Democrats.

nationalized and election outcomes depended heavily upon what the voters in each district thought of their representative. “Candidate saliency is a double-edged sword for incumbents; while it can mean an enormous advantage in visibility over challengers, it can also spell disaster if the voters come to believe that their representative has some personal failing” (103).

The lack of turnover in the U.S. Congress should not be used as an indication that our federal institutions are failing as components of a democracy. While I am not arguing that stagnation is the signature of a perfectly health democracy, I do not see rapid replacement of incumbents as a necessary part of a truly representative institution. Indeed, if we want rapid turnover in our legislature, then term limits are a vastly more effective method of producing this outcome than drawing competitive districts. Many 50–50 districts end up with an incumbent who can use the perks of the office to leverage what might have been a competitive district in one election into a very safe seat for many successive elections.

One common objection to this method of districting is that it would add to the polarization in Congress by creating

overwhelmingly Republican (Democratic) districts that are more likely to elect very conservative (liberal) members. This is an empirical question that is easily addressed. The question is whether members who win by large margins are more extreme than their colleagues who win by relatively small margins. Figure 1 plots member ideology by vote percentage for the years 1952–2000. The x-axis represents the Democratic proportion of the vote, so very small values indicate Republican victors by very large margins. The closer one moves toward the vertical line at .5, the more competitive the elections. The data on the far right side of the graph (those data points near 1.0) are districts in which the Democrat won by very large margins. The solid line is the predicted values from a quadratic regression and the shaded regions represent the 95% confidence region. If so-called safe seats elected more ideologically extreme members we would expect the predicted lines to slope downward for the Democrats as we move along the x-axis toward 1. The line is more or less straight with a slight upward slope (driven mainly by uncontested elections). For the Republicans we would expect the line to be much higher (i.e., more conservative NOMINATE scores) for values

close to 0 relative to values close to .5. The predicted line here is completely flat. Thus, as the margin of victory increases for members to the U.S. House, we see no real change in the ideology of the members who are elected.<sup>12</sup> Thus, there is no reason to expect that packing districts on the basis of ideology will have any influence on the ideology of the House as a whole.

## Example

Imagine a state with sufficient population for two congressional districts. The state is perfectly segregated from east to west in terms of partisanship with all Democrats living in the western half of the state and all Republicans living in the eastern half. Further assume that the number of Democrats and Republicans is exactly equal. Given the restrictions of equal population, contiguity, and compactness there are still many different ways in which to cut the state into two districts. Consider three different scenarios.

The first is a line bisecting the state from east to west creating two 50–50 districts. If a state preferred “competitive districts” this would be the most efficient method. From the outset, it is non-controversial to say that this state should elect, and is best represented by, one Democrat and one Republican. But by creating two competitive districts this significantly increases the odds that one party can sweep the state even with just a very small shift in voting behavior. If the Democrats run a particularly effective campaign and swing 1% of the vote statewide, this leaves nearly half the state with no ideological representation in the House. Furthermore, even if the election outcome delivered one seat to each party, this still leaves roughly half the state unsatisfied with their own representative because of the way in which the districts were drawn.

Second, we draw two districts, each of which is 75% one party and 25% the other. This would create districts that are beyond the bounds of “competitiveness” insofar as the favored party ought to have little trouble electing a candidate of their choice. The overall representation will mirror the statewide breakdown, but this districting plan also leaves a quarter of the state unsatisfied with their representative and less likely to feel efficacious with respect to electing members of Congress.

Last, we bisect the state from north to south, creating two homogeneous partisan districts. Here too the state’s representation will mirror the overall partisanship of the state, and all citizens end up voting for a representative that

they like and are more likely to highly value the job that their Representative does in the House. These districts will elect people neither less responsive to the wishes of the electorate, nor more extreme in their partisan leanings than any other configuration of districts.

## Impact on Traditional Redistricting Principles

The decennial task of redrawing district lines for U.S. House elections is always a bitterly partisan affair. Since redrawing the maps is done at the state level, district lines depend in large part upon which party controls the state legislature and the governorship. However, many districting plans, regardless of the partisan composition of the state government, end up being litigated over a variety of issues.

The first principle used to guide map makers is equal population. Courts have often tossed out maps that have even the slightest deviation in population across districts within a state (the original federal district court decision in the *Vieth v. Pennsylvania* is a good example). This stems from the one person-one vote principle outlined in two 1964 Supreme Court decisions (*Reynolds v. Sims* and *Wesberry v. Sanders*). Packing districts with partisans would not violate this guideline.

Second, districts must be contiguous, which is to say that every point in the district must touch an adjacent point. Districts cannot be made up piecemeal across the state. Again, contiguity could easily be preserved with the method outlined in this paper.

Third, districts are supposed to be compact. Compactness is, at least in part, in the eye of the beholder. A compact district tends to be one whose shape is pleasing to the eye, which is to say, a reasonably shaped polygon. However, oftentimes a district may look like a bug splat on the windshield of a car. Compactness is rarely an issue in court, although it can be, depending upon the judge or judges involved. Creating packed partisan districts may tend to involve drawing districts that are less pleasing to the eye and less compact, although this is a relatively small price to pay for the benefits of having districts in which most voters are winners.

Fourth, map makers strive to “preserve communities of interest.” This may be the single most fleeting guideline in district drawing. What constitutes a community of interest? A city? A county? Any geographic region marked by even the slightest bit of partisan di-

versity is not a community of interest. A county with a significant population cannot really be thought of as a community of interest on any issue other than one that affects the community directly in a clearly positive or negative way (i.e., putting a nuclear storage facility in the county, or a federal grant to the county to improve roads). Typically in court, competing maps try to quantify the preservation of communities of interest by counting the number of city and county splits or segments (Plan A splits four of the 26 counties into separate districts, Plan B splits six of the 26 counties, etc.). In court, protecting communities of interest generally devolves into a beauty contest to see which map can keep as many counties and municipalities whole. As I argued above, communities of interest are better thought of in terms of overall ideological congruence among citizens, rather than in geographic considerations. Thus, the overall compactness of districts, at times, will be sacrificed if this method were used, but again, geography should not be a sacred cow in the redistricting process.<sup>13</sup>

Lani Guinier is a vocal critic of the single-member district system widely used in American elections. Guinier and I agree that using geography as one of the central principles for drawing districts is often harmful rather than beneficial. She writes:

Winner-take-all territorial districting imperfectly distributes representation based on group attributes and disproportionately rewards those who win the representational lottery. Territorial districting uses an aggregating rule that inevitably groups people by virtue of some set of externally observed characteristics such as geographic proximity or racial identity. In addition, the winner-take-all principle inevitably wastes some votes. The dominant group within the district gets all the power; the votes of supporters of nondominant groups or of disaffected voters within the dominant group are wasted. Their votes lose significance because they are consistently cast for political losers. (Guinier 1993)

Where Guinier and I depart company is the necessity of wasting votes in a single-member district system. I advocate that we minimize the number of wasted votes, which makes her distinction between dominant and nondominant groups less important as the nondominant group is redrawn from several districts into their own district in which they are dominant (and a new nondominant group is not created). Her underlying concern is



identical to mine—"votes lose significance because they are consistently cast for political losers."

The Voting Rights Act implicates all the states under Section 2 and many of the states under Section 5 in terms of election law. The *Thornburg v. Gingles* decision ruled that districting plans must take care to ensure that minority votes are not systematically diluted, although subsequent decisions have held that race cannot be used as the predominant factor in drawing districts (*Shaw v. Reno*; *Bush v. Vera*). Packing districts on the basis of ideology would not interfere with districting plans satisfying the requirements of the Voting Rights Act. In fact, using ideology rather than race, but still preserving the ability of protected minorities to have a reasonable opportunity to elect a candidate of their choice, would be relatively easy to accomplish.

## Discussion

Conventional wisdom suggests that drawing competitive legislative districts is beneficial to our system of government. In fact, drawing districts with relatively equal numbers of Democrats and Republicans maximizes the number of losing voters (also known as wasted votes). A voter on the losing side of an election is systematically more likely to be unhappy with his representative and with Congress as an institution. Further, the assumption that competitive general elections make representatives more responsive is also wrong. The implied threat of competition, especially at the primary level, is sufficient to keep our elected officials faithful to our opinions. Furthermore, this method of districting is not the end of electoral competition; rather it refocuses the nexus of competition from inter to intra-party. Even if a voter, in a packed district, casts a ballot for the candidate that ends up losing in the dominant party's primary, she still has the opportunity to cast a ballot for the winning candidate in the general election.

Maximizing the number of competitive districts vastly increases the likelihood that very small changes in the partisan leanings of voters nationwide get translated into very large swings in congressional seats. While political analysts oftentimes fall into the trap of trying to gauge the relative health of American democracy through the amount of turnover, or the lack thereof, in the U.S. Congress, this is not at all an appropriate method of estimating how well our democratic institutions are functioning. Volatility in Congress is not

a goal we ought to be striving for when we draw legislative maps. If the American people truly pine for turnover even drawing competitive districts is no guarantee, rather we should institute term limits.<sup>14</sup> While turnover and volatility may decrease using this method, the critical aspect of the plan to keep in mind is that the overall distribution of seats will closely mirror the distribution of preferences in each state and nationwide. The goal of redistricting is not to maximize the number of seats that switch from one party to the other every two years; rather the goal of redistricting is for the House to pass legislation in such a way that policy preferences among the electorate are reflected in policy outputs. Drawing districts on the basis of ideology satisfies this goal, while drawing competitive districts does not.

Drawing districts packed with either like-minded partisans maximizes the numbers of winning voters in legislative elections. Packing districts with ideologically like-minded individuals will not elect more extreme candidates and ought to strengthen the bonds between the representatives and their constituents. Inferring how the electorate wants a representative to vote on an issue will be much simpler when one's district is significantly more homogeneous. If this type of districting plan were put into effect it may also stimulate more competition in primary elections. While general elections to the House of Representatives would surely be a largely unexciting affair, primary elections could rise in importance and become the more likely mechanism for replacing members. Organized political parties often seek to suppress competition at the primary election stage largely because they do not want to reduce their party's chances of winning the general election. If the likelihood of winning the general election is overwhelmingly in favor of one party or the other, this risk is alleviated and ought to remove this barrier.

Packing partisans also significantly reduces the ability of map-makers to effect a significant partisan gerrymander. It is through the combination of packing and cracking that one party can effectively dilute the votes of their opposition. As long as districts are packed with nearly equal proportions in terms of the two major parties, the overall representation ought to closely mirror the distribution of partisanship statewide. This does not mean that both parties have equal numbers of districts—if the Democrats outnumbered Republicans 2 to 1 in the state, there will still be more Democratic

districts—the critical component is that the ratio of the majority party to the minority party in each district be roughly equal across the state.

This method is probably best thought of as functionally equivalent to state-based proportional representation.<sup>15</sup> One of the positive attributes of proportional representation is the absence of "wasted votes" (i.e., people that vote for the losing candidate in the general election). Single-member district systems, especially those with many competitive districts, end up wasting the votes of millions of people. If we pack districts, the number of wasted votes would be at a minimum, while still keeping the single-member district system to which Americans have grown accustomed. Lani Guinier is a vocal critic of the single-member district system used in the House. One of her most powerful criticisms is that the redistricting process will inherently result in a gerrymander because "in essence [redistricting] is the process of distributing wasted votes" (Guinier 1993). Guinier's fears are rather well founded given the traditional districting process, however much of her concerns generally about single-member districts and the redrawing of their lines disappear using the method outlined in this paper.

For instance, Guinier alludes to the possibility of creating homogeneous districts:

Districts could be made more homogeneous to reduce the number of wasted votes. But this alternative demonstrates the second way that winner-take-all districting wastes votes. When more people vote for the winning candidate than is necessary to carry the district, their votes are technically wasted because they were unnecessary to provide an electoral margin within the district *and* they could have been used to provide the necessary electoral margin for a like-minded partisan in another district. In other words, packing voters in homogeneous districts wastes votes because it dilutes their overall voting strength jurisdiction-wide.

This is an important point insofar as a gerrymander is only possible when the combination of packing and cracking districts is utilized. However, if all districts are packed then the real problem Guinier addresses above is solved. Votes in packed districts are not effectively wasted because all districts are packed, and the overvotes could not be used to help a like-minded partisan in another district.

District lines are artificial and we ought to use this distinction to serve our collective advantage. Let us create more winners out of voters and increase the satisfaction with our members of Congress and Congress as an institution by rethinking the way in which we draw these lines. Map makers ought

to be less concerned with keeping counties or municipalities whole, and concentrate on keeping ideologically like-minded individuals in the same district. This change would fortify the bonds between voters and elected officials and transfer the locus of competition in congressional elections from inter-

to intra-party. Lastly, it is clear that we cannot rely on the courts to strike down gerrymandered redistricting plans.<sup>16</sup> By instituting the method advocated in this paper, the likelihood of a significant partisan gerrymander by either political party is greatly reduced.

## Notes

\*I would like to thank Jim Adams, Valerie Brunell, Bruce Cain, Geoff Evans, Bill Koetzle, Bernie Grofman, Sam Hirsch, Michael D. McDonald, Iain McLean, Sam Merrill, Glenn Phelps, David Rueda, Alec Stone Sweet, Chris Wlezian, and the Politics Group at Nuffield College for their comments.

1. Throughout this paper “competitive districts” refers to a district drawn with relatively equal numbers of voters that favor the two major parties. This is to say there is some probability that the general election will be relatively competitive (although it is certainly not a guarantee of competitiveness).

2. They tested both voting for the winning candidate in an election and voting for the party that wins a majority in Congress; neither model yielded statistically significant results.

3. Of course this is not all voters, but rather the sub-sample of voters who answered this question.

4. This relationship remains positive and statistically significant in a multivariate model.

5. See Buchler (2005) for a formal treatment of this relationship.

6. Cracking refers to the art of drawing districts that are close to being competitive but give one party the edge in an election. For instance, if the Democrats control the redistricting process they are likely to draw districts that lean

toward the Democratic candidate—55% Democrat, 45% Republican. Although map makers need to be careful not to draw these too competitive as small swings in the vote could then reverse these districts and instead of a Gerrymander you end with what Grofman and Brunell (2005) call a Dummymander.

7. For instance if a district is 45% Republican, 45% Democratic and 10% Independent, the only votes that matter are those from the smallest group. These independents will only be able to choose from either a Democrat or a Republican in the election, but nonetheless, they become the votes that really count.

8. Proposition 206, passed by Arizona voters in 2000, requires: “To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals” (sec 14, subsection F).

9. I highly suggest reading the exchange between Issacharoff (2002) and Persily (2002) on the topic of the utility of competition in congressional elections. As both are also law professors they also touch on legal issues and the proper role of courts in regulating elections.

10. In fact competitive districts are optimal in this sense.

11. In terms of incentives for challengers, the opportunity structure of a packed district

makes it objectively more attractive for challengers from the dominant party to emerge. One only has to win the primary election in order to take the seat, whereas in a 50–50 district one could face the daunting prospect of hard fought elections in both the primary and general elections.

12. This general trend is true using a wide variety of ideological scores from many different interest groups, see Lee, Moretti, and Butler 2004.

13. If a city or county does also happen to be an ideological community of interest then it ought to be kept in a single district.

14. This should not be taken as an endorsement of term limits, but rather a much more effective method of effecting turnover in Congress than drawing knife-edged districts.

15. It would differ from a proportional representation system insofar as we would still have a two-party system, whereas PR systems tend to increase the effective number of parties.

16. Recently the Supreme Court (*Vieth v. Jubileir*, 2003) nearly declared partisan gerrymandering nonjusticiable, which would have made it impossible for courts to declare gerrymandered maps unconstitutional in the future. It remains unclear what standards will be used in the future by judges to decide gerrymandering cases.

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## **Exhibit 423**





Protect Citizen Maps

The Threat

Voices For Democracy

In the News

Take Action

# Vote **NO** on **Prop 50**

We Cannot Save Democracy by Burning it Down in California

JOIN THE COALITION

READ THE REPORT



## A Threat to California's Landmark Election Reform

For decades, Sacramento politicians drew their own district boundaries behind closed doors with no public oversight — guaranteeing their reelection, denying voters a real choice, and shutting out many women and people of color from elected office.

In 2010, California voters overwhelmingly approved the Voters FIRST Act for Congress — entrusting the Independent Citizens Redistricting Commission to draw fair congressional districts.

**Now, career politicians want to abolish citizen-drawn maps and put themselves back in charge of redistricting.**

**Prop 50 creates one of the most extreme partisan gerrymanders in modern American history** — creating politician-drawn maps that experts call **"one of the two worst gerrymanders of the last 50 years."**

## Gerrymandering is wrong in all 50 states

— when political parties subvert the will of the electorate for their own political advantage,

**it weakens democracy everywhere.**

Join us to help protect democracy.

Vote NO on Gerrymandering and Join the Coalition to Protect the Voters FIRST Act!



**VOTE NO ON PROP 50**  
Protect independent redistricting

TAKE ACTION NOW

Tangipa v. Newsom

**DX223**

2:25-cv-10616-JLSWLH-KKL

DX223-0001

Who is Charles Munger, Jr.?

Paid for by No on Prop 50 – Protect Voters First, sponsored by Hold Politicians Accountable. Committee's top funder: Charles Munger, Jr.  
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## **Exhibit 424**

# EXHIBIT 11

**Delivery Method:**

MMS sent via P2P (requiring human intervention). Using 10-digit phone number to send (no short code). Using pre-existing list purchased from Grassroots Targeting.

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**CA Copy + Image 1**

Gavin Newsom's Prop 50 political power grab is a scheme to gerrymander more congressional seats for Democrats so they can take control of Congress, impeach President Trump, and derail the America First agenda. Newsom is wasting \$300 million of our tax dollars on Prop 50 – while we are tens of billions of dollars in debt – all so he can run for president and impose his radical failed policies on the rest of America. It is critical that you vote NO on Prop 50! Vote on or before the election on Tuesday, November 4, 2025. The easiest way to vote to stop Newsom's scheme is to return your mail ballot TODAY!

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**CA Copy + Image 2**

Gavin Newsom wants to paint California blue to stop Trump and launch his wannabe presidential campaign. Newsom is wasting \$300 million of our tax dollars to do it, all while we are tens of billions of dollars in debt. Prop 50 will help Democrats retake control of Congress by gutting our independent redistricting commission and eliminating 5 California Republicans from Congress. Prop 50 is a pure political power grab that puts Gavin Newsom first and Californians last. Don't delay - return your mail ballot and vote NO on Prop 50 today! The special election is Tuesday, November 4, 2025. Learn more at [www.CAGOP.org](http://www.CAGOP.org).

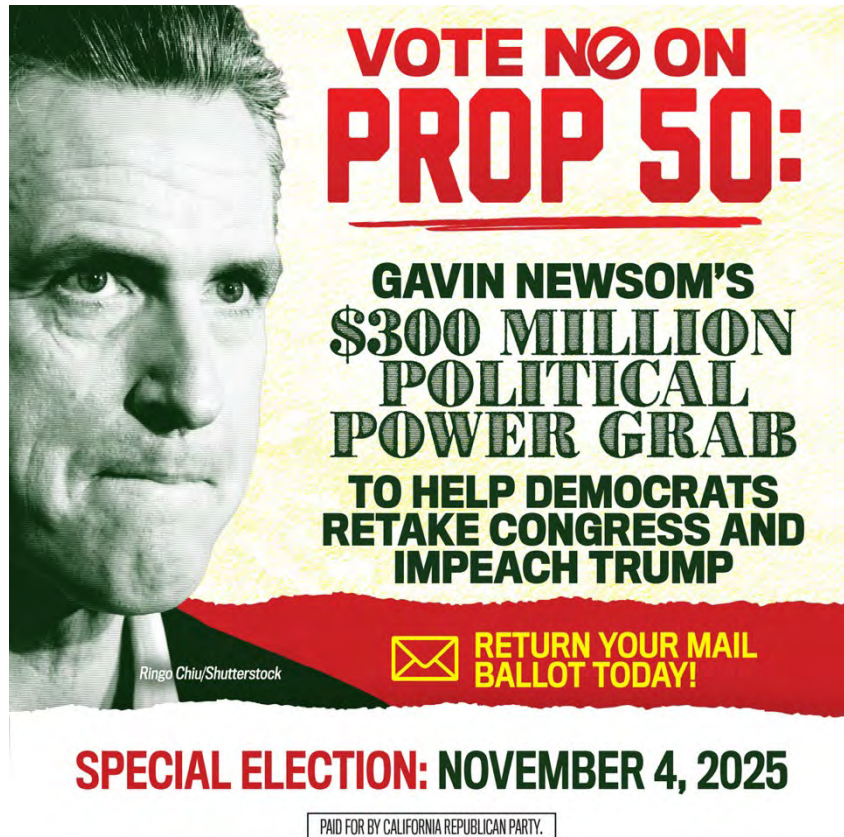
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**CA Copy + Image 3**

Prop 50 is a waste of \$300 million of our tax dollars to further Gavin Newsom's political ambition to be president. Our state is tens of billions of dollars in debt, but Newsom would rather spend our tax dollars to help Democrats retake Congress and impeach Trump than help Californians. You can stop Newsom's power grab by returning your mail ballot today and voting NO on Prop 50! The special election is November 4, 2025, and you can't stay home. It's too important – vote NO on Prop 50 NOW! Learn more at [www.CAGOP.org](http://www.CAGOP.org).

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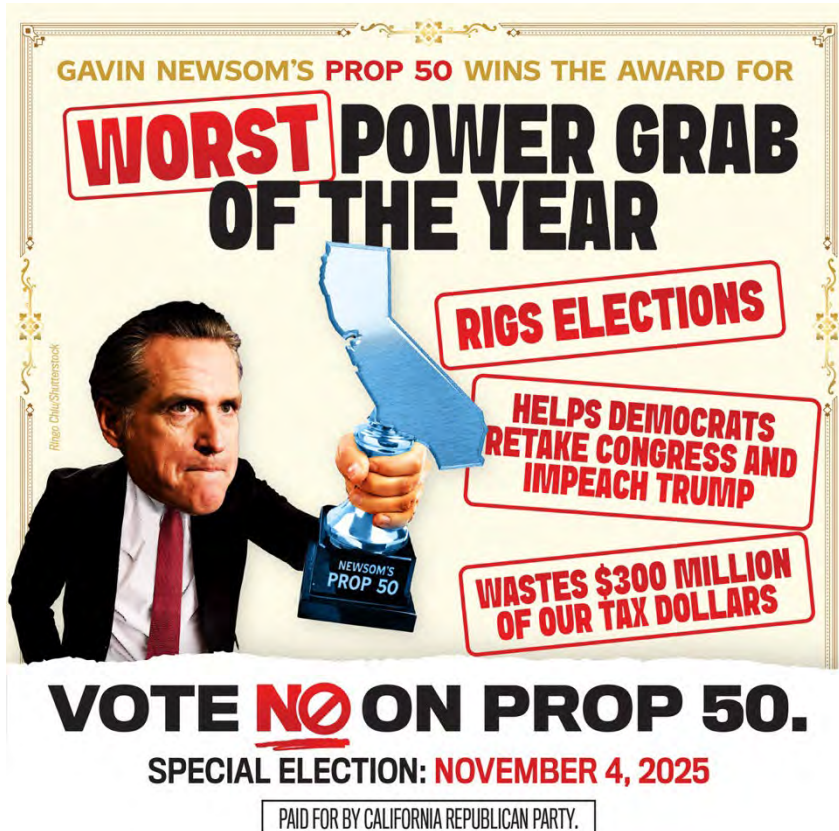
Gavin Newsom's Prop 50 political power grab stinks to high heaven. Prop 50 is a rotten scheme funded by \$300 million of our tax dollars to help Gavin Newsom run for president, help Democrats retake Congress, impeach Trump, and derail the America First agenda. Don't let him get away with. You MUST get out and vote NO on Prop 50. The fastest way to stop Newsom is to return your mail ballot today. The special election is Tuesday, November 4, 2025. Visit <https://vote.cagop.org> to learn more about how you can vote to protect Gavin Newsom from silencing your voice.

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**CA Copy + Image 4**

Gavin Newsom and the Radical Democrats are trying to silence your voice by gutting our independent redistricting commission so they can eliminate 5 California Republicans from Congress and send more of their own to Washington. Their scheme is called Prop 50, and it's the worst political power grab we've seen. If we don't stop them, Newsom will help Democrats take control of Congress, raise our taxes, open our borders, and impeach Trump. Worst of all, he's wasting \$300 million of our tax dollars on this special election to do it. Election Day is Tuesday, November 4, 2025. But you don't have to wait – you can stop Newsom's scheme TODAY by returning your mail ballot. Forgetting to vote is NOT an option. Visit <https://vote.cagop.org> to learn more about how you can stop Prop 50!

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**CA Copy + Image 6**

Don't let Gavin Newsom shut the door on fair elections in California! Return your ballot TODAY and vote NO on Prop 50. Prop 50 takes the power to draw districts from the people and gives it to the Sacramento politicians. Once the politicians take our power away, they'll never give it back. Election Day is Tuesday, November 4, 2025. But you don't have to wait – you can stop Newsom TODAY by returning your mail ballot. Visit <https://cagop.org/counties/> to find your nearest voting location. If you don't vote, Newsom and the Sacramento politicians will use Prop 50 to rig our elections and make sure we the people can never hold them accountable.

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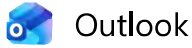
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**CA Copy + Image 7**

This is a red alert. Election Day is today, Tuesday, November 4 – your vote is needed to STOP Gavin Newsom and the Sacramento politicians from rigging California’s elections. Vote NO on Prop 50 TODAY! Don’t let Prop 50 take the power of drawing districts away from the people and give it back to the politicians. Once the politicians take our power away, they’ll never give it back. This is a pure power grab to help Democrats take control of Congress, impeach Trump, and derail his agenda. Visit <https://cagop.org/counties/> to find the voting location nearest you. This is too important to stay home – get out and vote TODAY to stop Prop 50!

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[PROOF] 27 days.

From CAGOP <info@updates.cagop.org>  
Date Mon 12/1/2025 3:37 PM  
To Jocelynne Florian <jflorian@cagop.org>



Jocelynne, Election Day is in less than 27 days!

**Voters have officially begun returning their ballots, that means:  
TIME IS OF THE ESSENCE!**

If we care about saving our GOP House Majority and stopping  
Democrats' power grab, we need ALL HANDS-ON DECK!

**[With 27 days left to go, will you consider rushing in \\$27 to help  
fuel the fight against Democrats?](#)**

STAND WITH CAGOP

RUSH IN \$27 >

Thank you for your support,

CAGOP



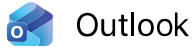
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This email was sent to: [jflorian@cagop.org](mailto:jflorian@cagop.org)

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[PROOF] Are you getting these emails?

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 10:23  
To Francisco Bedoya <fbedoya@cagop.org>



Jocelynne, are you getting these emails?

**We still need 2 more responses from 92627 if we're going to prevent a COMPLETE Democrat takeover!**

Democrats are losing ground, and they know it. California  
Republicans are growing at a rate 11x FASTER than the Left.

That's why the Left has cooked up a new scheme to maintain  
power in California..

*Their plan?* REDRAW our Congressional Districts in a way that  
gives Democrats an UNFAIR advantage!

We cannot and must not allow this to happen. If Democrats  
succeed, it will mean the end of a Republican House majority and  
would bring the America First Agenda to a drastic halt!

Please, we need to hear from 92627 before midnight: **will you rush  
in a donation and show that you stand with California  
Republicans?**

**RUSH IN A DONATION**

Exhibit 11

61

**PLAINTIFFS 000057**

## STAND WITH CAGOP

We can't do this on our own, please join us in stopping the Democrat takeover!

Thank you for your support,

CAGOP

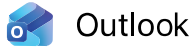
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[PROOF] Wait...before you start your weekend

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 10:25  
To Francisco Bedoya <fbedoya@cagop.org>



Jocelynne wait...

**Before you start your weekend, we need to hear from you!**

Democrats know they're LOSING ground, that's why they've cooked up their latest scheme: *RIGGING California's Congressional map for Democrats.*

If they succeed, it will mean the end of a GOP House majority and the end of the America First agenda.

We're asking our boldest grassroots supporters, to respond before the weekend begins: **will you rush in a donation and show that you stand with California Republicans?**

RUSH IN A DONATION

STAND WITH CAGOP

We need your help to stop the Democrat takeover, please don't leave us hanging!

Thank you,

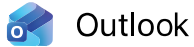
CAGOP

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[PROOF] We need to hear from you

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 10:33  
To Francisco Bedoya <fbedoya@cagop.org>



Jocelynne, we need to hear from you. We need to make sure we agree on this one issue.

**Gavin Newsom is attempting to RAM through a new Congressional District map. One that gives Democrats an UNFAIR advantage.**

**[The California Republican Party is leading the fight to STOP Gavin Newsom's power grab, will you please join our list of KEY supporters before midnight?](#)**

If Democrats succeed, we can say goodbye to a Republican House majority and the America First Agenda.

We cannot allow this to happen.

Jocelynne, we're leading the fight to STOP this. **[Will you please respond by midnight to add your name to the TOP of our KEY supporters list?](#)**

STAND WITH CAGOP

Exhibit 11  
65

**PLAINTIFFS\_000061**



Thank you for fighting with us,  
  
CAGOP

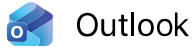
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[PROOF] We're going to be blunt

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 11:09  
To Francisco Bedoya <fbedoya@cagop.org>



Jocelynne, we're going to be blunt about this.

**If Democrats succeed in passing their new Congressional map  
– it would GUARANTEE the END of our GOP House majority.**

**[CAGOP is leading the fight to stop Gavin Newsom's WAR  
against Republicans and we need as many grassroots  
supporters as we can gather to join us in the fight. >>](#)**

*Sorry to bother again about this, but here's what's at stake if Gavin  
Newsom wins: he's PROMISED to use this new Congressional map  
to put an END to President Trump's Presidency.*

We cannot risk giving Democrats even an INCH in this battle.

We're finalizing our list of day one supporters in this effort soon,  
and we need your name on it. **[Please, join us today. >>](#)**

STAND WITH CAGOP

Thank you for your support,

Exhibit 11  
67

**PLAINTIFFS\_000071**

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[PROOF] Notice on Gavin Newsom's new Congressional map

---

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 12:10  
To Francisco Bedoya <fbedoya@cagop.org>



**NOTICE FOR: Jocelynn**

*Here's the latest update on Gavin Newsom's new proposed Congressional map:*

The CAGOP has filed a petition with the California Supreme Court to try and BLOCK Gavin Newsom's redistricting efforts.

**CAGOP is leading the fight to STOP Democrats from RIGGING our House races. We can't wait much longer, we need to know who is fighting with us. >>**

*We're going to spend EVERY CRITICAL MINUTE of the next 72 days focused on one thing: making sure Republicans KEEP our House majority.*

Because if we don't and Democrats pass the new, rigged districts...

They've PROMISED to use a Democrat House majority to PUT AN END to President Trump's Presidency.

**That's we MUST win this fight. We are the last line of defense,**

and we need your support in this fight. Please, will you rush in \$25 or whatever you can to help fuel the fight.>>

STAND WITH CAGOP

Thank you for stepping up!

-CAGOP

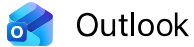
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[PROOF] Action required: our one chance to stop this

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 12:12  
To Francisco Bedoya <fbedoya@cagop.org>



**ACTION REQUIRED FROM: Jocelynn**

In just a few weeks, voters will get ballots mailed out to them and the stakes are just TOO HIGH to wait to reach out to you.

**CAGOP is leading the fight to STOP Democrats from RIGGING our Congressional districts, but we need YOUR help to fuel our efforts. Will you join us?**

*Let us be clear.*

**This special election is about one thing and one thing only: Democrats want to GUARANTEE a Democrat House majority and the END of the America First agenda.**

We all have a role to play in fighting back. **But right now, we're asking for a donation of \$25 or whatever you can give to fight back against this UNPREDECENTED power-grab.>>**

**STAND WITH CAGOP**



Your support means everything – especially right now.

Thank you,

CAGOP

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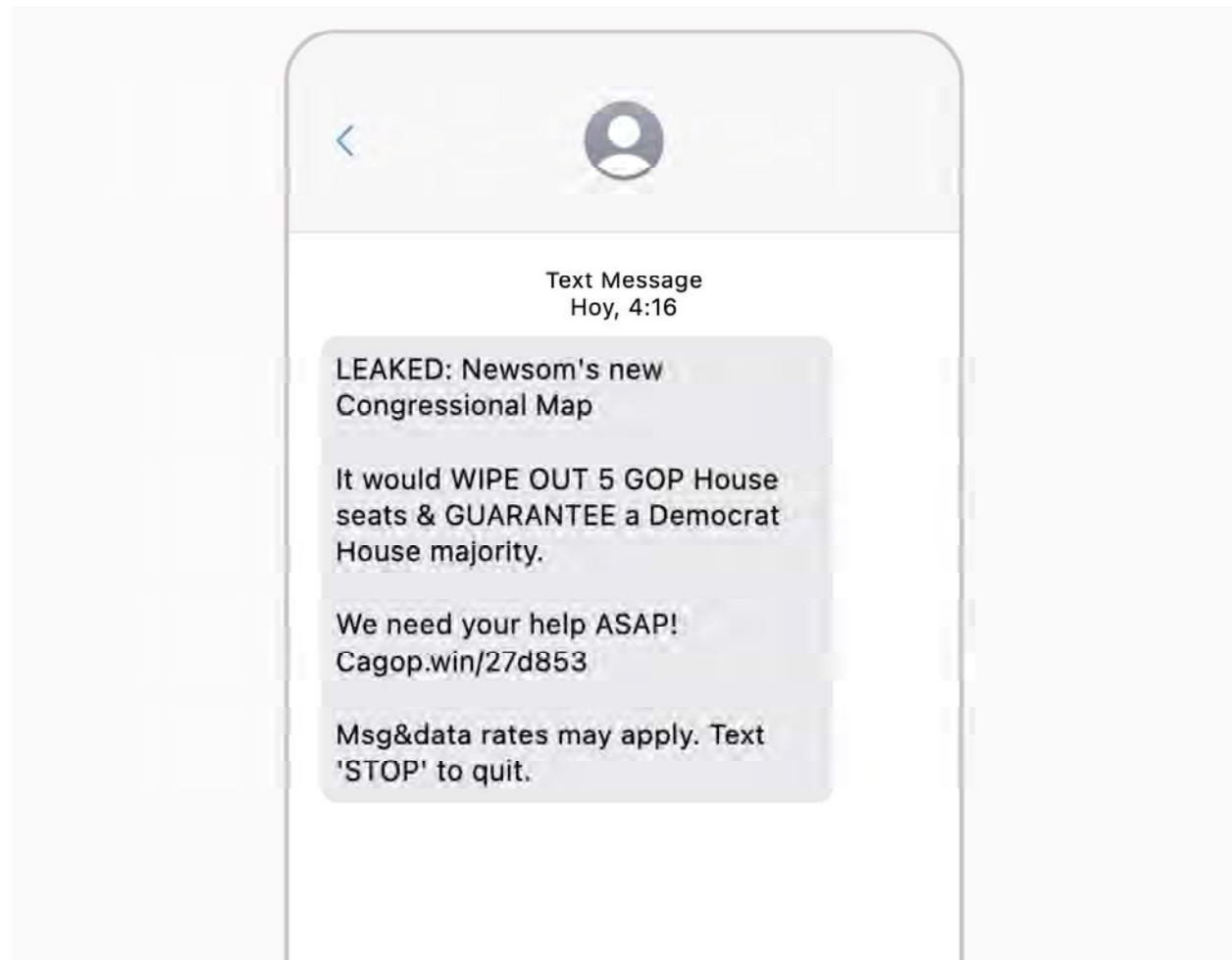
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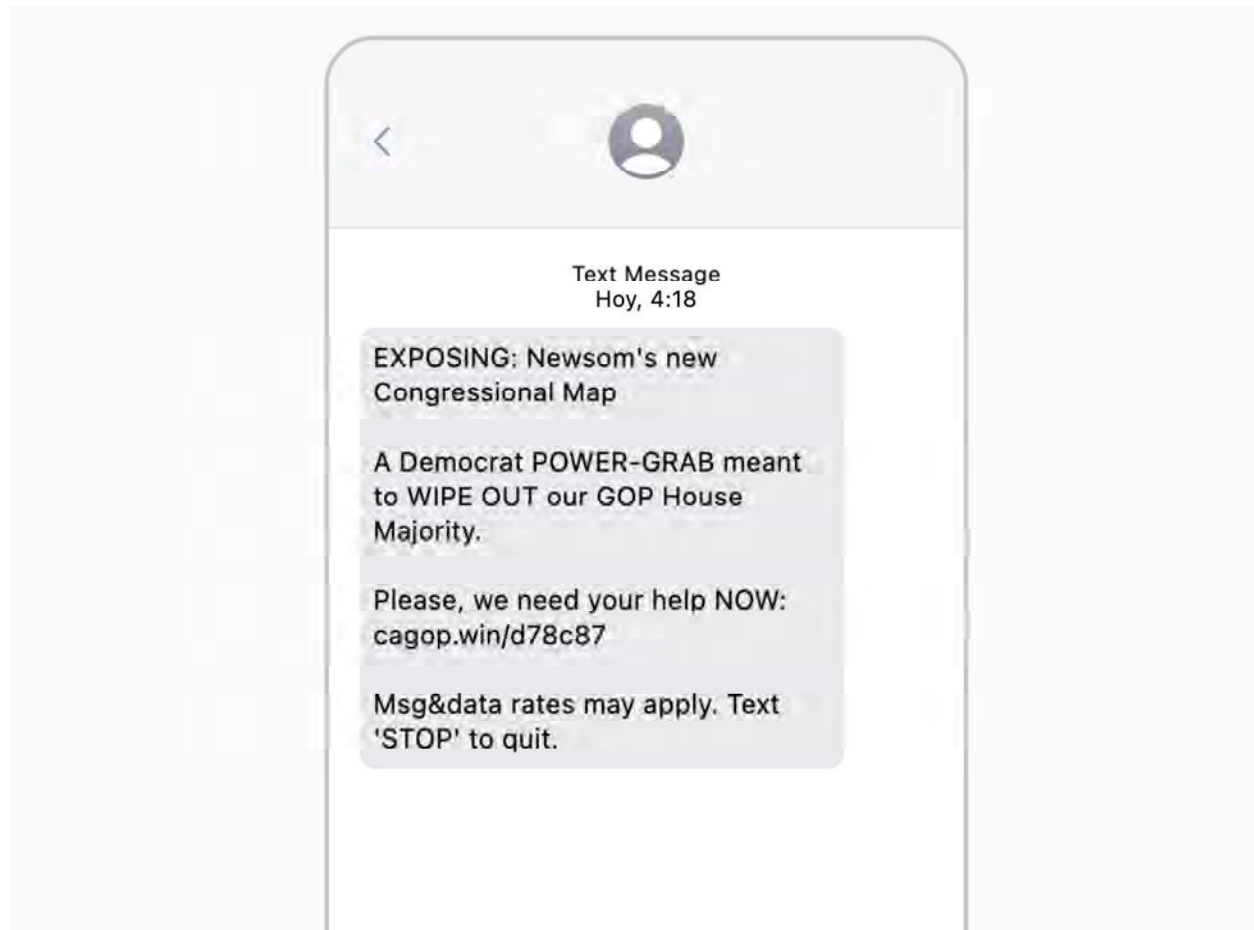
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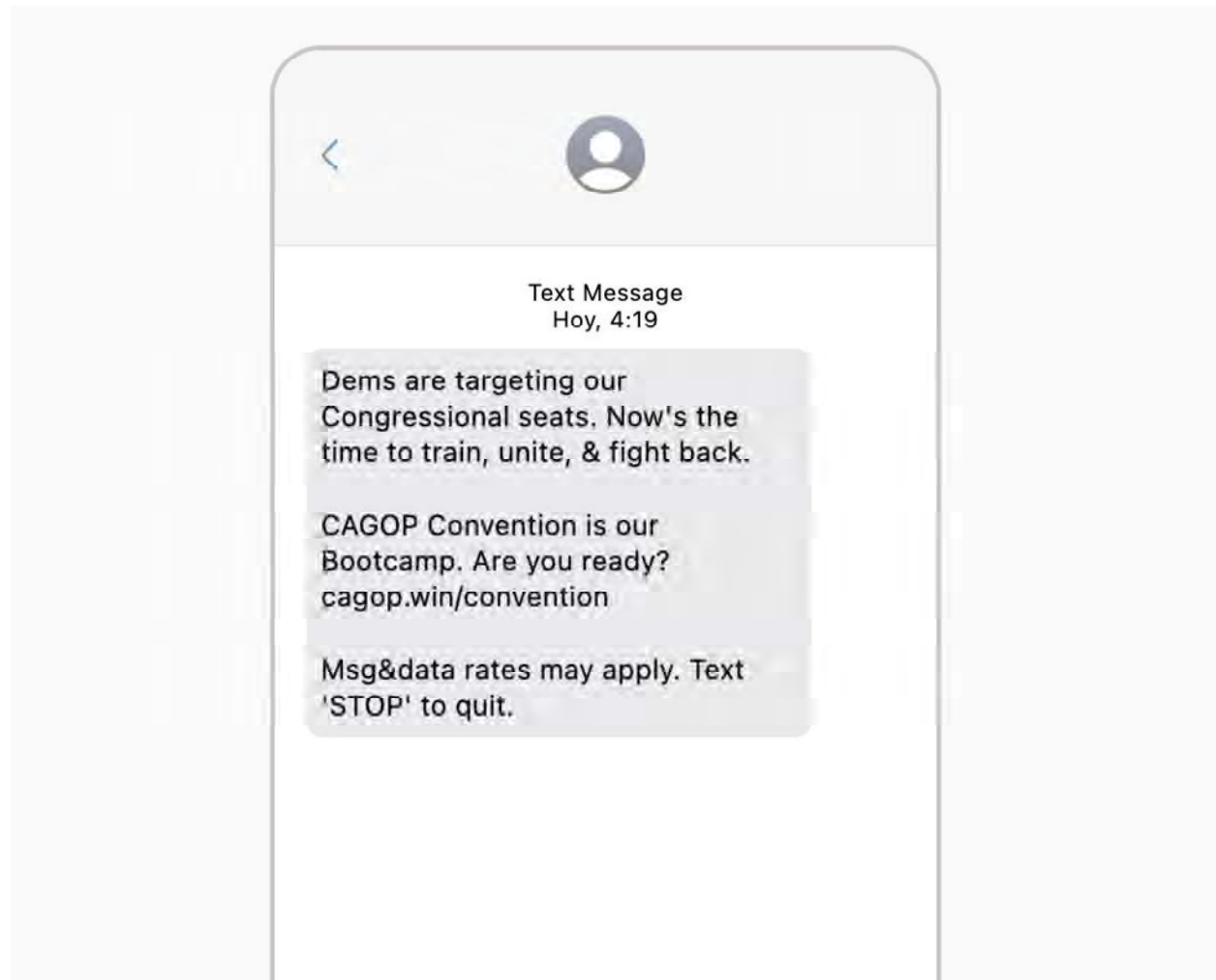
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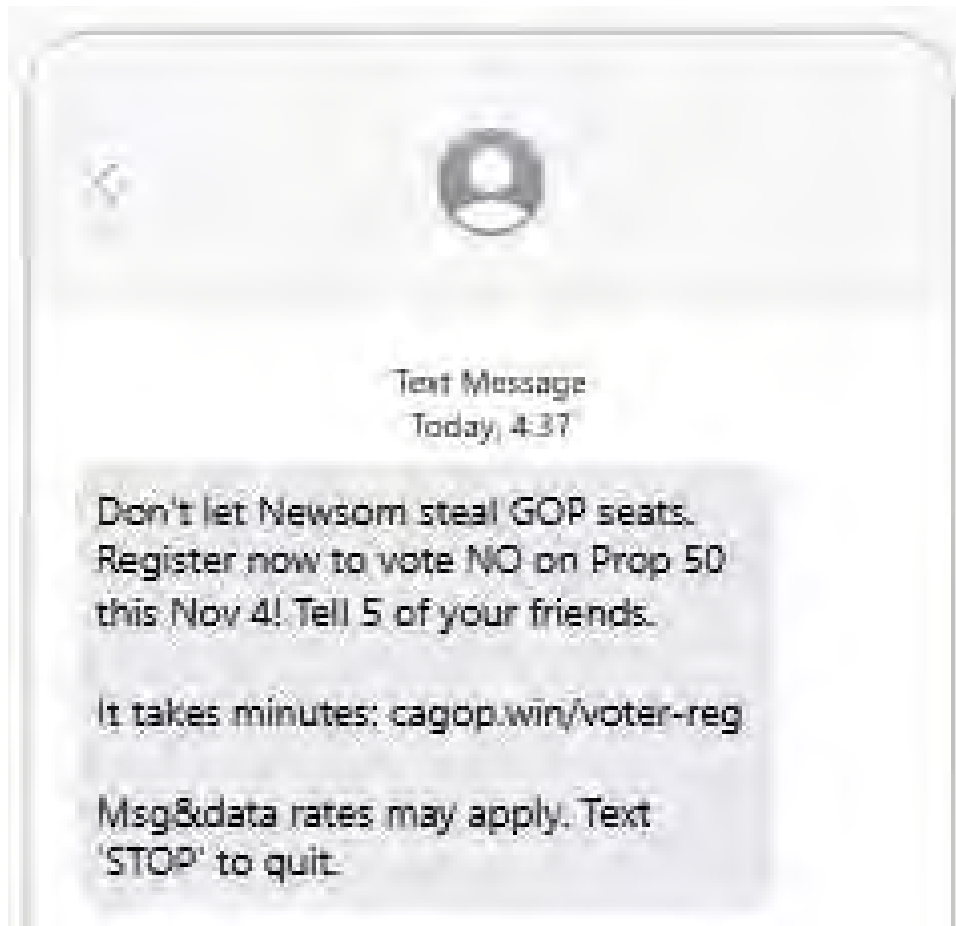
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[PROOF] 11 days.

From CAGOP <info@updates.cagop.org>  
Date Mon 12/1/2025 3:12 PM  
To Jocelynne Florian <jflorian@cagop.org>



**FIRST:** Gavin Newsom and Democrats promised to “Trump-proof” California.

**THEN:** Democrats approved spending \$50 MILLION in legal funds for fighting against President Trump.

**NOW:** They’re threatening to RIG our Congressional Districts for Democrats to FLIP at LEAST 5 House seats and take control of the House.

*Jocelynne, Election Day is in less than 11 days.*

**We CANNOT allow Prop 50 to pass.**

We’re leading the charge to protect Republicans up and down the ballot, and we need YOU to join us in the fight.

**[Asking kindly: will you chip in \\$11 or whatever you can give?](#)**

We cannot win elections, contact voters, or protect our GOP House majority, or anything else without your support.



## CHIP IN \$11

## CHIP IN ANOTHER AMOUNT

Thank you for your consideration,  
  
CAGOP

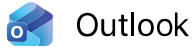
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[PROOF] LEAKED: Gavin Newsom's new Congressional map

---

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 11:04  
To Francisco Bedoya <fbedoya@cagop.org>



Gavin Newsom's new Congressional map has been LEAKED.

*And Jocelyne, if this passes, it would be DEVASTATING.*

The new Congressional map that Democrats are proposing would **WIPE OUT AT LEAST 5 Republican House seats**, and would **GUARANTEE** the end of our GOP House majority.

**[CAGOP is leading the fight to stop Gavin Newsom's WAR against Republicans. PLEASE we need you to help fuel the fight. >>](#)**

Gavin Newsom has promised to use this new Congressional map to put an END to President Trump's Presidency.

So, we cannot risk a single grassroots supporter standing by. We're asking you to rush in a donation to help us win this battle.

This won't be an easy fight, we need your support if we're going to succeed. **[Please, join us today. >>](#)**

STAND WITH CAGOP

Thank you for being on the team,  
  
CAGOP

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[PROOF] The Voter Registration Deadline is just 2 days away

From CAGOP <info@updates.cagop.org>

Date Mon 12/1/2025 3:20 PM

To Jocelynne Florian <jflorian@cagop.org>



Jocelynne,

The voter registration deadline is just **2 days away**. Time is running out to make sure your voice is heard on November 4.

**REGISTER HERE**

Prop 50 is Gavin Newsom's scheme to wipe out Republican congressional seats. The only way to stop him is by making sure every Republican is registered and ready to vote.

If you're not registered to vote, you can't vote NO on Prop 50. Don't let Democrats silence you.

**[Take two minutes right now to register before it's too late.](#)**

**REGISTER NOW**

-CAGOP

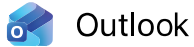
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[PROOF] Today is Voter Registration Day!

---

From CAGOP <info@updates.cagop.org>  
Date Mon 2025-12-01 14:54  
To Francisco Bedoya <fbedoya@cagop.org>



Francisco,

Today is National Voter Registration Day — and there's no better time to make sure you're ready to vote.

On November 4, Californians will decide Prop 50, Gavin Newsom's scheme to wipe out Republican seats in Congress. If Republicans aren't registered, we can't stop him.

***Here's what you need to do right now:***

- **Check your voter registration** and make sure your information is current.
- **Register immediately** if you aren't on the rolls. It only takes two minutes.
- **Remind 5 friends to register today** so their votes count too.

Don't wait until it's too late. Prop 50 will decide the fate of our Republican seats, and it starts with making sure you are registered to vote.



## REGISTER TO VOTE NOW

Together, we will protect the vote and stop Prop 50.

CAGOP

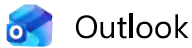
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[PROOF] Volunteer attorneys are critical in protecting the vote

From CAGOP <info@updates.cagop.org>

Date Mon 12/1/2025 3:31 PM

To Jocelynne Florian <jflorian@cagop.org>



Jocelynne,

On November 4, Californians will vote on Prop 50 — Gavin Newsom's dangerous scheme to eliminate Republican seats in Congress. The stakes couldn't be higher.

To stop it, [we need attorneys on the front lines of our Election Integrity operation.](#)

Volunteer attorneys are critical in protecting the vote — monitoring polling places, ensuring election laws are enforced, and standing ready to act if Democrats attempt to undermine the process.

This is your call to action. Your training and expertise can make the difference in whether Republican seats are protected or lost.

Step forward now and join our team of volunteer attorneys. California's Republican seats depend on it.

## SIGN UP AS A VOLUNTEER ATTORNEY

-CAGOP

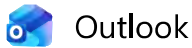
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[PROOF] We need YOU as a Poll Observer

From CAGOP <info@updates.cagop.org>

Date Mon 12/1/2025 3:48 PM

To Jocelynne Florian <jflorian@cagop.org>



Jocelynne,

Prop 50 isn't just about California. It's part of the Democrats' plan to erase Republican seats in Congress and tip the balance of power in Washington.

That's why we need patriots like YOU to step up as Poll Observers on November 4.

Poll Observers are the front line of election integrity. By serving, you'll make sure Democrats are held accountable and that every ballot is handled properly.

**All trainings are held on Zoom, and when you sign up, you'll choose the session time that fits your schedule.**

Training will give you the tools to:

- Recognize and report problems at polling locations
- Safeguard the process so every vote is counted fairly
- Stand as a visible deterrent against misconduct

Exhibit 1  
87

**PLAINTIFFS\_000387**

This election will shape America's future. Don't sit on the sidelines.

## SIGN UP & PICK YOUR TRAINING

-CAGOP

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 Outlook

---

[PROOF] We need you: sign up as a Poll Observer

---

From CAGOP <info@updates.cagop.org>

Date Mon 12/1/2025 3:31 PM

To Jocelynne Florian <jflorian@cagop.org>



Jocelyne,

Governor Newsom and the Democrats are counting on one thing this November 4: Republicans staying home. Prop 50 is designed to erase our seats in Congress — and if we don't fight back, they win by default.

We can't let that happen.

By becoming a Poll Observer, you'll be the eyes and ears inside polling locations, making sure Democrats are never left unchecked. Without trained Republicans in the room, there is no accountability.

[Signing up is simple.](#) All trainings are on Zoom, and you'll be able to pick the session time that works best for you. Training will cover everything you need to know to be confident and prepared on Election Day.

The stakes couldn't be higher. If we don't show up, we lose the House — and President Trump's agenda stalls.

## SIGN UP FOR TRAINING TODAY

-CAGOP

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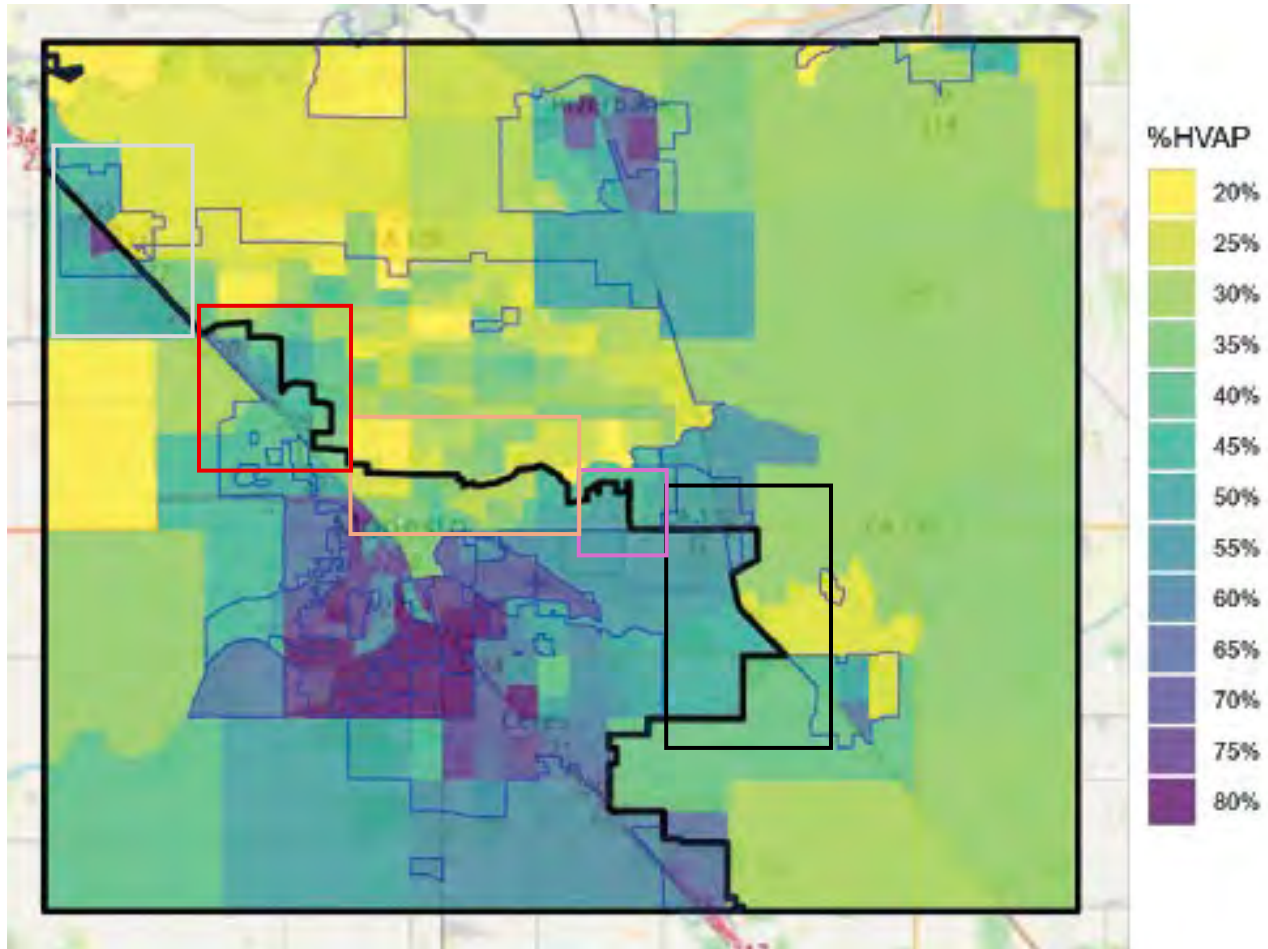
Exhibit 11  
90

**PLAINTIFFS\_000390**



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## **Exhibit 425**



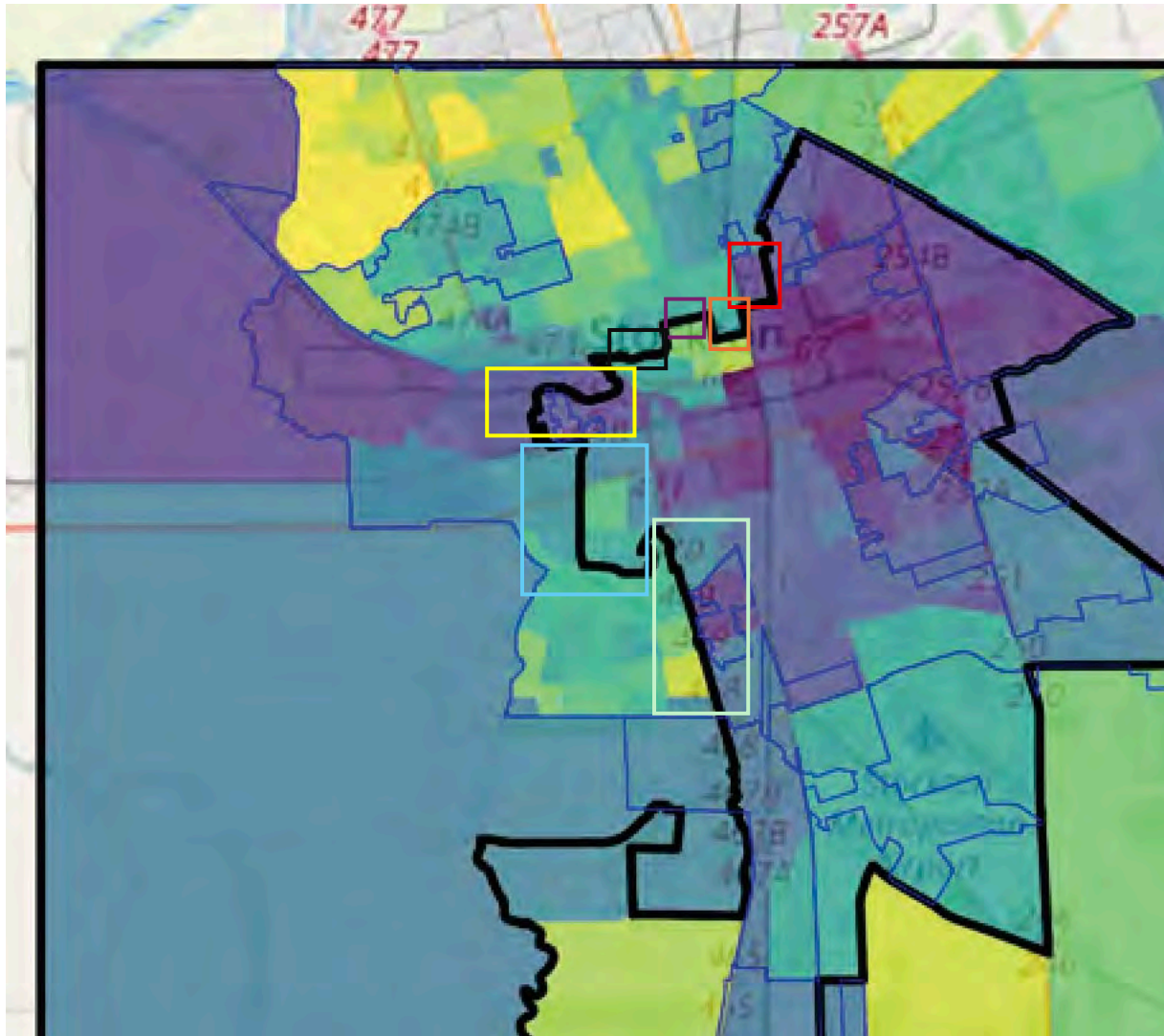
Tangipa v. Newsom

**DX425**

2:25-cv-10616-JLSWLH-KKL

DX425-0001

## **Exhibit 426**

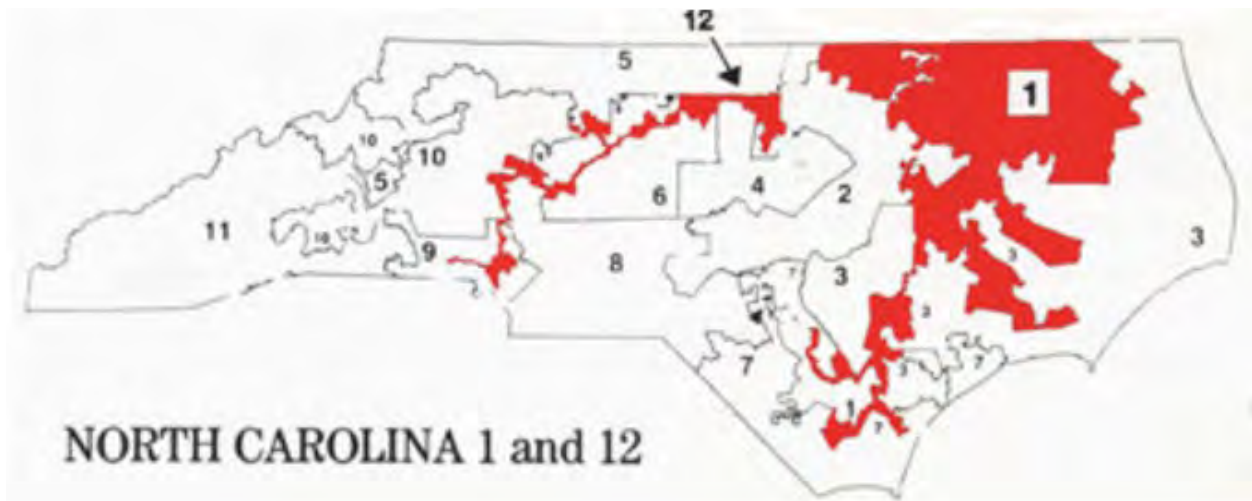


Tangipa v. Newsom

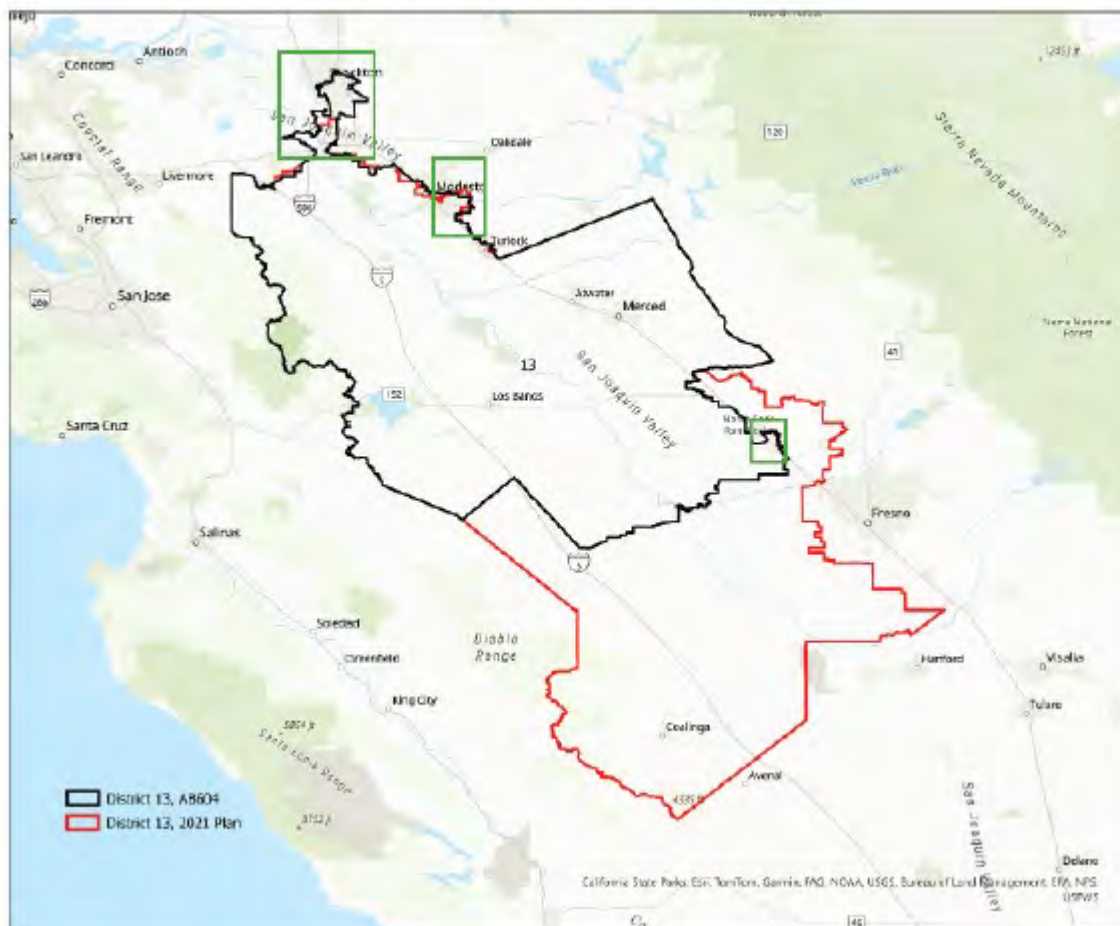
**DX426**

2:25-cv-10616-JLSWLH-KKL

## **Exhibit 427**



**Figure 1: District 13 in the 2021 Map and AB 604**



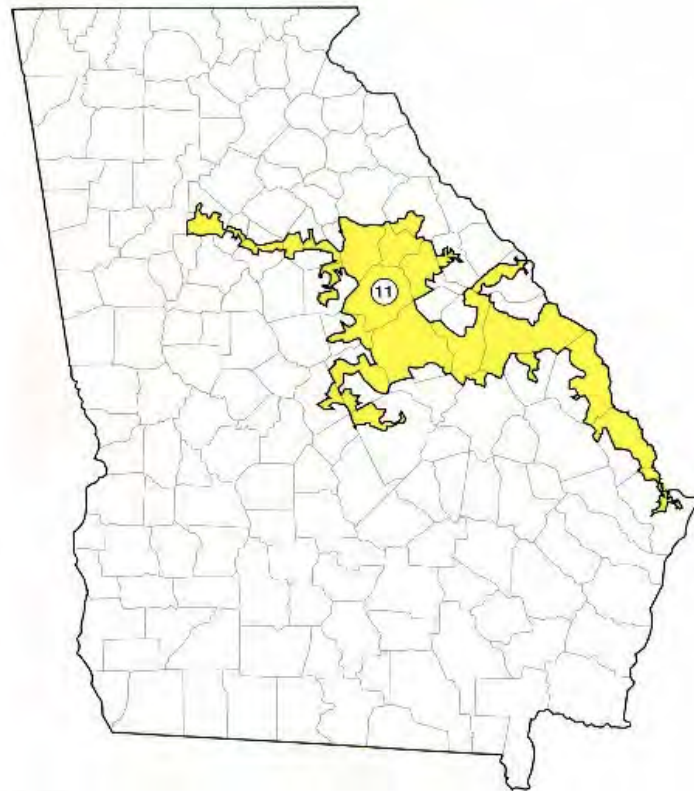
**Tangipa v. Newsom**

**DX427**

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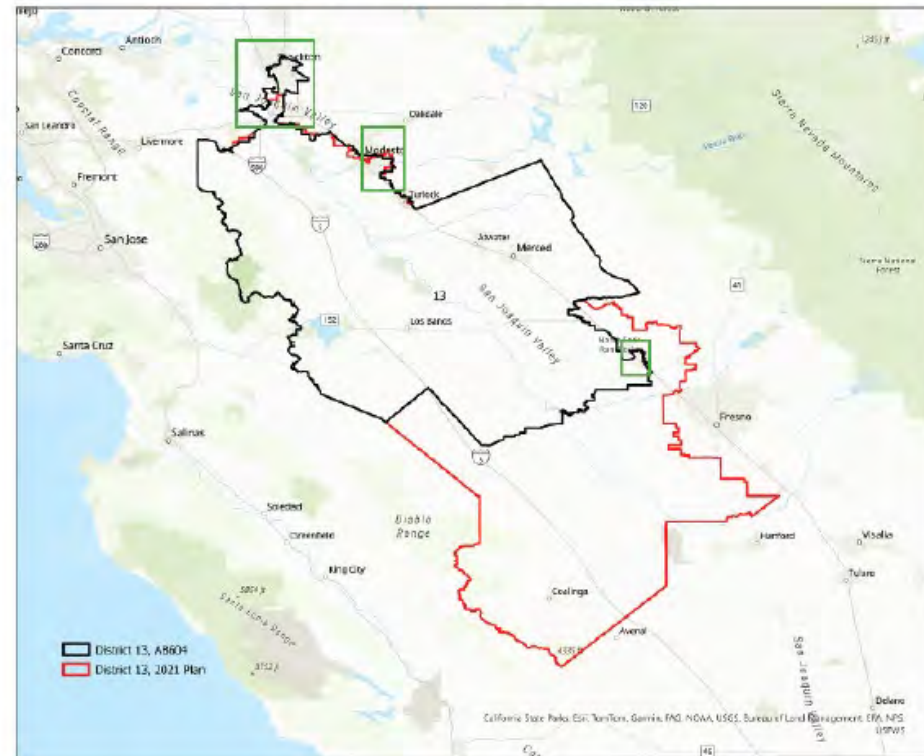


## **Exhibit 428**



Georgia

Figure 1: District 13 in the 2021 Map and AB 604



Tangipa v. Newsom

**DX428**

2:25-cv-10616-JLSWLH-KKL

## **Exhibit 429**

**DECLARATION OF SEAN P. TRENDE**

I, Sean Patrick Trende, declare:

1. I am over the age of eighteen and am competent to testify as to the matters herein. The following is based upon personal knowledge and, if I were called to testify, I would and could competently and accurately testify to the same.

**BACKGROUND AND EXPERIENCE**

2. I am currently the Senior Elections Analyst at RealClearPolitics. I joined Real Clear Politics in January of 2009 and assumed a fulltime position in March of 2010. Real Clear Politics is a company of approximately 50 employees, with its main offices in Washington D.C. It produces one of the most heavily trafficked political websites in the world, which serves as a one-stop shop for political analysis from all sides of the political spectrum and is recognized as a pioneer in the field of poll aggregation. Real Clear Politics produces original content, including both data analysis and traditional reporting.

3. My main responsibilities with Real Clear Politics consist of tracking, analyzing, and writing about elections. I collaborate in rating the competitiveness of Presidential, Senate, House, and gubernatorial races. As a part of carrying out these responsibilities, I have studied and written extensively about demographic trends in the country, exit poll data at the state and federal level, public opinion polling, and voter turnout and voting behavior. In particular, understanding the way that districts are drawn and how geography and demographics interact is crucial to predicting United States House of Representatives races, so much of my time is dedicated to that task.

4. I am currently a Visiting Scholar at the American Enterprise Institute, where my publications focus on the demographic and coalitional aspects of American politics.

5. I am also a Lecturer at The Ohio State University.

6. I am the author of the 2012 book *The Lost Majority: Why the Future of Government is up For Grabs and Who Will Take It*. In this book, I explore realignment theory. It argues that realignments are a poor concept that should be abandoned. As part of this analysis, I conducted a thorough analysis of demographic and political trends beginning in the 1920s and continuing through modern times, noting the fluidity and fragility of the coalitions built by the major political parties and their candidates.

7. I also co-authored the 2014 *Almanac of American Politics*. The Almanac is considered the foundational text for understanding congressional districts and the representatives of those districts, as well as the dynamics in play behind the elections. My focus was researching the history of and writing descriptions for many of the 2012 districts, including tracing the history of how and why they were drawn the way that they were drawn. I have also authored a chapter in Dr. Larry Sabato's post-election compendium after every election dating back to 2012.

8. I received my Ph.D. in political science at The Ohio State University in 2023. I passed comprehensive examinations in both Methodology and American Politics. The first chapter of my dissertation involves voting patterns on the Supreme Court from 1900 to 1945; the second chapter involves the application of integrated nested LaPlace approximations to enable the incorporation of spatial statistical analysis in the study of United States elections. The third chapter of the dissertation involves the use of communities of interest in redistricting simulations. In pursuit of this degree, I also earned a Master's Degree in Applied Statistics. My coursework for my Ph.D. and M.A.S. included, among other things, classes on G.I.S. systems, spatial statistics, issues in contemporary redistricting, machine learning, non-parametric hypothesis tests and probability theory. I also earned a B.A. from Yale University in history and political science in 1995, a Juris Doctor from Duke University in 2001, and a Master's Degree in political science from Duke University in 2001.

9. In the winter of 2018, I taught American Politics and the Mass Media at Ohio Wesleyan University. I taught Introduction to American Politics at The Ohio State University for three semesters from Fall of 2018 to Fall of 2019, and again in Fall of 2021. In the Spring semesters of 2020, 2021, 2022 and 2023, I taught Political Participation and Voting Behavior at The Ohio State University. This course spent several weeks covering all facets of redistricting: how maps are drawn, debates over what constitutes a fair map, measures of redistricting quality, and similar topics. It also covers the Voting Rights Act and racial gerrymandering claims. I also taught survey methodology in Fall of 2022 and Spring of 2024. In Spring of 2025 I taught Introduction to the Policy Process.

10. A full copy of all cases in which I have testified or been deposed is included on my C.V., attached as Exhibit 1. In 2021, I served as one of two special masters appointed by the Supreme Court of Virginia to redraw the districts that will elect the Commonwealth's representatives to the House of Delegates, state Senate, and U.S. Congress in the following

decade. The Supreme Court of Virginia accepted those maps, which were praised by observers from across the political spectrum. *See, e.g., New Voting Maps, and a New Day, for Virginia*, The Washington Post (Jan. 2, 2022), \ *available at* <https://www.washingtonpost.com/opinions/2022/01/02/virginia-redistricting-voting-maps-gerrymander>.

11. In 2019, I was appointed as the court's expert by the Supreme Court of Belize. In that case I was asked to identify international standards of democracy as they relate to malapportionment claims, to determine whether Belize's electoral divisions (similar to our congressional districts) conformed with those standards, and to draw alternative maps that would remedy any existing malapportionment.

12. I served as a Voting Rights Act expert to counsel for the Arizona Independent Redistricting Commission in 2021 and 2022.

### **SCOPE OF WORK**

13. I was retained by Petitioners in the above-captioned case, who asked me to compare (1) the Congressional map approved by the California Citizens Redistricting Commission in 2021 for use in the 2022 election ("Commission Map") with (2) the map the legislature created, reflected in Assembly Bill 604 ("Proposed Map").

14. Specifically, I analyzed the contiguity of the two maps as well as the degree to which they separate communities of interest; metrics required by the California Constitution and which demographers commonly employ to analyze maps. I was also asked to examine the two maps using partisan fairness metrics, which are commonly used by demographers and elections analysts when examining legislative maps.

### **OPINIONS**

15. I was asked first to analyze the partisan fairness of the Proposed Map, to determine whether the Districts were "drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party." First, it seems obvious that the purpose of this map is to favor one party or the other, as leaders in the state have not been particularly shy that the purpose of the map is to "neutralize" a Republican gerrymander in Texas. *See* Lauren Gambino, "California: Newsom Signs Proposal for New Voting Map Favoring Democrats," *The Guardian* (Aug. 21, 2025), *available at* <https://www.theguardian.com/us->

news/2025/aug/21/california-legislature-redistricting-plan. Regardless, there are multiple ways to examine this. Here, I was asked to examine partisan fairness metrics, which examine election outcomes and determine whether there is a bias in favor of one party or the other.

16. As a simple test, I was asked to analyze the competitiveness of districts, which assesses how many swing seats exist. For purposes of this, I was asked to consider a swing seat to be a district where both parties' vote share is between 45% and 55%. Using data from the last four elections, I calculated that 6.5 of 52 seats would be considered swing seats.

17. I also employed a uniform swing test, which tests the "responsiveness" of a map. That is to say, it examines the effect of a shift of the vote share on the number of seats each party would win under various vote shares. I examined the effect of 5% swings in the electorate in favor of both Democrats and Republicans, and calculated a Uniform Swing Test value of 19.75, suggesting that Democrats would hold nearly 40% of the seats in the state regardless of swings in the electorate.

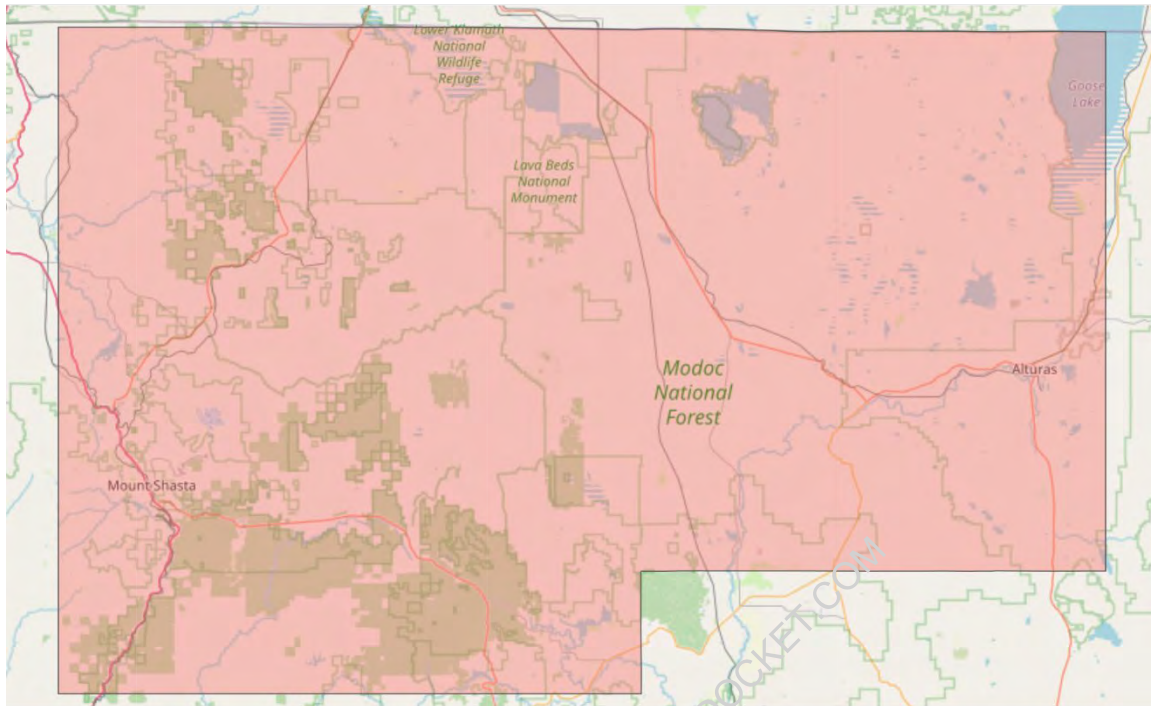
18. One can also simply analyze shifts in vote share. For example, President Trump, despite winning almost 40% of the two-party vote in the state, would have carried four seats under the Proposed Map. Gov. Gavin Newsom would have lost six seats under this map; under the Commission Map he lost 14. In 2020, President Trump would have won four districts under the Proposed Map; under the Commission Map he won seven.

19. Next, I analyzed the districts for contiguity. Although California law is unclear precisely what type of contiguity is required, there are two types of contiguity that are typically considered: "Census" contiguity and "functional" contiguity. Census contiguity simply asks whether all of the blocks in a precinct touch another block in the precinct. Functional contiguity, by contrast, asks whether you can travel through a district without leaving the district.

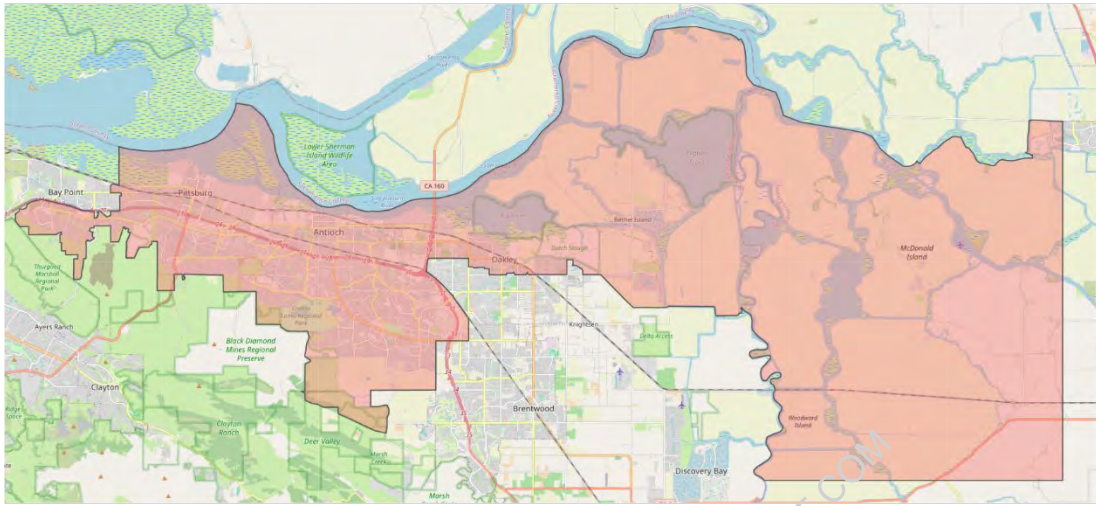
20. At a minimum, the Proposed Map creates more non-functionally contiguous districts than the Commission Map. In particular, Districts 2, 9, 30, 40 and 47 are no longer functionally contiguous.

21. In CA-02, a resident cannot travel from Alturas to Weed (to the North of Mt. Shasta) without leaving the district.

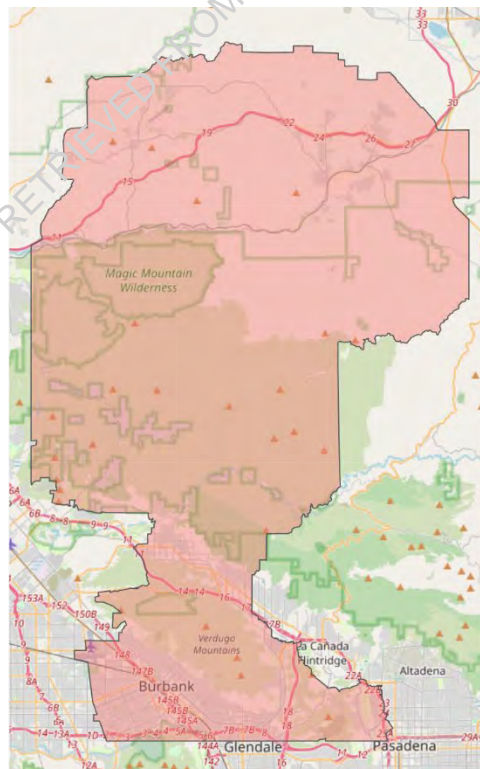




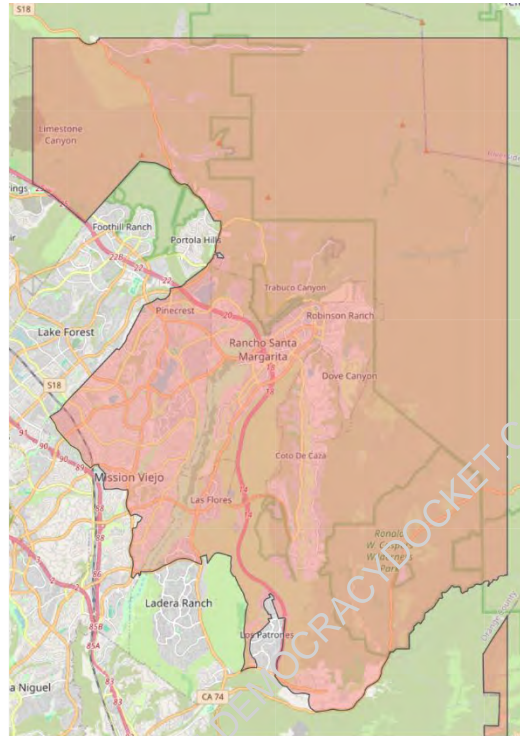
22. In CA-09, a resident cannot travel from Oakley to San Joaquin County without leaving the district; the entire western end of the district is cut off from the remainder of the district; the only bridge across the Old River is well south of the district's boundary.



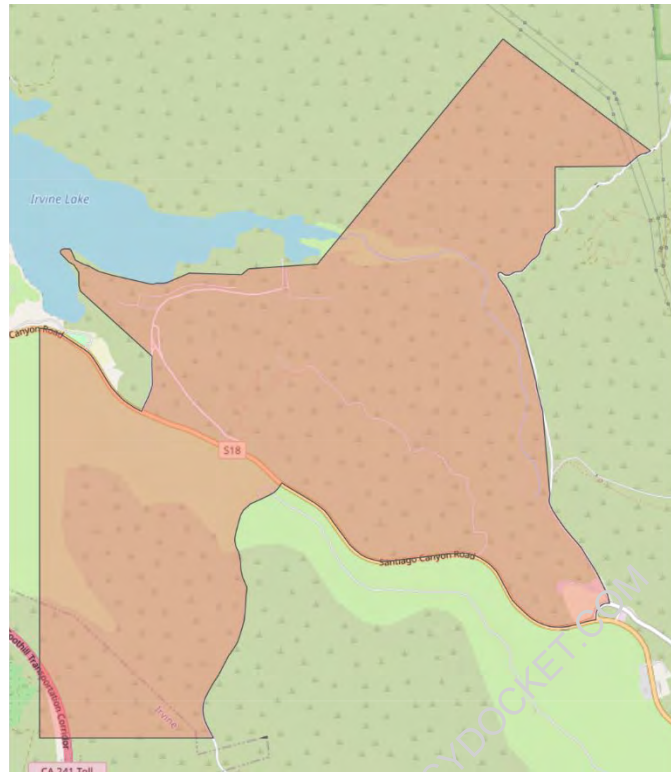
23. In CA-30, a resident cannot travel from the Agua Dulce area north of to Burbank without leaving the district.



24. In CA-40, a resident cannot travel from Rancho Santa Margarita to Murrieta without leaving the district; it is separated from the rest of the district by the Santa Ana Mountains.



25. In CA-47, the area north of Santiago Creek is not functionally contiguous with the rest of the district. The road which could hypothetically connect it to the rest of the district leaves the district near Baker Canyon Rd.



26. Finally, I examined how the Legislature's Map disrupted various communities.

For example:

- a. The Commission's Map grouped the communities in Walnut, Diamond Bar, and Rowland Heights in a single District. The Proposed Map removes Walnut. Chino Hills remains in another separate district.
- b. The Commission's Map groups communities like El Monte, Baldwin Park, Covina, West Covina, and La Puente in the same district. The Proposed Map splits them into two districts.
- c. The Proposed Map divides the county seat of San Joaquin County, Stockton, into two districts. San Joaquin County is split into five separate districts.
- d. The Commission's Map places Richmond, Pittsburgh, Bay Point, and Antioch in a single district. The Proposed Map splits Bay Point off. The Map also splits Oakley into two districts.
- e. The Commission Map only splits two federal recognized Indian Reservations: Agua Caliente and Hopland Rancheria. The Proposed Map splits Agua

Caliente and an additional ten reservations: Campo, La Posta, Mesa Grande, Morongo, Rincon, Round Valley, San Manuel, San Pasqual, Santa Rosa, and Sycuan.

27. Based on my review of the Proposed Map and Commission Map, using quantitative and qualitative measures regularly employed by demographers and political scientists, I conclude that the Proposed Map reduces the contiguity of districts and separates communities of interest in comparison to the Commission Map. I also conclude that the Commission Map was drawn with partisan objectives in mind; in particular it was drawn to improve Democratic prospects in congressional elections in the state and to increase the share of seats that they would expect to win in an election.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on August 25, 2025.

*Sean P. Trende*

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Sean P. Trende

# EXHIBIT 1

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**SEAN P. TRENDE**

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**EDUCATION**

Ph.D., The Ohio State University, Political Science, 2023. Dissertation titled *Application of Spatial Analysis to Contemporary Problems in Political Science*, September 2023.

M.A.S. (Master of Applied Statistics), The Ohio State University, 2019.

J.D., Duke University School of Law, *cum laude*, 2001; Duke Law Journal, Research Editor.

M.A., Duke University, *cum laude*, Political Science, 2001. Thesis titled *The Making of an Ideological Court: Application of Non-parametric Scaling Techniques to Explain Supreme Court Voting Patterns from 1900-1941*, June 2001.

B.A., Yale University, with distinction, History and Political Science, 1995.

**PROFESSIONAL EXPERIENCE**

Law Clerk, Hon. Deanell R. Tacha, U.S. Court of Appeals for the Tenth Circuit, 2001-02.

Associate, Kirkland & Ellis, LLP, Washington, DC, 2002-05.

Associate, Hunton & Williams, LLP, Richmond, Virginia, 2005-09.

Associate, David, Kamp & Frank, P.C., Newport News, Virginia, 2009-10.

Senior Elections Analyst, RealClearPolitics, 2010-present.

Columnist, Center for Politics Crystal Ball, 2014-17.

Visiting Scholar, American Enterprise Institute, 2018-present.



## BOOKS AND BOOK CHAPTERS

Larry J. Sabato, ed., *The Red Ripple*, Ch. 15 (2023).

Larry J. Sabato, ed., *A Return to Normalcy?: The 2020 Election that (Almost) Broke America* Ch. 13 (2021).

Larry J. Sabato, ed., *The Blue Wave*, Ch. 14 (2019).

Larry J. Sabato, ed., *Trumped: The 2016 Election that Broke all the Rules* (2017).

Larry J. Sabato, ed., *The Surge: 2014's Big GOP Win and What It Means for the Next Presidential Election*, Ch. 12 (2015).

Larry J. Sabato, ed., *Barack Obama and the New America*, Ch. 12 (2013).

Barone, Kraushaar, McCutcheon & Trende, *The Almanac of American Politics* 2014 (2013).

*The Lost Majority: Why the Future of Government is up for Grabs – And Who Will Take It* (2012).

## PREVIOUS EXPERT TESTIMONY AND/OR DEPOSITIONS

*Dickson v. Rucho*, No. 11-CVS-16896 (N.C. Super. Ct., Wake County) (racial gerrymandering).

*Covington v. North Carolina*, No. 1:15-CV-00399 (M.D.N.C.) (racial gerrymandering).

*NAACP v. McCrory*, No. 1:13CV658 (M.D.N.C.) (early voting).

*NAACP v. Husted*, No. 2:14-cv-404 (S.D. Ohio) (early voting).

*Ohio Democratic Party v. Husted*, Case 15-cv-01802 (S.D. Ohio) (early voting).

*Lee v. Virginia Bd. of Elections*, No. 3:15-cv-357 (E.D. Va.) (early voting).

*Feldman v. Arizona*, No. CV-16-1065-PHX-DLR (D. Ariz.) (absentee voting).

*A. Philip Randolph Institute v. Smith*, No. 1:18-cv-00357-TSB (S.D. Ohio) (political gerrymandering).

*Whitford v. Nichol*, No. 15-cv-421-bbc (W.D. Wisc.) (political gerrymandering).

*Common Cause v. Rucho*, No. 1:16-CV-1026-WO-JEP (M.D.N.C.) (political gerrymandering).

*Mecinas v. Hobbs*, No. CV-19-05547-PHX-DJH (D. Ariz.) (ballot order effect).

*Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga.) (statistical analysis).

*Pascua Yaqui Tribe v. Rodriguez*, No. 4:20-CV-00432-TUC-JAS (D. Ariz.) (early voting).

*Ohio Organizing Collaborative, et al v. Ohio Redistricting Commission, et al*, No. 2021-1210 (Ohio) (political gerrymandering).

*NCLCV v. Hall*, No. 21-CVS-15426 (N.C. Sup. Ct.) (political gerrymandering).

*Szeliga v. Lamone*, Case No. C-02-CV-21-001816 (Md. Cir. Ct.) (political gerrymandering).

*In the Matter of 2022 Legislative Districting of the State*, Misc. No. 25 (Md. Ct. App.) (political gerrymandering).

*Montana Democratic Party v. Jacobsen*, DV-56-2021-451 (Mont. Dist. Ct.) (early voting; ballot collection).

*Carter v. Chapman*, No. 464 M.D. 2021 (Pa.) (map drawing; amicus).

*NAACP v. McMaster*, No. 3:21-cv-03302 (D.S.C.) (racial gerrymandering).

*Alexander v. NAACP*, Case No. 3:21-cv-03302-MBS-TJH-RMG (D.S.C.) (racial gerrymandering).

*Graham v. Adams*, No. 22-CI-00047 (Ky. Cir. Ct.) (political gerrymandering).

*Harkenrider v. Hochul*, No. E2022-0116CV (N.Y. Sup. Ct.) (political gerrymandering).

*LULAC v. Abbott*, Case No. 3:21-cv-00259 (W.D. Tex.) (racial/political gerrymandering/VRA).

*Moore et al., v. Lee, et al.*, (Tenn. 20th Dist.) (state constitutional compliance).

*Milligan v. Allen*, Case No. 2:21-cv-01530-AMM (N.D. Ala.) (VRA).

*Nairne v. Ardoin*, NO. 22-178-SDD-SDJ (M.D. La.) (VRA).

*Robinson v. Ardoin*, NO. 22-211-SDD-SDJ (M.D. La.) (VRA).

*Republican Party v. Oliver*, No. D-506-CV-2022-00041 (N.M. Cir. Ct. (Lea County)) (political gerrymandering).

*Palmer v. Hobbs*, Case No. 3:22-CV-5035-RSL (W.D. Wash) (VRA; remedial phase only).

*Clarke v. Evers*, No. 2023AP001399-OA (Wisc.) (Political gerrymandering; remedial phase only).

*Stone v. Allen*, No. 2:21-cv-1531-AMM (N.D. Ala.) (VRA).

*Milligan v. Allen*, No. 2:21-cv-01530-AMM (S.D. Ala.) (VRA).

*Agee et al. v. Benson, et al.*, (W.D. Mich.) (racial gerrymandering/VRA).

*Faatz, et al. v. Ashcroft, et al.*, (Cir. Ct. Mo.) (state constitutional compliance).

*Coca, et al. v. City of Dodge City, et al.*, Case No. 6:22-cv-01274-EFM-RES (D. Kan.) (VRA).

*Pierce v. NC State Board of Elections*, Case No. 4:23-cv-193 (E.D.N.C.) (VRA).

*Williams v. Hall*, Civil Action No. 23 CV 1057 (M.D.N.C.) (VRA, Racial Gerrymandering).

*Hodges v. Passidomo*, Case No. 8:24-cv-879-CEH-TPB-ALB (M.D. Fla.) (Racial Gerrymandering).

*Cubanos Pa'Lante v. Florida House of Representatives*, Case No. 24-cv-21983-JB (S.D. Fla.) (Racial Gerrymandering).

*Coads v. Nassau County*, Index No. 611872/2023 (N.Y. Sup. Ct., Nassau County) (political gerrymandering, racial gerrymandering, NYVRA).

*Harris v. DeSoto County*, Civil No. 3:24-CV-00289-GHD-RP (N.D. Miss.) (VRA).

## **COURT APPOINTMENTS**

Appointed as Voting Rights Act expert by Arizona Independent Redistricting Commission (2020)

Appointed Special Master by the Supreme Court of Virginia to redraw maps for the Virginia House of Delegates, the Senate of Virginia, and for Virginia's delegation to the United States Congress for the 2022 election cycle.

Appointed redistricting expert by the Supreme Court of Belize in *Smith v. Perrera*, No. 55 of 2019 (one-person-one-vote).

## **INTERNATIONAL PRESENTATIONS AND EXPERIENCE**

Panel Discussion, European External Action Service, Brussels, Belgium, Likely Outcomes of 2012 American Elections.

Selected by U.S. Embassies in Sweden, Spain, and Italy to discuss 2016 and 2018 elections to think tanks and universities in area (declined Italy due to teaching responsibilities).

Selected by EEAS to discuss 2018 elections in private session with European Ambassadors.

## **TEACHING**

Introduction to the Policy Process, Spring 2025.

American Democracy and Mass Media, Ohio Wesleyan University, Spring 2018.

Introduction to American Politics, The Ohio State University, Autumns 2018, 2019, 2020, Spring 2018.

Political Participation and Voting Behavior, Springs 2020, 2021, 2022, 2023.

Survey Methodology, Fall 2022, Spring 2024.

## **PUBLICATIONS**

James G. Gimpel, Andrew Reeves, & Sean Trende, “Reconsidering Bellwether Locations in U.S. Presidential Elections,” *Pres. Stud. Q.* (2022) (forthcoming, available online at <http://doi.org/10.1111/psq.12793>).

## **REAL CLEAR POLITICS COLUMNS**

Full archives available at [http://www.realclearpolitics.com/authors/sean\\_trende/](http://www.realclearpolitics.com/authors/sean_trende/)

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## **Exhibit 430**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS,

Plaintiffs,

GREG ABBOTT, et al.,

Defendants.

Case No. 3:21-cv-00259

[Lead Case]

SUPPLEMENTAL EXPERT REPLY OF SEAN P. TRENDE, Ph.D.

Tangipa v. Newsom

**DX430**

2:25-cv-10616-JLSWLH-KKL

DX430-0001



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Pursuant to this Court’s 3/19/2025 Scheduling Order, as modified with an extension of time agreed to by the parties, I am submitting the following Expert Report. This report responds to the August 2025 Declaration of Dr. Matt A. Barreto and Michael B. Rios, MPP (“First Barreto/Rios Report”), the September 2025 Supplemental Declaration of Matt Barreto and Michael Rios (“Second Barreto/Rios Report”), and the Declaration and Expert Report of David Ely in Support of Brooks, LULAC, and MALC Plaintiffs’ Joint Motion for Preliminary Injunction (“Ely Report.”)

## **1 Response to First Barreto/Rios Report Analysis of Precinct Splits**

The First Barreto/Rios Report claims that “[l]ooking to the comparison of the 2021 and 2025 boundary lines laid out in Appendix A, Maps 1 - 15 there is evidence that map drawers relied on the racial composition of neighborhoods, and not primarily partisan performance data in crafting the new maps in August 2025. In particular, map drawers decided to split VTDs more than 440 times and instead draw boundaries on census blocks, for which only racial data exists. Census blocks do not contain election results for such small pieces of neighborhoods and no map drawer can be certain of partisan performance within a census block.” Barreto/Rios Report ¶43.

The implication here is that these VTD splits were made using race as a proxy for politics, since political data is not available at the census block level. The latter part is true, however, it does not follow from it that the former is also true. First, there is no real need to use race as a proxy for politics in these split precincts. In Texas, 440 split precincts averages out to around 12 split precincts per district. In the context of a 700,000+ person district, that is unlikely to have a massive impact on partisan performance, especially given some of the points below.

Second, there can be many reasons to split a precinct for a Congressional District: To improve overall compactness, to conform with geographic features or roadways,

to carve out an incumbent, or to satisfy Fourteenth Amendment equal population requirements. Also, racial demographics are at best an imperfect indicator of politics. In a scenario where a mapmaker uses the 2024 presidential election as a guide for line drawing, where Hispanic voters are 60%-40% demographic in some places or even voted outright Republican,<sup>1</sup> using race as a heuristic for party affiliation would hardly do better than flipping a coin.<sup>2</sup> Third, because racial groups are frequently geographically clustered in America, it would not be at all surprising that we might find consistently higher minority populations on one side of the district line than the other. Sometimes meaningful differentials will occur by chance.

Moreover, aside from innuendo, there is no actual evidence offered in the First Barreto/Rios Report demonstrating that these VTDs are split on the basis of race. I offer a limited test here. It is limited because it is not realistic to examine all 400+ split VTDs in the available time. Instead, I examine the splits for TX-18, one of the foci of this lawsuit. It illustrates why the mere presence of VTD splits does not give rise to an inference that race was a motivating factor in splitting precincts.

First, precinct 001003. It is split between districts 14 and 18. It is located at the far southern tip of the district, creating a protuberance. This is chopped off, giving the district a more regular shape. The precinct is overwhelmingly Hispanic throughout. The portion included in 18 has a total population of 6,093, a White VAP of approximately 4%, a BVAP of 23% and an HVAP of 72%. The portion outside has a total population of 1746, a WVAP of approximately 6%, a BVAP of 23% and an HVAP of 70%.<sup>3</sup> If we look at how blocks are split, there is no obvious pattern of racial sorting.

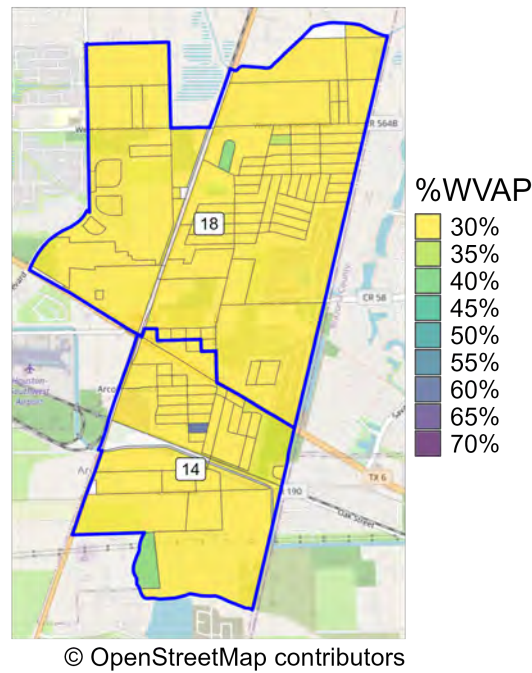
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<sup>1</sup>Even if all 691 White residents of voting age in Zapata County, or all 846 White residents of voting age in Starr County, had showed up to vote and voted for Trump, Trump still mathematically had to have carried the non-White population there.

<sup>2</sup>At one point, the Barreto/Rios report claims that, because their and other EI analysis of the area were available, that Texas Republicans were aware of and knew of these voting patterns. This assumes, of course, that Texas Republicans did not—rightly or wrongly—disagree with EI as the proper way to measure partisanship, or that they were not unaware of the particular findings in this litigation.

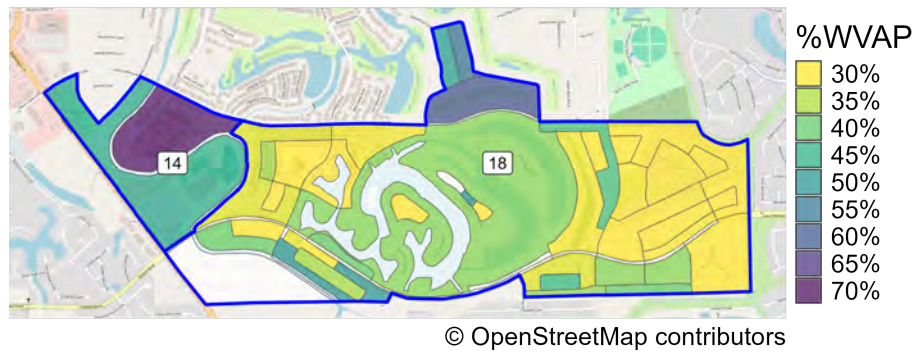
<sup>3</sup>Here I use voting age population, because CVAP data for precincts have large error margins and must be estimated from block groups when not co-terminous.

Figure 1: Precinct 001003, blue lines reflect District boundaries



Precinct 002018 is located in on southwestern edge of District 18. It is cut in such a way that it minimizes a protuberance into 18. The portion included in 18 has a total population of 4,336, a White VAP of approximately 29%, a BVAP of 29% and an HVAP of 11%. The portion outside has a total population of 284, a WVAP of approximately 67%, a BVAP of 14% and an HVAP of 13%. If we look at how blocks are split, there is no obvious pattern of racial sorting; it is unclear why a racial gerrymanderer would leave the heavily White section in the northern portion of the precinct intact.

Figure 2: Precinct 002108

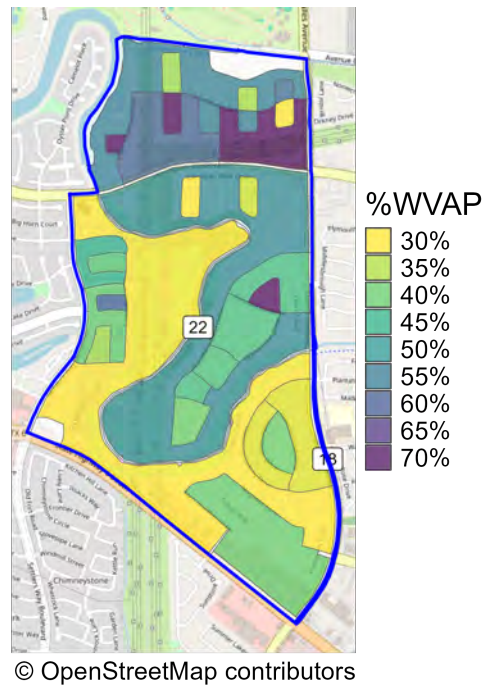


Precinct 004140 places five unpopulated blocks into District 18. This has the effect of bringing the district boundary to Dulles Ave.<sup>4</sup>

<sup>4</sup>Using the 2020 VTDs, Dave's Redistricting counts nine blocks with a population of 20, with a WVAP of 15% (3 individuals) placed in 18, leaving 4,150 individuals with a WVAP of 43% in 22.

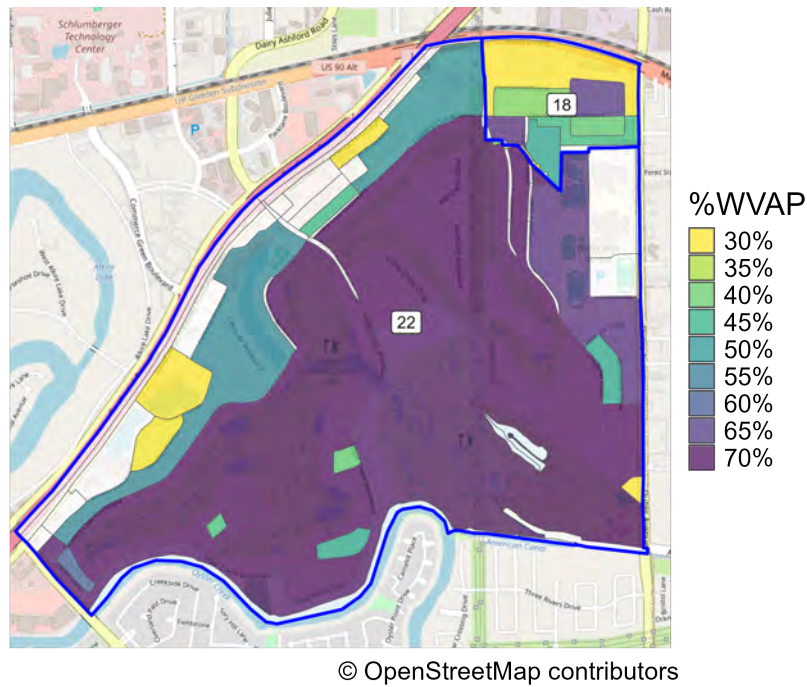


Figure 3: Precinct 004140



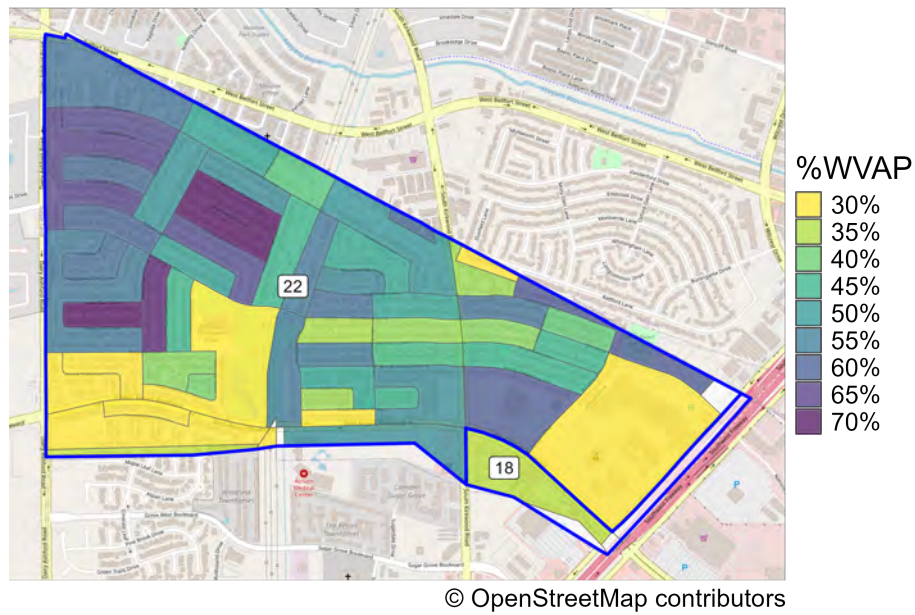
Precinct 003009 is at the western edge of District 18. The portion included in 18 has a total population of 564, a White VAP of approximately 41%, a BVAP of 15% and an HVAP of 14%. The portion outside has a total population of 3,530, a WVAP of approximately 66%, a BVAP of 5% and an HVAP of 8%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

Figure 4: Precinct 003009



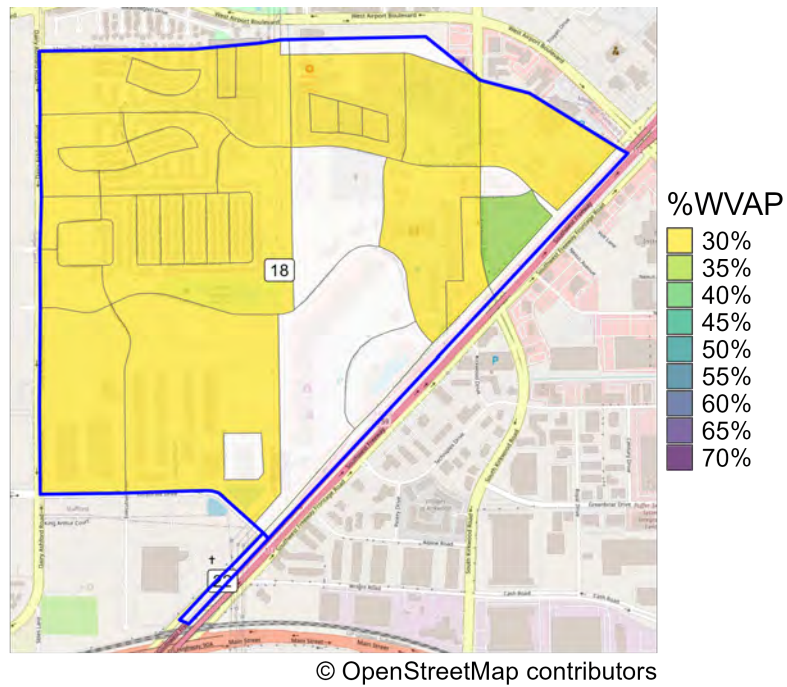
Precinct 002022 splits a frontage road and a small populated portion from District 22. The portion included in 18 has a total population of 205, a White VAP of approximately 34%, a BVAP of 40% and an HVAP of 14%. The portion outside has a total population of 4,580, a WVAP of approximately 47%, a BVAP of 9% and an HVAP of 22%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

Figure 5: Precinct 002022



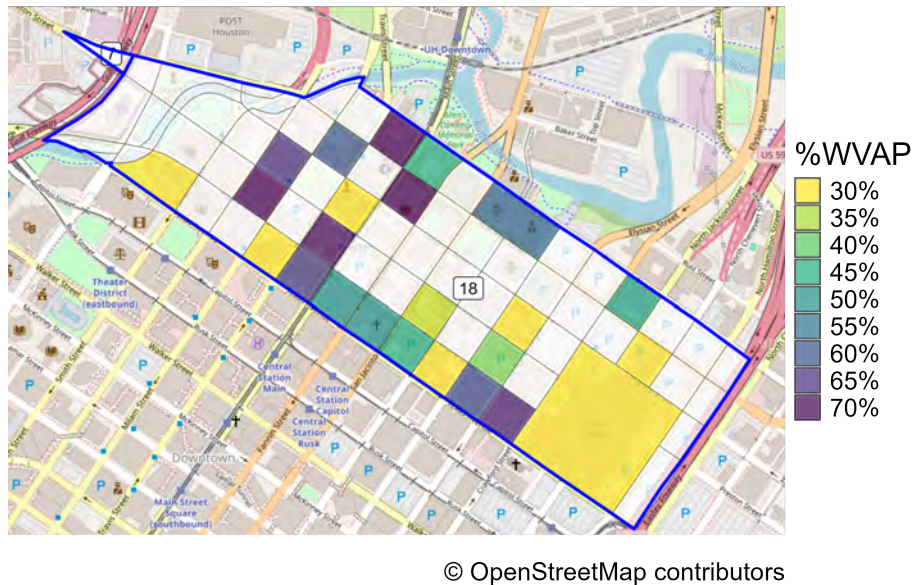
Precinct 002096 has a “tail” that extends into District 22 that follows the South-west Freeway. The map removes two unpopulated blocks on that Freeway, eliminating the tail.

Figure 6: Precinct 002096



Precinct 000890 runs southwest of the University of Houston. It has a point that extends across the Gulf Freeway. It is unpopulated. The map removes two unpopulated census blocks, cutting off the tail.

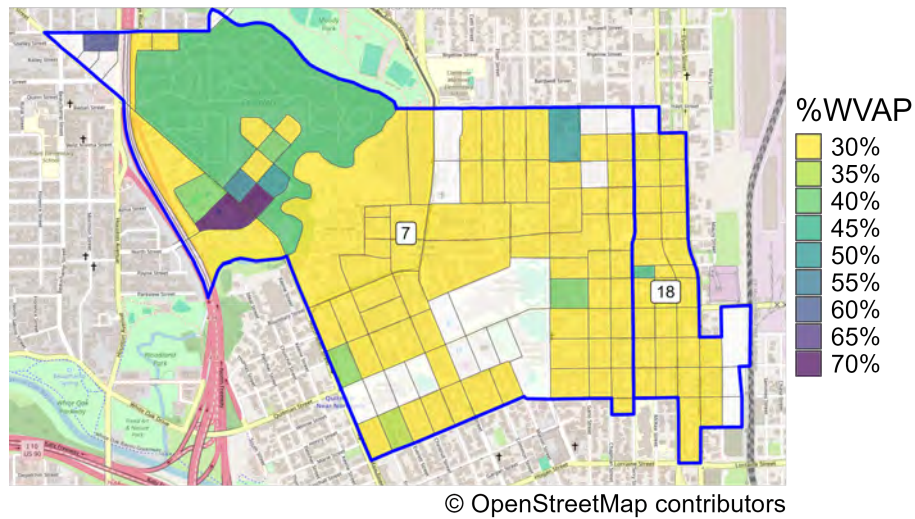
Figure 7: Precinct 000890



Precinct 000046 includes Hollywood Cemetery and the areas to the southeast. It is part of a series of precinct splits that result in a straight line dividing 7 from 18 along Terry Street. The portion included in 18 has a total population of 885, a White VAP of approximately 7%, a BVAP of 12% and an HVAP of 79%. The portion outside has a total population of 4148, a WVAP of approximately 12%, a BVAP of 15% and an HVAP of 71%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

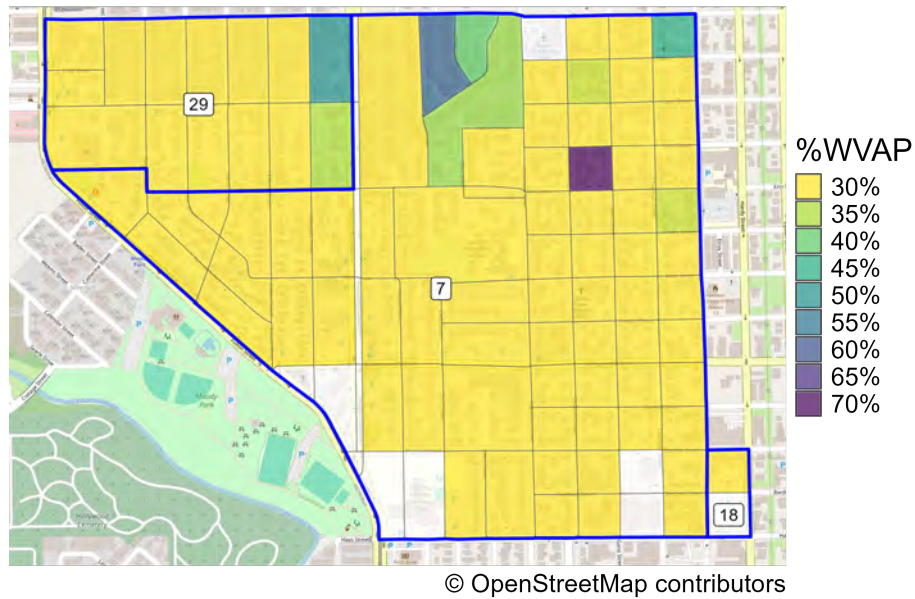


Figure 8: Precinct 000046



Precinct 000339 is just to the north of 000046. It is split three ways. The split between Districts 18 and 7 continues the split down Terry Street, creating a straight line. The portion included in 18 has a total population of 19, a White VAP of approximately 0%, a BVAP of 14% and an HVAP of 86%. The portion included in 7 has a total population of 3,592, a WVAP of approximately 9%, a BVAP of 10% and an HVAP of 80%. The portion included in 29 has a total population of 649, a WVAP of approximately 10%, a BVAP of 2% and an HVAP of 86%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

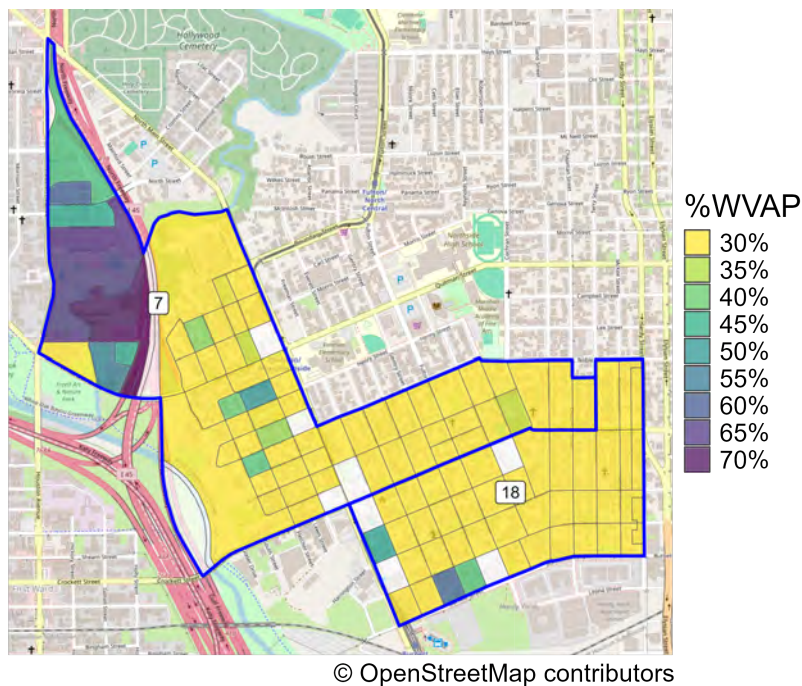
Figure 9: Precinct 000339



Precinct 000044 is just to the South of 000046. The split continues down Terry Street, before turning west down Hogan Street. The portion included in 18 has a total population of 1,434, a White VAP of approximately 12%, a BVAP of 7% and an HVAP of 79%. The portion outside has a total population of 2,365, a WVAP of approximately 18%, a BVAP of 6% and an HVAP of 73%. If we look at how blocks are split, there is no obvious pattern of racial sorting.



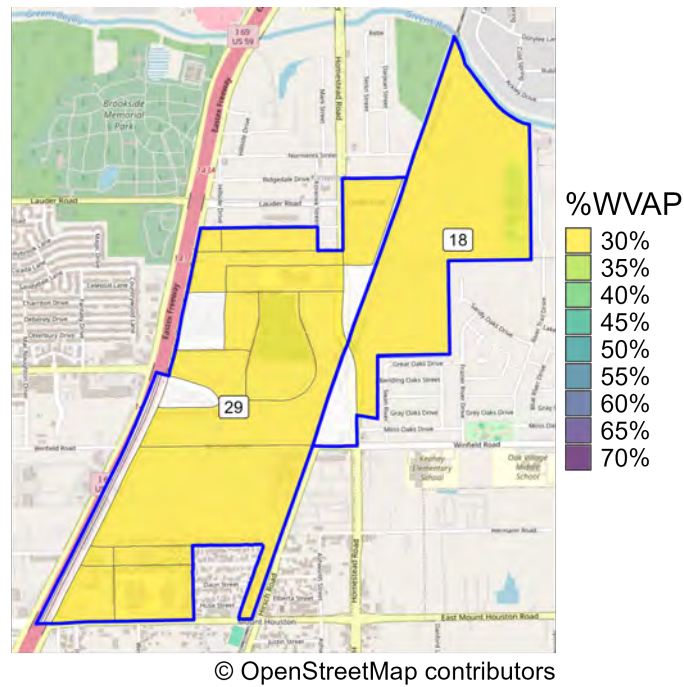
Figure 10: Precinct 000044



Precinct 000792<sup>5</sup> includes areas southeast of Brookside Memorial Park. It is split along a railway line that forms most of the boundary between districts 18 and 29 here, creating a straight line. The portion included in 18 has a total population of 14. It has one (1) resident of voting age, who is Hispanic. The portion outside has a total population of 2,705, a WVAP of approximately 8%, a BVAP of 39% and an HVAP of 52%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

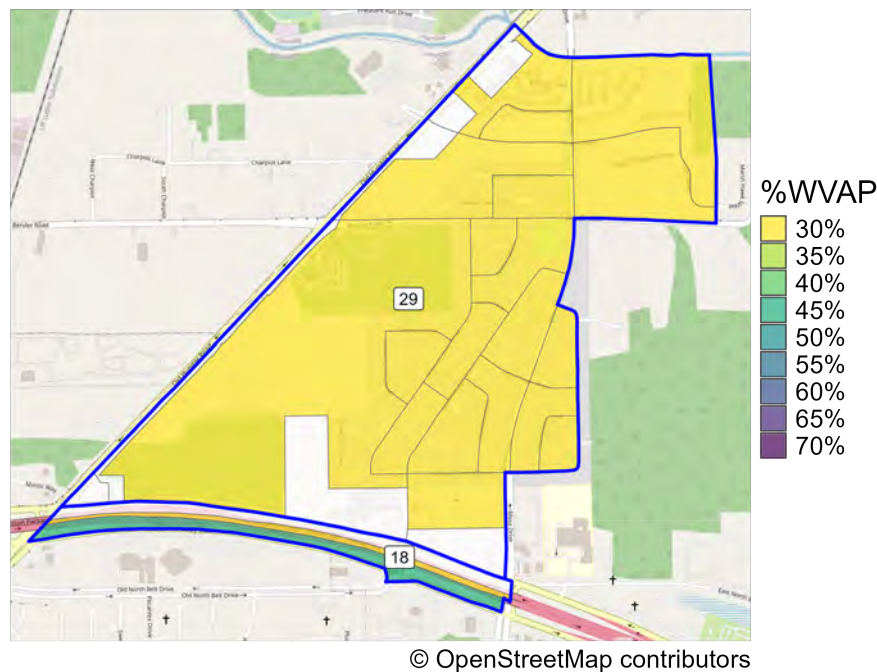
<sup>5</sup>This precinct appears to have changed considerably from the 2020 VTD shape. Numbers are for reference only.

Figure 11: Precinct 000792



This new precinct is also on the northern boundary of District 18; it is split to put Sam Houston Freeway in District 18. The portion included in 18 has a total population of 18, a WVAP of 4%, a BVAP of 50%, and an HVAP of 20%. The portion included in 29 has a total population of 3,014, a WVAP of 11%, a BVAP of 41%, and an HVAP of 43%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

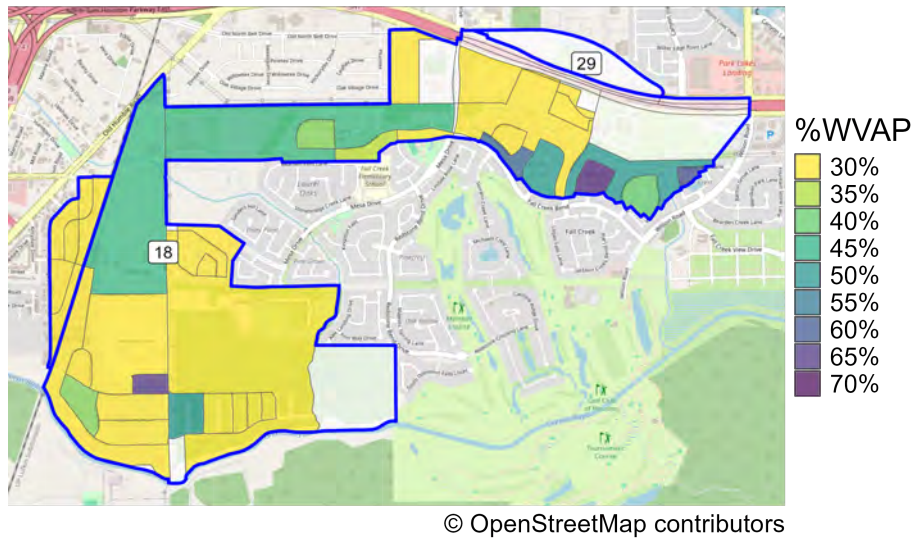
Figure 12: New precinct



Precinct 000083<sup>6</sup> is on the northern boundary of District 18. It is split on the western boundary to continue along the railway mentioned above, and in such a way to put the Sam Houston Tollway in the district. The portion included in 18 has a total population of 5,597, a White VAP of approximately 26%, a BVAP of 31% and an HVAP of 36%. The portion outside has a total population of 369, a WVAP of approximately 9%, a BVAP of 7% and an HVAP of 78%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

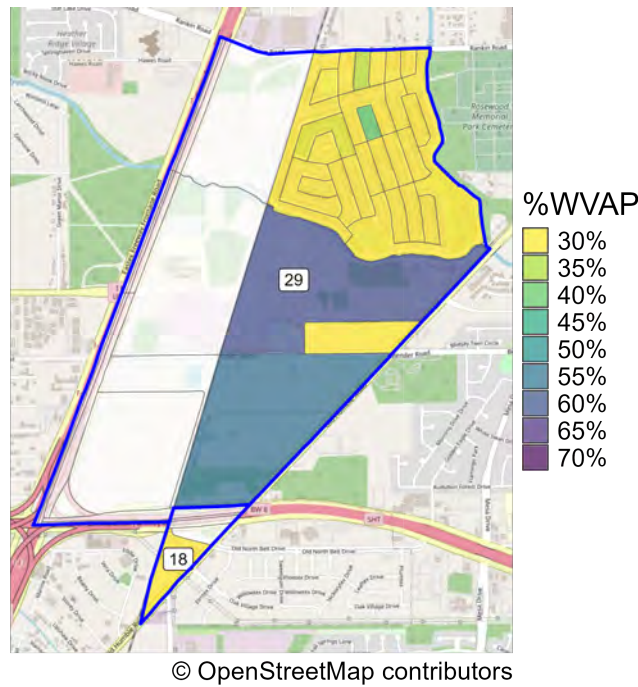
<sup>6</sup>This precinct appears to have changed considerably from the 2020 VTD shape. Numbers are for reference only.

Figure 13: Precinct 000083



Precinct 000840 lies at the intersection of the Eastex Freeway and the Sam Houston Parkway. A tail extends across the parkway into 18. The map cuts it off. The portion included in 18 has a total population of 282, a White VAP of approximately 12%, a BVAP of 32% and an HVAP of 57%. The portion outside has a total population of 3090, a WVAP of approximately 19%, a BVAP of 31% and an HVAP of 46%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

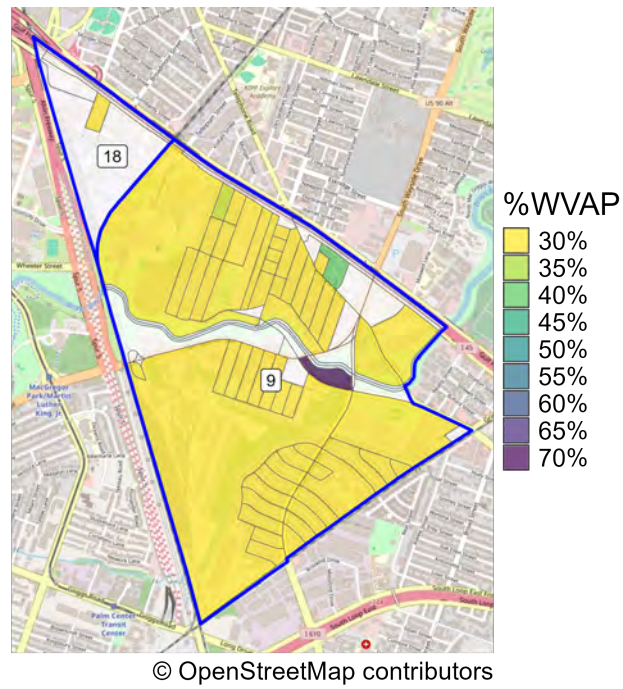
Figure 14: Precinct 000840



Precinct 000343 lies to the northwest of the intersection of I-45 and I-610. The district trims off a point that otherwise juts into District 18. The portion included in 18 has a total population of 10, one of whom is a Hispanic resident of voting age. The portion outside has a total population of 5,267, a WVAP of approximately 7%, a BVAP of 6% and an HVAP of 85%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

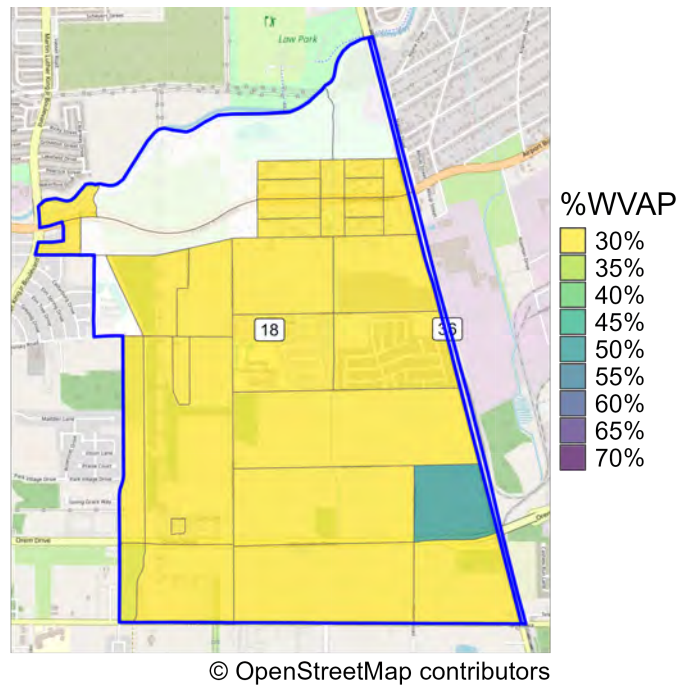


Figure 15: Precinct 000343



Precinct 000607 is split to add an unpopulated portion of the precinct into District 36, bringing the boundary out to Mykawa Rd.

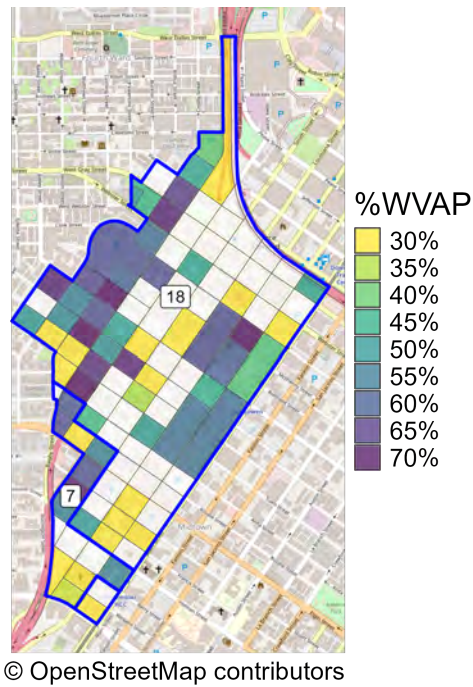
Figure 16: Precinct 000607



Precinct 000032 is along the boundary between districts 7 and 18, north of Texas Medical Center. The portion included in 18 has a total population of 5,258, a White VAP of approximately 54%, a BVAP of 12% and an HVAP of 19%. The portion outside has a total population of 1,124, a WVAP of approximately 56%, a BVAP of 10% and an HVAP of 19%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

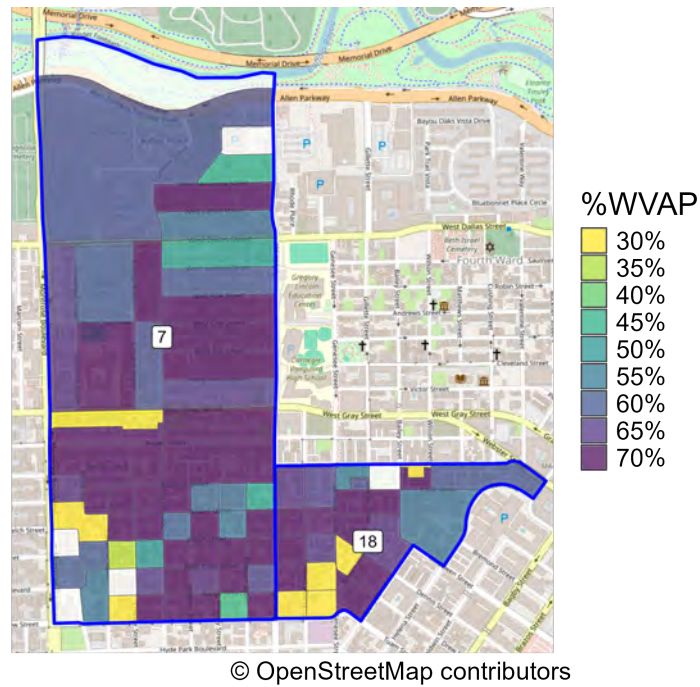


Figure 17: Precinct 000032



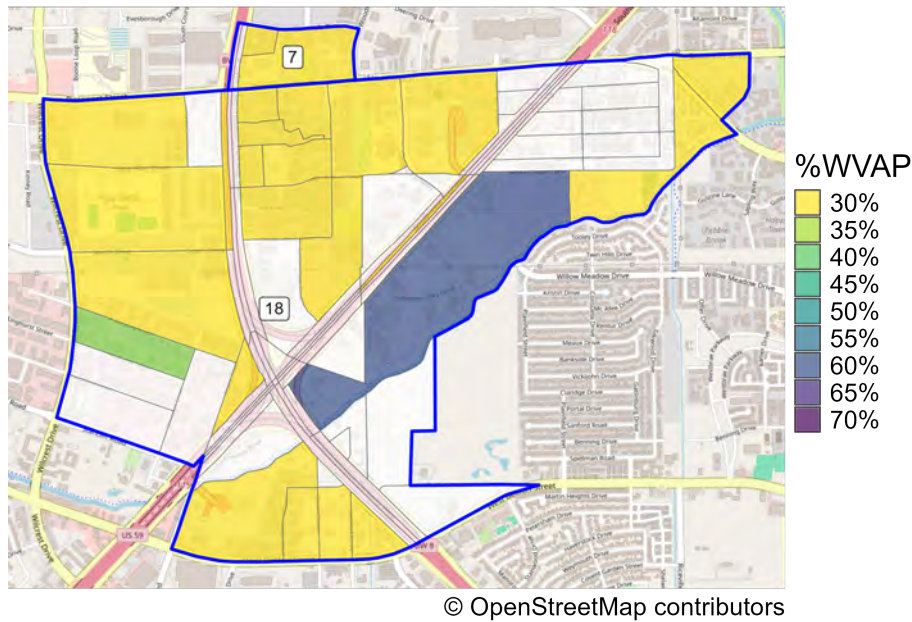
Precinct 000033 is split down Taft St. The portion included in 18 has a total population of 1,214, a White VAP of approximately 63%, a BVAP of 6% and an HVAP of 17%. The portion outside has a total population of 4622, a WVAP of approximately 64%, a BVAP of 4% and an HVAP of 18%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

Figure 18: Precinct 000033



Precinct 000359 is split along Bissonnet St., maintaining a straight line for the district. The portion included in 18 has a total population of 13,433, a White VAP of approximately 4%, a BVAP of 37% and an HVAP of 56%. The portion outside has a total population of 1,090, a WVAP of approximately 3%, a BVAP of 53% and an HVAP of 43%. If we look at how blocks are split, there is no obvious pattern of racial sorting.

Figure 19: Precinct 000359



I have no doubt that if one were to fish through a collection of 400 split precincts, they could eventually uncover some precincts where the split boundary lines up with racial demographics. As described above, these things can occur normally. But there is nothing in the First Barreto/Rios Report that demonstrates this, and the fact that an important congressional district shows no evidence of racial motivation in precinct splits suggests that we can't draw a strong inference against the map simply on the basis of it containing multiple split precincts.

## 2 Response to First Barreto/Rios Report Analysis of the Map Drawing

### 2.1 Harris County

The First Barreto/Rios report also claims that “[t]he specific district boundaries for Plan C2333 clearly focus on race, whether it is excluding specific Anglo/White neigh-

borhoods, or drawing lines firmly along boundaries to include high density Black and Hispanic communities in Districts 9, 18, 27, 33, and 35, among others. Beyond the specific regional analysis in Maps 1 - 15, we also provide six maps for the entire state of Texas that identify neighborhood populations by Black, Hispanic and Anglo with either the 2021 (C2193) or the new 2025 (C2333) boundaries overlaid (Maps 16 - 21). These maps provide the ability to zoom in to any county or region of the state to see closer detail down to individual city blocks and neighborhoods.” First Barreto/Rios Report ¶¶44. It is unclear what this is meant to reference, as the “specific regional analysis in Maps 1-15” is simply screenshots of different maps captured in ArcGIS or cropped from Dave’s Redistricting App, with little actual analysis.

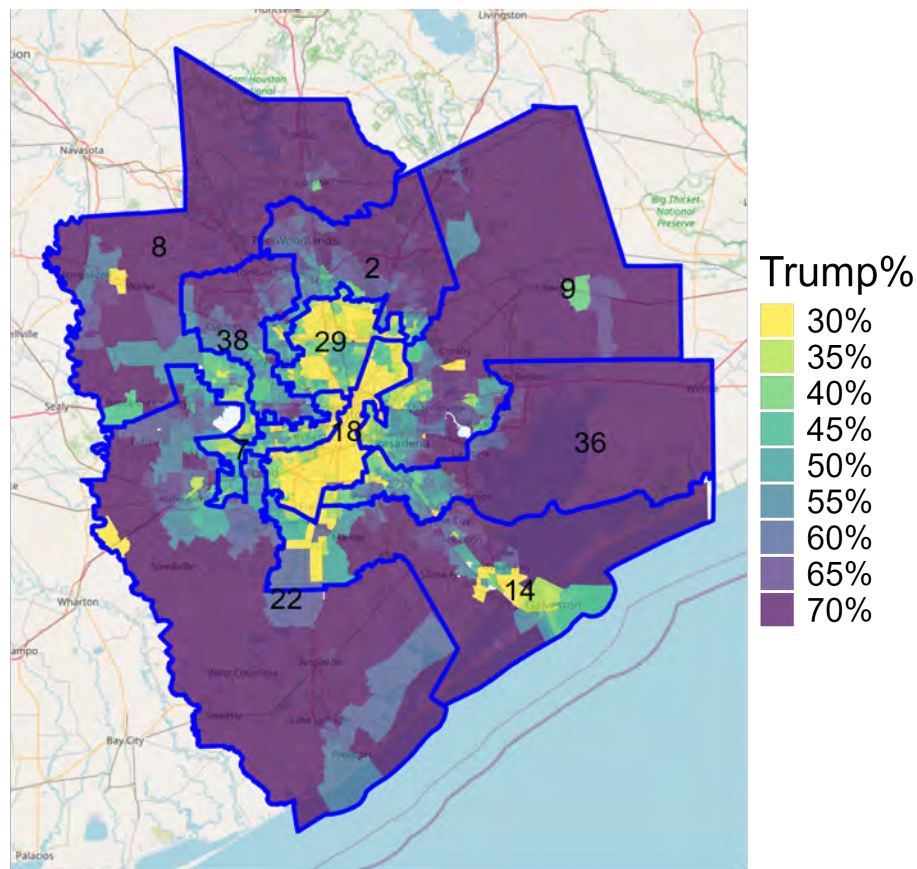
Some of these maps, such as the dot density plots (see, e.g., Map Figure 15) are simply unhelpful. Dot density maps are useful for viewing where groups are clustered, but they cannot sort between areas with a high minority population relative to the overall population, versus areas with a high minority population and also a high non-minority population. This is particularly relevant where, as here, multiple groups are being plotted simultaneously and then viewed at a low level of resolution. This is because computers create dot density maps by layering dots on top of each other. In areas with high total populations, this will result in overplotting, where one population completely covers another population. So, if a large number of dots representing minorities are layered over another large number of dots for a non-minority group, or a different minority group, only the former group will appear. Choropleth maps are better suited to this task.<sup>7</sup>

Regardless, this analysis disregards politics as an explanation, and only makes a superficial attempt to disaggregate the two for District 9. First, I offer some new maps to better explore this at the regional level for Harris County. This shows the Harris County area, but with the maps highlighted by President Trump’s 2024 vote share rather than by race.

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<sup>7</sup>I typically use dot density maps when exploring population compactness for purposes of Section 2 of the Voting Rights Act. For exploring gerrymandering, I typically employ choropleths.

Figure 20: Houston area precincts by Donald Trump Two-Party Vote Share, with C2333 district boundaries overlaid



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As you can see, the maps do what they have always done: Take the heaviest concentration of Trump votes and push them into a handful of districts: This time districts 7, 18, and 29. District 29's boundaries with District 2 and District 38 closely follow the political topology of the region, as does the boundary between 7 and 38. On the east, the heaviest Democratic areas are clustered into 18, and seemingly odd shapes such as the epiglottis on the north eastern edge likewise separate heavily Democratic areas from less so.<sup>8</sup> To put it differently, if we take the Harris County precincts where Harris received greater than 70% of the two-party vote, there are four in District 2, three

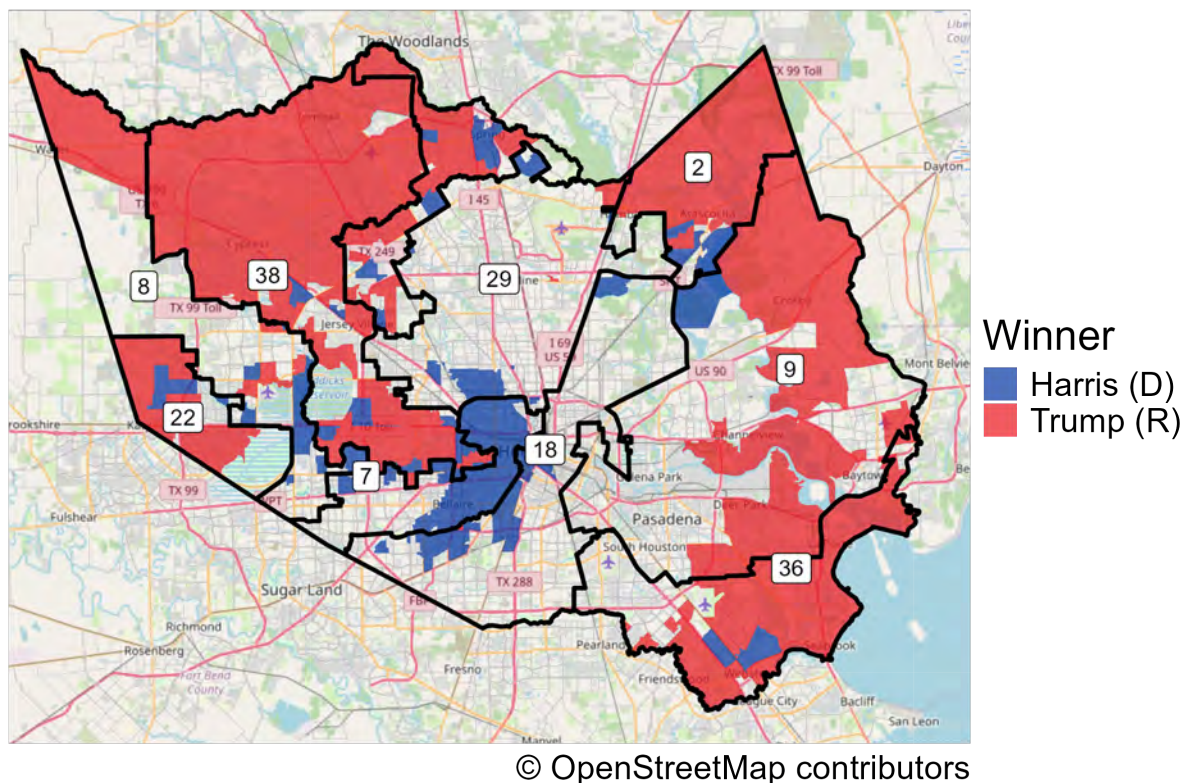
<sup>8</sup>There are five populated precincts in this area. All gave Harris at least 80% of the vote. The precincts adjacent to it gave her, moving clockwise from the top right: 27%, 45%, 48%, 45%, 55%, [unpopulated], 60%, 65% and 67% of the vote.



in District 8, four in District 9, four in District 36, and one in District 38. By contrast, there are 31 in District 7, 150 in District 18, and 61 in District 29. If we look at precincts where Trump received 70% of the vote or more, there are two in District 7, two in District 29, and none in District 18.

We can also see how politics, rather than race, seemingly drove the line drawing by recreating the map from the trial phase of this case. This takes the plurality White precincts in the Houston area, and codes them by whomever won the precinct.

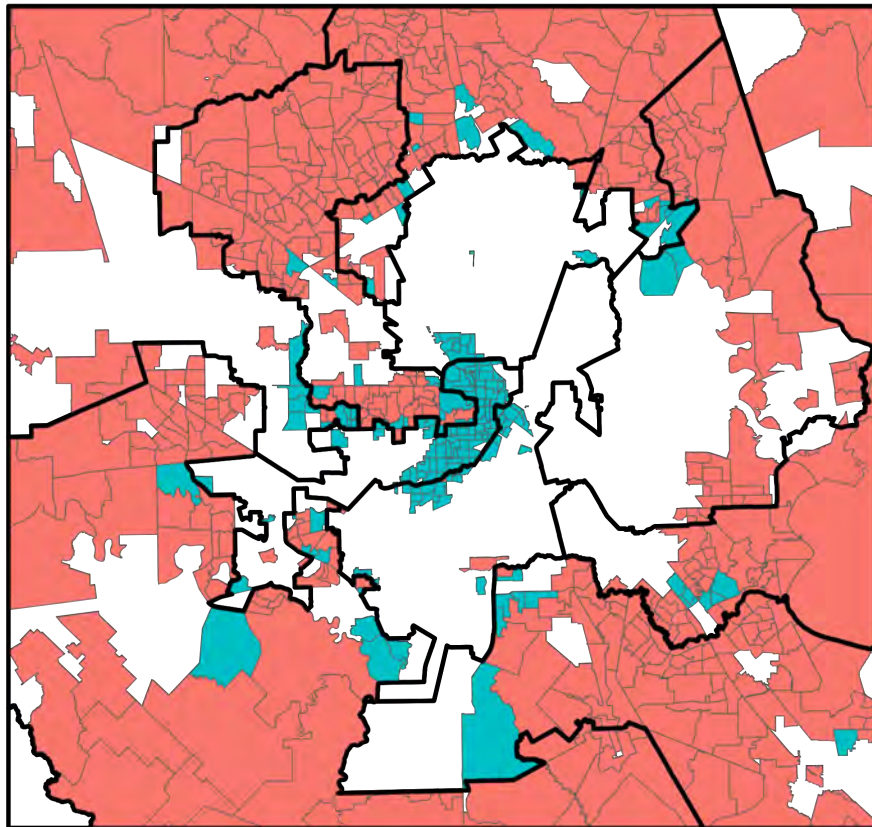
Figure 21: Houston area white plurality precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



As you can see, districts 7 and 18 both have a fair number of White residents, which is not the tactic of a racial segregator. A majority of those residents, however, voted for

Harris. The few exceptions either (a) have almost no population; (b) voted marginally for Harris and/or (c) are bridge precincts needed to access more heavily Trump precincts. We can see this more clearly if we zoom in to Harris County:

Figure 22: Harris County white plurality precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



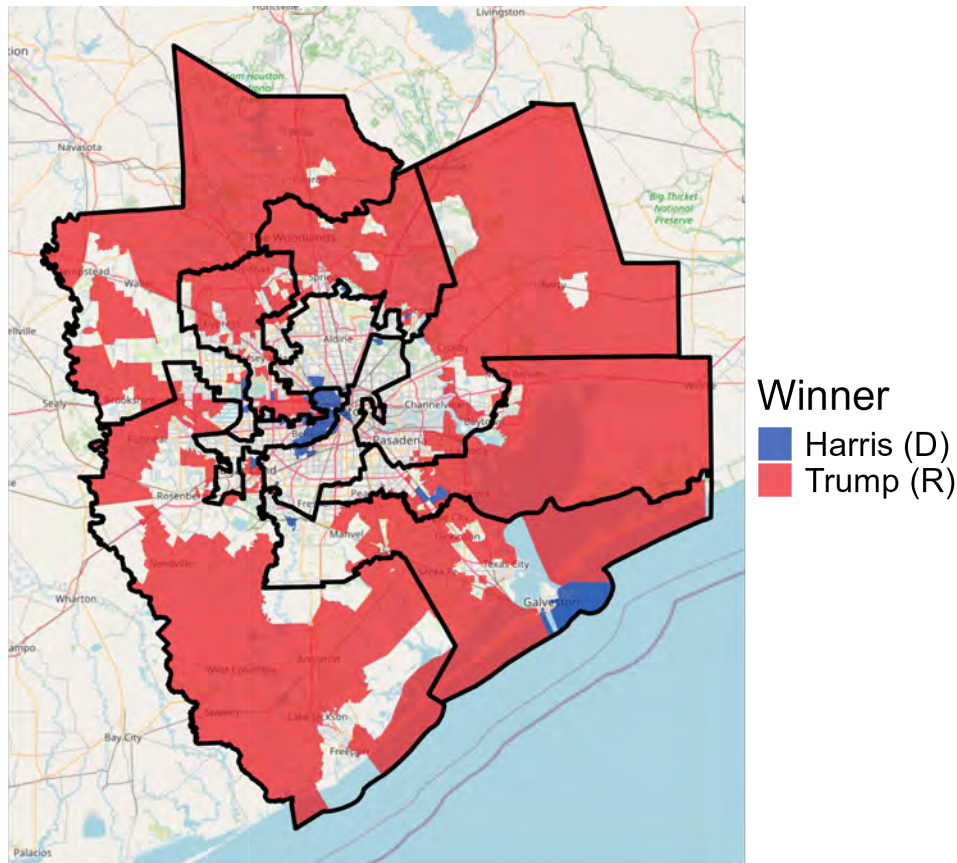
At trial in this matter, counsel for plaintiffs suggested that perhaps this type of map was “misleading” because a plurality White precinct might have a large population of persons of color. When we filter to majority White precincts, it doesn’t look significantly different. There are fewer precincts highlighted, but they are still well-sorted.

This is unsurprising, as majority-White precincts are simply a subset of plurality-White precincts. Therefore, if the plurality-White precincts are well-sorted by politics, it



would be unsurprising for the majority-White precincts to also be well-sorted by politics.

Figure 23: Houston area white majority precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



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Regardless, a would-be racial gerrymanderer would likely, at the very least, slice off the heavily Hispanic, densely populated northeastern corner of District 7 (Northside Houston) and pick up more of the White population north of I-610.

## 2.2 District 9

The First Barreto/Rios report also emphasizes the way the legislature drew District 9. First Barreto/Rios Report ¶¶ 45-46 The crux of the complaint seems to be that because District 9 could have been drawn with a higher Republican vote share and a

lower HCVAP, it is not credible to claim that the only goal was to increase the Republican vote share in District 9. While fact testimony on how District 9 was drawn is likely more useful than our forensic analysis, a few points are worth making here.

First, we are actually in agreement: It's unlikely that the only goal was to increase the Republican vote share in District 9. It just does not follow that because the politics was not the only goal in drawing District 9 that race was therefore a primary goal in drawing District 9. Redistricting is a complex exercise that involves balancing many goals. It is also an exercise in robbing Peter to pay Paul, particularly at the congressional level. When residents are moved out of one district, other residents must necessarily be moved into that district from somewhere. That often sets off second- and third-order effects. Here, the transformation from C2331 to C2333 grew into a complex chain of events involving almost 700,000 residents in 12 districts, 667,000 of whom lived in the Houston area.

We are also in agreement on a fact that the First Barreto/Rios Report acknowledges but glosses over: The changes result in a district that achieves the stated goal of increasing the Republican vote share in District 9. It might not *maximize* it, but maximization doesn't appear to be a stated goal, at least from the First Barreto/Rios Report. The changes transform the district from the only Republican district in the Houston region with a Trump performance of less than 60% to one where, like the other Republican districts, Trump won with around 60% of the vote.

To see why it is inappropriate to focus solely on District 9, consider the following: District 9 started with a Republican vote share of 57.7%. Two districts – 36 and 14, had Republican vote shares of 67% and 64%, respectively. From a gerrymandering point of view, that is an inefficient distribution of Republican votes. District 9 has its Republican performance improved by moving 111,000 residents in from District 36. Dr. Barreto notes that by moving Liberty County into District 9, its Republican vote share was improved substantially, but that it was now overpopulated by 110,000 residents.

Dr. Barreto's suggestion that this could be equalized by swapping residents out

of the southwestern, heavily Hispanic portion of the district makes some sense if there were no other goals to be pursued. But he overlooks that District 36 was now underpopulated; 111,000 residents had to be put in to District 36 from somewhere. It might be accomplished in the region to which he points, but he overlooks that by removing Liberty County from District 36, District 36 was also rendered non-contiguous.

The only way to connect the two portions of District 36 at this point is to cut into District 14 in Jefferson County, which the map did; this move involved a small number of resident changes. Now, however, District 9 cannot be population-equalized solely with swaps from District 36, because doing so would leave District 36 overpopulated. District 14 is also now underpopulated.

At this point, we can start to see other goals being pursued as a part of this swap. The mapmakers removed more voters from District 14 in northern Brazoria County, giving the district a more regularized edge. District 36 started to equalize its population by taking residents from District 18, helping to push that district out of Brazoria County entirely and remove a county split (which could potentially be used as a part of an argument that District 18 reflects a racial gerrymander). Overall, this brings the Republican vote share of 36 down to 62.6% and the overall population into parity. But District 14 is now substantially underpopulated.

District 14 removes an ungainly hook from the bottom of District 18, and also removes the remainder of that district from Brazoria County. District 14 also takes another precinct from the bottom of District 18, pushing that district boundary to Route 6. That portion of 14 is now non-contiguous, so the district follows the Brazos River into District 22. District 22 is now underpopulated by 55,000 residents. To help counter this, and to reduce district 14's overpopulation, District 14 gives up 24,887 residents to District 22, mostly in southern Brazoria County.

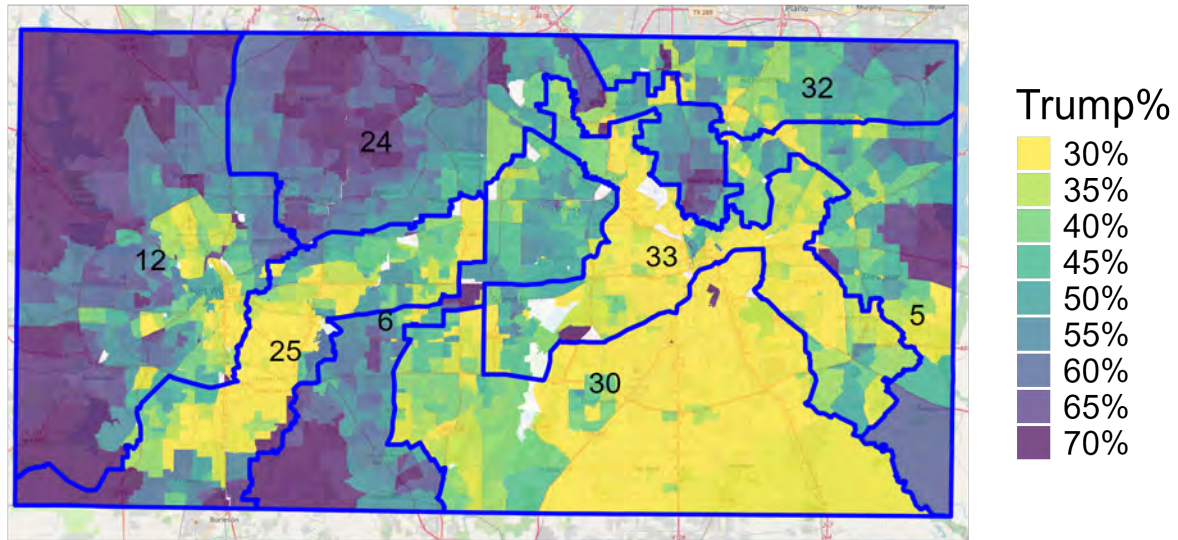
This chain of events continues for quite some time, but the point should be clear. The First Barreto/Roy Report's point might make more sense if the legislature had claimed it was only concerned about making District 9 as Republican as possible. Perhaps

fact discovery will prove them right. But from a “forensics” standpoint, there are other legitimate goals served by the redraw that the Report ignores.

### **2.3 Dallas/Tarrant counties**

There is little analysis offered in the First Barreto/Rios report of the Dallas area; simply a reference to maps. Once again, they largely ignore politics. A look at Trump’s vote share by precinct, with district lines overlaid, once again shows the political nature of the redraw. In Tarrant County, the Democratic portions of the district are cut in half. District 25 is able to take in the lion’s share of the Democratic population here, because the 220,000 residents of the district in the rural counties gave Donald Trump an astonishing 85% of the vote. Adding in Parker and Johnson counties brings the population total to 320,000, and Donald Trump’s vote share down to 83% (Harris received 16% of the vote). Even if the remaining residents had voted for Kamala Harris by 70%, Donald Trump still would have carried the district. Likewise, since the 112,000 residents of Parker County in District 12 went for Donald Trump by more than 50 points, the district had a large cushion to add Democratic residents.

Figure 24: DFW area precincts by Donald Trump Two-Party Vote Share, with C2333 district boundaries overlaid



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District 6 once again threads between the Democratic portions of Tarrant County in districts 25 and 30 to reach still-marginal territory in Irving. It extends into Dallas County right up to the point where the precincts turn heavily Democratic, at which point District 33 begins.

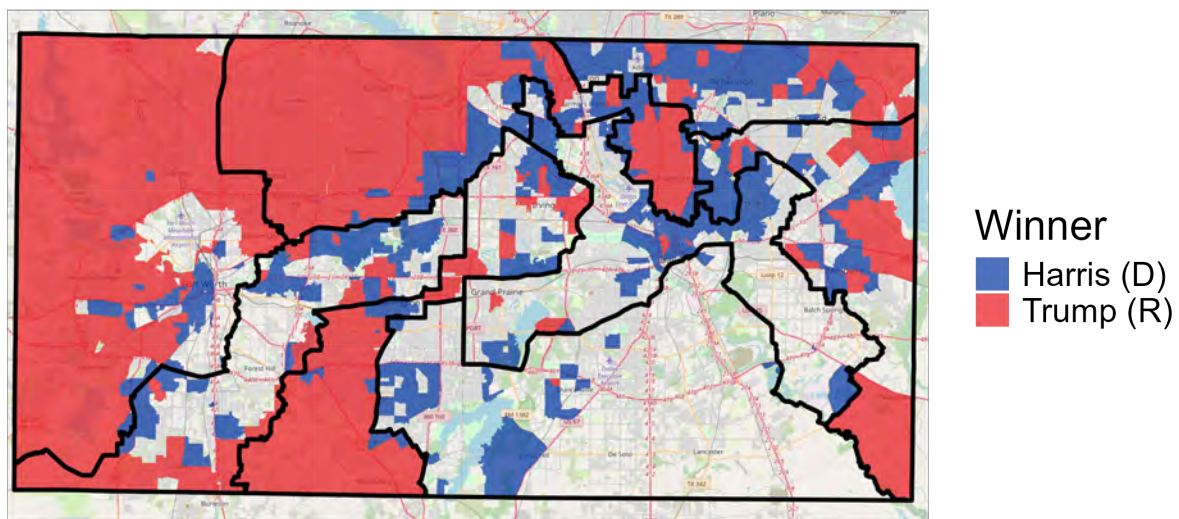
Districts 30 and 33 obviously soak up most of the Democratic precincts in Dallas County. Of the 354 precincts in Dallas or Tarrant counties where Donald Trump received less than 30% of the vote, 294 (83%) are placed in districts 25 (47), 30 (149) or 33 (98). The remainder are sprinkled through districts 5 (17), 6 (5), 12 (26), 24 (3), or 32 (9). If we look at precincts Trump carried with 70% of the vote or more, there are not many (79), but only two are in district 30, six in district 33, and five in district 25.



We can once again see that the odd appendage from District 24 into Dallas County succeeds in carving out the most heavily Republican Precincts around Highland Park and University Park. District 5 mostly swaps swing precincts near Garland and Sachse for Democratic precincts in Lakewood and Northeast Dallas. Overall, the lines are fairly sharp.

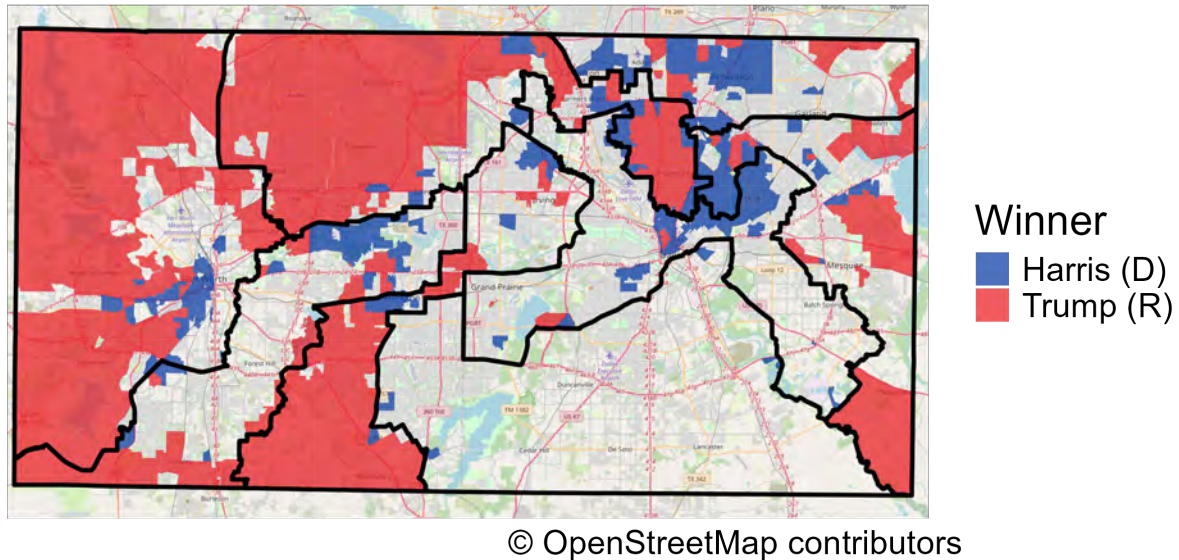
We can also re-examine our maps showing how majority White districts are dealt with. Whether we look at white plurality precincts, or the narrower subset of white majority precincts, we see that these precincts are spread among the districts; the key is that the White Biden precincts are either pushed into District 33 or placed in districts 5 or 32, where they are overwhelmed by rural Trump voters.

Figure 25: Dallas/Tarrant County white plurality precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



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Figure 26: Dallas/Tarrant County white majority precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



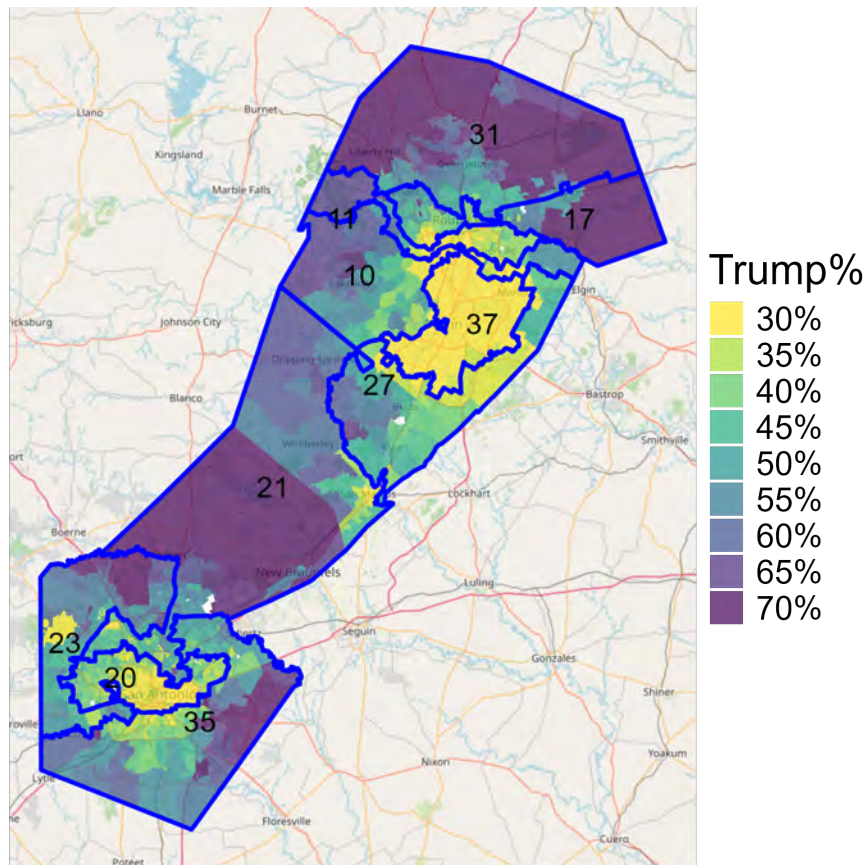
## 2.4 Bexar/Travis counties

The Bexar and Travis county area districts show the same tendencies. District 37 is reconfigured in such a way that it takes in the core of Democratic Austin. It contains only 14 precincts where Donald Trump received more than 30% of the vote. The remaining democratic precincts are cracked between districts 10, 11, and 17, which in turn extend deep into rural Texas. Outside of Travis County, District 10 has 490,000 residents, who gave Donald Trump 72% of the vote. District 11 has 609,000 residents, who gave Donald Trump 76% of the vote. District 27 has 679,000 residents, who gave Donald Trump 64% of the vote. Democratic areas around Round Rock are subsumed into District 17, the rural areas of which gave Donald Trump around 70% of the vote.



In Bexar County, we can see that District 20 takes in most of the heavily Democratic areas. Harris lost just 7 precincts in that district. Outside of District 20, Bexar County was evenly split between Harris and Trump.

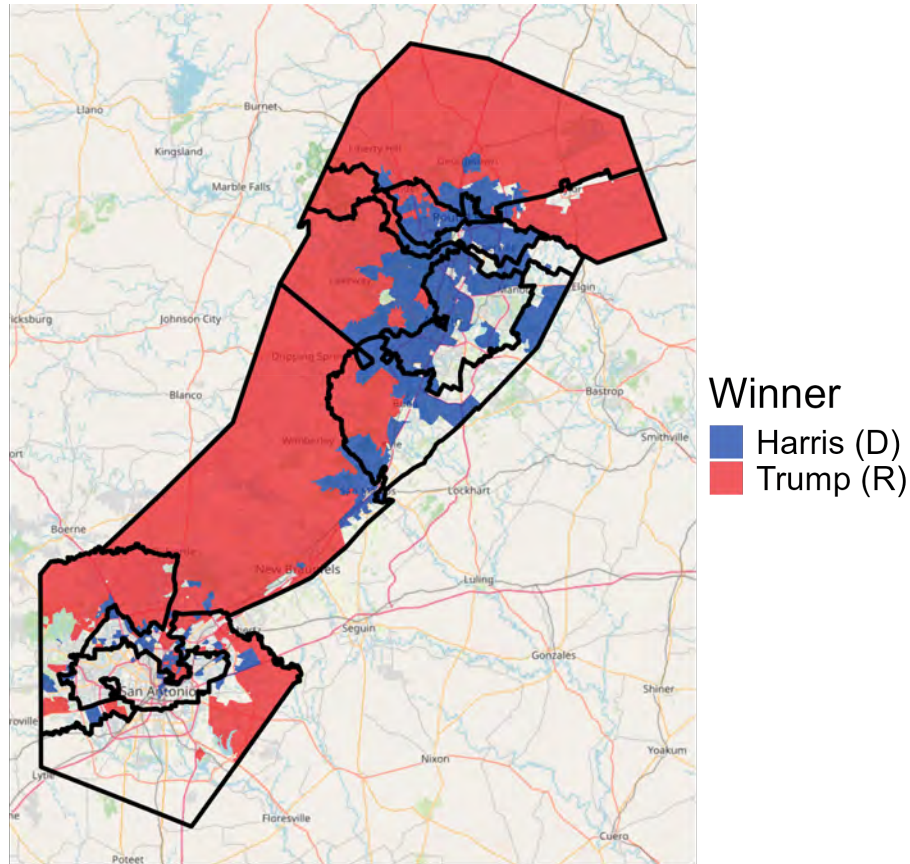
Figure 27: Austin/San Antonio area precincts by Donald Trump Two-Party Vote Share, with C2333 district boundaries overlaid



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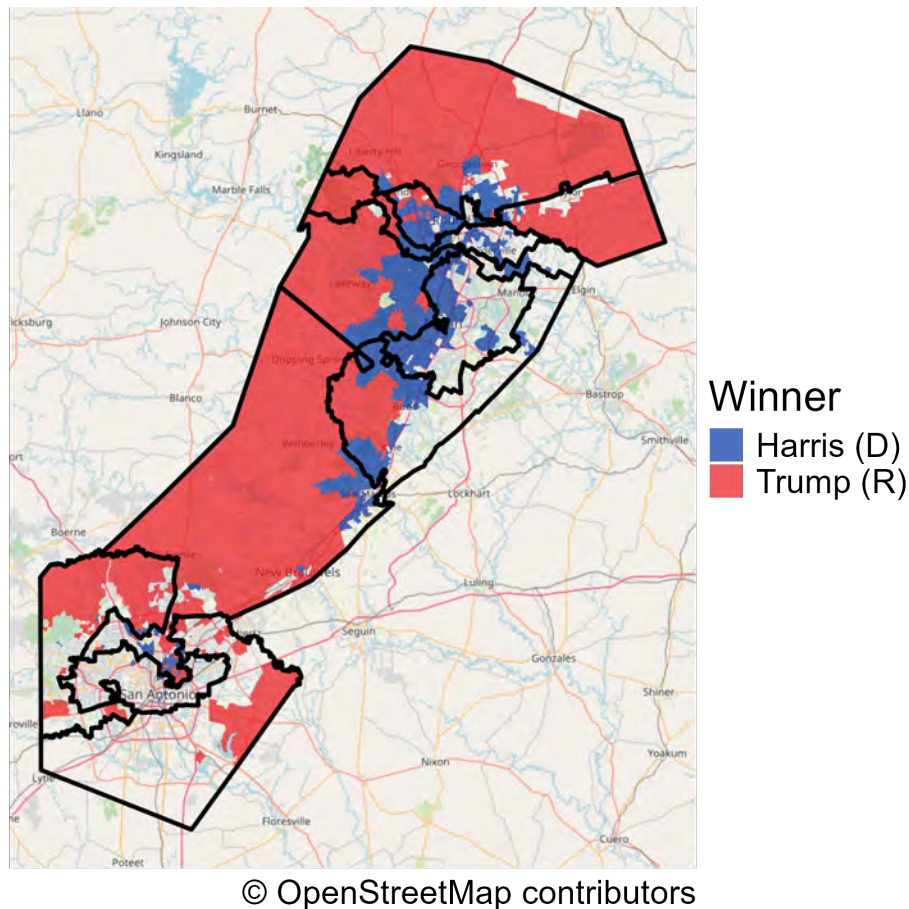
Once again, the view between White plurality and White majority precincts is much the same; the mapmaker places a large number of White majority/plurality precincts into District 37 notwithstanding the availability of a large number of non-White majority precincts to the east of the district. But that would place a large number of majority-White Harris-won precincts in surrounding districts, making them more marginal.

Figure 28: Austin/San Antonio area white plurality precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



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Figure 29: Austin/San Antonio area white majority precincts, shaded red for Trump win and blue for Harris win, with C2333 district boundaries overlaid



### 3 Simulations Overview

Throughout these cases the various experts have repeatedly discussed computerized simulations, but the purpose and limitations of these simulations are often glossed over. But because a full treatment of the simulations included in the Barreto/Rios reports involves some deeper considerations than we have encountered in the past, I will spend some time up front discussing the simulations generally before turning to their specific simulations. This discussion is intentionally kept at a high level and simplified for readability, so nuances will be glossed over. But it will hopefully help the Court to better evaluate the data and to answer relevant questions.

The goal of determining whether a plan is drawn with partisan intent is a difficult one. In particular, the astronomically (literally) large number of maps available makes it difficult to compare a given map to the universe (again, literally) of possibilities, since there are, for all human purposes, a limitless number of possibilities.

With advances in computing power, however, it has become possible to have a computer generate a large number of maps conforming to certain criteria. A few of these techniques, if allowed to run an infinite amount of time, produce every map available (subject to given constraints).

Two of these techniques, “sequential monte carlo” and “merge-split” algorithms are employed in this matter. Without getting too far into the details of the algorithms, sequential monte carlo draws maps “from scratch,” while merge-split changes a map in steps by selecting two adjacent districts, merging them together, and then re-splitting them into two (hopefully) different districts. Over the course of many, many “steps,” this approach will explore the possible maps available.

In effect, these techniques produce a poll of potential maps. It’s impossible to speak to every American to learn their political preferences, so instead we speak to a small sample and draw inferences from based upon that sample. In the same way, since it is impossible to enumerate every map, we ask the computer to produce a sample of those maps. The political or racial makeup of an enacted map can then be compared to the political or racial makeup of the computer-drawn ensemble. If the political or racial makeup of the enacted map differs from that of our ensemble, we might conclude that the enacted map was drawn with political or racial considerations in mind. Put differently, if our ensemble were truly produced under the same constraints as those which constrained the mapmaker, save for political and racial concerns, we might conclude that politics or race entered the mapmaker’s calculations. If our ensemble is markedly different from the enacted map, we might conclude that race or politics was the predominate consideration.

There are three important caveats. First, these ensembles are powerful tools in certain circumstances. For example, when a map is so convoluted that there really can

be no valid consideration other than something like race or politics – in other words the map maker was effectively unconstrained – lightly constrained simulations will easily identify the map as a partisan or racial outlier. Since race is often unavailable as an explanation due to the limitations of the 14th Amendment, that will often leave politics as the explanation. This is the situation I confronted in my testimony in Maryland and New York.

When it clear a map is a gerrymander, but it is unclear whether it is a racial or political gerrymander, it can be more complicated. It can be especially complicated if state law allows for one of those types of gerrymanders. First and foremost, it is difficult to achieve a representative map set because these algorithms were not created to draw gerrymanders. In other words, it is hard to get them to draw a set of race-neutral political gerrymanders in order to rule out the possibility of race as an explanation, or vice-versa although there are workarounds of varying utility. The algorithms naturally tend to draw compact districts, so if a mapmaker is largely indifferent to compactness, or isn't at least theoretically constrained by a "strong" compactness requirement in a state constitution, it can be difficult to truly approximate the non-racial or non-political constraints under which the mapmaker was operating, because you have to force the simulations to act against their natural tendency.

Moreover, because race and politics are often intertwined in America, they are difficult to disaggregate. To the extent compliance with the federal Voting Rights Act is a legitimate reason to draw heavily on the basis of race, these explanations can sometimes be ruled out by "freezing" potentially protected districts – again, this tactic has been explored elsewhere, including by myself in New York and Maryland – and restricting analyses to areas where race is not a viable explanation. This is effectively what Dr. Barreto attempts to do in some of his analyses, although there are problems with the way that he has implemented it. Second, it is important to ensure that the simulations operate under the same set of constraints as the mapmaker. Because many of these constraints – compactness for example – often relate to political outcomes, failure to



constrain oneself in the same way as the map drawer can result in a politically skewed ensemble (relative to the map maker). Returning to our polling analogy, if you are polling Texas and have a list of residents of Dallas and Tarrant counties, you will probably obtain a racially diverse sample. If you see some other Texas pollster who gets a heavily all-White sample, you might suspect something is amiss and conclude that he was a bad pollster. If, however, this other pollster had a list that contained mostly panhandle counties, it will be difficult to isolate problems with his technique from the fact that you and he were simply operating under different constraints.

To make this more concrete, if a mapmaker is unconcerned with compactness and your algorithm tends to produce compact maps, it becomes more difficult to isolate politics (or race) as a driving factor in an enacted plan. The mapmaker might simply be drawing less compact districts than the algorithm, and because politics, race and compactness often intertwine, that compactness preference has a second order effect of producing a different racial or political makeup.

Or, a mapmaker might be interested in protecting incumbents of his or her party. He might do this by (a) ensuring they are not drawn into a district with another incumbent of the same party (b) ensuring that they are not drawn into a district that is politically unfavorable and/or (c) ensuring that they are not drawn into unfamiliar territory, risking a primary challenge. In my experience drawing maps, working with incumbents can constrain the acceptable outcomes in ways that are difficult to quantify; a map that placed them in a district with another incumbent or left them vulnerable to a primary challenge would be dead on arrival. Also, because race and politics are often interrelated in America, a map maker who wanted to draw districts that strongly favored his party would likely be sampling from a different set of possible districts than a simulation ensemble produced pursuant to generalized redistricting concerns.

Third, these simulations can be quite fragile, and their output must be carefully examined. The simulations tend to take user-imposed constraints quite seriously, and when too many constraints are imposed they may produce only a handful of unique plans.

An ensemble that nominally produces hundreds of thousands of maps may, in fact, only produce only a handful of *unique* maps, rendering useful comparisons impossible.

In the “step-based” approach that the Barreto/Rios reports utilize, there is an additional problem that the mathematics involved rely on something called a Markov Chain. While this is a mathematically complex subject, the following should loosely explain the issues that can arise from this.

Imagine that you intend to explore a planet using remote “rovers,” or if you prefer, “a robot.” One robot therefore sent to a foreign planet. To explore the planet, it makes random choices to turn. Rather than constantly sending back video, which would be time consuming to evaluate, it sends pictures at set times. From this sample of pictures, you hope to learn about the general features of the planet as the robot moves through polar regions, forests, etc.

For the first few moves the robot makes, you are likely going to receive pictures that are highly dependent on the starting point and are therefore not representative of the planet. But after enough random choices, the robot will make choices that lead it away from the starting point and, eventually (in theory), around the entire planet. Given enough time, your pictures will produce a representative sampling of what the planet looks like. If the robot is allowed to continue long enough, it will eventually send pictures from all over the planet, and you will have valid inferences about what the planet is like from your photo set, and your starting point will be irrelevant. This is (basically) what “convergence” means.

You may have two questions in your head immediately: (1) How long will it take to achieve this state and (2) what if my robot starts in a crater that it has trouble getting out of? The first question is a very good one, and it honestly doesn’t have a clear answer, but this is a complex subject that is beyond my critique here. Long story short: It’s part of why such a massive number of plans are typically created. The second question provides a bigger practical stumbling block. Suppose your robot starts out in a crater with only a narrow path out. It might take your robot an extremely long time to find



this path. If you've called a stop to exploration before that, believing that surely you've covered the whole planet by now, you might conclude that the crater is representative of the world when in fact your robot was just stuck in a bottleneck.

There are solutions and workarounds here. The most common – employed by Dr. Barreto here – is to land multiple robots. They likely won't all land in the crater. When they all eventually start to return pictures that, in their totality, look the same, you'll assume that the different landing points have likely converged and you now have a good sample you can draw inferences from.

In the real world, if the program is strongly constrained by a compactness requirement, but the map has a narrow strip of precincts (or one large precinct), it may have a difficult time producing maps that move through that area, and thus fail to explore the full sample space until an unusually large time is spent. If the chain is terminated before that happens, it will not produce a valid sample.

To address this, many packages, including *redist*, which I used earlier in the case and the Barreto/Rios reports employ here, enable you to run multiple chains and include diagnostics that will tell you whether your ensemble is sufficiently diverse (*i.e.*, it does not repeatedly return the same maps) and whether the chains have converged. In other words, if you explore the diagnostics, it will tell you whether you have a usable ensemble from which you can draw inferences.

### 3.1 Data creation and management

During the course of this litigation, experts have generally been good about providing the data to each other that they will need to reproduce each others' work. For example, Dr. Duchin has provided her chains to defense to examine, and Dr. Ansolabehere provides all data and computer code needed to replicate his work. I've provided clearly labeled code and shapefiles needed to recreate my ensembles.

The Barreto/Rios report is different. They have declined to produce his simulation set for inspection. This would not necessarily be a huge problem. At the time of my

initial report, I did not save my final simulations, as they were often massive files that consumed a lot of memory and were difficult to transfer because they were far too large to e-mail. To try and ensure that opposing experts could replicate the exact maps that I produced, however, I used a technique known as setting a seed. This tries to ensure that any computer running my code would make the same random choices that my computer made. Thus, an expert who ran my code would still produce the same solution set that I was examining, and could explore and critique that set as they see fit.

Dr. Barreto/Mr. Rios did not set a seed in their code, which means that the exact simulation set that they produced and examined is effectively destroyed. While I've received word that they have offered to run sims using a seed of my choice, and that I can recreate my simulations using the same seed, I learned of this roughly 36 hours before this report was due, making such a solution impractical (and it isn't clear why they just wouldn't produce those simulations).

After all, according to the Second Barreto/Rios Report, it required several weeks to produce the final simulations given the "high computing demands required to complete analysis on the newly passed maps for the second most populous state in the country with nearly 19 million registered voters and 38 congressional districts." Regardless, the best available option at this point is to replicate their process via whatever code they have shared and accept that the maps produced may be somewhat different from what they analyzed.

Even this has proven difficult, however. To run the code, the computer reads in a file via the command `"texas_24 < - fread("filepath")"`. What this does is place something into the computer's memory that it labels "texas\_24." That object is later transformed into a redistricting map which the computer uses as the basis for its simulations.

Unfortunately, there is no item in the production titled "filepath." My understanding is that plaintiffs have refused to produce this document, and instead refer to the computer code for instructions on what to include in the file. In other words, they do not produce the files needed to run their code, but rather instruct defense on which

data to obtain, which can then be manipulated to (hopefully) produce the file that they would put in their own “filepath” slot. This is troubling because (a) it isn’t how this is usually done, in my experience and (b) there are choices – how to weight data, how to handle split precincts, and so forth – that have to be made by a programmer here. This is why in my previous productions all native shapefiles on which I relied were made available, and code is included that illustrates how I turned those into my mapfile. It required no search for data by opposing experts, nor did it require guesswork on how I chose to merge and weight data. If I made a mistake in merging my data, or if I made a questionable choice, it could be discovered. This is not possible – for all I know the files on which Dr. Barreto or Mr. Rios relied are riddled with errors and inconsistencies. This has been important in litigation in the past; in a case in Nassau County, since replication files were made fully available, it became apparent that there was an error in a different expert’s joining process that frequently yielded non-contiguous districts. If I had been left to do it on my own and not made the error, I would not have produced those maps. Regardless, I have, as per counsel’s instructions, carefully followed the instructions in Dr. Barreto/Mr. Rios’s code to create the shapefile on which their code is based, using my best judgment. My analysis follows.

## 4 Review of the Barreto/Rios Simulations

The first Barreto/Rios Report concludes with a set of simulations. It opens with a now-familiar dotplot of what appears to be 1,000 simulation results of a statewide map. I say “appears” to be because I don’t believe that I’ve ever received any code that produces 1,000 simulations. If Dr. Barreto/Mr. Rios are using the merge-split, algorithm, as they do in the second report, then 1,000 simulations is far too few steps in the simulations to draw conclusions. In fact, 1,000 simulations are a low number for any simulation evaluation. My assumption is that Dr. Barreto and/or Mr. Rios uses SMC here – the algorithm that I used in my initial report – which is not a step-based algorithm. Nevertheless, they produce two orders of magnitude fewer maps than I produced earlier.

In fact, that is lower than I ever recall seeing produced with merge-split or SMC in litigation.

Moreover, a quick look at the output here shows immediate signs of a problem: Banding. You can see that in several instances (Ranks 1-4, Rank 7, Rank 12, Rank 38), the dots form lines, rather than a cluster. This often indicates a lack of diversity in the simulations. One reason to produce a large number of plans is that the software will often produce duplicate maps, particularly if it finds a combination of precincts that works particularly well. On its own, this is not a problem. If you were polling the height of American men, you would get multiple responses near 5'9". Since you need a representative sample of the underlying distribution to perform statistical inference, we want multiple instances of maps that might fit the constraints particularly well. At the same time, if you only have a handful of maps that fit a set of constraints, it is an indication that the simulation is overconstrained, and that the maps are not able to explore the sample space fully.

Finally, all that these maps demonstrate is that the map is either a political or a racial outlier. We do not need simulations for this, as we are in agreement here. But the problem is that in order to distinguish between the two, we need a set of simulations that accurately replicates the constraints under which the map maker was laboring while withholding either racial or political data, but not both. If that is accomplished – and it is difficult to do so in most circumstances – a researcher can then compare the racial or political makeup of the simulation ensemble to the racial or political makeup of the enacted map and draw inferences.

But because Map C2333 presents as an outlier on both the political and racial simulations, we cannot draw an inference other than that the map does not look like one drawn without unusually heavy partisan or racial demands. That does not disaggregate race from politics.

More importantly, it uses a measure of Republican performance that I, in my experience as an elections analyst, would not employ. Nor does it appear that the map-

maker employed it. This iteration of simulations counts a district as Republican if Donald Trump carried it. But this would be a bad heuristic for two reasons. First, Trump won the popular vote by about 1.5 points in 2024. This means that a district that he carried by a point would actually have a slight Democratic tilt to it overall.

To see why, consider Massachusetts in 1980 and 1984. Ronald Reagan carried it narrowly both years. On a naïve read, one might conclude it was a “Republican” state. The national environment, however, was extremely favorable for Republicans both years at the presidential level. The state was about seven points to the left of the national average, but because Reagan was winning by large margins, that was enough for the state to go “red.” In 1988 and 1992 the state remained about seven points to the left of the popular vote, but because the environment was less favorable to Republicans, the election was closer and the Democrat carried it. While it might look as though the partisanship of the state changed, in fact it was more-or-less constant relative to the country: It was always one that would be expected to vote for a Democrat in a neutral year. In the same way, in a purely neutral year where the popular vote is split exactly, we would expect Democrats to have a slight advantage in a district Trump won by a point or so. A Republican gerrymanderer would be extremely unlikely to draw such a district.

Moreover, this is intended to be a test of mapmaker intent, and the mapmaker here apparently did not want to draw marginally Republican districts. He drew *overwhelmingly* Republican districts. Again, fact discovery might yield a different conclusion, but the First Barreto/Rios report even cites to an example of Republicans expressing dissatisfaction with a district that was almost 58% Republican. Thus, a 51-49 district, which most analysts would consider a tossup, would not be one that would satisfy a political gerrymanderer’s desire to entrench his party in seats in a red state like Texas. A simulation set that counted such a district as acceptably Republican would not be constrained in a way similar to the mapmaker.

There are two other simulation sets that can be addressed quickly. The code for the second set, which covers some of South Texas, was never produced. I have no code

that tries to filter districts in Guadalupe County, or District 35. Since the simulations were not produced, it is impossible for me to replicate or evaluate the Barreto/Rios' map's supposed findings here. With that said, given the badly flawed nature of the subsequent simulations, I would be reluctant to trust these results.

The final simulations in this set do appear to be made available in the code produced. However, the instructions for that code provide "Dataset needs CVAP, 2024 Presidential Election results, and C2193 boundaries merged at the VTD level For other regional replications, change the counties to subset on lines 27-28 Also, change the number of ndists on line 34; the K\_min on line 52." (cleaned up). This differs from later code, which specifies using the C2333 boundary files. In other words, these simulations appear to test the wrong map. This may well be a typo, but since I have no shapefile and no computer output to test, I cannot be sure of this. However, based upon what I have available to me, these simulations are unhelpful because they test the wrong map.

The Second Barreto/Rios declaration begins with an analysis of Districts 7, 18, and 29. ¶6. It concludes that it would be extremely unlikely that a majority BVAP district would be drawn. Because they are analyzing only Democratic districts, they claim that they do not have to worry about politics as an explanation.

The problem is that this approach does not actually replicate the approach that the mapmaker was taking. While the envelope approach is useful, particularly in a large state like Texas, it also has real limitations. Simulations need some room to "breathe" in order to truly approximate the choices available to the mapmaker, but also to allow the map set to converge and avoid bottlenecks. In fact, we know from the discussion of the drawing of District 9 above that when the mapmakers drew Districts 7, 18 and 29, that they did *not* feel limited to the precincts that ended up in Districts 7, 18 and 29.

To that end, I replicated the Barreto/Rios simulations for Districts 7, 18 and 29. I then did what Dr. Barreto and/or Mr. Rios seemingly failed to do: Run diagnostic checks on it. The chains here fail multiple diagnostics and are unusable. The diagnostics report "WARNING: Low Plan Diversity," with a red "X" next to it. It continues "Low diversity

. . . ‘. Consider weakening or removing constraints, or increasing the population tolerance.” Next, it says “Watch out for low acceptance rates (less than 10%).” The reported chain acceptance rates are 1.0%, 1.1%, 0.9%, 0.9%, 0.9%, 1.1%, 1.0%, and 1.1%. In other words, the simulations that they produce fall far short of what the creators of the software considered adequate for producing an ensemble from which you can draw valid inferences. It is so far off, creating an effective sample would require effectively creating an entire new case-in-chief.

Looking at the plans more closely, of the 393,608 generated plans, 357,775 are duplicates, leaving just 35,833 unique plans. This is the low plan diversity complained about. If anything, this undersells the problem, since a map can be one precinct off from a separate map and still appear as though it were a “different map.”

Dr. Barreto next explores possibilities for districts 30 and 33. Once again, when we run basic diagnostics on the plans, it responds “WARNING: Low plan diversity.” Just to be sure of myself, I ran 16 chains here, and the acceptance rates were as follows: 0.3%, 0.3%, 0.3%, 0.3%, 0.2%, 0.3%, 0.3%, 0.3%, 0.3%, 0.3%, 0.4%, 0.3%, 0.3%, 0.2%, 0.3%, and 0.3%. Recall that the software warns against acceptance rates of less than 10%. A brief comparison of the chart in the Second Barreto/Rios Report and mine confirms that we are reaching similar results.

To illustrate what is occurring “under the hood” consider the following chart, which shows every 10,000th map in the chain created in this region:

If you look carefully enough, you can see variations in the way districts are drawn, but they are marginal. Maps 114,000 and 124,000 vary by a couple of precincts at the very top, so while they are technically different maps for purposes of a computer, I do not know that most humans would consider them different in a meaningful way. At the same time, it appears that map 74,000 in the chain is the same as map 124,000 in the chain.

In other words, the chain is “stuck.” It has found a basic configuration that optimizes the constraints under which it exists, and finds it difficult to improve upon. But



Figure 30: Map state at steps 14,000 through 124,000, every 10,000 steps



because we are humans and not robots, who likely do not have a fixed polsby-popper compactness score to target in our mind, we might find that we prefer a configuration that lays more on its side, which is what the existing map does. Regardless, this is not a sufficient baseline from which to operate. It would require effectively starting from scratch with an entirely different simulation set – in effect a new opening report from Dr. Barreto/Mr. Rios – to draw adequate conclusions.

We then proceed to the analysis of Republican districts in the Harris County area. Here, Dr. Barreto/Mr. Rios effectively concede defeat from the outset: They are unable to produce seven districts where Trump's vote share was higher than 59%; the most they can produce is six. They proceed instead with districts where Trump's vote share was higher than 56%, notwithstanding the fact that a district with a 57% Trump share was specifically judged insufficient by the legislature. Second Barreto/Rios Report n.2. They assert that this shows the "greater unlikelihood" of producing a Trump-majority Hispanic district in the area, but they do not know this; this is the entire reason that we produce simulations. Remember, maps with seven 59% Trump districts are not a subset of maps with six 59% Trump districts or of maps with six 56% Trump districts; they are a completely different set that may be limited to completely different configurations. There are presumably far fewer combinations in the area that result in seven 59% Trump districts than there are combinations that result in seven 56% Trump districts; it may be that the legislature stumbled on one of only two or three possible configurations.

Regardless, a quick examination of Figure S3 and Figure S4 reveals problems at the outset with those simulations that they do produce: there is extreme banding at almost every level:

Indeed, chain acceptance rates are once again dangerously low: Below 10% in multiple instances. It warns "WARNING: Low plan diversity" and continues "Low diversity: Increase the number of samples."

And once again, we can see that the maps produced are variations on a single theme. Because of the "donut" around Harris County, the logical way to produce compact

Figure 31: Figure S3, Second Barreto/Rios Report

**Figure S3: Probability of Majority-Hispanic CVAP District Among 7 Trump Districts in CD2-CD8-CD9-CD14-CD22-CD36-CD38 Region Among 2.7 Million District Possibilities**

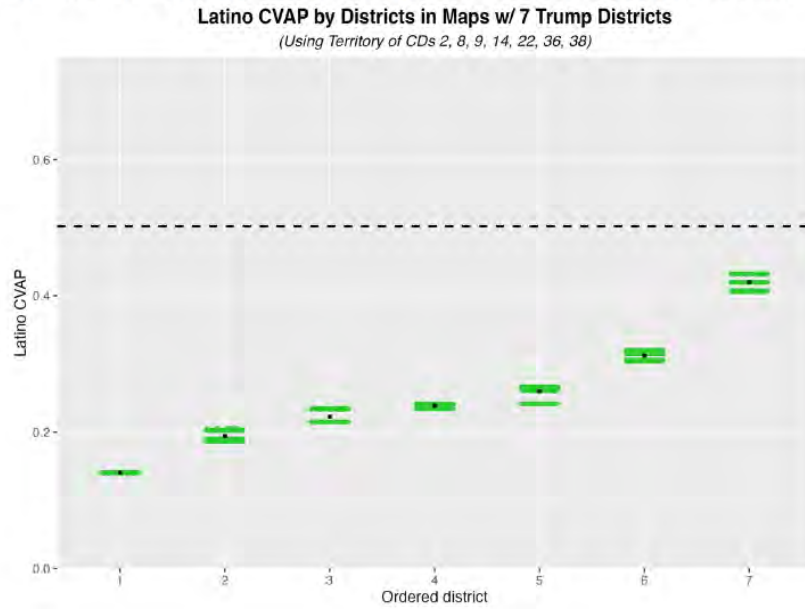


Figure 32: Figure S4, Second Barreto/Rios Report

**Figure S4: Estimated Trump Vote Share in the 7 Trump Districts in CD2-CD8-CD9-CD14-CD22-CD36-CD38 Region Among 2.7 Million District Possibilities**

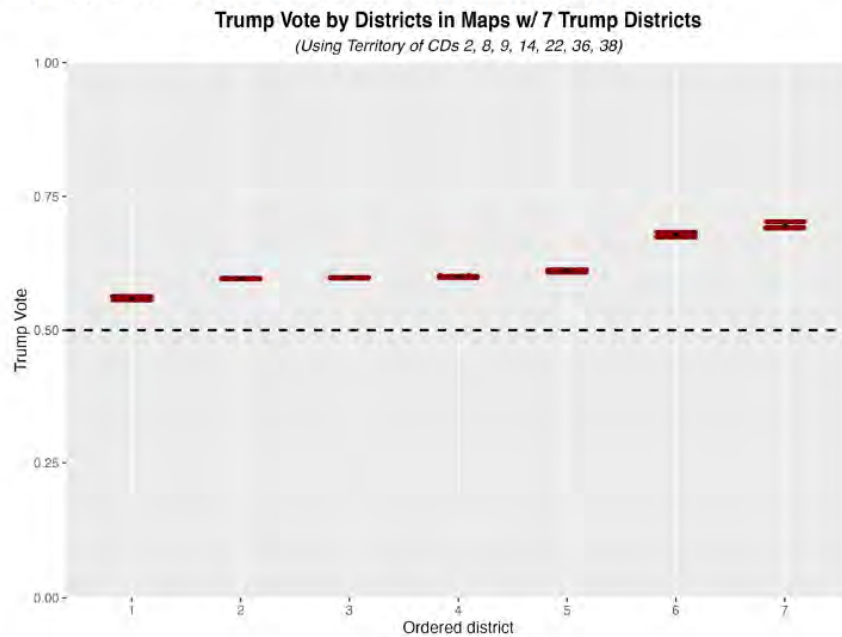


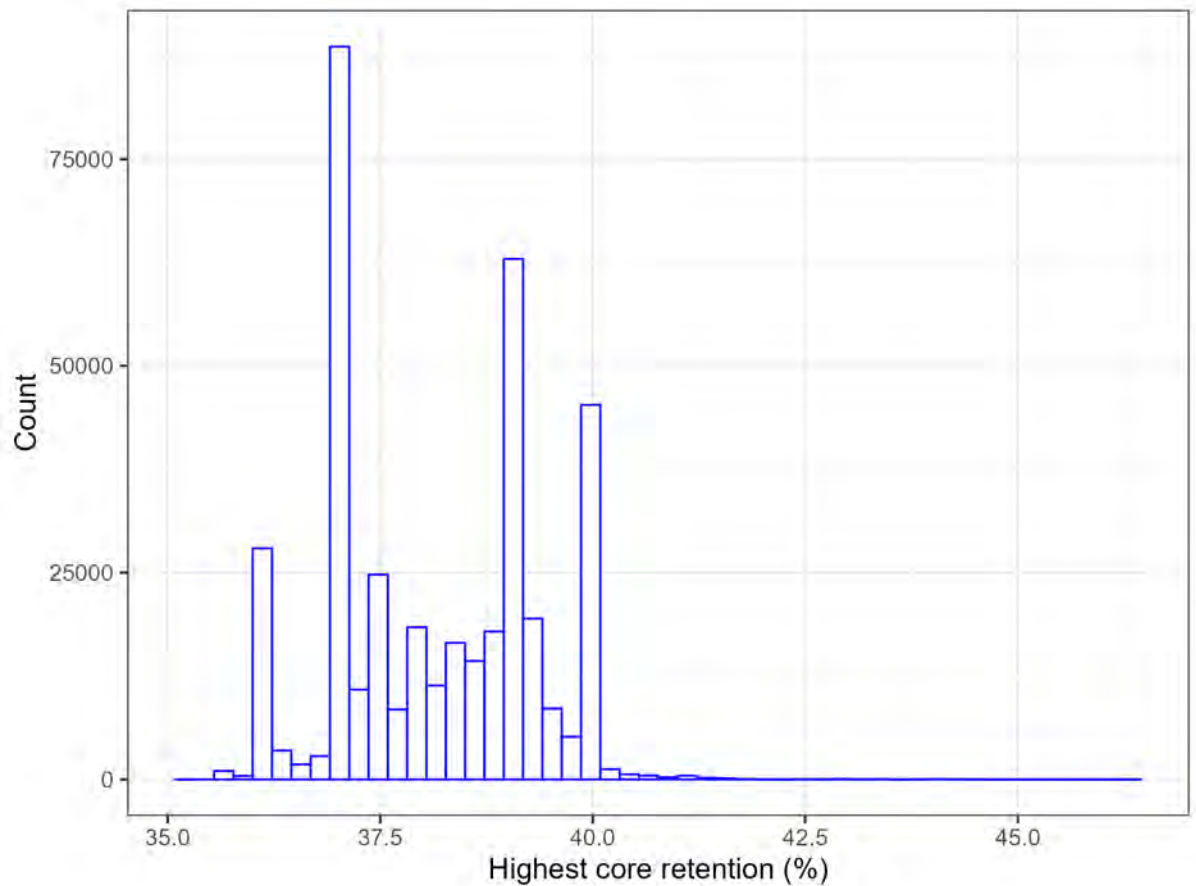
Figure 33: Map state at steps 14,000 through 124,000, every 10,000 steps



districts is to create pizza slices emanating from the center. Once again, the computer finds a configuration that it likes and repeatedly samples variations of it. Because that basic configuration is different than what the mapmaker decided upon – and apparently much more respectful of compactness – it is unsurprising that it produces a different racial breakdown than the enacted map: The maps are simply drawn from different distributions.

This also introduces additional complications. Because we are now dealing with Republican-held districts, incumbency becomes a challenge. In particular, the mapmaker would not want to place Republican incumbents in the same districts. Yet in this ensemble, 179,633 of the 393,607 maps (45%) place at least two Republican incumbents in the same district.

Figure 34: Highest core retention rates per ensemble map, Barreto/Rios Ensemble for Harris County



Finally, because we are dealing with Republican districts, there is likely a concern over core retention, aside from District 9. Core retention is the maximum percentage of the population in the baseline map (here the 2022 map) that is retained in a single district in the proposed map. As it turns out, the six Republican-held districts in this cluster in C2333 have core retention rates of 59% or higher. This is generally favored by incumbents, who do not want to have to introduce themselves to new voters every cycle.

As it turns out *none* of the districts in the Barreto/Rios ensemble here have core retention rates of even 59%.

With the South Texas analysis, things are worse. The diagnostics return the following “Chain acceptance rates: 0.1%, 0.1%, 0.1%, 0.0%, 0.0%, 0.1%, 0.1%, and 0.1%.” Recall that the software warns against acceptance rates under 10%. It also warns that

“R-hat values for summary statistics should be between 1 and 1.05.” The R-hat is a crucial diagnostic: It warns us that a robot might be stuck in a crater. When we run our diagnostic, all of our chains report R-hat diagnostics well beyond the 1.05 marker: Compactness (1.73); Population deviation (1.388); Trump Vote (1.388); Harris Vote (1.708); White CVAP (1.879); Latino CVAP (1.907); Black CVAP (2.554). It then warns in bold: “Chain convergence: Increase the number of samples. If you are experiencing low plan diversity, address that issue first.” Of course, these diagnostics are flagged in a set created *before* Dr. Barreto and/or Mr. Rios filter out roughly half of the plans for failing to produce a sufficient number of Trump districts. Moreover, of these plans, only 107 appear to be unique. These simulation results are simply unreliable.

The same is true of Dr. Barreto and/or Mr. Rios’ statewide plans. None of the acceptance rates are above 10%. None of the chains appear to have converged in either the base or after they filter down to 30 Trump-district maps. The chart on Figure S7 shows evidence of banding, which is unsurprising given that there are only 4680 unique plans at this point. This is simply unreliable.

Moreover, the indifference to incumbency creates real difficulties here. Every map in the ensemble places two Republican incumbents into the same district at least once. Finally, C2333 maintains, on average, 64% of the cores of districts. Many maps in the ensemble have a maximum core retention of less than that, and an average core retention in the 20% range.

Figure 35: Max Core Retention, Statewide Sims, Barreto/Rios set

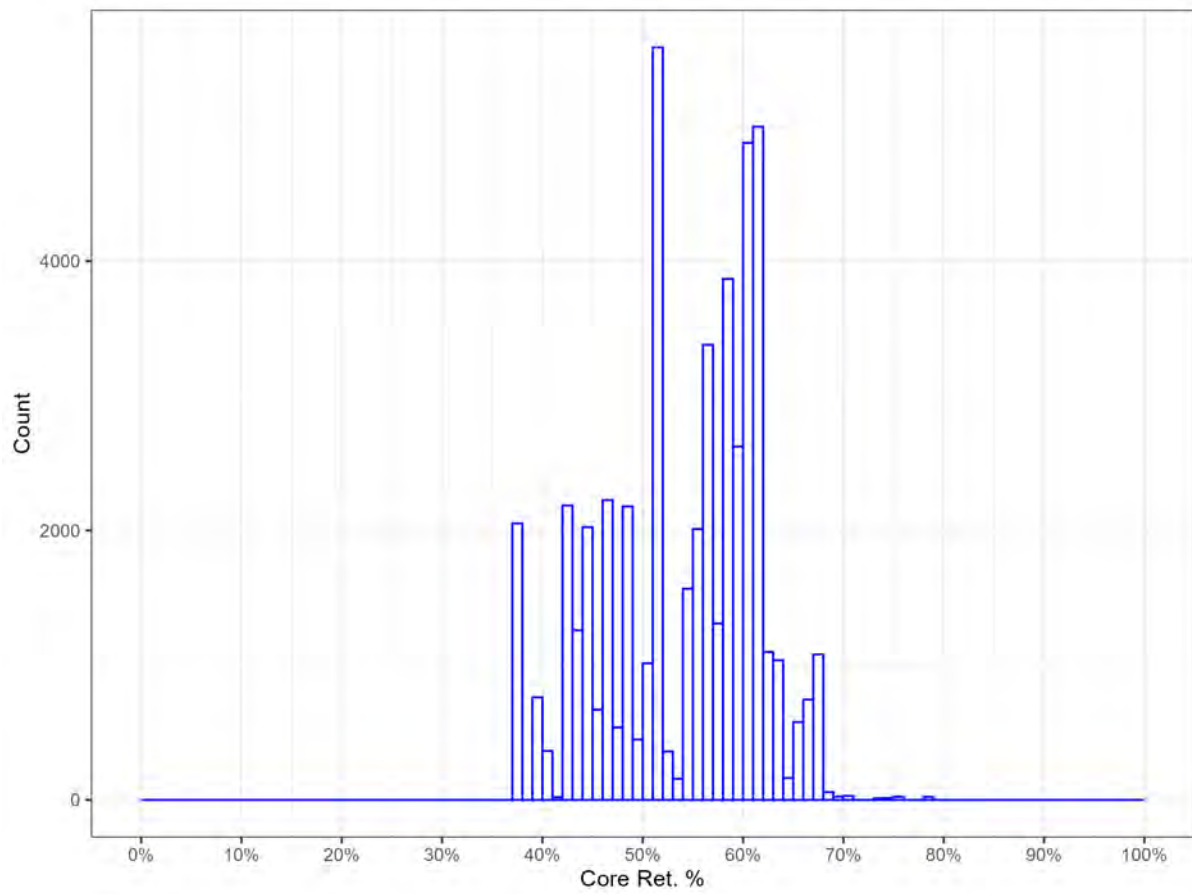
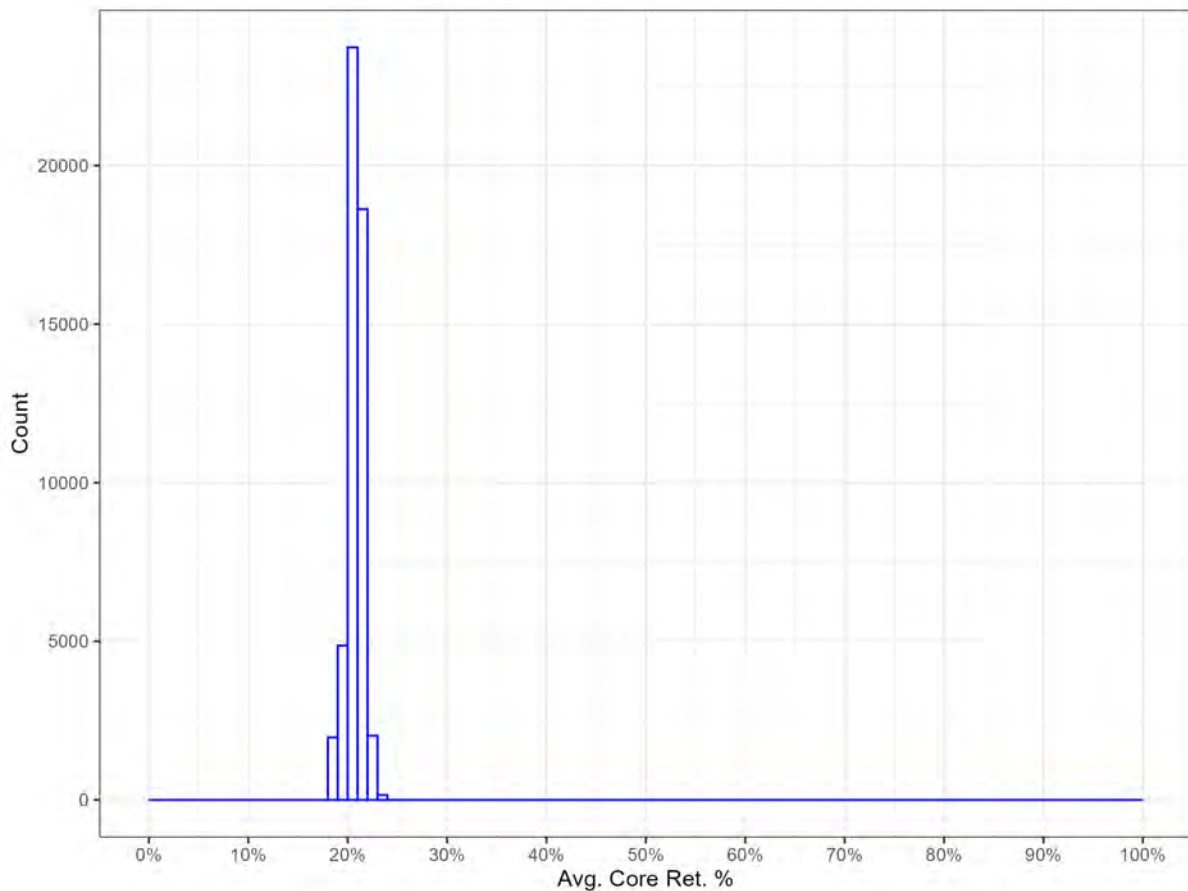




Figure 36: Avg. Core Retention, Statewide Sims, Barreto/Rios set



## 5 Response to Mr. Ely

I have also reviewed the Ely Report. It largely repeats the observations in the First Barreto/Rios Declaration, and consists mostly of maps that illustrate the makeup of precincts in the Harris County area and Bexar County. It also includes performance expectations for various districts. A few additional responses are warranted here. First, it appears that Mr. Ely's maps are mislabeled. He claims that his racial plots show whether precincts are majority Hispanic CVAP, Black CVAP, White CVAP, or Asian CVAP. It appears as though the units here are census blocks. The numbers at the census block level for ACS data would be estimated from the block groups, and would have huge error margins. Second, the political data, available on pages 12-15 confirm the degree to

which the maps cleave to political boundaries in the district.

## 6 Conclusion

The report of Mr. Ely adds little to the discussion not touched upon by other experts. The Barreto/Rios report fails to demonstrate that race, rather than politics, predominated in the drawing of the maps. The simulations are all fatally flawed, and can not be relied upon here.

I declare under penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct to the best of my knowledge and belief. Executed on September 22, 2025 in Delaware, Ohio.

*Sean P Trende*

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Sean P. Trende

## **Exhibit 431**

# Exhibit 32

Tangipa v. Newsom

**DX431**

2:25-cv-10616-JLSWLH-KKL

DX431-0002

## **I. Qualifications**

### ***Professional Experience:***

I serve as Senior Elections Analyst for RealClearPolitics. I joined RealClearPolitics in January of 2009 after practicing law for eight years. I assumed a fulltime position with RealClearPolitics in March of 2010. RealClearPolitics is a company of around 50 employees, with its main offices in Washington D.C. It produces one of the most heavily trafficked political websites in the world, which serves as a one-stop shop for political analysis from all sides of the political spectrum and is recognized as a pioneer in the field of poll aggregation. It produces original content, including both data analysis and traditional reporting. It is routinely cited by the most influential voices in politics, including David Brooks of *The New York Times*, Brit Hume of Fox News, Michael Barone of The Almanac of American Politics, Paul Gigot of The Wall Street Journal, and Peter Beinart of The Atlantic.

My main responsibilities with RealClearPolitics consist of tracking, analyzing, and writing about elections. I collaborate in rating the competitiveness of Presidential, Senate, House, and gubernatorial races. As a part of carrying out these responsibilities, I have studied and written extensively about demographic trends in the country, exit poll data at the state and federal level, public opinion polling, and voter turnout and voting behavior. In particular, understanding the way that districts are drawn and how geography and demographics interact is crucial to predicting United States House of Representatives races, so much of my time is dedicated to that task.

### ***Publications and Speaking Engagements:***

I am currently a Visiting Scholar at the American Enterprise Institute, where my publications focus on the demographic and coalitional aspects of American Politics. I am also the author of *The Lost Majority: Why the Future of Government is up For Grabs and Who Will Take It*. In this book, I explore realignment theory. It argues that realignments are a poor concept that should be abandoned. As part of this analysis, I conducted a thorough analysis of demographic and political trends beginning in the 1920s and continuing through the modern times, noting the fluidity and fragility of the coalitions built by the major political parties and their candidates.

I also co-authored the 2014 Almanac of American Politics. The Almanac is considered the foundational text for understanding congressional districts and the representatives of those districts, as well as the dynamics in play behind the elections. PBS's Judy Woodruff described the book as "the oxygen of the political world," while NBC's Chuck Todd noted that "Real political



junkies get two Almanacs: one for the home and one for the office.” My focus was researching the history of and writing descriptions for many of the newly-drawn districts, including tracing the history of how and why they were drawn the way that they were drawn. I was assigned South Carolina as one of my states. I have also authored a chapter in Larry Sabato’s post-election compendium after every election dating back to 2012.

I have spoken on these subjects before audiences from across the political spectrum, including at the Heritage Foundation, the American Enterprise Institute, the CATO Institute, the Bipartisan Policy Center, and the Brookings Institution. In 2012, I was invited to Brussels to speak about American elections to the European External Action Service, which is the European Union’s diplomatic corps. I was selected by the United States Embassy in Sweden to discuss the 2016 elections to a series of audiences there and was selected by the United States Embassy in Spain to fulfill a similar mission in 2018. I was invited to present by the United States Embassy in Italy, but was unable to do so because of my teaching schedule.

***Education:***

I am currently enrolled as a doctoral candidate in political science at The Ohio State University. I have completed all my coursework and have passed comprehensive examinations in both methods and American Politics. In pursuit of this degree, I have also earned a Master’s Degree in Applied Statistics. My coursework for my Ph.D. and M.A.S. included, among other things, classes on G.I.S. systems, spatial statistics, issues in contemporary redistricting, machine learning, non-parametric hypothesis tests and probability theory.

In the winter of 2018, I taught American Politics and the Mass Media at Ohio Wesleyan University. I taught Introduction to American Politics at The Ohio State University for three semesters from Fall of 2018 to Fall of 2019, and again in Fall of 2021. In the Springs of 2020 and 2021, I taught Political Participation and Voting Behavior at The Ohio State University. This course spent several weeks covering all facets of redistricting: How maps are drawn, debates over what constitutes a fair map, measures of redistricting quality, and similar topics. I am teaching this course this semester as well.

***Prior Engagements as an Expert:***

In 2021, I served as one of two special masters appointed by the Supreme Court of Virginia to redraw the districts that will elect the Commonwealth’s representatives to the House of Delegates, state Senate, and U.S. Congress in the following decade. The Supreme Court of Virginia

accepted those maps, which were praised by observers from across the political spectrum. “New Voting Maps, and a New Day, for Virginia,” *The Washington Post* (Jan. 2, 2022), *available at* <https://www.washingtonpost.com/opinions/2022/01/02/virginia-redistricting-voting-maps-gerrymander/>; Henry Olsen, “Maryland Shows How to do Redistricting Wrong. Virginia Shows How to Do it Right,” *The Washington Post* (Dec. 9, 2021), *available at* <https://www.washingtonpost.com/opinions/2021/12/09/maryland-virginia-redistricting/>; Richard Pildes, “Has VA Created a New Model for a Reasonably Non-Partisan Redistricting Process,” *Election Law Blog* (Dec. 9, 2021), *available at* <https://electionlawblog.org/?p=126216>.

In 2019, I was appointed as the court's expert by the Supreme Court of Belize. In that case I was asked to identify international standards of democracy as they relate to malapportionment claims, to determine whether Belize's electoral divisions (similar to our congressional districts) conformed with those standards, and to draw alternative maps that would remedy any existing malapportionment.

I served as a Voting Rights Act expert to counsel for the Arizona Independent Redistricting Commission in 2021 and 2022.

I previously authored an expert report in *Dickson v. Rucho*, No. 11-CVS-16896 (N.C. Super Ct., Wake County), which involved North Carolina's 2012 General Assembly and Senate maps. Although I was not called to testify, it is my understanding that my expert report was accepted without objection.

I also authored an expert report in *Covington v. North Carolina*, Case 5 No. 1: 15-CV-00399 (M.D.N.C.), which involved almost identical challenges in a different forum. Due to what I understand to be a procedural quirk, where my largely identical report from Dickson had been inadvertently accepted by the plaintiffs into the record when they incorporated parts of the Dickson record into the case, I was not called to testify.

I authored two expert reports in *NAACP v. McCrory*, No. 1:13CV658 (M.D.N.C.), which involved challenges to multiple changes to North Carolina’s voter laws. I was admitted as an expert witness and testified at trial. My testimony discussed the “effect” prong of the Voting Rights Act claim. I did not examine the issues relating to intent.

I authored reports in *NAACP v. Husted*, No. 2:14-cv-404 (S.D. Ohio), and *Ohio Democratic Party v. Mated*, Case 15-cv-01802 (S.D. Ohio), which dealt with challenges to various Ohio voting laws. I was admitted and testified at trial in the latter case (the former case settled). The judge in

the latter case ultimately refused to consider one opinion, where I used an internet map-drawing tool to show precinct locations in the state. Though no challenge to the accuracy of the data was raised, the judge believed I should have done more work to check that the data behind the application was accurate.

I served as a consulting expert in *Lee v. Virginia Board of Elections*, No. 3:15-cv-357 (E.D. Va. 2016), a voter identification case. Although I would not normally disclose consulting expert work, I was asked by defense counsel to sit in the courtroom during the case and review testimony. I would therefore consider my work de facto disclosed.

I filed an expert report in *Mecinas v. Hobbs*, No. CV-19-05547-PHX-DJH (D. Ariz. 2020). That case involved a challenge to Arizona's ballot order statute. Although the judge ultimately did not rule on a motion *in limine* in rendering her decision, I was allowed to testify at the hearing.

I authored two expert reports in *Feldman v. Arizona*, No. CV-16-1065-PHX-DLR (D. Ariz.). Plaintiffs in that case challenged an Arizona law prohibiting the collection of voted ballots by third parties that were not family members or caregivers and the practice of most of the state's counties to require voters to vote in their assigned precinct. My reports and testimony were admitted. Part of my trial testimony was struck in that case for reasons unrelated to the merits of the opinion; counsel for the state elicited it while I was on the witness stand and it was struck after Plaintiffs were not able to provide a rebuttal to the new evidence.

I authored an expert report in *Pascua Yaqui Tribe v. Rodriguez*, No. 4:20-CV-00432-TUC-JAS (D. Ariz.), which involved early voting. My expert report and testimony were admitted at trial.

I authored expert reports in *A. Philip Randolph Institute v. Smith*, No. 1 :18-cv-00357-TSB (S.D. Ohio), *Whitford v. Nichol*, No. 15-cv-421-bbc (W.D. Wisc.), and *Common Cause v. Rucho*, NO. 1:16-CV-1026-WO-JEP (M.D.N.C.), which were efficiency gap-based redistricting cases filed in Ohio, Wisconsin, and North Carolina.

I have only been excluded as an expert once, in *Fair Fight v. Raffensperger*. The judge concluded that I lacked sufficient credentials to testify as an expert in election administration.

I authored an expert report in the cases of *Ohio Organizing Collaborative, et al v. Ohio Redistricting Commission*, et al (No. 2021-1210); *League of Women Voters of Ohio, et al v. Ohio Redistricting Commission*, et al (No. 2021-1192); *Bria Bennett, et al v. Ohio Redistricting Commission*, et al (No. 2021-1 198). That case was decided on the written record.

I authored two expert reports in the consolidated cases of *NCLCV v. Hall* and *Harper v. Hall* (21 CVS 15426; 21 CVS 500085), two political/racial gerrymandering cases. My reports and testimony were admitted.

I authored two expert reports in the consolidated cases of *Montana Democratic Party v. Jacobson*, DV-56-2021-451 (Mont. Dist. Ct.). These cases involve the elimination of same-day registration, use of student identification to vote, and the restriction of ballot collection.

I authored an expert report on behalf of amicus curiae in the consolidated cases of *Carter v. Chapman* (No. 464 M.D. 2021) and *Gressman v. Chapman* (No. 465 M.D. 2021), which were redistricting cases before the Supreme Court of Pennsylvania.

I filed an expert report in *Harkenrider v. Hochul*, (No. E2022-0116CV), which is a partisan gerrymandering challenge to New York’s enacted Congressional and state Senate maps. My reports and testimony were admitted.

I filed an expert report in *Szeliga v. Lamone*, Case No. C-02-CV-21-001816 (Md. Cir. Ct.) and *In the Matter of 2022 Legislative Redistricting of the State*, Misc. No. 25 (Md. Ct. App.), political gerrymandering cases in Maryland. My reports and testimony were admitted.

I filed an expert report in *Graham v. Adams*, (No. 22-CI-00047) (Ky. Cir. Ct.), a political gerrymandering case. I was admitted as an expert and allowed to testify as trial.

I filed an expert report in *NAACP v. McMaster*, (No. 3:21-cv-03302-JMC-T,11-1- RMG), which is a racial gerrymandering challenge to South Carolina's enacted state House maps.

## II. Scope of Engagement

I have been retained by Jones Day on behalf of their clients, defendants in the above matter, to evaluate South Carolina's Congressional Districts, enacted by the South Carolina General Assembly and signed by their governor, Henry McMaster [hereinafter "Enacted Plan" or "Enacted Map"]. This map replaces the previous map, in effect from 2012 to 2020 [hereinafter "Benchmark Plan"]. I have been retained and am being compensated at a rate of \$400.00 per hour to provide my expert analysis of the various factors that were employed in the enacted plan.

### III. Summary of Opinions

Based on the work performed as addressed in the following sections of the report, I hold to the following opinions to a reasonable degree of professional certainty:

- The Enacted Map is contiguous and complies with equal-population requirements.

- The Enacted Map generally reflects only modest changes from the Benchmark Plan, which this Court upheld against racial gerrymandering and other challenges in *Backus*.
- The Enacted Map retains high percentages of the cores of all of the Benchmark Districts. Those percentages range from 82.84% in District 1 to 99.96% in District 7, and five districts retain more than 94% of their cores.
- The Enacted Map reduces the number of split counties from 12 in the Benchmark Plan to 10 in the Enacted Plan.
- The Enacted Map significantly reduces the number of voting tabulation district splits from 65 in the Benchmark Plan to 13 in the Enacted Plan. In other words, the Enacted Plan repairs 52 precincts that were split in the Benchmark Plan.
- The Enacted Plan's districts compare favorably to the Benchmark Plan's Districts on four common compactness measures.
- The Enacted Plan's changes to the district line between Districts 2 and 6 are largely explained by the repairing of precincts that were split in the Benchmark Plan.
- The Enacted Plan's changes to the district line between Districts 5 and 6 are largely explained by the repairing of precincts that were split in the Benchmark Plan.
- The Enacted Plan's changes to the district line between Districts 1 and 6 follow natural geographic boundaries and make two counties, Berkeley County and Beaufort County, whole, while adding a portion of Jasper County to District 1.
- The Enacted Plan's changes to the district line between Districts 1 and 6 have a minimal effect on District 1's racial composition but increase its Republican vote share by nearly three net percentage points on the two-party 2020 presidential election results.

#### **IV. Data Relied Upon and Construction of Datasets**

For purposes of this report, I reviewed and/or relied upon the following materials:

- The 2021 Senate Redistricting Guidelines (Sept. 17, 2021);
- The 2021 House Guidelines and Criteria for Congressional and Legislative Redistricting (Sept. 17, 2021);
- This Court's opinion in *Backus v. South Carolina*, 857 F. Supp. 2d 553 (2002);

- This Court’s opinion in *Colleton County Council v. McConnell*, 201 F.Supp.2d 618 (2012);
- Block assignment files for the previous congressional district lines and current district lines, available at <https://redistricting.scsenate.gov/planproposal.html>;
- Shapefiles for South Carolina census blocks, precincts, and counties downloaded from the Redistricting Data Hub, available at <https://redistrictingdatahub.org/>;
- Shapefiles for historic congressional districts, maintained by at <https://cdmaps.polisci.ucla.edu/>
- Public hearings transcripts, available at <https://redistricting.scsenate.gov/meetinginfo.html>.
- Other documents referenced in this report.

Obviously calculating racial categories is crucial for the analysis called for by this sort of lawsuit, particularly of Black voters in South Carolina. Unfortunately, this is a more complicated endeavor than it may seem at first blush. The census allows individuals to select multiple races, and different sources will use different combinations of identity to define a person’s race. In addition, people of all races may identify as Hispanic. For purposes of this report, I define “Black” and “BVAP” using the same non-Hispanic Black categorization utilized by the South Carolina General Assembly to draw the Enacted Plan.

Because election data are made available at the precinct level, most of the district-wide election data is accurate. When precincts are split, however, it is necessary to estimate how many votes a candidate earned from each portion of the precinct. This is accomplished by taking the precinct-wide votes for each candidate and assigning them to census blocks. Rather than simply dividing by the number of blocks, analysts usually weight each precinct by some number. Here, votes are assigned proportionally to the voting age population in each block. Separate sums for each portion of the precinct are then calculated by adding up the blocks in each precinct segment. Different approaches and weighting mechanisms can produce marginally different results.

All shapefiles are projected using the WGS 84 projection.

## V. Analysis of South Carolina’s Congressional Districts

### Overview

This Court has identified multiple legitimate goals that the South Carolina legislature may pursue when redistricting, including (1) recognizing communities of interest; (2) preserving district cores; (3) respecting county and municipal boundaries, as well as geographical boundaries; (4) keeping incumbents’ residences in their districts. In addition, both the House and the Senate add the following factors: (1) compliance with federal law and United States Constitution, with particular attention to the Voting Rights Act of 1965 and equal protection clause of the 14<sup>th</sup> Amendment; (2) equal population; (3) contiguity; and (4) compactness. The House guidelines further specify that county, municipal, and precinct boundaries may be relevant when considering communities of interest; the Senate guidelines make minimizing the number of splits at those three levels separate criteria. This Court concluded in *Colleton County* that preserving cores of districts is generally the cleanest expression of the General Assembly’s intent to group persons into communities of interest. This report otherwise does not deal with communities of interest directly.

### Contiguity and Equal Population

At the end of the 2010s, the Benchmark Plan had become malapportioned. It had not, however, become uniformly so. As we can see in Table 1, most of the districts deviated from their ideal population of 731,204 residents by less than 5%. The two exceptions were District 1, which had 87,689 extra residents and was overpopulated by 11.99%, and District 6, which had lost population, was underpopulated by 11.59% and needed to gain 84,741 residents.

Table 1: S.C. District Populations, Benchmark Plan

District Number	Population	Deviation
1	818,893	87,689
2	721,829	–9,375
3	706,785	–24,419
4	760,233	29,029
5	736,286	5,082
6	646,463	–84,741
7	727,936	–3,268



In response to this, and the fact that the map easily elected Republicans to Congress in five of the seven districts, the Republican-controlled General Assembly passed the Enacted Map, which Gov. Henry McMaster, also a Republican, signed into law on January 26, 2022. The resulting plan is contiguous and minimizes population deviations consistent with traditional principles and the U.S. Constitution.

District Number	Population	Deviation
1	731,203	-1
2	731,203	-1
3	731,204	0
4	731,204	0
5	731,204	0
6	731,204	0
7	731,203	-1

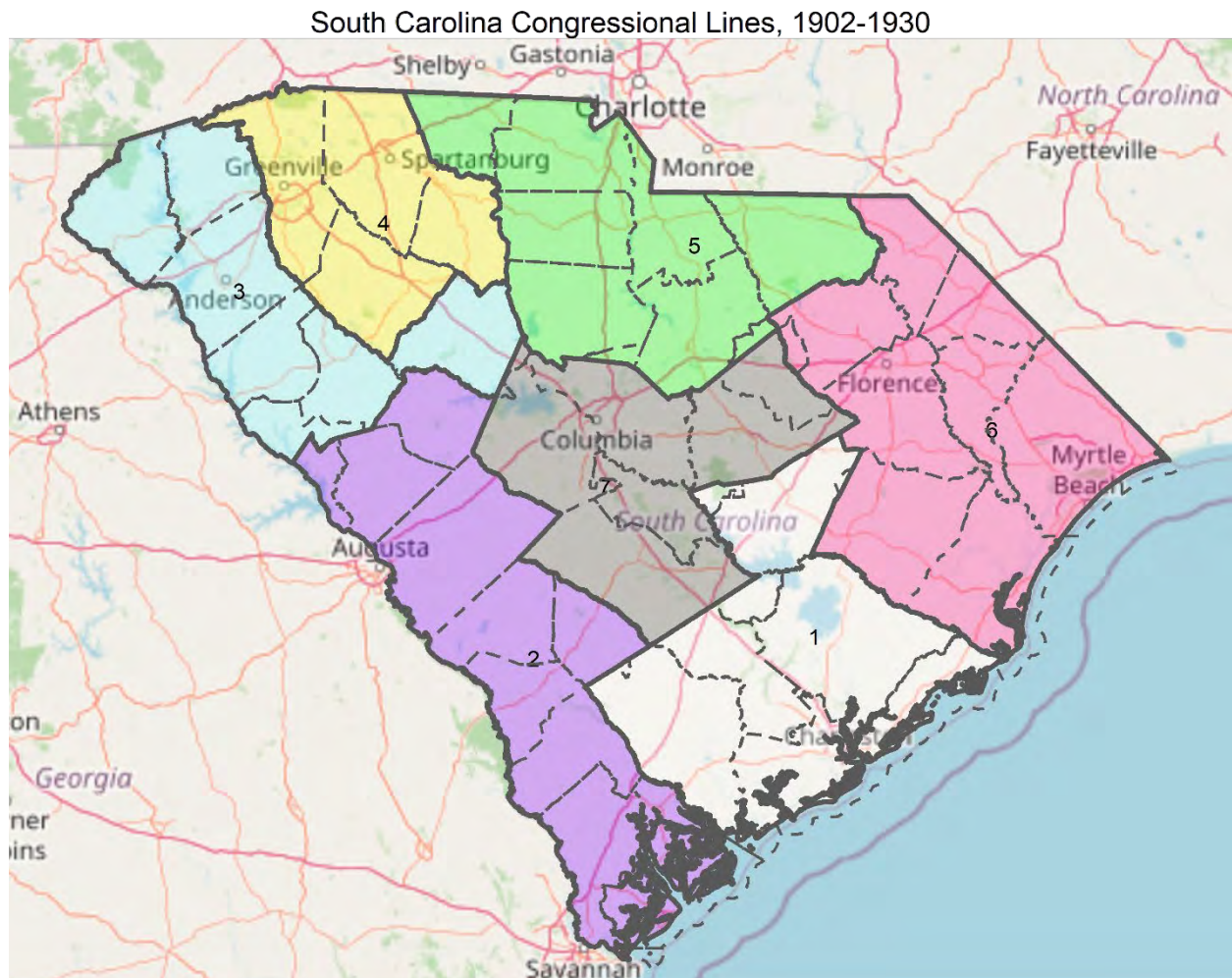
### Respecting County, Municipal, and Precinct Boundaries

The map generally respects administrative boundaries to a substantially greater extent than the preceding map. The previous map split 12 counties, while also traversing 65 voting districts. The Enacted Plan reduces the number of split counties to 10. Six of those splits occur on the boundaries between Districts two through seven, which is only one more split than the realistic minimum number of county splits between six districts. District 1 and District 6 split four counties between them, for reasons described below. The Enacted Plan also reduces the number of split precincts to 13, from 65. *Compare* [House Plan 2 Senate Amendment 1 Political Subdivision Splits Between Districts\(2\).pdf \(scsenate.gov\)](#), *with* [Benchmark Congressional Political Subdivision Splits Between Districts.pdf \(scsenate.gov\)](#).

### Preservation of District Cores

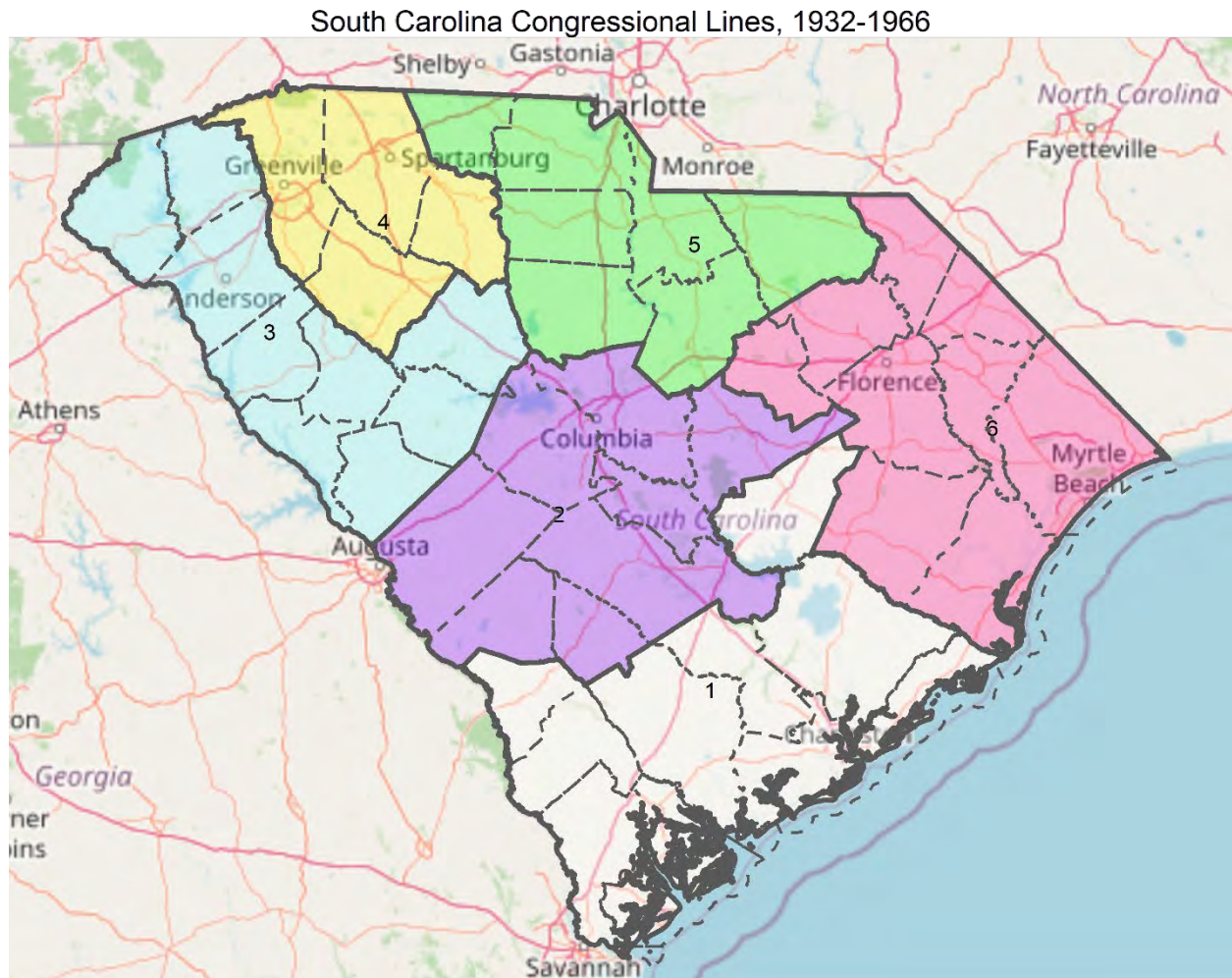
Despite significant changes to population, and the addition/subtraction of districts, South Carolina's district cores have remained surprisingly consistent over the past century. Going back to the early 1900s, the 1<sup>st</sup> District was anchored in Charleston, the 2<sup>nd</sup> District was anchored in Beaufort and the counties along the Georgia border. The 3<sup>rd</sup> District was anchored in Anderson,

the 4<sup>th</sup> District combined Greenville and Spartanburg, the 5<sup>th</sup> District was anchored in then-rural northern South Carolina, the 6<sup>th</sup> in Myrtle Beach and the Pee Dee region, and the 7<sup>th</sup> in Columbia. There was, of course, a political balance struck, as three of the state's districts were anchored north of the Fall Line, three south of the Fall Line, and one in the Capitol, which is on the Fall Line.



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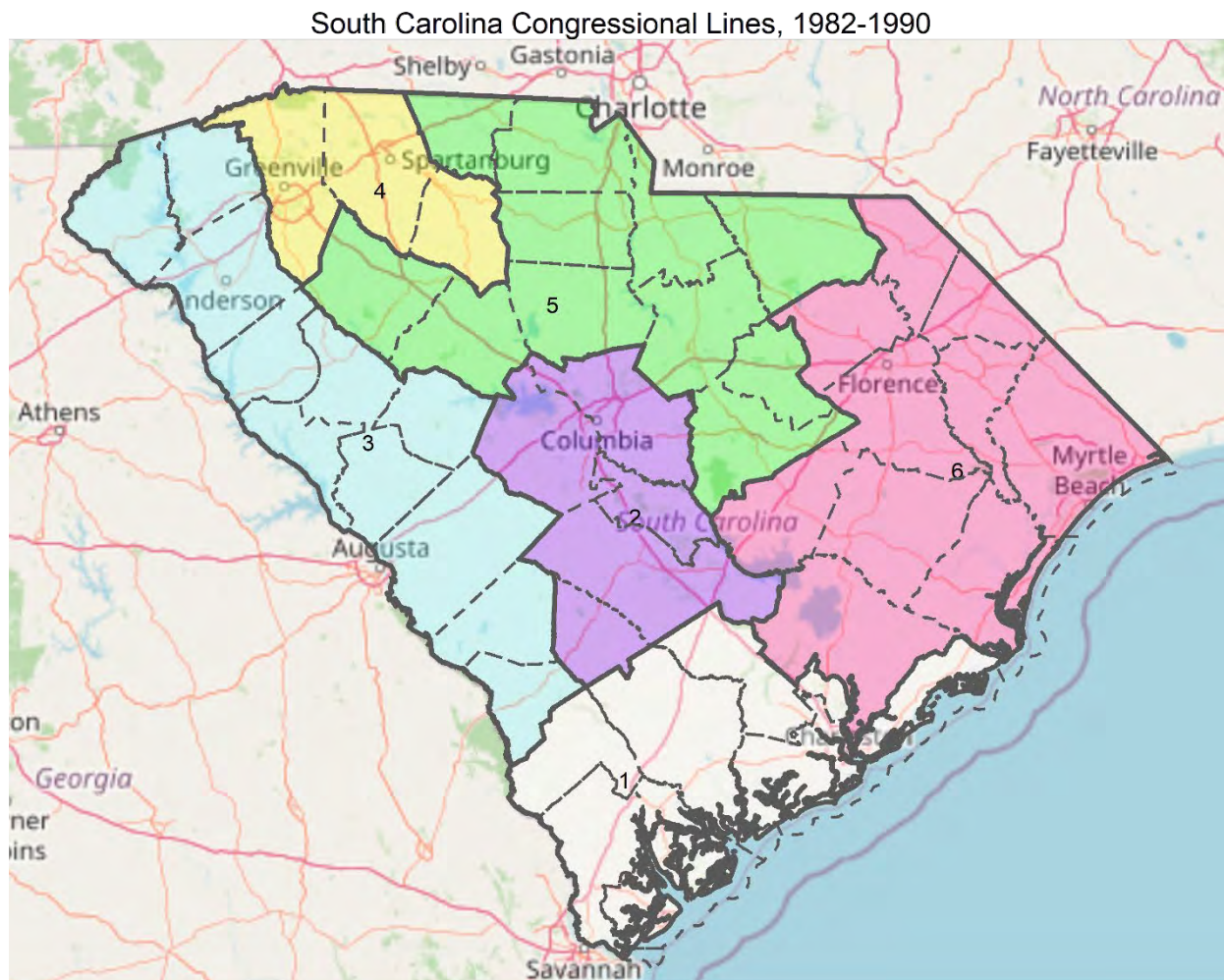
In 1932, South Carolina lost a district. The Second and Seventh Districts were combined, creating a district based in Charleston stretching to the Georgia border.



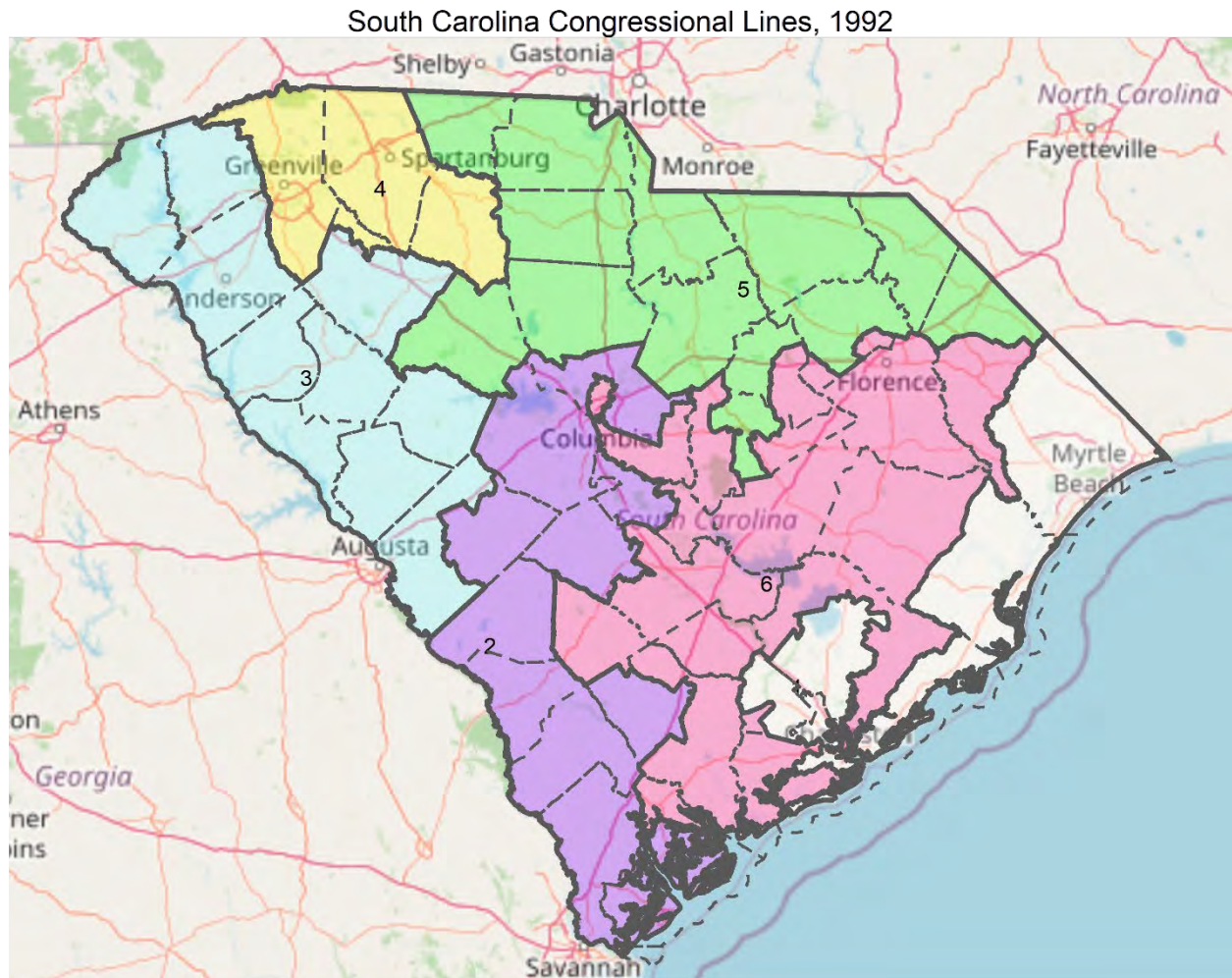
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This basic arrangement of districts would endure for 60 years, even after *Baker v. Carr* and its progeny required equipopulous districts. The 1982 map would look very much recognizable to a map-drawer who had been involved in drawing lines earlier in the century.





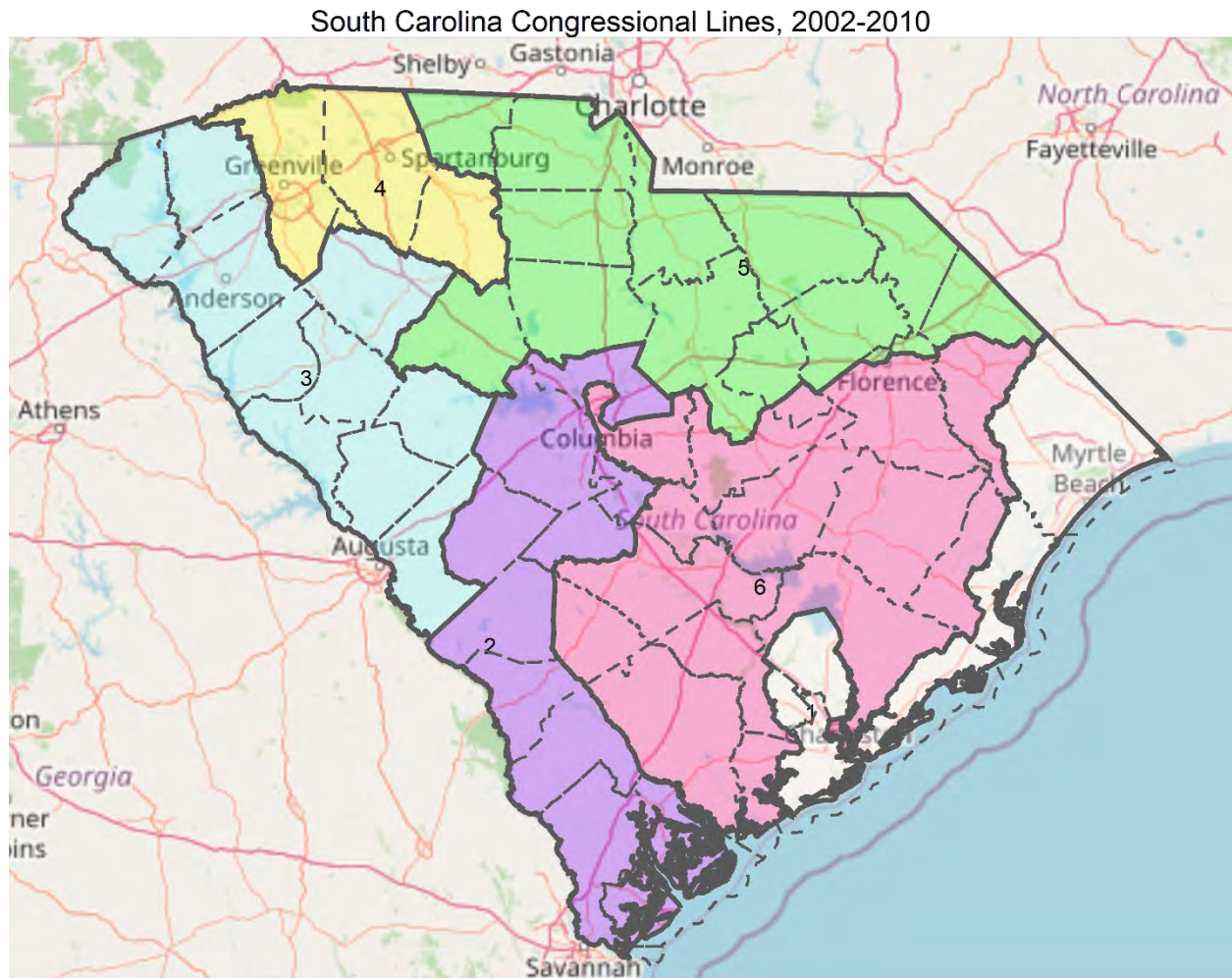
In 1992, South Carolina reorganized the Lowcountry districts, in part to create an ability-to-elect district. It succeeded in this regard, as the 6<sup>th</sup> District elected Rep. Jim Clyburn, the first African-American member of Congress from South Carolina since 1897. Even then, there was much continuity in the maps. The Upstate districts as well as the Fifth District remained mostly unchanged. The First was still anchored in Charleston, although it was reoriented along the coast toward Horry County. The Second District was given its now-distinctive “hook” shape, and extended along the Georgia border. It was ultimately struck down as a racial gerrymander; the lines were slightly modified in 1994 and remained in place for the remainder of the decade.



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In 2002, the Republican-controlled General Assembly and Democratic governor deadlocked over a plan, leaving it to this Court to draw the lines for the Congressional districts. While the court-drawn map smoothed out the lines, it retained largely the same map that had been in place.





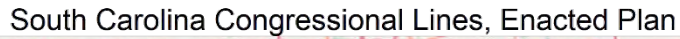
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For the redistricting held in the wake of the 2010 census, Republicans controlled the legislature as well as the governorship. Population growth also led to the state gaining a seat in congressional redistricting. The General Assembly ultimately opted to create a district in the Pee Dee region and Myrtle Beach, effectively recreating the old 6<sup>th</sup> Congressional District.

A map of South Carolina divided into seven numbered regions, each with a distinct color. The regions are: 1 (light blue, Charleston area), 2 (purple, Columbia area), 3 (light blue, western part), 4 (yellow, Greenville/Spartanburg area), 5 (green, northern part), 6 (pink, central/southern part), and 7 (grey, Myrtle Beach area). Major cities like Greenville, Spartanburg, Charlotte, Monroe, Florence, Myrtle Beach, Charleston, and Savannah are labeled. Surrounding states North Carolina, Georgia, and Alabama are partially visible.

For the most part, the Enacted Plan makes only minor changes to the Benchmark Plan. All seven districts retain roughly their same “footprint,” or cores. The boundaries between District 1 and District 6 see the most changes. This is unsurprising, given that these districts were required to lose and gain a large number of residents, respectively; these changes are explored in more detail below. The Second District remains based in Columbia. The Third District is based around Anderson, while the Fourth connects Greenville and Spartanburg. The Fifth District’s population is centered around York County, which is increasingly comprised of suburbs or Charlotte, while the Seventh is anchored in Myrtle Beach and the Pee Dee region.





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Table 2 gives the “core retention” statistics for the state’s congressional districts. Core retention – which both this Court’s decisions and the redistricting guidelines promulgated by the General Assembly identified as a legitimate consideration – is the percentage of a district’s residents who are kept in a district from one redrawing to the next.

Table 3: Core Population Retention, S.C. Districts

District Number	% Retained
1	82.84%
2	98.01%
3	98.02%
4	94.34%
5	94.38%
6	87.55%
7	99.96%

Five of the state's seven districts have very high core retention rates, retaining over 94% of their populations from the Benchmark Plan, with District 7 retaining almost 100% of its core. Even the 1<sup>st</sup> and 6<sup>th</sup> districts retain a large share of their populations, with the Sixth approaching 90% retention and the 1<sup>st</sup> retaining over 80% of its core.

Table 4 gives a different perspective on these numbers. It shows the number of residents who are moved between districts. The left column represents districts that gave residents to other districts; these recipients are represented in columns. This table is best read in rows.

Table 4: Population Movements by District, 2012-2022 Lines

From	To						
	1	2	3	4	5	6	7
1	–	–	–	–	–	140,489	–
2	–	–	–	–	–	14,397	–
3	–	–	–	14,001	–	–	–
4	–	–	7,111	–	35,919	–	–
5	–	–	31,309	–	–	10,038	–
6	52,799	23,771	–	–	346	–	3,553
7	–	–	–	–	–	286	–

The largest two transfers of residents come from the boundary between District 1 and District 6. The former sheds 140,489 residents to the latter, while District 6 loses 52,799 residents to the former. District 2 sheds 14,397 residents to District 6, while gaining 23,771 residents back

from that district. The rest of the changes are marginal; the Third gives 14,001 residents to the Fourth District, while gaining back 7,111 residents from the Fourth and 31,309 residents from the Fifth District. In addition to the changes described above, the Fourth District donates 35,919 residents to the Fifth District. The Fifth District donates 10,038 residents to the Sixth, while receiving 345 residents back from it. The Seventh donates 286 residents to the Sixth and receives 3,553 residents back.

## Compactness

There are many proposed ways to measure to the idea of “compactness,” and each captures a different aspect of the concept. Reock scores, for example, ask how well the district fills a circle drawn to bound the district; as a district becomes more circular and less elongated, its Reock score improves. The Convex Hull Score ask a similar question, but uses a polygon – a figure with straight sides and angles – to bound the district instead of a circle. The Polsby-Popper score takes a different approach and asks whether a district would fill a circle with the same perimeter/circumference as the district; this punishes districts with inlets and appendages. The Inverse Schwartzberg score has a similar motivation; it is calculated by taking the ratio of the perimeter of the district to the circumference of a circle with the same area as the district.

There are, again, dozens of proposed metrics. I utilize the four above because they give a look at different aspects of compactness for the district. Regardless, the compactness of the Enacted Plan is similar to that of the Benchmark Plan and of other plans since the creation of the current Sixth District in 1992.

Consider first Reock Scores. We cannot directly compare districts dating back to the 1982 redistricting, because of the differing number of districts. We can, however, compare districts in the Enacted Plan to those in the Benchmark Plan.

Table 5: Compactness Scores, Benchmark and Enacted Plans

District Number	Reock		Polsby-Popper		I. Schwartzberg		Convex Hull	
	Benchmark	Enacted	Benchmark	Enacted	Benchmark	Enacted	Benchmark	Enacted
1	0.196	0.290	0.101	0.148	0.318	0.385	0.588	0.705
2	0.470	0.443	0.168	0.164	0.410	0.405	0.727	0.721
3	0.446	0.432	0.329	0.345	0.573	0.587	0.858	0.849
4	0.378	0.359	0.254	0.234	0.504	0.484	0.797	0.774
5	0.331	0.295	0.213	0.229	0.461	0.479	0.756	0.780
6	0.426	0.365	0.080	0.075	0.283	0.274	0.656	0.577
7	0.343	0.346	0.301	0.299	0.548	0.547	0.789	0.796

For all of these metrics, higher numbers represent more compact districts. As you can see, for the most part, these districts have roughly the same scores across metrics. The 1<sup>st</sup> District is made somewhat more compact using the Reock and Convex Hull Scores, and the 6<sup>th</sup> somewhat less compact, but overall, the numbers are comparable. Using the perimeter-based metrics, the districts all have similar compactness scores.

As Table 6 shows, the average compactness scores for the plan are comparable to those we saw in the previous plan and are almost as compact as the scores in the pre-1992 redistricting map.

Table 6: Average Compactness Scores, 1982 - 2022 S.C. Districts

Year	Reock	Polsby-Popper	I. Schwartzberg	Convex Hull
1982	0.382	0.233	0.454	0.737
1992	0.318	0.125	0.318	0.664
2002	0.319	0.161	0.366	0.676
2012	0.370	0.207	0.443	0.739
2022	0.361	0.214	0.452	0.743

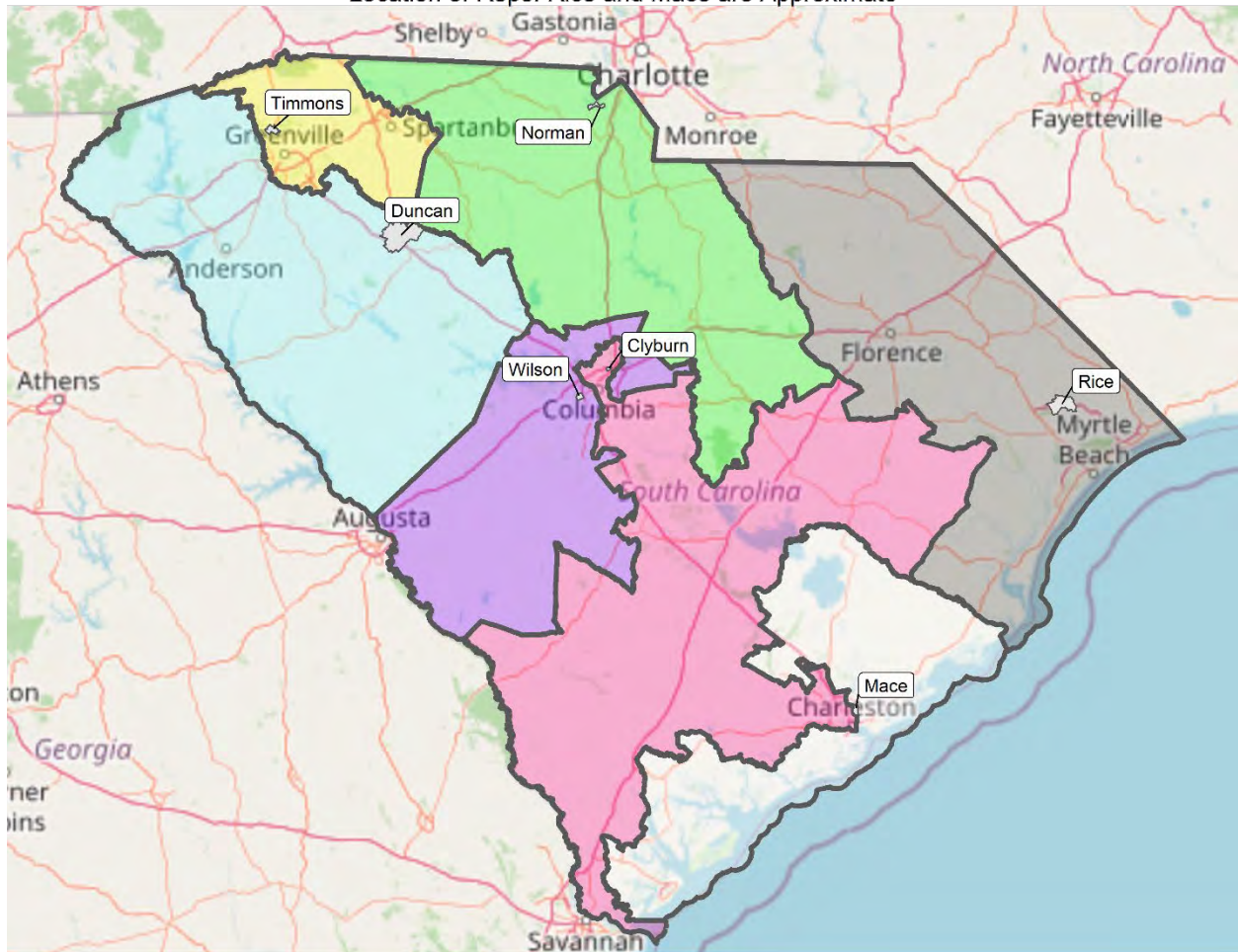


## Incumbent Protection

As the following map demonstrates, the Enacted Plan ensures that representatives are not placed in the same districts. Note that the precise precincts in which Representatives Mace and Rice live have not been provided, so their locations are approximated from public information about their residences.

South Carolina Congressional Lines, Enacted Plan, Incumbents Precincts Labeled

Location of Reps. Rice and Mace are Approximate



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### Racial Demographics and Politics

We will examine more closely changes in the individual districts below, but at a global level, the recent redistricting results in minimal changes to the Black Voting Age Populations (BVAPs) of the districts.

Table 7: BVAP Share, Old and New S.C. Districts

District	BVAP, Old	BVAP, New	Difference
1	16.6%	16.7%	0.2%
2	23.1%	24.5%	1.4%
3	16.9%	17.1%	0.2%
4	17.8%	18.4%	0.7%
5	25.1%	24.0%	-1.0%
6	51.4%	45.9%	-5.5%
7	24.8%	24.8%	0.0%

Districts 1, 3, 4, and 7 see almost no changes in their racial demographics. Districts 2 and 5 see modest changes to their racial compositions, while the Black Voting Age population of District 6 is reduced by 5.6 percentage points as part of increasing the total population in that district to the level of population equality.

The political composition of these districts is likewise mostly unchanged, with two exceptions. Table 8 shows the results of the 2020 Biden-Trump election, with third parties excluded.

Table 8: Biden 2-Party Vote Share, Old and New S.C. Districts

District	Biden Percent, Old	Biden Percent, New	Difference
1	47.0%	45.6%	-1.4%
2	44.2%	44.6%	0.4%
3	31.0%	31.0%	0.0%
4	39.6%	40.6%	1.0%
5	41.6%	40.8%	-0.8%
6	67.8%	66.3%	-1.6%
7	40.6%	40.6%	-0.0%

Most of the districts see their Democratic vote shares remain stable, which is unsurprising given the high degree of core retention overall. The First District sees President Biden's vote share drop from 47% to 45.6%, while the Sixth sees his share drop from 67.8% to 66.3% -- the latter is still comfortably Democratic. The change in the First District is more politically consequential, as described below.

Table 9 shows how voters were moved between districts, broken down by partisanship. Again, most of the changes are fairly marginal. Between Districts 6 and District 1, the latter shed 10,808 Biden voters to the former, mostly in the Charleston area, while picking up a net of 3,242 Biden votes back from the Sixth, mostly in Berkeley County.

Table 9: Net Movement of Biden Voters by District, 2012-2022 Lines

From	To						
	1	2	3	4	5	6	7
1	-	-	-	-	-	10,808	-
2	-	-	-	-	-	2,755	-
3	-	-	-	698	-	-	-
4	-	-	-945	-	-8,220	-	-
5	-	-	-3,211	-	-	212	-
6	3,242	5,485	-	-	89	-	-498
7	-	-	-	-	-	-18	-

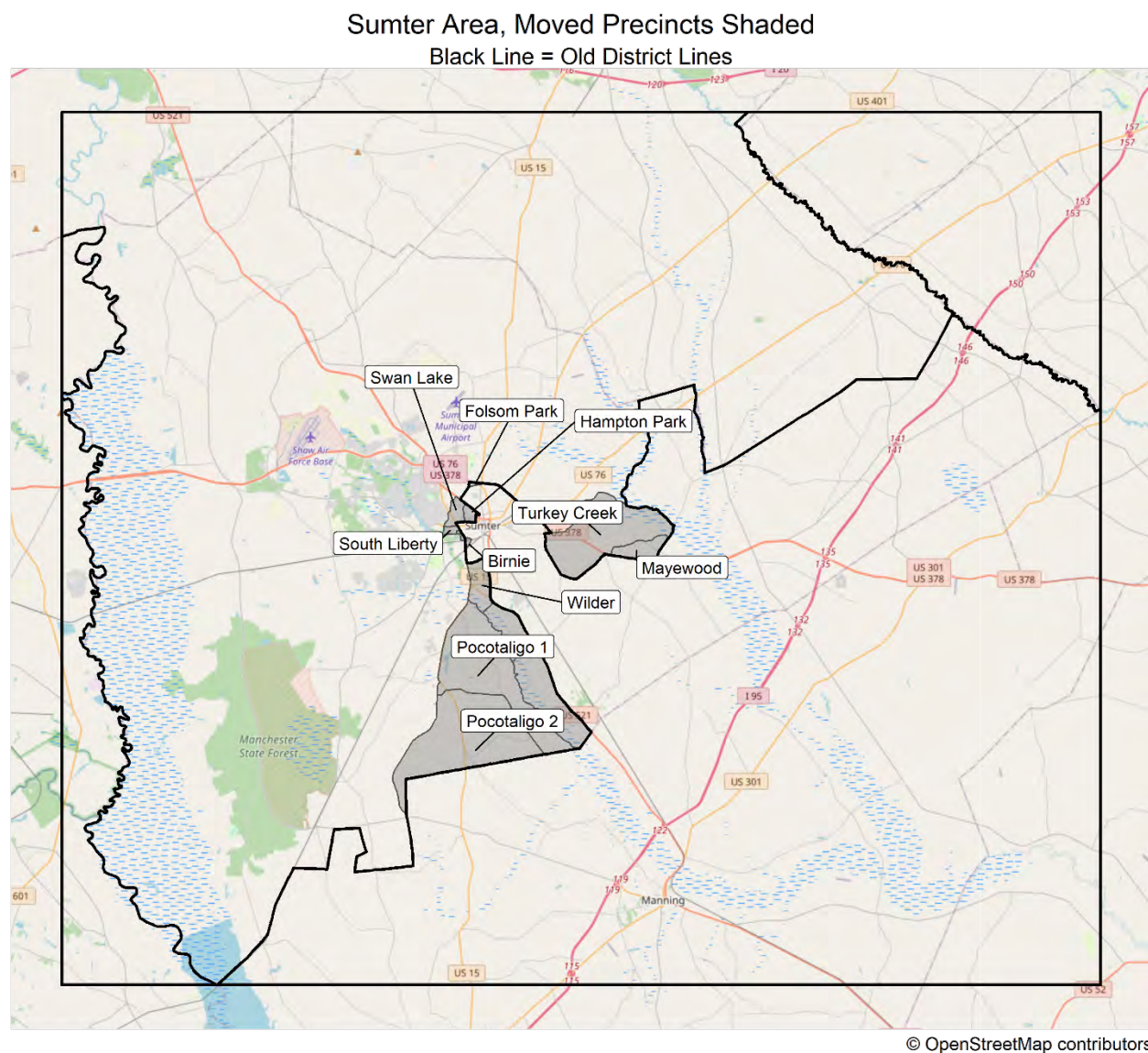


## Specific Changes to South Carolina's Congressional Districts

### The District 5 - District 6 Boundary: Sumter County

We first look at the changes made to the boundary between District 5 and District 6 in Sumter County. Sumter County has a population of 105,556 according to the last census, 81,402 of whom were of voting age. Of those residents of voting age, 46.3% are non-Hispanic White, while 45.7% are Black.

The Enacted Map moves a total of 10,384 residents. The shifts are depicted below:

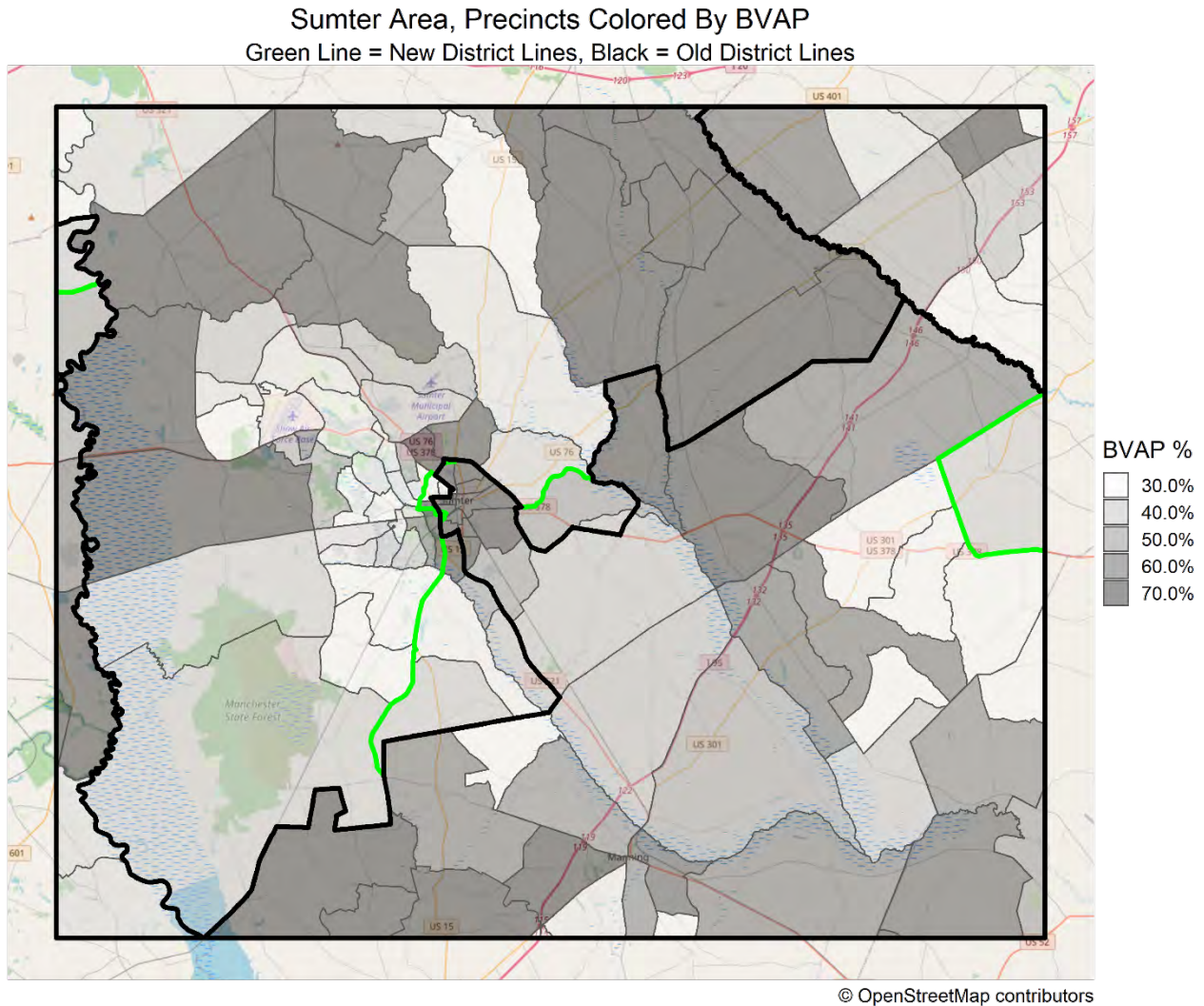


Most of these residents live in precincts that were split by the Benchmark Plan and are made whole by the Enacted Plan. The changes also tend to smooth the boundary between the districts. The pair of shaded precincts to the east of Sumter reflect the Mayewood and Turkey Creek precincts. Portions of these precincts also lie to the west of the old District 6, adjacent to the Pocotaligo 1 District. These portions are joined into a single district in the Enacted Plan. The map also adds Wilder, Pocotaligo 1 and Pocotaligo 2 as whole precincts to the Sixth District, smoothing the boundaries between the two districts. The 7,299 residents added to the Sixth District here are 51.8% non-Hispanic White and 41.3% Black.

In the city of Sumter itself, the map drawers made the South Liberty and Hampton Park precincts whole within the Sixth District, and added the Swan Lake precinct, which smooths the boundary between the Fifth and Sixth. A portion of the Birnie Precinct, which is already split in the Benchmark Plan, is also added to the Sixth. Overall, 2,739 residents, of whom 2,221 are of voting age, are added to the Sixth District. Of these, 62.3% are non-Hispanic White, and 30.7% are Black.

The map also moves a small sliver of the Folsom Park precinct to the Fifth District, making that precinct whole, and some census blocks in the Birnie Precinct to the Fifth. This totals 346 residents, of whom 235 are of voting age. They are 93.6% Black and 5.1% non-Hispanic White.

The following map shows the old and new district boundaries in Sumter County, superimposed over the precincts in Sumter County. These precincts are shaded by the BVAP shares in each precinct.



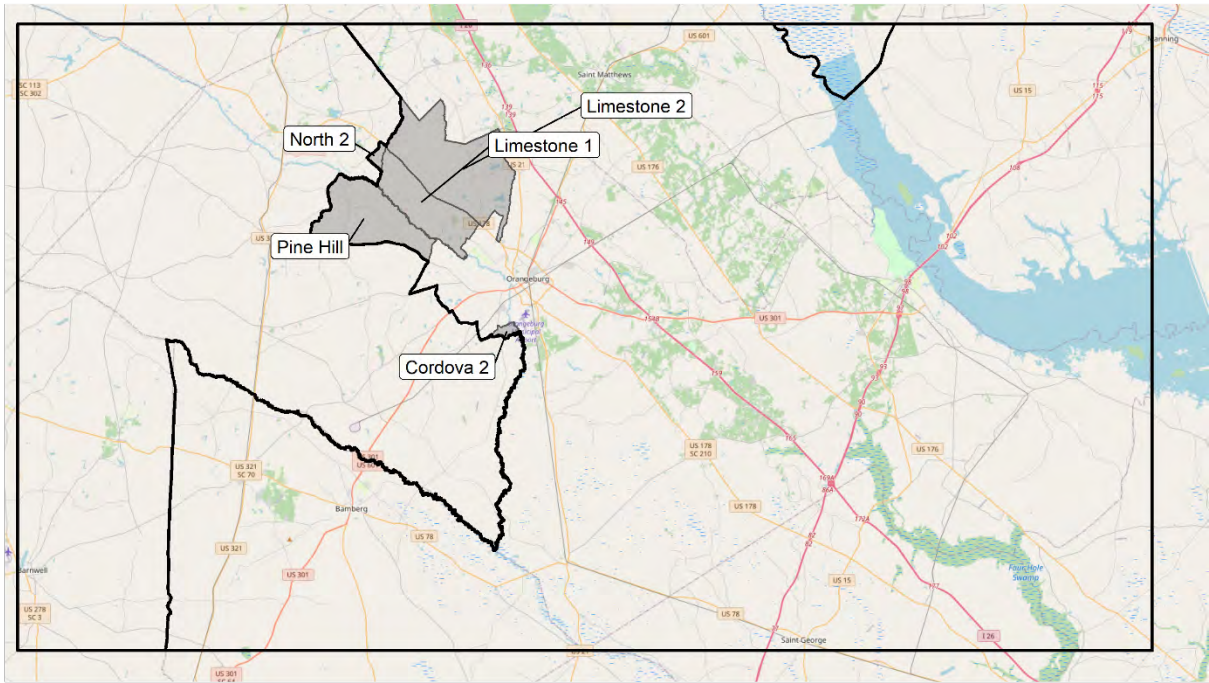
#### The District 2- District 6 Boundary: Orangeburg County

The Enacted Plan also makes changes to the boundary between District 2 and District 6 in Orangeburg. Orangeburg County had 84,223 residents in the 2020 census count. Of these, 66,567 are of voting age. The Voting Age Population is 59.9% Black and 34.9% non-Hispanic White.

The changes to the boundary in Orangeburg are illustrated in the following map:



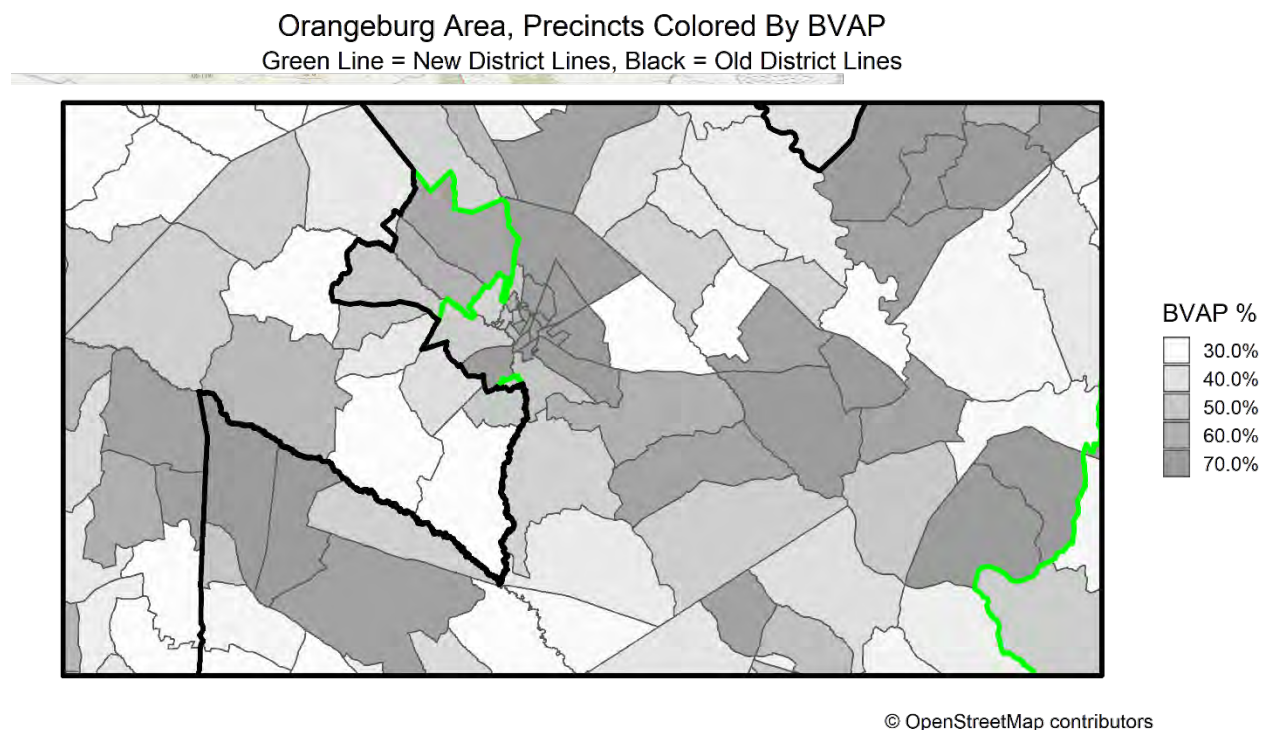
Orangeburg Area, Moved Precincts Shaded  
Black Line = Old District Lines



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In total, five precincts, or portions of precincts, are changed. South of Orangeburg, a small portion of Cordova 2 precinct is moved to the Second District, making that precinct whole. Northwest of Orangeburg, a portion of North 2 precinct and a portion of Pine Hill precinct are also assigned to the Second, making those precincts whole. Finally, Limestone 1 and 2, the only precincts in the area not also contained at least partially within the Orangeburg city boundaries, are also assigned to the Second District.

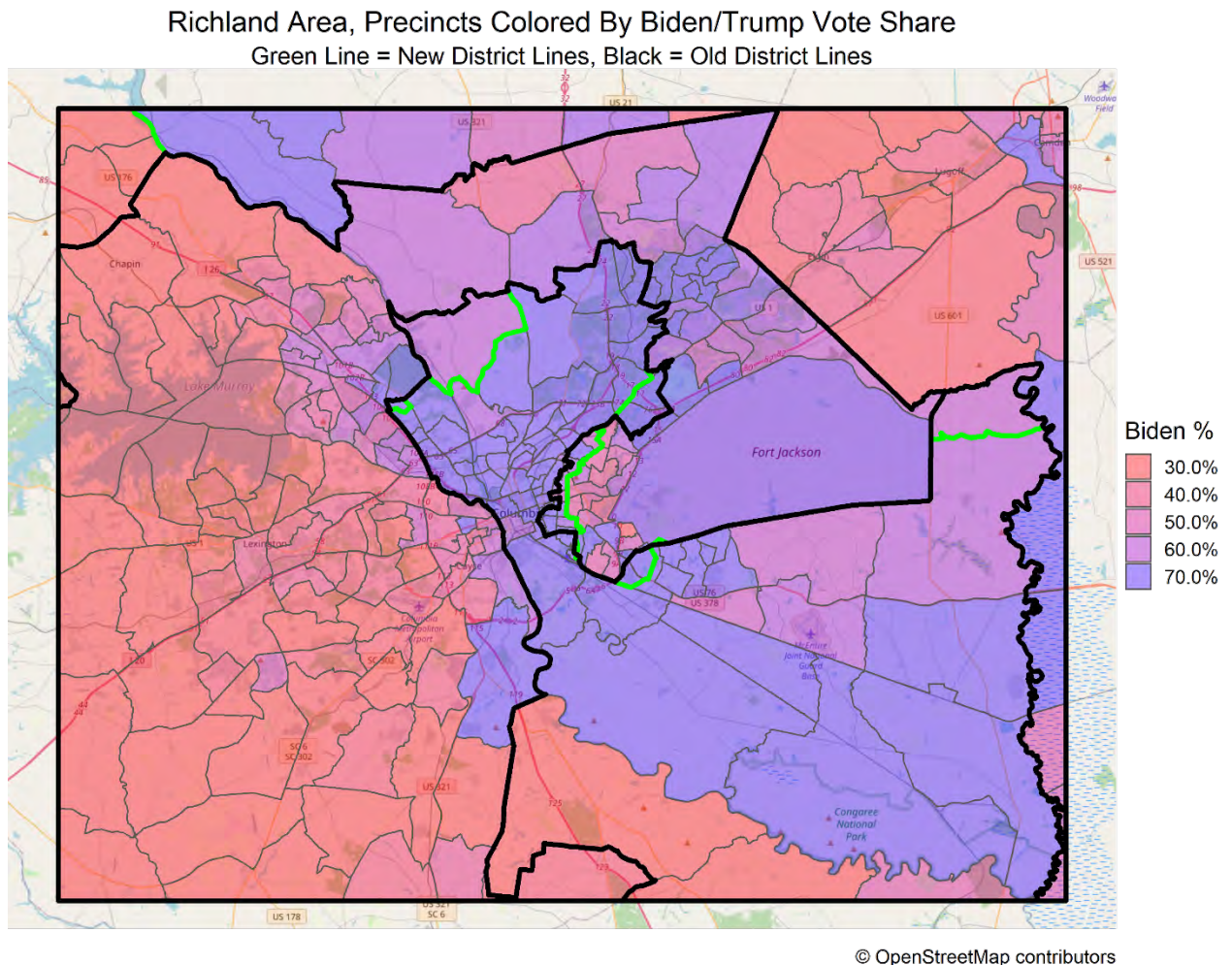
Overall, 5,973 residents are moved, of whom 4,522 are of voting age. These voting-age residents are 60.9% Black and 31.9% non-Hispanic White. The old and new boundaries between the two districts are reflected in the following map, while the precincts are shaded by their BVAP.



#### The District 2- District 6 Boundary: Richland County

The map also changes the boundary between District 2 and District 6 in Richland County. Richland County includes the capital city of Columbia. It has 416,417 residents, of whom 327,481 are of voting age. 44.4% of these residents of voting age are Black, while 44.3% are non-Hispanic White.

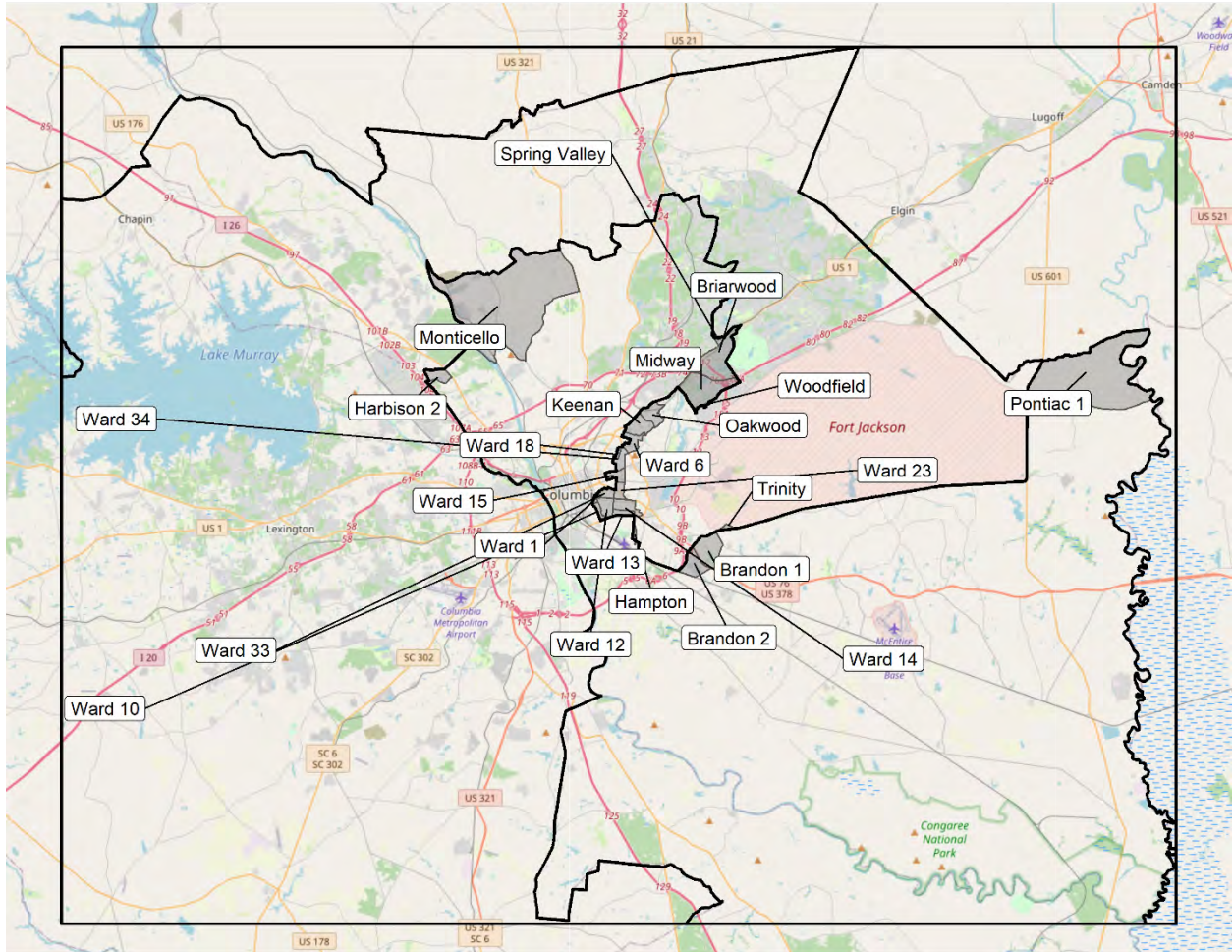
The boundary between the two districts gives a distinctive “hook” shape to the Second District. The following map demonstrates the reason for retaining this hook shape. It superimposes the lines from the Benchmark Plan and Enacted Plan over the precincts in the county, shaded by two-party presidential vote share. The Second District wraps around to take Fort Jackson into District 2, which is represented by Joe Wilson, a member of the House Armed Services Committee.



The changes to the lines here mostly make precincts whole, or add Democratic-leaning voters to the Sixth District, which needed to gain population. They are shaded in the following map:



Black Line = Old District Lines

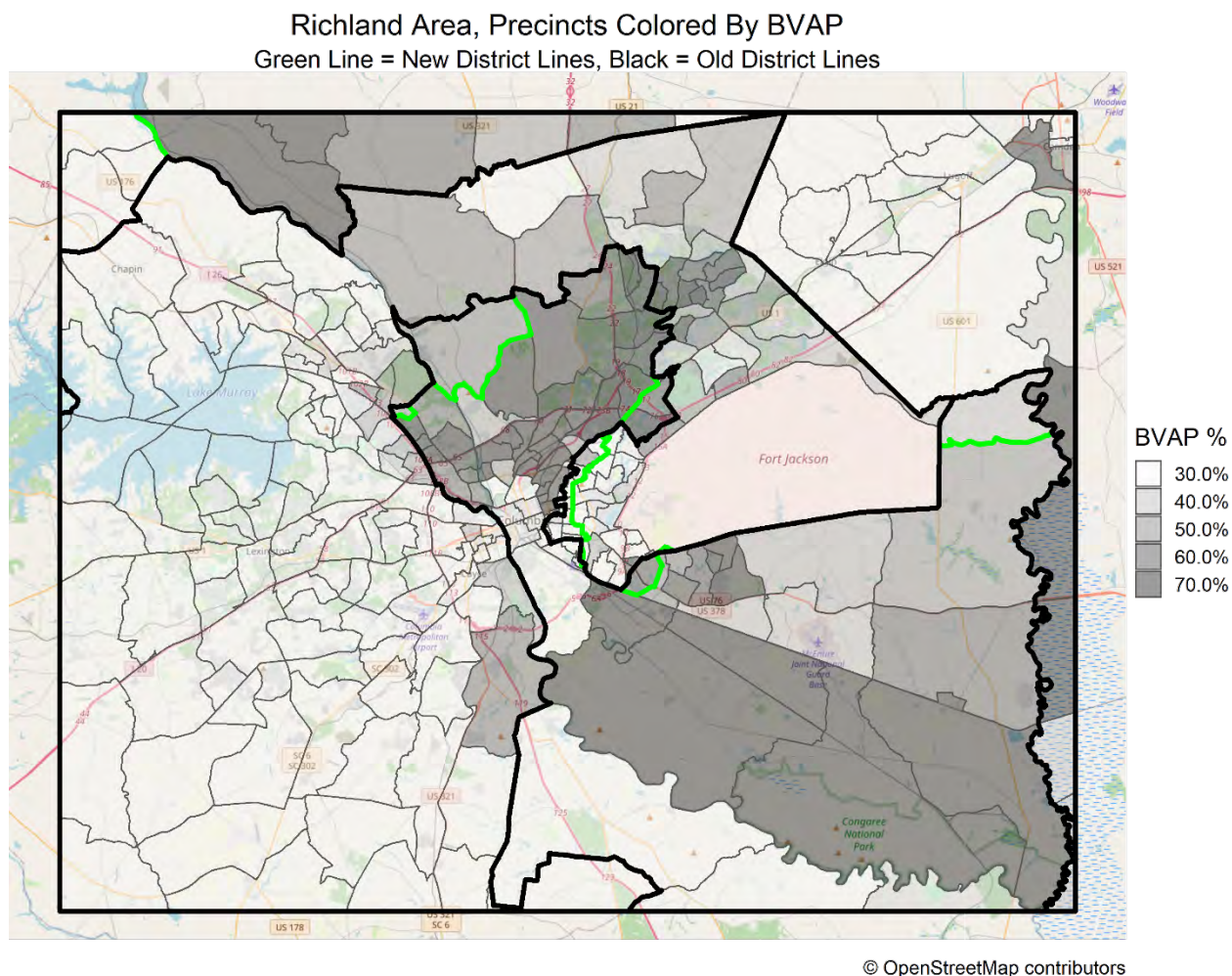


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To the east of Fort Jackson, a portion of the Pontiac 1 precinct is moved from the Sixth District to the Second, making that precinct whole. To the south of Ft. Jackson, parts of Brandon 1 and 2 precincts are moved to the Second, making those precincts whole. To the north of Ft. Jackson, a portion of Briarwood precinct is added to the Second District, making it whole; Midway precinct is added to the Second, making the boundary between the two a smooth line. A portion of Spring Valley precinct is also added to the district. On the northwest side of the city, portions of Harbison 2 precinct and Monticello are added to the Second, making those precincts whole.

Overall, 17,798 people are moved from the Sixth to the Second here, of whom 13,585 are of voting age. Of these, 60.9% are Black, and 24.1% are non-Hispanic White.

The map also shifts several precincts, or portions of precincts, located west of downtown Columbia from the Second to the Sixth District. Of these, nine shifts make precincts or wards whole. This shifts 14,397 residents, of whom 11,918 are of voting age. These residents are 79.2% non-Hispanic White, and 13% Black. However, they are also heavily Democratic, having cast an estimated 67% of their votes for Joe Biden. Included in these changes, some blocks are moved in the Hampton precinct, with 52 residents of Block 1004 moved to the Second District (55.6% of the VAP of this group are White), while 360 residents are moved to the Sixth District (65% of the VAP of this group are White). A map of the old and new lines superimposed over the precincts in Richland County, shaded by race, is provided below:



#### The District 1-District 6 boundary: Charleston Area

When the First District was drawn in 2012, it was not politically competitive. Republicans had held the seat since 1980. In the 2008 presidential election, the district voted for John McCain over Barack Obama by 13 points, and in 2012 it went for Mitt Romney by an 18-point margin. *See* Barone, et al, *The Almanac of American Politics*, 2014 1485 (2013). The Cook Political Report gave the district an 11-point Republican lean.

Over the course of the decade, however, the district became increasingly competitive. In 2016, Donald Trump's vote margin fell to 14 points, even as he improved upon Romney and



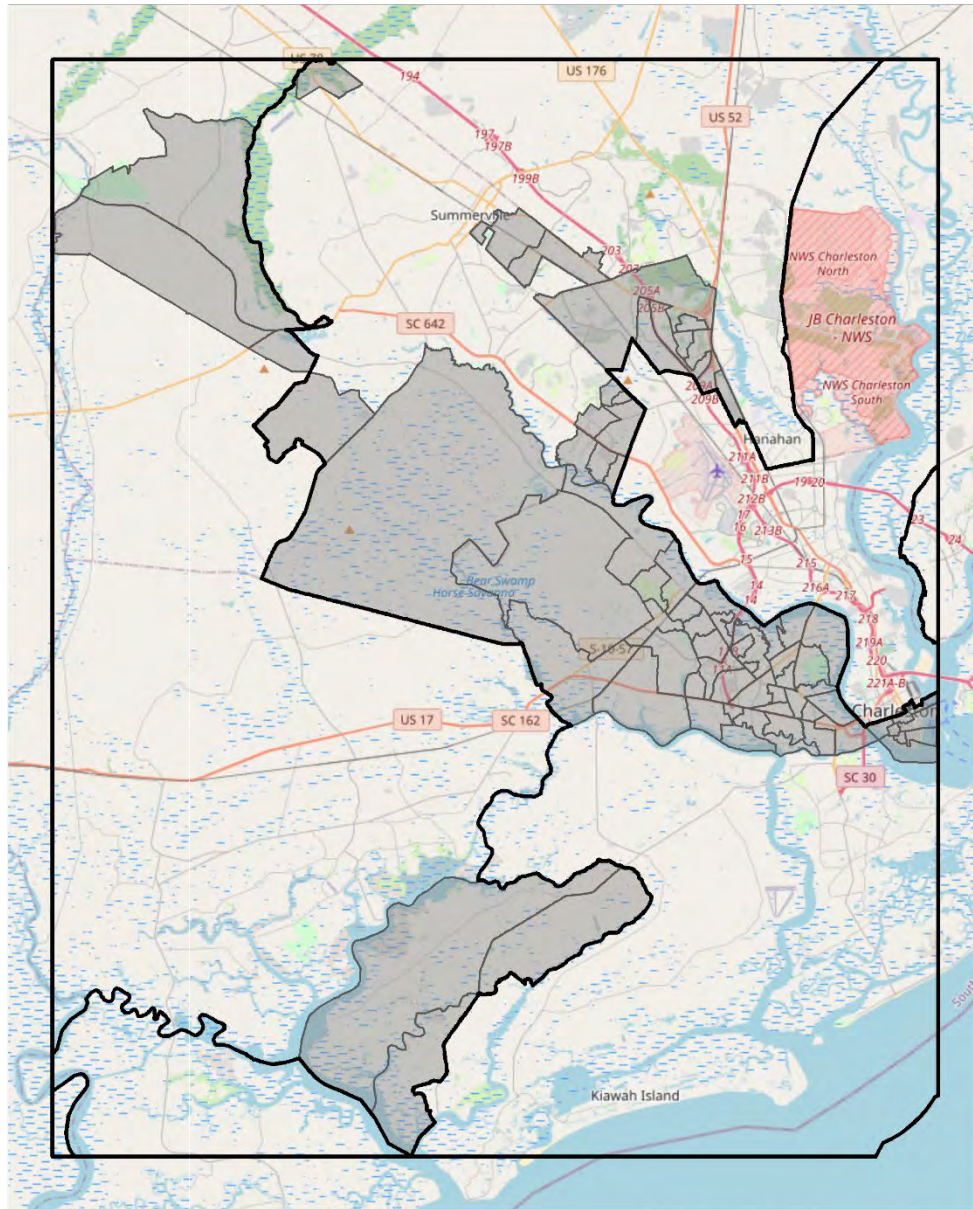
McCain's national vote shares. Cohen & Barnes, *The Almanac of American Politics*, 2018 1681 (2017). In 2018, incumbent Republican congressman Mark Sanford lost the Republican primary to Katie Arrington. Arrington, in turn lost the district to Democrat Joe Cunningham in the 2018 election by a 3,982-vote margin. In 2020, Cunningham lost the district to Republican Nancy Mace by a margin of 5,415 votes. At the same time, as shown in Table 5 above, Donald Trump carried the district by just six points, putting it in the range of competitive territory.

Population growth in the First required it to shed residents under the Enacted Plan. This shedding was done in a way that improves Republican prospects in the district. In particular, Table 8 above shows that the changes resulted in a 1.4% decrease in Joe Biden's vote percentage in District 1. That decrease corresponds to a 1.4% increase in Donald Trump's vote percentage (excluding third parties). Thus, all told these shifts result in a total change to the margin between the Democrat and Republican vote shares in District 1 of almost 3% in favor of Republicans, outstripping Joe Cunningham's margin over Arrington.

First, map drawers made Berkeley County whole, and placed it all within the First District. Berkeley County has 229,861 residents, of whom 173,949 are of voting age. Of these, 22.6% are Black, while 62.8% are non-Hispanic White. In 2020, this county voted for former President Trump by an 11-point margin. However, the residents of the shifted portions of Berkeley County are different politically than the rest of Berkeley County; they voted for President Joe Biden by roughly a 2,200-vote margin.

Second, map drawers made changes in Charleston and Dorchester counties. The peninsula on which Charleston sits is placed wholly within the Sixth District under the Enacted Plan, as is the portion of Charleston County to the northwest of the city. To the west, the boundary is moved from the Ashley River to Wappoo Creek, adding the West Ashley area to the Sixth. Portions of Dorchester County close to the city are also added to the Sixth. The changes are illustrated in the following map:

## Charleston Area, Moved Precincts Shaded Black Line = Old District Lines



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Third, map drawers made Beaufort County whole and added a small portion of Jasper County in District 1.

Changes to Districts 1 and 6 bring the district line into conformity with natural geographic boundaries. The Cooper River separates the Charleston Peninsula in District 6 from Daniel Island (which the Enacted Plan makes whole) in District 1. The Charleston Harbor separates the Charleston Peninsula from Mount Pleasant in District 1. The Stono River and Wappo Creek separate James Island and Johns Island in District 1 from St. Andrews in District 6. And the

Wadmalaw River in Charleston County separates Wadmalaw Island in District 1 from St. Paul's in District 6.

All told, 140,489 residents are moved from the First to the Sixth, of whom 113,531 are of voting age. Of these voting-age residents, 63.9% are non-Hispanic White, while 23.4% are Black. This compares to an overall combined BVAP in Charleston and Dorchester Counties of 22.5%, so the net effect of these moves on the racial composition of these districts is minimal. But moving these residents reduces the Democratic performance in District 1 appreciably, as these residents voted for Joe Biden by an 18% margin. Another 5,309 voters are moved in from the 6<sup>th</sup> district to the 1<sup>st</sup>; these voters are 64% non-Hispanic White, and voted slightly for President Trump.

As noted above, when combined the population swaps between Districts 1 and 6 make the First District on net three points more Republican on the two-party vote share. Significantly, this exceeds former Representative Cunningham's vote share in the district in 2018. By reducing President Biden's vote share to 45.6%, in a year in which he won 52% of the two-party vote nationally, the General Assembly likely moved the district out of competitive territory and into reliably Republican territory, at least in the short term.

## VI. Conclusion

The Enacted Map generally reflects only modest changes from the map that was in effect from 2012-2020 and comports with traditional districting principles identified by this Court and the General Assembly. The Enacted Map retains high percentages of the cores of all of the Benchmark Districts, which the Court upheld against racial gerrymandering and other challenges in *Backus*. To the extent the Enacted Map changes district lines, most districts changed only marginally, and those changes either smooth out existing lines or make precincts whole. The one exception is the First District. The changes in the First do little to change the racial composition of that district, but make it meaningfully more Republican in light of its recent electoral history.





4/18/2022

# Sean P. Trende

## **Exhibit 432**

# Exhibit 33

**Tangipa v. Newsom**

**DX432**

2:25-cv-10616-JLSWLH-KKL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE  
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

HENRY D. MCMASTER, *et al.*,

Defendants.

Case No. 3:21-cv-03302-JMC-TJH-RMG

**Rebuttal Report of Sean P. Trende**

## **I. Response to Dr. Imai**

I have been asked by counsel to respond to the Expert Report of Kosuke Imai, Ph.D., dated April 4, 2022 (“Imai Report”). Dr. Imai runs three sets of simulations. The first set of simulations utilizes all of the precincts, or portions of precincts, contained in Districts 1 and 6 in the Enacted Plan (the “Districts 1 and 6 Ensemble”). The second set of simulations utilizes only the precincts in Charleston County, after “freezing” the precincts outside of Charleston County into Districts 1 and 6 (the “Charleston Ensemble”). The final set of simulations utilizes all statewide precincts, requires that the Sixth District have a BVAP of between 45% and 50%, and creates statewide seven-district maps (the “Statewide Ensemble”). The 10,000 alternative maps produced contain districts that are contiguous, avoid incumbency pairing, achieve, on average, the same compactness as the Enacted Plan, and on average result in no more municipal and county splits than the corresponding number under the Enacted Plan.

Dr. Imai concludes as follows:

- None of his simulations of Districts 1 and 6 place the Black Voting Age Population (BVAP) as low as 17.4%, which is District 1’s BVAP in the Enacted Plan. The BVAP of the Enacted Plan is 3.1 standard deviations from the average BVAP of the Districts 1 and 6 Ensemble.
- For the Charleston simulations, only 0.2% of the plans assign a lower BVAP to District 1 than the simulated plans. District 1’s BVAP of the Enacted Plan is 2.9 standard deviations from the average BVAP of the Charleston Ensemble.
- For the statewide simulations, the BVAP of the First District is about 4.5 standard deviations lower than that found in the average Statewide Ensemble plan. The BVAP of the Second District is about 4.8 standard deviations lower than that found in the average Statewide Ensemble plan. Dr. Imai further shows that almost none of his plans split Sumter County between District 5 and District 6. Dr. Imai concludes that the boundaries in the Enacted Plan “can neither be explained by compliance with the VRA constraint nor the traditional redistricting criteria.” Imai Report ¶¶ 38, 42, 45.

Dr. Imai’s simulations, however, do not support his conclusions and inferences because Dr. Imai does not adequately control for all of the traditional redistricting criteria. As detailed in the Expert Report of Sean P. Trende (“Trende Report”), this Court (in *Colleton County* and

*Backus*), the Senate Guidelines, and the House Guidelines all recognize many traditional criteria that the General Assembly may follow in drawing redistricting plans. Dr. Imai's simulations, however, do not address, much less control for, several such criteria. His conclusions regarding the purported use of race in the Enacted Plan, therefore, are not adequately supported.

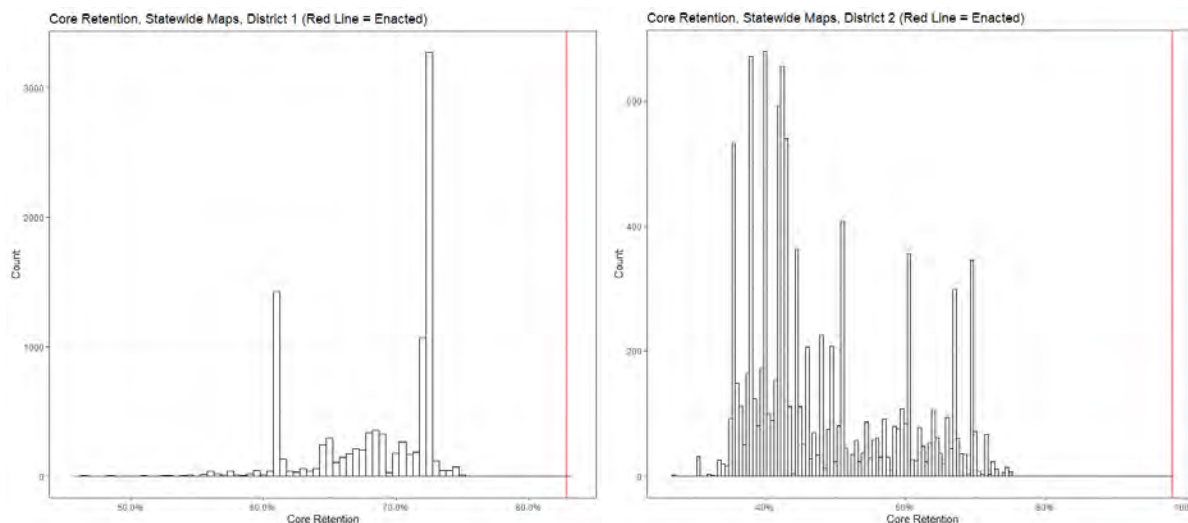
**A. Dr. Imai's Simulations Do Not Control For Core Retention.**

The first traditional principle recognized by this Court, the Senate Guidelines, and the House Guidelines for which Dr. Imai does not control is core retention. As noted in the Trende Report, the cores of the districts have been surprisingly consistent in South Carolina for over 100 years. The unusual boundaries of which Dr. Imai's Report complains, such as the "hook" shape in Richland County, the split of Sumter County, and the divvying up of Charleston and some of its suburbs, have been features of the South Carolina map for 40 years. The Enacted Plan continues this tradition: it preserves over 94% of the cores of five districts, including almost 100% of District 7's core, as well as nearly 90% of District 6's core and over 80% of District 1's core, even though those two districts had significant population deviations under the 2020 Census results.

Dr. Imai provided his code and the results of his simulations to counsel, which I then executed on my computer. Using his maps, I was able to extract the districts to which each precinct was assigned in every map in Dr. Imai's Statewide Ensemble, as well as their populations. Next, I matched the precincts to their district assignment under the Benchmark Plan. From this data, it was a simple task to determine to which "ensemble district" residents of each district in the Benchmark Plan were assigned in Dr. Imai's Statewide Ensemble plans. I treated the district with the largest proportion of residents of each Benchmark Plan district as the "core" district for the Statewide Ensemble maps. I created histograms of the core retention rates in each of the Statewide Ensemble maps.

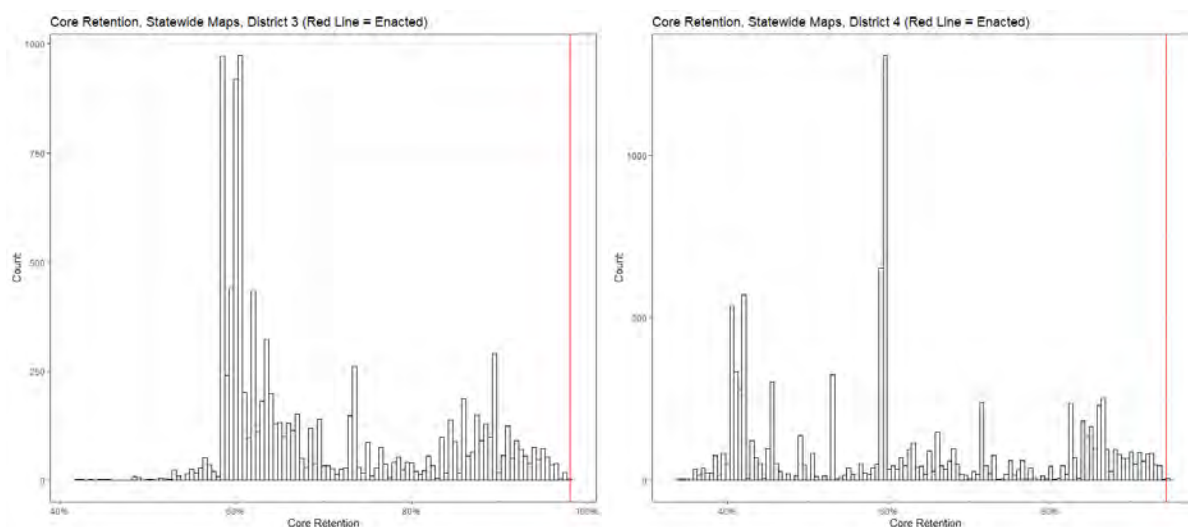
As noted in the Trende Report, the Enacted Plan retains 82.8% of District 1's core. None of the Statewide Ensemble maps has this rate of core retention. Likewise, District 2 has a core retention rate of 98.01% under the Enacted Plan. None of the Statewide Ensemble maps even approaches this rate of core retention.





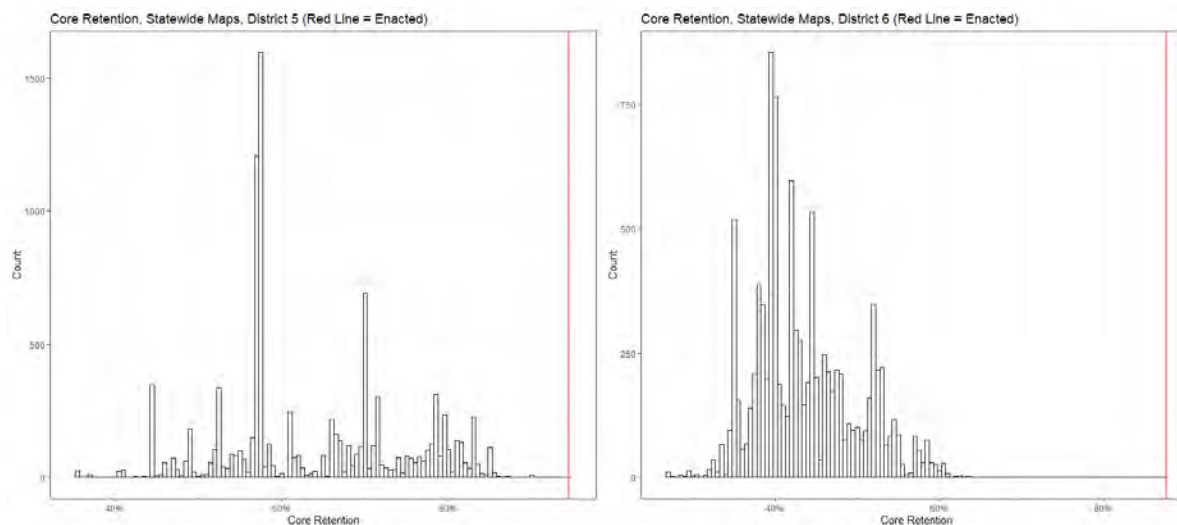
In fact, in the Statewide Ensemble, District 1 features a mean core retention rate of 68.5%. The Enacted Plan's core retention rate in District 1 is three standard deviations above that. In the Statewide Ensemble, District 2 features a mean core retention rate of 48%. The Enacted Plan's core retention rate in District 2 is 4.68 standard deviations above that.

Districts 3 and 4 show similar results. The Statewide Ensemble features a mean core retention rate of 69.5% in District 3. The Enacted Plan's retention of 98.02% of District 3's core is 2.34 standard deviations above that. The Statewide Ensemble features a mean core retention rate of 62.1% in District 4. The Enacted Plan's retention of 94.34% of District 4's core is 1.88 standard deviations above that.

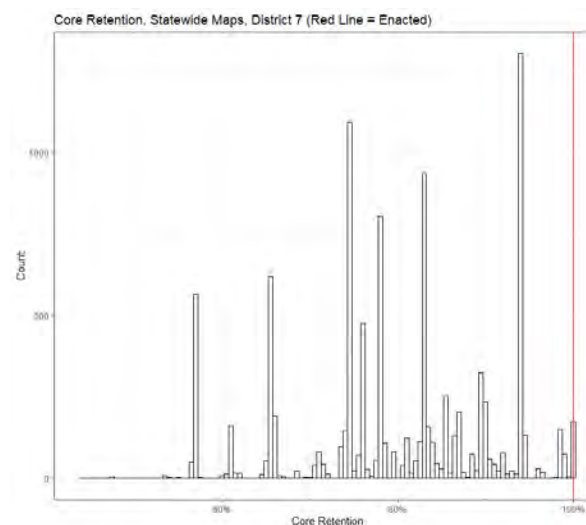


Districts 5 and 6 show even more pronounced effects. The Statewide Ensemble has a mean core retention rate of 63.8% in District 5. The Enacted Plan's retention of 94.38% of District 5's

core is 2.8 standard deviations above that. The Statewide Ensemble has a mean core retention rate of only 43.6% in District 6. The Enacted Plan's retention of 87.55% of District 6's core is 7.06 standard deviations above that. In fact, over half of Congressman Jim Clyburn's constituents would be new to him in 80.9% of the Statewide Ensemble's plans.

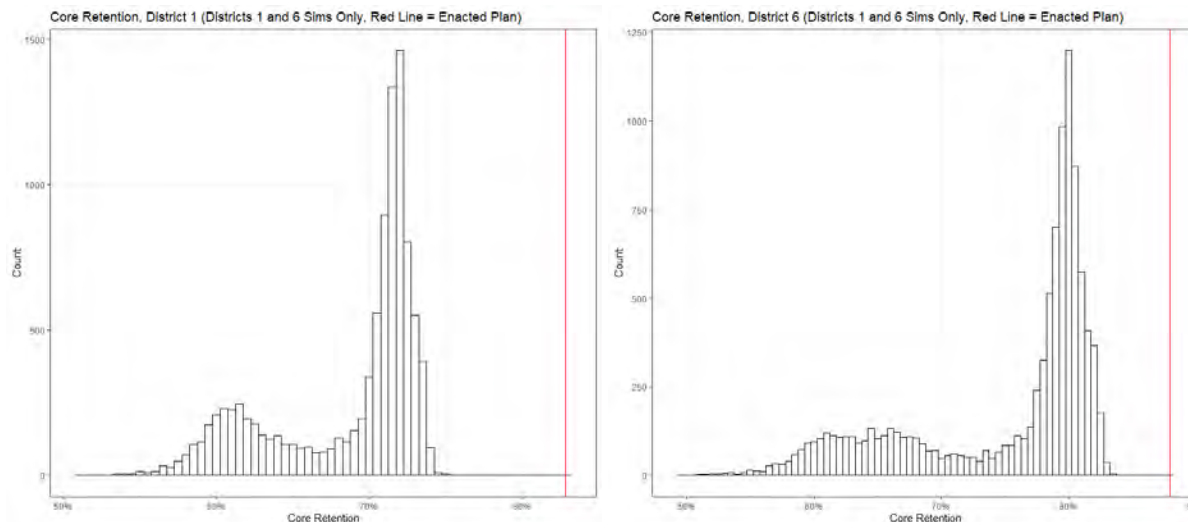


The Statewide Ensemble has a mean core retention rate of 80.1% in District 7. Some of the ensemble districts even reach the Enacted Map's core retention of almost 100%. Nevertheless, the average ensemble plan's core retention is 1.76 standard deviations below the Enacted Map's retention of 99.96% of District 7's core.



The Districts 1 and 6 Ensemble plans also retain less of the core of districts than the Enacted Plan on average. In District 1, the Districts 1 and 6 Ensemble achieves an average core retention 2.97 standard deviations lower than the Enacted Plan's core retention. In District 6, the Districts 1

and 6 Ensemble achieves an average core retention one standard deviation lower than the Enacted Plan's core retention.

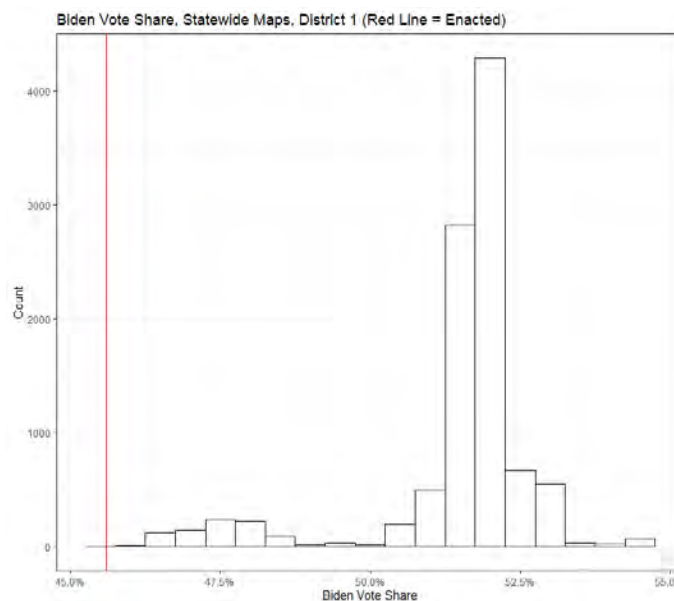


## B. Dr. Imai's Simulations Do Not Address Partisanship Or Politics

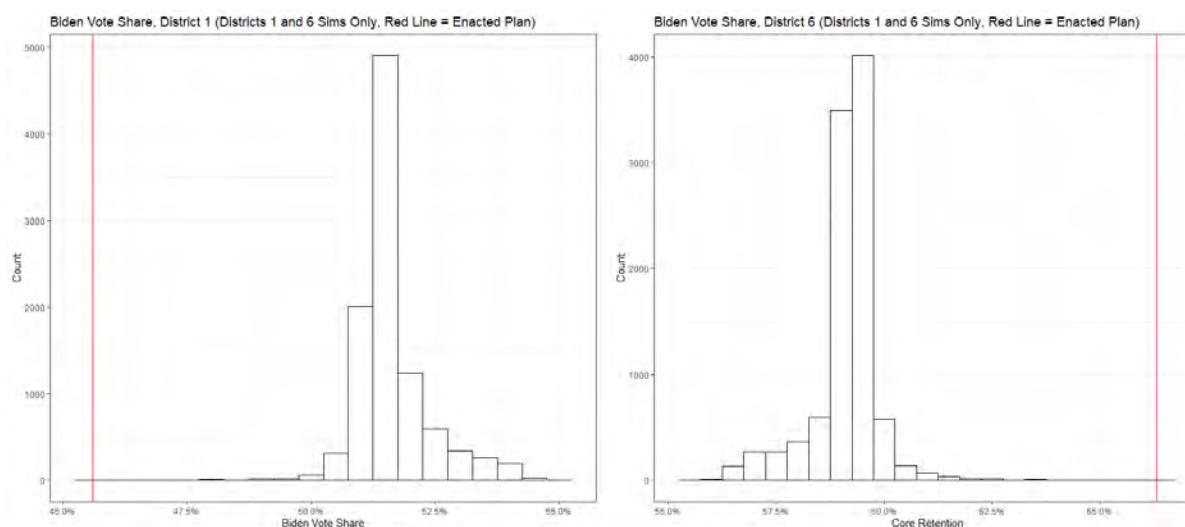
Dr. Imai admits that he did not use partisan information in his simulations. He therefore offers no analysis to show that race rather than politics motivated the General Assembly's drawing of the Enacted Plan.

As explained in the Trende Report, by the end of the 2010s, the First District was increasingly marginal territory for Republicans; a Democrat had won election in District 1 in 2018; and Republican Rep. Nancy Mace was vulnerable in a year that was unfavorable for Republicans. Under the Enacted Plan, the Democratic vote share in this district decreased by 1.4%, while the BVAP increased by only 0.2%. The Democratic vote share in Enacted District 1 is 45.6% on the Biden 2020 number.

The Statewide Ensemble, by contrast, consistently produces more Democratic districts for Rep. Mace. In fact, 91% of the Statewide Ensemble districts in which Mace was placed were carried by President Joe Biden in 2020. President Biden's vote share in the Enacted Plan's First District is almost six points lower than his average vote share in the Statewide Ensemble district where Rep. Mace is placed, or 4.5 standard deviations lower. Notably, this is the only district where the Enacted Map diverges from the Statewide Ensemble substantially in terms of partisanship.

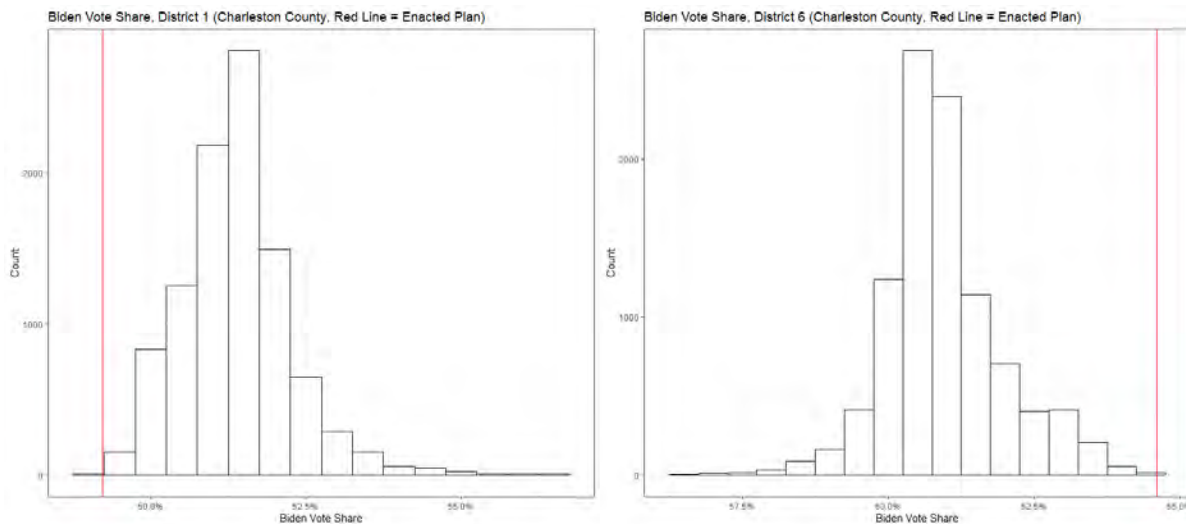


Likewise, the Districts 1 and 6 Ensemble consistently produces districts that increase President Biden’s vote share in the district assigned to Rep. Mace (District 1). In every Districts 1 and 6 Ensemble map, President Biden’s vote share increased over the Benchmark Plan. President Biden’s vote share in Enacted District 1 is eight standard deviations lower than the average District 1 in the Districts 1 and 6 Ensemble. At the same time, President Biden’s vote share in Enacted District 6 is 9.7 standard deviations higher than the average District 6 in the Districts 1 and 6 Ensemble.

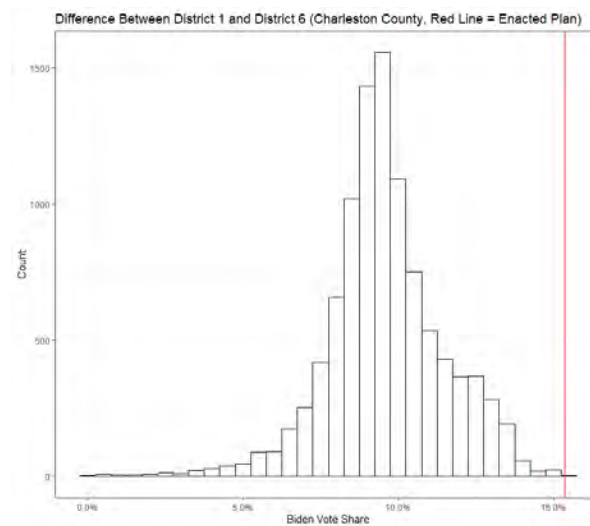


In the Charleston Ensemble, President Biden’s vote share is almost always higher in the Charleston portion of District 1 (defined as the district with the lower Democratic vote share) than in the Charleston portion of Enacted District 1, and almost always lower in the Charleston portion

of District 6 than in the Charleston portion of Enacted District 6. These are differences of 2.4 and 3.2 standard deviations, respectively.



Finally, the difference in partisanship between the portions of District 1 and District 6 contained in Charleston County is about 15.6% in the Enacted Plan; the Charleston Ensemble places that difference at around 10 points on average. This is a difference of about 3.1 standard deviations.



### C. Dr. Imai's Analysis Misses the Forest for the Trees

In short, reasons unrelated to race can explain why South Carolina legislators avoided maps similar to Dr. Imai's ensemble maps. In particular, legislators were likely drawing from a different distribution of maps – ones with higher core retention rates overall and lower Democratic performances in the First District in particular – than Dr. Imai's ensembles create.

But it is also important not to lose sight of the forest for the trees here. The South Carolina General Assembly was not drawing its maps on a blank slate. The Enacted Maps are substantially similar to the Benchmark Plan. A total of 40,000 residents are swapped between Districts 2 and 6, many of whom are moved as a result of reducing the number of precinct splits. A total of 10,300 residents are swapped between Districts 5 and 6, mostly for similar reasons. The changes between Districts 1 and 6 reflect in significant part the need to equalize population in those two districts.

Perhaps most importantly, the Enacted Plan's changes result in only minimal differences in the BVAPs of the districts Plaintiffs challenge. District 1's BVAP increases from 16.6% to 16.7%. District 2's BVAP increases from 23.1% to 24.5%. District 5's BVAP decreases from 25.1% to 24%. District 6—which Plaintiffs have not challenged—experienced a decline from 51.4% to 45.9% BVAP, as it took on large numbers of voters to achieve equal population, including white Democratic voters from District 1.

## **II. Response to Dr. Ragusa**

I have also been asked to respond to the Ragusa Report. Dr. Ragusa's approach is to take a district as it was previously drawn, examine the counties that this benchmark district occupied, and then examine all precincts in the counties that district traverses. He runs three tests. First, he tests whether the precincts with higher BVAPs within the given counties were more or less likely to be moved into a district than those with lower BVAPs. Second, he tests whether precincts with higher BVAPs within a district were more likely or less likely to be moved out of the district than precincts with lower BVAPs. Finally, he takes a combined approach, testing precincts moved in/kept in versus precincts moved out/kept out.

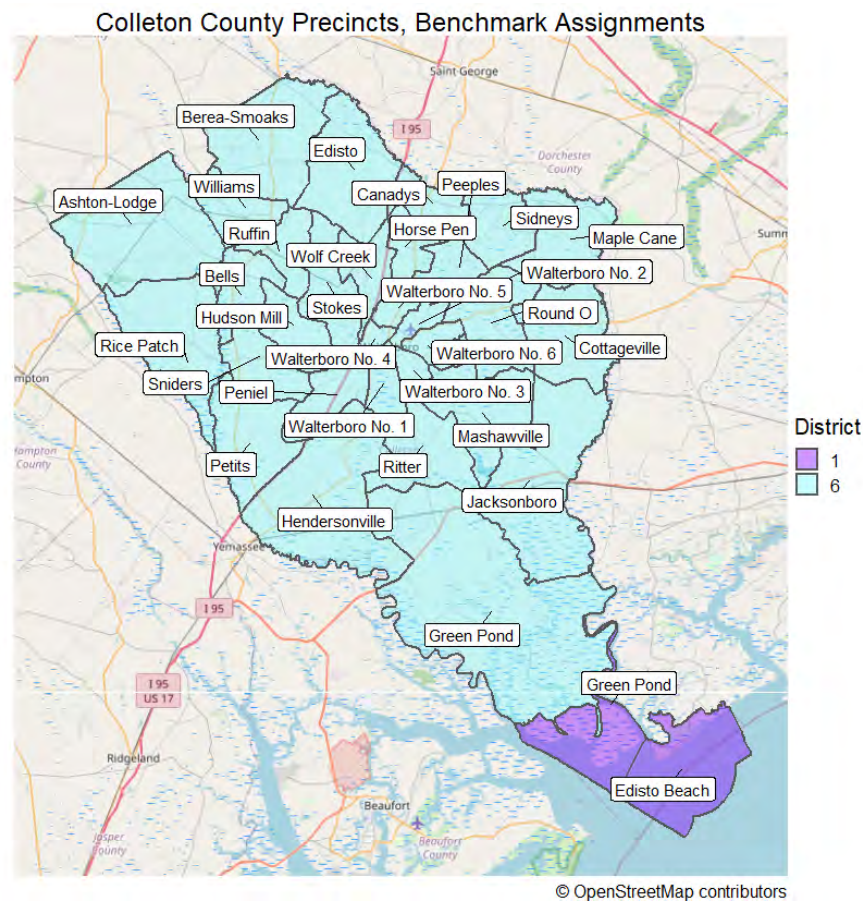
All three approaches suffer from the same infirmities. First, Dr. Ragusa's predictor variable is the *count* of Black residents of voting age in a precinct rather than the *percentage* of Black residents of voting age in the precinct. Counts can be misleading, however. Consider a precinct with five Black residents of voting age, with a total VAP of five. Now consider a precinct with five Black residents of voting age, with a total VAP of 500. Adding each of those precincts to a district with a BVAP of 17% would have different effects on that BVAP, but Dr. Ragusa's approach would treat the decision to add or not to add one of those precincts to a district the same as the decision to add or not to add the other.

Second, Dr. Ragusa fails to control for the myriad traditional districting criteria that have been described elsewhere in this report and the Trende Report. In other words, he doesn't control



for district core retention, reducing precinct splits, preserving communities of interests, or keeping municipalities or counties intact. For example, it makes little sense to ask why a precinct in Lexington County was kept in District 2 while a precinct in Richland County was taken out, without also considering the fact that Lexington County is kept intact in District 2, as it has been for almost 100 years, while Richland County is not.

This leads to the third, most serious problem with Dr. Ragusa’s analysis: It doesn’t consider contiguity. Dr. Ragusa’s concept of a county envelope treats all precincts within a county equally, while some may not even be accessible to the map maker without a substantial reconfiguration of the district. Consider Colleton County:

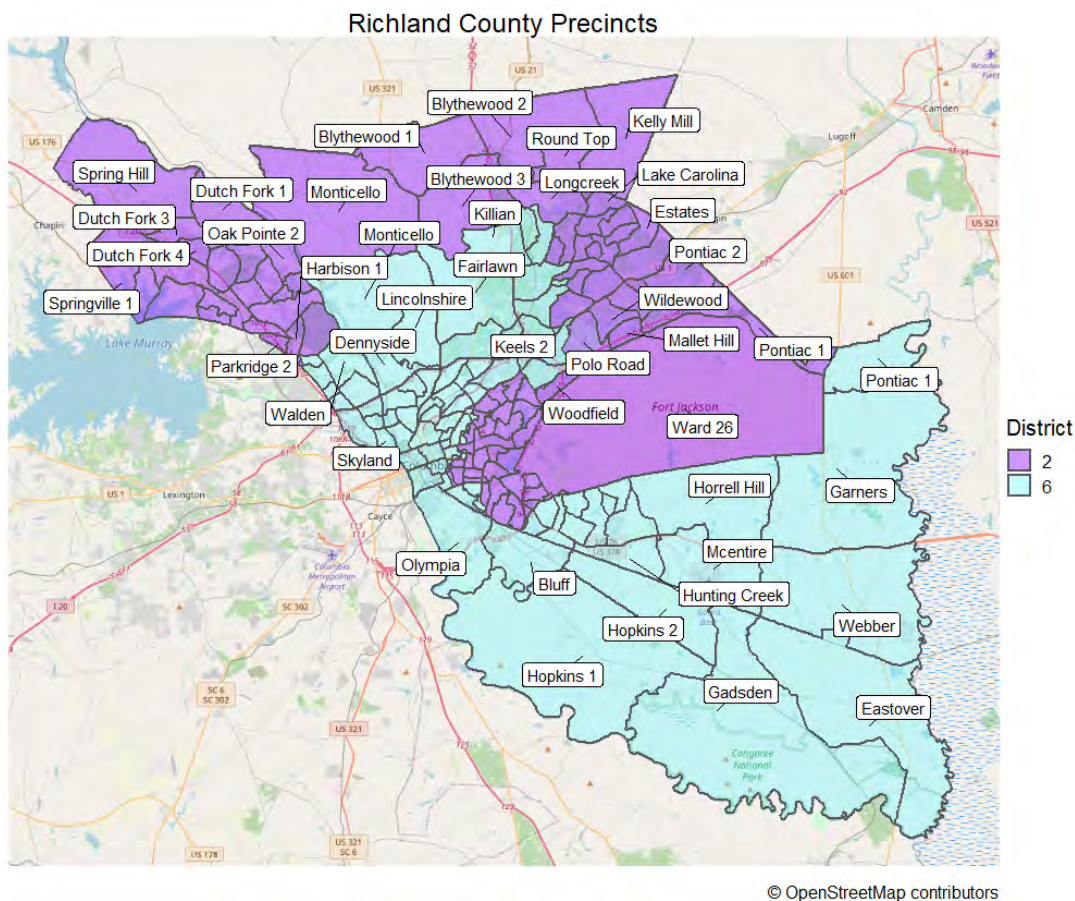


Dr. Ragusa’s approach asks “Why didn’t the mapmaker include the Berea-Smoaks precinct in District 1?” Dr. Ragusa’s approach suggests that there is potential racial significance to this decision because, when viewed in a vacuum, this precinct contains the third-highest BVAP in the county, and one of the higher BVAPs in the “county envelope” for District 1. But obviously the decision whether to include Berea-Smoaks precinct in District 1 requires a great many more considerations than simply the 500 Black residents of voting age of the precinct: Because districts

must be contiguous, to include this precinct in District 1 would require either sending a finger-like extension along the county edge, adding 10,000 new residents to the district, or adding the whole county of approximately 38,000 residents. Moreover, it also would require a corresponding change or changes elsewhere in District 1 to remove an equal number of residents in order to maintain population equality. In short, that precinct cannot be added to District 1 in isolation, so it makes little sense to think of the decision to include it or not include it without considering the other changes necessary to do so.

Relatedly, Dr. Ragusa's approach would treat the decision to exclude this precinct as equivalent to the decision to exclude the Jacksonboro precinct, notwithstanding the fact that the latter is actually adjacent to the portion of District 1 in the Enacted Plan. Finally, the approach would likely attach significance to the decision to add the remainder of the Green Pond precinct – a heavily Black area of the county – to District 1, when in reality that decision makes the precinct whole.

Likewise, consider Richland County.



Dr. Ragusa's approach would consider the decision to keep the Monticello precinct in District 2 solely in terms of racial and political considerations, while overlooking the obvious: Excluding it would render District 2 non-contiguous and require a significant redraw. Likewise, the decision to exclude Olympia precinct from District 2 also keeps District 6 contiguous. Similarly, the decision to exclude the non-contiguous Hopkins 2 precinct can't be treated as equivalent to the decision to exclude contiguous Horrell Hill. Yet this is exactly what Dr. Ragusa's approach does. It is unclear what can truly be gained from an analysis that does not consider contiguity and, in fact, fails to reflect the realities of map drawing.

/s/ Sean P. Trende      5/4/2022  
Sean P. Trende

## **Exhibit 433**

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

--oOo--

DAVID TANGIPA, et al.,

Plaintiffs,

and

Case No.

2:25-cv-10616-JLS-WLH-KKL

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

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

Defendants,

and

DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE, et al.,  
Defendant-Intervenors.

\_\_\_\_\_/

VIDEO-RECORDED DEPOSITION OF THOMAS BRUNELL, Ph.D.  
VERITEXT VIRTUAL  
THURSDAY, DECEMBER 11, 2025

Reported by:

Anrae Wimberley, CSR No. 7778

Job No. 7780499

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE CENTRAL DISTRICT OF CALIFORNIA 3 WESTERN DIVISION 4 --oOo-- 5 DAVID TANGIPA, et al., 6 Plaintiffs, 7 and Case No. 8 2:25-cv-10616-JLS-WLH-KKL 9 UNITED STATES OF AMERICA, 10 Plaintiff-Intervenor, 11 vs. 12 GAVIN NEWSOM, in his official 13 capacity as the Governor of 14 California, et al., 15 Defendants, 16 and 17 DEMOCRATIC CONGRESSIONAL 18 CAMPAIGN COMMITTEE, et al., 19 Defendant-Intervenor. 20 _____/ 21 22 Transcript of video-recorded deposition 23 of THOMAS BRUNELL, Ph.D., taken via Zoom 24 videoconference, beginning at 9:06 a.m. PST and 25 ending at 2:15 p.m. on THURSDAY, DECEMBER 11, 2025, before Anrae Wimberley, Certified Shorthand Reporter No. 7778.</p>	<p>1 For Defendants California Secretary of State Shirley 2 Weber and Governor Gavin Newsom: 3 CALIFORNIA DEPARTMENT OF JUSTICE 4 ATTORNEY GENERAL 5 BY: IRAM HASAN, DEPUTY ATTORNEY GENERAL 6 RYAN EASON, DEPUTY ATTORNEY GENERAL 7 455 Golden Gate Avenue, Suite 11000 8 San Francisco, California 94102 9 (415) 510-3793 10 iram.hasan@doj.ca.gov 11 ryan.eason@doj.ca.gov 12 13 For Defendant-Intervenor Democratic Congressional 14 Campaign Committee: 15 ELIAS LAW GROUP 16 BY: ABHA KHANNA, ESQ. 17 LALI MADDURI, ESQ. 18 1700 Seventh Avenue, Suite 2100 19 Seattle, Washington 98101 20 (202) 968-4490 21 akhanna@elias.law 22 lmadduri@elias.law 23 24 25</p>
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<p>1 APPEARANCES: 2 For Plaintiffs: 3 DHILLON LAW GROUP, INC. 4 BY: MARK MEUSER, ESQ. 5 177 Post Street, Suite 700 6 San Francisco, California 94108 7 (415) 433-1700 8 mmeuser@dhillonlaw.com 9 10 For Plaintiff-Intervenor the United States of 11 America: 12 UNITED STATES DEPARTMENT OF JUSTICE 13 BY: GRETA GIESEKE, ESQ. 14 950 Pennsylvania Avenue 15 Washington, DC 20530 16 (202) 679-4564 17 greta.gieseke@usdoj.gov 18 19 20 21 22 23 24 25</p>	<p>1 For Defendant-Intervenor League of United Latin 2 American Citizens: 3 ARNOLD &amp; PORTER KAYE SCHOLER LLP 4 BY: ORION LOUIS CHARNLEY de NEVERS, ESQ. 5 601 Massachusetts Avenue NW 6 Washington, D.C. 20001 7 (202) 942-5000 8 orion.denevers@arnoldporter.com 9 10 Also present: 11 SANA SINHA - (Joined some time during 12 proceedings) 13 14 JAKE FRANKS, VERITEXT CONCIERGE 15 VERITEXT LEGAL SOLUTIONS 16 --oOo-- 17 18 19 20 21 22 23 24 25</p>
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<p>1 I N D E X</p> <p>2 EXAMINATION BY: PAGE</p> <p>3 MS. KHANNA 8</p> <p>4 MR. de NEVERS 112</p> <p>5 MR. EASON 136</p> <p>6 MS. HASAN 149</p> <p>7 --oOo--</p> <p>8 E X H I B I T S</p> <p>9 EXHIBIT DESCRIPTION PAGE</p> <p>10 Exhibit 1 Declaration Of Tom Brunell 14 In Support Of Plaintiffs' Motion For A Preliminary Injunction; 50 pages</p> <p>12 Exhibit 2 "Report on Racial Bloc 93 Voting in South Carolina," filing date of 10/04/2022; 37 pages</p> <p>15 Exhibit 3 Affidavit of Sara 97 Frankenstein in the case of Brooks vs. Gant, with attachments; 15 pages</p> <p>17 Exhibit 4 Publication titled 106 "Rethinking Redistricting"; 9 pages</p> <p>19 --oOo--</p> <p>21 REPORTER'S NOTE: All quotations from exhibits are 22 reflected in the manner in which they were read into 23 the record and do not necessarily indicate an exact 24 quote from the document.</p> <p>25 --oOo--</p> <p style="text-align: right;">Page 6</p>	<p>1 Dhillon Law Group. I represent the plaintiffs in 09:07:39</p> <p>2 this matter and I'm defending the deposition of</p> <p>3 Dr. Brunell.</p> <p>4 MS. GIESEKE: And I'm Greta Gieseke, and I</p> <p>5 represent plaintiff intervenor the United States. 09:07:54</p> <p>6 MS. KHANNA: Is it all right for me to proceed?</p> <p>7 THE REPORTER: Yes.</p> <p>8 THOMAS BRUNELL, Ph.D.,</p> <p>9 sworn in remotely as a witness by the Certified</p> <p>10 Shorthand Reporter, testified as follows: 09:08:09</p> <p>11 EXAMINATION</p> <p>12 BY MS. KHANNA:</p> <p>13 Q. Good morning, Dr. Brunell.</p> <p>14 A. Good morning.</p> <p>15 Q. My name is Abha Khanna, and I represent 09:08:13</p> <p>16 the intervenor defendant in this case.</p> <p>17 Could you please just state your full name</p> <p>18 for the record.</p> <p>19 A. Sure. It's Thomas Lloyd Brunell.</p> <p>20 Q. And where do you live? 09:08:24</p> <p>21 A. I live in Richardson, Texas.</p> <p>22 Q. I take it you've been deposed before?</p> <p>23 A. I have.</p> <p>24 Q. Approximately how many times?</p> <p>25 A. Twelve to 15, I would say. 09:08:35</p> <p style="text-align: right;">Page 8</p>
<p>1 THURSDAY, DECEMBER 11, 2025;</p> <p>2 DEPOSITION VIA ZOOM;</p> <p>3 9:06 A.M. PST</p> <p>4 - - -</p> <p>5 THE REPORTER: We are on the record. It is 09:06:14</p> <p>6 9:06 a.m. on December 11th, 2025. My name is Anrae</p> <p>7 Wimberley, CSR No. 7778, and I will now swear in the</p> <p>8 witness.</p> <p>9 (Witness sworn.)</p> <p>10 THE REPORTER: Could I have everyone introduce 09:06:49</p> <p>11 themselves, beginning with the noticing attorney?</p> <p>12 MS. HASAN: My name is Iram Hasan, and I</p> <p>13 represent the defendants, Governor Gavin Newsom and</p> <p>14 Secretary of State Shirley Weber, the defendants in</p> <p>15 this case. 09:07:05</p> <p>16 MR. EASON: This is Ryan Eason also</p> <p>17 representing State defendants, California Governor</p> <p>18 Newsom and California Secretary of State Weber.</p> <p>19 MS. KHANNA: My name is Abha Khanna, and I'm</p> <p>20 representing the intervenor defendant, D triple C, 09:07:20</p> <p>21 which is DCCC.</p> <p>22 MR. de NEVERS: I'm Orion de Nevers. I'm with</p> <p>23 Arnold &amp; Porter, representing LULAC intervenor</p> <p>24 defendants.</p> <p>25 MR. MEUSER: My name is Mark Meuser with the 09:07:39</p> <p style="text-align: right;">Page 7</p>	<p>1 Q. When was your most recent deposition? 09:08:37</p> <p>2 A. Oh, hmm, it's been a little while, I would</p> <p>3 say it's been over a year, maybe 18 months ago.</p> <p>4 Q. Great. And have you done a remote</p> <p>5 deposition before? 09:08:53</p> <p>6 A. I think I have done one remote deposition.</p> <p>7 Q. Okay. I'm not going to spend a lot of</p> <p>8 time on the deposition ground rules. I think you</p> <p>9 know the drill. I need to have an affirmative</p> <p>10 answer, not a head nod or anything like that, so 09:09:07</p> <p>11 that the court reporter can get it down.</p> <p>12 If at any point you don't understand the</p> <p>13 question that I'm asking, please just let me know</p> <p>14 and I'll do my best to rephrase.</p> <p>15 A. Okay. 09:09:19</p> <p>16 Q. Otherwise I will assume that you</p> <p>17 understood the question.</p> <p>18 Does that sound right?</p> <p>19 A. Yes.</p> <p>20 Q. And of course if at any point you need a 09:09:25</p> <p>21 break, just let us know, and we'll go off the record</p> <p>22 as long as there's not a question pending.</p> <p>23 A. Very good.</p> <p>24 Q. What did you do to prepare for today's</p> <p>25 deposition? 09:09:38</p> <p style="text-align: right;">Page 9</p>

<p>1 A. I re-read my report this morning. 09:09:39</p> <p>2 Mr. Meuser and I had a brief conversation this</p> <p>3 morning. Yesterday, I think I was looking at some</p> <p>4 of the depositions, but just sort of gathered my</p> <p>5 thoughts. 09:10:04</p> <p>6 Q. What deposition did you look at?</p> <p>7 A. I looked at the deposition of Bernie</p> <p>8 Grofman and Professor Rodman.</p> <p>9 Q. Have you read any of the other expert</p> <p>10 reports that have been submitted in this case? 09:10:19</p> <p>11 A. I was given the expert reports of both of</p> <p>12 those gentlemen, along with the reports by Professor</p> <p>13 Palmer and Fairfax.</p> <p>14 Q. Have you read the report from Dr. Trende</p> <p>15 in this case? 09:10:35</p> <p>16 A. That was not given to me.</p> <p>17 Q. Did you speak with anyone else about this</p> <p>18 deposition, other than your counsel?</p> <p>19 A. No.</p> <p>20 Q. Have you ever consulted with anyone other 09:10:47</p> <p>21 than counsel in preparation for this case at all?</p> <p>22 A. No.</p> <p>23 Q. Have you ever met with any of the</p> <p>24 plaintiffs in this case?</p> <p>25 A. No. 09:11:00</p> <p style="text-align: right;">Page 10</p>	<p>1 A. I was approached and kind of the basic 09:12:18</p> <p>2 thing that Mr. Meuser wanted was to introduce some</p> <p>3 basic demographics in my report showing how diverse</p> <p>4 the state was.</p> <p>5 And then also we were talking about 09:12:34</p> <p>6 evidence for the Gingles test.</p> <p>7 Q. And did you understand why you were asked</p> <p>8 to be doing those things in this case?</p> <p>9 A. I mean, I think so. I mean, maybe</p> <p>10 Mr. Meuser has things, you know, arguments he wants 09:12:56</p> <p>11 to make that I'm not aware of, but I think I do.</p> <p>12 Q. And what is your understanding of the</p> <p>13 purpose of the analysis you've been asked to do.</p> <p>14 A. That California is a very diverse state</p> <p>15 with no clear majority group, and then in terms of 09:13:13</p> <p>16 Gingles prongs 2 and 3, there's some evidence in my</p> <p>17 report that those prongs are not satisfied either,</p> <p>18 that -- well, the minority groups, Hispanics in</p> <p>19 particular, do vote cohesively. It's not clear that</p> <p>20 Whites vote against them and regularly defeat their 09:13:42</p> <p>21 candidates of choice.</p> <p>22 Q. What, if any, documents did counsel</p> <p>23 provide you as you were preparing for your report in</p> <p>24 this case?</p> <p>25 A. Well, we shared them all. I don't know if 09:13:57</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. When were you first approached to serve as 09:11:03</p> <p>2 an expert in this case?</p> <p>3 A. Sometime in October.</p> <p>4 Q. Do you recall specifically when?</p> <p>5 A. It was late October, I believe. 09:11:17</p> <p>6 Q. Were you aware of the kind of political</p> <p>7 activity going on in California regarding</p> <p>8 redistricting at the time you were approached?</p> <p>9 A. Sure.</p> <p>10 Q. And how was that? 09:11:33</p> <p>11 A. Just through the news.</p> <p>12 Q. What is your understanding about -- of</p> <p>13 what this case is about?</p> <p>14 A. Do you mean the legal issues?</p> <p>15 Q. Yes, the actual claims. 09:11:46</p> <p>16 MR. MEUSER: I'll object that that calls for a</p> <p>17 legal conclusion.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: Yeah. I'm not a lawyer, but I</p> <p>20 would say that the key factor in this case is 09:11:57</p> <p>21 whether or not race predominated in the drawing of</p> <p>22 the new map.</p> <p>23 BY MS. KHANNA:</p> <p>24 Q. And what were you asked to do in this</p> <p>25 case? 09:12:15</p> <p style="text-align: right;">Page 11</p>	<p>1 I could -- I mean, of course I got all the reports. 09:14:00</p> <p>2 We talked about the depositions. There was a report</p> <p>3 by John Morgan in a related lawsuit that was given</p> <p>4 to me.</p> <p>5 What else? Mr. Meuser pointed me to where 09:14:30</p> <p>6 I could find some data. He didn't give it to me,</p> <p>7 but told me where to go to find it. That's all I</p> <p>8 can really remember off the top of my head.</p> <p>9 Q. What, if any, documents did counsel</p> <p>10 provide you before you performed the analysis in 09:14:48</p> <p>11 your expert report?</p> <p>12 A. He gave me the transcript from -- the Hope</p> <p>13 transcript where the map drawer was talking about</p> <p>14 what he did. There might have been another</p> <p>15 transcript from something about what he said. 09:15:10</p> <p>16 What else did I get before? Mr. Meuser</p> <p>17 e-mailed me a list of minority candidates who had</p> <p>18 run recently in the state.</p> <p>19 That might be it. That's all I can</p> <p>20 remember off the top of my head. 09:15:39</p> <p>21 Q. I believe you said that counsel pointed</p> <p>22 you to some data; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. What data was that?</p> <p>25 A. He pointed me to the We Draw The Lines web 09:15:47</p> <p style="text-align: right;">Page 13</p>

<p>1 page. 09:15:51</p> <p>2 Q. What is that?</p> <p>3 A. That, I think, is the California</p> <p>4 Redistricting Commission's web page, and there was</p> <p>5 some census data on that web page. 09:16:01</p> <p>6 Q. Any other data that he pointed you to?</p> <p>7 A. I think that's it.</p> <p>8 MS. KHANNA: All right. I'd like to pull up</p> <p>9 what I've marked as Dr. Brunell Tab 1.</p> <p>10 (Deposition Exhibit 1 was marked.) 09:16:17</p> <p>11 MS. KHANNA: And, Jake, if we can see it all on</p> <p>12 the screen share, that would be helpful.</p> <p>13 THE REPORTER: And that's Exhibit 1?</p> <p>14 MS. KHANNA: Yes, we'll mark this as Exhibit 1.</p> <p>15 BY MS. KHANNA: 09:16:40</p> <p>16 Q. Dr. Brunell, can you see that?</p> <p>17 A. I can.</p> <p>18 Q. Do you recognize this document?</p> <p>19 A. It looks like my report.</p> <p>20 Q. Right. And if you -- I don't know if you 09:16:49</p> <p>21 can scroll through --</p> <p>22 MS. KHANNA: Or, Jake, if you have to scroll</p> <p>23 through.</p> <p>24 THE WITNESS: Yeah, I cannot scroll through.</p> <p>25 BY MS. KHANNA: 09:17:00</p> <p style="text-align: right;">Page 14</p>	<p>1 Did I read that correctly? 09:18:23</p> <p>2 A. Yes.</p> <p>3 Q. Did counsel provide you the 18 counties</p> <p>4 that you refer to here?</p> <p>5 A. He did, yes. 09:18:32</p> <p>6 Q. And did you understand how those counties</p> <p>7 were chosen?</p> <p>8 A. Yes, I think those were the ones that</p> <p>9 contained the 16 majority Hispanic districts.</p> <p>10 Q. And you might have just answered my 09:18:45</p> <p>11 question.</p> <p>12 When you refer here to Voting Rights Acts</p> <p>13 districts, can you explain to me how you define that</p> <p>14 term?</p> <p>15 A. Yeah, those are districts that are usually 09:18:55</p> <p>16 mandated by law that are majority of some ethnic</p> <p>17 minority.</p> <p>18 Q. When you refer to 16 Voting Rights Acts</p> <p>19 districts, are you referring to 16 districts that</p> <p>20 are mandated by law? 09:19:15</p> <p>21 A. That's a good -- I don't know whether they</p> <p>22 were mandated by law in this case or not.</p> <p>23 Q. How did you identify the 16 Voting Rights</p> <p>24 Acts districts?</p> <p>25 A. Mr. Meuser told me which districts they 09:19:29</p> <p style="text-align: right;">Page 16</p>
<p>1 Q. But just to confirm, this is a 50-page PDF 09:17:01</p> <p>2 that includes your declaration, your CV, and the</p> <p>3 expert report that you submitted in this case.</p> <p>4 Does that look right?</p> <p>5 A. Yes, it does. 09:17:15</p> <p>6 Q. Do you have any documents in front of you</p> <p>7 right now in the room that you're in?</p> <p>8 A. No.</p> <p>9 Q. Do you have any -- do you have your report</p> <p>10 with you in front of you on the screen, other than 09:17:28</p> <p>11 what we have on the screen share?</p> <p>12 A. I do not. I have nothing else on my</p> <p>13 screen open.</p> <p>14 Q. Okay. I'm going to turn to paragraph 15</p> <p>15 of your declaration, which I believe is on page 5 of 09:17:41</p> <p>16 the PDF, if that helps you. Thank you.</p> <p>17 And I believe this is where you explain</p> <p>18 what you were asked to do by counsel.</p> <p>19 Does that look right?</p> <p>20 A. Yes. 09:18:03</p> <p>21 Q. Okay. And in paragraph 15 you state, "I</p> <p>22 was asked to look at several geographic and</p> <p>23 election-related factors in 18 of California's</p> <p>24 counties associated with the 16 Voting Rights Act</p> <p>25 districts contained in Proposition 50's maps." 09:18:18</p> <p style="text-align: right;">Page 15</p>	<p>1 were. 09:19:33</p> <p>2 Q. Your counsel gave you a list of districts</p> <p>3 and he called them Voting Rights Acts districts?</p> <p>4 A. I don't recall whether he referred to them</p> <p>5 that way or not, but these were the majority 09:19:42</p> <p>6 Hispanic districts.</p> <p>7 Q. And is it your understanding these are all</p> <p>8 of the majority Hispanic districts in the state of</p> <p>9 California?</p> <p>10 A. In Proposition 50's map, I believe so, 09:19:54</p> <p>11 yes.</p> <p>12 Q. And when you say "majority Hispanic," do</p> <p>13 you mean Hispanic total population, voting age</p> <p>14 population or citizen voting age population?</p> <p>15 A. Usually when we talk about Hispanics, we 09:20:09</p> <p>16 talk about is CVAP, which is citizen voting age</p> <p>17 population. I think that these are all majority</p> <p>18 CVAP districts.</p> <p>19 Q. Did you do any checking to make sure that</p> <p>20 the list of majority Hispanic districts that counsel 09:20:22</p> <p>21 had provided was, in fact, an accurate list?</p> <p>22 A. Yes, I believe that I had other data that</p> <p>23 I looked at to conclude that -- to back that up.</p> <p>24 Q. Did counsel identify what specific</p> <p>25 geographic and election-related factors he wanted 09:20:53</p> <p style="text-align: right;">Page 17</p>

1 you to examine? 09:20:56	1 Q. And you were asked to determine the 09:23:44
2 A. Well, he told me the -- he told me which	2 stability of elections, is that accurate?
3 counties he wanted me to look at, these 18 counties,	3 A. I mean, I wanted -- they wanted me to look
4 and then election-related factors less so.	4 at the -- yes, I think that that's fair.
5 You know, I looked at several recent 09:21:10	5 Q. And if I look at paragraphs 16 and 17 on 09:24:10
6 statewide elections, and I don't think that was -- I	6 this same page, I think you state your conclusions
7 don't think that was all directed by counsel.	7 on that analysis; is that correct?
8 Q. So can you clarify, what geographic	8 A. That's correct.
9 features did you examine in your analysis?	9 Q. What is your conclusion in paragraph 16?
10 A. These 18 counties, that's what we looked 09:21:28	10 A. There's no racial or ethnic majority in 09:24:20
11 at. That's what I looked at.	11 the state and that Hispanics are a plurality of the
12 Q. So when you refer to "geographic	12 total population and non-Hispanic Whites are a
13 features," you were speaking about the 18 counties	13 plurality in the citizen voting age population.
14 that counsel provided you to examine; is that	14 Q. So this answers the question that you were
15 correct? 09:21:39	15 asked to resolve of what is the demographic make-up 09:24:37
16 A. That's right.	16 of these counties; is that right?
17 Q. You didn't look at any other geographic	17 A. Right.
18 features, other than the existence of these	18 Q. And what about your conclusion in
19 counties?	19 paragraph 17, what is that conclusion?
20 A. That's right. 09:21:49	20 A. That, in the analyses that I did, that 09:24:53
21 Q. And maybe you already mentioned this, what	21 Whites -- non-Hispanic Whites tend to vote with
22 election-related factors did you examine in your	22 Hispanics, and thus there is no racially polarized
23 report?	23 voting.
24 A. I looked at a bunch of statewide elections	24 Q. And you mentioned the term "racially
25 that are in my report, and then I used some survey 09:22:03	25 polarized voting," is that a term you used in this 09:25:13
Page 18	Page 20
1 data. 09:22:08	1 declaration, or in paragraph 17, do you know? 09:25:16
2 Q. So you say you were asked to look at these	2 And we can scroll down so you can see the
3 factors in these counties.	3 whole paragraph.
4 For what purpose?	4 A. I did not use that phrase in this
5 A. Like I said before, we were -- basically, 09:22:20	5 paragraph. 09:25:27
6 we wanted to look at whether -- what the demography	6 Q. But you were specifically asked to
7 of the state was, how -- I looked at the correlation	7 determine the extent of racially polarized voting in
8 across elections within the counties to see how	8 this area; is that right?
9 stable they were.	9 A. I was asked to examine prongs 2 and 3 of
10 And then the last part of my report I was 09:22:44	10 the Gingles test. 09:25:37
11 trying to determine whether or not there's racially	11 Q. Can you describe, what is your
12 polarized voting in these counties.	12 understanding of what racially polarized voting is?
13 Q. So I'm looking specifically just at	13 A. Sure.
14 paragraph 15 here, and I guess my question is, was	14 It's when the second prong of the Gingles
15 there a specific question you were trying to answer 09:23:01	15 test is that the minority group needs to be 09:25:54
16 in looking at these factors?	16 cohesive, which means they vote generally as a bloc.
17 A. What the make-up was of -- the demographic	17 And then in the third prong, the majority
18 make-up of these counties, the overall kind of	18 group, which is generally non-Hispanic Whites, they
19 stability of elections and then factors related to	19 also need to vote as a bloc and generally defeat the
20 the Gingles test, factors 2 and 3, prongs 2 and 3. 09:23:26	20 preferred candidate of the minority group. 09:26:12
21 Q. So specifically about the task you were	21 Q. And is that term "racially polarized
22 talking about in paragraph 15, you were asked to	22 voting" sometimes interchangeable with the term
23 examine the demographic make-up of these counties,	23 "racial bloc voting"?
24 is that accurate?	24 A. Yes, I would say that it is.
25 A. Yes. 09:23:43	25 Q. Have you conducted racially polarized 09:26:24
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<p>1 voting analyses before in your expert work? 09:26:27</p> <p>2 A. I have.</p> <p>3 Q. And how would you typically examine the</p> <p>4 existence or extent of racially polarized voting in</p> <p>5 a given area? 09:26:39</p> <p>6 A. Typically we use -- there's several</p> <p>7 different methods to go about this process, and in</p> <p>8 other states, it's far easier because California's</p> <p>9 diversity makes this question substantially more</p> <p>10 difficult to answer, I would say. 09:27:00</p> <p>11 But typically you would use data from</p> <p>12 particular elections -- you would like to get</p> <p>13 elections in which there is a minority -- a member</p> <p>14 of the minority group that we're interested in</p> <p>15 running against somebody from the majority 09:27:20</p> <p>16 typically, White, a non-Hispanic White person.</p> <p>17 And you can use data at a relatively small</p> <p>18 level of geography that you match up with, usually</p> <p>19 at the precinct level, because that's the kind of</p> <p>20 smallest geographic area in which election data are 09:27:41</p> <p>21 tallied. And then you match that with census data</p> <p>22 and you could do some relatively simple tests</p> <p>23 like -- the first one is called homogeneous precinct</p> <p>24 analysis.</p> <p>25 And so here we're trying to infer from 09:28:00</p> <p style="text-align: right;">Page 22</p>	<p>1 ecological regression analysis where you use the 09:29:38</p> <p>2 same data, election data at the precinct level merge</p> <p>3 with census data to get an estimate of the percent</p> <p>4 of White voters that voted for one candidate and the</p> <p>5 minority group that voted for either candidate. 09:29:52</p> <p>6 Q. Did you use homogeneous precinct analysis</p> <p>7 in this case?</p> <p>8 A. I didn't. And the problem here is that</p> <p>9 California is so diverse that you're dealing with so</p> <p>10 many additional groups, right. This was so much 09:30:16</p> <p>11 easier in like the early 2000s and typically you're</p> <p>12 in a southern state that's like 70 percent White and</p> <p>13 28 percent African-American and two percent other,</p> <p>14 and so you're just really just dealing with two</p> <p>15 groups, non-Hispanic Whites and African-Americans. 09:30:36</p> <p>16 But in California, of course we have</p> <p>17 significant populations of Hispanics and</p> <p>18 non-Hispanic Whites, non-Hispanic Blacks and</p> <p>19 non-Hispanic Asians and other, so there's five</p> <p>20 groups. 09:30:52</p> <p>21 And so once you have -- once you kind of</p> <p>22 have to drive estimates for all these groups. First</p> <p>23 getting homogeneous precincts is a lot more</p> <p>24 difficult because of the diversity. And then</p> <p>25 running the analyses is more -- you're asking a lot 09:31:03</p> <p style="text-align: right;">Page 24</p>
<p>1 aggregate data how individual people voted. That's 09:28:04</p> <p>2 kind of the problem we're facing. So one of the</p> <p>3 ways we overcome this problem is we only select</p> <p>4 those precincts that is overwhelmingly one group or</p> <p>5 another. So that's the homogeneous part of these 09:28:19</p> <p>6 precincts. So typically you would like to use</p> <p>7 something like only those precincts that are</p> <p>8 90 percent or higher of non-Hispanic White or Black</p> <p>9 or Hispanic -- whatever the groups are that we are</p> <p>10 interested in. 09:28:36</p> <p>11 And you can then look at the election data</p> <p>12 in just those blocs, so you're -- so then you can</p> <p>13 more easily make the inference how these people are</p> <p>14 voting, and are they voting -- who's their preferred</p> <p>15 candidate, how are they voting, are they voting 09:28:53</p> <p>16 cohesively.</p> <p>17 After that I typically would draw some</p> <p>18 scattergrams of these data to kind of show is there</p> <p>19 a linear relationship between the proportion of --</p> <p>20 you could do this for any group, but let's just use 09:29:11</p> <p>21 non-Hispanic Whites. So you could graph the percent</p> <p>22 of the vote for candidate A against the proportion</p> <p>23 of non-Hispanic Whites in every precinct to see if</p> <p>24 there's a relationship between these two.</p> <p>25 And then finally I often do a Goodman's 09:29:33</p> <p style="text-align: right;">Page 23</p>	<p>1 of the data is kind of the way that I would put it, 09:31:07</p> <p>2 so this is why I decided to use the survey data</p> <p>3 instead.</p> <p>4 Q. Did you perform an ecological regression</p> <p>5 analysis in this case? 09:31:23</p> <p>6 A. I was trying to. I don't know if I ever</p> <p>7 got anything reasonable because the data were --</p> <p>8 kind of the other major problem here is we're most</p> <p>9 interested in Hispanics here and Hispanics we want</p> <p>10 to use citizen voting-age population data, and those 09:31:41</p> <p>11 data come from the American Community Survey, which</p> <p>12 means -- and usually when we're doing these</p> <p>13 ecological regressions we want to do it at the</p> <p>14 lowest level of geography possible.</p> <p>15 And so when you ACS data -- ASC data are 09:32:04</p> <p>16 kind of relatively good at larger levels of</p> <p>17 geography, but when you're trying to impute it down</p> <p>18 to lower levels of geography you really start to</p> <p>19 get, you know you can't -- as an analyst you're less</p> <p>20 trusting, I suppose is the word I can think of, the 09:32:17</p> <p>21 veracity of these data.</p> <p>22 Q. Is it your understanding that ecological</p> <p>23 regression analyses are not possible when dealing</p> <p>24 with Hispanic populations?</p> <p>25 A. No, that's not true. 09:32:32</p> <p style="text-align: right;">Page 25</p>

1 Q. Have you performed ecological regression 09:32:33	1 screen for you to see the images in the middle? Are 09:34:54
2 analyses in Hispanic populations before?	2 you okay?
3 A. I believe that I have, yes.	3 A. No, this is fine.
4 Q. So I think you just mentioned the ways	4 Q. Sometimes you can't tell if it's on the
5 that you would typically examine racially polarized 09:32:50	5 laptop or a big screen. 09:34:59
6 voting. But those are not the tools that you used	6 A. Yeah.
7 in this case; is that fair?	7 Q. In paragraph 5, you state, "For more than
8 A. That's fair.	8 25 years, my academic research and teaching have
9 Q. And here in paragraph 17, if I'm reading	9 focused on redistricting, apportionment, electoral
10 four lines down, you say, "It is hard to imagine 09:33:04	10 systems, legislative representation, and the 09:35:13
11 that this prong is satisfied."	11 measurement and effects of partisan and racial
12 Did I read that correctly?	12 gerrymandering."
13 A. Yes.	13 Did I read that correctly?
14 Q. Are you coming to any conclusion on the	14 A. You did.
15 Gingles factors in your report? 09:33:15	15 Q. What kind of research have you done on the 09:35:25
16 A. Yeah, I think the evidence shows it's very	16 measurement and effects of racial gerrymandering?
17 unlikely that this prong is satisfied.	17 A. I've written a couple of articles with
18 Q. Do you conclude that the Gingles factors	18 David Lublin and Bernie Grofman and Lisa Handley on
19 are not satisfied?	19 this issue.
20 A. That's correct. 09:33:30	20 Q. And do you recall the names of those 09:35:46
21 Q. Do you at any point say that the Gingles	21 articles?
22 factors are not satisfied or conclude that in your	22 A. One is called Finding The Sweet Spot, I
23 report?	23 believe is the first part of the title. And we
24 A. I think I'm a little more cautious with my	24 wrote an article 10 years prior, I believe, and I
25 wording. That's why I said, "hard to imagine." 09:33:45	25 don't recall the title of it. 09:36:01
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1 Q. Yeah. I think that's my question. 09:33:47	1 Q. And those articles were specifically about 09:36:03
2 Why are you more cautious with your	2 measuring -- the measurement and effects of racial
3 wording here?	3 gerrymandering?
4 A. Well, so some of my estimates, the	4 A. They were about -- they were more about
5 confidence intervals like for the White voting 09:33:55	5 minority representation. 09:36:18
6 overlap the 50 percent, and so that introduces a	6 Q. Can you explain more about what that
7 little bit of uncertainty.	7 means?
8 Q. Does it also introduce uncertainty that	8 A. Yeah.
9 you had not used the typical tools you would use to	9 In those papers we were looking at the --
10 measure a racially polarized voting? 09:34:13	10 how often minority candidates in both the U.S. 09:36:32
11 A. I don't think I understand your question.	11 Congress and in state legislatures across the
12 Q. Sorry. I thought you had described	12 country were able to win election from districts of
13 earlier the typical tools you would use to measure	13 differing levels of minority population.
14 racially polarized voting; is that right?	14 Q. Was there any portion of those articles
15 A. Yes. 09:34:26	15 that assess the measurement and effects of racial 09:36:52
16 Q. And you did not use those tools in this	16 gerrymandering?
17 case; correct?	17 A. I mean, I think it's part of the whole
18 A. Yeah, I wasn't able to.	18 argument about the role that race plays in
19 Q. So does that create some uncertainty about	19 redistricting.
20 the strength of your conclusion about the existence 09:34:37	20 Q. Are there any specific publications that 09:37:10
21 of these factors?	21 you have written about how to assess the existence
22 A. More evidence is always nicer.	22 of racial gerrymandering?
23 Q. I would like to scroll up to paragraph 5	23 A. How to assess the existence of racial
24 of this declaration.	24 gerrymandering?
25 Dr. Brunell, is this big enough on the 09:34:51	25 Q. Or how about specifically, using your 09:37:32
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1 terms, are there any articles you have written about 09:37:34	1 redistricting, the thing at the very top of the 09:41:51
2 how to measure racial gerrymandering?	2 screen. Me and Bernie wrote something for a
3 A. I mean, I think the two articles that I	3 handbook about redistricting, but I think that's
4 talk about is part of this question. I don't think	4 kind of a review. It's like a handbook, so it's
5 there are other articles that I would point to for 09:38:00	5 kind of like an overview so there's probably nothing 09:42:03
6 this that I could recall off the top of my head.	6 in there.
7 Q. For what it's worth, I know you don't have	7 Some of these things we wrote 20 years
8 your report in front of you. I believe you can call	8 ago. I don't remember what we said in these things
9 it up on your own, but if you would like, we can	9 with Bernie in the early 2000s. I'm not sure if
10 also scroll through your CV that is also in this 09:38:20	10 there's anything in there or not. 09:42:32
11 document.	11 Q. No, I understand. For what it's worth,
12 Would that be something you would like to	12 this is not a memory test. I just wanted to see if
13 do to refresh your recollection?	13 you --
14 A. I don't think so at this time.	14 A. Yeah. So I think that's it.
15 Q. So as far as you understand, those two 09:38:27	15 Q. Okay. Thank you. 09:42:42
16 articles are the ones that touch most closely on the	16 I'd ask if we can scroll back up to the
17 measurement of racial gerrymandering; is that right?	17 third page of the PDF, back to the declaration.
18 A. Why don't we go through my CV just to make	18 Looking at paragraph 8 actually, towards
19 sure.	19 the bottom of this page. I think it crosses over
20 Q. Fair enough. 09:38:42	20 the two pages there, at paragraph 8. 09:43:02
21 MS. KHANNA: Jake, sorry. Can you maybe just	21 Dr. Brunell, here you mention in paragraph
22 scroll down? I think it's the next set of pages on	22 8 that a recurring theme in your work is that
23 this.	23 district lines can be manipulated to create,
24 BY MS. KHANNA:	24 entrench, or dismantle partisan and racial
25 Q. So maybe we can keep scrolling and, 09:38:58	25 advantages within the outward population metrics 09:43:20
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1 Dr. Brunell, you can tell him when to stop. 09:39:02	1 appear compliant. 09:43:20
2 A. Keep going.	2 Did I read that correctly?
3 Q. These academic CVs are very long.	3 A. Yes.
4 A. Okay, let's stop here.	4 Q. Is that an analysis that you undertook in
5 Okay, keep going. Stop, stop. Go back up 09:39:21	5 this case? 09:43:25
6 a little bit. Sorry. You can stop there.	6 A. No.
7 Okay, scroll up. I'm sorry, down. Keep	7 Q. You do not provide any analysis of the
8 going. Okay, stop there for a second.	8 manipulation of district lines in the Prop 50 map;
9 Yeah. The second article I was talking	9 correct?
10 about is the one that, Has The Voting Rights Act 09:40:04	10 A. That's correct. 09:43:36
11 Outlived Its Usefulness.	11 Q. In the next sentence you state that your
12 Okay, keep going.	12 "Research has emphasized examining the totality of
13 The article -- you can stop there -- with	13 district features, including population equality,
14 Anderson and Cremona, Descriptive Representation	14 minority voting strength, partisanship, and
15 District Demography and Attitudes Towards 09:40:25	15 incumbency, to determine whether a plan reflects 09:43:54
16 Congress -- okay. No, that doesn't -- I don't think	16 neutral districting principles or intentional
17 that had anything to do with redistricting directly.	17 gerrymandering"; is that correct?
18 I don't really remember what our conclusions were in	18 A. That's correct.
19 that piece.	19 Q. And is that an analysis that you undertook
20 Okay, keep going down. Keep going. 09:40:50	20 in this case? 09:44:07
21 Okay, stop there for a second. Partisan	21 A. It's not.
22 Bias.	22 Q. Did you examine the totality of district
23 Keep going, please. Okay, stop for a	23 features in this case?
24 second.	24 A. I mean, I don't know what -- I don't know
25 I don't know what we talked about in this 09:41:49	25 what -- I don't know what you mean by that, and 09:44:31
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<p>1 you're going to of course say, what do I mean by 09:44:35 2 that. 3 Q. Yes. You've done enough of these 4 depositions to know. 5 A. Yeah, right. 09:44:44 6 You know what? I mean, I think here, this 7 is more kind of really about my research. And so I 8 don't know if in this particular case I've looked at 9 the totality of district features. I mean, in part, 10 because we don't know a lot of this, right. We 09:45:03 11 aren't privy to the motivations of Mr. Mitchell, and 12 so it makes it difficult since it's not available to 13 me, I suppose it wasn't -- wasn't able to examine 14 it. 15 Q. Why is it important to examine the 09:45:31 16 totality of district features in trying to assess 17 whether lines were drawn for intentional 18 gerrymandering or for neutral districting 19 principles? 20 A. I mean, I think there are -- I mean, 09:45:46 21 sometimes the -- you know, the court -- courts will 22 use totality of circumstances. It's just, you know, 23 you want to know -- you want to know -- you're 24 trying to figure out what the intentions were of the 25 map drawer often. And so I think that's kind of 09:46:15 Page 34</p>	<p>1 people are coming up -- when I say "people," I 09:47:30 2 usually mean witnesses -- are coming up with 3 different ways of looking at these things. 4 You know, we struggled to come up with a 5 metric -- a really good metric for partisan 09:47:45 6 gerrymandering. Although we came up -- I mean 7 academics, we came up with a lot of them, none of 8 which the supreme court liked at that particular 9 instance. And so it's a dynamic thing. It's 10 something that continues to change. 09:48:04 11 Q. What are some of the factors you would 12 want to have to examine in analyzing whether a plan 13 reflects neutral districting principles or 14 intentional racial gerrymandering? 15 A. You would -- you want as much information 09:48:25 16 as you possibly can get. And I don't think I can 17 give you a whole list of everything off the top of 18 my head that I would want in this particular 19 instance, to answer your question. 20 Q. Do you have a general idea of what 09:48:45 21 constitutes neutral redistricting principles? 22 A. In terms of racial? 23 Q. In looking -- yes. 24 A. It's a -- I think that this continues to 25 be something that both the court -- the courts and 09:49:03 Page 36</p>
<p>1 what this is about. 09:46:19 2 Q. So when you refer to the totality, it's an 3 attempt to figure out what the map drawer's 4 intentions were? 5 A. No. It's just -- sorry. I didn't mean to 09:46:31 6 interrupt you. 7 Q. You're fine. 8 A. You're trying to take into account all of 9 the relevant information. How about that. 10 Q. And when looking at district features to 09:46:39 11 determine what may have been motivated the line 12 drawing, what kind of information is relevant in 13 making that assessment? 14 A. Could you repeat that one more time? 15 Q. When you're looking at the district 09:46:53 16 features to determine what may have motivated the 17 line drawing, what kind of features would be 18 relevant to that inquiry? 19 A. Oh, gosh, I mean, there's -- you know, if 20 we're in -- it depends on what the inquiry is; 09:47:13 21 right? 22 Are we talking about partisan 23 gerrymandering? Are we talking about racial 24 gerrymandering? So we would have different aspects 25 there. And it's hard to say because, you know, 09:47:26 Page 35</p>	<p>1 academics kind of struggle with identifying. 09:49:08 2 Q. So sitting here today, you can't tell me 3 any of the factors you would want to consider to 4 determine when a plan reflects neutral redistricting 5 principles or intentional racial gerrymandering? 09:49:23 6 A. Well, there's lots of stuff, you know. So 7 oftentimes we get analyses like the one that 8 Dr. Trende did, where you're looking kind of 9 microscopically at the choices that a map drawer 10 made in trying to figure out what was -- was race 09:49:42 11 the predominant factor or not. 12 I've seen other analyses that look at 13 how -- that compare what the old district looked 14 like compared to the new district, in terms of 15 minority population, for instance. 09:50:09 16 Sometimes people have tried to compare 17 what the new parts of a district look like compared 18 to other surrounding parts of the state to try to 19 figure out, "Well, was race more important in terms 20 of what they put in versus what they left out?" 09:50:34 21 So there's lots of different things that 22 people have looked at. Like I said, there's people 23 trying to come up with other ways to try and measure 24 this kind of thing all the time. 25 Q. What about compactness, would you want to 09:50:47 Page 37</p>

1 consider compactness of the districts? 09:50:53	1 as possible when trying to assess what motivated the 09:54:05
2 A. Compactness can matter for lots of	2 map drawer?
3 different things, and that could be one factor.	3 A. It depends on the approach that we're
4 Q. How about geographical features?	4 taking.
5 A. You mean like city lines and county lines? 09:51:14	5 Q. You mentioned, I think just now, the 09:54:14
6 Yeah. These are kind of traditional redistricting	6 report that Dr. Trende provided. I thought we had
7 principles, right, where people try to keep cities	7 discussed earlier -- I asked you if you had seen
8 whole, counties whole to the extent possible, and	8 Dr. Trende's report.
9 sometimes it's impossible to keep everything whole.	9 Do you want to revise your answer on that?
10 Another traditional redistricting 09:51:35	10 A. I do not. I have not seen it. 09:54:30
11 principle are communities of interest, which we	11 Q. So how do you know what Dr. Trende has --
12 don't have a great definition for but -- because --	12 you referred to Dr. Trende's report I believe in
13 well, because it can mean lots of things.	13 your answer recently.
14 And protecting incumbents oftentimes is	14 What were you referring to?
15 another traditional redistricting principle that you 09:51:53	15 A. Well, I saw the reports of your -- the 09:54:38
16 would expect a map drawer to take into account.	16 experts for the defense, and they all -- they all
17 Q. These traditional redistricting	17 talked about Dr. Trende's report in great detail.
18 principles, are these the kind of factors that you	18 Q. So you have not actually seen Dr. Trende's
19 would expect one to consider when evaluating when	19 report; is that correct?
20 race may have predominated or neutral principles? 09:52:13	20 A. I believe I have not ever seen it. 09:54:51
21 A. Perhaps. But depending on their approach,	21 Q. Turning back to your declaration here.
22 it may not all be necessary. But those are	22 Looking at paragraph 10. On paragraph 10
23 traditionally things people do when they draw a map,	23 you discuss the kinds of expert analyses that you
24 to differing extents, right.	24 have conducted in review cases; is that right?
25 So compactness, we give a lot of lip 09:52:33	25 A. Yes. 09:55:14
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1 service to compactness, but in my experience, I've 09:52:36	1 Q. And here you state, "In those cases I have 09:55:15
2 seen very few maps kind of thrown out for	2 been asked to do the same kinds of tasks that are
3 non-compactness. It happens from time to time.	3 implicated here." And then you provide a list; is
4 These things are -- it's more ephemeral than we	4 that right?
5 would like, I suppose. 09:52:56	5 A. Yes. 09:55:24
6 Q. Are these kinds of traditional	6 Q. What do you mean "implicated here"?
7 redistricting principles informative when assessing	7 A. Yeah, I don't really talk about any of
8 how a map was drawn?	8 these traditional redistricting principles in this
9 A. I think they can be like sort of a basic	9 particular report.
10 understanding of what's going on, sure. 09:53:08	10 The other part, "analyze election returns 09:55:47
11 Q. And they can be informative when trying to	11 and demographic data." I do some of that. And I
12 determine what may have motivated a map drawer; is	12 think the last sentence is addressed as well.
13 that correct?	13 Q. So you mentioned that you don't discuss
14 A. They can be. Sometimes they can be used	14 the traditional redistricting principles here, so
15 as excuses, too, to kind of cover for what's going 09:53:23	15 when you say implicated here do you mean in this 09:56:07
16 on. So that kind of makes it difficult as well.	16 case?
17 Q. Are you familiar with any analyses that	17 A. Yes.
18 you have performed when assessing the extent to	18 Q. Not implicated in your report?
19 which neutral principles or gerrymandering was at	19 A. That's correct.
20 play where you did not examine any traditional 09:53:40	20 Q. But implicated in the issues raised here 09:56:18
21 redistricting principles?	21 generally?
22 A. That's a tough one. Off the top of my	22 A. Correct.
23 head, I can't really answer your question.	23 Q. I believe here you actually list some of
24 Q. Fair to say that experts would typically	24 these traditional non-discriminatory redistricting
25 examine as many of the traditional neutral criteria 09:54:01	25 principles; is that right? 09:56:36
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1 A. I do. 09:56:37	1 this map? 09:59:08
2 Q. That included contiguity, compactness,	2 A. I kind of hedged my bets like we already
3 respect for political subdivisions, communities of	3 talked about. You know, I think this is kind of up
4 interest, protection of minority voting strengths?	4 for the judge to decide, and that would be my
5 A. That's right. 09:56:46	5 testimony. 09:59:20
6 Q. Among others; correct?	6 You know, there's something here, right,
7 A. Yes.	7 and it's a difficult question to answer. But if
8 Q. And those -- that's not something you	8 these districts didn't need to be drawn and they
9 undertook to analyze in this case; correct?	9 were drawn, and they were drawn on the basis of
10 A. I did not. 09:56:54	10 race, well then, race certainly was a major factor 09:59:34
11 Q. Are you aware whether anyone has	11 and it may have predominated.
12 undertaken an analysis of these factors in this	12 Q. Do you offer any expert opinions or
13 case?	13 conclusions about the extent to which race
14 A. I don't know.	14 predominated in the drawing of any district in the
15 Q. And you say at the bottom, "to assess 09:57:11	15 Prop. 50 map? 09:59:48
16 whether partisan or racial considerations	16 A. I mean, I think I would just repeat my
17 predominated the line-drawing process."	17 last answer.
18 That's not something that you undertook	18 Q. Please do.
19 for your analysis in this case; correct?	19 A. Okay. That race may indeed have
20 A. Well, I think it's implicated, but not in 09:57:24	20 predominated because these districts were not 10:00:00
21 the way that Sean -- that Dr. Trende did it	21 compelled by law but rather were optional and were
22 directly, but I think it's -- from the last part of	22 drawn on the basis of race. And then once you draw
23 my report on whether or not the Gingles criteria	23 these majority Hispanic districts that affects all
24 were satisfied or not, I think you could get to,	24 the other districts around the rest of the state
25 whether racial considerations predominated in the 09:57:49	25 because you've set aside these districts and 10:00:18
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1 line-drawing process. 09:57:53	1 therefore race played a major role and perhaps a 10:00:21
2 Q. Can you explain that to me? How does your	2 predominant role.
3 analysis of the Gingles criteria inform whether race	3 Q. Have you provided any expert analysis of
4 predominated in the line-drawing process?	4 the extent to which race predominated in the drawing
5 A. Let me cough real quick. I was going to 09:58:05	5 of districts in the Prop. 50 map? 10:00:28
6 mute my microphone, but I don't see the button, so	6 A. Whatever's in my map -- I'm sorry.
7 I'm just going to cough.	7 Whatever is in my report and what I just said,
8 Q. Dr. Brunell, once you answer this question	8 that's the evidence.
9 for me, if you would like to take a break to get a	9 Q. Okay. Did you ever use the term
10 glass of water, that's fine. 09:58:19	10 "predominate" or "predominant" at any point in your 10:00:43
11 A. No, I'm fine. I'm getting over a little	11 analysis in this case?
12 cold, so there's a little bit of --	12 A. In my report?
13 Q. We all are.	13 Q. Yes.
14 A. Yeah, it seems like it.	14 A. I'm not sure.
15 Okay. So if the Gingles criteria are not 09:58:31	15 Q. Did you set -- were you asked by counsel 10:00:52
16 satisfied and Mr. Mitchell was not compelled by law	16 to determine the extent to which race predominated
17 to draw these majority Hispanic districts, but	17 in drawing the Prop. 50 map?
18 rather he chose to do it -- he chose to do it, it	18 A. I don't -- I'm not sure I know how to
19 was an option, then -- and you would have to do that	19 answer that. I think that -- I was asked to look at
20 first, right, and then that's going to affect how 09:58:50	20 Gingles specifically, right, for these factors. And 10:01:20
21 other districts are drawn as well.	21 I think that's related to the question of did race
22 So does that mean that race predominated?	22 predominate or did it not.
23 Perhaps.	23 Q. Dr. Brunell, I previously asked you what
24 Q. But is there any part of your Gingles	24 counsel specifically asked you to do in this case.
25 inquiry that tells us whether race predominated in 09:59:04	25 Do you recall that? 10:01:39
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1 A. Yes. 10:01:40	1 race played a major factor and perhaps a predominate 10:04:05
2 Q. And you did not tell me at that time that	2 factor in the drawing of the map.
3 you were asked to examine whether race predominated	3 Q. Is it your understanding that any time a
4 in the drawing of district lines in the Prop. 50	4 majority minority district is not compelled by law
5 map; is that correct? 10:01:50	5 race predominates? 10:04:23
6 A. I believe that's true, but my answer	6 MR. MEUSER: And I'm going to object to the
7 hasn't changed. I think that it's related to it,	7 extent that that calls for a legal conclusion.
8 right, but it wasn't like, Hey, we want you to find	8 You may answer.
9 specific evidence, like what I assume is in	9 THE WITNESS: Yeah, I'm not certain.
10 Dr. Trende's report, kind of looking at specific 10:02:07	10 BY MS. KHANNA: 10:04:32
11 parts -- specific decisions that were made.	11 Q. And certainly you're not opining to that
12 Q. Understood.	12 effect in this case; correct?
13 If we could go back to paragraph 15 of	13 A. No.
14 your declaration. And I'm looking here at paragraph	14 Q. In sub C, you say, "whether a plan
15 15, which I think is where you said what you were 10:02:28	15 unnecessarily dilutes or packs minority voters." 10:04:53
16 asked to do, and at no point here is it saying that	16 Did I read that correctly?
17 you were asked to examine evidence of racial	17 A. Yes.
18 predominance; is that correct?	18 Q. Is that an analysis you undertook in this
19 A. It doesn't say that, that's correct.	19 case?
20 Q. Okay. I think this is my last question on 10:02:55	20 A. I didn't do any analysis about this. 10:05:02
21 your declaration, and then we probably could take a	21 Q. And you don't offer any opinions or
22 break.	22 conclusions on this point?
23 If we could look at paragraph 14. Here	23 A. No.
24 you list specific areas in which you state you are	24 Q. The last one I have is, "How alternative
25 qualified to offer expert opinions; is that right? 10:03:09	25 configurations would affect partisan and minority 10:05:11
Page 46	Page 48
1 A. Yes. 10:03:11	1 electoral opportunities;" is that correct? 10:05:14
2 Q. The first one you list sub A is, "whether	2 A. That's correct.
3 a particular districting plan reflects traditional,	3 Q. And is that an analysis you undertook in
4 neutral redistricting principles"; is that right?	4 this case?
5 A. Yes. 10:03:21	5 A. No, there were no alternative 10:05:20
6 Q. Is that an analysis you undertook in this	6 configurations that I looked at.
7 case?	7 Q. Okay, great. And just to close the loop,
8 A. No.	8 you don't offer any opinions or conclusions on this
9 Q. You don't offer any conclusions or	9 point either; is that correct?
10 opinions on this point; correct? 10:03:27	10 A. That's correct. 10:05:31
11 A. I do not.	11 MS. KHANNA: All right. We've been going for a
12 Q. The second one you mention here, sub B,	12 little over an hour now. I'm going to take a quick,
13 "whether racial or partisan considerations	13 what, five-minute break, if that works for
14 predominated in the creation of particular	14 everybody?
15 districts." 10:03:38	15 THE WITNESS: Sure. 10:05:42
16 Did I read that correctly?	16 (Recess taken.)
17 A. Yes.	17 BY MS. KHANNA:
18 Q. Is that an analysis you undertook in this	18 Q. Welcome back, Dr. Brunell.
19 case?	19 A. Thank you.
20 A. I think it's -- my answer is the same as 10:03:44	20 MS. KHANNA: If we could pull back up Exhibit 1 10:15:54
21 what we just discussed.	21 that we had marked.
22 Q. And that is?	22 BY MS. KHANNA:
23 A. That if the 16 Voting Rights Acts	23 Q. And I'm now going to turn to your expert
24 districts included in the new map were not compelled	24 report in this case, which I believe begins on page
25 by law but were rather decided upon optionally, then 10:04:00	25 27 of the PDF. 10:16:11
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1 This is your expert report in this case; 10:16:33	1 THE REPORTER: I can hear him. 10:18:42
2 is that correct?	2 THE WITNESS: Hello?
3 A. It looks like it.	3 THE REPORTER: I can hear him.
4 Q. On the second page of your report, so if	4 MS. KHANNA: Sorry. Can people hear me now?
5 we scroll down and here we see Section 3 called 10:16:39	5 THE REPORTER: Yes. 10:18:55
6 "State Demographics;" is that right?	6 MR. MEUSER: I can hear you.
7 A. Yes.	7 MS. KHANNA: And people could hear me that
8 Q. And here you report the statewide	8 whole time? I just stopped hearing everybody else?
9 demographic data based on the 2020 census; is that	9 THE WITNESS: Yes.
10 right? 10:16:58	10 MS. KHANNA: Great. My apologies for the 10:19:05
11 A. Yes.	11 technical difficulties.
12 Q. And you also report the racial	12 BY MS. KHANNA:
13 demographics of the 18 counties you were told to	13 Q. And if -- it might -- it's already on the
14 examine; correct?	14 record, I'm sure, but if you could repeat your
15 A. That's right. 10:17:07	15 answer of how did you determine that there were 14 10:19:11
16 Q. All right. At the bottom of this	16 Hispanic VRA districts in the current map?
17 paragraph, this first paragraph that begins that,	17 A. Yeah. I believe this was in discussion
18 "California is a very diverse state," do you see	18 with counsel.
19 that paragraph?	19 Q. So counsel told you that there are 14
20 A. Yes. 10:17:20	20 Hispanic VRA districts in the current map? 10:19:22
21 Q. There you state, "There are 14 Hispanic	21 A. Yes.
22 VRA districts in the current map"; is that correct?	22 Q. Did counsel identify for you which
23 A. Yes.	23 districts those were?
24 Q. What do you mean by "current map"?	24 A. They may have. I don't recall off the top
25 A. The map that was just replaced. 10:17:31	25 of my head. They may have told me what the district 10:19:34
Page 50	Page 52
1 Q. That was the map that was drawn in 2021, 10:17:35	1 numbers are. 10:19:37
2 2022?	2 Q. Did you -- did you do any independent
3 A. I believe that's right.	3 analysis to confirm that there are 14 Hispanic VRA
4 Q. Okay. And again here you use the term	4 districts in the current map?
5 "VRA districts" again. 10:17:45	5 A. I don't know if we looked at -- I mean, 10:19:46
6 Can you remind me, how did you -- how do	6 sometimes this is -- this is hard, right? Because
7 you define the term "Hispanic VRA district"?	7 there were more than 14 majority Hispanic districts
8 A. These are districts that are required by	8 in this map that we're talking about, the current --
9 the Voting Rights Act and are a majority Hispanic.	9 the current map, the map before Prop. 50, but the
10 Q. Did you determine -- how did you determine 10:17:59	10 State -- it was my understanding that 14 of them 10:20:08
11 that there were 14 districts that were required by	11 were identified as Voting Rights Act districts.
12 the Voting Rights Act and were majority Hispanic in	12 Q. And to be clear, you believe that 14 were
13 the current map?	13 identified as majority Hispanic districts that were
14 A. This was in discussion with counsel, and I	14 required by law; is that correct?
15 believe we talked about this somewhat extensively. 10:18:17	15 A. That's correct. 10:20:24
16 Q. Sorry. I think you might have -- I -- can	16 Q. And who identified those as far as you
17 people hear me?	17 were aware?
18 A. Yes.	18 A. The State, I assume.
19 Q. Sorry, Dr. Brunell, can you say something?	19 Q. Did you do any independent analysis to
20 A. Yes. Check, check, check. Hello. 10:18:29	20 confirm that the State had identified 14 majority 10:20:37
21 MS. KHANNA: I can no longer hear Dr. Brunell.	21 Hispanic districts that were mandated by law?
22 THE WITNESS: Hello, hello.	22 A. I don't think I looked for this
23 MR. MEUSER: This is Mark. I can hear	23 information, no.
24 Dr. Brunell.	24 Q. So when counsel gave -- told you there
25 MS. KHANNA: Hold on. 10:18:40	25 were 14 Hispanic VRA districts, you understood 10:20:53
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1 counsel to be telling you that in the previous map 10:20:58	1 A. I feel like there was one other one. 10:23:50
2 to Prop. 50 there were 14 majority Hispanic	2 Q. But this was the only transcript from
3 districts that were mandated by the VRA?	3 which you quoted in your report?
4 A. That's right.	4 A. I believe that's right.
5 Q. And am I right, you don't list those 10:21:13	5 Q. Do you understand why counsel provided you 10:24:02
6 districts, those 14 districts in your report; is	6 with these transcripts?
7 that correct?	7 A. Yeah, because he was talking about the
8 A. I don't believe that I do, no.	8 role that drawing these majority Latino districts
9 Q. Have you provided those 14 districts in	9 played in his overall approach to drawing the new
10 documents pursuant to the subpoena? 10:21:23	10 map. 10:24:18
11 A. I'm not sure if it was included in what I	11 Q. And how did that inform your analysis that
12 provided or not.	12 you undertook in this case?
13 Q. Did you ever write down the list of 14	13 A. Again, it's related to whether these were
14 Hispanic VRA districts that counsel identified for	14 compelled by law or whether he did this optionally.
15 you? 10:21:37	15 And so if this was -- if these districts aren't 10:24:33
16 A. I don't honestly remember. I mean,	16 compelled by law, then he decided to draw majority
17 because obviously I was more concerned with the	17 Latino districts, which is fine, right? I support
18 Prop. 50 map than this particular map.	18 that myself, but that also may mean that race was
19 Q. But you are -- to your recollection, you	19 the predominant factor in the map itself.
20 are -- you recall that counsel did provide you with 10:22:08	20 Q. Okay. At the top of this -- the first 10:25:00
21 a list of districts that they had identified as the	21 paragraph here, you say, "In the Proposition 50 map,
22 14 Hispanic VRA districts in the previous map; is	22 the person who drew the map says that he increased
23 that correct?	23 that number to 16."
24 A. I have a recollection in one of our very	24 Did I read that correctly?
25 early phone calls, Mr. Meuser kind of telling me 10:22:21	25 A. Yes. 10:25:14
Page 54	Page 56
1 what those districts were. And I may have written 10:22:25	1 Q. And that number that you're referring to 10:25:14
2 them down, I -- but I don't recall. But it was	2 is the number of Hispanic VRA districts; is that
3 not -- that was kind of less of a concern than -- my	3 correct?
4 report was about the new map.	4 A. That's right.
5 Q. So then why did you look at -- why did you 10:22:43	5 Q. And again your baseline for the original 10:25:22
6 examine the number of Hispanic VRA districts in the	6 14 was based on what counsel told you existed in the
7 previous map?	7 previous map; correct?
8 A. I didn't look at them. I just stated	8 A. That's right.
9 this -- the fact that there were 14 Hispanic VRA	9 Q. And those were the 14 districts counsel
10 districts in the current map. 10:23:03	10 informed you were majority Hispanic and required by 10:25:33
11 Q. And that is a fact that you would know	11 the Voting Rights Act; correct?
12 only from your counsel; correct?	12 A. That's right.
13 A. Yes.	13 Q. What is that number 16 based on? Where
14 Q. On the following page of your report,	14 did you -- how did you understand the number --
15 please scroll down, you include some quotes from 10:23:20	15 where did you get that number from? 10:25:48
16 Mr. Paul Mitchell; is that right?	16 A. It was -- it was from the number of
17 A. That's correct.	17 districts that were majority Hispanic, but also I
18 Q. And I believe you stated that counsel	18 believe maybe in one of these things they talk
19 provided you with these quotes; is that right?	19 about -- Mr. Mitchell talks about drawing 16
20 A. No, they provided me with the transcripts, 10:23:34	20 majority Hispanic districts. I don't see it there. 10:26:06
21 and I got the quotes out of the transcripts.	21 So it's -- I feel like maybe somewhere
22 Q. They provided you with the transcripts of	22 somebody said there was 16 districts, but I don't
23 this HOPE 2025 meeting; is that right?	23 see it on this particular thing. So I can't -- I
24 A. That's correct.	24 don't recall off the top of my head where that came
25 Q. Were you provided any other transcripts? 10:23:47	25 from. 10:26:38
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<p>1 Q. So if I'm looking at the first paragraph 10:26:41</p> <p>2 quoting Mr. Mitchell toward the bottom, "The</p> <p>3 empirical evidence shows that the public submission</p> <p>4 map, which is Prop. 50 map, improves the opportunity</p> <p>5 for Latino voters to elect candidates of choice in 10:26:56</p> <p>6 two more districts than the existing plan."</p> <p>7 Is that -- is that what you're referring</p> <p>8 to when you you're talking about 16?</p> <p>9 A. Yes, thank you.</p> <p>10 Q. So your conclusion that there are 16 10:27:08</p> <p>11 Hispanic VRA districts in the Prop. 50 map is based</p> <p>12 on this statement by Mr. Mitchell combined with the</p> <p>13 understanding provided to you by counsel of the --</p> <p>14 A. Right.</p> <p>15 Q. -- original 14? 10:27:27</p> <p>16 A. Correct.</p> <p>17 Q. Does Mr. Mitchell use the term "Hispanic</p> <p>18 VRA districts" in the portions that you quote?</p> <p>19 A. He talks about Latino voters and the</p> <p>20 Voting Rights Act analysis. 10:27:47</p> <p>21 Q. So Mr. Mitchell says here that there are</p> <p>22 two more districts that improve the opportunity for</p> <p>23 Latino voters to elect candidates of choice; is that</p> <p>24 correct?</p> <p>25 A. That's right. 10:27:58</p> <p style="text-align: right;">Page 58</p>	<p>1 Q. And just to be very clear, you are 10:29:13</p> <p>2 inferring that interpretation from the words on the</p> <p>3 screen from Mr. Mitchell; is that correct?</p> <p>4 A. That's right.</p> <p>5 Q. You have no independent knowledge of what 10:29:22</p> <p>6 Mr. Mitchell meant when he was using these terms?</p> <p>7 A. I don't. No, I've never met Mr. Mitchell.</p> <p>8 We haven't had any discussions.</p> <p>9 Q. And you don't know that Mr. Mitchell</p> <p>10 shares your understanding of what a, quote, VRA 10:29:38</p> <p>11 district is; correct?</p> <p>12 A. I don't know what he thinks about it.</p> <p>13 Although he's drawn these maps. I can't imagine</p> <p>14 that we would -- we would have a different</p> <p>15 understanding of them, but it's certainly possible. 10:29:51</p> <p>16 Q. And Mr. Mitchell never uses the number 16</p> <p>17 or 14 in the quotes that you have highlighted in</p> <p>18 your report; is that correct?</p> <p>19 A. That's true.</p> <p>20 Q. Okay. If we turn to the next page, at the 10:30:03</p> <p>21 top of this page you refer to 16 majority Hispanic</p> <p>22 CVAP districts; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. And, now, is a Hispanic CVAP district the</p> <p>25 same thing as a Hispanic VRA district, as you've 10:30:21</p> <p style="text-align: right;">Page 60</p>
<p>1 Q. Is it your understanding that that is 10:27:59</p> <p>2 synonymous with a Hispanic VRA district?</p> <p>3 A. I mean, that's usually what we talk about,</p> <p>4 yes.</p> <p>5 Q. Do you know what Mr. Mitchell was 10:28:08</p> <p>6 referring to when he used that term?</p> <p>7 A. I assume that he's talking about Voting</p> <p>8 Rights Act districts.</p> <p>9 Q. Do you understand how Mr. Mitchell would</p> <p>10 define that -- he doesn't use the term "Voting 10:28:20</p> <p>11 Rights Act districts"; correct?</p> <p>12 A. He does say the Voting Rights Act</p> <p>13 analysis.</p> <p>14 Q. When he's referring to the districts, do</p> <p>15 you understand how he -- based on the quotes that 10:28:30</p> <p>16 you have access to, do you know how Mr. Mitchell</p> <p>17 understands how these districts are defined?</p> <p>18 A. Based upon this paragraph, it seems like</p> <p>19 he is trying to follow the Voting Rights Act, and he</p> <p>20 drew two more districts to allow Latinos to elect 10:28:48</p> <p>21 candidates of their choice.</p> <p>22 Q. And to you, you understand that to mean he</p> <p>23 drew two additional majority Latino districts?</p> <p>24 A. Well, the -- two more districts that</p> <p>25 comply with the Voting Rights Act. 10:29:06</p> <p style="text-align: right;">Page 59</p>	<p>1 used that term in this report? 10:30:23</p> <p>2 A. Not necessarily, but it could be, right?</p> <p>3 These are -- like I said, the -- I think there were</p> <p>4 16 majority CVAP -- Hispanic CVAP districts in the</p> <p>5 previous map, which I called the current map in the 10:30:32</p> <p>6 report, not to be confusing, but only 14 of them</p> <p>7 were Voting Rights Act districts, and I -- that's</p> <p>8 not -- it's not clear to me why that was the case.</p> <p>9 Q. I'm sorry, it's not clear to you why what</p> <p>10 was the case? 10:30:51</p> <p>11 A. Why all 16 were not Voting Rights Act</p> <p>12 districts. But you could -- you know, it was -- so,</p> <p>13 yes, so I'm not -- I'm not entirely sure why.</p> <p>14 Q. But, again, you don't know whether they</p> <p>15 were or were not independently from what counsel 10:31:00</p> <p>16 told you; correct?</p> <p>17 A. That's correct.</p> <p>18 Q. So when the list -- the list that you</p> <p>19 provide in Table 2, that is a list of all the</p> <p>20 majority Hispanic CVAP districts in the Prop. 50 10:31:13</p> <p>21 map; is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. Are you also saying that these are the</p> <p>24 districts that are legally mandated?</p> <p>25 A. These -- well, it's not clear whether any 10:31:26</p> <p style="text-align: right;">Page 61</p>

1 analyses was done for Mr. Mitchell to comply with 10:31:30	1 particularly long. I may have read the whole thing. 10:33:59
2 the Voting Rights Act, so it's -- I'm not sure	2 Q. Do you agree with its findings?
3 whether these were -- he felt like he was compelled	3 A. I couldn't tell you off the top of my head
4 to draw these or not.	4 what they said.
5 Q. Now, how did you determine which districts 10:31:45	5 Q. So you basically just Googled a list of 10:34:07
6 were Hispanic CVAP districts in the Prop. 50 map?	6 majority CVAP districts and that's how you stumbled
7 A. Well, I found this publication that I cite	7 upon that report?
8 just above the table, and I copied these from that	8 MR. MEUSER: Objection, misstates his
9 publication.	9 testimony.
10 Q. You didn't look independently at the map 10:32:06	10 THE WITNESS: Yeah. I don't honestly recall 10:34:20
11 data and statistics provided by the State of	11 how I came across it.
12 California?	12 BY MS. KHANNA:
13 A. I think I also looked at that, but this	13 Q. But was this report provided to you by
14 was like -- this had it all in one place.	14 counsel at any time?
15 Q. So this is a -- this is the Centeno and 10:32:18	15 A. No, I do not think that they gave this to 10:34:28
16 Cuellar 2025, is that the document you're referring	16 me. That's not recollection anyway.
17 to?	17 Q. And do you know whether this report was
18 A. Yes.	18 describing the map after it was drawn or whether it
19 Q. And how did you learn about this?	19 purported to explain what went into the map while it
20 A. I think I may have just found it via 10:32:31	20 was being drawn? 10:34:41
21 Google. I don't recall how I ran into this.	21 A. You're going to have to repeat that one.
22 Q. Did you do any independent analysis to	22 I'm not sure the distinction you're making there.
23 confirm that it's correct?	23 Q. Do you recall whether the authors of this
24 A. I believe that I looked -- I was looking	24 report were describing the map after it had been
25 also at the -- some other data about all of the 10:32:47	25 drawn and released to the public? 10:34:59
Page 62	Page 64
1 districts, so I think that I did. 10:32:51	1 A. That's what I think, yes. 10:35:02
2 Q. But you don't list any other data sources	2 Q. And do you understand that the authors of
3 for these districts in your report; is that correct?	3 this report were describing the map drawing process?
4 A. No.	4 A. I don't recall.
5 Q. You're just saying that you might have 10:33:01	5 Q. Did this publication, to your 10:35:19
6 looked at other data at the same time?	6 recollection, also provide the list of comparable
7 A. That's correct.	7 districts from the previous map?
8 Q. Do you know who Centeno and Cuellar are?	8 A. I don't remember.
9 A. I believe one of them was a political	9 Q. And your report also does not provide that
10 scientist or maybe both of them. 10:33:17	10 list; correct? 10:35:32
11 Q. Are you familiar with either of them or	11 A. That's correct.
12 their work?	12 Q. So you testified that your understanding
13 A. No, not personally, no.	13 was that the previous map had 14 Hispanic VRA
14 Q. Is this a peer-reviewed study that they	14 districts and that the Prop. 50 map had 16 Hispanic
15 produced? 10:33:28	15 VRA districts; is that correct? 10:35:56
16 A. No, I don't -- there wasn't enough time to	16 MR. MEUSER: Objection; misstates his
17 get anything through peer review.	17 testimony.
18 Q. Do you know what data they relied on in	18 THE WITNESS: Yeah. I don't know whether these
19 creating this list?	19 are VRA districts or not. Somebody has to sort of
20 A. No, I don't. I mean, they just -- I don't 10:33:42	20 say this, right. And it's not clear whether the 10:36:06
21 know where they got their data from, no.	21 type of analyses that you would do before drawing
22 Q. Did you read the entire report?	22 the map was done for Mr. Mitchell or not.
23 A. I don't know if I read the entire thing,	23 BY MS. KHANNA:
24 but I definitely read some of the report for sure.	24 Q. Is it your understanding that the Prop. 50
25 And I may have read -- I don't think it was 10:33:56	25 map increases the number of Hispanic -- majority 10:36:17
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<p>1 Hispanic CVAP districts? 10:36:24</p> <p>2 A. No, I think it might be 16 in both.</p> <p>3 Q. Let's go down to the next section of your</p> <p>4 report entitled, "Statewide Elections."</p> <p>5 And here you list in bullet points, "Six 10:37:11</p> <p>6 recent elections in which a Hispanic Democrat</p> <p>7 prevailed against a White Republican;" is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you report these results statewide; 10:37:24</p> <p>11 correct?</p> <p>12 A. That's correct.</p> <p>13 Q. How did you select these six elections to</p> <p>14 highlight?</p> <p>15 A. I was looking for recent elections where a 10:37:39</p> <p>16 Latino ran against a White, a White person.</p> <p>17 Q. Were these elections highlighted to you by</p> <p>18 counsel?</p> <p>19 A. I know we had discussions about this, and</p> <p>20 Mr. Meuser may have sent me -- I may have asked him 10:38:01</p> <p>21 for some information about recent statewide</p> <p>22 elections since he knows. And he may have -- he may</p> <p>23 have pointed some of these out to me.</p> <p>24 Q. How did you go about trying to find</p> <p>25 elections with a Hispanic running against a White 10:38:16</p> <p style="text-align: right;">Page 66</p>	<p>1 A. I don't remember. 10:39:42</p> <p>2 Q. Do you recall, are these six the entire</p> <p>3 universe of the elections that you are aware of that</p> <p>4 include a statewide candidate where the Hispanic</p> <p>5 candidate runs against the White candidate? 10:39:56</p> <p>6 A. I don't recall.</p> <p>7 Q. Sitting here today you don't know whether</p> <p>8 there were six or 10 or 20?</p> <p>9 A. I can't be sure, but I was trying to be</p> <p>10 comprehensive, you know. Maybe I missed one, maybe 10:40:13</p> <p>11 I didn't. I don't know.</p> <p>12 Q. So when you listed these six elections,</p> <p>13 you were trying to be comprehensive in listing all</p> <p>14 elections in which an Hispanic -- a statewide</p> <p>15 election in which an Hispanic Democrat ran against a 10:40:28</p> <p>16 White Republican?</p> <p>17 A. To the best of my recollection, that's</p> <p>18 what I was trying to do, yes.</p> <p>19 Q. You weren't only listing the ones in which</p> <p>20 the Hispanic Latino candidate had won? 10:40:45</p> <p>21 A. No, that's why I included the other ones,</p> <p>22 some recent examples where the Hispanic lost.</p> <p>23 MS. KHANNA: So if we can scroll back up so we</p> <p>24 can see both pages.</p> <p>25</p> <p style="text-align: right;">Page 68</p>
<p>1 person? 10:38:19</p> <p>2 A. Well, first I was looking at the Secretary</p> <p>3 of State's website, looking at various elections.</p> <p>4 And then I am -- I'm a native Californian and I do</p> <p>5 follow California politics, and so I know that 10:38:34</p> <p>6 Xavier Becerra is a Hispanic man, and so that was</p> <p>7 one way. But I wanted to make sure that I wasn't</p> <p>8 missing any, so that's why I asked for counsel's</p> <p>9 help as well.</p> <p>10 Q. So do you know, are these all of the 10:38:51</p> <p>11 statewide elections between Hispanic Democrats and</p> <p>12 White Republicans since 2018?</p> <p>13 A. Well, there's more down below.</p> <p>14 Q. Yeah. And we can scroll down below. I</p> <p>15 believe the ones down below are between two 10:39:05</p> <p>16 Democrats; is that right?</p> <p>17 A. I believe so. Yes.</p> <p>18 I don't know if I got everybody. I think</p> <p>19 I tried to get everybody, or I was getting the ones</p> <p>20 where -- I was trying to get all of them, I believe. 10:39:25</p> <p>21 Q. Again, how did you try to get all of them?</p> <p>22 A. I looked at the data myself and then I</p> <p>23 asked for help from counsel as well.</p> <p>24 Q. Did counsel identify any elections that</p> <p>25 you had not already identified? 10:39:39</p> <p style="text-align: right;">Page 67</p>	<p>1 BY MS. KHANNA: 10:40:57</p> <p>2 Q. I'm looking at just at these six bullet</p> <p>3 points. You say, "Below is a list of six recent</p> <p>4 elections that pitted a Hispanic Democrat against a</p> <p>5 White Republican and the Hispanic candidate 10:41:07</p> <p>6 prevailed in each contest;" correct?</p> <p>7 A. Correct.</p> <p>8 Q. To your knowledge, are these six elections</p> <p>9 all of the recent elections that pitted a Hispanic</p> <p>10 Democrat against a White Republican and the Hispanic 10:41:24</p> <p>11 candidate prevailed?</p> <p>12 A. I can't recall if there were other ones or</p> <p>13 not, to be perfectly honest with you.</p> <p>14 Q. And do you recall whether there were</p> <p>15 additional elections, recent statewide elections 10:41:36</p> <p>16 that pitted a Hispanic Democrat against a White</p> <p>17 Republican in which the Hispanic candidate did not</p> <p>18 prevail?</p> <p>19 A. I don't recall.</p> <p>20 Q. And you don't list any of them here; 10:41:48</p> <p>21 correct?</p> <p>22 A. There are none listed among these six, no.</p> <p>23 Q. Do you offer any analysis in your report</p> <p>24 as to who is the Hispanic preferred candidate in</p> <p>25 these races? 10:42:09</p> <p style="text-align: right;">Page 69</p>

<p>1 A. Not for these, no. 10:42:14</p> <p>2 Q. Do you offer any analysis in your report</p> <p>3 for these races as to who is the White preferred</p> <p>4 candidate?</p> <p>5 A. I didn't analyze it for that, no. 10:42:27</p> <p>6 Q. So we can't tell from your report, for</p> <p>7 instance, how many of the votes for Alex Padilla in</p> <p>8 2018 were for Hispanic voters; correct?</p> <p>9 A. I don't know if that's one of the ones</p> <p>10 that's down below, it might be actually, later on in 10:42:43</p> <p>11 my report. But there's only two or three elections.</p> <p>12 So some of these I have looked at the data</p> <p>13 to determine what proportion of the votes were from</p> <p>14 Hispanics or Whites for some of these elections.</p> <p>15 Q. And for these six elections in this 10:43:22</p> <p>16 portion of your report we can't know how many of</p> <p>17 these votes came from the 18 counties that were the</p> <p>18 focus of your report; is that correct?</p> <p>19 A. That's true.</p> <p>20 MS. KHANNA: And then if we scroll down. 10:43:36</p> <p>21 BY MS. KHANNA:</p> <p>22 Q. And then here you list three examples of</p> <p>23 where a Hispanic candidate lost a statewide</p> <p>24 election; is that right?</p> <p>25 A. Correct. 10:43:50</p> <p style="text-align: right;">Page 70</p>	<p>1 Q. So we can't tell from your report whether 10:44:52</p> <p>2 Loretta Sanchez wasn't the Hispanic preferred</p> <p>3 candidate or whether Kamala Harris was; correct?</p> <p>4 A. That's correct.</p> <p>5 Q. Nor can we tell who among these candidates 10:45:03</p> <p>6 who was the White preferred candidate?</p> <p>7 A. Correct.</p> <p>8 Q. What relevance is it that both of the</p> <p>9 candidates in that race are not White? You make</p> <p>10 that point here, both of those -- the winning 10:45:14</p> <p>11 candidate was not White.</p> <p>12 A. Wait. I don't know what you mean.</p> <p>13 Q. Okay. I'm sorry. Looking at the first</p> <p>14 bullet point there, the Loretta Sanchez lost to</p> <p>15 Kamala Harris in the 2016 U.S. Senate election. 10:45:30</p> <p>16 Do you see that?</p> <p>17 A. Oh. Yes.</p> <p>18 Q. And you say, "But both candidates were</p> <p>19 Democrats, and the winning candidates was not</p> <p>20 White"; is that correct? 10:45:39</p> <p>21 A. That's correct.</p> <p>22 Q. And I understand from your previous</p> <p>23 paragraph that you consider these elements to be</p> <p>24 what makes this, quote, something of a special case;</p> <p>25 is that right? 10:45:49</p> <p style="text-align: right;">Page 72</p>
<p>1 Q. And then you note that, "Each of them is 10:43:51</p> <p>2 something of a special case"?</p> <p>3 A. Correct.</p> <p>4 Q. How did you select these races to</p> <p>5 highlight? 10:43:58</p> <p>6 A. These were -- like I said, I was trying to</p> <p>7 include all elections that were -- that included a</p> <p>8 statewide election, a recent statewide election that</p> <p>9 included a Hispanic candidate.</p> <p>10 Q. Are all these recent examples of Hispanics 10:44:12</p> <p>11 losing statewide elections?</p> <p>12 A. To the best of my knowledge, correct.</p> <p>13 Q. And all of these races are between two</p> <p>14 Democrats; is that correct?</p> <p>15 A. Yes. 10:44:27</p> <p>16 Q. Were these all of the statewide races</p> <p>17 between two Democrats in which there was one</p> <p>18 Hispanic candidate?</p> <p>19 A. To the best of my knowledge, yes.</p> <p>20 Q. Do you offer any analysis in your report 10:44:40</p> <p>21 as to who is the Hispanic preferred candidate in</p> <p>22 these three races?</p> <p>23 A. I don't.</p> <p>24 Q. Or who is the White preferred candidate?</p> <p>25 A. I do not. 10:44:52</p> <p style="text-align: right;">Page 71</p>	<p>1 A. Well, this -- the important part here was 10:45:51</p> <p>2 that they were both Democrats. That was the --</p> <p>3 that's the important part. And then I think I just</p> <p>4 put in that we all know that Kamala Harris is a</p> <p>5 minority. 10:46:02</p> <p>6 Q. And so -- yeah, so I guess that's my</p> <p>7 question is, am I right that you were explaining</p> <p>8 what makes these three elections something of a</p> <p>9 special case in your report?</p> <p>10 A. Yes. 10:46:14</p> <p>11 Q. And is it your understanding that the fact</p> <p>12 that the winning candidate was not White makes this</p> <p>13 something of a special case?</p> <p>14 A. Well, it's -- the important part is that</p> <p>15 they were both Democrats, I think. But I pointed 10:46:24</p> <p>16 out that the winning candidate is also not a White</p> <p>17 candidate.</p> <p>18 Q. And is that relevant to your analysis in</p> <p>19 any way, that the winning candidate is not White?</p> <p>20 A. It may be relevant. Do I need that phrase 10:46:43</p> <p>21 in there? I mean, I think it's obvious we all know</p> <p>22 what -- the race of Kamala Harris, so I don't know</p> <p>23 if I needed to put that phrase in there or not.</p> <p>24 But I think for -- I was just trying to be</p> <p>25 consistent, and I pointed out in the next one that 10:47:03</p> <p style="text-align: right;">Page 73</p>

<p>1 Dianne Feinstein is White, and then in the last one 10:47:07</p> <p>2 I didn't say it, so I think I was just trying to be</p> <p>3 as informative as possible.</p> <p>4 Q. Does the race of the prevailing candidate</p> <p>5 inform whether the Hispanic candidate was 10:47:31</p> <p>6 successful?</p> <p>7 A. No.</p> <p>8 Q. Okay. How about this, does the race of</p> <p>9 the prevailing candidate inform whether the Hispanic</p> <p>10 preferred candidate was successful in this race? 10:47:43</p> <p>11 A. No, we don't know which candidate</p> <p>12 Hispanics preferred.</p> <p>13 Q. In your second example, you note that the</p> <p>14 Hispanic Democrat lost to the White Democrat; is</p> <p>15 that right? 10:47:57</p> <p>16 A. Correct.</p> <p>17 Q. And you say that this is a special case</p> <p>18 because the White Democrat was a long-time</p> <p>19 incumbent?</p> <p>20 A. The important part is that these are all 10:48:03</p> <p>21 between two Democracies.</p> <p>22 Q. You also note that the prevailing</p> <p>23 candidate was a long-time incumbent; correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Are you saying that's not an important 10:48:18</p> <p style="text-align: right;">Page 74</p>	<p>1 are -- have had great success in statewide elections 10:49:34</p> <p>2 in California.</p> <p>3 Q. What, if any, conclusions do you draw from</p> <p>4 that?</p> <p>5 A. Well, the third part of the Gingles prong 10:49:46</p> <p>6 is that the majority needs to vote as a bloc and are</p> <p>7 generally able to defeat the preferred candidate of</p> <p>8 choice of the minorities.</p> <p>9 Q. But you don't provide any analysis in</p> <p>10 these -- in this section of who is the minority 10:50:05</p> <p>11 preferred candidate; correct?</p> <p>12 A. Well, the -- all of the winning -- the six</p> <p>13 winning candidates are all Democrats. Hispanics</p> <p>14 generally vote for Democrats, so it's not a -- it's</p> <p>15 not a tough bridge to cross. 10:50:22</p> <p>16 Q. You don't provide any analysis in looking</p> <p>17 at these nine elections of the extent to which -- of</p> <p>18 which candidate is the minority preferred candidate;</p> <p>19 is that correct?</p> <p>20 A. I did not provide any evidence for that, 10:50:36</p> <p>21 but it's relatively obvious.</p> <p>22 Q. You are assuming that based on the</p> <p>23 candidate's race and party?</p> <p>24 A. That's right.</p> <p>25 Q. Is that how you've typically examined 10:50:48</p> <p style="text-align: right;">Page 76</p>
<p>1 distinction? 10:48:21</p> <p>2 A. That is an important distinction because</p> <p>3 incumbents have an advantage and are more easily</p> <p>4 able to get reelected.</p> <p>5 Q. So in the six races that you discussed in 10:48:33</p> <p>6 the previous section, did you make any inquiry into</p> <p>7 whether any of the candidates were a long-time</p> <p>8 incumbent?</p> <p>9 A. No.</p> <p>10 Q. Did you make any inquiry into whether any 10:48:46</p> <p>11 of the candidates were an incumbent at all?</p> <p>12 A. I don't think I pointed that out in any of</p> <p>13 them, no.</p> <p>14 Q. Did you make any inquiry into any other</p> <p>15 special circumstances of each of those previous six 10:48:56</p> <p>16 elections?</p> <p>17 A. Like what?</p> <p>18 Q. Such as the kinds of special circumstances</p> <p>19 that you list in these three elections?</p> <p>20 A. Well, we just talked about whether they 10:49:11</p> <p>21 were incumbents. I did not look to see whether they</p> <p>22 were incumbents or not.</p> <p>23 Q. What is the purpose of your analysis in</p> <p>24 looking at these nine elections?</p> <p>25 A. To show that Hispanic candidates have -- 10:49:27</p> <p style="text-align: right;">Page 75</p>	<p>1 racially polarized voting in your previous studies? 10:50:53</p> <p>2 A. No, it -- no, it's not.</p> <p>3 Q. Okay. If we could go -- scroll down.</p> <p>4 Tables 4, 5 and 6, here you look at three statewide</p> <p>5 elections held in 2022; is that right? 10:51:19</p> <p>6 A. That's what it says.</p> <p>7 Q. Okay. And how did you select these three</p> <p>8 elections?</p> <p>9 A. I think they're all in the list above.</p> <p>10 Q. The list above, the list of the six? 10:51:33</p> <p>11 A. Yes.</p> <p>12 Q. And how did you choose these three from</p> <p>13 those six?</p> <p>14 A. I need to see the -- I need to see it.</p> <p>15 Can we scroll down? 10:51:47</p> <p>16 Q. Sure.</p> <p>17 A. Okay. Keep going. Insurance</p> <p>18 commissioner, okay.</p> <p>19 And what's below this?</p> <p>20 Q. A different analysis. 10:52:10</p> <p>21 A. A different analysis, okay.</p> <p>22 Well, I don't recall why I didn't include</p> <p>23 all six of them here. I feel like this was just --</p> <p>24 maybe that was overkill. I honestly don't remember</p> <p>25 why there's only three and not all six of them. 10:52:32</p> <p style="text-align: right;">Page 77</p>



1 Q. Am I right that you did not look at any 10:52:41	1 one I didn't include, and it's -- I think it's 10:55:41
2 2024 elections in your report at all?	2 nonpartisan maybe. And I think these are the rest
3 A. I think in the last section I do.	3 of them. But I'm going from memory here.
4 Q. Okay. Well, I'm going to put a pin in	4 Q. Okay. So then if we scroll down to
5 that one so we can do a check. I don't want to 10:52:55	5 Figure 1, it looks at the 18 counties with a 10:56:06
6 derail this right now.	6 different method; is that right?
7 A. Okay.	7 A. Yes.
8 Q. So you don't recall why you chose these	8 Q. So what are you doing here in Figure 1?
9 three to examine in this portion of your report?	9 A. I'm showing the percent of the vote for
10 A. I don't remember. No, I really don't. 10:53:09	10 these 18 counties in two different elections and the 10:56:25
11 Q. Okay. You state on page 6 of your	11 fact that they line up in this -- the graph looks
12 report -- and I think that's scrolling back up.	12 roughly like a 45-degree angle. That indicates that
13 Okay. In that paragraph at the bottom. Here you	13 across elections the share of the vote for both
14 say, "The reason for including these data is to see	14 Democrats and Republicans is very stable.
15 how stable the vote percentages are within each 10:53:34	15 Q. Why did you look at these two elections in 10:56:51
16 county across elections."	16 this figure?
17 Did I read that correctly?	17 A. Is that the only graph I put in?
18 A. Correct.	18 Q. I believe it is for 2018.
19 Q. So you're showing that within each county	19 A. Okay.
20 the electorate doesn't vary that much from one 10:53:46	20 Q. So in Table 7 you highlight a number of 10:57:03
21 election to another in a given year when it comes to	21 statewide elections and then in Figure 1 you only
22 their partisan preferences for statewide candidates;	22 look at two of those 2018 statewide elections.
23 is that fair?	23 A. This might have been the sort of best
24 A. That's a good summary.	24 example of a straight line, I suspect.
25 Q. And how is that relevant to your analysis 10:54:00	25 Q. So it's possible that looking at other 10:57:23
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1 in this case? 10:54:03	1 elections would not show the same kind of straight 10:57:26
2 A. That the stability kind of implies that	2 line?
3 party is the most important factor in these	3 A. Well, that's for sure true in 2018 because
4 elections rather than the candidate or the campaign	4 we had, as I described -- there are some lower
5 itself. 10:54:21	5 correlations in that thing, but I kind of explain 10:57:36
6 Q. Okay. Scroll down. You provide similar	6 why that's the case.
7 analyses on pages 9 through 14 of your report and --	7 Q. All right. And so you chose the highest
8 for the scattergrams and correlations; is that	8 correlation -- the two elections with the highest
9 right?	9 correlation.
10 A. Correct. 10:54:44	10 A. I may have. We could go back up to the 10:57:48
11 Q. So, for instance, if we look at Table 7,	11 table to see if that's true or not. Attorney
12 if you scroll down, look at Table 7, Table 7 tells	12 General, Secretary of State.
13 us that there is a high correlation among the	13 Q. Let's scroll up.
14 percentage of statewide votes for Democratic	14 A. Attorney General, Secretary of State. It
15 statewide candidates that are all running in the 10:55:03	15 is -- it is tied for the highest correlation with -- 10:58:11
16 same year on the same ballot; is that right?	16 also with the Attorney General and that Treasurer,
17 A. Correct.	17 so that probably would have looked similar.
18 Q. So in Table 7 are these all of the	18 But all the ones that are like .9975,
19 statewide elections held in 2018?	19 .9926, these are all going to look very similar to
20 A. No. There's one for education that I 10:55:17	20 this particular scatterplot. 10:58:32
21 didn't include. I can't remember what it's called,	21 Q. So these scatterplots generally conclude
22 like a superintendent or something.	22 the same thing, that there's a correlation between
23 Q. So how did you determine which elections	23 the vote share of statewide Democratic candidates
24 to include in your Table 7 analysis?	24 running on the same ballot; is that right?
25 A. I think -- that might have been the only 10:55:40	25 A. Correct. 10:58:44
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1 Q. If we scroll down to Table 8 in Figure 2, 10:58:45	1 don't remember it being on the ballot when I was a 11:01:29
2 you performed the same analysis for a subset of 2022	2 voter there.
3 statewide elections; is that right?	3 Q. Understood.
4 A. Yes.	4 So how is the question that you're
5 Q. So if we look at the bottom of this page 10:59:00	5 answering here about the extent to which there is 11:01:36
6 here, you say, "This demonstrates the lack of	6 variability between elections in the same year, how
7 variability between elections in California.	7 is that relevant to the issues in this case?
8 Candidates and campaigns seem to be relatively	8 A. I think that it's -- it shows the
9 unimportant, and many people in the state appear to	9 stability, what a role party plays in elections and
10 be voting straight party tickets." 10:59:21	10 will probably continue to play in elections. So to 11:01:59
11 Did I read that correctly?	11 the extent that that might be useful, it will be up
12 A. That's correct.	12 to the judge.
13 Q. When you refer to a lack of variability,	13 Q. So what is your understanding of how that
14 you don't mean year over year; is that correct?	14 might be useful in this case, given your
15 A. No. Within an election year across 10:59:30	15 understanding of the claims at issue here? 11:02:13
16 elections.	16 A. I'm not sure. I mean, it could certainly
17 Q. You're not suggesting there's a lack of	17 play a factor.
18 variability between 2018 and '22 elections?	18 Q. In what way?
19 A. No.	19 A. I don't know. I think that this is --
20 Q. Did you perform any other analysis to 10:59:44	20 this is an important factor about California and 11:02:26
21 determine the extent to which candidates and	21 about how recent elections have gone and the ability
22 campaigns are important to voters?	22 for Latinos to win statewide elections, and so I
23 A. For this report?	23 think that a judge may find this interesting in his
24 Q. Yes.	24 or her considerations of the whole case.
25 A. No. 10:59:56	25 Q. So to be clear, your discussion of the 11:02:50
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1 Q. Have you looked into that question in your 10:59:56	1 variability or lack thereof of the democratic vote 11:02:53
2 previous work?	2 shares among Democratic candidates on the same
3 A. I'm trying to think.	3 ballot, that does not have anything to do with the
4 I'm not sure that I have.	4 election of Latinos or Latino preferred candidates;
5 Q. Okay. Does California have straight party 11:00:30	5 correct? 11:03:09
6 ticket voting?	6 A. Well, I talked about electing Latino
7 A. I don't know. You mean like on the ballot	7 candidates earlier. So this is about how stable it
8 where you can just do one click, is that what you	8 is, right. So this is good news for Democrats and
9 mean?	9 Latinos are usually Democrats, and so these things
10 Q. I guess, maybe. That's my understanding. 11:00:45	10 are related to it somewhat. 11:03:27
11 What is your understanding of what	11 Q. But you don't provide any analysis of the
12 straight party ticket voting is?	12 extent to which the election of Hispanics is stable
13 A. Some states make it easy to vote a	13 across given elections?
14 straight party ticket, and Texas used to do this but	14 A. Well, I mean some of those elections are
15 they actually got rid of it recently, where you 11:00:59	15 in here. Both the Padilla election, the ones that I 11:03:40
16 could go to the ballot and instead of actually	16 had up top are in this data as well.
17 casting your ballot overall, however many elections	17 Q. But your analysis here is focusing only on
18 there are, you could just say, I want to vote for	18 the extent to which there is stability across
19 all Democrats or all Republicans, you would click	19 Democratic vote shares; correct?
20 that button and it would just fill everything in. 11:01:12	20 A. I'm not sure. I don't know what this 11:03:54
21 But you can vote a straight party ticket manually,	21 distinction is.
22 of course, and lots and lots of people do.	22 Q. In looking at these Tables 6, 7 and 8 do
23 And so I'm not certain if California has	23 you provide any analysis of the stability among
24 the ability to do one click. I have voted in	24 Latino candidates?
25 California, it's been several decades now, but I 11:01:25	25 A. Well, to the extent there are Latino 11:04:16
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1 candidates in here. 11:04:19	1 And just to clarify. Previously I had 11:17:53
2 Q. Do you provide any separate analysis of	2 asked about 2024 election data and you said you
3 whether Hispanic candidates experience stability	3 believed you used it in your last section and just
4 across elections?	4 to confirm, yes, you talked about both the 2022 CES
5 A. Well, it would be different candidates in 11:04:31	5 and the 2024 CES, if we scroll down. I wanted to 11:18:10
6 the same election. So to the extent there are	6 make sure I didn't leave that open.
7 Hispanic candidates in my data, then yes, I do.	7 A. (Nods head affirmatively.)
8 Q. But your conclusion from this data is that	8 Q. If we look at Table 9, scrolling down.
9 people appear to be voting -- appear to be motivated	9 All right. What are we looking at in Table 9?
10 by political party; is that correct? 11:04:54	10 A. So Table 9, first we're looking at the 11:18:29
11 A. Party -- party line -- the vote is very,	11 2022 Senate election in California. And we are
12 very stable across -- within an election year across	12 looking at how the voters in the 18 counties that I
13 offices, sorry. So party seems to be very, very	13 identified earlier in my report voted by race and
14 important.	14 then also overall.
15 Q. And does that conclusion in your mind 11:05:10	15 So do you want me to keep describing it? 11:18:58
16 inform whether race may have predominated in the	16 Q. Yes, please do.
17 Prop. 50 map?	17 A. Sorry.
18 A. No, I don't think it's related to that	18 So for instance, so this race is Padilla
19 question.	19 versus Mr. Meuser, who's here on the call. And it
20 Could we take a break? Is that okay? 11:05:29	20 shows -- so the first entry is for non-Hispanic 11:19:14
21 MS. KHANNA: Absolutely. It's your break to	21 White voters and the point estimate for the support
22 call for, yes.	22 for Mr. Padilla among non-Hispanic White voters in
23 I think the court reporter suggested a	23 the counties in the CES is 53 percent. So
24 10-minute break is easier on her fingers.	24 53 percent of non-Hispanic Whites voted for
25 THE WITNESS: Sounds good to me. 11:05:39	25 Mr. Padilla in these 18 counties. And 47 percent 11:19:40
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1 (Recess taken.) 11:05:41	1 voted for Mr. Meuser. 11:19:44
2 MS. KHANNA: I'd like to pull back up what	2 And then below that is the 95 percent CI,
3 we've marked as Exhibit 1. And I'd like to scroll	3 which stands for confidence interval, which is an
4 down to your analysis of the cooperative election	4 estimate of our uncertainty, which we use in
5 studies. So we'll scroll down to here. Okay, 11:16:46	5 statistics. 11:19:58
6 great. Thank you.	6 So we're 95 percent sure that the true
7 BY MS. KHANNA:	7 population value lies for the support for
8 Q. Dr. Brunell, turning to the cooperative	8 Mr. Padilla among non-Hispanic Whites is between
9 election study or CES analyses that you performed,	9 49.4 percent and 56.6 percent.
10 what was the goal of looking at the CES data? 11:17:01	10 And then similarly, it goes down for 11:20:19
11 A. This was to look at how White --	11 different -- for non-Hispanic Blacks, for Hispanics,
12 non-Hispanic White and Hispanic voters voted in	12 non-Hispanic Asians.
13 several recent elections.	13 Q. And I believe you mentioned previously
14 Q. Okay. And is it your understanding that	14 that there is some overlap given the confidence
15 this provides a racially polarized voting analysis? 11:17:28	15 intervals of these estimates; is that right? 11:20:35
16 A. Yeah. I think that this goes to that	16 A. Correct.
17 question whether voting was polarized by race or	17 Q. What does that indicate to you?
18 not.	18 A. So the example I just gave is one we can
19 Q. But is it fair to say that this is not the	19 use, so the 95 percent confidence interval goes from
20 type of racially polarized voting analysis that you 11:17:42	20 a low of 49.4 percent to a high of 56.6 percent, so 11:20:47
21 would provide in your expert work; correct?	21 it goes over the 50 percent boundary. So it's
22 A. I have never used the CES before. I	22 possible that a majority of non-Hispanic Whites
23 usually use other methods, but this is answering the	23 actually supported Mr. Meuser, although it's at the
24 same question.	24 very edge of the confidence interval and our point
25 Q. Okay. Great. 11:17:52	25 estimate is above 50 percent. 11:21:11
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<p>1 Q. And if we scroll down to Tables 10 and 11:21:16</p> <p>2 then 11, the same is true there, correct, about the</p> <p>3 overlap in confidence intervals?</p> <p>4 A. It is.</p> <p>5 Q. So in the elections looked at in Tables 9, 11:21:25</p> <p>6 10 and 11, it is possible that more Whites, more</p> <p>7 non-Hispanic White voters supported the Republican</p> <p>8 candidate than the Democratic candidate?</p> <p>9 A. The 95 percent confidence interval</p> <p>10 includes less than 50 percent for non-Hispanic 11:21:45</p> <p>11 Whites for the Democrat. Also you could just look</p> <p>12 at the Republican, right.</p> <p>13 So in this particular one, Table 10,</p> <p>14 Mr. Hochman's support -- our point estimate is that</p> <p>15 he got a minority -- he got 48 percent of the vote 11:21:59</p> <p>16 among non-Hispanic Whites. But if you look at the</p> <p>17 confidence interval, it goes from 44.3 to 51.7, so</p> <p>18 it's possible that he actually did receive a</p> <p>19 majority of the non-Hispanic White support.</p> <p>20 Q. Okay. And if you look at the -- if you 11:22:18</p> <p>21 need to scroll up and down to make sure, my</p> <p>22 understanding is that in Tables 9, 10 and 11 you're</p> <p>23 looking at three elections from 2022; is that</p> <p>24 correct?</p> <p>25 A. I would have to -- if you could scroll 11:22:31</p> <p style="text-align: right;">Page 90</p>	<p>1 A. And this was the presidential. 11:23:37</p> <p>2 Humm. I don't remember. Did the CES ask</p> <p>3 questions about -- well, there were -- well, this is</p> <p>4 a presidential year, so were there any statewide</p> <p>5 elections in California in 2024? 11:23:57</p> <p>6 Q. My question to you.</p> <p>7 A. I mean, since they were all elected in</p> <p>8 2022, I'm guessing if there were any, there might</p> <p>9 have been a Senate election and so maybe there were</p> <p>10 no other data. 11:24:15</p> <p>11 Q. You don't know whether or not CES reported</p> <p>12 other data for 2024?</p> <p>13 A. Off the top of my head, I don't. But I</p> <p>14 could find out. I could go look.</p> <p>15 Q. And there's also an overlap in the 11:24:26</p> <p>16 confidence intervals here that we examined in the</p> <p>17 other tables; is that right?</p> <p>18 A. There is, for non-Hispanic Whites. But</p> <p>19 for the others, for the minorities, there's not.</p> <p>20 Q. So for -- 11:24:39</p> <p>21 A. Note that --</p> <p>22 Q. In Table 12 it is possible that more</p> <p>23 non-Hispanic White voters supported the Republican</p> <p>24 candidate than the Democratic candidate?</p> <p>25 A. It's possible. 11:24:49</p> <p style="text-align: right;">Page 92</p>
<p>1 down. 11:22:34</p> <p>2 Q. Well, let's scroll up to Table 9 first.</p> <p>3 A. That sounds good.</p> <p>4 Q. There we see that this is about the 2022</p> <p>5 Senate election. 11:22:44</p> <p>6 A. Okay.</p> <p>7 Q. Table 10.</p> <p>8 A. Scroll down.</p> <p>9 Q. 2022 AG election and Table 11 is the 2022</p> <p>10 Secretary of State election; is that right? 11:22:56</p> <p>11 A. That's correct.</p> <p>12 Q. Why did you examine these three elections</p> <p>13 from 2022?</p> <p>14 A. I think these were the only elections that</p> <p>15 the CES asked respondents about. 11:23:06</p> <p>16 Q. So these were the total elections</p> <p>17 available in the CES study that you rely on?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Then for the 2024 CES there you</p> <p>20 only look at one election; is that right? 11:23:19</p> <p>21 A. I think that's correct.</p> <p>22 Q. And why is that?</p> <p>23 A. Could you scroll down?</p> <p>24 Q. For sure, yes. Scroll down to the 2024</p> <p>25 CES and Table 12 associated with that. 11:23:34</p> <p style="text-align: right;">Page 91</p>	<p>1 Q. Okay. I am actually going to -- we'll 11:24:51</p> <p>2 take this exhibit down, and I'm going to pull up I</p> <p>3 think what is marked as Tab 3, but we'll mark it as</p> <p>4 Exhibit 2 to this deposition. It should be an</p> <p>5 expert report from Dr. Brunell in a case called 11:25:08</p> <p>6 "South Carolina State Conference of the NAACP versus</p> <p>7 Alexander."</p> <p>8 (Deposition Exhibit 2 was marked.)</p> <p>9 MS. KHANNA: All right. If we could scroll</p> <p>10 down a page. 11:25:39</p> <p>11 BY MS. KHANNA:</p> <p>12 Q. Dr. Brunell, do you recognize this</p> <p>13 document?</p> <p>14 A. It looks familiar, yes.</p> <p>15 Q. I'll represent to you that this is your 11:25:48</p> <p>16 expert report in a case called "South Carolina State</p> <p>17 Conference of the NAACP versus Alexander."</p> <p>18 Do you recall that case?</p> <p>19 A. Vaguely, yes.</p> <p>20 Q. And that was -- that was a case from the 11:26:02</p> <p>21 last couple of years; is that right?</p> <p>22 A. I think this was like a -- this is like a</p> <p>23 2021, 2022 case.</p> <p>24 MS. KHANNA: Okay. Let's scroll up, actually,</p> <p>25 to the first page of this document. 11:26:14</p> <p style="text-align: right;">Page 93</p>

1 BY MS. KHANNA: 11:26:17	1 Q. And I believe we've already discussed what 11:28:13
2 Q. I'm trying to see if it provides a date.	2 a homogeneous precinct analysis is; correct?
3 Yes. I see a date at the very top. The date filed	3 A. We did.
4 there is October 4th, 2022.	4 Q. And did you perform that analysis in this
5 Does that look about right? 11:26:27	5 case? 11:28:21
6 A. Yes.	6 A. I did not.
7 MS. KHANNA: And if I haven't already, can we	7 Q. Nor did you perform an ecological
8 please mark this as Brunell Deposition Exhibit 2.	8 regression analysis; is that right?
9 Thank you.	9 A. That's correct.
10 BY MS. KHANNA: 11:26:37	10 Q. And did you perform a scatterplot analysis 11:28:27
11 Q. All right. And you served as an expert on	11 in this case?
12 behalf of the State of South Carolina in this case;	12 A. Well, there are scatterplots but not the
13 is that right?	13 type of scatterplot that I'm referring to there, I
14 A. That's my recollection, yes.	14 did not.
15 Q. And the State of South Carolina was 11:26:45	15 Q. Okay. And if we scroll down to the very 11:28:36
16 defending against a racial gerrymandering lawsuit in	16 last sentence of your report. I'm sorry, I don't
17 that case; is that right?	17 have the page right in front of me.
18 A. I believe that's correct.	18 THE REPORTER: And remember, Ms. Khanna, to
19 Q. Okay, great.	19 please slow down. You're going too fast.
20 MS. KHANNA: If we could scroll down. All 11:26:55	20 MS. KHANNA: My apologies. 11:28:59
21 right.	21 THE REPORTER: Thank you.
22 BY MS. KHANNA:	22 MS. KHANNA: I will certainly try.
23 Q. There in the second paragraph on this page	23 THE WITNESS: You could probably scroll a lot
24 you say, "I was asked by counsel to evaluate the	24 faster if you're able to.
25 extent to which racial bloc voting was present in 11:27:11	25 MS. KHANNA: All right. Let's go back up 11:29:23
Page 94	Page 96
1 recent elections in the State of South Carolina 11:27:16	1 there. All right. 11:29:25
2 prior to and during the redistricting effort."	2 BY MS. KHANNA:
3 Did I read that correctly?	3 Q. You see that last conclusion sentence you
4 A. You did.	4 have in your report?
5 Q. And this was -- the purpose of this 11:27:25	5 A. I do. 11:29:34
6 analysis was to evaluate the second and third	6 Q. And here you conclude, "The results of the
7 Gingles prongs; is that right?	7 above analyses indicate that racially polarized
8 A. That's correct.	8 voting is present in South Carolina statewide, and
9 MS. KHANNA: I want to scroll down a little bit	9 present in all counties analyzed"; is that correct?
10 to the bottom of this page. 11:27:38	10 A. Correct. 11:29:50
11 BY MS. KHANNA:	11 MS. KHANNA: I'd like to pull up what has been
12 Q. Do you see the paragraph that begins with	12 marked, I believe, as document 4 but will be
13 the word "First"?	13 Exhibit 3 to this deposition. And it is an expert
14 A. Yes.	14 report by Dr. Brunell in a case called "Brooks v.
15 Q. So in that paragraph you say that you use 11:27:44	15 Gant." 11:30:10
16 "several standard statistical tools for detecting	16 (Deposition Exhibit 3 was marked.)
17 racially polarized voting looking at the statewide	17 MS. KHANNA: Actually, can you keep scrolling
18 data - homogeneous precinct analysis, scatterplot,	18 down. And keep scrolling down. I think there's a
19 and ecological regression."	19 report attached to this.
20 Did I read that correctly? 11:28:04	20 Okay. Great. Thank you. 11:30:58
21 A. You did.	21 BY MS. KHANNA:
22 Q. And then you say that you use the same	22 Q. Dr. Brunell, do you recognize this
23 tools to separately examine 25 individual counties;	23 document?
24 correct?	24 A. I can't say that I remember this, but it
25 A. That's right. 11:28:13	25 certainly looks like something that I produced. 11:31:08
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1 Q. Okay, great. And so for the record this 11:31:10	1 Great. Thank you. 11:33:53
2 is a report that you produced in a case called	2 BY MS. KHANNA:
3 "Brooks v. Gant."	3 Q. All right. Dr. Brunell, do you offer any
4 Do you recall what that case was about,	4 opinion in your conclusions as to the existence of
5 understanding I see the date at the top is 2012? 11:31:20	5 racially polarized voting in California statewide? 11:33:58
6 A. Right. I think this case was about the	6 A. Yes.
7 location of polling booths in South Dakota.	7 Q. And what is that opinion?
8 Q. Great, thank you.	8 A. That it's not clear that racially
9 MS. KHANNA: If we could scroll down to page 2	9 polarized voting exists in California because Whites
10 of this report, the page after this one. 11:31:37	10 tend to vote with -- as Democrats, majority support 11:34:26
11 BY MS. KHANNA:	11 Democratic candidates, which is also true for
12 Q. Do you see that paragraph in the middle	12 Hispanics.
13 that begins with "Moreover"?	13 Q. Can you point me to the portion of your
14 A. Yes.	14 conclusion where you conclude that it's not clear
15 Q. Can you please read that paragraph out 11:31:45	15 that racial polarized voting exists in California? 11:34:38
16 loud for the record?	16 A. The second-to-last sentence, that's the
17 A. The whole one?	17 word I'm looking for, "Moreover, the evidence from
18 Q. The whole paragraph, yeah.	18 four statewide elections in the state in 2022 and
19 A. Okay. "Moreover, the methods by	19 2024, estimates indicate that majorities of
20 Dr. Braunstein used to determine whether or not 11:31:53	20 non-Hispanic Whites, Hispanics, non-Hispanic Blacks, 11:35:08
21 racial bloc voting is present in Shannon County are	21 and non-Hispanic Asians, all vote democratic."
22 not among the handful used by experts and accepted	22 Q. And is that the extent of your conclusion
23 by courts. Homogeneous precincts and bivariate	23 as to the existence of racially polarized voting?
24 ecological regression are two of the most common	24 A. I don't know what you mean by that. Is
25 methods since they are cited in the Gingles 11:32:11	25 that not enough? Is that what you're saying? 11:35:28
Page 98	Page 100
1 decision. More recently, Professor Gary King of 11:32:13	1 Q. I just want to make sure that I'm 11:35:29
2 Harvard developed a method he calls ecological	2 understanding what you're concluding here.
3 inference, and there are related software packages	3 A. Yes, that's the summary.
4 that can implement this more complimented method.	4 Q. And perhaps some of the confusion, I don't
5 I'm not opining whether racial bloc voting exists in 11:32:27	5 see the term "racially polarized voting" in your 11:35:38
6 Shannon County or not, but the evidence presented is	6 conclusions at all, so I'm just trying to understand
7 not what one typically sees in an expert report, and	7 how you understand what you concluded in this
8 since this case is not about redistricting, there is	8 report.
9 no particular reason to know if voting is polarized	9 A. Well, if non-Hispanic Whites and Hispanics
10 by race or not." 11:32:46	10 are voting majority the same way, then that's not 11:35:50
11 Q. Thank you, Dr. Brunell. I think you win	11 polarized, right? Racially polarized voting means
12 in terms of speed at which you read for the court	12 that the Whites are voting one way and the minority
13 reporter, which is why I asked you to read it	13 group is voting a majority for a different
14 instead of me, so hopefully that was a little	14 candidate.
15 easier. 11:33:00	15 Q. And you say in the previous sentence that 11:36:03
16 A. Yeah.	16 it is hard to imagine that the -- I believe the
17 Q. All right. Thank you.	17 third Gingles prong is satisfied; is that right?
18 MS. KHANNA: We can pull this document down.	18 A. Right.
19 And I actually want to go back to Exhibit 1 to this	19 Q. Do you offer a conclusion that the Gingles
20 deposition, which is your report, and I want to turn 11:33:09	20 prong 3 is not satisfied? 11:36:16
21 to page 20 at the bottom in your report, which is	21 MR. MEUSER: I'm going to object to the extent
22 your conclusions.	22 that it calls for a legal conclusion.
23 So we're going to the bottom -- on the	23 You may answer.
24 bottom the page that's marked 20. All right. Thank	24 THE WITNESS: If the majority group needs to
25 you. And maybe we can make this a little bigger. 11:33:47	25 usually defeat the minority preferred candidate, 11:36:29
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<p>1 there's no evidence that that's happening often in 11:36:32</p> <p>2 California.</p> <p>3 BY MS. KHANNA:</p> <p>4 Q. There's no evidence among the evidence</p> <p>5 that you chose to look at; correct? 11:36:39</p> <p>6 A. That's true, there could be other evidence</p> <p>7 that it's true.</p> <p>8 Q. And there's no evidence using the methods</p> <p>9 that you examined in this report; is that correct?</p> <p>10 (Reporter seeks clarification.) 11:36:46</p> <p>11 Q. Your conclusion is based on the evidence</p> <p>12 and the methods that you incorporated in your</p> <p>13 report; correct?</p> <p>14 A. Yes.</p> <p>15 Q. And that is not -- that does not include 11:37:00</p> <p>16 the methods of determining racially polarized voting</p> <p>17 that you have typically included in your analysis in</p> <p>18 other expert reports; correct?</p> <p>19 A. Like I said at the start, California is a</p> <p>20 tough case because it's so diverse. So doing -- you 11:37:14</p> <p>21 know, it's not -- it's much easier when you just</p> <p>22 have two groups, right, because you can't -- then</p> <p>23 you could do a scatterplot, right, like the ones</p> <p>24 that I did in there.</p> <p>25 But when you have five groups all being of 11:37:31</p> <p style="text-align: right;">Page 102</p>	<p>1 geography and the diversity. I thought this was 11:38:52</p> <p>2 going to be really messy, so I looked for an</p> <p>3 alternative.</p> <p>4 Q. Are you aware of any states in your</p> <p>5 experience that have similar racial diversity to 11:39:02</p> <p>6 California?</p> <p>7 A. There are other racially diverse states,</p> <p>8 for sure.</p> <p>9 Q. I believe you said you reside in Texas; is</p> <p>10 that right? 11:39:14</p> <p>11 A. I do.</p> <p>12 Q. And Texas, does that have a large Hispanic</p> <p>13 population, as far as you know?</p> <p>14 A. Yes, it does.</p> <p>15 Q. Does it have a large Asian population, as 11:39:21</p> <p>16 far as you know?</p> <p>17 A. I would have to look. I don't think it's</p> <p>18 as large as it is in California.</p> <p>19 Q. Does it have a large Black population, as</p> <p>20 far as you know? 11:39:33</p> <p>21 A. It might be -- I don't know -- I would</p> <p>22 have to look, I would have to look. It is certainly</p> <p>23 in the southern part of the state, you know, in</p> <p>24 Houston and that area, African population is heavier</p> <p>25 than it is up here in out west and west Texas. 11:39:47</p> <p style="text-align: right;">Page 104</p>
<p>1 substantial size, that sort of strains the ability 11:37:34</p> <p>2 for those methods to give us reliable estimates. So</p> <p>3 that's why I went -- I would have preferred to use</p> <p>4 those, but I decided to use this instead because</p> <p>5 this is -- it's sort of -- it's kind of 11:37:51</p> <p>6 straightforward and clear, which I also like, and so</p> <p>7 that's why I chose this different method.</p> <p>8 Q. But it's not your understanding that</p> <p>9 racial diversity in the state makes it impossible to</p> <p>10 apply those more typical methods of determining 11:38:05</p> <p>11 racially polarized voting; correct?</p> <p>12 A. I mean, you could put anything into a</p> <p>13 statistical model and you'll get an answer, right.</p> <p>14 But does the analyst feel comfortable with it?</p> <p>15 That's kind of the question. 11:38:21</p> <p>16 A statistical -- a mathematical equation</p> <p>17 will spit out answers, right. You could put</p> <p>18 anything in there and you'll get answers, but is</p> <p>19 that what I felt comfortable with? That was the</p> <p>20 problem. 11:38:34</p> <p>21 Q. So is it fair to say that you -- so</p> <p>22 considered using these other statistical</p> <p>23 techniques --</p> <p>24 A. No. I said that that's what I wanted to</p> <p>25 do at the start, but the CVAP had low levels of 11:38:44</p> <p style="text-align: right;">Page 103</p>	<p>1 Q. Have you ever performed racially polarized 11:39:53</p> <p>2 analysis in Texas in the course of your studies?</p> <p>3 A. Yes, I believe I have.</p> <p>4 Q. And have you used the homogeneous precinct</p> <p>5 analysis method to do so? 11:40:04</p> <p>6 A. I think that I did.</p> <p>7 Q. Have you used the ecological regression</p> <p>8 analysis method in order to do so?</p> <p>9 A. I think so, yes.</p> <p>10 Q. Have you used the scatterplot analysis 11:40:17</p> <p>11 method in order to do so?</p> <p>12 A. Probably. I think so, but the case that</p> <p>13 I'm thinking of was like in 2001.</p> <p>14 Q. Have you ever used this CES method that</p> <p>15 you present here? 11:40:34</p> <p>16 A. It's just using survey data. I don't</p> <p>17 think I've ever used this before to do racially</p> <p>18 polarized voting analysis. I think other people</p> <p>19 have used it in cases, but this is the first time</p> <p>20 that I have. 11:40:49</p> <p>21 Q. All right. I actually have one more</p> <p>22 document I want to pull up and I'm pretty much done</p> <p>23 of my portion. I'm sorry. I don't want to let you</p> <p>24 off the hook entirely. So.</p> <p>25 MS. KHANNA: So if we could pull up what I 11:41:06</p> <p style="text-align: right;">Page 105</p>

1 think has been pre-marked as document 5 and will be 11:41:09	1 generally beneficial to draw districts based on 11:44:14
2 Marked as Exhibit 4 to this deposition, and it	2 partisan reasons?
3 should be a document entitled "Rethinking	3 A. Well, first let me couch this a little
4 Redistricting."	4 bit. So this is -- this is an alternative way to
5 (Deposition Exhibit 4 was marked.) 11:41:25	5 think about redistricting, right, and not one that 11:44:31
6 BY MS. KHANNA:	6 people have necessarily taken up that I know of.
7 Q. Thank you. Dr. Brunell, do you recognize	7 So kind of what I say in the book, and
8 this document?	8 then kind of what happens in the real world, in some
9 A. Yes.	9 ways kind of traversing back and forth can be
10 Q. And what is it? 11:41:49	10 dangerous. So what I say in the book is, yes, we 11:44:47
11 A. This is a publication that is like the	11 should draw districts based upon party and to the
12 short version of a book that I wrote back in the	12 extent possible, less so on geography, and draw
13 early 2000s about why competitive elections are bad	13 districts that are overwhelmingly partisan, made up
14 for America.	14 of one party or another because of course we still
15 Q. So this is kind of a synopsis of that 11:42:07	15 have the primary election, so we still can have 11:45:06
16 book?	16 competition among the candidates there within the
17 A. Yes.	17 same party. What I'm trying to say is that no
18 Q. And what's the general thesis of this	18 incumbent is really safe, right, because we also
19 article in the book that it summarizes?	19 have primary elections.
20 A. So losing voters -- so we can -- if we 11:42:18	20 And so that's what I'll say rather than 11:45:19
21 think about -- if you think about a district, there	21 just agree to your previous statement.
22 are voters that win and there are voters that lose,	22 Q. Thank you for the clarification, and I
23 based on whether their preferred candidate won or	23 certainly -- I appreciate your explaining. I did
24 not, and it turns out that losing voters aren't --	24 not want to pretend to synopsise your book. I think
25 are less happy with the outcome, they are less 11:42:33	25 I understand and I appreciate that. 11:45:37
Page 106	Page 108
1 likely to be satisfied with their representation, 11:42:38	1 MS. KHANNA: If we could scroll down to page 83 11:45:39
2 they're less likely to trust Congress, for instance.	2 of this article. Okay. Great.
3 And so because of that, because we know	3 BY MS. KHANNA:
4 that being a voter on the losing side of the	4 Q. And looking on the left-hand column, do
5 equation is detrimental, and because in America, for 11:42:56	5 you see -- actually scroll up a little bit. 11:45:58
6 some elections, for legislative elections, we can	6 Do you see the paragraph that begins, "The
7 draw districts.	7 Voting Rights Act"?
8 I make the argument that we should draw	8 A. Yes.
9 districts in such a way that they're as homogeneous	9 Q. Is that too small? Maybe we can make that
10 as possible, in terms of ideology. All right. So 11:43:15	10 a little bigger? 11:46:08
11 we draw overwhelmingly packed Republican districts	11 A. I'm fine. I'm okay.
12 and overwhelmingly packed Democratic districts and	12 Q. Your eyes are better than mine.
13 try to keep them at the same rate, say, like,	13 Could you read that paragraph out loud,
14 80 percent Democrat, 20 percent Republican;	14 please?
15 80 percent Republican, 20 percent Democratic. And 11:43:30	15 A. The whole thing? 11:46:15
16 if we do that, then we'll have fewer losing voters.	16 Q. Please.
17 And it also has a nice side effect, which is it	17 A. Okay. I'll go slow, too.
18 would also eliminate partisan gerrymandering.	18 (As read:) "The Voting Rights Act
19 Q. So is it fair to say in your thesis is	19 implicates all the states under Section 2 and many
20 that it is generally beneficial to draw districts 11:43:49	20 of the states under Section 5 in terms of election 11:46:23
21 for partisan -- based on partisan reasons?	21 law. The Thornburg v. Gingles decision ruled that
22 A. I don't like the way you said it. So can	22 districting plans must take care to ensure that
23 you say that again?	23 minority votes are not systematically diluted,
24 Q. Well, what I said is, is it fair to say	24 although subsequent decisions have held that race
25 that that means that you are saying that it is 11:44:09	25 cannot be used as the predominate factor in drawing 11:46:42
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1 districts, (Shaw very Reno; Bush v. Vera). Packing 11:46:47	1 AFTERNOON SESSION 12:32 P.M.
2 districts on the basis of ideology would not	2 - - -
3 interfere with districting plans satisfying the	3 EXAMINATION
4 requirements of the Voting Rights Act. In fact,	4 BY MR. de NEVERS:
5 using ideology rather than race but still preserving 11:47:06	5 Q. Dr. Brunell, my name is Orion de Nevers 12:32:04
6 the ability of protected minorities to have a	6 and I'm with Arnold & Porter, and I represent the
7 reasonable opportunity to elect a candidate of their	7 LULAC intervenor defendants in this case.
8 choice would be relatively easy to accomplish."	8 A. Very good.
9 Q. Thank you, Dr. Brunell. Again, a gold	9 Q. I think we've got your breakfast on the
10 star for that. You can tell why I have gotten out 11:47:23	10 record. I won't make you put your lunch on the 12:32:14
11 of the reading business.	11 record.
12 Did you believe that statement to be true	12 A. I appreciate that.
13 when you wrote it?	13 Q. You testified a little earlier today about
14 A. Sure.	14 the term "community of interest."
15 Q. And do you believe it to be true today? 11:47:34	15 Do you recall that testimony? 12:32:24
16 A. Yeah. No, I think that it's still true.	16 A. Yes.
17 Q. Thank you, Dr. Brunell. I have no further	17 Q. And are you familiar with the term
18 questions for you.	18 "community of interest"?
19 MS. KHANNA: I'll pass the witness, and I	19 A. I am.
20 believe I'm going to Mr. de Nevers, and I'll defer 11:47:47	20 Q. What is a community of interest? 12:32:31
21 to actually both you and Mr. de Nevers whether you	21 A. A community of interest can be lots of
22 want a break beforehand or just proceed right in.	22 things. The idea is when drawing electoral
23 But thank you very much. I really appreciate your	23 districts, you want to put -- you want to draw
24 time today.	24 districts around people that have some shared
25 A. Thank you. 11:48:03	25 characteristics, right, so that's kind of the idea 12:32:52
Page 110	Page 112
1 MR. de NEVERS: Dr. Brunell, I'll defer to you 11:48:05	1 of community of interest, as a very abstract term. 12:32:56
2 on the break.	2 And then as we come to try to make it more
3 THE WITNESS: Well, if we break, we're probably	3 realistic, more quantifiable, it becomes a little
4 breaking for lunch, right, like a longer break,	4 bit more difficult. Usually in court cases,
5 Mr. de Nevers; is that right? 11:48:17	5 oftentimes it amounts to counting up the number of 12:33:13
6 MR. de NEVERS: That's up to you. I'm on the	6 split counties and city splits, things of that
7 East Coast, so I may have snuck a lunch in while I	7 nature.
8 was off camera there, so . . .	8 But a community of interest can be
9 THE WITNESS: Yeah, it is almost 2:00. I	9 anything. You know, an Indian reservation would be
10 wouldn't mind eating a little something, since I 11:48:30	10 kind of be a really good example of a community of 12:33:28
11 have to keep my camera on, I wasn't able to eat.	11 interest because it's both geographic and very
12 Can we take a lunch break now and then	12 homogeneous in terms of what's there.
13 come back?	13 But, you know, neighborhoods can be
14 MS. HASAN: That's fine. How long would you	14 communities of interests, people with shared
15 like to take? That's up to you. 11:48:42	15 economic interests can be communities of interest. 12:33:40
16 THE REPORTER: I'm going to go off the record,	16 So in some ways it's really important, but
17 okay?	17 it can be difficult to identify because we could --
18 MS. HASAN: Yes.	18 you could kind of make lots of things into a
19 (Lunch recess was taken at 11:48 a.m.)	19 community of interest.
20 (Nothing omitted or deleted. See next	20 Q. And are communities of interest a 12:33:53
21 page.)	21 traditional redistricting criteria?
22	22 A. Yes.
23	23 Q. Do map makers in your experience typically
24	24 consider communities of interest in drawing district
25	25 lines? 12:34:07
Page 111	Page 113

<p>1 A. Well, they say that they do anyway. 12:34:07</p> <p>2 Q. Would you say that it's a best practice in</p> <p>3 the field of redistricting for map makers to</p> <p>4 consider communities of interest in drawing district</p> <p>5 lines? 12:34:20</p> <p>6 A. I think it's a traditional redistricting</p> <p>7 principle, and so they should at least consider it,</p> <p>8 yes.</p> <p>9 Q. And you testified earlier today that you</p> <p>10 did not conduct any analysis of communities of 12:34:29</p> <p>11 interest in this case.</p> <p>12 Do you recall that?</p> <p>13 A. I don't, but I believe you.</p> <p>14 Q. Okay. Is it accurate that you did not</p> <p>15 conduct any analysis of communities of interest in 12:34:40</p> <p>16 this case?</p> <p>17 A. Well, I mean, I did do some racial ethnic</p> <p>18 things, so you could classify that as communities of</p> <p>19 interest. But I haven't counted the numbers of</p> <p>20 counties and cities that have been split in the old 12:34:53</p> <p>21 map and the new map. That's probably what I was</p> <p>22 referring to when I answered that question.</p> <p>23 Q. Okay. Did you provide a specific opinion</p> <p>24 on whether the 2025 California Congressional map</p> <p>25 respects communities of interest? 12:35:07</p> <p style="text-align: right;">Page 114</p>	<p>1 A. Sure. 12:36:02</p> <p>2 Q. And it can sometimes be majority minority?</p> <p>3 A. Sure.</p> <p>4 Q. And could a district drawn for the purpose</p> <p>5 of preserving a community of interest turn out to be 12:36:10</p> <p>6 majority minority even if the district were not</p> <p>7 drawn for the purpose of creating a majority</p> <p>8 minority district?</p> <p>9 A. Well, you know, now you're sort of getting</p> <p>10 to intent, like what did the -- why did the line 12:36:21</p> <p>11 drawer draw it initially. And was it because of the</p> <p>12 community of interest? Is that a post hoc kind of</p> <p>13 rationalization for it? Both of those things</p> <p>14 happen, right?</p> <p>15 Q. Could a map maker genuinely draw a 12:36:38</p> <p>16 district for the purpose of preserving a community</p> <p>17 of interest and the district turn out to be majority</p> <p>18 minority even if the map maker didn't draw it for</p> <p>19 the purpose of making it majority minority?</p> <p>20 A. That was a long one. 12:36:56</p> <p>21 Do you want to -- can you repeat it one</p> <p>22 more time before I answer, please?</p> <p>23 Q. Sure. Why don't we try a more specific</p> <p>24 hypothetical.</p> <p>25 You said that one form of community 12:37:09</p> <p style="text-align: right;">Page 116</p>
<p>1 A. No. 12:35:09</p> <p>2 THE WITNESS: Were you going to say something</p> <p>3 more?</p> <p>4 MR. MEUSER: No. Sorry.</p> <p>5 THE WITNESS: Oh, okay. 12:35:15</p> <p>6 No, I did not.</p> <p>7 BY MR. de NEVERS:</p> <p>8 Q. Can communities of interest vary in their</p> <p>9 racial composition?</p> <p>10 A. Sure. 12:35:23</p> <p>11 Q. So Congressional districts drawn to</p> <p>12 preserve a particular community of interest in a</p> <p>13 single Congressional district are sometimes majority</p> <p>14 White?</p> <p>15 A. I mean, a community of interest can be 12:35:34</p> <p>16 anything. You know, people -- particularly crafty</p> <p>17 lawyers in court come up with all kinds of different</p> <p>18 definitions of what a community of interest could</p> <p>19 be. So it could be almost anything, right? That's</p> <p>20 the problem with the notion of a community of 12:35:48</p> <p>21 interest.</p> <p>22 Q. So does that mean the answer to my</p> <p>23 question is yes, a Congressional district drawn to</p> <p>24 preserve a particular community of interest can</p> <p>25 sometimes be majority White? 12:35:59</p> <p style="text-align: right;">Page 115</p>	<p>1 interest could be a shared economic interest; right? 12:37:12</p> <p>2 A. Sure.</p> <p>3 Q. So if a district were drawn to preserve a</p> <p>4 particular community of interest, like a community</p> <p>5 that relies on growing almond trees, could that 12:37:23</p> <p>6 district be drawn for the purpose of uniting folks</p> <p>7 with an interest in almond trees and be majority</p> <p>8 White?</p> <p>9 A. It could be, yes.</p> <p>10 Q. And could it also be majority minority? 12:37:38</p> <p>11 A. It could be.</p> <p>12 Q. And if that was all the information you</p> <p>13 had, would you assume that the district was drawn</p> <p>14 for the purpose of being majority White?</p> <p>15 A. This is a harder question, right? Is 12:37:52</p> <p>16 this -- what was the initial reason? What was the</p> <p>17 motivation? We don't know.</p> <p>18 Q. So if a district is drawn for the purpose</p> <p>19 of preserving a community of interest around almond</p> <p>20 trees and it's majority White and you have no other 12:38:07</p> <p>21 information, would you assume that it was drawn for</p> <p>22 the purpose of preserving a majority White district?</p> <p>23 A. I have no clue.</p> <p>24 Q. Okay, let's try this. In your view, does</p> <p>25 a majority White district trigger a presumption that 12:38:24</p> <p style="text-align: right;">Page 117</p>

1 the district was drawn to be majority White? 12:38:28	1 Q. And you've testified in a number of 12:40:56
2 A. I don't know what the initial motivation	2 redistricting cases involving the Voting Rights Act
3 was.	3 and in particular Section 2?
4 Q. So it wouldn't --	4 A. Yes.
5 A. It could be anything. 12:38:37	5 Q. And to the extent you know, what elements 12:41:04
6 Q. So it wouldn't trigger a presumption that	6 must be present for a Voting Rights Act district to
7 it was drawn for the purpose of creating a majority	7 be required under Section 2?
8 White district?	8 A. The Gingles criteria and then there's a
9 A. It could be or it may not be. I don't	9 totality of the circumstances test.
10 know. 12:38:49	10 Q. And there's how many Gingles criteria? 12:41:19
11 Q. But that wouldn't be enough to tell you?	11 A. Three.
12 A. You would want more information.	12 Q. And then separate and apart from that
13 Q. Okay. And does a majority Hispanic	13 there's a totality of the circumstances test?
14 district trigger an inference or presumption that	14 A. That's right.
15 the district was drawn for the purpose of creating a 12:38:59	15 Q. Okay. So on page 3 of the report, and we 12:41:30
16 majority Hispanic district?	16 discussed this a little bit earlier, the report
17 A. It doesn't necessarily have to be that	17 states, "the person who drew the map says that he
18 way, but if there's other information out there	18 increased that number to 16."
19 indicating that that's the case, then yes.	19 And the number you are referring to there
20 Q. But without any other information? 12:39:13	20 is the number of VRA districts in the 2025 map; is 12:41:43
21 A. I guess it would depend. You know, what	21 that right?
22 did the state do in the previous map, right? Were	22 A. That's true.
23 there such -- were the majority minority districts	23 Q. And I believe you discussed with
24 drawn in the previous map or were there not? So	24 Ms. Khanna that the quote you used to support that
25 it's kind of -- I can't answer it in isolation. 12:39:32	25 proposition is this quote from Mr. Mitchell, which 12:41:54
Page 118	Page 120
1 Q. So you can't answer whether a majority 12:39:34	1 states that the 2025 map "improves the opportunity 12:41:57
2 Hispanic district by itself triggers a presumption	2 for Latino voters to elect candidates of choice in
3 that the district was drawn for the purpose of	3 two more districts"; is that right?
4 creating a majority Hispanic district?	4 A. Correct.
5 A. I'd like other information to answer the 12:39:45	5 Q. Okay. And we just talked about the 12:42:08
6 question.	6 elements of a VRA claim; right?
7 Q. And if you didn't have any other	7 A. Yes.
8 information?	8 Q. Does a district that improves the
9 A. I would ask for it.	9 opportunity for Latino voters to elect candidates of
10 MR. de NEVERS: Could we pull up Exhibit 1, 12:39:58	10 choice without more satisfy the elements of a VRA 12:42:18
11 please. And if we could flip to page 27 of the PDF.	11 claim?
12 BY MR. de NEVERS:	12 A. Without more, is that what you said?
13 Q. Dr. Brunell, is this a copy of the report	13 Q. Yeah.
14 you submitted in this case?	14 A. I don't know what you mean. Could you
15 A. Yes. 12:40:35	15 rephrase that? 12:42:29
16 Q. And this is the report you've been	16 Q. Sure.
17 discussing today?	17 If a district improves the opportunity for
18 A. That's right.	18 Latino voters to elect candidates of choice, is that
19 MR. de NEVERS: And could we turn to page 3 of	19 sufficient to establish a VRA claim?
20 the report, please. 12:40:41	20 A. That would be part of it, but, you know, 12:42:46
21 BY MR. de NEVERS:	21 there's no indication that there was an analyses
22 Q. Dr. Brunell, you've been testifying in	22 done ahead of time about Gingles -- about the three
23 redistricting cases for over 25 years; is that	23 Gingles criteria, if that's what you mean.
24 right?	24 Q. So that would be part of it, but it
25 A. That's true. 12:40:54	25 wouldn't be sufficient; right? 12:43:06
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<p>1 A. I don't know what you mean. 12:43:08</p> <p>2 Q. If a district improves the opportunity for</p> <p>3 Latino voters to elect candidates of choice, that's</p> <p>4 insufficient to establish that it's a VRA district?</p> <p>5 A. You would like to have more information. 12:43:23</p> <p>6 Q. Would you like to know that the district</p> <p>7 was majority minority?</p> <p>8 A. Yes.</p> <p>9 Q. Would you like to know whether racially</p> <p>10 polarized voting was present? 12:43:36</p> <p>11 A. Yes.</p> <p>12 Q. Would you like to know whether the</p> <p>13 totality of the circumstances indicated that the</p> <p>14 voting process was equally open to all voters?</p> <p>15 A. Yes. 12:43:47</p> <p>16 Q. And does the statement that the district</p> <p>17 improve the opportunity for Latino voters to elect</p> <p>18 candidates of choice tell you all of that?</p> <p>19 A. No, there's -- it's unclear just from this</p> <p>20 quote whether all of that was present or not. 12:43:58</p> <p>21 Q. Okay. So this quote doesn't say whether</p> <p>22 all the elements of a VRA claim are present?</p> <p>23 A. You know, it seems to indicate that the</p> <p>24 Voting Rights Act was implicated and that he</p> <p>25 increased the number of districts to give Latinos an 12:44:14</p> <p style="text-align: right;">Page 122</p>	<p>1 A. Yes. 12:45:30</p> <p>2 Q. And do you know what that number is?</p> <p>3 A. Sixteen.</p> <p>4 Q. Can a district be a majority Hispanic</p> <p>5 without being a VRA district? 12:45:40</p> <p>6 A. Humm . . . I mean, apparently there were</p> <p>7 two in California in the past -- from the previous</p> <p>8 map, so apparently it is.</p> <p>9 Q. So can a district be a majority Hispanic</p> <p>10 without being a VRA district? 12:45:59</p> <p>11 A. Apparently, yes.</p> <p>12 Q. And can a district increase a particular</p> <p>13 minority group's population within that district</p> <p>14 without the district becoming a VRA district?</p> <p>15 A. Sure. 12:46:15</p> <p>16 Q. Do you know whether the Independent</p> <p>17 Redistricting Commission conducted a VRA analysis in</p> <p>18 2021?</p> <p>19 A. I feel like I discussed this with counsel</p> <p>20 at some point, and I was told that there was. I 12:46:36</p> <p>21 haven't seen such a report, though.</p> <p>22 Q. Do you know what it concluded?</p> <p>23 A. I do not.</p> <p>24 Q. Do you know whether a VRA analysis was</p> <p>25 conducted by the legislature in 2025? 12:46:52</p> <p style="text-align: right;">Page 124</p>
<p>1 equal opportunity to elect candidates of their 12:44:23</p> <p>2 choice by two.</p> <p>3 Q. That's your interpretation of that, but it</p> <p>4 doesn't say that; right?</p> <p>5 A. I don't know how to respond to that. If 12:44:29</p> <p>6 you disagree, then I guess it's my interpretation.</p> <p>7 Q. Well, we talked about the elements of a</p> <p>8 VRA claim, and I'm just asking you if this sentence</p> <p>9 establishes all of them.</p> <p>10 A. Well, that by itself, isn't necessarily 12:44:44</p> <p>11 all of it. Was the analysis done ahead of time? I</p> <p>12 don't know that. It doesn't say that in this</p> <p>13 paragraph.</p> <p>14 Q. Right. It doesn't -- it doesn't tell you</p> <p>15 if the district was a VRA district. 12:44:57</p> <p>16 A. But if he's implying that he's complying</p> <p>17 with the Voting Rights Act then I would assume that</p> <p>18 those things are present, so it could be implied by</p> <p>19 what he's saying.</p> <p>20 Q. Right. That's your interpretation of the 12:45:10</p> <p>21 implication.</p> <p>22 A. Okay.</p> <p>23 Q. Are you aware that both the 2021 map and</p> <p>24 the 2025 map contain the same number of majority</p> <p>25 Hispanic citizen age voting population districts? 12:45:27</p> <p style="text-align: right;">Page 123</p>	<p>1 A. I don't know. 12:46:55</p> <p>2 Q. Do you know whether the official voter</p> <p>3 information materials distributed to voters in</p> <p>4 connection with Prop. 50 contained a VRA analysis?</p> <p>5 A. I haven't seen that so, no, I do not. 12:47:10</p> <p>6 MR. de NEVERS: Could we please turn to page 4</p> <p>7 of the report? Thank you.</p> <p>8 BY MR. de NEVERS:</p> <p>9 Q. Do you see at the top of the page, it says</p> <p>10 the 16 majority Hispanic CVAP districts are listed 12:47:29</p> <p>11 in Table 2?</p> <p>12 A. Yes.</p> <p>13 Q. And then a little lower on the page, it</p> <p>14 states, "Non-Hispanic Whites are a plurality</p> <p>15 statewide with 43.5 percent of the CVAP population 12:47:41</p> <p>16 compared to 31.9 for Hispanics."</p> <p>17 A. I do see that.</p> <p>18 Q. So is it your opinion that the</p> <p>19 non-Hispanic White CVAP in California is greater</p> <p>20 than the White CVAP in California? 12:47:57</p> <p>21 A. Wait. The non-Hispanic White compared to</p> <p>22 all White?</p> <p>23 Q. Excuse me, let me restate it.</p> <p>24 Is it your opinion that the non-Hispanic</p> <p>25 White CVAP in California is greater than the 12:48:13</p> <p style="text-align: right;">Page 125</p>



1 Hispanic CVAP in California? 12:48:15	1 A. For this analyses, aggregated together, 12:50:47
2 A. Yes, it is.	2 that's correct.
3 MR. de NEVERS: Could we please turn to page 16	3 Q. Could you explain what you mean by
4 of the report.	4 "aggregated together"?
5 BY MR. de NEVERS: 12:48:23	5 A. These analyses are not broken down for 12:50:59
6 Q. Dr. Brunell, on pages 16 through 18 of	6 each of the 18 counties.
7 your report you provide point estimates for	7 Q. But on an 18-countywide basis?
8 candidates' support by race among voters in the 18	8 A. That's correct.
9 counties you analyzed for three 2022 California	9 MR. de NEVERS: Could we please turn to page
10 statewide elections; is that right? 12:48:49	10 17? 12:51:13
11 A. Correct.	11 BY MR. de NEVERS:
12 Q. All these elections are statewide; is that	12 Q. So on page 17 you report that in the 2022
13 right?	13 California Attorney General election non-Hispanic
14 A. That's correct.	14 Whites voted for the Democrat at a rate of
15 Q. You didn't analyze any district level 12:48:58	15 52 percent and Hispanics voted for the Democrat at a 12:51:27
16 elections?	16 rate of 64.7 percent; is that right?
17 A. No. This is restricted -- the analysis	17 A. Yes.
18 was restricted to the 18 counties that I talk about	18 Q. So Hispanic voters were more likely to
19 in my report, but I didn't look at any substate	19 vote Democratic than White voters?
20 elections. 12:49:13	20 A. Yes. 12:51:39
21 Q. So for example, you didn't look at any	21 Q. And your point estimate for all four of
22 Congressional elections?	22 the racial groups is above 50 percent?
23 A. I did not.	23 A. Yes.
24 Q. You could have but you didn't?	24 Q. So is it your opinion that every racial
25 A. I don't know if those -- if all the 12:49:23	25 group in these 18 counties favors Democrats over 12:51:47
Page 126	Page 128
1 information would be in the CES or not, honestly. 12:49:26	1 Republicans? 12:51:51
2 It probably is, but I didn't look at it.	2 A. For this estimate that's the case, for
3 Q. Okay. On page 16 of the report, you state	3 this election, for this particular election, yes.
4 that in the 2022 California Senate election	4 Aggregated together.
5 non-Hispanic Whites voted for the Democrat at a rate 12:49:51	5 Q. Okay. And on page 17 to 18 of the report, 12:52:00
6 of 53.0 percent and Hispanics voted for the Democrat	6 you discuss the 2022 California Secretary of State
7 at a rate of 69.9 percent; correct?	7 election, and you report that non-Hispanic Whites
8 A. That's correct.	8 voted for the Democrat at a rate of 52.6 percent and
9 Q. So Hispanic voters were more likely to	9 Hispanics voted for the Democrat at a rate of
10 vote democratic than White voters? 12:50:05	10 69.4 percent; is that right? 12:52:18
11 A. That's correct.	11 A. Could we scroll down or up? Yeah, that
12 Q. And your point estimate for all four of	12 way, that's the right way. Up a little bit more so
13 the racial groups is above 50 percent?	13 I can see this whole table, Table 11, please.
14 A. Could you scroll up a little bit? It	14 You're going to have to repeat the
15 looks like it's 50.0 -- I'm sorry, scroll down. 12:50:16	15 question, Counselor. I'm sorry. 12:52:37
16 Fifty-nine. So that's above 50.	16 Q. So this table reports that non-Hispanic
17 Q. Sorry. My question was a little bit	17 Whites voted for the Democrat at a rate of
18 different.	18 52.6 percent in the 2000 California Secretary of
19 My question was, is the point estimate for	19 State election. And Hispanics voted for the
20 each of the four different discrete racial groups 12:50:31	20 Democrat at a rate of 69.4 percent; correct? 12:52:51
21 you looked at greater than 50?	21 A. That's right.
22 A. It is. They are.	22 Q. So Hispanic voters were more likely to
23 Q. So is it your opinion that every racial	23 vote Democratic than White voters?
24 group in these 18 counties favors Democrats over	24 A. That's the estimate, yes.
25 Republicans? 12:50:46	25 Q. And the estimate for all four racial 12:53:02
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<p>1 groups is above 50 percent? 12:53:04</p> <p>2 A. Correct.</p> <p>3 Q. So for this analysis every racial group</p> <p>4 across the 18 counties favors Democrats over</p> <p>5 Republicans? 12:53:15</p> <p>6 A. In this particular election, at the</p> <p>7 aggregate level, all four groups voted majority</p> <p>8 Democrat.</p> <p>9 MR. de NEVERS: Could we turn to page 18 of the</p> <p>10 report, please. 12:53:26</p> <p>11 BY MR. de NEVERS:</p> <p>12 Q. Does this provide point estimates for</p> <p>13 candidates' support by race in the 18 counties for</p> <p>14 the 2024 presidential election?</p> <p>15 A. Yes. 12:53:42</p> <p>16 Q. And you report that non-Hispanic Whites</p> <p>17 voted for the Democrat at a rate of 51.2 percent and</p> <p>18 Hispanics voted for the Democrat at a rate of</p> <p>19 60.9 percent; correct?</p> <p>20 A. Yes. 12:53:54</p> <p>21 Q. So Hispanic voters were more likely to</p> <p>22 vote Democrat than White voters?</p> <p>23 A. Yes.</p> <p>24 Q. And the point estimate for all racial</p> <p>25 groups is above 50 percent Democratic? 12:54:05</p> <p style="text-align: right;">Page 130</p>	<p>1 Hispanic voters in these 18 counties more likely to 12:55:39</p> <p>2 vote Democratic than others in the same counties?</p> <p>3 A. Yes.</p> <p>4 Q. Given that, might a map maker drawing a</p> <p>5 map to increase partisan advantage for Democrats in 12:55:53</p> <p>6 a district covering these counties move more</p> <p>7 Hispanic voters than White voters into the district</p> <p>8 as a byproduct of increasing the districts'</p> <p>9 Democratic advantage?</p> <p>10 A. It's possible, but it's not necessary. 12:56:07</p> <p>11 But it's possible.</p> <p>12 Q. The more heavily Hispanic a district in</p> <p>13 these 18 counties is, the more Democratic it will</p> <p>14 be; correct?</p> <p>15 A. Probably. 12:56:19</p> <p>16 Q. Do you have any reason to believe that's</p> <p>17 not the case?</p> <p>18 A. I mean, I don't have evidence to say that</p> <p>19 it is or it isn't. So I would have to rely on my</p> <p>20 instinct, which would be generally -- the Hispanics 12:56:38</p> <p>21 generally favor Democrats more than they favor</p> <p>22 Republicans.</p> <p>23 Q. But you would say that Hispanics generally</p> <p>24 favor Democrats more than Republicans in these 18</p> <p>25 counties? 12:56:55</p> <p style="text-align: right;">Page 132</p>
<p>1 A. Yes. 12:54:07</p> <p>2 Q. So is it your opinion --</p> <p>3 (Reporter seeks clarification.)</p> <p>4 Q. So is it your opinion that every racial</p> <p>5 group in these 18 counties favors Democrats over 12:54:24</p> <p>6 Republicans in the 2024 presidential election?</p> <p>7 A. That's what these estimates indicate, yes.</p> <p>8 Q. Given all the data that we've just</p> <p>9 discussed, is it your opinion that all voters in the</p> <p>10 18 counties you analyzed are more likely to vote 12:54:42</p> <p>11 Democratic than Republican regardless of race?</p> <p>12 A. I don't think that I looked at that at</p> <p>13 all.</p> <p>14 Q. Voters in each election in these 18</p> <p>15 counties voted Democrat at a rate of over 50 percent 12:55:02</p> <p>16 regardless of race; correct?</p> <p>17 A. That's what the estimates indicate, yes.</p> <p>18 Q. Did you do any analysis to examine whether</p> <p>19 voters preferred different Democratic candidates,</p> <p>20 depending on their race? 12:55:20</p> <p>21 A. At like the primary level, is that what</p> <p>22 you mean?</p> <p>23 Q. That seems like one way of doing it.</p> <p>24 A. Okay. No, I didn't do any such analyses.</p> <p>25 Q. Based on the analysis you did, are 12:55:36</p> <p style="text-align: right;">Page 131</p>	<p>1 A. Well, I haven't looked at that 12:56:55</p> <p>2 specifically. As a general rule. I don't want</p> <p>3 to -- if you start disaggregating it down to the</p> <p>4 household level, I'm going to be less certain of</p> <p>5 this, right? So let's just say at the absolute 12:57:02</p> <p>6 aggregate level.</p> <p>7 Q. So at the aggregate level, Hispanic voters</p> <p>8 in these 18 counties favor Democrats more than White</p> <p>9 voters?</p> <p>10 A. That's what the statistics say. 12:57:13</p> <p>11 Q. And so could drawing districts for the</p> <p>12 purpose of increasing the number of majority</p> <p>13 Democrat districts that cover these counties also</p> <p>14 have the effect of increasing the number of majority</p> <p>15 Hispanic districts that cover these counties? 12:57:28</p> <p>16 A. It could have that effect. It all</p> <p>17 depends. There's lots of different decisions that</p> <p>18 could get made. Could go up, could go down.</p> <p>19 Q. Could drawing a district for the purpose</p> <p>20 of making the district safer for Democratic -- 12:57:48</p> <p>21 (Reporter seeks clarification.)</p> <p>22 Q. Could drawing a district for the purpose</p> <p>23 of making the district safer for Democratic</p> <p>24 candidates have the effect of increasing the number</p> <p>25 of Hispanic voters in the district? 12:57:55</p> <p style="text-align: right;">Page 133</p>

<p>1 A. It could, but that isn't necessarily 12:57:57 2 necessary. 3 MR. de NEVERS: Could we please turn to 4 page 20. 5 BY MR. de NEVERS: 12:58:07 6 Q. Earlier today Ms. Khanna asked you about 7 your conclusions in this case. 8 Do you recall that? 9 A. Yes. 10 Q. The conclusion on page 20 of your report 12:58:20 11 is that it is hard to imagine that the third Gingles 12 prong is satisfied in this case; is that right? 13 A. Correct. 14 Q. And earlier today you told Ms. Khanna that 15 your testimony is now definitively that the third 12:58:33 16 Gingles prong is satisfied; is that right? 17 A. Because the White estimates are on -- the 18 95 percent confidence intervals are on the edge, you 19 know, I would hedge it a little bit. I mean, I 20 think it's very unlikely that it's satisfied, but 12:58:49 21 given the uncertainty, right, of being a good 22 statistician, there's a remote chance that it is 23 satisfied. 24 Q. Is your testimony today any different than 25 the opinion you provided in this part of your 12:59:09 Page 134</p>	<p>1 THE WITNESS: No, let's keep going. 13:00:22 2 MS. HASAN: Okay. 3 THE WITNESS: This is so much fun. 4 MS. HASAN: Right. So for State defendants, 5 Mr. Eason will cover our first couple of topics, and 13:00:30 6 then I'll take over when he's done. 7 THE WITNESS: Okeydoke. 8 EXAMINATION 9 BY MR. EASON: 10 Q. Hi, Dr. Brunell. Are you able to hear me 13:00:39 11 clearly? 12 A. I can indeed. 13 Q. Okay, excellent. As Iram said, my name is 14 Ryan Eason, and I am with the California Department 15 of Justice representing the State defendants here. 13:00:47 16 A. Very good. 17 Q. To begin I want to ask you about the 18 18 counties you included in your report, and in order 19 to do so, I want to pull up Exhibit 1 again. So if 20 we can do that. 13:00:59 21 MR. EASON: Okay. And then if we can scroll to 22 page 31 of the PDF just so we can have a reference 23 for these 18 counties. 24 BY MR. EASON: 25 Q. Okay. Dr. Brunell, are these the 18 13:01:17 Page 136</p>
<p>1 report? 12:59:11 2 A. I don't think so, no. Certainly I'm not 3 intending it to be. 4 Q. You're not intending to express any higher 5 degree of confidence than you expressed in the 12:59:19 6 report? 7 A. I think just the way I said it, that it's 8 hard to imagine that it is satisfied is a good 9 summary. 10 Q. And did you consult any additional data 12:59:28 11 between the time you created your report and today 12 that would cause you to change your conclusions in 13 this case? 14 A. Oh, gosh, I don't think so. But I 15 don't -- that's a rather broad thing. Like what 12:59:43 16 have I done for the last five weeks? I don't know. 17 But I haven't -- I don't think I've changed -- I 18 haven't changed my opinions that are in this report. 19 MR. de NEVERS: Okay. Okay, Dr. Brunell, 20 that's all I have for you. 13:00:00 21 THE WITNESS: Okay. Thank you. 22 MR. de NEVERS: Thank you for your time today. 23 THE WITNESS: Certainly. 24 MS. HASAN: Dr. Brunell, are you okay to 25 continue or would you like a break? 13:00:19 Page 135</p>	<p>1 counties that you included as part of your report 13:01:19 2 for this case? 3 A. Yes. 4 Q. Okay. So following up on Ms. Abha's 5 questions earlier, I just want to get a better 13:01:30 6 understanding of these 18 counties. 7 So can you confirm that these 18 counties 8 were included as part of your report because you 9 were asked to include these 18 counties? 10 A. Yes. 13:01:41 11 Q. And these 18 counties you mentioned in 12 your report are part of the -- you refer to in your 13 report as the VRA districts in the Prop. 50 map; 14 correct? 15 A. That's right. 13:01:56 16 Q. Can you clarify if those VRA districts in 17 the Prop. 50 map are the 16 majority Latino 18 districts in the Prop. 50 map? 19 A. Yes, that's what I mean. 20 Q. Okay. When you say that these are the 13:02:09 21 counties included in those districts, what do you 22 mean? 23 A. That those 16 counties are included in 24 these counties. They don't necessarily take up all 25 of each one of these counties, but these are the 13:02:23 Page 137</p>

1 counties which they span. 13:02:26	1 A. That's right. They may share other 13:04:40
2 Q. Okay. So to clarify is there any portion	2 characteristics, but that wasn't the reason why they
3 of these counties that are outside of these	3 were included.
4 districts?	4 Q. Okay. Thank you.
5 A. Yes. 13:02:34	5 Were these 18 counties weighted as part of 13:04:47
6 Q. Okay. Is that something that you took	6 your analysis?
7 into consideration in your analysis?	7 A. No, but I don't think any of the -- I
8 A. No.	8 don't think any of my analyses needed to be
9 Q. And then are any of these counties split	9 weighted.
10 between multiple districts? 13:02:47	10 Q. Okay. So to clarify -- and I should have 13:05:10
11 A. Certainly.	11 clarified my first question. Because these counties
12 Q. And is that something that you took into	12 have significantly different populations, when you
13 consideration in your analysis?	13 ran your analysis, you did not adjust for
14 A. No.	14 population?
15 Q. Is there any portion of these districts 13:02:56	15 A. I didn't need to. 13:05:24
16 that include counties other than the 18 listed here?	16 Q. Okay. Can you explain why you didn't need
17 A. I'm sorry, could you repeat that one more	17 to?
18 time?	18 A. Well, so, for instance, in the latter part
19 Q. Sure.	19 of my report wherever the respondents lived, that's
20 Is there any portion of the 16 districts 13:03:08	20 where they lived, and I treated all 18 counties as 13:05:41
21 from the Prop. 50 map that include any counties --	21 one group, right, so there's no weighting necessary
22 any portion of the counties other than the 18 listed	22 for that.
23 here?	23 When you do correlations, you're
24 A. It's my understanding that they don't.	24 correlating across the same county, right, but over
25 Q. Okay. Are each of these counties 13:03:21	25 elections. And so there's no weighting necessary 13:05:57
Page 138	Page 140
1 geographically adjacent to each other? 13:03:27	1 for that. 13:06:00
2 A. No.	2 Q. Do these counties represent the entire
3 Q. Are these counties in the same area of the	3 state in some way?
4 state?	4 A. I mean, it's a big part of the state, but
5 A. No. They're all over the state. 13:03:33	5 I don't have anything in my mind that this 13:06:21
6 Q. Okay. Are they similar to each other in	6 represents the whole state, no.
7 any geographic characteristic?	7 Q. Do they --
8 A. I don't know what you mean. I can't	8 A. [Inaudible] -- the state.
9 answer that.	9 Q. Sorry, can you repeat that?
10 Q. Okay. Is there any shared characteristic 13:03:50	10 A. There are other parts -- there are other 13:06:31
11 that would find these counties -- or -- let me see	11 counties in the state that were not included.
12 if I can rephrase that.	12 Q. Do these 18 counties represent a subarea
13 Is there any shared relationship between	13 of the state?
14 these counties at all?	14 A. I would say multiple subareas, I guess.
15 A. I don't really know what you mean. I'm 13:04:10	15 Q. Is it common in racially polarized voting 13:06:45
16 sorry.	16 analysis to analyze data at the level of groups of
17 Q. So the only factor for why these 18	17 several counties?
18 counties were included in your report is because you	18 A. It can be. You'd like to do it at the
19 were asked to include them because they are included	19 lower levels of geography if at all possible.
20 in the 16 Prop. 50 districts that are majority 13:04:26	20 Q. In the past when you've conducted racially 13:07:07
21 Latino?	21 polarized voting analysis, have you done that at the
22 A. That's right.	22 level of groups of counties like this before?
23 Q. These districts don't have any other	23 A. Usually I do. Usually I'll run statewide
24 characteristic that -- they were not included	24 analyses, but then the bulk of my analyses are
25 because of any other characteristic? 13:04:37	25 usually at the county level, maybe sometimes at the 13:07:25
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<p>1 district level. 13:07:28</p> <p>2 Q. When you say the county level, you mean</p> <p>3 individual counties?</p> <p>4 A. Correct.</p> <p>5 Q. And then when you say at the district 13:07:34</p> <p>6 level, you mean at individual districts?</p> <p>7 A. Individual electoral districts.</p> <p>8 Q. So typically when you run an analysis like</p> <p>9 this, you do not run the analysis at the level of</p> <p>10 multiple counties grouped together? 13:07:49</p> <p>11 A. Other than sometimes I run statewide</p> <p>12 analyses in which I would group every county in the</p> <p>13 state together.</p> <p>14 Q. Understood.</p> <p>15 Okay, if we could move now to page 33 of 13:08:01</p> <p>16 the PDF. And I want to talk about the three tables</p> <p>17 that we have in front of us here, and I'll go one by</p> <p>18 one.</p> <p>19 So first looking at Table 4, does this</p> <p>20 represent the election results by county for the 13:08:22</p> <p>21 2022 Senate general election?</p> <p>22 A. Yes.</p> <p>23 Q. And the counties referenced here are the</p> <p>24 18 that we have been discussing?</p> <p>25 A. Right. 13:08:37</p> <p style="text-align: right;">Page 142</p>	<p>1 was a candidate in these six elections that was the 13:10:04</p> <p>2 Hispanic candidate of choice; correct?</p> <p>3 A. That's not --</p> <p>4 MR. MEUSER: Objection, misstates his</p> <p>5 testimony. 13:10:15</p> <p>6 THE WITNESS: I gave the same answer that I</p> <p>7 just gave you, which I think one of these elections</p> <p>8 or more is in the last part of my report.</p> <p>9 BY MR. EASON:</p> <p>10 Q. Can you clarify the significance of it 13:10:28</p> <p>11 being in the last part of your report?</p> <p>12 A. In which case then I did confirm who,</p> <p>13 which candidate was the Latino candidate of choice.</p> <p>14 Q. I see. Thank you for clarifying.</p> <p>15 So in this -- so then if we could scroll 13:10:41</p> <p>16 back down to page 33 to get to Table 4.</p> <p>17 So because this is included in the last</p> <p>18 part of your report, you did analyze and found that</p> <p>19 Alex Padilla was the preferred candidate of Hispanic</p> <p>20 voters in this election; correct? 13:11:10</p> <p>21 A. That's right.</p> <p>22 Q. Can you just take a second to look at this</p> <p>23 table and tell me if there are any counties in which</p> <p>24 the candidate Mark Meuser won a higher vote share</p> <p>25 than Alex Padilla. 13:11:30</p> <p style="text-align: right;">Page 144</p>
<p>1 Q. And you mentioned earlier that 13:08:38</p> <p>2 Alex Padilla was the Hispanic candidate in this</p> <p>3 election; correct?</p> <p>4 A. Correct.</p> <p>5 Q. And though you did not analyze whether 13:08:47</p> <p>6 Alex Padilla was the candidate of preferred choice</p> <p>7 of Hispanic voters, you assume that he is because he</p> <p>8 is a Hispanic candidate and is a Democrat; correct?</p> <p>9 MR. MEUSER: Object to the extent that it</p> <p>10 mischaracterizes his testimony. 13:09:04</p> <p>11 You can answer.</p> <p>12 THE WITNESS: I don't remember if this was --</p> <p>13 was this part of the CES that I had analyzed or no?</p> <p>14 I think it was, actually.</p> <p>15 BY MR. EASON: 13:09:17</p> <p>16 Q. Okay. Let me rephrase my question.</p> <p>17 Alex Padilla is a Hispanic candidate; correct?</p> <p>18 A. He's a Democrat and also Hispanic.</p> <p>19 Q. Earlier when you spoke with Ms. Khanna she</p> <p>20 asked if you had analyzed whether the candidates 13:09:31</p> <p>21 that won -- let's actually scroll up and just</p> <p>22 establish some foundation here.</p> <p>23 So if we could go to pages 31 and 32 of</p> <p>24 the PDF. So in these six elections that you</p> <p>25 reference here, you did not analyze whether there 13:09:59</p> <p style="text-align: right;">Page 143</p>	<p>1 A. Sure. 13:11:33</p> <p>2 I count nine counties in which Meuser</p> <p>3 outpolled Padilla.</p> <p>4 Q. Are you able to list those counties for</p> <p>5 me? 13:11:52</p> <p>6 A. Sure.</p> <p>7 Fresno, Kern, Kings, Madera, Merced,</p> <p>8 Orange, Riverside, San Bernardino, Stanislaus and</p> <p>9 Tulare.</p> <p>10 Q. Thank you. 13:12:16</p> <p>11 MR. EASON: And then if you could scroll down</p> <p>12 just a little bit further just so we can see all of</p> <p>13 Table 5. I think that's going to bridge 33 and 34.</p> <p>14 BY MR. EASON:</p> <p>15 Q. For this election, did you analyze this 13:12:28</p> <p>16 election in the last part of your report?</p> <p>17 A. I believe I did not.</p> <p>18 Q. But Alex Padilla was the Hispanic</p> <p>19 candidate in this election; correct?</p> <p>20 A. That's right. This is the same, the same 13:12:42</p> <p>21 two people.</p> <p>22 Q. And so he was the Democratic candidate as</p> <p>23 well; correct?</p> <p>24 A. That's right.</p> <p>25 Q. Then can we do the same exercise for this 13:12:52</p> <p style="text-align: right;">Page 145</p>

<p>1 table that we did for Table 4? 13:12:56</p> <p>2 Can you list the counties in which the</p> <p>3 candidate Mark Meuser won a higher vote share than</p> <p>4 Alex Padilla?</p> <p>5 A. Certainly. 13:13:07</p> <p>6 Fresno, Kern, Kings, Madera, Merced,</p> <p>7 Orange, Riverside, San Bernardino, Stanislaus and</p> <p>8 Tulare.</p> <p>9 Q. Okay, thank you.</p> <p>10 Now, if we can scroll a little bit further 13:13:26</p> <p>11 down to Table 6. And can you remind me for this</p> <p>12 election the 2022 Insurance Commissioner general</p> <p>13 election, is this one of the elections that you</p> <p>14 analyzed in the last part of your report?</p> <p>15 A. I don't believe that it is. 13:13:44</p> <p>16 Q. But Ricardo Lara was Hispanic candidate in</p> <p>17 this election; correct?</p> <p>18 A. That's right.</p> <p>19 Q. And he was the Democratic candidate as</p> <p>20 well? 13:13:59</p> <p>21 A. That's correct.</p> <p>22 Q. So for this table can we engage in the</p> <p>23 same exercise again? Do you mind going through the</p> <p>24 counties in which the Republican candidate Howell</p> <p>25 received a higher vote share than the Democratic 13:14:09</p> <p style="text-align: right;">Page 146</p>	<p>1 about to answer a question that you didn't ask me, 13:15:22</p> <p>2 so you're going to have to rephrase it.</p> <p>3 Q. Sure.</p> <p>4 So let's take one county, Fresno, for</p> <p>5 example. 13:15:31</p> <p>6 Did you analyze whether there was racially</p> <p>7 polarized voting in Fresno, as Fresno, not as part</p> <p>8 of the 18 county group?</p> <p>9 A. I did not.</p> <p>10 Q. Are you able to say whether there's 13:15:42</p> <p>11 racially polarized voting at the county level for</p> <p>12 any of these 10 counties at the county level?</p> <p>13 A. As we sit here today, no.</p> <p>14 MR. EASON: Okay. Thank you, Dr. Brunell.</p> <p>15 Those are the questions that I have, so I'm going to 13:15:58</p> <p>16 pass it over to my colleague, Iram Hasan.</p> <p>17 THE WITNESS: Okay. Thank you.</p> <p>18 MS. HASAN: Dr. Brunell, Madam Court Reporter,</p> <p>19 are we good to continue or should we take a short</p> <p>20 break? 13:16:13</p> <p>21 THE WITNESS: I'm fine going on.</p> <p>22 If the court reporter wants a break I'm</p> <p>23 happy to take a break.</p> <p>24 THE REPORTER: Sure. Let's take a break,</p> <p>25 sorry, if that's okay. 13:16:34</p> <p style="text-align: right;">Page 148</p>
<p>1 candidate Ricardo Lara? 13:14:15</p> <p>2 A. Sure.</p> <p>3 Fresno, Kern, Kings, Madera, Merced,</p> <p>4 Orange, Riverside, San Bernardino, Stanislaus and</p> <p>5 Tulare. 13:14:31</p> <p>6 Q. Okay. Thank you.</p> <p>7 The counties that you listed in the last</p> <p>8 three tables, are these the same counties for each</p> <p>9 table?</p> <p>10 A. I feel like they were. Just from reading 13:14:41</p> <p>11 them, I feel like they were exactly the same in each</p> <p>12 one.</p> <p>13 Q. So there was at least a significant</p> <p>14 overlap?</p> <p>15 A. Yes. 13:14:51</p> <p>16 Q. Did you analyze whether it was a</p> <p>17 consistent pattern in these counties that the</p> <p>18 Republican candidate received a higher share of the</p> <p>19 vote than the Democratic candidate?</p> <p>20 A. I mean, I did on like, when I was looking 13:15:04</p> <p>21 at the correlations and stuff like that, that played</p> <p>22 into that.</p> <p>23 Q. Did you look at it at a county level</p> <p>24 perspective as you described earlier?</p> <p>25 A. Did I -- I think we're -- I think I'm 13:15:16</p> <p style="text-align: right;">Page 147</p>	<p>1 (Recess taken.) 13:16:41</p> <p>2 EXAMINATION</p> <p>3 BY MS. HASAN:</p> <p>4 Q. Hi Dr. Brunell. I'm hopefully the last</p> <p>5 person you need to speak to today in this 13:24:56</p> <p>6 deposition.</p> <p>7 I'm Iram Hasan. I represent State</p> <p>8 defendants Governor Gavin Newsom and Secretary of</p> <p>9 State Shirley Weber. I'll try to make this as quick</p> <p>10 as possible and apologies in advance, since I'm 13:25:07</p> <p>11 last, I had to keep cutting out the questions that</p> <p>12 everybody else asked, so we might feel like we're</p> <p>13 jumping around a little bit, but we'll try to get</p> <p>14 there quickly.</p> <p>15 Just a couple of background questions. 13:25:21</p> <p>16 Did anyone assist you in preparing your report?</p> <p>17 A. No.</p> <p>18 Q. And is it correct that you have at some</p> <p>19 point worked with the Census Scientific Advisory</p> <p>20 Committee? 13:25:36</p> <p>21 A. That's true.</p> <p>22 Q. When was that?</p> <p>23 A. From 2020 to 2022, I believe, or 2023, it</p> <p>24 was a three-year term.</p> <p>25 Q. Could you please describe the work you did 13:25:48</p> <p style="text-align: right;">Page 149</p>



1 with them? 13:25:49	1 stuff. So, you know, like differential privacy was 13:28:40
2 A. Sure.	2 huge, it still is huge, so we kind of talked about
3 The Census Scientific Advisory Committee	3 differential privacy all the time. But there would
4 is a committee that's required by statute. Every	4 be all kinds of little things that you would never
5 scientific federal agency has to have these 13:25:58	5 think of. Like they do an agriculture census, so 13:28:51
6 committees where they are given input on what they	6 sometimes we talked about that.
7 do or how they should do things from experts in the	7 Or we may have discussed -- I'm trying to
8 fields.	8 remember if we discussed this or not. Maybe we
9 So we are kind of a sounding board for new	9 didn't, but like should the Census Bureau include
10 ideas for the Census Bureau. We also are critics of 13:26:19	10 Middle Eastern North African, and it would just be 13:29:09
11 what the Census Bureau is doing sometimes, so we're	11 should they include it, but it would be like what
12 trying to give them -- these are other people that	12 would be the implications, sort of in terms of data,
13 are experts in, say, mapping. You know, there was a	13 in terms of statistics, stuff like that.
14 guy on there who worked for Apple and helped develop	14 So we may have talked about that before,
15 Apple maps and stuff like that. 13:26:40	15 but we talked about lots of things. So we had 13:29:21
16 So there was demographers, sociologists,	16 like -- so this is like three years times two, so
17 political scientists, statisticians, so everybody	17 there were six meetings, two days, so we've talked
18 kind of a smorgasbord of people who can hopefully	18 about a bunch of stuff, most of which I've now
19 help the Census Bureau do what it does in the best	19 forgotten.
20 way possible, I suppose, is the best way to put it. 13:27:00	20 Q. Understood. 13:29:36
21 Q. While you were serving on the committee,	21 Sorry. What is differential privacy?
22 did you make any proposals?	22 A. Oh differential privacy? So differential
23 A. Well, we don't make proposals per se, so I	23 privacy is the Census Bureau, this is a new method
24 guess the answer would be no.	24 for protecting the privacy of individuals, that the
25 Q. Could you describe the contributions -- it 13:27:18	25 Census Bureau initiated for just the most recent 13:29:50
Page 150	Page 152
1 doesn't have to be comprehensive, but some of the 13:27:19	1 census, for the 2020 census. 13:29:56
2 contributions you made, to the best of your	2 So it's basically they add noise to the
3 recollection, while you were on the committee?	3 data, which is kind of a nice way of saying they add
4 A. So we met, oh my gosh. We met twice a	4 errors to the data on purpose so that people can't
5 year, and it would be, I think, it would be for like 13:27:31	5 kind of backfill information and figure out who this 13:30:11
6 a day and a half, two days, they were long meetings.	6 particular bit of information is about, right.
7 And there would be five, six, seven, eight topics,	7 So this is particularly important for
8 and we would assign a person or several people to	8 small -- for areas with very little population,
9 kind of be the point people on that particular	9 right, so if you have an area -- if you have a
10 thing, and then we would present to the whole group 13:27:56	10 census bloc and there's only five people living 13:30:26
11 and then we would have a discussion.	11 there, right, then you could kind of figure out what
12 Right. So I discussed lots of different	12 the census -- if all this data was reported
13 things while I was there talking about differential	13 accurately, then you could figure out who an
14 privacy or the American Community Survey. I was the	14 individual person was in the census.
15 point person on a very technical subject, but I 13:28:11	15 Q. Okay. Thank you. 13:30:43
16 don't even remember what it was about. It's been	16 A. Differential privacy is a complex -- it's
17 like three or four years now since I did it, and I	17 a very complex statistical procedure to kind of add
18 can't recall. It was a very technical thing on	18 noise, what we would call noise, but a layperson
19 something that they do, but I don't really remember	19 would think of it as we're actually making the data
20 what it was now, to be honest. 13:28:27	20 incorrect so that we're protecting people's privacy. 13:30:56
21 Q. Okay, thank you.	21 And it's complicated and lots of people don't like
22 And would you happen to recall examples of	22 it.
23 the five or six topics that would be discussed in a	23 Q. Have you ever worked with California's
24 meeting?	24 independent redistricting commission?
25 A. Oh, my gosh, it ranged from all kinds of 13:28:37	25 A. No, I don't think I ever have, no. 13:31:12
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1 Q. Turning to the commission's map, there was 13:31:15	1 for these individuals, whether they're Hispanic, 13:33:55
2 a lot of discussion today about the size of the	2 they could be Black, right, they could be whatever
3 Hispanic population in different districts across	3 minority or ethnic group we're talking about.
4 mainly the Prop. 50 map.	4 So that's what a VRA district is. And
5 But turning to the commission map, do you 13:31:31	5 there could be a district that's majority minority 13:34:05
6 know -- to the extent any of the districts in the	6 that isn't -- that doesn't happen to be a designated
7 commission map are characterized as Hispanic	7 VRA district.
8 majority, do you know what data that's based on?	8 Q. Okay. To clarify one more thing you said
9 A. I don't know. I would assume census data,	9 earlier, did you testify that there were more than
10 but, yeah, I don't know. 13:31:48	10 14 majority Hispanic districts in the commission 13:34:21
11 Q. And would you happen to know what data	11 map?
12 that information would be based on in the Prop. 50	12 A. In the old map, the map before Prop. 50.
13 map?	13 Yeah, I believe there were 16 majority Hispanic, but
14 A. I would also assume it would be census	14 only 14, for some reason, were VRA districts.
15 data, data from the Census Bureau. 13:32:03	15 Q. Okay. Are you aware of any VRA challenges 13:34:39
16 Q. Would you know which year or CVAP data	16 to the previous map or the commission map?
17 or . . .	17 A. In California only?
18 A. CVAP data would probably be the most	18 Q. Yes.
19 recent five-year estimates. That's what I would	19 A. In the commission map, any VRA challenges
20 pick. But there are other CVAP estimates and 13:32:17	20 to the commission map? I certainly wasn't involved 13:35:00
21 somebody might have made a different decision.	21 in anything, so I don't know if there were or not.
22 Q. Why would you pick the most recent CVAP	22 Q. And you didn't learn any information to
23 data?	23 that effect when you were preparing your report?
24 A. I would pick the most recent five-year	24 A. No, no, I didn't. Not that I recall,
25 estimates because those are kind of going to be more 13:32:30	25 anyway. Almost every map gets sued, so there was 13:35:16
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1 stable. But, you know, you can make an argument 13:32:33	1 probably lawsuits, right? But yeah, I don't 13:35:22
2 that maybe you could use some -- if there's a newer	2 remember talking about it or learning about it at
3 version of the data that's based on maybe a	3 all.
4 three-year estimate, somebody might pick that	4 Q. Okay. And did you do any research into
5 instead. 13:32:43	5 what lawsuits might have been filed with respect to 13:35:31
6 Q. Okay. So with respect to the districts	6 the commission's map?
7 being described as Hispanic majority districts in	7 A. I did not.
8 the Prop. 50 map, did you do any analysis to	8 Q. Slightly different topic. And please let
9 determine if those districts overlap geographically	9 me know if I'm misstating your testimony.
10 with districts of the same number in the commission 13:33:04	10 But is it true that a Hispanic candidate 13:35:46
11 map?	11 is generally the preferred candidate of Hispanic
12 A. No.	12 voters?
13 Q. Do you happen to know if they do at all?	13 MR. MEUSER: I'm going to object to the extent
14 A. I think they do. I think there's	14 that it misstates his prior testimony.
15 substantial overlap. 13:33:20	15 You may answer. 13:35:59
16 Q. Turning to a slightly different topic, you	16 THE WITNESS: I would say if the person is a
17 touched on this a little bit earlier, but just for	17 Hispanic Democrat, I would assume that they are the
18 clarification, could you please explain the	18 preferred candidate, but that doesn't always have to
19 difference between a VRA district and a Hispanic	19 necessarily be the case.
20 majority district? 13:33:36	20 BY MS. HASAN: 13:36:10
21 A. A VRA district generally is a district	21 Q. Is that an assumption you made when you
22 that's required by law, right? There's -- the three	22 were preparing your analysis?
23 prongs of Gingles have been satisfied, and the State	23 A. I mean, I showed who the -- when I needed
24 has decided we are forced by law, by the Voting	24 to show who the preferred candidate was, I did in
25 Rights Act, to draw districts for -- in these areas 13:33:52	25 the latter half of the report. 13:36:25
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1 Q. When you were preparing your report, did 13:36:32	1 A. Yeah, I think that -- excuse me. Like, 13:39:22
2 counsel ask you to make any assumptions in your	2 compactness is a little bit in the eye of the -- not
3 analysis?	3 in the eye of the beholder, but, like, just looking
4 A. Not that I can recall, no.	4 at a district, you know, a child could tell you this
5 Q. Turning to a bucket that has a variety of 13:36:46	5 district looks -- they wouldn't use the word 13:39:38
6 topics in it, I wanted to talk a little bit about	6 "compact," but this district looks normal, this
7 compactness.	7 district looks weird or ugly, you know.
8 What does compactness mean?	8 So there's some of that going on. I think
9 A. Compactness is the shape of an electoral	9 that people -- judges oftentimes will prioritize
10 district, so the kind of -- the more that a district 13:36:59	10 other things. Like, majority minority districts, 13:39:54
11 looks like a square or a circle, the more compact it	11 like, in the '90s, there was lots of really ugly
12 is; the more it looks like, you know, a bug	12 districts that were drawn in the 1990s and they were
13 splattered on a windshield in a car with lots of	13 passed through, they were okayed because these were
14 little appendages, it's less compact.	14 kind of newly drawn districts to give mainly
15 Q. Are there ways of measuring how compact a 13:37:18	15 African-Americans but also Hispanics in some states 13:40:15
16 district is besides the shape of it?	16 the opportunity to elect the candidate of their
17 A. Yeah, dozens and dozens, I think even	17 choice.
18 hundreds.	18 Q. And if a district is not compact, for
19 Q. Could you provide maybe three examples?	19 example, it has a poor compactness score on, you
20 A. Sure. 13:37:28	20 know, any one of the types of measures that one 13:40:32
21 The ones that typically get used in court	21 might use, does that in and of itself indicate
22 are the Reock, which is spelled R-e-o-c-k; the	22 anything?
23 Polsby-Popper measure; and then the one that's next	23 A. Not necessarily. Particularly if it's a
24 most common is the -- I think it's Schwartzman	24 coastal district in particular because you have to
25 [sic], I feel like. That's what the third one is 13:37:46	25 use the coast line, so that can kind of affect 13:40:55
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1 called. But there's quite literally dozens and 13:37:50	1 compactness scores because the district is going to 13:40:59
2 dozens of other metrics.	2 follow the coast. And sometimes the California
3 Q. Could you explain how the third one works?	3 coast is jagged, and that's going to kind of
4 A. The Schwartzman [sic]? Oh, gosh, I would	4 inflate -- it's going to make the district -- the
5 need to refresh my memory. But I think it's, like, 13:38:01	5 metric for the district be higher or lower. 13:41:10
6 the smallest polygon -- the ratio of the area of the	6 Some compactness scores, a lower number
7 district to the smallest polygon that circumscribes	7 means less compact, but it'll make it appear less
8 the district. That's what I think. That's just	8 compact. Well, because it is less compact, right?
9 from memory. Could be wrong.	9 But you're dealing with natural geography that you
10 Q. Is compactness a metric that's used in 13:38:22	10 can't -- there's nothing you can do about. 13:41:25
11 performing, for example, an analysis to determine if	11 Q. Okay. And if you are performing an
12 a racial gerrymander has occurred or a partisan	12 analysis, for example, to determine if race was a
13 gerrymander has occurred?	13 predominant factor in the drawing of a particular
14 A. Yes.	14 district or various districts in a map, if the
15 Q. How relevant is compactness to those kinds 13:38:39	15 districts you're looking at are not compact, is that 13:41:43
16 of analyses?	16 significant to you in your analysis?
17 A. I think it's relevant, but sometimes it	17 A. It could be. This might be areas where,
18 gets pushed down in terms of its relevancy, I think	18 you know, the map maker is trying to pick up
19 particularly in courts of law. I think I said	19 specific types of people, whether it's ethnic or
20 earlier, you know, lots of times judges have sort of 13:38:59	20 whether it's voters or whatever. 13:42:02
21 kind of just ignored compactness and relied on other	21 Q. And what is an influence district?
22 things to put their stamp of approval on them now.	22 A. An influence district is a district in
23 Q. And do you have any opinion on why	23 which the minority or ethnic group that we're
24 compactness might be sort of lower on the list of	24 talking about does not comprise a numerical majority
25 important factors in those types of analyses? 13:39:19	25 but they are significantly sized that they're likely 13:42:30
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1 to have an impact on who wins the election. 13:42:38	1 have aggregate data, but we're trying to say how 13:45:28
2 Q. Are any other factors relevant besides the	2 individual people voted, if we have precincts,
3 size of the community we're talking about to	3 right, or blocs or whatever that are 100 percent
4 determining if a district is an influence district?	4 Hispanic, well, now we can get a really good -- now
5 A. No. I mean, usually we're talking about 13:43:02	5 we can -- you know, we're not -- the inference isn't 13:45:42
6 districts in which a group is like 30, 40 percent,	6 that difficult to make, right?
7 right? So they can't be ignored. They're big	7 So this is -- this bloc is 100 percent
8 enough that they probably aren't going to be ignored	8 Hispanic, and so we know all the voters were
9 in the type of person that wins the primary and the	9 Hispanic, and here's exactly how they voted as a
10 person that wins the general election, so it's -- 13:43:19	10 group: 70 percent for this candidate, 30 percent 13:45:55
11 usually we're talking about numbers.	11 for that candidate, right?
12 Q. Would it be relevant to know if, for	12 And then the ecological regression and the
13 example, the elected candidate of that district	13 scatterplots kind of get at the same thing.
14 represents the interests of that particular	14 Q. Okay. Also earlier -- is it fair to say
15 community? 13:43:35	15 that you testified earlier that there is no majority 13:46:16
16 A. Would it be relevant, in what way? I	16 racial or ethnic group in California?
17 mean, I think that's important information, but	17 A. Yeah, no group makes a pure majority,
18 relevant to whom for what purpose?	18 that's right, statewide.
19 Q. In determining if the district is indeed	19 Q. Statewide.
20 an influence district. 13:43:50	20 Are you aware of any geographic areas of 13:46:32
21 A. Yeah, I think that that would be one thing	21 the state in which one group constitutes a majority?
22 people could look at, right? It's like is this in	22 A. Well, there -- I mean, of course there are
23 fact -- are these people in fact having influence or	23 depending on what size we're talking about, right?
24 are they not?	24 Like I said, if we're talking about a bloc, there's
25 Q. Are there any other factors that would be 13:44:01	25 lots of blocs where one group comprises a majority. 13:46:47
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1 relevant to determining if a district is an 13:44:03	1 And I think in my report there was some -- I talked 13:46:51
2 influence district?	2 about some counties that had majority White and some
3 A. I can't think of anything off the top of	3 of them were majority Hispanic.
4 my head, but that doesn't mean that there aren't.	4 Q. Did you look at any other geographic
5 Q. Okay. Earlier there was quite a bit of 13:44:17	5 breakdowns besides counties? 13:47:04
6 discussion about communities of interest. Just to	6 A. I don't think I reported the districts
7 put a button on it, is it correct to say that a	7 that would be the next obvious place to talk about
8 community of interest doesn't necessarily involve	8 it. We did talk about the ones that were majority
9 race?	9 CVAP Hispanic, but there's nothing else that's not
10 A. That's true, it doesn't have to. 13:44:31	10 in my report that I looked at. 13:47:22
11 Q. Then earlier there was some discussion	11 Q. But is it fair to say that particular
12 about minority candidates of choice.	12 groups of districts in certain parts of the state
13 How would -- how would one determine if a	13 could be majority of a particular minority group?
14 candidate is a candidate of choice for a minority	14 A. Certainly.
15 community? 13:44:57	15 Q. Turning to another topic, you earlier -- 13:47:47
16 A. That's through the racially polarized	16 probably closer to the beginning there was a
17 voting analysis. So in my report I did it using	17 discussion about neutral districting principles. If
18 survey data, right, that asked people both who they	18 I recall correctly, I think you said that there are
19 voted for and what race or ethnicity they are. You	19 many, many examples of such principles.
20 could also do it using the other three methods that 13:45:13	20 Would you be able to provide maybe a 13:48:04
21 we talked about in the first part of my deposition,	21 handful of examples of what those might be?
22 which were homogeneous precincts, right?	22 A. Yeah, those were the traditional
23 So you just look at, like, heavily	23 redistricting principles that we talked about. I
24 Hispanic areas. And so since we're trying to make	24 think those -- the traditional -- we usually say
25 what we call an ecological inference, right, we only 13:45:27	25 "traditional redistricting principles" rather than 13:48:15
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1 "neutral redistricting principles." 13:48:17	1 if partisanship was a factor in the line drawing? 13:50:53
2 So it would be preserving communities of	2 A. I have analyzed maps to whether there's a
3 interest; it could be protecting incumbents; the	3 partisan gerrymander, but I don't think that's what
4 Voting Rights Act; compact districts; districts have	4 you asked. I have not ever done an analysis where I
5 to be contiguous, right, which means every part of 13:48:31	5 tried to determine whether this line or this 13:51:07
6 the district has to touch some other part of a	6 district was drawn on the basis of partisanship or
7 district unless we're talking about an island,	7 race.
8 right, like Catalina, we have to include it	8 Q. And in the analyses that you've done to
9 somewhere with the mainland.	9 determine if a map was a partisan gerrymander, do
10 So those are the traditional districting 13:48:44	10 you recall the factors that you considered in your 13:51:21
11 principles.	11 analysis?
12 Q. You also testified earlier, and please	12 A. Yeah, there are several. There's a lot of
13 correct me if I'm wrong, that determining what	13 different metrics. So, like, the efficiency gap is
14 information is relevant to line drawing depends on	14 a common metric. There's one called the mean-median
15 whether the inquiry is -- if the redistricting was a 13:49:11	15 comparison. There's partisan bias was kind of the 13:51:38
16 partisan or a racial gerrymander; is that correct?	16 first one. And I've done a lot of stuff -- I
17 MR. MEUSER: Object to the extent that it	17 actually published a lot of stuff on partisan bias
18 mischaracterizes his prior testimony.	18 as well, although that kind of started falling out
19 THE WITNESS: Yeah, I don't remember exactly	19 of favor a little bit as we created new methods.
20 what I said. 13:49:24	20 There's a type of analysis that's very 13:51:54
21 BY MS. HASAN:	21 popular now that I haven't done yet, you know,
22 Q. I think there was general discussion about	22 that's called the ensemble method, where you have a
23 what information might be considered relevant to	23 computer draw 10,000, 10 million, whatever, some
24 analyzing the purpose behind why lines were drawn a	24 huge number of maps, supposedly on a nonpartisan
25 certain way in a map. And I think you responded 13:49:37	25 basis, and then you kind of compare the map that was 13:52:10
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1 that that depends on whether the inquiry is if this 13:49:43	1 produced, right, the map that's being sued, to these 13:52:13
2 was a partisan gerrymander or a racial gerrymander.	2 10,000, 100,000, 10 million and see how it compares
3 Does that ring a bell?	3 to all of these somewhat randomly drawn maps.
4 A. I may -- that sounds like a reasonable	4 Q. Have you used any other metrics besides
5 thing to say. 13:49:55	5 the ones you just mentioned? 13:52:28
6 Q. Okay. Did you perform any analysis to	6 A. I may have. There may be one or two other
7 determine if partisanship was a factor in drawing	7 metrics that I'm forgetting about. But I think
8 any part of the Prop. 50 map?	8 that's most of it, anyway.
9 A. I did not.	9 Q. And could you explain what you mean by
10 Q. Have you ever written about partisan 13:50:07	10 "partisan bias"? 13:52:49
11 gerrymandering?	11 A. Sure.
12 A. I have. I'm trying to think if	12 So partisan bias is kind of the -- one of
13 academically I have or not. I certainly have in	13 the first metrics that people came up with, like, in
14 lots of court cases. But I've probably published a	14 the '80s and the '90s. It's a measure of -- it's
15 little bit on partisan gerrymandering. And, 13:50:24	15 basically a measure of what kind of bias there is in 13:53:04
16 actually, I wrote -- there's an unfinished book, one	16 the electoral system.
17 of several books that I started writing and never	17 So if you evaluate a map where both
18 finished on partisan gerrymandering. And that will	18 parties get 50 percent of the vote, they should get
19 never see the light of day now, unfortunately.	19 50 percent of the seats, right, theoretically. And
20 Q. Why is that? 13:50:38	20 to the extent that they don't, that's bias. Okay? 13:53:19
21 A. Now it's too old. Now it's out of date.	21 So you can kind of -- one of the ways you
22 Like, I just -- I should have finished it when I	22 typically do is you take some recent statewide
23 started writing it, and I didn't, so I'd have to	23 election and you parse it by -- if we're doing
24 start over.	24 Congressional districts, you take that statewide
25 Q. Have you ever analyzed a map to determine 13:50:49	25 election by each one of the Congressional districts 13:53:36
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<p>1 and then you see what the actual election looks 13:53:36</p> <p>2 like. What percent of the vote did the Democrats</p> <p>3 get statewide? What percent of the vote did the</p> <p>4 Republicans get statewide? And then how many of the</p> <p>5 Congressional districts did each party win? 13:53:53</p> <p>6 Then you can increase the Democratic share</p> <p>7 of the vote by 1 percent across all districts and</p> <p>8 then retally and see if any of the districts</p> <p>9 flipped, right? And then you could increase it by</p> <p>10 another 1 percent and another 1 percent and another 13:54:06</p> <p>11 1 percent.</p> <p>12 And you could decrease the Democratic vote</p> <p>13 share by 1 percent, which is the same thing as</p> <p>14 increasing the Republican vote share by 1 percent.</p> <p>15 And then for each one of these data points, you can 13:54:14</p> <p>16 retally the number of votes that each party -- the</p> <p>17 number of districts that each party wins. And that</p> <p>18 gives you kind of a nice graph of how this map</p> <p>19 treats both parties at different levels of partisan</p> <p>20 support. 13:54:33</p> <p>21 And to the extent it doesn't pass through</p> <p>22 50/50 and it's moved kind of systematically towards</p> <p>23 the Democrats or towards the Republicans, that's a</p> <p>24 measure of partisan bias.</p> <p>25 Q. You mentioned that method has fallen out 13:54:45</p> <p style="text-align: right;">Page 170</p>	<p>1 Q. And you have written about 13:56:33</p> <p>2 hyperpolarization; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Is that related to partisan bias at all?</p> <p>5 A. Not necessarily, you know, because 13:56:45</p> <p>6 polarization is -- it means a lot of stuff. Like,</p> <p>7 the book that I wrote with Bernie Grofman, who is</p> <p>8 another expert -- another witness in this case, is</p> <p>9 really about polarization in Congress, right, so</p> <p>10 polarization in the members, the actual people who 13:57:04</p> <p>11 represent us in Congress. So in that instance it</p> <p>12 wouldn't be related to that.</p> <p>13 Q. And what does hyperpolarization mean?</p> <p>14 A. So polarization is just the process that</p> <p>15 the country has kind of been going through over the 13:57:23</p> <p>16 last 20 years where more and more people are</p> <p>17 identifying closer and closer with one of the two</p> <p>18 major parties.</p> <p>19 There's fewer people that are undecided in</p> <p>20 the middle, fewer people that are willing to vote 13:57:38</p> <p>21 for Democrats in one election and Republicans in</p> <p>22 another election.</p> <p>23 And also these people are undergoing a</p> <p>24 process of what we call affective polarization,</p> <p>25 which means that their feelings, right, how an 13:57:56</p> <p style="text-align: right;">Page 172</p>
<p>1 of favor. Why is that? 13:54:50</p> <p>2 A. I think we've just come up with -- I don't</p> <p>3 know if they're better necessarily. They're newer,</p> <p>4 fancier things. But, yeah, for some reason that</p> <p>5 one's kind of fallen by the wayside a little bit. 13:55:03</p> <p>6 But people still do talk about partisan bias.</p> <p>7 Actually, I shouldn't say it's completely</p> <p>8 fallen out of favor. Like, Dave's Redistricting</p> <p>9 App --</p> <p>10 (Reporter seeks clarification.) 13:55:20</p> <p>11 A. Yes, I'm going to slow down.</p> <p>12 So Dave's Redistricting App, which is a</p> <p>13 free online application where you can both draw your</p> <p>14 own maps but also analyze other people's maps, and</p> <p>15 in that application -- I think that this is correct. 13:55:52</p> <p>16 I hope I'm not misstating. I think this is true.</p> <p>17 It will automatically calculate several metrics of</p> <p>18 partisan gerrymandering, and bias is one of them.</p> <p>19 I think it does the efficiency gap, bias,</p> <p>20 I think it does the mean-median that I mentioned 13:56:12</p> <p>21 before and one or two other ones that are slipping</p> <p>22 my mind at the moment.</p> <p>23 Q. And that's a tool that's commonly used for</p> <p>24 map analysis?</p> <p>25 A. Yes. 13:56:29</p> <p style="text-align: right;">Page 171</p>	<p>1 individual person feels about the other party are 13:58:01</p> <p>2 becoming increasingly negative, right?</p> <p>3 So it's not just that I don't really like</p> <p>4 Republicans, you know, now it's like, oh, I can't</p> <p>5 stand Republicans. I don't want to be -- I don't 13:58:12</p> <p>6 want to be friends with Republicans. I don't want</p> <p>7 my kids to marry Republicans. I don't want to see</p> <p>8 Republicans, right?</p> <p>9 So that's -- we're growing more and more</p> <p>10 polarized, further apart. 13:58:28</p> <p>11 Q. Is that relevant to how, for example,</p> <p>12 folks in a legislature or in Congress might vote on</p> <p>13 certain bills?</p> <p>14 A. Sure.</p> <p>15 Q. How so? 13:58:47</p> <p>16 A. There's less room for bipartisanship,</p> <p>17 right? So, like, when I was younger, you know --</p> <p>18 you don't even have to go that far back. This might</p> <p>19 be ancient history for you. But, like, in the 1980s</p> <p>20 and 1990s, you know, you had somebody like -- you 13:59:07</p> <p>21 know, Bob Dole was the Senate Republican Majority</p> <p>22 Leader.</p> <p>23 And I think this is right. I think it was</p> <p>24 him. He's like, look, if I can get a bill and like</p> <p>25 75 percent of the bill, I get what I want, I'm happy 13:59:17</p> <p style="text-align: right;">Page 173</p>



1 with it, right? Whereas now members of Congress are 13:59:20	1 Q. How would you define packing? 14:02:15
2 increasingly unwilling to compromise on anything,	2 A. So packing, this is sort of the way that
3 right? And so the possible win-set, right, the	3 one side of the coin to create a partisan
4 place where both parties can meet, is not really	4 gerrymander is to pack districts with supporters of
5 there anymore. 13:59:35	5 one party, the out-party, right? So if the 14:02:33
6 So just the unwillingness to compromise	6 Democrats are doing it, they're packing Republican
7 with the other side has made it more difficult for	7 districts; if Republicans are drawing the
8 legislatures to get anything done.	8 gerrymander, they're packing Democratic districts.
9 Q. So it sounds like hyperpolarization is	9 And then the logic here is once there's a
10 along party lines; is that right? 13:59:55	10 district that you know a Democrat -- the out-party 14:02:47
11 A. Yes.	11 is going to win, then you want to put as many of
12 Q. Does hyperpolarization have any	12 their supporters in that district as you possibly
13 relationship with race?	13 can because then they can't vote in a district in a
14 A. Well, race and partisanship are	14 surrounding -- right, they won't be in a surrounding
15 intertwined, you know, very heavily in American 14:00:08	15 one, right? 14:03:05
16 politics. So to that extent the answer's yes, but,	16 So you want to waste as many of their
17 you know, it's hard to untangle those two sometimes.	17 votes as possible. So once you decide this is an
18 Q. Is that a general statement or would that	18 out-party seat, then you're going to want to pack as
19 be true in perhaps, like, every state at the State	19 many people -- as many voters from the other party
20 level? 14:00:26	20 in that district because that's going to allow you 14:03:15
21 A. I think that's probably true nationwide.	21 to win other surrounding districts because they're
22 Q. Did you happen to take a look at the votes	22 all -- you're putting lots of their voters in that
23 on the bills related to Prop. 50 to see who voted	23 one district.
24 yes or no on each of the bills?	24 Q. Okay. So would it be possible, then, for
25 A. Among the voters, like the actual 14:00:46	25 example, if partisanship was a factor in a 14:03:27
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1 proposition results? 14:00:49	1 redistricting -- if the Democratic party was the 14:03:34
2 Q. No, the -- so -- sorry, I'll back up a	2 majority when the redistricting was occurring, is it
3 little bit.	3 possible then that certain districts would increase
4 There were three bills related to	4 in Republican voting power?
5 Proposition 50 that gave birth to it, so to speak. 14:00:56	5 A. If the Democrats were drawing the 14:03:48
6 A. Okay.	6 gerrymander?
7 Q. One is the Assembly Constitutional	7 Q. Um-hum.
8 Amendment 8; one is SB 280, which sort of had dates	8 A. Yeah, you would expect districts --
9 and timelines and other information for the	9 Republican districts to -- you would expect fewer
10 Secretary of State related to the upcoming 14:01:16	10 Republican districts, and the Republican districts 14:03:57
11 elections; and the other was AB 604, which described	11 that are left, you would expect them to be more
12 the census blocks that would go into the new	12 heavily Republican than they were before.
13 district.	13 Q. Okay. And that's typical of a partisan
14 A. I see.	14 gerrymander?
15 Q. Sorry, in the -- new districts in the new 14:01:29	15 A. Yes. 14:04:11
16 map. So those were the three bills. I'm wondering	16 Q. Did you perform any analysis of the
17 if you happened to take a look at how members of the	17 Prop. 50 map to determine if packing occurred?
18 California Legislature voted on each one before the	18 A. I did not.
19 special election this year?	19 Q. Are you familiar with the term "cracking"?
20 A. I did not. 14:01:41	20 A. Yes. 14:04:23
21 Q. Turning to some factors that might be	21 Q. What does that mean?
22 relevant to determining if a map was a partisan	22 A. So that's the other side of the coin. The
23 gerrymander. Are you familiar with the term	23 other side of the coin from packing is cracking.
24 "packing"?	24 And so cracking is when you're drawing -- whatever
25 A. Sure. 14:02:10	25 party's doing the gerrymandering, they want to 14:04:37
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1 win -- you want your districts to be as efficient as possible, right? 2 3 So you would like to win -- since you only 4 have to win an election by one vote, right, 5 that's -- you would like to get as close to that as 6 you possibly can, right, because any additional vote 7 besides 50 percent plus one is wasted, right? 8 So, now, you can't really draw a district 9 that you win by one vote, right? That's impossible 10 because we don't -- you know, people are moving, 11 people are being born, people are -- right? So you 12 don't actually draw a district where you're going 13 to -- you think you're going to win by one vote, but 14 you do draw districts where you think you'll win by 15 2 or 3 percent. And so that's kind of called 16 cracking the Republicans, right? 17 So they're going to be minority, but the 18 party doing the gerrymandering is relatively sure 19 that in most election years they're going to be able 20 to carry this district. 21 Q. Okay. So is that -- is it fair to say 22 that that's a way of diluting a party's voting 23 strength? 24 A. Yes. Both of those measure -- both of 25 those -- both cracking and packing are diluting --	14:04:40     14:04:52     14:05:07     14:05:15     14:05:35    14:05:50 Page 178	1 Prop. 50 map to determine if that occurred in any -- 2 A. I was not asked to and I did not. 3 Q. Have you heard of the concept of 4 displacing a candidate, again, in the context of 5 partisan gerrymandering? 6 A. Yep. 7 Q. And what does that mean? 8 A. That's where you put an incumbent in -- so 9 an incumbent is defined -- his or her district is 10 defined by where their house is, right? Although 11 there's no federal regulation that a member must 12 live in their own district. They have to live in 13 the state of their district, but they don't have to 14 live in their particular district. And so there 15 have been instances where people have been elected 16 somewhere where they don't live. But that's more 17 difficult to do. 18 So usually, right, kind of one of the 19 first things that a map maker will do is get the 20 home addresses of all the incumbents, right, and 21 kind of play "Where's Waldo?" Right? So put little 22 flags, here's where all of these people live. And 23 then you draw their districts so that it includes 24 their home but no other person's home. 25 So displacing is when, if you want to get	14:07:06     14:07:28     14:07:42     14:08:05    14:08:16    14:08:31 Page 180
1 are vote dilution. 2 Q. Did you perform any analysis of the 3 Prop. 50 map to determine if cracking occurred? 4 A. No, I was not asked to and I did not. 5 Q. Did you happen to notice if that occurred 6 when you were examining the various districts that 7 you looked at? 8 A. No, I did not. 9 Q. Have you heard of the term "reinforcing" 10 or "shoring up" in the same context of partisan 11 gerrymandering? 12 A. Sure. 13 Q. And what does that mean? 14 A. These are districts that are from the 15 in-party's districts, right? So let's -- we're 16 talking about California, so we'll talk about 17 Democrats. So the Democrats can take -- can shore 18 up some of their districts because they think 19 they're getting too close to 50/50, right? 20 So, oh, gosh we only won this district 21 last time by 6,000 votes, right, so why don't we 22 make it a little bit more heavily Democratic so that 23 we're more likely to continue to carry this 24 district. 25 Q. Did you perform any analysis of the	14:05:53    14:06:05    14:06:21    14:06:29    14:06:46    14:07:04 Page 179	1 rid of somebody, you'll draw two incumbents' homes 2 in a single district, for instance, right? So if 3 you want to get rid of a Republican, you'll draw his 4 home -- you'll draw the district to be more 5 Democratic and then you also may draw the district 6 in such a way that it includes a Democratic 7 incumbent's house -- home, right? 8 So then those two incumbents would have to 9 run against one another and presumably the Democrat 10 would win. So in that case the Republican has been 11 displaced. 12 Q. Is that something that's commonly done in 13 a partisan gerrymander? 14 A. That happens. 15 Q. Did you happen to notice in your analysis 16 here if that occurred with the Prop. 50 map? 17 A. I think one of the districts did do that, 18 at least one of them did do that. 19 Q. Do you recall which one? 20 A. Oh, gosh. I want to say it was 21 District 13, but that's pure memory, so that could 22 be wrong. It might have been 18. I feel like it 23 was in the teens. But it was a Republican in the 24 Southern California area. 25 Q. And how about pairing, is that a term	14:08:35    14:08:47    14:09:04    14:09:15    14:09:28    14:09:45 Page 181

1 you've heard? 14:09:49	1 Q. What significance does it have to you that 14:12:07
2 A. Yeah. Pairing is kind of -- I kind of	2 Bernie says that it's not?
3 combined pairing and displacement, right? So	3 A. Well, Bernie was my advisor, and he's
4 pairing is when you draw a district with two	4 the -- he was my dissertation advisor and long-time
5 incumbents in it. 14:09:58	5 co-author, so, you know, Bernie is one of my 14:12:24
6 Q. Of the same party?	6 favorite people on the face of the planet. So
7 A. Or it could be different as well, but it	7 whatever Bernie does is meaningful to me.
8 could be the same party as well, that's right. So	8 But, you know, he said that it's a durable
9 if you put -- yeah, if you're trying to get rid of	9 partisan gerrymander, but that kind of doesn't make
10 Republicans, draw a district where both Republicans' 14:10:09	10 sense to me. Like, why -- like, if the Democrats 14:12:38
11 homes is in the same district, and then one of them	11 are trying to undo or match what the Republicans
12 is going to have to bow out or lose.	12 have done here in Texas and some other states
13 Q. Did you happen to notice if that occurred	13 presumably, then why -- now is the time to get
14 in the Prop. 50 map at all?	14 greedy. You know what I mean?
15 A. I don't know -- I don't know if it did. 14:10:24	15 So I think they should have been -- right? 14:12:56
16 Q. Are you familiar with the term	16 They should have drawn a max Democratic plan that
17 "dummymander"?	17 risks a dummymander because the next election is a
18 A. Yes, I am.	18 midterm with a Republican president, and the
19 Q. What does that mean?	19 Republicans will almost always lose seats in the
20 A. That's a term that Bernie Grofman coined, 14:10:34	20 house in midterm -- the party of the president -- 14:13:13
21 and we together wrote -- it was a book chapter many	21 sorry, and I'm speaking too fast. I'll try to slow
22 years ago now.	22 down.
23 And the idea behind a dummymander is -- so	23 So in the House of Representatives, in
24 remember cracking, right, the party doing the	24 midterm election years, the party of the president
25 gerrymandering wants to draw their districts as 14:10:51	25 virtually every single time will lose seats in the 14:13:25
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1 efficiently as possible because that's going to give 14:10:53	1 U.S. House of Representatives. So the wave, right, 14:13:29
2 them the maximum number of winning of districts,	2 is going in the Democrats' favor. And so why would
3 right? That's the whole idea, right, you're trying	3 they be cautious this year when they should have
4 to win as many districts as you can.	4 gone max Dem with the map, right?
5 But if you get too greedy, right, and you 14:11:05	5 But Bernie says it's durable, so maybe it 14:13:45
6 draw the districts so efficient that the buffer	6 is, but it doesn't make sense to me why they would
7 between -- right, so if you draw a district that's	7 draw a durable partisan gerrymander. They should
8 like 51 percent Democrat, 49 percent Republican,	8 have been more -- they should have taken more risk.
9 you're more likely to lose that district than a	9 Q. And you're aware that the Prop. 50 map
10 district that's say 55 percent Democrat and 14:11:21	10 would cover the next three elections: '26, '28 and 14:14:02
11 45 percent Republican.	11 '30?
12 So if a party drawing the map gets overly	12 A. Well, but we also thought the last map
13 greedy and they draw their districts too efficiently	13 would cover the next five elections, right? So, you
14 and then there's a wave -- a partisan wave against	14 know, who knows? Would it actually cover the next
15 them, then some of these narrowly -- districts that 14:11:36	15 three elections? You know, who's to say? 14:14:18
16 they only have a narrow advantage in can be won by	16 Q. And I think I'm on my last question now.
17 the other party and they can all sort of topple like	17 A. Okay.
18 a bunch of dominoes.	18 Q. Is it correct to say that your report does
19 So that's a dummymander, right? So they	19 not state that race predominated in the drawing of
20 were dumb and they lost a bunch of seats because 14:11:51	20 the Prop. 50 map? 14:14:31
21 they got greedy.	21 A. I would say that -- I would repeat my
22 Q. In your opinion is the Prop. 50 map a	22 answer, which was if the map maker, whose name now
23 dummymander?	23 escapes -- Mr. Mitchell.
24 A. Well, Bernie says that it's not, but I	24 If he wasn't compelled by the Voting
25 haven't analyzed it. 14:12:03	25 Rights Act to draw 16 majority Hispanic districts 14:14:48
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<p>1 but he decided to on his own, then obviously race 14:14:51</p> <p>2 played a factor, right, in the drawing of his maps.</p> <p>3 And since you do that first, right, it's like, okay,</p> <p>4 here's the 16 districts. Now I can draw the other</p> <p>5 districts. 14:15:05</p> <p>6 Then you can make an argument that</p> <p>7 certainly race played a role and may have</p> <p>8 predominated.</p> <p>9 Q. But that's based on assumptions. I guess</p> <p>10 I'm wondering based on the information that you 14:15:17</p> <p>11 know --</p> <p>12 A. Based on everything that I know, that's my</p> <p>13 opinion, that race played a major role and it may</p> <p>14 have played a predominant role.</p> <p>15 Q. But you can't say for certain because -- 14:15:32</p> <p>16 A. How do you measure this? You know, I</p> <p>17 think this is up for the judges to decide.</p> <p>18 MS. HASAN: Understood.</p> <p>19 Okay. Well, I think that's all I have.</p> <p>20 THE WITNESS: Okay, excellent. 14:15:46</p> <p>21 MS. HASAN: Thank you very much.</p> <p>22 THE WITNESS: Thank you. It was nice to meet</p> <p>23 you. I guess I'll see you next week in California,</p> <p>24 I suppose.</p> <p>25 MS. HASAN: That's right. 14:15:55</p> <p style="text-align: right;">Page 186</p>	<p>1 I, the undersigned, a Certified Shorthand</p> <p>2 Reporter of the State of California, do hereby</p> <p>3 certify:</p> <p>4 That the foregoing proceedings were taken</p> <p>5 before me at the time and place herein set forth;</p> <p>6 that any witnesses in the foregoing proceedings,</p> <p>7 prior to testifying, were administered an oath; that</p> <p>8 a record of the proceedings was made by me using</p> <p>9 machine shorthand which was thereafter transcribed</p> <p>10 under my direction; that the foregoing transcript is</p> <p>11 a true record of the testimony given.</p> <p>12 Further, that if the foregoing pertains to</p> <p>13 the original transcript of a deposition in a Federal</p> <p>14 Case, before completion of the proceedings, review</p> <p>15 of the transcript ( ) was (X) was not requested.</p> <p>16 I further certify that I am neither</p> <p>17 financially interested in the action nor a relative</p> <p>18 or employee of any attorney of any party to this</p> <p>19 action.</p> <p>20 IN WITNESS WHEREOF, I have this date</p> <p>21 subscribed my name.</p> <p>22 Dated: December 12, 2025</p> <p>23</p> <p>24</p> <p>25  ANKRAE WIMBERLEY, CSR No. 7778</p> <p style="text-align: right;">Page 188</p>
<p>1 THE WITNESS: Yeah, okay.</p> <p>2 MS. HASAN: There will be lots of us.</p> <p>3 THE WITNESS: Yeah, exactly.</p> <p>4 MS. HASAM: We can go off the record, Madam</p> <p>5 Court Reporter.</p> <p>6 (Whereupon, the proceedings were concluded</p> <p>7 at 2:51 p.m.)</p> <p>8 ---oOo---</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 THOMAS BRUNELL, Ph.D.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 JOB NO. 7780499</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 187</p>	<p>1 LALI MADDURI</p> <p>2 lmadduri@elias.law</p> <p>3 December 12, 2025</p> <p>4 RE: Tangipa, David Et Al. v. Newsom, Gavin Et Al.</p> <p>5 12/11/2025, Thomas Brunell , Ph.D., (#7780499).</p> <p>6 The above-referenced transcript has been</p> <p>7 completed by Veritext Legal Solutions and</p> <p>8 review of the transcript is being handled as follows:</p> <p>9 __ Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext</p> <p>10 to schedule a time to review the original transcript at</p> <p>11 a Veritext office.</p> <p>12 __XX_ Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF</p> <p>13 Transcript - The witness should review the transcript and</p> <p>14 make any necessary corrections on the errata pages included</p> <p>15 below, notating the page and line number of the corrections.</p> <p>16 The witness should then sign and date the errata and penalty</p> <p>17 of perjury pages and return the completed pages to all</p> <p>18 appearing counsel within the period of time determined at</p> <p>19 the deposition or provided by the Code of Civil Procedure.</p> <p>20 Contact Veritext when the sealed original is required.</p> <p>21 __ Waiving the CA Code of Civil Procedure per Stipulation of</p> <p>22 Counsel - Original transcript to be released for signature</p> <p>23 as determined at the deposition.</p> <p>24 __ Signature Waived – Reading &amp; Signature was waived at the</p> <p>25 time of the deposition.</p> <p style="text-align: right;">Page 189</p>

<p>1 __ Federal R&amp;S Requested (FRCP 30(e)(1)(B)) – Locked .PDF</p> <p>2 Transcript - The witness should review the transcript and</p> <p>3 make any necessary corrections on the errata pages included</p> <p>4 below, notating the page and line number of the corrections.</p> <p>5 The witness should then sign and date the errata and penalty</p> <p>6 of perjury pages and return the completed pages to all</p> <p>7 appearing counsel within the period of time determined at</p> <p>8 the deposition or provided by the Federal Rules.</p> <p>9 __ Federal R&amp;S Not Requested - Reading &amp; Signature was not</p> <p>10 requested before the completion of the deposition.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 190</p>	
<p>1 Tangipa, David Et Al. v. Newsom, Gavin Et Al.</p> <p>2 Thomas Brunell , Ph.D. (#7780499)</p> <p>3 E R R A T A S H E E T</p> <p>4 PAGE____ LINE____ CHANGE_____</p> <p>5 _____</p> <p>6 REASON_____</p> <p>7 PAGE____ LINE____ CHANGE_____</p> <p>8 _____</p> <p>9 REASON_____</p> <p>10 PAGE____ LINE____ CHANGE_____</p> <p>11 _____</p> <p>12 REASON_____</p> <p>13 PAGE____ LINE____ CHANGE_____</p> <p>14 _____</p> <p>15 REASON_____</p> <p>16 PAGE____ LINE____ CHANGE_____</p> <p>17 _____</p> <p>18 REASON_____</p> <p>19 PAGE____ LINE____ CHANGE_____</p> <p>20 _____</p> <p>21 REASON_____</p> <p>22 _____</p> <p>23 _____</p> <p>24 (Thomas Brunell , Ph.D.) Date _____</p> <p>25</p> <p style="text-align: right;">Page 191</p>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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## **Exhibit 434**





In the Matter Of:

DAVID TANGIPA

vs

GAVIN NEWSOM

PAUL H. MITCHELL

December 10, 2025

CERTIFIED COPY

Tangipa v. Newsom

**DX434**

2:25-cv-10616-JLSWLH-KKL

DAVID TANGIPA vs GAVIN NEWSOM  
Paul H. Mitchell on 12/10/2025

UNITED STATES DISTRICT COURT  
FOR THE  
CENTRAL DISTRICT OF CALIFORNIA

--o0o--

DAVID TANGIPA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No.
	)	2:25-cv-10616-JLS-WLH-
GAVIN NEWSOM, in his	)	KKL
official capacity as the	)	
Governor of California,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

**CERTIFIED COPY**

--o0o--

Videoconferencing Videotaped Deposition of

PAUL H. MITCHELL

Wednesday, December 10, 2025

--o0o--

ARRAY - JOB NO. 103797

Certified Shorthand Reporters

Reported by: LINDA J. HART, CSR License 4357, RMR/CRR

DAVID TANGIPA vs GAVIN NEWSOM  
Paul H. Mitchell on 12/10/2025

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I N D E X

Examination by:

Ms. Hamill

Mr. Meuser

Ms. Hamill

Mr. Woods

--oOo--

E X H I B I T S

Plaintiff's

Exhibit No.

Exhibit 1

Exhibit 2

Exhibit 3

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DAVID TANGIPA vs GAVIN NEWSOM  
Paul H. Mitchell on 12/10/2025

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22	Election: Redistricting and		22	Page 158, lines 16 & 17	
23	Representation.		23	Page 159, line 21	
24	Exhibit 21 PPIC blog post, dated 10/8/2025,	222	24	Page 160, line 4	
25	How Would the Prop 50		25	Page 161, lines 17 & 18	
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2	in California Democrats' plan to		2	Page 162, lines 5 & 6, 9 - 10, 13 & 14, 20 - 22	
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10	Page 28, lines 2 & 3		10	Page 177, lines 4 & 5, 13 & 14, 17 - 20	
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13	Page 35, lines 3 - 5		13	Page 182, lines 22 & 23	
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18	Page 58, line 23		18	Page 209, lines 22 - 24	
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20	Page 74, lines 24 & 25		20	Page 220, lines 24 & 25, and page 221, lines 1 & 2	
21	Page 76, lines 6 & 7, 11 - 13, 16 - 18		21	Page 225, line 5	
22	Page 80, lines 8 & 9, 13 & 14, 17 & 18, 21 & 22		22	Page 226, line 25 and page 227, lines 1 - 3	
23	Page 81, lines 8 - 10, 14 - 16		23	Page 227, line 13	
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<p style="text-align: right;">Page 11</p> <p>1 BE IT REMEMBERED, that on Wednesday, the 10th</p> <p>2 day of December, 2025, commencing at the hour of 10:08</p> <p>3 a.m. thereof, at Hansen Bridgett, LLP, 500 Capitol Mall,</p> <p>4 Suite 1500, Sacramento, California, before me, Linda J.</p> <p>5 Hart, a Certified Shorthand Reporter, in and for the</p> <p>6 County of Sacramento, State of California, there</p> <p>7 personally appeared</p> <p>8 PAUL H. MITCHELL,</p> <p>9 called, as a witness, by the Plaintiffs, who, being by</p> <p>10 me first duly sworn, was thereupon examined and</p> <p>11 interrogated as hereinafter set forth:</p> <p>12 THE VIDEOGRAPHER: Good morning. Here begins</p> <p>13 media number one of the deposition of Paul Mitchell,</p> <p>14 Volume 1 in the matter of David Tangpia, et al. versus</p> <p>15 Gavin Newsom, et al., versus -- scratch verse.</p> <p>16 This case is in the United States District</p> <p>17 Court for the Central District of California and the</p> <p>18 case number is 2:25-cv-10616-JLS-WLH-KKL.</p> <p>19 Today's date is December 10th, 2025 and the</p> <p>20 time is 10:08 a.m.</p> <p>21 This deposition is taking place at Hansen</p> <p>22 Bridgett, LLP, 500 Capitol Mall, Suite 1500, Sacramento,</p> <p>23 California. The videographer is Nicholas Coulter</p> <p>24 appearing on behalf of Array Legal Services.</p> <p>25 Would counsel please identify yourselves and</p>	<p style="text-align: right;">Page 13</p> <p>1 MR. COLOMBO: Michael Colombo on behalf of</p> <p>2 plaintiffs.</p> <p>3 THE WITNESS: They keep popping out, there's</p> <p>4 more and more.</p> <p>5 MR. AULISI: Dominic Aulisi on behalf of the</p> <p>6 plaintiffs.</p> <p>7 THE VIDEOGRAPHER: Would the reporter please</p> <p>8 swear in the witness?</p> <p>9 THE REPORTER: Good day. My name is Linda</p> <p>10 Hart, Certified Shorthand Reporter No. 4357, from L.J.</p> <p>11 Hart &amp; Associates.</p> <p>12 Can I ask you to raise your right hand,</p> <p>13 please?</p> <p>14 Do you solemnly swear to tell the truth, the</p> <p>15 whole truth, and nothing but the truth in this matter</p> <p>16 now pending?</p> <p>17 THE WITNESS: Yes.</p> <p>18 THE REPORTER: Go ahead.</p> <p>19 MS. HAMILL: Thank you.</p> <p>20 EXAMINATION</p> <p>21 By: JULIE HAMILL, Attorney at Law, counsel on behalf of</p> <p>22 the Plaintiffs:</p> <p>23 MR. MANOLIUS: Do you want them up on the</p> <p>24 screen or --</p> <p>25 MR. MEUSER: If we could, less delaying right</p>

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<p style="text-align: right;">Page 14</p> <p>1 now.</p> <p>2 MS. HAMILL: Is it okay to proceed while we're</p> <p>3 working that out.</p> <p>4 MR. MANOLIUS: Yeah, of course. I had sent</p> <p>5 you the number I think --</p> <p>6 MS. HAMILL: Judge.</p> <p>7 MR. MEUSER: Well, I sent you the Zoom that</p> <p>8 they are working off of.</p> <p>9 MR. MANOLIUS: Okay.</p> <p>10 MR. MEUSER: So what you have got there is</p> <p>11 your Zoom and what they, you know, what he's working off</p> <p>12 is the official Zoom so --</p> <p>13 MR. MANOLIUS: Do you have the other Zoom</p> <p>14 number?</p> <p>15 THE WITNESS: Looks like she's doing</p> <p>16 something.</p> <p>17 MS. HAMILL: If it's okay I'd like to begin.</p> <p>18 A Go for it.</p> <p>19 Q Okay. Thank you for being here today?</p> <p>20 A Of course.</p> <p>21 Q You're obviously very popular, Mr. Mitchell?</p> <p>22 A I can't confirm or deny that.</p> <p>23 Q Have you had your deposition take taken</p> <p>24 before?</p> <p>25 A Once.</p>	<p style="text-align: right;">Page 16</p> <p>1 refresher?</p> <p>2 A Please.</p> <p>3 Q I'm sure your counsel explained to you how</p> <p>4 this is going to go, we're not in a courtroom but you're</p> <p>5 under oath so everything you say here is under penalty</p> <p>6 of perjury. We're going to try to talk slow or speak</p> <p>7 slowly so that the court reporter can get down</p> <p>8 everything that is said.</p> <p>9 (Zoom interruption.)</p> <p>10 Let's try not to talk over each other and then</p> <p>11 when you answer my questions, please use words likes</p> <p>12 "yes" or "no" instead of sounds like uh-huh, huh-uh, or</p> <p>13 a nod or a shake of the head.</p> <p>14 Does that make sense?</p> <p>15 A Yes.</p> <p>16 Q Perfect. Okay. I'm going to ask you</p> <p>17 questions. Your attorney is going to object. I also</p> <p>18 understand that your attorney intends to instruct you</p> <p>19 not to answer on the grounds of privilege for certain</p> <p>20 questions unless your attorney instructs you not to</p> <p>21 answer, you must answer my questions.</p> <p>22 A (Witness nodding head.)</p> <p>23 Q Okay. Is there any reason why you can't give</p> <p>24 your best testimony today?</p> <p>25 A No. I do have a little bit of a cold but that</p>
<p style="text-align: right;">Page 15</p> <p>1 Q When was that?</p> <p>2 A I can't -- I don't know the exact year.</p> <p>3 Q 10, 20 years ago?</p> <p>4 MR. MANOLIUS: If you know.</p> <p>5 A Ten-ish.</p> <p>6 MS. HAMILL: Okay. And what was the case</p> <p>7 about?</p> <p>8 A The case was about a CVRA case in Santa</p> <p>9 Clarita somewhere.</p> <p>10 Q Do you remember the case name?</p> <p>11 A No.</p> <p>12 Q Santa Clarita California Voting Rights Act</p> <p>13 case?</p> <p>14 A Yeah, it was maybe a community college</p> <p>15 district or something like that.</p> <p>16 Q Were you an expert witness?</p> <p>17 A No, why you.</p> <p>18 Q Were you a percipient witness?</p> <p>19 A I don't know the terminology.</p> <p>20 Q Did you draw maps in that case?</p> <p>21 A I did an analysis jurisdiction.</p> <p>22 Q Okay. Who did you do the analysis for?</p> <p>23 A I don't recall the exact client.</p> <p>24 Q So you had your deposition taken before</p> <p>25 probably a long time ago, you probably need a little</p>	<p style="text-align: right;">Page 17</p> <p>1 shouldn't impair me, I have some cough drops.</p> <p>2 Q Are you taking any medication that would</p> <p>3 impede your ability to recall events?</p> <p>4 A No.</p> <p>5 Q And as the map drawer in this case, I suspect</p> <p>6 the Judicial Panel is going to have questions for you</p> <p>7 next week at the preliminary injunction hearing.</p> <p>8 Are you willing to come down to Los Angeles</p> <p>9 next week to testify at the preliminary injunction</p> <p>10 hearing in this case?</p> <p>11 A I haven't made a decision.</p> <p>12 MR. MANOLIUS: Yeah, objection. He's not under</p> <p>13 subpoena, so he doesn't need to answer that now for that</p> <p>14 proceeding.</p> <p>15 MR. WOODS: I'd also object that it calls for</p> <p>16 a legal conclusion.</p> <p>17 MS. HAMILL Q: I was just asking if you would</p> <p>18 be willing to come down to testify during the</p> <p>19 preliminary injunction hearing next week in this case?</p> <p>20 MR. MANOLIUS: Same objections. All of them.</p> <p>21 MR. WOODS: Same.</p> <p>22 THE WITNESS: (Shrugging shoulders.)</p> <p>23 MS. HAMILL: Is that a yes or a no?</p> <p>24 A I am not willing to commit to anything.</p> <p>25 Q Unwilling to commit to anything?</p>



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<p style="text-align: right;">Page 18</p> <p>1 A Thank you.</p> <p>2 <b>Q And are you available next Monday?</b></p> <p>3 MR. MANOLIUS: Objection, vague. For what?</p> <p>4 THE WITNESS: I don't know.</p> <p>5 MS. HAMILL Q: Do you have any travel or work</p> <p>6 obligations scheduled for next Monday?</p> <p>7 A I don't know.</p> <p>8 MR. MANOLIUS: Objection. Relevance.</p> <p>9 MS. HAMILL: And would you be available for</p> <p>10 remote video testimony if not available to travel to Los</p> <p>11 Angeles next week?</p> <p>12 MR. MANOLIUS: Same objections.</p> <p>13 MR. WOODS: Join.</p> <p>14 MS. HAMILL: Yes or no?</p> <p>15 A I don't know.</p> <p>16 <b>Q You don't know? And you live in Sacramento,</b></p> <p>17 <b>which is more than 100 miles away from Los Angeles; is</b></p> <p>18 <b>that correct?</b></p> <p>19 A Yes.</p> <p>20 <b>Q When did you first learn about this case?</b></p> <p>21 MR. MANOLIUS: Objection. As to what?</p> <p>22 A Could you clarify?</p> <p>23 MS. HAMILL: Do you know why we're here today.</p> <p>24 A Yes. You mean the lawsuit. I first learned</p> <p>25 about the lawsuit when, I don't know, I don't know the</p>	<p style="text-align: right;">Page 20</p> <p>1 <b>you understand what I'm referring to?</b></p> <p>2 A Yes.</p> <p>3 <b>Q What is your understanding of that?</b></p> <p>4 A It is the map that was approved by voters on</p> <p>5 the ballot on the November election.</p> <p>6 <b>Q Okay.</b></p> <p>7 (Whereupon Plaintiff's Exhibit 1</p> <p>8 was marked for identification.)</p> <p>9 MS. HAMILL: Okay. I am marking as Exhibit 1</p> <p>10 the subpoena to Paul Mitchell to testify at a deposition</p> <p>11 in a civil action. This was dated for a December 5th</p> <p>12 appearance and it was issued on November 26th. And all</p> <p>13 the counsel on the line received a copy of this via an</p> <p>14 e-mail. Have you seen this document before? Your</p> <p>15 counsel --</p> <p>16 A This looks like a document I received.</p> <p>17 <b>Q And when did you receive it?</b></p> <p>18 A I don't recall the exact date I received it.</p> <p>19 It was on two different dates.</p> <p>20 <b>Q You received a subpoena on two different</b></p> <p>21 <b>dates?</b></p> <p>22 A Yes.</p> <p>23 <b>Q When? Do you know what dates?</b></p> <p>24 A Maybe twice on Monday, two different servings.</p> <p>25 <b>Q I am going to mark as Exhibit 2 the proof of</b></p>
<p style="text-align: right;">Page 19</p> <p>1 exact date, whenever it first popped up.</p> <p>2 <b>Q Was it before you received your subpoena?</b></p> <p>3 A Yes.</p> <p>4 <b>Q How long before your subpoena?</b></p> <p>5 A I don't recall.</p> <p>6 <b>Q Did you learn about it the day that it was</b></p> <p>7 <b>filed?</b></p> <p>8 MR. MANOLIUS: Objection, calls for</p> <p>9 speculation.</p> <p>10 A I don't have that information.</p> <p>11 <b>Q So I don't want you to guess or speculate but</b></p> <p>12 <b>I am entitled to your best estimate?</b></p> <p>13 A My best estimate is that I would have known</p> <p>14 when it was publicized in the news, but I wouldn't have</p> <p>15 had knowledge about it before then.</p> <p>16 <b>Q So you've known about it since November?</b></p> <p>17 MR. MANOLIUS: Objection, calls for</p> <p>18 speculation. He's already said he doesn't know.</p> <p>19 A I don't recall the exact date. I wouldn't</p> <p>20 know. I mean, if that's when the case was -- you</p> <p>21 apparently know the date that it was filed so whenever</p> <p>22 the date it was filed or whenever it was publicized in</p> <p>23 the news, I'm up-to-date in the news so whenever it was</p> <p>24 filed in the news is when I would have known about it.</p> <p>25 <b>Q And so when I say the phrase Prop 50 map do</b></p>	<p style="text-align: right;">Page 21</p> <p>1 <b>service of subpoena.</b></p> <p>2 (Whereupon Plaintiff's Exhibit 2</p> <p>3 was marked for identification.)</p> <p>4 THE WITNESS: No, not 5-foot-7 inches. I</p> <p>5 object to being five foot seven inches in this</p> <p>6 declaration.</p> <p>7 MR. WOODS: Object to that.</p> <p>8 MS. HAMILL: And how tall --</p> <p>9 A 180 pounds. Mark, you can be bad.</p> <p>10 MR. MEUSER: I didn't do that. I didn't do</p> <p>11 that.</p> <p>12 MS. HAMILL Q: And how tall are you</p> <p>13 Mr. Mitchell?</p> <p>14 A 5'10".</p> <p>15 <b>Q And do you live at 545 Wilhaggen Drive?</b></p> <p>16 A Yes.</p> <p>17 <b>Q Have you seen this document before?</b></p> <p>18 A No.</p> <p>19 <b>Q We'll mark as Exhibit 3 subpoena to testify at</b></p> <p>20 <b>a deposition in a civil action, and this is with a date</b></p> <p>21 <b>of December 10th, 2025, which is today's date.</b></p> <p>22 (Whereupon Plaintiff's Exhibit 3</p> <p>23 was marked for identification.)</p> <p>24 MR. WOODS: Sorry, counsel. Shouldn't he be</p> <p>25 referring to the exhibits that you're marking rather</p>

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<p style="text-align: right;">Page 22</p> <p>1 than the counsel copy?</p> <p>2 MS. HAMILL: Sure.</p> <p>3 MR. WOODS: That's just --</p> <p>4 MS. HAMILL: If that's how you want to play.</p> <p>5 Q Have you seen this document before,</p> <p>6 Mr. Mitchell?</p> <p>7 A Yes, I believe so.</p> <p>8 Q And is this the document that reflects the</p> <p>9 meeting location and the time of the deposition today?</p> <p>10 A Yes, it does look like that.</p> <p>11 Q Okay. And can you look down to the second</p> <p>12 check mark on this document is for production. Have you</p> <p>13 seen this before?</p> <p>14 MR. MANOLIUS: The check mark.</p> <p>15 MS. HAMILL Q: The section of the document</p> <p>16 that says "production" and the text that follows.</p> <p>17 A I've seen something that looks like this, yes.</p> <p>18 Q Okay. So it says your files, including</p> <p>19 without limitation all correspondence, memoranda,</p> <p>20 analysis, reports, tables, figures, charts, invoices,</p> <p>21 slide decks, talking points, electronic maps and data</p> <p>22 files and other documents relating to your conception</p> <p>23 drafting revision analysis or presentation of the</p> <p>24 California congressional map placed on the November 2025</p> <p>25 ballot as Proposition 50.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q And Liz Stitt serves as chief administrative</p> <p>2 officer and senior line drawer with Redistricting</p> <p>3 Partners?</p> <p>4 A No.</p> <p>5 MR. MANOLIUS: Objection, vague as to time.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: She is in England right now so</p> <p>8 she left our, she left as an employee in sometime in the</p> <p>9 summer. I don't know exactly when.</p> <p>10 MS. HAMILL: And she does contract work for</p> <p>11 you; correct?</p> <p>12 A No. Right now she's working in England so she</p> <p>13 doesn't have an employment contract with us of any kind.</p> <p>14 Q Have you worked with Miss Stitt at all on the</p> <p>15 Proposition 50 maps?</p> <p>16 MR. MANOLIUS: Objection, legislative</p> <p>17 privilege. You don't have to answer. Don't answer.</p> <p>18 MS. HAMILL Q: So you're asserting a</p> <p>19 legislative privilege to the question of whether Liz</p> <p>20 Stitt worked with you at all on Proposition 50 maps.</p> <p>21 MR. MANOLIUS: She is not on -- actually, let</p> <p>22 me correct that.</p> <p>23 You can certainly ask if she was in</p> <p>24 communication with Mr. Mitchell regarding this project.</p> <p>25 I believe the answer is no, but you can ask that</p>
<p style="text-align: right;">Page 23</p> <p>1 Have you seen that before?</p> <p>2 A Yes.</p> <p>3 Q And did you endeavor to find the documents</p> <p>4 requested in this subpoena?</p> <p>5 MR. MANOLIUS: Objection, attorney-client</p> <p>6 privilege. Don't answer the question.</p> <p>7 MS. HAMILL: So you won't tell me if you</p> <p>8 looked for the documents.</p> <p>9 MR. MANOLIUS: I am telling you that we have,</p> <p>10 his counsel has been engaged in a search for documents.</p> <p>11 MS. HAMILL: Thank you.</p> <p>12 MR. MANOLIUS: I also note that we issued an</p> <p>13 objection very late last evening or late after the</p> <p>14 midnight with regard to that.</p> <p>15 THE REPORTER: When you mark the exhibits</p> <p>16 don't cover up any writing with the sticker.</p> <p>17 MS. HAMILL Q: So you were the owner of</p> <p>18 Redistricting Partners, LLC; correct?</p> <p>19 A Yes.</p> <p>20 Q And you're also the agent for service?</p> <p>21 A I don't know what that term is.</p> <p>22 Q And Redistricting Partners principal address</p> <p>23 is your home; correct?</p> <p>24 A It's either my home or my accountant's office.</p> <p>25 I don't know which one.</p>	<p style="text-align: right;">Page 25</p> <p>1 question and he'll answer.</p> <p>2 THE WITNESS: Yes. Sorry. Yes, she was.</p> <p>3 MS. HAMILL Q: So Liz Stitt was in</p> <p>4 communication with you regarding this project?</p> <p>5 A Yes.</p> <p>6 Q Which means the Proposition 50 maps?</p> <p>7 A Yes.</p> <p>8 Q Are there any other members of the</p> <p>9 Redistricting Partners team?</p> <p>10 MR. MANOLIUS: Of any kind?</p> <p>11 MS. HAMILL: Let's say from July 2025 to the</p> <p>12 present.</p> <p>13 MR. MANOLIUS: Okay.</p> <p>14 THE WITNESS: Can I ask you a clarification.</p> <p>15 MS. HAMILL: Yes, you may.</p> <p>16 A Okay. So the fact is Liz -- Redistricting</p> <p>17 Partners has no employees. Liz Stitt was the last</p> <p>18 employee so when you say Redistricting Partners' team</p> <p>19 can you clarify what you mean by that?</p> <p>20 Q Have you heard of Evan McLaughlin?</p> <p>21 A Yes.</p> <p>22 Q And Joe Armenta?</p> <p>23 A Yes.</p> <p>24 Q And Jacob Thomas Fisher?</p> <p>25 A Thompson.</p>

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<p>1 Q Thompson-Fisher?</p> <p>2 A Yes.</p> <p>3 Q Stacey Reardon?</p> <p>4 A Yes.</p> <p>5 Q And those people worked with you to help you</p> <p>6 draw maps?</p> <p>7 MR. MANOLIUS: Objection, compound. You can</p> <p>8 answer.</p> <p>9 MR. WOODS: Vague.</p> <p>10 THE WITNESS: Do you want to split out the</p> <p>11 people a little bit? The first three do but Stacey</p> <p>12 Reardon didn't help draw any maps.</p> <p>13 MS. HAMILL Q: And did you direct their work?</p> <p>14 A Yes.</p> <p>15 Q So is it fair to say that you drew the Prop 50</p> <p>16 maps?</p> <p>17 MR. MANOLIUS: Objection, calls for</p> <p>18 information that's privileged under legislative</p> <p>19 privilege. I instruct you not to answer.</p> <p>20 MS. HAMILL Q: And in asserting that</p> <p>21 legislative privilege I need to understand the</p> <p>22 circumstances under which you're asserting it. So were</p> <p>23 you under contract with the California Legislature to</p> <p>24 draw the Proposition 50 maps?</p> <p>25 MR. MANOLIUS: Objection, vague as to time.</p>	<p>1 agreement a passive you're the one doing it.</p> <p>2 Q Did anyone in the Legislature ask you to draw</p> <p>3 the Proposition 50 maps?</p> <p>4 MR. MANOLIUS: Objection, calls for</p> <p>5 information that's protected under the legislative</p> <p>6 privilege. Don't answer.</p> <p>7 MS. HAMILL Q: Can you please explain to me on</p> <p>8 what grounds Mr. Mitchell is invoking this privilege?</p> <p>9 He is not a member of the Legislature so I am very</p> <p>10 confused as to how this applies to his work.</p> <p>11 MR. MANOLIUS: I've read the cases so no, I am</p> <p>12 not going to explain it here or we've made our</p> <p>13 objection.</p> <p>14 MS. HAMILL: There's -- we are entitled to a</p> <p>15 factual explanation of how this privilege would even</p> <p>16 remotely apply to this work. We don't have any</p> <p>17 understanding that Mr. Mitchell was working for the</p> <p>18 Legislature, is a legislator or would be in any way</p> <p>19 entitled to invoke this privilege.</p> <p>20 MR. MANOLIUS: We disagree with you. He is --</p> <p>21 his, his work went to the Legislature and so in that</p> <p>22 regard the provide earrings of that work and of any</p> <p>23 comments to him are, their comments are protected under</p> <p>24 the Legislature under the legislature.</p> <p>25 MS. HAMILL: The comments. When did your work</p>
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<p>1 MS. HAMILL: Ever, at any time.</p> <p>2 A No.</p> <p>3 MS. HAMILL Q: Were you under contract with</p> <p>4 any particular legislator to draw the Proposition 50</p> <p>5 maps?</p> <p>6 MR. MANOLIUS: Objection, vague as to under</p> <p>7 contract. You mean in a paid capacity, is that what</p> <p>8 you're asking?</p> <p>9 MS. HAMILL: Under any contract, paid or</p> <p>10 unpaid.</p> <p>11 MR. WOODS: Objection, calls for a legal</p> <p>12 conclusion. You can answer if you can.</p> <p>13 MR. MANOLIUS: And vague.</p> <p>14 A I don't know what an unpaid contract means, so</p> <p>15 if you're saying was I -- I was not paid by anybody in</p> <p>16 the legislature to draw the map.</p> <p>17 MS. HAMILL Q: Did you have an agreement with</p> <p>18 someone in the legislature to draw the Proposition 50</p> <p>19 maps?</p> <p>20 MR. MANOLIUS: Objection, vague as to the term</p> <p>21 agreement.</p> <p>22 A If you can define that.</p> <p>23 MS. HAMILL Q: You want me to define</p> <p>24 agreement?</p> <p>25 A Well, I mean, is agreement a direction or is</p>	<p>1 go to the Legislature.</p> <p>2 MR. MANOLIUS: Objection, vague. If you know.</p> <p>3 THE WITNESS: I think that there's different</p> <p>4 ways to characterize the process of going to the</p> <p>5 Legislature, either the public, there was at some date I</p> <p>6 don't recall exactly the date the DCCC submitted the</p> <p>7 through the portal and official capacity was sent to the</p> <p>8 Legislature at that point. If there's further questions</p> <p>9 aside from that.</p> <p>10 MS. HAMILL: So -- your counsel sent an e-mail</p> <p>11 about one o'clock this morning asserting that you will</p> <p>12 not testify about your work on the maps starting</p> <p>13 July 2nd. And so I'm trying to understand the</p> <p>14 significance of this date if you submitted the maps to</p> <p>15 the Legislature the DCCC submitted the maps to the</p> <p>16 Legislature August 15th.</p> <p>17 MR. MANOLIUS: Okay. Oh objection, lacks</p> <p>18 foundation, but you can certainly talk about July 2nd.</p> <p>19 A That was a meeting with the chief of staff and</p> <p>20 the speaker on a bike path.</p> <p>21 MS. HAMILL Q: Did you catch that?</p> <p>22 A It was a meeting with the chief of staff and</p> <p>23 the speaker.</p> <p>24 Q You're a fast talker.</p> <p>25 A So sorry.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q It's okay for me.</p> <p>2 A Yeah. Yeah.</p> <p>3 Q But we need to slow it down so that the court</p> <p>4 reporter can make a clear record.</p> <p>5 A Yeah.</p> <p>6 Q So you on July 2nd you had a meeting with the</p> <p>7 chief of staff of the speaker, is it Rivas?</p> <p>8 A Rivas is chief of staff.</p> <p>9 Q Rivas is chief of staff on July 2nd. And you</p> <p>10 didn't enter into a contract?</p> <p>11 MR. WOODS: Objection, calls for a legal</p> <p>12 conclusion.</p> <p>13 MR. MANOLIUS: And also vague as to time.</p> <p>14 MS. HAMILL Q: You didn't enter into an</p> <p>15 agreement.</p> <p>16 MR. MANOLIUS: Same thing.</p> <p>17 MR. WOODS: Same objections.</p> <p>18 MS. HAMILL: And we're pretending that we</p> <p>19 don't know what "agreement" means.</p> <p>20 A I don't know if agreement means understanding</p> <p>21 or agreement means a service that I'm required or</p> <p>22 obligated to perform.</p> <p>23 MS. HAMILL: How about an understanding.</p> <p>24 A Yes, an understanding.</p> <p>25 Q An understanding on July 2nd that you would be</p>	<p style="text-align: right;">Page 32</p> <p>1 A Team being an abstract term of like all the</p> <p>2 former employees of Redistricting Partners that might</p> <p>3 come together to help draw this whether they were paid</p> <p>4 or not?</p> <p>5 Q Yes?</p> <p>6 A Daniel Lopez. I'm not trying to play hide the</p> <p>7 ball on anything, but I can't recall other names but</p> <p>8 there might have been somebody else that kind of the</p> <p>9 extended team that had some input at some point. Those</p> <p>10 are the ones that come to mind. If the another one</p> <p>11 comes to mind I can tell you later so --</p> <p>12 Q And can you walk me through the process of</p> <p>13 drawings the Proposition 50 maps?</p> <p>14 MR. MANOLIUS: Objection, calls for information</p> <p>15 that's protected under the Legislative privilege. I</p> <p>16 instruct you not to answer.</p> <p>17 MS. HAMILL Q: What factors did you consider</p> <p>18 while you were drawing the Proposition 50 maps.</p> <p>19 MR. MANOLIUS: Same objections. Don't answer.</p> <p>20 MS. HAMILL Q: What was your methodology that</p> <p>21 you used to draw the Proposition 50 maps?</p> <p>22 MR. MANOLIUS: Same objection, don't answer the</p> <p>23 question.</p> <p>24 MS. HAMILL Q: What redistricting platform do</p> <p>25 you use?</p>
<p style="text-align: right;">Page 31</p> <p>1 undertaking to draw the Prop 50 maps?</p> <p>2 MR. MANOLIUS: Objection, misstates his</p> <p>3 testimony. You can answer.</p> <p>4 A Misstates that I would draw maps.</p> <p>5 MS. HAMILL: That you would draw maps.</p> <p>6 A (Witness nodding head.)</p> <p>7 Q What kind of maps?</p> <p>8 A Statewide congressional maps.</p> <p>9 Q And so that understanding was reached on</p> <p>10 July 2nd?</p> <p>11 A (Witness nodding head.)</p> <p>12 Q Is that correct?</p> <p>13 A Yes.</p> <p>14 Q Report report your answer?</p> <p>15 MS. HAMILL Q: So you listed a number of</p> <p>16 people earlier. You listed Eric McLaughlin, Joe</p> <p>17 Armenta, Jacob Thompson-Fisher.</p> <p>18 Was there anyone else involved in drawing the</p> <p>19 maps?</p> <p>20 MR. MANOLIUS: Objection, lacks foundation and</p> <p>21 calls for speculation. You mean at Redistricting</p> <p>22 Partners or anywhere else.</p> <p>23 MS. HAMILL Q: With respect to your work on</p> <p>24 the proposition 50 maps, was there anyone else involved</p> <p>25 on your team?</p>	<p style="text-align: right;">Page 33</p> <p>1 MR. MANOLIUS: Objection, vague as to time.</p> <p>2 MS. HAMILL: At any time.</p> <p>3 MR. MANOLIUS: Is that like a -- you mean like</p> <p>4 computer program? I am just not very techie.</p> <p>5 MS. HAMILL: I'll ask the witness. Do you</p> <p>6 understand what I mean when I say --</p> <p>7 A (Witness nodding head.) Yes, I understand.</p> <p>8 MS. MANOLIUS: I am sorry.</p> <p>9 MS. HAMILL: There's no instruction not to</p> <p>10 answer.</p> <p>11 MR. MANOLIUS: You can answer.</p> <p>12 THE WITNESS: There are multiple programs we</p> <p>13 use, one the primary programs we use is kind of an in</p> <p>14 house program, I almost couldn't really define it, but</p> <p>15 Maptitude is one of the other programs that we use,</p> <p>16 QGIS. We have at times had employees use State</p> <p>17 redistricting maps just because it's easy and accessible</p> <p>18 to experiment with something, and then of course normal</p> <p>19 programs; Excel, Access, database programs, Tableau.</p> <p>20 Q Do you have a favorite program?</p> <p>21 MR. MANOLIUS: Objection. Vague as to reason,</p> <p>22 but --</p> <p>23 A It depends on the use. My favorite program is</p> <p>24 probably our internal program that allows us to produce</p> <p>25 maps quickly.</p>

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<p style="text-align: right;">Page 34</p> <p>1 MS. HAMILL Q: Is that something that is</p> <p>2 proprietary to you something that you created.</p> <p>3 A Absolutely, created from scratch.</p> <p>4 Q Is it similar to a Maptitude or a -- to a</p> <p>5 state redistricting map?</p> <p>6 MR. MANOLIUS: Objection, vague. Go ahead.</p> <p>7 A It -- if you have seen Redistricting Partners</p> <p>8 map they have a certain look to them. They all look the</p> <p>9 same, it's the program that does that, it's the program</p> <p>10 that makes the maps from a shape file.</p> <p>11 Q Okay. Does it have a name?</p> <p>12 A Syzygy.</p> <p>13 Q Sygyzy. Sorry. How do you spell that?</p> <p>14 A SYGYZY; is that correct.</p> <p>15 Q Is sounds a little like KIWSI, you know it if</p> <p>16 you see it?</p> <p>17 A No, there you go. No. Sygyzy is some obscure</p> <p>18 word that Jacob Thompson-Fisher liked and so that's what</p> <p>19 he calls it.</p> <p>20 Q So what data was available to you while you</p> <p>21 were drawing the Proposition 50 map?</p> <p>22 MR. MANOLIUS: Same objection, don't answer the</p> <p>23 question.</p> <p>24 MS. HAMILL: And just to clarify you're</p> <p>25 objecting on the grounds of legislative privilege.</p>	<p style="text-align: right;">Page 36</p> <p>1 THE REPORTER: Yes?</p> <p>2 THE WITNESS: Yes, it is. Sorry.</p> <p>3 MS. HAMILL: Thank you.</p> <p>4 THE WITNESS: And I'm sure there are other</p> <p>5 sources, like there's -- forget the name. There's a</p> <p>6 national redistricting data site that use public, other</p> <p>7 public sources of data.</p> <p>8 MS. HAMILL: And in California, do you produce</p> <p>9 the political data or do buy it?</p> <p>10 MR. MANOLIUS: Objection, vague as to time and</p> <p>11 under what circumstance. You can answer.</p> <p>12 THE WITNESS: When I use Political Data the</p> <p>13 two main sources would be the statewide database and the</p> <p>14 other source would be PDI.</p> <p>15 Q And the statewide data base is free; correct?</p> <p>16 A Yes.</p> <p>17 Q Do you use consumer data?</p> <p>18 MR. MANOLIUS: Objection, vague, as a general</p> <p>19 matter.</p> <p>20 A No, I have never used consumer data in any</p> <p>21 redistricting project that I recall.</p> <p>22 MS. HAMILL Q: Does any of the data that you</p> <p>23 use have racial assumptions built in.</p> <p>24 MR. MANOLIUS: Objection, vague as to when and</p> <p>25 under what circumstances and what project.</p>
<p style="text-align: right;">Page 35</p> <p>1 MR. MANOLIUS: Yes, I am sorry. Legislative</p> <p>2 privilege.</p> <p>3 MS. HAMILL Q: And what inputs go into the</p> <p>4 data that you use or went into the data that you used to</p> <p>5 draw the Proposition 50 maps.</p> <p>6 MR. MANOLIUS: Same objection. I instruct you</p> <p>7 not to answer.</p> <p>8 MS. HAMILL Q: Where do you get your data when</p> <p>9 you're drawing maps.</p> <p>10 MR. MANOLIUS: Objection, vague as to what maps</p> <p>11 when.</p> <p>12 MS. HAMILL: There's no instruction.</p> <p>13 A Oh.</p> <p>14 MR. MANOLIUS: As a general manner.</p> <p>15 A It depends on the client.</p> <p>16 In California the law requires you to use the</p> <p>17 statewide database. In other states we use just raw</p> <p>18 census. And then if we were looking at other data for</p> <p>19 other purposes there's other sources.</p> <p>20 I am vice president of a company called</p> <p>21 Political Data so we don't really use that data much at</p> <p>22 all but if we were, we would use that for my other</p> <p>23 company.</p> <p>24 Q Is that PDI?</p> <p>25 A Uh-huh.</p>	<p style="text-align: right;">Page 37</p> <p>1 THE WITNESS: Could you clarify racial</p> <p>2 assumptions, what you mean by that?</p> <p>3 MS. HAMILL: Does it have a meaning to you</p> <p>4 when I say racial assumptions?</p> <p>5 A That seems overly broad potentially. The data</p> <p>6 that I use includes data on race, if that's what you're</p> <p>7 asking.</p> <p>8 Q Okay. And what does that look like?</p> <p>9 MR. MANOLIUS: Again, vague as to time and</p> <p>10 project.</p> <p>11 A Generally, census data is in two parts. You</p> <p>12 have geography and you have data, meaning the counts,</p> <p>13 and so the data would look like numbers assigned to</p> <p>14 geographies and then when those two are put together you</p> <p>15 can use that in redistricting.</p> <p>16 Q And so do you work with CVAP for certain</p> <p>17 racial groups and then put that into geography,</p> <p>18 generally?</p> <p>19 MR. MANOLIUS: Objection, vague as to time and</p> <p>20 project. If -- I guess at any time.</p> <p>21 A In general, we use the CVAP data that's</p> <p>22 adjusted by the statewide database that's considered an</p> <p>23 adjusted data set and that's updated most recent data</p> <p>24 set we would be using at any time.</p> <p>25 Q And you adjust it is to eliminate the prison</p>



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<p style="text-align: right;">Page 38</p> <p>1 <b>population; is that right?</b></p> <p>2 A The prison population reallocation. It</p> <p>3 doesn't eliminate the prison population, it just moves</p> <p>4 them in the different sense of smart groups.</p> <p>5 <b>Q Oh, it does?</b></p> <p>6 A Yeah. So, like, if some place has 120 people</p> <p>7 but the prison population says four people were living</p> <p>8 there when they were arrested, it now has 120 more</p> <p>9 people.</p> <p>10 <b>Q Oh, interesting.</b></p> <p>11 A Yeah, that's a redistricting.</p> <p>12 <b>Q Do you ever decide the election results from</b></p> <p>13 <b>precincts and match them to census blocks?</b></p> <p>14 MR. MANOLIUS: Objection. Vague. I don't</p> <p>15 understand the question.</p> <p>16 MR. WOODS: Joine.</p> <p>17 A Basically, I can talk? Yes.</p> <p>18 MS. HAMILL Q: How do you do that?</p> <p>19 A It's technical, but generally what you do is</p> <p>20 you take a precinct and you disaggregate that precinct</p> <p>21 data down to the census blocks based on a weighting.</p> <p>22 Oftentimes the weighting is how many people</p> <p>23 are in those census blocks or how much -- what the CVAP</p> <p>24 total population is in that census block or what the</p> <p>25 total voter count is.</p>	<p style="text-align: right;">Page 40</p> <p>1 things like that, there were irregularities, that's the</p> <p>2 only kind of thing. Generally we just go with the total</p> <p>3 vote layer, as long as it's there, with the exception of</p> <p>4 one very strange old election result there's, it's</p> <p>5 always been fine. We don't worry. The vote by mail</p> <p>6 doesn't impact it.</p> <p>7 <b>Q So we received some documents from the DCCC</b></p> <p>8 <b>in the case. Are you familiar with the DCCC?</b></p> <p>9 A Yes.</p> <p>10 <b>Q And in these documents they shared some</b></p> <p>11 <b>communications between you and people with the DCCC.</b></p> <p>12 <b>Have you seen those documents?</b></p> <p>13 A No.</p> <p>14 <b>Q Have you been in contact with the lawyers for</b></p> <p>15 <b>the DCCC?</b></p> <p>16 A Not that I'm aware of.</p> <p>17 <b>Q And so in these communications they represent</b></p> <p>18 <b>that the DCCC liked the Proposition 50 map that you drew</b></p> <p>19 <b>and so I'm wondering, was there a request for proposals</b></p> <p>20 <b>himself from the DCCC for the Proposition 50 map?</b></p> <p>21 MR. MANOLIUS: Objection. Lacks foundation.</p> <p>22 MR. WOODS: Join.</p> <p>23 MR. MANOLIUS: Vague as to time. And I am not</p> <p>24 sure what you mean by like it, but you can answer.</p> <p>25 A Could you repeat the question?</p>
<p style="text-align: right;">Page 39</p> <p>1 (Reporter clarification.)</p> <p>2 In that census block. So if we had a hundred</p> <p>3 votes cast and we needed to assign it to five census</p> <p>4 blocks and every census block had 20 people then we</p> <p>5 would assign it like that.</p> <p>6 If every census block had one-fifth of the</p> <p>7 population we would assign it like that.</p> <p>8 However, if one census block had a half of the</p> <p>9 population, one census block had a third of the</p> <p>10 population, the next census block had a sixth of the</p> <p>11 population and the other two were blank, we would then</p> <p>12 not assign votes to this blank census blocks, we would</p> <p>13 assign the votes to the populated census blocks at the</p> <p>14 appropriate ratio of the weighted field. So that is a</p> <p>15 technical answer.</p> <p>16 <b>Q Does vote by mail impact your data in any way?</b></p> <p>17 MR. WOODS: Objection. Ambiguous.</p> <p>18 MR. MANOLIUS: Objection, vague as to time and</p> <p>19 project.</p> <p>20 A One critical way that vote by mail can impact</p> <p>21 is that when counties report both by mail data in</p> <p>22 election results separately from the total votes cast in</p> <p>23 one area, there was an election maybe going black like</p> <p>24 2008 where some counties didn't report like there wasn't</p> <p>25 the total vote but there was the vote by mail vote,</p>	<p style="text-align: right;">Page 41</p> <p>1 <b>Q Was there a request for proposals?</b></p> <p>2 A No.</p> <p>3 <b>Q There was no request for proposals from the</b></p> <p>4 <b>DCCC for a Prop 50 map?</b></p> <p>5 A No. And a suggestion would be that we didn't</p> <p>6 know what Prop 50 was when we were drawing the maps, so</p> <p>7 you might --</p> <p>8 MS. HAMILL: Okay. That's a good</p> <p>9 clarification to make because early when I said when I</p> <p>10 was trying to sort of establish what we're going to be</p> <p>11 discussing, when I talk about the Proposition 50 map I'm</p> <p>12 also talking about the maps that you drew to get there</p> <p>13 because nobody knew it was called Prop 50 until it</p> <p>14 actually got to the ballot; right?</p> <p>15 MR. MANOLIUS: Objection, calls for</p> <p>16 speculation, lacks foundation. You can answer.</p> <p>17 A Further, we didn't know we were doing a ballot</p> <p>18 measure necessarily.</p> <p>19 <b>Q Okay.</b></p> <p>20 A Or even doing a map that would be real</p> <p>21 necessarily.</p> <p>22 <b>Q Because it started off as a bluff; correct?</b></p> <p>23 A (Witness nodding head.)</p> <p>24 MR. MANOLIUS: Objection, calls for</p> <p>25 information that is protected by the legislative</p>



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<p style="text-align: right;">Page 42</p> <p>1 privilege. Don't answer the question.</p> <p>2 MS. HAMILL Q: Okay. So let me rephrase. Was</p> <p>3 there a request for proposals from the DCCC to draw a</p> <p>4 new congressional map for California in the summer of</p> <p>5 2025?</p> <p>6 MR. MANOLIUS: To Mr. Mitchell?</p> <p>7 MS. HAMILL: No, just a request for proposals</p> <p>8 issued that you were are aware.</p> <p>9 MR. MANOLIUS: Oh.</p> <p>10 A I am not aware of that at all.</p> <p>11 MS. HAMILL: Was there a request for proposals</p> <p>12 from the State of California to draw a new congressional</p> <p>13 map for the State of California in the summer of 2025?</p> <p>14 MR. MANOLIUS: To the extent communications</p> <p>15 were with the Legislature and then we will assert the</p> <p>16 legislative privilege, don't answer the question. If</p> <p>17 there's somebody else made a request of you you can</p> <p>18 answer.</p> <p>19 THE WITNESS: Nobody made a request to me in</p> <p>20 an official capacity in a way like a request for</p> <p>21 proposal. Sorry to go fast. Nobody -- let me revise</p> <p>22 that. I never saw a request for proposal to draw maps</p> <p>23 from any entity.</p> <p>24 MS. HAMILL Q: How did you end up in</p> <p>25 communication with the DCCC regarding this map that</p>	<p style="text-align: right;">Page 44</p> <p>1 MR. MANOLIUS: Okay.</p> <p>2 THE WITNESS: So interrogatory number one the</p> <p>3 words here that means that's what they were asked.</p> <p>4 MR. MANOLIUS: The way it works is a question</p> <p>5 and a response.</p> <p>6 A The response. All right.</p> <p>7 MR. MANOLIUS: And we are stopping at the</p> <p>8 bottom of the page.</p> <p>9 MS. HAMILL: Yes.</p> <p>10 MR. MANOLIUS: Because the response continues,</p> <p>11 it says line 16 on page 2.</p> <p>12 MS. HAMILL: And if you'd prefer to review the</p> <p>13 entire response to interrogatory number one, that</p> <p>14 continues on the next page, feel free to do that.</p> <p>15 A Okay.</p> <p>16 MR. MANOLIUS: We'll just start with the first</p> <p>17 part.</p> <p>18 A Okay. I stopped at the bottom of one.</p> <p>19 MS. HAMILL: Okay. And so if you look at page</p> <p>20 one, line 19, the sentence that begins in the middle of</p> <p>21 line 19 says, the DCCC reviewed an initial draft of the</p> <p>22 map for the first time on August 3rd, 2025, and called</p> <p>23 it the draft map. And then it says DCCC liked the draft</p> <p>24 map. Do you see that?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 became the Prop 50 map?</p> <p>2 MR. MANOLIUS: Objection, lacks foundation,</p> <p>3 calls for speculation and vague as to time. Go ahead.</p> <p>4 A Could you repeat the question, please.</p> <p>5 MS. HAMILL: Would you mind repeating it for</p> <p>6 me?</p> <p>7 (Whereupon the record was read as</p> <p>8 follows: "Question: ")</p> <p>9 MR. WOODS: Objection, lacks foundation.</p> <p>10 MR. MANOLIUS: I renew my objection.</p> <p>11 A My answer is I don't recall.</p> <p>12 THE REPORTER: Your answer.</p> <p>13 A I don't recall.</p> <p>14 MS. HAMILL:</p> <p>15 (Whereupon Plaintiff's Exhibit 4</p> <p>16 was marked for identification.)</p> <p>17 MS. HAMILL: I am marking for identification</p> <p>18 as Exhibit 4 the DCCC response to plaintiff's first set</p> <p>19 of interrogatories. Have you seen this document before.</p> <p>20 A No.</p> <p>21 Q I want to direct your attention to page one</p> <p>22 and take a minute to review it.</p> <p>23 A Okay.</p> <p>24 MR. MANOLIUS: The whole page.</p> <p>25 MS. HAMILL: Yes.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q Does that refresh your recollection about how</p> <p>2 you first got in touch with the DCCC regarding the map?</p> <p>3 MR. MANOLIUS: Objection. Vague as to time,</p> <p>4 lacks foundation. You can answer what you know.</p> <p>5 THE WITNESS: No, it doesn't refresh my</p> <p>6 memory, because the question here is about when they</p> <p>7 first saw the map.</p> <p>8 MS. HAMILL Q: Did you provide a copy of the</p> <p>9 map to the DCCC on August 3rd.</p> <p>10 A I have no reason to disbelieve what they have</p> <p>11 written, but I don't recall.</p> <p>12 Q Can you please turn to the next page?</p> <p>13 A (Witness complied.)</p> <p>14 Q And review the second part of the DCCC</p> <p>15 response to interrogatory number one.</p> <p>16 A The first paragraph.</p> <p>17 MR. MANOLIUS: Through line 16.</p> <p>18 MS. HAMILL: Correct. Thank you.</p> <p>19 A Okay.</p> <p>20 Q Yes.</p> <p>21 Q Okay. So according to DCCC in these</p> <p>22 interrogatory responses, they looked at a draft map that</p> <p>23 you drew on August 3rd and then they recommended some</p> <p>24 changes to it, and then August 14th is when your revised</p> <p>25 map was submitted to the State Legislature. Does that</p>

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<p style="text-align: right;">Page 46</p> <p>1 <b>reflect your recollection of how this all transpired?</b></p> <p>2 MR. MANOLIUS: Objection, compound objection,</p> <p>3 to the extent you're misstating the document.</p> <p>4 And let me add objection, lacks foundation,</p> <p>5 calls for speculation.</p> <p>6 MS. MADDURI: Join. Yes. This is Lali</p> <p>7 Madduri. I represent the DCCC.</p> <p>8 THE REPORTER: Thank you.</p> <p>9 MS. HAMILL: Is there --</p> <p>10 MR. MANOLIUS: Can you read the question back?</p> <p>11 I am sorry. I lost track.</p> <p>12 (Whereupon the record was read as</p> <p>13 follows: "Question: ")</p> <p>14 MR. MANOLIUS: Objection. Lacks foundation,</p> <p>15 calls for speculation and as to the substance of the any</p> <p>16 changes, I instruct you not to answer under legislative</p> <p>17 privilege.</p> <p>18 A I think you misstated your question. You</p> <p>19 meant August 15th. You said August 14th, for the map</p> <p>20 being submitted to the Legislature.</p> <p>21 MS. HAMILL: Oh, thank you. You're right. So</p> <p>22 what happened?</p> <p>23 A To that, to that August 15th, I am aware of</p> <p>24 that date, to the rest of the dates, I'm just trusting</p> <p>25 that the DCCC is correct. I don't recall.</p>	<p style="text-align: right;">Page 48</p> <p>1 MR. MANOLIUS: Same objections. I instruct you</p> <p>2 not to answer under legislative privilege.</p> <p>3 MS. HAMILL Q: Isn't it true that the changes</p> <p>4 you made after August 3rd and before August 14th were</p> <p>5 designed to preserve a racial quota or a racial target</p> <p>6 in certain districts in the Proposition 50 map?</p> <p>7 MR. MANOLIUS: Same objections. I am going to</p> <p>8 add lacks foundation, calls for speculation and I</p> <p>9 instruct you not to answer under legislative privilege.</p> <p>10 MS. HAMILL Q: Can you walk me through all of</p> <p>11 the changes that you made between the draft map on</p> <p>12 August 3rd and the submitted map on August 14th.</p> <p>13 MR. MANOLIUS: Objection, calls for a narrative</p> <p>14 and also lacks foundation and I instruct you not to</p> <p>15 answer due to legislative privilege.</p> <p>16 MS. HAMILL Q: What people and groups were you</p> <p>17 talking to during this period of time as you were making</p> <p>18 goes changes to the map after August 3rd?</p> <p>19 MR. MANOLIUS: Objection, lacks foundation.</p> <p>20 You can certainly ask him who he talked to, but not the</p> <p>21 purpose of the communications so with that understanding</p> <p>22 if you talked to anybody about it you can tell counsel</p> <p>23 who. And just for the time period just to make sure,</p> <p>24 okay, August 3rd to 14th.</p> <p>25 MS. HAMILL: Correct.</p>
<p style="text-align: right;">Page 47</p> <p>1 Q Okay thank you?</p> <p>2 A Is that okay?</p> <p>3 Q Do you recall making changes to the map after</p> <p>4 August 3rd of 2025?</p> <p>5 MR. MANOLIUS: Objection, legislative privilege</p> <p>6 and instruct you not to answer.</p> <p>7 MS. HAMILL: And what changes were made to the</p> <p>8 map between August 3rd and August 14th 062025.</p> <p>9 MR. MANOLIUS: Same objections. Don't answer.</p> <p>10 MS. HAMILL Q: Did you bring a copy of your</p> <p>11 August 3rd version of the map with you today.</p> <p>12 A (Witness shaking head.) No.</p> <p>13 Q Did you bring any data files for the</p> <p>14 August 3rd map?</p> <p>15 A No.</p> <p>16 MR. MANOLIUS: And again just to point out our</p> <p>17 objection covered this material.</p> <p>18 MS. HAMILL Q: And what considerations did you</p> <p>19 make when deciding which of the DCCC proposed changes to</p> <p>20 incorporate in the map.</p> <p>21 MR. MANOLIUS: Same objections, I instruct you</p> <p>22 not to answer.</p> <p>23 MS. HAMILL Q: Did you consider race at all in</p> <p>24 reviewing the proposed changes from the DCCC and making</p> <p>25 changes to the map.</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. MANOLIUS: Sorry. Thank you. And again,</p> <p>2 the two dates, the third through the 14th or 15th.</p> <p>3 A In all honesty, I don't recall for those</p> <p>4 particular dates of exactly who I would have talked the</p> <p>5 during the that time beyond the Redistricting Partners</p> <p>6 staff.</p> <p>7 Q Can you give me your best estimate generally</p> <p>8 within that rough time period of who you were talking to</p> <p>9 when you were making changes to the map?</p> <p>10 MR. MANOLIUS: Again, lacks foundation with</p> <p>11 regard to the making changes to the map as being</p> <p>12 associated with any specific conversation. With that</p> <p>13 understanding and without undermining legislative</p> <p>14 privilege you can answer who you recall talking to</p> <p>15 during that time period, about redistricting.</p> <p>16 A Can I ask my attorney a question. I don't</p> <p>17 know how this works.</p> <p>18 MR. MANOLIUS: No. You can't. I mean I would</p> <p>19 love you to but no, you can't.</p> <p>20 THE WITNESS: I spoke to Redistricting</p> <p>21 Partners staff during this period of time, probably</p> <p>22 spoke to my wife a few times. During this period of</p> <p>23 time, I believe that was when I spoke with Dustin</p> <p>24 Corcoran, a friend of mine, just personal friend. There</p> <p>25 are legislative staff that I spoke with. I don't know</p>

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<p style="text-align: right;">Page 50</p> <p>1 if I'm allowed to State who those people are.</p> <p>2 MR. MANOLIUS: You can answer who but not what</p> <p>3 you talked about.</p> <p>4 A Okay. Michael Wagaman, Steve Omara.</p> <p>5 MS. HAMILL: And I am sorry as you're going</p> <p>6 through this list --</p> <p>7 A Yeah.</p> <p>8 Q -- would you mind sharing with me the</p> <p>9 legislators who he worked for, the names of the</p> <p>10 legislator?</p> <p>11 A Yeah.</p> <p>12 MR. MANOLIUS: If you know.</p> <p>13 THE WITNESS: And I apologize if I'm not going</p> <p>14 to get everybody I'll do my best to answer.</p> <p>15 MS. HAMILL: Sure.</p> <p>16 A Steve Omara, the chief of staff to assembly</p> <p>17 speaker Rivas, Jason -- I am blanking, starts with an L,</p> <p>18 little, Lytle, with the chief of staff for the pro tem</p> <p>19 of the State Senate, Michael Wagaman, who is -- works</p> <p>20 for the legislature broadly, Jeff Gozzo, G-o-z-z-o, who</p> <p>21 works for the Legislature, State Senate, I believe,</p> <p>22 multiple members of Congress, maybe a few different</p> <p>23 legislators, Christopher Kabalkin, local legislator.</p> <p>24 Matt Weiner who used to work for the congressional</p> <p>25 delegation. Staff to members of Congress. And I</p>	<p style="text-align: right;">Page 52</p> <p>1 Q And were these groups attempting to sway your</p> <p>2 actions?</p> <p>3 MR. MANOLIUS: Objection.</p> <p>4 A I can't speak to the content.</p> <p>5 MR. MANOLIUS: Yeah. It calls for information</p> <p>6 that's privileged under the legislative privilege. I</p> <p>7 instruct you not to answer.</p> <p>8 MR. MANOLIUS: Wait for the next question.</p> <p>9 A I still haven't answered her first question.</p> <p>10 MR. MANOLIUS: Okay.</p> <p>11 THE WITNESS: So, NDRC, do you need what that</p> <p>12 stands for, national -- NDRC.</p> <p>13 MS. HAMILL: ( Shaking head.)</p> <p>14 A Catalyst California, Asian Law Caucus, OC</p> <p>15 Action, Delores Huerta Foundation, I'm traveling up and</p> <p>16 down the state thinking about different groups up and</p> <p>17 down the state that I might have talked to, Black Power</p> <p>18 Network -- oh, and then I'd say multiple democratic</p> <p>19 party like county democratic party, different counties,</p> <p>20 so it might just be an umbrella.</p> <p>21 And to amend my earlier response about people</p> <p>22 I forgot to mention political consultants and pollsters.</p> <p>23 So I am sorry if I forgot that earlier.</p> <p>24 Q Okay. So according to these DCCC responses to</p> <p>25 the interrogatories that we have marked as Exhibit 4, on</p>
<p style="text-align: right;">Page 51</p> <p>1 probably told a handful of reporters that I couldn't</p> <p>2 talk to them.</p> <p>3 Q Did you talk to any advocacy groups?</p> <p>4 MR. MANOLIUS: During the same time period,</p> <p>5 August 3rd to August 15th.</p> <p>6 MS. HAMILL: Yes.</p> <p>7 MR. WOODS: Objection. Vague.</p> <p>8 MR. MANOLIUS: Same objection. And I am</p> <p>9 assuming about what, about redistricting?</p> <p>10 A Do you want to say about the Prop 50 maps.</p> <p>11 MS. HAMILL: Yes.</p> <p>12 A Yes, I did talk to a number of different</p> <p>13 advocacy groups.</p> <p>14 MR. MANOLIUS: That's it. That's the answer.</p> <p>15 The question is whether you had or not.</p> <p>16 MS. HAMILL: Can you list them for me.</p> <p>17 A I'm afraid that I might not be comprehensive.</p> <p>18 MS. HAMILL: Sure.</p> <p>19 A But I can do my best. During that period of</p> <p>20 time prior to the maps beings submitted to the</p> <p>21 Legislature, I spoke with, does spoke with mean include</p> <p>22 like sending e-mail, getting an e-mail from.</p> <p>23 Q Yes?</p> <p>24 A So I received some unsolicited e-mails from</p> <p>25 different groups.</p>	<p style="text-align: right;">Page 53</p> <p>1 August 14th the DCCC bought your revision of the</p> <p>2 August 3rd map.</p> <p>3 Does that comport with your recollection of</p> <p>4 what transpired?</p> <p>5 MR. MANOLIUS: Where is that line --</p> <p>6 MS. HAMILL: It's on page 2.</p> <p>7 MR. MANOLIUS: Uh-huh.</p> <p>8 MS. HAMILL: Line 11 to 12.</p> <p>9 MR. MANOLIUS: Okay. On the same day. I have</p> <p>10 got that.</p> <p>11 A That aligns with my understanding.</p> <p>12 MS. HAMILL Q: And how much did they pay for</p> <p>13 it?</p> <p>14 A I think -- I mean, I think I know the answer.</p> <p>15 \$108,000.</p> <p>16 Q Did anyone else pay you for the map?</p> <p>17 A The identifying the structure of the payments</p> <p>18 for the map was only the DCCC, only the DCCC paid me for</p> <p>19 the map.</p> <p>20 MS. HAMILL: I am going to mark as Exhibit 5 a</p> <p>21 document entitled Political Consulting Agreement, begins</p> <p>22 at the bottom with a Bates stamp of DCCC 000183 and goes</p> <p>23 through DCCC 000192.</p> <p>24 (Whereupon Plaintiff's Exhibit 5</p> <p>25 was marked for identification.)</p>

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<p style="text-align: right;">Page 54</p> <p>1 MR. WOODS: This is five?</p> <p>2 MR. MEUSER: This is five.</p> <p>3 MS. HAMILL: Have you seen this document</p> <p>4 before.</p> <p>5 A Yes.</p> <p>6 Q And what is this document?</p> <p>7 A This is a contract for services and to clarify</p> <p>8 my earlier statement, my understanding of clarification</p> <p>9 DCCC paid me for the map, that was the way that they</p> <p>10 chose to clarify it. I believe the other parties to</p> <p>11 this were paying for my services, my consulting</p> <p>12 services, so I don't know how they, you asked me how</p> <p>13 they characterized it so that's how I've seen it, DCCC</p> <p>14 has characterized it as they were paying me for the map</p> <p>15 and I don't know how the other groups would characterize</p> <p>16 the agreement.</p> <p>17 Q And those other groups are the house majority</p> <p>18 pack?</p> <p>19 A And Jeffries for Congress.</p> <p>20 Q Jeffries for Congress. So those two entities</p> <p>21 did not pay you for the map?</p> <p>22 MR. MANOLIUS: Objection, calls for speculation</p> <p>23 as to what they were thinking but you can give your</p> <p>24 understanding.</p> <p>25 A The only entity that is claimed they paid for</p>	<p style="text-align: right;">Page 56</p> <p>1 A What date was that on?</p> <p>2 MR. MANOLIUS: For the instruction</p> <p>3 MS. HAMILL: I am looking at the first</p> <p>4 paragraph of the agreement.</p> <p>5 A Okay. Okay. Then yes, it does say July 15th.</p> <p>6 Q Do you recall doing work have under this</p> <p>7 contract prior to July 15th?</p> <p>8 A No.</p> <p>9 Q Do you know if anyone else submitted maps to</p> <p>10 the legislative portal that was opened on August 14th by</p> <p>11 the State Legislature?</p> <p>12 A I don't have any personal knowledge of, if</p> <p>13 that happened.</p> <p>14 Q Are you aware?</p> <p>15 A I know comments were submitted. I don't know</p> <p>16 that other maps were submitted.</p> <p>17 Q Is it your understanding that the Legislature</p> <p>18 was going to implement your map regardless of whether</p> <p>19 other maps were submitted?</p> <p>20 MR. MANOLIUS: Objection, calls for</p> <p>21 speculation, lacks foundation. You can answer.</p> <p>22 MR. WOODS: Same objection.</p> <p>23 THE WITNESS: I didn't have a written</p> <p>24 agreement from them but I expected that to be the case,</p> <p>25 yeah.</p>
<p style="text-align: right;">Page 55</p> <p>1 the map was the DCCC I had a contract for.</p> <p>2 MS. HAMILL: What was.</p> <p>3 A Services with three different groups included</p> <p>4 on this.</p> <p>5 Q And what was your understanding of your</p> <p>6 obligation under this agreement because I notice it's</p> <p>7 lacking a scope of work?</p> <p>8 MR. MANOLIUS: Objection, calls for a legal</p> <p>9 conclusion. But you can give your understanding.</p> <p>10 A My understanding of the scope of work was in</p> <p>11 two parts. It was early creation of potential maps and</p> <p>12 then a more fulsome creation of a final map.</p> <p>13 Q And how was that scope of work relaid to you?</p> <p>14 MR. MANOLIUS: Objection, lacks foundation,</p> <p>15 calls for speculation. If you know.</p> <p>16 THE WITNESS: Through staff.</p> <p>17 MS. HAMILL: Through telephone calls.</p> <p>18 A Yeah, or -- yeah, probably.</p> <p>19 Q Is it in writing anywhere?</p> <p>20 A I don't think so.</p> <p>21 Q And so this political consultant agreement or</p> <p>22 consulting agreement says that it's entered into</p> <p>23 effective as of July 15th, 2025, so that's 13 days after</p> <p>24 that initial July 2nd conversation you said you had with</p> <p>25 the chief of staff to speaker Rivas; correct?</p>	<p style="text-align: right;">Page 57</p> <p>1 MS. HAMILL Q: Are you aware of the</p> <p>2 Legislature considering any other maps from any other</p> <p>3 people.</p> <p>4 MR. MANOLIUS: Objection, lacks foundation,</p> <p>5 calls for speculation. You can answer, if you know.</p> <p>6 MR. WOODS: Join.</p> <p>7 THE WITNESS: I'm aware that other people</p> <p>8 were -- I'm aware that legislators were looking at other</p> <p>9 maps, whether they were maps on Twitter, maps that other</p> <p>10 people were sending to them, but I wasn't apart of any</p> <p>11 of those discussions.</p> <p>12 Q Are you aware of any groups submitting maps</p> <p>13 like advocacy groups submitting maps to the Legislature?</p> <p>14 A I'm not aware of that.</p> <p>15 Q Do you know if the map that was submitted to</p> <p>16 the portal on August 14th is the same map that went onto</p> <p>17 Proposition 50?</p> <p>18 A 50? You keep saying 14th on accident, you</p> <p>19 mean 15th.</p> <p>20 Q Was it not submitted to the portal on the</p> <p>21 14th?</p> <p>22 A Oh, I think you want to check that.</p> <p>23 Q You're right. Thank you Mr. Mitchell?</p> <p>24 A That's all right.</p> <p>25 Q August 15th.</p>

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<p style="text-align: right;">Page 58</p> <p>1 MR. MANOLIUS: So what's the question again?</p> <p>2 I lost it.</p> <p>3 MS. HAMILL Q: I'll rephrase it. Do you know</p> <p>4 if the map that was submitted on August 15th is the same</p> <p>5 map that went to the voters with Proposition 50? Were</p> <p>6 there any changes made between that map.</p> <p>7 A There were changes made.</p> <p>8 MR. MANOLIUS: Wait, wait, wait. Objection.</p> <p>9 A Calls for speculation, lacks foundation and to</p> <p>10 the extent changes were made in the legislative process</p> <p>11 I'd instruct you not to answer under legislative</p> <p>12 privilege.</p> <p>13 MS. HAMILL Q: If changes were made to the map</p> <p>14 that was submitted on August 15th, wouldn't those have</p> <p>15 been made in a public session.</p> <p>16 MR. MANOLIUS: Objection, calls for</p> <p>17 speculation, lacks foundation. If you know.</p> <p>18 THE WITNESS: There were media reports that a</p> <p>19 map, that the map was changed so I had have to go into</p> <p>20 the legislative process but there were media reports</p> <p>21 there were very minute changes to the map, technical</p> <p>22 changes made to the map before it was put on the ballot.</p> <p>23 Q Do you know what those technical changes were?</p> <p>24 MR. MANOLIUS: Objection, lacks foundation,</p> <p>25 calls for speculation and calls for information that is</p>	<p style="text-align: right;">Page 60</p> <p>1 Paul Mitchell which is being taken at Hansen Bridgett</p> <p>2 LLP 500 Capitol Mall, Suite 1500, Sacramento,</p> <p>3 California. The videographer is Nicholas Coulter on</p> <p>4 behalf of Array Legal Services. The time is, yes, 11:22</p> <p>5 a.m.</p> <p>6 MS. HAMILL Q: All right. I am marking as</p> <p>7 Exhibit 6 a section of the production from the DCCC the</p> <p>8 documents are numbered at the bottom Bates number DCCC</p> <p>9 00005, through DCCC 00009.</p> <p>10 (Whereupon Plaintiff's Exhibit 6</p> <p>11 was marked for identification.)</p> <p>12 A Do you need this one back?</p> <p>13 Q Yeah. Can you take just a minute or two to</p> <p>14 familiarize yourself with this document, please?</p> <p>15 MR. MANOLIUS: Do you have another one.</p> <p>16 MR. MEUSTER: Here, I'll give you this one.</p> <p>17 MR. MANOLIUS: That's okay.</p> <p>18 MR. MEUSER: I have one in here so I'm not</p> <p>19 worried yet.</p> <p>20 THE WITNESS: Okay. That was confusing, I</p> <p>21 thought it was going in the opposite order because it</p> <p>22 was going --</p> <p>23 MS. HAMILL Q: Have you seen the document, on</p> <p>24 the first page, which is marked in the Bates number</p> <p>25 ending in five, have you seen this document before?</p>
<p style="text-align: right;">Page 59</p> <p>1 protected under the legislative privilege.</p> <p>2 A Are you telling me not to answer?</p> <p>3 MR. MANOLIUS: Yes, sorry.</p> <p>4 MS. HAMILL: What did you read about what</p> <p>5 those technical changes were?</p> <p>6 MR. MANOLIUS: You mean public press accounts.</p> <p>7 MS. HAMILL: Yes.</p> <p>8 MR. MANOLIUS: Compound question, calls for</p> <p>9 speculation and lacks foundation but you can answer what</p> <p>10 you saw in the media.</p> <p>11 A In the media generally I don't recall if it</p> <p>12 was in a news article or if it was just something that</p> <p>13 was said on Twitter or something like that, a single</p> <p>14 census block in city of Commerce and then adjustment of</p> <p>15 the boundary in Santa Ana that was, you know, several</p> <p>16 census blocks, minuscule technical changes. At some</p> <p>17 point I want to take a break if I can, just because.</p> <p>18 Q Do you want to take a break right now?</p> <p>19 A Yeah, that would be great.</p> <p>20 THE VIDEOGRAPHER: The time is 11:09 a.m. We</p> <p>21 are going off the record.</p> <p>22 (Whereupon a recess was taken.)</p> <p>23 THE VIDEOGRAPHER: All right. We are back on</p> <p>24 the record. The time is 11:22 a.m. and this marks the</p> <p>25 beginning of videotape number two in the deposition of</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. MANOLIUS: Objection. So is this naturally</p> <p>2 occurring in this --</p> <p>3 A No.</p> <p>4 MR. MANOLIUS: -- packet. This is a question</p> <p>5 for counsel, because I see a cover letter, but then</p> <p>6 there's other things on the back. Are -- is this a</p> <p>7 packet of information or is it just a number of things</p> <p>8 stuck together?</p> <p>9 MS. HAMILL Q: Do you recognize this set of</p> <p>10 documents as an e-mail chain between you and the DCCC</p> <p>11 including a .pdf of the DCCC cover letter that went to</p> <p>12 the State Legislature?</p> <p>13 MR. MANOLIUS: Same objection. It's very hard</p> <p>14 for me to advise and object when I'm not sure if these</p> <p>15 all go together at once or not so if you can make that</p> <p>16 representation it would be helpful. You can answer if</p> <p>17 you understand.</p> <p>18 A Are you saying that this I con here that says</p> <p>19 c A maps submission letters on the cover that this is</p> <p>20 all of the e-mails.</p> <p>21 MS. HAMILL: I would like to avoid testifying</p> <p>22 since I am not under oath here but these are not our</p> <p>23 documents these were produced to us, so I'm wondering if</p> <p>24 you recall this communication what in you're exchanging</p> <p>25 e-mails with the DCCC.</p>



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<p>1 A I recall the communication of these e-mails</p> <p>2 that are behind the letter that they sent to the</p> <p>3 legislature.</p> <p>4 Q And do you recognize this letter that's the</p> <p>5 first page of this set of documents?</p> <p>6 A Yes.</p> <p>7 Q Marked ending in the number five?</p> <p>8 A Yes.</p> <p>9 Q You've seen this letter before?</p> <p>10 A Yes.</p> <p>11 Q And --</p> <p>12 MR. WOODS: Mr. Mitchell if you could wait</p> <p>13 until she finishes her question --</p> <p>14 A Sorry. Thank you.</p> <p>15 MS. HAMILL Q: And what is your understanding</p> <p>16 of this letter that's in the front.</p> <p>17 MR. MANOLIUS: Objection, irrelevant. You can</p> <p>18 answer if you you have an understanding.</p> <p>19 A This is a letter that would be attached to the</p> <p>20 draft maps and sent into the portal as a zipped file of</p> <p>21 some kind.</p> <p>22 MS. HAMILL: Okay. And so it's your</p> <p>23 understanding that this was a letter that the DCCC</p> <p>24 submitted with the maps that you drew into the</p> <p>25 legislative portal on August 15th.</p>	<p>1 of the page ends in the number 6.</p> <p>2 A Uh-huh.</p> <p>3 Q We start on August 15th at 5:42 p.m. Julie</p> <p>4 Merz is saying Paul here is final lawyer approved</p> <p>5 language for the cover letter, will send an updated</p> <p>6 version on DCCC letterhead in a few minutes. Do you</p> <p>7 recall receiving that e-mail?</p> <p>8 A Yes, and I'd like to clarify that's Eastern</p> <p>9 Standard Time.</p> <p>10 Q Okay. And then you respond at 5:56 Eastern</p> <p>11 Standard Time you say thank you, at this point I will</p> <p>12 take it. Thank you. Paul. Were you sort of</p> <p>13 exasperated at that point?</p> <p>14 MR. MANOLIUS: Objection, relevance. Lacks</p> <p>15 foundation. Calls for speculation. You can answer.</p> <p>16 THE WITNESS: I characterize that as being at</p> <p>17 the end of a very long process.</p> <p>18 MS. HAMILL: Were you unhappy with the letter</p> <p>19 that the DCCC submitted to the Legislature.</p> <p>20 MR. MANOLIUS: Objection, relevance.</p> <p>21 A No.</p> <p>22 MR. MANOLIUS: Lacks foundation, calls for</p> <p>23 speculation, you can answer.</p> <p>24 A No, I just was tired.</p> <p>25 MS. HAMILL: So turning to the third page of</p>
Page 63	Page 65
<p>1 MR. MANOLIUS: Objection, lacks foundation.</p> <p>2 Calls for speculation and to the extent you're asking</p> <p>3 for what's transmitted to the Legislature that's covered</p> <p>4 by legislative immunity, legislative privilege and don't</p> <p>5 answer that portion of the question.</p> <p>6 MS. HAMILL: Isn't the legislative portal</p> <p>7 public?</p> <p>8 A Are you asking me that question? Yes, yes, it</p> <p>9 is.</p> <p>10 Q Yes, it is public. Are you still going to</p> <p>11 stand on the privilege?</p> <p>12 MR. MANOLIUS: Again, I just -- what's</p> <p>13 submitted, yes, I'll stand on the privilege. The fact</p> <p>14 that it was submitted is fine for him to answer, that's</p> <p>15 the distinction I was drawing upon.</p> <p>16 THE WITNESS: Yes.</p> <p>17 MS. HAMILL Q: Okay. So let's go through</p> <p>18 these e-mails, and it is an odd e-mails chain that goes.</p> <p>19 A The inverse way I thought it was.</p> <p>20 Q Correct.</p> <p>21 MR. MANOLIUS: Yes.</p> <p>22 A Sorry.</p> <p>23 MS. HAMILL Q: Again, these are not mine. I</p> <p>24 did not produce these. So it looks like we start, I'm</p> <p>25 looking at the second page of this Exhibit 6, the bottom</p>	<p>1 this exhibit the bottom of the page end in the number</p> <p>2 seven, about a little more than halfway down the page</p> <p>3 there's an August 15th e-mail at 5:56 p.m. from Julie</p> <p>4 Merz to you and she said and attached is the .pdf</p> <p>5 version on letterhead with metadata stripped. Please</p> <p>6 attach this version to your zip file with all the goods.</p> <p>7 Send it back to us and we can then give you back your</p> <p>8 freedom. What was she referring to.</p> <p>9 MR. MANOLIUS: Objection, calls for</p> <p>10 speculation, lacks foundation. You can answer.</p> <p>11 MR. WOODS: Join.</p> <p>12 THE WITNESS: There's two things there that</p> <p>13 you're asking. Are you asking about what metadata</p> <p>14 stripped is referring to or what freedom is referring</p> <p>15 to.</p> <p>16 Q Yes. Let's start with metadata stripped?</p> <p>17 A That means that they were taking off the .pdf,</p> <p>18 the properties to show like what computer it was created</p> <p>19 on, who created it, so that would have been their choice</p> <p>20 to do that when they produced the document.</p> <p>21 Q The cover letter?</p> <p>22 A Uh-huh.</p> <p>23 Q And then what did does she mean by give you</p> <p>24 back your freedom?</p> <p>25 MR. MANOLIUS: Same objections.</p>



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<p style="text-align: right;">Page 66</p> <p>1 A Just that it had been a long process.</p> <p>2 <b>Q How long was the process?</b></p> <p>3 A It was, you know, roughly a month, but most</p> <p>4 condensed into the last two weeks.</p> <p>5 <b>Q How many hours did you put into the process?</b></p> <p>6 MR. MANOLIUS: You can answer. I mean vague</p> <p>7 as to time as to when but if you're talking about the</p> <p>8 last two weeks or if you're talking about the whole</p> <p>9 process.</p> <p>10 A Last two weeks was probably 15, 16 hours a</p> <p>11 day.</p> <p>12 MS. HAMILL: Do you have an estimate of total</p> <p>13 hours that you put into this project and when I say this</p> <p>14 project I am referring to what became the Prop 50 map.</p> <p>15 MR. MANOLIUS: Say from July 2nd onward. I'll</p> <p>16 object as to vague.</p> <p>17 THE WITNESS: I don't, I don't recall.</p> <p>18 MS. HAMILL Q: 200 hours?</p> <p>19 MR. MANOLIUS: Same objection. Calls for</p> <p>20 speculation.</p> <p>21 A I would have to sit down with a piece of paper</p> <p>22 and physician out what 200 hours is and how much time</p> <p>23 that is per day, so I don't know.</p> <p>24 MS. HAMILL: Okay. But it was your full-time</p> <p>25 job from July 2nd through August 15th.</p>	<p style="text-align: right;">Page 68</p> <p>1 MR. MANOLIUS: Objection, calls for</p> <p>2 speculation, vague as to time, lacks foundation, you can</p> <p>3 answer.</p> <p>4 MR. WOODS: Join.</p> <p>5 THE WITNESS: I don't recall.</p> <p>6 MS. HAMILL Q: Did the DCCC give you talking</p> <p>7 points for the prop a 50 map.</p> <p>8 MR. MANOLIUS: Objection, vague as to time.</p> <p>9 THE WITNESS: I don't recall if it was</p> <p>10 something that I created or they created or they took my</p> <p>11 things and modified them to be their things. I don't</p> <p>12 recall.</p> <p>13 MS. HAMILL Q: Turning to the next page of</p> <p>14 this exhibit, the bottom of the document ends in the</p> <p>15 number 8. The second line says these maps became public</p> <p>16 and now we need to be able to say these are submitted to</p> <p>17 the Legislature. What did you mean by that?</p> <p>18 MR. MANOLIUS: Objection. Calls for</p> <p>19 speculation, vague.</p> <p>20 THE WITNESS: And this might speak to my tone</p> <p>21 in the earlier message, people were tweeting the maps,</p> <p>22 so the maps had become, the maps had been put online,</p> <p>23 reporters had the maps, so it was at that point let's</p> <p>24 hurry up and get these submitted.</p> <p>25 <b>Q How did the maps become public?</b></p>
<p style="text-align: right;">Page 67</p> <p>1 A No.</p> <p>2 <b>Q What else were you doing then?</b></p> <p>3 A I work for a Political Data. I'm the</p> <p>4 vice-president.</p> <p>5 <b>Q Were you working full time at PDI during this</b></p> <p>6 <b>time?</b></p> <p>7 A I was technically for the last two weeks I was</p> <p>8 on a vacation, because I had planned a vacation as</p> <p>9 people all know famously.</p> <p>10 <b>Q But before that vacation time were you going</b></p> <p>11 <b>into an office for PDI?</b></p> <p>12 A I work from home.</p> <p>13 <b>Q Okay. Were you working full time for PDI from</b></p> <p>14 <b>home during this period of time?</b></p> <p>15 A I'm a full-time employee but it's not like I</p> <p>16 clock hours so if there are other projects I'm working</p> <p>17 on it is understood by the company that I'm working on</p> <p>18 other projects.</p> <p>19 <b>Q Going back to this e-mail and we're on the</b></p> <p>20 <b>page that ends in number seven, the second full</b></p> <p>21 <b>paragraph of the 5:56 p.m. e-mail says the talking</b></p> <p>22 <b>points will be more expansive and incorporate more of</b></p> <p>23 <b>your helpful context. Do you know if she is referring</b></p> <p>24 <b>to talking points in the DCCC letter or is she talking</b></p> <p>25 <b>to other talking points?</b></p>	<p style="text-align: right;">Page 69</p> <p>1 MR. MANOLIUS: Objection, calls for</p> <p>2 speculation.</p> <p>3 MR. WOODS: Join.</p> <p>4 MS. HAMILL: Did you --</p> <p>5 A Reporters have their ways of getting maps and</p> <p>6 I have been dealing with reporters for the last several</p> <p>7 days who would call me and say oh, I have a copy of the</p> <p>8 map. (Witness shrugging shoulders.)</p> <p>9 MS. HAMILL Q: Are you aware of anyone from</p> <p>10 your staff leaking the maps to reporters.</p> <p>11 MR. MANOLIUS: Objection, lacks foundation,</p> <p>12 calls for speculation, you can answer.</p> <p>13 THE WITNESS: No. There was no, none of our</p> <p>14 staff woke up saying we're going to, you know, I'll give</p> <p>15 you an example if that helps.</p> <p>16 <b>Q Nodding head.</b></p> <p>17 A Some, there were points in time where on a</p> <p>18 Zoom map would be shown and then someone would be</p> <p>19 creative and read the URL at the top of the web browser</p> <p>20 and if they typed that into the top of the web browser,</p> <p>21 all of a sudden they have a copy of the map and then</p> <p>22 every reporter will get it, but that was only in like</p> <p>23 the last 12 hours.</p> <p>24 <b>Q So if somebody had a copy of the URL that was</b></p> <p>25 <b>used for the map drawing they could put it into their</b></p>

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<p>1 own computer and view it on their own computer?</p> <p>2 MR. MANOLIUS: Objection, lacks foundation,</p> <p>3 calls for speculation, you can answer.</p> <p>4 A The wet map version of the maps, not working,</p> <p>5 that's wet map versions, like a Google map, off of the</p> <p>6 map.</p> <p>7 Q Interesting.</p> <p>8 A So at that point, meaning that they become</p> <p>9 public, it means that like Politico had posted a tweet</p> <p>10 that we think these are the congressional maps. That's</p> <p>11 in public record. You can pull it up.</p> <p>12 Q And so the next e-mail in this same change</p> <p>13 Friday August 15th at 6:02 p.m. Julie Merz says to you,</p> <p>14 DCCC would prefer to hit send, so please just send to us</p> <p>15 in a zip file and we will submit. Why couldn't you just</p> <p>16 submit the map directly?</p> <p>17 MR. MANOLIUS: Objection. Calls for</p> <p>18 speculation, lacks foundation, relevance. Go ahead.</p> <p>19 A They wanted to be the one to submit the map.</p> <p>20 That was their decision, not mine.</p> <p>21 Q Do you have an understanding of why?</p> <p>22 MR. MANOLIUS: Same objections.</p> <p>23 A I do not have an understanding as to why.</p> <p>24 MS. HAMILL Q: So ultimately is it your</p> <p>25 understanding that the DCCC submitted to the Legislature</p>	<p>1 correct?</p> <p>2 A Yes.</p> <p>3 MR. MANOLIUS: Objection, calls for</p> <p>4 speculation. Give me a minute. Lacks foundation. Go</p> <p>5 ahead.</p> <p>6 THE WITNESS: Yes.</p> <p>7 MS. HAMILL Q: And is your e-mail, that's</p> <p>8 shown on the first page of this exhibit August 15th,</p> <p>9 11:33 a.m., is your e-mail to the DCCC, is this what you</p> <p>10 wanted the DCCC to say in their letter that went along</p> <p>11 with the submission of the Prop 50 map.</p> <p>12 A I'd like to amend my prior comment about the</p> <p>13 word term talking points. That's not something I</p> <p>14 normally use but this is the subject line of this e-mail</p> <p>15 is talking points, so in the prior comment I made about</p> <p>16 letter August 15th e-mail and you asked me if I -- asked</p> <p>17 me about talking points then I presume this is what they</p> <p>18 were referring to so I don't want it to be, talking</p> <p>19 points isn't normally how I phrase things, so -- I</p> <p>20 didn't know that I called this talking points, but this,</p> <p>21 go on, ask the question again, I am sorry.</p> <p>22 Q Do you have my question to read back?</p> <p>23 (Whereupon the record was read as</p> <p>24 follows: "Question: ")</p> <p>25 MR. MANOLIUS: Objection. Lacks foundation</p>
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<p>1 on August 15th, the map that you drew.</p> <p>2 MR. MANOLIUS: Objection. Calls for</p> <p>3 speculation, lacks foundation, and as to the specifics</p> <p>4 of the map I instruct you not to answer and I insert the</p> <p>5 legislative privilege.</p> <p>6 MS. HAMILL Q: Is it a full instruction.</p> <p>7 MR. MANOLIUS: Yes.</p> <p>8 MS. HAMILL: Don't answer it all.</p> <p>9 MR. MANOLIUS: Yeah. Thanks. Sorry about</p> <p>10 that.</p> <p>11 MS. HAMILL: Marking as Exhibit 7 another set</p> <p>12 of e-mails between you, Mr. Mitchell, and the DCCC.</p> <p>13 (Whereupon Plaintiff's Exhibit 7</p> <p>14 was marked for identification.)</p> <p>15 MS. HAMILL: And these also came from the DCCC</p> <p>16 production and they are Bates stamped.</p> <p>17 A Oh.</p> <p>18 Q As DCCC 000043 to DCCC 000045.</p> <p>19 A (Reading.) Okay.</p> <p>20 Q Do you remember having this exchange with</p> <p>21 DCCC?</p> <p>22 A Yes, I recall.</p> <p>23 Q And so this appears to be an e-mail exchange</p> <p>24 earlier the same day, August 15th, before the</p> <p>25 communications that we just went over in Exhibit 6;</p>	<p>1 calls for speculation and to the extent this talks about</p> <p>2 how maps were drawn, I instruct you not to answer under</p> <p>3 legislative privilege. So you can again acknowledge</p> <p>4 that this e-mail occurred. But I will instruct you not</p> <p>5 to answer beyond that.</p> <p>6 A So without getting into how maps are drawn, I</p> <p>7 would say that I was not trying to tell them how to draw</p> <p>8 that, write their letter, I was trying to provide things</p> <p>9 that I thought were good messaging points for their</p> <p>10 letter.</p> <p>11 Q And can you tell me what the FAIR MAPS Act is</p> <p>12 that you were referring to on the first page of this</p> <p>13 exhibit?</p> <p>14 MR. MANOLIUS: What it is? You can answer</p> <p>15 that.</p> <p>16 THE WITNESS: So the FAIR MAPS Act is a State</p> <p>17 law that actually applies to municipal like</p> <p>18 supervisorial, city, county, school board, other</p> <p>19 redistricting here in the State. It is a parallel to</p> <p>20 the State commissions criteria, and it's the type of</p> <p>21 criteria we use in all of our municipal redistricting s,</p> <p>22 and so it is a you know absent, it is a good framework</p> <p>23 for redistricting even in other states, I might try to</p> <p>24 apply a lot of the framework as kind of best practices.</p> <p>25 Thinks of it as a best practices in the State law.</p>

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<p>1 Q Okay. And do you know what that criteria is?</p> <p>2 MR. MANOLIUS: Objection, calls for a legal</p> <p>3 conclusion. You can answer your understanding.</p> <p>4 THE WITNESS: I do know what the criteria is</p> <p>5 but I wouldn't want to have to do it like a test like</p> <p>6 line them all outright now but I do know what those</p> <p>7 criteria are generally.</p> <p>8 Q To the best of your recollection at this</p> <p>9 moment can you share with me as much of the criteria as</p> <p>10 you can remember?</p> <p>11 A Well, it's criteria such as, you know,</p> <p>12 preserving communities of interest, following city and</p> <p>13 county boundaries, you know when we do city council</p> <p>14 redistricting we follow neighborhood boundaries, and</p> <p>15 following essentially the same criteria as the State</p> <p>16 redistricting commission obviously those criteria also</p> <p>17 include things like partisanship and incumbency those we</p> <p>18 were allowing ourself to look at when we're drawing</p> <p>19 lines but other than that, kind of the best practices.</p> <p>20 Q Is race one of the criteria?</p> <p>21 A Complying with the Voting Rights Act I believe</p> <p>22 might be one of the criteria s like number two on the</p> <p>23 criteria after equal population.</p> <p>24 Q And how, what's your understanding of how the</p> <p>25 Voting Rights Act inter relates to race?</p>	<p>1 at native Alaskan populations and I think there could be</p> <p>2 arguments for other populations such such as Armenians</p> <p>3 or Caldians or something, but I haven't seen that</p> <p>4 utilized so primarily in California, Black, Asian and</p> <p>5 Latino.</p> <p>6 Q Okay. And when you were drawing the Prop 50</p> <p>7 map you used criteria from the FAIR MAPS Act; correct?</p> <p>8 MR. MANOLIUS: Objection. Calls for</p> <p>9 information that's protected under the legislative</p> <p>10 privilege. I instruct you not to answer.</p> <p>11 MS. HAMILL Q: And when you were drawing the</p> <p>12 Prop 50 map you drew the districts to protect the voting</p> <p>13 power of protected classes in California; correct.</p> <p>14 MR. MANOLIUS: Same objection, and I instruct</p> <p>15 you not to answer.</p> <p>16 MS. HAMILL: And when I say protected classes</p> <p>17 in California, I mean the racial groups that you just</p> <p>18 identified, Black, Asian and Latino.</p> <p>19 MR. MANOLIUS: Same objection, I instruct you</p> <p>20 not to answer. Calls for information that's protected</p> <p>21 by the legislative privilege.</p> <p>22 MS. HAMILL Q: Did the D.C. c can tell you why</p> <p>23 they didn't use your language regarding the FAIR MAPS</p> <p>24 Act in their submission letter to the Legislature.</p> <p>25 MR. MANOLIUS: Objection, lacks foundation,</p>
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<p>1 MR. MANOLIUS: Objection, calls for a legal</p> <p>2 conclusion, lacks foundation. I have said it. I'll</p> <p>3 instruct you not to answer.</p> <p>4 Q You're instructing not to answer on a legal</p> <p>5 conclusion?</p> <p>6 MR. MANOLIUS: Yep.</p> <p>7 MS. HAMILL: I am not asking for a legal</p> <p>8 conclusion, I'm asking for your understanding and how</p> <p>9 you use it in your work so when I said race, you said</p> <p>10 Voting Rights Act and I'm wondering in your mind how</p> <p>11 those two relate.</p> <p>12 MR. MANOLIUS: In his work generally?</p> <p>13 MS. HAMILL: In your work generally.</p> <p>14 A So the Voting Rights Act is designed to ensure</p> <p>15 that voting power of protected classes aren't diluted by</p> <p>16 the redistricting maps, generally. That's kind of a</p> <p>17 layperson terminology.</p> <p>18 MS. HAMILL Q: And can you identify the</p> <p>19 protected classes in California.</p> <p>20 MR. WOODS: Objection, calls for a legal</p> <p>21 conclusion. You can answer.</p> <p>22 MR. MANOLIUS: I'll join that.</p> <p>23 A Predominantly in California you'll see</p> <p>24 redistrict goes looking at black Latino populations.</p> <p>25 However, we did redistricting in Alaska, we were looking</p>	<p>1 calls for speculation, you can answer.</p> <p>2 THE WITNESS: No, they didn't describe why,</p> <p>3 they didn't use my language essentially saying that</p> <p>4 these were consistent with the commission criteria and</p> <p>5 the FAIR MAPS Act.</p> <p>6 Q Did the DCCC lawyers express to you any</p> <p>7 concerns about lawsuits along racial lines regarding the</p> <p>8 Prop 50 map?</p> <p>9 MR. MANOLIUS: Objection. Vague as to time.</p> <p>10 Vague as to some of the terminology, but you can report</p> <p>11 that.</p> <p>12 A No.</p> <p>13 MS. HAMILL Q: You mentioned communities of</p> <p>14 interest. How, what are the communities of interest in</p> <p>15 California.</p> <p>16 MR. MANOLIUS: Objection, overbroad, vague and</p> <p>17 again depending on where in the State.</p> <p>18 A To answer that week be.</p> <p>19 MR. MANOLIUS: And also with regard to, I am</p> <p>20 sorry objection and also with regard to his general</p> <p>21 redistricting work. Is that the question?</p> <p>22 MS. HAMILL: Yes.</p> <p>23 MR. MANOLIUS: Yes.</p> <p>24 THE WITNESS: It could -- we could be here</p> <p>25 forever identifying communities of interest, because a</p>

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<p style="text-align: right;">Page 78</p> <p>1 community of interest is a socioeconomic group or other 2 group. The way that I explain it when I do 3 redistricting is that it should generally have three 4 things, it should be something you can identify like a 5 skateboarders, they're a group, it should be something 6 that you can map, skateboarders all live on this part of 7 town and then it should be something that has a concern 8 with the agency being redistricted, the city council is 9 going to get rid of the skate park so the skateboarders 10 are now a community of interest that should be 11 considered. There are other types of communities of 12 interest. A neighborhood is a community of interest. 13 People say I live in boulevard park that's a community 14 of interest. People who go to the senior senior could 15 be a community of interest, young people, old people, 16 LGBTQ community has been a community of interest and 17 that's been one that California considers in a lot of 18 municipal redistricting, and I've used in redistricting 19 had elevation be a community of interest in a water 20 redistricting, because at certain elevations the water 21 district had different rates. 22 I have had almond trees and walnut trees be 23 communities of interest, because walnut trees use water 24 differently than almond trees in a water redistricting. 25 I've had agricultural areas and farms be</p>	<p style="text-align: right;">Page 80</p> <p>1 so it generally is the -- the identified group and their 2 interests in those three things, so they're a group that 3 can be identified a group that can be mapped and a group 4 that has concern before the agency. 5 Those are general ways that I describe it when 6 I do my municipal statewide redistricting, even in New 7 York, that's how we describe communities of interest. 8 <b>Q In what community of interest data did your</b> 9 <b>staff collect for the Prop 50 map?</b> 10 MR. MANOLIUS: Objection, calls for information 11 that is protected by the legislative privilege. I 12 instruct you not to answer. 13 MS. HAMILL Q: And how did they convert that 14 information into geographic formats. 15 MR. MANOLIUS: Same objection. I instruct you 16 not to answer. 17 MS. HAMILL Q: Were any racial communities of 18 interest used in drawing the Proposition 50 maps. 19 MR. MANOLIUS: Same objection. I instruct you 20 not to answer. 21 MS. HAMILL Q: Did you talk to the DCCC about 22 racial considerations you made in your map. 23 MR. MANOLIUS: Same objection. Instruct you 24 not to answer. 25 MS. HAMILL Q: Why didn't you participate in</p>
<p style="text-align: right;">Page 79</p> <p>1 communities of interest. I've had attendance rates, 2 school campuses. 3 There are a plethora of communities of 4 interest and oftentimes they are very subjective and the 5 communities of interest in the State redistricting in 6 the city council redistricting water redistricting they 7 can all be different even in the same footprint so that 8 skateboarding community of interest that impacted lines 9 in Sacramento might have really no interest in the SMUD 10 redistricting or the school board redistricting because 11 they're not really an active community of interest for 12 that agency. 13 <b>Q And people who shop at the same grocery store;</b> 14 <b>right?</b> 15 A Or, yeah, or use Insta-Cart. 16 <b>Q Can racial groups be communities of interest?</b> 17 MR. MANOLIUS: Objection, calls for 18 speculation, vague as to in what context. If you mean 19 in his general redistricting work you can answer the 20 question. 21 THE WITNESS: Generally, if there is a 22 community say with the Armenian grocery stores or there 23 is a community around a Black church, or there is an 24 area where they're concerned about having in language 25 services, then those become the communities of interest,</p>	<p style="text-align: right;">Page 81</p> <p>1 the public legislative hearings for Prop 50? 2 MR. MANOLIUS: Objection, lacks foundation. 3 Calls for speculation. Vague as to time. You can 4 answer. 5 THE WITNESS: 6 MR. WOODS: Join. 7 A I wasn't asked to. 8 MS. HAMILL Q: Is and did you speak to any 9 legislators about how you drew the maps before they 10 voted on what became Prop 50? 11 MR. MANOLIUS: Same objection, calls for 12 information that's protected by the legislative 13 privilege. I instruct you not to answer. 14 MS. HAMILL Q: Well, we identified some 15 staffers earlier that you did speak to about the maps; 16 correct. 17 MR. MANOLIUS: You identified the staffers who 18 were engaged during that time, yes, but the content of 19 those conversations protected by legislative privilege 20 and I am instructing him not to answer. 21 MS. HAMILL Q: I am not asking for the 22 content, I am asking did you speak to any of the 23 legislators on the map before they wrote ed on the map. 24 MR. MANOLIUS: I am sorry. 25 A In the prior question you asked about the</p>

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<p>1 drawing of the maps, so are you saying now just did I 2 talk to them at all before while they were considering 3 it? 4 MS. HAMILL Q: Did you talk to any legislators 5 between August 15th, and the vote on the Proposition 50 6 map. 7 MR. WOODS: Objection. 8 MR. MANOLIUS: Objection vague as to what. 9 MR. WOODS: Join. 10 A Yes. 11 MS. HAMILL Q: Who did you speak to? 12 MR. MANOLIUS: Yeah. 13 THE WITNESS: Um, are you saying as an 14 one-on-one basis who did I speak to? 15 MR. MANOLIUS: Maybe start with that. 16 MS. HAMILL: Why don't we start with 17 one-on-one. 18 A You -- it might be incomplete, so I apologize. 19 I'm just going to think of people that I talked to. 20 Par. 21 MR. MANOLIUS: Keep in mind the time period she 22 had asked about. 23 A It was August 15th through the passage; right. 24 MS. HAMILL: Uh-huh. 25 A Christopher Kamon, Sabrina Cervantes,</p>	<p>1 like, Rick Sabera we can add to the list, he is a 2 legislator and prior to presenting at one point I talked 3 to him prior to me talking, but I wasn't having 4 one-on-one conversations with the members in the group 5 settings. 6 MS. HAMILL Q: And did you talk to any 7 legislators about protecting racial groups with respect 8 to the Proposition 50 map? 9 MR. MANOLIUS: Objection, calls for 10 information that's protected under the legislative 11 privilege. I instruct you not to answer. 12 MS. HAMILL Q: Did any legislator express any 13 sentiment whatsoever about protecting the voting power 14 of any racial group to you with respect to the 15 Proposition 50 map? 16 MR. MANOLIUS: Same objection and I instruct 17 you not to answer, legislative privilege. 18 MS. HAMILL Q: Isn't it true that multiple 19 legislators expressed to you concerns about protecting 20 the voting power of certain racial groups in California 21 with respect to the Proposition 50 map. 22 MR. MANOLIUS: Objection, compound and also 23 calls for information that's protected by the 24 legislative privilege. 25 MS. HAMILL Q: At the time of the vote on the</p>
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<p>1 senators, both of those are senators. Really, if I had 2 like a list of all of the legislators in front of me I 3 might be able the do a better job of this. 4 Angela Gashby, I am just trying to travel 5 around the state in my head, um -- oh, if I had a 6 legislative list I could probably do a better job. 7 Q Can you give me a percentage of how many 8 members of the legislator you spoke with during that 9 time period? 10 A One-on-one, I would say ten. 11 Q 10-percent or ten individuals? 12 A Ten total, which is roughly 10-percent of the 13 legislature. 14 Q And did you also address them in group 15 settings? 16 MR. MANOLIUS: You can answer. 17 A Yes. 18 MS. HAMILL: And in group settings, how many 19 of them did you speak with at a time. 20 MR. MANOLIUS: Objection, compound. If there 21 was more than one meeting you might want to indicate 22 that. 23 THE WITNESS: I believe, to my best of my 24 recollection in group settings, they were speaking with 25 the group and if I was having one-on-one conversation,</p>	<p>1 map, and when we say map it wasn't really a map; right, 2 it was just the legal descriptions of what became the 3 map; is that right. 4 MR. MANOLIUS: Objection, calls for 5 speculation. 6 THE WITNESS: A census block equivalency is a 7 the equivalent of a map so I would still call it a map 8 even if it's not a picture of the map. 9 MS. HAMILL Q: And at the time and that was 10 AB604; correct. 11 A Yes. I believe there were multiple bills. 12 Q And at the time that the legislature voted on 13 AB604 were they presented with any alternative maps? 14 MR. MANOLIUS: Objection, calls for 15 speculation. You can answer, if you know. 16 THE WITNESS: I'm not aware. 17 MS. HAMILL Q: Did you redraw the map based on 18 any input from any legislators. 19 MR. MANOLIUS: Objection calls for information 20 that's protected by the legislative privilege. I 21 instruct you not to answer. 22 MS. HAMILL Q: I want to go back to Exhibit 6, 23 the DCCC cover letter. So the last couple of lines, 24 let's go with the third from the bottom of the first 25 paragraph, it says, "Republican majority states or</p>



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<p style="text-align: right;">Page 86</p> <p>1 republicans -- doing the bidding of their D.C. party 2 bosses -- are considering adopting a clearly racially 3 gerrymandered, partisan map at the expense of their 4 voters." 5 Is it possible to have a clearly racially 6 gerrymandered partisan map? 7 MR. MANOLIUS: Objection. Calls for 8 speculation, lacks foundation and vague as to time and 9 scope. 10 MR. WOODS: Join. Also, calls for a legal 11 conclusion. 12 MR. MANOLIUS: I'll join that one. 13 THE WITNESS: I don't know and I didn't write 14 this, so -- 15 MS. HAMILL Q: Are you familiar with the 16 concept of a racially gerrymandered partisan map? 17 MR. MANOLIUS: Again, vague as to the term and 18 calls for legal conclusion and calls for speculation. 19 You can answer. 20 MR. WOODS: Join. 21 THE WITNESS: To be clear, my work is in 22 municipal and not partisan redistricting. 23 I have never done a partisan redistricting 24 until now, but generally I think in most cases I've 25 heard of maps being a racial gerrymander or a partisan</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. WOODS: Join. Also, calls for a legal 2 conclusion. 3 THE WITNESS: So from my own experience prior 4 to ever working redistricting, prior to ever working in 5 the Legislature, a bill generally has -- remember how a 6 bill becomes a law, the song? 7 But a bill begins as a draft. It routes its 8 way through committees and some of those committees have 9 deadlines and so, oftentimes, when an urgent issue comes 10 up it's not timely to go back to beginning of the 11 process, it's more timely to take a bill that has gone 12 through some steps and then utilize that as the vehicle 13 is what they'll call that as their vehicle for a new 14 bill. 15 MS. HAMILL Q: So it's a quick way to get a 16 bill passed? 17 A I'm not -- 18 MR. MANOLIUS: Objection. Mischaracterizes 19 his testimony. You can answer the question. 20 THE WITNESS: I haven't worked in the 21 Legislature in almost 20 years so, but from a layperson 22 standpoint it is a more efficient way to move an issue 23 along if it's urgent. 24 MS. HAMILL Q: And was the Prop 50 map the 25 product of gut and amend?</p>
<p style="text-align: right;">Page 87</p> <p>1 gerrymander or another gerrymander or amenity 2 gerrymander, but I don't know that they can't be two 3 things at once. That's not my area of expertise. 4 MS. HAMILL Q: When I say "gut and amend," do 5 you have an understanding of what that means? 6 A My ears went up. Sorry. 7 MR. WOODS: Objection. Calls -- 8 MR. MANOLIUS: Objection, vague. Calls for 9 speculation. 10 MR. WOODS: It calls for a legal conclusion. 11 You can answer. 12 THE WITNESS: Of course. I worked in the 13 legislature so I know what a gut and amend is. 14 MS. HAMILL Q: Can you give us a basic 15 explanation from your understanding of what it is? 16 MR. MANOLIUS: Same objection. 17 THE WITNESS: A gut and amend is generally 18 where you take the contents out and you put new contents 19 in and it retains the same bill number, oftentimes the 20 same author, and then it moves forward in the process. 21 MS. HAMILL Q: Do you know why gut and amend 22 is used? 23 MR. MANOLIUS: Objection, calls for 24 speculation, overbroad, vague as to time, subject 25 matter. You can answer.</p>	<p style="text-align: right;">Page 89</p> <p>1 MR. MANOLIUS: Objection. Calls for a legal 2 conclusion, calls for speculation, lacks foundation, and 3 seeks information protected by the privilege, so I 4 instruct you not to answer. 5 MS. HAMILL Q: Based on your understanding of 6 the gut and amend, is Proposition 50 a gut and amend, 7 based on the public process, not on anything that you're 8 familiar with, in your own private capacity? 9 MR. MANOLIUS: Again, same objection. The way 10 you're characterizing it misstates and part of the 11 legislative process, so instruct you not to answer. 12 THE WITNESS: (Witness shrugging shoulders.) 13 MS. HAMILL Q: Okay. I just want to know if 14 you think it was a gut and amend. 15 MR. MANOLIUS: Same objection. 16 MS. HAMILL: Based on public processes? 17 MR. MANOLIUS: Don't answer. 18 MS. HAMILL Q: And there was a clerical error 19 that had to be corrected after the Legislature voted on 20 this map with respect to mislabeled districts; correct? 21 MR. WOODS: Objection, vague. 22 MR. MANOLIUS: Yeah. Same. 23 THE WITNESS: I'm not aware of that. And to 24 be clear, once it was in the Legislature I was paying a 25 lot less attention, but I've never heard that before</p>



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<p style="text-align: right;">Page 90</p> <p>1 until you stated it.</p> <p>2 MS. HAMILL: So you're unaware of any changes</p> <p>3 having to be made to the map after the vote in the</p> <p>4 Legislature?</p> <p>5 MR. MANOLIUS: Objection. Misstates his</p> <p>6 testimony, calls for speculation, vague as to time. You</p> <p>7 can answer.</p> <p>8 MR. WOODS: Join.</p> <p>9 THE WITNESS: No idea.</p> <p>10 MS. HAMILL Q: As a voter.</p> <p>11 A You're not speaking to the ballot guide?</p> <p>12 Q I am sorry?</p> <p>13 A The ballot guide had an error of printing that</p> <p>14 mislabeled a district but not, I am not aware of anything</p> <p>15 with the bill.</p> <p>16 Q The ballot guide had an error, so it wasn't</p> <p>17 the map itself?</p> <p>18 A I don't know what you're speaking to, but I'm</p> <p>19 potentially conflating an issue that happened after the</p> <p>20 ballot guide was mailed and a district was misnumbered</p> <p>21 on a map and they had to send out a supplement.</p> <p>22 Q Can you tell me more about that?</p> <p>23 A I am not, I don't work for the Secretary of</p> <p>24 State so I don't know, I was not a part of this.</p> <p>25 But voters were mailed a ballot guide and in</p>	<p style="text-align: right;">Page 92</p> <p>1 Act's districts in the Proposition 50 map?</p> <p>2 MR. MANOLIUS: Objection. Calls for</p> <p>3 information that's protected legislative privilege. I</p> <p>4 instruct you not to answer.</p> <p>5 MS. HAMILL Q: And when you're drawing maps</p> <p>6 generally, how do you know which district is a Voting</p> <p>7 Rights Act district?</p> <p>8 MR. MANOLIUS: Objection. Overbroad, vague,</p> <p>9 relevance, and vague as to the term voting rights</p> <p>10 district. You can answer your general understanding, as</p> <p>11 long as it's not part of the Prop 50 process.</p> <p>12 THE WITNESS: In other redistricting I don't</p> <p>13 generally call something a voting rights district.</p> <p>14 MS. HAMILL Q: You don't use that phrase.</p> <p>15 A Generally, I try not to use a term like voting</p> <p>16 acts right district, but I do generally want in my</p> <p>17 municipal redistricting or working with the State of New</p> <p>18 York in their redistricting or working in other states,</p> <p>19 I generally do want to be cognizant of VRA and I want to</p> <p>20 lean on legal counsel for interpretations of the VRA.</p> <p>21 Q And so, generally, when you're drawing</p> <p>22 districts and you are trying to protect the voting</p> <p>23 interests of protected classes, how do you identify</p> <p>24 which districts those are?</p> <p>25 MR. MANOLIUS: Objection. Overbroad, lacks</p>
<p style="text-align: right;">Page 91</p> <p>1 the ballot guide I think it's called a ballot guide,</p> <p>2 there were maps and on one of the maps I believe two</p> <p>3 districts were numbered 22 or two districts were</p> <p>4 numbered 27, and other maps in the ballot guide were</p> <p>5 properly numbered, but even though there was an error on</p> <p>6 one page they ended up mailing out a postcard to all</p> <p>7 voters saying this is the properly numbered statewide</p> <p>8 map.</p> <p>9 Q So they mailed a correction postcard to all</p> <p>10 registered voters in California?</p> <p>11 A (Witness nodding head.)</p> <p>12 MR. MANOLIUS: Objection. Calls for</p> <p>13 speculation, lacks foundation. You can answer, if you</p> <p>14 know.</p> <p>15 MR. WOODS: Same objection. Also, relevance.</p> <p>16 THE WITNESS: My understanding, that's my</p> <p>17 understanding.</p> <p>18 MS. HAMILL Q: Do you have any idea how much</p> <p>19 that cost?</p> <p>20 MR. WOODS: Same objection.</p> <p>21 MR. MANOLIUS: Call for speculation, lacks</p> <p>22 foundation. You can answer.</p> <p>23 THE WITNESS: I do not know.</p> <p>24 MS. HAMILL Q: Have any California legislators</p> <p>25 expressed interest to you in preserving Voting Rights</p>	<p style="text-align: right;">Page 93</p> <p>1 foundation, calls for speculation, and I instruct you</p> <p>2 not to answer as to the Prop 50 project, but you can</p> <p>3 answer to any other things you've done.</p> <p>4 MR. WOODS: Join.</p> <p>5 THE WITNESS: I think the question itself</p> <p>6 might be a little bit missing, because generally what</p> <p>7 happens, say use an example, I have done in a recent</p> <p>8 redistricting a member of the community comes forward</p> <p>9 with a draft map that has the district that's over</p> <p>10 50-percent of one racial group and then I'll generally</p> <p>11 work with attorneys to say is this something that should</p> <p>12 be given a priority because of the Voting Rights Act.</p> <p>13 But the way your question was worded</p> <p>14 insinuated that I go headstrong into a redistricting</p> <p>15 with that, there's with some kind of VRA idea prior to</p> <p>16 any maps being drawn.</p> <p>17 MS. HAMILL Q: What you just explained to me</p> <p>18 where you'll receive something from a group that shows</p> <p>19 you a map with over 50-percent of a particular racial</p> <p>20 group and then you talk to an attorney to see if that</p> <p>21 needs special attention. Did you do that with respect</p> <p>22 to Proposition 50?</p> <p>23 MR. MANOLIUS: Objection. Calls for</p> <p>24 information that's protected by the legislative</p> <p>25 privilege. I instruct you not to answer.</p>

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<p>1 MS. HAMILL Q: What attorneys do you generally 2 or which attorneys do you generally speak to to ask that 3 question? 4 MR. MANOLIUS: Objection, vague as to time, 5 project, state. You can answer. 6 THE WITNESS: Regarding other redistrictings. 7 MS. HAMILL Q: Yes. 8 A It depends if the agency has their own 9 internal legal counsel that's handling that or contract 10 legal counsel or, you know, State of New York had 11 assigned legal counsel and experts, and so it depends 12 based on the agency. 13 Q And when you say agency you mean the 14 government agency? 15 A Governmental agency, yeah. 16 Q And so you'll rely on the legal advice of the 17 governmental agency? 18 A Or their attorneys, contract attorneys. 19 Q Got it. Did you talk to Assembly Member Isaac 20 Bryan while drawing Proposition 50 maps? 21 A Oh, I did. Wait a minute. Hold on a second. 22 Let me revise that. 23 I don't recall. What was the timeframe you 24 asked about? 25 Q While drawing the Proposition 50 maps.</p>	<p>1 was taken at 12:11 p.m. 2 and the deposition was reconvened 3 at 1:04 p.m.) 4 THE VIDEOGRAPHER: We are back on the record. 5 The time s 1:04 p.m. and this marks the beginning of 6 videotape number three in the deposition of Paul 7 Mitchell, which is being taken at Hansen Bridgett, LLP, 8 500 Capitol Mall, Suite 1500, Sacramento, California. 9 The videographer is Nicholas Coulter here on behalf of 10 Array Legal Services. 11 MS. HAMILL Q: All right. I am marking as 12 Exhibit 8 the transcript of the Capitol Weekly Podcast 13 dated August 15th, 2025. 14 (Whereupon Plaintiff's Exhibit 8 15 was marked for identification.) 16 MS. HAMILL Q: And I'll give you a couple of 17 minutes to just sort of skim through this document. 18 A Am I -- 19 Q Have you seen this document before? 20 A This is the one that's attached in one of the 21 filings or something like that? 22 Q It's marked as Exhibit 10 for our preliminary 23 hearing. 24 MR. MEUSER: I believe only an excerpt of it 25 was attached. I don't think the entire document itself</p>
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<p>1 A No. 2 Q Did you speak to Mike McGuire while drawing 3 the Proposition 50 maps? 4 A No. 5 MR. MANOLIUS: And just so vague as to time, 6 you mean between July -- 7 THE WITNESS: Since drawn. 8 MR. MANOLIUS: -- July and August timeframe. 9 THE WITNESS: Yeah. So prior to this, the 10 submission of the map, which would be the drawing 11 period, no. 12 MS. HAMILL Q: Did you speak to Speaker Rivas 13 during that same period? 14 A No. 15 Q Did you speak to the staff members of any of 16 those three legislators during that period? 17 A Definitely to the pro tem and the speaker, but 18 not sure about Isaac Bryan's staff. 19 MS. HAMILL: Are you all hungry for lunch or 20 should we push this? 21 THE REPORTER: Off the record? 22 MR. MANOLIUS: Yeah. That would be great. 23 THE VIDEOGRAPHER: The time is 12:11 p.m. We 24 are going off the record. 25 (Whereupon the luncheon recess</p>	<p>1 was attached, so -- 2 THE WITNESS: Let me make sure I know which 3 ones is -- 4 THE REPORTER: When you talk, I must write it 5 down. 6 THE WITNESS: Okay. 7 MR. MEUSER: That exhibit number is exhibit 8 number of our joint exhibit list, so you're not pulling 9 it from a prior file. Oh, yeah. Okay. 10 MR. MANOLIUS: So your question was: Have you 11 seen this document before? 12 THE WITNESS: Have I seen this document 13 before? Then maybe not. 14 MS. HAMILL Q: Do you recall doing an 15 interview with Capitol Weekly Podcast on August 15th, 16 2025? 17 A I recall doing an interview with them. The 18 date it says on here, I don't -- just believe it, but I 19 don't recall what day it was. 20 Q And just flipping through the pages, do you 21 generally recollect having a conversation reflected in 22 this transcript? 23 MR. MANOLIUS: Objection, compound, overbroad. 24 You can answer. 25 THE WITNESS: Yes.</p>

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<p style="text-align: right;">Page 98</p> <p>1 MS. HAMILL Q: So at first this Proposition 50 2 operation was a bluff; correct? 3 MR. MANOLIUS: Objection. Calls for 4 information that's protected by the litigation 5 privilege. Don't answer the question. 6 MS. HAMILL Q: Did someone tell you to draw 7 maps or to talk about maps in a way that might scare 8 Texas out of redistricting? 9 MR. MANOLIUS: Same objections. Instruct you 10 not to answer the question. 11 MS. HAMILL Q: And who told you that? 12 A (Witness smiling.) 13 MR. MANOLIUS: Same objections. Instruct you 14 not to answer the question. 15 MS. HAMILL Q: Did anyone pay you to do that? 16 MR. MANOLIUS: Hold. Same objections. In 17 terms of the specificity of what was discussed and 18 implicates the legislative privilege. 19 MS. HAMILL Q: And then you had people 20 reaching out to you asking you to draw a 52 to zero map; 21 correct? 22 MR. MANOLIUS: Objection. Well, again, vague 23 as to time. Are we talking about during the process, 24 because if so it's protected by the legislative 25 privilege so I instruct you not to answer, if it was</p>	<p style="text-align: right;">Page 100</p> <p>1 MS. HAMILL Q: And what did you mean when you 2 said the VRA, on line ten? 3 A I meant the layperson's understanding of what 4 Texas was doing. 5 Q And so this section that I've asked you to 6 read sounds like you're talking about the democratic 7 eco-stream. 8 Is that what you mean by people on X and 9 Twitter? 10 A I think that's a typo. I think it was 11 ecosystem. 12 Q Oh, that makes more sense, the democratic 13 ecosystem and -- 14 A I may have misstated it but that's what I 15 meant. You know what I mean? This is consistent with 16 what I just said in prior questions, two questions ago. 17 Q So it wasn't like you had a specific request, 18 it was just people on Twitter, people generally were 19 yapping about a 52 to zero democratic advantage 20 congressional map; correct? 21 A It was chatter, yeah. 22 Q But no specific direction? 23 A No. 24 MR. MANOLIUS: Interpose a late objection as 25 to specific direction.</p>
<p style="text-align: right;">Page 99</p> <p>1 during the process we have described from July through 2 August. 3 MS. HAMILL Q: Has anyone ever asked you to 4 draw a 52 to zero Democrat advantage congressional map 5 for California? 6 MR. MANOLIUS: Again, if it's during the map 7 drawing process, I'd caution you to not answer the 8 question, but if it's outside of that process, you can 9 answer the question. 10 THE WITNESS: I'd only characterize maybe 11 people on Twitter saying why doesn't he draw a 52 to 12 zero map, but not somebody actually directing me to do 13 it. 14 MS. HAMILL Q: Can you turn to page 10 of this 15 exhibit that we have marked as Exhibit 8, and I'll 16 direct your attention to lines four through 13? 17 A Uh-huh. 18 MR. MANOLIUS: Through 13, you said? 19 MS. HAMILL: Yes. 20 MR. MANOLIUS: Thanks. 21 MS. HAMILL Q: Do you remember saying these 22 things during this interview? 23 MR. MANOLIUS: The portion between three and 24 14 or three and 13? Do you -- answer the question. 25 THE WITNESS: Yes.</p>	<p style="text-align: right;">Page 101</p> <p>1 THE WITNESS: I should have waited. 2 MR. MANOLIUS: No, that's not bad. Due to 3 legislative privilege. Thanks. 4 MS. HAMILL Q: And they said why can't we just 5 throw out the VRA and create six to eight more Democrat 6 pickups; right? 7 MR. MANOLIUS: Is your question whether he 8 said that? 9 THE WITNESS: I can affirm that that's what is 10 written here. 11 MS. HAMILL Q: And what did you mean by that? 12 MR. MANOLIUS: Objection, lacks foundation. 13 You can answer. 14 THE WITNESS: I meant that there were certain 15 people in the ecosystem maybe that didn't even know a 16 lot about redistricting who were saying why not just 17 throw all the guardrails off and draw something crazy 18 like what you see on Twitter. 19 There were a lot of what I derisively call 20 Twitter maps drawn by serious people. 21 Q They were not drawn by serious people? 22 MR. WOODS: Is that a "yes"? Sorry. 23 MR. MANOLIUS: It's your question. 24 THE WITNESS: They were not drawn by serious 25 people, yes. Sorry. I was -- I didn't see that as an</p>

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<p style="text-align: right;">Page 102</p> <p>1 actual question, I saw that as more of a --</p> <p>2 MR. WOODS: Sure. Just sorry, not trying to</p> <p>3 interject, just want a clear record.</p> <p>4 MS. HAMILL Q: And so throwing out the</p> <p>5 guardrails for the VRA, what does that mean to you?</p> <p>6 A Just throwing out the guardrails for</p> <p>7 everything.</p> <p>8 <b>Q For everything, the VRA?</b></p> <p>9 A I saw maps that were contiguous. I think Mark</p> <p>10 has seen those maps too.</p> <p>11 <b>Q So what does throwing away the VRA mean to</b></p> <p>12 <b>you?</b></p> <p>13 MR. MANOLIUS: In the context of this</p> <p>14 interview? You can answer.</p> <p>15 THE WITNESS: On a podcast, speaking to a lay</p> <p>16 audience of political people it means just abandoning</p> <p>17 all constitutional requirements of any kind. It just</p> <p>18 means doing a map without -- it means, like I stated</p> <p>19 earlier, doing a map just free of any -- it's a</p> <p>20 rule-less map essentially.</p> <p>21 MS. HAMILL Q: Because earlier when I said</p> <p>22 race, you immediately said the Voting Rights Act, so it</p> <p>23 sounded like you equated the two.</p> <p>24 MR. MANOLIUS: Objection, vague. I'm not sure</p> <p>25 what you're referring to. Misstates his testimony.</p>	<p style="text-align: right;">Page 104</p> <p>1 MS. HAMILL Q: While drawing proposition, the</p> <p>2 Proposition 50 map it was important to you to pay</p> <p>3 attention to race and not just focus on partisanship;</p> <p>4 correct?</p> <p>5 MR. MANOLIUS: Objection. Same objection,</p> <p>6 legislative privilege, and I instruct you not to answer.</p> <p>7 MS. HAMILL Q: And you said you were going to</p> <p>8 create a five district pickup follow the Voting Rights</p> <p>9 Act and keep communities of interest together; correct?</p> <p>10 MR. MANOLIUS: Objection. Lacks foundation.</p> <p>11 Are you asking him to affirm what's in the transcript?</p> <p>12 I am not sure I understand the question.</p> <p>13 MS. HAMILL: You can answer.</p> <p>14 THE WITNESS: Oh, this is what I said, if</p> <p>15 that's what you're asking.</p> <p>16 MS. HAMILL: So you're pointing to --</p> <p>17 A There's line 18 to 20 which I think you're</p> <p>18 referencing in the transcript, I won't dispute that that</p> <p>19 is what I said. I trust the transcript.</p> <p>20 <b>Q Did you use race to identify any communities</b></p> <p>21 <b>of interest in your map drawing for Proposition 50?</b></p> <p>22 MR. MANOLIUS: Objection, legislative</p> <p>23 privilege, instruct you not to answer.</p> <p>24 MS. HAMILL Q: And what communities of</p> <p>25 interest information did you provide to the California</p>
<p style="text-align: right;">Page 103</p> <p>1 MR. WOODS: Join.</p> <p>2 MR. MANOLIUS: Lacks foundation.</p> <p>3 THE WITNESS: I am unclear about the question</p> <p>4 or the connection between what I said earlier and you</p> <p>5 making this statement here about the VRA so the</p> <p>6 question, I am sorry, doesn't make sense to me.</p> <p>7 MS. HAMILL Q: Do you recall earlier</p> <p>8 discussing race and Voting Rights Act?</p> <p>9 MR. MANOLIUS: Vague.</p> <p>10 THE WITNESS: I know.</p> <p>11 MR. MANOLIUS: Objection, vague.</p> <p>12 THE WITNESS: We had a discussion about it</p> <p>13 with regards to my municipal clients and my deference to</p> <p>14 attorneys on determining Voting Rights Act compliance</p> <p>15 and so on, but that is a much more serious actual</p> <p>16 working for an agency working on a redistricting versus</p> <p>17 talking to a podcast after the maps have been submitted</p> <p>18 when this is part of, you know, just layperson's</p> <p>19 understanding.</p> <p>20 MS. HAMILL Q: For the purposes of the</p> <p>21 Proposition 50 map, complying with the VRA meant</p> <p>22 maintaining Hispanic majority districts to you; correct?</p> <p>23 MR. MANOLIUS: Objection. Calls for</p> <p>24 information that's protected by the legislative</p> <p>25 privilege and I instruct you not to answer.</p>	<p style="text-align: right;">Page 105</p> <p>1 Legislature for Prop 50?</p> <p>2 MR. MANOLIUS: Same objections. I instruct you</p> <p>3 not to answer.</p> <p>4 MS. HAMILL Q: Let's turn to page 12 of this</p> <p>5 transcript. I'll point your attention to lines nine</p> <p>6 through 14.</p> <p>7 A Hmm.</p> <p>8 <b>Q And if you peek back at page 11, line 24,</b></p> <p>9 <b>you're talking about Sara Sadhwani?</b></p> <p>10 A Uh-huh.</p> <p>11 <b>Q Who is Sara Sadhwani?</b></p> <p>12 A She is also on that page on line two.</p> <p>13 Sara Sadhwani is one of the members of the</p> <p>14 independent redistricting commission, the state</p> <p>15 redistricting commission.</p> <p>16 <b>Q Was?</b></p> <p>17 A Is, ten year terms. They have ten year terms.</p> <p>18 <b>Q So it exists, just doesn't have any power</b></p> <p>19 <b>anymore?</b></p> <p>20 MR. WOODS: Objection, calls for a legal</p> <p>21 conclusion.</p> <p>22 MR. MANOLIUS: Objection, calls for legal</p> <p>23 conclusion, lacks foundation. You can answer, if you</p> <p>24 know.</p> <p>25 THE WITNESS: They actually do still meet</p>

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<p style="text-align: right;">Page 106</p> <p>1 infrequently. I don't think they really have a budget 2 or staff right, now but they do have a role in helping 3 with the transition to the next commission in 2031. 4 MS. HAMILL Q: And so you said, "I don't think 5 she'd stand up on that stage and say I support this if 6 what we're going to get was districts that decimated all 7 of the communities, you know, throughout L.A. like some 8 of the public map or some of the map proposals we've 9 seen." 10 Do you remember saying that? 11 A I trust the transcript. I remember saying 12 something -- this is the kind of thing I would have 13 said. 14 Q And who drew those other maps? 15 A People on Twitter, largely. I use the people 16 on Twitter as a broad representation of things in social 17 media. 18 Q But you're not aware of any legitimate 19 organization that drew alternative maps? 20 MR. MANOLIUS: Objection. Vague as to the term 21 "legitimate organization," and vague as to "drew maps," 22 you can draw maps anywhere, so I am not sure I 23 understand the question, but you can answer. 24 MR. WOODS: Join. 25 THE WITNESS: Earlier in the testimony or the</p>	<p style="text-align: right;">Page 108</p> <p>1 Orange County as they drew the maps and that's a no go." 2 Why is that a no go? 3 MR. MANOLIUS: I am sorry. What lines are you 4 on? 5 THE WITNESS: 16 to 20 on page 13. 6 MR. MANOLIUS: Objection, vague as to time, 7 scope, context and foundation whether you said it. 8 THE WITNESS: Um, I think what we're looking 9 at here is there were maps that would take different 10 Orange County communities of interest that have 11 traditionally argued before redistricting commission to 12 be kept together and draw them into districts so that 13 they're going into other counties and they are, you 14 know, drawing a district that, you know, goes from 15 Garden Grove to Rancho Palos Verdes, things like that. 16 Q And that was a no go? 17 A It was a no go, because a lot of groups who 18 would have were organized before the redistricting 19 commission advocating for their communities of interest 20 would find themselves decimated in those plans, and so 21 they would become a vocal opposition to the legislators 22 as they're trying to pass a plan or vocal opposition to 23 the ballot measure if it was to be on the ballot. 24 Q Do you know which specifics groups those would 25 be?</p>
<p style="text-align: right;">Page 107</p> <p>1 discussion, I don't know what you call this, you asked 2 me about if other groups were submitting maps or doing 3 maps. 4 I knew there were other maps around but not 5 any association or a group submitting a map or having a 6 map that was one of these maps. 7 MS. HAMILL Q: Were you aware of any 8 alternative maps floating around leading up to 9 Proposition 50 that would have given Democrats more of 10 an advantage, aside from the ones you've dismissed as 11 just Twitter chatter from Twitter people? 12 MR. MANOLIUS: Objection. To the extent you're 13 calling for things that went into the legislative 14 process, I'll instruct you not to answer. If you're 15 aware of anything else, you can answer. 16 MR. WOODS: I would also object that it's 17 vague. 18 THE WITNESS: I don't think I can answer that 19 based on my attorney's objection. 20 MS. HAMILL Q: And if you could turn to page 21 13, lines 16 to 20. 22 A (Witness complied.) 23 Q So you said, "We worked with some folks in 24 D.C. and saw some maps as an example that went into 25 Orange County and just tore up the Asian community in</p>	<p style="text-align: right;">Page 109</p> <p>1 A I don't know. I can't start to name all of 2 them. I clarify basically saying what I just said in 3 the following remainder of that page too. 4 Q So on page 14, lines nine through 13 -- 5 A (Witness complied.) 6 Q -- you said you wanted to have the final maps 7 be consistent with commission work and be supported with 8 communities of interest testimony; correct? 9 A Let me read this for a second, if that's 10 okay -- 11 Q Sure. 12 A -- because I am not -- I am skimming it and 13 it's not making sense to me. Yes. Okay. Thank you. 14 Could you ask the question? I'm sorry. 15 Q Do you mind reading that back? 16 (Whereupon the record was read as 17 follows: "Question: So on page 18 14, lines nine through 13 -- 19 "Answer: (Witness complied.) 20 "Question: -- you said you 21 wanted to have the final maps be 22 consistent with commission work 23 and be supported with communities 24 of interest testimony; correct? 25 "Answer: Let me read this for a</p>



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<p style="text-align: right;">Page 110</p> <p>1 second, if that's okay --</p> <p>2 "Question: Sure.</p> <p>3 "Answer: -- because I am not --</p> <p>4 I am skimming it and it's not</p> <p>5 making sense to me. Yes. Okay.</p> <p>6 Thank you. Could you ask the</p> <p>7 question? I'm sorry.")</p> <p>8 MR. MANOLIUS: Objection. Calls for</p> <p>9 speculation, lacks foundation, but you can certainly</p> <p>10 answer the question, if you said that.</p> <p>11 THE WITNESS: I said what is here, so if</p> <p>12 that's your characterization I won't dispute it.</p> <p>13 MS. HAMILL Q: Thank you. Was the final map</p> <p>14 for Proposition 50 supported with communities of</p> <p>15 interest testimony?</p> <p>16 MR. MANOLIUS: Objection, vague, lacks</p> <p>17 foundation. And at what time? I don't understand the</p> <p>18 question.</p> <p>19 THE WITNESS: Are you saying that -- are you</p> <p>20 not asking, are you asking about in the map drawing</p> <p>21 process or are you saying, like, what was on the ballot</p> <p>22 after the maps, after my job was over after I was done</p> <p>23 with the contract?</p> <p>24 Q I am asking the question in the context we</p> <p>25 just discussed in your statement here on page 14 from</p>	<p style="text-align: right;">Page 112</p> <p>1 but even the districts that were changed, I don't want</p> <p>2 to get into the privileged portion, but one could look</p> <p>3 at the map today and see a lot of consistency between</p> <p>4 the map today and the map as it was passed by the</p> <p>5 commission in 2021.</p> <p>6 Q And do you have documents reflecting that</p> <p>7 communities of interest testimony of which you're aware?</p> <p>8 MR. MANOLIUS: From 2021? Vague as to time.</p> <p>9 I am not sure I understand.</p> <p>10 THE WITNESS: They're public documents and you</p> <p>11 can grab them right now. The commission website is</p> <p>12 still up and they still have all of their community</p> <p>13 testimony in an air table.</p> <p>14 MS. HAMILL Q: And then you said you asked her</p> <p>15 team to get on the box and start drawing. What is the</p> <p>16 box?</p> <p>17 A Um --</p> <p>18 MR. MANOLIUS: Objection. First, lacks</p> <p>19 foundation as to whether you said that, so --</p> <p>20 THE WITNESS: The box is an internal staff</p> <p>21 term for the computer that houses most of the software.</p> <p>22 MS. HAMILL Q: And that's your proprietary</p> <p>23 system?</p> <p>24 A And Maptitude and other things, it's a remote</p> <p>25 computer.</p>
<p style="text-align: right;">Page 111</p> <p>1 line 9 to 14. You said you wanted the final work to be</p> <p>2 supported with communities of interest testimony.</p> <p>3 A Uh-huh.</p> <p>4 Q I'm asking you was the final map that became</p> <p>5 Prop 50 supported with communities of interest</p> <p>6 testimony?</p> <p>7 MR. MANOLIUS: Again, objection. Vague as to</p> <p>8 and where and what context and when. You can answer.</p> <p>9 MR. WOODS: Join.</p> <p>10 THE WITNESS: I think objectively looking at</p> <p>11 the map you can see that the Prop 50 map that was passed</p> <p>12 by voters was consistent with a lot of what was</p> <p>13 important in the redistricting commission process and a</p> <p>14 lot of what testimony was stated before the commission</p> <p>15 in 2021 and in 2011 as they deliberated.</p> <p>16 MS. HAMILL Q: What specific communities of</p> <p>17 interest do you have in mind when you're telling me</p> <p>18 that?</p> <p>19 A Well, in this document I talk about the LGBTQ</p> <p>20 community. I also talk about environmental community,</p> <p>21 but there could be a hundred different communities of</p> <p>22 interest throughout the State whose communities of</p> <p>23 interest that they advocated for in the prior</p> <p>24 redistricting were retained within the current maps, not</p> <p>25 only the all the districts that weren't changed at all,</p>	<p style="text-align: right;">Page 113</p> <p>1 Q And when you are done with the marked</p> <p>2 exhibits, if you can just hand them to the reporter.</p> <p>3 A That's perfect. That's perfect. I'll do that</p> <p>4 from now.</p> <p>5 MS. HAMILL: I am going to mark as Exhibit 9</p> <p>6 the Hispanas Organized for Political Equality, HOPE</p> <p>7 presentation.</p> <p>8 (Whereupon Plaintiff's Exhibit 9</p> <p>9 was marked for identification. )</p> <p>10 MS. HAMILL Q: You're familiar with Hispanas</p> <p>11 Organized For Political Equity; correct?</p> <p>12 A (Witness nodding head.)</p> <p>13 Q HOPE?</p> <p>14 A HOPE, yes.</p> <p>15 Q So we can call them HOPE?</p> <p>16 A Please.</p> <p>17 Q It's much easier.</p> <p>18 A Uh-huh.</p> <p>19 Q Great. When did you first become acquainted</p> <p>20 with HOPE?</p> <p>21 A I first became acquainted with HOPE more than</p> <p>22 a dozen years ago, maybe 15 years ago.</p> <p>23 Q 2010-ish?</p> <p>24 A I think that probably sounds about right.</p> <p>25 Q And you gave a presentation to HOPE in October</p>



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<p style="text-align: right;">Page 114</p> <p>1 of 2025; correct?</p> <p>2 A Yes.</p> <p>3 Q October 17th?</p> <p>4 A That's the date on the transcript and I don't</p> <p>5 dispute it. I don't recollect it exactly.</p> <p>6 Q And was that to encourage the Latino community</p> <p>7 to support Prop 50?</p> <p>8 A This was to inform the HOPE participants, the</p> <p>9 organization as to what was on the ballot, Prop 50, and</p> <p>10 yes, but it was -- I don't know that they would want to</p> <p>11 characterize it as campaigning. It was more of an</p> <p>12 informational thing. It was myself and a demographer</p> <p>13 for the no vote.</p> <p>14 Q For the no site?</p> <p>15 A Uh-huh.</p> <p>16 Q And so you were informing HOPE about what the</p> <p>17 maps did?</p> <p>18 MR. MANOLIUS: Objection. Lacks foundation,</p> <p>19 calls for speculation. If you might want him to look at</p> <p>20 a specific place in the transcript, that would probably</p> <p>21 be better, but you can answer, if you know.</p> <p>22 MS. HAMILL: You can stop with the speaking</p> <p>23 objections.</p> <p>24 MR. MANOLIUS: Sorry. I am done.</p> <p>25 THE WITNESS: I don't know that that was my</p>	<p style="text-align: right;">Page 116</p> <p>1 conversation reflected in this transcript?</p> <p>2 MR. MANOLIUS: Objection, vague, compound,</p> <p>3 overbroad. Quite a number of pages. You can look</p> <p>4 through them too.</p> <p>5 THE WITNESS: Yes, I recognize them.</p> <p>6 MS. HAMILL: I am going to ask counsel to</p> <p>7 please stop with the speaking objections.</p> <p>8 MR. MANOLIUS: I'll make my objections.</p> <p>9 Thanks.</p> <p>10 MS. HAMILL: You're welcome.</p> <p>11 Q So the Zoom, the video from from this Zoom</p> <p>12 discussion is no longer publicly available. Do you have</p> <p>13 any idea why that is?</p> <p>14 MR. MANOLIUS: Objection, lacks foundation.</p> <p>15 You can answer.</p> <p>16 THE WITNESS: I didn't know that it was</p> <p>17 publicly available, so I don't have any response. I</p> <p>18 don't have any interaction with -- no.</p> <p>19 MS. HAMILL Q: At any time did you personally</p> <p>20 take any action to get the video taken off of the public</p> <p>21 domain?</p> <p>22 A No.</p> <p>23 Q Do you recall telling HOPE that Prop 50 would</p> <p>24 increase Latino voting power?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 115</p> <p>1 charge exactly. I speak to HOPE on a regular basis,</p> <p>2 maybe every six months, maybe every year, and so they</p> <p>3 were having me back to talk about what was going on with</p> <p>4 Prop 50.</p> <p>5 And they don't think they gave me, like, a</p> <p>6 charge to speak about what specific part of it like</p> <p>7 that. They told me not to talk about partisanship but</p> <p>8 they told me to talk about Prop 50.</p> <p>9 Q And were you paid for this --</p> <p>10 A No.</p> <p>11 Q -- appearance? And just for everyone's</p> <p>12 reference, this transcript is included as Exhibit B in</p> <p>13 the U.S. Complaint Intervention and it's also marked as</p> <p>14 Exhibit 11 for the preliminary injunction hearing.</p> <p>15 So have you seen this transcript before?</p> <p>16 A I've seen that it exists. I haven't read</p> <p>17 through it.</p> <p>18 Q I want to give you a few minutes to just look</p> <p>19 through it, generally.</p> <p>20 A Okay.</p> <p>21 MR. MEUSER: And for your information, your</p> <p>22 testimony or your presentation starts on page 20.</p> <p>23 THE WITNESS: Thank you. Oh, yes. Okay. All</p> <p>24 right.</p> <p>25 MS. HAMILL Q: Do you recognize generally the</p>	<p style="text-align: right;">Page 117</p> <p>1 Q I'm going to turn your attention to page 23,</p> <p>2 line 24 through page 24 line one.</p> <p>3 A Uh-huh.</p> <p>4 Q Can you read that out loud for me, please,</p> <p>5 starting at line 24 on page 23?</p> <p>6 A I'll trust that this is the right transcript,</p> <p>7 but -- and I started listing out this concept of drawing</p> <p>8 a replacement majority/minority Latino in the middle of</p> <p>9 Los Angeles, that was the number one thing that I first</p> <p>10 started thinking about because of something that I</p> <p>11 worked with HOPE on in the last redistricting process.</p> <p>12 Q Do you remember saying that?</p> <p>13 A I recall speaking to it. I don't remember</p> <p>14 saying those exact words.</p> <p>15 Q Were you being truthful when you said that?</p> <p>16 A I was being --</p> <p>17 MR. MANOLIUS: Objection. Calls for legal</p> <p>18 conclusion, argumentative. You can answer.</p> <p>19 THE WITNESS: I was being truthful in that</p> <p>20 when we first started working on this this was a map</p> <p>21 that was already drawn.</p> <p>22 MS. HAMILL Q: When you say this, are you</p> <p>23 referring to the Proposition 50 map?</p> <p>24 A This map that's, this map, this map, I mean a</p> <p>25 map that puts -- when I say I first started thinking</p>

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<p style="text-align: right;">Page 118</p> <p>1 about it because of something that I worked with HOPE on</p> <p>2 in the last redistricting process, there was a map</p> <p>3 associated with that work in 2021, so I knew that that</p> <p>4 map existed and I knew that that map creates an</p> <p>5 additional democratic seat in the middle of Los Angeles.</p> <p>6 <b>Q Are you saying you drew a map with HOPE in</b></p> <p>7 <b>2021?</b></p> <p>8 A No, I just knew there was one that existed.</p> <p>9 <b>Q Okay.</b></p> <p>10 A And that had been advocated by Equality</p> <p>11 California, environmental protection groups and HOPE, so</p> <p>12 I knew that there was already a map on the shelf.</p> <p>13 And so on the first thing I can think of is,</p> <p>14 hey, I know one thing that's easy to do, that's why I</p> <p>15 was expressing to them there was a, hey, I know</p> <p>16 something that will pick up a democratic seat.</p> <p>17 <b>Q Did you work with HOPE at all in 2021 on that</b></p> <p>18 <b>map?</b></p> <p>19 A I don't recall. I know it existed.</p> <p>20 <b>Q How often has HOPE sent you map proposals?</b></p> <p>21 A Never any. Potentially, I mean, I don't want</p> <p>22 to, I don't want to say -- let me para -- let me</p> <p>23 rephrase that.</p> <p>24 I don't recall them ever sending me a map</p> <p>25 proposal. That isn't the core of what they do as an</p>	<p style="text-align: right;">Page 120</p> <p>1 And so HOPE was advocating for putting that</p> <p>2 district back in L.A.</p> <p>3 <b>Q And that was your starting point for</b></p> <p>4 <b>Proposition 50?</b></p> <p>5 A I guess.</p> <p>6 MR. MANOLIUS: Objection. I instruct you not</p> <p>7 to answer based on legislative privilege what was done</p> <p>8 during Prop 50.</p> <p>9 THE WITNESS: Speaking here after the map was</p> <p>10 done I was articulating this lines two through five that</p> <p>11 I knew that a proposal had been done in 2021 that they</p> <p>12 were advocating for.</p> <p>13 MS. HAMILL Q: Going down to line six on page</p> <p>14 24, it looks like you say you're going to read for a</p> <p>15 second, so you start reading something at the HOPE</p> <p>16 presentation; is that correct?</p> <p>17 A Uh-huh.</p> <p>18 <b>Q What were you reading?</b></p> <p>19 MR. MEUSER: Can that be a verbal answer?</p> <p>20 MR. MANOLIUS: You said, "Uh-huh."</p> <p>21 MR. MEUSER: You said, "Uh-huh."</p> <p>22 THE WITNESS: Oh, yes. I was -- I was saying</p> <p>23 yes only to characterize that I was following along with</p> <p>24 what your question was.</p> <p>25 That line six was, I was reading a letter from</p>
<p style="text-align: right;">Page 119</p> <p>1 organization.</p> <p>2 <b>Q So how does your relationship work? Would</b></p> <p>3 <b>they express a desire for something and you would</b></p> <p>4 <b>provide them with a draft map --</b></p> <p>5 MR. MANOLIUS: Objection.</p> <p>6 THE WITNESS: In 2021?</p> <p>7 MR. MANOLIUS: Wait. Objection, vague as to</p> <p>8 time. I am not sure during what process you mean.</p> <p>9 MS. HAMILL: At any time.</p> <p>10 THE WITNESS: So in 2021?</p> <p>11 MR. MANOLIUS: At any time except, excuse</p> <p>12 me -- objection -- the Prop 50 map drawing process,</p> <p>13 which I instruct you not to answer about.</p> <p>14 THE WITNESS: Yes. Very readily available to</p> <p>15 anybody who wanted to look is in 2021. HOPE and a</p> <p>16 number of groups were advocating for a map that would</p> <p>17 not remove a district from Los Angeles, because that's</p> <p>18 what the commission chose to do in 2021.</p> <p>19 They went from 53 to 52 districts and they had</p> <p>20 a question, how are we going to do this? Are we going</p> <p>21 to do this by starting from a scratch map and just</p> <p>22 letting everything fall where it is or are we going to</p> <p>23 just take a map out of L.A. where they're the slower</p> <p>24 growing portion of the state and it makes our job easier</p> <p>25 just to take a district out of L.A.</p>	<p style="text-align: right;">Page 121</p> <p>1 2021.</p> <p>2 MS. HAMILL Q: The letter from HOPE.</p> <p>3 A Yes. Oh, you've got it.</p> <p>4 MR. MEUSER: We're prepared.</p> <p>5 (Whereupon Plaintiff's Exhibit 10</p> <p>6 was marked for identification.)</p> <p>7 MS. HAMILL Q: I have marked as Exhibit 10 a</p> <p>8 November 24th, 2021, letter from HOPE to the Citizens</p> <p>9 Redistricting Commission. It is also marked as Exhibit</p> <p>10 12 for the preliminary injunction hearing.</p> <p>11 Is this the letter that you were referring to</p> <p>12 on page 24 of this transcript?</p> <p>13 MR. MANOLIUS: Just objection, vague. Is it</p> <p>14 just the first two pages, because there seem to be some</p> <p>15 other things after it?</p> <p>16 MS. HAMILL: It's the complete document.</p> <p>17 THE WITNESS: Um, I was referring to the first</p> <p>18 two pages of this. I haven't seen the attachment in</p> <p>19 years.</p> <p>20 MS. HAMILL Q: So is it your testimony that</p> <p>21 there is a version of this letter that doesn't have the</p> <p>22 attachment to it?</p> <p>23 MR. MANOLIUS: Objection, calls for</p> <p>24 speculation.</p> <p>25 THE WITNESS: Oh, um --</p>

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<p style="text-align: right;">Page 122</p> <p>1 MR. MANOLIUS: Misstates his testimony.</p> <p>2 THE WITNESS: I'm only saying that I have only</p> <p>3 seen the first two pages recently when I was presenting.</p> <p>4 I had forgotten that this other attachment was even</p> <p>5 here.</p> <p>6 MS. HAMILL Q: But you had seen that before,</p> <p>7 the attachment?</p> <p>8 A Ions ago, yeah, in 2021.</p> <p>9 Q So I want to walk you through -- I'm going</p> <p>10 back to --</p> <p>11 A Uh-huh.</p> <p>12 Q -- Exhibit 9. You can set aside the letter</p> <p>13 for a minute.</p> <p>14 A Okay.</p> <p>15 Q Just going through the transcript here, so</p> <p>16 line six, page 24, you say you're going to read for a</p> <p>17 second, and you just testified that you were reading</p> <p>18 from what has been marked as Exhibit 10, and you read</p> <p>19 from the HOPE letter.</p> <p>20 And then I think you're quoting it on line</p> <p>21 nine, you say, "HOPE is concerned about the elimination</p> <p>22 of the majority/minority Latino district within the area</p> <p>23 of Los Angeles Gateway cities."</p> <p>24 Do you remember saying that?</p> <p>25 A I remember reading this letter.</p>	<p style="text-align: right;">Page 124</p> <p>1 to the commission.</p> <p>2 MS. HAMILL: Are you able to go back to my</p> <p>3 last question? And before we do that, I am going to ask</p> <p>4 one more time politely, please, stop with the improper</p> <p>5 speaking objections.</p> <p>6 MR. MANOLIUS: They are not improper, but</p> <p>7 everybody is entitled to their opinion.</p> <p>8 If there's lack of clarity in the question, I</p> <p>9 am going to object.</p> <p>10 MS. HAMILL: You may object, but don't start</p> <p>11 testifying or advising your client while on the record.</p> <p>12 MR. MANOLIUS: I am not doing any of that.</p> <p>13 (Whereupon the record was read as</p> <p>14 follows: "Question: And do you</p> <p>15 believe that to be true?")</p> <p>16 MR. WOODS: Objection. Vague.</p> <p>17 MR. MANOLIUS: Calls for speculation, vague.</p> <p>18 MS. HAMILL Q: You just explained before we</p> <p>19 got into this transcript, you explained what happened</p> <p>20 where the commission had to move the map from 53 to 52</p> <p>21 districts; right?</p> <p>22 A Uh-huh.</p> <p>23 Q And they did take away that district; correct?</p> <p>24 MR. MANOLIUS: Objection, misstates his</p> <p>25 testimony. You can answer.</p>
<p style="text-align: right;">Page 123</p> <p>1 Q Okay. And then it continues on line 13.</p> <p>2 "The seat, which is called by the L.A. Times</p> <p>3 the most Latino district in the country, disappeared off</p> <p>4 the map despite the growing Latino population throughout</p> <p>5 the state."</p> <p>6 Do you remember saying that?</p> <p>7 A Yes.</p> <p>8 Q And do you believe that to be true?</p> <p>9 A I can't speak --</p> <p>10 MR. MANOLIUS: Just a second. Let me</p> <p>11 interpose a late objection. Do you remember saying</p> <p>12 that? Vague, misstates the testimony, if he remembers</p> <p>13 reading that, adopting it.</p> <p>14 THE WITNESS: And then I can tell you that I</p> <p>15 read this. There are statements in here that, it's</p> <p>16 their letter that says HOPE is concerned about the</p> <p>17 elimination.</p> <p>18 I don't have firsthand knowledge of their</p> <p>19 concern, but I am reading their letter that says they</p> <p>20 were concerned, and their citing of L.A. Times article</p> <p>21 that I'm reading their letter, so I don't have</p> <p>22 independent knowledge of that either.</p> <p>23 So this isn't my, I didn't write this letter</p> <p>24 so I am not able to speak to the veracity of the letter,</p> <p>25 I am just reading back to them what they had submitted</p>	<p style="text-align: right;">Page 125</p> <p>1 THE WITNESS: I stated objectively that the</p> <p>2 commission had to make a choice of where to remove a</p> <p>3 district in the district, but they, the district that</p> <p>4 most people believed was, quote unquote, removed was an</p> <p>5 L.A. district from the move from 53 to 52.</p> <p>6 They're characterizing it they are messaging</p> <p>7 about it in a way that is their own choice of how to</p> <p>8 message about it. They are not making objective</p> <p>9 statements here, they are making persuasive statements</p> <p>10 that I can't speak to.</p> <p>11 MS. HAMILL Q: Okay. And moving on down page</p> <p>12 24, starting at line 17, I don't think you're quoting</p> <p>13 anymore.</p> <p>14 A Uh-huh.</p> <p>15 Q I think this is your own speech. "And that</p> <p>16 letter on page two illustrated what HOPE wanted to see</p> <p>17 done in a coalition with a lot of other partners in Los</p> <p>18 Angeles."</p> <p>19 Do you remember saying that?</p> <p>20 A That portion of it is my words, it looks like,</p> <p>21 and then the next sentence is quoting.</p> <p>22 Q Okay. So the second sentence on line 19, you</p> <p>23 go back to quoting the HOPE letter that's marked as</p> <p>24 Exhibit 10?</p> <p>25 A With number one is the beginning of where I'm</p>

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<p style="text-align: right;">Page 126</p> <p>1 quoting again.</p> <p>2 Q Okay. So line 20, it says, "Number one,</p> <p>3 create a gateway cities district centered around Downey</p> <p>4 as described in the analysis, allowing for the creation</p> <p>5 of five Latino majority/minority districts in an area</p> <p>6 where there are currently four."</p> <p>7 So are you reciting --</p> <p>8 A I want to, yeah, I want to amend one of my</p> <p>9 earlier statements, because I might have been reading</p> <p>10 from a different version of the letter.</p> <p>11 As you notice, I have two words in here that</p> <p>12 aren't on the letter that you're providing.</p> <p>13 You have minority districts in an area, in an</p> <p>14 area where there are currently four and the letter that</p> <p>15 you provided me says minority districts where there are</p> <p>16 currently four, so just slightly different. I might</p> <p>17 have been reading from a slightly different version of</p> <p>18 the letter.</p> <p>19 Q Do you think there is a different version of</p> <p>20 this letter floating around?</p> <p>21 MR. MANOLIUS: Objection, speculation.</p> <p>22 MR. WOODS: Join.</p> <p>23 THE WITNESS: Potentially.</p> <p>24 MS. HAMILL Q: And you said that this letter</p> <p>25 is available on the redistricting commission website;</p>	<p style="text-align: right;">Page 128</p> <p>1 Q -- is that correct?</p> <p>2 A Yeah.</p> <p>3 Q Is that a fair thing to say?</p> <p>4 A Yeah.</p> <p>5 Q Okay. Now we're going back to the transcript,</p> <p>6 page 24, line 25. You say, "Secondly, take the district</p> <p>7 that was called LB north, which is now the Robert Garcia</p> <p>8 district, take that district to the south through Seal</p> <p>9 Beach into Huntington Beach, making a Latino-influenced</p> <p>10 district at 35 percent Latino by voting age population."</p> <p>11 Do you remember saying that?</p> <p>12 A I remember saying something like that.</p> <p>13 Q And that doesn't perfectly reflect point two</p> <p>14 on the second page of the letter that's marked as</p> <p>15 Exhibit 10, does it?</p> <p>16 MR. MANOLIUS: Objection, lacks foundation,</p> <p>17 vague. You can answer.</p> <p>18 THE WITNESS: It is off by a few words here</p> <p>19 and there.</p> <p>20 MS. HAMILL Q: Do you think perhaps when you</p> <p>21 were speaking at this HOPE presentation you were</p> <p>22 ad-libbing a bit from the letter?</p> <p>23 A Potentially.</p> <p>24 MR. MANOLIUS: Objection, calls for</p> <p>25 speculation.</p>
<p style="text-align: right;">Page 127</p> <p>1 correct?</p> <p>2 MR. MANOLIUS: Objection, calls for</p> <p>3 speculation, lacks foundation.</p> <p>4 THE WITNESS: I don't recall where I got it</p> <p>5 from. I just know that when I got it it was two pages,</p> <p>6 it didn't have these things, and so potentially where</p> <p>7 we're getting these from different sources or I had a</p> <p>8 different version of it or something.</p> <p>9 MS. HAMILL Q: Would you please go back and</p> <p>10 obtain the copy of the letter from which you were</p> <p>11 reading at this October 17th, 2025 presentation and</p> <p>12 provide it to your counsel who will then provide it to</p> <p>13 me?</p> <p>14 A You -- I understand your question. I'll look</p> <p>15 to see if I can do that.</p> <p>16 Q Thank you.</p> <p>17 A And maybe I'm wrong, but --</p> <p>18 Q Thank you. All right. So I believe we're on</p> <p>19 page 24 of this HOPE transcript, line 17 --</p> <p>20 A Uh-huh.</p> <p>21 Q -- down to line 24, and to me that looks like</p> <p>22 the second page of what we marked as Exhibit 10.</p> <p>23 A Uh-huh.</p> <p>24 Q It looks like the first bold bullet point --</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 129</p> <p>1 THE WITNESS: Potentially. I was reading as</p> <p>2 I'm talking and so there was a little bit, and that</p> <p>3 might be why there was two words in the first bullet</p> <p>4 point. I don't know.</p> <p>5 MS. HAMILL Q: Okay. And so that was your</p> <p>6 starting point what we just went over you've testified,</p> <p>7 that that was the start point that you had for</p> <p>8 Proposition 50; correct?</p> <p>9 MR. MANOLIUS: Objection, don't answer it.</p> <p>10 Calls for information protected by the legislative</p> <p>11 privilege.</p> <p>12 MS. HAMILL Q: That's what you told HOPE, at</p> <p>13 least?</p> <p>14 MR. MANOLIUS: Um, objection. Misstates the</p> <p>15 testimony, vague. You can answer.</p> <p>16 MR. WOODS: Join.</p> <p>17 THE WITNESS: What I told HOPE was that the</p> <p>18 off the shelf, the first thing available to us in trying</p> <p>19 to create an additional democratic seat was to utilize a</p> <p>20 map that had already been drawn that was being advocated</p> <p>21 for them before the commission, that's what I articulate</p> <p>22 here.</p> <p>23 MS. HAMILL Q: Did you tell HOPE that this</p> <p>24 creating a Latino majority district and putting back in</p> <p>25 this district was the starting point, because you were</p>

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<p style="text-align: right;">Page 130</p> <p>1 trying to convince them to vote for Proposition 50?</p> <p>2 MR. MANOLIUS: Objection. I instruct you not</p> <p>3 to answer, to the extent that it implicates your Prop 50</p> <p>4 work, legislative privilege, so I instruct you not to</p> <p>5 answer.</p> <p>6 MS. HAMILL Q: Did you tell HOPE that this</p> <p>7 letter we've marked as Exhibit 10 was your starting</p> <p>8 point, because that was the truth and that's how you</p> <p>9 started drawing the Proposition 50 map?</p> <p>10 MR. MANOLIUS: Same objection. Legislative</p> <p>11 privilege.</p> <p>12 MS. HAMILL Q: Going back to the transcript,</p> <p>13 which is marked as Exhibit 9, page 25, line six, you</p> <p>14 say, "That two bullet points was the first thing we did</p> <p>15 in drawing the new map. We essentially reversed the</p> <p>16 Redistricting Commission's decision to eliminate the</p> <p>17 Latino district from L.A., the old Ed Roybal district,</p> <p>18 Lucille Roybal-Allard district, the first Latino</p> <p>19 majority/minority district in the country, the first</p> <p>20 Latino member of Congress in the country."</p> <p>21 Do you remember saying that?</p> <p>22 A I remember saying something like that, yeah.</p> <p>23 <b>Q Is it true?</b></p> <p>24 MR. MANOLIUS: Objection. To the extent it</p> <p>25 calls for legislative privilege and information, I</p>	<p style="text-align: right;">Page 132</p> <p>1 covered by the legislative privilege. You can certainly</p> <p>2 answer as to what you told HOPE.</p> <p>3 MR. WOODS: Also, mischaracterizes testimony.</p> <p>4 THE WITNESS: It definitely mischaracterizes</p> <p>5 my testimony, I believe. The, I think the point of this</p> <p>6 was to give a path on the back of the HOPE leadership</p> <p>7 that advocated really hard for the membership in 2021</p> <p>8 and to let them know that, that roughly, because if you</p> <p>9 actually look at the map it is different than their</p> <p>10 bullet points, but that roughly that they, that what</p> <p>11 they had advocated for in 2021 was valuable.</p> <p>12 MS. HAMILL Q: How is it different from their</p> <p>13 bullet points?</p> <p>14 MR. MANOLIUS: Objection, vague, lacks</p> <p>15 foundation. And vague as to how is what different? I</p> <p>16 am not sure.</p> <p>17 MS. HAMILL Q: Just quoting your words. You</p> <p>18 said the Prop 50 map is different from these bullet</p> <p>19 points; correct?</p> <p>20 MR. MANOLIUS: I instruct you not to answer</p> <p>21 the question as to due to legislative privilege with</p> <p>22 regard to the Prop 50 map.</p> <p>23 MS. HAMILL Q: I'm asking about the map is</p> <p>24 drawn, we can all see it. It's not private.</p> <p>25 Looking at the map, can you tell if it's the</p>
<p style="text-align: right;">Page 131</p> <p>1 instruct you not to answer.</p> <p>2 MR. MEUSER: Is there an answer?</p> <p>3 MR. MANOLIUS: I said not to answer.</p> <p>4 MR. MEUSER: You said to the extent.</p> <p>5 MR. MANOLIUS: I instruct you not to answer</p> <p>6 the question.</p> <p>7 MS. HAMILL Q: Was the point of this exercise</p> <p>8 that you described between lines six and 13, was the</p> <p>9 point of that exercise to eliminate Ken Calvert's</p> <p>10 district or to create a fifth Latino majority district?</p> <p>11 MR. MANOLIUS: I instruct you not to answer.</p> <p>12 That's covered by legislative privilege.</p> <p>13 MS. HAMILL Q: The point of that exercise was</p> <p>14 to create a fifth Latino majority district, wasn't it?</p> <p>15 MR. MANOLIUS: Same objection and I instruct</p> <p>16 you not to answer the question.</p> <p>17 MS. HAMILL Q: Was it just a fortuitous bonus</p> <p>18 that eliminating Ken Calvert's district gave you a fifth</p> <p>19 Latino majority district?</p> <p>20 MR. MANOLIUS: Same objection. I instruct you</p> <p>21 not to answer the question.</p> <p>22 MS. HAMILL Q: If that's the case, if it was a</p> <p>23 fortuitous bonus, then why did you tell HOPE that you</p> <p>24 set out to create a majority district?</p> <p>25 MR. MANOLIUS: Objection. Seeks information</p>	<p style="text-align: right;">Page 133</p> <p>1 same or different from what's in these proposed bullet</p> <p>2 points, which were written in 2021 are not relevant to</p> <p>3 the Prop 50 legislative privilege?</p> <p>4 A You can see the maps that they submitted and</p> <p>5 they are similar, but not the same.</p> <p>6 <b>Q In what ways?</b></p> <p>7 A In that there is a Long Beach to Orange County</p> <p>8 district and there is a north of Long Beach to gateway</p> <p>9 cities district.</p> <p>10 <b>Q And how are they different?</b></p> <p>11 (Sneezing.)</p> <p>12 A Because bullet point one says as described in</p> <p>13 the analysis, which it's not going to match what's in</p> <p>14 the analysis, and it describes the percentage Latino</p> <p>15 CVAP in Huntington Beach, because the LB north district</p> <p>16 is not exactly what we created. Ours goes further into</p> <p>17 Newport Beach and is not 35 to 40 percent Latino citizen</p> <p>18 voting population.</p> <p>19 <b>Q What is it?</b></p> <p>20 A Less than that, something less than that.</p> <p>21 <b>Q And so point one on the second page of</b></p> <p>22 <b>Exhibit 10 refers to an analysis. Is that referring to</b></p> <p>23 <b>the analysis that's attached to the letter?</b></p> <p>24 MR. MANOLIUS: Objection, calls for</p> <p>25 speculation.</p>



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<p style="text-align: right;">Page 134</p> <p>1 THE WITNESS: When I was doing the</p> <p>2 presentation I didn't know exactly which analysis they</p> <p>3 were speaking to, but given these together it was</p> <p>4 speaking to this, and there's probably even a picture of</p> <p>5 a map in here. I don't know. And I don't -- and the</p> <p>6 Prop 50 map did not create an additional Latino</p> <p>7 majority/minority district.</p> <p>8 MS. HAMILL Q: What do you mean?</p> <p>9 A It objectively did not create another Latino</p> <p>10 district that is was over 50-percent CVAP Latino.</p> <p>11 The existing map has district 40, the</p> <p>12 commissioned mapped had a district number 42, it was</p> <p>13 over 50-percent CVAP Latino, and the new district, that</p> <p>14 district is now moved up, is renumbered 41 and now</p> <p>15 there's a new district that goes from Huntington Beach</p> <p>16 down, from Long Beach down to Huntington Beach, Newport</p> <p>17 Beach, which is not Latino majority/minority, so there's</p> <p>18 not an additional Latino majority/minority district</p> <p>19 created through that.</p> <p>20 Q So I want to turn your attention to page 25 of</p> <p>21 what's marked as Exhibit 9, lines 19 through 25.</p> <p>22 A Yes.</p> <p>23 Q And so, basically, this is saying you went</p> <p>24 back to proposals from HOPE, Equality California, groups</p> <p>25 that were trying to advocate for changes during the last</p>	<p style="text-align: right;">Page 136</p> <p>1 majority/minority districts, just one more district in</p> <p>2 L.A.</p> <p>3 Q What is your understanding of why Equality</p> <p>4 California would propose a Latino majority district?</p> <p>5 A They weren't --</p> <p>6 MR. MANOLIUS: Objection, calls for</p> <p>7 speculation.</p> <p>8 MR. WOODS: Join.</p> <p>9 MR. MANOLIUS: Lacks foundation. You can</p> <p>10 answer.</p> <p>11 THE WITNESS: They were advocating for their</p> <p>12 LGBT community. They had maps showing there was a</p> <p>13 strong LGBT community in Long Beach and they believed</p> <p>14 that that LGBT community could be more effective in</p> <p>15 advocating and helping to elect a candidate of choice</p> <p>16 from that group if it was paired with more coastal</p> <p>17 communities down Huntington Beach, Long Beach.</p> <p>18 And so their interests and HOPE's interests</p> <p>19 might have aligned, but that's why Equality California</p> <p>20 was advocating, and they have a lot of documentation and</p> <p>21 a lot of public testimony about that.</p> <p>22 MS. HAMILL Q: I am going to take you back to</p> <p>23 what I marked as exhibit --</p> <p>24 A Do you want me to give you those, please?</p> <p>25 Eight, she had it already. Okay.</p>
<p style="text-align: right;">Page 135</p> <p>1 redistricting process; right?</p> <p>2 MR. MANOLIUS: Objection, legislative</p> <p>3 privilege, instruct you not to answer.</p> <p>4 MS. HAMILL: You said it publicly, so wouldn't</p> <p>5 that be a waiver of the privilege.</p> <p>6 MR. MANOLIUS: Again, you can ask him if he</p> <p>7 said it.</p> <p>8 MS. HAMILL Q: Did you say this, Mr. Mitchell?</p> <p>9 A Yes, I said that. And the second portion of</p> <p>10 that what they were doing in 2021 is true.</p> <p>11 Q Is any part of this statement not true?</p> <p>12 A No. I am just saying it's definitely</p> <p>13 something I can confirm without getting into what</p> <p>14 happened during the Prop 50 mapping process.</p> <p>15 Q Was Equality California proposing a Latino</p> <p>16 majority district?</p> <p>17 MR. MANOLIUS: Vague as to time. Objection.</p> <p>18 Vague as to time. And if it's during the Prop 50 time,</p> <p>19 I instruct you not to answer based on legislative</p> <p>20 privilege.</p> <p>21 THE WITNESS: In 2021, Equality California was</p> <p>22 advocating for the same structure of maps that HOPE was</p> <p>23 advocating for, which would have replaced an L.A.</p> <p>24 district.</p> <p>25 But, again, same set, same number of Latino</p>	<p style="text-align: right;">Page 137</p> <p>1 Q So I want to go to page 27, line 17 down to</p> <p>2 25, and then going to page 28, lines one to two.</p> <p>3 A Okay.</p> <p>4 Q Do you remember saying this?</p> <p>5 A Yes.</p> <p>6 MR. MANOLIUS: Objection, compound. Out of</p> <p>7 text. You can answer.</p> <p>8 THE WITNESS: Yes, I recall saying that second</p> <p>9 portion of a statement you're reading. You're selecting</p> <p>10 only a second portion of a statement.</p> <p>11 MS. HAMILL Q: So I am referring to line 17.</p> <p>12 A You have to go to line six. You have to start</p> <p>13 on line six.</p> <p>14 Q Okay. But you do recall saying those things?</p> <p>15 A Uh-huh. Yes.</p> <p>16 Q Okay. And so on line 18 you say, "And so why</p> <p>17 would you remove districts from an area that's, you</p> <p>18 know, from a Latino community where this Roybal-Allard</p> <p>19 district has been historically and there's a lot of</p> <p>20 community interest arguments about that district. Why</p> <p>21 take that out when you could just leave it there and let</p> <p>22 all the districts in L.A. kind of push out over the</p> <p>23 area, over the county into other areas."</p> <p>24 And that was a true statement when you said</p> <p>25 it; correct?</p>



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<p style="text-align: right;">Page 138</p> <p>1 MR. MANOLIUS: Objection, lacks foundation,  2 calls for speculation, and vague as to what the time  3 period.  4 THE WITNESS: For this statement to make sense  5 you have to go back to line six --  6 MS. HAMILL Q: Okay.  7 A -- because to back up a second, the last  8 commission had to go from 52 to -- 53 to 52 seats.  9 There were two arguments. You've skipped to the second  10 argument.  11 Q Uh-huh.  12 A The first argument, and so I am paraphrasing  13 what other people were saying.  14 Matt Rexroad was saying, hey, L.A. is where  15 you're losing population. Matt Rexroad was saying, hey,  16 L.A. is where you're losing the population, so you  17 should take that, you know, district out of L.A.  18 And, honestly, like, it's easier just to take  19 one district out and let the rest of the districts  20 collapse in on itself than to do what we were saying,  21 which was no, no, no, keep all the districts in L.A., so  22 that's the first argument that people were making.  23 And then the second statement, starting line  24 17, going through the end of that is me characterizing  25 the alternate statement, groups like HOPE and others</p>	<p style="text-align: right;">Page 140</p> <p>1 districts spill over into other counties, rather than  2 having a district get pulled out of the middle of L.A.  3 which would have invariably reduced a democratic member  4 of Congress.  5 So all I'm doing in this is explaining both  6 takes. Matt Rexroad is a republican consultant.  7 MS. HAMILL Q: You didn't use any partisan  8 language when you said this to Capitol Weekly, you only  9 spoke about the Latino population; correct?  10 MR. MANOLIUS: Objection, misstates testimony,  11 calls for speculation. Vague as to time.  12 MR. WOODS: The document speaks for itself.  13 THE WITNESS: Line two mentioned Ken Calvert.  14 MS. HAMILL Q: Okay. So you mentioned Ken  15 Calvert on line two, but where you're talking you just  16 explained to me, it sounds like you replaced what you  17 said on page 27, you replaced Latino with democratic and  18 progressive causes, but, anyway, we'll move on.  19 So then going to page 28, lines three through  20 seven, do you remember saying that?  21 MR. MANOLIUS: I am sorry. Can you repeat  22 your lines?  23 MS. HAMILL Q: Lines three through seven on  24 page 28.  25 MR. MANOLIUS: Thank you.</p>
<p style="text-align: right;">Page 139</p> <p>1 were saying.  2 So in both cases, I'm channelling Matt Rexroad  3 in the first statement and I'm channelling advocacy  4 groups in the second statement.  5 These aren't, I am not stating my viewpoint, I  6 am stating what was kind of the public testimony at the  7 time.  8 MS. HAMILL Q: And you ultimately went with  9 the second argument; correct? You did not take the Matt  10 Rexroad approach to the map?  11 MR. MANOLIUS: Objection, we're talking about  12 Prop 50.  13 THE WITNESS: From 2021 --  14 MR. MANOLIUS: Objection. Calls for  15 information that's from, protected by the legislative  16 privilege, because it deals with the map drawing in  17 2025.  18 MS. HAMILL Q: Were you referring to 2021 or  19 to Prop 50 when you made these statements?  20 A Referring to 2021.  21 Q Okay.  22 A So in 2021, these were the two arguments, and  23 organizations advocating for Democrats and for  24 progressive causes were advocating for the latter of  25 maintaining as many seats in L.A. and having the</p>	<p style="text-align: right;">Page 141</p> <p>1 THE WITNESS: I don't recall saying it, but I  2 don't dispute that it's in the transcript.  3 MS. HAMILL Q: You're saying, "The first thing  4 we did was we used that community of interest testimony  5 and kind of undid what the commission did last time in  6 putting that district back in L.A. and kind of  7 eliminating that Calvert seat."  8 MR. MANOLIUS: Objection.  9 MS. HAMILL Q: That's the first thing you  10 did; correct?  11 MR. MANOLIUS: Objection, legislative  12 privilege. Instruct you not to answer.  13 MS. HAMILL: And, again, we're talking about  14 something that you have already discussed publicly on a  15 podcast and you've said this out loud and now you're  16 asserting the privilege in a deposition?  17 MR. MANOLIUS: Yes. You can ask him if he  18 said it, but to the extent that it implicates the  19 legislative privilege, he's instructed not to answer.  20 MS. HAMILL Q: So you said this, yes? You  21 said this; correct?  22 A Presuming this transcript is right, that's  23 what I said, this does --  24 Q Is there anything in this transcript that  25 you -- that sticks out to you that's not representing</p>

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<p style="text-align: right;">Page 142</p> <p>1 what you actually said?</p> <p>2 A I haven't found anything yet, but I believe in</p> <p>3 the other transcripts I have seen things that weren't</p> <p>4 exactly right so I -- but I do -- I don't dispute it,</p> <p>5 put it that way.</p> <p>6 Q As we go through this deposition I'd</p> <p>7 appreciate it if you point out to me every time you see</p> <p>8 something in one of these transcripts that doesn't</p> <p>9 accurately reflect what you've said.</p> <p>10 A I have.</p> <p>11 Q Thank you. All right. So you're telling</p> <p>12 Capitol Weekly the first thing you did was use community</p> <p>13 of interest testimony and undid what the commission did</p> <p>14 last time in putting that district back in L.A. and kind</p> <p>15 of eliminating that Calvert seat, so that tracks with</p> <p>16 what you told HOPE you did, as well; correct?</p> <p>17 MR. MANOLIUS: Objection. Compound. Lacks</p> <p>18 foundation. You can answer.</p> <p>19 THE WITNESS: The two statements are</p> <p>20 consistent with each other, if that's what you're asking</p> <p>21 me. I don't want to characterize what I did.</p> <p>22 Otherwise, the two statements are consistent with each</p> <p>23 other.</p> <p>24 Q Okay. And we're talking about district 41;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 144</p> <p>1 context and timing and overbroad and compound. You can</p> <p>2 answer.</p> <p>3 MR. WOODS: Join.</p> <p>4 THE WITNESS: We're talking about 2021;</p> <p>5 correct?</p> <p>6 MS. HAMILL Q: I'm asking you if you agree</p> <p>7 with that statement.</p> <p>8 MR. MANOLIUS: And also vague as to the</p> <p>9 context of whatever project it might be.</p> <p>10 THE WITNESS: I don't know that the</p> <p>11 terminology is exactly right or how I would -- this is,</p> <p>12 this is for clarity. This is something that somebody</p> <p>13 else wrote and that HOPE attached to their letter, which</p> <p>14 also somebody else wrote, and you're asking me to</p> <p>15 answer, it's almost like three, three steps down.</p> <p>16 But I would say that the second portion of</p> <p>17 that sentence is clearly true, that there are a lot of</p> <p>18 things that county boundaries or other lower criterias</p> <p>19 are subservient to the State's redistricting law and the</p> <p>20 question would be how you characterize Voting Rights Act</p> <p>21 and protection of voters of color.</p> <p>22 Communities of interest might be a better way</p> <p>23 of saying that, because communities of interest is a</p> <p>24 higher priority than county boundaries or other lower</p> <p>25 criteria, but this is written by a demographer that's</p>
<p style="text-align: right;">Page 143</p> <p>1 A Yes, the Ken Calvert district. In 2021 it</p> <p>2 would have been something else.</p> <p>3 Q So you relied on the HOPE letter marked as</p> <p>4 Exhibit 10 when you were drawing the Proposition 50 map;</p> <p>5 correct?</p> <p>6 MR. MANOLIUS: Objection. Calls for</p> <p>7 information protected by the legislative privilege. I</p> <p>8 instruct you not to answer.</p> <p>9 MS. HAMILL Q: I want you to turn to the fifth</p> <p>10 page of what I've marked as Exhibit 10, which looks like</p> <p>11 this (Indicating).</p> <p>12 A Okay. They don't have numbers.</p> <p>13 Q My apologies.</p> <p>14 A Footnote three at the bottom of it.</p> <p>15 MR. MEUSER: HOPE letter, so should be the</p> <p>16 third page of that.</p> <p>17 MR. WOODS: Got it.</p> <p>18 THE WITNESS: The bottom of footnote three.</p> <p>19 MS. HAMILL Q: The third full paragraph down,</p> <p>20 it starts with, "It is important to remember that voting</p> <p>21 rights and the protection of voters of color is a higher</p> <p>22 priority than preserving county boundaries or other</p> <p>23 lower order criteria."</p> <p>24 Do you agree with that statement?</p> <p>25 MR. MANOLIUS: Objection, content, vague as to</p>	<p style="text-align: right;">Page 145</p> <p>1 focused on racially polarized voting, not a demographer</p> <p>2 who draws districts, so I don't know.</p> <p>3 Q Continuing to the next sentence, it says,</p> <p>4 "Further, it is also acceptable for commissioners to</p> <p>5 value providing influence to voters of color in its</p> <p>6 districting plans, so long as it is not the sole</p> <p>7 criterion used, even beyond the minimal requirements for</p> <p>8 voting rights guidance provided by the commission --</p> <p>9 sorry -- provided to the commission by its voting rights</p> <p>10 staff."</p> <p>11 Do you agree with that statement?</p> <p>12 A Well, if I can --</p> <p>13 MR. MANOLIUS: Objection, calls for</p> <p>14 speculation, vague as to context, written by somebody</p> <p>15 else. You can.</p> <p>16 THE WITNESS: If I can dissect this, because</p> <p>17 this is a word salad a little bit.</p> <p>18 So where he says is acceptable for</p> <p>19 commissioners to value providing influence to voters of</p> <p>20 color in its districting plans, that can take a lot of</p> <p>21 forms.</p> <p>22 That could mean that it's okay if as an</p> <p>23 incidental byproduct of preserving communities of</p> <p>24 interest that a racial minority of voters of color are</p> <p>25 empowered, as long as their ethnicity is not the sole</p>

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<p style="text-align: right;">Page 146</p> <p>1 criteria, or race is not the sole criteria. And that is</p> <p>2 true even where you're not dealing with a requirement</p> <p>3 from attorneys telling you that you have a section two</p> <p>4 Voting Rights Act requirement.</p> <p>5 So as an example, if you were to use arguments</p> <p>6 from the Armenian grocers who said that we want to be</p> <p>7 together in a community because we have concerns before</p> <p>8 the city council or we have issues, literally in</p> <p>9 Glendale they were trying to ban Armenian BBQ, outdoor</p> <p>10 barbecues, so they got together and organized to try to</p> <p>11 take on the city council.</p> <p>12 Would it be okay for you as the redistricting</p> <p>13 commissioner to say we're going to keep you within a</p> <p>14 district as a community of interest even though the</p> <p>15 byproduct of that is that you are creating a better</p> <p>16 voting power for that minority community? That's what</p> <p>17 this is characterizing.</p> <p>18 That legitimate purpose, legitimate goals in</p> <p>19 redistricting, like maintaining communities of interest,</p> <p>20 could have the effect of providing greater influence to</p> <p>21 voters of color, even in areas where we're not talking</p> <p>22 about the Voting Rights Act at all, and that's not</p> <p>23 inherently bad or wrong for a redistricting to do that</p> <p>24 as long as it's not using race as its sole criteria.</p> <p>25 That's what that is reading to me as.</p>	<p style="text-align: right;">Page 148</p> <p>1 MR. MANOLIUS: Objection, vague as to time.</p> <p>2 If you're talking about the Prop 50 process, I instruct</p> <p>3 you not to answer due to legislative privilege.</p> <p>4 MS. HAMILL: I'm talking about Prop 50.</p> <p>5 MR. MANOLIUS: My objection and instruction</p> <p>6 stands.</p> <p>7 MS. HAMILL Q: Would it be illegal in your</p> <p>8 mind, in your approaching your work in your</p> <p>9 understanding, I am not asking for a legal conclusion</p> <p>10 here -- let me just rephrase that.</p> <p>11 Would it be improper to meld together two</p> <p>12 white majority districts in order to increase the voting</p> <p>13 power of a protected class generally?</p> <p>14 MR. MANOLIUS: Objection, calls for</p> <p>15 speculation, incomplete hypothetical, and it sounds like</p> <p>16 you're asking as a general matter. Depends on the</p> <p>17 process. And don't answer anything about Prop 50.</p> <p>18 MR. WOODS: Also, calls for a legal</p> <p>19 conclusion.</p> <p>20 THE WITNESS: What I think this is discussing</p> <p>21 is that there was a district going to be eliminated and</p> <p>22 I don't know why the analysis reads like this or what he</p> <p>23 was trying to say, but what he's talking about in 2021</p> <p>24 was the elimination to have a district, if we -- if the</p> <p>25 state had created this gateway cities district, it would</p>
<p style="text-align: right;">Page 147</p> <p>1 Q Well, if all that's true then why wouldn't you</p> <p>2 just testify and explain to us exactly what the criteria</p> <p>3 were that you used to draw the Prop 50 map?</p> <p>4 MR. MANOLIUS: Objection, because it's</p> <p>5 protected by legislative privilege.</p> <p>6 Objection, also, that it's a distinct,</p> <p>7 different process.</p> <p>8 THE WITNESS: Sorry if that was fast.</p> <p>9 THE REPORTER: I'll jump in.</p> <p>10 MS. HAMILL Q: I want you to go to the second</p> <p>11 to last page of what I have marked as Exhibit 10,</p> <p>12 please.</p> <p>13 A Uh-huh. You mean, the next to the last page,</p> <p>14 the one with the map at the top?</p> <p>15 Q Looks like this (Indicating).</p> <p>16 A Yeah.</p> <p>17 Q Yes. And that middle paragraph, the bold line</p> <p>18 says, "To create a new gateway cities district to</p> <p>19 enhance Latino voting influence, the commission would</p> <p>20 need to meld together two white majority districts</p> <p>21 elsewhere, so as to cause an aggregate increase in the</p> <p>22 number of districts providing voting power for voters of</p> <p>23 color across the region and the state."</p> <p>24 Did you meld together two white majority</p> <p>25 districts like the HOPE letter suggested?</p>	<p style="text-align: right;">Page 149</p> <p>1 have required somewhere else in the state two districts</p> <p>2 to be collapsed.</p> <p>3 Whether or not those two districts would be, I</p> <p>4 don't know what the composition of those two district</p> <p>5 would be, but mathematically two districts somewhere</p> <p>6 else would have to be collapsed.</p> <p>7 MS. HAMILL Q: Would that trigger Voting</p> <p>8 Rights Act concerns that would make you go and speak to</p> <p>9 an attorney if you were melding two white majority</p> <p>10 districts together?</p> <p>11 MR. MANOLIUS: Objection, calls for</p> <p>12 speculation, incomplete hypothetical. Depends on the</p> <p>13 process. Ultimately, attorney-client privilege, but you</p> <p>14 can answer.</p> <p>15 MR. WOODS: Calls for legal conclusion. You</p> <p>16 can answer.</p> <p>17 THE WITNESS: In other jurisdictions where I'm</p> <p>18 working and I'm working with legal counsel about</p> <p>19 particular VRA districts, they seem to be rather</p> <p>20 agnostic about what happens in the others.</p> <p>21 They're concerned about a particular district</p> <p>22 that they might argue, the lawyers might think is</p> <p>23 required by the Voting Rights Act, but the impact that</p> <p>24 seems to have on other districts, they seem to not have</p> <p>25 a significant concern about.</p>

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1 MS. HAMILL Q: I'm going to go back to page  
2 five of Exhibit 10, which has that footnote three at the  
3 bottom. In the middle of the paragraph that we were  
4 looking at before, the paragraph starts with, "It is  
5 important."  
6 If you go down, the third sentence starts  
7 with, "Thus, it may be important that some of these very  
8 high Latino districts in L.A. County expand somewhat  
9 into neighboring counties, such as Orange County or  
10 Riverside County."  
11 Do you see that?  
12 A Uh-huh.  
13 MR. MEUSER: Is that a "yes"?  
14 THE WITNESS: Yes.  
15 MS. HAMILL Q: And then it says, "Crossing  
16 into Orange County will make some of these districts  
17 less overpacked but will still allow for very high  
18 levels of Latino ability to elect, and Latino CVAP  
19 majorities, that end seem errant," but do you see where  
20 I'm reading from?  
21 A Uh-huh.  
22 Q Do you have an understanding of this  
23 statement?  
24 MR. MANOLIUS: Objection, calls for  
25 speculation. You can answer.

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1 THE WITNESS: Generally, I understand the  
2 words and I think the and is in place, because Latinos'  
3 ability to elect and Latino CVAP majorities are  
4 different constructs.  
5 MS. HAMILL Q: Got it. That's a helpful  
6 explanation. And so it sounds like what this document  
7 is saying is that when there are overpacked districts  
8 with high levels of Latino voters, that they need to be  
9 unpacked. Is that what they're saying?  
10 MR. MANOLIUS: Objection, misstates the  
11 contents of the letter. Calls for speculation. You can  
12 answer.  
13 MR. WOODS: Join.  
14 THE WITNESS: Um, this is kind of like high  
15 level VRA --  
16 MS. HAMILL Q: Uh-huh.  
17 A -- and I really feel like this level of this  
18 discussion, you'd be best served talking to the author  
19 of this document, so I have to -- I understand what he  
20 is saying, but I don't understand whether or not it's  
21 true or not.  
22 Q Do you have an understanding of the concept of  
23 overpacking districts and then moving populations around  
24 to maintain the ability to elect of a protected  
25 population? Do you understand that concept?

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1 A Uh-huh.  
2 Q Okay. Is that what they're talking about  
3 here?  
4 MR. MANOLIUS: Objection, calls for  
5 speculation.  
6 THE WITNESS: Yes.  
7 MS. HAMILL Q: Is this something that you  
8 implemented when you were drawing the maps for  
9 Proposition 50?  
10 MR. MANOLIUS: Objection. Instruct you not to  
11 answer, legislative privilege.  
12 MS. HAMILL Q: So moving onto the next  
13 sentence, "For instance, district SP710 is 63 percent  
14 Latino CVAP. Such a district is likely overpacked  
15 beyond what is required."  
16 A I am sorry. I lost track of where you are.  
17 Can you tell me again? For instance?  
18 Q Yes.  
19 A Sorry. I was off. Thank you.  
20 Q "For instance, district SP710 is 63 percent  
21 Latino CVAP. Such a district is likely overpacked  
22 beyond what is required to definitively allow for the  
23 election of a Latino candidate of choice."  
24 Do you see that?  
25 A Uh-huh. Yes.

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1 Q Do you have an understanding of that  
2 statement?  
3 MR. MANOLIUS: Objection, calls for  
4 speculation. He didn't write it but he can answer.  
5 THE WITNESS: I understand the words. I  
6 understand what he's characterizing.  
7 MS. HAMILL Q: Generally, when you were  
8 drawing maps, what do you consider, what percentage of  
9 CVAP do you consider a district is overpacked?  
10 MR. MANOLIUS: Objection. Lacks context,  
11 vague, depends on the process. And I instruct you not  
12 to answer anything about the Prop 50 map drawings for  
13 legislative privilege.  
14 THE WITNESS: I 100 percent in cases like this  
15 default to legal counsel to tell me.  
16 And I have been in other instances in Kern  
17 County, as an example, where legal counsel asked us to  
18 have districts that were 63, 65 percent Latino.  
19 So in the situation, there was a lawsuit in  
20 Kern County, very well-known one where they were looking  
21 at creating kind of CVAP districts like this, so I can't  
22 characterize, there's no magic overpacking number.  
23 Q All right. And moving onto the next sentence,  
24 it says, "Similarly, STH60 and CDNELA are 56 percent and  
25 57 percent Latino CVAP respectively. If these districts

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<p style="text-align: right;">Page 154</p> <p>1 were between 52 percent and 54 percent Latino CVAP, for</p> <p>2 instance, they would still be very likely to elect</p> <p>3 Latino candidates of choice."</p> <p>4 Do you see that?</p> <p>5 A Uh-huh. Yes.</p> <p>6 Q Do you have an understanding of what that</p> <p>7 means?</p> <p>8 A Yes.</p> <p>9 MR. MANOLIUS: Objection, calls for</p> <p>10 speculation, incomplete hypothetical, context. You can</p> <p>11 answer.</p> <p>12 MR. WOODS: Join.</p> <p>13 THE WITNESS: Yes.</p> <p>14 MS. HAMILL Q: What is your understanding of</p> <p>15 that statement?</p> <p>16 A The understanding of that statement, and again</p> <p>17 these letter number things, these are districts that</p> <p>18 were draft maps from the commission STH60 CDNELA, that</p> <p>19 was a methodology they used to maintain districts. So I</p> <p>20 don't have real clear memory as to what exactly those</p> <p>21 districts were at the time, but what he's essentially</p> <p>22 saying is that idea of majority/minority being</p> <p>23 bifurcated from the idea of ability to elect, and in</p> <p>24 some parts of the state or country a 52 percent or</p> <p>25 54 percent Latino CVAP district is sufficient, given an</p>	<p style="text-align: right;">Page 156</p> <p>1 correct?</p> <p>2 MR. MANOLIUS: Objection, misstates his</p> <p>3 testimony, lacks context, incomplete hypothetical. You</p> <p>4 can answer.</p> <p>5 MR. WOODS: Same objections.</p> <p>6 THE WITNESS: I cannot answer or I can?</p> <p>7 MR. MANOLIUS: You can.</p> <p>8 THE WITNESS: I can? No, I don't agree with</p> <p>9 that.</p> <p>10 MS. HAMILL Q: Can you explain?</p> <p>11 A I already did explain earlier that it's very</p> <p>12 situational.</p> <p>13 In some areas in Kern County, well-documented</p> <p>14 lawsuit, needs a much higher Latino CVAP based on what</p> <p>15 the legal counsel told me in that case, and legal</p> <p>16 counsel in other cases have instructed that a 50 percent</p> <p>17 CVAP Latino is sufficient for based on ability to elect</p> <p>18 a candidate of choice, so there is not a doctrine in</p> <p>19 California about some magical number.</p> <p>20 Q Would you agree that that sweet spot of 52 to</p> <p>21 55 percent that's expressed in this letter marked as</p> <p>22 Exhibit 10 applies to the areas that HOPE was</p> <p>23 referencing their map, with their map proposal?</p> <p>24 MR. WOODS: Objection. Calls for speculation.</p> <p>25 Also, mischaracterizes the document.</p>
<p style="text-align: right;">Page 155</p> <p>1 ability to elect analysis, which is what this</p> <p>2 demographer does to elect a candidate of choice from</p> <p>3 this Latino community and other jurisdictions that might</p> <p>4 not be enough.</p> <p>5 Q Do you agree that moving Hispanic populations</p> <p>6 out of overpacked districts into other areas helps to</p> <p>7 maintain a likelihood that Hispanics will still elect</p> <p>8 candidates of their choice, and I am asking generally,</p> <p>9 not specifically, to this scenario?</p> <p>10 MR. MANOLIUS: Objection, speculation,</p> <p>11 incomplete hypothetical. You can answer.</p> <p>12 THE WITNESS: There is no general answer.</p> <p>13 MS. HAMILL Q: When you were drawing the Prop</p> <p>14 50 maps, did you have a specific CVAP target in mind?</p> <p>15 MR. MANOLIUS: Objection, and I instruct you</p> <p>16 not to answer. It calls for legislatively privileged</p> <p>17 information.</p> <p>18 MS. HAMILL Q: When you were drawing the Prop</p> <p>19 50 maps you had a specific target, Hispanic CVAP in mind</p> <p>20 for a set number of districts; correct?</p> <p>21 MR. MANOLIUS: Objection. I instruct you not</p> <p>22 to answer, legislative privilege.</p> <p>23 MS. HAMILL Q: And you agree that the sweet</p> <p>24 spot Hispanic CVAP to maintain electing candidates of</p> <p>25 their choice is somewhere between 52 and 55 percent;</p>	<p style="text-align: right;">Page 157</p> <p>1 MR. MANOLIUS: Lacks foundation, incomplete</p> <p>2 hypothetical.</p> <p>3 THE WITNESS: I don't want to sound combative,</p> <p>4 but your statement of sweet spot is the first time I</p> <p>5 have ever heard anybody say sweet spot with regards to</p> <p>6 CVAP target, so this isn't the way that I communicate in</p> <p>7 any of my redistrictings.</p> <p>8 I don't mean that to be pejorative. I am just</p> <p>9 saying that is not any language that I have ever used in</p> <p>10 redistricting.</p> <p>11 MS. HAMILL Q: What phrasing would you use?</p> <p>12 A There wouldn't be a phrasing.</p> <p>13 Q So there's no target?</p> <p>14 A No.</p> <p>15 MR. MANOLIUS: Objection, speculation,</p> <p>16 incomplete hypothetical. Depends on the context. You</p> <p>17 can answer.</p> <p>18 THE WITNESS: I characterized in Kern County</p> <p>19 there was guidance from legal counsel to get, I don't</p> <p>20 recall exactly what it was, but it was relatively</p> <p>21 higher, over 50 percent, but those kind of targets like</p> <p>22 in Kern County are extremely rare, almost never seen,</p> <p>23 and it's in a case where there was a legal requirement</p> <p>24 based on a lawsuit to have a district that was a certain</p> <p>25 percentage.</p>



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<p style="text-align: right;">Page 158</p> <p>1 That is not how, you go to any of my</p> <p>2 redistrictings that I have ever done, over 100, that's</p> <p>3 not how we communicate about these issues.</p> <p>4 MS. HAMILL Q: Well, I wish I could get your</p> <p>5 communications regarding Prop 50, but we're getting,</p> <p>6 we're catching objections on everything, so I have to go</p> <p>7 through this process here.</p> <p>8 Moving onto the last sentence in that</p> <p>9 paragraph, "The commission may want to consider the</p> <p>10 optimal allocation of Latino CVAP in L.A. County so as</p> <p>11 to create one additional very high Latino CVAP majority</p> <p>12 or plurality district in this area while maintaining</p> <p>13 these four Latino CVAP majority districts."</p> <p>14 Do you see that.</p> <p>15 A Yes.</p> <p>16 Q And that's exactly what you drew up in Prop</p> <p>17 50?</p> <p>18 MR. MANOLIUS: Objection, legislative</p> <p>19 privilege. I instruct you not to answer, privilege.</p> <p>20 Sorry.</p> <p>21 MS. HAMILL: Can we take a 10-minute break?</p> <p>22 THE WITNESS: Sure.</p> <p>23 THE VIDEOGRAPHER: The time is 2:27 p.m. We</p> <p>24 are going off the record.</p> <p>25 (Whereupon a recess was taken.)</p>	<p style="text-align: right;">Page 160</p> <p>1 A During that time?</p> <p>2 Q Yes.</p> <p>3 A Yes.</p> <p>4 Q What did you speak with her about?</p> <p>5 MR. MANOLIUS: Same objection, based on</p> <p>6 legislative privilege.</p> <p>7 MS. HAMILL Q: Did you speak with Cecilia</p> <p>8 Aguilar Curry during that period of time of July 2nd to</p> <p>9 August 15th, did you speak with anyone involved in the</p> <p>10 assembly committee on elections?</p> <p>11 A I would need to know the members of the</p> <p>12 committee. I'm not trying to be combative. I just</p> <p>13 don't honestly know the members of the committee and I</p> <p>14 didn't speak with any staff.</p> <p>15 Q I'll pull that list on the next break for you.</p> <p>16 A Thank you.</p> <p>17 Q During that time period of July 2nd to</p> <p>18 August 15th, did you speak with anyone on the senate</p> <p>19 committee on elections?</p> <p>20 A Same.</p> <p>21 Q You need a list?</p> <p>22 A I wouldn't know who is on the committee. I</p> <p>23 don't do legislative work.</p> <p>24 Q Did you just say you don't do legislative</p> <p>25 work?</p>
<p style="text-align: right;">Page 159</p> <p>1 THE VIDEOGRAPHER: We are back on the record.</p> <p>2 The time is 2:41 p.m. and this marks the beginning of</p> <p>3 videotape number four in the deposition of Paul</p> <p>4 Mitchell, which is being taken at Hansen Bridgett, LLP,</p> <p>5 500 Capitol Mall, Suite 1500, Sacramento, California.</p> <p>6 The videographer is Nicholas Coulter here on behalf of</p> <p>7 Array Legal Services.</p> <p>8 MS. HAMILL Q: Mr. Mitchell, at any point</p> <p>9 between July 2nd and August 15th, did you speak with any</p> <p>10 of the bill sponsors for any of the three Prop 50 bills?</p> <p>11 A Can you tell me their names? I don't know</p> <p>12 which ones.</p> <p>13 MS. HAMILL Q: You would know better than I</p> <p>14 would. You don't know who sponsored the bills?</p> <p>15 A No.</p> <p>16 MR. MANOLIUS: Objection, calls for</p> <p>17 speculation.</p> <p>18 MS. HAMILL Q: Did you speak with Sabrina</p> <p>19 Cervantes in that period of time?</p> <p>20 A Yes.</p> <p>21 Q What did you speak with her about?</p> <p>22 MR. MANOLIUS: Objection, legislative</p> <p>23 privilege. Don't answer the question.</p> <p>24 MS. HAMILL Q: Did you speak with Gail</p> <p>25 Pellerin Mark.</p>	<p style="text-align: right;">Page 161</p> <p>1 A No, I don't mean like that, I mean</p> <p>2 historically, like, in Sacramento I'm not a lobbyist.</p> <p>3 I don't -- I work more in politics than I do</p> <p>4 in committee staffs and who works where. I don't keep</p> <p>5 track of whose on what committees.</p> <p>6 Q I am going to turn back to the HOPE</p> <p>7 transcript, Exhibit 9, page 26.</p> <p>8 A Oh. Okay.</p> <p>9 Q I'll direct your attention to line 14 on page</p> <p>10 26, going down to line 21. Do you remember making that</p> <p>11 statement?</p> <p>12 MR. MANOLIUS: I apologize. Can you give me</p> <p>13 the line numbers again?</p> <p>14 MS. HAMILL: 14 to 21.</p> <p>15 MR. MANOLIUS: Okay. Thanks.</p> <p>16 THE WITNESS: Yes.</p> <p>17 MS. HAMILL Q: Was it true at the time that</p> <p>18 you said it?</p> <p>19 MR. MANOLIUS: Objection. Legislative</p> <p>20 privilege. Don't answer the question.</p> <p>21 MS. HAMILL Q: You're referring to a Voting</p> <p>22 Rights Act analysis that you got back. Are you</p> <p>23 referring to a voting rights analysis for Prop 50?</p> <p>24 And this is a clarifying question because I</p> <p>25 don't know if you're talking about Prop 50 or something</p>



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<p>Page 162</p> <p>1 else.</p> <p>2 MR. MANOLIUS: Objection, as to Prop 50, calls</p> <p>3 for information that's privileged by legislative</p> <p>4 privilege. Don't answer the question.</p> <p>5 MS. HAMILL Q: Did someone do a Voting Rights</p> <p>6 Act analysis for your Proposition 50 maps?</p> <p>7 MR. MANOLIUS: Instruct you not to answer the</p> <p>8 question. That's protected by legislative privilege.</p> <p>9 MS. HAMILL Q: Who did the voting rights</p> <p>10 analysis for the Prop 50 maps?</p> <p>11 MR. MANOLIUS: Same objection. Instruct you</p> <p>12 not to answer the question.</p> <p>13 MS. HAMILL Q: Is that Voting Rights Act</p> <p>14 analysis published publicly anywhere?</p> <p>15 MR. MANOLIUS: Same objection.</p> <p>16 MS. HAMILL: You're going to object on</p> <p>17 legislative privilege for a publicly published document?</p> <p>18 MR. MANOLIUS: Lacks foundation. Yes. I</p> <p>19 instruct you not to answer.</p> <p>20 MS. HAMILL Q: And do you have a document in</p> <p>21 your possession that would reflect the Voting Rights Act</p> <p>22 analysis that was done for this map?</p> <p>23 MR. MANOLIUS: Same objection and instruct you</p> <p>24 not to answer. Legislative privilege.</p> <p>25 MS. HAMILL Q: And so according to your</p> <p>Page 163</p> <p>1 statement that's reflected in lines 14 to 21, page 26 of</p> <p>2 this exhibit, the analysis you had done said that the</p> <p>3 existing commission map and your new Prop 50 map were</p> <p>4 both compliant with section two but that empirical</p> <p>5 evidence shows Prop 50 map improves the opportunity for</p> <p>6 Latino voters to elect candidates of choice in two more</p> <p>7 districts than the existing plan; is that right?</p> <p>8 MR. MANOLIUS: Is the question did he say it?</p> <p>9 MS. HAMILL: No.</p> <p>10 MR. MANOLIUS: Then objection. I instruct you</p> <p>11 not to answer the question based on legislative</p> <p>12 privilege.</p> <p>13 MS. HAMILL Q: Which two districts have</p> <p>14 improved opportunity for Latino voters to elect</p> <p>15 candidates of their choice?</p> <p>16 MR. MANOLIUS: Same objection. I instruct you</p> <p>17 not to answer.</p> <p>18 MS. HAMILL Q: And going down to the next line</p> <p>19 on page 26, line 22, it says, "Then PPIC just put out an</p> <p>20 analysis last week that said our plan maintained the</p> <p>21 status quote in terms of the Voting Rights Act and added</p> <p>22 one more Latino-influenced district."</p> <p>23 Is that your understanding of what you did</p> <p>24 with your Prop 50 map?</p> <p>25 MR. MANOLIUS: Objection, lacks foundation and</p>	<p>Page 164</p> <p>1 I instruct you not to answer as it implicates</p> <p>2 legislative privileged information.</p> <p>3 MS. HAMILL Q: Can you tell by looking at the</p> <p>4 public map that that's what happened?</p> <p>5 MR. MANOLIUS: Calls for speculation. You can</p> <p>6 answer.</p> <p>7 THE WITNESS: I can only state that that's</p> <p>8 what the PPIC study found. I haven't done the PPIC</p> <p>9 study myself, like, I haven't gone into their data.</p> <p>10 MS. HAMILL Q: Is the PPIC a reliable entity,</p> <p>11 in your mind?</p> <p>12 A (Witness nodding head.)</p> <p>13 MR. MANOLIUS: Objection. Vague as to</p> <p>14 reliable.</p> <p>15 THE WITNESS: One among many; absolutely, PPIC</p> <p>16 is reliable.</p> <p>17 MS. HAMILL Q: I have a list for you.</p> <p>18 A Please.</p> <p>19 Q Did you between the time period of July 2nd</p> <p>20 and August 15th, did you discuss the Proposition 50 maps</p> <p>21 with Alexandra Macedo?</p> <p>22 A I don't believe so.</p> <p>23 Q Did you discuss the Proposition 50 maps with</p> <p>24 Steve Bennett during that time period?</p> <p>25 A I don't believe so. And let me clarify. They</p> <p>Page 165</p> <p>1 might have been on a group, but as an individual</p> <p>2 one-on-one which we discussed earlier the distinction</p> <p>3 between the two, no, not one-on-one.</p> <p>4 Q And within that time period, did you discuss</p> <p>5 the Proposition 50 maps with Marc Berman?</p> <p>6 A I do not believe so.</p> <p>7 Q During that time period did you discuss the</p> <p>8 Proposition 50 maps with Jose Luis Solachi, Jr.?</p> <p>9 A I do not believe so.</p> <p>10 Q During that time period did you discuss the</p> <p>11 Proposition 50 maps with Catherine Stefani?</p> <p>12 A No.</p> <p>13 Q During that time period, did you discuss the</p> <p>14 Proposition 50 maps with David Tangpia?</p> <p>15 A No.</p> <p>16 Q Were you involved with Catherine Stefani's</p> <p>17 efforts to get out the vote on election day for</p> <p>18 Proposition 50?</p> <p>19 A No.</p> <p>20 Q During the time period of July 2nd through</p> <p>21 August 15th, did you discuss the Proposition 50 maps</p> <p>22 with Steven Choy?</p> <p>23 A No.</p> <p>24 Q Did you discuss the Proposition 50 maps with</p> <p>25 Ben Allen during that time period?</p>
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<p>1 A No.</p> <p>2 Q Did you discuss the Proposition 50 maps with</p> <p>3 Monique Limon during that time period?</p> <p>4 A I do not believe so.</p> <p>5 Q And did you discuss the Proposition 50 maps</p> <p>6 with Thomas Umberg during that period of time?</p> <p>7 A No.</p> <p>8 Q And when you said no, it is possible that you</p> <p>9 spoke with these people in a group setting?</p> <p>10 A Yes.</p> <p>11 Q Okay.</p> <p>12 A And if I can remember a conversation with any</p> <p>13 of them I'll come back to you, but I don't recall</p> <p>14 anything during that time.</p> <p>15 Q Do you have any documents in your possession</p> <p>16 that would show who you met with and who you spoke to?</p> <p>17 A Not that --</p> <p>18 MR. MANOLIUS: Objection, compound, calls for</p> <p>19 speculation. You can answer.</p> <p>20 THE WITNESS: Not as an in total.</p> <p>21 MS. HAMILL Q: But if you went back, let's say</p> <p>22 that there weren't objections, would you be able to go</p> <p>23 back into your e-mail account and look for meetings or</p> <p>24 schedules or calls that you might have had with these</p> <p>25 people?</p>	<p>1 will be great for the Latino community in two critical</p> <p>2 ways. One is that they ensure that the Latino districts</p> <p>3 that are the VRA seats are bolstered in order to make</p> <p>4 them most effective, particularly in the Central</p> <p>5 Valley."</p> <p>6 Do you recall saying that?</p> <p>7 A I presume that's exactly what I said since</p> <p>8 that's what's written here so --</p> <p>9 Q Did you mean it?</p> <p>10 MR. MANOLIUS: Objection. Legislative</p> <p>11 privilege. Instruct you not to answer.</p> <p>12 MS. HAMILL Q: I assume you were being</p> <p>13 truthful when you said it?</p> <p>14 MR. MANOLIUS: Same objection. You're</p> <p>15 instructed not to answer.</p> <p>16 MS. HAMILL Q: And what did you mean here when</p> <p>17 you said that the Latino districts that are the VRA</p> <p>18 seats?</p> <p>19 MR. MANOLIUS: Same objection. Instruct you</p> <p>20 not to answer.</p> <p>21 MS. HAMILL Q: So you're not, you're going to</p> <p>22 instruct him not to answer in terms of explaining what</p> <p>23 it means to say Latino districts that are VRA seats?</p> <p>24 MR. MANOLIUS: To the extent that it goes to</p> <p>25 the process in the Legislature, yes, so I am instructing</p>
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<p>1 A Just to, as an example, we talked about side</p> <p>2 to the window that we're talking about --</p> <p>3 Q Uh-huh.</p> <p>4 A -- you know, I'll run into a legislator around</p> <p>5 the capitol, I talk to them whenever we are at a thing</p> <p>6 together, they might call me, but all those kind of</p> <p>7 interactions which are probably the majority of the</p> <p>8 interactions I would have with the legislators would not</p> <p>9 be in any kind of documentation.</p> <p>10 Did you say Macedo on that list?</p> <p>11 Q Uh-huh.</p> <p>12 A Then I did talk to Macedo.</p> <p>13 Q You did talk to Assembly Member Macedo?</p> <p>14 A During that period, yes. Sorry.</p> <p>15 It was outside the period, it was between the</p> <p>16 15th and the 19th, so I'm sorry, so it wasn't during the</p> <p>17 July 15th to August 15th, it was after, during the</p> <p>18 legislative session.</p> <p>19 Q What did you talk to her about?</p> <p>20 MR. MANOLIUS: Objection. Legislative</p> <p>21 immunity, privilege, instruct you not to answer.</p> <p>22 MS. HAMILL Q: I want to turn your attention</p> <p>23 to page 30 of the HOPE transcript, lines six through 11.</p> <p>24 A (Witness complied.)</p> <p>25 Q So here you say, "The Prop 50 maps I think</p>	<p>1 him not to answer.</p> <p>2 MS. HAMILL Q: What did you mean when you say</p> <p>3 you want to bolster the VRA seats?</p> <p>4 MR. MANOLIUS: Same objection, instruct you</p> <p>5 not to answer.</p> <p>6 MS. HAMILL Q: Do you use race as an input</p> <p>7 when you're, quote, on the box?</p> <p>8 MR. MANOLIUS: Vague as to time. Instruct you</p> <p>9 not to answer it as to Prop 50 process.</p> <p>10 MS. HAMILL Q: Ever.</p> <p>11 A In redistricting when we're drawing lines?</p> <p>12 Q Yes.</p> <p>13 A You have to be cognizant of all of the factors</p> <p>14 when you're drawing lines, so of course.</p> <p>15 Q So including race?</p> <p>16 A Uh-huh.</p> <p>17 MR. MEUSER: Is that a "yes"?</p> <p>18 THE WITNESS: Yes.</p> <p>19 MS. HAMILL Q: Did you use race as an input</p> <p>20 when you were drawing on the box drawing the Prop 50</p> <p>21 map?</p> <p>22 MR. MANOLIUS: Objection, instruct you not to</p> <p>23 answer, legislative privilege.</p> <p>24 MS. HAMILL Q: In one of these podcasts you</p> <p>25 spoke about SCOTUS dismantling the VRA. What did you</p>

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<p style="text-align: right;">Page 170</p> <p>1 mean by that?</p> <p>2 MR. MANOLIUS: Objection, vague. Calls for</p> <p>3 speculation. One of these podcasts, question mark?</p> <p>4 THE WITNESS: I think there's two ways in</p> <p>5 which I generally would speak about SCOTUS dismantling</p> <p>6 VRA.</p> <p>7 The first is that California used to be bound</p> <p>8 by section five of the Voting Rights Act, but they</p> <p>9 invalidated section four, which was the conditions upon</p> <p>10 which section five was operative and in doing so they</p> <p>11 eliminated a VRA protection nationally that also does</p> <p>12 affect California redistricting.</p> <p>13 And then, secondly, there are cases before the</p> <p>14 court right now where pundits and analysts believe that</p> <p>15 they might erode the Voting Rights Act in a general way,</p> <p>16 but I am not an attorney so I can't really speak to what</p> <p>17 are the possible outcomes.</p> <p>18 But when you say dismantling, those were the</p> <p>19 things I think colloquial saying in the redistricting</p> <p>20 space around the Voting Rights Act. That's what that</p> <p>21 would mean.</p> <p>22 Q Does the voting power of any racial group</p> <p>23 decrease with your Proposition 50 map?</p> <p>24 MR. MANOLIUS: Objection, vague, compound</p> <p>25 incomplete hypothetical. You can answer.</p>	<p style="text-align: right;">Page 172</p> <p>1 speculation, incomplete hypothetical. You can answer.</p> <p>2 THE WITNESS: I don't believe so.</p> <p>3 MS. HAMILL Q: We're making progress.</p> <p>4 A I know. I am just running out of cough drops.</p> <p>5 MR. MEUSER: I may be a Boy Scout, but I don't</p> <p>6 have any cough drops.</p> <p>7 MS. HAMILL Q: If you want to hand those</p> <p>8 exhibits to the court reporter --</p> <p>9 A 8, 9, 10; I can do that.</p> <p>10 Q How many Black influenced districts are there</p> <p>11 in the Prop 50 map?</p> <p>12 A That would be open to interpretation.</p> <p>13 Q Enlighten me.</p> <p>14 A There are --</p> <p>15 MR. MANOLIUS: Objection, calls for a</p> <p>16 narrative, vague. You can answer.</p> <p>17 MR. WOODS: Join.</p> <p>18 THE WITNESS: There are advocacy groups that</p> <p>19 would argue that there are multiple districts wherein</p> <p>20 the Black population has electoral opportunity and</p> <p>21 greater influence and that the creation of the lings by</p> <p>22 the last commission and their advocacy was helpful in</p> <p>23 sustaining that, and that ranges from districts in L.A.</p> <p>24 to Oakland to Contra Costa, Fairfield, Vacaville, Solano</p> <p>25 County, Sacramento, Stockton.</p>
<p style="text-align: right;">Page 171</p> <p>1 MR. WOODS: Join.</p> <p>2 THE WITNESS: Sure. There's the voting group</p> <p>3 potentially that, you know, is in a current district</p> <p>4 where they have an elected representative, the lines</p> <p>5 have changed, there's going to be winners and losers in</p> <p>6 every district, so there are voting groups that might</p> <p>7 have wanted to vote for Kevin Kiley and Kevin Kiley is</p> <p>8 now going to be in a district that is more now heavily</p> <p>9 democratic, but that is what happens in redistricting.</p> <p>10 Q So my question asked about the voting power of</p> <p>11 any racial group.</p> <p>12 A Oh, you didn't say, I didn't hear you say</p> <p>13 racial group, so I am sorry. Let me adjust that then,</p> <p>14 because I thought you just said group, voting group.</p> <p>15 So, no, I can't speak to -- could you please</p> <p>16 repeat the question she asked? I am really genuinely</p> <p>17 sorry. I thought you said voting group.</p> <p>18 (Whereupon the record was read as</p> <p>19 follows: "Question: Does the</p> <p>20 voting power of any racial group</p> <p>21 decrease with your Proposition 50</p> <p>22 map?")</p> <p>23 THE WITNESS: So I retract my former</p> <p>24 statement. That was not what I intended to say.</p> <p>25 MR. MANOLIUS: Objection. Calls for</p>	<p style="text-align: right;">Page 173</p> <p>1 There's a lot of places where the Black, the</p> <p>2 organizations that advocate for the Black community</p> <p>3 might consider that their community of interest has, you</p> <p>4 know, a significant ability to elect it somehow.</p> <p>5 Q Did you deliberately preserve any</p> <p>6 Black-influenced district in the Proposition 50 map?</p> <p>7 MR. MANOLIUS: Objection, legislative</p> <p>8 privilege. Instruct you not to answer.</p> <p>9 MS. HAMILL Q: Did you do an interview with</p> <p>10 the Sacramento Observer about Proposition 50?</p> <p>11 A Yes.</p> <p>12 Q I'm going to mark as Exhibit 11 -- a note for</p> <p>13 the record that I am done with the stickers.</p> <p>14 I am marking as Exhibit 11 an article in the</p> <p>15 Sacramento Observer entitled, "Untangling Prop 50: How</p> <p>16 California's Redistricting Fight Impacts Black</p> <p>17 Communities."</p> <p>18 (Whereupon Plaintiff's Exhibit 11</p> <p>19 was marked for identification.)</p> <p>20 MS. HAMILL Q: So it looks like this article</p> <p>21 was dated October 20th, 2025.</p> <p>22 Did you provide the Sacramento Observer with</p> <p>23 an interview for this particular article?</p> <p>24 MR. MANOLIUS: Objection, calls for</p> <p>25 speculation.</p>

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<p>1 THE WITNESS: Yeah, but you said a date. I</p> <p>2 don't know if the date makes sense.</p> <p>3 MS. HAMILL Q: On the top of the second page</p> <p>4 of this exhibit.</p> <p>5 A So October 2025.</p> <p>6 <b>Q Yes.</b></p> <p>7 A Okay. Okay. Before the election, but after</p> <p>8 the lines were drawn, after the ballot measure, it was</p> <p>9 near the end of the ballot measure. Okay.</p> <p>10 MS. HAMILL Q: And I want to turn to page five</p> <p>11 of this exhibit and it looks like this is where you come</p> <p>12 into the article. The second paragraph says, "He,</p> <p>13 meaning Paul Mitchell, "said his team prioritized</p> <p>14 protecting the core interests of Black communities,</p> <p>15 which were for the most part, he said, 'kept intact from</p> <p>16 the commission process.'"</p> <p>17 Do you remember saying that to the Sacramento</p> <p>18 Observer?</p> <p>19 MR. MANOLIUS: Objection. There's, there's --</p> <p>20 it's a description of what he said by somebody else, so</p> <p>21 calls for speculation. You can, you can answer.</p> <p>22 THE WITNESS: Yeah, I think that that author</p> <p>23 of this article is characterizing this in a way that I</p> <p>24 wouldn't have characterized it.</p> <p>25 But the second part, my stand alone statement,</p>	<p>1 maintaining the districts that we ended up not even</p> <p>2 actually touching.</p> <p>3 These districts are so far away from where the</p> <p>4 republicans are that it wasn't important in our line</p> <p>5 drawing to try to go into those districts, and so it was</p> <p>6 advantageous to the Black organizations that the three</p> <p>7 districts that they were most focused on weren't</p> <p>8 touched, so that's me characterizing the organizations.</p> <p>9 Goal number one was preserving those three districts</p> <p>10 and, incidentally, our maps did that because there</p> <p>11 wouldn't have been a partisan advantage to do that.</p> <p>12 And that's 90 percent of what was important</p> <p>13 for the Black community, was preserving those districts.</p> <p>14 So I'm characterizing the importance of those to the</p> <p>15 organizations that were advocating before the commission</p> <p>16 in 2021.</p> <p>17 <b>Q Were you referring to districts 37, 43 and 12?</b></p> <p>18 A When I just said three districts?</p> <p>19 <b>Q Yes.</b></p> <p>20 A I believe those would be the three districts</p> <p>21 I'd be talking about, yeah.</p> <p>22 <b>Q And so the Proposition 50 map was drawn to</b></p> <p>23 <b>keep 37, 43 and 12 to be Black influence districts;</b></p> <p>24 <b>correct?</b></p> <p>25 MR. MANOLIUS: Objection, calls for</p>
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<p>1 kept in tact from the commission process, could be me</p> <p>2 advocating for the Prop 50 maps in that the large areas</p> <p>3 that the Black community identifies as communities of</p> <p>4 interest were kept intact. So it was an objective</p> <p>5 statement about when you look at what the community of</p> <p>6 interest the Black advocacy organizations were</p> <p>7 advocating for, that those were intact, but whether this</p> <p>8 first sentence about us prioritizing the core of Black</p> <p>9 communities is the reporter's interpretation.</p> <p>10 <b>Q Did you prioritize protecting the core</b></p> <p>11 <b>interests of Black communities?</b></p> <p>12 MR. MANOLIUS: Instruct you not to answer,</p> <p>13 legislative privilege.</p> <p>14 MS. HAMILL Q: And the next paragraph says,</p> <p>15 "Mitchell said preserving three Black districts, two in</p> <p>16 L.A. and one in Oakland, was foremost."</p> <p>17 Is that true?</p> <p>18 MR. MANOLIUS: Objection, calls for</p> <p>19 speculation written by somebody else. And was it true?</p> <p>20 Lacks foundation.</p> <p>21 THE WITNESS: What this paragraph is speaking</p> <p>22 to is what the organizations that I mentioned in the</p> <p>23 earlier question, you said white groups have reached out</p> <p>24 to Black Power Network was one of them, met the Black</p> <p>25 Power Network, their top priority was, first off,</p>	<p>1 speculation.</p> <p>2 MR. WOODS: Join.</p> <p>3 MR. MANOLIUS: Do not answer.</p> <p>4 MS. HAMILL Q: Did you intentionally give</p> <p>5 Young Kim a district?</p> <p>6 MR. MANOLIUS: I said objection, legislative</p> <p>7 privilege, I instruct you not to answer.</p> <p>8 MS. HAMILL Q: Young Kim is a republican;</p> <p>9 right?</p> <p>10 A Yes. Good republican member of Congress.</p> <p>11 <b>Q A good republican?</b></p> <p>12 A I'm just joking.</p> <p>13 <b>Q So why did your map give her a great district,</b></p> <p>14 <b>in your words?</b></p> <p>15 MR. MANOLIUS: Objection, legislative</p> <p>16 privilege and instruct you not to answer.</p> <p>17 MS. HAMILL Q: Was there no way to draw a</p> <p>18 district that would give a democrat a greater chance of</p> <p>19 being elected in that area where Young Kim's district</p> <p>20 is?</p> <p>21 MR. MANOLIUS: Same objection. I instruct you</p> <p>22 not to answer, legislative privilege.</p> <p>23 MS. HAMILL Q: Do you have evidence that</p> <p>24 Hispanics have been unable to elect candidates of choice</p> <p>25 in California?</p>

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<p style="text-align: right;">Page 178</p> <p>1 MR. MANOLIUS: Objection.</p> <p>2 MS. HAMILL Q: Generally.</p> <p>3 MR. MANOLIUS: Vague as to time, calls for</p> <p>4 speculation, incomplete hypothetical. You can answer.</p> <p>5 MR. WOODS: Also, calls for a legal</p> <p>6 conclusion.</p> <p>7 THE WITNESS: I can answer?</p> <p>8 MR. MANOLIUS: Yes, please.</p> <p>9 THE WITNESS: Can you please repeat the</p> <p>10 question that she asked to me exactly? I got it wrong</p> <p>11 last time so I want to make sure I get it right.</p> <p>12 (Whereupon the record was read as</p> <p>13 follows: "Question by MS.</p> <p>14 HAMILL: Do you have evidence</p> <p>15 that Hispanics have been unable</p> <p>16 to elect candidates of choice in</p> <p>17 California?</p> <p>18 "MR. MANOLIUS: Objection.</p> <p>19 "MS. HAMILL: Generally.")</p> <p>20 MR. WOODS: Join.</p> <p>21 THE WITNESS: At the statewide level, I don't</p> <p>22 have evidence of that at the statewide level.</p> <p>23 MS. HAMILL Q: If you had more time to work on</p> <p>24 the Proposition 50 map, is there anything that you would</p> <p>25 have done differently?</p>	<p style="text-align: right;">Page 180</p> <p>1 EXAMINATION</p> <p>2 By: MARK MEUSER, Attorney at Law, counsel on behalf of</p> <p>3 the Plaintiffs:</p> <p>4 Q Good afternoon, Paul.</p> <p>5 A Hi.</p> <p>6 Q As you know, I am Mark Meuser for the</p> <p>7 plaintiffs and I am going to take an opportunity to try</p> <p>8 to ask you some more questions.</p> <p>9 I'll try not to duplicate, but there might be</p> <p>10 a few duplications here, so -- you understand you're</p> <p>11 still under oath?</p> <p>12 A Yes.</p> <p>13 (Whereupon Plaintiff's Exhibit 12</p> <p>14 was marked for identification.)</p> <p>15 MR. MEUSER Q: Okay. In front of you right</p> <p>16 now is a document that's been marked as document number</p> <p>17 12. Have you seen this document before?</p> <p>18 A No.</p> <p>19 Q Not until I sat down?</p> <p>20 Q I am going to represent to you that this was a</p> <p>21 document that was served on your counsel at about</p> <p>22 1:00 a.m. this morning, so your counsel had a very late</p> <p>23 night last night.</p> <p>24 Would you take a minute and just review the</p> <p>25 response to Request for Production number one?</p>
<p style="text-align: right;">Page 179</p> <p>1 MR. MANOLIUS: Objection, legislative</p> <p>2 privilege and I instruct you not to answer.</p> <p>3 MS. HAMILL Q: Do you have any regrets about</p> <p>4 how this transpired?</p> <p>5 MR. MANOLIUS: Same objection.</p> <p>6 THE WITNESS: I wish I had eaten more.</p> <p>7 MR. MEUSER: That is actually in his report in</p> <p>8 the Capitol Weekly Podcast, so --</p> <p>9 MS. HAMILL: I believe I am finished with my</p> <p>10 questions, but I do reserve the right to come back if</p> <p>11 there's time at the end. Thank you.</p> <p>12 And I am going to pass this off to my</p> <p>13 colleague, Mr. Mark Meuser.</p> <p>14 MR. MEUSER: Let's go off the record for a</p> <p>15 minute.</p> <p>16 THE VIDEOGRAPHER: The time is 3:09 p.m. We</p> <p>17 are going off the record.</p> <p>18 (Whereupon a recess was taken.)</p> <p>19 THE VIDEOGRAPHER: We are back on the record.</p> <p>20 The time is 3:22 p.m. and this marks the beginning of</p> <p>21 videotape number five in the deposition of Paul</p> <p>22 Mitchell, which is being taken at Hansen Bridgett, LLP,</p> <p>23 500 Capitol Mall, Suite 1500, Sacramento, California.</p> <p>24 The videographer is Nicholas Coulter here on</p> <p>25 behalf of Array Legal Services.</p>	<p style="text-align: right;">Page 181</p> <p>1 A Okay.</p> <p>2 Q Okay. Now, go read the Request for Production</p> <p>3 number one.</p> <p>4 A (Witness complied.) The first line? Yes.</p> <p>5 Q You were served with the notice of your</p> <p>6 deposition on Monday, December 1st; is that correct?</p> <p>7 A If that's what the records are -- I don't</p> <p>8 remember exactly what day it was.</p> <p>9 Q Okay. And in that deposition notice there was</p> <p>10 a request to bring documents; is that correct? Do you</p> <p>11 remember Julie going through that list of questions</p> <p>12 where it said documents?</p> <p>13 A Yes.</p> <p>14 Q And did you bring any documents with you</p> <p>15 today?</p> <p>16 MR. MANOLIUS: Objection. I have already</p> <p>17 stated our position on the documents. We are happy to</p> <p>18 work with you going forward, but there was not</p> <p>19 sufficient time to prepare for this deposition and to</p> <p>20 gather everything that we'd have to gather and review,</p> <p>21 so the answer to your question is no.</p> <p>22 MR. MEUSER Q: So in 10 days you have not been</p> <p>23 able to produce a single document; is that correct?</p> <p>24 MR. MANOLIUS: I would more characterize it as</p> <p>25 we are not producing any documents today given the</p>



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<p style="text-align: right;">Page 182</p> <p>1 burdensome nature of what you've requested and the need 2 to review everything, gather everything, review 3 everything for privilege and the like. 4 And, again, as I noted in my e-mail to you, we 5 are very happy to establish a schedule for that 6 production. 7 MR. MEUSER Q: But as of today at the time of 8 this deposition you have not brought any documents to 9 this deposition? 10 A No. 11 Q Okay. And there is no privilege log that has 12 been delivered as of today; correct? 13 MR. MANOLIUS: Correct. As I also stated in 14 my e-mail to you, we would be providing that as we went 15 through the documents and helped develop the documents. 16 It's a very voluminous and tedious process and we've 17 also been busily preparing for this deposition. 18 MR. MEUSER Q: Did you know approximately how 19 many documents that you gave to counsel to review in 20 response to this document production? 21 A I do not. 22 Q Was this produced to counsel in the form of an 23 electronic drive? 24 MR. MANOLIUS: Objection, attorney-client 25 privilege. I instruct you not to answer the question.</p>	<p style="text-align: right;">Page 184</p> <p>1 counsel? 2 A Dropbox. 3 Q Dropbox. Do you recall what the size of the 4 Dropbox file was you transferred? 5 A It wasn't a file, it was access to the 6 folders, so I don't know what it was. 7 Q On what date did you give counsel access to 8 your computers? 9 A I don't recall. 10 MR. MANOLIUS: Objection, attorney-client 11 privilege. Don't answer the question. 12 MR. MEUSER: Next I am handing you which is 13 called Exhibit 13, which is a subpoena to appear and 14 testify at a hearing in Los Angeles. 15 (Whereupon Plaintiff's Exhibit 13 16 was marked for identification.) 17 MR. MEUSER Q: Earlier when we started this 18 deposition you were asked a few questions about being in 19 Los Angeles. At that time you were not under subpoena. 20 This is an official subpoena to appear at trial on 21 Monday, the 15th. 22 Will you be appearing on Monday, the 15th? 23 MR. MANOLIUS: Objection. He's not compelled 24 by this piece of paper to appear in Los Angeles. It's 25 beyond the 100-mile limit for a preliminary injunction</p>
<p style="text-align: right;">Page 183</p> <p>1 MR. MEUSER Q: Right now all I am trying to do 2 is figure out the size of the file that you're trying to 3 review, because you have not produced anything here. 4 MR. MANOLIUS: Uh-huh. 5 MR. MEUSER: So if it was 10 boxes of paper, 6 is it, you know, a zip drive that was 100 megabytes? 7 All I am trying to figure out is the volume of 8 documents that you are reviewing, so because it's been 9 10 days here and there's not a single document. 10 MR. MANOLIUS: Uh-huh. 11 MR. MEUSER: There's not a single document, 12 there's not a privilege log, so I'm just trying to, in 13 case we have to go to the court, I am trying to make 14 sure that we have a record here, Counsel. 15 MR. MANOLIUS: And I can tell you that I don't 16 know the size of it. It's voluminous. I am not very 17 good on the technical end of things, I rely on other 18 people in my firm to deal with that, which is in the 19 process and happening, so I don't know the size. 20 I mean, I don't know if you know the size. 21 THE WITNESS: I have no idea. Every time we 22 create a map there are files created, put in folders and 23 they have been given access to all of that. 24 MR. MEUSER Q: Did you send some sort of zip 25 file to counsel when you delivered the documents to</p>	<p style="text-align: right;">Page 185</p> <p>1 hearing. That's noted in rule 45(c). He's already been 2 burdened by coming to this deposition on short notice 3 and preparing. 4 The Supreme Court recently said that this is 5 not going to be an action that gets very far and the 6 burden on him has been enough, so he will not be 7 appearing in Los Angeles. 8 MR. MEUSER: I need to be able to explain to 9 the judge -- 10 MR. MANOLIUS: Yes. 11 MR. MEUSER: -- so I appreciate that answer. 12 MR. MANOLIUS: Of course. 13 MR. MEUSER: Okay. 14 (Whereupon Plaintiff's Exhibit 14 15 was marked for identification.) 16 MR. MEUSER: I have just handed you what is 17 called Exhibit D -- sorry, Exhibit 14, which is a DCCC 18 letter, "To whom it may concern," from Julie Merz. 19 And then it proceeds to be a 59 page document 20 that seems to have Redistricting Partners' logo on every 21 single page after the first page; is that correct? 22 A Seems excessive, seems like a lot, but yes, 23 that is. 24 Q Is this a document that you prepared and gave 25 to DCCC?</p>



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<p style="text-align: right;">Page 186</p> <p>1 MR. MANOLIUS: You can answer.</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. WOODS: Counsel, before you get too far,</p> <p>4 do you have a paper copy?</p> <p>5 MR. MEUSER: It's called August 15th draft</p> <p>6 map.</p> <p>7 MR. WOODS: I understand my special access has</p> <p>8 been spotted, so it's gone.</p> <p>9 MR. MEUSER: I didn't, because I thought</p> <p>10 everybody would be on the computer file. I am sorry.</p> <p>11 MR. WOODS: Okay.</p> <p>12 MS. MADDURI: Counsel, did you say this was a</p> <p>13 document DCCC produced?</p> <p>14 MR. MEUSER: It is actually a document that</p> <p>15 you produced. It was in a zip file that was attached to</p> <p>16 the e-mail that you, that we've already discussed</p> <p>17 earlier today.</p> <p>18 In one of the e-mails that we were discussing</p> <p>19 there was a Dropbox link and this letter appears in that</p> <p>20 Dropbox link.</p> <p>21 MS. MADDURI: Can you identify the documents</p> <p>22 by Bates numbers?</p> <p>23 MR. MEUSER: No. This particular document</p> <p>24 that is looking at has not been Bates stamped or are you</p> <p>25 talking about the letter where this zip drive is?</p>	<p style="text-align: right;">Page 188</p> <p>1 Q You didn't create the letter but you created</p> <p>2 the .pdf document that's with the letter; correct?</p> <p>3 A Uh-huh.</p> <p>4 MR. MANOLIUS: Yeah?</p> <p>5 THE WITNESS: Yes.</p> <p>6 MR. MEUSER Q: Can you tell me what these 59</p> <p>7 pages are?</p> <p>8 A This is a redistricting packet. Sometimes we</p> <p>9 call it an atlas is what we called it internally.</p> <p>10 It is of the cover map of the agency, it is</p> <p>11 data tables for each of the districts and then inside of</p> <p>12 it are individual maps of each district with data</p> <p>13 regarding the populations, and then an inset map that</p> <p>14 shows where that district lies within the State of</p> <p>15 California.</p> <p>16 Q So beginning on page nine you have</p> <p>17 congressional district one; correct?</p> <p>18 A I don't have them numbered, but I trust you</p> <p>19 that that's page nine.</p> <p>20 Q So prior to page nine, these are just going to</p> <p>21 be data generally about the entire redistricting</p> <p>22 process, all the districts; is that correct?</p> <p>23 A The summary data table using the U.C. Berkeley</p> <p>24 statewide database census and CVAP data.</p> <p>25 Q Did you send this atlas to anybody else?</p>
<p style="text-align: right;">Page 187</p> <p>1 MS. MADDURI: I am sorry. I thought you said</p> <p>2 this was a document that DCCC produced. Is that not</p> <p>3 right? If they produced it there would be Bates stamps</p> <p>4 on it.</p> <p>5 MR. MEUSER: DCCC had an e-mail that is Bates</p> <p>6 stamped. In that e-mail is a Dropbox link. When you</p> <p>7 typed in the Dropbox link this document was still in it,</p> <p>8 so it was --</p> <p>9 MS. MADDURI: I see. Okay.</p> <p>10 MR. MEUSER: And this is something that was in</p> <p>11 an August 15th e-mail from Paul Mitchell to Julie that</p> <p>12 we have discussed earlier when Julie Hamill was asking</p> <p>13 questions.</p> <p>14 And if you look at the text in there, there</p> <p>15 was a Dropbox link and that this document that he's</p> <p>16 looking at right now came from that Dropbox link.</p> <p>17 Have you seen that document before?</p> <p>18 A Yes.</p> <p>19 Q And you created that document?</p> <p>20 MR. MANOLIUS: Objection. The entirety of it,</p> <p>21 compound. You can answer.</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. MEUSER Q: Redistricting.</p> <p>24 A To be clear, I put these two documents</p> <p>25 together. I did not create this letter.</p>	<p style="text-align: right;">Page 189</p> <p>1 MR. MANOLIUS: Objection, vague as to time.</p> <p>2 MR. MEUSER Q: Between August 10th and</p> <p>3 August 20th, did you send an atlas package to anybody</p> <p>4 else?</p> <p>5 A Between August 10th and August 20th, yes,</p> <p>6 sure.</p> <p>7 MR. MEUSER Q: Who else did you send the atlas</p> <p>8 packets to?</p> <p>9 A I don't recall.</p> <p>10 Q I am going to hand you what we're going to</p> <p>11 mark as Exhibit 15.</p> <p>12 (Whereupon Plaintiff's Exhibit 15</p> <p>13 was marked for identification.)</p> <p>14 MR. MEUSER Q: Which is on the legislature's</p> <p>15 Prop 50 website and it's actually titled "atlas."</p> <p>16 A Oh.</p> <p>17 MR. MANOLIUS: Thank you.</p> <p>18 MR. MEUSER Q: And for those following along</p> <p>19 at home, this would be titled DCCC map atlas (AB 604),</p> <p>20 that's a document that has just been marked as</p> <p>21 Exhibit 15.</p> <p>22 MR. MANOLIUS: Did you have a question, Mark?</p> <p>23 I am sorry.</p> <p>24 THE WITNESS: I have it.</p> <p>25 MR. MEUSER Q: Okay. Do you believe that</p>

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<p style="text-align: right;">Page 190</p> <p>1 these two documents were both generated by your in-house 2 software? 3 MR. MANOLIUS: Hmm? 4 THE WITNESS: Yes, these are what SYZYGY 5 creates. 6 MR. MEUSER: Do you recall sending to the 7 State Legislature this particular legislative atlas to 8 the Legislature so that they could publish it on line so 9 anybody could view it? 10 MR. MANOLIUS: Objection. Speculation as to 11 the purpose the Legislature would have, but you can 12 answer the first part of the question. 13 THE WITNESS: This legislative map, this map 14 was run by us in order for the Legislature to place 15 something as a .pdf on the website. 16 MR. MEUSER Q: Okay. I noticed that the one 17 that I handed you that we got from the DCCC e-mail, that 18 has your logo Redistricting Partners; correct? 19 A Yes. 20 Q And the one that's marked 15 has the 21 California Legislature seal; is that correct? 22 A Yep. 23 Q Do you know if you put on the images of seals 24 or do you know if the Legislature did that? Do you have 25 any knowledge of how the logo was changed?</p>	<p style="text-align: right;">Page 192</p> <p>1 Q What is different? 2 MR. MANOLIUS: Objection. Legislative 3 privilege. I instruct you not to answer. 4 MR. MEUSER: You're going to instruct him not 5 to answer something that is a public document that's on 6 a State Legislature website? 7 MR. MANOLIUS: Oh. 8 THE WITNESS: The difference is that the one 9 provided to the DCCC has voter registration in the upper 10 right-hand corner and the one provided by the 11 Legislature has the same box, but the 2020 census field 12 in that. 13 MR. MEUSER Q: When you were preparing the 14 atlas for the Legislature, did anyone ask you to put in 15 the different box and not put in party registration, in 16 your atlas? 17 MR. MANOLIUS: Objection. I will object, 18 legislative privilege. I instruct you not to answer the 19 question. 20 MR. MEUSER Q: Mr. Mitchell, you're not 21 answering that question at the instruction of your 22 counsel; is that correct? 23 A Exactly. 24 Q And let's just go to the second page of either 25 one of these, of both of these documents, so it will be</p>
<p style="text-align: right;">Page 191</p> <p>1 A Yeah. We have a file, they provided us the 2 logos. 3 Q So the State Legislature provided you the 4 logos, you put those on and you mail it to the 5 appropriate person at the State Legislature; is that 6 correct? 7 A Yes. 8 Q Are you aware if there's any difference in 9 these two documents? 10 MR. MANOLIUS: Objection. 11 MR. MEUSER: Other than the logo. 12 MR. MANOLIUS: Other than the logo? 13 Objection. Information that's privileged under 14 legislative privilege. I instruct you not to answer the 15 question. 16 MR. MEUSER Q: Okay. Can you turn to page -- 17 the section of the page that is district one? 18 MR. WOODS: On which document? 19 MR. MANOLIUS: On which one. 20 MR. MEUSER: Both sets. 21 THE WITNESS: Yes. 22 MR. MEUSER Q: Is the content on, regarding 23 district one, other than the logo, the same on these two 24 documents? 25 A No.</p>	<p style="text-align: right;">Page 193</p> <p>1 the page that starts with 2020 census. 2 A Oh, second page. Okay. 3 Q Other than the logo at the top of the page, 4 are you aware of any numbers on this page that are 5 different? 6 A No. 7 Q For the series of questions I am about ready 8 to ask, I don't care which one of these you use, you can 9 put whichever one in front of you that you want because 10 I am going to ask about some numbers on the tables, so 11 whichever one you prefer. I'm just make sure everybody 12 knows. 13 So you are going to use the official 14 legislative atlas here real quick. Okay. 15 First question I am going to ask you before we 16 actually turn to the numbers on this page is how many 17 Hispanic majority districts were drawn by the 18 commission? 19 MR. MANOLIUS: In 2021? 20 MR. MEUSER: In 2021. 21 MR. MANOLIUS: If you know. 22 THE WITNESS: 16. 23 MR. MEUSER Q: Okay. Do you know how many of 24 them were designated by the commission as a Voting 25 Rights Act district?</p>

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<p style="text-align: right;">Page 194</p> <p>1 A 14.</p> <p>2 Q How many Hispanic majority districts did you</p> <p>3 create as a part of this legislative package that became</p> <p>4 known as Prop 50?</p> <p>5 MR. MANOLIUS: Objection, legislative</p> <p>6 privilege, I instruct you not to answer.</p> <p>7 MR. MEUSER Q: Looking at the official atlas</p> <p>8 that is a public document, is congressional district one</p> <p>9 a Hispanic majority district?</p> <p>10 A No.</p> <p>11 Q Is congressional district two a Hispanic</p> <p>12 majority district?</p> <p>13 A No.</p> <p>14 Q Is congressional district three a Hispanic</p> <p>15 majority district?</p> <p>16 A No.</p> <p>17 Q Is congressional district four a Hispanic</p> <p>18 majority district?</p> <p>19 A No.</p> <p>20 Q Is congressional district five a Hispanic</p> <p>21 majority district?</p> <p>22 A No.</p> <p>23 Q Is congressional district six a Hispanic</p> <p>24 majority district?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 196</p> <p>1 go all the way back to that question, but I think the</p> <p>2 term might have been different than calling it a</p> <p>3 minority opportunity district.</p> <p>4 I don't think that was the terminology that</p> <p>5 was used in the earlier question, but I've seen people</p> <p>6 use the term minority opportunity district in different</p> <p>7 ways and I don't have, like, a favorite terminology for</p> <p>8 that.</p> <p>9 Q Have you ever drawn what you would classify as</p> <p>10 a minority opportunity district?</p> <p>11 MR. MANOLIUS: Objection. To the extent</p> <p>12 you're asking about Prop 50, instruct you not to answer</p> <p>13 based on legislative privilege. You can answer that</p> <p>14 outside of that context.</p> <p>15 MR. WOODS: Also, vague.</p> <p>16 THE WITNESS: I don't use that terminology, I</p> <p>17 don't think. So if I had ever said something was a</p> <p>18 minority opportunity, that might surprise me. That's</p> <p>19 something that is -- that does -- that's generally not</p> <p>20 something that I use as terminology.</p> <p>21 Q And when I say a Hispanic majority district</p> <p>22 are you considering that as a CVAP majority district or</p> <p>23 would you just see it or are you answering that as just</p> <p>24 a population being the majority?</p> <p>25 MR. MANOLIUS: Yeah, funny objection. I</p>
<p style="text-align: right;">Page 195</p> <p>1 Q Is congressional district seven a Hispanic</p> <p>2 majority district?</p> <p>3 A No.</p> <p>4 Q Is congressional district eight a Hispanic</p> <p>5 majority district?</p> <p>6 A No.</p> <p>7 Q Is congressional district nine a Hispanic</p> <p>8 majority district?</p> <p>9 A No.</p> <p>10 Q Before I go to the next page I am going to ask</p> <p>11 you a question.</p> <p>12 Earlier today, Julie was asking you questions</p> <p>13 about Hispanic opportunity districts or minority</p> <p>14 opportunity districts and I believe you said something</p> <p>15 along the lines, and correct me if I'm wrong, but</p> <p>16 something that different people have a different matrix</p> <p>17 of what is a Hispanic opportunity district or minority</p> <p>18 opportunity district.</p> <p>19 Not talking about the maps of Prop 50, but</p> <p>20 generally speaking, in the redistricting world what is</p> <p>21 your definition of a minority opportunity district?</p> <p>22 MR. MANOLIUS: Objection, asked and answered,</p> <p>23 misstates his testimony. He already said that. You</p> <p>24 have got it, Paul.</p> <p>25 THE WITNESS: I don't know that it's right to</p>	<p style="text-align: right;">Page 197</p> <p>1 should have clarified that before, so what's your --</p> <p>2 THE WITNESS: When we're talking in a</p> <p>3 redistricting construct, the shorthand would be that</p> <p>4 when you say what is the Latino share of the district,</p> <p>5 you're talking about it within a voting rights context</p> <p>6 and so we're using the citizen voting age population.</p> <p>7 Q So that's the CVAP number and CVAP percentage;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q So when I've been asking you the questions</p> <p>11 about the Hispanic majority, you're looking at the lines</p> <p>12 on this chart that are Latino CVAP and Latino CVAP</p> <p>13 percentage; correct?</p> <p>14 A Yes.</p> <p>15 Q Okay. We are going to start asking those</p> <p>16 questions again and we are going to start on</p> <p>17 congressional district 10. Is congressional district 10</p> <p>18 a Hispanic minority/majority district?</p> <p>19 A It's not a majority/minority district.</p> <p>20 Q Is congressional district 11 a</p> <p>21 minority/majority district?</p> <p>22 A I then -- generally, we say majority/minority,</p> <p>23 but, no.</p> <p>24 Q Yes, sorry. Is congressional district 12 a</p> <p>25 Hispanic majority/minority district?</p>

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<p style="text-align: right;">Page 198</p> <p>1 A No.</p> <p>2 Q Is congressional district 13 a Hispanic</p> <p>3 majority/minority district?</p> <p>4 A Yes.</p> <p>5 Q Is congressional district 14 a Hispanic</p> <p>6 majority/minority district?</p> <p>7 A No.</p> <p>8 Q Is congressional district 15 a Hispanic</p> <p>9 majority/minority district?</p> <p>10 A No.</p> <p>11 Q Is congressional 16 a Hispanic</p> <p>12 majority/minority district?</p> <p>13 A No.</p> <p>14 Q Is congressional district 17 a Hispanic</p> <p>15 majority/minority district?</p> <p>16 A No.</p> <p>17 Q Is congressional district 18 a Hispanic</p> <p>18 majority/minority district?</p> <p>19 A Yes.</p> <p>20 Q So two on this page; correct?</p> <p>21 A Yes.</p> <p>22 Q Going to the next page, we are going to be</p> <p>23 looking at congressional district 19.</p> <p>24 Is congressional district 19 a Hispanic</p> <p>25 majority/minority district?</p>	<p style="text-align: right;">Page 200</p> <p>1 Q Thank you. Now, earlier we were asking some</p> <p>2 questions about the HOPE letter; correct?</p> <p>3 A Yes.</p> <p>4 Q And do you recall seeing in the transcript</p> <p>5 where you stated to HOPE that you were helping HOPE with</p> <p>6 that process of the HOPE letter?</p> <p>7 MR. WOODS: Objection, mischaracterizes</p> <p>8 testimony.</p> <p>9 MR. MANOLIUS: Yeah, misstates his testimony.</p> <p>10 MR. MEUSER Q: Well, let's go to the HOPE</p> <p>11 presentation real quick. You probably have it in the</p> <p>12 stack right over there.</p> <p>13 A What number is it?</p> <p>14 MR. MANOLIUS: 10?</p> <p>15 THE WITNESS: Okay. Eleven? Nine?</p> <p>16 MR. MEUSER Q: I'd like you to go to page 23</p> <p>17 and 24, so page 23, line 24, through page 24 line five.</p> <p>18 A Yes, in the last redistricting process. That</p> <p>19 wasn't your question, so yes.</p> <p>20 Q Yes. So I am going to just read this out loud</p> <p>21 and you tell me if I read it correctly. "And I started</p> <p>22 listing out this concept of drawing a replacement Latino</p> <p>23 majority/minority district in the middle of Los Angeles,</p> <p>24 that was the number one thing that I first started</p> <p>25 thinking about, because it was something that I worked</p>
<p style="text-align: right;">Page 199</p> <p>1 A No.</p> <p>2 MR. MANOLIUS: Counsel, just wondering, I</p> <p>3 mean, the document speaks for itself.</p> <p>4 MR. MEUSER Q: Well, I asked him and you</p> <p>5 objected, so I am having to do this one at a time, so if</p> <p>6 you want to ask -- if you want to allow him to answer</p> <p>7 how many Hispanic majority/minority districts, and I</p> <p>8 know he knows what that number is, so if you want to</p> <p>9 allow him to do it we don't have to do this one by one,</p> <p>10 but I am more than willing to do this one at a time.</p> <p>11 Okay?</p> <p>12 MR. MANOLIUS: Maybe he can check it out and</p> <p>13 add them up off the document. Would that be okay?</p> <p>14 MR. MEUSER Q: All I was looking for was a</p> <p>15 number.</p> <p>16 A There are 16.</p> <p>17 Q Thank you. Which 16 congressional districts</p> <p>18 are Hispanic majority/minority districts?</p> <p>19 A Which are the 16? You want me to name them</p> <p>20 all?</p> <p>21 Q Yes.</p> <p>22 A I mean, I'd have to go back and do it the way</p> <p>23 we did it then, so you're talking about district numbers</p> <p>24 13, 18, 21, 22, 25, 29, 31, 33, 34, 35, 38, 39, 41, 46,</p> <p>25 and 52.</p>	<p style="text-align: right;">Page 201</p> <p>1 with HOPE on in the last redistricting process."</p> <p>2 Did I read that correctly?</p> <p>3 A Yes.</p> <p>4 Q What did you do with HOPE during 2021 during</p> <p>5 the redistricting process?</p> <p>6 A They had an interest in keeping a district for</p> <p>7 an incumbent member of Congress and that aligned with</p> <p>8 our client's interest in drawing an LGBT community of</p> <p>9 interest district that would go from Long Beach down to</p> <p>10 Orange County, and so there was a synergy between those</p> <p>11 groups and others.</p> <p>12 And so we worked with HOPE on it. As it was</p> <p>13 said earlier, I have had, like, a 15 year relationship</p> <p>14 with HOPE and never been, I don't charge them, but</p> <p>15 they --</p> <p>16 Q Did you draw a map for HOPE that they were</p> <p>17 using in 2021?</p> <p>18 A We drew maps. I don't know, their</p> <p>19 presentation actually didn't present a map that I drew.</p> <p>20 Q Okay.</p> <p>21 A Their letter didn't present a map that I drew,</p> <p>22 so they were advocating for maps though.</p> <p>23 Q And you were working with a different</p> <p>24 organization that was joined with HOPE at that time?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 202</p> <p>1 Q Yes? Were you a part of that expert report                  2 that was attached to the HOPE letter?                  3 A That was something that was kind of a                  4 byproduct of another contract that I had, so I was aware                  5 that it was being done. I was aware that that was done,                  6 but I didn't write it.                  7 Q You didn't write the report. Did you consult                  8 with the people who wrote that report?                  9 A Consulted with Christian Grose, yes.                  10 Q And this would have been at or around the time                  11 of November of 2021?                  12 A Oh, probably earlier than that, but yes, in                  13 2021.                  14 Q You understand that the HOPE letter is dated                  15 November 24th, 2021; correct?                  16 A Yes.                  17 Q And you understand that the report by                  18 Christian Grose is dated November 23rd, 2021; correct?                  19 A Sure.                  20 Q So prior to November 23, 2021, what                  21 interactions did you have with Christian Grose that was                  22 related to the report that is contained in the                  23 November 24th, 2021, letter?                  24 A In the 2021 redistricting we worked with                  25 clients who contracted with Christian Grose to do a</p>	<p style="text-align: right;">Page 204</p> <p>1 A I don't think so, not in that bullet point                  2 number one. Sorry. Does it say it somewhere else?                  3 Q I think you're right, it actually says it in                  4 the --                  5 A Second bullet point.                  6 Q No. It's actually in the expert report here.                  7 Sorry.                  8 A I don't know.                  9 Q Is Downey in congressional district 41?                  10 A Yes.                  11 Q In your presentation to HOPE you said that you                  12 created a new congressional district taking Ken                  13 Calvert's 41 and insert it in the gateway cities. Is                  14 congressional district 41 the district you were                  15 referring to in your HOPE presentation?                  16 MR. MANOLIUS: Objection. Instruct you not to                  17 answer, legislative privilege.                  18 MR. MEUSER Q: And you're not answering that                  19 question at the instruction of your attorney?                  20 A Correct.                  21 Q Turning to page 24 of the transcript regarding                  22 HOPE, starting line 20 --                  23 MR. WOODS: I am sorry, page 24, Counsel.                  24 MR. MEUSER: 24, line 20.                  25 MR. WOODS: Thank you.</p>
<p style="text-align: right;">Page 203</p> <p>1 variety of analyses in several parts of the state, so                  2 that's the time when this organization was looking for                  3 something to advocate, they would have something to use.                  4 Q Turn to congressional district 41 in that                  5 atlas.                  6 A (Witness complied.)                  7 Q And I am sorry, you probably won't appreciate                  8 this, but I called this particular district the Yoga                  9 Genie, because a thousand years in a lamp, you have a                  10 pretty bad back. But that's my imagination.                  11 Do you see the word "Downey" --                  12 A Yes.                  13 Q -- in this particular district?                  14 A Yes.                  15 Q And looking at the HOPE letter, what was the                  16 number one city that they mentioned for this new gateway                  17 district?                  18 MR. MANOLIUS: And you're referring to 2021?                  19 MR. MEUSER: Yes, 2021.                  20 MR. MANOLIUS: Okay.                  21 THE WITNESS: Downey.                  22 MR. MEUSER Q: Okay. And does that                  23 description, say, go down to Orange County?                  24 A No, not for this district.                  25 Q In the HOPE letter --</p>	<p style="text-align: right;">Page 205</p> <p>1 MR. MEUSER Q: "Number one created a gateway                  2 cities district centered around Downey as described in                  3 the analysis allowing for a creation of five Latino                  4 majority/minority districts in an area where there are                  5 currently four?"                  6 Did I read that correctly.                  7 A Yes.                  8 Q My question is this: The City of Downey in                  9 congressional district 41 according to the legislative                  10 atlas that we have marked as Exhibit 15 --                  11 A Yes.                  12 Q -- the very next paragraph, starting on line                  13 25 into page 25, "Secondly, take a district that was                  14 called LB north which is now the Robert Garcia district,                  15 take that district to the south through Seal Beach into                  16 Huntington Beach making a Latino-influenced district at                  17 35 percent Latino by voting age population."                  18 Did I read that correctly?                  19 A Yes.                  20 Q Okay. Looking at congressional district 42 in                  21 the atlas legislative atlas, does congressional district                  22 42 include the cities of Long Beach, Seal Beach and                  23 Newport -- and Huntington Beach?                  24 A Yes.                  25 Q I am going to ask a question that's been</p>



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<p style="text-align: right;">Page 206</p> <p>1 bugging me since day one since I have seen this.</p> <p>2 You were aware that in the California</p> <p>3 Constitution we are supposed to number congressional</p> <p>4 districts one at the top of the state down to 52 at the</p> <p>5 bottom.</p> <p>6 Do you know why these districts got numbered</p> <p>7 contrary to what the California Constitution says?</p> <p>8 MR. MANOLIUS: Objection, calls for a legal</p> <p>9 conclusion, calls for speculation.</p> <p>10 MR. WOODS: Objection. Same objections.</p> <p>11 Also, relevance.</p> <p>12 MR. MEUSER Q: You can answer.</p> <p>13 A The decision on numbering was based, I think,</p> <p>14 primarily on reducing the amount of change as opposed to</p> <p>15 the Constitution's previous requirement before Prop 50</p> <p>16 of numbering one to 52.</p> <p>17 In the ballot measure Prop 50 allowed for that</p> <p>18 to be bypassed for this one redistricting. It was just</p> <p>19 to reduce the number of the amount of letters that would</p> <p>20 have to be reprinted.</p> <p>21 MR. MEUSER Q: I appreciate that answer. I</p> <p>22 believe I've heard public statements by you that nine</p> <p>23 congressional districts did not change a single</p> <p>24 boundary; is that correct?</p> <p>25 MR. MANOLIUS: Objection. Vague as to where</p>	<p style="text-align: right;">Page 208</p> <p>1 Lieu district didn't change and I don't have the zoom to</p> <p>2 know what Ted Lieu district is.</p> <p>3 Q Well, you're looking at a document that has</p> <p>4 maps of every single --</p> <p>5 A It doesn't say the numbers on the map.</p> <p>6 Q I know that, but you could flip through and</p> <p>7 find the individual districts, couldn't you?</p> <p>8 A Oh, yeah, yeah, yeah. Sorry.</p> <p>9 MR. MANOLIUS: Just throw in an objection that</p> <p>10 it's compound and burdensome that he has to go through</p> <p>11 the entire packet, but that's okay.</p> <p>12 THE WITNESS: Why am I not finding the Ted</p> <p>13 Lieu district? I am unsure if district 19 changed. The</p> <p>14 Ted Lieu, district whatever number that is --</p> <p>15 MR. MEUSER Q: Okay.</p> <p>16 A -- there it is, 36. Sorry. It was just</p> <p>17 taking me awhile to get to it.</p> <p>18 Q And that's the coastal Los Angeles County?</p> <p>19 A Santa Monica, yeah. 37 did not change, 43 did</p> <p>20 not change. I know I've missed some, so it's hard for</p> <p>21 me --</p> <p>22 Q If I do my math right, I have heard you name</p> <p>23 five districts right now; correct?</p> <p>24 A Yeah. So I'd have to go back and look, but I</p> <p>25 thought it was, like, nine districts that didn't change</p>
<p style="text-align: right;">Page 207</p> <p>1 you've heard that and where that comes from, calls for</p> <p>2 speculation. You can answer.</p> <p>3 THE WITNESS: I believe it's nine or ten. I</p> <p>4 always forget exactly the number, but there were a large</p> <p>5 number of districts that were too far away from areas</p> <p>6 where we were trying to flip districts.</p> <p>7 MR. MEUSER Q: As you sit here today could you</p> <p>8 name the nine or ten congressional districts that did</p> <p>9 not change a single boundary?</p> <p>10 MR. MANOLIUS: Between 2021 redistricting?</p> <p>11 MR. MEUSER: And the commission.</p> <p>12 THE WITNESS: I could attempt to.</p> <p>13 MR. MANOLIUS: Don't speculate.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. MEUSER: I am entitled to your best</p> <p>16 recollection and if you can name six you name six, if</p> <p>17 you -- just the best of your ability.</p> <p>18 THE WITNESS: There's one technical thing that</p> <p>19 I believe that potentially the census block layer</p> <p>20 changed a little bit, so there might be some changes</p> <p>21 like a census block is unpopulated kind of thing, but</p> <p>22 districts 11 and 12, which are unchanged.</p> <p>23 MR. MEUSER Q: Those are in the Bay Area?</p> <p>24 A Yep. District -- I don't deal with these</p> <p>25 districts as much, I don't know as much, is it -- Ted</p>	<p style="text-align: right;">Page 209</p> <p>1 at all. I would just have to go look at it more</p> <p>2 closely, because there are districts where, there are</p> <p>3 some districts where we made a small change like</p> <p>4 unifying Ventura and in a district that wasn't otherwise</p> <p>5 changed or something like that, so I'd have to go</p> <p>6 through again and look, but I believe it added up to</p> <p>7 nine. Sorry.</p> <p>8 Q Okay. If you want to turn to your Capitol</p> <p>9 Weekly Podcast transcript, and I am reading from page 11</p> <p>10 starting at lines four through eight. Page 11, four</p> <p>11 through eight.</p> <p>12 And this particular conversation was made</p> <p>13 public on August 15th, 2025. Do you recall if you made</p> <p>14 the podcast the same day that it aired?</p> <p>15 A I don't recall.</p> <p>16 Q And this sentence reads, "And, you know, the</p> <p>17 fact that we can do these things in terms of like</p> <p>18 drawing maps, that is -- you know, it's not touching</p> <p>19 nine entire congressional districts."</p> <p>20 Did I read that correctly?</p> <p>21 A Yes.</p> <p>22 Q When you said that, was -- were you saying</p> <p>23 that you did not change the lines in nine congressional</p> <p>24 districts?</p> <p>25 MR. MANOLIUS: Objection, legislative</p>



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<p style="text-align: right;">Page 210</p> <p>1 privilege and instruct you not to answer the question.</p> <p>2 MR. MEUSER: This is a public statement that</p> <p>3 he has made saying that he did not touch nine entire</p> <p>4 congressional districts and I am just making sure that</p> <p>5 at the time he made the statement publicly for the world</p> <p>6 to see --</p> <p>7 MR. MANOLIUS: Uh-huh.</p> <p>8 MR. MEUSER: -- that it was his understanding</p> <p>9 that he did not touch, that the Prop 50 maps did not</p> <p>10 touch nine entire congressional districts.</p> <p>11 MR. MANOLIUS: Again, you can ask him if he</p> <p>12 said it, but I'm going to object to anything going</p> <p>13 further than that.</p> <p>14 MR. MEUSER Q: Did you say that?</p> <p>15 A Yes.</p> <p>16 Q Okay. And is it your understanding that when</p> <p>17 you said you know it's not touching nine entire</p> <p>18 congressional districts, is it your understanding that</p> <p>19 that meant nine congressional districts had zero line</p> <p>20 changes?</p> <p>21 MR. MANOLIUS: Same objection, instruct you not</p> <p>22 to answer, legislative privilege.</p> <p>23 MR. MEUSER Q: And are you refusing to answer</p> <p>24 that question at your attorney's request?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 212</p> <p>1 MR. WOODS: Mark, do you have another copy for</p> <p>2 me?</p> <p>3 MR. MEUSER: I do not. Sorry. I didn't want</p> <p>4 to kill trees, but I thought everybody else would have</p> <p>5 that file. Sorry.</p> <p>6 Q Have you seen this particular report before</p> <p>7 that's just been handed to you as Exhibit 16?</p> <p>8 A Not that I -- not that I recall. I am</p> <p>9 presuming I would have, I just don't remember, exactly.</p> <p>10 Q If you could turn to page, what's been marked</p> <p>11 as page 10 in that, this exhibit?</p> <p>12 A They have page numbers?</p> <p>13 Q Yes, should be in the bottom right,</p> <p>14 A Uh-huh.</p> <p>15 Q And I am just, top two lines after the</p> <p>16 statement of voting rights compliance, I am going to</p> <p>17 just read these.</p> <p>18 A Uh-huh.</p> <p>19 Q "After the rule of equal population the first</p> <p>20 rule of redistricting is construct -- is constructing</p> <p>21 districts to comply with section two of the Federal</p> <p>22 Voting Rights Act. The MALDEF U.S. Congressional</p> <p>23 Redistricting Plan presents 16 Latino majority citizen</p> <p>24 voting age population districts that are largely</p> <p>25 protectable under section two of the Voting Rights Act."</p>
<p style="text-align: right;">Page 211</p> <p>1 Q Are you familiar with the organization MALDEF,</p> <p>2 M-A-L-D-E-F?</p> <p>3 A Yes.</p> <p>4 Q Have you worked with MALDEF.</p> <p>5 MR. MANOLIUS: Vague as to "work with." Hired</p> <p>6 by?</p> <p>7 MR. MEUSER Q: Have you ever been hired by</p> <p>8 MALDEF?</p> <p>9 A No.</p> <p>10 Q During the 2021 redistricting, did you ever</p> <p>11 see any of the reports presented by MALDEF?</p> <p>12 A Yes.</p> <p>13 Q Okay. And do you recall as you sit here today</p> <p>14 how many Hispanic majority/minority districts MALDEF was</p> <p>15 asking the commission to draw?</p> <p>16 A No.</p> <p>17 MR. MEUSER: Okay. We are going to go ahead</p> <p>18 and mark this as Exhibit 16.</p> <p>19 (Whereupon Plaintiff's Exhibit 16</p> <p>20 was marked for identification.)</p> <p>21 MR. MEUSER Q: And for those following along</p> <p>22 at home, this is going to be the document in the file</p> <p>23 that is called, "MALDEF report 2021."</p> <p>24 MR. MEUSER: And I have got a copy for you</p> <p>25 too, Counsel.</p>	<p style="text-align: right;">Page 213</p> <p>1 Did I read that correct?</p> <p>2 A Yes.</p> <p>3 Q Are you aware that in the 2021-cycle MALDEF</p> <p>4 was asking the commission to draw 16 districts where</p> <p>5 Hispanics were the majority, according to CVAP?</p> <p>6 MR. MANOLIUS: Objection, calls for</p> <p>7 speculation. He's already said he doesn't recall seeing</p> <p>8 this document before.</p> <p>9 THE WITNESS: I don't recall specifically, but</p> <p>10 looking at it, it looks like one of the documents, so --</p> <p>11 MR. MEUSER Q: If you could turn to the next</p> <p>12 page, 11.</p> <p>13 A (Witness complied.)</p> <p>14 Q And before I ask you this, before I ask you</p> <p>15 questions, you're kind of thumbing through the images of</p> <p>16 all the maps that are with this report?</p> <p>17 A Uh-huh.</p> <p>18 Q Do you recall ever seeing any of these maps</p> <p>19 before?</p> <p>20 A I can't speak to any of these individuals</p> <p>21 maps.</p> <p>22 Q Okay.</p> <p>23 A This is five years ago.</p> <p>24 Q I understand. But it doesn't refresh your</p> <p>25 recollection at all as to having seen it?</p>

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<p style="text-align: right;">Page 214</p> <p>1 MR. MANOLIUS: Okay. Just compound because</p> <p>2 there are many maps in here so --</p> <p>3 MR. MEUSER Q: Yeah.</p> <p>4 A I have looked at MALDEF maps for a long time.</p> <p>5 They look the same in every road.</p> <p>6 Q Who wrote those?</p> <p>7 A Steven Ochoa looks like, most likely.</p> <p>8 Q And when was the last time you talked to</p> <p>9 Steven Ochoa?</p> <p>10 A Several weeks or a month ago or a couple of</p> <p>11 months ago or something.</p> <p>12 Q Did you speak with Steven Ochoa at any time</p> <p>13 between July 2nd and February 15th?</p> <p>14 A You said February. August?</p> <p>15 Q August 15th.</p> <p>16 A No.</p> <p>17 Q Did you speak with anybody at MALDEF between</p> <p>18 July 2nd and August 15th?</p> <p>19 A No. Let me amend that to say I don't recall.</p> <p>20 Q You can go ahead and set that aside. I have</p> <p>21 got a couple fun exhibits here.</p> <p>22 A That's it?</p> <p>23 MR. MANOLIUS: Finally.</p> <p>24 MR. MEUSER: I am handing you Exhibit 17.</p> <p>25 (Whereupon Plaintiff's Exhibit 17</p>	<p style="text-align: right;">Page 216</p> <p>1 maps.</p> <p>2 Q And I remember the conversation we had which</p> <p>3 is why we got this into the record here.</p> <p>4 This is an example of one of the 52 old maps</p> <p>5 that you criticized throughout the, from July 2nd all</p> <p>6 the way to November 3rd; is that correct?</p> <p>7 A Yes.</p> <p>8 Q Regarding your atlas, the CVAP numbers --</p> <p>9 A Uh-huh.</p> <p>10 Q -- what, where did you get the CVAP numbers?</p> <p>11 A You're required to use the statewide</p> <p>12 databases' CVAP data and population data in California.</p> <p>13 Q Okay. And what year of database was the state</p> <p>14 redistricting database using?</p> <p>15 A In the terminology in redistricting we don't</p> <p>16 refer to the year that it was produced, we refer to the</p> <p>17 year that it represents. And so the data is the '19</p> <p>18 dash '23 CVAP, so a five-year average from 2019 to 2023.</p> <p>19 Q And when you're talking about the five-year</p> <p>20 average you're talking about the American community</p> <p>21 survey put on by the census?</p> <p>22 A It's a product, it's a special product put on,</p> <p>23 put together after the American community survey as a</p> <p>24 special kind of addendum.</p> <p>25 Q Okay. And so the statewide database is taking</p>
<p style="text-align: right;">Page 215</p> <p>1 was marked for identification.)</p> <p>2 MR. MEUSER: And for those following along at</p> <p>3 home, this Exhibit 17 is Paul Mitchell X post dash 52</p> <p>4 Democrat map.</p> <p>5 Can you please identify for the record what</p> <p>6 Exhibit 17 is?</p> <p>7 A Exhibit 17 is a Tweet of mine and it was</p> <p>8 posted on November 3rd.</p> <p>9 Q Day before election?</p> <p>10 A There you go.</p> <p>11 Q And what does this particular X post of yours</p> <p>12 show?</p> <p>13 MR. MANOLIUS: Objection, compound.</p> <p>14 Objection, also, to the word "show."</p> <p>15 MR. MEUSER: Okay. I'll re-ask.</p> <p>16 Q What is the significance of this particular X</p> <p>17 post that you were trying to convey to the world when</p> <p>18 you sent it out?</p> <p>19 A Well, I was trying to convey to the limited</p> <p>20 number of people who follow me that I, as was done in</p> <p>21 the other testimony, rather derisively referred to</p> <p>22 Twitter maps and I felt as though Twitter maps showing</p> <p>23 crazy lines drawn by somebody in their basement weren't</p> <p>24 necessarily productive into the conversation, and so I</p> <p>25 was expressing my frustration with the silly Twitter</p>	<p style="text-align: right;">Page 217</p> <p>1 the data from the census and then as you were talking to</p> <p>2 Julie earlier today, they remove the prisoners from</p> <p>3 that; is that correct?</p> <p>4 A Reallocate.</p> <p>5 Q Reallocate. And that was the data that you</p> <p>6 were using in this particular report?</p> <p>7 A Yes.</p> <p>8 Q Okay. Not 2022?</p> <p>9 A You mean, not 1822.</p> <p>10 Q Not the 2022 ACS data, you were using 2023 ACS</p> <p>11 data; correct?</p> <p>12 A In 2022, they were using the, like, no, it's</p> <p>13 not the same CU update as they were using in the 2021</p> <p>14 redistricting process, if that's what you're asking.</p> <p>15 Q Well, I understand that the redistricting</p> <p>16 commission could not have used the 2023 data, because it</p> <p>17 did not exist at that time; correct?</p> <p>18 A They couldn't have used the '19 to '23, of</p> <p>19 course.</p> <p>20 Q And what you're saying is that in these</p> <p>21 atlases, the numbers that you were using was the '19 to</p> <p>22 '23 five year ACS data; correct?</p> <p>23 A (Witness nodding head.)</p> <p>24 Q Is that a "yes"?</p> <p>25 A Yes.</p>

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1 Q Okay. The only reason why I am saying this is  
2 we have a had experts for the last four days give me  
3 places where you were getting your data, so I am just  
4 trying to get from you which set of numbers all the  
5 experts are supposed to look at.  
6 A Yeah.  
7 Q So, again, I am going to repeat to make sure I  
8 have a clean record so that all of our experts know.  
9 When we're looking at the CVAP data that is  
10 contained in the atlas, you were using the 2023 census  
11 data, the American community census data from a  
12 five-year period that was then reallocated according to  
13 the statewide database?  
14 A So to use the terminology of redistricting  
15 consultants we all agree upon, I think we use the '19  
16 dash '23, which means it's data from 2019 to 2023, that  
17 five year average, and it's that data from the census  
18 has been adjusted by the statewide database.  
19 (Whereupon Plaintiff's Exhibit 18  
20 was marked for identification.)  
21 MR. MEUSER Q: Thank you. I appreciate that.  
22 And I don't think I am going to need this one, but since  
23 we printed it up I am going to just go ahead and give  
24 it.  
25 I am going to hand you what has been marked as

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1 Exhibit 18. And for those following at home, this is a  
2 DM Tweet concerning use of recent ACS survey data.  
3 Do you remember this X post?  
4 A If I can take a look real quick.  
5 Q Please, do.  
6 A I do recall this.  
7 (Off-the-record discussion between  
8 Mr. Manolius and the Witness.)  
9 THE WITNESS: Sorry.  
10 THE REPORTER: Are we on the record or off the  
11 record?  
12 MR. MEUSER Q: This particular post has  
13 absolutely nothing to do with Prop 50; correct?  
14 A Absolutely.  
15 Q But this does have to do with redistricting in  
16 California; correct? Los Angeles city, to be precise?  
17 A Yes.  
18 Q And in the particular post there was an X post  
19 that you're responding to that somebody was suggesting  
20 they should do redistricting in Los Angeles city; is  
21 that correct?  
22 A Could you restate that? I am sorry.  
23 Q Well, you can't actually see this because you  
24 don't see what this is responding to, so I am going to  
25 actually rephrase.

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1 You were aware a year ago that there were some  
2 public discussions about redistricting Los Angeles  
3 County; correct?  
4 A Yes.  
5 Q And in response to those public discussions  
6 you posted your thoughts on X; is that correct?  
7 A Yes.  
8 Q And is it your position that if somebody is  
9 redrawing the lines that they need to use the most  
10 recent ACS database, not the one that their districting  
11 commission used, but they have to use the most recent  
12 one available at the time that they redrew the lines?  
13 A I would want to --  
14 MR. MANOLIUS: Objection, as to they have to  
15 use, like a legal requirement. That's just my  
16 question -- my objection.  
17 THE WITNESS: I want to be clear here. Yes, I  
18 believe that if they were to redraw, I say in here on  
19 Twitter they would have to use, but I think maybe in a  
20 deposition the better terminology would be that they  
21 would normally use the latest American survey data,  
22 because that is what is in practice in California, is we  
23 use the data as it gets updated every year.  
24 Q And that is what you did when updating the  
25 atlases --

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1 A Yes.  
2 Q -- that are a matter of public record?  
3 MR. MANOLIUS: Objection, to the extent you're  
4 asking him how he drew his maps, legislative privilege,  
5 but you can answer the question at this point.  
6 THE WITNESS: Without speaking to the line  
7 drawing process, the maps that you are showing me are  
8 using the new ACS data.  
9 MR. MEUSER Q: Another one of your X posts,  
10 and I don't know, I am just going to do a quick thing.  
11 In this particular X post you're talking about three  
12 separate articles. I have all three articles here. Do  
13 we want to have them all as one exhibit or do you want  
14 this to be four separate exhibits? What's better for  
15 you.  
16 MR. MANOLIUS: I don't care.  
17 (Whereupon Plaintiff's Exhibit 19  
18 was marked for identification.)  
19 MR. MEUSER Q: We'll do it as four separate  
20 exhibits so we can do this.  
21 So Exhibit 19 is going to be a Paul Mitchell  
22 Tweet that I'm a calling, if you're keeping track at  
23 home, in that link or in that X post has three different  
24 links.  
25 The first one is Caltech; is that correct?

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<p style="text-align: right;">Page 222</p> <p>1 A Yes.</p> <p>2 MR. MEUSER: And so I am marking as Exhibit 20</p> <p>3 what is a Caltech report.</p> <p>4 (Whereupon Plaintiff's Exhibit 20</p> <p>5 was marked for identification.)</p> <p>6 MR. MEUSER: Can you look at this real briefly</p> <p>7 and tell me if that is the report that you were linking</p> <p>8 to in your X post?</p> <p>9 A I can't see the link to say whether I was</p> <p>10 linking to, like, an article that had this report or</p> <p>11 this report directly to .pdf, but this is the report I</p> <p>12 would be referencing in this, that first part.</p> <p>13 MR. MEUSER: And then I am going to hand you</p> <p>14 Exhibit 21 --</p> <p>15 (Whereupon Plaintiff's Exhibit 21</p> <p>16 was marked for identification.)</p> <p>17 MR. MEUSER Q: -- which is a PPIC report.</p> <p>18 Please let me know if this is a report that you were</p> <p>19 referring to in your X post?</p> <p>20 A Yes.</p> <p>21 Q And I am sorry, Counsel, let me just -- I</p> <p>22 should have handed this to you earlier.</p> <p>23 MR. MANOLIUS: Thank you.</p> <p>24 (Whereupon Plaintiff's Exhibit 22</p> <p>25 was marked for identification.)</p>	<p style="text-align: right;">Page 224</p> <p>1 Q -- I see that there is a quotation that you,</p> <p>2 that is in your X post.</p> <p>3 A Uh-huh.</p> <p>4 Q Did you pull that quotation out of the report?</p> <p>5 A I believe that was the point of the quotes,</p> <p>6 but I'd have to find it in here. I don't know where it</p> <p>7 is exactly. It looks like -- oh, I'd have to look for</p> <p>8 it.</p> <p>9 Q Were you the one who submitted this X post?</p> <p>10 A Yes.</p> <p>11 Q Did anybody else have access to your X</p> <p>12 account?</p> <p>13 A No.</p> <p>14 Q And you reviewed the three documents; correct?</p> <p>15 MR. MANOLIUS: Objection, asked and answered.</p> <p>16 He said he was familiar with them a little bit.</p> <p>17 THE WITNESS: I am familiar with them, yeah.</p> <p>18 MR. MEUSER Q: And these three quotes that are</p> <p>19 familiar in the X post, you pulled those quotes and</p> <p>20 typed them into the X post; is that correct?</p> <p>21 A I think that's what I'm purporting here is</p> <p>22 that these are quotes from these documents, so that's</p> <p>23 what I'm presuming.</p> <p>24 Q Okay. Let's read the first quote.</p> <p>25 "Proposed Proposition 50 map will further</p>
<p style="text-align: right;">Page 223</p> <p>1 MR. MEUSER Q: And then the third link is</p> <p>2 talking about a UCLA report; correct?</p> <p>3 A Yes.</p> <p>4 Q And is that the UCLA report, what I have just</p> <p>5 marked as Exhibit 22?</p> <p>6 A Actually, I think you have got these</p> <p>7 backwards.</p> <p>8 Q Oh.</p> <p>9 A The second one is the AAPI one and the third</p> <p>10 one is the PPIC one.</p> <p>11 Q Thank you. But the three reports that I just</p> <p>12 handed you are the three reports that you were referring</p> <p>13 to in your particular X post, is that --</p> <p>14 A Yes.</p> <p>15 Q -- correctly stated?</p> <p>16 A Yep.</p> <p>17 Q Is it fair for me to assume that you read all</p> <p>18 three of those reports?</p> <p>19 A No, I definitely glossed over them. I don't</p> <p>20 know that I read them all thoroughly, particularly the</p> <p>21 last Cal-Poly one, I don't know that I read every line.</p> <p>22 I don't know that I read them, PPIC one.</p> <p>23 Q Did you in the X post I see that we'll start</p> <p>24 with the Cal, the Cal-Poly Caltech report --</p> <p>25 A Uh-huh.</p>	<p style="text-align: right;">Page 225</p> <p>1 increase Latino voting power over the current commission</p> <p>2 map."</p> <p>3 Did I read that correctly?</p> <p>4 A Yes.</p> <p>5 Q Do you agree with that statement?</p> <p>6 MR. MANOLIUS: Objection. Legislative</p> <p>7 privilege and instruct him not to answer.</p> <p>8 MR. MEUSER Q: On what day did you send this X</p> <p>9 post?</p> <p>10 A October 23rd.</p> <p>11 Q Were you still working for the Legislature on</p> <p>12 that day?</p> <p>13 MR. MANOLIUS: Objection. Lacks foundation</p> <p>14 and vague as to the term "working for." You can answer.</p> <p>15 THE WITNESS: I wasn't working for anybody at</p> <p>16 this point, other than PDI.</p> <p>17 MR. MEUSER Q: Was this post made in any kind</p> <p>18 of official capacity on behalf of the Legislature to</p> <p>19 promote the Prop 50 maps?</p> <p>20 A I think you'd have to unpack -- I am sure that</p> <p>21 I was doing this in order to promote or advance the</p> <p>22 legislators' interest in passing Prop 50 and the</p> <p>23 campaign's interest.</p> <p>24 Q Did you ask -- sorry.</p> <p>25 Did somebody ask you to post these three</p>

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<p style="text-align: right;">Page 226</p> <p>1 articles and promote them?</p> <p>2 MR. MANOLIUS: Or any one of them.</p> <p>3 MR. MEUSER Q: Or any one of them.</p> <p>4 A No.</p> <p>5 Q As a citizen who was concerned about Prop 50</p> <p>6 maps, you were reading the news regularly on Prop 50;</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q And you read these studies that talked about</p> <p>10 Prop 50; correct?</p> <p>11 A I saw they existed, yes.</p> <p>12 Q And you took the time to pull quotes out of</p> <p>13 that, those studies; correct?</p> <p>14 A Yes.</p> <p>15 Q And do you have anything on your X posts that</p> <p>16 say re-Tweets are not my own thoughts or anything like</p> <p>17 that?</p> <p>18 A I don't think that means anything.</p> <p>19 Q Okay. You posted these because you believed</p> <p>20 these particular statements?</p> <p>21 A I think that I posted these because I believed</p> <p>22 these particular statements would be encouraging to</p> <p>23 people who want to ensure that these maps aren't somehow</p> <p>24 ruinous to the communities that they care about.</p> <p>25 Q So focusing in on the Cal-Poly Pomona, that</p>	<p style="text-align: right;">Page 228</p> <p>1 statement?</p> <p>2 MR. MANOLIUS: Same objection. Instruct you</p> <p>3 not to answer.</p> <p>4 MR. MEUSER Q: And you are not answering that</p> <p>5 question at the instruction of your attorney?</p> <p>6 A Correct.</p> <p>7 Q Earlier today we I think, if I'm remembering</p> <p>8 right, it was Exhibit 5, which was the contract that you</p> <p>9 signed with the DCCC. Can you go pull that up?</p> <p>10 A (Witness complied.) Thank you.</p> <p>11 Q And this particular contract you were paid,</p> <p>12 you agreed to be paid \$325,000; is that correct?</p> <p>13 A For the entirety of the contract?</p> <p>14 Q Yes.</p> <p>15 A Yes.</p> <p>16 Q Okay. And I believe you said earlier that you</p> <p>17 were paid \$108,000 roughly by the DCCC; is that correct?</p> <p>18 A Yes.</p> <p>19 (Whereupon Plaintiff's Exhibit 23</p> <p>20 was marked for identification.)</p> <p>21 MR. MEUSER Q: Okay. I am going to mark as</p> <p>22 Exhibit 23 a document that's Bates stamped DCCC 000177,</p> <p>23 just an invoice from the DCCC for or to the DCCC from</p> <p>24 Redistricting Partners; correct?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 227</p> <p>1 statement that is in quotation marks, do you, Paul</p> <p>2 Mitchell, as a private citizen agree with that</p> <p>3 statement?</p> <p>4 MR. MANOLIUS: Object. Legislative privilege,</p> <p>5 don't answer.</p> <p>6 MR. MEUSER Q: And are you not answering that</p> <p>7 question at the instruction of your attorney?</p> <p>8 A Correct.</p> <p>9 Q Let's read the second quotation. "Proposed</p> <p>10 map likely will increase Asian American voting power."</p> <p>11 Did I read that correctly?</p> <p>12 A Yes.</p> <p>13 Q And do you agree with that statement?</p> <p>14 MR. MANOLIUS: Same objection. I instruct you</p> <p>15 not to answer.</p> <p>16 MR. MEUSER Q: And are you not answering that</p> <p>17 question at the instruction of your attorney?</p> <p>18 A Correct.</p> <p>19 Q Third quote: "The proposed plan matches the</p> <p>20 current one almost exactly: It adds one more Latino</p> <p>21 influence district, but otherwise replicates the status</p> <p>22 quo."</p> <p>23 Did I read that correctly?</p> <p>24 A Yes.</p> <p>25 Q And do you agree with that particular</p>	<p style="text-align: right;">Page 229</p> <p>1 Q And it's for, what is the dollar amount on</p> <p>2 that?</p> <p>3 A \$108,000 --</p> <p>4 Q And --</p> <p>5 A -- 333.33.</p> <p>6 Q Thank you. And has that invoice been paid?</p> <p>7 A Yes.</p> <p>8 Q Okay. Have you been paid \$108,000,</p> <p>9 \$108,333.33 from Hakeem Jeffries?</p> <p>10 A Okay.</p> <p>11 Q Have you been paid \$108,333.34 from House</p> <p>12 Majority PAC?</p> <p>13 A I'd to have clarify which one gave me 33 cents</p> <p>14 or 34 cents, but, in general, yes, within a penny.</p> <p>15 Q Okay. Well, I can tell you from public</p> <p>16 filings that Hakeem Jeffries claims that he paid you the</p> <p>17 \$0.33.</p> <p>18 A Oh. So HMP drew the short straw.</p> <p>19 Q They haven't made their public disclosure yet,</p> <p>20 but I am assuming that that would be the case. So, on</p> <p>21 what date did you receive payment from the DCCC?</p> <p>22 A On or around the date of this invoice.</p> <p>23 Q And what is the date of that invoice?</p> <p>24 A Actually, yeah, on or around the date of the</p> <p>25 invoice, August 15th.</p>



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<p style="text-align: right;">Page 230</p> <p>1 Q Okay. And on or about what time were you paid 2 by Hakeem Jeffries? 3 A I don't recall. 4 Q Was it about a month later in the middle of 5 September? 6 A That sounds appropriate, sounds about right. 7 Q And do you know when House Majority PAC or 8 HMP paid you? 9 A Around the same time, I think, around the same 10 time. 11 MR. MANOLIUS: As which one? 12 MR. MEUSER Q: As which one? 13 A As Hakeem Jeffries. 14 Q Okay. I was going there too. Did you retain 15 any attorneys as a part of the drawing of the Prop 50 16 maps? 17 MR. WOODS: Objection, ambiguous. 18 MR. MEUSER Q: Did Redistricting Partners have 19 to retain any attorneys that were paid out of that 20 \$325,000? 21 A No. 22 Q I believe you have said in public that a VRA 23 analysis was done. What attorneys did that VRA 24 analysis? 25 MR. MANOLIUS: Objection, lacks foundation.</p>	<p style="text-align: right;">Page 232</p> <p>1 MR. MANOLIUS: Yep. 2 MR. MEUSER Q: And you're not going to answer 3 at the instruct of your attorney? 4 A Correct. 5 Q On what date did Christian Grose give you that 6 report? 7 MR. MANOLIUS: Same objection. I instruct you 8 not to answer. 9 MR. MEUSER Q: And you're not answering at the 10 instruction of your attorney? 11 A Correct. 12 Q How many VRA analyses did Christian Grose do? 13 MR. MANOLIUS: Same objections. I instruct 14 you not to answer. 15 MR. MEUSER Q: And you're not answering that 16 question at the instruction of your attorney? 17 A Correct. 18 Q Starting on July 2nd, you were at a bicycle 19 ride or a bicycle race -- 20 A Ride. 21 Q -- with the speaker's chief of staff. Which 22 was it? 23 A It was a bike ride. 24 Q Just a bike ride? 25 A Yeah.</p>
<p style="text-align: right;">Page 231</p> <p>1 What attorneys? You can answer. 2 THE WITNESS: The VRA analysis was not done by 3 an attorney. 4 MR. MEUSER Q: Okay. Who did the VRA analysis 5 that you referred to in your public comments? 6 MR. MANOLIUS: If you know. 7 THE WITNESS: Yeah. Christian Grose. 8 MR. MEUSER Q: Okay. And Christian Grose is, 9 I've heard his name pop up a couple times here today. 10 Who is Christian Grose? 11 A He is a professor at Schwarzenegger Institute 12 UC or at USC, like the name is something like that, and 13 he's a recognized expert in voting rights. 14 Q Did Redistricting Partners pay him to do that 15 VRA report? 16 MR. MANOLIUS: Objection. Legislative 17 privilege, I'll instruct you not to answer. 18 MR. MEUSER Q: And you're not answering that 19 question at the instruction of your attorney? 20 A Correct. 21 Q How many pages was the report Christian Grose 22 wrote that was given to you? 23 MR. MANOLIUS: Same objections, instruct you 24 not to answer. 25 MR. MEUSER Q: How many pages?</p>	<p style="text-align: right;">Page 233</p> <p>1 Q And on that bike ride you were discussing 2 redistricting in California; is that correct? 3 A Yes. 4 Q From July 2nd to July 15th, and the reason why 5 I am using July 15th is because that's the date that's 6 in your contract with the DCCC, did you talk with any 7 other individuals regarding California redistricting? 8 MR. MANOLIUS: Objection, vague. Any 9 individuals? 10 MR. MEUSER: Any -- 11 MR. MANOLIUS: People. 12 MR. MEUSER Q: Anybody regarding Prop 50, 13 regarding California redistricting. 14 A Yes. 15 Q Okay. Approximately, how many people did you 16 talk to? 17 A A dozen? 18 Q Any of the people that you talked to, were 19 they legislators? 20 MR. MANOLIUS: You mean, California 21 legislators? 22 THE WITNESS: California legislators, I don't 23 recall. 24 MR. MEUSER Q: Okay. Were any of them 25 California Congressmen or women?</p>



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<p>1 A Yes.</p> <p>2 Q I'm not asking what you talked about.</p> <p>3 Who did you talk to between July 2nd and</p> <p>4 July 15th, who was either a California congressman or</p> <p>5 congresswoman regarding redistricting in California?</p> <p>6 A Um, just start naming names?</p> <p>7 Q Start naming names.</p> <p>8 A Hakeem Jeffries, Nancy Pelosi, Zoe Lofgren,</p> <p>9 Pete Aguilar, Brad Sherman.</p> <p>10 MR. MANOLIUS: Just keeping in mind the time</p> <p>11 period.</p> <p>12 THE WITNESS: Yeah, yeah, this is in that time</p> <p>13 period.</p> <p>14 MR. MANOLIUS: Okay.</p> <p>15 THE WITNESS: Yeah, Pete Aguillar. I think</p> <p>16 that's -- I'd have to start guessing after that, so</p> <p>17 that's my best recollection.</p> <p>18 MR. MEUSER Q: And those conversations all</p> <p>19 took place between July 2nd and July 15th; correct?</p> <p>20 A Yes.</p> <p>21 Q Were any of these in person meetings or were</p> <p>22 these all over the phone?</p> <p>23 A These would all have been over the phone.</p> <p>24 Q Okay. Between July 2nd and July 15th, did you</p> <p>25 have any conversations with Governor Gavin Newsom or any</p>	<p>1 calendar.</p> <p>2 Q Do you maintain a calendar that sets the</p> <p>3 schedule of who you talk to regarding the redistricting</p> <p>4 process?</p> <p>5 A I don't have staff that put together a</p> <p>6 calendar for me, so what I have is spotty.</p> <p>7 Q Has the calendar that you created been given</p> <p>8 to counsel so that they can review to see if it's</p> <p>9 something that they need to give to us in response to</p> <p>10 our document request?</p> <p>11 MR. MANOLIUS: Objection, calls for</p> <p>12 attorney-client privilege. Don't answer.</p> <p>13 MR. MEUSER: So, Counsel, I am going to ask</p> <p>14 you to make sure that you get from your client the</p> <p>15 calendar that he, you know, however spotty it is, that</p> <p>16 you get the calendar and review it to get us something</p> <p>17 that is responsive?</p> <p>18 MR. MANOLIUS: Will do.</p> <p>19 MR. MEUSER: Thank you.</p> <p>20 Q Between July 15th and August 1st?</p> <p>21 A August 1st.</p> <p>22 Q August 1st, so we did the first two weeks.</p> <p>23 Now we're doing the second two weeks.</p> <p>24 Are there any California congressmen or women</p> <p>25 that you talked to regarding this redistricting process?</p>
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<p>1 of his staff?</p> <p>2 A Yes.</p> <p>3 Q Who?</p> <p>4 A Nathan Brinken, Lindsay Covia, Izzie Garden,</p> <p>5 Bob Saladay; that would probably be it.</p> <p>6 Q Okay. Other than the chief of staff of</p> <p>7 Speaker Rivas, between July 2nd and July 15th, did you</p> <p>8 speak to any other staff of a California Legislature?</p> <p>9 A Um, legislative staff generally, not to an</p> <p>10 exactly to a member, Michael Wagaman, likely Jason</p> <p>11 Lyles.</p> <p>12 I don't want to start guessing, but there</p> <p>13 could have been others that just don't jump to mind.</p> <p>14 Q In your contract with the DCCC it refers back</p> <p>15 to a July 15th day. Is there something significant that</p> <p>16 happened on July 15th as to why that was the date of the</p> <p>17 contract?</p> <p>18 MR. MANOLIUS: When you say refers back to</p> <p>19 July 15th, you just mean the date of the contract being</p> <p>20 July 15th?</p> <p>21 MR. MEUSER Q: If that's the start date of the</p> <p>22 contract, even though it's not signed until August, it</p> <p>23 relates back to a July 15th date and I am wondering what</p> <p>24 the significance of this relates back date is?</p> <p>25 A I don't recall without looking at the</p>	<p>1 A Yes.</p> <p>2 Q Who?</p> <p>3 A Zoe Lofgren, Pete Aguilar, Nancy Pelosi, and</p> <p>4 then from there I'd have to go, like, district by</p> <p>5 district to maybe move this along. The members who are</p> <p>6 in districts that changed significantly, I would have</p> <p>7 had a discussion with them about that.</p> <p>8 Q Did you call those congressmen up or were you</p> <p>9 working through somebody who had scheduled a time for</p> <p>10 you to talk to the congressman?</p> <p>11 A Combination.</p> <p>12 Q When was the first date that you started</p> <p>13 talking with the DCCC?</p> <p>14 A I don't recall.</p> <p>15 Q Does the date August 1st have any significance</p> <p>16 to you regarding your conversations with the DCCC?</p> <p>17 A At this moment, no, I don't.</p> <p>18 Q Did you use the DCCC at all to make</p> <p>19 connections with congressmen to talk about their</p> <p>20 districts?</p> <p>21 A No.</p> <p>22 Q I am assuming that some of these congressmen</p> <p>23 you have their numbers and are able to reach out to them</p> <p>24 already; is that correct?</p> <p>25 A Yes.</p>

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1 Q And then there's probably some congressmen  
2 that you don't have a relationship and you had somebody  
3 else make the contact. Is that fair?  
4 A Sure.  
5 Q Between July 15th and the end of the month,  
6 August 1st, were there anybody from the governor's, the  
7 Governor or the governor's office that you spoke to  
8 about redistricting?  
9 A Yes, and it would be the same people.  
10 Q Okay. And same question now, same time period  
11 for any legislators, California state legislators?  
12 A I don't recall. One, her name was mentioned  
13 earlier, I am blanking on her name, she's the Santa Cruz  
14 county registrar, Gale Pelgrin.  
15 Q Thank you. Same question, legislative staff?  
16 A Same legislative staff; Jason Lyles, Steve  
17 Omara, Michael Wagaman. There could have been somebody  
18 else who called me that I just don't recall.  
19 Q Between August 1st and August 15th, are there  
20 any new names of congressmen that you spoke to during  
21 that period of time that you have not already mentioned?  
22 A No, it would have been the same members of  
23 Congress that we were talking about earlier that had  
24 their districts changed.  
25 Q Same time period, August 1st to August 15th,

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1 any new individuals that you were talking to from the  
2 governor's office?  
3 A Um, David Sack.  
4 Q Same time period, August 1st to August 15th,  
5 are there any state legislators that you spoke to during  
6 this two-week period of time?  
7 A Yes, and that was covered in the earlier  
8 testimony. I can't recall the names exactly of all the  
9 legislators that I met with, but I met with a handful of  
10 legislators and talked to a handful of legislators.  
11 Q But that was during the August 1st to  
12 August 15th period; correct?  
13 A Yeah, right before they put the bill into  
14 print.  
15 Q And I believe earlier you indicated that there  
16 was some kind of presentation you gave to multiple  
17 legislators. Is that a fair statement of what you did?  
18 A Uh-huh. Yes.  
19 Q How long was this presentation?  
20 A 25 minutes or so.  
21 Q Was it in person or via technology, like Zoom?  
22 A Group presentations were all Zoom.  
23 Q Okay. Do you recall approximately when this  
24 presentation was made?  
25 A There would have been a few and they would

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1 have been in the weeks leading to the legislative  
2 drafting of the bill and potentially one or two in the  
3 week that the Legislature was considering the bill.  
4 Q And when you say a few, is that less than a  
5 dozen?  
6 A Oh, yeah.  
7 Q Less than five?  
8 A A few means three to five or so.  
9 Q Three to five. Okay. And you believe one of  
10 these was done during the legislative session?  
11 MR. MANOLIUS: Objection, lacks foundation.  
12 THE WITNESS: I wouldn't exclude it. I think  
13 there might have been some presentation to one of the  
14 groups at that time.  
15 MR. MEUSER Q: Do you recall the groups that  
16 you were making these presentations to? Do you recall  
17 the name of the groups?  
18 A Generally.  
19 Q What were the names of the groups?  
20 A Assembly Democratic Caucus, Senate Democratic  
21 Caucus, and I don't recall what other caucus I might  
22 have spoken with. I don't recall names.  
23 Q Is it a fair statement to say that you were  
24 never on a podcast with any of the republican  
25 legislators?

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1 A Republican legislators? No. You mean a Zoom  
2 or a podcast?  
3 Q Zoom podcast, yeah.  
4 A Um, no, not during the redistricting.  
5 Q Let me rephrase the question.  
6 Between August 1st and August 24th, were you  
7 ever on a Zoom podcast that had a republican legislator  
8 in which you were talking about what became known as  
9 Prop 50 maps?  
10 A I don't recall.  
11 MR. MEUSER: Okay. Counsel, do you want to  
12 take about a 10, 15-minute break here?  
13 MR. MANOLIUS: Ten.  
14 MR. MEUSER: Okay. Ten-minute break  
15 everybody.  
16 THE VIDEOGRAPHER: The time is 4:48 p.m. We  
17 are going off the record.  
18 (Whereupon a recess was taken.)  
19 THE VIDEOGRAPHER: We are back on the record.  
20 The time is 4:56 p.m. and this marks the beginning of  
21 videotape number seven in the deposition of Paul  
22 Mitchell, which is being taken at Hansen Bridgett, LLP  
23 500 Capitol Mall, Suite 1500, Sacramento, California.  
24 The videographer is Nicholas Coulter here on  
25 behalf of Array Legal Services.

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<p style="text-align: right;">Page 242</p> <p>1 MR. MEUSER Q: Welcome back. Mr. Mitchell,  2 you know you're still under oath?  3 A Yes.  4 Q Counsel, this question is more for you for  5 clarification.  6 On your legislative privilege are you claiming  7 legislative privilege for conversations that he had with  8 congressmen who are not legislators?  9 MR. MANOLIUS: Yes.  10 MR. MEUSER Q: Okay. And you are claiming --  11 MR. MANOLIUS: Not legislators, not California  12 state legislators.  13 MR. MEUSER Q: They are not California state  14 legislators who are involved in the passage, voting for  15 or the drafting of language or adopting of the language  16 of the state proposition or state constitutional  17 amendment that became Proposition 50?  18 MR. MANOLIUS: Yes.  19 MR. MEUSER Q: Okay. Mr. Mitchell, have you  20 been instructed by any legislator to claim legislative  21 privilege here today?  22 MR. MANOLIUS: Objection, attorney-client  23 privilege. Instruct you not to answer the question.  24 MR. MEUSER Q: And, Mr. Mitchell you're not  25 answering that question at the instruction of your</p>	<p style="text-align: right;">Page 244</p> <p>1 A Yes.  2 Q And you sign your name, "Paul"?  3 A Yes.  4 Q Okay. Now, as I'm looking at this document  5 you have stuff that is indented all the way, you know,  6 there's stuff that's indented and stuff that's not  7 indented; correct?  8 A Correct.  9 Q The stuff that is indented there's multiple  10 paragraphs here on these two pages here that are  11 indented. Is that something that you wrote or is that  12 something that someone else wrote that you were copying  13 it?  14 A Something that I wrote.  15 Q Okay. So was the section that is indented  16 that you wrote, was this something that you were  17 expecting the DCCC to put into some talking points memo.  18 Is that a fair assessment?  19 MR. MANOLIUS: Objection, calls for  20 speculation and also calls for information that's  21 protected by the legislative privilege, so I'll instruct  22 you not to answer that.  23 MR. MEUSER Q: Mr. Mitchell you wrote this  24 e-mail?  25 A Yes.</p>
<p style="text-align: right;">Page 243</p> <p>1 attorney; correct?  2 A Correct.  3 Q Okay. I have pulled three documents for you  4 that have been previously marked. I went through these  5 documents in great detail with Julie earlier today, but  6 I have some follow-up questions that I want to do, so we  7 pulled, for the record, those following at home  8 Exhibit 7, Exhibit 8 and Exhibit 9.  9 So which one is in front of you, talking  10 points, number seven?  11 A Yes.  12 Q Okay. And this is an e-mail from you to Merz  13 at DCCC.org; is that correct?  14 A This is an e-mail from Julie to me, the other  15 way around.  16 Q Ah-ha. You have a different copy than what  17 I'm looking at. Okay. So starting right below that,  18 that is an e-mail that you sent; is that correct?  19 A It's an e-mail that I sent, but I don't know  20 if it was just to Julie or to other people or, yeah.  21 Q Okay. Fair enough. And you write, "Here are  22 some things that I would like to see in a letter that  23 would go with this submission. I have cc'd Ellen on  24 this in case she has any thoughts or input."  25 Did I read that correct?</p>	<p style="text-align: right;">Page 245</p> <p>1 Q Okay. And you wrote it to the DCCC; correct?  2 A Yes.  3 Q What was the reason the DCCC told you to write  4 this e-mail to them?  5 MR. MANOLIUS: Objection, lacks foundation,  6 calls for speculation.  7 THE WITNESS: I don't recall if they asked me  8 to write this e-mail.  9 MR. MEUSER q: Let's go through this one line  10 at a time.  11 The first sentence says, "This isn't a hack  12 job map, it's actually good. We want to stress the  13 importance of using criteria that are standard in  14 California."  15 Did I read that correctly.  16 A Yes.  17 Q Now we have an indented paragraph, and I am  18 going to read that. "The plan was created using a  19 traditional redistricting criteria, consistent with the  20 state commission criteria and with the FAIR MAPS Act,  21 but with the additional criteria of improving partisan  22 gains in response to Texas and other states who are  23 conducting mid-decade redistricting."  24 Did I read that correct?  25 A Yes.</p>

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<p>1 Q Can you please explain to me why the second</p> <p>2 paragraph is indented, but the first paragraph was not?</p> <p>3 A The ideas that these are snippets that they</p> <p>4 could consider.</p> <p>5 Q So the first paragraph would be an explanation</p> <p>6 as to what that snippet was saying; correct?</p> <p>7 A Sure.</p> <p>8 Q So the first paragraph is kind of an explainer</p> <p>9 and the second paragraph is something that you thought</p> <p>10 that DCCC could use. Is that fair?</p> <p>11 A Or that they could modify, that they could --</p> <p>12 this is the, I'm writing this pretty quickly so this</p> <p>13 wasn't expected as a cut-and-paste. I would have</p> <p>14 written their letter for them in that case.</p> <p>15 Q So paragraph three is an explainer of what</p> <p>16 paragraph four stated; correct?</p> <p>17 A Yes.</p> <p>18 Q And then paragraph five is kind of a brief</p> <p>19 explainer to the long next two paragraphs that are</p> <p>20 indented; correct?</p> <p>21 A Yes.</p> <p>22 Q And so on and so forth down this entire</p> <p>23 e-mail; correct?</p> <p>24 A Yes.</p> <p>25 Q And the words in the indented -- strike that.</p>	<p>1 districts are contiguous, they are compact. Those are</p> <p>2 the kind of traditional criteria.</p> <p>3 Q And then you say the state commissioned</p> <p>4 criteria. Are you referring to the California</p> <p>5 Constitution that the state redistricting commission is</p> <p>6 required to abide by when they draw California lines?</p> <p>7 MR. WOODS: Objection, calls for a legal</p> <p>8 conclusion.</p> <p>9 MR. MANOLIUS: Yeah, I'll join that.</p> <p>10 THE WITNESS: To be clear it says consistent</p> <p>11 with the commission criteria, so it's basically saying</p> <p>12 in alignment with the commission criteria and doesn't</p> <p>13 mean that it is specifically every one of the commission</p> <p>14 criterias.</p> <p>15 It was just the numbering of the districts as</p> <p>16 a commission criteria that we didn't use, but had the</p> <p>17 heart and sole of the commission criteria in it.</p> <p>18 Q Understand that. And then there's an "and the</p> <p>19 FAIR MAPS Act;" correct?</p> <p>20 A Yes.</p> <p>21 Q Did you use anything in the FAIR MAPS Act in</p> <p>22 drawing the lines that became Prop 50?</p> <p>23 MR. MANOLIUS: Objection, legislative</p> <p>24 privilege and instruct you not to answer.</p> <p>25 MR. MEUSER Q: And you are not answering my</p>
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<p>1 Everything in this was something that you</p> <p>2 personally typed; is that correct?</p> <p>3 A Yes.</p> <p>4 Q That first indented paragraph says,</p> <p>5 "Traditional redistricting criteria."</p> <p>6 What does that term mean to you as someone in</p> <p>7 the business of redistricting?</p> <p>8 MR. MANOLIUS: Objection, vague. Do you mean</p> <p>9 as a general matter?</p> <p>10 MR. MEUSER: I tried to put it as general as</p> <p>11 possible.</p> <p>12 MR. MANOLIUS: Okay.</p> <p>13 THE WITNESS: So --</p> <p>14 MR. MANOLIUS: So the question is answer it as</p> <p>15 a general matter and not as with regard to the</p> <p>16 legislative process that we have been talking about</p> <p>17 today.</p> <p>18 THE WITNESS: Traditional criteria is a banner</p> <p>19 term that a lot of people put a lot of things under that</p> <p>20 banner.</p> <p>21 MR. MEUSER Q: What did you put under that</p> <p>22 banner?</p> <p>23 A Equal population, maintaining cities and</p> <p>24 counties, maintaining communities of interest, main --</p> <p>25 keeping geographies together, political geographies, so</p>	<p>1 question at the instruction of your attorney?</p> <p>2 A Correct.</p> <p>3 Q Okay. Looking at the paragraph that starts,</p> <p>4 "Trying to create Minimal Disruptions," do you see that?</p> <p>5 A On the next page?</p> <p>6 Q Yeah, I think so.</p> <p>7 A Yeah, I see it.</p> <p>8 Q And then the indented paragraph below that,</p> <p>9 the last sentence of that indented paragraph reads,</p> <p>10 "This California plan leaves nine districts untouched</p> <p>11 and in 19 districts fewer than 10-percent of the</p> <p>12 residents are impacted."</p> <p>13 Did I read that correct?</p> <p>14 A Yes.</p> <p>15 Q And did you write that on or about</p> <p>16 August 15th, 2025?</p> <p>17 A Yes.</p> <p>18 Q Reading the next indented section that starts</p> <p>19 with, "The firm we hired," do you see that paragraph?</p> <p>20 A Yes.</p> <p>21 Q Now, this is a paragraph that you drafted that</p> <p>22 explains Redistricting Partners; is that correct?</p> <p>23 A Yes.</p> <p>24 Q And you wrote this on August 15th; correct?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 250</p> <p>1 Q Did you copy this from your website or</p> <p>2 anything like that or did you just draft this on</p> <p>3 August 15th for this e-mail?</p> <p>4 A Probably, a combination of both.</p> <p>5 Q The last sentence in this section, I want to</p> <p>6 go ahead and read this to you. "In addition to</p> <p>7 municipal and state redistricting, they have worked for</p> <p>8 nonprofit and community-based organizations, including</p> <p>9 Common Cause, the American Civil Liberties Union,</p> <p>10 Advancement Project, Irvine Foundation and other</p> <p>11 foundations exploring redistricting, voting rights and</p> <p>12 election issues."</p> <p>13 Did I read that correctly?</p> <p>14 A Yes.</p> <p>15 Q I want to focus in on the two words, "voting</p> <p>16 rights."</p> <p>17 Which organizations or nonprofit, what</p> <p>18 non-profit and community-based organizations have you</p> <p>19 worked with regarding voting rights?</p> <p>20 MR. MANOLIUS: Objection. Vague as to the</p> <p>21 term "voting rights," vague as to time. You can answer.</p> <p>22 THE WITNESS: All of these listed and probably</p> <p>23 more.</p> <p>24 MR. MEUSER Q: And when you worked with the</p> <p>25 Common Cause on voting rights, what did you do for</p>	<p style="text-align: right;">Page 252</p> <p>1 Partners; correct?</p> <p>2 A Yes.</p> <p>3 Q When did Redistricting Partners open up?</p> <p>4 A 2011. It could have been 2010.</p> <p>5 Q Nobody is going to shoot you if you gave the</p> <p>6 wrong answer.</p> <p>7 Let's go ahead and go to the Capitol Weekly</p> <p>8 Podcast. And if you can turn to page six, starting on</p> <p>9 line six, I see the name Evan McLaughlin. Who is Evan</p> <p>10 McLaughlin?</p> <p>11 A Evan McLaughlin is a former staff of</p> <p>12 Redistricting Partners, former -- you want me to give</p> <p>13 you resume?</p> <p>14 Q Yes.</p> <p>15 A He works for the California firefighters now,</p> <p>16 former chief of staff to Lorenzo Gonzales, former staff</p> <p>17 person at the San Diego Labor Council. He is a --</p> <p>18 Q Okay. How long have you known Evan</p> <p>19 McLaughlin?</p> <p>20 A Probably, since the 2011 redistricting cycle.</p> <p>21 Q Did Redistricting Partners pay Evan McLaughlin</p> <p>22 for the work that he did as a part of your work of</p> <p>23 drawing the Proposition 50 maps?</p> <p>24 A Yes.</p> <p>25 Q Okay. The next -- strike that.</p>
<p style="text-align: right;">Page 251</p> <p>1 Common Cause?</p> <p>2 A I can speak to at least two that jump to mind</p> <p>3 to give an understanding.</p> <p>4 I worked with Common Cause on an Amicus brief</p> <p>5 in New Mexico on the redistricting, independent</p> <p>6 redistricting commission, an analysis of their</p> <p>7 districts.</p> <p>8 I worked with them and an umbrella of the</p> <p>9 Irvine Foundation in 2012, '13, something around there</p> <p>10 on an analysis of the cities and localities with</p> <p>11 racially polarized voting for the purpose of them</p> <p>12 understanding the potential of the California Voting</p> <p>13 Rights Act.</p> <p>14 Q Did you do a racial polarized analysis for</p> <p>15 that project that you just referred to?</p> <p>16 A I wouldn't call it a full racially polarized</p> <p>17 analysis, but I did some regressions.</p> <p>18 Q When did you do that, these regressions?</p> <p>19 A In 2012 or 2013 or something like that.</p> <p>20 Q Okay.</p> <p>21 A 2011, 2012, 2013, something like that. I also</p> <p>22 did analysis for ACLU in Chula Vista for their CVRA.</p> <p>23 Q Okay.</p> <p>24 A I mean, there's -- yeah.</p> <p>25 Q And this was all done through Redistricting</p>	<p style="text-align: right;">Page 253</p> <p>1 What was Evan McLaughlin's role in drawing the</p> <p>2 Proposition 50 maps?</p> <p>3 MR. MANOLIUS: Objection, legislative</p> <p>4 privilege, I instruct you not to answer.</p> <p>5 MR. MEUSER Q: And you're not answering that</p> <p>6 question at the instruction of your attorneys?</p> <p>7 A Correct.</p> <p>8 Q Okay. When Evan McLaughlin worked for</p> <p>9 Redistricting Partners, what was his role at your firm?</p> <p>10 A This is prior to?</p> <p>11 MR. MANOLIUS: Yeah, prior to.</p> <p>12 THE WITNESS: Are you saying in the past</p> <p>13 redistricting when he was an actual employee?</p> <p>14 MR. MEUSER Q: Yes, when he was an employee at</p> <p>15 your firm.</p> <p>16 A When he was an employee at my firm in the 2021</p> <p>17 redistricting cycle, I don't recall his actual title,</p> <p>18 but he was basically, like, my number two on the</p> <p>19 political side.</p> <p>20 Q Okay. The second name on line six is Joe</p> <p>21 Armenta. Do you see that?</p> <p>22 A Armenta.</p> <p>23 Q Armenta. Sorry. Who is Joe Armenta?</p> <p>24 A Joe Armenta is an employee of Redistricting</p> <p>25 Partners in the last redistricting cycle as well and he</p>



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<p style="text-align: right;">Page 254</p> <p>1 also works for the California firefighters.</p> <p>2 Q When did you first meet Joe Armenta?</p> <p>3 A In the 2021 redistricting cycle.</p> <p>4 Q And during the 2021 redistricting cycle, what</p> <p>5 was Joe Armenta's job?</p> <p>6 A Working on redistricting and in a number of</p> <p>7 different states and more the monitoring commissions</p> <p>8 type of work.</p> <p>9 Q Can you be more precise what he was doing?</p> <p>10 A The firm is kind of split into agency work and</p> <p>11 more political or advocacy work, and so he would be on</p> <p>12 the advocacy side.</p> <p>13 Q And Evan McLaughlin in the 2021 redistricting</p> <p>14 cycle, what side of the firm was he on?</p> <p>15 A The advocacy side.</p> <p>16 Q Thank you. Did Redistricting Partners pay Joe</p> <p>17 Armenta for the work that was done on Proposition 50?</p> <p>18 A Yes.</p> <p>19 Q Next name on this list is Jacob</p> <p>20 Thompson-Fisher. Who is Jacob Thompson-Fisher?</p> <p>21 A He is one of the original creators of</p> <p>22 Redistricting Partners from the 2011 cycle and worked</p> <p>23 for Redistricting Partners, and now he does contract</p> <p>24 data work for different organizations.</p> <p>25 Q Do you know the names of these organizations</p>	<p style="text-align: right;">Page 256</p> <p>1 read the statement first and make sure I read it right.</p> <p>2 "Stacey Reardon came in and helped with a lot</p> <p>3 of the community of interests stuff."</p> <p>4 Did I read that correctly?</p> <p>5 A You read that correctly.</p> <p>6 Q Is that a statement that you made to Capitol</p> <p>7 Weekly Podcast?</p> <p>8 A Yes.</p> <p>9 Q And when you use the words "community of</p> <p>10 interest," earlier you were talking to Julie Hamill here</p> <p>11 about community of interests.</p> <p>12 Is the conversation that we had earlier today</p> <p>13 about communities of interest, is that the same</p> <p>14 definition that you would use for what you meant in this</p> <p>15 sentence when you said Stacey Reardon handled the</p> <p>16 community of interest stuff?</p> <p>17 MR. MANOLIUS: Objection, legislative</p> <p>18 privilege, I instruct you not to answer.</p> <p>19 MR. MEUSER Q: And you're not answering the</p> <p>20 question at the instruction of your attorney?</p> <p>21 A Correct.</p> <p>22 Q Liz Stitt, and I probably just butchered</p> <p>23 that --</p> <p>24 A No, that's perfect.</p> <p>25 Q -- who is Liz Stitt?</p>
<p style="text-align: right;">Page 255</p> <p>1 that he does work for?</p> <p>2 A The only one I know of is SEIU.</p> <p>3 Q During the 2021 redistricting cycle, what</p> <p>4 tasks and jobs did Jacob Thompson-Fisher do for</p> <p>5 Redistricting Partners?</p> <p>6 A Mostly in charge of our data on both sides and</p> <p>7 then did some municipal redistricting.</p> <p>8 Q And was Jacob Thompson-Fisher paid by</p> <p>9 Redistricting Partners as a part of their, as part of</p> <p>10 the drawing of Prop 50 maps?</p> <p>11 A Yes.</p> <p>12 Q The next name on this list starts on line</p> <p>13 eight is Stacey Reardon. Do you see that name?</p> <p>14 A Yes.</p> <p>15 Q Who is Stacey Reardon?</p> <p>16 A Stacey Reardon is a staff person. I think</p> <p>17 she's got her own firm now and she used to work for</p> <p>18 Redistricting Partners.</p> <p>19 Q What was her role when she used to work for</p> <p>20 Redistricting Partners?</p> <p>21 A She was more on the advocacy side, and then I</p> <p>22 believe she also helped somewhat on the municipal side</p> <p>23 with outreach meetings and so on.</p> <p>24 Q Now, I read here from this statement that you</p> <p>25 made on Capitol Weekly Podcast, and I am going to just</p>	<p style="text-align: right;">Page 257</p> <p>1 A Liz is a former staff member of Redistricting</p> <p>2 Partners and previously worked in the Legislature and</p> <p>3 she is now in England.</p> <p>4 Q When she worked for Redistricting Partners in</p> <p>5 the past, what was her role?</p> <p>6 MR. MANOLIUS: Again, this is before.</p> <p>7 THE WITNESS: Yes. So in her, when she was an</p> <p>8 employee, she was primarily on the municipal side, I</p> <p>9 think she might have started with the advocacy side but</p> <p>10 quickly transitioned to the municipal side.</p> <p>11 MR. MEUSER Q: And I forgot to ask about</p> <p>12 Stacey Reardon. Was she paid by prop -- by</p> <p>13 Redistricting Partners as a part of the work for Prop</p> <p>14 50?</p> <p>15 A Yes.</p> <p>16 Q And Liz Stitt, was she paid by Redistricting</p> <p>17 Partners for her work on Prop 50?</p> <p>18 A She has not been paid.</p> <p>19 Q She has not been paid. Are you planning on</p> <p>20 paying her?</p> <p>21 A Um, we have not worked that out yet. She is</p> <p>22 living in a foreign country.</p> <p>23 Q Now, in this paragraph, starting on line 16,</p> <p>24 you say, "I'd call Liz and talk with her about the</p> <p>25 things she had done overnight."</p>



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<p style="text-align: right;">Page 258</p> <p>1 Did I read that correctly?</p> <p>2 A What line you said?</p> <p>3 Q 16 and 17.</p> <p>4 A Yeah.</p> <p>5 Q And this was you had a daily conversation with</p> <p>6 Liz every morning while you were walking the dogs?</p> <p>7 A Roughly.</p> <p>8 Q And is it fair to say that she was working on</p> <p>9 that while you were sleeping at night?</p> <p>10 A Yes.</p> <p>11 Q She was working on Prop 50 while you were</p> <p>12 sleeping at night?</p> <p>13 MR. MANOLIUS: Objection, calls for</p> <p>14 speculation. You can answer, if you know.</p> <p>15 THE WITNESS: It states it right here and I</p> <p>16 think it's pretty plain language there.</p> <p>17 MR. MEUSER Q: Chris Chaffee, line 19.</p> <p>18 A Chaffee.</p> <p>19 Q Who is Chris Chaffee?</p> <p>20 A Chris Chaffee, along with Jacob</p> <p>21 Thompson-Fisher, is one of the three kind of original</p> <p>22 people with Redistricting Partners and who works for the</p> <p>23 Governor now.</p> <p>24 Q Is Chris Chaffee paid by Redistricting</p> <p>25 Partners for work that was associated with Prop 50?</p>	<p style="text-align: right;">Page 260</p> <p>1 A Yes.</p> <p>2 Q And you told Capitol Weekly Podcast that you</p> <p>3 were proud of the work that you had done as a part of</p> <p>4 the redistricting process of Prop 50?</p> <p>5 A Slightly different wording, but yes.</p> <p>6 MR. MANOLIUS: Misstates. You can answer.</p> <p>7 THE WITNESS: It was that we could be proud</p> <p>8 of, that the team could be proud of.</p> <p>9 MR. MEUSER Q: And are you proud of the work</p> <p>10 that you did as that became Prop 50?</p> <p>11 MR. MANOLIUS: Objection, legislative</p> <p>12 privilege. I'll instruct you not to answer.</p> <p>13 MR. MEUSER: Let me just get this correct.</p> <p>14 You're asking for legislative work product or</p> <p>15 legislative privilege over how he feels about the work</p> <p>16 that he did three months ago?</p> <p>17 MR. MANOLIUS: Uh-huh, yes, that's correct.</p> <p>18 MR. MEUSER Q: Okay. And, Mr. Mitchell,</p> <p>19 you're refusing to answer at the instruction of your</p> <p>20 attorney?</p> <p>21 A Correct.</p> <p>22 Q Page eight, starting on line 13, "But if we</p> <p>23 were going to do it we want to do it with the same kind</p> <p>24 of California values and the values that our company</p> <p>25 has."</p>
<p style="text-align: right;">Page 259</p> <p>1 A No.</p> <p>2 Q Daniel Lopez?</p> <p>3 A Daniel Lopez works in Los Angeles and had</p> <p>4 worked previously for Redistricting Partners, worked for</p> <p>5 a period in the past.</p> <p>6 Q Okay. Was Daniel Lopez paid for any work by</p> <p>7 Redistricting Partners as a part of the work that you</p> <p>8 did on Prop 50?</p> <p>9 A No.</p> <p>10 Q At any time did you talk with Gavin Newsom</p> <p>11 between July 2nd and August 24th about Prop 50?</p> <p>12 A August 24th, I do not believe so, no.</p> <p>13 Q So prior to him signing the bill?</p> <p>14 A Oh, no, absolutely not.</p> <p>15 Q That's the date.</p> <p>16 A I didn't know what the 24th meant.</p> <p>17 Q Page seven, lines 14 and 15. Actually, I'll</p> <p>18 start on line 13. "But, you know, the focus really was</p> <p>19 on trying to put together a work product that we could</p> <p>20 be proud of given the fact that Redistricting Partners</p> <p>21 has only done nonpartisan redistricting."</p> <p>22 Did I read that correctly?</p> <p>23 A Yes.</p> <p>24 Q And that statement is something that you told</p> <p>25 Capitol Weekly Podcast; correct?</p>	<p style="text-align: right;">Page 261</p> <p>1 Did I read that correct?</p> <p>2 A Yes.</p> <p>3 Q Is that a statement that you made to Capitol</p> <p>4 Weekly Podcast?</p> <p>5 A Yes.</p> <p>6 Q When you use the phrase "California values,"</p> <p>7 what does that mean to you?</p> <p>8 MR. MANOLIUS: Same objection. Instruct you</p> <p>9 not to answer, legislative privilege.</p> <p>10 MR. MEUSER: You're instructing him to not</p> <p>11 answer how he uses the word "California values"?</p> <p>12 MR. MANOLIUS: To the extent it's part of this</p> <p>13 process, yes, I am.</p> <p>14 MR. MEUSER Q: Mr. Mitchell, you've done over</p> <p>15 100 redistrictings; correct?</p> <p>16 A Yes.</p> <p>17 Q And not including Proposition 50, if you were</p> <p>18 to say that this redistricting project had some kind of</p> <p>19 California values, what does California values mean to</p> <p>20 you in a redistricting process?</p> <p>21 A In my redistricting outside of Prop 50 is what</p> <p>22 you're asking?</p> <p>23 Q Yes.</p> <p>24 MR. MANOLIUS: Objection, compound.</p> <p>25 Contextual objection, but you can answer.</p>

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<p style="text-align: right;">Page 262</p> <p>1 THE WITNESS: California has a history since 2 the adoption of the commission in the last two 3 redistricting cycles, and with the furtherance of the 4 FAIR MAPS Act and furtherance of other legislative 5 priorities to increase the number of independent 6 redistricting commissions, to have redistricting be 7 taken out of the hands of politicians and incumbents and 8 be drawn based on what's best for the community, and 9 that's the work that we do with Redistricting Partners 10 in our every day work. 11 MR. MEUSER Q: And the sentence continues, 12 "The values that our company has." 13 What values does Redistricting Partners have 14 as a company? 15 A Outside of Prop 50? 16 MR. MANOLIUS: Yes. Objection, to the extent 17 inside the Prop 50 envelope, just using different words. 18 You can answer for things you've done in the past. 19 THE WITNESS: So people who know Redistricting 20 Partners and know the redistrict world understand that 21 our company is unique in that we very strongly follow 22 the FAIR MAPS Act, we very strongly engage with 23 community-based organizations, we very strongly push for 24 community engagement and maps that are drawn by the 25 community, not by the elected officials.</p>	<p style="text-align: right;">Page 264</p> <p>1 know where the incumbents lived? 2 MR. MANOLIUS: Objection, legislative 3 privilege. I instruct you not to answer. 4 MR. MEUSER Q: Mr. Mitchell, you're not 5 answering that question at the instruction of your 6 attorney? 7 A Correct. 8 Q I know you talked a little bit with Julie 9 about this earlier today. Please turn to page ten. 10 A (Witness complied.) 11 Q And starting at line three, I believe you're 12 generally talking about the democratic eco -- I am 13 trying to remember what you said. 14 A Ecosystem. 15 Q Ecosystem? 16 A Ecosystem. Yeah. The paragraph that starts 17 at line nine says, "So many of them were like if Texas 18 is going to throw away the VRA then we can throw away 19 the VRA." 20 Is it my understanding that that statement 21 that you made to Capitol Weekly Podcast, you were 22 referring to things that you were hearing on social 23 media, but not necessarily anything that you heard from 24 a legislator or a congressman or staffer of a legislator 25 or congressman; is that correct?</p>
<p style="text-align: right;">Page 263</p> <p>1 We have a rule as an example that when we do a 2 redistricting, we will not meet individually with 3 elected officials, we will not know where the incumbents 4 live and we will draw maps that are fair and where the 5 community and the elected officials can know that they 6 were drawn in a fair redistricting process that is 7 consistent with the FAIR MAPS Act, even in agencies that 8 aren't covered by the FAIR MAPS Act. 9 So we do water board redistricting prior to 10 the expansion of the FAIR MAPS Act and we would only 11 take the contract if they would agree to meeting the 12 higher bar of the FAIR MAPS Act in doing it. 13 And we have done Zooms with elected officials 14 who wanted to hire us and wanted to know where the 15 incumbents lived, and we told them we wouldn't take that 16 contract if that was the condition. 17 So our firm is very focused on fair, open, 18 transparent redistricting. We don't do, talk about 19 redistricting in closed sessions. We don't have side 20 meetings with incumbents or others to advocate for 21 certain lines outside of the public process and we're a 22 very transparent redistricting firm, and that's our 23 reputation, and we'll do some contracts because of it 24 and we get some contracts because of it. 25 Q When you were drawing Prop 50 maps did you</p>	<p style="text-align: right;">Page 265</p> <p>1 MR. MANOLIUS: Objection, legislative 2 privilege. I instruct you not to answer. 3 MR. MEUSER: You're instructing him not to 4 tell me if statements of throwing away the VRA were 5 something that he heard from a legislator or something 6 he heard from outside the legislative stream? 7 MR. MANOLIUS: Correct. 8 MR. MEUSER Q: Okay. Let me re-ask this 9 question. This statement that you made in Capitol 10 Weekly Podcast, this was a public statement; correct? 11 A Yes. 12 Q Anybody in the world could go listen to the 13 Capitol Weekly Podcast; correct? 14 A Yes. 15 Q Okay. And in that podcast you made the 16 statement that you had heard people say that Texas was 17 going to throw away the VRA, then we -- and that "we" 18 means California; is that correct? 19 A Yes. 20 MR. MANOLIUS: Objection, vague. You can 21 answer. 22 MR. MEUSER Q: -- then California can throw 23 away the VRA. Did any California legislator make the 24 statement that if Texas is going to throw away the VRA 25 then we can throw away the VRA?</p>

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<p style="text-align: right;">Page 266</p> <p>1 MR. MANOLIUS: Same objection. I instruct you 2 not to answer. Legislative privilege. 3 MR. MEUSER Q: And, Mr. Mitchell, you're not 4 answering my question -- 5 A Correct. 6 Q -- because of the instruction of your 7 attorney? 8 A Correct. 9 Q Okay. I am going to be asking this multiple 10 times here, so did anybody from Gavin Newsom's office 11 tell you that if Texas is going to throw away the VRA 12 then we can throw away the VRA? 13 MR. MANOLIUS: Same objection. Instruct you 14 not to answer. 15 MR. MEUSER Q: And, Mr. Mitchell, you're not 16 going to answer this question at the instruction of your 17 attorney? 18 A Correct. 19 Q Okay. Mr. Mitchell, did any congressmen or 20 their staff tell you that if Texas is going to throw 21 away the VRA, then we can throw away the VRA? 22 MR. MANOLIUS: Same objections, same 23 instruction. 24 MR. MEUSER Q: And, Mr. Mitchell, you're not 25 going to answer my question at the instruction of your</p>	<p style="text-align: right;">Page 268</p> <p>1 MR. MANOLIUS: I am sorry? 2 MR. MEUSER Q: An X post, posted on X, Tweet 3 it, Twitter. 4 A Oh. It could have been both a -- it could 5 have been different communications, including, like, a 6 DM. 7 Q It could have been a DM? And when you say DM, 8 a direct message on a social media platform? 9 A Yes. 10 Q Okay. And when you say, "I had to calmly show 11 them," were you referring to any legislator when you 12 made that statement, "I had to calmly show them"? 13 MR. MANOLIUS: Well, I am going to object. 14 Well, why don't we get the answer to see if there's a 15 reason to go forward. Go ahead, you can answer, if you 16 know. 17 THE WITNESS: I don't recall. 18 MR. MEUSER Q: When you say, "We can create a 19 five district pick-up map to follow the Voting Rights 20 Act." 21 Did I read that correct? 22 A Yes. 23 Q Are you aware of any direct message that you 24 sent to anyone between July 2nd and August 15th where 25 you told them on a direct message that you could draw a</p>
<p style="text-align: right;">Page 267</p> <p>1 attorney? 2 A Correct. 3 Q Mr. Mitchell, are you aware of anybody in the 4 ecosystem who made the statement if Texas is going to 5 throw away the VRA then we can throw away the VRA? 6 A The person that posted the map on Exhibit 17. 7 Q What's the date of that? 8 A I'm just being -- but this is the kind of 9 thing, people who are doing maps like this -- 10 Q Yes. 11 A -- Twitter maps and people in the media, 12 people on social media. 13 Q And then starting on line 17, you say to 14 Capitol Weekly Podcast, "I had to calmly show them look, 15 we can create a five district pick-up map and follow the 16 Voting Rights Act, keep communities of interest 17 together." 18 Did I read that correctly? 19 A Yes. 20 Q Is that a statement that you made to Capitol 21 Weekly Podcast? 22 A Yes. 23 Q And when you said, "I had to calmly show 24 them," was this something that you're referring to in X 25 post?</p>	<p style="text-align: right;">Page 269</p> <p>1 five district pick-up map following the Voting Rights 2 Act? 3 MR. MANOLIUS: Objection, only that you didn't 4 quote the entire sentence, but you can answer, Paul. 5 THE WITNESS: I don't recall a direct message 6 where I would have said that. 7 MR. MEUSER Q: And do you recall any social 8 media post where you made the statement that you could 9 draw a map that had a five district pickup that followed 10 the Voting Rights Act? 11 A No, I don't believe I made a post like that. 12 Q Do you recall any conversation that you had 13 with a legislator or a congressman or their staff in 14 which you explained to them that you could create a five 15 district pick-up map and follow the Voting Rights Act? 16 MR. MANOLIUS: Objection, legislative 17 privilege and I instruct you not to answer. 18 MR. MEUSER Q: This is a "yes" or "no" 19 question. I wasn't asking for the communication, I was 20 asking did he, does he recall that he made any such 21 statement? 22 MR. MANOLIUS: I'll maintain my objection. 23 Thanks. 24 MR. MEUSER Q: And Mr. Mitchell you're not 25 responding at the request of your attorney?</p>

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<p style="text-align: right;">Page 270</p> <p>1 A Correct.</p> <p>2 Q Turn to page 13.</p> <p>3 A (Witness complied.)</p> <p>4 Q Line 16, you tell Capitol Weekly Podcast, "We</p> <p>5 work with some folks in D.C. and saw some maps."</p> <p>6 Who in D.C. did you work with?</p> <p>7 A That would probably be the DCCC or the NDRC.</p> <p>8 Q NDRC, and that's National Democratic --</p> <p>9 A -- Redistricting --</p> <p>10 Q -- Committee?</p> <p>11 A -- Committee.</p> <p>12 Q Okay. Thank you. "And saw some maps." Are</p> <p>13 you saying that the DCCC shared some maps with you?</p> <p>14 MR. MANOLIUS: Objection. Legislative</p> <p>15 privilege. I instruct you not to answer.</p> <p>16 MR. MEUSER: You're saying the DCCC giving him</p> <p>17 documents is going to be legislative privilege?</p> <p>18 MR. MANOLIUS: I am objecting, yes, and</p> <p>19 instructing him not to answer.</p> <p>20 MR. MEUSER Q: And you're not answering at the</p> <p>21 instruction of your attorney?</p> <p>22 A Correct.</p> <p>23 Q Okay. I am going to ask the same question.</p> <p>24 Did the NDRC share any maps with you between July 2nd</p> <p>25 and August 15th?</p>	<p style="text-align: right;">Page 272</p> <p>1 Q -- at the instruction of your attorney?</p> <p>2 A Correct.</p> <p>3 Q Page 15, line 18 and 19 where you talk about</p> <p>4 Wild Wild West redistricting, and in this particular</p> <p>5 sentence you're talking about other states, even</p> <p>6 democratically held states.</p> <p>7 Which states do you categorize as the Wild</p> <p>8 Wild West of redistricting in this statement that you</p> <p>9 made to Capitol Weekly Podcast?</p> <p>10 MR. WOODS: Objection. Relevance.</p> <p>11 MR. MANOLIUS: I join it. You can answer.</p> <p>12 THE WITNESS: Illinois.</p> <p>13 MR. MEUSER Q: Any other states?</p> <p>14 A That's the one that comes to mind.</p> <p>15 Q Line 24 and 25, same page, "They are</p> <p>16 oftentimes violating the Voting Rights Act."</p> <p>17 Did I read that statement correct?</p> <p>18 A Which line?</p> <p>19 Q Lines 24 and 25.</p> <p>20 A You said what page?</p> <p>21 Q 15.</p> <p>22 A For some reason I went to page 24. Sorry.</p> <p>23 Yes.</p> <p>24 Q Is that a statement that you made on Capitol</p> <p>25 Weekly Podcast?</p>
<p style="text-align: right;">Page 271</p> <p>1 MR. MANOLIUS: Same objection and instruct you</p> <p>2 not to answer.</p> <p>3 MR. MEUSER Q: And, Mr. Mitchell, you're not</p> <p>4 answering at the instruction of your attorney?</p> <p>5 A Correct.</p> <p>6 Q Top of page 14. This says, "No respect for</p> <p>7 the LGBT community."</p> <p>8 Did I read that sentence correct?</p> <p>9 A Yes.</p> <p>10 Q And I believe you were talking earlier about</p> <p>11 the work that you were doing in the 2021 redistricting</p> <p>12 on behalf of the LGBT community. Did I hear that</p> <p>13 testimony right, that in 2021 you were working with the</p> <p>14 LGBT community to help them in the redistricting</p> <p>15 process?</p> <p>16 A Yes.</p> <p>17 Q And as a part of drawing the Prop 50 maps, was</p> <p>18 the LGBT community one of the communities of interest</p> <p>19 that you were looking at when you drew any of the</p> <p>20 congressional lines that were associated with Prop 50?</p> <p>21 MR. MANOLIUS: Objection, legislative</p> <p>22 privilege, I instruct you not to answer.</p> <p>23 MR. MEUSER Q: And, Mr. Mitchell, you are not</p> <p>24 answering here today --</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 273</p> <p>1 A Yes.</p> <p>2 Q In your opinion, which states have violated</p> <p>3 the Voting Rights Act, as you understand it?</p> <p>4 MR. MANOLIUS: Objection, calls for a legal</p> <p>5 conclusion, overbroad and vague.</p> <p>6 MR. WOODS: And that's join.</p> <p>7 THE WITNESS: In that regard I think it's easy</p> <p>8 just to point to all of the redistricting maps that have</p> <p>9 been overturned by the courts. That's all I was</p> <p>10 referencing.</p> <p>11 MR. MEUSER Q: When you made this statement to</p> <p>12 the Capitol Weekly Podcast, was there a specific or</p> <p>13 specific states you were thinking of when you made the</p> <p>14 statement that oftentimes violated the Voting Rights</p> <p>15 Act?</p> <p>16 MR. MANOLIUS: Same objection.</p> <p>17 MR. WOODS: Join.</p> <p>18 THE WITNESS: States that have historically</p> <p>19 violated the Voting Rights Act causing all of the</p> <p>20 lawsuits and terms we now know and use in redistricting,</p> <p>21 so there's too many to kind of pick out.</p> <p>22 MR. MEUSER Q: Is there any one or two states</p> <p>23 that stick out to you as in your belief regularly are</p> <p>24 violating the Voting Rights Act?</p> <p>25 MR. MANOLIUS: Same set of objections. You</p>

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<p style="text-align: right;">Page 274</p> <p>1 can answer.</p> <p>2 MR. WOODS: Same. Join.</p> <p>3 THE WITNESS: Something like North Carolina,</p> <p>4 states where they've had big redistricting cases in the</p> <p>5 last 34 years.</p> <p>6 Q Any other states?</p> <p>7 A No.</p> <p>8 Q We can put away the Capitol Weekly Podcast</p> <p>9 and we are going to go to the HOPE transcript next. And</p> <p>10 let's turn to page 22.</p> <p>11 A (Witness complied.)</p> <p>12 Q And we are going to start on page, on line</p> <p>13 nine. You ready?</p> <p>14 MR. MANOLIUS: One second. Sorry.</p> <p>15 MR. MEUSER: No problem.</p> <p>16 MR. MANOLIUS: Thank you.</p> <p>17 MR. MEUSER Q: I am going to read paragraph,</p> <p>18 or line nine through 13: "Now, when I was first talking</p> <p>19 to by folks, I won't call out any names of elected</p> <p>20 officials, but I did have some elected officials call me</p> <p>21 and say, well, if Texas is going to throw away the VRA,</p> <p>22 we should just throw away the VRA."</p> <p>23 Which elected officials told you that we</p> <p>24 should throw away the VRA?</p> <p>25 MR. MANOLIUS: Objection, legislative</p>	<p style="text-align: right;">Page 276</p> <p>1 A Correct.</p> <p>2 Q Again, we are going to make this thing</p> <p>3 abundantly clear for the record.</p> <p>4 Did an elected official contact you and tell</p> <p>5 you that if Texas is going to throw away the VRA, we</p> <p>6 should just throw away the VRA?</p> <p>7 MR. MANOLIUS: Same objection. Instruct you</p> <p>8 not to answer.</p> <p>9 MR. MEUSER Q: Mr. Mitchell, you're not going</p> <p>10 to answer that question at the instruction of your</p> <p>11 attorney?</p> <p>12 A Correct.</p> <p>13 Q Can you tell me if this conversation was with</p> <p>14 a congressman or congresswoman or with a state</p> <p>15 legislator?</p> <p>16 MR. MANOLIUS: You can answer.</p> <p>17 THE WITNESS: I don't recall.</p> <p>18 MR. MEUSER Q: Did just a single elected</p> <p>19 official say this or was this multiple elected officials</p> <p>20 who made this statement, generally we should throw away</p> <p>21 the VRA.</p> <p>22 A Let me characterize this. I think that there</p> <p>23 were people who would say those words and others would</p> <p>24 give me maps or say things like, if Texas can do</p> <p>25 whatever they want to do why can't we do whatever we</p>
<p style="text-align: right;">Page 275</p> <p>1 privilege. Instruct you not to answer. Also, vague as</p> <p>2 to when the these conversations occurred, but that's</p> <p>3 better.</p> <p>4 MR. MEUSER Q: Let's go ahead and clean this</p> <p>5 up. Did I read that correctly?</p> <p>6 A You did read that correctly.</p> <p>7 Q Is that a statement that you made to HOPE</p> <p>8 during your presentation to HOPE?</p> <p>9 A Given that it's in this transcript, I would</p> <p>10 believe so.</p> <p>11 Q You don't believe so?</p> <p>12 A I said I would believe so.</p> <p>13 Q You would believe so. Okay. At what time</p> <p>14 period were you referring to someone telling you we</p> <p>15 should just throw away the VRA?</p> <p>16 MR. MANOLIUS: Objection, legislative</p> <p>17 privilege and instruct you not to answer.</p> <p>18 MR. MEUSER: You were the one who said that it</p> <p>19 wasn't clear as to the time. I am just asking the time.</p> <p>20 MR. MANOLIUS: I also said it was barred by</p> <p>21 legislative privilege, so I appreciate your cleaning up</p> <p>22 at the time because I wasn't sure.</p> <p>23 MR. MEUSER Q: So, Mr. Mitchell, you're not</p> <p>24 going to answer my question at the instruction of your</p> <p>25 attorney?</p>	<p style="text-align: right;">Page 277</p> <p>1 want to do?</p> <p>2 So in their wording to me wouldn't be those</p> <p>3 exact words, but I would interpret it as if, let's throw</p> <p>4 down the guardrails as I testified or as I said earlier</p> <p>5 with Ms. Hamill.</p> <p>6 Q There's a difference between throwing away the</p> <p>7 guardrails and throwing away the VRA. Would you agree</p> <p>8 with that?</p> <p>9 MR. MANOLIUS: Objection, vague, overbroad,</p> <p>10 compound question. You can answer.</p> <p>11 THE WITNESS: Generally, if somebody is</p> <p>12 putting out maps that are, you know, free of traditional</p> <p>13 redistricting criteria they're throwing everything out,</p> <p>14 and so in this statement where I am saying this, it</p> <p>15 might just be shorthand for, you know, the kind of</p> <p>16 things I was hearing.</p> <p>17 So I was hearing this from multiple people and</p> <p>18 sometimes they wouldn't say the exact words, but this is</p> <p>19 the kind of idea that I would say when I was doing a</p> <p>20 presentation like this.</p> <p>21 Q Would you agree with me that someone who drew</p> <p>22 a sample map that had only one person in it and another</p> <p>23 map that had a million people in it, that that is a</p> <p>24 completely different issue than someone drawing a map</p> <p>25 that violates the VRA?</p>



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<p style="text-align: right;">Page 278</p> <p>1 MR. MANOLIUS: Objection, vague. I don't 2 understand the question. One person in what, in 1,000? 3 MR. MEUSER: In a congressional district. 4 MR. MANOLIUS: Oh. 5 THE WITNESS: He is laying no equal 6 protection. 7 MR. WOODS: I am going to object that calls 8 for a legal conclusion, but you can answer. 9 MR. MANOLIUS: I'll join that too. 10 THE WITNESS: The issue is that when I'm 11 speaking to a group, if I say, oh, my gosh, there's a 12 map that's noncontiguous, that doesn't exactly get the 13 point across. And so something like this would be the 14 thing that I might highlight for a group like that, 15 rather than something like, oh, my gosh, this map was 16 noncontiguous and, like, they're supposed to care. 17 MR. MEUSER Q: So the question I am going to 18 ask you, how many, I am asking for a number, how many 19 elected officials specifically told you we should just 20 throw away the VRA? 21 A I don't recall someone using those exact 22 words -- 23 Q Okay. 24 A -- because I even say in one of these quotes 25 kind of.</p>	<p style="text-align: right;">Page 280</p> <p>1 was something that was very important to HOPE; is that 2 correct? 3 MR. MANOLIUS: Objection. Vague and calls for 4 speculation about a whole lot of people potentially, but 5 you can answer, if you can. 6 MR. WOODS: Join. 7 THE WITNESS: They are not exactly a Voting 8 Rights Act organization, something like MALDEF or 9 something, so they are more, and the name in their title 10 of their name Hispanas Organized For Political Equality, 11 that is their mission. 12 MR. MEUSER Q: But earlier today we were 13 looking at that HOPE letter -- 14 A Yes. 15 Q -- that you read to HOPE; correct, yes? 16 A Yes, yes, yes. 17 Q And in that letter they're talking about 18 Voting Rights Act issues; is that correct? 19 A Yes. 20 Q And now you're coming back and talking to HOPE 21 and you state here that elected officials told you to 22 throw away the VRA; correct? 23 MR. MANOLIUS: Objection, misstates his 24 testimony. 25 THE WITNESS: That's a paraphrase.</p>
<p style="text-align: right;">Page 279</p> <p>1 Q And in the very next paragraph, starting on 2 line 16, you say, "And I would be, like, okay, thanks 3 for calling. But there was no way that I was going to 4 do that." 5 Did I read that correctly? 6 A Yes. 7 Q And that is the statement that you made on -- 8 to the HOPE; correct? 9 A Don't know which one this was, but, yes. 10 Q And your statement to HOPE is that you were 11 not going to be violating the Voting Rights Act; is that 12 correct? 13 MR. MANOLIUS: Objection, misstates what's 14 here. The document speaks for itself, speaks for 15 itself. You can answer. 16 THE WITNESS: I would characterize it not like 17 that, because that seems to point to some outcome. 18 But I was suggesting to them that issues they 19 care about, if people were arguing to throw those 20 overboard, that I was somebody who would care about 21 their issues. 22 Q And you've worked with HOPE you said for over 23 a dozen years; correct? 24 A Yes. 25 Q And you understand that the Voting Rights Act</p>	<p style="text-align: right;">Page 281</p> <p>1 MR. MEUSER Q: And you said, don't worry, I'm 2 not getting rid of the VRA; is that correct? 3 MR. MANOLIUS: Objection. I don't see that 4 here. 5 THE WITNESS: That isn't -- that is a 6 mischaracterization, because I don't have the ability to 7 get rid of the VRA. 8 MR. MEUSER Q: You were not going to draw any 9 districts that violated the VRA; is that correct? 10 MR. WOODS: That's also mischaracterizing. 11 MR. MANOLIUS: Wait a minute. Objection. I 12 instruct you not to answer, that's legislative 13 privilege. 14 MR. MEUSER Q: And you're not answering the 15 question at the instruction of your attorney? 16 A Correct. 17 Q Page 23, line 14, "And following the Voting 18 Rights Act was very important." 19 Did I read that correctly? 20 A You read that line 14, yes. 21 Q And is that something that you said to HOPE on 22 this presentation? 23 A I am just reading the full context here. Yes. 24 Q And in all the redistricting work that you did 25 before July 2nd, 2025, would that be a fair statement to</p>



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<p style="text-align: right;">Page 282</p> <p>1 say that following the Voter Right Act is an important</p> <p>2 thing for Redistricting Partners?</p> <p>3 A I would say more broadly that following the</p> <p>4 Voting Rights Act is important for anybody doing</p> <p>5 redistricting --</p> <p>6 Q And I am going to --</p> <p>7 A -- and for Redistricting Partners in all our</p> <p>8 municipal redistricting.</p> <p>9 Q And was following the Voting Rights Act a very</p> <p>10 important thing for Redistricting Partners while drawing</p> <p>11 the Proposition 50 maps?</p> <p>12 MR. MANOLIUS: Objection, legislative</p> <p>13 privilege, I instruct you not to answer.</p> <p>14 MR. MEUSER Q: Mr. Mitchell, you're not</p> <p>15 answering that question today at the instruction of your</p> <p>16 counsel?</p> <p>17 A Correct. If we are going to go much longer</p> <p>18 can we get a restroom break?</p> <p>19 Q I was going to be suggesting a restroom break</p> <p>20 in about 10 minutes so we can confer, but if you want to</p> <p>21 wait 10 minutes? We can go now.</p> <p>22 A Sure.</p> <p>23 Q Turn to page 29 of the transcript. Can you</p> <p>24 read to yourself paragraph eight -- line 8 through 16</p> <p>25 and then I am going to read it out loud real quick? Let</p>	<p style="text-align: right;">Page 284</p> <p>1 you use the phrase "a strong population," is there a</p> <p>2 number in your head that would equal a strong</p> <p>3 population?</p> <p>4 A In -- no, there isn't. And we've had the</p> <p>5 California Voting Rights Act which has tried to</p> <p>6 adjudicate what a Latino-influenced district is and may</p> <p>7 have not come up with a number. There is no norm.</p> <p>8 Q So if a district had 10-percent of Latinos in</p> <p>9 it, would you characterize that as a Latino-influenced</p> <p>10 district?</p> <p>11 MR. MANOLIUS: Objection. You're talking</p> <p>12 about as a general matter in his practice?</p> <p>13 MR. MEUSER: Yes.</p> <p>14 MR. MANOLIUS: Other than Prop 50? You can</p> <p>15 answer.</p> <p>16 THE WITNESS: It really would depend on the</p> <p>17 turnout rate of that Latino population and the turnout</p> <p>18 rate of other populations in the area, but that's</p> <p>19 usually, usually you see higher numbers than that when</p> <p>20 you're talking about Latino-influenced districts, but I</p> <p>21 am not the arbiter of what the bright line is.</p> <p>22 Q But you're the one who used the phrase</p> <p>23 "Latino-influenced district" and you're the one who used</p> <p>24 the phrase, you know, a strong showing, so I'm trying to</p> <p>25 figure out, you know, I'm not entitled -- I am entitled</p>
<p style="text-align: right;">Page 283</p> <p>1 me know when you're ready.</p> <p>2 A Sure.</p> <p>3 Q Okay. So I will go ahead and read this out</p> <p>4 loud. "And so you've got some places where he needs to</p> <p>5 get support and get engaged folks to support and do</p> <p>6 turnout there for Latinos to protect a Latino member of</p> <p>7 Congress in a district that is still a Latino-influenced</p> <p>8 district, but is no longer a majority/minority district</p> <p>9 because his district, most Latino portions go into the</p> <p>10 replacement Roybal Allard district."</p> <p>11 Did I read that correctly?</p> <p>12 A Yes.</p> <p>13 Q Did you say that to HOPE in October of this</p> <p>14 year?</p> <p>15 A That appears that that's what I said, yes.</p> <p>16 Q You used the phrase "Latino-influenced</p> <p>17 district." Outside of your Proposition 50 work, what</p> <p>18 does Latino-influenced district mean to you?</p> <p>19 A It's Latino-influenced district is more of a</p> <p>20 non-redistricting term. It's one that doesn't have the</p> <p>21 same meaning as a majority/minority district or district</p> <p>22 with the ability to elect Latinos. It's a general term</p> <p>23 used by lay people to suggest a district where there's a</p> <p>24 strong population.</p> <p>25 Q Sorry. I didn't mean to interrupt you. When</p>	<p style="text-align: right;">Page 285</p> <p>1 to your best estimate here.</p> <p>2 So if it was 25 percent would you consider</p> <p>3 that a Latino-influenced district?</p> <p>4 MR. MANOLIUS: Objection, vague. It lacks</p> <p>5 foundation and that he's already said it depends on the</p> <p>6 circumstances, and there are different things like</p> <p>7 turnout rates and all that, but you can answer.</p> <p>8 THE WITNESS: It's completely situational. It</p> <p>9 has to do with the cohesiveness of that Latino</p> <p>10 population, their turnout rates, what the other</p> <p>11 population is like, so very well I could consider</p> <p>12 someplace that has a 25 percent.</p> <p>13 This is a thing that comes up a lot in</p> <p>14 municipal redistricting under the California Voting</p> <p>15 Rights Act and, again, there is no, even the courts have</p> <p>16 not given a definition of influenced district, even</p> <p>17 though it's in the California Voting Rights Act, that</p> <p>18 word, influenced district.</p> <p>19 Q And this phrase --</p> <p>20 A The ability to influence is in the California</p> <p>21 Voting Rights Act, that's the terminology.</p> <p>22 Q So on page 29 when you used the word</p> <p>23 Latino-influenced district, you're referring to a</p> <p>24 specific district that is on our atlas.</p> <p>25 Can you look at the atlas and tell me which</p>

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<p>1 district you were talking about when you talked to HOPE</p> <p>2 in October and you said that there was this</p> <p>3 Latino-influenced district?</p> <p>4 MR. MANOLIUS: Objection, legislative</p> <p>5 privilege. I instruct you not to answer.</p> <p>6 MR. MEUSER: Counsel, you're instructing him</p> <p>7 not to answer when he went out into public and said</p> <p>8 there's this Latino-influenced district and he has</p> <p>9 publicly put out this document to the Legislature that</p> <p>10 breaks out every single district, he is out there</p> <p>11 talking to people trying to encourage them to vote for</p> <p>12 Prop 50, this is public information that he himself has</p> <p>13 made public and you're instructing him about subsequent</p> <p>14 comments made? You're instructing him not to answer the</p> <p>15 question?</p> <p>16 MR. MANOLIUS: Yes, because it goes to his the</p> <p>17 creation of the maps themselves and what the intention</p> <p>18 was behind that, so I am going to instruct him not to</p> <p>19 answer based on legislative privilege, yes.</p> <p>20 MR. MEUSER Q: Mr. Mitchell, you're not</p> <p>21 answering this question at the instruction of your</p> <p>22 attorney?</p> <p>23 A Correct.</p> <p>24 Q Let's turn to page 30 of your transcript. And</p> <p>25 I am going to read this paragraph. "The Prop 50 maps I</p>	<p>1 statement; correct?</p> <p>2 MR. MANOLIUS: Objection. That's not a</p> <p>3 complete statement, but I think we know what you're</p> <p>4 referring to. Objection, vague. You can answer.</p> <p>5 THE WITNESS: Yes.</p> <p>6 MR. MEUSER Q: And you've had two reasons why</p> <p>7 you thought the Prop 50 maps were great for the Latino</p> <p>8 community; correct?</p> <p>9 A What two are you referencing?</p> <p>10 Q You say there's two critical ways that the</p> <p>11 Prop 50 maps are great for the Latino communities; is</p> <p>12 that correct?</p> <p>13 A Two critical ways, I see, yes.</p> <p>14 Q Okay. One of those ways is that ensures that</p> <p>15 the Latino districts that are the VRA seats are</p> <p>16 bolstered in order to make them most effective. You</p> <p>17 said that; correct?</p> <p>18 A Yes.</p> <p>19 Q And when you are referring to the VRA seats</p> <p>20 are you referring to the 14 VRA seats designated by the</p> <p>21 redistricting commission during the redistricting</p> <p>22 process in 2021?</p> <p>23 MR. MANOLIUS: Objection, legislative</p> <p>24 privilege. I instruct you not to answer.</p> <p>25 MR. MEUSER Q: And, Mr. Mitchell, you're not</p>
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<p>1 think will be great for the Latino community in two</p> <p>2 critical ways. One is that they ensure that the Latino</p> <p>3 districts that are the VRA seats are bolstered in order</p> <p>4 to make them most effective particularly in the Central</p> <p>5 Valley."</p> <p>6 Did I read that correctly?</p> <p>7 A Yes.</p> <p>8 Q Did you make that statement to HOPE in October</p> <p>9 of 2025?</p> <p>10 A Yes.</p> <p>11 Q And earlier you said there were 14 VRA</p> <p>12 districts drawn by the redistricting commission; is that</p> <p>13 correct?</p> <p>14 MR. MANOLIUS: Objection, misstates his</p> <p>15 testimony. Vague as to VRA that he used, but he can</p> <p>16 answer.</p> <p>17 THE WITNESS: What I said earlier in testimony</p> <p>18 was there were 16 majority/minority districts and the</p> <p>19 commission identified 14 of those districts as VRA seats</p> <p>20 -- I don't want to say VRA seats but as seats that were</p> <p>21 drawn in order to, for lack of a -- I don't want to</p> <p>22 paraphrase too much, but there were 14 that were</p> <p>23 identified.</p> <p>24 Q And you told HOPE that the Proposition 50 maps</p> <p>25 were great for the Latino community, you made that</p>	<p>1 answering my question today at the instruction of your</p> <p>2 counsel?</p> <p>3 A Correct.</p> <p>4 Q Next paragraph, starting on line 12, and then,</p> <p>5 secondly, have to hazard a guess, and I don't want to be</p> <p>6 too political or partisan here, but I have to hazard a</p> <p>7 guess that whoever gets elected in that gateway cities</p> <p>8 district in Los Angeles, it's a majority/minority</p> <p>9 district, is going to be a better representative for the</p> <p>10 community than the representative being elected from the</p> <p>11 Ken Calvert seat."</p> <p>12 Did I read that correctly?</p> <p>13 A Correct.</p> <p>14 Q And you made that statement; correct?</p> <p>15 A Correct.</p> <p>16 Q And in this particular sentence you are</p> <p>17 talking about congressional district 41 that belonged to</p> <p>18 Ken Calvert out in Riverside and is now in the gateway</p> <p>19 cities of Los Angeles; correct?</p> <p>20 A Correct.</p> <p>21 Q Next page, 31, top of the page, lines one</p> <p>22 through five, "So I think there are opportunities there</p> <p>23 in the substance of the maps and the outcomes of the</p> <p>24 maps, and I think there's a lot of opportunities in</p> <p>25 terms of kind of those VRA concerns as well."</p>

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<p>1 Did I read that correct?</p> <p>2 A Yeah, that's -- I don't recall exactly saying</p> <p>3 that, but that's in the transcript. It seems a little</p> <p>4 garbled, seems like a little bit of a word salad.</p> <p>5 Q Do you deny making that statement?</p> <p>6 MR. MANOLIUS: Objection, misstates his</p> <p>7 testimony.</p> <p>8 THE WITNESS: I don't have a reason to deny</p> <p>9 saying that, but looking at this transcript I -- it</p> <p>10 looks a little bit disjointed.</p> <p>11 MR. MEUSER Q: And you used the phrase "VRA</p> <p>12 concerns." Do you see that phrase?</p> <p>13 A Yes.</p> <p>14 Q What does "VRA concerns" mean to you?</p> <p>15 A I don't know.</p> <p>16 MR. MEUSER: Mr. Mitchell, you asked for a</p> <p>17 short break. Let's go ahead and take a 10-minute break</p> <p>18 at this time.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 MR. MEUSER: And counsel and I will go over</p> <p>21 our notes and see if we can wrap this up.</p> <p>22 MR. MANOLIUS: Great. Thank you very much.</p> <p>23 THE VIDEOGRAPHER: The time is 6:01 p.m. We</p> <p>24 are going off the record.</p> <p>25 (Whereupon a recess was taken.)</p>	<p>1 A To the bank.</p> <p>2 Q Okay.</p> <p>3 A Yeah, to my bank account, not to the</p> <p>4 accountant.</p> <p>5 Q Do you know who Swing Strategies is?</p> <p>6 A Yes.</p> <p>7 Q This is our opportunity to take care of this.</p> <p>8 A You can go for it, you can clean this up.</p> <p>9 This is it.</p> <p>10 Q That's what I'm trying to do.</p> <p>11 A Yeah. Yeah.</p> <p>12 Q So you know what I mean by Swing Strategies;</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q And there is in the public disclosure the</p> <p>16 person who, the address --</p> <p>17 A On the invoice?</p> <p>18 Q -- on the invoice where DCCC sent the payment</p> <p>19 it went to Swing Strategies; correct?</p> <p>20 A It went to Ken Andreas. It went to</p> <p>21 Redistricting Partners, but my accountant is Ken</p> <p>22 Andreas.</p> <p>23 Q Okay. And who is Ken Andreas?</p> <p>24 A Ken Andreas is an accountant that I have had</p> <p>25 since 2011, a personal friend, and decades ago Matt</p>
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<p>1 THE VIDEOGRAPHER: We are back on the record.</p> <p>2 The time is 6:11 p.m. and this marks the beginning of</p> <p>3 videotape number seven in the deposition of Paul</p> <p>4 Mitchell, which is being taken at Hansen Bridgett, LLP,</p> <p>5 500 Capitol Mall, Suite 1500, Sacramento, California.</p> <p>6 The videographer is Nicholas Coulter here on</p> <p>7 behalf of Array Legal Services.</p> <p>8 MR. MEUSER: Mr. Mitchell, you understand</p> <p>9 you're still under oath?</p> <p>10 A Yes.</p> <p>11 Q A couple cleanup questions, so we're going</p> <p>12 back to questions that you were asked earlier today.</p> <p>13 I believe you were testifying earlier that you</p> <p>14 had been paid by the DCCC by Jeffries, Hakeem Jeffries</p> <p>15 and by HMP, House Majority PAC. How did you receive</p> <p>16 those payments?</p> <p>17 MR. MANOLIUS: Objection. I think misstates</p> <p>18 his testimony. I don't believe -- have they all been</p> <p>19 paid?</p> <p>20 THE WITNESS: Yeah, they have all been paid.</p> <p>21 MR. MANOLIUS: Sorry. Go ahead.</p> <p>22 THE WITNESS: Wires.</p> <p>23 MR. MEUSER Q: And who were the wires sent to?</p> <p>24 A Redistricting Partners.</p> <p>25 Q Redistricting Partners or to your accountant?</p>	<p>1 Rexford, who is a republican consultant, helped me get</p> <p>2 my accounting set up with his accountant, Ken Andreas.</p> <p>3 He's a good friend.</p> <p>4 Q And what's Ken Andreas's relationship with</p> <p>5 Swing Strategies?</p> <p>6 A He is also their accountant.</p> <p>7 Q And so the address for your bookkeeper is Ken</p> <p>8 Andreas; correct?</p> <p>9 A Yes.</p> <p>10 Q And Ken Andreas happens to also be the</p> <p>11 bookkeeper for Swing Strategies; correct?</p> <p>12 A Yes. Swing Strategies was the no campaign.</p> <p>13 Small world.</p> <p>14 Q Yeah, but I'm actually trying to help you with</p> <p>15 this one.</p> <p>16 Earlier today we were talking about</p> <p>17 disaggregating political data. Do you remember that</p> <p>18 conversation?</p> <p>19 A I forgot about it, but, yes.</p> <p>20 Q And in that conversation you were talking</p> <p>21 about when a census block, when census blocks and</p> <p>22 presincts did not align; correct?</p> <p>23 A I was talking about when census blocks are</p> <p>24 necessary within precinct boundaries.</p> <p>25 Q It is my understanding that CVAP data is not</p>

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<p style="text-align: right;">Page 294</p> <p>1 available at the census block level, so how would you</p> <p>2 use CVAP data to disaggregate election results?</p> <p>3 A The same way, because unlike what I think you</p> <p>4 were inferring in the question about a nonalignment --</p> <p>5 Q Yes.</p> <p>6 A -- census blocks always align to block groups,</p> <p>7 so there's always alignment, so it's exactly the same</p> <p>8 methodology that I discussed earlier.</p> <p>9 Q Okay. And what components of the State's</p> <p>10 database would you use for disaggregation?</p> <p>11 A I would -- don't recall if Jacob</p> <p>12 Thompson-Fisher would have been the one that did that so</p> <p>13 I don't recall. I don't even -- yeah, I don't recall.</p> <p>14 Q Do you ever use racial data to disaggregate</p> <p>15 election results to census blocks?</p> <p>16 MR. MANOLIUS: Objection, to the extent answer</p> <p>17 outside of the Prop 50 matter. Otherwise, it's</p> <p>18 legislative privilege.</p> <p>19 THE WITNESS: Yeah. In the history of our</p> <p>20 company and the way that we do work, we would not be</p> <p>21 doing it like that. That would not make sense.</p> <p>22 MR. MEUSER Q: Okay.</p> <p>23 A You would use generally population, citizen</p> <p>24 voting age total population, because you're trying to</p> <p>25 disaggregate votes cast or registered voter registration</p>	<p style="text-align: right;">Page 296</p> <p>1 Q Mr. Mitchell, earlier today we were looking at</p> <p>2 the atlas that you created for the DCCC; correct?</p> <p>3 A Yes.</p> <p>4 Q And in that there was the box of every single</p> <p>5 congressional district where it showed the voter</p> <p>6 registration numbers for that district; correct?</p> <p>7 A Correct.</p> <p>8 Q Where did you get that data that you used in</p> <p>9 the atlas that you gave to the DCCC?</p> <p>10 MR. MANOLIUS: You can answer.</p> <p>11 THE WITNESS: I think a better way to state it</p> <p>12 is that this data that is in that, on that map, its</p> <p>13 origin is from the statewide database.</p> <p>14 MR. MEUSER Q: So when building the maps in</p> <p>15 your software, the statewide database would tell you</p> <p>16 what the political breakdown of that district is;</p> <p>17 correct?</p> <p>18 MR. MANOLIUS: Objection, legislative</p> <p>19 privilege, instruct you not to answer.</p> <p>20 MR. MEUSER Q: Mr. Mitchell, you're not</p> <p>21 answering my question today because of the direction of</p> <p>22 your attorney?</p> <p>23 A Yes.</p> <p>24 Q Okay. Prior to working on Proposition 50</p> <p>25 maps, when you're doing one of these hundreds of other</p>
<p style="text-align: right;">Page 295</p> <p>1 numbers.</p> <p>2 Q When creating the Prop 50 maps, what data sets</p> <p>3 did you use?</p> <p>4 MR. MANOLIUS: Objection, legislative</p> <p>5 privilege. I instruct you not to answer.</p> <p>6 MR. MEUSER Q: Mr. Mitchell, you're not</p> <p>7 answering that question at the instruction of your</p> <p>8 attorney?</p> <p>9 A Correct.</p> <p>10 Q Did you use election results when drafting the</p> <p>11 Proposition 50 maps?</p> <p>12 MR. MANOLIUS: Same objection, instruct you</p> <p>13 not to answer.</p> <p>14 MR. MEUSER Q: And, Mr. Mitchell, you're not</p> <p>15 answering my question at the instruction of your</p> <p>16 attorney?</p> <p>17 A Correct.</p> <p>18 Q Which election results did you look at when</p> <p>19 drawing the Proposition 50 maps?</p> <p>20 MR. MANOLIUS: Same objection, same</p> <p>21 instruction.</p> <p>22 MR. MEUSER Q: And, Mr. Mitchell, you're not</p> <p>23 answering my question at the instruction of your</p> <p>24 attorney?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 297</p> <p>1 redistrictings, would you use statewide data, the</p> <p>2 statewide database?</p> <p>3 A In prior redistricts we do use statewide</p> <p>4 database, yes.</p> <p>5 Q And when you draw a district using statewide</p> <p>6 database in your system does it tell you the political</p> <p>7 registration number for each district?</p> <p>8 MR. MANOLIUS: Objection, vague. You mean as</p> <p>9 a general matter, and outside the Prop 50 process?</p> <p>10 MR. MEUSER Q: My question specifically said</p> <p>11 all of the examples prior to Prop 50.</p> <p>12 MR. MANOLIUS: Okay. Thank you.</p> <p>13 THE WITNESS: I wouldn't use it at all. We</p> <p>14 wouldn't use voter registration when we do municipal</p> <p>15 redistricts, because its voter criteria that's</p> <p>16 precluded, so we exclude it.</p> <p>17 And in the instances where we have put it in</p> <p>18 have been infrequent and would have been not for</p> <p>19 municipal work. Maybe in 2021 we would have put a PDI</p> <p>20 voter file in there as analysis, but it's not something</p> <p>21 that we regularly use in our data sets.</p> <p>22 Q So the atlas that you have put together that</p> <p>23 has the racial breakdowns of Hispanics, correct, in this</p> <p>24 atlas it has the breakdown of Hispanics in every single</p> <p>25 district; correct?</p>

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<p>1 MR. WOODS: Objection, mischaracterizes the</p> <p>2 document. It speaks for itself.</p> <p>3 MR. MANOLIUS: I'll join.</p> <p>4 THE WITNESS: The document has the racial</p> <p>5 breakdowns by total population in the 2020 census and</p> <p>6 through the CVAP, yes.</p> <p>7 MR. MEUSER Q: And has it for Hispanics;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q And as it has it for Blacks; correct?</p> <p>11 A Yes.</p> <p>12 Q And it has it for Asians; correct?</p> <p>13 A Yes.</p> <p>14 Q But it doesn't have it for whites; correct?</p> <p>15 A It has an "other" category and the other is</p> <p>16 white and/or the -- there is a CVAP of Alaska native,</p> <p>17 it's AIAN, Alaska native, and basically the Hawaiian</p> <p>18 population and others like that, so there's -- that's in</p> <p>19 the "other."</p> <p>20 Q Okay. That particular data set, you know,</p> <p>21 the --</p> <p>22 A American Indian Alaska Native. Sorry.</p> <p>23 Q In the atlas you have the breakdown of how</p> <p>24 many people are in each population group. Is that</p> <p>25 something that you print with all your other</p>	<p>1 THE WITNESS: As a general rule we normally</p> <p>2 would be able to, but it would be, there's so many</p> <p>3 different programs we use potentially it wouldn't be on</p> <p>4 or maybe it would be in another program, so not every</p> <p>5 time.</p> <p>6 MR. MEUSER Q: But you print that data in your</p> <p>7 atlas every single time; correct?</p> <p>8 A Yeah. This is a stand alone separate program.</p> <p>9 We throw a shape file in and it produces this --</p> <p>10 Q Okay.</p> <p>11 A -- as a stand alone program.</p> <p>12 Your talking about when you're drawing</p> <p>13 districts, this isn't something you use when you're</p> <p>14 drawing districts, it's something you use to put out a</p> <p>15 final product for a client.</p> <p>16 Q Okay. But you have the data of what the</p> <p>17 racial breakdown is for every single district that you</p> <p>18 use to put together the shape, put together these</p> <p>19 atlases; correct?</p> <p>20 A In my normal redistricting course of my normal</p> <p>21 business redistricting.</p> <p>22 Q Yes.</p> <p>23 A Outside of Prop 50, yes.</p> <p>24 Q And in Proposition 50 you created an atlas</p> <p>25 associated with the work as a result of Prop 50;</p>
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<p>1 redistricting atlases that you do for other clients?</p> <p>2 A Yes. In different varieties, like I said in</p> <p>3 Alaska it would show Alaska native and not something</p> <p>4 else.</p> <p>5 Q Understand. So you regularly print atlases</p> <p>6 for your clients that list out the racial breakdowns of</p> <p>7 each district and call it -- and insert it into your</p> <p>8 atlas; is that correct? Is that a "yes"?</p> <p>9 A Yes.</p> <p>10 Q And here after Prop 50 you created an atlas</p> <p>11 for the Legislature and it included in this atlas the</p> <p>12 racial breakdowns of the various racial ethnicities for</p> <p>13 each congressional district; correct?</p> <p>14 A Yes.</p> <p>15 MR. MANOLIUS: Asked and answered. You can</p> <p>16 answer.</p> <p>17 THE WITNESS: Yes.</p> <p>18 MR. MEUSER Q: So when, I am again asking</p> <p>19 prior to Prop 50, when you're using your software and</p> <p>20 you have drawn a district using the statewide database</p> <p>21 you are able to see the racial breakdown of that</p> <p>22 district; correct?</p> <p>23 MR. MANOLIUS: Objection, vague. I am not</p> <p>24 sure I understand the question. You can answer, if you</p> <p>25 do.</p>	<p>1 correct?</p> <p>2 MR. WOODS: Objection, asked and answered.</p> <p>3 MR. MANOLIUS: Same, join.</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. MEUSER: Julie?</p> <p>6 MS. HAMILL: May I project?</p> <p>7 FURTHER EXAMINATION</p> <p>8 By: JULIE HAMILL, Attorney at Law, counsel on behalf of</p> <p>9 the Plaintiffs:</p> <p>10 I just want to be clear --</p> <p>11 A Yes.</p> <p>12 Q -- that you are refusing to answer any</p> <p>13 questions regarding how or why you drew the Proposition</p> <p>14 50 maps on the basis of legislative privilege?</p> <p>15 MR. MANOLIUS: I'm objecting to that and I'll</p> <p>16 affirm it for you, yes, that is our position.</p> <p>17 MS. HAMILL: You're objecting to that</p> <p>18 question?</p> <p>19 MR. MANOLIUS: No, I am just trying to -- the</p> <p>20 answer to your question is yes.</p> <p>21 MS. HAMILL Q: I am going to ask it one more</p> <p>22 time to make a clear record.</p> <p>23 I want to be clear that you are refusing to</p> <p>24 answer any questions regarding how or why you drew the</p> <p>25 Proposition 50 map on the basis of legislative</p>



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<p style="text-align: right;">Page 302</p> <p>1 privilege?</p> <p>2 A Yes, upon advice of my counsel.</p> <p>3 MS. HAMILL: Thank you.</p> <p>4 MR. MEUSER: Okay. I'll switch places with</p> <p>5 you.</p> <p>6 MR. WOODS: If you want to.</p> <p>7 THE REPORTER: 33 minutes left.</p> <p>8 MR. WOODS: I'll be very very quick.</p> <p>9 EXAMINATION</p> <p>10 By: S. CLINTON WOODS, Attorney at Law, counsel on behalf</p> <p>11 of the Defendants:</p> <p>12 Q Good evening, Mr. Mitchell. I may have</p> <p>13 introduced myself off the record. I am not sure if I</p> <p>14 have.</p> <p>15 My name is Clinton Woods. I am a Deputy</p> <p>16 Attorney General from the State of California</p> <p>17 representing the State defendants in this matter.</p> <p>18 I just have a few questions and I want to be</p> <p>19 very clear that in my questions I am not asking about</p> <p>20 your work on Prop 50. I am focusing on after you</p> <p>21 submitted the maps or Redistricting Partners submitted</p> <p>22 the maps.</p> <p>23 I am not asking for any conversations or</p> <p>24 communications or anything that you would have learned</p> <p>25 from your work with Prop 50, but as an individual</p>	<p style="text-align: right;">Page 304</p> <p>1 public interviews or statements you might have made were</p> <p>2 done with the aim of convincing people to vote for Prop</p> <p>3 50?</p> <p>4 A Clearly that would have been one of the aims,</p> <p>5 absolutely.</p> <p>6 Q Okay. Because you agreed with the partisan</p> <p>7 aims of Prop 50; right?</p> <p>8 A Yes.</p> <p>9 Q After you submitted the maps, I am a</p> <p>10 California citizen, I am guessing based on your</p> <p>11 testimony so far, and please correct me if I'm wrong,</p> <p>12 that you paid attention to the Prop 50 campaign?</p> <p>13 A Quite a bit, yes.</p> <p>14 Q Okay. Did you see any political</p> <p>15 advertisements about Prop 50?</p> <p>16 A Quite a lot, yes.</p> <p>17 Q Okay. Where did you see them?</p> <p>18 A Mostly on social media. I didn't see the</p> <p>19 YouTube ads because I paid for the one where I don't</p> <p>20 have to see the ads.</p> <p>21 Q Okay. So did you see any ads on television?</p> <p>22 A I did see some ads on television.</p> <p>23 Q Okay. I am a sports fan so I saw a lot of ads</p> <p>24 both for and against Prop 50 on every Warriors game that</p> <p>25 I watched. Did you see --</p>
<p style="text-align: right;">Page 303</p> <p>1 citizen, a California citizen.</p> <p>2 Would it be fair to say that you wanted Prop</p> <p>3 50 to pass?</p> <p>4 A Yes.</p> <p>5 Q Okay. Did you agree with the partisan aims of</p> <p>6 Prop 50?</p> <p>7 A Yes.</p> <p>8 MR. MANOLIUS: Objection, vague as to the term</p> <p>9 "partisan aims," but I think he understood the question</p> <p>10 so --</p> <p>11 THE WITNESS: I agreed to do it only because</p> <p>12 of what Texas did. Normally, I wouldn't agree to</p> <p>13 partisan redistricting because in this case, because of</p> <p>14 the circumstances, I did agree to it.</p> <p>15 MR. WOODS Q: Understood. Are you a register</p> <p>16 democrat?</p> <p>17 A Yes.</p> <p>18 Q Do you consider more democrats in Congress to</p> <p>19 be a good thing?</p> <p>20 A Yes, particularly right now.</p> <p>21 Q Okay. Did you vote for Prop 50?</p> <p>22 A I did.</p> <p>23 Q Okay. Would it be fair to say that after you</p> <p>24 submitted the map that the public interviews that you</p> <p>25 did that counsel has been talking about, whatever other</p>	<p style="text-align: right;">Page 305</p> <p>1 A I am a huge sports fan, but they weren't</p> <p>2 putting the ads on my obscure Belgian bike races.</p> <p>3 Q Fair enough. Fair enough. So you saw these</p> <p>4 ads on the Internet?</p> <p>5 A Mostly, yes.</p> <p>6 Q Did you see or did you hear any ads on the</p> <p>7 radio?</p> <p>8 A I heard ads on podcasts.</p> <p>9 Q Okay. All right. Were these ads pro Prop 50</p> <p>10 or anti Prop 50 or both?</p> <p>11 A Both.</p> <p>12 Q And I realize that this is a big question, but</p> <p>13 can you give me an estimate of how many ads you saw on</p> <p>14 line, about Prop 50?</p> <p>15 A How many unique different ads?</p> <p>16 Q Sure.</p> <p>17 A Yeah. So I saw probably a dozen different ads</p> <p>18 and I saw them, many of them several times over and</p> <p>19 over.</p> <p>20 Q Okay. And when you say a dozen different ads</p> <p>21 would that be pro Prop 50, anti Prop 50 or both?</p> <p>22 A Both.</p> <p>23 Q And you?</p> <p>24 A Even the ones they put me in.</p> <p>25 Q Even the ones they put you in. How many ads</p>




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<p style="text-align: right;">Page 306</p> <p>1 did you see they put you in?</p> <p>2 MS. HAMILL: Objection, relevance.</p> <p>3 THE WITNESS: Four.</p> <p>4 MR. WOODS Q: What's that?</p> <p>5 A Four ads.</p> <p>6 Q Oh, okay. Let's see. And how many ads did</p> <p>7 you hear on a podcast?</p> <p>8 A Maybe, half a dozen. It was not as frequent.</p> <p>9 Q Okay. Of the pro Prop 50 advertisements that</p> <p>10 you either saw or heard, how many of those pro Prop 50</p> <p>11 advertisements mentioned partisan gain?</p> <p>12 A I would say every one of them mentioned</p> <p>13 partisan gain or anti-Trump, which is a cue for partisan</p> <p>14 pushing back on republicans, yeah.</p> <p>15 Q That was going to be my next question is how</p> <p>16 many of them mentioned President Trump?</p> <p>17 A Almost every one of them.</p> <p>18 Q Almost every one. How many of them mentioned</p> <p>19 Texas?</p> <p>20 A Almost every one of them.</p> <p>21 Q Okay. Of the anti Prop 50 advertisements that</p> <p>22 you saw --</p> <p>23 A Uh-huh.</p> <p>24 Q -- and let me ask the question: The ads that</p> <p>25 you were in, were those anti Prop 50 ads?</p>	<p style="text-align: right;">Page 308</p> <p>1 A No.</p> <p>2 Q Of the pro Prop 50 advertisements that you</p> <p>3 saw, dozen or so, whatever they were, how many of those</p> <p>4 pro Prop 50 advertisements mentioned race?</p> <p>5 A Not one.</p> <p>6 MS. HAMILL: Objection, relevance.</p> <p>7 MR. WOODS Q: Of the anti Prop 50</p> <p>8 advertisements that you saw, a dozen or so, how many of</p> <p>9 those mentioned race?</p> <p>10 A I don't recall seeing that in any of those.</p> <p>11 Q Okay. Would it be fair to say that you are a</p> <p>12 close observer of California politics?</p> <p>13 A Yes.</p> <p>14 Q Do you know as you sit here today independent</p> <p>15 of any of your work what or who represents California</p> <p>16 district 13 in Congress?</p> <p>17 A Adam Gray.</p> <p>18 (Whereupon Plaintiff's Exhibit 24</p> <p>19 was marked for identification.)</p> <p>20 MR. WOODS Q: I am going to hand you what's</p> <p>21 been marked as Exhibit 24.</p> <p>22 Exhibit 24 is has been submitted to the court,</p> <p>23 it's exhibit -- at the bottom you can see it's</p> <p>24 Exhibit 43 to the Eason declaration, which is a</p> <p>25 declaration that my office submitted in opposition to</p>
<p style="text-align: right;">Page 307</p> <p>1 A They were the "No on Prop 50" ads, yes.</p> <p>2 Q How many of them, of those anti ads mentioned</p> <p>3 democratic partisanship?</p> <p>4 A Almost every one of them, I think, yeah.</p> <p>5 Q How many of them? You said about four of them</p> <p>6 mentioned you; is that right?</p> <p>7 A Yeah.</p> <p>8 Q Okay. And do you recall what they said about</p> <p>9 you?</p> <p>10 A They would put me in a montage of legislators,</p> <p>11 Governor Newsom, and special interests and shady, they</p> <p>12 do, like, a shady image of me.</p> <p>13 Q You were in, like, black and white?</p> <p>14 A In a couple of them.</p> <p>15 MS. HAMILL: Objection. Relevance.</p> <p>16 MR. WOODS Q: I'll get there. So they</p> <p>17 mentioned you alongside Gavin Newsom; correct?</p> <p>18 A Yes.</p> <p>19 Q Other prominent democrats?</p> <p>20 A Nancy Pelosi.</p> <p>21 Q Right. Did you see any pro Prop 50</p> <p>22 advertisements that originated from republicans?</p> <p>23 A No.</p> <p>24 Q Did you see any anti Prop 50 advertisements</p> <p>25 that originated from democrats?</p>	<p style="text-align: right;">Page 309</p> <p>1 the motion for preliminary injunction.</p> <p>2 A Okay.</p> <p>3 Q And what it is is a copy of an article that</p> <p>4 was published on August 15th, and that was created by</p> <p>5 ABC 10, and my first question is: Have you ever seen</p> <p>6 this article before?</p> <p>7 A No, I probably -- if I had seen it I would</p> <p>8 have clicked on the video to see things like that, so I</p> <p>9 don't know what, if I saw the article.</p> <p>10 Q Fair enough. If you look at page two of the</p> <p>11 exhibit and it's Bates numbered CA-751 at the bottom, do</p> <p>12 you see that?</p> <p>13 A Where am I looking at the "About"? Which is</p> <p>14 about?</p> <p>15 Q At the CA-751.</p> <p>16 A I see that, yeah, yeah.</p> <p>17 Q Okay. Great. So that page, if you see, if</p> <p>18 you look at the -- well, first of all, the top paragraph</p> <p>19 on that page, it mentions you.</p> <p>20 Do you see that?</p> <p>21 A "ABC 10 obtained a draft proposal," that one?</p> <p>22 Q Yes.</p> <p>23 A Yes. Oh, yeah, "Headed by Sacramento based</p> <p>24 data consultant Paul Mitchell."</p> <p>25 Q That's you?</p>

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<p style="text-align: right;">Page 310</p> <p>1 A That is me.</p> <p>2 Q Okay.</p> <p>3 A I drew the maps.</p> <p>4 Q All right. And there's a quote there that</p> <p>5 says, "There's the changes where we sought to increase</p> <p>6 the partisanship of a district so that we could get a</p> <p>7 democrat elected in order to combat what Trump is</p> <p>8 doing."</p> <p>9 Did I read that correctly?</p> <p>10 A That is correct.</p> <p>11 Q Do you believe that you said that?</p> <p>12 A Yes.</p> <p>13 Q There's an additional quote. "Then there's</p> <p>14 the other districts, where you might see people moving</p> <p>15 because of all of the other movements."</p> <p>16 Did I read that correctly?</p> <p>17 A Yes.</p> <p>18 Q Do you believe you said that?</p> <p>19 A Yes.</p> <p>20 Q And then moving further down this page, about</p> <p>21 halfway down, a little bit more than halfway down</p> <p>22 there's a paragraph that is a quotation that is</p> <p>23 something that you said and I am going to read it here.</p> <p>24 It says, "We have these five democratic</p> <p>25 pickups, but we also have about five seats where we have</p>	<p style="text-align: right;">Page 312</p> <p>1 deposition.</p> <p>2 THE REPORTER: Mr. Meuser, you're responsible</p> <p>3 for the Q&amp;I?</p> <p>4 MR. MEUSER: Yes, and I want a rough draft</p> <p>5 ASAP.</p> <p>6 MS. HAMILL: Rough draft and certified</p> <p>7 electronic copy ASAP.</p> <p>8 MR. WOODS: Rough draft and certified copy.</p> <p>9 MR. MANOLIUS: Rough draft and certified copy.</p> <p>10 MR. DeNEVERS: Certified copy electronic.</p> <p>11 MR. DODGE: Certified copy electronic.</p> <p>12 THE REPORTER: Thank you.</p> <p>13 (Whereupon the proceedings were</p> <p>14 concluded at 6:35 p.m.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 311</p> <p>1 democrats who, you know, maybe won by a couple hundred</p> <p>2 votes in the last election and we can't afford for a</p> <p>3 republican to pick that seat up and eat into those</p> <p>4 potential gains."</p> <p>5 Did I read that correctly?</p> <p>6 A Yes.</p> <p>7 Q All right. Do you believe you said that?</p> <p>8 A Yes.</p> <p>9 Q And then the quote continues, "So we did a lot</p> <p>10 to bolster democratic candidates up and down the state</p> <p>11 that are potentially in tough races, like Adam Gray in</p> <p>12 the Central Valley."</p> <p>13 Did I read that correctly?</p> <p>14 A That is correct.</p> <p>15 Q Do you believe you said that?</p> <p>16 A Yep. That's not even August 15th. That's a</p> <p>17 very quick reporter.</p> <p>18 Q All right. Let me just check my notes. I</p> <p>19 think that's all I have.</p> <p>20 A Thank you very much.</p> <p>21 MR. WOODS: Thank you, Mr. Mitchell.</p> <p>22 THE VIDEOGRAPHER: Is that everyone? All</p> <p>23 right. The time is 6:34 p.m.</p> <p>24 MR. MANOLIUS: I have a few.</p> <p>25 THE VIDEOGRAPHER: This is the end of today's</p>	<p style="text-align: right;">Page 313</p> <p>1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER</p> <p>2 I, LINDA J. HART, the officer before whom</p> <p>3 the foregoing deposition was taken, do hereby certify</p> <p>4 that the foregoing transcript is a true and correct</p> <p>5 record of the testimony given; that said testimony was</p> <p>6 taken by me stenographically and thereafter reduced to</p> <p>7 typewriting under my direction; that reading and signing</p> <p>8 was not requested; and that I am neither counsel for,</p> <p>9 related to, nor employed by any of the parties to this</p> <p>10 case and have no interest, financial or otherwise, in</p> <p>11 its outcome.</p> <p>12 IN WITNESS WHEREOF, I have hereunto subscribed my</p> <p>13 signature on this 12th day of December,</p> <p>14 2025.</p> <p>15</p> <p>16</p> <p>17 </p> <p>18</p> <p>19 LINDA J. HART, CSR #4357</p> <p>20 RMR/CRR</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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## **Exhibit 435**



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# Transcript of Doug Buchanan

**Date:** December 11, 2025

**Case:** Tangipa, et al. -v- Newsom, et al.

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**Tangipa v. Newsom**

**DX435**

2:25-cv-10616-JLSWLH-KKL

Conducted on December 11, 2025

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE CENTRAL DISTRICT OF CALIFORNIA</p> <p>3 WESTERN DIVISION</p> <p>4 - - - - - x</p> <p>5 DAVID TANGIPA, et al.,</p> <p>6 Plaintiffs,</p> <p>7 and UNITED STATES OF</p> <p>8 AMERICA, Case No.</p> <p>9 Plaintiff-Intervenor, 2:25-cv-10616</p> <p>10 v. JLS-WLH-KKL</p> <p>11 GAVIN NEWSOM, IN HIS</p> <p>12 OFFICIAL CAPACITY AS THE</p> <p>13 GOVERNOR OF CALIFORNIA, et</p> <p>14 al.,</p> <p>15 Defendants,</p> <p>16 and DEMOCRATIC CONGRESSIONAL</p> <p>17 CAMPAIGN COMMITTEE, et al.,</p> <p>18 Defendant-Intervenors.</p> <p>19 - - - - - x</p> <p>20 Remote Deposition of DOUG BUCHANAN</p> <p>21 Thursday, December 11, 2025</p> <p>22 11:02 A.M. (PST)</p> <p>23 Pages: 1 - 53</p> <p>24 Reported By: Anita M. Trombetta, RMR, CRR,</p> <p>25 California CSR No. 14647</p>	<p>3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFFS:</p> <p>4 AMBER HULSE, ESQUIRE</p> <p>5 DOMENIC P. AULISI, ESQUIRE</p> <p>6 DHILLON LAW GROUP INC.</p> <p>7 2121 Eisenhower Avenue, Suite 608</p> <p>8 Alexandria, VA 22314</p> <p>9 415.433.1700</p> <p>10</p> <p>11 ON BEHALF OF DEFENDANT-INTERVENOR DEMOCRATIC</p> <p>12 CONGRESSIONAL CAMPAIGN COMMITTEE:</p> <p>13 CHRISTOPHER D. DODGE, ESQUIRE</p> <p>14 TYLER BISHOP, ESQUIRE</p> <p>15 ELIAS LAW GROUP LLP</p> <p>16 250 Massachusetts Ave. NW, Suite 400</p> <p>17 Washington, DC 20001</p> <p>18</p> <p>19 ON BEHALF OF DEFENDANT-INTERVENOR LEAGUE OF UNITED</p> <p>20 LATIN AMERICAN CITIZENS:</p> <p>21 TOMAS RIVERA, ESQUIRE</p> <p>22 JUDE RICH, ESQUIRE</p> <p>23 DEMOCRACY DEFENDERS ACTION</p> <p>24 Info@democracydefenders.org</p> <p>25 (Appearances continued on next page.)</p>
<p>2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 Remote deposition of DOUG BUCHANAN, pursuant to</p> <p>6 notice, before Anita M. Trombetta, a Certified</p> <p>7 Shorthand Reporter in the State of California,</p> <p>8 RMR, CRR, and Notary Public in and for the State</p> <p>9 of New York.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4</p> <p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2</p> <p>3 ALSO PRESENT:</p> <p>4 EDWARD ANTONELLI, Remote Technician</p> <p>5 NICHOLAS BUCKLEY, Reporter-In-Training</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<div>1-----I N D E X----- 2WITNESS - DOUG BUCHANAN 3EXAMINATION BYPage 4ATTORNEY DODGE7 ATTORNEY RIVERA48 5-----E X H I B I T S----- 6ExhibitDescriptionPage 7Exhibit 1Proposition 50 Graphic18 8Exhibit 2Graphic23 9Exhibit 3Facebook Post27 10Exhibit 4Facebook Post30 11Exhibit 5Facebook Post33 12Exhibit 6Facebook Post38 13Exhibit 7Complaint for41 14Declaratory 15and Injunctive Relief 16 17 18 19 20 21 22 23 24 25</div>	<div>5 1ATTORNEY DODGE: Thank you. 2EXAMINATION BY 3ATTORNEY DODGE: 4Q Good morning, Mr. Buchanan. Thank you for 5being here. 6As you heard, my name is Chris Dodge, I 7represent the DCCC in this matter. We have a very 8brief period of time together today, just about an 9hour, and I want to respect your time, so I'm 10going to move a little more quickly than usual, 11just going over some basic ground rules about how 12depositions work, but feel free to ask me any 13questions you have about the process. 14As you've seen, we have a court reporter 15here today. She will be taking down everything we 16say. Her job is to create a clear and accurate 17record of our conversation. It's therefore 18important for you to speaking slowly and clearly 19so that she can make an accurate transcript. 20It's also important that we not speak over 21one another. I'll try to respect you when you're 22speaking and I would ask that you do the same. 23And then, finally, it's important that you 24give verbal answers to my questions rather than 25shaking your head or saying "uh-huh" or "huh-uh."</div>
<div>6 1PROCEEDINGS 2THE COURT REPORTER: Would counsel please 3state their appearances for the record. 4ATTORNEY DODGE: Good day. Chris Dodge on 5behalf of DCCC. 6ATTORNEY HULSE: Amber Hulse on behalf of 7plaintiffs. 8ATTORNEY AULISI: Domenic Aulisi on behalf 9of plaintiffs. 10ATTORNEY RIVERA: Tomas Rivera on behalf 11of Defendant LULAC. I'm joined by my colleague, 12Jude Rich, also on the line. 13THE COURT REPORTER: Do all counsel 14stipulate to the identity of the witness? 15ATTORNEY DODGE: Yes, on behalf of DCCC. 16ATTORNEY RIVERA: Yes, on behalf of LULAC. 17ATTORNEY AULISI: Yes, on behalf of the 18plaintiffs. 19ATTORNEY DODGE: I'll also note my 20colleague, Tyler Bishop, appears to have joined, 21but I don't anticipate him speaking today. 22DOUG BUCHANAN, called as a witness, 23having been first duly sworn by a Notary Public of 24the State of New York, was examined and testified 25as follows:</div>	<div>8 1Does that all make sense? 2A Yes. 3Q Great. 4A moment ago you took an oath and agreed 5to provide truthful and complete testimony to the 6best of your ability today. 7Is there any reason why you can't provide 8truthful and accurate testimony today? 9A None that I am aware of. 10Q Great. Thank you. 11Very briefly, can you describe what you 12did to prepare for today's deposition? 13A Yes. I attempted to review the -- the 14paperwork that was provided to me by the law 15group, and it was pretty extensive and very 16difficult to read and absorb. 17Q Lawsuits can be like that, can't they? 18A Very much. 19Q Did you discuss the deposition with your 20attorneys at all? 21A Yes. 22Q And for about how long did you talk about 23the deposition with them? 24A We spoke for about -- oh, my goodness, 25about a half an hour, 40 minutes.</div>

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<p>9</p> <p>1 Q And can you tell me, without revealing</p> <p>2 anything about your conversation, which attorneys</p> <p>3 you spoke with?</p> <p>4 <b>A Well, I spoke to Amber and the other</b></p> <p>5 <b>gentleman that's on the call. I don't see his --</b></p> <p>6 <b>his picture, but he's -- he's identified on the --</b></p> <p>7 <b>he identified himself initially.</b></p> <p>8 Q That's fine. There are definitely a lot</p> <p>9 of lawyers in this.</p> <p>10 <b>A Oh, okay. I'm sorry.</b></p> <p>11 Q You're currently appearing on Zoom.</p> <p>12 Is there anyone else in the room with you</p> <p>13 currently?</p> <p>14 <b>A There is not.</b></p> <p>15 Q Great. Do you have any documents in front</p> <p>16 of you?</p> <p>17 <b>A I do not. I just have some papers with</b></p> <p>18 <b>notes.</b></p> <p>19 Q And are those notes that you wrote or</p> <p>20 notes provided to you by your counsel?</p> <p>21 <b>A No, I actually just wrote down some notes</b></p> <p>22 <b>for myself before I got on to this call.</b></p> <p>23 Q For purposes of this deposition, I would</p> <p>24 ask you either not to consult those notes.</p> <p>25 Otherwise, we may ask for you to produce them in</p>	<p>11</p> <p>1 <b>A I was contacted by Mark Meuser.</b></p> <p>2 Q And that would have been shortly after the</p> <p>3 election?</p> <p>4 <b>A Correct.</b></p> <p>5 Q And why did you want to get involved in</p> <p>6 this lawsuit?</p> <p>7 <b>A I -- I really feel like what's happening</b></p> <p>8 <b>to California is -- it's unfortunate. And I've</b></p> <p>9 <b>lived here my whole life and I feel a little</b></p> <p>10 <b>disfranchised myself.</b></p> <p>11 Q When you say "what's happening to</p> <p>12 California," can you just sort of briefly describe</p> <p>13 what you mean?</p> <p>14 <b>A Well, I mean, we have proclaimed -- we are</b></p> <p>15 <b>being advertised as a sanctuary city, and over the</b></p> <p>16 <b>past four years we've let in over 20 million</b></p> <p>17 <b>illegal aliens. So because we give free</b></p> <p>18 <b>everything, we are a magnet for many, many</b></p> <p>19 <b>potentially illegal voters.</b></p> <p>20 Q So when you say "what's happening to</p> <p>21 California," you're not -- are you talking about</p> <p>22 Proposition 50 or just sort of generally the state</p> <p>23 of affairs in California?</p> <p>24 <b>A I'm speaking generally in the, you know,</b></p> <p>25 <b>the last four years of our shift in -- in the</b></p>
<p>10</p> <p>1 this litigation just so that we can see what</p> <p>2 you're referring to throughout.</p> <p>3 <b>A Great.</b></p> <p>4 Q I sort of leave the choice up to you.</p> <p>5 <b>A That's fine.</b></p> <p>6 Q Great. Okay. So let's get into things a</p> <p>7 bit.</p> <p>8 When did you first come to be involved in</p> <p>9 this lawsuit?</p> <p>10 <b>A I can't recall the date. I would say it</b></p> <p>11 <b>was very recent, within the last couple months,</b></p> <p>12 <b>but I can't -- I can't tell you an exact date. I</b></p> <p>13 <b>just don't recall.</b></p> <p>14 Q Do you recall whether you discussed or</p> <p>15 thought about filing a lawsuit before Election</p> <p>16 Day?</p> <p>17 <b>A I did not, no.</b></p> <p>18 Q So the idea to sue occurred on or after</p> <p>19 Election Day.</p> <p>20 Is that fair to say?</p> <p>21 <b>A Correct, correct.</b></p> <p>22 Q And did you reach out to the Dhillon Law</p> <p>23 Group or Mr. Meuser or any of your counsel about</p> <p>24 suing or did they first reach out to you about the</p> <p>25 lawsuit?</p>	<p>12</p> <p>1 <b>demographics and population.</b></p> <p>2 Q Got it.</p> <p>3 Have you communicated with any of the</p> <p>4 other plaintiffs in this lawsuit?</p> <p>5 <b>A No.</b></p> <p>6 Q Have you reviewed the complaint filed in</p> <p>7 this case in your name?</p> <p>8 <b>A Yes.</b></p> <p>9 Q When did you first review that?</p> <p>10 <b>A My goodness, when it was sent to me when I</b></p> <p>11 <b>was asked to be a part of it.</b></p> <p>12 Q And do you generally agree with the</p> <p>13 allegations in the complaint?</p> <p>14 <b>A I absolutely do.</b></p> <p>15 Q And just for my benefit, can you tell me</p> <p>16 what congressional district you live in under the</p> <p>17 Proposition 50 map?</p> <p>18 <b>A 13 -- I believe 13 still.</b></p> <p>19 Q And that was true before Proposition 50 as</p> <p>20 well?</p> <p>21 <b>A Correct, yeah.</b></p> <p>22 Q So Proposition 50 didn't change the</p> <p>23 congressional district you're living in?</p> <p>24 <b>A It changed -- well, it didn't change the</b></p> <p>25 <b>number, correct.</b></p>

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<p>13</p> <p>1 Q That's what I meant. Thank you. 2 (Reporter clarification.) 3 Q Apologies. 4 Just for the record, Proposition 50 didn't 5 change the number of the congressional district 6 you're living in? 7 <b>A Correct.</b> 8 Q All right. I'd like to move to discussing 9 your involvement with Proposition 50 itself. 10 Thinking back to this past summer, when 11 did you first become aware that California 12 Democrats wanted to redraw California's 13 congressional map? 14 <b>A Probably when I saw the governor on TV or</b> 15 <b>an interview of some sort.</b> 16 Q And do you recall roughly when that would 17 have been? 18 <b>A I -- I cannot -- I can't recall a time.</b> 19 <b>I'm just -- I'm thinking it was early summer, but</b> 20 <b>I'm -- that's just a guess.</b> 21 Q That's fair. That's fine. 22 What did you first think -- strike that. 23 When you first heard that Democrats wanted 24 to redraw the congressional map, what was your 25 first thought as to why they were doing so?</p>	<p>15</p> <p>1 in the campaign on Proposition 50? 2 <b>A Well, probably that my biggest frustration</b> 3 <b>was that, you know, we had an independent</b> 4 <b>commission in California, which I think we were</b> 5 <b>pretty proud of.</b> 6 <b>And to understand that the Legislature was</b> 7 <b>going to just throw that out and rewrite, redraw</b> 8 <b>lines was unbelievable to me, in response to</b> 9 <b>something that may or may not happen in another</b> 10 <b>state. That was pretty frustrating.</b> 11 Q You mentioned a couple times now that you 12 understood Governor Newsom and the Legislature to 13 be acting in response to Texas. 14 What was your understanding about what 15 Governor Newsom and the Legislature were trying to 16 accomplish in response to Texas? 17 <b>A I believe they -- well, what they were</b> 18 <b>saying is there would be a net gain of Republican</b> 19 <b>seats in Texas, and they were very angry and</b> 20 <b>wanted to do something radical in response to that</b> 21 <b>and trying to show the country that we were</b> 22 <b>California. We were radical California.</b> 23 Q When you say "something radical in 24 response," you mean adding Democratic seats in 25 California as a response to what Texas was doing,</p>
<p>14</p> <p>1 <b>A Well, all I know is what the governor</b> 2 <b>announced, that it was in response to Texas, Texas</b> 3 <b>redrawing their congressional districts.</b> 4 Q And do you recall that after the 5 California Legislature enacted Proposition 50, it 6 was put on the ballot for voters, right? 7 <b>A I'm sorry. What?</b> 8 Q After the California Legislature voted to 9 pass Proposition 50, the matter was put to voters, 10 right? 11 <b>A After -- I'm sorry. I'm trying to follow.</b> 12 <b>After --</b> 13 Q Maybe my question isn't a very good one. 14 <b>A Okay.</b> 15 Q You recall that California voters 16 ultimately had a say on Proposition 50, right? 17 <b>A Correct, that it was on the ballot.</b> 18 Q Right. And there was a two- or 19 three-month campaign over it before Election Day, 20 right? 21 <b>A Yes.</b> 22 Q And you participated in that campaign to 23 some extent, right? 24 <b>A Yes, sir.</b> 25 Q And why did you choose to involve yourself</p>	<p>16</p> <p>1 fair? 2 <b>A Well, I believe, yes, that would be the</b> 3 <b>end result where they were hoping to have more --</b> 4 <b>to lose Republican seats here and gain Democrat</b> 5 <b>seats here, correct.</b> 6 Q Okay. Fair. 7 You're a member of the California 8 Republican Party, right? 9 <b>A I am.</b> 10 Q Do you hold any kind of role or position, 11 volunteer or otherwise, with the California 12 Republican Party? 13 <b>A I do.</b> 14 Q And what role is that? 15 <b>A I am a member of the -- the Republican</b> 16 <b>Party of Stanislaus County Central Committee, and</b> 17 <b>I'm the District 3 caucus chair.</b> 18 Q And in that role, did you help, you know, 19 sort of organize the county Republican party 20 around the Proposition 50 campaign? 21 <b>A I encouraged it. There -- we created yard</b> 22 <b>signs and billboards or, you know, big signs to</b> 23 <b>encourage people to vote no, and that there was</b> 24 <b>also a door-to-door campaign, which I didn't</b> 25 <b>personally participate in, but I certainly</b></p>

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<p>17</p> <p>1 encouraged.</p> <p>2 Q Got it.</p> <p>3 Were there other ways you engaged in the</p> <p>4 campaign over Proposition 50, like, through</p> <p>5 telephone calls, social media posts, you know,</p> <p>6 that kind of thing?</p> <p>7 A Yes, I did post a meme or I created a</p> <p>8 graphic of a -- that I shared online on various</p> <p>9 platforms, Instagram, Facebook, etc.</p> <p>10 Q And what was that meme?</p> <p>11 A It was a No Kings, No on Prop 51 graphic.</p> <p>12 Q Got it.</p> <p>13 And was the goal of sharing that post and</p> <p>14 any other posts to try and persuade, you know,</p> <p>15 people you knew to vote against Proposition 50?</p> <p>16 A Yes.</p> <p>17 Q And is it fair to say that you were</p> <p>18 speaking sincerely and honestly about why you</p> <p>19 opposed Proposition 50 when you were posting about</p> <p>20 it online?</p> <p>21 A Honestly, my -- my biggest drive was to</p> <p>22 get people to understand what was happening in</p> <p>23 Texas because even my Republican friends had very</p> <p>24 little understanding that this was more than just</p> <p>25 a group of Republicans that decided to redraw</p>	<p>19</p> <p>1 I'd like to start at the top just so he</p> <p>2 can see the URL and his name.</p> <p>3 A Oh, yes, I recall this -- this graphic.</p> <p>4 Q Great. And this was a post you made on</p> <p>5 Facebook, right?</p> <p>6 A Yes, I believe I shared it.</p> <p>7 Q And if I told you you posted this around</p> <p>8 September 27, would that sound about right?</p> <p>9 A Probably, yes.</p> <p>10 Q And I think you just said you reposted it.</p> <p>11 This wasn't something you created</p> <p>12 personally, but it was something you shared,</p> <p>13 right?</p> <p>14 A Correct.</p> <p>15 Q And presumably that's because you found it</p> <p>16 interesting or educational and wanted to share it</p> <p>17 with other people, right?</p> <p>18 A Yes. I'm trying to --</p> <p>19 THE WITNESS: -- could you zoom in a</p> <p>20 little bit more in again?</p> <p>21 A I'm just -- I'm trying to refresh my brain</p> <p>22 on what it was arguing.</p> <p>23 (Reporter clarification.)</p> <p>24 A Oh, yeah, what it was saying.</p> <p>25 Q So let's go through it a little bit.</p>
<p>18</p> <p>1 lines in Texas.</p> <p>2 And that probably was my biggest passion.</p> <p>3 I tried to link to stories that gave background</p> <p>4 information on the Texas story.</p> <p>5 Q But is it fair to say that you were also</p> <p>6 trying to persuade, you know, friends, family,</p> <p>7 other people you connect with online to vote</p> <p>8 against Proposition 50?</p> <p>9 A Absolutely. Yes.</p> <p>10 Q And in doing that, presumably you were</p> <p>11 sharing what you believed to be honest and true</p> <p>12 information about all the circumstances</p> <p>13 surrounding Proposition 50, right?</p> <p>14 A Correct.</p> <p>15 Q Okay.</p> <p>16 ATTORNEY DODGE: Can we pull up Tab 1 and</p> <p>17 mark that as Buchanan Exhibit 1.</p> <p>18 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>19 (Buchanan Exhibit 1, marked for</p> <p>20 identification.)</p> <p>21 BY ATTORNEY DODGE:</p> <p>22 Q Can you see this, Mr. Buchanan?</p> <p>23 A Yeah, it's kind of small.</p> <p>24 ATTORNEY DODGE: Can we maybe zoom in a</p> <p>25 little bit to help the witness. Great, thank you.</p>	<p>20</p> <p>1 Is it fair to say, as a whole, that this</p> <p>2 document is kind of showing the pros and cons of</p> <p>3 voting for Proposition 50?</p> <p>4 A Yes, it appears to be.</p> <p>5 Q And if we look at the vote-no side on the</p> <p>6 right, in the third row, it says, "If you believe</p> <p>7 the Constitution should not be changed because one</p> <p>8 political party is trying to game the system."</p> <p>9 Did I say that correctly?</p> <p>10 A If you believe the Constitution should not</p> <p>11 be changed, yes.</p> <p>12 Q And what political party is that referring</p> <p>13 to there?</p> <p>14 A Vote no. Well, if this is encouraging</p> <p>15 them to vote no, then I'm going to guess that you</p> <p>16 believe the Constitution should not be changed</p> <p>17 because one political party, probably the Democrat</p> <p>18 party is trying to game the system, yes.</p> <p>19 Q Got it.</p> <p>20 So this post is saying the Democratic</p> <p>21 Party was trying to change the system in</p> <p>22 California?</p> <p>23 A Correct, correct.</p> <p>24 Q And then the next box below that in the</p> <p>25 vote-no side says -- well, let me restate it.</p>

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<p>21</p> <p>1 It says you should vote no if "you believe 2 district lines should reflect California's real 3 voter balance, not tilt the outcome for one 4 party." 5 Did I get that part right? 6 <b>A Correct.</b> 7 Q And it says "one party." Is that again 8 referring to the Democratic Party? 9 <b>A Well, you can infer that, but I think it's 10 a generally true statement no matter which party.</b> 11 Q But you were posting it in the context of 12 the Democratic Party trying to pass 13 Proposition 50, right? 14 <b>A Correct.</b> 15 Q And so is it fair to say that you believe 16 the Democratic Party was trying to tilt the 17 outcome in its favor through Proposition 50? 18 <b>A Correct. Yes, sir.</b> 19 Q And that same line also talks about 20 California's real voter balance. 21 So is it fair to say that you were 22 concerned that Proposition 50 wasn't going to 23 result in districts that would reflect the real 24 voter balance in California? 25 <b>A Absolutely.</b></p>	<p>23</p> <p>1 Q And that concerned you, fair? 2 <b>A Absolutely.</b> 3 Q And you understood that to be one of the 4 consequences of Proposition 50 being passed? 5 <b>A Yes, sir.</b> 6 Q You can take a moment to review this 7 document if you'd like, but is it accurate to say 8 that anything on this document expressly mentions 9 race or ethnicity or anything like that? 10 <b>A No, it doesn't expressly cite race or 11 ethnicity, but it's -- well, it's, unfortunately, 12 part of the mix when we look at -- at California's 13 sanctuary policies.</b> 14 Q But this document does mention political 15 party, right? 16 <b>A It does.</b> 17 ATTORNEY DODGE: We can put this aside. 18 Can we pull up Tab 2 and label that 19 Buchanan Exhibit 2. 20 (Buchanan Exhibit 2, marked for 21 identification.) 22 THE EXHIBIT TECHNICIAN: Please stand by. 23 BY ATTORNEY DODGE: 24 Q Can you see that, Mr. Buchanan? 25 <b>A It's pretty small.</b></p>
<p>22</p> <p>1 Q And when you say "voter balance," you're 2 referring specifically to the balance between 3 Democrats and Republicans, fair? 4 <b>A Well, I am, but I'm also inferring that, 5 you know, we have -- unlike most states, we send 6 ballots to the whole world, to all people with 7 addresses. And -- and so, you know, we have 8 bigger problems than just Republican versus 9 Democrat.</b> 10 <b>You know, we have -- but, yes, generally 11 that's -- that's the statement. I agree with that 12 statement.</b> 13 Q And if you look to the other side of the 14 document in the red column that says "vote yes," 15 the fourth box down says you should vote yes if 16 "you feel it is equitable that only four to five 17 seats out of 52 should be held by Republicans." 18 Did I say that right? 19 <b>A That is what it says, correct.</b> 20 Q And that's referring to the fact that 21 Proposition 50 was likely going to have the effect 22 of reducing the number of Republican-held seats in 23 California down to only four or five out of 52, 24 right? 25 <b>A That is correct.</b></p>	<p>24</p> <p>1 ATTORNEY DODGE: Could you zoom in a 2 little bit towards the top. 3 <b>A "How California votes today."</b> 4 Q Do you recall making this Facebook post? 5 <b>A "How California votes today, Democrat, 6 Republican. House Seats Today."</b> 7 <b>I can't say that I remember it, but it 8 looks like it does represent the issue.</b> 9 Q And you don't dispute that this is a post 10 you made, right? 11 <b>A I shared, yeah.</b> 12 Q Shared. That's fair. 13 I mean, you see your name at the top, 14 correct? 15 <b>A Yes.</b> 16 Q And it's a little cut off, but you can 17 see, I think -- 18 <b>A Oh, I do.</b> 19 Q -- your profile picture a little bit? 20 <b>A It says November 3rd or something like 21 that, yeah.</b> 22 Q Great. Yeah, exactly. 23 And can you sort of just describe what 24 this image shows to you? 25 <b>A Well, it shows at the top -- well, it</b></p>

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<p style="text-align: right;">25</p> <p>1 shows the percentage of Democrats and Republicans  2 and then it displays how many -- about what  3 percentage of the House seats represent  4 California. And then at the bottom, it shows the  5 change with Prop 50.  6 So it goes from a -- yeah, 52 House  7 seats -- goes from nine down to probably four or  8 so.  9 Q Yeah, and the image cuts off a little bit,  10 I can -- I can call it up, if you'd like, but I  11 think you can sort of see what it shows, right?  12 A I mean, based upon our previous  13 discussion, I'm guessing it's -- it's  14 representative of that change from a, you know, a  15 nine-seat Republican to four seats or something  16 like that.  17 Q And why was it important to you to share  18 this information with your friends on Facebook?  19 A Well, to -- if you understand that 30 --  20 38 percent of the registered voters are probably  21 Republican, then that is concerning, that our  22 voice is being, you know, reduced to just four  23 representatives out of 52.  24 Q So you were concerned that Republicans in  25 California were already underrepresented in</p>	<p style="text-align: right;">27</p> <p>1 THE EXHIBIT TECHNICIAN: Please stand by.  2 (Buchanan Exhibit 3, marked for  3 identification.)  4 BY ATTORNEY DODGE:  5 Q And do you recognize this document, sir?  6 THE WITNESS: Could you enlarge it a  7 little?  8 ATTORNEY DODGE: Yeah. Can we zoom in at  9 the top half, please.  10 Is that better?  11 A "Let voters choose, not politicians."  12 I'm trying to make sense of what's below  13 that. 150 million, oh, in wasteful spending for a  14 special election.  15 I think it was way more than that.  16 Q But fair to say this is a post that lists  17 a bunch of reasons to vote no on Proposition 50?  18 A Yeah, "let voters choose, not  19 politicians," yes.  20 Q And then below that big red box in smaller  21 text -- and we can zoom in -- but it lists a whole  22 bunch of reasons why a person might want to vote  23 against Proposition 50, right?  24 A (Document review.)  25 Yes, yes.</p>
<p style="text-align: right;">26</p> <p>1 Congress and Proposition 50 was going to make that  2 even worse, right?  3 A Yes, correct.  4 Q And do you think this is something that  5 Governor Newsom and the Democrats in the  6 Legislature were trying to achieve when they  7 passed Proposition 50?  8 ATTORNEY AULISI: I'm going to object to  9 form on that.  10 ATTORNEY DODGE: That's fair.  11 Let me restate the question.  12 Q Mr. Buchanan, based on your understanding  13 of Proposition 50, did you understand it to be one  14 of the goals of Governor Newsom and the Democrats  15 in the Legislature to achieve the outcome  16 reflected in this graphic you shared?  17 A Yes, it was my understanding that that was  18 his goal.  19 Q And there's nothing in this graphic that  20 talks about racial or ethnic demographics in  21 California, right?  22 A Not that I see.  23 ATTORNEY DODGE: We can take this down and  24 pull up Tab 3A, which we can label Buchanan  25 Exhibit 3.</p>	<p style="text-align: right;">28</p> <p>1 Q And it looks like this was a post you  2 shared on Facebook on November 3rd; is that fair?  3 A Yes.  4 Q And that would have been just a day or so  5 before people actually went to the polls and  6 voted, right?  7 A Yes.  8 Q And if we could zoom in a little bit on  9 the middle of that gray text below the red box,  10 there's a line there that says, "Orchestrated by  11 the DCCC for their agenda."  12 Do you see that?  13 A "Orchestrated" -- oh, yes -- "by the DCCC  14 for their agenda," yes.  15 Q And the DCCC is sometimes referred to as  16 the Democratic Congressional Campaign Committee.  17 Does that sound right?  18 A It sounds probable.  19 Q It's not a pop quiz.  20 A I mean, I believe you. That's what it  21 sounds like, yeah.  22 Q Were you concerned at all that the DCCC  23 was involved in the Proposition 50 process?  24 A No, it hadn't crossed my mind.  25 Q So the fact that it was in this graphic</p>

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<p>29</p> <p>1 was just sort of a coincidence?</p> <p>2 <b>A Correct.</b></p> <p>3 Q The next line says that Proposition 50</p> <p>4 "locks in five House seats for progressive agenda</p> <p>5 for minimum three election cycles."</p> <p>6 Do you see that?</p> <p>7 <b>A Yes.</b></p> <p>8 Q And what is -- what do you think that's</p> <p>9 referring to?</p> <p>10 <b>A Well, as I understand it, the -- the new</b></p> <p>11 <b>gerrymandered map would not revert to the</b></p> <p>12 <b>commission's, back to the independent commission's</b></p> <p>13 <b>map until '31 or something like that. 2031?</b></p> <p>14 Q And --</p> <p>15 <b>A The --</b></p> <p>16 Q I'm sorry, I didn't mean to cut you off if</p> <p>17 you would like to finish your answer.</p> <p>18 <b>A Well, I -- I think that's what that's</b></p> <p>19 <b>referring to. That's what it seems to be</b></p> <p>20 <b>referring to.</b></p> <p>21 Q And, specifically, it's referring to the</p> <p>22 fact that there would be five additional</p> <p>23 Democratic House seats for those three election</p> <p>24 cycles, right?</p> <p>25 <b>A Correct. I mean, that's what it appears</b></p>	<p>31</p> <p>1 Q Mr. Buchanan, I'll represent to you that</p> <p>2 this is the bottom half of that post. I couldn't</p> <p>3 fit it quite all on one page, but you see it's</p> <p>4 from the Republican Party of Merced County.</p> <p>5 Does that look right to you?</p> <p>6 <b>A Are you saying this is part of the</b></p> <p>7 <b>previous graphic we looked at?</b></p> <p>8 Q That's right. That's right.</p> <p>9 It just sort of carries on below?</p> <p>10 <b>A Oh, yeah, I kind of see that at the top</b></p> <p>11 <b>there, yeah.</b></p> <p>12 Q And this was the same post you shared on</p> <p>13 November 3rd, 2025, right?</p> <p>14 <b>A Okay. Yes.</b></p> <p>15 Q And the Republican Party of Merced County</p> <p>16 says, "The Pros &amp; Cons of Prop 50."</p> <p>17 Do you see that?</p> <p>18 <b>A Yes.</b></p> <p>19 Q And at the top, it says, "Democrat 'PROS'</p> <p>20 in favor of Prop 50."</p> <p>21 Do you see that?</p> <p>22 <b>A "Democrat PROS," yes.</b></p> <p>23 Q Could you just read aloud for me number 1</p> <p>24 on that list.</p> <p>25 <b>A Yeah. "Increases (D) competitiveness in</b></p>
<p>30</p> <p>1 <b>to be. You know, again, I probably did not spend</b></p> <p>2 <b>the amount of time reading it or contemplating its</b></p> <p>3 <b>impact or its correctness until now.</b></p> <p>4 Q I don't want to spend too much time with</p> <p>5 this document, but if you just want to take a</p> <p>6 moment to sort of review this text, do you see</p> <p>7 anything in it that refers to race, ethnicity,</p> <p>8 Latinos, Hispanics or any other racial group?</p> <p>9 <b>A No, it doesn't allude to the criteria at</b></p> <p>10 <b>all that I see.</b></p> <p>11 ATTORNEY DODGE: And can we just scroll</p> <p>12 down to the bottom of this document for some</p> <p>13 context.</p> <p>14 Q So it looks like this post maybe</p> <p>15 originated with the Republican Party of Merced</p> <p>16 County; is that fair?</p> <p>17 <b>A Yes, yes.</b></p> <p>18 ATTORNEY DODGE: And if we can pull up</p> <p>19 Tab 3B, which I'll call Buchanan 4.</p> <p>20 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>21 (Buchanan Exhibit 4, marked for</p> <p>22 identification.)</p> <p>23 ATTORNEY DODGE: If we can zoom in a</p> <p>24 little bit towards the top.</p> <p>25 BY ATTORNEY DODGE:</p>	<p>32</p> <p>1 <b>five congressional districts where progressive</b></p> <p>2 <b>priorities can be advanced at the national level."</b></p> <p>3 "Increases (D) competitiveness in five</p> <p>4 congressional districts where progressive</p> <p>5 priorities can be advanced at the national level."</p> <p>6 Okay.</p> <p>7 Q That's great.</p> <p>8 So is it fair to say then that this post</p> <p>9 is saying that the number-one reason why a person</p> <p>10 might choose to vote for Proposition 50 would be</p> <p>11 to improve Democratic electoral prospects in five</p> <p>12 congressional seats?</p> <p>13 ATTORNEY HULSE: Objection. Form.</p> <p>14 Q You can answer, sir.</p> <p>15 <b>A Increases -- yes, it sounds like they want</b></p> <p>16 <b>five congressional -- the additional five</b></p> <p>17 <b>congressional seats would become Democratic.</b></p> <p>18 Q And when you say "they want," you're</p> <p>19 referring to the California Legislature and</p> <p>20 Governor Newsom?</p> <p>21 <b>A Well, it says the pros in favor of 50, so</b></p> <p>22 <b>the intent of the proposition, yes, would be the</b></p> <p>23 <b>California Legislature.</b></p> <p>24 Q I think I understood you there, but just</p> <p>25 for clarity on the record, it's your view that the</p>

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<p>33</p> <p>1 intent of the California Legislature was to push</p> <p>2 Prop 50 on voters to help increase Democratic</p> <p>3 competitiveness in five congressional seats in</p> <p>4 California; is that fair to say?</p> <p>5 <b>A Correct, yes.</b></p> <p>6 ATTORNEY DODGE: Could we pull up Tab 4</p> <p>7 and label that Buchanan 5.</p> <p>8 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>9 (Buchanan Exhibit 5, marked for</p> <p>10 identification.)</p> <p>11 ATTORNEY DODGE: Maybe zoom in a little</p> <p>12 bit at the top just to make it more visible.</p> <p>13 BY ATTORNEY DODGE:</p> <p>14 Q Do you recognize this post, Mr. Buchanan?</p> <p>15 <b>A Not specifically, but.</b></p> <p>16 Q But you don't dispute that this was a post</p> <p>17 you made on November 5?</p> <p>18 <b>A No, I won't.</b></p> <p>19 ATTORNEY DODGE: And could you -- could</p> <p>20 the tech scroll down a little bit just so</p> <p>21 Mr. Buchanan can see the full context of</p> <p>22 everything.</p> <p>23 Maybe a little further just so that map of</p> <p>24 the country is fully visible. Great.</p> <p>25 Maybe zoom in on the map a little bit so</p>	<p>35</p> <p>1 <b>A That's the assumption, yes.</b></p> <p>2 Q And you mentioned at the start of our</p> <p>3 conversation about how, you know, you were trying</p> <p>4 to educate your friends about what was going on in</p> <p>5 Texas and to sort of provide a national context</p> <p>6 for Proposition 50.</p> <p>7 Do you recall that?</p> <p>8 <b>A Correct, yes.</b></p> <p>9 Q And so is it fair to say that you</p> <p>10 understood Proposition 50, you know, it wasn't</p> <p>11 happening in a vacuum, it was part of this sort of</p> <p>12 broader national redistricting battle, fair?</p> <p>13 ATTORNEY AULISI: Object to form.</p> <p>14 Q You can answer.</p> <p>15 <b>A Well, it -- it seems to me to have</b></p> <p>16 <b>provoked a -- this response in these other states.</b></p> <p>17 <b>I mean, that's how I recall it, was that Texas did</b></p> <p>18 <b>their thing and then California responded with</b></p> <p>19 <b>Prop 50 and then that sort of triggered a response</b></p> <p>20 <b>among other states, it seems.</b></p> <p>21 Q That's fair.</p> <p>22 <b>A Right.</b></p> <p>23 Q And the post says, "GOP states and</p> <p>24 Democrat states."</p> <p>25 Do you see that?</p>
<p>34</p> <p>1 Mr. Buchanan can see it.</p> <p>2 Q And so on November 5, that would have been</p> <p>3 after the election, right?</p> <p>4 <b>A Was it? November 5th after?</b></p> <p>5 Q Oh. It's not a memory test, sir, so</p> <p>6 that's all right.</p> <p>7 I'll represent to you that Election Day</p> <p>8 was November 4th, but fair enough.</p> <p>9 <b>A Okay, yeah, you're right.</b></p> <p>10 Q It's not a memory test.</p> <p>11 <b>A You're right. It is.</b></p> <p>12 Q Yeah, I know it is. And I didn't mean it</p> <p>13 as a gotcha. I just wanted to --</p> <p>14 <b>A No, no, it's --</b></p> <p>15 Q So this post says, "Depending on how</p> <p>16 Prop 50 goes, 17 other GOP states will</p> <p>17 redistrict."</p> <p>18 Do you see that?</p> <p>19 <b>A Mm-hmm. I do.</b></p> <p>20 Q And then it says, "The GOP will gain 40 to</p> <p>21 45 seats in Congress," right?</p> <p>22 <b>A Yes.</b></p> <p>23 Q And it says specifically that GOP states</p> <p>24 will do that depending on how Proposition 50 goes,</p> <p>25 right?</p>	<p>36</p> <p>1 <b>A The what?</b></p> <p>2 Q The post says, "GOP states and Democrat</p> <p>3 states," right?</p> <p>4 <b>A Yes, it does. Yes, it does.</b></p> <p>5 Q So is it fair to say that you understood</p> <p>6 Proposition 50 as being part of a partisan fight</p> <p>7 between let's call them blue states and red</p> <p>8 states?</p> <p>9 <b>A Yes. In the end, that's all it comes down</b></p> <p>10 <b>to, the number of seats in Congress, yes. So yes.</b></p> <p>11 Q And that map at the bottom, it shows some</p> <p>12 blue states and some red states, right?</p> <p>13 <b>A It does.</b></p> <p>14 Q And is it your understanding that those</p> <p>15 red states were trying to add or were considering</p> <p>16 adding Republican seats to their congressional</p> <p>17 delegations?</p> <p>18 <b>A That's what it appears to be</b></p> <p>19 <b>demonstrating, yes.</b></p> <p>20 Q And then there are, you know, some blue</p> <p>21 states as well.</p> <p>22 And is it your understanding that those</p> <p>23 blue states were in the process or were</p> <p>24 considering adding Democratic seats to their</p> <p>25 congressional delegations?</p>

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<p>37</p> <p>1 A Possibly. I -- I don't think it even</p> <p>2 really talks about that, but that's -- it says</p> <p>3 states with Democratic control. That's all it --</p> <p>4 it shows in the key.</p> <p>5 So I'm not sure if it -- it's inferring</p> <p>6 that they're changing their -- changing seats in</p> <p>7 all of those states or if it's just states that</p> <p>8 are under -- that are dominant, you know,</p> <p>9 Democrat. I don't know.</p> <p>10 Q That's fair.</p> <p>11 But next to that key, it says, "States</p> <p>12 that could redraw their maps."</p> <p>13 A Where do you see that?</p> <p>14 Q That's at the upper left corner.</p> <p>15 A Oh. Oh, yeah, you're right. I do see</p> <p>16 that, yeah.</p> <p>17 Q So is it fair to say that this map is</p> <p>18 maybe identifying particular blue states that --</p> <p>19 (Reporter clarification.)</p> <p>20 Q Sorry. Let me just start with my question</p> <p>21 just so it's clear on the record.</p> <p>22 Is it fair to say then that this map is</p> <p>23 showing some blue states that were considering</p> <p>24 redrawing their maps to improve the number of</p> <p>25 Democratic seats in their congressional</p>	<p>39</p> <p>1 minutes.</p> <p>2 And can we zoom in a little bit at the top</p> <p>3 again so that Mr. Buchanan can see it.</p> <p>4 Q Do you recognize this post, Mr. Buchanan?</p> <p>5 A I can't say that I do, but it seems to be</p> <p>6 along the same lines and it does appear to have my</p> <p>7 name on the post, so October 27th.</p> <p>8 Q And you have no reason to doubt that this</p> <p>9 is something you reposted to Facebook around that</p> <p>10 time?</p> <p>11 A Correct, I don't dispute it.</p> <p>12 Q And the graphic lists states and shows</p> <p>13 that they -- they don't have any Republicans in</p> <p>14 Congress despite some portion of their electorate</p> <p>15 being Republican; is that fair?</p> <p>16 A That's correct, that's what it represents,</p> <p>17 you're right.</p> <p>18 Q And is that something that concerns you?</p> <p>19 A Yes, I -- I empathize with them. I mean,</p> <p>20 I --</p> <p>21 Q And -- sorry, go ahead.</p> <p>22 A -- relate to them.</p> <p>23 Q Is it fair to say that you believe</p> <p>24 congressional maps should fairly reflect the will</p> <p>25 of the voters regardless of their party?</p>
<p>38</p> <p>1 delegations?</p> <p>2 A Yes, it appears to depict that, yes.</p> <p>3 Q And so Proposition 50 was part of this</p> <p>4 countrywide partisan fight over adding</p> <p>5 congressional seats for Democrats and Republicans,</p> <p>6 fair?</p> <p>7 ATTORNEY AULISI: Object to form.</p> <p>8 A Yes.</p> <p>9 ATTORNEY DODGE: You can take this down</p> <p>10 and pull up Tab 5 and label that Buchanan</p> <p>11 Exhibit 6.</p> <p>12 (Buchanan Exhibit 6, marked for</p> <p>13 identification.)</p> <p>14 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>15 BY ATTORNEY DODGE:</p> <p>16 Q And I'll represent to you that we're --</p> <p>17 we're getting there, we're almost done.</p> <p>18 ATTORNEY HULSE: Doug, are you doing okay</p> <p>19 or do you need a break at all or anything?</p> <p>20 THE WITNESS: Oh.</p> <p>21 ATTORNEY HULSE: This is Amber.</p> <p>22 Are you okay?</p> <p>23 THE WITNESS: Oh, yeah, I'm okay.</p> <p>24 ATTORNEY DODGE: Like I said, I don't</p> <p>25 think we'll take much longer than 10 or 15 more</p>	<p>40</p> <p>1 A That seems to be more representative of</p> <p>2 the population, yes, I do think it should more</p> <p>3 closely match.</p> <p>4 Q And is that then what offended you about</p> <p>5 Proposition 50, that it was not ensuring fair</p> <p>6 representation for California Republicans?</p> <p>7 A Yes, ultimately.</p> <p>8 Q And do you think it was Governor Newsom's</p> <p>9 intent to produce a map that would not fairly</p> <p>10 represent Republicans in California?</p> <p>11 ATTORNEY HULSE: Objection. Speculation.</p> <p>12 Q You can answer, sir.</p> <p>13 A I just know what he said. You know, his</p> <p>14 intent was to increase the Democratic number of</p> <p>15 seats and that's -- his intent was to stick it to</p> <p>16 Texas, you know, or to increase the Democrat seats</p> <p>17 in Congress.</p> <p>18 Q And is it fair to say that the Democrats</p> <p>19 in the California Legislature who carried out</p> <p>20 Governor Newsom's plan shared that intention to</p> <p>21 add Democratic seats in California to stick it to</p> <p>22 Texas?</p> <p>23 A That's what is --</p> <p>24 ATTORNEY AULISI: Object to form.</p> <p>25 Q You can answer, sir.</p>

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<p style="text-align: right;">41</p> <p>1 <b>A Yes, that's what it appears, that they --</b>  2 <b>that their intent was to support the Governor's</b>  3 <b>desire to increase Democrat seats.</b>  4 ATTORNEY DODGE: Can we pull up -- can we  5 pull up Tab 6 and label that -- I want to say  6 Buchanan 7?  7 Is that right?  8 THE EXHIBIT TECHNICIAN: Correct. Please  9 stand by.  10 (Buchanan Exhibit 7, marked for  11 identification.)  12 ATTORNEY DODGE: Can we zoom in a little  13 bit on the middle of the page, maybe.  14 BY ATTORNEY DODGE:  15 Q And I know that there's a lot of legal  16 jargon on this page, but do you recognize what  17 this document is, sir?  18 <b>A Yes, it looks like the paperwork I</b>  19 <b>received from the law office.</b>  20 Q And do you see where it says on the  21 right-hand side, "Complaint for declaratory and  22 injunctive relief"?  23 <b>A I do.</b>  24 Q Do you have a basic understanding of what  25 a complaint is in a lawsuit?</p>	<p style="text-align: right;">43</p> <p>1 And at some point, the -- when it was  2 challenged, the -- it was determined that it was  3 unconstitutional to create districts based upon  4 race as their primary component.  5 And so that, I believe, is what prompted  6 the DOJ to send a letter to Governor Abbott,  7 saying this -- these lines were drawn  8 unconstitutionally using race as the major factor.  9 And, therefore, that prompted the redistricting or  10 the redrawing.  11 Q Just so I understand your answer --  12 <b>A Okay.</b>  13 Q -- you're saying you became familiar with  14 the term "racial gerrymandering" because of the  15 news coverage you were following about --  16 <b>A Correct.</b>  17 Q -- the redistricting in Texas?  18 <b>A Yes, yes. And so when I asked Grok about</b>  19 <b>California's redistricting, it said yes.</b>  20 <b>I said, was racial gerrymandering used in</b>  21 <b>California's redistricting? And Grok's initial</b>  22 <b>response was absolutely, that was a factor in</b>  23 <b>considering the districts, the new districts, and</b>  24 <b>that they used maps provided by Asian groups and</b>  25 <b>Hispanic groups to assist the company redrawing</b></p>
<p style="text-align: right;">42</p> <p>1 <b>A Yes, I believe so.</b>  2 Q Is it fair to say that it's the document  3 that sort of sets out your legal claims and your  4 theories and says why you should win the case?  5 <b>A Yes.</b>  6 Q And so you understand that this document  7 sets out the allegations that you are making as a  8 plaintiff in this lawsuit?  9 <b>A Correct.</b>  10 Q And do you understand that the complaint  11 asserts that Proposition 50 is an unlawful racial  12 gerrymander?  13 <b>A I do.</b>  14 Q What is your basic understanding of what a  15 racial gerrymandering is?  16 <b>A Well --</b>  17 ATTORNEY AULISI: Object to form.  18 THE WITNESS: Pardon? Okay.  19 <b>A Well, I -- my first exposure to that</b>  20 <b>concept was from looking to see what happened in</b>  21 <b>Texas. And I -- I understand that they at one</b>  22 <b>point put together brown and black people into a</b>  23 <b>single -- or into districts to give them a voice</b>  24 <b>in voting. And I think they produced four -- four</b>  25 <b>districts with that -- that concept or that ideal.</b></p>	<p style="text-align: right;">44</p> <p>1 the lines.  2 Q And just for the record, what is Grok?  3 <b>A Grok is the -- Elon Musk's AI. It's an</b>  4 <b>AI. AI --</b>  5 Q You use it through X or Twitter, right?  6 <b>A Yeah, X or Twitter, yes.</b>  7 Q When did you ask Grok that question?  8 <b>A I actually most recently did, I think,</b>  9 <b>yesterday again. I spent some time with Grok,</b>  10 <b>trying to get my -- you know, get a better</b>  11 <b>understanding of the whole, you know, racial</b>  12 <b>gerrymandering.</b>  13 And that was -- when I asked the question  14 again in written form, Grok's second response was,  15 not exactly, and then went into, you know, many  16 other factors of how -- and that this was the  17 heart of the lawsuit, of course, that we're in the  18 midst of now.  19 Q Had you asked Grok about whether  20 Proposition 50 was a racial gerrymandering before  21 yesterday?  22 <b>A Yes. I did a little bit of research when</b>  23 <b>this first -- yeah, when I first received the</b>  24 <b>paperwork, you know, but I didn't -- yeah, I</b>  25 <b>didn't spend the time that I did yesterday, trying</b></p>

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<p style="text-align: right;">45</p> <p>1 to get a better understanding.</p> <p>2 And -- and to be honest, it just got more</p> <p>3 convoluted because the more I read, the more</p> <p>4 overwhelming -- I mean, this became both the Texas</p> <p>5 and California's processes, and, you know, my --</p> <p>6 my -- when I was following it initially here, was</p> <p>7 really very little information I could get on any</p> <p>8 criterion.</p> <p>9 Q Got it.</p> <p>10 So is it fair to say then that you hadn't</p> <p>11 really looked into whether or not Proposition 50</p> <p>12 was a racial gerrymander until Mr. Meuser had</p> <p>13 reached out to you about this lawsuit?</p> <p>14 A Yes, I had not gone down that path, yeah.</p> <p>15 I mean, yeah.</p> <p>16 ATTORNEY DODGE: Why don't we take --</p> <p>17 well, actually, no.</p> <p>18 Let's -- can we scroll down to page 6 of</p> <p>19 this document. And, Edward, it might be easier --</p> <p>20 I think you -- yeah, you got it. Thank you.</p> <p>21 And could we -- actually, could we go to</p> <p>22 the next page, please. And can we zoom in on</p> <p>23 Paragraph 17.</p> <p>24 Q Mr. Buchanan, do you see your name there</p> <p>25 in paragraph 17?</p>	<p style="text-align: right;">47</p> <p>1 A No, I don't.</p> <p>2 ATTORNEY AULISE: Object to form.</p> <p>3 Q You can answer, sir.</p> <p>4 A I didn't have that detail of information</p> <p>5 on our -- our district.</p> <p>6 Q That's fair.</p> <p>7 The final sentence of Paragraph 17</p> <p>8 says, "The challenged plan assigns him" --</p> <p>9 referring to you, Mr. Buchanan -- "to a district</p> <p>10 drawn with race as the predominant factor causing</p> <p>11 stigmatic and representational injury."</p> <p>12 Do you see that?</p> <p>13 A I do.</p> <p>14 Q Those are some big words.</p> <p>15 Can you tell me in your best understanding</p> <p>16 what the term "stigmatic and representational</p> <p>17 injury" means?</p> <p>18 ATTORNEY AULISE: Object to form.</p> <p>19 A Okay. Stigmatic and representational.</p> <p>20 Well, we've been talking about</p> <p>21 representational and I -- my frustration that</p> <p>22 we're not well represented.</p> <p>23 "Predominant factor causing stigmatic and</p> <p>24 representational injury."</p> <p>25 Q When you say "we're not well represented,"</p>
<p style="text-align: right;">46</p> <p>1 A Yes, white voter who resides in</p> <p>2 District 13 46 years.</p> <p>3 Q And this says here, "A registered voter in</p> <p>4 Congressional District 13," right?</p> <p>5 A Mm-hmm.</p> <p>6 Q And as we discussed earlier, that was true</p> <p>7 both before and after Proposition 50, right?</p> <p>8 A Yes.</p> <p>9 Q Do you know whether Congressional</p> <p>10 District -- strike that.</p> <p>11 Do you know whether the racial</p> <p>12 demographics of Congressional District 13 changed</p> <p>13 substantially as a result of Proposition 50?</p> <p>14 A Whether the racial -- I can't say that it</p> <p>15 changed because of Prop 50, but I believe it's --</p> <p>16 it's changed, you know, just, well, based upon my</p> <p>17 previous comment that we have such an influx of</p> <p>18 undocumented residents.</p> <p>19 Q That's fair, but specifically -- I think I</p> <p>20 have your answer, but let me just make sure I'm</p> <p>21 putting it correctly.</p> <p>22 You're not sure one way or the other</p> <p>23 whether Proposition 50 specifically significantly</p> <p>24 changed the racial demographics of your</p> <p>25 congressional district?</p>	<p style="text-align: right;">48</p> <p>1 do you mean California Republicans?</p> <p>2 A I do mean the Republican Party, yes.</p> <p>3 Do I mean Americans? I mean that, too.</p> <p>4 ATTORNEY DODGE: I'm just reviewing my</p> <p>5 notes here, but I think we're just about done.</p> <p>6 Mr. Buchanan, thank you for your time. I</p> <p>7 hope it wasn't too inconvenient. And I think I am</p> <p>8 all set and I can pass the witness.</p> <p>9 I don't know -- I don't think anyone else</p> <p>10 plans to ask questions, but unless someone does, I</p> <p>11 think we can conclude the deposition and go off</p> <p>12 the record.</p> <p>13 ATTORNEY RIVERA: I have a few questions.</p> <p>14 It won't take more than five minutes if that's</p> <p>15 okay with everybody.</p> <p>16 ATTORNEY DODGE: In that case, I will pass</p> <p>17 the witness to Mr. Rivera on behalf of LULAC.</p> <p>18 Thank you again, Mr. Buchanan.</p> <p>19 ATTORNEY RIVERA: Thank you, Mr. Dodge.</p> <p>20 EXAMINATION BY</p> <p>21 ATTORNEY RIVERA:</p> <p>22 Q Mr. Buchanan, thank you again for your</p> <p>23 time. I appreciate it. I respect your time and</p> <p>24 your candor, so I'll be quick. Mr. Dodge covered</p> <p>25 most of what I was curious about to ask you, too.</p>

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<p>49</p> <p>1 So I just have a few questions about --</p> <p>2 (Reporter clarification.)</p> <p>3 Q Sure. I just want to ask you a little bit</p> <p>4 about your current congressional district.</p> <p>5 So you are a resident of District 13 in</p> <p>6 California, right?</p> <p>7 <b>A Correct.</b></p> <p>8 Q Okay. And your current representative in</p> <p>9 Congress is Congressman Adam Gray; is that</p> <p>10 correct?</p> <p>11 <b>A Correct.</b></p> <p>12 Q Did you vote in the 2024 congressional</p> <p>13 election?</p> <p>14 <b>A I did.</b></p> <p>15 Q Did you vote for Mr. Gray?</p> <p>16 <b>A I did not.</b></p> <p>17 Q Okay. Are you aware of -- strike that.</p> <p>18 Are you aware by how many votes Mr. Gray</p> <p>19 won that election in 2024?</p> <p>20 <b>A You're challenging my memory.</b></p> <p>21 Q That's okay. That's okay. I just want to</p> <p>22 know if you were there.</p> <p>23 Well, I can tell you it was -- according</p> <p>24 to official numbers, he won by 187 votes.</p> <p>25 <b>A I knew it was tiny, but I didn't know the</b></p>	<p>51</p> <p>1 Since Adam Gray lost in 2022 and then</p> <p>2 barely won in 2024, would you -- do you believe</p> <p>3 that he is at risk of losing the election in 2026?</p> <p>4 <b>A I am hopeful.</b></p> <p>5 Q Okay.</p> <p>6 <b>A So, yes, I do believe he's potentially at</b></p> <p>7 <b>risk of losing that.</b></p> <p>8 Q Okay. You're hopeful.</p> <p>9 And do you believe that Prop 50 would make</p> <p>10 it easier for him to win reelection in 2026?</p> <p>11 <b>A I don't -- I don't know. I don't have</b></p> <p>12 <b>the -- the details on the outcome of that. You</b></p> <p>13 <b>know what I'm saying? I don't -- I don't have the</b></p> <p>14 <b>breakdown of -- of how that -- that looks.</b></p> <p>15 Q Okay. But are you concerned that Prop 50</p> <p>16 does make it easier for him to win reelection?</p> <p>17 <b>A Potentially.</b></p> <p>18 Q Okay.</p> <p>19 ATTORNEY RIVERA: That's all I have, sir.</p> <p>20 Thank you very much.</p> <p>21 ATTORNEY DODGE: I think we can go off the</p> <p>22 record.</p> <p>23 (Time Noted: 12:04 P.M.)</p> <p>24</p> <p>25</p>
<p>50</p> <p>1 <b>exact number.</b></p> <p>2 Q Okay. So you agree it was a very close</p> <p>3 election, right?</p> <p>4 <b>A Correct.</b></p> <p>5 Q Okay. And just to situate us, that was</p> <p>6 under the pre-Prop 50 map; is that right?</p> <p>7 <b>A Correct.</b></p> <p>8 Q Okay. And are you aware that Mr. Gray</p> <p>9 also ran for that seat in 2022?</p> <p>10 <b>A I am.</b></p> <p>11 Q And are you aware that he lost that</p> <p>12 election?</p> <p>13 <b>A I am.</b></p> <p>14 Q Okay.</p> <p>15 <b>A To John Duarte.</b></p> <p>16 Q Yes. Thank you.</p> <p>17 And is it your belief that under</p> <p>18 Prop 50 -- I'm sorry, strike that.</p> <p>19 So do you believe that because Congressman</p> <p>20 Gray won by only 187 votes last time, that he's at</p> <p>21 risk of losing his seat in the next election in</p> <p>22 2026?</p> <p>23 <b>A I -- I'm not sure I am understanding what</b></p> <p>24 <b>you're asking.</b></p> <p>25 Q Sure. So I'll start again.</p>	<p>52</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, DOUG BUCHANAN, do hereby acknowledge</p> <p>3 that I have read and examined the foregoing</p> <p>4 testimony and the same is a true, correct, and</p> <p>5 complete transcription of the testimony given by</p> <p>6 me and any corrections appear on the attached</p> <p>7 errata sheet signed by me.</p> <p>8</p> <p>9</p> <p>10 (SIGNATURE) (DATE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

2 I, ANITA M. TROMBETTA, RMR, CRR, and Certified

3 California Shorthand Reporter, the officer before

4 whom the foregoing deposition was taken, do hereby

5 certify that the foregoing transcript is a true

6 and correct record of the testimony given; that

7 said testimony was taken by me stenographically

8 and thereafter reduced to typewriting under my

9 direction; that reading and signing was requested

10 [or not requested, as appropriate]; and that I am

11 neither counsel for, related to, nor employed by

12 any of the parties to this case and have no

13 interest, financial or otherwise, in its outcome.

14 IN WITNESS WHEREOF, I have hereunto set my

15 hand and affixed my notarial seal this 14th day of

16 December, 2025.

17 My commission expires: 03.21.2027

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## **Exhibit 436**



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# Transcript of Vernon Costa

**Date:** December 11, 2025

**Case:** Tangipa, et al. -v- Newsom, et al.

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**Tangipa v. Newsom**

**DX436**

2:25-cv-10616-JLSWLH-KKL

Conducted on December 11, 2025

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE CENTRAL DISTRICT OF CALIFORNIA</p> <p>3 WESTERN DIVISION</p> <p>4 - - - - - x</p> <p>5 DAVID TANGIPA, et al.,</p> <p>6 Plaintiffs,</p> <p>7 and UNITED STATES OF</p> <p>8 AMERICA,</p> <p>9 Plaintiff-Intervenor, Case No.</p> <p>10 v. 2:25-cv-10616</p> <p>11 GAVIN NEWSOM, IN HIS JLS-WLH-KKL</p> <p>12 OFFICIAL CAPACITY AS THE</p> <p>13 GOVERNOR OF CALIFORNIA, et</p> <p>14 al.,</p> <p>15 Defendants,</p> <p>16 and DEMOCRATIC CONGRESSIONAL</p> <p>17 CAMPAIGN COMMITTEE, et al.,</p> <p>18 Defendant-Intervenor.</p> <p>19 - - - - - x</p> <p>20 Remote Deposition of VERNON COSTA</p> <p>21 Thursday, December 11, 2025</p> <p>22 1:03 P.M. PST</p> <p>23 Pages: 1 - 47</p> <p>24 Reported By: Anita M. Trombetta, RMR, CRR,</p> <p>25 California CSR No. 14647</p>	<p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFFS:</p> <p>4 AMBER HULSE, ESQUIRE</p> <p>5 DOMENIC P. AULISI, ESQUIRE</p> <p>6 DHILLON LAW GROUP INC.</p> <p>7 2121 Eisenhower Avenue, Suite 608</p> <p>8 Alexandria, VA 22314</p> <p>9 415.433.1700</p> <p>10</p> <p>11</p> <p>12 ON BEHALF OF DEFENDANTS CALIFORNIA GOVERNOR GAVIN</p> <p>13 NEWSOM and SECRETARY of STATE SHIRLEY WEBER:</p> <p>14 KATRINA UYEHARA, ESQUIRE</p> <p>15 DEPUTY ATTORNEYS GENERAL</p> <p>16 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE</p> <p>17 1300 I Street, Suite 125</p> <p>18 Sacramento, CA 95814</p> <p>19 916.210.7867</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 (Appearances continued on next page.)</p> <p>25</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 Remote deposition of VERNON COSTA, pursuant to</p> <p>6 notice, before Anita M. Trombetta, a Certified</p> <p>7 Shorthand Reporter in the State of California,</p> <p>8 RMR, CRR, and Notary Public in and for the State</p> <p>9 of New York.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES CONTINUED</p> <p>2</p> <p>3 ON BEHALF OF DEFENDANT-INTERVENOR DEMOCRATIC</p> <p>4 CONGRESSIONAL CAMPAIGN COMMITTEE:</p> <p>5 TYLER BISHOP, ESQUIRE</p> <p>6 ELIAS LAW GROUP LLP</p> <p>7 250 Massachusetts Ave. NW, Suite 400</p> <p>8 Washington, DC 20001</p> <p>9 202.985.0628</p> <p>10</p> <p>11 ON BEHALF OF DEFENDANT-INTERVENOR LEAGUE OF UNITED</p> <p>12 LATIN AMERICAN CITIZENS:</p> <p>13 TOMAS RIVERA, ESQUIRE</p> <p>14 JUDE RICH, ESQUIRE</p> <p>15 DEMOCRACY DEFENDERS ACTION</p> <p>16 Info@democracydefenders.org</p> <p>17</p> <p>18 ALSO PRESENT:</p> <p>19 EDWARD ANTONELLI, Remote Technician</p> <p>20 NICHOLAS BUCKLEY, Reporter-In-Training</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: center;">5</p> <p>1 -----I N D E X-----</p> <p>2 WITNESS - VERNON COSTA</p> <p>3</p> <p>4 EXAMINATION BY Page</p> <p>5</p> <p>6 ATTORNEY BISHOP 6</p> <p>7 ATTORNEY RIVERA 37</p> <p>8 -----E X H I B I T S-----</p> <p>9 Exhibit Description Page</p> <p>10 Exhibit 1 Facebook Graphic 16</p> <p>11 Exhibit 2 Costa Facebook Post 18</p> <p>12 Exhibit 3 Costa Facebook Post 20</p> <p>13 Exhibit 4 Vernon Repost of 22</p> <p>14 Tangipa Tweet</p> <p>15 Exhibit 5 Post of ABC30 Article 24</p> <p>16 Exhibit 6 Complaint for 32</p> <p>17 Declaratory</p> <p>18 and Injunctive Relief</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">7</p> <p>1 represent DCCC, the Democratic Congressional</p> <p>2 Campaign Committee, in this matter.</p> <p>3 We just have a short time together today,</p> <p>4 so I'm just going to quickly go over some table</p> <p>5 setting and ground rules, if that sounds good.</p> <p>6 First question for you is, have you ever</p> <p>7 been deposed before?</p> <p>8 <b>A Yes.</b></p> <p>9 Q And how many times?</p> <p>10 <b>A Once.</b></p> <p>11 Q And can you just describe the subject</p> <p>12 matter of that deposition and the case in which it</p> <p>13 was involved in?</p> <p>14 <b>A A civil case.</b></p> <p>15 Q Do you recall what the claim involved in</p> <p>16 that case was?</p> <p>17 <b>A I guess they considered me a personal</b></p> <p>18 <b>witness, a character witness.</b></p> <p>19 Q Okay. And so was that a -- or, I'm sorry,</p> <p>20 you said it was a civil matter, correct?</p> <p>21 <b>A Yes.</b></p> <p>22 Q Understood.</p> <p>23 And approximately when was that</p> <p>24 deposition?</p> <p>25 <b>A It had to be over 20 years ago.</b></p>
<p style="text-align: center;">6</p> <p>1 P R O C E E D I N G S</p> <p>2 THE COURT REPORTER: Would counsel please</p> <p>3 state their appearances for the record.</p> <p>4 ATTORNEY HULSE: Amber Hulse for</p> <p>5 plaintiffs.</p> <p>6 ATTORNEY AULISI: Domenic Aulisi for the</p> <p>7 plaintiffs.</p> <p>8 ATTORNEY BISHOP: Tyler Bishop for</p> <p>9 Intervenor-Defendant DCCC.</p> <p>10 ATTORNEY RIVERA: And Thomas Rivera on</p> <p>11 behalf of Defendant LULAC. I'm joined by my</p> <p>12 colleague Jude Rich, also on the line.</p> <p>13 ATTORNEY UYEHARA: And Katrina Uyehara on</p> <p>14 behalf of Defendant California Department of</p> <p>15 Justice.</p> <p>16 THE COURT REPORTER: Do all counsel</p> <p>17 stipulate to the identity of the witness?</p> <p>18 ATTORNEY BISHOP: Yes for DCCC.</p> <p>19 ATTORNEY AULISI: Yes for the plaintiffs.</p> <p>20 ATTORNEY RIVERA: Yes for LULAC.</p> <p>21 ATTORNEY UYEHARA: Yes for CAL DOJ.</p> <p>22 EXAMINATION BY</p> <p>23 ATTORNEY BISHOP:</p> <p>24 Q Good morning, Mr. Costa. My name is Tyler</p> <p>25 Bishop. As I just said, I represented -- I</p>	<p style="text-align: center;">8</p> <p>1 Q Okay. Understood.</p> <p>2 So today we have a court reporter present</p> <p>3 and they will be taking everything down. And it's</p> <p>4 important that we speak slowly and clearly so that</p> <p>5 the court reporter can create an accurate</p> <p>6 transcript.</p> <p>7 Do you agree with that?</p> <p>8 <b>A Yes.</b></p> <p>9 Q And do you agree to provide verbal answers</p> <p>10 to the questions you're going to be asked today?</p> <p>11 That means no shaking your head or "uh-uh" or</p> <p>12 "huh-uh" or things of that nature.</p> <p>13 Do you understand that?</p> <p>14 <b>A Yes.</b></p> <p>15 Q And your attorney may make some</p> <p>16 objections, but unless the attorney instructs you</p> <p>17 not to answer, you have to answer to the best of</p> <p>18 your ability.</p> <p>19 Do you understand that?</p> <p>20 <b>A Yes.</b></p> <p>21 Q And is there any reason why you can't</p> <p>22 provide truthful or accurate testimony today?</p> <p>23 <b>A No.</b></p> <p>24 Q So we're doing this deposition remotely.</p> <p>25 Can you tell us, is there anyone in the</p>

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<p>9</p> <p>1 room with you currently?</p> <p>2 <b>A I can't -- I didn't hear that.</b></p> <p>3 <b>What was that?</b></p> <p>4 Q Is there anyone who is in the room with</p> <p>5 you currently?</p> <p>6 <b>A No, there is not.</b></p> <p>7 Q Okay. So can you describe for me what you</p> <p>8 did to prepare for today's deposition?</p> <p>9 <b>A I looked at the claim again and spoke with</b></p> <p>10 <b>the attorneys to prep me for -- explain what the</b></p> <p>11 <b>deposition is about.</b></p> <p>12 Q And which attorneys did you speak to?</p> <p>13 <b>A Amber and Domenic.</b></p> <p>14 Q And without revealing any contents of your</p> <p>15 conversations, approximately how long did you</p> <p>16 speak and how many times did you speak?</p> <p>17 <b>A I don't know if it took 45 minutes maybe.</b></p> <p>18 <b>I can't be sure.</b></p> <p>19 Q Okay, yeah, it's not a test of memory or</p> <p>20 anything like that. That makes sense.</p> <p>21 And when was -- when were those</p> <p>22 conversations or that conversation?</p> <p>23 <b>A We started approximately about 12:00.</b></p> <p>24 Q Okay. And, again, without revealing</p> <p>25 anything you talked to with your attorney about,</p>	<p>11</p> <p>1 (An off-the-record discussion was held at</p> <p>2 this time.)</p> <p>3 BY ATTORNEY BISHOP:</p> <p>4 Q Okay. I'd like to pick up back where I</p> <p>5 left off before we hopefully fixed the audio issue</p> <p>6 that we're having on this remote deposition.</p> <p>7 The question is, why did you want to be</p> <p>8 involved in this litigation?</p> <p>9 <b>A Because I felt that the new district lines</b></p> <p>10 <b>were being unfairly redrawn based off of race.</b></p> <p>11 Q Okay. And we'll return to that, but I</p> <p>12 just have a few other preliminary questions for</p> <p>13 you.</p> <p>14 Have you communicated with other</p> <p>15 individual plaintiffs about this lawsuit?</p> <p>16 <b>A No.</b></p> <p>17 Q What about the California Republican</p> <p>18 Party, have you communicated with them about this</p> <p>19 lawsuit?</p> <p>20 <b>A I have not.</b></p> <p>21 Q And have you reviewed the complaint that</p> <p>22 was filed in this lawsuit?</p> <p>23 <b>A Yes.</b></p> <p>24 Q And do you recall signing it or verifying</p> <p>25 it?</p>
<p>10</p> <p>1 why is it that you wanted to be involved in this</p> <p>2 litigation?</p> <p>3 <b>A Could you repeat the question?</b></p> <p>4 Q Why is it that you want --</p> <p>5 THE WITNESS: Excuse me, excuse me. I'm</p> <p>6 losing the first few words of every one of your</p> <p>7 questions.</p> <p>8 There's a -- it looks to me -- it sounds</p> <p>9 to me there's, like, two or three words that you</p> <p>10 say that I do not hear.</p> <p>11 THE EXHIBIT TECHNICIAN: Counsel, do you</p> <p>12 mind if we go off the record for a second?</p> <p>13 ATTORNEY BISHOP: Let's do that. Thanks.</p> <p>14 (An off-the-record discussion was held at</p> <p>15 this time.)</p> <p>16 BY ATTORNEY BISHOP:</p> <p>17 Q Okay. So I'll pick up with the question</p> <p>18 that I left off on now that we've --</p> <p>19 THE WITNESS: I -- excuse me, excuse me,</p> <p>20 there was -- it was even worse. That's even</p> <p>21 worse.</p> <p>22 Anita came in plain and clear right away.</p> <p>23 Yours is a mess.</p> <p>24 ATTORNEY BISHOP: Okay. Can we go back</p> <p>25 off the record and correct this?</p>	<p>12</p> <p>1 <b>A Yes.</b></p> <p>2 Q In your own words, what is Proposition 50?</p> <p>3 <b>A Proposition 50 is a redrawing of the</b></p> <p>4 <b>congressional district lines, and with -- we had</b></p> <p>5 <b>an election in regards to it.</b></p> <p>6 Q When did you first become aware of</p> <p>7 Proposition 50?</p> <p>8 <b>A I don't recall, but whenever it first</b></p> <p>9 <b>started. I don't know what that date was.</b></p> <p>10 Q Do you have a rough estimate?</p> <p>11 <b>A Gosh. It was -- I don't know if it was</b></p> <p>12 <b>July, August maybe. I don't know how far back</b></p> <p>13 <b>this goes. I don't know. Quite honestly, I do</b></p> <p>14 <b>not know.</b></p> <p>15 Q Understood. That's fine.</p> <p>16 Is it your understanding that</p> <p>17 Proposition 50 was an initiative spearheaded by</p> <p>18 California Democrats?</p> <p>19 <b>A Repeat the question, please.</b></p> <p>20 Q Is it your understanding that</p> <p>21 Proposition 50 was an initiative spearheaded by</p> <p>22 California Democrats?</p> <p>23 <b>A Yes.</b></p> <p>24 Q Why do you believe the Democrats wanted to</p> <p>25 redraw the map?</p>

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<p>13</p> <p>1 <b>A To change congressional lines in their --</b></p> <p>2 <b>their favor.</b></p> <p>3 Q After the legislature passed what became</p> <p>4 Proposition 50, is it your understanding that the</p> <p>5 map was submitted to voters as a ballot measure?</p> <p>6 <b>A Yes.</b></p> <p>7 Q Did you participate in the campaign for or</p> <p>8 against Proposition 50 in any way?</p> <p>9 <b>A Yes.</b></p> <p>10 Q And why was it important to you to do so?</p> <p>11 <b>A Because I was against it.</b></p> <p>12 Q And why were you against it?</p> <p>13 <b>A Because I think it was an unfair racial</b></p> <p>14 <b>gerrymander.</b></p> <p>15 Q Was there a specific event or set of</p> <p>16 events that prompted Proposition 50, in your</p> <p>17 understanding?</p> <p>18 <b>A I don't know.</b></p> <p>19 Q Did you review news media about</p> <p>20 Proposition 50?</p> <p>21 <b>A Some.</b></p> <p>22 Q Do you recall the news media</p> <p>23 characterizing Proposition 50 as a response to any</p> <p>24 event or set of events?</p> <p>25 <b>A Not really.</b></p>	<p>15</p> <p>1 <b>A Getting voters, getting Republican voters,</b></p> <p>2 <b>all voters to the polls.</b></p> <p>3 Q And why was it important to get Republican</p> <p>4 voters to the polls?</p> <p>5 <b>A Because I felt we -- I always do. Every</b></p> <p>6 <b>election I want voters to get to the polls,</b></p> <p>7 <b>Republican and Democrat. I want everybody to get</b></p> <p>8 <b>to the polls on Election Day.</b></p> <p>9 Q Is it your understanding that there was a</p> <p>10 party affiliation with vote yes on Prop 50 and</p> <p>11 vote no on Prop 50?</p> <p>12 <b>A Repeat the question, please.</b></p> <p>13 Q Is it your understanding that there was a</p> <p>14 strong party affiliation for voting yes on Prop 50</p> <p>15 and voting no on Proposition 50?</p> <p>16 ATTORNEY AULISI: Object to form.</p> <p>17 Q You can answer.</p> <p>18 <b>A I -- I assume there was.</b></p> <p>19 Q And what would that -- what would your</p> <p>20 assumption be?</p> <p>21 <b>A That most Republicans were going to vote</b></p> <p>22 <b>no and most Democrats would vote yes.</b></p> <p>23 ATTORNEY BISHOP: If we can pull up what</p> <p>24 is labeled as 2025, October 12th, Costa Facebook</p> <p>25 post, please.</p>
<p>14</p> <p>1 Q Are you familiar with the redistricting</p> <p>2 process this year in other states aside from</p> <p>3 California?</p> <p>4 <b>A I've heard some stuff that some of the</b></p> <p>5 <b>other states are doing and I think Texas is one of</b></p> <p>6 <b>them.</b></p> <p>7 Q Is it your understanding that</p> <p>8 Proposition 50 was a response to redistricting in</p> <p>9 Texas?</p> <p>10 <b>A It may have been. I don't know. I don't</b></p> <p>11 <b>know.</b></p> <p>12 Q Did you try to persuade voters to support</p> <p>13 or oppose Proposition 50 one way or the other?</p> <p>14 <b>A Yes, I did.</b></p> <p>15 Q And what was your position?</p> <p>16 <b>A I shared a social media post.</b></p> <p>17 Q And do you recall the content of the</p> <p>18 social media posts that you may have put online</p> <p>19 about Proposition 50?</p> <p>20 <b>A I can't recall all of them. They were</b></p> <p>21 <b>basically -- I was the author of none of them. I</b></p> <p>22 <b>just shared other people's posts with the intent</b></p> <p>23 <b>of getting out the vote.</b></p> <p>24 Q And what was your goal in getting out the</p> <p>25 vote on Proposition 50?</p>	<p>16</p> <p>1 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>2 ATTORNEY BISHOP: And mark it as Costa</p> <p>3 Exhibit 1.</p> <p>4 THE EXHIBIT TECHNICIAN: Not a problem.</p> <p>5 (Costa Exhibit 1, marked for</p> <p>6 identification.)</p> <p>7 BY ATTORNEY BISHOP:</p> <p>8 Q Mr. Costa, do you recognize this document?</p> <p>9 <b>A Yeah, I do sort of, yes. I do remember</b></p> <p>10 <b>that one.</b></p> <p>11 Q What is it?</p> <p>12 <b>A Pardon me?</b></p> <p>13 Q What is this document?</p> <p>14 <b>A Something I shared. Something -- I'm not</b></p> <p>15 <b>the author of it. Something that I shared.</b></p> <p>16 Q And the first line of this graphic</p> <p>17 reads, "Governor Newsom's Power Grab."</p> <p>18 Did I say that correctly?</p> <p>19 <b>A Yes.</b></p> <p>20 Q And can you please read the yellow print</p> <p>21 below that.</p> <p>22 <b>A "It is a Partisan Gerrymander. Why You</b></p> <p>23 <b>Should Vote No on 50."</b></p> <p>24 Q Thank you.</p> <p>25 Did you believe this when you posted it?</p>

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<p>17</p> <p>1 A I don't even know if I read it that close, 2 but I just know it was something that we were 3 sharing in order to get out the vote. But I -- I 4 hardly remember the post. 5 Q Do you believe -- well, strike that. 6 In this post, what is "it" referring to? 7 A The "it," what is it referring to? 8 Q Yes. 9 A The redistricting, the gerrymander, the no 10 on -- the Proposition 50. 11 Q And below what you just read, the post 12 lists several projected effects of Proposition 50; 13 is that correct? 14 A That's correct. 15 Q When you posted this -- or reposted it, 16 sorry -- were you concerned the Proposition could 17 flip the Valley from red to blue? 18 A Yes, always. 19 Q And when you reposted this, were you 20 concerned that Proposition 50 would deliver the 21 House of Representatives to Democrats? 22 A Yes. 23 Q And in your understanding, did 24 Proposition 50 pass? 25 A Excuse me? Repeat the question.</p>	<p>19</p> <p>1 Q Okay. Well, can you just take a second to 2 read it and let me know when you've done so. 3 A (Document review.) 4 I've read it. 5 Q Am I correct that this post is discussing 6 early voting for Proposition 50? 7 A Yes. 8 Q And the post states, "Democrat yes votes 9 leading no votes by 85,000. 5 million Republicans 10 have yet to vote." 11 Did I read that right? 12 A Yes, you did. 13 Q In your understanding, Democrats were 14 largely voting in support of Proposition 50 and 15 Republicans were largely voting against 16 Proposition 50 at the time you posted this; is 17 that correct? 18 A Yes. 19 Q And do you see anything in this post that 20 mentions any concern about race? 21 A No. 22 Q Okay. We can move on from this post as 23 well. 24 ATTORNEY BISHOP: And if the tech could 25 pull up what is labeled as DCCC 1112025 10/30</p>
<p>18</p> <p>1 Q In your understanding, did Proposition 50 2 pass? 3 A Yes. 4 Q Are you concerned today that 5 Proposition 50 could help flip the Valley from red 6 to blue? 7 A I don't know. We'll see. 8 Q Do you see anything in this post that 9 mentions any concern about race? 10 A I do not. 11 Q Okay. We can take this -- 12 A This is not my post. 13 Q Understood. 14 ATTORNEY BISHOP: If the tech could please 15 pull up what's labeled DCCC 1082025 10/20, Costa 16 Facebook post. 17 THE EXHIBIT TECHNICIAN: Please stand by. 18 ATTORNEY BISHOP: Thank you. And mark it 19 as Costa Exhibit 2. 20 (Costa Exhibit 2, marked for 21 identification.) 22 BY ATTORNEY BISHOP: 23 Q Mr. Costa, do you recognize this document? 24 A I don't remember it. Obviously I reshared 25 it, but I don't remember it, no.</p>	<p>20</p> <p>1 Costa Facebook post and mark it as Exhibit 3. 2 THE EXHIBIT TECHNICIAN: Please stand by. 3 (Costa Exhibit 3, marked for 4 identification.) 5 BY ATTORNEY BISHOP: 6 Q Mr. Costa, do you recognize this document? 7 A I don't. 8 Q Can you take a look at it and let me know 9 when you've had a chance to review it and let me 10 know if it refreshes your memory after you've had 11 a chance to review. 12 A (Document review.) 13 Okay. I've read it. 14 Q In this post, this is you reposting 15 something by the California Republican Party; is 16 that correct? 17 A That is correct. 18 Q Did you agree with the California 19 Republican Party's post? 20 ATTORNEY AULISI: Object to form. 21 (Reporter clarification.) 22 A Rephrase -- ask the question again. 23 Q When you posted this, did you agree with 24 the California Republican Party's post? 25 A Yeah, I guess.</p>

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<p>21</p> <p>1 Q Am I right that the post says that</p> <p>2 "Proposition 50 was Gavin Newsom's \$300 million</p> <p>3 political power grab to help Democrats retake</p> <p>4 Congress and impeach Trump?"</p> <p>5 <b>A That's what it says.</b></p> <p>6 Q Did that accurately describe your view of</p> <p>7 Proposition 50 as it was stated in this post?</p> <p>8 <b>A Yeah.</b></p> <p>9 Q Do you see anything in this post that</p> <p>10 mentions race or ethnicity?</p> <p>11 <b>A No.</b></p> <p>12 Q Are you a member of the California</p> <p>13 Republican Party?</p> <p>14 <b>A Yes.</b></p> <p>15 Q Do you hold any positions with the</p> <p>16 California Republican Party?</p> <p>17 <b>A I'm a county chairperson -- county chair.</b></p> <p>18 Q And in that role, what do you do for the</p> <p>19 party?</p> <p>20 ATTORNEY AULISI: Object to form.</p> <p>21 <b>A Work to get out the -- work to get out the</b></p> <p>22 <b>vote.</b></p> <p>23 Q And getting out the Republican vote was a</p> <p>24 goal of the California Republican Party against</p> <p>25 Proposition 50; is that correct?</p>	<p>23</p> <p>1 Q In this post, you share a tweet by</p> <p>2 Assemblyman David Tangipa; is that right?</p> <p>3 <b>A That is correct.</b></p> <p>4 Q And do you know if Assembly -- if the</p> <p>5 Assemblyman is a party to this case?</p> <p>6 <b>A Yes.</b></p> <p>7 Q And in your understanding, in what</p> <p>8 capacity is he a party to this case?</p> <p>9 <b>A He's one of the plaintiffs.</b></p> <p>10 Q In this post, the Assemblyman states, "We</p> <p>11 promise to fight this partisan gerrymandering</p> <p>12 every step of the way and now the DOJ is standing</p> <p>13 with us to stop this power grab."</p> <p>14 Did I read that correctly?</p> <p>15 <b>A You read it correctly.</b></p> <p>16 Q Did you agree with your co-plaintiff,</p> <p>17 Assemblyman Tangipa, that Proposition 50 is a</p> <p>18 power grab?</p> <p>19 <b>A I don't even know if I ever read the post.</b></p> <p>20 <b>I just know if it had to do with Prop 50, I would</b></p> <p>21 <b>share it, and that's what I did.</b></p> <p>22 Q Okay. Let me ask you this: Sitting here</p> <p>23 today, do you agree that Proposition 50 is a power</p> <p>24 grab?</p> <p>25 <b>A Yes.</b></p>
<p>22</p> <p>1 <b>A Yes.</b></p> <p>2 Q And did you share this post as part of</p> <p>3 that effort?</p> <p>4 <b>A As my effort.</b></p> <p>5 Q Yes.</p> <p>6 <b>A Yes, as my effort to get out the vote, I</b></p> <p>7 <b>shared multiple posts.</b></p> <p>8 Q Great. Thank you. We can move on from</p> <p>9 this one.</p> <p>10 ATTORNEY BISHOP: If the tech could please</p> <p>11 pull up what is labeled as DCCC 1242025, 11/13,</p> <p>12 and mark it as Costa Exhibit 4.</p> <p>13 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>14 (Costa Exhibit 4, marked for</p> <p>15 identification.)</p> <p>16 BY ATTORNEY BISHOP:</p> <p>17 Q Mr. Costa, do you recognize this document?</p> <p>18 <b>A Yeah, I do.</b></p> <p>19 Q And what is this document?</p> <p>20 <b>A It's something that Assemblyman Tangipa</b></p> <p>21 <b>shared about the DOJ having joined the lawsuit</b></p> <p>22 <b>against Governor Newsom.</b></p> <p>23 Q Do you recall whether you post -- reposted</p> <p>24 this before or after you brought this case?</p> <p>25 <b>A I don't recall.</b></p>	<p>24</p> <p>1 Q By whom specifically?</p> <p>2 <b>A By Democrats and the governor.</b></p> <p>3 Q And do you also agree that Proposition 50</p> <p>4 is a partisan gerrymander?</p> <p>5 <b>A No, I believe it's a racial gerrymander.</b></p> <p>6 Q What does the term "racial gerrymander"</p> <p>7 mean to you?</p> <p>8 <b>A It means that certain races were drawn</b></p> <p>9 <b>into certain districts -- Hispanics, for example,</b></p> <p>10 <b>into certain districts and give them more power in</b></p> <p>11 <b>certain districts and weaken the voice of those</b></p> <p>12 <b>who are not Hispanic.</b></p> <p>13 Q Do you think partisanship played a role in</p> <p>14 Proposition 50?</p> <p>15 <b>A I don't know.</b></p> <p>16 Q Do you see anything in this post in front</p> <p>17 of you that mentions race?</p> <p>18 <b>A No.</b></p> <p>19 Q Okay. We can move on from this one.</p> <p>20 ATTORNEY BISHOP: If the tech could please</p> <p>21 pull up what is labeled as DCCC 1202025, 11/6, and</p> <p>22 mark it as Costa Exhibit 5.</p> <p>23 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>24 (Costa Exhibit 5, marked for</p> <p>25 identification.)</p>

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<p>25</p> <p>1 BY ATTORNEY BISHOP:</p> <p>2 Q Mr. Costa, do you recognize this document?</p> <p>3 A I do.</p> <p>4 Q And what is it?</p> <p>5 A It is an article that I shared that had</p> <p>6 been on ABC Action News. I don't know if this --</p> <p>7 I guess this is on Facebook, and I shared it.</p> <p>8 It was about -- that the lawsuit had been</p> <p>9 filed. I think it was right after their press</p> <p>10 conference.</p> <p>11 Q And in this post, are you reposting</p> <p>12 another post by another entity?</p> <p>13 A I must be. I'm not the author of anything</p> <p>14 other than what I -- the one comment I put above</p> <p>15 this one, but I don't know who -- who the original</p> <p>16 post was. I don't know if it was the news or --</p> <p>17 I'm not sure.</p> <p>18 ATTORNEY BISHOP: Can we zoom in a little</p> <p>19 bit just so the image is a bit clearer.</p> <p>20 A It says ABC Action News, so I assume it</p> <p>21 was their post.</p> <p>22 Q Okay. And can you please read the</p> <p>23 contents of ABC30 Action News' post?</p> <p>24 A "The results of the highly anticipated</p> <p>25 special election on Proposition 50 have Democrats</p>	<p>27</p> <p>1 A Not in this post. I don't know if there</p> <p>2 was a story that went along with this. I don't</p> <p>3 know.</p> <p>4 Q Okay. Thank you.</p> <p>5 And we can take this post down as well.</p> <p>6 And I'd like to shift gears more generally</p> <p>7 away from social media. I just have a few</p> <p>8 additional questions here.</p> <p>9 So having participated in the</p> <p>10 Proposition 50 campaign and sharing views</p> <p>11 throughout it, in your understanding, what was the</p> <p>12 primary reason that voters objected to</p> <p>13 Proposition 50?</p> <p>14 A I can't speak to other voters.</p> <p>15 Q Based on your conversations with other</p> <p>16 voters, what is the most common reason that you</p> <p>17 heard from voters about objecting to</p> <p>18 Proposition 50?</p> <p>19 A They felt that it was something that was</p> <p>20 being done unfairly against Republicans.</p> <p>21 Q And is it fair to say in your</p> <p>22 understanding, based on conversations that you</p> <p>23 personally had with other voters, that those who</p> <p>24 supported Proposition 50 did so because they</p> <p>25 wanted to help Democrats?</p>
<p>26</p> <p>1 feeling relieved, while state Republicans launch a</p> <p>2 lawsuit."</p> <p>3 Q What does it mean to you that Democrats</p> <p>4 felt relieved after the passage of Proposition 50?</p> <p>5 A I don't know what that means.</p> <p>6 Q Do you agree that the goal of</p> <p>7 Proposition 50 was to add Democratic seats to the</p> <p>8 Federal Congressional Legislature?</p> <p>9 ATTORNEY AULISI: Object to form.</p> <p>10 A Yes. Yes.</p> <p>11 Q Do you think that might be why -- I'm</p> <p>12 sorry, I had an audio issue. Let me restate the</p> <p>13 question.</p> <p>14 Do you believe that might be why Democrats</p> <p>15 felt relieved?</p> <p>16 A I have no way of knowing.</p> <p>17 ATTORNEY AULISI: Note my objection.</p> <p>18 Object to form.</p> <p>19 Q So let me ask, why did you feel compelled</p> <p>20 to post this post on November 6th?</p> <p>21 A Just to let the public know -- my</p> <p>22 followers, which are few, that a lawsuit had been</p> <p>23 filed.</p> <p>24 Q And in this post, does anything mention</p> <p>25 race?</p>	<p>28</p> <p>1 ATTORNEY AULISI: Object to form.</p> <p>2 A I would say yes.</p> <p>3 Q Do you believe you were personally harmed</p> <p>4 by Proposition 50?</p> <p>5 A I believe so.</p> <p>6 Q And how so?</p> <p>7 A I believe I've lost my -- my political</p> <p>8 voice and my -- you know, my political power by</p> <p>9 being gerrymandered by a racial discrimination.</p> <p>10 Q When you say "gerrymandered by a racial</p> <p>11 discrimination," can you explain what you mean?</p> <p>12 A I believe that -- from the beginning</p> <p>13 that if they were going to re-gerrymander -- if</p> <p>14 they were going to redraw new district lines, the</p> <p>15 only way they could do so was to use race.</p> <p>16 Because in my opinion, just a few short</p> <p>17 five years ago, the IRC drew maps. Everybody was</p> <p>18 hunky-dory with those maps. And just five years</p> <p>19 later, these maps could change that drastically?</p> <p>20 The only way I could see that they could --</p> <p>21 (Reporter clarification.)</p> <p>22 A I said that I felt from the beginning that</p> <p>23 the only way they were going to redraw these</p> <p>24 lines, they would have to use race because I know</p> <p>25 that the IRC, the Independent Redistricting</p>

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<p>29</p> <p>1 Commission, drew these maps five years ago as</p> <p>2 existing maps. They spent months doing this with</p> <p>3 a lot of input and a lot of public information.</p> <p>4 And if they followed the rules and the</p> <p>5 regulations, as they claimed they did, and they</p> <p>6 didn't use race and they had their maps drawn and</p> <p>7 everybody's fine with them, how in five years</p> <p>8 later, just a short five years, these maps, these</p> <p>9 lines, these districts can change so drastically?</p> <p>10 It's my belief that the only way they</p> <p>11 could do it was to use race because the IRC had</p> <p>12 exhausted everything else that they're supposed to</p> <p>13 use to draw maps. And all of a sudden they can</p> <p>14 make these changes? Well, then they used race to</p> <p>15 do so. I firmly believe that.</p> <p>16 Q When you say "the IRC had exhausted all</p> <p>17 the means," what are you referring to?</p> <p>18 A Well, the laws, the rules, the</p> <p>19 regulations, the public hearings, everything that</p> <p>20 the IRC uses to draw congressional maps every ten</p> <p>21 years.</p> <p>22 And like I said, they spent months doing</p> <p>23 it. They went through a lot to draw those maps.</p> <p>24 How could they change so much -- need to</p> <p>25 be changed so much in five years and how?</p>	<p>31</p> <p>1 Hispanics an advantage?"</p> <p>2 A More registered voters and districts where</p> <p>3 they wanted them to be.</p> <p>4 Q What goals specifically are you</p> <p>5 associating with Hispanics?</p> <p>6 A I don't understand that question.</p> <p>7 Q You said the map gives advantage to</p> <p>8 Hispanic voters. I'm trying to understand what</p> <p>9 you mean by that.</p> <p>10 What advantage do you believe that the map</p> <p>11 gives to Hispanic voters?</p> <p>12 A Voting as a larger bloc.</p> <p>13 Q In what ways specifically?</p> <p>14 That's my question.</p> <p>15 A In what way? I don't know how they vote,</p> <p>16 but I just know how they were -- how I feel they</p> <p>17 were being aligned to vote.</p> <p>18 Q Well, okay. We both work in elections and</p> <p>19 we both know that typically when you're voting,</p> <p>20 you're voting for something or you're voting</p> <p>21 against something.</p> <p>22 So my question is simply, what electoral</p> <p>23 advantage are you referring to with respect to</p> <p>24 Hispanic voters when you say that "the map gives</p> <p>25 an advantage to Hispanic voters"?</p>
<p>30</p> <p>1 Q The -- the IRC in your understanding is a</p> <p>2 nonpartisan body; is that correct?</p> <p>3 A That's correct.</p> <p>4 Q And in your understanding, Proposition 50</p> <p>5 was not a partisan -- or, sorry, strike that. Let</p> <p>6 me rephrase the question.</p> <p>7 In your understanding, was partisan [sic]</p> <p>8 50 a partisan effort?</p> <p>9 ATTORNEY AULISI: Object to form.</p> <p>10 A I say no.</p> <p>11 Q Was Proposition 50 a nonpartisan effort?</p> <p>12 A I'm not really sure what you're referring</p> <p>13 to. You have to explain that. What do you mean,</p> <p>14 nonpartisan effort or how it was -- how it was</p> <p>15 done? I don't know what is an effort or what</p> <p>16 is -- I'm not exactly understanding that.</p> <p>17 Q Let me ask you this: What is the</p> <p>18 difference between the map-drawing process from</p> <p>19 the IRC and what occurred in Proposition 50, in</p> <p>20 your understanding?</p> <p>21 ATTORNEY AULISI: Object to form.</p> <p>22 A My understanding is that lines were drawn</p> <p>23 or redrawn, wiggled around to give specifically</p> <p>24 Hispanics an advantage in multiple districts.</p> <p>25 Q Can you explain what you mean by "give</p>	<p>32</p> <p>1 ATTORNEY AULISI: Object to form.</p> <p>2 A I believe they vote as a bloc.</p> <p>3 Q I'm sorry, can you repeat that answer?</p> <p>4 I think --</p> <p>5 A I believe that the Hispanic voters vote as</p> <p>6 a bloc, which gives them a bigger power.</p> <p>7 Q What is that opinion based on?</p> <p>8 A It's my opinion.</p> <p>9 Q What is your opinion based upon?</p> <p>10 ATTORNEY AULISI: Object to form.</p> <p>11 A It's just my opinion. I don't know how</p> <p>12 else to answer that.</p> <p>13 Q You're not referring to any specific</p> <p>14 conversation or report or document that you may</p> <p>15 have -- be basing your opinion on?</p> <p>16 It's just your opinion?</p> <p>17 Understood. Thank you.</p> <p>18 A It was my opinion.</p> <p>19 (Reporter clarification.)</p> <p>20 ATTORNEY BISHOP: Okay. Can we please</p> <p>21 bring up what is labeled as ECF 1 and mark it as</p> <p>22 Costa Exhibit 6.</p> <p>23 THE EXHIBIT TECHNICIAN: Please stand by.</p> <p>24 (Costa Exhibit 6, marked for</p> <p>25 identification.)</p>

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<p>33</p> <p>1 BY ATTORNEY BISHOP:</p> <p>2 Q Mr. Costa, do you recognize this document?</p> <p>3 A Yes.</p> <p>4 Q And what is it?</p> <p>5 A It is our complaint, the cover page of our</p> <p>6 complaint.</p> <p>7 Q And did you review this document before it</p> <p>8 was filed?</p> <p>9 A Yes.</p> <p>10 ATTORNEY BISHOP: If we could move down to</p> <p>11 page 5.</p> <p>12 Q And I'd like to direct your attention to</p> <p>13 paragraph 15 on that page.</p> <p>14 ATTORNEY BISHOP: Oh, I'm sorry, page 5 at</p> <p>15 the bottom of the document, page 6 at the top.</p> <p>16 And then if we could zoom in for the witness, that</p> <p>17 would be great.</p> <p>18 Q Is paragraph 15 about you, Mr. Costa?</p> <p>19 A Yes.</p> <p>20 Q It says you're a registered voter in</p> <p>21 Congressional District 2022 -- or, sorry, 22; is</p> <p>22 that correct?</p> <p>23 A That is correct.</p> <p>24 Q And this is referring to the new</p> <p>25 Congressional District 22 as reflected in the</p>	<p>35</p> <p>1 prior to --</p> <p>2 Q How so? How -- I'm sorry, let me rephrase</p> <p>3 the question. I apologize.</p> <p>4 How do you believe that your voice is</p> <p>5 weakened under Proposition 50?</p> <p>6 A Because they changed the lines to include,</p> <p>7 by race, more Hispanics into my district.</p> <p>8 Q But you're unaware, before or after</p> <p>9 Proposition 50, what the racial or ethnic makeup</p> <p>10 of the district was, correct?</p> <p>11 A Not the actual numbers.</p> <p>12 Q Just a couple last wrap-up questions here</p> <p>13 and then I can hand over the witness.</p> <p>14 Do you understand that the defendants in</p> <p>15 this case have served discovery asking for certain</p> <p>16 documents in your possession that discuss</p> <p>17 Proposition 50?</p> <p>18 A Yes.</p> <p>19 Q And were you provided a copy of those</p> <p>20 requests?</p> <p>21 A Was I provided a copy of the requests? I</p> <p>22 assume I was. There's -- a lot of paperwork has</p> <p>23 been sent my way.</p> <p>24 Q And have you conducted any search for</p> <p>25 documents about Proposition 50?</p>
<p>34</p> <p>1 Proposition 50 map; is that also correct?</p> <p>2 A Yes.</p> <p>3 Q Do you recall what congressional district</p> <p>4 that you were in before Proposition 50?</p> <p>5 A 22.</p> <p>6 Q Are you familiar, roughly speaking, with</p> <p>7 the racial or ethnic makeup of District 22 prior</p> <p>8 to Proposition 50?</p> <p>9 A I am not.</p> <p>10 Q Okay. What about after?</p> <p>11 A I am not. I haven't seen the numbers.</p> <p>12 Q Okay. And the final sentence</p> <p>13 says, "Proposition 50 assigned you to a district</p> <p>14 drawn with race as the predominant factor, causing</p> <p>15 stigmatic and representational injury."</p> <p>16 Did I read that correctly?</p> <p>17 A Yes.</p> <p>18 Q What do you understand "stigmatic and</p> <p>19 representational injury" to mean to you?</p> <p>20 ATTORNEY AULISI: Object to form.</p> <p>21 A "Stigmatic" means that I was prejudiced</p> <p>22 against. A "representational injury" means that</p> <p>23 I've -- I am being hurt, my voice is being hurt</p> <p>24 representationally. My voice is being weakened.</p> <p>25 I don't have the power in my district that I would</p>	<p>36</p> <p>1 A Where?</p> <p>2 (Reporter clarification.)</p> <p>3 A Where did I search?</p> <p>4 Q That's my question to you.</p> <p>5 Have you conducted any search for</p> <p>6 documents about Proposition 50?</p> <p>7 A Yeah, yes, yes, in my email? Is that what</p> <p>8 you're referring to?</p> <p>9 Q I'm referring to any search for documents</p> <p>10 related to Proposition 50?</p> <p>11 A Yes.</p> <p>12 Q And what were those searches?</p> <p>13 ATTORNEY AULISI: Object to form.</p> <p>14 A Email.</p> <p>15 Q Does that mean you have not searched your</p> <p>16 text messages?</p> <p>17 A Oh, yes, I did, my texting as well, yes.</p> <p>18 Q What about social media?</p> <p>19 A No.</p> <p>20 Q And do you use multiple email addresses?</p> <p>21 A No.</p> <p>22 Q Okay. So you searched the one email that</p> <p>23 you used for documents related to Proposition 50?</p> <p>24 A Yes.</p> <p>25 Q Okay.</p>

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<p>37</p> <p>1 ATTORNEY BISHOP: All right, Mr. Costa, I</p> <p>2 appreciate you taking the time today. I've</p> <p>3 concluded my initial questions. I'm happy to pass</p> <p>4 the witness to others who have questions.</p> <p>5 I would reserve redirect questions if</p> <p>6 there are any on the other side, but otherwise I</p> <p>7 am -- I'm happy to pass along the witness.</p> <p>8 ATTORNEY RIVERA: I have a handful of</p> <p>9 questions. I'm happy to reserve them as well if</p> <p>10 someone else has a burning desire to go next.</p> <p>11 Okay. Then I'll proceed. Thank you all.</p> <p>12 EXAMINATION BY</p> <p>13 ATTORNEY RIVERA:</p> <p>14 Q Mr. Costa, first off, can you hear me</p> <p>15 okay?</p> <p>16 <b>A Yeah.</b></p> <p>17 Q Okay. Thank you, sir. Okay.</p> <p>18 So Mr. Bishop covered most of the ground</p> <p>19 that I was curious about. So I have just a</p> <p>20 handful of follow-ups and clarifications for you.</p> <p>21 First off, could you please --</p> <p>22 ATTORNEY RIVERA: -- to the tech, can you</p> <p>23 please pull back up Exhibit 6 and zoom in on that</p> <p>24 same page 5.</p> <p>25 THE EXHIBIT TECHNICIAN: Please stand by.</p>	<p>39</p> <p>1 <b>A No.</b></p> <p>2 Q Why was that role not included in the</p> <p>3 complaint?</p> <p>4 <b>A I don't think it was part of the</b></p> <p>5 <b>questionnaire.</b></p> <p>6 Q Okay. Thank you. Moving on a little bit,</p> <p>7 sir.</p> <p>8 ATTORNEY RIVERA: And you can take the</p> <p>9 exhibit down. Thank you.</p> <p>10 Q Okay. Mr. Costa, do you have any formal</p> <p>11 legal training or education?</p> <p>12 <b>A I do not.</b></p> <p>13 Q Okay. Do you have an understanding of the</p> <p>14 legal definitions of racial gerrymandering?</p> <p>15 <b>A Yeah.</b></p> <p>16 Q Okay. What is your understanding?</p> <p>17 <b>A Racial gerrymandering, in my opinion and</b></p> <p>18 <b>what I understand, is when race is being used to</b></p> <p>19 <b>draw district lines. And maps.</b></p> <p>20 Q And when you say "race is being used," do</p> <p>21 you mean race being used at all?</p> <p>22 <b>A Grabbing certain areas of a city, a county</b></p> <p>23 <b>or community and pulling them over to the side one</b></p> <p>24 <b>way or the other to fit the needs of numbers or</b></p> <p>25 <b>the map drawers are trying to achieve.</b></p>
<p>38</p> <p>1 ATTORNEY RIVERA: Thank you.</p> <p>2 Okay. Thank you.</p> <p>3 Q Mr. Costa, you said earlier that you are</p> <p>4 the chair of the Kings County Republican Party; is</p> <p>5 that correct?</p> <p>6 <b>A That is correct.</b></p> <p>7 Q Thank you. And how long have you held</p> <p>8 that position?</p> <p>9 <b>A I believe I'm going on ten years.</b></p> <p>10 Q As the chair?</p> <p>11 Is that correct, ten years as the chair?</p> <p>12 <b>A Did you ask me a question? I'm sorry.</b></p> <p>13 Q Yes, I'm sorry. I'll be more clear.</p> <p>14 You said that's ten years as chair of the</p> <p>15 county party?</p> <p>16 <b>A That's correct. Nine or ten years, yes.</b></p> <p>17 <b>Two full terms and -- yeah.</b></p> <p>18 Q Okay, thank you. And I'll direct your</p> <p>19 attention back to that paragraph 15 that mentions</p> <p>20 your name.</p> <p>21 Do you see that on the screen?</p> <p>22 <b>A Yes. Yes.</b></p> <p>23 Q Do you see anything in there about your</p> <p>24 role as the chair of the Kings County Republican</p> <p>25 Party?</p>	<p>40</p> <p>1 Q Okay. So my question's a little bit</p> <p>2 different. I'll try to clarify.</p> <p>3 To your understanding, you said that when</p> <p>4 you used race to draw these lines, but when you</p> <p>5 say "use race," do you mean that race is a factor?</p> <p>6 Just any factor at all?</p> <p>7 ATTORNEY HULSE: I'm going to object to</p> <p>8 the extent that this calls for a legal conclusion.</p> <p>9 Q You can answer, sir.</p> <p>10 <b>A Am I to answer that question?</b></p> <p>11 Q Yes, please.</p> <p>12 <b>A I do believe race, yes, was used.</b></p> <p>13 Q Okay. And, I'm sorry, just to -- I think</p> <p>14 I got -- lost my own question a little bit.</p> <p>15 But do you believe if race is used at all,</p> <p>16 that constitutes a racial gerrymander --</p> <p>17 ATTORNEY AULISI: Object.</p> <p>18 Q -- to your understanding?</p> <p>19 ATTORNEY AULISI: Apologies, I thought you</p> <p>20 were done.</p> <p>21 Object to form.</p> <p>22 <b>A I'm not sure. I'm not really sure of the</b></p> <p>23 <b>question.</b></p> <p>24 Q Okay. I can move on.</p> <p>25 You mentioned -- you were talking a little</p>

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<p>41</p> <p>1 bit earlier about the IRC.</p> <p>2 Just for the record, you're referring to</p> <p>3 the Independent Redistricting Commission; is that</p> <p>4 correct?</p> <p>5 <b>A That is correct.</b></p> <p>6 Q Okay. And to your understanding, you</p> <p>7 believe that the IRC did not consider race when</p> <p>8 they drew the prior congressional district maps;</p> <p>9 is that correct?</p> <p>10 <b>A That's what I assume, yes, or they're not</b></p> <p>11 <b>supposed to.</b></p> <p>12 Q Okay. And do you have an understanding of</p> <p>13 the formal criteria that the IRC uses when it</p> <p>14 draws the congressional maps?</p> <p>15 <b>A I don't know all of the details, no.</b></p> <p>16 Q Okay. All right.</p> <p>17 And a couple more questions about some of</p> <p>18 your earlier testimony regarding some of the</p> <p>19 Facebook posts.</p> <p>20 I believe you mentioned -- there was one</p> <p>21 of the posts that talked about the concern that</p> <p>22 Prop 50 would flip the Valley from red to blue.</p> <p>23 Do you recall that post?</p> <p>24 <b>A Yeah, vaguely, yeah.</b></p> <p>25 Q Okay. And you recall your testimony about</p>	<p>43</p> <p>1 Q And had you voted for him in the prior</p> <p>2 election in 2022 as well?</p> <p>3 <b>A Correct.</b></p> <p>4 Q Okay. Given your position, sir, is it</p> <p>5 fair to say that you always vote for the</p> <p>6 Republican candidate over the Democrat on the</p> <p>7 ballot?</p> <p>8 <b>A Yes.</b></p> <p>9 Q Okay. Thank you.</p> <p>10 So are you more concerned now that</p> <p>11 Proposition has -- I'm sorry, let me start over.</p> <p>12 Now that Proposition 50 has passed, are</p> <p>13 you more concerned now that the Valley will flip</p> <p>14 from red to blue?</p> <p>15 <b>A Yes.</b></p> <p>16 Q Okay. Thank you.</p> <p>17 And I'm almost done?</p> <p>18 You also said that you believe Hispanic</p> <p>19 voters vote as a bloc.</p> <p>20 Do I have that right?</p> <p>21 <b>A Yes.</b></p> <p>22 Q Okay. And you testified earlier that you</p> <p>23 believe that Prop 50 intentionally used race</p> <p>24 specifically for Hispanics to kind of concentrate</p> <p>25 their voice in your district; is that right? Or a</p>
<p>42</p> <p>1 that post you're talking about today, correct?</p> <p>2 <b>A Yes.</b></p> <p>3 Q Okay. And I believe you said you were</p> <p>4 always concerned that the Valley could flip from</p> <p>5 red to blue.</p> <p>6 Is that your correct testimony?</p> <p>7 <b>A Yes.</b></p> <p>8 Q Okay. And just for the record, by "flip</p> <p>9 from red to blue," you mean elected Democrat to</p> <p>10 represent the congressional district instead of</p> <p>11 Republican?</p> <p>12 <b>A Yes.</b></p> <p>13 Q Okay. And is your current representative</p> <p>14 in your district Congressman David Valadao?</p> <p>15 <b>A Yes.</b></p> <p>16 Q And Mr. Valadao is Republican; is that</p> <p>17 correct?</p> <p>18 <b>A Correct.</b></p> <p>19 Q And apologies if this is a rude question</p> <p>20 in normal conversation, but did you vote for</p> <p>21 Mr. Valadao?</p> <p>22 <b>A Yes.</b></p> <p>23 Q And you voted for him in the 2024</p> <p>24 congressional election, correct?</p> <p>25 <b>A Correct.</b></p>	<p>44</p> <p>1 fair summary?</p> <p>2 <b>A That could change it, yes.</b></p> <p>3 Q Okay. And you believe that that, I guess,</p> <p>4 has weakened your political voice.</p> <p>5 Do I have that right?</p> <p>6 <b>A Yes.</b></p> <p>7 Q Okay. Do you believe that's weakened your</p> <p>8 political voice because Hispanic voters do not</p> <p>9 vote for Republicans?</p> <p>10 Is that your belief?</p> <p>11 <b>A Oh, they do.</b></p> <p>12 Q Okay.</p> <p>13 <b>A Hispanics vote however they want.</b></p> <p>14 Q Okay. So would you agree that if</p> <p>15 Hispanic -- if more Hispanic voters voted</p> <p>16 Republican, would that weaken your voice in your</p> <p>17 district?</p> <p>18 <b>A Rephrase that, please.</b></p> <p>19 Q Sure. Do you believe that if more</p> <p>20 Hispanic voters were to vote Republican, do you</p> <p>21 believe that would weaken your political voice in</p> <p>22 your district?</p> <p>23 <b>A No.</b></p> <p>24 Q Okay. If more Hispanic voters voted for</p> <p>25 Democrats, do you believe that would weaken your</p>

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<p>45</p> <p>1 voice in your district?</p> <p>2 <b>A Yes.</b></p> <p>3 Q Okay.</p> <p>4 ATTORNEY RIVERA: That's all I have.</p> <p>5 Thank you, sir.</p> <p>6 ATTORNEY UYEHARA: The State does not have</p> <p>7 any further questions.</p> <p>8 ATTORNEY AULISI: No, no questions from</p> <p>9 plaintiffs.</p> <p>10 ATTORNEY BISHOP: None from DCCC.</p> <p>11 I think that means we're all set here.</p> <p>12 (Time Noted: 2:02 P.M.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>47</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC</p> <p>2 I, ANITA M. TROMBETTA, RMR, CRR, and Certified</p> <p>3 California Shorthand Reporter, the officer before</p> <p>4 whom the foregoing deposition was taken, do hereby</p> <p>5 certify that the foregoing transcript is a true</p> <p>6 and correct record of the testimony given; that</p> <p>7 said testimony was taken by me stenographically</p> <p>8 and thereafter reduced to typewriting under my</p> <p>9 direction; that reading and signing was requested</p> <p>10 [or not requested, as appropriate]; and that I am</p> <p>11 neither counsel for, related to, nor employed by</p> <p>12 any of the parties to this case and have no</p> <p>13 interest, financial or otherwise, in its outcome.</p> <p>14 IN WITNESS WHEREOF, I have hereunto set my</p> <p>15 hand and affixed my notarial seal this 13th day of</p> <p>16 December, 2025.</p> <p>17 My commission expires: 03.21.2027</p> <p>18</p> <p>19 </p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>46</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, VERNON COSTA, do hereby acknowledge</p> <p>3 that I have read and examined the foregoing</p> <p>4 testimony and the same is a true, correct, and</p> <p>5 complete transcription of the testimony given by</p> <p>6 me and any corrections appear on the attached</p> <p>7 errata sheet signed by me.</p> <p>8</p> <p>9 _____</p> <p>10 (SIGNATURE) (DATE)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

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Transcript of Vernon Costa  
Conducted on December 11, 2025

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## **Exhibit 437**



IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

--oOo--

DAVID TANGIPA, et al.,

Plaintiffs,

and

Case No.

2:25-cv-10616-JLS-WLH-KKL

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

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

Defendants,

and

DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE, et al.,  
Defendant-Intervenors.

\_\_\_\_\_ /

DEPOSITION OF SEAN TRENDE, Ph.D.

VERITEXT VIRTUAL

FRIDAY, DECEMBER 12, 2025

Reported by:

Anrae Wimberley, CSR No. 7778

Job No. 7780504

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE CENTRAL DISTRICT OF CALIFORNIA 3 WESTERN DIVISION 4 --oOo-- 5 DAVID TANGIPA, et al., 6 Plaintiffs, 7 and Case No. 8 2:25-cv-10616-JLS-WLH-KKL 9 UNITED STATES OF AMERICA, 10 Plaintiff-Intervenor, 11 vs. 12 GAVIN NEWSOM, in his official 13 capacity as the Governor of 14 California, et al., 15 Defendants, 16 and 17 DEMOCRATIC CONGRESSIONAL 18 CAMPAIGN COMMITTEE, et al., 19 Defendant-Intervenor. 20 _____/ 21 22 Transcript of deposition of SEAN TRENDE, 23 Ph.D., taken via Veritext Virtual Zoom 24 videoconference, beginning at 9:14 a.m. PST and 25 ending at 4:30 p.m. on FRIDAY, DECEMBER 12, 2025, before Anrae Wimberley, Certified Shorthand Reporter No. 7778.</p> <p style="text-align: right;">Page 2</p>	<p>1 For Defendants California Secretary of State Shirley 2 Weber and Governor Gavin Newsom: 3 CALIFORNIA DEPARTMENT OF JUSTICE 4 ATTORNEY GENERAL 5 BY: IRAM HASAN, DEPUTY ATTORNEY GENERAL 6 RYAN EASON, DEPUTY ATTORNEY GENERAL 7 DAVID GREEN, DEPUTY ATTORNEY GENERAL 8 455 Golden Gate Avenue, Suite 11000 9 San Francisco, California 94102 10 (415) 510-3793 11 iram.hasan@doj.ca.gov 12 ryan.eason@doj.ca.gov 13 14 For Defendant-Intervenor Democratic Congressional 15 Campaign Committee: 16 ELIAS LAW GROUP 17 BY: LALITHA MADDURI, ESQ. 18 CHRISTOPHER DODGE, ESQ. 19 250 Massachusetts Avenue NW, Suite 400 20 Washington, D.C. 20001 21 (202) 968-4490 22 lmadduri@elias.law 23 cdodge@elias.law 24 25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES: 2 For Plaintiffs: 3 DHILLON LAW GROUP, INC. 4 BY: MARK MEUSER, ESQ. 5 177 Post Street, Suite 700 6 San Francisco, California 94108 7 (415) 433-1700 8 mmeuser@dhillonlaw.com 9 10 For Plaintiff-Intervenor the United States of 11 America: 12 UNITED STATES DEPARTMENT OF JUSTICE 13 BY: JOSH ZUCKERMAN, ESQ. 14 950 Pennsylvania Avenue 15 Washington, D.C. 20530 16 (202) 679-4564 17 josh.zuckerman@usdoj.gov 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 3</p>	<p>1 For Defendant-Intervenor League of United Latin 2 American Citizens: 3 ARNOLD &amp; PORTER KAYE SCHOLER LLP 4 BY: JOHN FREEDMAN, ESQ. 5 601 Massachusetts Avenue NW 6 Washington, D.C. 20001 7 (202) 942-5000 8 john.freedman@arnoldporter.com 9 10 Also present: 11 CHINYERE WOODS, VERITEXT CONCIERGE 12 VERITEXT LEGAL SOLUTIONS 13 --oOo-- 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 5</p>

<p>1 I N D E X</p> <p>2 EXAMINATION BY: PAGE</p> <p>3 MS. MADDURI 10</p> <p>4 MR. FREEDMAN 189</p> <p>5 MR. EASON 212</p> <p>6 MS. HASAN 225</p> <p>7 --oOo--</p> <p>8</p> <p>9 E X H I B I T S</p> <p>10 EXHIBIT DESCRIPTION PAGE</p> <p>11 Exhibit 1 Declaration of Sean Trende 54</p> <p>12 in Support of Plaintiffs'</p> <p>13 Motion for a Preliminary</p> <p>14 Injunction, not Bates</p> <p>15 stamped; 42 pages</p> <p>16 Exhibit 2 Blown-up version of Figure 99</p> <p>17 11 from Dr. Trende's</p> <p>18 report, not Bates stamped;</p> <p>19 1 page</p> <p>20 Exhibit 3 Blown-up version of Figure 108</p> <p>21 17 from Dr. Trende's</p> <p>22 report, not Bates stamped;</p> <p>23 1 page</p> <p>24 Exhibit 4 Expert Report of Sean P. 116</p> <p>25 Trende, PhD, filed on</p> <p>12/11/25, not Bates</p> <p>stamped; 45 pages</p> <p>Exhibit 5 Hispanas Organized for 119</p> <p>Political Equality (HOPE)</p> <p>Presentation on Zoom dated</p> <p>10/17/25, not Bates</p> <p>stamped; 94 pages</p> <p>Page 6</p>			<p>1 E X H I B I T S (Cont'd)</p> <p>2 EXHIBIT DESCRIPTION PAGE</p> <p>3 Exhibit 15 Ex. C - Maptitude 208</p> <p>4 Population Summary Trende</p> <p>5 C, Bates labeled FAIRFAX</p> <p>6 00571 through FAIRFAX</p> <p>7 00573; 3 pages</p> <p>8 Exhibit 16 Ex. D - Maptitude 209</p> <p>9 Contiguity Report Trende A,</p> <p>10 Bates labeled FAIRFAX 00241</p> <p>11 through FAIRFAX 00242; 2</p> <p>12 pages</p> <p>13 Exhibit 17 Ex. E - Maptitude 209</p> <p>14 Contiguity Report Trende B,</p> <p>15 Bates labeled FAIRFAX 00415</p> <p>16 through FAIRFAX 00416; 2</p> <p>17 pages</p> <p>18 Exhibit 18 Ex. F - Maptitude 210</p> <p>19 Contiguity Report Trende C,</p> <p>20 Bates labeled FAIRFAX 00590</p> <p>21 through FAIRFAX 00591; 2</p> <p>22 pages</p> <p>23 --oOo--</p> <p>24 REPORTER'S NOTE: All quotations from exhibits are</p> <p>25 reflected in the manner in which they were read into</p> <p>the record and do not necessarily indicate an exact</p> <p>quote from the document.</p> <p>--oOo--</p> <p>Page 8</p>		
<p>1 E X H I B I T S (Cont'd)</p> <p>2 EXHIBIT DESCRIPTION PAGE</p> <p>3 Exhibit 6 Figure 1: District 13 in 165</p> <p>4 the 2021 Map and AB 604,</p> <p>5 not Bates stamped; 1 page</p> <p>6 Exhibit 7 Figure 1: District 13 in 168</p> <p>7 the 2021 Map and AB 604,</p> <p>8 not Bates stamped; 1 page</p> <p>9 Exhibit 8 Declaration of Sean P. 168</p> <p>10 Trende in the Sanchez case,</p> <p>11 not Bates stamped; 16 pages</p> <p>12 Exhibit 9 Supplemental Expert Reply 175</p> <p>13 of Sean P. Trende, Ph.D,</p> <p>14 not Bates stamped; 60 pages</p> <p>15 Exhibit 10 Expert Report of Sean P. 180</p> <p>16 Trende in the Alexander</p> <p>17 case, not Bates stamped; 37</p> <p>18 pages</p> <p>19 Exhibit 11 Rebuttal Report of Sean P. 185</p> <p>20 Trende from the South</p> <p>21 Carolina case, not Bates</p> <p>22 stamped; 13 pages</p> <p>23 Exhibit 12 E-mail dated December 10, 204</p> <p>24 2025, Bates labeled</p> <p>25 Trende_001092 through</p> <p>Trende_001093; 2 pages</p> <p>Exhibit 13 Ex. A - Maptitude 206</p> <p>Population Summary Trende</p> <p>A, Bates labeled FAIRFAX</p> <p>00223 through FAIRFAX</p> <p>00225; 3 pages</p> <p>Exhibit 14 Ex. B - Maptitude 207</p> <p>Population Summary Trende</p> <p>B, Bates labeled FAIRFAX</p> <p>00406 through FAIRFAX</p> <p>00408; 3 pages</p> <p>Page 7</p>			<p>1 FRIDAY, DECEMBER 12, 2025;</p> <p>2 DEPOSITION VIA ZOOM;</p> <p>3 9:14 A.M. PST</p> <p>4 - - -</p> <p>5 THE REPORTER: Okay. We are on the record on 09:14:19</p> <p>6 December 12th at 9:14 a.m. My name is Anrae</p> <p>7 Wimberley, CSR No. 7778. And I will now swear in</p> <p>8 the witness.</p> <p>9 (Witness sworn.)</p> <p>10 THE REPORTER: And counsel can identify 09:14:53</p> <p>11 themselves, beginning with the noticing attorney.</p> <p>12 MS. HASAN: Iram Hasan for State defendants,</p> <p>13 Governor Gavin Newsom and Secretary of State Shirley</p> <p>14 Weber.</p> <p>15 MS. MADDURI: Lali Madduri from Elias Law Group 09:15:12</p> <p>16 on behalf of the Democratic Congressional Campaign</p> <p>17 Committee, also referred to as DCCC,</p> <p>18 intervenor-defendant.</p> <p>19 MR. FREEDMAN: John Freedman from</p> <p>20 Arnold &amp; Porter for intervenor-defendant LULAC. 09:15:28</p> <p>21 MR. MEUSER: Mark Meuser here on behalf of the</p> <p>22 plaintiff.</p> <p>23 MR. EASON: Ryan Eason on behalf of State</p> <p>24 defendants, California Governor Gavin Newsom and</p> <p>25 California Secretary of State Shirley Weber. 09:15:46</p> <p>Page 9</p>		

1 MR. GREEN: David Green, also on behalf of 09:15:48	1 the question, I will assume that you understood it. 09:17:50
2 defendants.	2 Is that fair?
3 THE REPORTER: Which defendants?	3 A. Yes.
4 MR. GREEN: Sorry, State defendants.	4 Q. And if you'd like a break, just let me
5 THE REPORTER: Thank you. 09:15:57	5 know and we can take one at any time. If a question 09:17:58
6 And Josh Zuckerman has audio issues, and	6 is pending, I'll just ask that you answer that
7 he said he was with the U.S. DOJ.	7 question before we break.
8 Okay. Thank you. You may begin, Lali --	8 Does that work?
9 Ms. Madduri.	9 A. Yes.
10 SEAN TRENDE, Ph.D., 09:16:09	10 Q. Is there any reason you can't give your 09:18:09
11 sworn in remotely as a witness by the Certified	11 complete and truthful testimony today?
12 Shorthand Reporter, testified as follows:	12 A. No.
13 MS. MADDURI: Thank you.	13 Q. Do you have any questions about the ground
14 EXAMINATION	14 rules for deposition or can we proceed?
15 BY MS. MADDURI: 09:16:15	15 A. We can proceed. 09:18:18
16 Q. Good morning, Dr. Trende.	16 Q. What did you do to prepare for today's
17 A. Morning.	17 deposition?
18 Q. Can you please state your full name for	18 A. There wasn't a whole lot of time. So I
19 the record?	19 looked over the reports, but they were pretty fresh
20 A. Yeah. It's Sean Patrick Trende. 09:16:24	20 in my mind, and talked for maybe 10 minutes with 09:18:35
21 Q. Where do you live?	21 counsel.
22 A. Columbus, Ohio; Delaware County, Ohio.	22 Q. Anything else?
23 Q. Have you been deposed before?	23 A. I don't believe so.
24 A. Yes.	24 Q. Okay. So you said you looked over
25 Q. When was your last deposition? 09:16:38	25 reports. Which reports are you talking about? 09:18:48
Page 10	Page 12
1 A. It's actually been a while, maybe in the 09:16:47	1 A. The reports in this matter. 09:18:51
2 DeSoto County case.	2 Q. That includes your two reports?
3 Oh, no, it would be in the Texas -- I	3 A. My two reports, Fairfax, Rodden and
4 think they -- no. I can't remember if they got my	4 Grofman.
5 deposition in the Texas redistricting case or not. 09:17:02	5 Q. Any other reports that you reviewed? 09:19:03
6 Q. Would you have been deposed this year?	6 A. No.
7 A. Yeah. The DeSoto County deposition would	7 Q. Any other written materials that you
8 have been in July. And if they did it for the Texas	8 reviewed?
9 PI hearing, it would have been in, I guess,	9 A. No.
10 September. But I thought we just -- or not 09:17:18	10 Q. Did you speak to anybody about today's 09:19:12
11 September, October.	11 deposition other than counsel?
12 Oh, I was deposed for the Utah	12 A. My wife.
13 redistricting case, so that would be the most	13 Q. Anyone other than counsel or your wife?
14 recent.	14 A. No.
15 Q. Roughly how many times have you had your 09:17:28	15 Q. Okay. What is your understanding of what 09:19:24
16 deposition taken?	16 this case is about?
17 A. Twenty to 30.	17 A. I don't know that I know every detail of
18 Q. Okay. And have you done a remote	18 this case, but at least the portion I looked at was
19 deposition before?	19 whether District 13 is a racial gerrymander.
20 A. Yes. 09:17:35	20 Q. Had you -- actually, when did you first 09:19:47
21 Q. Okay. Given your experience, I'm not	21 learn about this case?
22 going to repeat all of the ground rules of the	22 A. I mean, that's a good question.
23 deposition, but just a couple of them.	23 I think I was first contacted about
24 If you don't understand a question I ask,	24 California and given a sense that a case like this
25 please let me know and I'll rephrase. If you answer 09:17:47	25 might be brought shortly before -- it would have 09:20:07
Page 11	Page 13

<p>1 been in August, I think, shortly before one of the 09:20:11</p> <p>2 cases that went to the California Supreme Court was</p> <p>3 filed.</p> <p>4 I think this case in particular got</p> <p>5 going -- or I learned about -- I don't know when it 09:20:22</p> <p>6 got going -- I learned about the particulars of the</p> <p>7 case probably sometime in September.</p> <p>8 Q. And how did you first learn about these</p> <p>9 cases in August?</p> <p>10 A. A call with counsel. 09:20:38</p> <p>11 Q. Call with counsel in this case?</p> <p>12 A. Yes.</p> <p>13 To save some time, whenever I refer to</p> <p>14 counsel without some type of modifier, it'll be</p> <p>15 counsel in this case. 09:20:56</p> <p>16 Q. Okay. And then counsel contacted you</p> <p>17 again in September?</p> <p>18 A. Yes.</p> <p>19 Q. And so the conversation about -- in</p> <p>20 August, was it your understanding that that's about 09:21:08</p> <p>21 this case or you mentioned some cases that had been</p> <p>22 filed with the California Supreme Court?</p> <p>23 A. I don't know how much -- I'm trying to</p> <p>24 answer this question without crossing a line into</p> <p>25 conversations with attorneys. 09:21:26</p> <p style="text-align: right;">Page 14</p>	<p>1 A. So he wants to have a sense of how the 09:23:12</p> <p>2 redistricting stuff is playing out, states that are</p> <p>3 going to redistrict. And so just like as in Texas</p> <p>4 and Missouri the redistricting occurred, but it was</p> <p>5 subject to court -- court challenges. I would have 09:23:27</p> <p>6 noted that here as well.</p> <p>7 Q. Now, roughly, how many times did you</p> <p>8 discuss the redistricting in California with your</p> <p>9 boss?</p> <p>10 A. I couldn't tell you. He calls me out of 09:23:51</p> <p>11 the blue.</p> <p>12 Q. Would you estimate more than five times?</p> <p>13 A. I couldn't give an answer on that.</p> <p>14 Q. In those conversations, did you say</p> <p>15 anything about how you thought the redistricting 09:24:07</p> <p>16 cases would play out?</p> <p>17 A. No.</p> <p>18 Q. Other than your boss or your wife, have</p> <p>19 you spoken with anybody else about this case?</p> <p>20 A. We did a podcast last week -- last week on 09:24:35</p> <p>21 gerrymandering, but I don't think we went into the</p> <p>22 details of this case. I'm pretty sure we didn't.</p> <p>23 Q. Okay. Anyone else you've discussed the</p> <p>24 case with?</p> <p>25 A. Not that I can think of. 09:24:52</p> <p style="text-align: right;">Page 16</p>
<p>1 I would say that conversation -- or at 09:21:28</p> <p>2 least the substance of it. But that conversation</p> <p>3 would have involved at least some level of idea</p> <p>4 about this case.</p> <p>5 Q. Okay. And then in September, was that 09:21:42</p> <p>6 more specifically about this case?</p> <p>7 A. Yes.</p> <p>8 Q. And between August and now, how much time</p> <p>9 would you say you've spent working on this case?</p> <p>10 A. I'd have to look at my invoice. 09:22:10</p> <p>11 Q. Have you followed this case in the news at</p> <p>12 all?</p> <p>13 A. Some, yeah.</p> <p>14 Q. What about Prop. 50 and the campaign</p> <p>15 around Prop. 50 in general? 09:22:28</p> <p>16 A. Yes.</p> <p>17 Q. Have you spoken with anyone about this</p> <p>18 case other than counsel?</p> <p>19 A. Certainly my boss. Not the particulars or</p> <p>20 details of the case but the fact that it's out there 09:22:54</p> <p>21 because we're interested in redistricting but</p> <p>22 nothing that would have -- that would have been in</p> <p>23 phone conversations.</p> <p>24 Q. What was the substance of those phone</p> <p>25 conversations? 09:23:10</p> <p style="text-align: right;">Page 15</p>	<p>1 Q. Okay. What about Prop. 50 and the 09:24:53</p> <p>2 redistricting in California more generally, have you</p> <p>3 discussed that with anyone besides counsel?</p> <p>4 A. I mean, that would have been part of the</p> <p>5 conversations with my boss about how the state of -- 09:25:05</p> <p>6 how this redistricting stuff is playing out.</p> <p>7 Q. Okay. And when you say "how the state of</p> <p>8 this redistricting stuff is playing out," what do</p> <p>9 you mean?</p> <p>10 A. Well, again, if we're going to be writing 09:25:21</p> <p>11 about House races or interpreting them or speaking</p> <p>12 on them, this redistricting stuff has implications</p> <p>13 for it. And so certainly whether California's able</p> <p>14 to redistrict or not has political implications that</p> <p>15 you would want to be aware of. 09:25:48</p> <p>16 Q. Okay. Other than your boss, the podcast,</p> <p>17 counsel and your wife, have you talked about</p> <p>18 redistricting in California more generally with</p> <p>19 anyone else?</p> <p>20 And I'm saying "talked," but I should 09:26:03</p> <p>21 really say "communicated with."</p> <p>22 A. No, I gotcha on that.</p> <p>23 I can't think of specifics right now.</p> <p>24 Q. Okay. So sitting here today, you can't</p> <p>25 remember speaking with anyone else other than the 09:26:21</p> <p style="text-align: right;">Page 17</p>

<p>1 people that we just discussed about redistricting in 09:26:23</p> <p>2 California?</p> <p>3 A. Not that I can think of.</p> <p>4 Q. Okay. Did anyone help you write your</p> <p>5 reports in this case? 09:26:41</p> <p>6 A. I got comments from counsel.</p> <p>7 Q. Anyone other than counsel?</p> <p>8 A. No.</p> <p>9 Q. What materials did counsel provide you</p> <p>10 with for your work in this matter? 09:26:55</p> <p>11 A. I believe we turned them over in the</p> <p>12 production today.</p> <p>13 Q. Unfortunately I only got that production</p> <p>14 about 10 minutes before this started, so I haven't</p> <p>15 been able to review it. 09:27:12</p> <p>16 Can you tell me what materials counsel</p> <p>17 provided you with?</p> <p>18 A. Off the top of my head, there was a</p> <p>19 transcript of a podcast that Paul Mitchell had</p> <p>20 given. There were a couple of documents from HOPE. 09:27:25</p> <p>21 And then I think those are the main ones.</p> <p>22 Q. Is there anything else that you can think</p> <p>23 of that counsel provided you with for your work in</p> <p>24 this case?</p> <p>25 A. No. It would be whatever's in the 09:27:43</p> <p style="text-align: right;">Page 18</p>	<p>1 racial and ethnic data? 09:29:32</p> <p>2 A. Right.</p> <p>3 Q. Is there anything other than population</p> <p>4 data or election data that you're referring to here?</p> <p>5 A. No. 09:29:41</p> <p>6 Q. Were there any documents, data or</p> <p>7 information that you were told not to consider?</p> <p>8 A. No.</p> <p>9 Q. Have you read any of the deposition</p> <p>10 transcripts in this case? 09:30:05</p> <p>11 A. No.</p> <p>12 Q. Have you read any pleadings filed in this</p> <p>13 case?</p> <p>14 A. I don't think so.</p> <p>15 Q. Other than the reports that you mentioned 09:30:19</p> <p>16 at the beginning, are there any other documents</p> <p>17 associated with the litigation that you've read?</p> <p>18 A. I don't know if something that I read</p> <p>19 inadvertently has become important to this</p> <p>20 litigation, but I haven't been through any of the 09:30:37</p> <p>21 document productions in this case or anything like</p> <p>22 that.</p> <p>23 Q. Okay. And what was your task in the case?</p> <p>24 A. To look at the newly drawn districts to</p> <p>25 determine if there were instances where partisan -- 09:31:01</p> <p style="text-align: right;">Page 20</p>
<p>1 production. 09:27:46</p> <p>2 Q. Did you ask for any documents or data that</p> <p>3 you didn't receive?</p> <p>4 A. I think there was discussion about trying</p> <p>5 to get better data from California for use in R, but 09:28:07</p> <p>6 it was just very difficult to come up with. And so</p> <p>7 that's why I ended up using the Dave's Redistricting</p> <p>8 data.</p> <p>9 Q. What kind of better data would you have</p> <p>10 wanted? 09:28:30</p> <p>11 A. Well, the precinct-level data is hard to</p> <p>12 come by because California's precincts' relationship</p> <p>13 to census geographies is imprecise, so trying to get</p> <p>14 a handle on that.</p> <p>15 Someone isn't muted. I don't know who 09:28:53</p> <p>16 that was.</p> <p>17 But, yeah, that was the idea. It was</p> <p>18 trying to get a good set of -- I mean, even</p> <p>19 block-level data doesn't necessarily help you</p> <p>20 because that doesn't always line up precisely with, 09:29:14</p> <p>21 like, precinct lines.</p> <p>22 Q. And when you're saying "data," are you</p> <p>23 referring to election data?</p> <p>24 A. Election and population data.</p> <p>25 Q. And population data, would that include 09:29:29</p> <p style="text-align: right;">Page 19</p>	<p>1 where it looked like partisan goals were 09:31:09</p> <p>2 subordinated to racial goals; and if there were, to</p> <p>3 identify the strongest example.</p> <p>4 Q. Okay. So you were asked to evaluate the</p> <p>5 entire Prop. 50 map? 09:31:23</p> <p>6 A. Well, the entire Prop. 50 map was in play,</p> <p>7 but I doubt, for example, that I looked at</p> <p>8 District 1 very carefully, if at all.</p> <p>9 Q. How did you decide where to focus when you</p> <p>10 were reviewing the Prop. 50 map? 09:31:41</p> <p>11 A. Well, if you're looking to see if race</p> <p>12 predominated over politics, it doesn't make sense to</p> <p>13 do it in a place like -- I guess it would be</p> <p>14 District 2 now that goes from Modoc to Marin because</p> <p>15 there just aren't that many minorities in there to 09:32:03</p> <p>16 make that type of case and it's almost entirely of</p> <p>17 whole counties. So L.A., San Diego, Central Valley</p> <p>18 were where I focused my inquiry.</p> <p>19 Q. Okay. You focused your inquiry on L.A.,</p> <p>20 San Diego and the Central Valley. 09:32:24</p> <p>21 What about any other regions other than</p> <p>22 those three?</p> <p>23 A. I think that's where I focused. I can't</p> <p>24 say that I didn't in passing look at other districts</p> <p>25 or boundaries, but that's where I really looked. 09:32:33</p> <p style="text-align: right;">Page 21</p>



<p>1 Q. And how did you decide only to provide 09:32:40 2 opinions about CD 13? 3 A. I thought it was, especially in the 4 Stockton area, a pretty clear example. 5 Q. Okay. And in your report you don't 09:32:52 6 identify any other clear examples of racial 7 predominance; correct? 8 A. I was asked to find the strongest. 9 Q. So you were asked to only opine on one 10 district? 09:33:05 11 A. Yes. 12 Q. How did you decide to choose only CD 13? 13 A. I don't remember the exact process. I 14 just know that that's the one that I thought was the 15 clearest. I thought what happened in Stockton was 09:33:27 16 pretty open and shut, so . . . 17 Q. Okay. So it's fair to say that in your 18 assessment you thought that CD 13 was the best 19 example of racial predominance that you saw in the 20 map? 09:33:46 21 A. Yes. 22 Q. Okay. And you're not offering any 23 opinions that race predominated in the drawing of 24 any district other than CD 13; correct? 25 A. Correct. 09:34:10</p> <p style="text-align: right;">Page 22</p>	<p>1 Q. Was it part of your task to necessarily 09:36:34 2 find an example to focus on? 3 A. No. 4 Q. And talking about CD 13 a little bit, are 5 you offering any opinions about whether race 09:36:57 6 predominated in the drawing of that district other 7 than the two areas that you focus on in your report 8 where it shares a border with CD 5 and CD 9? 9 A. I think those are the portions of the 10 boundary where race is clearly subordinate -- or 09:37:16 11 politics is clearly subordinated to race, so that's 12 the main focus. 13 Q. Okay. And you're not offering an opinion 14 that any other area of CD 13 appears to have 15 subordinated politics to race; correct? 09:37:34 16 A. Well, Dr. Rodden offers that interesting 17 example that the portion that was taken out of the 18 district has almost the exact same HCVAP as the 19 portion that was brought into the district, so I 20 guess it's more than that now. 09:37:51 21 The relevance of that is doubtless not 22 lost upon Mr. Freedman. 23 Q. Okay. And you're not offering any 24 opinions about the 2021 commission map; correct? 25 A. Correct. 09:38:17</p> <p style="text-align: right;">Page 24</p>
<p>1 THE REPORTER: Doctor, could you take that 09:34:14 2 microphone and bring it down closer to you mouth. 3 Thank you. Sorry to interrupt. 4 THE WITNESS: And I'm kind of looking off, so 5 I'll try to be careful about that. 09:34:52 6 BY MS. MADDURI: 7 Q. What is your understanding of why you were 8 only asked to look at one district? 9 A. Well, I certainly can't represent all the 10 reasons counsel would have had in mind. 09:35:08 11 From my point of view, it made sense, A, 12 because of time constraints and, B, because 13 sometimes I think people bring blunderbuss 14 complaints and it weakens the credibility of the 15 stronger claims. 09:35:34 16 But that's just my understanding. Or at 17 least why I found that it was a reasonable request. 18 Q. Were you told to assume you should focus 19 on CD 13 or did you select that yourself? 20 A. Well, it was identified as the strongest 09:36:06 21 example by me, so . . . 22 I don't know exactly how to answer that 23 question because the overall directive was the 24 strongest example, if there was one. And I'm the 25 one who decided the strongest example. 09:36:27</p> <p style="text-align: right;">Page 23</p>	<p>1 Q. And you didn't do any racial predominance 09:38:22 2 analysis of that map? 3 A. Yeah, that's right. 4 Q. Did you do any analysis of the 2021 5 commission map? 09:38:35 6 A. When? 7 Q. In connection with this case. 8 A. No. 9 Q. Did you do it any other time? 10 A. Yes. 09:38:47 11 Q. What were those instances? 12 A. It would be related to potential 13 litigation, not involving this matter. And so I 14 don't know what the privilege status of any 15 conversation down that road would be since the 09:39:12 16 litigation was not brought. 17 Q. Okay. Do you have any opinions about 18 whether race predominated in the 2021 commission 19 map? 20 A. I recall believing that race predominated 09:39:38 21 in the drawing of the 2021 map, at least as far as 22 the inquiry got. 23 Q. Okay. So sounds like that was a 24 preliminary inquiry, then? 25 A. Yes. 09:39:54</p> <p style="text-align: right;">Page 25</p>

<p>1 Q. You didn't complete any analysis on the 09:39:58 2 2021 map?</p> <p>3 A. I think it was far enough that I thought 4 it made a colorful claim. It wasn't fleshed out 5 with the level of detail you would want for an 09:40:20 6 expert report.</p> <p>7 I don't know if that answers your 8 question, but that's the best way I can think of to 9 answer that.</p> <p>10 Q. Did you review Dr. Palmer's report in this 09:40:37 11 case?</p> <p>12 A. No.</p> <p>13 Q. Okay. So you're not offering any analysis 14 or opinions of that report?</p> <p>15 A. Except to the extent that if he -- my 09:40:46 16 understanding was that he didn't respond to me, but 17 if there are arguments or claims that some of the 18 other experts made that he also made, then I guess I 19 would have made a response to incorporate by 20 reference. 09:41:03</p> <p>21 Q. For your task in this case, did you review 22 the Prop. 50 map to determine its partisan 23 implications outside of CD 13 and CD 9?</p> <p>24 A. Well, yeah.</p> <p>25 Q. How so? 09:41:28</p> <p style="text-align: right;">Page 26</p>	<p>1 Q. When you were doing your elections 09:42:54 2 analysis of the Prop. 50 map, I think you said you 3 thought about how the partisan implications changed 4 from the prior map to this map.</p> <p>5 Is that fair? 09:43:06</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And how would you characterize the 8 change between the commission map and the Prop. 50 9 map?</p> <p>10 A. Actually, I thought it depended on what 09:43:18 11 type of year it was. I thought that in a good 12 Republican year, the map's actually kind of a 13 dummymander and that a lot of those districts could 14 flip Republican.</p> <p>15 Q. Can you explain what a dummymander is? 09:43:36</p> <p>16 A. So it -- that's a term that actually does 17 appear in peer-reviewed literature. I believe that 18 Dr. Grofman, possibly with Dr. Brunell, wrote the 19 article on that.</p> <p>20 But it's a gerrymander that's drawn that 09:43:53 21 falls apart. Georgia's map in 2002 was supposed to 22 be an 8-5 Republican -- or 8-5 Democratic map and 23 ended up doing the opposite of that because 2002 was 24 a good Republican year and the Democratic 25 candidates, one of them was arrested, which is a bad 09:44:16</p> <p style="text-align: right;">Page 28</p>
<p>1 A. Well, again, it's part of the -- as my job 09:41:31 2 as an elections analyst, you want to know how these 3 districts are likely to flesh out.</p> <p>4 Q. And did you do that analysis for purposes 5 of this case? 09:41:48</p> <p>6 A. No.</p> <p>7 Q. Okay. And as your -- in your role as an 8 elections analyst, what kind of analysis have you 9 done about the partisan implications of the Prop. 50 10 map? 09:42:05</p> <p>11 A. I've looked at the -- well, the 12 partisanship of the districts, how they change from 13 the base district. You know, Dr. Grofman and I both 14 have that Cook political chart that, you know, 15 describes how the districts would change. 09:42:23</p> <p>16 Q. Okay. Beyond the Cook Political Report 17 information, what other analysis have you done 18 regarding the partisan implications of the Prop. 50 19 map?</p> <p>20 A. Well, like I said, I would have looked on 09:42:37 21 my own at the political data.</p> <p>22 Q. And what did you do in looking at that 23 data?</p> <p>24 A. I don't know that I understand that 25 question. 09:42:51</p> <p style="text-align: right;">Page 27</p>	<p>1 fact. 09:44:20</p> <p>2 So that's a dummymander, something that's 3 intended to perform one way but spreads the 4 partisans too thin and performs a different way.</p> <p>5 Q. Do you have any opinions about how many 09:44:32 6 districts you believe might be a dummymander in the 7 Prop. 50 map?</p> <p>8 A. I think there are like 16 that Newsom 9 lost. I don't think all of them would really 10 potentially be in play in a good Republican year. 09:44:48</p> <p>11 But, you know, even Districts 13 and 49 aren't off 12 the table for Republicans by any stretch. You know, 13 District 13 is still a toss-up.</p> <p>14 So those are a couple. But I would have 15 to look at the -- I would have to have that piece of 09:45:08 16 paper in front of me about what the actual 17 performance of these districts was.</p> <p>18 Q. Do you agree that overall the Prop. 50 map 19 substantially improved Democratic performance as 20 compared to the commission map? 09:45:26</p> <p>21 A. Well, since you will probably go to war on 22 my adjectives and adverbs at some point, I'll 23 preempt that by saying I don't know exactly what 24 "substantially" is, but I think there are districts 25 that were Republican that will be very, very 09:45:44</p> <p style="text-align: right;">Page 29</p>

<p>1 difficult for Republicans to maintain. 09:45:48</p> <p>2 Q. So fair to say that --</p> <p>3 A. Even in a good GOP year.</p> <p>4 Q. So fair to say that the Prop. 50 map</p> <p>5 improved Democratic performance as compared to the 09:45:55</p> <p>6 commission map?</p> <p>7 A. In a good Democratic year, I think that's</p> <p>8 true. Like I said, I think it has the potential in</p> <p>9 a bad Democratic year, possibly in a neutral year,</p> <p>10 to actually make things worse. 09:46:09</p> <p>11 Q. When you say "make things worse," do you</p> <p>12 mean as compared to the commission map?</p> <p>13 A. Correct. And I mean for Democrats.</p> <p>14 Q. You would agree that the Prop. 50 map</p> <p>15 improved Democratic performance in District 9; 09:46:26</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And also in District 13?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have an opinion on how much the 09:46:44</p> <p>21 Democratic performance improved in either of those</p> <p>22 districts?</p> <p>23 A. Well, District 9 was pretty substantial.</p> <p>24 Again, looking at Cook Political, I think it went</p> <p>25 from leans Democrat to solid Democrat, and I would 09:47:02</p> <p style="text-align: right;">Page 30</p>	<p>1 A. Rancho Cordova. 09:48:48</p> <p>2 Q. Do you know what district that's in?</p> <p>3 A. I actually don't know the new map well</p> <p>4 enough to know which district it's in, but it's a</p> <p>5 suburb of Sacramento. 09:49:03</p> <p>6 Q. Okay. It's fair to say, though, that you</p> <p>7 have drawn several statewide congressional or</p> <p>8 legislative maps; right? In a professional</p> <p>9 capacity, we can say.</p> <p>10 A. I'll say yes. 09:49:25</p> <p>11 Q. You're familiar with the term "traditional</p> <p>12 redistricting principles"?</p> <p>13 A. Yes.</p> <p>14 Q. Can you give me some examples of what</p> <p>15 those are? 09:49:36</p> <p>16 A. Compactness, contiguity, equal population</p> <p>17 obviously, although some would dispute whether</p> <p>18 that's really a traditional redistricting principle</p> <p>19 or just something that's recently been incorporated.</p> <p>20 Some are in dispute, like communities of interest or 09:49:55</p> <p>21 protection of incumbents. So there's some examples.</p> <p>22 Q. And I guess maybe to take a step back, how</p> <p>23 do you define the term "traditional redistricting</p> <p>24 principle"? What do you understand that to mean?</p> <p>25 A. That's just it is that there isn't 09:50:13</p> <p style="text-align: right;">Page 32</p>
<p>1 agree with that assessment. 09:47:05</p> <p>2 District 13 improved a few points in the</p> <p>3 Democrats' direction, which is helpful, especially</p> <p>4 in an area where races have been close in the past.</p> <p>5 But as far as -- you know, I think 09:47:21</p> <p>6 District 9 had a foundational shift from a district</p> <p>7 that's in play to one that is maybe in play in a</p> <p>8 2010 environment but probably not there.</p> <p>9 District 13 remains one that I think is</p> <p>10 going to be hard fought no matter what. 09:47:40</p> <p>11 Q. Have you ever drawn electoral maps for</p> <p>12 California?</p> <p>13 A. Professionally, no.</p> <p>14 Q. Have you drawn them in any other capacity?</p> <p>15 A. I'm sure I've done them for fun. 09:48:06</p> <p>16 Q. So you've never drawn a statewide map for</p> <p>17 California in any professional capacity?</p> <p>18 A. That's right.</p> <p>19 Q. Have you ever lived in California?</p> <p>20 A. Yes. 09:48:29</p> <p>21 Q. When was that?</p> <p>22 A. When I was a kid.</p> <p>23 Q. For roughly how long?</p> <p>24 A. Three years.</p> <p>25 Q. And where did you live? 09:48:45</p> <p style="text-align: right;">Page 31</p>	<p>1 necessarily an agreed-upon set of principles. I 09:50:16</p> <p>2 think most people would agree compactness,</p> <p>3 contiguity, you know, that that's in the bucket.</p> <p>4 Respect for county boundaries is in the bucket of a</p> <p>5 traditional redistricting principle. 09:50:35</p> <p>6 But then there's other things that they</p> <p>7 fight over or disagree about, like communities of</p> <p>8 interest or protection of incumbents.</p> <p>9 Q. Do you -- what about for you, like, what</p> <p>10 do you think are traditional redistricting 09:50:52</p> <p>11 principles? Or what do you use in your work when</p> <p>12 you're drawing a map to guide your map drawing from</p> <p>13 the perspective of traditional redistricting</p> <p>14 criteria?</p> <p>15 A. Well, it really depends. You know, I 09:51:05</p> <p>16 guess you can think of, like, a common-law set of</p> <p>17 redistricting principles, like what's the default</p> <p>18 set. And that's what I was describing before about</p> <p>19 some are agreed upon and some are disputed.</p> <p>20 But usually when you're drawing in a state 09:51:22</p> <p>21 there's a set list of considerations to take into</p> <p>22 account.</p> <p>23 Q. Do you know what California considers to</p> <p>24 be traditional redistricting criteria?</p> <p>25 A. Well, that's an interesting question 09:51:42</p> <p style="text-align: right;">Page 33</p>

1 because there's certainly a list in the constitution 09:51:44	1 ones that everyone agrees on, you know. If you were 09:54:56
2 for a normal redistricting process to respect.	2 drawing in Minnesota and said you were using the
3 But I also know -- or my understanding at	3 Mississippi River as a boundary, I don't think many
4 least is that the Prop. 50 process was made to be	4 people would look askance at that.
5 sort of an exception to the rule and you return to 09:52:03	5 But at a certain point it can really 09:55:12
6 the normal process in 2031.	6 become an ad hoc exercise that can justify just
7 Q. Okay. So I think you mentioned	7 about anything. Like, here, I'm following this
8 compactness, contiguity, equal population and	8 county road, you know, or this creek.
9 preservation of county boundaries as kind of the	9 Q. What about other sort of dividing lines,
10 agreed-upon set or a common-law set, I think you 09:52:27	10 like freeways or major throughfares? 09:55:27
11 said.	11 A. Yeah, again, that's something -- we talked
12 Was there anything else in that list?	12 about freeways, and then you say, well, what about
13 A. Not off the top of my head as I sit here.	13 major throughfares? And it can really devolve into,
14 Q. Is it fair to say that map drawers often	14 well, there's this county road that a lot of people
15 use other objective criteria to draw maps? 09:52:43	15 use. 09:55:45
16 A. Well, embedded in that is -- well, I guess	16 Then there's the question of whether it
17 you didn't list it here. I mean, I think map	17 really make sense to use that as a boundary or as
18 drawers sometimes will use other objective criteria.	18 something you would try to keep intact.
19 I think some of the criteria are -- I think you have	19 So, like, if you were drawing here in
20 some that are pretty objective that have a weaker 09:53:02	20 Delaware County, you would probably want to keep 09:55:56
21 claim at traditional redistricting principle,	21 both sides of U.S. 23 in Delaware County together,
22 depending on the state, and I think some have a	22 because if you use 23 as the divider, you're going
23 strong claim but aren't very objective.	23 to be splitting kind of a cohesive community right
24 Q. What are some of the factors that fall	24 down the middle.
25 into your first bucket? 09:53:18	25 Q. Okay. Is it fair to say that sometimes 09:56:14
Page 34	Page 36
1 A. Well, I don't know that compactness is 09:53:20	1 freeways divide communities? 09:56:18
2 particularly objective. We have the scores, Reock	2 A. Yes.
3 and Polsby-Popper and convex hull.	3 Q. And do freeways sometimes serve as a
4 But what the cutoffs mean -- and I think I	4 dividing line between communities?
5 give some examples of how kind of things we wouldn't 09:53:39	5 A. They can, yeah. 09:56:28
6 necessarily think of as bad effects or	6 Q. And what about incumbency considerations,
7 characteristics of plans might distort the scores.	7 where do you put that?
8 You know, what a lot of times it comes	8 A. I mean, that's a tough one. It really
9 down to is an eyeball test. Like, I don't really	9 depends.
10 care how well District 2 -- I think that's the one 09:53:59	10 I think that tends to be more if you're 09:56:44
11 that stretches from Modoc to Marin County -- I	11 told to use it, some people will use it. But
12 don't -- however it scores on a Polsby-Popper test,	12 whether it's a kind of traditional redistricting
13 it's not a particularly compact district, so . . .	13 principle, I'm less certain about that.
14 Q. Let's go to some other criteria. Can you	14 Q. What about core retention or the idea of
15 tell me if you would agree that these are criteria 09:54:19	15 preserving former districts? 09:57:04
16 that map drawers use in your experience?	16 A. I think that can be a -- that can
17 So what about following municipality	17 certainly be a legitimate principle if it's followed
18 boundaries?	18 consistently.
19 A. I don't know about following the	19 Q. And in your view -- you've touched on
20 boundaries but keeping municipalities intact, I 09:54:34	20 this, but where would you put communities of 09:57:23
21 think, sure.	21 interest?
22 Q. What about using natural boundaries to	22 A. Now, that's another one that I think
23 divide districts, things like rivers or other	23 people understand what you're getting at with
24 naturally occurring things?	24 community of interest. But because they are almost
25 A. Yeah, so that I think there can be major 09:54:51	25 inherently amorphous, they can be used to justify 09:57:42
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<p>1 just about anything. 09:57:46</p> <p>2 I was in a -- the case that I provided a</p> <p>3 report about where I was in Michigan, there was a</p> <p>4 redistricting commissioner caught on tape saying --</p> <p>5 I can't remember -- this is pretty close to the 09:58:03</p> <p>6 exact quote: So what I hear you saying is we can't</p> <p>7 talk about drawing Black people together but we can</p> <p>8 talk about the communities that they're in and talk</p> <p>9 about that when we really mean Black people. And</p> <p>10 then the next thing is laughter. So it really has a 09:58:20</p> <p>11 potential for abuse.</p> <p>12 At the same time, if you were drawing in</p> <p>13 New York and you told me you wanted to keep Harlem</p> <p>14 together, even though there's a racial aspect to</p> <p>15 that, I think you would have a hard time denying 09:58:38</p> <p>16 that, you know, Harlem is a traditional community.</p> <p>17 Q. Do you think improving partisan</p> <p>18 performance for the majority party is a traditional</p> <p>19 redistricting principle?</p> <p>20 A. I think that is sort of like incumbency, 09:58:57</p> <p>21 it's something that sometimes you're told to do.</p> <p>22 But I think the traditional redistricting principles</p> <p>23 are things -- there's kind of embedded in it a sense</p> <p>24 that these are good things that you would want a map</p> <p>25 to conform to. 09:59:17</p> <p style="text-align: right;">Page 38</p>	<p>1 they are still balancing other criteria at the same 10:00:38</p> <p>2 time?</p> <p>3 A. They can be, yeah.</p> <p>4 (Whereupon, Christopher Dodge, Esq. joined</p> <p>5 the proceedings.) 10:00:44</p> <p>6 BY MS. MADDURI:</p> <p>7 Q. Do you agree that while drawing a map,</p> <p>8 adhering to one redistricting criteria often comes</p> <p>9 into conflict with adhering to others?</p> <p>10 (Reporter seeks clarification.) 10:00:57</p> <p>11 Q. Do you agree that while drawing a map,</p> <p>12 adhering to one redistricting criteria often comes</p> <p>13 into conflict with adhering to others?</p> <p>14 A. Yes.</p> <p>15 Q. In other words, there's trade-offs between 10:01:10</p> <p>16 redistricting criteria that are inevitable; is that</p> <p>17 fair?</p> <p>18 A. Well, again, I don't know about inevitable</p> <p>19 because I don't think there were any trade-offs made</p> <p>20 in Illinois or in Maryland the first time around, 10:01:23</p> <p>21 but yes.</p> <p>22 Q. Were there noncontiguous districts in</p> <p>23 Illinois the first time around?</p> <p>24 A. Fair enough, fair enough. Contiguity and</p> <p>25 equal population are non-negotiables. 10:01:34</p> <p style="text-align: right;">Page 40</p>
<p>1 And I think most people who do this stuff 09:59:19</p> <p>2 don't think partisanship is what maps should be</p> <p>3 drawn with respect to, so . . .</p> <p>4 Even that's tricky because I think some</p> <p>5 people think you should draw with respect to 09:59:35</p> <p>6 partisanship if it helps even out the map but not to</p> <p>7 try to give partisan advantage.</p> <p>8 So I don't know if that's a traditional</p> <p>9 redistricting principle, but it's certainly</p> <p>10 something that in America people draw with respect 09:59:46</p> <p>11 to all the time.</p> <p>12 Q. Do you agree that while drawing a map a</p> <p>13 map drawer is taking into consideration several</p> <p>14 different factors?</p> <p>15 A. Yes. 09:59:58</p> <p>16 Q. And even when attempting to improve</p> <p>17 partisan performance, a map drawer is still</p> <p>18 balancing other criteria at the same time?</p> <p>19 A. I don't know about that. I don't know if</p> <p>20 you've seen the Illinois map or the Maryland map 10:00:14</p> <p>21 from the first go-round but it's perfectly possible</p> <p>22 to draw and pass a map that doesn't really pay</p> <p>23 attention to much of anything except for politics.</p> <p>24 Q. Do you agree that at times when a map</p> <p>25 drawer is drawing to improve partisan performance 10:00:34</p> <p style="text-align: right;">Page 39</p>	<p>1 Q. Is it fair to say that prioritizing one 10:01:39</p> <p>2 consideration may come at the expense of another</p> <p>3 one?</p> <p>4 A. Yes.</p> <p>5 Q. And is it fair to say that when you're 10:01:48</p> <p>6 attempting to balance a host of considerations that</p> <p>7 no one consideration may perform at its maximal</p> <p>8 potential level?</p> <p>9 A. It's possible.</p> <p>10 Q. Is it fair to say that map drawers, in 10:02:07</p> <p>11 your opinion, can achieve a statewide partisan</p> <p>12 gerrymander by improving partisan performance across</p> <p>13 the map even if they don't maximize it?</p> <p>14 A. It doesn't need to be a maximal partisan</p> <p>15 gerrymander to still be a gerrymander, in my view. 10:02:26</p> <p>16 There are people that disagree with that, but yes.</p> <p>17 Q. And sort of a same question on a district</p> <p>18 level, is it fair to say that a district can still</p> <p>19 be partisan gerrymandered even if the partisanship</p> <p>20 isn't maximized in that district? 10:02:42</p> <p>21 A. Yes.</p> <p>22 Q. Do you agree that one way to draw a</p> <p>23 partisan gerrymander is to efficiently distribute</p> <p>24 that party's voters across districts?</p> <p>25 A. That's right. I mean, so in the case of 10:02:55</p> <p style="text-align: right;">Page 41</p>

1 Districts 9 and 13, if they were more equal, it 10:02:59	1 referring to a visual assessment? 10:06:15
2 would be a more efficient partisan gerrymander than	2 A. Yes.
3 what we have.	3 Q. Are there any other aspects of examining
4 Q. So is it fair to say that a partisan	4 maps that you're referring to there?
5 gerrymander might appear, when you're looking at a 10:03:12	5 A. I mean, you can look at the -- especially 10:06:26
6 map, as splitting a particularly Democratic area	6 if you're looking to see if, you know, the map maker
7 into multiple districts?	7 could have done as well with a more -- without
8 A. Yeah, if -- I mean, that is one way to do	8 examining race, could have done well with respect to
9 it if the rest of the data is consistent with that,	9 other considerations.
10 sure. 10:03:35	10 There are the compactness scores, 10:06:51
11 Q. Okay. Shifting to racial predominance.	11 although, as I say, there are limitations that you
12 What is your definition of racial	12 need to be aware of.
13 predominance as you use it in your report?	13 And then you look at other considerations.
14 A. Well, I have what I understand to be the	14 Do you have to -- assuming the map maker even cared
15 Supreme Court definition of it, which is, you know, 10:03:49	15 about this, you have to not split a bunch of 10:07:07
16 the subversion of traditional redistricting	16 jurisdictions to do it and so forth.
17 principles to racial goals.	17 Q. Okay. So when looking at that, how does
18 What makes this unique is what we've kind	18 the consideration of whether a bunch of
19 of been dancing around so far, which is the partisan	19 jurisdictions are split play in?
20 aspect of the draw. 10:04:11	20 A. Well, so this is the idea. And, again, I 10:07:27
21 And what Supreme Court, to my	21 think this has to be something the map maker
22 understanding, has said is that you need to	22 legitimately cared about, that there's some evidence
23 disentangle race from politics to determine that	23 of this.
24 race was more of the motivator than politics was.	24 But if the map maker is drawing a map
25 Q. Okay. So when you are concluding that 10:04:27	25 without any splits whatsoever of municipalities or 10:07:43
Page 42	Page 44
1 race predominated in the drawing of the lines of 10:04:30	1 census-designated places and the only way that you 10:07:48
2 CD 13, what exactly does that mean to you?	2 can achieve the political outcome in a different
3 A. Well, it means to me that there's choices	3 configuration is by splitting say 50 municipalities,
4 that the map maker made that don't really make sense	4 well, that's going to end up being a problem.
5 with any explanation other than race. 10:04:48	5 But that's conditioned on some type of 10:08:07
6 Q. Okay. And what's your methodology for	6 evidence that the map maker really cared about
7 determining whether race predominated in the drawing	7 keeping municipalities together.
8 of a district?	8 Q. And what kind of evidence would you be
9 A. Well, there's a couple things. The court	9 looking for to determine whether a map maker cared
10 has -- as I understand it in a case I was involved 10:05:10	10 about something like splitting municipalities? 10:08:21
11 with -- has kind of said, well, one thing you need	11 A. Testimony.
12 to do is to give an alternate map showing it would	12 Q. Anything other than direct testimony?
13 be possible to have obtained the particular outcome	13 A. If it were a directive in the law and not
14 with politics without the racial aspects with a more	14 a map that was brought together under a suspension
15 regularized district. 10:05:35	15 of law. 10:08:37
16 So that's part of it. And part of it is	16 Q. Is there any other evidence that would
17 just looking for, you know, what I understand to be	17 indicate to you that a map maker considered
18 the charge to look for -- see if there's tentacles	18 something like not splitting municipalities?
19 or appendages and see if those appendages are better	19 A. Whenever you draw a district, you're going
20 explained by race rather than politics. 10:05:51	20 to tend to keep municipalities together. So I don't 10:08:51
21 Examining maps has been a methodology at	21 know -- you can say something like, you know,
22 least since Dr. Rodden did it, I believe, in	22 97 percent of municipalities are kept together or
23 Bethune-Hill. So that's certainly part of the	23 whatever because that's just naturally going to
24 analysis.	24 happen.
25 Q. When you say "examining maps," are you 10:06:12	25 I guess if there -- it would have to be 10:09:08
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<p>1 case by case on some other stuff if there were kind 10:09:10</p> <p>2 of circumstantial evidence of it.</p> <p>3 Q. Is one form of circumstantial evidence the</p> <p>4 number of municipalities that are split?</p> <p>5 A. No. I think I just said you're going to 10:09:24</p> <p>6 tend to keep municipalities together, especially</p> <p>7 smaller ones, no matter what you do. So I don't</p> <p>8 know that that really proves anything necessarily.</p> <p>9 Q. Is there any other kind of evidence that</p> <p>10 would indicate to you what a map drawer was -- like, 10:09:52</p> <p>11 if a map drawer was prioritizing something like</p> <p>12 municipalities other than direct testimony if it was</p> <p>13 in the law and some forms of circumstantial</p> <p>14 evidence?</p> <p>15 A. Not as I sit here. 10:10:12</p> <p>16 Q. Okay. And so when determining if race</p> <p>17 predominated in the drawing of a district, I think</p> <p>18 you've mentioned looking at alternative maps,</p> <p>19 examining tentacles and appendages.</p> <p>20 And is there anything else? 10:10:34</p> <p>21 A. Those are really the best ways to do it, I</p> <p>22 think.</p> <p>23 There are two other things that have been</p> <p>24 suggested. The first is the boundary analysis,</p> <p>25 which I have pretty consistently disliked and don't 10:10:56</p> <p style="text-align: right;">Page 46</p>	<p>1 simulations tend to want to draw compact districts. 10:12:14</p> <p>2 And so I'm not sure I could make a simulation,</p> <p>3 extend the neck up into Stockton. It's just not</p> <p>4 going to want to do that.</p> <p>5 And so if you know that you couldn't get 10:12:29</p> <p>6 the enacted map drawn or produced by the simulation</p> <p>7 simply because it's not going to -- it's just not</p> <p>8 going to draw it because of its nature, I think I</p> <p>9 probably would have gotten the result that said it</p> <p>10 was a racial gerrymander, but I don't think it would 10:12:53</p> <p>11 have been particularly fair.</p> <p>12 Q. It's possible to program simulations with</p> <p>13 specific compactness scores; correct?</p> <p>14 A. To a degree.</p> <p>15 Q. What do you mean? 10:13:20</p> <p>16 A. Well, there's a compactness parameter that</p> <p>17 you can set. You can't say, I want Reock scores of</p> <p>18 .43 or greater, to my understanding. There's a</p> <p>19 parameter that you can tune to make it more or less</p> <p>20 compact. 10:13:40</p> <p>21 The problem is, first, that you can have a</p> <p>22 mixed district, right, a district that is compact in</p> <p>23 some places but then sends out tendrils to achieve a</p> <p>24 racial target, for example. And it's not very good</p> <p>25 at doing that. 10:14:01</p> <p style="text-align: right;">Page 48</p>
<p>1 think is a very good way to do it. There's all 10:11:02</p> <p>2 kinds of problems with it.</p> <p>3 The other way is simulations, but</p> <p>4 simulations are pretty good for testing a map with</p> <p>5 well-defined principles, again, to see if it is a 10:11:16</p> <p>6 gerrymander. It's less good for distinguishing</p> <p>7 between gerrymanders.</p> <p>8 Q. And when you say "distinguishing between</p> <p>9 gerrymanders" you mean, for example, distinguishing</p> <p>10 between a partisan gerrymander and a racial 10:11:33</p> <p>11 gerrymander?</p> <p>12 (Reporter seeks clarification.)</p> <p>13 MS. MADDURI: Yeah, sorry. I can just try to</p> <p>14 say the question again.</p> <p>15 BY MS. MADDURI: 10:11:43</p> <p>16 Q. When you say "distinguishing between</p> <p>17 gerrymanders," are you referring to distinguishing</p> <p>18 between a partisan gerrymander and a racial</p> <p>19 gerrymander?</p> <p>20 A. Right. I don't think there -- there could 10:11:57</p> <p>21 be situations where they're good for that type of</p> <p>22 analysis. Again, if there is a strong, clearly</p> <p>23 worded state constitutional preference for compact</p> <p>24 districts.</p> <p>25 I mean, the main problem is that these 10:12:13</p> <p style="text-align: right;">Page 47</p>	<p>1 But even so the simulations still -- 10:14:02</p> <p>2 because of how spanning trees work -- still don't</p> <p>3 want to draw these noncompact meandering districts.</p> <p>4 And so even lowering the compactness parameter to</p> <p>5 the point where the simulations break often won't 10:14:16</p> <p>6 change it that much.</p> <p>7 Q. Have you used simulations to evaluate</p> <p>8 whether something is a racial gerrymander in other</p> <p>9 cases?</p> <p>10 A. Yeah, so the main one where I've done it 10:14:28</p> <p>11 as a plaintiff, it's the expert report I turned over</p> <p>12 to you all was in the Michigan case.</p> <p>13 And in that case the Michigan state</p> <p>14 constitution had straightforward language about</p> <p>15 respecting county boundaries, about drawing compact 10:14:43</p> <p>16 districts and so forth. And so there wasn't really</p> <p>17 a problem with the tendency to draw compact</p> <p>18 districts.</p> <p>19 Q. I think I understand.</p> <p>20 So are you -- is it fair to say that you 10:14:58</p> <p>21 didn't do simulations here, in part, at least,</p> <p>22 because the parameters set out in the California</p> <p>23 constitution, in your opinion, were suspended for</p> <p>24 the purpose of drawing the Prop. 50 map?</p> <p>25 A. Well, that's part of it, and part of it 10:15:14</p> <p style="text-align: right;">Page 49</p>

<p>1 is, like I said, I think I probably would have 10:15:16</p> <p>2 gotten a result saying it's racial gerrymandering.</p> <p>3 You would have gotten something more akin to the</p> <p>4 demonstration maps because it's going to want to go</p> <p>5 into Tracy and places like that. 10:15:31</p> <p>6 I just didn't think it would be a very</p> <p>7 honest take because I don't think it would even be</p> <p>8 plausible that I could get it to go up through</p> <p>9 Stockton.</p> <p>10 That's the other thing, is if you set a 10:15:44</p> <p>11 municipality parameter, it's going to try to keep</p> <p>12 Stockton intact. I don't think there's any way to</p> <p>13 get it to kind of chop through Stockton and go to</p> <p>14 the municipalities on the other side.</p> <p>15 Q. Okay. And just to be clear, you didn't do 10:15:58</p> <p>16 any stimulation analysis on the Prop. 50 map; right?</p> <p>17 A. No, I didn't. Like I said, I didn't think</p> <p>18 it would be an honest analysis.</p> <p>19 Q. You also mentioned boundary analysis.</p> <p>20 Can you explain what that is? 10:16:13</p> <p>21 A. Yeah. That's the analysis where you look</p> <p>22 at the racial composition or the political</p> <p>23 composition of precincts on opposing sides of a</p> <p>24 boundary and compare them.</p> <p>25 Q. And I think you said that you don't like 10:16:32</p> <p style="text-align: right;">Page 50</p>	<p>1 instances where boundary follows a county line and 10:17:46</p> <p>2 the county line has -- or city line has racial or</p> <p>3 political implications to it. So I just don't think</p> <p>4 it's a very good methodology.</p> <p>5 Q. Can you talk a little bit more about the 10:18:02</p> <p>6 contiguity issue you're identifying?</p> <p>7 A. Yeah, it's really hard to do without paper</p> <p>8 and pencil and I won't do that.</p> <p>9 But you can imagine kind of a boundary</p> <p>10 going through, and let's say within the boundary you 10:18:19</p> <p>11 have Precinct A that has some type of racial</p> <p>12 composition or political composition. And on the</p> <p>13 other side you have Precinct B. And the question is</p> <p>14 why is Precinct A included and not Precinct B?</p> <p>15 Well, part of the answer can be and often 10:18:39</p> <p>16 is that it's not possible, at least in a -- you</p> <p>17 can't control that way because if you flipped it, if</p> <p>18 you put Precinct B in the district and took</p> <p>19 Precinct A out, you would have a noncontiguous</p> <p>20 district. 10:18:57</p> <p>21 Now, there might be ways to fix it,</p> <p>22 reconfiguring the district, you know, to make it</p> <p>23 that that precinct would not be noncontiguous, but</p> <p>24 at that point you're not doing a controlled inquiry</p> <p>25 anymore. 10:19:11</p> <p style="text-align: right;">Page 52</p>
<p>1 that analysis or you disfavor it or something to 10:16:34</p> <p>2 that effect; is that right?</p> <p>3 A. Right.</p> <p>4 Q. Why is that?</p> <p>5 A. Because at least in, like, a formal 10:16:42</p> <p>6 numerical term -- there's two problems with it.</p> <p>7 The first is you're kind of hypothesizing</p> <p>8 options for the map drawer that might have not even</p> <p>9 been available because the kind of idea is you're</p> <p>10 saying, okay, why did the map drawer include the 10:16:58</p> <p>11 precinct that was on this side of the boundary and</p> <p>12 not on the other side?</p> <p>13 Well, the truth of the matter is there --</p> <p>14 it might be impossible not to because if you</p> <p>15 included the precinct or block or whatever on the 10:17:13</p> <p>16 other side of the boundary but not on the inside of</p> <p>17 the boundary, you would have rendered the district</p> <p>18 noncontinuous. In other words, you had to use the</p> <p>19 block inside the boundary to get to the block that's</p> <p>20 outside of the boundary. So I think that's a 10:17:30</p> <p>21 conceptual problem with that analysis.</p> <p>22 The other thing is that there usually</p> <p>23 aren't controls in place. So there can be an</p> <p>24 instance -- if you're just kind of lumping it all</p> <p>25 together into an overall take, there can be 10:17:44</p> <p style="text-align: right;">Page 51</p>	<p>1 Q. Okay. But it's fair to say that you 10:19:11</p> <p>2 could -- in your hypothetical, you could include</p> <p>3 both A and B or just A; is that fair? Without --</p> <p>4 A. Right.</p> <p>5 Q. -- creating the continuity problem that 10:19:23</p> <p>6 you're talking about?</p> <p>7 A. Right, but that's not the inquiry. The</p> <p>8 inquiry is why A and not B.</p> <p>9 That's the way the hypothesis is set up in</p> <p>10 those inquiries is why do you have these, you know, 10:19:35</p> <p>11 high Hispanic precincts on this side and not have</p> <p>12 them on the other side and is a very kind of</p> <p>13 foundational pragmatic reason I've given so much</p> <p>14 testimony against that approach, that this would be</p> <p>15 like a 10-minute deposition if I did it here because 10:19:55</p> <p>16 you would just cite the areas where I had</p> <p>17 discredited or attacked it and I'd be done. Which</p> <p>18 might not be a bad thing, but . . .</p> <p>19 Q. Okay. Shifting gears a little bit.</p> <p>20 In your view, if a district is majority 10:20:19</p> <p>21 minority, does it mean that race predominated in the</p> <p>22 drawing of that district?</p> <p>23 A. No.</p> <p>24 Q. Is it possible to create a majority</p> <p>25 minority district without using race as the 10:20:31</p> <p style="text-align: right;">Page 53</p>

<p>1 predominant consideration? 10:20:35</p> <p>2 A. Yes.</p> <p>3 Q. Is it possible to create a majority</p> <p>4 minority district without using race at all?</p> <p>5 A. Yes. 10:20:43</p> <p>6 Q. Let's turn to your report now, which is --</p> <p>7 oh, actually, I think we've probably been going for</p> <p>8 an hour and I just want to be mindful of both you</p> <p>9 and the court reporter if we want to take a break</p> <p>10 before we kind of shift gears here. 10:21:09</p> <p>11 A. That's fine with me. You know, I prefer</p> <p>12 just to do one break. Because with my son I might</p> <p>13 have to, like, hop out to keep him from destroying</p> <p>14 something, but -- so let's get as much done, but I</p> <p>15 think taking like a 10-minute break here might be 10:21:30</p> <p>16 good, especially for the court reporter.</p> <p>17 MS. MADDURI: Okay. That sounds good.</p> <p>18 (Recess taken.)</p> <p>19 MS. MADDURI: Okay. Let's turn to your report</p> <p>20 now. So that is what I pre-marked as Tab 1 and 10:36:02</p> <p>21 we'll mark it as Exhibit 1 to this deposition.</p> <p>22 (Deposition Exhibit 1 was marked.)</p> <p>23 THE WITNESS: I have my own hard copy here, so</p> <p>24 if you see me look down -- that's the only -- the</p> <p>25 only materials relevant to this case I have on my 10:36:22</p> <p style="text-align: right;">Page 54</p>	<p>1 Districts 9 and 13 appear to have been crafted to 10:38:12</p> <p>2 enhance the Hispanic Voting Age Population and</p> <p>3 Hispanic Citizen Voting Age Population in the</p> <p>4 district. The twisted shapes cannot be explained by</p> <p>5 traditional redistricting principles, nor can they 10:38:27</p> <p>6 be explained by politics. I concluded race</p> <p>7 predominated in the drawing of these lines."</p> <p>8 Did I read that correctly?</p> <p>9 A. There was some paraphrasing, but the only</p> <p>10 thing I would add is that it's Districts 5, 9 and 10:38:41</p> <p>11 13. Not just 9 --</p> <p>12 Q. Sorry, is District 5 mentioned in this</p> <p>13 paragraph?</p> <p>14 A. Oh. Huh. That's weird.</p> <p>15 No. Okay. I'll go off what you have if 10:39:02</p> <p>16 that's what got filed. I might have an earlier</p> <p>17 version in front of me.</p> <p>18 Q. It was definitely my intention to read it</p> <p>19 word for word and not paraphrase.</p> <p>20 A. Yeah. I'll go off what you have out. 10:39:16</p> <p>21 Q. Okay.</p> <p>22 A. It said 5, 9 and 13 because the Modesto</p> <p>23 area is the 5/9 -- or 5/13 boundary, but, yeah, it</p> <p>24 says 9 and 13.</p> <p>25 Q. Okay. And so can you just explain in sort 10:39:37</p> <p style="text-align: right;">Page 56</p>
<p>1 desk are my reports and the opposing expert reports. 10:36:25</p> <p>2 BY MS. MADDURI:</p> <p>3 Q. Okay. That's totally fine with me. I</p> <p>4 think it'll be more efficient if you have that.</p> <p>5 Okay. So I want to turn -- I guess I 10:36:37</p> <p>6 don't know what version of your report you have. I</p> <p>7 have the one that's filed on the docket, so I'll say</p> <p>8 I'm looking at page 1 of the report, which is</p> <p>9 page 16 of UCF 16-5. And this is -- it starts</p> <p>10 "Introduction and Executive Summary." 10:37:04</p> <p>11 A. Okay. And I don't see anything in the</p> <p>12 Exhibit Share. Oh, there we go, I see it now. I've</p> <p>13 got it.</p> <p>14 THE CONCIERGE: What page are we on for Tab 1?</p> <p>15 MS. MADDURI: 16 of the PDF. 10:37:35</p> <p>16 THE CONCIERGE: Okay. Thank you.</p> <p>17 THE WITNESS: Okay.</p> <p>18 BY MS. MADDURI:</p> <p>19 Q. Okay, great. So in that first paragraph</p> <p>20 there on page 1 of the report, 16 of the PDF, you 10:37:55</p> <p>21 write [as read]:</p> <p>22 "The Enacted Map's boundaries" -- and I'm</p> <p>23 about -- I'm on the fifth line.</p> <p>24 It says [as read]:</p> <p>25 "The Enacted Map's boundaries between 10:38:08</p> <p style="text-align: right;">Page 55</p>	<p>1 of your own words what you mean when you say "race 10:39:43</p> <p>2 predominated in the drawing of these lines"?</p> <p>3 A. That's summarized in the next sentence,</p> <p>4 that there's twisted shapes that I don't think are</p> <p>5 explicable by traditional redistricting principles 10:40:00</p> <p>6 and they can't be explained by politics.</p> <p>7 Q. Okay. And which traditional redistricting</p> <p>8 principles are you saying cannot explain the twisted</p> <p>9 shapes?</p> <p>10 A. Well, since you can draw a version of the 10:40:12</p> <p>11 map that doesn't have that weird extension into and</p> <p>12 across Stockton, I don't think there's really</p> <p>13 anything that explains it.</p> <p>14 And when you look at the district</p> <p>15 boundaries imposed over the Hispanic population in 10:40:30</p> <p>16 Stockton, it seems pretty clear to me.</p> <p>17 Q. Okay. So the --</p> <p>18 A. I don't see what else explains it, and</p> <p>19 I've seen the opposing experts' attempts to justify</p> <p>20 it, and I don't think any of them work. 10:40:51</p> <p>21 Q. Okay. So in terms of violating</p> <p>22 traditional redistricting principles, when you're</p> <p>23 writing that, you're referring to the weird</p> <p>24 extension across Stockton; is that right?</p> <p>25 A. Yeah. I also think the drawing in Modesto 10:41:07</p> <p style="text-align: right;">Page 57</p>

1 as well. But I think the Stockton one is the more 10:41:09	1 an introduction, a way of saying that the map maker 10:44:15
2 cut-and-dried example.	2 was focusing on race and racial implications in this
3 Q. Okay. Is there any other traditional	3 area.
4 redistricting principle that you considered in	4 Q. Okay. And it's fair to say that
5 making that assessment for Stockton other than the 10:41:22	5 Mr. Mitchell made that statement several months 10:44:29
6 shape of the extension across Stockton?	6 after the map was finalized?
7 A. Well, you don't need to have that to hit	7 A. Yes.
8 one person, one vote. You don't need to have it to	8 Q. How did you get the transcript for this?
9 keep the district contiguous. You don't need to	9 A. That's in the production today. It was
10 have it to keep a municipality intact. Ends up 10:41:43	10 provided by counsel. 10:44:43
11 splitting more municipalities in census-designated	11 Q. Okay. Did you receive the full document
12 places.	12 of the entire interaction, the speech or podcast or
13 You don't need it to protect an incumbent.	13 whatever it was?
14 You don't need it to keep a different district	14 A. I believe so.
15 performing for Democrats. 10:41:59	15 Q. Did you review the full document? 10:44:56
16 The only explanation that makes sense and	16 A. Yes.
17 that it really is consistent with is race.	17 Q. Scrolling down a little bit more to
18 Q. Okay. Are there any other traditional	18 page 5, which is page 20 of the PDF. Following that
19 redistricting principles that you think that that	19 statement, you write [as read]:
20 extension does not -- is not required for? 10:42:16	20 "It is apparent in the lines for 10:45:23
21 A. Again, a lot of these traditional	21 District 13 in the Central Valley."
22 redistricting principles can be kind of mutated into	22 Do you see that?
23 post hoc justifications, but nothing that I can	23 A. Yes.
24 think of that explains it and nothing that the	24 Q. Okay. What did you mean in that
25 opposing experts have come up with that explains it. 10:42:44	25 statement? 10:45:35
Page 58	Page 60
1 Q. Okay. Let's scroll down to page 5 of your 10:42:54	1 A. Well, again, this is an introductory 10:45:38
2 report, which is page 20 of the PDF.	2 section that, you know, focuses in on race and
3 We actually might need to scroll up to see	3 Latino performance. And I said, you know, he talked
4 the full first paragraph.	4 about this, and then when you look at the lines for
5 A. Okay. 10:43:16	5 District 13, it's apparent that that is what 10:45:51
6 Q. Okay. Do you see the first paragraph	6 happened.
7 there?	7 Q. Scrolling down to page 6, which is page 21
8 A. Yes.	8 of the PDF, and looking at that first paragraph. I
9 Q. And it's on pages 4 and 5 of your report,	9 won't read the whole thing, but I want to ask you
10 and it starts "In a presentation." 10:43:28	10 about the phrase that says "to improve Hispanic 10:46:32
11 A. Yes.	11 performance in the district."
12 Q. I won't read the whole statement.	12 A. Okay.
13 Can you explain how that statement	13 Q. What do you mean by that?
14 factored into your analysis here?	14 A. That without them, the district would be
15 A. It was more of an introductory statement. 10:43:40	15 less Hispanic. Or less heavily Hispanic. 10:46:49
16 I don't think it's something that I come back to	16 Q. Okay. So you're saying here that the two
17 again and again, but it's Paul Mitchell speaking to	17 areas that you examined, two of the three odd
18 HOPE, Hispanics -- or Hispanas Organized for	18 shapes, those were drawn to improve Hispanic
19 Political Equality, talking about the ways that the	19 performance in the district, meaning if they hadn't
20 map benefits the Latino community, including keeping 10:44:00	20 been included, the district would have been less 10:47:15
21 VRA seats bolstered to make them most effective, and	21 Hispanic? Is that what you're saying?
22 then he hones in on the Central Valley.	22 A. Yes.
23 Q. Okay. And what relevance does that	23 Q. Okay. Let's move on to look at Figure 2
24 statement have to your analysis?	24 of your report, which is on page 7. And that's
25 A. Well, as I said, for me it's mostly just 10:44:12	25 page 22 of the PDF. And it's titled "Figure 2: 10:47:52
Page 59	Page 61

1 Madera Area By HCVAP and Block Group." 10:47:59	1 heavily populated and therefore denser. The large 10:50:41
2 Do you see that?	2 sprawling block groups tend to be rural block
3 A. Yes.	3 groups; not always.
4 Q. Did you make this map?	4 Q. Okay. But we can't tell anything about
5 A. Yes. 10:48:09	5 sort of the specific population density differences 10:50:53
6 Q. What platform did you use to make it?	6 between any specific block group; is that right?
7 A. R. Just the letter R.	7 A. Like I said, generally speaking, the
8 Q. And how did you select the shading?	8 larger sprawling block groups tend to be less
9 A. Well, so it is using the viridis color	9 densely populated. Like, you can look at this and
10 scheme because I am color blind and the viridis 10:48:27	10 pretty much tell where the city is but not numbers. 10:51:09
11 colors are more readable for people who are color	11 Q. Okay. So you're saying generally speaking
12 blind.	12 the large census block groups are primarily rural?
13 It's a continuous scale, so it's	13 Is that what you're saying?
14 constantly moving from yellow to that kind of	14 A. They tend to be more rural, yeah.
15 purple-ish color. And certain points along the way 10:48:47	15 Q. And the smaller ones tend to be more 10:51:31
16 are denoted in the legend on the right.	16 urban?
17 Q. And it's using HCVAP data.	17 A. Right.
18 Where did that data come from?	18 Q. But we can't tell anything specific about
19 A. I believe I would have gotten it from	19 how many people live in each census block group from
20 Redistricting Data Hub. 10:49:07	20 looking at the map? 10:51:43
21 Q. And what year was the data based on?	21 A. Right.
22 A. I honestly don't remember as I sit here.	22 Q. Let's look at Figure 3, which is on the
23 Q. Okay. So you don't -- is it fair to say,	23 next page, page 8 of your report, page 23 of the
24 then, that you don't know why you selected that	24 PDF.
25 specific data? 10:49:26	25 Did you make this map as well? 10:52:02
Page 62	Page 64
1 A. I mean, I would have selected it because 10:49:28	1 A. Yes. 10:52:04
2 it was the most recent data I had available that was	2 Q. Did you use the platform R?
3 worked by a kind of neutral third-party group.	3 A. Yes.
4 But, again, without looking at my code,	4 Q. And is the color scheme the same as the
5 the exact files, I don't know off the top of my head 10:49:47	5 one we just discussed? 10:52:16
6 what the number is.	6 A. Yes.
7 Q. Okay. And it's block groups that are	7 Q. This one is titled "Figure 3: Madera
8 being depicted; right?	8 Area, By HVAP and block group"; is that right?
9 A. Yes.	9 A. Yes.
10 Q. Can we tell how many people live in each 10:50:01	10 Q. What's the HVAP data that was used? 10:52:28
11 block group from your map?	11 A. The Hispanic voting age population from
12 A. No.	12 the 2020 census.
13 Q. Is there a consistent number of people who	13 Q. And let me back up.
14 live in each block group?	14 That's -- so can you explain the
15 A. No. 10:50:12	15 difference between HVAP data and HCVAP date? 10:52:45
16 Q. Does it -- I guess, is there any sort of	16 A. Well, there's a -- do you mean, like, what
17 similarity between the number of people in each	17 they mean or where they're taken from?
18 block group or does it just kind of vary?	18 Q. Where they've taken from.
19 A. Oh, it varies.	19 A. So the HVAP data come from the decennial
20 Q. Okay. So is there anything that we can 10:50:25	20 census -- 10:52:58
21 understand about population density from looking at	21 (Reporter seeks clarification.)
22 this map?	22 A. Sorry. See, I don't even have the excuse
23 A. No.	23 of having an outline to read from.
24 Well, I shouldn't say that. Typically	24 The HVAP data come from the decennial
25 smaller census blocks and smaller units are more 10:50:37	25 census, so they reflect something that's at least 10:53:13
Page 63	Page 65

<p>1 treated as an actual count. 10:53:17</p> <p>2 The HCVAP data, there is famously not a</p> <p>3 citizenship question on the census, and so our</p> <p>4 access to that data comes from a survey conducted by</p> <p>5 the Census Bureau called the American Community 10:53:37</p> <p>6 Survey or ACS.</p> <p>7 Q. Okay. And in -- for Figure 2 and</p> <p>8 Figure 3, are the specific HVAP and HCVAP numbers</p> <p>9 for each block group reported anywhere in your</p> <p>10 report? 10:54:03</p> <p>11 A. No.</p> <p>12 Q. Okay. So we don't know what the specific</p> <p>13 HVAP or HCVAP number is of any individual census</p> <p>14 block group based on your report; right?</p> <p>15 A. No, you have a sense of where they are 10:54:19</p> <p>16 from the scale on the left. You can certainly tell,</p> <p>17 for example, the block in the upper right isn't</p> <p>18 20 percent HVAP or 30 percent HVAP, nor is it 80.</p> <p>19 But is it 52.379, no, it doesn't tell you that.</p> <p>20 Q. Each one is a range; right? Each color 10:54:45</p> <p>21 corresponds to a population range; is that right?</p> <p>22 A. No.</p> <p>23 Q. So does it round to the percentage number</p> <p>24 that's shown?</p> <p>25 A. No. 10:55:01</p> <p style="text-align: right;">Page 66</p>	<p>1 that right? 10:56:18</p> <p>2 A. I believe that's right, yes.</p> <p>3 Q. How did you choose -- why did you choose</p> <p>4 to only use the 2024 presidential election for the</p> <p>5 politics measure here? 10:56:33</p> <p>6 A. Because that's the most relevant data for</p> <p>7 assessing partisanship. If you're in a place like</p> <p>8 Ohio, where the state law mandates you to use a --</p> <p>9 you know, I think it's an average of the last five</p> <p>10 elections, it's very specific in what you want to do 10:56:49</p> <p>11 here. Then that's what I would use.</p> <p>12 But, generally speaking, there's a high</p> <p>13 correlation between presidential performance and</p> <p>14 congressional performance, so that's what I used.</p> <p>15 Q. In past cases have you ever used an index 10:57:05</p> <p>16 with more elections?</p> <p>17 A. Probably.</p> <p>18 Q. I think you mentioned Ohio. Are there</p> <p>19 other instances that you can think of?</p> <p>20 A. I can only say probably. 10:57:19</p> <p>21 Q. Do you -- why in other cases have you</p> <p>22 looked at more than one election?</p> <p>23 A. I think my preference has always been for</p> <p>24 president, just because in our polarized age it</p> <p>25 doesn't really add much, usually, at least, to use a 10:57:40</p> <p style="text-align: right;">Page 68</p>
<p>1 Q. Can you explain how it works? 10:55:03</p> <p>2 A. Yeah. It's a continuous scale that</p> <p>3 certain points along the scale are illustrated on</p> <p>4 the right.</p> <p>5 Q. I see. So it's -- there are different 10:55:16</p> <p>6 shades for every percentage between like 75 percent</p> <p>7 and 80; is that right?</p> <p>8 A. Correct.</p> <p>9 Q. Let's look at Figure 4 on page 9, which is</p> <p>10 24 of your -- of the PDF. This one is called 10:55:37</p> <p>11 "Madera Area, By Politics and Block Group."</p> <p>12 Did you create this map?</p> <p>13 A. Yes.</p> <p>14 Q. What platform did you use?</p> <p>15 A. This would be R. 10:55:50</p> <p>16 Q. And the shading is the same as what you</p> <p>17 described for the original figure that we discussed?</p> <p>18 A. Correct.</p> <p>19 Q. What is the politics D percentage based</p> <p>20 on? 10:56:05</p> <p>21 A. Presidential vote share.</p> <p>22 Q. For what year?</p> <p>23 A. 2024.</p> <p>24 Q. Okay. So the Democratic percent here is</p> <p>25 based only on the 2024 presidential election; is 10:56:14</p> <p style="text-align: right;">Page 67</p>	<p>1 different race. 10:57:46</p> <p>2 Other experts prefer the index, and so</p> <p>3 sometimes I'll do it both ways just so I don't get</p> <p>4 dragged into a fight over how best to measure</p> <p>5 partisanship. 10:58:03</p> <p>6 But my preference is for presidential</p> <p>7 numbers and I figure that if using a different</p> <p>8 election would give a radically different result,</p> <p>9 opposing experts wouldn't hesitate to point it out.</p> <p>10 I think in North Carolina the legislature 10:58:18</p> <p>11 has expressed -- it's kind of like Ohio, the</p> <p>12 legislature has, at least at times, been express</p> <p>13 about which races it's using to draw maps. So that</p> <p>14 can be helpful as well.</p> <p>15 Q. Did you create maps using any other 10:58:35</p> <p>16 election or an index for this case?</p> <p>17 A. I don't believe so.</p> <p>18 Q. So you don't know how these images would</p> <p>19 look different had you used a different election or</p> <p>20 a set of elections? 10:58:52</p> <p>21 A. Yeah, I don't think it's sensitive to</p> <p>22 that. I would have gone through it, through more</p> <p>23 recent elections and Dave's to see if you got</p> <p>24 something radically different.</p> <p>25 Again, though, we're in such a polarized 10:59:06</p> <p style="text-align: right;">Page 69</p>



1 environment that these precincts all tend to 10:59:09	1 A. No. 11:01:49
2 correlate and move together.	2 Q. And are the populations of each census
3 Now, if you go back 10 years, you'll get	3 block group reported anywhere in your analysis?
4 something different because the data's 10 years old.	4 A. No.
5 But I don't think a good map drawer is going to rely 10:59:18	5 Q. Going back a page to page 8, which is 23 11:02:06
6 on 2016 presidential election data to try to draw a	6 of the PDF -- and I'll look at the text. The second
7 map for 2026.	7 sentence -- I'm not trying to paraphrase, but I am
8 Q. Did you do anything to test whether	8 just trying to be efficient. You describe the
9 congressional elections correlate with the 2024	9 area -- you say that "the area is overall
10 presidential election for this case? 10:59:36	10 politically marginal." 11:02:32
11 A. This is something that just from being an	11 Do you see that?
12 elections analyst I know that there tends to be a	12 A. Yes.
13 correlation between presidential and congressional	13 Q. What do you mean by "politically
14 elections, even in California.	14 marginal"?
15 You might get an overperformance of a few 10:59:54	15 A. That this isn't a heavily Democratic or 11:02:39
16 points from a congressional candidate vis-a-vis the	16 heavily Republican area.
17 presidential results, but that's going to still be a	17 Q. And how do you determine that it's not
18 correlation.	18 heavily Democratic or heavily Republican?
19 Those correlations are going to tend to	19 A. Because when you look at the area it's not
20 hold across elections. Maybe the overall level 11:00:08	20 all dark blue or dark yellow. 11:03:00
21 moves up or moves down, but the coalitions just	21 Q. But you would agree there are a lot of
22 don't shift that much.	22 areas that are pretty dark, like in the -- I think
23 Q. Okay. So you didn't do anything to test	23 at the bottom of your scale, which I believe is
24 whether that hypothesis was actually true?	24 80 percent?
25 A. I don't think I said that. 11:00:25	25 A. Yeah. 11:03:18
Page 70	Page 72
1 Q. How did you test whether congressional 11:00:28	1 Q. Oh, I see. I was looking at the wrong 11:03:27
2 elections correlate with the 2024 presidential	2 map. Okay.
3 election results?	3 MR. MEUSER: Would you like to reword your
4 A. Because I know that in the United States	4 questions, Counsel?
5 there are very, very few Trump districts and 11:00:40	5 MS. MADDURI: No, I think I'll just move on. 11:03:35
6 extremely few heavily Trump districts that are won	6 MR. MEUSER: Okay.
7 by Democrats anymore and that the opposite's also	7 BY MS. MADDURI:
8 true.	8 Q. And so when you're describing it as
9 You'll get outliers one way or another,	9 politically marginal, is there a measurement for
10 but there just aren't that many examples of say a D 11:00:56	10 that or how do you decide what the cutoff is for 11:03:47
11 plus 10 district being held by a Democrat these days	11 politically marginal?
12 as opposed to how things were 20 years ago, where I	12 A. You know, that's another one, sort of like
13 think you would have to do more of an inquiry along	13 what does substantial mean or any other adjective or
14 those lines.	14 adverb? And there's not necessarily a clean-cut
15 Like I said, I also would have looked at 11:01:07	15 example. But I wouldn't look at say the City of 11:04:06
16 the results for different races, certainly the more	16 Stockton itself and call it politically marginal.
17 recent races, to see if it held true, if the basic	17 Here you can see -- I think it's better
18 coalitions remained the same.	18 illustrated in Figure 6 -- a pretty neat area of
19 Q. When you say "the more recent races," what	19 heavily Democratic, areas of heavily Republican,
20 races are you referring to? 11:01:23	20 lots of light red or light blue areas that are more 11:04:25
21 A. 2022 and maybe 2020.	21 indicative of an area that's more say 55 percent
22 Q. Okay. And like the other maps that we	22 Democrat than 80 percent Democrat.
23 just looked at, are the specific numbers for what	23 Q. So is it a visual assessment that you're
24 the D percent share of any census block group is	24 doing when you're determining if something is
25 reported anywhere in your analysis? 11:01:46	25 politically marginal? 11:04:45
Page 71	Page 73

1 A. No. I know this area in general is 11:04:45	1 way than neatly capturing the Democratic areas in 11:07:19
2 politically marginal, that it's not Stockton,	2 District 13. This is a really nice politically
3 so . . .	3 gerrymandered part of the map.
4 Q. Okay. So it's just -- it's based on just	4 Q. Okay. And so that is based on a visual
5 your knowledge that's not explained in the report? 11:04:58	5 inspection of the lines and the colors on either 11:07:37
6 A. Well, as an elections analyst, you pick up	6 side of the line; is that right?
7 a lot of things along the way and how different	7 A. Oh, sure, sure. I mean, presenting maps,
8 areas of the country vote in different cities and	8 in my experience, is a routine way of exploring
9 whatnot.	9 these types of gerrymanders, so . . .
10 So, like I said, I wouldn't call the City 11:05:13	10 Q. And just so I understand, on the top part 11:07:53
11 of Stockton marginal. I wouldn't call Coosa County,	11 of the line in sort of where you say you're looking
12 Alabama marginal or Winston. Other areas, we might	12 at the border that has sort of a interesting shape,
13 get into a discussion about, but it's also not	13 what percentage are the census block groups above
14 something that I think is central to any point in my	14 that line roughly?
15 report. 11:05:34	15 A. Where are you talking about me saying it 11:08:14
16 MS. MADDURI: Okay. Let's scroll back to	16 has an interesting shape?
17 Figure 4, which is on the next page, page 9, and	17 Q. I think it's -- which area is this? So, I
18 page 24 of the report [sic].	18 mean, I guess I'm looking -- so you're saying --
19 BY MS. MADDURI:	19 like, I guess where you're saying Democrats are
20 Q. Okay. So this is the map I think you were 11:05:47	20 neatly captured, to the north of that line, what is 11:08:30
21 describing as politically marginal; is that right?	21 the Democratic percentage above the line?
22 A. I was saying it's easier to see in	22 A. Those -- so I am color blind, so I have
23 Figure 6.	23 a -- even though this is better for people that are
24 Q. But you describe this figure as	24 color blind, I definitely don't see it the same way
25 politically marginal; correct? 11:05:59	25 you do. But to me it looks to be around 45 percent 11:08:46
Page 74	Page 76
1 A. Well, they're the same thing, it's just 11:06:00	1 Democratic outside the line and maybe 60 percent 11:08:51
2 easier to see in Figure 6.	2 inside.
3 Q. Is it fair to say that there's no	3 Q. Okay. And, again, are there any numerical
4 percentage cutoff for what you consider to be	4 values placed on any of these block groups for the
5 politically marginal? 11:06:16	5 percentage Democrat in any place in your report? 11:09:07
6 A. Yeah. I didn't think it was really that	6 A. No. You could do that, but it would be
7 important of an observation for the map except maybe	7 pretty illegible, especially -- I mean, for the big
8 that when you have a politically marginal area you	8 ones kind of in the northeast corner, yeah, you
9 can see the differences or gradations more cleanly.	9 could place the percentage, the exact percentage
10 It's not really central to the report, so 11:06:28	10 there. When you get into the city or town of 11:09:21
11 I doubt I gave it even much thought.	11 Madera, it's just not going to -- you're not going
12 Q. Okay. And then we don't need to turn back	12 to be able to read it.
13 to it, but on page 8, which is 23 of the PDF, you	13 Q. You could report it in the table or
14 mentioned -- and I think you referenced this, that	14 something like that; right?
15 you say something about "neatly capturing the 11:06:49	15 A. Sure. 11:09:32
16 Democratic areas."	16 Q. And you don't do that?
17 Do you see that?	17 A. No. That's the type of thing, again,
18 A. Right.	18 where if there's really something to dispute about
19 Q. What does it mean to neatly capture the	19 it, you trust a competent expert, which you have at
20 Democratic areas? 11:07:00	20 least three more than competent experts on the other 11:09:49
21 A. To follow the boundaries between blue	21 side, to point it out.
22 areas and red areas.	22 Q. Okay. Let's look at Figure 5, which is on
23 Again, if you look at Figure 6 on the map,	23 page 10, which is page 25 of your report [sic].
24 there's a couple of areas where it isn't perfect,	24 Did you create this map?
25 but I don't think you can characterize it any other 11:07:14	25 A. No. This is taken from Dave's 11:10:03
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1 Redistricting. 11:10:06	1 group level and these are at the precinct level; is 11:13:01
2 Q. Okay. And do you have to do anything to	2 that right?
3 set parameters or decide what to look at in these	3 A. Yeah, yeah.
4 maps?	4 No, Dr. Rodden says that they're
5 A. No. 11:10:17	5 identical, and at least when I eyeball it, they 11:13:12
6 I mean, you have to select the data set.	6 don't appear to be identical. But if that's the
7 Q. Okay. So this is created on Dave's	7 case, then they're showing the same thing with
8 Redistricting App; right?	8 different color schemes.
9 A. Right.	9 Q. How did you -- why do you believe that
10 Q. And how did you select the shading? 11:10:28	10 they're precincts? 11:13:25
11 A. Dave's Redistricting selects it.	11 A. Because Dave's is usually drawn at the
12 Q. Okay. And this is Madera area by HVAP and	12 precinct level, but if precincts and block groups
13 precinct.	13 are the same thing, then they're the same map shown
14 A. Correct.	14 twice.
15 Q. What percentage of HVAP does each shade 11:10:44	15 Q. Okay. And -- 11:13:38
16 correspond to?	16 A. Or if -- I'm sorry, I'm sorry.
17 A. I don't know --	17 Or if Dave's is using block groups as the
18 (Reporter seeks clarification.)	18 drawing unit instead of precincts.
19 A. I don't know precisely, but, again, if	19 Q. Okay. And you're not sure which one
20 you're trying to just see whether there's 11:11:07	20 Dave's is using; is that right? 11:13:51
21 selectivity in how the groups are selected, the	21 A. I believe they're using block groups, and
22 darker shades are more heavily Hispanic than the	22 if block groups and precincts line up, then, yeah,
23 lighter shades.	23 it would just be the same map colored differently.
24 Q. And what are the breakpoints between each	24 I know California, the precincts have a
25 color? 11:11:26	25 strange relationship sometimes to census 11:14:04
Page 78	Page 80
1 A. Again, I don't know the exact bins that 11:11:26	1 geographies. So that would make some sense. 11:14:08
2 are used, but I do know the darker ones are more	2 Q. Okay. And why didn't you include a HCVAP
3 heavily shaded than lighter ones. And you can look	3 map from Dave's Redistricting?
4 at it and see whether the more heavily Democratic	4 A. I don't know.
5 or, in this case, more -- higher HVAP precincts' 11:11:41	5 Q. Is it fair to say the shading of these 11:14:29
6 block groups are included within the boundaries or	6 precincts would be different if you were using HCVAP
7 not.	7 instead of HVAP?
8 Q. And what HVAP data was used?	8 A. Yes.
9 A. There's only one set, and that's the 2020	9 Q. Okay.
10 decennial census. 11:11:57	10 A. They would -- 11:14:38
11 Q. Okay. And why did you decide to present	11 Q. Just scrolling -- oh, go ahead.
12 maps from Dave's Redistricting in addition to your	12 A. Oh, no, they would tend to be lighter
13 own?	13 across the board but particularly in the more
14 A. So I had trouble joining some of the data	14 Hispanic areas.
15 that wasn't -- I don't remember the exact specifics 11:12:17	15 MS. MADDURI: Can you scroll down to Figure 6, 11:14:56
16 of it, but -- so I gave a -- so that was part of it.	16 which is on the same page --
17 The other problem I had was that I figured	17 THE WITNESS: Yes.
18 since Dave's is something that is routinely used by	18 MS. MADDURI: -- page 10, page 25 of the PDF.
19 people who are drawing maps you avoid some of the	19 BY MS. MADDURI:
20 fights that we're having right now: Why did you use 11:12:45	20 Q. Did you create this map? 11:15:06
21 this color scheme, why did you use this breakdown,	21 A. It's from Dave's Redistricting.
22 et cetera.	22 Q. Okay. And how did you select the shading
23 It's something that's provided from a	23 on this one?
24 neutral third party.	24 A. It's the default.
25 Q. And I think your maps are at the block 11:12:57	25 Q. The default that Dave's Redistricting App 11:15:16
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<p>1 sets? 11:15:20</p> <p>2 A. Right.</p> <p>3 Q. Okay. What percentage of Democratic or</p> <p>4 Republican vote share does each shade correspond to?</p> <p>5 A. I don't know the exact increments that 11:15:30</p> <p>6 Dave's uses off the top of my head. I do know that</p> <p>7 it uses the -- it relies more heavily on the</p> <p>8 50 percent cut point, so you can see, like, red more</p> <p>9 distinctly from blue.</p> <p>10 Q. Okay. And do you know what the 11:15:45</p> <p>11 breakpoints are for the shading?</p> <p>12 A. Not off the top of my head.</p> <p>13 Q. Okay. And do you know what the politics</p> <p>14 measure is?</p> <p>15 A. It's president. 11:15:57</p> <p>16 Q. It's 2024 president?</p> <p>17 A. Right.</p> <p>18 Q. And I don't want to do the same</p> <p>19 walkthrough for all of the figures in your report.</p> <p>20 Are the answers that you gave for each of 11:16:26</p> <p>21 these figures that corresponds to the same type of</p> <p>22 figure in a different area, would those answers all</p> <p>23 be the same about how you created them, what they</p> <p>24 show from sort of a how-to-understand-the-map</p> <p>25 perspective? 11:16:42</p> <p style="text-align: right;">Page 82</p>	<p>1 right? 11:18:10</p> <p>2 A. Correct.</p> <p>3 Q. I think we can probably pull down the</p> <p>4 report for a minute.</p> <p>5 Is it your opinion that CD 13, as it's 11:18:21</p> <p>6 drawn in Prop. 50, is not compact?</p> <p>7 A. I don't think I have an opinion one way or</p> <p>8 the other on that. That's one of those things --</p> <p>9 Q. Is it your --</p> <p>10 A. -- that -- that's one of those things that 11:18:35</p> <p>11 are just hard to say.</p> <p>12 I certainly think the plume that goes into</p> <p>13 Stockton is not compact or is irregular or however</p> <p>14 you want to put it.</p> <p>15 Q. But you're not offering any opinion that 11:18:52</p> <p>16 CD 13 overall is not compact; right?</p> <p>17 A. Yeah, I think that's a hard opinion to</p> <p>18 give in general because we don't really have the</p> <p>19 tools to draw clear cut, yes, it's compact, no, it's</p> <p>20 not, like we do with say hypothesis testing. 11:19:10</p> <p>21 Q. Fair to say that compactness is more of a</p> <p>22 sliding scale?</p> <p>23 A. Yeah, unfortunately it's one of the</p> <p>24 criteria we have to look at, and so without these</p> <p>25 kind of clear social science thresholds, if you're 11:19:24</p> <p style="text-align: right;">Page 84</p>
<p>1 A. Oh, bless you for letting me summarize. 11:16:43</p> <p>2 Yes, they would be the same. If I see</p> <p>3 something on the way through that was done</p> <p>4 differently, I will let you know, but absent that,</p> <p>5 the answer will be they're the same. 11:16:58</p> <p>6 And if I don't give you a different answer</p> <p>7 here, I will not change my mind for trial.</p> <p>8 Q. Okay, great. Okay. So moving on to talk</p> <p>9 more about CD 13.</p> <p>10 In your original report, you comment on 11:17:18</p> <p>11 only three parts of the district; right?</p> <p>12 A. Correct.</p> <p>13 Q. And in your original report you're not</p> <p>14 offering any opinions about any borders of CD 13</p> <p>15 other than those three areas that you discussed; 11:17:37</p> <p>16 right?</p> <p>17 A. Correct.</p> <p>18 Q. And you're not offering any opinions about</p> <p>19 any specific district lines anywhere in the Prop. 50</p> <p>20 map other than the three areas of CD 13 that you 11:17:50</p> <p>21 discussed in your reports; right?</p> <p>22 A. Right.</p> <p>23 Q. You agree that CD 13 performs better</p> <p>24 politically for Democratic Representative Adam Gray</p> <p>25 than did the previous iteration of the district; 11:18:07</p> <p style="text-align: right;">Page 83</p>	<p>1 going to make the compactness analysis any more than 11:19:28</p> <p>2 a dead letter, you have to do some sort of</p> <p>3 qualitative work.</p> <p>4 Q. Is it your opinion that CD 13 is not</p> <p>5 contiguous? 11:19:42</p> <p>6 A. Can you do that with fewer negatives?</p> <p>7 Q. Is it your opinion that CD 13 is not</p> <p>8 contiguous?</p> <p>9 A. My opinion is that CD 13 is contiguous.</p> <p>10 Q. Are you offering an opinion that CD 13 11:19:58</p> <p>11 fails to respect political subdivisions?</p> <p>12 A. There certainly are areas, like where it</p> <p>13 jumps across Stockton to reach a couple other areas</p> <p>14 that it splits that are needless. But, I mean, it</p> <p>15 certainly has its fair share of whole cities or 11:20:17</p> <p>16 towns in it.</p> <p>17 You know, the Madera split is an example</p> <p>18 of where I believe it both keeps to the political</p> <p>19 boundaries and the municipal boundaries.</p> <p>20 Q. So for the Madera area you state that this 11:20:48</p> <p>21 area does not appear to be motivated by race; is</p> <p>22 that right?</p> <p>23 A. Correct.</p> <p>24 Q. What do you mean by that?</p> <p>25 A. I don't really know how to answer that 11:21:01</p> <p style="text-align: right;">Page 85</p>

1 question. It means it doesn't appear to be 11:21:03	1 that's adhering to the -- more or less to the city 11:23:51
2 motivated by race.	2 lines as well there.
3 Q. What do you base your conclusion on that	3 Q. Yeah, I'm actually not trying to ask you
4 it's not motivated by race?	4 specifically about any one line, but you're welcome
5 A. I just don't really see much evidence that 11:21:12	5 to reference your report. I'm just trying to 11:24:03
6 the map drawing there was done in such a way as to	6 understand how we assess when something is neatly
7 hit a racial target or help one racial group or the	7 sliced.
8 other. It cuts across too many Hispanic areas.	8 And it sounds like you're saying you look
9 Q. So is it based on a visual assessment of	9 at a border or the edge of a district and you do
10 how the lines are drawn? 11:21:37	10 some sort of visual assessment to see what the areas 11:24:15
11 A. Yes.	11 on one side of the line look like versus the other
12 Q. And you don't offer any quantitative way	12 side.
13 to measure that in the Madera area; right?	13 Is that a fair summary?
14 A. No. Like I said, a lot of this stuff	14 A. Yeah. I wish we had better tools, but we
15 doesn't really lend itself to quantitative analyses. 11:21:49	15 really just don't, so that's kind of what we're left 11:24:27
16 Attempts to do so aren't very good.	16 with. Sometimes it's obvious, sometimes less so.
17 But I doubt if I could draw that area much	17 Q. Okay. And then we don't need to pull it
18 more effectively from a political perspective. So I	18 up, but on page 6 of your report, which is page 21
19 think it's pretty clear what's predominating there.	19 of the PDF, you describe the southern area in Madera
20 Q. We talked a little bit about how you 11:22:16	20 as an example of something where race and politics 11:24:45
21 determine if something is neatly sliced based on	21 appear to be at least mixed.
22 partisanship.	22 Do you see that?
23 How do you determine if something is	23 A. Yes.
24 neatly sliced by race? Is it the same, is there	24 Q. Okay. So is it fair to say that in your
25 anything else that goes into that? Can you explain? 11:22:32	25 opinion, where race and politics appear to be at 11:24:59
Page 86	Page 88
1 A. Yeah, I mean, it's an inquiry that we're 11:22:35	1 least mixed, the lines don't appear to be motivated 11:25:02
2 forced to engage in by the court's precedence in the	2 by race?
3 14th Amendment, but unfortunately we don't have very	3 A. Right, right.
4 good quantitative tools for doing it.	4 I thought it was kind of funny reading
5 So it is kind of the way Justice O'Connor 11:22:53	5 Mr. Fairfax's report. I mean, in fairness, like, as 11:25:13
6 put it, it's an area where appearances do matter.	6 experts, you're virtually trained to try to take the
7 When you look at a map boundary -- and I don't think	7 other person's head off and not necessarily know
8 any reasonable person would look at that area,	8 when they're conceding something. But I think this
9 Madera, and say, well, it doesn't look like he was	9 is another example where we're having kind of a
10 paying much attention to politics. It's obvious 11:23:11	10 violent agreement. 11:25:32
11 what's driving it there.	11 Yeah, this is an example of where you look
12 You would look at how the racial precincts	12 at an area and at the very least it's -- you can't
13 are distributed, and you wouldn't say there's	13 really disentangle race from politics.
14 anything really noteworthy about the way the	14 Q. Okay. So it's fair to say that where race
15 district lines are drawn there with respect to race. 11:23:27	15 and politics appear to be mixed, then race doesn't 11:25:50
16 Q. And so when we're talking about this,	16 predominate there?
17 like, neat slicing, we're looking at the border	17 A. Well, I said at the very least mixed. I
18 between the districts; is that right?	18 actually think the evidence is a little stronger
19 A. Right.	19 there. But, no, I don't think I can disaggregate
20 He's not leaving Democrats on the table in 11:23:36	20 race from politics there. 11:26:05
21 that area.	21 Q. Okay. And I guess in general, where race
22 Q. So in your --	22 and politics appear to be mixed, you wouldn't say
23 A. I'm sorry.	23 that race predominated in that sort of situation?
24 Actually, I have my own copy of the	24 A. Well, that's kind of my understanding of
25 report. Maybe I can tell from that. But I believe 11:23:49	25 what the test is and what we're kind of tasked with 11:26:18
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<p>1 doing is disentangling racial motivations from 11:26:22 2 political motivations. So -- 3 Q. And where -- oh, sorry, go ahead. 4 A. And so where you can't tell the 5 difference, then, yeah, I think you failed the test. 11:26:35 6 Q. Okay. Let's look at page 11 of your 7 report, which is moving to the Modesto -- I don't 8 actually know how you pronounce -- Ceres, Ceres. Do 9 you know? 10 A. Oh, with whatever I guess is going to be 11:27:02 11 wrong. It's one of those things, Lima or Lima. No 12 matter where you are, you're going to guess it 13 wrong. 14 Q. I will say Ceres and we'll just go with 15 that. 11:27:20 16 Okay. And, sorry, I actually want to go 17 to page 12 and look at Figure 8, which is on page 27 18 of the PDF. 19 So here we're looking at that area. It's 20 Modesto/Ceres. It's one of the areas, the map that 11:27:45 21 you examined. 22 Do you agree that the city of Ceres is 23 kept whole inside of District 13? 24 A. Yes. 25 Q. On the page before that, which we don't 11:28:10 Page 90</p>	<p>1 Q. So my understanding is both of these 11:30:10 2 figures are showing politics in the Modesto/Ceres 3 area; is that right? 4 A. Right. 5 Q. Figure 8 is the one that you produced and 11:30:23 6 Figure 9 is the one that you produced with the aid 7 of Dave's Redistricting App; correct? 8 A. Right. 9 (Reporter seeks clarification.) 10 MS. MADDURI: Dave's Redistricting App, like 11:30:44 11 application. 12 THE REPORTER: Thank you. 13 THE WITNESS: I'll probably just start calling 14 it DRA if everyone will understand that. 15 BY MS. MADDURI: 11:30:58 16 Q. And that works for me. 17 I guess what I'm trying to understand is 18 that when I look at these two maps, they seem to 19 convey pretty different political information, and 20 I'm trying to understand what leads to that 11:31:16 21 difference. 22 A. I think part of it is that, at least on 23 this presentation, the resolution on the map on top 24 hasn't come out as good as it particularly could 25 have. 11:31:31 Page 92</p>
<p>1 need to turn to, but to guide you to the text, in 11:28:12 2 the last paragraph you say that the district 3 "captures a large Republican population in and 4 around Ceres." 5 Do you see that? 11:28:29 6 A. Yes. 7 Q. Okay. What do you mean by "a large 8 Republican population"? How do you measure that? 9 A. Well, you can look at Figure 9 and see 10 that there is a lot of red included in the district. 11:28:48 11 Q. Okay. So it's a visual assessment based 12 upon the amount of red that you see in this figure; 13 is that right? 14 A. Correct. 15 Q. Would you agree that to remove that large 11:29:10 16 Republican population from Ceres you would have had 17 to split Ceres? 18 A. Well, to do it within Ceres, yes. 19 Q. You could either split it or you could 20 exclude Ceres altogether from CD 13; is that right? 11:29:27 21 A. Right. 22 Split it like you do Modesto. 23 Q. Okay. So is it possible to bring up both 24 Figure 9 and Figure 8 at the same time? 25 A. I can switch back between them. 11:30:00 Page 91</p>	<p>1 I think to try to keep this filing from 11:31:32 2 being 30 megs or 60 megs, which is what would happen 3 with a high-res image there. So there's some 4 blurring that occurs there. 5 The other thing is that Dave's -- like I 11:31:48 6 said, the way that Mr. Fairfax urges doesn't put it 7 on a continuous scale, and so you get cleaner 8 differentiations between reddish-pink areas and 9 bluish-purple areas. 10 But I think they -- I mean, they both -- 11:32:05 11 and the other thing is that the Modesto/Ceres area 12 is zoomed out more, so you're getting more area than 13 with the cut from Dave's. 14 Q. Okay. And then now we can just look at 15 Figure 9 and just zoom in so we can see it more 11:32:27 16 closely. 17 And this is -- just to reiterate, this is 18 2024 presidential election data is what informs the 19 political shading here; right? 20 A. Correct. 11:32:52 21 Q. Okay. Would you agree that all of the 22 deepest blue precincts are kept inside of 23 District 13? 24 A. Yes. 25 Q. And that would align with an effort to 11:33:15 Page 93</p>



<p>1 place Democratic voters in this area inside of 11:33:17</p> <p>2 CD 13?</p> <p>3 A. Potentially.</p> <p>4 Q. And you would agree that there are far</p> <p>5 fewer blue-shaded precincts outside of CD 13 here? 11:33:41</p> <p>6 A. That's correct.</p> <p>7 Q. And that would align with an effort to</p> <p>8 place Democratic voters in this area inside of</p> <p>9 CD 13?</p> <p>10 A. Potentially. 11:33:53</p> <p>11 Q. In this part of your report, you're</p> <p>12 discussing Modesto and Ceres.</p> <p>13 Is there a way, looking at this map, to</p> <p>14 know what the borders of those cities are?</p> <p>15 A. On Figure 9, no. You can see them in the 11:34:16</p> <p>16 map on Figure 8.</p> <p>17 Q. Is that the, like, blue line --</p> <p>18 A. Yes.</p> <p>19 Q. -- that is sort of -- okay.</p> <p>20 And we don't have to go to the text, but 11:34:43</p> <p>21 on page 13, which is 28 of the PDF, you say that,</p> <p>22 "If partisanship were really the motivating factor</p> <p>23 for this division, the district would drop some of</p> <p>24 the Republican areas in Ceres and pick up Democratic</p> <p>25 areas in Modesto"; is that right? 11:35:01</p> <p style="text-align: right;">Page 94</p>	<p>1 Q. I appreciate it. No, usually when I 11:36:31</p> <p>2 pause, I'm just trying to cross out questions that</p> <p>3 you've already answered.</p> <p>4 A. Appreciate it.</p> <p>5 MR. MEUSER: Counsel, you've got about three, 11:36:41</p> <p>6 four minutes before we're going to need to let Sean</p> <p>7 go for a break.</p> <p>8 MS. MADDURI: That sounds good. We can go</p> <p>9 whenever Dr. Trende would like to go. I'm watching</p> <p>10 the clock. I thought he said 11:45. 11:36:55</p> <p>11 THE WITNESS: Yeah. Let's --</p> <p>12 BY MS. MADDURI:</p> <p>13 Q. Or would you prefer to go now? That's</p> <p>14 totally fine too.</p> <p>15 A. If we're going to have a good break at 11:37:01</p> <p>16 like 2:40, just in case he comes home on the early</p> <p>17 side, maybe that's a good -- if we're coming up a</p> <p>18 good stopping point.</p> <p>19 Q. Yeah, I think we are. We can do a few</p> <p>20 more questions and then take a break. 11:37:16</p> <p>21 A. All right.</p> <p>22 Q. Okay. So in this image, am I right that</p> <p>23 the black line that is going across, I guess, sort</p> <p>24 of in the top half of the image and it's not the</p> <p>25 straight part of the line but it kind of, you know, 11:37:31</p> <p style="text-align: right;">Page 96</p>
<p>1 A. Yeah. That probably would have been 11:35:03</p> <p>2 better written as in and around Ceres and not</p> <p>3 necessarily in the city itself, although that's an</p> <p>4 available option.</p> <p>5 Q. Okay. And it's fair to say that 11:35:12</p> <p>6 suggestion would introduce an additional city split</p> <p>7 of Ceres specifically?</p> <p>8 A. Sure.</p> <p>9 Q. Did you do any analysis of how moving</p> <p>10 Ceres or certain areas of Ceres in and around Ceres, 11:35:28</p> <p>11 to use your words, would affect the partisanship of</p> <p>12 CD 5?</p> <p>13 A. CD 5 is overwhelmingly Republican, so it's</p> <p>14 not going to matter.</p> <p>15 THE REPORTER: Was that an objection, Mark? 11:35:44</p> <p>16 MR. MEUSER: No. Sorry.</p> <p>17 THE REPORTER: Just a cough. Okay, thanks.</p> <p>18 THE WITNESS: Do you want me to give the answer</p> <p>19 again or are you thinking?</p> <p>20 BY MS. MADDURI: 11:36:18</p> <p>21 Q. No, I'm just thinking. We can go back to</p> <p>22 the other figure, Figure 9.</p> <p>23 A. Sorry, I know there was the back and forth</p> <p>24 between counsel, and so I just wanted to make sure</p> <p>25 that -- okay, we're good. 11:36:28</p> <p style="text-align: right;">Page 95</p>	<p>1 has various contours, is that splitting the city of 11:37:32</p> <p>2 Modesto?</p> <p>3 A. Yes.</p> <p>4 Q. You would agree that much of Modesto to</p> <p>5 the north of that line is Republican leaning; right? 11:37:54</p> <p>6 A. Yes.</p> <p>7 Q. In terms of population density, is there</p> <p>8 anything we can take from looking at this map</p> <p>9 besides just the size of a census block?</p> <p>10 A. No. 11:38:16</p> <p>11 Well, besides the size of it? No. That's</p> <p>12 part of the utility of the exercise of drawing</p> <p>13 alternative maps because, if at the end of the day,</p> <p>14 all this is really doing is moving around a couple</p> <p>15 dozen people, you're not going to see any changes. 11:38:30</p> <p>16 Q. Okay. Is it fair to say that your</p> <p>17 assessment that race predominated in the drawing of</p> <p>18 the lines here is based on --</p> <p>19 MS. MADDURI: Actually, let me -- actually, I</p> <p>20 think this is probably a good time to break because 11:39:11</p> <p>21 I think I'm actually going to move on to another</p> <p>22 figure.</p> <p>23 THE WITNESS: Okay.</p> <p>24 MS. MADDURI: So we can go off the record.</p> <p>25 (Lunch recess was taken at 11:39 a.m.)</p> <p style="text-align: right;">Page 97</p>

1 AFTERNOON SESSION 12:34 P.M.	1 with that. I can tell you that's copied from there. 12:37:27
2 ---	2 A. We go way back. I am confident you're
3 EXAMINATION RESUMED	3 being honest here.
4 BY MS. MADDURI:	4 Q. Okay. That'll probably also save us some
5 Q. Okay, Dr. Trende, I'd like to look at your 12:34:20	5 time. 12:37:38
6 report on -- your first report on page 14, which is	6 Okay. So this is, like I said, a blown-up
7 29 of the PDF, Figure 10. And this is Exhibit 1 to	7 version of Figure 11 from your report, which is
8 the deposition.	8 again still that border between CD 5 and CD 13 in
9 So this is -- this is entitled "Figure 10:	9 the Modesto/Ceres area. This is looking at HVAP and
10 Modesto/Ceres Area, By HCVAP and Block Group"; is 12:34:44	10 block group. 12:37:53
11 that right?	11 Does that all sound right to you?
12 A. Yes.	12 A. Yes.
13 Q. Okay. And before we broke, we were	13 Q. Okay. And I just want to look at the
14 talking about the border where Modesto is split, so	14 border more closely. And I've tried to put some
15 I'd like to ask you about that. 12:34:59	15 boxes on there. 12:38:04
16 Is it fair to say that along the border	16 Are you able to see those?
17 between CD 13 and CD 5, where Modesto is split,	17 A. Yes.
18 there are several block groups on or near the border	18 Q. Perhaps we could zoom in more.
19 in CD 13 that have a relatively low HCVAP?	19 Okay, great.
20 A. Yes. 12:35:22	20 A. Remember, I can zoom in on my exhibit over 12:38:08
21 Q. And we can see that in the yellow and	21 here, so . . .
22 lighter green precincts along the border that are	22 Q. Okay, great. And just so I'm not trying
23 included in CD 13; right?	23 to tell you which squiggly line to look at.
24 A. Correct.	24 Okay. So in which, if any, of these boxes
25 Q. Okay. And is it fair to say where the 12:35:32	25 is it your opinion that the line was drawn in a way 12:38:25
Page 98	Page 100
1 district is split, there are also darkly shaded 12:35:36	1 that sorted voters along racial or ethnic lines? 12:38:28
2 block groups in CD 5, meaning those block groups	2 A. Well, the question isn't so much do you --
3 have relatively high HCVAPs?	3 or isn't solely do you sort along ethnic or racial
4 A. Yes.	4 lines, it's are you privileging the political
5 Q. And is it fair to say that all of the most 12:35:53	5 story -- or the racial story over the political 12:38:51
6 deeply Hispanic block groups are in the middle of	6 story.
7 the city of Ceres?	7 But in particular that one on the right,
8 A. It does appear that way, yes.	8 the rectangle on the right, I think you can see a
9 Q. And most -- and none of those are along	9 clear gradient between what's in and what's out.
10 the border of the district; right? 12:36:08	10 That's not city of Ceres and it's actually 12:39:08
11 A. Correct.	11 Republican territory.
12 Q. Okay. When you look at this figure, do	12 You see it somewhat on the one to the
13 you see any neat slicing along racial lines?	13 left. And then the one in the middle doesn't show
14 A. No, not like you see in Stockton.	14 the racial sorting as well, but what makes that
15 MS. MADDURI: Okay. I'd like to now pull up 12:36:30	15 interesting is that it is heavily White. And to the 12:39:33
16 what I pre-marked as Tab 3 and we'll mark it as	16 north of it that area is more Democratic.
17 Exhibit 2.	17 So it's a question, for example, why
18 (Deposition Exhibit 2 was marked.)	18 include that area in the right box but exclude that
19 THE WITNESS: I'm still only getting Exhibit 1.	19 large Democratic area to the north of the line.
20 Oh, there we go. 12:36:56	20 Q. Okay, that's helpful. Let's go through 12:39:56
21 MS. MADDURI: If we could display it.	21 some of the boxes.
22 BY MS. MADDURI:	22 So in the three boxes in the middle, the
23 Q. And I'll represent to you that this is a	23 what I would call red, orange and lavender.
24 blown-up version of your Figure 11. And feel free	24 A. Oh, gosh, don't do colors.
25 to look at your report and make sure that you agree 12:37:24	25 Q. Okay. Sorry. The three in the middle, 12:40:13
Page 99	Page 101

<p>1 you can see the three in the middle; right? 12:40:15</p> <p>2 A. Actually, I didn't know there were -- so</p> <p>3 how many boxes are there total?</p> <p>4 Q. There's five total. And I think you</p> <p>5 initially commented on the rightmost box and the 12:40:22</p> <p>6 leftmost box, which I understood. And then I think</p> <p>7 you commented on the very middle box, but please --</p> <p>8 A. Okay. I see three.</p> <p>9 Q. -- correct me if I'm wrong.</p> <p>10 A. I see three. 12:40:33</p> <p>11 Q. You see three boxes total?</p> <p>12 A. Yeah. Yeah. So what I -- okay, so now</p> <p>13 looking more carefully is there like a gray-colored</p> <p>14 one on the far left?</p> <p>15 Q. Correct. 12:40:51</p> <p>16 A. Okay. Just out of curiosity, what color</p> <p>17 is the boundary?</p> <p>18 Q. Of the box?</p> <p>19 A. Yeah.</p> <p>20 Q. Yeah, it's gray. 12:41:00</p> <p>21 A. Oh, good. I got one right.</p> <p>22 Q. You got it.</p> <p>23 A. All right. Then I see it looks like maybe</p> <p>24 a red one to the right?</p> <p>25 Q. Correct. 12:41:07</p> <p style="text-align: right;">Page 102</p>	<p>1 side of the line? 12:42:17</p> <p>2 MR. MEUSER: Counsel, could we just number the</p> <p>3 boxes because I'm not sure what you mean when you</p> <p>4 say the three in the middle.</p> <p>5 MS. MADDURI: I don't have a way to physically 12:42:31</p> <p>6 number them. And I -- I can call them 2, 3 and 4;</p> <p>7 is that what you mean?</p> <p>8 MR. MEUSER: Could we call the first -- you</p> <p>9 don't have to physically number them, but can we</p> <p>10 just call the one on the upper left on the 12:42:42</p> <p>11 horizontal line 1 --</p> <p>12 MS. MADDURI: Yes.</p> <p>13 MR. MEUSER: -- the next box 2, the horizontal</p> <p>14 one 3, the small little box 4, and the vertical one</p> <p>15 5, just for a clean record? 12:42:54</p> <p>16 MS. MADDURI: Definitely.</p> <p>17 MR. MEUSER: Okay.</p> <p>18 BY MS. MADDURI:</p> <p>19 Q. So I'm asking you, Dr. Trende, about</p> <p>20 boxes 2, 3 and 4. 12:43:00</p> <p>21 A. Yes.</p> <p>22 Q. In your opinion, is it fair to say that</p> <p>23 there isn't a significant difference between the</p> <p>24 HVAP levels in the block groups on either side of</p> <p>25 the line in boxes 2, 3 and 4? 12:43:15</p> <p style="text-align: right;">Page 104</p>
<p>1 A. That's what I was referencing when I said 12:41:07</p> <p>2 the leftmost.</p> <p>3 Q. Okay.</p> <p>4 A. So I guess it's the --</p> <p>5 Q. Okay. 12:41:12</p> <p>6 A. -- center leftmost.</p> <p>7 Q. And then do you see --</p> <p>8 A. And then there's a horizontal one in the</p> <p>9 middle, a big long one horizontally in the middle.</p> <p>10 And then I see a rectangle that is 12:41:26</p> <p>11 vertical on the right. And so there's another . . .</p> <p>12 Q. Yeah, so between the two that you just</p> <p>13 described, there's like a square --</p> <p>14 A. Oh, yeah.</p> <p>15 Q. -- that is lavender. 12:41:43</p> <p>16 I don't know what it looks like to you.</p> <p>17 A. Pink.</p> <p>18 Q. Okay. But I think --</p> <p>19 A. Okay.</p> <p>20 Q. -- it's fair to say you now see five boxes 12:41:50</p> <p>21 that go left to right; is that accurate?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So in the three in the middle, is</p> <p>24 it fair to say that there isn't much of a difference</p> <p>25 in the HVAP levels in the block groups on either 12:42:13</p> <p style="text-align: right;">Page 103</p>	<p>1 A. Correct. 12:43:19</p> <p>2 Q. Then I think you -- and then -- so in</p> <p>3 box 1 --</p> <p>4 A. Well, no, no. No, I'm sorry, because the</p> <p>5 one on the left I was referring to was box 2. 12:43:29</p> <p>6 Q. Okay. So in box 2, it's --</p> <p>7 A. Can we just go through them? Maybe the</p> <p>8 easiest --</p> <p>9 Q. Sure.</p> <p>10 A. -- way would be for me to walk through 12:43:41</p> <p>11 them from left to right.</p> <p>12 Q. Okay, sure. I'll ask you questions like</p> <p>13 that. I was trying to be efficient.</p> <p>14 A. I know.</p> <p>15 Q. Okay. Let's start with the box, box 1 or 12:43:48</p> <p>16 the one that is outlined in gray that's on the</p> <p>17 leftmost side of the image.</p> <p>18 A. Yeah, so there --</p> <p>19 Q. So -- oh, sorry.</p> <p>20 A. Ask a question. Yeah, sorry. 12:43:59</p> <p>21 Q. No problem.</p> <p>22 Would you agree with me that the line</p> <p>23 there is Highway 99?</p> <p>24 A. Yes.</p> <p>25 I would accept a representation to that 12:44:15</p> <p style="text-align: right;">Page 105</p>

<p>1 effect. I know it's a road. 12:44:17</p> <p>2 Q. Okay. Would you agree that it's possible</p> <p>3 that the reason the district drawer chose to divide</p> <p>4 CD 13 and CD 5 in box 1, the gray box, where they</p> <p>5 did was to track Highway 99? 12:44:33</p> <p>6 A. Right, and so I think that's why -- I</p> <p>7 think I even say in my report that it does so for a</p> <p>8 good part of it.</p> <p>9 So even though I can see a racial gradient</p> <p>10 there, I wouldn't have focused on that because 12:44:50</p> <p>11 there's at least nominally a roadway that was</p> <p>12 followed.</p> <p>13 Q. Okay. Then looking at box 2, which I</p> <p>14 think you've described, but let's just describe it</p> <p>15 again to make sure the record is clean. 12:45:05</p> <p>16 Is it your opinion that there is a notable</p> <p>17 difference in the HVAP levels on either side of the</p> <p>18 line there?</p> <p>19 A. It looks to me like it's reaching out to</p> <p>20 get some high HVAP areas. But I also think that 12:45:30</p> <p>21 there's, if I remember correctly, a political</p> <p>22 difference there as well, so that would be harder to</p> <p>23 disaggregate.</p> <p>24 Q. In other words, that line -- a portion of</p> <p>25 the line in the second box, you're saying that you 12:45:53</p> <p style="text-align: right;">Page 106</p>	<p>1 A. Sure. 12:47:12</p> <p>2 MS. MADDURI: Okay, I think we can pull this</p> <p>3 down. And we can pull up Tab 5, which I think will</p> <p>4 be marked as Exhibit 3.</p> <p>5 (Deposition Exhibit 3 was marked.) 12:47:34</p> <p>6 BY MS. MADDURI:</p> <p>7 Q. Okay. We'll probably need to do the same</p> <p>8 zooming in and same identifying of boxes that we</p> <p>9 just did.</p> <p>10 But to start, I'll represent to you that 12:48:00</p> <p>11 this is a zoomed-in, blown-up version of your</p> <p>12 Figure 17, which is the border between CD 9 and</p> <p>13 CD 13 in the Stockton area.</p> <p>14 A. Um-hum.</p> <p>15 Q. Does that look right to you? 12:48:15</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And I want to do a similar thing</p> <p>18 looking at the border pretty closely, so maybe the</p> <p>19 first thing to do is just for you to try to see if</p> <p>20 you can see the same number of boxes that I've put 12:48:30</p> <p>21 on the image.</p> <p>22 So I -- there are seven boxes. And I</p> <p>23 think we could maybe go from north to south and</p> <p>24 north to south.</p> <p>25 And I can tell you colors, but I know that 12:48:44</p> <p style="text-align: right;">Page 108</p>
<p>1 think that it's also tracking political lines -- 12:45:59</p> <p>2 A. I think it's --</p> <p>3 Q. -- is that fair?</p> <p>4 A. Yeah, without, like, sitting down and</p> <p>5 actually analyzing it, I think it's hard to 12:46:08</p> <p>6 disaggregate.</p> <p>7 Q. Okay. And then for boxes 3 and 4 -- and</p> <p>8 feel free to separate these if you need to -- would</p> <p>9 you agree that it's fair to say that there isn't</p> <p>10 much of a difference in HVAP levels in the block 12:46:26</p> <p>11 groups on either side of the line in those boxes?</p> <p>12 A. Right.</p> <p>13 Q. Okay. And then --</p> <p>14 A. Maybe some in 4, but that's a pretty</p> <p>15 discrete area, so I don't know how much I would read 12:46:42</p> <p>16 into there.</p> <p>17 Q. Okay. And then I think at the start you</p> <p>18 were talking about the black box, so let's look at</p> <p>19 that for a moment.</p> <p>20 Are you aware that that region is mostly 12:46:54</p> <p>21 the airport in that area?</p> <p>22 A. I don't think it's very densely populated.</p> <p>23 I don't know if it's the airport.</p> <p>24 Q. Okay. But you'd agree it's not a densely</p> <p>25 populated area? 12:47:09</p> <p style="text-align: right;">Page 107</p>	<p>1 you said you're color blind, so I'm not sure if 12:48:47</p> <p>2 that's actually helpful to you.</p> <p>3 A. That will not help at all, but I can see</p> <p>4 seven.</p> <p>5 Q. Okay. Okay. So starting with the 12:48:59</p> <p>6 northmost box, then, which we can call box 1, and</p> <p>7 it's a red outline, would you agree that the HVAP</p> <p>8 and the block groups on the D 9 side is higher than</p> <p>9 the block groups on the District 13 side?</p> <p>10 A. Which one are we in? 12:49:23</p> <p>11 Q. The northernmost box, which we could call</p> <p>12 box 1. And it's red, but I'm not sure if that</p> <p>13 helps.</p> <p>14 A. Okay, I see that. I don't know.</p> <p>15 Q. Would you agree that it at least looks 12:49:36</p> <p>16 pretty similar on both sides of the line?</p> <p>17 A. With that particular box, yeah. When you</p> <p>18 look at the region as a whole that's excluded, no.</p> <p>19 Q. Okay. So then --</p> <p>20 A. I mean, you can do a lot of work with how 12:49:49</p> <p>21 you size the box, but with that one looks like block</p> <p>22 group, yes.</p> <p>23 Q. Okay. What about then moving south to the</p> <p>24 next box, which I can call box 2, and it's orange,</p> <p>25 would you agree that the HVAP and the block groups 12:50:08</p> <p style="text-align: right;">Page 109</p>

1 on the District 13 side is lower than the block 12:50:11	1 box, which would be box 6, it's outlined in blue, is 12:52:37
2 groups on the District 9 side?	2 it fair to say that the HVAP of the census blocks on
3 A. Yes.	3 either side of the border is about the same or
4 Q. If the map drawer was trying to enhance	4 perhaps more heavily Hispanic in the District 9
5 the HVAP of District 13, would you agree that they 12:50:25	5 side? 12:52:52
6 may have placed the block group with the lower	6 A. Yeah, maybe.
7 Hispanic share in CD 9 instead of CD 13?	7 Q. Okay. Now, looking at the last box, this
8 A. Without looking at the map, I really can't	8 one is -- we can call it box 7 or the last box, the
9 say to see what else might be going on, but it's a	9 southernmost box, and it's outlined in mint green.
10 possibility. I'd be interested to hear testimony on 12:50:42	10 A. Um-hum, yes. 12:53:09
11 that.	11 Q. Is it your opinion that there's a
12 Q. All right. Then moving to the third box,	12 meaningful difference in HVAP on either side of the
13 which is west of the second box and is outlined in	13 line here?
14 purple, would you agree that the HVAP and the block	14 A. Yes.
15 groups on the District 13 side is lower than the 12:50:58	15 Q. Are you aware that on the west side of the 12:53:20
16 block groups on the District 9 side?	16 line that that is the Weston Ranch neighborhood?
17 A. Which box are we in now?	17 A. No.
18 Q. It's the third one.	18 Q. Are you aware of any of the demographics
19 A. Third, yes.	19 of that neighborhood?
20 Q. Okay. And then going to the next one, the 12:51:10	20 A. It's a mixed-race neighborhood. 12:53:32
21 black one, which is box 4 if we're going from sort	21 Q. In your maps they don't allow us to see
22 of northeast to southwest.	22 the relative concentration of voters of any race or
23 A. Um-hum.	23 ethnicity besides Hispanic; right?
24 Q. Is it fair to say that the HVAP of the	24 A. That's right.
25 census blocks on either side of the border look to 12:51:25	25 Q. The border between CD 9 and CD 13 in that 12:53:57
Page 110	Page 112
1 be about the same? 12:51:29	1 final seventh box is -- also tracks Highway 5; is 12:54:03
2 A. Yes.	2 that right?
3 Q. Okay. And then in the next box, the	3 A. Yes.
4 yellow box, which is box 5 in the direction that	4 Q. Would you agree that it's possible that
5 we're moving, would you agree that the HVAP of the 12:51:38	5 the reason the district drawer chose to divide CD 9 12:54:21
6 census blocks on either side of the border is about	6 and CD 13 where he did in the mint green box is to
7 the same?	7 track Highway 5?
8 A. It looks like it might be.	8 A. It's possible, I just don't think it's
9 Q. What do you mean when you say "might"?	9 particularly credible that for this one little
10 You just can't tell the color? 12:52:05	10 stretch of the road that happens to follow a racial 12:54:38
11 A. Yeah, it looks like it might be.	11 gradient that that's where they decided to do it.
12 Q. Is it fair to say it's at least very, very	12 If that had formed the western boundary of
13 similar?	13 the district for the entire stretch, I'd be more
14 A. Yeah.	14 persuaded. But I guess if he were to testify
15 Is this the HVAP or the HCVAP, by the way? 12:52:16	15 differently it would be a different story. 12:54:54
16 Q. HVAP.	16 Q. Dividing CD 9 and CD 13 in the mint green
17 A. Okay.	17 box, the seventh box, along Highway 5, that doesn't
18 Q. This is Figure 17.	18 violate any traditional redistricting criteria;
19 A. Okay.	19 right?
20 Q. And looking -- 12:52:28	20 A. I mean, except for the way that you split 12:55:10
21 A. Yeah, they're --	21 the city and go and introduce two other city splits
22 Q. Oh, sorry, go ahead.	22 or CDP splits.
23 A. They're similar. They look like it in	23 But following a boundary, I guess, is
24 this rendering, at least.	24 acceptable. It's just a question of it's one of
25 Q. Okay. And what about looking at the next 12:52:35	25 those areas where that comes -- or one of those 12:55:24
Page 111	Page 113

1 places where that becomes a post hoc 2 rationalization. 3 Q. And then could we zoom out just a little 4 bit so we could see the full northern border. 5 So going now to an area that's not in a 6 box but it's the most northern, northeast border of 7 the district, which kind of is a pretty straight 8 long diagonal line, does that orient you to where 9 I'm trying to ask you about? 10 A. Yes. 11 Q. Would you agree that that line mostly 12 corresponds to the boundaries of August and Garden 13 Acres? 14 A. Yes. 15 Q. And for Garden Acres, it keeps all of 16 Garden Acres inside of CD 13 except for two people; 17 right? 18 A. Right. 19 Q. For that part of the border, would you 20 agree that it's possible that the district drawer 21 chose to split the border between CD 13 and -- 22 (Reporter seeks clarification.) 23 Q. Would you agree that it is possible that 24 the district drawer chose to split the border 25 between CD 13 and CD 9 in this area to mostly follow 12:55:24 12:56:02 12:56:14 12:56:33 12:56:45 Page 114	1 interest. 2 Q. Okay. Aside from that, you're not 3 suggesting that the borders of CD 13 in Stockton are 4 failing to respect any particular community of 5 interest? 6 A. No, no. 7 MS. MADDURI: Okay, I think we can now turn to 8 your second report. And that's pre-marked as Tab -- 9 or, sorry, no, it's not Tab 2. Let me tell you. 10 Tab 6. And we can make that as, I believe, 11 Exhibit 4. 12 (Deposition Exhibit 4 was marked.) 13 MS. MADDURI: And we don't -- oh, we can pull 14 it up, yeah. 15 BY MS. MADDURI: 16 Q. Dr. Trende, do you recognize this 17 document? 18 A. Yes. 19 Q. Okay. It's the second report that you 20 submitted in this case late last -- maybe a night 21 ago or two nights? I'm forgetting now. 22 A. It all blurs together. 23 It would have been better if it were 24 styled as a reply report. 25 Q. But it looks to you like it's the second 12:58:51 12:59:00 12:59:29 12:59:55 13:00:06 13:00:19 Page 116
1 the boundaries of those two cities? 2 A. It's possible. 3 Q. Okay. And then turning now to your -- 4 back to your report, which is Exhibit 1 and going to 5 page 18, which is 33 of the PDF, I'm looking at 6 Figure 14. 7 And this is District 9/13 boundary in the 8 Stockton area, but now we're looking at a politics 9 and block group map. 10 Does that look right to you? 11 A. Correct. 12 Q. The portion of the border we were just 13 discussing along Garden Acres and most of August, 14 would you agree that that's a relatively high 15 Democratic area? 16 A. No. Because I know it's 50/50. 17 Q. You think it's about 50/50? 18 A. Yeah, I think those are the numbers 19 reported in the reply. 20 Q. Okay. Are you offering any opinion that 21 the way Stockton is drawn in the Prop. 50 map fails 22 to respect communities of interest? 23 A. No. 24 Except to the extent that Mr. Fairfax has 25 opined, I guess, that CDPs reflect communities of 12:56:49 12:57:09 12:57:49 12:58:02 12:58:28 12:58:44 Page 115	1 report you submitted? 2 A. I'm scrolling through it, and it is. 3 Q. Okay. And I will apologize. I didn't get 4 this very long ago, so we're going to jump around a 5 bit in talking about it. 6 MS. MADDURI: So first I want to turn to 7 page 27, which is 31 of the PDF. 8 THE WITNESS: Oh, goodness. Okay. 9 BY MS. MADDURI: 10 Q. Okay. And I'm going to ask you about the 11 response to Dr. Rodden. 12 A. Okay. 13 Q. So the first paragraph there, I want to 14 ask you about the last two -- actually, it's the 15 last three sentences. 16 So starting with "In the big picture," we 17 don't need to read it out loud, but if you could 18 read whatever you need to read to familiarize 19 yourself with the three sentences that start "In the 20 big picture." 21 A. I read it. It's the rare instance where 22 we have the deposition like two days after a 23 report's filed, so I'm still fresh on it. 24 Q. Is it -- is your suggestion in this part 25 of the report that there isn't utility in examining 13:00:23 13:00:41 13:00:58 13:01:18 13:01:32 13:01:47 Page 117



<p>1 the 2021 map as a comparator for the Prop. 50 map? 13:01:51</p> <p>2 A. No, no. But this is kind of a -- again,</p> <p>3 kind of a longstanding discussion Dr. Rodden and I</p> <p>4 seem to have in these cases. But I think there are</p> <p>5 cases where you can look at a map and say, yeah, 13:02:08</p> <p>6 this person started with the enacted map and just</p> <p>7 kind of tweaked it a bit.</p> <p>8 And in those cases it might be useful to</p> <p>9 do a sort -- you know, start with the previous</p> <p>10 iteration and do a very careful in/out analysis. 13:02:21</p> <p>11 There's other maps where things just get blown up,</p> <p>12 and I think this is closer to a gets-blown-up map.</p> <p>13 I -- my opinion looking at the map is that</p> <p>14 the previous iteration was interesting or useful</p> <p>15 insofar as it would elect Democrats or send a 13:02:42</p> <p>16 Hispanic supported member to Congress.</p> <p>17 But beyond that I'm not sure what the</p> <p>18 utility of it would be.</p> <p>19 Q. Okay. So do you know how many people,</p> <p>20 roughly, were moved in and out of CD 13 if looking 13:03:11</p> <p>21 at the old map, the 2021 map, versus the Prop. 50</p> <p>22 map?</p> <p>23 A. I think it nets out to 200,000.</p> <p>24 Q. And the total population of CD 13 roughly,</p> <p>25 do you know what that is? 13:03:27</p> <p style="text-align: right;">Page 118</p>	<p>1 gave to HOPE. 13:05:15</p> <p>2 Q. Okay. And this is one of the documents</p> <p>3 that you received from counsel in this case?</p> <p>4 A. Yes, yes.</p> <p>5 Q. Let's turn to page 26. And I'm going to 13:05:30</p> <p>6 look at lines 1 through 8.</p> <p>7 And feel free to review whatever parts of</p> <p>8 the document you want. This is the portion I want</p> <p>9 to ask you a question about.</p> <p>10 A. Okay. 13:05:46</p> <p>11 Q. And this is Paul Mitchell speaking here.</p> <p>12 And he says [as read]:</p> <p>13 "So what we did, which you could only do</p> <p>14 in California, was we took the Commission map. We</p> <p>15 kept about 80 percent of it the same, but in certain 13:06:04</p> <p>16 areas we made small, modest changes in order to</p> <p>17 create a push back to what Texas was doing, an</p> <p>18 opportunity for Democrats to pick up five seats, and</p> <p>19 to counterbalance the five Republican seats in</p> <p>20 Texas." 13:06:21</p> <p>21 Did I read that correctly?</p> <p>22 A. Yes.</p> <p>23 Q. And your opinion in Texas, which I think</p> <p>24 you also served as an expert in, was that Texas was</p> <p>25 a partisan gerrymander, not a racial gerrymander; is 13:06:32</p> <p style="text-align: right;">Page 120</p>
<p>1 A. It's about 700, I think. 13:03:29</p> <p>2 Q. Okay. So fair to say about 100,000 people</p> <p>3 were moved out and about 100,000 people were moved</p> <p>4 in?</p> <p>5 A. Yes. 13:03:42</p> <p>6 Q. Okay. And are you aware that the map</p> <p>7 drawer has stated that they began by using the</p> <p>8 commission map in redrawing for Prop. 50?</p> <p>9 A. No.</p> <p>10 MS. MADDURI: Can we pull up Tab 2 and mark it 13:04:12</p> <p>11 as Exhibit 5?</p> <p>12 (Deposition Exhibit 5 was marked.)</p> <p>13 MS. MADDURI: And we can go to the first page</p> <p>14 first to make sure you recognize the document.</p> <p>15 THE CONCIERGE: Sorry. It's taking a minute to 13:04:49</p> <p>16 load in there.</p> <p>17 THE WITNESS: Okay. Just making sure it's not</p> <p>18 me.</p> <p>19 THE CONCIERGE: It should be in there now.</p> <p>20 THE WITNESS: Okay. 13:05:03</p> <p>21 BY MS. MADDURI:</p> <p>22 Q. Do you recognize this document?</p> <p>23 A. Yes.</p> <p>24 Q. What is it?</p> <p>25 A. It is the presentation that Mr. Mitchell 13:05:10</p> <p style="text-align: right;">Page 119</p>	<p>1 that right? 13:06:37</p> <p>2 A. Correct.</p> <p>3 Q. Does this passage indicate to you that the</p> <p>4 starting point for the Prop. 50 map was the</p> <p>5 commission map? 13:06:45</p> <p>6 A. It indicates that that's what he said.</p> <p>7 I don't -- I might be more persuaded if he</p> <p>8 hadn't gone on to say that there were small, modest</p> <p>9 changes.</p> <p>10 MS. MADDURI: Okay. I think we can pull that 13:07:20</p> <p>11 down.</p> <p>12 BY MS. MADDURI:</p> <p>13 Q. I had a question for you about -- so you</p> <p>14 obviously looked at 2024 election results for all of</p> <p>15 your partisan analysis; right? And specifically the 13:07:37</p> <p>16 presidential election only; right?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And is it your general view that in</p> <p>19 recent elections -- oh, sorry, go ahead.</p> <p>20 A. Oh, I was going to say actually the -- so 13:07:50</p> <p>21 for the comparisons of the enacted map to the</p> <p>22 district map, that wasn't the only election that I</p> <p>23 referenced. Or to the --</p> <p>24 Q. Yeah, that's right.</p> <p>25 A. -- demonstration map. 13:07:59</p> <p style="text-align: right;">Page 121</p>

1	So I don't want to box myself in there.	13:08:02	1	Q. So then is it fair to say that if you were	13:10:22
2	Q. Yeah, fair enough. I'm asking about		2	using different elections, earlier elections, or an	
3	everything besides the demonstration maps.		3	election index that used earlier elections, would	
4	A. Yeah.		4	that make Hispanic areas in your maps appear more	
5	Q. Okay. So for everything besides the	13:08:09	5	Democratic than they do?	13:10:41
6	demonstration maps, you looked only at 2024		6	A. Yes, if you go back in time further where	
7	presidential election results; right?		7	you get a different voting coalition, it would look	
8	MR. MEUSER: I'm going to object to this point		8	more Democratic.	
9	that -- to the extent that it mischaracterizes his		9	Q. Is that true even within 2024, given that	
10	prior testimony.	13:08:22	10	they were further right in the presidential election	13:10:58
11	THE WITNESS: Yeah, I don't think that's what I		11	than other elections that year?	
12	said. I think I said that I checked other elections		12	A. I think pretty much everyone was in that	
13	but that I put up the 2024 presidential result.		13	year, at least in this area. Maybe there was some	
14	BY MS. MADDURI:		14	leftward shift, although I don't know how it would	
15	Q. Okay. Yeah, you're right. I should be	13:08:34	15	be possible in a place like San Francisco. But,	13:11:17
16	more precise.		16	yeah, maybe.	
17	So in all of the images in your maps that		17	Q. Talking specifically now about the	
18	depict partisan metrics in the various areas of the		18	Stockton area and some of the discussion you had in	
19	map, all of those are based on 2024 presidential		19	your second report. I guess can you summarize what	
20	election results; correct?	13:08:50	20	it is that you find problematic about the way that	13:11:49
21	A. Yeah, in large part because I looked at		21	the lines were drawn in Stockton?	
22	other results and didn't get a particularly		22	A. Well, the map drawer is extending the	
23	different result. And I think 2024 is the most		23	district to pick up heavily Hispanic areas, keeping	
24	relevant.		24	the HCVAP of the district almost perfectly balanced,	
25	Q. Is it your general view or do you have	13:09:00	25	as Dr. Rodden points out, splitting a couple other	13:12:13
		Page 122			Page 124
1	thoughts on how Hispanic voters have shifted to the	13:09:03	1	jurisdictions and in the process bypassing areas	13:12:20
2	right in recent elections?		2	that would have made the district at least a little	
3	A. Hispanic voters appear to have shifted to		3	bit more Hispanic but don't have those racial cues	
4	the right in recent elections.		4	or racial features.	
5	Q. Okay. And do you have an opinion about	13:09:15	5	Q. When you say "bypassing certain areas,"	13:12:38
6	when that trend started?		6	are you talking about the Weston Ranch neighborhood?	
7	A. Probably in 2020.		7	A. Yes.	
8	Q. Do you know if they shifted further right		8	Q. Is there any other area that you're	
9	in the 2024 election than prior elections?		9	talking about there?	
10	A. Yes.	13:09:33	10	A. I mean, there were other areas, like	13:12:48
11	Q. What about specifically in the 2024		11	around Tracy, that would have been -- so if I had	
12	presidential election?		12	used the simulations and directed it to hit a	
13	A. Yeah. President Trump definitely did		13	certain partisan target, assuming that they would	
14	better than he had done in 2020 or 2016.		14	have even done that, Tracy would have been a place	
15	Q. Do you know if they shifted further right	13:09:45	15	to go pick up Democratic votes before you start	13:13:05
16	in the 2024 presidential election as compared to		16	going into marginal areas past Stockton.	
17	other elections in 2024?		17	Q. The marginal areas past Stockton that	
18	A. Yes.		18	you're talking about, is that Garden Acres and	
19	Q. Do you have any reason to believe that		19	August?	
20	that trend is different in California?	13:10:01	20	A. Yes.	13:13:21
21	A. No.		21	Q. Okay. Is it fair to say, then, that the	
22	Q. So fair to say the same sort of trend has		22	primary criticism you have of the way Stockton is --	
23	occurred in California?		23	or not -- the Stockton area is configured is	
24	A. Yeah. Maybe not quite to the extent that		24	bypassing the Weston Ranch area and including Garden	
25	it did in, like, the Rio Grande Valley, but yes.	13:10:14	25	Acres and August?	13:13:40
		Page 123			Page 125

<p>1 A. Well, I guess my criticism would be that 13:13:42</p> <p>2 race predominated in the drawing, but the way you</p> <p>3 can tell is which was the map maker targeting, was</p> <p>4 he targeting mostly Hispanic areas or was he</p> <p>5 targeting mostly heavily Democratic areas? I mean, 13:13:58</p> <p>6 you had a choice to be made here and he chose the</p> <p>7 Hispanic areas.</p> <p>8 Q. Yeah, and I'm just trying to understand</p> <p>9 the how of that.</p> <p>10 So is the how of that that the map drawer 13:14:07</p> <p>11 bypassed Weston Ranch and included August and Garden</p> <p>12 Acres? Is that the gist of the issue?</p> <p>13 A. Yeah, he didn't do that, he didn't go to</p> <p>14 the areas just north of the district lines, which</p> <p>15 are overwhelmingly Democratic, probably in the city 13:14:26</p> <p>16 center of Stockton.</p> <p>17 He just left a lot on the table in</p> <p>18 Stockton, which by itself isn't a problem. It's</p> <p>19 just the reason he did it -- he's doing this in a</p> <p>20 district that's, you know, still kept as a toss-up. 13:14:40</p> <p>21 It seems pretty apparent that the only</p> <p>22 reason to do that is to grab the high HCVAP areas</p> <p>23 that keep the HCVAP of the district almost entirely</p> <p>24 unchanged.</p> <p>25 There's more straightforward ways to get 13:14:59</p> <p style="text-align: right;">Page 126</p>	<p>1 Q. It is, it is. 13:16:28</p> <p>2 A. Okay.</p> <p>3 Q. But I think as you note later, some of</p> <p>4 your response to sort of like a response to multiple</p> <p>5 experts despite being in a certain portion of the 13:16:36</p> <p>6 report.</p> <p>7 A. Got it. Okay.</p> <p>8 Q. Okay. And here you're providing some</p> <p>9 figures about the partisanship of Garden Acres and</p> <p>10 August. 13:16:58</p> <p>11 Do you see that? Specifically with -- in</p> <p>12 reference to the 2024 presidential election?</p> <p>13 A. Where is that?</p> <p>14 Q. It is -- it starts, "Garden Acres and</p> <p>15 August have about 20,000 residents, but went for her 13:17:13</p> <p>16 by 6," her being Kamala Harris. And it's five lines</p> <p>17 down on page 21.</p> <p>18 Sorry, 21 of the report, which is 25 of</p> <p>19 the PDF.</p> <p>20 A. Oh, oh, oh, okay. 13:17:28</p> <p>21 Q. Sorry about that.</p> <p>22 A. That's okay. That's my fault.</p> <p>23 Okay, yes.</p> <p>24 Q. Okay. Is it fair to say that had you</p> <p>25 looked at other elections it's fair to say that the 13:17:44</p> <p style="text-align: right;">Page 128</p>
<p>1 similar Democratic -- to get similarly or even 13:15:00</p> <p>2 slightly more Democratic districts, but that doesn't</p> <p>3 get you the HCVAP balance that he achieved.</p> <p>4 Q. The HCVAP balance, the areas that you're</p> <p>5 saying were added but that perhaps were not 13:15:16</p> <p>6 necessary, that's Garden Acres and August; right?</p> <p>7 A. Yeah, I think there's some other precincts</p> <p>8 in Stockton and that area.</p> <p>9 Q. Okay. But primarily it's those two</p> <p>10 additional cities? 13:15:29</p> <p>11 A. It's primarily those two additional</p> <p>12 cities. But, like I said, there are some precincts</p> <p>13 in the -- I don't even know what to call it</p> <p>14 geographically for Stockton, but in that area.</p> <p>15 Q. I think the area of the report we're 13:16:00</p> <p>16 talking about, page 20 and 21 -- and we don't</p> <p>17 necessarily -- we can pull it up, but -- we don't</p> <p>18 need to pull it up, I guess, but if you have it in</p> <p>19 front of you, the part I'm asking you about is that</p> <p>20 first paragraph that starts on page 20 and ends on 13:16:12</p> <p>21 page 21.</p> <p>22 A. Twenty and --</p> <p>23 Q. Are you oriented to that?</p> <p>24 A. For me 20 and 21 is the response to</p> <p>25 Fairfax. 13:16:26</p> <p style="text-align: right;">Page 127</p>	<p>1 differences in partisanship that you're noting here 13:17:48</p> <p>2 would be different?</p> <p>3 A. They could.</p> <p>4 Q. Do you agree that Garden Acres and August</p> <p>5 are high HVAP areas? 13:18:01</p> <p>6 A. Certainly HCVAP areas.</p> <p>7 Q. About 70 percent; right?</p> <p>8 A. That's right.</p> <p>9 Q. And so is it fair to say that had you</p> <p>10 looked at earlier elections, that area might have 13:18:16</p> <p>11 presented more Democratic given the shift of</p> <p>12 Hispanic voters to the right in the 2024</p> <p>13 presidential election specifically?</p> <p>14 A. It could have been.</p> <p>15 Q. Do you think it would have been, based on 13:18:32</p> <p>16 the shift that you described?</p> <p>17 A. Like I said, when I looked at other</p> <p>18 elections, things looked mostly the same in that</p> <p>19 area.</p> <p>20 I also think that if there had been some 13:18:44</p> <p>21 massive shift, one of the experts would have pointed</p> <p>22 that out. So I'm not going to say one way or the</p> <p>23 other.</p> <p>24 Q. Which election specifically did you look</p> <p>25 at to, I guess, confirm that the 2024 presidential 13:18:59</p> <p style="text-align: right;">Page 129</p>

<p>1 election is similar to other elections? 13:19:06</p> <p>2 A. So I would have looked at probably</p> <p>3 Governor '22, maybe -- maybe Senate.</p> <p>4 Q. Okay. And do you remember what the</p> <p>5 partisanship of Garden Acres and August would have 13:19:20</p> <p>6 been in those elections?</p> <p>7 A. No.</p> <p>8 Q. Based on the rightward shift of Hispanic</p> <p>9 voters, do you think it would have been higher; in</p> <p>10 other words, more support for the Democratic 13:19:32</p> <p>11 candidates in those elections?</p> <p>12 A. I don't know. But the question would be</p> <p>13 more how is it relative to what we see in Stockton?</p> <p>14 I don't know.</p> <p>15 In other words, does the overall pattern 13:19:45</p> <p>16 shift where that's a more -- area that's more</p> <p>17 Democratic than other areas of the city in the</p> <p>18 region.</p> <p>19 Q. Is it fair to say, in your opinion, that</p> <p>20 Hispanic voters moved -- had a -- I guess, like a 13:20:02</p> <p>21 relevantly larger move towards the right than voters</p> <p>22 of other ethnic and racial groups?</p> <p>23 A. I actually don't know if that's true</p> <p>24 across the board. Like, I don't know if it's true</p> <p>25 with respect to Asians because they also swung 13:20:23</p> <p style="text-align: right;">Page 130</p>	<p>1 by HOPE. I think it's cited to either in the 13:22:31</p> <p>2 response to Fairfax or to Dr. Grofman.</p> <p>3 Q. Okay. And how did you become familiar</p> <p>4 with that group?</p> <p>5 A. I think that was another document provided 13:22:43</p> <p>6 by counsel.</p> <p>7 Q. What do you base your view that the map</p> <p>8 drawer speaks regularly to that group on?</p> <p>9 A. Because he has appeared in a few of these</p> <p>10 documents. 13:23:01</p> <p>11 Q. Which documents are you referring to?</p> <p>12 A. That are presented. I think that maybe</p> <p>13 came out in his deposition.</p> <p>14 Q. Did you review the deposition transcript</p> <p>15 of Mr. Mitchell? 13:23:16</p> <p>16 A. No.</p> <p>17 Q. Did you view it?</p> <p>18 A. No.</p> <p>19 Q. How do you know what might have come out</p> <p>20 of his deposition? 13:23:25</p> <p>21 A. A conversation with counsel.</p> <p>22 Q. Okay. And so I guess what do you mean</p> <p>23 by -- can you quantify what you mean by "regularly"</p> <p>24 here?</p> <p>25 A. I believe it was a couple times a year. 13:23:41</p> <p style="text-align: right;">Page 132</p>
<p>1 leftward -- or rightward. 13:20:27</p> <p>2 I don't know. That's actually a good</p> <p>3 question.</p> <p>4 Q. What about compared with White voters?</p> <p>5 A. Yeah, I don't know within subgroups of 13:20:37</p> <p>6 White voters, but, yeah, there's a larger rightward</p> <p>7 shift than with Whites.</p> <p>8 Q. Okay. Turning to page 28 of this report,</p> <p>9 which is page 32 of the PDF.</p> <p>10 I'm looking at the second full paragraph, 13:21:40</p> <p>11 which starts "I'm not sure." And I want to ask you</p> <p>12 about the part of the paragraph that starts on</p> <p>13 line 5 with "Moreover."</p> <p>14 Do you see that?</p> <p>15 A. Yes. 13:22:04</p> <p>16 Q. Okay. And here you say:</p> <p>17 "Moreover, the ultimate HCVAP fell</p> <p>18 directly within the range that an interest group to</p> <p>19 which the map drawer speaks regularly had suggested,</p> <p>20 along with 13 other districts in the same map." 13:22:18</p> <p>21 Do you see that sentence?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. What interest group are you</p> <p>24 referring to here?</p> <p>25 A. That's another -- that's the presentation 13:22:29</p> <p style="text-align: right;">Page 131</p>	<p>1 Q. Okay. And that's based on the transcript 13:23:44</p> <p>2 that you saw of a presentation that Mr. Mitchell</p> <p>3 gave; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. What other documents is that based on? 13:23:56</p> <p>6 A. Nothing.</p> <p>7 Q. Okay. So you're familiar with one</p> <p>8 instance where Mr. Mitchell spoke with that group;</p> <p>9 is that right?</p> <p>10 A. Yeah, I have the presentation. 13:24:10</p> <p>11 Q. Okay. So I'm just trying to understand</p> <p>12 what you're basing the assertion that he speaks with</p> <p>13 them regularly on.</p> <p>14 A. Well, I told you, I mean, there was a</p> <p>15 conversation with counsel where that was mentioned. 13:24:27</p> <p>16 Q. I see.</p> <p>17 A. Because, remember --</p> <p>18 Q. So counsel told you --</p> <p>19 A. -- the deposition was taking place the</p> <p>20 same day this was due. 13:24:34</p> <p>21 Q. I see.</p> <p>22 So counsel told you that Mr. Mitchell</p> <p>23 regularly speaks with this group?</p> <p>24 A. No. That that was part of the deposition</p> <p>25 transcript. 13:24:44</p> <p style="text-align: right;">Page 133</p>

<p>1 Q. Okay. So the basis for your statement 13:24:50</p> <p>2 here is that counsel told you that in the deposition</p> <p>3 of Mr. Mitchell he testified that he regularly</p> <p>4 speaks with HOPE?</p> <p>5 A. I think what I just said was a couple 13:25:03</p> <p>6 times a year.</p> <p>7 Q. Okay. "Regularly" means a couple times a</p> <p>8 year?</p> <p>9 A. I think if you do that regularly a couple</p> <p>10 times a year, then yes. 13:25:14</p> <p>11 Q. In this sentence you also describe "the</p> <p>12 range that an interest group to which the map drawer</p> <p>13 speaks regularly had suggested"?</p> <p>14 A. Um-hum.</p> <p>15 Q. What is that range that you're talking 13:25:29</p> <p>16 about?</p> <p>17 A. I think their suggestion, it may have been</p> <p>18 52 to 54 or 51 to 55, but it's in that area.</p> <p>19 Q. And where did you learn about that range</p> <p>20 from? 13:25:48</p> <p>21 A. That's from a document that should have</p> <p>22 been attached as an exhibit to this.</p> <p>23 Q. Sorry, attached as an exhibit to what?</p> <p>24 A. My report.</p> <p>25 Q. Do you know if that exhibit was attached 13:26:08</p> <p style="text-align: right;">Page 134</p>	<p>1 A. No, no problem. Part of why we do these 13:27:21</p> <p>2 is to get to the bottom of these confusions.</p> <p>3 But, no, I don't know what exactly got</p> <p>4 produced and attached or what didn't, so . . .</p> <p>5 Q. Okay. But you received that letter from 13:27:33</p> <p>6 your counsel; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. And when did you get it, roughly?</p> <p>9 A. I mean, I think I gave you the e-mail. I</p> <p>10 don't know if it would have been -- if that would 13:27:50</p> <p>11 have been produced or not, but I don't know the</p> <p>12 exact date. I can't even tell you roughly right</p> <p>13 now. I can look at the break.</p> <p>14 Q. Fair enough.</p> <p>15 Would you say that it was after the 13:28:02</p> <p>16 submission of your first report or before that?</p> <p>17 A. I have a instinct, but I don't want to box</p> <p>18 myself in. Because I might be wrong and it's</p> <p>19 something that can be proved or disproved.</p> <p>20 Q. Yeah, and I'm not trying to gotcha with 13:28:27</p> <p>21 that, I'm just trying to find out when you got it.</p> <p>22 A. Yeah.</p> <p>23 Q. But that's fine if you don't remember.</p> <p>24 A. If you ask me again after the break, I</p> <p>25 will answer you. 13:28:36</p> <p style="text-align: right;">Page 136</p>
<p>1 to your report? 13:26:11</p> <p>2 A. I have no idea.</p> <p>3 Q. Do you see it in the document that has</p> <p>4 been marked as your second report?</p> <p>5 A. Oh, I wouldn't have incorporated it 13:26:23</p> <p>6 directly because it's a separate document.</p> <p>7 Q. Do you cite that document anywhere in the</p> <p>8 report?</p> <p>9 A. I believe so.</p> <p>10 Q. Do you know where? 13:26:41</p> <p>11 A. Oh, I was afraid you were going to ask me</p> <p>12 that.</p> <p>13 Q. I think I found it.</p> <p>14 So the submission -- or the attachment</p> <p>15 that you're talking about here, did counsel give 13:27:00</p> <p>16 that to you?</p> <p>17 A. Yes.</p> <p>18 It should have been -- if it wasn't</p> <p>19 produced along with this report, it should have been</p> <p>20 produced today. 13:27:08</p> <p>21 Q. It might have been and I might not have</p> <p>22 seen it just because of the pace of things. I'm not</p> <p>23 accusing you or your counsel of not producing it.</p> <p>24 It's entirely possible that I just don't know where</p> <p>25 it is. 13:27:21</p> <p style="text-align: right;">Page 135</p>	<p>1 Q. In this section of your report you're 13:28:57</p> <p>2 referencing HCVAP data; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. And which HCVAP data did you use here?</p> <p>5 A. That might have actually come out of his 13:29:15</p> <p>6 report.</p> <p>7 Q. Whose report?</p> <p>8 A. Well, Dr. Rodden's.</p> <p>9 Q. HCVAP data, I think you described earlier,</p> <p>10 comes from an ACS survey; is that right? 13:29:37</p> <p>11 A. That's right.</p> <p>12 Q. And it's based on estimates that are</p> <p>13 derived from that survey; is that correct?</p> <p>14 A. Correct.</p> <p>15 Q. And those estimates vary from year to 13:29:49</p> <p>16 year; right?</p> <p>17 A. Correct.</p> <p>18 Q. Those estimates are available for 2019,</p> <p>19 2020 and 2023 in recent years; is that right?</p> <p>20 A. You're going to have to be a little more 13:30:10</p> <p>21 specific because I'm not sure -- yeah, can you try</p> <p>22 that again?</p> <p>23 Q. Sure.</p> <p>24 The HCVAP estimates that have been done in</p> <p>25 recent years, I think there was one that's dated 13:30:22</p> <p style="text-align: right;">Page 137</p>

<p>1 2019, one that's dated 2020 and one that's dated 13:30:25 2 2023. 3 Does that sound right to you, do you know? 4 A. I think they come out every year and 5 they're five-year averages. 13:30:35 6 Q. You think a five-year average comes out 7 every year? 8 A. I'm pretty sure. There's 2020 -- because 9 there's 2022 CVAP data. I know there's 2021 CVAP 10 data because it's been -- it was used in the Pierce 13:30:53 11 case. And there is 2023 CVAP data. 12 Q. Okay. Fair to say that depending on which 13 CVAP data you're using, you're going to get 14 different estimates for the CVAP level of each of 15 these districts? 13:31:07 16 A. I mean, it could be, but since 17 Dr. Rodden -- I'm pretty sure this is from 18 Dr. Rodden's table, and if he's relying on them, I 19 won't contest him. 20 Q. So you -- I think we said this sentence, 13:31:41 21 but you said: 22 "Moreover, the ultimate HCVAP fell 23 directly within the range that an interest group to 24 which the map drawer speaks regularly had suggested, 25 along with 13 other districts in the same map." 13:31:48 Page 138</p>	<p>1 the facts are there for counsel to make that 13:33:15 2 argument, but I'm not making it. 3 Q. Okay. So you're not offering an opinion 4 that there was a racial target used when drawing 5 CD 13; right? 13:33:26 6 A. I think the evidence is there for it, but 7 I'm not making legal arguments, so that target thing 8 seems to be more of a legal argument. 9 Q. Are you offering an opinion that a racial 10 target was used in the drawing of any of the 13:33:40 11 districts in Prop. 50? 12 A. I mean, it's a heck of a coincidence that 13 you have all these districts all coming out in the 14 same range. I believe other courts have found that 15 useful or unlikely. 13:33:56 16 But, again, I think that is falling more 17 squarely in the type of thing that lawyers should be 18 arguing about and concluding. 19 Q. Okay. So you're not offering an opinion 20 that you believe that the map drawer was targeting, 13:34:07 21 in a factual sense, any particular HCVAP of any 22 particular district? 23 A. No, I'm responding -- just responding to 24 Dr. Rodden, who offers this up as some type of 25 exculpatory proof that the HCVAP stayed unchanged. 13:34:22 Page 140</p>
<p>1 So is it -- are you reporting here that 14 13:31:52 2 districts in the Prop. 30 [sic] map have HCVAPs 3 between 52 and 54 percent? 4 A. I think 51 to 55 percent. 5 Q. Okay. And that's not the range that this 13:32:07 6 group had mentioned; correct? 7 A. Well, you have the error margin built in. 8 But, yeah, the district itself is squarely within 9 the range and the other ones are more or less within 10 the range. 13:32:22 11 I'm not going to say that a 62 percent 12 HCVAP district was a result of trying to hit this 52 13 to 54 percent target. That doesn't make sense to 14 say unsensible things. But I'm willing to say that 15 a 51 or a, you know, 54.6 percent district probably 13:32:39 16 was or could have been. 17 Q. So are you offering an opinion now that 18 there was a racial target used to draw District 13? 19 A. I'm not saying that, but I'm saying 20 Dr. Rodden is trying to point to the fact that the 13:32:56 21 HCVAP of the district remained unchanged. And I'm 22 saying I'm not actually sure that's as helpful as he 23 seems to think it is. 24 If counsel wants to make the legal 25 argument that this is a racial target, then I think 13:33:13 Page 139</p>	<p>1 I'm saying I actually don't think that's 13:34:29 2 necessarily what it shows. Because you have all 3 these other districts falling in the same range, you 4 have some courts that have been pretty suspicious of 5 maps where you have big changes but the racial 13:34:42 6 composition doesn't change. 7 So what I'm offering here is a response to 8 Dr. Rodden, who seems to think that this is 9 exculpatory. 10 Q. And Dr. Rodden only opines on CD 13; 13:34:56 11 correct? 12 A. Correct. 13 Q. Okay. So he doesn't talk about any sort 14 of racial changes in any other district; right? 15 A. Right. He's just saying the part that 13:35:08 16 came out and the part that go in have very similar 17 HCVAPs as some type of evidence that race wasn't a 18 major factor. 19 I'm saying, ah, if you're really going to 20 make that argument, I don't think it works out 13:35:25 21 necessarily the way you think it works out, and 22 here's why. 23 But the ultimate argument is something for 24 counsel to make. 25 Q. Okay. And in your first report you didn't 13:35:35 Page 141</p>



<p>1 mention anything about a racial target or a racial 13:35:37</p> <p>2 target range at all; right?</p> <p>3 A. No, I'm just responding to an argument</p> <p>4 that Dr. Rodden is making for the first time in his</p> <p>5 report, which is what I understood a reply to be 13:35:46</p> <p>6 for.</p> <p>7 Q. Okay. So you're not offering any</p> <p>8 affirmative opinion that there was a racial target</p> <p>9 used in the drawing of any district in Prop. 50?</p> <p>10 A. I'm responding to Dr. Rodden, who is 13:35:57</p> <p>11 saying nothing changed by saying that's not as</p> <p>12 exculpatory as you seem to think it is.</p> <p>13 Q. Okay. So is that "no"?</p> <p>14 A. It's not part of my initial case in chief.</p> <p>15 It is -- or report in chief or however you want to 13:36:13</p> <p>16 phrase it. But it is a direct response to</p> <p>17 Dr. Rodden.</p> <p>18 Q. And the direct response to Dr. Rodden has</p> <p>19 to do just with District 13; correct?</p> <p>20 A. Well, yes. 13:36:27</p> <p>21 But if you want to -- I think if you want</p> <p>22 to know whether the HCVAP staying the same in</p> <p>23 this -- at this particular level is exculpatory or</p> <p>24 not, it can be useful to look at other districts</p> <p>25 that also wound up with very similar HCVAPs. 13:36:43</p> <p style="text-align: right;">Page 142</p>	<p>1 of evidence in this case that could be -- or in 13:38:59</p> <p>2 these reports that could be used for that.</p> <p>3 Here I'm just responding to Dr. Rodden's</p> <p>4 claim.</p> <p>5 Q. Okay. And so you're not looking at, you 13:39:07</p> <p>6 know, how voters were moved between the 2021 map and</p> <p>7 the 2025 map in any district besides CD 13; right?</p> <p>8 A. Right. Because this case is about the</p> <p>9 9/5/13 border. But there could be other things that</p> <p>10 give context, I suppose, if I'm trying to respond to 13:39:29</p> <p>11 a claim that you need evidence of a racial asymmetry</p> <p>12 to show race as a predominant driver.</p> <p>13 Q. You know in your report that the Alexander</p> <p>14 court found that it was too unlikely that the racial</p> <p>15 make-up of the district would remain unchanged in 13:39:50</p> <p>16 that case?</p> <p>17 MR. MEUSER: I'm going to object --</p> <p>18 THE WITNESS: Correct.</p> <p>19 MR. MEUSER: -- to the extent that the question</p> <p>20 calls for a legal conclusion. 13:39:58</p> <p>21 THE WITNESS: Yeah, I --</p> <p>22 BY MS. MADDURI:</p> <p>23 Q. We can turn to your report. I'm quoting</p> <p>24 your report.</p> <p>25 A. That's the only reason -- 13:40:07</p> <p style="text-align: right;">Page 144</p>
<p>1 Q. And how would you decide what is a very 13:36:49</p> <p>2 similar HCVAP?</p> <p>3 A. To me having 14 districts all fall within</p> <p>4 4 percent of each other, pretty similar and doesn't</p> <p>5 seem particularly likely. 13:37:08</p> <p>6 I don't know the exact cutoff.</p> <p>7 Q. And you're familiar with the fact that</p> <p>8 there's majority HVAP -- HCVAP districts in the map</p> <p>9 that have a higher percentage of CVAP than the range</p> <p>10 that you're talking about; right? 13:37:32</p> <p>11 A. Yes.</p> <p>12 Q. If that range had been 5 percent, would</p> <p>13 you say that that is pretty similar, I think is your</p> <p>14 words?</p> <p>15 A. Yeah, this is the thing where within the 13:37:48</p> <p>16 adjective you can walk it out step by step until</p> <p>17 eventually someone is making an absurd claim.</p> <p>18 So I don't know. I do know that 4 percent</p> <p>19 is pretty similar for 14 districts.</p> <p>20 Q. Okay. So then your observation that 13:38:25</p> <p>21 the -- is there any other, I guess, evidence or</p> <p>22 analysis that you're doing to examine the range that</p> <p>23 the HCVAP of these 14 districts is other than just</p> <p>24 looking at the number?</p> <p>25 A. Oh, I don't know if there's other pieces 13:38:54</p> <p style="text-align: right;">Page 143</p>	<p>1 Q. It's page -- yeah. 13:40:09</p> <p>2 A. That's the only reason I jumped to "yes."</p> <p>3 Q. It's page 29, which is page 33 of the PDF.</p> <p>4 And I'm looking at the first full paragraph. One</p> <p>5 second. 13:40:50</p> <p>6 And in that paragraph you write "it was</p> <p>7 too unlikely that the racial makeup of a district</p> <p>8 would remain unchanged."</p> <p>9 Do you see that?</p> <p>10 A. Yes. 13:41:11</p> <p>11 Q. Okay. And you were an expert in that</p> <p>12 case; right?</p> <p>13 A. Yes.</p> <p>14 Q. And you offered the opinion that the fact</p> <p>15 that the district BVAPs stayed the same does not 13:41:23</p> <p>16 indicate race predominated; right?</p> <p>17 A. I don't remember.</p> <p>18 Q. Are you aware that the Supreme Court</p> <p>19 rejected plaintiffs' evidence that there was a</p> <p>20 racial target used based on the fact that the BVAP 13:41:38</p> <p>21 of the district stayed around 17 percent between the</p> <p>22 two maps that were being analyzed?</p> <p>23 A. My understanding is it wasn't a facial</p> <p>24 rejection, it was a rejection because there wasn't</p> <p>25 sufficient evidence presented. 13:41:54</p> <p style="text-align: right;">Page 145</p>

1 It didn't like the -- the Supreme Court 13:41:54	1 assumption built in to -- I guess, when you're 13:44:35
2 didn't like the quantitative analysis and thought	2 getting more granular -- you can get more granular
3 that the lack of an alternative map that achieved	3 than just the precinct level?
4 the Republican Party's political objectives should	4 A. So there's always some assumption built in
5 have given rise to heavy counter inference. 13:42:07	5 when you disaggregate. There has to be some way to 13:44:45
6 That's my recollection.	6 model it down because we don't save individuals'
7 Q. You talk about in your report -- I think	7 vote responses for obvious reasons.
8 on the same page, but we don't need to look at	8 But, yeah, there's always some blurring or
9 anything specific, but you talk about this blurring	9 loss of information when you go down to the
10 issue. 13:42:26	10 sub-precinct level. 13:45:05
11 Do you recall that?	11 Q. Okay. Is it fair that the blurring or
12 A. Yes.	12 loss of information when you're going down to the
13 Q. Okay. And you know what I mean when I say	13 block group or block level can be different
14 "blurring issue"?	14 depending on how you do that disaggregation?
15 A. Yes. 13:42:32	15 A. I'm sure it can, but -- 13:45:25
16 Q. Is it fair to say that you are saying that	16 Q. Okay.
17 despite the blurring issue looking at these	17 A. -- you know, you wouldn't have this
18 political figures and indicators is still useful	18 blurring with racial data.
19 because it can help us discern the intent of the map	19 Q. Right, because it's collected at a more
20 drawer? 13:42:58	20 granular level directly? 13:45:35
21 A. Yes.	21 A. Right, so it's a lot easier to racial
22 Q. Do you know what political data the map	22 gerrymander than politically gerrymander.
23 drawer used?	23 (Reporter seeks clarification.)
24 A. No.	24 A. Racially gerrymander than politically
25 Q. Do you know if the political data he used 13:43:07	25 gerrymander. 09:39:31
Page 146	Page 148
1 suffered from the blurring issue we're talking 13:43:10	1 Q. But you'd agree with me that basically 13:45:59
2 about?	2 there are different ways to disaggregate this data.
3 A. Unless he's drawing on whole precincts, I	3 And so while there might be some estimation going on
4 think he pretty much has to.	4 regardless of how you do it, it's fair to say that
5 Q. So you don't know of any way to have 13:43:22	5 people might be working with different sets of 13:46:12
6 political data estimated to the block group level	6 political data and different blurring issues; is
7 that would not suffer from that blurring issue?	7 that right?
8 A. No. That's just a problem with	8 A. It's possible.
9 disaggregation from the precinct level to subgroups,	9 Q. And you just don't know how the map drawer
10 is that you're always doing some type of estimation. 13:43:37	10 did that or what political data the map drawer used? 13:46:25
11 Q. In Dave's Redistricting, when they're	11 A. No. My claim is just that everyone has
12 doing the disaggregation, my understanding is that	12 the blurring issues that Dr. Rodden refers to,
13 they take the precinct-level data and disaggregate	13 including Dr. Rodden.
14 it down to the block group level; is that right?	14 Q. Yeah, and I guess what I'm trying to get
15 A. Correct. 13:44:00	15 at is, that blurring issue that Dr. Rodden 13:46:39
16 Q. And is it right that then each block group	16 identifies in your report might be different than
17 would have the same partisan composition as the	17 the blurring issue that the map drawer had; is that
18 precinct overall?	18 fair?
19 A. See, I've heard that claim, but then you	19 A. Well, I'm not going to -- to the extent
20 can see within say census blocks, when you're 13:44:12	20 you're suggesting that there might not be a blurring 13:46:50
21 disaggregating from a precinct, different shadings	21 issue with the map drawer, I'm not going to admit
22 within the same block.	22 that. He might have a different way of
23 So I don't think Dave's has the uniform	23 disaggregation, and in that sense it would be useful
24 distribution assumption.	24 to have testimony, hear what he has to say.
25 Q. Okay. So there are ways to not have that 13:44:31	25 But either way, he's going to have some 13:47:08
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<p>1 messy data. That's just the nature of the beast. 13:47:10</p> <p>2 Q. Yeah, and I don't mean to suggest that</p> <p>3 there would be no blurring issue but just that the</p> <p>4 blurring issue will be different, potentially, in</p> <p>5 different sets of political data, depending on how 13:47:21</p> <p>6 that disaggregation was done.</p> <p>7 Do you agree?</p> <p>8 A. It's possible.</p> <p>9 Q. Okay. I'd like to turn to your</p> <p>10 demonstration maps. 13:47:50</p> <p>11 And, actually, I'm not sure how long we've</p> <p>12 been going and if Madam Court Reporter may want a</p> <p>13 break.</p> <p>14 THE REPORTER: Yeah, just for a little bit to</p> <p>15 stand up. 13:48:07</p> <p>16 MS. MADDURI: Okay.</p> <p>17 (Recess taken.)</p> <p>18 BY MS. MADDURI:</p> <p>19 Q. And I'd like to discuss your demonstration</p> <p>20 maps with you. 14:02:53</p> <p>21 A. Okay.</p> <p>22 Q. So just to start, the alternative maps</p> <p>23 that you produced, they only relate to CD 13, 9 and</p> <p>24 5; correct?</p> <p>25 A. Correct. 14:03:07</p> <p style="text-align: right;">Page 150</p>	<p>1 most recent top of the ticket races, I believe. 14:04:21</p> <p>2 Yeah.</p> <p>3 Q. Okay. Do you have any reason to believe</p> <p>4 that the three elections you looked at were the</p> <p>5 elections that the map drawer or the legislature 14:04:32</p> <p>6 looked at when evaluating the partisanship of</p> <p>7 Prop. 50?</p> <p>8 A. Oh, I don't know because we don't have</p> <p>9 testimony, but those are the most relevant. You</p> <p>10 wouldn't want to go back to say 2016 when you're in 14:04:45</p> <p>11 a completely different political make-up.</p> <p>12 Q. So fair to say that the map drawer or the</p> <p>13 legislature could have been considering different</p> <p>14 elections than you did?</p> <p>15 A. I'd find it unlikely that a good map 14:04:59</p> <p>16 drawer would be, like, looking at 2016 stuff, but I</p> <p>17 suppose it's possible.</p> <p>18 Q. What about just other elections from 2022</p> <p>19 and 2024?</p> <p>20 A. I don't know what the other -- if there 14:05:11</p> <p>21 are other elections from 2024 to consider.</p> <p>22 2022, I suppose you could look at other</p> <p>23 ones. But, like I said, in our polarized era,</p> <p>24 everything is correlated.</p> <p>25 Q. If the map drawer or the legislature were 14:05:27</p> <p style="text-align: right;">Page 152</p>
<p>1 Q. In other words, you didn't provide a 14:03:10</p> <p>2 statewide alternate map?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. And for your demonstration maps,</p> <p>5 you present political data based on three elections; 14:03:19</p> <p>6 right?</p> <p>7 A. Correct.</p> <p>8 Q. I skipped a question. I guess you also --</p> <p>9 to back up a step, you don't know whether it's</p> <p>10 possible to draw a statewide map that achieves the 14:03:35</p> <p>11 political goals of Prop. 50 while achieving greater</p> <p>12 racial balance; correct?</p> <p>13 A. Correct.</p> <p>14 Q. And you're not offering an opinion that it</p> <p>15 is possible to do that; right? 14:03:58</p> <p>16 A. Right, I'm not offering an opinion one way</p> <p>17 or the other.</p> <p>18 Q. Then back to the elections that you looked</p> <p>19 at.</p> <p>20 So you looked at three elections to 14:04:09</p> <p>21 evaluate the partisan performance of your</p> <p>22 demonstration maps; right?</p> <p>23 A. Correct.</p> <p>24 Q. How did you pick those three?</p> <p>25 A. They were the three most relevant -- or 14:04:19</p> <p style="text-align: right;">Page 151</p>	<p>1 considering different elections, is it fair to say 14:05:29</p> <p>2 that they would get different political results than</p> <p>3 you do for your maps?</p> <p>4 A. I can't say for sure. Maybe they would</p> <p>5 have been different in terms of the absolute numbers 14:05:41</p> <p>6 that are returned, but relative to one another, I</p> <p>7 don't really think so.</p> <p>8 Q. How did you decide whether your maps</p> <p>9 achieved a similar political goal to Prop. 50 in the</p> <p>10 area that you're looking at? 14:06:06</p> <p>11 A. By looking at political performance in</p> <p>12 these districts and seeing if it was higher in the</p> <p>13 demonstration maps than in the Prop. 50 map.</p> <p>14 Q. Had the partisan performance of the</p> <p>15 districts been lower than the Prop. 50 map, would 14:06:30</p> <p>16 you still say that they achieved similar political</p> <p>17 outcomes?</p> <p>18 A. I would. Or I could, I should say. If</p> <p>19 things had dropped seven points, obviously I'm not</p> <p>20 going to say that. 14:06:44</p> <p>21 But as I understand the goal with the</p> <p>22 Alexander map, frankly, it's to show that the</p> <p>23 legislature could have gotten its political outcomes</p> <p>24 that it wanted with a different map without the</p> <p>25 racial aspects to it. 14:07:04</p> <p style="text-align: right;">Page 153</p>

1 Q. And when you're talking about partisan 14:07:06	1 how your proposed alternative maps would perform 14:10:10
2 outcomes, the only thing that you're looking at is	2 over the course of the next three elections?
3 the Democratic and Republican vote share of the	3 A. I did it by comparing it to the enacted
4 district based on the elections you're looking at;	4 map and seeing that it was, at least on the races
5 right? 14:07:19	5 that I think are the most relevant, more Republican 14:10:24
6 A. Correct.	6 on balance.
7 Q. You're not looking at if, you know, any	7 And so, again, my goal isn't to go out and
8 particular incumbent would win there or any other	8 draw the best Democratic map I possibly could, it
9 sort of political aspirations besides those metrics;	9 was to just show that the map maker could have done
10 right? 14:07:29	10 something that got to the same point politically 14:10:45
11 A. That's usually how we measure incumbent --	11 without doing that weird stretch across Stockton.
12 whether a district is going to perform. Sometimes	12 Q. Do you agree that each of your
13 there's incumbents that you know tend to run ahead	13 demonstration maps, District 13 has a lower Reock
14 of the top of the ticket.	14 compactness score than District 13 in Prop. 50?
15 But as long as you have the presidential 14:07:45	15 A. I think that's right. 14:11:15
16 stuff in the same kind of ballpark, I don't see what	16 Q. For Map A, that map only makes changes in
17 it really tells you otherwise.	17 the Stockton area; is that right?
18 Q. Did you look at any elections that were	18 A. Correct.
19 particularly bad for Democrats in deciding that your	19 Q. So it doesn't do anything to remedy the
20 maps performed the same as the Prop. 50 maps? 14:08:02	20 alleged racial predominance that you claim exists in 14:11:34
21 A. I don't know what the recent really bad	21 Modesto and Ceres?
22 elections for Democrats in California would be.	22 A. That's right. The court might disagree
23 Q. So you didn't do that?	23 about Modesto and Ceres, and so I wanted to have an
24 A. Again, I didn't, but I don't know in the	24 example that just fixed the Stockton area.
25 last 10 years what particularly close election 14:08:20	25 Q. In your demonstration Map A, the HVAP of 14:11:51
Page 154	Page 156
1 there's been. Certainly in the last two cycles, I 14:08:25	1 District 13 moves about 1.6 percent. 14:11:58
2 can't think of one.	2 Does that sound right to you?
3 Q. Did you look at what would happen if there	3 And I can direct you to your report on
4 was a couple-point swing one way or the other?	4 page 23, which is 28 of the PDF. I don't think we
5 A. What do you mean? 14:08:39	5 need to pull it up, though. 14:12:11
6 Q. Well, so perhaps not like the absolute	6 A. I believe you.
7 worst election, but had there been an election that	7 Q. So the HVAP moves about a point and a half
8 performed under the three elections that you looked	8 between the Prop. 50 map and your map in Map A in
9 at, that would produce different political outcomes	9 CD 13?
10 then, no? 14:08:55	10 A. I believe you. 14:12:25
11 A. Well, it depends. I mean, it would have	11 Q. Do you consider that to be a significant
12 been a different -- it depends because everything is	12 change in the level of HVAP in CD 13?
13 so correlated, things tend to move the same.	13 A. I don't know.
14 So, yeah, the outcome in the demonstration	14 Q. For HCVAP, it moves about two percentage
15 map would have been lower, but in the enacted map, 14:09:09	15 points. 14:12:43
16 it would have probably been lower as well.	16 Does that sound right to you?
17 Q. Did you do anything to evaluate how your	17 A. Yes.
18 maps would perform in a bad election for Democrats?	18 Q. Would you consider that to be a
19 A. Well, I wouldn't have been so much	19 significant change in the HCVAP?
20 interested in that as I would have been how it would 14:09:26	20 A. I don't know. 14:12:51
21 perform relative to the enacted map because I'm	21 Q. It is your testimony, though, that race
22 trying to achieve the same political outcome as the	22 does not predominate in the drawing of your Map A;
23 enacted map.	23 right?
24 Q. Did you do anything to evaluate how this	24 A. Correct.
25 map would perform over the course of the -- sorry, 14:10:06	25 Q. Other than in Ceres and Modesto, according 14:13:08
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<p>1 to your assessment; correct? 14:13:10</p> <p>2 A. You're talking about my Map A, I don't</p> <p>3 think it predominated in the way I drew Ceres or</p> <p>4 Modesto.</p> <p>5 Q. I thought in Map A you didn't change the 14:13:23</p> <p>6 way that Ceres and Modesto were drawn --</p> <p>7 A. Oh, oh.</p> <p>8 Q. -- as compared to Prop. 50.</p> <p>9 A. Now I see the point you're making. That's</p> <p>10 right. 14:13:32</p> <p>11 So if I'm wrong about Ceres and Modesto,</p> <p>12 then that's when you would really look at Map A.</p> <p>13 Q. Okay. For Map B, does Map B keep CD 5 at</p> <p>14 equal population?</p> <p>15 A. Yes. 14:14:02</p> <p>16 Q. That map introduces a new city split in</p> <p>17 Tracy; right?</p> <p>18 A. Yes.</p> <p>19 Q. And that map places Josh Harder's home</p> <p>20 right at the edge of the district and moving most of 14:14:15</p> <p>21 his city of residence from CD 9; is that right?</p> <p>22 A. Correct.</p> <p>23 Q. Josh Harder is the Democratic incumbent</p> <p>24 from CD 9; right?</p> <p>25 A. Yes. 14:14:27</p> <p style="text-align: right;">Page 158</p>	<p>1 Q. And is it fair to say that you don't know 14:15:37</p> <p>2 if that's a significant change?</p> <p>3 A. Yeah, I don't know. I just know I'm not</p> <p>4 doing the racially motivated cross-Stockton split.</p> <p>5 Q. Okay. So is it fair to say, then, that in 14:15:52</p> <p>6 your view the racial predominance that you</p> <p>7 identified no longer exists because of the way you</p> <p>8 are splitting the district rather than the specific</p> <p>9 changes in HVAP or CVAP -- HCVAP?</p> <p>10 A. Yeah, I'm just reporting the HCVAP that 14:16:09</p> <p>11 you end up with with these scores -- or with these</p> <p>12 maps.</p> <p>13 Q. Okay. And in your view the way that</p> <p>14 you're remedying the racial predominance that you</p> <p>15 identify is by the physical changes that you're 14:16:25</p> <p>16 making, and it's not tied to the specific HVAP or</p> <p>17 HCVAP in your demonstration maps; is that right?</p> <p>18 A. Yeah, I mean, I have a -- I went in and</p> <p>19 drew these maps the way I would if I were trying to</p> <p>20 do a political gerrymander of the area without 14:16:44</p> <p>21 paying attention to race, and so this was the effect</p> <p>22 of it.</p> <p>23 Q. Okay. For Map C, does CD 5 have equal</p> <p>24 population compared to other districts?</p> <p>25 A. Yes. 14:17:06</p> <p style="text-align: right;">Page 160</p>
<p>1 Q. That same feature is true in Map C? 14:14:28</p> <p>2 A. That's right.</p> <p>3 Q. Did you check to see what Josh Harder's</p> <p>4 vote share was in the neighborhoods in Tracy that</p> <p>5 you removed from his district? 14:14:37</p> <p>6 (Reporter seeks clarification.)</p> <p>7 MS. MADDURI: I can say it again.</p> <p>8 BY MS. MADDURI:</p> <p>9 Q. Did you check to see what Josh Harder's</p> <p>10 vote share was in those neighborhoods in Tracy that 14:14:46</p> <p>11 you removed from his district?</p> <p>12 A. No, this is a safely Democratic district</p> <p>13 no matter what. I didn't check that.</p> <p>14 I'm sorry. By "this" I mean District 9.</p> <p>15 Q. For Map B, the HVAP between the Prop. 50 14:15:07</p> <p>16 map and your map drops by 4.5 percent; is that</p> <p>17 right?</p> <p>18 A. That's right.</p> <p>19 Q. Do you consider that to be a significant</p> <p>20 change? 14:15:21</p> <p>21 A. I don't know.</p> <p>22 Q. The HCVAP drops a little bit less than</p> <p>23 that at 4.4 percentage points.</p> <p>24 Does that sound right?</p> <p>25 A. That's the estimate, yeah. 14:15:36</p> <p style="text-align: right;">Page 159</p>	<p>1 Q. This map also introduces a new city split 14:17:07</p> <p>2 in Tracy; is that right?</p> <p>3 A. Yes, and I see why you're asking me that</p> <p>4 now, because I say 13 and 9 are equipopulous but</p> <p>5 don't mention 5, but yes. 14:17:16</p> <p>6 Q. Yeah, I figured it was, but I just didn't</p> <p>7 see it written, so I was making sure.</p> <p>8 A. Good lawyering.</p> <p>9 Q. Prop. 50 kept Tracy whole in that</p> <p>10 district; correct? 14:17:28</p> <p>11 A. Correct.</p> <p>12 Q. And demonstration Map C also introduces a</p> <p>13 new city split in Ceres; right?</p> <p>14 A. Correct.</p> <p>15 Q. And Prop. 50 kept Ceres whole; is that 14:17:36</p> <p>16 right?</p> <p>17 A. Correct.</p> <p>18 Q. The Map C also changes the HVAP and the</p> <p>19 HCVAP by around 5 percentage points.</p> <p>20 Does that sound right? 14:17:55</p> <p>21 A. Yeah.</p> <p>22 Q. And it's fair to say that you don't know</p> <p>23 whether that's a significant change in the HVAP or</p> <p>24 HCVAP of the district?</p> <p>25 A. Yes. 14:18:09</p> <p style="text-align: right;">Page 161</p>

<p>1 Q. You say that the partisanship improved for 14:18:14</p> <p>2 Democrats in each of your demonstration maps in</p> <p>3 CD 13; right?</p> <p>4 A. Correct.</p> <p>5 Q. But you don't dispute that the partisan 14:18:28</p> <p>6 performance of CD 13 declined in each of your</p> <p>7 demonstration maps using Dr. Rodden's 2016 to 2024</p> <p>8 index; right?</p> <p>9 A. Yeah. If you go back to 2016, when you</p> <p>10 had a very different political -- what's the word -- 14:18:44</p> <p>11 setup in the area, that's what you get.</p> <p>12 Q. So, no, you don't dispute the results that</p> <p>13 Dr. Rodden found?</p> <p>14 A. Right. If you go back to 2016 with a very</p> <p>15 different political coalition in the area -- that's 14:19:07</p> <p>16 the word I was looking for -- you get Dr. Rodden's</p> <p>17 numbers.</p> <p>18 Q. And I guess just a broader question about</p> <p>19 Dr. Rodden's report.</p> <p>20 Are there any miscalculations or data 14:19:20</p> <p>21 issues or anything like that that you've identified</p> <p>22 with his report? Not trying to ask you if you agree</p> <p>23 with the data he used or something from a</p> <p>24 qualitative perspective, but just were there any</p> <p>25 mistakes that you identified in the report? 14:19:35</p> <p style="text-align: right;">Page 162</p>	<p>1 like sharing personal communications but I have no 14:21:35</p> <p>2 choice but to answer.</p> <p>3 Q. Let me just -- let me confine it a little</p> <p>4 bit.</p> <p>5 I'm asking you in relation to Prop. 50 -- 14:21:46</p> <p>6 A. Oh, I know.</p> <p>7 Q. -- or the map of redistricting.</p> <p>8 Nothing personal.</p> <p>9 A. No, this isn't -- no.</p> <p>10 I'm just -- I cannot think of a way to 14:21:59</p> <p>11 answer this question differently without perjuring</p> <p>12 myself.</p> <p>13 So the answer is, when I did the initial</p> <p>14 expert work he texted me and -- or he DM'd me and</p> <p>15 said he was glad to see I was getting work out of 14:22:14</p> <p>16 this.</p> <p>17 Q. Did you express any opinions about</p> <p>18 Prop. 50 or the map to him?</p> <p>19 A. I don't think so.</p> <p>20 Again, we're friendly. You know, it 14:22:34</p> <p>21 wouldn't be unsurprising to have friendly banter,</p> <p>22 but . . .</p> <p>23 Q. Do you remember expressing any praise for</p> <p>24 the map to him?</p> <p>25 A. No. I wouldn't have done that when I had 14:22:47</p> <p style="text-align: right;">Page 164</p>
<p>1 A. Well, given the timeline we're on, I'm not 14:19:37</p> <p>2 going to say that there are none, but I didn't</p> <p>3 identify any.</p> <p>4 Q. Okay. Shifting gears a little bit, do you</p> <p>5 know who Paul Mitchell is? 14:20:20</p> <p>6 A. Yes.</p> <p>7 Q. Do you know him? Personally, I mean?</p> <p>8 A. I guess. I mean, we're friendly is maybe</p> <p>9 the way to put it. We were on a panel together. We</p> <p>10 got along. 14:20:43</p> <p>11 Q. So you've met before?</p> <p>12 A. Yeah.</p> <p>13 Q. Roughly how many times?</p> <p>14 A. I think that's the only time we've met in</p> <p>15 person. We've had some interaction on Twitter. 14:20:51</p> <p>16 Q. Did you communicate with Paul Mitchell in</p> <p>17 any way about the Prop. 50 map?</p> <p>18 A. Well, with the proviso to Mr. Mitchell</p> <p>19 that you have me under oath and I have to answer</p> <p>20 your questions, yes. 14:21:16</p> <p>21 Q. Okay. How many times would you say?</p> <p>22 A. Once.</p> <p>23 Q. What was the content of that conversation</p> <p>24 or communication?</p> <p>25 A. So again with the proviso that I don't 14:21:32</p> <p style="text-align: right;">Page 163</p>	<p>1 an expert report in live litigation. 14:22:50</p> <p>2 Q. What about before you had expert reports</p> <p>3 or live litigation?</p> <p>4 A. That was the only time he contacted me.</p> <p>5 So, no, there wouldn't have been any communications. 14:23:11</p> <p>6 MS. MADDURI: Okay. Let's pull up pre-marked</p> <p>7 Tab 8, which, Madam Court Reporter, I think you</p> <p>8 might have to remind me which exhibit number we're</p> <p>9 on.</p> <p>10 THE CONCIERGE: We're on 6. 14:23:36</p> <p>11 MS. MADDURI: Great. So we'll mark this as</p> <p>12 Exhibit 6.</p> <p>13 (Deposition Exhibit 6 was marked.)</p> <p>14 BY MS. MADDURI:</p> <p>15 Q. Dr. Trende, I'll represent to you that 14:24:06</p> <p>16 this is an image of the districts in North Carolina</p> <p>17 that were struck down in Shaw and an image of</p> <p>18 District 13 in the Prop. 50 map, which comes from</p> <p>19 Dr. Rodden's report.</p> <p>20 Are you familiar with the districts that 14:24:26</p> <p>21 were struck down in Shaw?</p> <p>22 A. Oh, yeah, they're legendary.</p> <p>23 Q. So you recognize them by looking at this</p> <p>24 map?</p> <p>25 A. Yeah -- 14:24:36</p> <p style="text-align: right;">Page 165</p>



1 Q. Maybe not every nook and cranny, but does 14:24:36	1 (Deposition Exhibit 7 was marked.) 14:27:34
2 it generally look like to you that it's the	2 BY MS. MADDURI:
3 districts that were struck down in Shaw?	3 Q. And I can represent to you that this is,
4 A. I don't know which Shaw because I think it	4 on the left, the district that was struck down in
5 was struck down a couple times, but I believe you. 14:24:46	5 Miller from Georgia. And on the right, again, we 14:27:54
6 Q. Fair enough. I don't even know which Shaw	6 have District 13, the image which is from
7 sitting here now.	7 Dr. Rodden's report.
8 But I think we -- it's fair to say we both	8 Do you recognize the Miller district on
9 are talking about the districts that were struck	9 the left?
10 down in a Shaw case that were drawn in 14:25:00	10 A. Oh, yeah. 14:28:08
11 North Carolina I think in the '90s?	11 Q. Does that look like what I told you it is?
12 A. Yeah. I think this is Shaw 1 because you	12 A. Oh, yeah, it's another legend.
13 can see District 3 magically appears on both sides	13 Q. In your opinion, is CD 13 in the Prop. 50
14 of District 1, and that's because there's a point	14 map visually similar to the district struck down in
15 where the lines cross. And the legislature counted 14:25:13	15 Miller? 14:28:27
16 that infinitesimally small point as --	16 A. As a whole, no.
17 (Reporter seeks clarification.)	17 Q. Is it fair to say that District 13 --
18 A. Counted that infinitesimally small point	18 sorry, is it -- let me start again.
19 as contiguity to allow the districts to jump over	19 Is it fair to say that the Miller district
20 each other. 14:25:37	20 has more tentacles and appendages than CD 13? 14:28:39
21 Q. In your opinion, does CD 13 in the	21 A. Yes.
22 Prop. 50 map have a similar number of tentacles and	22 MS. MADDURI: Let's now look at Tab 10, which
23 appendages to CD 1 in the Shaw districts?	23 we will mark as Exhibit 8.
24 A. No.	24 (Deposition Exhibit 8 was marked.)
25 Q. In your opinion, does CD 13 have a similar 14:25:56	25 BY MS. MADDURI: 14:29:36
Page 166	Page 168
1 number of tentacles or appendages to CD 12 in the 14:25:58	1 Q. Dr. Trende, do you recognize this 14:29:36
2 Shaw districts?	2 document?
3 A. No.	3 A. Yes.
4 Q. In your opinion, does CD 13 have any areas	4 Q. What is it?
5 that become as narrow as the areas of CD 1 and Shaw 14:26:10	5 A. It's the declaration that I filed in 14:29:41
6 do?	6 Sanchez.
7 A. The neck into Stockton comes pretty close,	7 Q. Is Sanchez a case that was also
8 but, no, because I think Shaw at some -- I mean,	8 challenging the Prop. 50 map?
9 like I said, it's infinitesimally small at one	9 A. Yes.
10 point. 14:26:26	10 Q. And you served as an expert in that case? 14:29:53
11 Q. What about District 12?	11 A. That's right.
12 A. Yeah, District 12 is the one where at one	12 Q. And that was a lawsuit that challenged
13 point it narrows to the interstate. And, like I	13 Prop. 50 shortly after it was enacted by the
14 said, that neck going into Stockton gets pretty	14 California legislature; correct?
15 narrow, but I don't think it's ever just the 14:26:44	15 A. Yeah, if "enacted" is the right word, 14:30:09
16 interstate.	16 yeah.
17 Q. In your opinion, is CD 13 visually similar	17 Q. You prepared this declaration in late
18 to the districts struck down in Shaw?	18 August 2025 -- well, I should say you signed this
19 A. I mean, that's subjective, but no. Taken	19 declaration in late August 2025; is that right?
20 as a whole, no. 14:26:58	20 A. It would have been prepared in late August 14:30:25
21 MS. MADDURI: Okay. Let's turn to Tab 8, which	21 too, so yeah.
22 we'll mark as Exhibit 7.	22 Q. And you signed that document under penalty
23 THE WITNESS: This is Tab 8.	23 of perjury?
24 MS. MADDURI: Sorry, Tab 9, which we will mark	24 A. Yeah.
25 as Exhibit 7. 14:27:20	25 Q. Swearing that it was true and correct to 14:30:41
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1 the best of your knowledge? 14:30:43	1 A. "First, it seems obvious that the purpose 14:33:30
2 A. Yes.	2 of this map is to favor one party or the other, as
3 Q. And the views in this declaration reflect	3 leaders in the state have not been particularly shy
4 your honest beliefs at the time?	4 that the purpose of the map is to 'neutralize' a
5 A. Yes. 14:30:50	5 Republican gerrymander in Texas." 14:33:42
6 MS. MADDURI: Let's turn to page 3 of the	6 Q. And when you say it was obviously meant to
7 exhibit. And I would like to look at paragraph 14.	7 favor one political party, do you mean the
8 BY MS. MADDURI:	8 Democratic Party?
9 Q. Okay. There you're describing your scope	9 A. Yes.
10 of work, and in paragraph 14 you say that you 14:31:18	10 Q. And that reflects your honest belief about 14:33:55
11 analyzed various factors, including contiguity, the	11 Proposition 50 based upon your knowledge?
12 degree to which -- well, I can just read it.	12 A. I still think most of the districts are
13 You "analyzed the contiguity of the two	13 political gerrymanders. I don't think that
14 maps as well as the degree to which they separate	14 District 2 from Modoc to Marin is drawn for racial
15 communities of interest; metrics required by the 14:31:45	15 purposes. 14:34:13
16 California Constitution and which demographers	16 Like I said in the --
17 commonly employ to analyze maps." And then some	17 Q. And you --
18 issues around partisan metrics.	18 A. Well, I'm not -- like I said in the
19 Is that right?	19 introduction to my reply, one of my operating
20 A. Yes. 14:32:00	20 assumptions is you can have a happen that by and 14:34:25
21 Q. Why did you not examine communities of	21 large is a political gerrymander, but if it has a
22 interest in this case?	22 racially gerrymandered district, that's still a
23 A. Because I don't know them in the Stockton	23 constitutional problem.
24 area that well.	24 Q. In that paragraph you cite an article from
25 Q. And why didn't you examine contiguity in 14:32:23	25 The Guardian; is that right? 14:34:42
Page 170	Page 172
1 the same way that you did in this report that we're 14:32:26	1 A. Yes. 14:34:44
2 looking at in this case?	2 Q. What is the title of that article?
3 A. Because the case lost.	3 A. "California: Newsom Signs Proposal for
4 Like, the Supreme Court of California is	4 New Voting Map Favoring Democrats."
5 fine with the types of contiguity issues I 14:32:41	5 Q. Why did you cite that article in your 14:34:57
6 identified.	6 report?
7 Q. I see, okay.	7 A. To support the previous sentence.
8 And then do you see the portion -- the	8 Q. The previous sentence which indicates that
9 next paragraph under "Opinions," which is	9 the purpose of Prop. 50 was to favor the Democratic
10 paragraph 15? 14:32:54	10 Party? 14:35:12
11 A. Yes.	11 A. Yes.
12 Q. Okay. And it says that you were "asked	12 MS. MADDURI: Let's turn to the next page and
13 first to analyze the partisan fairness of the	13 look at paragraph 18.
14 Proposed Map, to determine whether the Districts	14 BY MS. MADDURI:
15 were 'drawn for the purpose of favoring or 14:33:08	15 Q. You write there that "In 2020, President 14:35:27
16 discriminating against an incumbent, political	16 Trump would have won four districts under the
17 candidate, or political party.""	17 Proposed Map; under the Commission Map, he won
18 Do you see that?	18 seven."
19 A. Yes.	19 Is that right?
20 Q. Can you read the next sentence of that 14:33:18	20 A. Yes. 14:35:43
21 paragraph?	21 Q. So fair to say that your declaration here
22 A. Yeah.	22 concludes that the proposed map under Prop. 50
23 "First, it seems obvious that the purpose	23 increases the number of congressional seats
24 of this map" --	24 Democrats are likely to win?
25 (Reporter seeks clarification.) 14:33:30	25 A. Yeah, I still believe that. 14:35:58
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1 Q. And that conclusion would be consistent 14:36:00	1 A. Yes. 14:39:33
2 with trying to draw a map favoring the Democratic	2 Q. There's the date if you'd like to verify.
3 Party?	3 A. I believe you.
4 A. Yes.	4 Q. Okay. At a high level, is it fair to say
5 MS. MADDURI: Okay. Let's turn to page 9, 14:36:12	5 that one of your conclusions in this report was that 14:39:54
6 paragraph 27.	6 the Texas mid-decade redraw of its congressional
7 BY MS. MADDURI:	7 maps constituted a partisan gerrymander rather than
8 Q. Can you read the last sentence of that	8 a racial gerrymander?
9 paragraph that starts "I also conclude"?	9 A. Yes.
10 A. "I also conclude that the Commission Map 14:36:36	10 MS. MADDURI: Can we turn to page 26. 14:40:11
11 was drawn with partisan objectives in mind;	11 And can we go down to the bottom there.
12 particular it was drawn to improve Democratic	12 I think it's -- yeah, the section titled
13 prospects in congressional elections in" --	13 "District 9."
14 (Reporter seeks clarification.)	14 BY MS. MADDURI:
15 A. "I also conclude that the Commission Map 14:36:51	15 Q. I don't know if you want to open this up 14:40:39
16 was drawn with partisan objectives in mind; in	16 to be able to review it. I know it's been a couple
17 particular it was drawn to improve Democratic	17 months since you submitted it.
18 prospects in congressional elections in the state	18 A. No, I know this one.
19 and to increase the share of seats that they would	19 Q. Okay. In the first paragraph there, you
20 expect to win in an election." 14:37:11	20 note that plaintiffs' experts concluded that 14:40:50
21 Q. And you wrote "Commission Map" there. But	21 "District 9 could have been drawn with a higher
22 are you referring to the Proposition 50 map?	22 Republican vote share and a lower HCVAP."
23 A. Yeah.	23 Do you see that?
24 Q. So here you conclude that the Prop. 50 map	24 A. Yes.
25 was drawn with partisan objectives in mind; is that 14:37:34	25 Q. In other words, those experts argued that 14:41:06
Page 174	Page 176
1 right? 14:37:37	1 District 9 was a racial gerrymander because it could 14:41:09
2 A. Yeah.	2 have been drawn more Republican and less Hispanic;
3 Q. Does this declaration talk anywhere about	3 is that right?
4 race or ethnicity?	4 A. That's right, but the changes they suggest
5 A. No, I hadn't examined that. 14:37:49	5 would have made the district noncontiguous, like 14:41:18
6 MS. MADDURI: Okay. We can take this down and	6 literally lopped off a chunk of the district.
7 pull up Tab 11, which we'll mark as Exhibit 9.	7 But that's their claim.
8 (Deposition Exhibit 9 was marked.)	8 Q. Okay. So fair to say you criticized their
9 BY MS. MADDURI:	9 conclusion?
10 Q. Do you recognize this document? 14:38:40	10 A. Well, they didn't offer an actual map that 14:41:34
11 A. Yes.	11 would have done it.
12 Q. What is it?	12 Right, that's the problem, they didn't
13 A. It is the reply from the preliminary	13 offer an Alexander map.
14 injunction phase in the LULAC case.	14 MS. MADDURI: On the next page, if we can
15 Q. That case -- is it your -- that case has 14:38:53	15 scroll down. 14:41:57
16 to do with Texas redistricting; right?	16 BY MS. MADDURI:
17 A. That's right.	17 Q. In looking at the -- yeah, the paragraph
18 Q. And you submitted this report on	18 that starts "First, we are actually in agreement."
19 September 22nd; is that right? And we could turn to	19 And I'd like to ask you about the second sentence
20 page 56 so you could look at that rather than try to 14:39:16	20 there. 14:42:26
21 remember it.	21 You write [as read]:
22 A. I believe you.	22 "It just does not follow that because the
23 Q. So this report is submitted after your	23 politics was not the only goal in drawing District 9
24 initial analysis of Prop. 50 for the Sanchez case;	24 that race was therefore a primary goal in drawing
25 right? 14:39:33	25 District 9. Redistricting is a complex exercise 14:42:38
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1 that involves balancing many goals. It is also an 14:42:41	1 know if there's a higher Democratic configuration in 14:45:21
2 exercise in robbing Peter to pay Paul, particularly	2 the area than what I came up with.
3 at the congressional level. When residents are	3 Q. Yeah. But it's fair to say that map
4 moved out of one district, other residents must	4 drawers can achieve a partisan gerrymander by
5 necessarily be moved into the district from 14:42:55	5 improving partisan -- 14:45:28
6 elsewhere. That often sets off second- and	6 (Reporter seeks clarification.)
7 third-order effects."	7 Q. Is it fair to say that map drawers can
8 Do you see that?	8 achieve a partisan gerrymander by improving partisan
9 A. Right, right. This is exactly why you	9 performance even if they do not maximize it?
10 need the alternative maps, so you can see all the 14:43:06	10 A. Sure. 14:45:45
11 way through how this would play out.	11 MS. MADDURI: Okay. We can take this down and
12 Q. Okay. So you agree with that statement	12 pull up Tab 12, which we'll mark as Exhibit 10.
13 today?	13 (Deposition Exhibit 10 was marked.)
14 A. Yeah, yeah, I think that's why you need a	14 BY MS. MADDURI:
15 higher level of proof than what they offered here. 14:43:17	15 Q. Do you recognize this document? 14:46:35
16 Q. Okay. In the next paragraph you write	16 A. Yes.
17 [as read]:	17 Q. What is it?
18 "The changes result in a district that	18 A. It is the expert report that I filed in
19 achieves the stated goal of increasing the	19 Alexander.
20 Republican vote share in District 9. It might not 14:43:36	20 Q. And Alexander was a racial gerrymandering 14:46:49
21 maximize it, but maximization doesn't appear to be	21 case in South Carolina; is that right?
22 the stated goal."	22 A. That's right.
23 Do you see that?	23 Q. Okay. And in this report you conclude
24 A. Yes.	24 that South Carolina's challenged map reflected
25 Q. Can you just explain what you meant there? 14:43:46	25 partisan rather than racial concerns; is that right? 14:47:04
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1 A. Yeah. And it's in my demonstration maps 14:43:49	1 A. I think I -- so this has been a day. I 14:47:08
2 I'm not trying to maximize Democratic vote share	2 mean, it was filed three years ago.
3 either.	3 Q. Sure.
4 I'm saying the fact that you don't	4 A. But my recollection is that the opinion
5 maximize Democratic vote share in and of itself 14:43:59	5 was -- so I think every district was challenged -- 14:47:20
6 doesn't necessarily tell you anything. That someone	6 oh, counsel can correct me on this, not you.
7 else can dream up a scenario that would have had --	7 But my opinion was that the districts,
8 an incomplete scenario that would have resulted in a	8 except for one, were just minimal changes districts
9 higher vote share is interesting.	9 or minimal changes changes. And then District 1 was
10 What you need to do is show that there 14:44:18	10 a partisan gerrymander. 14:47:42
11 could be a complete map that would have given you at	11 Q. Okay. Understood.
12 least a similar vote share while being legal and not	12 Do you remember if District 1 was one of
13 having the racial effect.	13 the districts that was challenged as a racial
14 The crux of the entire problem here is	14 gerrymander?
15 they say you could have made the Republican 14:44:49	15 A. It was. It was but large portions of this 14:47:53
16 performance in this district higher by making	16 report are dedicated to showing that the other
17 change X while lowering it in change Y. But they	17 districts that are challenged are kind of,
18 never go through and make all the second- and	18 quote/unquote, good government districts, you're
19 third-order changes that creates to the map work	19 just making minimal changes to them. District 1 is
20 out. 14:45:03	20 a Republican gerrymander. 14:48:11
21 You end up with -- if you just make the	21 Q. Okay. And I promise not to take you
22 changes they describe, you end up with a	22 through all of those good governance changes.
23 noncontiguous non-equipopulous map. So we don't	23 MS. MADDURI: Let's turn to page 35.
24 know much just simply of the fact that you could	24 THE WITNESS: Is that of my report or the filed
25 have maximized things in one area, just like I don't 14:45:17	25 numbers? 14:48:27
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<p>1 BY MS. MADDURI: 14:48:28</p> <p>2 Q. I thought it might have been the same, but</p> <p>3 maybe it's not. I'm trying to get to the conclusion</p> <p>4 section.</p> <p>5 A. Okay. It's off a page. So that helps. 14:48:40</p> <p>6 Okay.</p> <p>7 Q. Okay. And do you want to take a minute to</p> <p>8 review that?</p> <p>9 (Witness reviews document.)</p> <p>10 A. Got it. 14:49:11</p> <p>11 Q. Okay. And I think, as you've alluded to,</p> <p>12 a lot of this paragraph reflects those minimal</p> <p>13 changes in the good governance changes that you just</p> <p>14 mentioned. And I'd like to ask you about the part</p> <p>15 where you discuss District 1, which is at the end of 14:49:22</p> <p>16 the paragraph.</p> <p>17 So you note here that South Carolina's</p> <p>18 first congressional district changed more</p> <p>19 substantially than the others; right?</p> <p>20 A. Right. 14:49:34</p> <p>21 Q. But you still conclude that that does not</p> <p>22 reflect racial predominance; right?</p> <p>23 A. Right.</p> <p>24 Q. You write [as read]:</p> <p>25 "The changes to the First do little to 14:49:43</p> <p style="text-align: right;">Page 182</p>	<p>1 A. No, I still think it was a political 14:50:59</p> <p>2 gerrymander. But I understand -- because of the way</p> <p>3 that all the shifts were made in that district</p> <p>4 overall.</p> <p>5 But I understand the argument now 14:51:12</p> <p>6 differently than I did in the conclusion. And I</p> <p>7 understand the argument as to why racial composition</p> <p>8 not changing could be evidence of a target.</p> <p>9 Q. Fair to say that in the South Carolina</p> <p>10 case you did not think that the racial target -- 14:51:31</p> <p>11 sorry, the racial composition -- lot of double</p> <p>12 negatives. I'll try it again.</p> <p>13 Is it fair to say that in South Carolina</p> <p>14 the fact that the district's BVAP stayed right</p> <p>15 around 17 percent between the two iterations of the 14:51:46</p> <p>16 district, in your view, did not mean that race</p> <p>17 predominated in the drawing of it?</p> <p>18 A. So, again, some negatives in there.</p> <p>19 I didn't even think about it in terms of a</p> <p>20 targeting theory, which was a clever way to think 14:52:04</p> <p>21 about it. So I certainly wouldn't put it that way.</p> <p>22 I still think because of the way that</p> <p>23 ended up happening -- if I were to do the analysis</p> <p>24 today, I would look at the movement of -- the way I</p> <p>25 did it in Texas, looking at the movement of White 14:52:23</p> <p style="text-align: right;">Page 184</p>
<p>1 change the racial composition of that district, but 14:49:46</p> <p>2 make it meaningfully more Republican in light of its</p> <p>3 recent electoral history."</p> <p>4 Is that right?</p> <p>5 A. That's right. 14:49:58</p> <p>6 Q. Is it fair to say that you're concluding</p> <p>7 that the first district was not a racial gerrymander</p> <p>8 because its overall partisan shifts were more</p> <p>9 consequential than its modest shifts in racial</p> <p>10 composition? 14:50:08</p> <p>11 A. Well, no, there were -- there was more to</p> <p>12 the analysis, obviously, than that. But I will be</p> <p>13 perfectly honest. At this point in the litigation,</p> <p>14 the idea of this as a racial targeting theory hadn't</p> <p>15 been suggested to me. 14:50:24</p> <p>16 The other point is that the court</p> <p>17 disagreed and as I understand it didn't get reversed</p> <p>18 on that particular finding. It got reversed on the</p> <p>19 weight of the evidence overall on the lack of a</p> <p>20 demonstration map. 14:50:41</p> <p>21 So if someone had suggested that this was</p> <p>22 a racial targeting theory to me, I might have</p> <p>23 thought about it differently.</p> <p>24 Q. Knowing that now, do you think that CD 1</p> <p>25 in South Carolina was a racial gerrymander? 14:50:56</p> <p style="text-align: right;">Page 183</p>	<p>1 Democrats versus White Republicans, because the 14:52:27</p> <p>2 White Democrats were treated like Black Democrats.</p> <p>3 And so that's some -- it's the inverse of</p> <p>4 what we have here. And so I still would come to the</p> <p>5 same conclusion, but it's one of those things where 14:52:40</p> <p>6 you're not even thinking about how you might -- kind</p> <p>7 of like, probably, Dr. Rodden, where you're not even</p> <p>8 thinking about how you might be playing into the</p> <p>9 other side's hand with your argument.</p> <p>10 THE WITNESS: You're welcome, Mr. Freedman. 14:53:11</p> <p>11 MR. FREEDMAN: I'm duly noting all this.</p> <p>12 THE WITNESS: 2031 is just around the corner.</p> <p>13 All right, sorry.</p> <p>14 MS. MADDURI: So I'm taking in the fact that</p> <p>15 that is true. 14:53:33</p> <p>16 Okay. Let's pull up Tab 12, which will be</p> <p>17 Exhibit 11.</p> <p>18 (Deposition Exhibit 11 was marked.)</p> <p>19 THE WITNESS: How long have we gone --</p> <p>20 THE CONCIERGE: Did you say -- 14:53:53</p> <p>21 THE WITNESS: -- since the last -- I'm sorry.</p> <p>22 THE CONCIERGE: I was going to say, did you say</p> <p>23 Tab 12?</p> <p>24 MS. MADDURI: You know, I think I said that,</p> <p>25 but I think I actually meant Tab 13. 14:54:01</p> <p style="text-align: right;">Page 185</p>

1 THE CONCIERGE: Okay. 14:54:04	1 say [as read]: 15:04:16
2 THE WITNESS: Before you put that up and give	2 "Perhaps most importantly, the Enacted
3 me time to think about it, how long have we been	3 Plan's changes result in only minimal differences in
4 going?	4 the BVAPs of the districts Plaintiffs challenge."
5 I don't want to take a break right as you 14:54:12	5 A. Yes. 15:04:28
6 put a new, like, exhibit --	6 Q. Is that right?
7 THE REPORTER: Almost an hour. Not quite, but	7 A. Yeah.
8 almost.	8 Q. And then you look to the overall
9 THE WITNESS: Can we take just a five-minute	9 district-wide change to BVAP for the districts at
10 break so I can make sure my sons were smart enough 14:54:41	10 issue; is that right? 15:04:39
11 to get the pizza off the front porch?	11 A. That's right.
12 MS. MADDURI: Absolutely fine by me.	12 Q. And here you're concluding that this is
13 (Recess taken.)	13 not a racial gerrymander because the district-wide
14 MS. MADDURI: And we are marking this as	14 change to BVAP is minor in each district; is that
15 Exhibit 11. 15:02:02	15 fair? 15:04:53
16 BY MS. MADDURI:	16 A. That's right.
17 Q. Do you recognize this document?	17 Like I said, I didn't see the target
18 A. Yes. It's the rebuttal report from the	18 theory, which was interesting and clever.
19 South Carolina case.	19 Q. And today you still maintain that
20 Q. The same case you were just discussing? 15:02:14	20 District 1 in South Carolina was not a racial 15:05:16
21 A. Yes.	21 gerrymander; correct?
22 MS. MADDURI: Okay. Let's scroll down to	22 A. Like I said, I would do a different
23 page 7, which is page 10 -- or I think it's page 9	23 analysis on it, but you can't -- you know, I would
24 of the PDF. And looking at the bottom part,	24 do the type of analysis that I did in Texas and that
25 Section C. 15:02:30	25 I did here, looking at how similarly situated 15:05:30
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1 I think if you scroll down just a little 15:02:37	1 potentially -- seeing how, like, Democrats and 15:05:35
2 bit more, we'll get all of Section C. Well, almost.	2 Republicans by race are treated within the district.
3 BY MS. MADDURI:	3 But you certainly can't help -- I see the
4 Q. Can you briefly review that section?	4 target argument for why you can't necessarily prove
5 A. Yes. 15:02:52	5 a district isn't a racial gerrymander or is not by 15:05:49
6 (Witness reviews document.)	6 things staying the same.
7 A. Okay.	7 You learn things doing these cases over
8 Q. Can you briefly explain what you're saying	8 the course of several years.
9 in this section of the report?	9 MS. MADDURI: Okay. I think that's all my
10 A. I was responding to Dr. Imai's 15:03:12	10 questions for you, Dr. Trende. Thank you for all of 15:06:15
11 simulations, and he was doing statewide simulations	11 your time and patience.
12 for the state of South Carolina.	12 THE WITNESS: Thank you.
13 And so the first part is responding to the	13 MS. MADDURI: And I think I will turn it over
14 fact that most of these districts are just minor	14 to Mr. Freedman.
15 changes from the enacted map. And so doing a 15:03:36	15 EXAMINATION 15:07:25
16 statewide simulation doesn't do you any good in that	16 BY MR. FREEDMAN:
17 type of situation because they're -- in there	17 Q. Dr. Trende, are you good to go?
18 they're pretty much the same map.	18 A. Yeah.
19 Now, when you get to District 1, the other	19 Q. So I'm going to do my best not to cover
20 thing that I point out -- and, again, this is one of 15:03:55	20 ground Ms. Madduri covered. 15:07:49
21 those things that as the theory became plainer was	21 I just want to be clear on scope of your
22 probably playing right into plaintiffs' hands --	22 opinions on a couple things just to make sure that
23 that the BVAP didn't change in the enacted district.	23 our record's clear.
24 Q. Okay. And in the final paragraph of this	24 Are you offering an opinion in this case
25 section that I think you were just mentioning, you 15:04:13	25 that race predominated in the drawing of any 15:08:04
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1 districts other than CD 13? 15:08:07	1 was in the production of materials that was made 15:10:46
2 A. No.	2 shortly before this deposition started.
3 Q. Are you offering an opinion in this case	3 What other statements were you provided
4 that the 2021 commission map was racially	4 from Paul Mitchell?
5 gerrymandered? 15:08:18	5 A. You have the, I believe, the sum total. 15:10:56
6 A. No.	6 Q. Did you rely on anything else he said in
7 Q. Are you providing an opinion as to Paul	7 rendering your opinions in this case?
8 Mitchell's intent?	8 A. It's one of those things where you read
9 A. I mean, I think evidence that race	9 things and you're aware of them, but I can't think
10 predominated in the drawing is an indicator of 15:08:29	10 of any specifics. 15:11:12
11 intent. It's a circumstantial case, but -- so I	11 Q. And you didn't cite any other statements
12 guess yes.	12 from him in your report; right?
13 Q. Only circumstantially, not -- you don't	13 A. Right.
14 have direct evidence as to Mr. Mitchell's intent;	14 Q. And did you rely on any statements from
15 right? 15:08:42	15 legislators that you were provided in reaching the 15:11:22
16 A. I think it's mostly circumstantial. There	16 opinions, your opinions in this case?
17 are those few quotations or quotation that I have	17 A. No.
18 from him. But for the most part it's a	18 Q. Now, I want to look closely at the
19 circumstantial case.	19 language that Mr. Mitchell used that you quote. He
20 Q. I'll come back to that quotation in a few 15:08:56	20 says -- and this is the top of page 5. I should 15:11:37
21 minutes.	21 read the -- I'll read the phrase.
22 Are you providing an opinion on the intent	22 [As read]:
23 of any particular California legislator?	23 "One is that they ensure that the Latino
24 A. No.	24 districts that are in the VRA seats are bolstered in
25 Q. Are you providing an opinion on the intent 15:09:06	25 order to make them most effective, particularly in 15:11:51
Page 190	Page 192
1 of the California legislature as a whole? 15:09:08	1 the Central Valley." 15:11:54
2 A. Only, I guess, to the extent that the	2 Mr. Mitchell used the word "bolstered";
3 intent of whoever drew the map can be imputed to the	3 right?
4 legislature.	4 A. Right.
5 Q. Okay. Let's go back to the Paul Mitchell 15:09:22	5 Q. He didn't say he was creating a new 15:12:02
6 quote, Exhibit 1, PDF page 19 at the bottom.	6 majority Latino district, did he?
7 MR. FREEDMAN: Ms. Woods, can you pull that up,	7 A. Correct.
8 please.	8 Q. You agree that CD 13 was a majority
9 Very good. If you could scroll down just	9 Hispanic district in the 2021 commission map; right?
10 a little bit more. Thank you. 15:09:58	10 A. Correct. 15:12:18
11 BY MR. FREEDMAN:	11 Q. Is there a reason you didn't include
12 Q. Now, Ms. Madduri asked you about that much	12 demographic information about CD 13 from the 2021
13 earlier this afternoon. I want to just be clear,	13 map in your report?
14 did you rely on this statement in forming your	14 A. No.
15 opinions in this case? 15:10:12	15 Q. Do you know how much Hispanic CVAP changed 15:12:34
16 A. I don't think it's the most important	16 in CD 13 between the 2021 commission map and the
17 piece of evidence that I have, but I wouldn't put it	17 2025 Proposition 50 map?
18 in the report if it were completely irrelevant. I	18 A. I believe the estimate is 2/10ths of a
19 think it's a nice introduction to the themes of the	19 point.
20 report. 15:10:24	20 Q. Is that something you calculated or are 15:12:49
21 Q. Now, when in the process did you become	21 you relying on defendants' experts?
22 aware of this statement?	22 A. I believe the answer to that is yes.
23 A. This would have been fairly early on.	23 Q. Both?
24 Q. You were asked by Ms. Madduri how you	24 A. Yeah, I would have looked at it to make
25 became aware of this quote, and you noted that it 15:10:44	25 sure it was right. 15:12:59
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<p>1 Q. Do you have any reason to dispute the 15:13:02</p> <p>2 Hispanic CVAP calculations of the defense experts</p> <p>3 for CD 13?</p> <p>4 A. No.</p> <p>5 Q. Do you know how much Democratic 15:13:14</p> <p>6 performance changed in CD 13 between the 2021</p> <p>7 commission map and the 2025 Proposition 50 map?</p> <p>8 A. About 5 points, I think.</p> <p>9 Q. Is that something that you calculated or</p> <p>10 are you relying on defendants' experts? 15:13:28</p> <p>11 A. That's just my recollection. I don't know</p> <p>12 exactly where it came from.</p> <p>13 Q. Do you have any reason to dispute the</p> <p>14 partisan performance calculations of the defense</p> <p>15 experts for CD 13? 15:13:41</p> <p>16 A. No.</p> <p>17 Q. Now I want to turn to your discussion of</p> <p>18 Modesto, which starts about page 11 of your report.</p> <p>19 That's going to be about page 26 of the PDF.</p> <p>20 A. Okay. 15:14:06</p> <p>21 MR. FREEDMAN: Maybe scroll up a little bit.</p> <p>22 Okay. Up, please.</p> <p>23 Yep, okay. I think we nailed it with the</p> <p>24 26.</p> <p>25 BY MR. FREEDMAN: 15:14:25</p> <p style="text-align: right;">Page 194</p>	<p>1 little bit? I just want it a little bit further 15:15:53</p> <p>2 down on this page.</p> <p>3 BY MR. FREEDMAN:</p> <p>4 Q. On this page you note that "The district</p> <p>5 bulges out here," remember that -- you see that 15:16:04</p> <p>6 phrase?</p> <p>7 A. Yes.</p> <p>8 Q. Did the 2021 commission map also bulge out</p> <p>9 in the Modesto/Ceres area?</p> <p>10 A. I don't know. 15:16:18</p> <p>11 Q. Now, you also note that the 2025 map</p> <p>12 includes a large Republican population in or around</p> <p>13 Ceres and that the same area is heavily Hispanic.</p> <p>14 You're familiar with that; right?</p> <p>15 A. Yes. 15:16:36</p> <p>16 Q. You don't present any analysis whether the</p> <p>17 district line in the Ceres area changed from the</p> <p>18 2021 to the 2025 map, do you?</p> <p>19 A. Correct.</p> <p>20 Q. Do you know whether the district line in 15:16:51</p> <p>21 the Ceres area changed from the 2021 to the 2025</p> <p>22 map?</p> <p>23 A. I don't think it matters.</p> <p>24 Q. That's not my question.</p> <p>25 My question is, do you know whether it 15:17:02</p> <p style="text-align: right;">Page 196</p>
<p>1 Q. None of the maps that you present for the 15:14:26</p> <p>2 Modesto/Ceres area, Figures 7, 8, 9, 10, 11 or 12,</p> <p>3 reflects the 2021 commission map district line, does</p> <p>4 it?</p> <p>5 A. That's right. 15:14:41</p> <p>6 Q. Did you look at how the 2025 map differs</p> <p>7 from the 2021 map in the Modesto/Ceres area?</p> <p>8 A. No, I don't think it's all that probative</p> <p>9 here. The question is, were there decisions made</p> <p>10 area that look as though they were driven more by 15:15:04</p> <p>11 race than politics in how this line ended up.</p> <p>12 Q. Why isn't it probative to look at the 2021</p> <p>13 map and see how it changed?</p> <p>14 A. Because I think the answer is how do the</p> <p>15 lines end up and are the lines as drawn indicative 15:15:17</p> <p>16 of racial or political predominance.</p> <p>17 Q. Is it your view that the -- looking at the</p> <p>18 2021 map and seeing how the lines changed in 2025 in</p> <p>19 this area is irrelevant?</p> <p>20 A. I don't think it's terribly helpful in 15:15:36</p> <p>21 establishing what the map maker's intent was because</p> <p>22 I think you look and see where the lines ended up</p> <p>23 and whether they're best explained by race or</p> <p>24 politics.</p> <p>25 MR. FREEDMAN: Ms. Woods, can you scroll down a 15:15:51</p> <p style="text-align: right;">Page 195</p>	<p>1 changed? 15:17:04</p> <p>2 A. I don't know, and I don't think it</p> <p>3 matters.</p> <p>4 Q. Now, Ms. Madduri asked you about the</p> <p>5 treatment of Ceres in your demonstrative Map A. 15:17:29</p> <p>6 And do you recall testifying that you kept</p> <p>7 Ceres in CD 13 in demonstrative Map A?</p> <p>8 A. Right.</p> <p>9 Q. Did you also keep Ceres in CD 13 in</p> <p>10 demonstrative Map B? 15:17:48</p> <p>11 A. I think it's different approaches in B and</p> <p>12 C for that area, and I think B keeps Ceres in and C</p> <p>13 goes in and splits Ceres.</p> <p>14 MR. FREEDMAN: Okay. Let's go down to page 16</p> <p>15 of the report, which is, I'm going to guess, 32 of 15:18:28</p> <p>16 the PDF.</p> <p>17 THE WITNESS: Okay.</p> <p>18 MR. FREEDMAN: We can go up a little bit.</p> <p>19 BY MR. FREEDMAN:</p> <p>20 Q. Now, similar question to what I asked 15:18:44</p> <p>21 about Modesto and Ceres.</p> <p>22 MR. FREEDMAN: We can scroll down, Ms. Woods, a</p> <p>23 little bit, please.</p> <p>24 BY MR. FREEDMAN:</p> <p>25 Q. Did any of your maps of the Stockton area, 15:18:55</p> <p style="text-align: right;">Page 197</p>

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<p>1 Figures 13, 14, 15, 16, 17 or 18 reflect the 2021 15:18:57</p> <p>2 commission map district line?</p> <p>3 A. No.</p> <p>4 Q. Did you look at how the 2025 map differs</p> <p>5 from the 2021 map in this area? 15:19:11</p> <p>6 A. Yes.</p> <p>7 Q. You looked at it, it's just not reflected</p> <p>8 in your report?</p> <p>9 A. I mean, it jumps off whenever you look at</p> <p>10 the map. 15:19:23</p> <p>11 Q. How so?</p> <p>12 A. Well, the enacted map doesn't have the</p> <p>13 giant head that looks like Scotland rotated</p> <p>14 45 degrees on it. It doesn't go into Stockton.</p> <p>15 Q. Is that discussed anywhere in your report? 15:19:43</p> <p>16 A. No. No, I think the question is the lines</p> <p>17 that the map maker ended up adopting and the choices</p> <p>18 he made in keeping or getting rid of them.</p> <p>19 Q. Now, you talked about, in conjunction with</p> <p>20 Stockton, the plume off the top of the district. 15:20:01</p> <p>21 Did the 2021 commission map also have a</p> <p>22 plume at the top of its district?</p> <p>23 A. Not like this. We can debate whether</p> <p>24 having Lathrop attached to it makes a plume, but not</p> <p>25 to this extent. 15:20:15</p> <p style="text-align: right;">Page 198</p>	<p>1 in the 2021 commission map; right? 15:21:20</p> <p>2 A. The plume in the Prop. 50 map goes into an</p> <p>3 area that was in District 9 in the commission map,</p> <p>4 yes.</p> <p>5 Q. Okay. When you say that -- and this is 15:21:34</p> <p>6 the language at the bottom of the page we're looking</p> <p>7 at -- "areas to the west of the District are heavily</p> <p>8 Democratic," those areas in the 2025 map were left</p> <p>9 in Congressional District 9; right?</p> <p>10 A. Yes. 15:21:58</p> <p>11 Q. Now, for Stockton, did the plume add</p> <p>12 majority Republican census blocks to CD 13?</p> <p>13 A. No. Do you mean any or on balance?</p> <p>14 Q. Well, I'll start with any.</p> <p>15 A. I don't know. 15:22:26</p> <p>16 Q. Are you aware, sitting here, of any</p> <p>17 Republican census -- or majority Republican census</p> <p>18 blocks that were added to CD 13 from extending the</p> <p>19 plume into Stockton?</p> <p>20 A. I still don't know. 15:22:42</p> <p>21 Q. You would certainly agree that many, if</p> <p>22 not all, of the census blocks that were added to</p> <p>23 CD 13 in the Stockton area were majority Democratic?</p> <p>24 A. Well, that's why I said if you ask me on</p> <p>25 balance what it is, I'll tell you Democratic, yeah. 15:23:00</p> <p style="text-align: right;">Page 200</p>
<p>1 Q. Did it have a plume? 15:20:15</p> <p>2 A. Again, we can debate whether having</p> <p>3 Lathrop on it really makes it a plume. All I'm</p> <p>4 going to say is not this extent.</p> <p>5 Q. "Plume" is your word. 15:20:25</p> <p>6 Did Stockton -- did CD 13 have a plume in</p> <p>7 the 2021 map?</p> <p>8 A. I don't know how much clearer I can be</p> <p>9 answering your question for the third time. We can</p> <p>10 debate whether Lathrop poking up or not is a plume 15:20:39</p> <p>11 or not. I could make a case either way.</p> <p>12 What I do know is, it's not the same or to</p> <p>13 the extent of what you have here when it goes into</p> <p>14 Stockton, which to me is clearly a plume.</p> <p>15 Q. Now, you're aware that the plume, as you 15:20:55</p> <p>16 call it, extends into an area that was part of</p> <p>17 Congressional District 5 in the 2021 commission map;</p> <p>18 right?</p> <p>19 MR. FREEDMAN: Actually, let me correct my note</p> <p>20 here. 15:21:11</p> <p>21 All right. Let me strike my question. I</p> <p>22 will ask again.</p> <p>23 BY MR. FREEDMAN:</p> <p>24 Q. You're aware that the area that you refer</p> <p>25 to as a plume extended into Congressional District 9 15:21:16</p> <p style="text-align: right;">Page 199</p>	<p>1 Q. Of the majority HCVAP census blocks that 15:23:05</p> <p>2 were added to CD 13 in the Stockton area, can you</p> <p>3 tell me how many of them were also majority</p> <p>4 Republican?</p> <p>5 A. No. 15:23:18</p> <p>6 Q. In your rebuttal report -- and I don't</p> <p>7 know that we need to pull it up, I just want to ask</p> <p>8 you about some language in it.</p> <p>9 You write [as read]:</p> <p>10 "CD 9 is safely Democratic, regardless of 15:23:30</p> <p>11 whether or not" -- and I'll add the word "Stockton</p> <p>12 voters are included within its boundaries."</p> <p>13 That's at page 18 of that report.</p> <p>14 Do you recall writing that?</p> <p>15 A. Yes. 15:23:45</p> <p>16 Q. You would agree that moving additional</p> <p>17 areas of Stockton from CD 9 to CD 13 would decrease</p> <p>18 the Democratic performance in CD 9; right?</p> <p>19 A. Well, yeah, but this is still an</p> <p>20 overwhelmingly Democratic district no matter what. 15:24:01</p> <p>21 Q. Are you aware what the percentages were in</p> <p>22 the 2024 congressional election in CD 9?</p> <p>23 A. No.</p> <p>24 Q. Do you know how close the race was?</p> <p>25 A. It was pretty close. It becomes way, way 15:24:18</p> <p style="text-align: right;">Page 201</p>

<p>1 more Democratic because it goes into Contra Costa 15:24:22</p> <p>2 County.</p> <p>3 Q. On page 31 of your second report, you also</p> <p>4 wrote that "District 9 was less in need of 'help'</p> <p>5 than District 13," and you go on to say, [as read] 15:24:32</p> <p>6 "District 9 was more Democratic of the two districts</p> <p>7 to start."</p> <p>8 Just to be clear, when you make that</p> <p>9 claim, are you making that claim about the 2021 map?</p> <p>10 A. I'm sorry, now you are quoting from my 15:24:45</p> <p>11 report, so I've got to open it up.</p> <p>12 MR. FREEDMAN: Let's pull up Exhibit 4, okay,</p> <p>13 Ms. Woods? It's on page 31 of the report.</p> <p>14 THE WITNESS: I appreciate you trying to move</p> <p>15 things along, but I just need to double-check this. 15:25:04</p> <p>16 Is this on page 31 numbered or of mine?</p> <p>17 BY MR. FREEDMAN:</p> <p>18 Q. It's numbered. I believe it's 35 of the</p> <p>19 PDF.</p> <p>20 A. Okay. 15:25:24</p> <p>21 Q. And the language I was citing is in the</p> <p>22 bottom paragraph starting "Dr. Rodden observes."</p> <p>23 It's the fifth line -- it starts at the end of the</p> <p>24 fifth line down.</p> <p>25 A. Um-hum, yes. 15:25:39</p> <p style="text-align: right;">Page 202</p>	<p>1 Q. Do you know what the 2024 Democratic 15:27:01</p> <p>2 presidential vote share was in CD 9 relative to</p> <p>3 CD 13 in the 2021 map?</p> <p>4 A. No. I just know that the incumbent</p> <p>5 congressman there had a better re-election effort 15:27:12</p> <p>6 than the Democrat in 13.</p> <p>7 Q. Okay. Well, we might be talking about</p> <p>8 this more on Monday.</p> <p>9 MR. FREEDMAN: Let's pull up -- Ms. Woods, can</p> <p>10 you pull up my Exhibit G? 15:27:25</p> <p>11 And we'll mark that as Exhibit 12.</p> <p>12 (Deposition Exhibit 12 was marked.)</p> <p>13 BY MR. FREEDMAN:</p> <p>14 Q. This is a document that was produced to us</p> <p>15 this morning, marked as Exhibit 12. I want to ask 15:28:00</p> <p>16 you about the e-mail you wrote that's in the middle</p> <p>17 of the chain on this page, where you write</p> <p>18 [as read]:</p> <p>19 "Hey, can we find out Harder's address?"</p> <p>20 This could be a problem." 15:28:14</p> <p>21 A. Yes.</p> <p>22 Q. Tell us the context of this e-mail.</p> <p>23 A. I was -- I got to -- oh, gosh, it might</p> <p>24 have been as early as the Grofman report and the</p> <p>25 suggestion that I double-bunked an incumbent in 15:28:34</p> <p style="text-align: right;">Page 204</p>
<p>1 Q. So I want to be clear, when you're writing 15:25:45</p> <p>2 about District 9 -- this is the language at the</p> <p>3 bottom [as read]:</p> <p>4 "District 9 was less in need of 'help'</p> <p>5 than was District 9 [sic]; District 9 was the more 15:26:01</p> <p>6 Democratic of the two districts to start."</p> <p>7 You're referring to the 2021 commission</p> <p>8 map; correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know what the Dave's Redistricting 15:26:16</p> <p>11 composite Democratic share was for CD 9 in the 2021</p> <p>12 map?</p> <p>13 A. No. I just know that Gray only won by a</p> <p>14 couple hundred points and that Harder won by three</p> <p>15 or four. 15:26:34</p> <p>16 Q. Do you know how the composite Democratic</p> <p>17 share for CD 9, according to the Dave's</p> <p>18 Redistricting composite, for CD 9 compares to CD 13</p> <p>19 in the 2021 map?</p> <p>20 A. Which composite? 15:26:47</p> <p>21 Q. The Dave's Redistricting composite</p> <p>22 Democratic share.</p> <p>23 A. Which one?</p> <p>24 Q. The one from Dave's Redistricting.</p> <p>25 A. There's more than one. 15:26:57</p> <p style="text-align: right;">Page 203</p>	<p>1 Tracy and thought that could be a problem. 15:28:39</p> <p>2 So I e-mailed and said, hey, can we get</p> <p>3 the address so I can make sure I didn't double-bunk</p> <p>4 him.</p> <p>5 Q. Okay. And why would double-bunking be a 15:28:52</p> <p>6 problem?</p> <p>7 A. Because you say then that's the reason</p> <p>8 that the map maker wouldn't have adopted this</p> <p>9 alternative map.</p> <p>10 MR. FREEDMAN: Let's scroll up a little bit. 15:29:09</p> <p>11 BY MR. FREEDMAN:</p> <p>12 Q. Did you ever determine what Congressman</p> <p>13 Harder's address actually was?</p> <p>14 A. Yes.</p> <p>15 Q. It's not a post office in Manteca, is it? 15:29:21</p> <p>16 A. No, it's a road in Tracy that blessedly</p> <p>17 remains in District 9.</p> <p>18 I figured that was the case since none of</p> <p>19 the experts actually say that I double-bunked him</p> <p>20 but just kind of have innuendo, and so it was. 15:29:39</p> <p>21 Q. Which of your maps keep Tracy fully in</p> <p>22 CD 9, your demonstration maps?</p> <p>23 (Reporter seeks clarification.)</p> <p>24 Q. Which of your maps keep Tracy intact in</p> <p>25 CD 9? 15:30:01</p> <p style="text-align: right;">Page 205</p>

1 A. I'd have to look carefully, but I don't 15:30:04	1 zero. 15:33:51
2 think any of them do. I think there's a block group	2 Q. And is it your view that the population
3 that overlaps it -- like, a large block group that	3 deviation reported here for District 9 is wrong?
4 overlaps it in a corner for Map A.	4 A. Well, it is wrong, and because 5 and 13
5 Q. Do you think Mr. -- Congressman Harder 15:30:18	5 are the same as they are in the enacted map, and 15:34:04
6 would support any of your demonstration maps given	6 because those districts are equipopulous, the change
7 what they do to Tracy?	7 that he's finding in District 9 has to be the
8 A. I don't know.	8 District 9 boundary with another district, not
9 MR. FREEDMAN: Ms. Woods, can we pull up and	9 District 13 or District 5.
10 mark as Exhibit 13 my Exhibit A? 15:30:44	10 Q. But you did redraw the lines for 15:34:22
11 (Deposition Exhibit 13 was marked.)	11 District 9; correct?
12 BY MR. FREEDMAN:	12 A. Right. But it mathematically could not
13 Q. Dr. Trende, this is a schedule from	13 have given rise to this population deviation.
14 Mr. Fairfax's appendix concerning your demonstrative	14 And besides, in the actual map that I use,
15 Map A. It's a schedule that was printed off of 15:31:29	15 it's a zero population deviation. 15:34:34
16 Maptitude.	16 MR. FREEDMAN: Thank you. Let's pull this down
17 And my question is simply whether you	17 and if we could pull up my Tab C and mark it as
18 considered this analysis in presenting your opinions	18 Exhibit 15.
19 in this case?	19 (Deposition Exhibit 15 was marked.)
20 A. It's wrong. There's no reason I would 15:31:41	20 BY MR. FREEDMAN: 15:35:20
21 change District 50 or 49 or 48. It's silly.	21 Q. This is the same analysis on your Plan C.
22 Q. So you did consider -- you've seen this	22 Same question, did you consider this in
23 analysis?	23 presenting your opinions in this case?
24 A. When Mr. Fairfax presented it. It's just	24 A. I didn't consider this because it's wrong.
25 wrong, because, again, the places where he finds 15:31:58	25 And obviously so. 15:35:36
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1 population deviations are not places I would have 15:32:01	1 Q. You didn't consider the fact that 15:35:42
2 any reason to ever go in and draw a map. It's	2 Maptitude says that your CD 13 -- I'm sorry, your
3 silly.	3 CD 9 has a population deviation of 13?
4 Q. When you redrew District 13 and	4 A. No, because the only way that
5 Districts 9 and 5, what did you do to equalize 15:32:17	5 mathematically can come about if Districts 5 and 13 15:35:54
6 population for those districts?	6 have zero or one population deviation is if it's a
7 A. I went through and made the changes to	7 result of another boundary.
8 census blocks needed to zero out the populations.	8 And since I know I didn't change any
9 Q. I see.	9 boundaries beside 9, 13 and 5, I know this is wrong.
10 MR. FREEDMAN: Let's pull this down. 15:32:36	10 And in my map-drawing software it shows up as 15:36:09
11 Can we pull up my Tab Exhibit B and we'll	11 everything zeroed out.
12 mark that as Exhibit 14.	12 MR. FREEDMAN: Let's pull this down. Can we
13 (Deposition Exhibit 14 was marked.)	13 pull up my Tab D and mark it as Exhibit 16.
14 BY MR. FREEDMAN:	14 (Deposition Exhibit 16 was marked.)
15 Q. This is the same analysis for your Plan B, 15:33:17	15 BY MR. FREEDMAN: 15:36:53
16 and my question is the same, did you consider this	16 Q. Dr. Trende, this is a contiguity report
17 in rendering your opinions in this case?	17 concerning your Map A generated by Maptitude.
18 A. Why would I consider wrong information?	18 Did you consider this in providing
19 Q. I'm sorry, so the answer is no?	19 opinions in this case?
20 A. I don't consider wrong information in any 15:33:32	20 A. I didn't consider anything I know to be 15:37:13
21 of my reports. There's no reason for me to be	21 wrong, and that would include this report.
22 changing districts in 42 or 43 or 44.	22 MR. FREEDMAN: Let's pull this down, and if we
23 If you look at the actual districts I was	23 can pull up Exhibit E and mark it as -- I'm sorry
24 drawing in, 9, 5, 13, the population deviations as	24 Tab E and mark it as Exhibit 17.
25 between changes made in those districts has to be 15:33:48	25 (Deposition Exhibit 17 was marked.) 15:37:34
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1 BY MR. FREEDMAN: 15:37:59	1 be, about? 15:41:02
2 Q. This is the Maptitude report on your	2 MR. EASON: I don't have an exact estimate. My
3 Plan B for contiguity.	3 guess is no longer than a half hour.
4 And my question is, did you consider this	4 THE REPORTER: Okay. Let's just keep going,
5 in rendering your opinions in this case? 15:38:08	5 then. 15:41:14
6 A. Well, no, because I don't draw my maps in	6 MR. EASON: Okay. Sounds good.
7 Maptitude for redistricting. But the similar	7 I will try to appropriately strike the
8 analysis that I ran in my map-drawing software	8 balance between respecting everyone's time and also
9 doesn't give this contiguity issue.	9 speaking slow enough so that my questions are
10 And, again, there's no reason for me to go 15:38:26	10 understood. 15:41:26
11 in and change with 41 and 42. I honestly can't	11 MS. HASAN: I'm sorry. I just want to give
12 believe you are running with this.	12 everyone a heads-up that I'll ask a few questions
13 MR. FREEDMAN: Let's pull this down. And can	13 after Ryan.
14 we pull up my Tab F and mark it as Exhibit 18?	14 MR. EASON: Thank you.
15 (Deposition Exhibit 18 was marked.) 15:38:47	15 And I also want to just restate that I am 15:41:33
16 BY MR. FREEDMAN:	16 asking questions on behalf of State defendants
17 Q. This is the Maptitude analysis of	17 California Governor Gavin Newsom and California
18 contiguity for your Plan C.	18 Secretary of State Shirley Weber.
19 And my question is whether you considered	19 EXAMINATION
20 this in providing the opinions in your report? 15:39:17	20 BY MR. EASON: 15:41:45
21 A. So, again, no. I don't run my maps in	21 Q. To begin I want to go back to a
22 Maptitude. My mapping software doesn't show any	22 conversation you were having with Ms. Madduri at the
23 changes or non-contiguities in Districts 41 or 42.	23 beginning, and you mentioned that you hosted a
24 And there's no reason for me to go in and make any	24 podcast.
25 changes to the boundaries in those districts because 15:39:38	25 What podcast do you host? 15:41:53
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1 I only drew in Districts 5, 9 and 13. 15:39:40	1 A. Stubborn Things. 15:41:55
2 With that said, there were a handful,	2 Q. And what is the podcast about?
3 three, zero population blocks that did not change	3 A. It's about politics and elections. We
4 over in this particular map. They wouldn't have	4 only have one episode, so we're still kind of giving
5 changed any of the analyses, and they wouldn't 15:39:56	5 our take. 15:42:13
6 require any additional map drawing to fix.	6 Q. What was the first episode about?
7 Q. So you acknowledge that Plan C, as you	7 A. Gerrymandering.
8 drew it and presented it to the court, contained	8 Q. Gerrymandering.
9 three contiguity issues?	9 Did that podcast episode cover the
10 A. Well, they aren't really issues because 15:40:12	10 mid-decade redistricting that is happening around 15:42:26
11 there's zero population, and so changing them over	11 the country this year?
12 doesn't change any of the analysis and doesn't	12 A. Briefly.
13 require any analysis redrawing.	13 Q. Did the podcast episode mention Prop. 50?
14 MR. FREEDMAN: Thank you. I will see you on	14 A. I don't know.
15 Monday. 15:40:27	15 Q. Who's your cohost on the podcast, if any? 15:42:36
16 And I pass the witness.	16 A. Jay Cost.
17 MR. EASON: Hi, Dr. Trende. Are you able to	17 Q. And who is Jay Cost?
18 hear me?	18 A. Jay Cost has been a lot of things, but he
19 THE WITNESS: Yes.	19 was my original coworker when I was at
20 MR. EASON: Excellent. 15:40:44	20 RealClearPolitics. Last we talked, he was a high 15:42:54
21 Before I begin, I just want to check with	21 school teacher, actually, but I think he's retiring
22 the court reporter to see if we need a break.	22 this year. So he's a friend of mine.
23 THE REPORTER: How long you got?	23 Q. Is this a project that you two run on your
24 MR. EASON: Sorry. Can you repeat that?	24 own, or is this podcast published by an
25 THE REPORTER: How long will your questioning 15:40:58	25 organization? 15:43:16
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<p>1 A. We run it on our -- we actually ran it and 15:43:16</p> <p>2 came up with the idea on our own. We decided we</p> <p>3 wanted some institutional support, so we got</p> <p>4 American Enterprise Institute to sponsor it.</p> <p>5 Q. And can you explain what the American 15:43:28</p> <p>6 Enterprise Institute is?</p> <p>7 A. Well, that's a really good question,</p> <p>8 because I think if we were talking 20 years ago and</p> <p>9 I said that Dick Cheney was a fellow there, we would</p> <p>10 say conservative, but now we live in a universe 15:43:38</p> <p>11 where Nancy Pelosi attends Dick Cheney's funeral but</p> <p>12 the president does not, the Republican president</p> <p>13 does not.</p> <p>14 So it's -- I think if you had to</p> <p>15 characterize -- and the politics section which we 15:43:53</p> <p>16 are in has people like Ruy Teixeira, who is a very</p> <p>17 liberal Democrat, in it.</p> <p>18 But if you had to characterize it, I guess</p> <p>19 you would say it's become kind of a haven for "Never</p> <p>20 Trump" conservatives. 15:44:08</p> <p>21 MR. EASON: Okay. Thank you.</p> <p>22 Switching gears, I want to pull up your</p> <p>23 first report again, and I believe that this was</p> <p>24 Exhibit 1.</p> <p>25 So if we could share the screen for that. 15:44:17</p> <p style="text-align: right;">Page 214</p>	<p>1 Q. And what does this paragraph say that the 15:45:50</p> <p>2 HCVAP of District 13 in demonstration C is?</p> <p>3 A. 48.1.</p> <p>4 Q. And this is less than 50 percent; correct?</p> <p>5 A. Correct. 15:46:03</p> <p>6 Q. Are you aware that the independent</p> <p>7 redistricting commission, California's independent</p> <p>8 redistricting commission, designated District 13 as</p> <p>9 necessary to comply with the Voting Rights Act?</p> <p>10 A. I believe it. 15:46:18</p> <p>11 Q. What does it mean to you that a district</p> <p>12 is necessary to comply with the Voting Rights Act?</p> <p>13 A. That it'll elect the minority candidate of</p> <p>14 choice.</p> <p>15 Q. Does that typically come in the form of a 15:46:32</p> <p>16 majority minority district?</p> <p>17 A. I think behind her camera Ms. Madduri</p> <p>18 might be having a stroke right now.</p> <p>19 There are certainly conservative legal</p> <p>20 scholars who argue that VRA remedial districts have 15:46:47</p> <p>21 to be 50 percent plus 1 minority.</p> <p>22 But after Cooper v. Harris, my</p> <p>23 understanding -- and, again there are lawyers mostly</p> <p>24 on the right who disagree -- is that when you get to</p> <p>25 the actual drawing of maps, what matters is how the 15:47:02</p> <p style="text-align: right;">Page 216</p>
<p>1 And then if we could go to -- I believe 15:44:31</p> <p>2 it's going to be page 40 of the PDF, and it's</p> <p>3 page 25 of the report.</p> <p>4 So on this page -- can we scroll down just</p> <p>5 a little bit so we can read the text? I'm more 15:44:58</p> <p>6 focused on the text here.</p> <p>7 BY MR. EASON:</p> <p>8 Q. So this page reflects your analysis of</p> <p>9 your demonstration Map B; is that correct?</p> <p>10 A. Correct. 15:45:10</p> <p>11 Q. And can you state what the HCVAP of</p> <p>12 District 13 in your demonstration District B would</p> <p>13 be?</p> <p>14 A. 48.9 percent.</p> <p>15 Q. Okay. And that is under 50 percent; 15:45:24</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 MR. EASON: Okay. If we can scroll down two</p> <p>19 more pages to page 42.</p> <p>20 BY MR. EASON: 15:45:34</p> <p>21 Q. Okay. Same question, that first full</p> <p>22 paragraph there, this is referring to -- this</p> <p>23 paragraph is referring to your demonstration Map C;</p> <p>24 correct?</p> <p>25 A. Correct. 15:45:49</p> <p style="text-align: right;">Page 215</p>	<p>1 district performs and votes and that you actually 15:47:05</p> <p>2 can't have a particularized minority vote share</p> <p>3 target without evidence that that target is needed</p> <p>4 to elect the minority candidate of choice, and that</p> <p>5 includes the 50 percent plus 1 threshold. 15:47:21</p> <p>6 Q. Okay, understood.</p> <p>7 Okay. If we can now switch to the topic</p> <p>8 of Madera, which you also had a conversation earlier</p> <p>9 with Ms. Madduri.</p> <p>10 Just to confirm, you believe that race 15:47:38</p> <p>11 subordinated politics in the Madera area of the</p> <p>12 Prop. 50 District 13; correct?</p> <p>13 A. No, explicitly the opposite.</p> <p>14 Q. Sorry, I may have misstated my question,</p> <p>15 then. 15:47:54</p> <p>16 Can you restate your conclusion on the</p> <p>17 Madera area of District 13?</p> <p>18 A. There's not evidence that racial</p> <p>19 considerations were subordinated to political ones.</p> <p>20 Q. There's not evidence that race 15:48:08</p> <p>21 subordinated political considerations.</p> <p>22 A. Right.</p> <p>23 Q. So you found that this area of the map was</p> <p>24 not problematic --</p> <p>25 A. Right. 15:48:21</p> <p style="text-align: right;">Page 217</p>

1 Q. -- from a racial gerrymandering 15:48:22	1 A. Well, I think they're the evidence for the 15:51:03
2 perspective?	2 district and my understanding is that if you have
3 What significance did this have on your	3 evidence of -- if you have -- if a court believes
4 analysis and conclusions?	4 that a certain portion of the lines are drawn with
5 A. It's a piece of evidence that having 15:48:30	5 racial predominance, that that's sufficient. 15:51:18
6 little protrusions, or potato eyes or however you	6 If I'm wrong, then I'm wrong.
7 want to call it, doesn't necessarily mean that	7 MR. EASON: Okay. If on Exhibit 1, which we
8 you're going to count something as a racial	8 still have in front of us, we could scroll up to
9 gerrymander. This is something that can be	9 page 16 of the PDF, which is page 1 of the report.
10 falsified. 15:48:44	10 BY MR. EASON: 15:51:37
11 Q. And just to confirm, you did not analyze	11 Q. Can you read the sentence beginning with
12 any part of District 13 other than the three	12 the words "The Enacted Map's boundaries"?
13 subareas you mentioned in your report; correct?	13 A. "The Enacted Map's boundaries between
14 A. Right, the three areas that look like it	14 districts 9 and 13 appear to have been crafted to
15 could be traditional concerns subordinated to racial 15:48:56	15 enhance the Hispanic Voting Age" -- 15:51:58
16 considerations.	16 (Reporter seeks clarification.)
17 Q. And if you had looked at the rest of	17 A. I'm so sorry.
18 District 13 and found that the remainder of the	18 "... appear to have been crafted to
19 areas you came to the same conclusion as you did in	19 enhance the Hispanic Voting Age Population and
20 Madera, that politics predominated, would that have 15:49:14	20 Hispanic Citizen Voting Age Population in the 15:52:09
21 colored your interpretation of the District 13 map?	21 district."
22 A. No, because I think for the most part --	22 Q. All right. Thank you.
23 and, again, I'd have to go -- I'd want to	23 And I'll note that you earlier noted that
24 double-check myself on this, but I think, like, the	24 you intended for this sentence to also include
25 western boundary is a county boundary, for example. 15:49:30	25 District 5; correct? 15:52:20
Page 218	Page 220
1 So -- and same thing with that wing that 15:49:35	1 A. Correct. 15:52:20
2 kind of sticks off to the, I guess, northeast of	2 Q. So does this sentence reflect your
3 Merced.	3 position that the District 13 map was drawn to
4 So even if I found a racial -- or even if	4 enhance Latino performance?
5 I found what looked to be a racial consideration 15:49:50	5 A. It was drafted to enhance Latino or -- at 15:52:35
6 there, I would never be able to make a convincing	6 least the boundaries between Districts 9, 13 and 5
7 case for it because you would just point to the	7 were crafted to increase the Hispanic voting age
8 county boundary.	8 population and citizen voting age population.
9 Q. So if every part of District 13, other	9 Q. And what does "enhance performance" mean
10 than the Stockton area or the Modesto/Ceres area, 15:50:07	10 to you here? 15:52:54
11 had a neutral explanation or a politically	11 A. Well, if you don't craft them the
12 predominant explanation, would that affect your	12 particular way that they're crafted, you're probably
13 conclusions in any way?	13 not going to get the HVAP and HCVAP that you end up
14 A. No, because, like I said at the beginning	14 with.
15 of my reply, my understanding is that you could have 15:50:24	15 Q. So is it your position that the lines were 15:53:09
16 even, like, a perfectly circular district, but if	16 drawn to increase the Latino or Hispanic population
17 there's a tendril coming off of it to grab minority	17 in order to make it more likely that they would
18 areas that that's enough.	18 elect candidates of choice?
19 I could be completely dead wrong on that,	19 A. No, because the district -- if anything,
20 and if I am, then I'm wrong. But as far as what my 15:50:43	20 they make it a little bit less likely, because the 15:53:22
21 conclusions would be, as I sit here, it wouldn't be	21 district isn't as Democratic as you otherwise would
22 affected at all.	22 have in some of these, what I consider, more natural
23 Q. And so to confirm, your conclusions in	23 configurations.
24 your report are limited to the two subareas that you	24 Q. Okay. I want to move now to the
25 analyze specifically? 15:51:00	25 supplemental report. I need to remind myself of the 15:53:44
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1 exhibit number. I think it's Exhibit 4. 15:53:47	1 two sentences in this paragraph that begin with "I'm 15:56:32
2 A. 4.	2 not sure." So I was referring to the one that comes
3 MR. EASON: Okay. And if we could scroll down	3 later, about four lines up.
4 to page 28, I believe, of the report, which I think	4 A. Yeah, this wasn't necessarily the most
5 is 32 of the PDF. 15:54:12	5 beautiful wordsmithed report. 15:56:44
6 Yes, that's the correct one. I'm just	6 "I'm not sure what the chances of this
7 trying to match on my own screen.	7 occurring randomly are, but they seem low."
8 BY MR. EASON:	8 Q. And in the context of this paragraph, can
9 Q. Okay. So in the paragraph starting with	9 you explain what this is referring to?
10 "Regardless," you say, "that the rural area removed 15:54:39	10 A. Having 14 districts' HCVAP in the same 15:56:59
11 from the southern portion of the Commission's	11 basic range.
12 District 13 had an HVAP of 72 percent and an	12 Q. And you say that the odds seem low.
13 estimated HCVAP of 60 percent."	13 Why do you say that?
14 Correct?	14 A. Because it seems unlikely to have 14
15 A. Correct. 15:54:54	15 districts that all end up with HCVAPs in a 15:57:15
16 Q. And in the same paragraph you say that the	16 4 percentage point range. I guess it's possible,
17 portion added to the Prop. 50 District 13 had an	17 but to really do that without trying to seems low.
18 HVAP of 68 percent and an estimated HCVAP of	18 Q. Did you conduct any analysis on this point
19 62 percent; correct?	19 to reach this conclusion?
20 A. Correct. 15:55:08	20 A. No, I'm just responding to Dr. Rodden 15:57:37
21 Q. And in the same paragraph you say that the	21 here, who's suggesting that this is exculpatory.
22 area added to the district is more heavily	22 Q. So is this based on your just personal
23 Democratic; correct?	23 knowledge?
24 A. Right, that's what Dr. Rodden shows.	24 A. No. Dr. Rodden is making -- to put it in
25 Q. And you would agree with that conclusion? 15:55:21	25 legal terms, he seems to be making a bit of an 15:57:54
Page 222	Page 224
1 A. Yes. 15:55:24	1 affirmative defense here, that, look, the HCVAP 15:57:58
2 Q. So would you describe the primary effect	2 between the two districts didn't change.
3 of this exchange on its own as improved Democratic	3 I'm saying, actually, I don't think that
4 performance?	4 proves anything. If anything, it probably raises
5 A. Overall? Yeah, swapping out these 15:55:34	5 more eyebrows or red flags than before. 15:58:08
6 populations made the district more Democratic.	6 Q. Sort of separate from Dr. Rodden's report,
7 The question is when crafting the -- as I	7 I just mean your conclusion that the chances of this
8 see it, and I could be wrong, is when crafting the	8 occurring randomly are low, that's not based on an
9 particular lines, was it done in a way to make sure	9 analytical conclusion; correct?
10 that the Hispanic CVAP stayed as high as it could or 15:55:47	10 A. No, that's right. 15:58:26
11 stayed high.	11 MR. EASON: Okay. I think that is actually all
12 MR. EASON: Okay. And then in the following	12 the questions that I have. And so I'm going to pass
13 paragraph, can we scroll down just a little bit.	13 it off to my colleague Iram Hasan. And thank you
14 BY MR. EASON:	14 for your time.
15 Q. Okay. And then do you mind reading the 15:56:03	15 THE WITNESS: Thank you. 15:58:49
16 sentence starting with "I'm not sure"? It's about	16 EXAMINATION
17 four lines --	17 BY MS. HASAN:
18 A. "I'm not sure" --	18 Q. Hi, Dr. Trende.
19 Q. Sorry, go ahead.	19 A. Hello.
20 A. How many lines do you want me to read? 15:56:13	20 Q. I am hopefully the last person you speak 15:58:54
21 Q. Just until the end of the period.	21 with today.
22 A. "I'm not sure this shows what Dr. Rodden	22 MS. HASAN: I don't have very much left thanks
23 suggests that it shows; if anything this seems to	23 to the excellent lawyering of all the other lawyers,
24 help the claim plaintiffs are making."	24 but does anybody need a short break before we get
25 Q. Oh, I'm sorry, I'm now realizing there's 15:56:28	25 into it? 15:59:07
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1 Madam Court Reporter? 15:59:09	1 Q. Okay. I'm going to PDF page -- I think 16:02:22
2 THE REPORTER: I mean, you got more than	2 it's 8. Yeah. Report page 4.
3 20 minutes or -- about that? Okay. Let's go.	3 So here, Dr. Trende, you mention a
4 Let's go.	4 triangle and a square when describing a portion of
5 MS. HASAN: I don't want to underestimate. 15:59:25	5 this map. This might be a little tricky since we 16:02:52
6 Could be a little bit more. Okay. We can go ahead	6 don't have a pen that you can use to demonstrate,
7 and you can let me know if you want me to stop.	7 but can you just describe with a little more
8 Could we pull up Exhibit 4, please, the	8 specificity where the triangle and the square are?
9 reply report, and go to PDF page 12.	9 A. I can try. They're kind of laid on top of
10 BY MS. HASAN: 16:00:02	10 each other, so it makes it more difficult. 16:03:09
11 Q. So looking at the second bullet point	11 But as you're entering Stockton from the
12 here, lower down on the page, the second -- part of	12 south, you can see three sides that are roughly of
13 the second sentence reads "if an otherwise-circular	13 that -- I think you can see three sides of the
14 district has an odd-shaped appendage that reaches	14 dark-shaded here and then a portion of the top one.
15 out to carve out a minority population, the district 16:00:18	15 That's -- it's an ugly square, but it's kind of a 16:03:25
16 is drawn with racial intent, and that is a district	16 square.
17 in which race predominated."	17 And then juttred off to the right is kind
18 Dr. Trende, is that always necessarily the	18 of -- it's a triangle laid on top of the square.
19 case?	19 Q. Is it the dark-shaded area?
20 A. Well, so I -- again, not necessarily the 16:00:31	20 A. Right. The part that indicates high 16:03:43
21 most wonderfully crafted report I've put out. This	21 Hispanic population.
22 case has been going fast for everyone, but that if	22 Q. Got it.
23 it reaches out to carve out a minority population is	23 Okay. And then we don't need to pull up
24 my active verb to suggest intent.	24 the page, but later in the same report you mentioned
25 So, yeah, I do think that if you have an 16:00:50	25 that there are Democratic White areas in Stockton. 16:04:02
Page 226	Page 228
1 odd-shaped appendage that reaches out in order to 16:00:53	1 If you want we can go there. It's PDF page 25. 16:04:06
2 carve out a minority population, I think that's	2 Unless you remember it and then we don't have to.
3 enough. I could be completely wrong.	3 A. I was probably being sloppy there and
4 Q. What would make you think you're	4 should have said not Hispanic, but -- or low
5 completely wrong? 16:01:07	5 Hispanic population. 16:04:23
6 A. I learn things in these cases all the time	6 Q. Okay. So you didn't mean White?
7 that I didn't know before. And if the law is that	7 A. Right. That neighborhood to the west
8 you can have a couple of appendages that were drawn	8 of -- in southwest Stockton is multiracial, and I
9 with racial intent -- and I guess I should have said	9 actually think the White population is pretty low.
10 and not otherwise justified -- that that's enough. 16:01:22	10 Q. Is it fair to say, then, that there are no 16:04:40
11 But maybe it is a majority of the district	11 White majority census blocks in Stockton?
12 boundary has to be drawn with racial intent to	12 A. Well, I don't know about that. I don't
13 trigger the 14th Amendment.	13 know -- I don't know.
14 Q. Okay. And if we were to replace the words	14 There's a lot of area in Stockton that
15 "minority population" with "Democrat" or "Republican 16:01:43	15 hasn't been particularly relevant to what we're 16:04:49
16 population" and "racial" to "partisan," would you	16 talking about here, and so I don't know those areas
17 similarly conclude that that is a district in which	17 well enough to opine off the top of my head.
18 partisanship predominated?	18 MS. HASAN: Okay. Turning to the original
19 A. That could be a part of the district in	19 report, Exhibit 1, PDF page 25 -- sorry. PDF
20 which partisanship predominated. And so say under 16:02:02	20 page 38. 16:05:14
21 the old commission rules, that would seem to be	21 BY MS. HASAN:
22 enough. But I don't know the particularities of	22 Q. This is going to your demonstration maps.
23 California law.	23 A. Okay.
24 Obviously in fed. court it wouldn't -- or	24 Q. Earlier you testified that you didn't
25 under the federal constitution it wouldn't matter. 16:02:15	25 check how much of the incumbent's vote share was 16:05:45
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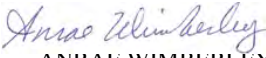
<p>1 removed from Tracy; was that right? 16:05:48</p> <p>2 A. Right.</p> <p>3 Q. Is it fair to say that you didn't consider</p> <p>4 how much population from Tracy was removed in these</p> <p>5 maps at all? 16:06:00</p> <p>6 A. Oh, that's right.</p> <p>7 Q. Did you evaluate in any of these</p> <p>8 demonstration maps if any non-Hispanic racial or</p> <p>9 ethic groups were moved in or out of the district?</p> <p>10 A. No. 16:06:18</p> <p>11 Q. Then earlier I think you testified, and</p> <p>12 please let me know if I'm wrong, that keeping</p> <p>13 municipalities intact is a traditional redistricting</p> <p>14 principle; is that right?</p> <p>15 A. I think it generally is, yeah. 16:06:31</p> <p>16 Q. Does that come in tension with your</p> <p>17 decision to split Tracy in these maps?</p> <p>18 A. No. We already have this weird plume</p> <p>19 coming off of it that's not a traditional</p> <p>20 redistricting principle. 16:06:49</p> <p>21 Obviously drawing a district from Modoc to</p> <p>22 Marin isn't a good government decision. So I don't</p> <p>23 think adding an additional municipality split,</p> <p>24 especially when you're healing a couple of</p> <p>25 census-designated place splits, which is also 16:07:02</p> <p style="text-align: right;">Page 230</p>	<p>1 have expanded, other than that plume, to increase 16:08:32</p> <p>2 Democrat vote share?</p> <p>3 A. It could have gone into Tracy.</p> <p>4 Q. And aside from that, any other direction</p> <p>5 aside from north, or northwest, I suppose? 16:08:43</p> <p>6 A. I mean, I guess probably you could have</p> <p>7 done something like is done with District 9, where</p> <p>8 you cross over into some of the coastal areas.</p> <p>9 I mean, this map is not afraid to draw</p> <p>10 tendrils and appendages, so I'm sure you could have 16:09:06</p> <p>11 if you were sufficiently motivated.</p> <p>12 Q. But that would make the district less</p> <p>13 compact?</p> <p>14 A. Well, yeah. But, again, this is a map</p> <p>15 where you draw across the entire northern boundary 16:09:17</p> <p>16 and then down the Pacific Coast to San Francisco. I</p> <p>17 just don't believe that that was a non-negotiable.</p> <p>18 Q. Did you compare this plume in the Prop. 50</p> <p>19 map with the plume in the commission map?</p> <p>20 A. I think it's obviously not the same 16:09:46</p> <p>21 because one is just adding the city of Lathrop on as</p> <p>22 opposed to going all the way into Stockton and</p> <p>23 crossing the city to other census-designated places.</p> <p>24 So, I mean, I'm aware of that and that's</p> <p>25 obvious. 16:10:05</p> <p style="text-align: right;">Page 232</p>
<p>1 something that's considered, is out of bounds. 16:07:07</p> <p>2 Q. Okay. And is it right that in each of</p> <p>3 these demonstration maps you kept the plume, to some</p> <p>4 extent?</p> <p>5 A. Well, right, because you're doing -- 16:07:23</p> <p>6 you're still doing a gerrymander in these maps.</p> <p>7 You're still trying to draw a map that'll improve</p> <p>8 the Democratic vote share, but you're not doing it</p> <p>9 on racial grounds.</p> <p>10 Q. So is it right to say that the plume is 16:07:40</p> <p>11 where the Democrats are?</p> <p>12 A. Partly, yeah.</p> <p>13 And so it then becomes a question of</p> <p>14 what's driving the way that that plume -- the plume</p> <p>15 is what draws your attention to it. It makes you 16:07:54</p> <p>16 think, yeah, there's some type of weird stuff going</p> <p>17 on here.</p> <p>18 And then you have to kind of dig into the</p> <p>19 plume to see whether it's racial stuff or political</p> <p>20 stuff. And here is it is jumping across the city of 16:08:08</p> <p>21 Stockton to get some politically marginal areas at</p> <p>22 the expense of -- that are heavily Hispanic at the</p> <p>23 expense of some areas that are much lower HCVAP but</p> <p>24 would have been much more Democratic.</p> <p>25 Q. Are there other areas where CD 13 could 16:08:27</p> <p style="text-align: right;">Page 231</p>	<p>1 Q. So you did a visual comparison of the two 16:10:06</p> <p>2 districts?</p> <p>3 A. No, no. I don't have any type of maps or</p> <p>4 anything like that in the report. But the old</p> <p>5 district does have the entire city of Lathrop added 16:10:19</p> <p>6 onto it.</p> <p>7 Maybe the commission was gerrymandering as</p> <p>8 well, but I think you look at how that's drawn and</p> <p>9 you're like, okay, they're putting an entire city up</p> <p>10 there and it's kind of oddly shaped. As opposed to 16:10:34</p> <p>11 this, which is running in a narrow strip up to a</p> <p>12 city and crossing over to get some heavily Hispanic</p> <p>13 areas.</p> <p>14 Q. How do you know what District 13 looked</p> <p>15 like in the commission map? 16:10:50</p> <p>16 A. I mean, for one thing, it was displayed in</p> <p>17 Dr. Rodden's report and possibly in Fairfax's, I</p> <p>18 can't remember.</p> <p>19 Q. Did you look at the shape of District 13</p> <p>20 in the commission map when you were preparing this 16:11:11</p> <p>21 report?</p> <p>22 A. Oh, I'm sure I did.</p> <p>23 Q. Did it generally extend in the same</p> <p>24 direction?</p> <p>25 A. Yeah, you have the city of Lathrop stuck 16:11:26</p> <p style="text-align: right;">Page 233</p>

<p>1 on top of District 13. 16:11:30</p> <p>2 MS. HASAN: Okay. Now, switching back to the</p> <p>3 reply report, Exhibit 4. PDF page 13, please.</p> <p>4 BY MS. HASAN:</p> <p>5 Q. So in the middle of the first paragraph, 16:12:15</p> <p>6 Dr. Trende, you say, "I certainly agree that the map</p> <p>7 achieves certain partisan goals."</p> <p>8 What do you mean by that?</p> <p>9 A. Well, as I say in the next sentence, I</p> <p>10 don't think Modoc County's paired with Marin County 16:12:27</p> <p>11 for any reason other than partisanship.</p> <p>12 Q. Does that opinion extend to any other</p> <p>13 parts of the Prop. 50 map?</p> <p>14 A. I mean, I think that District 1 is less</p> <p>15 egregious, but it's probably drawn for political 16:12:43</p> <p>16 purposes. But, again, I think you can have a map</p> <p>17 that does both.</p> <p>18 Q. Would you say that most districts achieve</p> <p>19 partisan goals?</p> <p>20 A. I don't know about that, but the map as a 16:13:00</p> <p>21 whole is made more favorable to Democrats and --</p> <p>22 yeah.</p> <p>23 Q. Did you consider any other particular</p> <p>24 districts in coming to this conclusion?</p> <p>25 A. You know, like I said, my instruction was 16:13:15</p> <p style="text-align: right;">Page 234</p>	<p>1 consideration the margin of error? 16:14:48</p> <p>2 A. No, no, there's just a bound of</p> <p>3 uncertainty around the HCVAP. A lot of people</p> <p>4 forgot about it, especially when they're drawing,</p> <p>5 but it's there. 16:15:04</p> <p>6 Q. Does that mean that if you look at</p> <p>7 somebody's HCVAP calculation, you would look at it</p> <p>8 and assume plus/minus 1 percent?</p> <p>9 A. I think it's 6/10ths of a point here, but</p> <p>10 that's what I would do. But, like I said, most 16:15:21</p> <p>11 people don't really think about it because they see</p> <p>12 the number on the screen, and that's what they're</p> <p>13 drawing with.</p> <p>14 But I think it's worth pointing out we</p> <p>15 don't really know as social scientists with that 16:15:33</p> <p>16 degree of specificity.</p> <p>17 I actually considered taking this one out</p> <p>18 because it seemed a little bit too like, well,</p> <p>19 actually, for a social scientist I like, but I think</p> <p>20 it's a fair point. 16:15:56</p> <p>21 Q. Bottom of page 9, going on to the top of</p> <p>22 page 10, you say:</p> <p>23 "In Madera, the legislature does appear to</p> <p>24 exclude areas that are both Hispanic and Republican</p> <p>25 while including areas that are both Hispanic and 16:16:15</p> <p style="text-align: right;">Page 236</p>
<p>1 to find the best or worst -- depending, I guess, on 16:13:21</p> <p>2 how you put it -- look at it -- place that race</p> <p>3 predominated, if it existed at all.</p> <p>4 And so I know I looked at other districts,</p> <p>5 but that was also, you know, a couple months ago at 16:13:38</p> <p>6 this point. So I don't remember the exact districts</p> <p>7 I looked at.</p> <p>8 Q. Okay. Would you say you looked at a</p> <p>9 majority of districts, would you remember?</p> <p>10 A. I don't remember. The only thing that I 16:13:54</p> <p>11 remember is looking at the District 9 tendril and</p> <p>12 thinking that there was evidence there, but it</p> <p>13 wasn't as good as in Stockton.</p> <p>14 Q. On the same page, fourth paragraph, you</p> <p>15 say, "We actually don't know that the HCVAP is 16:14:18</p> <p>16 lower."</p> <p>17 A. Right.</p> <p>18 Q. And then you go on to talk about the</p> <p>19 margin of error with the ACS data --</p> <p>20 A. Correct. 16:14:36</p> <p>21 Q. -- less than a percentage point; is that</p> <p>22 right?</p> <p>23 A. Yeah.</p> <p>24 Q. So is it fair to say, then, that the HCVAP</p> <p>25 would change by about 1 percent, taking into 16:14:43</p> <p style="text-align: right;">Page 235</p>	<p>1 Democrat." 16:16:18</p> <p>2 A. Right.</p> <p>3 Q. What's the significance of that?</p> <p>4 A. Ah.</p> <p>5 I have to read to see what I was even 16:16:43</p> <p>6 responding to.</p> <p>7 Oh, yeah, so Dr. Grofman says you could</p> <p>8 have put more Hispanic population in certain areas</p> <p>9 and didn't. Yeah, that's true around Madera.</p> <p>10 Q. Isn't this the type of thing that you 16:17:12</p> <p>11 would see in a partisan gerrymander?</p> <p>12 A. No, because the problem is when it comes</p> <p>13 to whether to include non-White Democrats or</p> <p>14 Hispanics, when you have to actually make a choice</p> <p>15 on the basis of race, the map maker goes for race 16:17:29</p> <p>16 instead of politics.</p> <p>17 Given a choice between two groups of</p> <p>18 Hispanics, things are different. Or, I'm sorry, he</p> <p>19 cares.</p> <p>20 Q. And then later in that same paragraph you 16:18:02</p> <p>21 say:</p> <p>22 "The problem comes when the choice is</p> <p>23 between similarly situated non-Hispanic Democrats</p> <p>24 and voters who are Hispanic-but-less-Democrat (or</p> <p>25 Republican). Someone drawing race-blind with 16:18:13</p> <p style="text-align: right;">Page 237</p>



1 partisan intent should select the latter at the 16:18:16	1 things in California, I just don't know. Maybe the 16:21:07
2 expense of the former, especially if the former are	2 VRA is what stops them.
3 less readily available."	3 Q. So turning to District 5, do you know how
4 A. Right.	4 partisanship changed in CD 5 from the old map to the
5 Q. But in a partisan gerrymander, wouldn't 16:18:26	5 new map? 16:21:40
6 you select the former, more Democrats?	6 A. No, I think it was pretty Republican,
7 A. Did I get latter and former reversed	7 either configuration.
8 there?	8 Q. If I represented to you that it was
9 Q. You tell me.	9 previously majority Republican and then increased a
10 A. It's too late for me to keep latter 16:18:41	10 little bit in Republican vote share, would you agree 16:21:56
11 straight from former. Let's see.	11 with that?
12 (Witness reviews document.)	12 A. I wouldn't have a reason to dispute you.
13 A. Yeah, that's backwards. I'm pretty sure.	13 Q. So if -- for example, using 2023 CVAP
14 Q. Okay.	14 data, if it was previously 57.6 percent Republican,
15 A. Right, right. Yeah, someone drawing 16:19:10	15 would you say that's a safe Republican district? 16:22:23
16 race-blind with partisan intent should pick the	16 A. I'm sorry, what does HCVAP data have to do
17 Democrats and not the Republicans or the less	17 with partisan --
18 Democrats. Right.	18 Q. I'm sorry, I misspoke. I meant --
19 Q. So latter should be former?	19 A. Okay.
20 A. Yeah, I got latter and former mixed up 16:19:26	20 Q. Yeah, I meant CVAP data. 16:22:34
21 there.	21 A. You mean vote share for -- I mean . . .
22 Q. And then just -- this is sort of in	22 Q. Looking at the number of Republicans based
23 reference to the last paragraph of this page.	23 on 2023 CVAP data, does that make sense?
24 In a partisan gerrymander, is it possible	24 A. No, the 2023 CVAP data doesn't have
25 for every single district to be drawn to be safe for 16:19:52	25 partisanship in it. 16:22:59
Page 238	Page 240
1 the party in charge of the map drawing? 16:19:56	1 Q. I'm sorry. It does not. I'm talking 16:23:02
2 A. I mean, in theory it's possible to draw	2 about 2024 presidential vote share.
3 every district in California 59 percent or whatever	3 A. Okay.
4 Harris's statewide vote share is, at least in	4 Q. So mixing up latter and former is not a
5 theory. 16:20:11	5 big deal. 16:23:13
6 Q. Have you evaluated if there are enough	6 A. It happens to the best of us.
7 Democrats in the state to do that or if the	7 Q. So if I were to represent to you that CD 5
8 geography would support that?	8 was 57.6 percent Republican in the commission map,
9 A. Oh, you can always make the geography --	9 would you call that a safe Republican district?
10 you can draw little tendrils out. I mean, that's 16:20:20	10 A. Probably. 16:23:32
11 how Illinois gets turned into a, whatever it is,	11 Q. And if it increased to 59.1 percent, that
12 three-Republican district. And they could do more	12 would make it an even safer Republican district?
13 if they wanted to, but Illinois is not as Democratic	13 A. Yes.
14 as California.	14 Q. Would that be an example of packing?
15 You can always, if you're willing to, 16:20:33	15 A. Could be. 16:23:50
16 distort things enough, make things equal to the	16 Q. And what does packing mean?
17 state vote share.	17 A. Packing means -- so packing means shoving
18 Q. And so a significant amount of distortion	18 members of one party into a single district so that
19 or districts with tendrils would be required to	19 you can bring up the Democratic share in other
20 achieve that goal? 16:20:52	20 districts. 16:24:07
21 A. Well, right, because -- well, actually, I	21 The reason I say not necessarily is that
22 don't know if that's the case in California, but if	22 the map drawer in Texas said that he was using a
23 you're willing to distort things enough, you're	23 59 percent Republican vote share to make sure that
24 always able to do it.	24 the districts were safe and wouldn't flip. So
25 Maybe you can do it without distorting 16:21:04	25 59 percent is not necessarily packing. 16:24:17
Page 239	Page 241

<p>1 Q. But increasing an already safe Republican 16:24:21</p> <p>2 district to an even safer Republican district would</p> <p>3 not necessarily be packing?</p> <p>4 A. That's what the Republican map drawer in</p> <p>5 Texas claimed he was doing, and I don't think he was 16:24:32</p> <p>6 trying to pack his own vote.</p> <p>7 It just depends on the state. If you're</p> <p>8 in a heavily Republican state -- for example, if all</p> <p>9 these districts -- if you drew the California map</p> <p>10 with 52 Harris 59 percent districts, I mean, I guess 16:24:49</p> <p>11 you could call it packing, but it's making the map</p> <p>12 more favorable to Democrats.</p> <p>13 Q. Is packing something you would expect in a</p> <p>14 partisan gerrymander?</p> <p>15 A. Well, it can be, but in that example I 16:25:10</p> <p>16 just gave, that's cracking all the Republican votes</p> <p>17 to make them completely inefficient. So you don't</p> <p>18 need packing necessarily to gerrymander. But you</p> <p>19 often do.</p> <p>20 Q. Is cracking also something you would see 16:25:29</p> <p>21 in a partisan gerrymander?</p> <p>22 A. Yes.</p> <p>23 Q. And what does cracking mean?</p> <p>24 A. Cracking is splitting Republicans or</p> <p>25 Democrats, whichever party you're trying to 16:25:39</p> <p style="text-align: right;">Page 242</p>	<p>1 A. I mean, it's kind of in the eye of the 16:27:15</p> <p>2 beholder. I don't think in this map it was</p> <p>3 particularly important, given how some of these</p> <p>4 districts are drawn.</p> <p>5 Q. We just talked about packing and cracking 16:27:34</p> <p>6 a little bit and how they could be indicative of a</p> <p>7 gerrymander. In this case we were talking about a</p> <p>8 partisan gerrymander.</p> <p>9 Are you familiar with the term</p> <p>10 "reinforcing" or "shoring up"? 16:27:49</p> <p>11 A. Sure.</p> <p>12 Q. And what does that mean?</p> <p>13 A. Shoring up is making a district more</p> <p>14 receptive to a member of your party.</p> <p>15 Q. Did you see any examples of that in your 16:28:03</p> <p>16 evaluation of the Prop. 50 map?</p> <p>17 A. Certainly District 9 shores up the</p> <p>18 incumbent in that area. I think -- I mean, there's</p> <p>19 no doubt that District 13 performs better</p> <p>20 politically, I just think that the way the 16:28:25</p> <p>21 boundaries were drawn were to ensure that it was a</p> <p>22 racial goal that could be met.</p> <p>23 But you can draw with partisan effect at</p> <p>24 the same time because race and politics correlate.</p> <p>25 Q. Have you -- are you familiar with the term 16:28:45</p> <p style="text-align: right;">Page 244</p>
<p>1 disfavor, across multiple districts so they can't 16:25:44</p> <p>2 elect their candidate.</p> <p>3 Q. I'm going to the next page, PDF page 16.</p> <p>4 Actually, it's the next few pages. We don't have to</p> <p>5 read them, but it's just referencing them. 16:26:06</p> <p>6 Here you discuss the weight given to</p> <p>7 different compactness scores.</p> <p>8 A. Um-hum.</p> <p>9 Q. And you used -- you looked at compactness</p> <p>10 scores in your original report; right? 16:26:15</p> <p>11 A. Correct.</p> <p>12 Q. And here you differentiate between the</p> <p>13 usefulness of different types of compactness scores;</p> <p>14 is that fair to say?</p> <p>15 A. Sure. 16:26:28</p> <p>16 Q. Why did you feel you needed to do that?</p> <p>17 A. Well, because it's explaining what these</p> <p>18 scores really are and what they tell you and then</p> <p>19 illustrating why you could have a district that</p> <p>20 becomes more regularly shaped but still performs 16:26:49</p> <p>21 worse on one or more of the compactness scores,</p> <p>22 because these compactness scores measure very</p> <p>23 specific attributes of a map.</p> <p>24 Q. How important is it for a district to be</p> <p>25 compact? 16:27:13</p> <p style="text-align: right;">Page 243</p>	<p>1 "displacing" or the concept of displacing a 16:28:51</p> <p>2 candidate?</p> <p>3 A. Sure. I think I know what you mean.</p> <p>4 Q. What do you think I mean?</p> <p>5 A. Placing a candidate in a different 16:29:00</p> <p>6 district.</p> <p>7 Q. Did you see examples of that here in</p> <p>8 Prop. 50?</p> <p>9 A. I don't know.</p> <p>10 Q. And I think you talked a little bit about 16:29:13</p> <p>11 pairing when you mentioned double-bunking; is that</p> <p>12 fair?</p> <p>13 A. Yes.</p> <p>14 Q. Did you see any examples of that in the</p> <p>15 Prop. 50 map? 16:29:27</p> <p>16 A. I don't know.</p> <p>17 By the time I got around to these reports,</p> <p>18 I was pretty focused in 13 and 9 and, to a lesser</p> <p>19 degree, 5, so . . .</p> <p>20 Q. And did you decide that you did not end up 16:29:42</p> <p>21 pairing the incumbent in District 9 in the map you</p> <p>22 drew in the --</p> <p>23 A. Yes.</p> <p>24 MS. HASAN: Okay. I think that's all I have</p> <p>25 for you, Dr. Trende. So we're done. 16:29:58</p> <p style="text-align: right;">Page 245</p>

<p>1 THE REPORTER: Off the record? 16:30:09</p> <p>2 THE WITNESS: Mark, if you redirect me, I'm</p> <p>3 going to scream.</p> <p>4 MR. MEUSER: Let me see here. I only have 550</p> <p>5 questions for you. I'm saving them all for Monday. 16:30:18</p> <p>6 THE WITNESS: Excellent.</p> <p>7 MS. MADDURI: Nothing further here.</p> <p>8 Thank you so much for your time. Thank</p> <p>9 you. Have a good Friday night. There's still time.</p> <p>10 (Whereupon, the proceedings were concluded 16:30:30</p> <p>11 at 4:30 p.m.)</p> <p>12 ---oOo---</p> <p>13</p> <p>14</p> <p>15</p> <p>16 _____</p> <p>17 SEAN TRENDE, Ph.D.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 246</p>	<p>1 IRAM HASAN, DEPUTY ATTORNEY GENERAL</p> <p>2 iram.hasan@doj.ca.gov</p> <p>3 December 13, 2025</p> <p>4 RE: Tangipa, David Et Al. v. Newsom, Gavin Et Al.</p> <p>5 12/12/2025, Sean Trende, Ph.D., (#7780504).</p> <p>6 The above-referenced transcript has been</p> <p>7 completed by Veritext Legal Solutions and</p> <p>8 review of the transcript is being handled as follows:</p> <p>9 __ Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext</p> <p>10 to schedule a time to review the original transcript at</p> <p>11 a Veritext office.</p> <p>12 __ Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF</p> <p>13 Transcript - The witness should review the transcript and</p> <p>14 make any necessary corrections on the errata pages included</p> <p>15 below, notating the page and line number of the corrections.</p> <p>16 The witness should then sign and date the errata and penalty</p> <p>17 of perjury pages and return the completed pages to all</p> <p>18 appearing counsel within the period of time determined at</p> <p>19 the deposition or provided by the Code of Civil Procedure.</p> <p>20 Contact Veritext when the sealed original is required.</p> <p>21 __ Waiving the CA Code of Civil Procedure per Stipulation of</p> <p>22 Counsel - Original transcript to be released for signature</p> <p>23 as determined at the deposition.</p> <p>24 __ Signature Waived – Reading &amp; Signature was waived at the</p> <p>25 time of the deposition.</p> <p style="text-align: right;">Page 248</p>
<p>1 I, the undersigned, a Certified Shorthand</p> <p>2 Reporter of the State of California, do hereby</p> <p>3 certify:</p> <p>4 That the foregoing proceedings were taken</p> <p>5 before me at the time and place herein set forth;</p> <p>6 that any witnesses in the foregoing proceedings,</p> <p>7 prior to testifying, were administered an oath; that</p> <p>8 a record of the proceedings was made by me using</p> <p>9 machine shorthand which was thereafter transcribed</p> <p>10 under my direction; that the foregoing transcript is</p> <p>11 a true record of the testimony given.</p> <p>12 Further, that if the foregoing pertains to</p> <p>13 the original transcript of a deposition in a Federal</p> <p>14 Case, before completion of the proceedings, review</p> <p>15 of the transcript ( ) was (X) was not requested.</p> <p>16 I further certify that I am neither</p> <p>17 financially interested in the action nor a relative</p> <p>18 or employee of any attorney of any party to this</p> <p>19 action.</p> <p>20 IN WITNESS WHEREOF, I have this date</p> <p>21 subscribed my name.</p> <p>22 Dated: December 13, 2025</p> <p>23</p> <p>24</p> <p>25  ANRAE WIMBERLEY, CSR No. 7778</p> <p style="text-align: right;">Page 247</p>	<p>1 __ Federal R&amp;S Requested (FRCP 30(e)(1)(B)) – Locked .PDF</p> <p>2 Transcript - The witness should review the transcript and</p> <p>3 make any necessary corrections on the errata pages included</p> <p>4 below, notating the page and line number of the corrections.</p> <p>5 The witness should then sign and date the errata and penalty</p> <p>6 of perjury pages and return the completed pages to all</p> <p>7 appearing counsel within the period of time determined at</p> <p>8 the deposition or provided by the Federal Rules.</p> <p>9 _x_ Federal R&amp;S Not Requested - Reading &amp; Signature was not</p> <p>10 requested before the completion of the deposition.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 249</p>

[& - 14th]

<b>&amp;</b>	217:5 220:7,9	226:9	162:3,6 165:18
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[woods - years]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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## **Exhibit 438**



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# Transcript of Scott Winn

**Date:** December 12, 2025

**Case:** Tangipa, et al. -v- Newsom, et al.

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**Tangipa v. Newsom**

**DX438**

2:25-cv-10616-JLSWLH-KKL

Transcript of Scott Winn  
Conducted on December 12, 2025

1 (1 to 4)

<p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE CENTRAL DISTRICT OF CALIFORNIA</p> <p>3 WESTERN DIVISION</p> <p>4 -----X</p> <p>5 DAVID TANGIPA, et al., :</p> <p>6 Plaintiffs, : Case No.</p> <p>7 UNITED STATES OF AMERICA, : 2:25-cv-10616-JLS-WLH-KKL</p> <p>8 Plaintiff-Intervenor :</p> <p>9 v. :</p> <p>10 GAVIN NEWSOM, in his Official :</p> <p>11 Capacity as the Governor of :</p> <p>12 California, et al., :</p> <p>13 and Defendants. :</p> <p>14 DEMOCRATIC CONGRESSIONAL :</p> <p>15 CAMPAIGN COMMITTEE, et al. :</p> <p>16 Defendant-Intervenors. :</p> <p>17 -----X</p> <p>18 REMOTE STENOGRAPHIC DEPOSITION OF</p> <p>19 SCOTT WINN</p> <p>20 Friday, December 12, 2025</p> <p>21 4:18 p.m. Pacific Time</p> <p>22 Job No.: 612915</p> <p>23 Pages: 1 - 49</p> <p>24 STENOGRAPHICALLY REPORTED BY:</p> <p>25 GISELLE MITCHELL-MARGERUM, RPR, CRI, CCR, LCR, ACCR, CSR</p> <p>CALIFORNIA CSR 14424</p>	<p>3 APPEARANCES</p> <p>2 ON BEHALF OF PLAINTIFFS:</p> <p>3 MICHAEL COLUMBO, ESQ.</p> <p>4 WILL THOMPSON, ESQ.</p> <p>5 DHILLON LAW GROUP INC.</p> <p>6 177 Post Street, Suite 700</p> <p>7 San Francisco, CA 94108</p> <p>8 (415) 433-1700</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANTS CALIFORNIA GOVERNOR GAVIN</p> <p>11 NEWSOM and SECRETARY of STATE SHIRLEY WEBER:</p> <p>12 HARALD KIRN, ESQ.</p> <p>13 DEPUTY ATTORNEYS GENERAL</p> <p>14 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE</p> <p>15 1300 I Street, Suite 125</p> <p>16 Sacramento, CA 95814</p> <p>17 (916) 210-6242</p> <p>18</p> <p>19 ON BEHALF OF DEFENDANT-INTERVENOR DEMOCRATIC</p> <p>20 CONGRESSIONAL CAMPAIGN COMMITTEE:</p> <p>21 CHRISTOPHER D. DODGE, ESQUIRE</p> <p>22 ELIAS LAW GROUP LLP</p> <p>23 250 Massachusetts Ave. NW, Suite 400</p> <p>24 Washington, DC 20001</p> <p>25 (202) 968-4652</p>
<p>2 Deposition of SCOTT WINN, held remotely,</p> <p>3 via videoconference at:</p> <p>4</p> <p>5 VIA VIDEOCONFERENCE</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Pursuant to agreement, before Giselle</p> <p>10 Mitchell-Margerum, Registered Professional Reporter,</p> <p>11 Certified Reporting Instructor, Licensed Court</p> <p>12 Reporter (TN), Certified Court Reporter (GA),</p> <p>13 Certified Court Reporter (NJ), Certified Court</p> <p>14 Reporter (WA), Certified Shorthand Reporter (OR),</p> <p>15 Certified Shorthand Reporter (CA), Alabama Certified</p> <p>16 Court Reporter (ACCR), Certified Court Reporter</p> <p>17 (NM).</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4 APPEARANCES (cont'd):</p> <p>2</p> <p>3 ON BEHALF OF DEFENDANT-INTERVENOR LEAGUE OF UNITED</p> <p>4 LATIN AMERICAN CITIZENS:</p> <p>5 THOMAS RIVERA, ESQ.</p> <p>6 ARNOLD &amp; PORTER KAYE SCHOLER LLP</p> <p>7 Three Embarcadero Center</p> <p>8 10th Floor</p> <p>9 San Francisco, CA 94111</p> <p>10 (415) 471-3100</p> <p>11</p> <p>12 ALSO PRESENT:</p> <p>13 LUCAS SHAKER, Document Technician</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Transcript of Scott Winn

2 (5 to 8)

Conducted on December 12, 2025

<p>5</p> <p>1 WITNESS INDEX</p> <p>2</p> <p>3 Witness Page</p> <p>4</p> <p>5 SCOTT WINN (sworn) .....7</p> <p>6</p> <p>7 Examination by CHRISTOPHER DODGE .....7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>7</p> <p>1 PROCEEDINGS</p> <p>2 COURT REPORTER: Good afternoon. Please</p> <p>3 raise your right hand.</p> <p>4 Do you swear to tell the truth, the whole</p> <p>5 truth, and nothing but the truth?</p> <p>6 THE WITNESS: I do.</p> <p>7 COURT REPORTER: Okay. We can start.</p> <p>8 ATTORNEY DODGE: Great. Thank you.</p> <p>9 SCOTT WINN</p> <p>10 Having been duly sworn testified as follows:</p> <p>11 EXAMINATION BY ATTORNEY DODGE:</p> <p>12 Q. Good afternoon, Mr. Winn. My name is</p> <p>13 Chris Dodge. I represent the DCCC in this matter.</p> <p>14 We have a very short period of time here today.</p> <p>15 Just about an hour or so.</p> <p>16 I'm going to give sort of an abridged</p> <p>17 version of deposition ground rules. But if you have</p> <p>18 any questions about them, please feel free to stop</p> <p>19 me or to ask any questions you need.</p> <p>20 First, we have a court reporter here</p> <p>21 today, as you are aware. She will be taking down</p> <p>22 everything we say in order to create a clear and</p> <p>23 accurate record.</p> <p>24 It's therefore very important that you</p> <p>25 speak slowly and clearly so that she can get an</p>
<p>6</p> <p>1 EXHIBIT INDEX</p> <p>2</p> <p>3 No. Description Page</p> <p>4</p> <p>5 Exhibit 1 Notice of Rule .....8</p> <p>6 30(b)(6) Deposition to CAGOP</p> <p>7 Exhibit 2 Instagram post re: .....17</p> <p>8 Prop 50</p> <p>9 Exhibit 3 Video re: Corrin .....19</p> <p>10 Rankin</p> <p>11 Exhibit 4 Video re: Gavin .....21</p> <p>12 Newsom - Redraw the Map</p> <p>13 Exhibit 5 Exhibit 11 - MMS .....24</p> <p>14 messages</p> <p>15 Exhibit 6 Email - We're .....30</p> <p>16 going to be blunt</p> <p>17 Exhibit 7 Email - .....32</p> <p>18 Devastating: Gavin Newsom's new</p> <p>19 Congressional map</p> <p>20 Exhibit 8 Complaint for .....39</p> <p>21 Declaratory and Injunctive Relief</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>8</p> <p>1 accurate transcript. It's also very important that</p> <p>2 we not speak over one another. I'll try to respect</p> <p>3 you when you are answering my questions, and I hope</p> <p>4 you will do the same with me.</p> <p>5 And then finally, it's also important that</p> <p>6 you give verbal answers to my questions. So no</p> <p>7 shaking your head or saying uh-huh or nuh-uh in</p> <p>8 response to questions.</p> <p>9 Does that all sound good?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. You also just took an oath now and</p> <p>12 agreed to provide truthful and accurate testimony to</p> <p>13 the best of your ability.</p> <p>14 Is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Is there any reason why you can't provide</p> <p>17 truthful and accurate testimony today?</p> <p>18 A. No.</p> <p>19 Q. Great.</p> <p>20 ATTORNEY DODGE: Could we call up tab one,</p> <p>21 please, and label it Winn 1?</p> <p>22 TECHNICIAN: Absolutely. Please stand by.</p> <p>23 (Exhibit 1 marked for identification)</p> <p>24 TECHNICIAN: Exhibit 1 is on the screen.</p> <p>25 ATTORNEY DODGE: Could you scroll down to</p>

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Conducted on December 12, 2025

<p>9</p> <p>1 the second page?</p> <p>2 BY ATTORNEY DODGE:</p> <p>3 Q. Mr. Winn, do you recognize this document?</p> <p>4 <b>A. I do.</b></p> <p>5 Q. Can you tell me what it is?</p> <p>6 <b>A. It's a Notice of Deposition.</b></p> <p>7 Q. And you understand that you are here</p> <p>8 testifying, not just on your own behalf, but on</p> <p>9 behalf of the California Republican Party?</p> <p>10 <b>A. I do.</b></p> <p>11 Q. And did you review this document with your</p> <p>12 attorneys?</p> <p>13 <b>A. No. I did not with my attorneys, but I</b></p> <p>14 <b>received it.</b></p> <p>15 Q. Did you meet with your attorneys in</p> <p>16 advance of this deposition?</p> <p>17 <b>A. I did.</b></p> <p>18 Q. And for about how long did you meet with</p> <p>19 them?</p> <p>20 <b>A. Approximately 40 minutes.</b></p> <p>21 Q. And with which specific attorneys did you</p> <p>22 meet?</p> <p>23 <b>A. Mr. Columbo and Mr. Thompson.</b></p> <p>24 Q. You are in a room right now, appearing</p> <p>25 remotely. Is there anyone else in the room with</p>	<p>11</p> <p>1 <b>intent to actually do that.</b></p> <p>2 Q. Okay.</p> <p>3 And what was the reaction of the</p> <p>4 California Republican Party when it first heard from</p> <p>5 Governor Newsom that a mid-decade redraw was on the</p> <p>6 table?</p> <p>7 <b>A. That it was unconstitutional.</b></p> <p>8 Q. And the California Republican Party tried</p> <p>9 to stop the passage of the legislation that became</p> <p>10 Proposition 50 in the California legislature.</p> <p>11 Right?</p> <p>12 <b>A. Not the California Republican Party, per</b></p> <p>13 <b>se, but Republicans in the legislature.</b></p> <p>14 Q. Did the California Republican Party, as an</p> <p>15 entity itself, undertake any efforts while</p> <p>16 Proposition 50 was before the legislature, to try</p> <p>17 and defeat it?</p> <p>18 <b>A. Yes. We did.</b></p> <p>19 Q. Can you describe those efforts?</p> <p>20 <b>A. There were social media posts.</b></p> <p>21 Q. Anything else?</p> <p>22 <b>A. I believe that's the extent of it.</b></p> <p>23 Q. So the social media posts were meant to</p> <p>24 draw attention to Proposition 50 amongst voters?</p> <p>25 Legislators? All of the above?</p>
<p>10</p> <p>1 you?</p> <p>2 <b>A. There is not.</b></p> <p>3 Q. Beyond your computer and the camera, are</p> <p>4 there any devices in front of you?</p> <p>5 <b>A. My phone and another computer.</b></p> <p>6 Q. And is the phone off or, you know, sort of</p> <p>7 screen locked?</p> <p>8 <b>A. The phone is screen locked. Yeah.</b></p> <p>9 Q. And you don't have any documents in front</p> <p>10 of you?</p> <p>11 <b>A. I do not.</b></p> <p>12 Q. Okay. Great.</p> <p>13 So let's get into what we are here to talk</p> <p>14 about today. When did the California Republican</p> <p>15 Party first learn that California democrats were</p> <p>16 planning to redraw California's congressional map?</p> <p>17 <b>A. I can't -- I can't recall the exact date.</b></p> <p>18 Q. Can you give me an approximation?</p> <p>19 <b>A. Late August. Or -- well, I would say</b></p> <p>20 <b>early August; late July.</b></p> <p>21 Q. Okay. And do you recall how the</p> <p>22 California Republican Party learned about that</p> <p>23 effort?</p> <p>24 <b>A. I believe they -- Governor Newsom gave a</b></p> <p>25 <b>speech, approximately about that time, with his</b></p>	<p>12</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And what was -- what sort of message was</p> <p>3 being conveyed in those social media posts?</p> <p>4 <b>A. Just that it was -- that the Republican --</b></p> <p>5 <b>that the Redistricting Commission -- it was</b></p> <p>6 <b>constitution -- that what Prop 50 was, was trying</b></p> <p>7 <b>to overturn what was a constitutionally passed</b></p> <p>8 <b>Redistricting Commission.</b></p> <p>9 Q. Okay.</p> <p>10 But otherwise, the California Republican</p> <p>11 Party didn't undertake any sort of coordinated</p> <p>12 opposition to Proposition 50 at that point in time?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Okay.</p> <p>15 So after the legislature ratified</p> <p>16 Proposition 50, it was then submitted to voters as a</p> <p>17 ballot measure. Right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And the California Republican Party did</p> <p>20 take part in the public debate and campaign over</p> <p>21 Proposition 50 as a ballot measure. Right?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Can you describe, at a high level, what</p> <p>24 sort of efforts the California Republican Party</p> <p>25 undertook to defeat Proposition 50 when it was</p>

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<p>13</p> <p>1 pending on the ballot?</p> <p>2 <b>A. We had voter contact, which would have</b></p> <p>3 <b>been social media; paid social media; mail; text</b></p> <p>4 <b>messaging; ground campaign; door-to-door operations.</b></p> <p>5 <b>Not limited to that, but that's approximately what</b></p> <p>6 <b>we did.</b></p> <p>7 Q. Would that have also included paid</p> <p>8 advertisements targeting voters?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And through those means of reaching out to</p> <p>11 voters, the California Republican Party presumably</p> <p>12 was being honest with voters as it understood the</p> <p>13 issue?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Is that fair to say?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. The California Republican Party wasn't</p> <p>18 trying to mislead voters. Right?</p> <p>19 <b>A. No.</b></p> <p>20 Q. It wasn't trying to spread misinformation</p> <p>21 of any kind?</p> <p>22 <b>A. No.</b></p> <p>23 Q. It wasn't trying to distort its own views</p> <p>24 about Proposition 50?</p> <p>25 <b>A. No.</b></p>	<p>15</p> <p>1 Q. Okay. Why was it important to broadcast</p> <p>2 that fact to voters?</p> <p>3 <b>A. The voters that we were targeting, which</b></p> <p>4 <b>was Republicans only, that message was important to</b></p> <p>5 <b>them. We had through, just discussions and</b></p> <p>6 <b>anecdotal things -- information that we had</b></p> <p>7 <b>received -- it was really important for them to hear</b></p> <p>8 <b>that. And that is what we were focusing on.</b></p> <p>9 Q. It's fair to say, then, that the</p> <p>10 California Republican Party understood that a</p> <p>11 consequence of Proposition 50 would be the likely</p> <p>12 loss of five congressional seats in California.</p> <p>13 Right?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. It wasn't making that fact up?</p> <p>16 <b>A. No.</b></p> <p>17 Q. And it's also fair to say, then, that the</p> <p>18 California Republican Party understood that that</p> <p>19 loss of five seats was an intended goal of</p> <p>20 Proposition 50 when the legislature passed it.</p> <p>21 Fair?</p> <p>22 <b>A. I'm sorry. Can you restate that again?</b></p> <p>23 Q. That wasn't a very good question, was it?</p> <p>24 Let me try that one again.</p> <p>25 The California Republican Party understood</p>
<p>14</p> <p>1 Q. And if there was a good reason to vote</p> <p>2 against Proposition 50, the Republican Party</p> <p>3 presumably would have then shared it with voters.</p> <p>4 Right?</p> <p>5 <b>A. So there was many reasons why you would</b></p> <p>6 <b>vote against Prop 50, but what we actually conveyed</b></p> <p>7 <b>to voters was, you know, of a specific nature.</b></p> <p>8 Q. I'm sorry. Specific what?</p> <p>9 <b>A. Specific in nature. In nature. Yeah.</b></p> <p>10 Q. And what was that?</p> <p>11 <b>A. The majority of the campaign was based on</b></p> <p>12 <b>the fact that -- well, the theme of the campaign was</b></p> <p>13 <b>that if Prop 50 did pass, it would -- we would lose</b></p> <p>14 <b>five congressional districts here in California.</b></p> <p>15 <b>Which means that we would lose the House. Which</b></p> <p>16 <b>means we would lose the legislative momentum we made</b></p> <p>17 <b>in Washington, D.C..</b></p> <p>18 Q. And when you say "we would lose five</p> <p>19 seats," you mean the Republican Party?</p> <p>20 <b>A. Republicans. Yes.</b></p> <p>21 Q. And when you say "lose the House," you</p> <p>22 mean the National Republican Party would lose its</p> <p>23 current majority in the U.S. House of</p> <p>24 Representatives?</p> <p>25 <b>A. Exactly.</b></p>	<p>16</p> <p>1 that it was the intent of Governor Newsom to cause</p> <p>2 that shift in ballots in the number seats. Right?</p> <p>3 ATTORNEY COLUMBO: Objection.</p> <p>4 BY ATTORNEY DODGE:</p> <p>5 Q. You can answer.</p> <p>6 <b>A. I don't exactly know what Governor Newsom</b></p> <p>7 <b>was thinking.</b></p> <p>8 Q. Let's start going through -- well</p> <p>9 actually, let me ask another more general question.</p> <p>10 The campaign over Proposition 50 lasted roughly two</p> <p>11 and a half months? Does that sound right?</p> <p>12 <b>A. Approximately.</b></p> <p>13 Q. Over the course of -- you mentioned that</p> <p>14 the California Republican Party had sort of a</p> <p>15 specific message around Proposition 50. Did the</p> <p>16 nature of that message change at all over that</p> <p>17 two-and-a-half-month period?</p> <p>18 <b>A. That message was consistent throughout</b></p> <p>19 <b>most of the campaign. Yeah. That was the</b></p> <p>20 <b>underlying message. Maybe different ways of</b></p> <p>21 <b>actually tailoring that message, but that was the</b></p> <p>22 <b>underlying message throughout the campaign. Yeah.</b></p> <p>23 Q. So there wasn't sort of a change in</p> <p>24 emphasis or focus over those two-and-a-half months?</p> <p>25 <b>A. No. Not that I can recall.</b></p>

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<p>17</p> <p>1 Q. So it was pretty consistently, you know, 2 "Hey, Republican voter, this law, if passed, would 3 cost us congressional seats?" 4 <b>A. Yes.</b> 5 Q. Fair? 6 <b>A. Yes.</b> 7 Q. Okay. 8 ATTORNEY DODGE: Could we pull up tab 2 9 and label it Winn 2, please? 10 TECHNICIAN: Please stand by. 11 (Exhibit 2 marked for identification) 12 TECHNICIAN: Exhibit 2 is on the screen. 13 ATTORNEY DODGE: I want to make sure 14 that's -- could you just zoom in a little bit 15 so that Mr. Winn can see it? 16 THE WITNESS: Yeah. Thank you. 17 BY ATTORNEY DODGE: 18 Q. I'll represent to you that this is a 19 Instagram post from the California Republican Party 20 on September 30th. Does that look about right to 21 you? 22 <b>A. Yes.</b> 23 Q. Are you familiar with this post at all? 24 <b>A. No.</b> 25 Q. But you are aware, generally, of the kinds</p>	<p>19</p> <p>1 <b>essentially -- okay. Independent Redistricting</b> 2 <b>Commission obviously was the one that re-do</b> 3 <b>districts. They would be grabbing power from the</b> 4 <b>Independent Redistricting Commission. And the</b> 5 <b>people.</b> 6 Q. What did the California Republican Party 7 think that Governor Newsom and Sacramento democrats 8 were trying to get out of this power grab? 9 <b>A. To eliminate five congressional districts.</b> 10 Q. There is a video associated -- sorry. 11 Strike that. 12 Just so it's clear on the record, I think 13 we both understand it. When you say eliminate five 14 congressional districts, you mean eliminate five 15 Republican held -- 16 <b>A. Yes.</b> 17 Q. -- congressional districts? All right. 18 Thank you. 19 ATTORNEY DODGE: There is a video 20 associated with this post. Could we go ahead 21 and play it? It's tab 2A. And we can label it 22 Winn 3. 23 TECHNICIAN: Absolutely. Please stand by. 24 (Exhibit 3 marked for identification) 25 ATTORNEY DODGE: We just need to play the</p>
<p>18</p> <p>1 of social media posts the Republican Party was 2 making at this time? 3 <b>A. Yes.</b> 4 Q. And could you read the first line of the 5 post under "CA_GOP," aloud, please? 6 <b>A. "Original audio?"</b> 7 Q. I guess it does it twice. No. Subsequent 8 to that. To the part starting with "Prop 50." 9 <b>A. Okay.</b> 10 <b>"Prop 50 is a radical redistricting power</b> 11 <b>grab that silences millions of voters.</b> 12 <b>It hands power back to consultants and</b> 13 <b>political insiders, taking California off the</b> 14 <b>Roadmap to Recovery and putting us on the Roadmap to</b> 15 <b>Recovery.</b> 16 <b>Vote NO on Prop 50!"</b> 17 Q. So there is mention of a power grab there. 18 <b>A. Uh-huh.</b> 19 Q. Who is grabbing the power, according to 20 the Republican Party, in this post? 21 <b>A. It would have been democrats in</b> 22 <b>Sacramento, including the governor and the</b> 23 <b>legislature.</b> 24 Q. And they were grabbing power to what end? 25 <b>A. To essentially -- you know, to</b></p>	<p>20</p> <p>1 first 10 seconds. You can pause after that. 2 TECHNICIAN: Sorry. And you said just the 3 first 10 seconds, counsel? 4 ATTORNEY DODGE: Yeah. That would be 5 great. 6 [Video played] 7 ATTORNEY DODGE: That's great. Thank you. 8 BY ATTORNEY DODGE: 9 Q. Can you tell me who Corrin Rankin is? 10 <b>A. She is the Chair of the California</b> 11 <b>Republican Party.</b> 12 Q. And that's who is speaking in the video? 13 <b>A. Yes.</b> 14 Q. Okay. And she says, Prop 50 eliminates 15 five congressional seats? 16 <b>A. Uh-huh.</b> 17 Q. Right? And again, she is referring to 18 Republican congressional seats? 19 <b>A. Yes.</b> 20 Q. And that's what the California Republican 21 Party understood to be the impact of Proposition 50. 22 Right? 23 <b>A. Yes.</b> 24 Q. She also starts the video by saying "They 25 are not hiding it."</p>

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<p>21</p> <p>1 <b>A. Uh-huh.</b></p> <p>2 Q. What is your understanding of who she is</p> <p>3 referring to when she says "they" or "their?"</p> <p>4 <b>A. The governor and the legislature.</b></p> <p>5 Q. And what is it they are not hiding?</p> <p>6 <b>A. That they are trying to redistrict to</b></p> <p>7 <b>eliminate five Republican congressional seats.</b></p> <p>8 Q. All right.</p> <p>9 ATTORNEY DODGE: Could we pull up tab</p> <p>10 three and label it Winn 4, please?</p> <p>11 TECHNICIAN: Stand by.</p> <p>12 (Exhibit 4 marked for identification)</p> <p>13 ATTORNEY DODGE: And this is a video. And</p> <p>14 we'll watch the whole thing.</p> <p>15 TECHNICIAN: Playing now.</p> <p>16 [Video played.]</p> <p>17 BY ATTORNEY DODGE:</p> <p>18 Q. This advertisement was sponsored by the</p> <p>19 California Republican Party. Right?</p> <p>20 <b>A. I'm sorry, Chris. I couldn't hear what</b></p> <p>21 <b>you said. Can you --</b></p> <p>22 Q. No worries. I said this advertisement was</p> <p>23 sponsored by the -- can you all hear me? Let's go</p> <p>24 off the record briefly.</p> <p>25 <b>A. Okay. That's -- I can hear you now.</b></p>	<p>23</p> <p>1 Party mean to convey by saying that Governor Newsom</p> <p>2 was trying to paint California blue?</p> <p>3 <b>A. That he was trying to eliminate five</b></p> <p>4 <b>congressional districts of the nine.</b></p> <p>5 Q. And when you say "of the nine," you are</p> <p>6 referring to the nine congressional seats presently</p> <p>7 held by the Republican Party in California. Right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And the ad was meant to highlight that if</p> <p>10 enacted, Proposition 50 would likely lead to the</p> <p>11 loss of five of those seats?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And the ad subsequently says:</p> <p>14 "Prop 50 gives Gavin Newsom the power to</p> <p>15 rig the elections in California, giving democrats</p> <p>16 more seats in Congress."</p> <p>17 Did I get that about right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And that was consistent with what the</p> <p>20 California Republican Party understood</p> <p>21 Proposition 50 to be -- Proposition 50 to be driving</p> <p>22 towards?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Did the California Republican Party</p> <p>25 sponsor any television or radio advertisements that</p>
<p>22</p> <p>1 Q. Strike that. No need to go off the</p> <p>2 record. Great. Okay. I'll ask it again.</p> <p>3 Were you able to hear the advertisement?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. That advertisement was sponsored by the</p> <p>6 California Republican Party. Right?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And that advertisement was consistent with</p> <p>9 how the California Republican Party was trying to</p> <p>10 persuade voters -- or at least Republican voters, to</p> <p>11 vote against Prop 50. Right?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. The first line of the video says something</p> <p>14 to the effect of, California has a plan. Redraw the</p> <p>15 map. Rig the rules. Paint California -- you know,</p> <p>16 I don't actually think it did say California.</p> <p>17 Strike that.</p> <p>18 The beginning of the video says that there</p> <p>19 is a map to redraw the map; rig the rules; paint</p> <p>20 California blue. Did I more or less get that right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And blue there is in reference to the</p> <p>23 Democratic Party. Right?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And what did the California Republican</p>	<p>24</p> <p>1 called Proposition 50 a racial gerrymander?</p> <p>2 <b>A. We did not.</b></p> <p>3 ATTORNEY DODGE: Can we call up tab 11 and</p> <p>4 label it Winn 5, I think? Correct me if I'm</p> <p>5 wrong on that.</p> <p>6 TECHNICIAN: That's correct, counsel. And</p> <p>7 yes. Stand by.</p> <p>8 (Exhibit 5 marked for identification)</p> <p>9 TECHNICIAN: Exhibit 5 is on the screen.</p> <p>10 BY ATTORNEY DODGE:</p> <p>11 Q. Mr. Winn, I will represent to you that</p> <p>12 this is a compilation of documents produced by the</p> <p>13 California Republican Party in this litigation, in</p> <p>14 response to a discovery request. If we could scroll</p> <p>15 down to the first page, or the next page?</p> <p>16 Are you familiar with this image?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Can you tell me, sort of generally what it</p> <p>19 is?</p> <p>20 <b>A. It was a MMS text message, essentially</b></p> <p>21 <b>sent to Republican voters, asking them to vote no on</b></p> <p>22 <b>Prop 50.</b></p> <p>23 Q. And it says "Stop Newsom's Power Grab."</p> <p>24 Right?</p> <p>25 <b>A. Uh-huh.</b></p>

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<p>25</p> <p>1 Q. And the power grab also is referring to 2 the elimination of five Republican held seats and 3 the increase of five seats for democrats. Fair? 4 <b>A. Yes.</b> 5 Q. Okay. So this is referring to the -- a 6 political power grab. Fair? 7 <b>A. Yes.</b> 8 Q. And there is some text underneath the 9 image. That would have been sent to recipients in 10 the text? 11 <b>A. I'm sorry. Say that again?</b> 12 Q. Yeah. This text below the image would 13 have appeared in the text message to Republican 14 voters. Right? 15 <b>A. Yes.</b> 16 Q. And it says: 17 "Gavin Newsom's Prop 50 political power 18 grab is a scheme to gerrymander more congressional 19 seats for democrats so they can take control of 20 Congress, impeach President Trump, and derail the 21 America First agenda." 22 Did I get that right? 23 <b>A. Yes.</b> 24 Q. Okay. 25 And the California Republican Party</p>	<p>27</p> <p>1 of the document for a moment? 2 TECHNICIAN: Absolutely. 3 Mr. Winn, if you click on the document, 4 you will have access and be able to scroll. 5 THE WITNESS: Okay. 6 BY ATTORNEY DODGE: 7 Q. Mr. Winn, I'm just asking you to, you 8 know, take a few moments to maybe scroll through 9 some of these images. And while doing that, my 10 question is, do any of these text messages from the 11 California Republican Party to its supporters 12 mention race or ethnicity? 13 [Witness reviewed document.] 14 Q. If you can probably go to the next one and 15 stop? 16 ATTORNEY COLUMBO: Just for the sake of 17 the record, could we just note where he 18 stopped? Is that Plaintiff 007? The eighth 19 page of the exhibit? 20 ATTORNEY DODGE: That's fair. I'll 21 represent that Plaintiff's one through seven 22 reflects each MMS text produced in this 23 litigation. 24 BY ATTORNEY DODGE: 25 Q. And just because you took a moment to</p>
<p>26</p> <p>1 believed that to be true when it sent this text 2 message to its supporters. Right? 3 <b>A. Yes.</b> 4 Q. Can we go to the next page? Are you 5 familiar with this image at all? 6 <b>A. Yes.</b> 7 Q. And this is sort of in keeping with the 8 vein of Governor Newsom painting California blue. 9 Is that right? 10 <b>A. Yes.</b> 11 Q. And in the text below, it says that: 12 "Prop 50 is a pure political power grab 13 that puts Gavin Newsom first and Californians last." 14 Did I get that right? 15 <b>A. Yes.</b> 16 Q. And the California Republican Party 17 believed that to be a true statement when it sent 18 it? 19 <b>A. Yes.</b> 20 Q. So there is no disagreement here that 21 Proposition 50 is a pure political power grab for 22 Gavin Newsom? 23 <b>A. Yes.</b> 24 ATTORNEY DODGE: Sir, could you -- could 25 the tech actually please give Mr. Winn control</p>	<p>28</p> <p>1 review those images, Sir, I'll ask my question 2 again. Which is, based on your review and based on 3 your familiarity with the California Republican 4 Party's campaign against Proposition 50, are you 5 aware, here or in general, of any text messages that 6 the Republican Party sent to its supporters about 7 Proposition 50, that mentioned race or ethnicity? 8 <b>A. I'm sorry. It seems like a different 9 question from what you asked before.</b> 10 Q. Yeah. That's fair. Let's unpack it a 11 bit. So based on the images you just reviewed, do 12 any of them mention race or ethnicity? 13 <b>A. No.</b> 14 Q. More generally, with respect to all of the 15 California Republican Party's communications with 16 its supporters during Proposition 50 -- meaning 17 specifically blast messages and the like -- did any 18 of those mention race or ethnicity? 19 <b>A. Not that --</b> 20 ATTORNEY COLUMBO: Objection. 21 THE WITNESS: Not that I recall. I'm 22 sorry. 23 BY ATTORNEY DODGE: 24 Q. In looking at this image here -- if we 25 could actually just scroll up a little bit? That's</p>

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<p>29</p> <p>1 good.</p> <p>2 So it says in the text underneath this</p> <p>3 image:</p> <p>4 "This is a red alert. Election day is</p> <p>5 today, Tuesday, November 4th."</p> <p>6 Do you see that?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. So fair to say, this text was sent on</p> <p>9 election day as sort of a final reminder to voters?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And this text also says, quote:</p> <p>12 "This is a pure power grab to help</p> <p>13 democrats take control of Congress, impeach Trump,</p> <p>14 and derail his agenda."</p> <p>15 Do you see that?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And so, I think this is consistent with</p> <p>18 what you were saying earlier, Sir. Which is that</p> <p>19 the California Republican Party's message throughout</p> <p>20 the campaign was pretty consistent, up to and</p> <p>21 through election day. Right?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And that message was Proposition 50 is a</p> <p>24 pure power grab to help democrats take control of</p> <p>25 Congress?</p>	<p>31</p> <p>1 Did I get that right?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And so, that was also an important message</p> <p>4 for the California Republican Party to convey to</p> <p>5 voters about Proposition 50. Yes?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And further down, it also says:</p> <p>8 "We cannot risk giving democrats even an</p> <p>9 inch in this battle."</p> <p>10 Do you see that?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Based on your experience with the</p> <p>13 California Republican Party, is it your</p> <p>14 understanding that the voting patterns on</p> <p>15 Proposition 50 typically broke down on partisan</p> <p>16 lines?</p> <p>17 <b>A. Give me --</b></p> <p>18 Q. Is it fair to say --</p> <p>19 <b>A. -- that question again.</b></p> <p>20 Q. Is it fair to say that most Republicans in</p> <p>21 California oppose Proposition 50?</p> <p>22 <b>A. Yeah. I don't have specific -- specific</b></p> <p>23 <b>information on that. That was my assumption. Yes.</b></p> <p>24 Q. And would it also then be your</p> <p>25 understanding that democrats in California usually</p>
<p>30</p> <p>1 <b>A. Yes.</b></p> <p>2 ATTORNEY DODGE: Could you pull up tab</p> <p>3 four and label it Winn 6?</p> <p>4 TECHNICIAN: Absolutely. Please stand by.</p> <p>5 (Exhibit 6 marked for identification)</p> <p>6 TECHNICIAN: Exhibit 6 is on the screen.</p> <p>7 BY ATTORNEY DODGE:</p> <p>8 Q. I will represent to you that this is a</p> <p>9 email that was produced by the California Republican</p> <p>10 Party in this litigation. Any reason to doubt that,</p> <p>11 Sir?</p> <p>12 <b>A. No.</b></p> <p>13 Q. And do you recognize this specific email?</p> <p>14 Or sort of recognize what kind of email it is?</p> <p>15 <b>A. Not specific. But kind, yes.</b></p> <p>16 Q. And this was one of presumably many emails</p> <p>17 sent out to supporters to encourage them to vote</p> <p>18 against Proposition 50. Right?</p> <p>19 <b>A. I might have to read it real quick.</b></p> <p>20 <b>[Witness reviewed document.]</b></p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And in the bolded paragraph, it says:</p> <p>23 "If democrats succeed in passing their new</p> <p>24 congressional map, it would guarantee the end of our</p> <p>25 GOP House majority."</p>	<p>32</p> <p>1 tended to support Proposition 50?</p> <p>2 <b>A. It's my -- that would be my assumption.</b></p> <p>3 Q. And so, was it the California Republican</p> <p>4 Party's view that the campaign and public debate</p> <p>5 over Proposition 50 was, itself, sort of a partisan</p> <p>6 dispute?</p> <p>7 ATTORNEY COLUMBO: Objection.</p> <p>8 BY ATTORNEY DODGE:</p> <p>9 Q. You can answer, Sir.</p> <p>10 <b>A. Yes.</b></p> <p>11 ATTORNEY DODGE: Can we pull up tab five</p> <p>12 and call it Winn 7, please?</p> <p>13 TECHNICIAN: Absolutely. Please stand by.</p> <p>14 (Exhibit 7 marked for identification)</p> <p>15 TECHNICIAN: Exhibit 7 is on the screen.</p> <p>16 BY ATTORNEY DODGE:</p> <p>17 Q. Does this document generally look familiar</p> <p>18 to you, Sir?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And the bolded paragraph, the first one</p> <p>21 says:</p> <p>22 "If democrats succeed in passing this new</p> <p>23 map, we can say goodbye to a GOP House majority and</p> <p>24 hello to the end of President Trump's presidency."</p> <p>25 Did I get that right?</p>



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<p>33</p> <p>1     <b>A. Yes.</b></p> <p>2     Q. And what did the California Republican</p> <p>3 Party mean when it said "the end of</p> <p>4 President Trump's presidency?"</p> <p>5     <b>A. That if Prop 50 passed, it would eliminate</b></p> <p>6 <b>five Republican districts. Which would eliminate</b></p> <p>7 <b>the House majority. Which would then affect</b></p> <p>8 <b>President Trump's majority in both the House and the</b></p> <p>9 <b>Senate, to pass legislation.</b></p> <p>10    Q. And the Republican Party presently has a</p> <p>11 very narrow majority in the House of</p> <p>12 Representatives. Fair to say?</p> <p>13    <b>A. Yes.</b></p> <p>14    Q. So there was concern that if</p> <p>15 Proposition 50 passed, it would harm the president's</p> <p>16 ability to pursue his agenda, and the agenda of the</p> <p>17 Republican Party?</p> <p>18    <b>A. Yes. In the -- yes.</b></p> <p>19    Q. So, we mentioned -- we talked about the</p> <p>20 California Republican Party's efforts over, you</p> <p>21 know, the two-and-a-half months of the campaign</p> <p>22 season. We also spoke about the California</p> <p>23 Republican Party's efforts when the legislation was</p> <p>24 in front of the Assembly.</p> <p>25    I want to go back to that part about the</p>	<p>35</p> <p>1 Proposition 50?</p> <p>2     ATTORNEY COLUMBO: Objection. Same.</p> <p>3 BY ATTORNEY DODGE:</p> <p>4     Q. You can answer, Sir.</p> <p>5     <b>A. I believe the social media posts at the</b></p> <p>6 <b>time were specific to the legislative process, and</b></p> <p>7 <b>specific to protecting the Redistricting Commission.</b></p> <p>8     Q. Did the California Republican Party make</p> <p>9 social media posts and advertisements about the</p> <p>10 independent redistricting commission and sort of the</p> <p>11 process by which the bill was enacted, during the</p> <p>12 campaign as well?</p> <p>13    <b>A. I don't recall.</b></p> <p>14    Q. The focus shifted more to the partisan</p> <p>15 consequences of Proposition 50. Is that fair to</p> <p>16 say?</p> <p>17    <b>A. Yes.</b></p> <p>18    Q. And it's also fair to say that neither</p> <p>19 when the bills were before the legislature, or</p> <p>20 during the campaign season, did the California</p> <p>21 Republican Party make race or ethnicity a key theme</p> <p>22 when talking about Proposition 50. Fair?</p> <p>23    <b>A. Yes.</b></p> <p>24    Q. And just so I'm clear on it, it was your</p> <p>25 testimony earlier that the California Republican</p>
<p>34</p> <p>1 Assembly briefly, just so you have that in mind.</p> <p>2     <b>A. Okay.</b></p> <p>3     Q. It was your testimony that the California</p> <p>4 Republican Party's efforts at that time typically</p> <p>5 involved, you know, social media posts and the like,</p> <p>6 broadcasting information about Proposition 50 to</p> <p>7 voters.</p> <p>8     Is that all fair to say?</p> <p>9     <b>A. Yes.</b></p> <p>10    Q. Were the social media posts made by the</p> <p>11 California Republican Party, at that time, generally</p> <p>12 in keeping with the kinds of advertisements we have</p> <p>13 looked at here today?</p> <p>14    ATTORNEY COLUMBO: Objection.</p> <p>15    If you have a question about a post, you</p> <p>16 should show it to him.</p> <p>17    ATTORNEY DODGE: Well, let me restate the</p> <p>18 question, because I don't actually like it that</p> <p>19 much.</p> <p>20 BY ATTORNEY DODGE:</p> <p>21    Q. Were the social media posts that the</p> <p>22 California Republican Party made in that period,</p> <p>23 when Proposition 50 was before the legislature,</p> <p>24 generally in the same vein as the kinds of social</p> <p>25 media posts it made during the campaign over</p>	<p>36</p> <p>1 Party, as an entity, did not discuss the</p> <p>2 Proposition 50 legislation with Republican lawmakers</p> <p>3 while it was pending in the legislature?</p> <p>4     ATTORNEY COLUMBO: Objection as to which</p> <p>5 lawmakers you are referring to.</p> <p>6     ATTORNEY DODGE: State --</p> <p>7     ATTORNEY COLUMBO: You mean Congress?</p> <p>8     ATTORNEY DODGE: State lawmakers in</p> <p>9 Sacramento.</p> <p>10    ATTORNEY COLUMBO: Got you.</p> <p>11    THE WITNESS: Can you ask the question</p> <p>12 again?</p> <p>13    ATTORNEY DODGE: Sure.</p> <p>14 BY ATTORNEY DODGE:</p> <p>15    Q. I just want to understand, is it your</p> <p>16 testimony that the California Republican Party, as</p> <p>17 an entity, did not speak with state Republican</p> <p>18 lawmakers about Proposition 50, while its</p> <p>19 constituent bills were pending in the state</p> <p>20 legislature?</p> <p>21    <b>A. I don't recall saying that.</b></p> <p>22    Q. Sorry. Maybe you can help me out, then.</p> <p>23 Did the California Republican Party, as an entity,</p> <p>24 speak with Republican state lawmakers about</p> <p>25 Proposition 50 while it was being debated and</p>

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<p>37</p> <p>1 considered by the legislature?</p> <p>2 <b>A. I believe we had conversations with them.</b></p> <p>3 <b>I don't recall specifics. So...</b></p> <p>4 Q. Those conversations -- can you give me a</p> <p>5 sense of what those conversations were generally</p> <p>6 about?</p> <p>7 <b>A. I don't -- I can't.</b></p> <p>8 Q. Were they about defeating Proposition 50</p> <p>9 in the legislature?</p> <p>10 <b>A. Yes.</b></p> <p>11 ATTORNEY COLUMBO: Objection. Chris, are</p> <p>12 you -- are you guys now -- like can you still</p> <p>13 hear me?</p> <p>14 ATTORNEY DODGE: I can.</p> <p>15 ATTORNEY COLUMBO: Okay. Are you guys now</p> <p>16 taking the position that conversations with</p> <p>17 legislators are not privileged?</p> <p>18 ATTORNEY DODGE: No. That's not what I</p> <p>19 was doing. I was asking about the general</p> <p>20 categories of conversations without asking as</p> <p>21 to the substance. And that's the only question</p> <p>22 I've asked, and that's the only one I intend to</p> <p>23 ask.</p> <p>24 Could we go ahead and --</p> <p>25 ATTORNEY RIVERA: This is Thomas Rivera.</p>	<p>39</p> <p>1 COURT REPORTER: Okay. We are back on the</p> <p>2 record.</p> <p>3 ATTORNEY DODGE: Great.</p> <p>4 Could we please pull up the complaint and</p> <p>5 label it Winn 7? Eight?</p> <p>6 TECHNICIAN: Eight is up next, counsel.</p> <p>7 And please stand by.</p> <p>8 (Exhibit 8 marked for identification)</p> <p>9 TECHNICIAN: Exhibit 8 is on the screen.</p> <p>10 ATTORNEY DODGE: Can you maybe zoom in at</p> <p>11 the middle, so that Mr. Winn can see it a</p> <p>12 little better?</p> <p>13 BY ATTORNEY DODGE:</p> <p>14 Q. Do you recognize this document, Mr. Winn?</p> <p>15 <b>A. I do.</b></p> <p>16 Q. Can you tell me what it is?</p> <p>17 <b>A. It's the complaint that we filed.</b></p> <p>18 Q. And had you reviewed this document before</p> <p>19 preparing for your deposition today?</p> <p>20 <b>A. I'm sorry, Chris. You broke up for a</b></p> <p>21 <b>little bit.</b></p> <p>22 Q. When was the first time you reviewed this</p> <p>23 document?</p> <p>24 <b>A. I believe it was early November.</b></p> <p>25 Q. So around the time the lawsuit was filed?</p>
<p>38</p> <p>1 Just for the record as well, to my knowledge,</p> <p>2 the party who is asserting kind of privilege is</p> <p>3 a non-party to this case. Paul Mitchell. Not</p> <p>4 the defense parties.</p> <p>5 ATTORNEY DODGE: That is a worthy thing to</p> <p>6 point out.</p> <p>7 Could we pull up -- well, actually, I</p> <p>8 don't think I included it. I was going to ask</p> <p>9 to pull up the complaint.</p> <p>10 Why don't we take a five-minute break so I</p> <p>11 can look at my notes and confer with my</p> <p>12 colleagues? I might have a handful of more</p> <p>13 questions, but not many.</p> <p>14 And I do think that Mr. Kirn and</p> <p>15 Mr. Rivera might just have a small handful of</p> <p>16 questions, but I think we can wrap up fairly</p> <p>17 efficiently.</p> <p>18 Can we go with a five-minute break?</p> <p>19 ATTORNEY RIVERA: Absolutely.</p> <p>20 ATTORNEY THOMPSON: Thank you.</p> <p>21 ATTORNEY DODGE: Okay. If we could go off</p> <p>22 the record?</p> <p>23 COURT REPORTER: Okay. We are off the</p> <p>24 record.</p> <p>25 (Short break.)</p>	<p>40</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And do you believe the allegations made in</p> <p>3 this complaint to be true?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And you, or someone else on behalf of the</p> <p>6 California Republican Party, authorized this lawsuit</p> <p>7 to be filed in the California Republican Party's</p> <p>8 name?</p> <p>9 <b>A. I did.</b></p> <p>10 Q. Okay.</p> <p>11 ATTORNEY DODGE: Can we go to the next</p> <p>12 page? Can we zoom in on paragraph one?</p> <p>13 BY ATTORNEY DODGE:</p> <p>14 Q. So this paragraph in the complaint says:</p> <p>15 "This lawsuit challenges the</p> <p>16 constitutionality of California's congressional</p> <p>17 district maps that will be implemented following the</p> <p>18 passage of Proposition 50.</p> <p>19 Specifically, the California legislature</p> <p>20 violated the Fourteenth and Fifteenth Amendments to</p> <p>21 the Constitution when it drew new congressional</p> <p>22 district lines, based on race. Specifically to</p> <p>23 favor Hispanic voters without cause or evidence to</p> <p>24 justify it."</p> <p>25 Did I read that correctly?</p>

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<p style="text-align: right;">41</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Okay.</p> <p>3 Prior to the filing of this lawsuit, had</p> <p>4 the California Republican Party ever stated publicly</p> <p>5 that Proposition 50 was meant to favor Hispanic</p> <p>6 voters?</p> <p>7 <b>A. I believe so.</b></p> <p>8 Q. And when was that?</p> <p>9 <b>A. I believe in some social media posts. And</b></p> <p>10 <b>I believe the chairwoman had, in an interview.</b></p> <p>11 Q. Do you know if those social media posts --</p> <p>12 let me ask it a different way.</p> <p>13 Were you asked to collect those social</p> <p>14 media posts as part of this litigation?</p> <p>15 <b>A. Yeah. Yes, we were. And I believe that</b></p> <p>16 <b>our coms director did provide that information.</b></p> <p>17 Q. And do you know if they were ultimately</p> <p>18 produced in this litigation?</p> <p>19 <b>A. I don't know.</b></p> <p>20 Q. And based on your recollection, can you</p> <p>21 tell me, at a general level, what those social media</p> <p>22 post said?</p> <p>23 <b>A. I believe it was how they would affect</b></p> <p>24 <b>certain populations of African American communities.</b></p> <p>25 <b>Asian communities. I believe that was the case.</b></p>	<p style="text-align: right;">43</p> <p>1 Q. So, sitting here today, you do not recall</p> <p>2 the California Republican Party ever publicly</p> <p>3 stating, prior to this lawsuit, that Proposition 50</p> <p>4 would specifically favor Hispanic voters?</p> <p>5 <b>A. I do not recall.</b></p> <p>6 Q. Prior to this lawsuit, did the California</p> <p>7 Republican Party ever publicly state that</p> <p>8 Proposition 50 violated the Fourteenth and Fifteenth</p> <p>9 Amendments to the U.S. Constitution?</p> <p>10 <b>A. I do not recall.</b></p> <p>11 Q. So to put it another way, sitting here</p> <p>12 today, you do not recall the California Republican</p> <p>13 Party ever publicly stating that Proposition 50</p> <p>14 violated the Fourteenth and Fifteenth Amendments,</p> <p>15 prior to the filing of this lawsuit. Fair?</p> <p>16 <b>A. That is correct.</b></p> <p>17 Q. Do you -- does the California Republican</p> <p>18 Party believe that a ballot measure being</p> <p>19 unconstitutional would be a good reason to vote</p> <p>20 against it?</p> <p>21 <b>A. I'm sorry. Can you --</b></p> <p>22 ATTORNEY COLUMBO: Objection.</p> <p>23 ATTORNEY DODGE: It's been a long week.</p> <p>24 My questions are -- let me restate the</p> <p>25 question, Sir.</p>
<p style="text-align: right;">42</p> <p>1 ATTORNEY COLUMBO: Hey, Chris, could we go</p> <p>2 off the record for one sec?</p> <p>3 ATTORNEY DODGE: Sure.</p> <p>4 (Off the record.)</p> <p>5 COURT REPORTER: Okay. We are back on.</p> <p>6 BY ATTORNEY DODGE:</p> <p>7 Q. So it's your testimony that there were</p> <p>8 Republican Party social media posts that expressly</p> <p>9 made reference to certain race and ethnic groups --</p> <p>10 <b>A. I believe so.</b></p> <p>11 Q. -- during the campaign?</p> <p>12 <b>A. I believe so.</b></p> <p>13 Q. Okay.</p> <p>14 And to the best of your knowledge, the</p> <p>15 California Republican Party collected those posts</p> <p>16 and produced them in this litigation?</p> <p>17 <b>A. I believe so.</b></p> <p>18 Q. Going back to my original question, it was</p> <p>19 a bit more specific than what you mentioned. My</p> <p>20 question specifically was, prior to the filing of</p> <p>21 this lawsuit, did the California Republican Party</p> <p>22 ever publicly state that Proposition 50 was meant to</p> <p>23 favor Hispanic voters?</p> <p>24 <b>A. I don't recall, for sure. You asked</b></p> <p>25 <b>specifically about race, and that's all I can say.</b></p>	<p style="text-align: right;">44</p> <p>1 BY ATTORNEY DODGE:</p> <p>2 Q. Would a ballot measure being</p> <p>3 unconstitutional be a good reason to vote against</p> <p>4 it?</p> <p>5 <b>A. Sure.</b></p> <p>6 Q. Would the California Republican Party</p> <p>7 ordinarily want to point out to voters that a</p> <p>8 proposed law was unconstitutional, in encouraging</p> <p>9 them to vote against it?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Is there a reason the California</p> <p>12 Republican Party did not tell voters, during the</p> <p>13 campaign, that Proposition 50 would specifically</p> <p>14 favor Hispanic voters?</p> <p>15 <b>A. We focused on what we felt would motivate</b></p> <p>16 <b>Republican voters, which were our targeted group we</b></p> <p>17 <b>were -- our role as the California Republican Party</b></p> <p>18 <b>was to turn out Republican voters. And we chose</b></p> <p>19 <b>what we felt would motivate those voters to actually</b></p> <p>20 <b>turn out.</b></p> <p>21 <b>And, yes. We talked about the</b></p> <p>22 <b>unconstitutionality with regard to the Redistricting</b></p> <p>23 <b>Commission, and other things. But that is what we</b></p> <p>24 <b>focused on.</b></p> <p>25 <b>So we focused on things that would turn</b></p>

Transcript of Scott Winn

12 (45 to 48)

Conducted on December 12, 2025

<p>45</p> <p>1 out Republican voters. This --</p> <p>2 Q. So to --</p> <p>3 A. Yeah.</p> <p>4 Q. I didn't mean to cut you off.</p> <p>5 A. No. That's okay.</p> <p>6 Q. So do you not think that Proposition 50 --</p> <p>7 strike that.</p> <p>8 It's your view that Proposition 50 being a</p> <p>9 racial gerrymander would not have motivated</p> <p>10 Republican voters to turn out against it?</p> <p>11 A. No. It may have motivated some voters,</p> <p>12 but it -- the other arguments we made; the theme</p> <p>13 that we had adopted was what we felt would motivate</p> <p>14 Republican voters. That was what we focused on.</p> <p>15 Q. So you focused on what would resonate most</p> <p>16 with voters?</p> <p>17 A. Yes. Our targeted voters. Yes. Which</p> <p>18 was Republicans.</p> <p>19 Q. My last question for you, are there any</p> <p>20 questions I should have asked you today?</p> <p>21 A. Not that I can think of.</p> <p>22 Q. Great.</p> <p>23 ATTORNEY DODGE: Thank you very much for</p> <p>24 your time. I appreciate it.</p> <p>25 I will pass the witness to either Mr. Kirn</p>	<p>47</p> <p>1 ATTORNEY COLUMBO: It's Columbo, on behalf</p> <p>2 of the plaintiffs. Yes. I'll take one.</p> <p>3 COURT REPORTER: Thank you.</p> <p>4 ATTORNEY KIRN: State defendants as well.</p> <p>5 And then, just what I mentioned with the</p> <p>6 invoice at the beginning of the call. We</p> <p>7 appreciate it. As soon as we can get that.</p> <p>8 COURT REPORTER: Okay.</p> <p>9 ATTORNEY RIVERA: And no transcript order</p> <p>10 for defendant, LULAC, Ms. Mitchell. We are</p> <p>11 good for now. Thank you.</p> <p>12 COURT REPORTER: Okay. Thank you.</p> <p>13 (Whereupon, the deposition adjourned at</p> <p>14 5:31 p.m. Pacific Time)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>46</p> <p>1 or Mr. Rivera, if they still have questions.</p> <p>2 ATTORNEY KIRN: State doesn't have any</p> <p>3 questions for you, Mr. Winn, at this time. We</p> <p>4 appreciate you being here.</p> <p>5 THE WITNESS: Okay.</p> <p>6 ATTORNEY RIVERA: Likewise, LULAC has no</p> <p>7 questions at this time either, Mr. Winn. Thank</p> <p>8 you for your time.</p> <p>9 ATTORNEY DODGE: Great. Then I think we</p> <p>10 can -- sorry. I didn't mean to cut someone</p> <p>11 off.</p> <p>12 ATTORNEY COLUMBO: No. I just said</p> <p>13 thanks. We are all set as well.</p> <p>14 ATTORNEY DODGE: Great. We can go off the</p> <p>15 record, then.</p> <p>16 COURT REPORTER: Okay. Thank you. We are</p> <p>17 off the record.</p> <p>18 Can I get the orders for the transcript,</p> <p>19 please?</p> <p>20 ATTORNEY DODGE: DCCC will take one.</p> <p>21 ATTORNEY RIVERA: No order --</p> <p>22 ATTORNEY COLUMBO: Likewise for</p> <p>23 plaintiffs.</p> <p>24 COURT REPORTER: I'm not sure who said</p> <p>25 that.</p>	<p>48</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2</p> <p>3 I, GISELLE MITCHELL-MARGERUM, the undersigned, a</p> <p>4 Registered Professional Reporter, Certified Reporting</p> <p>5 Instructor, Licensed Court Reporter, and Certified Court</p> <p>6 Reporter, do hereby certify:</p> <p>7</p> <p>8 That the witness, SCOTT WINN, before examination was</p> <p>9 remotely duly sworn to testify to the truth, the whole</p> <p>10 truth, and nothing but the truth.</p> <p>11</p> <p>12 That the foregoing deposition was taken remotely</p> <p>13 stenographically by me on Friday, December 12, 2025, and</p> <p>14 thereafter was transcribed by me, and that the deposition</p> <p>15 is a full, true, and complete transcript of the</p> <p>16 testimony, including questions and answers, and</p> <p>17 objections, motions and exceptions made by counsel.</p> <p>18 That reading and signing was not requested; and that</p> <p>19 I am neither attorney nor counsel for, nor related to or</p> <p>20 employed by, any of the parties to the action in which</p> <p>21 this deposition was taken; and that I have no interest,</p> <p>22 financial or otherwise, in this case.</p> <p>23</p> <p>24 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>25 this 14th day of December, 2025.</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> 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DX438-0013

Transcript of Scott Winn

13 (49 to 52)

Conducted on December 12, 2025

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CERTIFICATE OF DEPONENT

I, SCOTT WINN, hereby certify that I have read the foregoing pages, numbered 1 through 47, of my deposition of testimony taken in these proceedings on Friday, December 12, 2025 and, with the exception of the changes listed on the next page and/or corrections, if any, find them to be a true and accurate transcription thereof.

Signed: .....  
Name: SCOTT WINN  
Date: .....

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DX438-0014

Transcript of Scott Winn  
Conducted on December 12, 2025

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## **Exhibit 439**



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# Transcript of Eric Ching

**Date:** December 13, 2025

**Case:** Tangipa, et al. -v- Newsom, et al.

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**Tangipa v. Newsom**

**DX439**

2:25-cv-10616-JLSWLH-KKL

Transcript of Eric Ching  
Conducted on December 13, 2025

1 (1 to 4)

<p>1</p> <p>IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA WESTERN DIVISION</p> <p>-----x DAVID TANGIPA, et al., : Plaintiffs, : and : 2:25-cv-10616- UNITED STATES OF AMERICA, : JLS-WLH-KKL Plaintiff-Intervenor, : v. : GAVIN NEWSOM, in his official : capacity as the Governor of : California, et al., : Defendants. : DEMOCRATIC CONGRESSIONAL : CAMPAIGN COMMITTEE, et al., : Defendant-Intervenors. : -----x</p> <p>Deposition of ERIC CHING Conducted Virtually Saturday, December 13, 2025 12:04 p.m. EST</p> <p>Job No.: 612459 Pages: 1 - 120 Stenographically reported by: Judith E. Bellinger, RPR, CRR, CSR-TX, CCR-WA, CCR-NM</p>	<p>3</p> <p>A P P E A R A N C E S</p> <p>ON BEHALF OF THE PLAINTIFFS:</p> <p>MARK MEUSER, ESQUIRE DHILLON LAW GROUP INC. 177 Post Street Suite 700 San Francisco, CA 94108 415.433.1700</p> <p>ON BEHALF OF THE DEFENDANTS CALIFORNIA GOVERNOR GAVIN NEWSOM AND SECRETARY OF STATE SHIRLEY WEBER:</p> <p>CHRISTINA MCCALL, ESQUIRE KATRINA UYEHARA, ESQUIRE DEPUTY ATTORNEYS GENERAL STATE OF CALIFORNIA DEPARTMENT OF JUSTICE 1300 I Street Suite 125 Sacramento, CA 95814 916.210.6242</p>
<p>2</p> <p>Deposition of ERIC CHING, conducted virtually,</p> <p>Pursuant to notice, before Judith E. Bellinger, Registered Professional Reporter, Certified Realtime Reporter, and E-Notary Public in and for the State of Maryland.</p>	<p>4</p> <p>A P P E A R A N C E S C O N T I N U E D</p> <p>ON BEHALF OF THE DEFENDANT-INTERVENOR DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE:</p> <p>ABHA KHANNA, ESQUIRE ELIAS LAW GROUP LLP 250 Massachusetts Avenue NW Suite 400 Washington, DC 20001 202.968.4652</p> <p>ON BEHALF OF THE DEFENDANT-INTERVENOR LEAGUE OF UNITED LATIN AMERICAN CITIZENS:</p> <p>JACOB KOVACS-GOODMAN, ESQUIRE JON GREENBAUM, ESQUIRE SOFIA FERNANDEZ GOLD, ESQUIRE DEMOCRACY DEFENDERS ACTION info@democracydefenders.org</p> <p>ALSO PRESENT:</p> <p>Jasmine Pearson, Planet Depos Technician</p>



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1 C O N T E N T S	1 Does that make sense?
2 EXAMINATION OF ERIC CHING PAGE	2 A Yes, understand.
3 By Ms. Khanna 6	3 Q And if I ask a question, it's important
4 By Ms. McCall 69	4 to get a verbal answer. A head nod or shake of
5 By Mr. Kovacs-Goodman 95	5 the head, obviously, wouldn't get recorded.
6	6 So, please, keep that in mind as well.
7	7 A Understand. Thank you.
8	8 Q I don't expect this deposition to
9 E X H I B I T S	9 necessarily go very long, but if at any point you
10 (Attached to the transcript)	10 need a break, please, just let me know. If you
11 Ching Exhibits: PAGE	11 need a sip of water, or anything like that, just
12 Exhibit 1 Plaintiff Complaint 40	12 let us know. And I'll just ask that you answer
13 Exhibit 2 Sanchez v. Weber Petition 54	13 the -- if there's a question pending, that you
14 Exhibit 3 Defendants' First Set of Requests 74	14 answer that one.
15 for Production of Documents to	15 A Thank you.
16 Plaintiffs and Plaintiff-Intervenor	16 Q You took an oath today, just now, and
17 Exhibit 4 California State Assembly maps 97	17 agreed to provide truthful and accurate testimony;
18 Exhibit 5 Census data from the California 102	18 is that right?
19 Commission	19 A Yes.
20 Exhibit 6 California Congress AB 604 104	20 Q Is there any reason that -- why you
21 Exhibit 7 Nonprofit Nonpartisan News 114	21 won't -- why you can't provide accurate and
22 Organization Cal Matters	22 truthful testimony today?
23	23 A No.
24	24 Q What did you do to prepare for today's
25	25 deposition?
6	8
1 P R O C E E D I N G S	1 A Well, I looked through the case files
2	2 one more time and -- just to make sure that I
3 ERIC CHING,	3 understand what is asking -- what could possibly
4 being first duly sworn, was examined	4 be asking.
5 and testified as follows:	5 Q What was in the case files?
6 EXAMINATION BY COUNSEL FOR THE DEMOCRATIC	6 A The case files has to do with the case
7 CONGRESSIONAL CAMPAIGN COMMITTEE	7 against the California -- State of California,
8 BY MS. KHANNA:	8 Governor Newsom, on gerrymandering.
9 Q Good morning, Mr. Ching.	9 Q So is that the Complaint that has been
10 A Good morning.	10 filed in this case; does that sound right?
11 Q My name is Abha Khanna and I represent	11 A Yes, that's the Complaint.
12 the intervenor defendant, the DCCC in this action.	12 Q Did you review any other documents in
13 I'm just going to ask you a few questions this	13 preparation for your deposition today?
14 morning before I pass it off to my colleagues at	14 A Yes. I believe some files that my
15 the California State Department, or Attorney	15 lawyer had sent to me.
16 General's Office.	16 Q What were those?
17 Have you ever been deposed before?	17 A Also has to do with the case.
18 A I have -- I don't -- based on my	18 Q And what specific documents did you
19 memory, I have not.	19 review?
20 Q So I'm just going to go over a few	20 A I reviewed -- I don't recall,
21 quick deposition ground rules. Some of which	21 specifically, the document names, but it had to do
22 Jasmine already touched upon. Most important is	22 with the court filings.
23 that you have to be -- we have to both be very	23 Q Can you be more specific?
24 clear not to talk over each other so that the	24 A I believe they had to do with the
25 court reporter can get all of our statements down.	25 answers back to the Court, or back and forth

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<p style="text-align: right;">9</p> <p>1 between the two parties -- between the parties.</p> <p>2 Q Did you review any legal briefs, as far</p> <p>3 as you recall, in preparation for your deposition?</p> <p>4 A I may have, but I don't recall,</p> <p>5 specifically, the title of the -- of the</p> <p>6 documents.</p> <p>7 Q Did you review any expert reports in</p> <p>8 preparing for the deposition?</p> <p>9 A I may have glanced through it, but I</p> <p>10 don't -- like I said, I didn't look at the title</p> <p>11 of the document, so I may have.</p> <p>12 Q Did you look at any maps in preparation</p> <p>13 for today's deposition?</p> <p>14 A I looked at some maps, but the map</p> <p>15 wasn't clear to me.</p> <p>16 Q What does that mean? Why was it not</p> <p>17 clear?</p> <p>18 A I contacted the County of Los Angeles</p> <p>19 last week to ask for an appointment to make sure</p> <p>20 that I know the exact boundaries of the new</p> <p>21 congressional map, and I was told that they could</p> <p>22 not provide one because they did not have the</p> <p>23 official one. So whatever I was able to search</p> <p>24 from Internet, according to them, it's not</p> <p>25 official.</p>	<p style="text-align: right;">11</p> <p>1 Q Mr. Ching, how did you first become</p> <p>2 involved in this case?</p> <p>3 A I believe -- I recall in, maybe around</p> <p>4 on -- or about August 20th, Attorney Mark Meuser</p> <p>5 contacted me --</p> <p>6 MR. MEUSER: I'm going to stop you</p> <p>7 right here. You're not allowed to talk about any</p> <p>8 communication between the two of us, that's</p> <p>9 protected. So I think you've gone enough.</p> <p>10 THE WITNESS: Sure.</p> <p>11 MR. MEUSER: I'll instruct you not to</p> <p>12 answer any further.</p> <p>13 Q So you testified that your counsel</p> <p>14 contacted you on or about August 20th?</p> <p>15 A Yes.</p> <p>16 Q And I'm not going to ask you about the</p> <p>17 contents of those communications, to be clear.</p> <p>18 And was that your first contact with</p> <p>19 counsel in this case?</p> <p>20 A Regarding this case? I just want to</p> <p>21 make sure I understand the question.</p> <p>22 Q Was that your first contact ever with</p> <p>23 your counsel, your attorney in this case?</p> <p>24 A No.</p> <p>25 Q Okay. So why did you choose to become</p>
<p style="text-align: right;">10</p> <p>1 So I made an appointment to go to their</p> <p>2 office on the 19th of December to make sure -- I</p> <p>3 was told that they, even on the 19th, that they're</p> <p>4 not for sure if they have the correct map.</p> <p>5 Q Did your attorney provide you with any</p> <p>6 maps in preparation for today's deposition?</p> <p>7 A I looked -- well, at the map with him.</p> <p>8 But I don't recall that he has provided me a</p> <p>9 specific map.</p> <p>10 Q Did you review any deposition</p> <p>11 transcripts from other depositions that have taken</p> <p>12 place in this case?</p> <p>13 A I have not reviewed other depositions.</p> <p>14 Q Did you meet with anybody other than</p> <p>15 your attorney in preparation for today's</p> <p>16 deposition?</p> <p>17 A I have not.</p> <p>18 Q Are you familiar with any of the other</p> <p>19 plaintiffs in this litigation?</p> <p>20 A I know some of them, but they're, you</p> <p>21 know, social or contacts that I have.</p> <p>22 Q Have you communicated with any of the</p> <p>23 plaintiffs in preparation for today's deposition?</p> <p>24 A I have not communicated with any of</p> <p>25 them to prepare for this deposition.</p>	<p style="text-align: right;">12</p> <p>1 involved in this litigation?</p> <p>2 A When I became the citizen of the United</p> <p>3 States, I took an oath to promote and defend the</p> <p>4 Constitution. I believe it's important for me to</p> <p>5 get involved in this case.</p> <p>6 Q And why is that?</p> <p>7 A Because I believe the State of</p> <p>8 California, Governor Newsom, has violated the</p> <p>9 Constitution of the state and, also, the</p> <p>10 Constitution of the United States.</p> <p>11 Q How so?</p> <p>12 MR. MEUSER: I'm going to object to the</p> <p>13 extent that it calls for a legal conclusion.</p> <p>14 But you may answer.</p> <p>15 A I've looked at the process through news</p> <p>16 and I see how fast it went through the legislative</p> <p>17 process and -- for the Prop 50. And I -- based on</p> <p>18 my understanding is that this process was not in</p> <p>19 accordance with the California Constitution. And</p> <p>20 it's my belief that the gerrymandering, based on</p> <p>21 the reports I was able to see or the pieces on the</p> <p>22 news, that they used race as the main -- the main</p> <p>23 point to draw the map.</p> <p>24 Q What is your goal in the course of this</p> <p>25 litigation?</p>

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<p>13</p> <p>1 A My goal with the litigation is that I</p> <p>2 want the process to be fair and in accordance to</p> <p>3 the Constitution of California. Also to the</p> <p>4 Constitution of the United States.</p> <p>5 Q What map would you like to see</p> <p>6 California use for future congressional elections?</p> <p>7 A I would say, for future congressional</p> <p>8 maps, I would prefer independent redistricting</p> <p>9 committee, like what we had before Prop 50, to</p> <p>10 draw a fair map.</p> <p>11 Q Mr. Ching, what is your current</p> <p>12 occupation?</p> <p>13 A I'm self-employed.</p> <p>14 Q And what do you do in that capacity?</p> <p>15 A I own several properties and, also, I</p> <p>16 invest in stocks.</p> <p>17 Q And what was your previous employment</p> <p>18 prior to your current occupation?</p> <p>19 A I owned a small IT company for many,</p> <p>20 many years.</p> <p>21 Q Are you registered to vote?</p> <p>22 A Yes.</p> <p>23 Q Do you know what congressional district</p> <p>24 you reside under the previous map that was in</p> <p>25 effect from the redistricting commission?</p>	<p>15</p> <p>1 Q So you were a city council member for</p> <p>2 the City of Walnut from 2012 to 2024; is that</p> <p>3 correct?</p> <p>4 A Yes. That's correct.</p> <p>5 Q Have you ever run for any other elected</p> <p>6 office?</p> <p>7 A Yes. I have ran twice in Congressional</p> <p>8 District 38.</p> <p>9 Q For congressional representative?</p> <p>10 A Correct.</p> <p>11 Q And when was the first time that you</p> <p>12 ran?</p> <p>13 A It was 2022, and then I ran again in</p> <p>14 2024.</p> <p>15 Q Did you run on behalf of a particular</p> <p>16 political party?</p> <p>17 A Yes. I ran as a Republican.</p> <p>18 Q And how did the -- how did your</p> <p>19 election in 2022, how did that work out?</p> <p>20 A I was able to advance in my primary and</p> <p>21 I lost in general election.</p> <p>22 Q And what about in 2024?</p> <p>23 A I also won in primary and lost in</p> <p>24 general election.</p> <p>25 Q Do you plan to run for elected office</p>
<p>14</p> <p>1 A It was Congressional District 38.</p> <p>2 Q And do you know what congressional</p> <p>3 district you reside under the Prop 50 map, the</p> <p>4 current map?</p> <p>5 A Based on what I can research, it should</p> <p>6 be 31. But, again, when I spoke to the County,</p> <p>7 they couldn't even give me a definitive answer as</p> <p>8 to which one I will be under.</p> <p>9 Q So you are not sure which district you</p> <p>10 currently reside in?</p> <p>11 A Based on my research, it should be 31.</p> <p>12 But again, you know, it has to be officially</p> <p>13 approved by the County, and then, I guess, when</p> <p>14 this whole process is completed.</p> <p>15 Q Okay. Have you ever held elected</p> <p>16 office before?</p> <p>17 A Yes, I have.</p> <p>18 Q What was that office?</p> <p>19 A As a city council member for City of</p> <p>20 Walnut, since 2012.</p> <p>21 Q And you currently hold that position as</p> <p>22 well?</p> <p>23 A No. My term ended last November.</p> <p>24 Q So you were --</p> <p>25 A Last year, 2024.</p>	<p>16</p> <p>1 again?</p> <p>2 A Yes. I plan on running in 2026.</p> <p>3 Q Is that also for congressional</p> <p>4 representative?</p> <p>5 A Yes.</p> <p>6 Q And is it right to say that that would</p> <p>7 be in whatever district you are assigned under</p> <p>8 whatever map is in effect at the time?</p> <p>9 A I have not made final decision yet</p> <p>10 because my old district was cut in three. So I'm</p> <p>11 still considering.</p> <p>12 Q Is it your understanding that you have</p> <p>13 to reside in a given district in order to run for</p> <p>14 office in that district?</p> <p>15 A That's not my understanding.</p> <p>16 Q And which political party do you intend</p> <p>17 to affiliate with in the course of any future</p> <p>18 elections?</p> <p>19 A As a Republican.</p> <p>20 Q Mr. Ching, when did you first become</p> <p>21 aware that California Democrats wanted to redraw</p> <p>22 the State's congressional map?</p> <p>23 A I first heard of it was maybe on the</p> <p>24 news, with Governor Newsom saying that he's</p> <p>25 intending to redraw the map.</p>

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<p>17</p> <p>1 Before you go, may I take a sneeze real 2 quick? 3 Q Oh, please. 4 A All right. Thank you. Okay. I'm 5 back. 6 Q All right. And what was your 7 understanding as to why the Democrats wanted to 8 redraw the map? 9 A My understanding is that he wants to 10 have more congressional seats for Democrats. 11 Q After the legislature ratified the 12 Proposition 50 map, it was, then, submitted to the 13 California voters on -- as a ballot measure; is 14 that correct? 15 A I don't understand the question that 16 you're asking. Can you make clear on what you're 17 asking? 18 Q Sure. And I'll break it -- I'll break 19 it down a little bit. Do you understand -- is it 20 your understanding, then, that the California 21 Legislature agreed to the Proposition 50 map? 22 A I think the Democratic Party in the 23 state agreed with the map. 24 Q Did you understand that the legislature 25 took a vote and approved the map at the end of</p>	<p>19</p> <p>1 Q And so, I'll define that kind of period 2 of public debate as the campaign about the Prop 50 3 map. 4 Does that make sense? 5 A Yes. 6 Q And did you participate in that public 7 debate or campaign at any point? 8 A When you say "participate," do you mean 9 speaking out? What do you mean? Can you clarify 10 "participate"? 11 Q Sure. Did you, at any point, speak out 12 against the Proposition 50 map? 13 A My recollection is I participate in 14 conversations against Prop 50. 15 Q And were those conversations with just 16 friends and family or more broad than that? 17 A I believe it was more broad than that. 18 Q So what kinds of conversations did you 19 participate in regarding the Prop 50 map? 20 A I have attend meetings, I have attend 21 gatherings, and I believe I was asked, perhaps, by 22 a few media outlets about how I feel on the 23 Prop 50. 24 Q Did you do any interviews with media 25 outlets?</p>
<p>18</p> <p>1 that vote? 2 A That is my understanding. 3 Q And is it your understanding that 4 that's when the map went into effect? 5 A My understanding is that the map went 6 into effect after the special election. 7 Q So you understand that the map was, 8 then, submitted to the voters on the ballot, 9 correct? 10 A That is my understanding. 11 Q Did you participate in the campaign as 12 to Proposition 50 at all? 13 A Can you define -- define that, your 14 phrase? 15 Can you rephrase, just to make sure I 16 understand? 17 Q Absolutely. So Proposition 50 appeared 18 on the ballot in November of this year; is that 19 correct? 20 A That's correct. 21 Q And do you understand that for some 22 weeks and months prior to that election, there 23 were statements in the public for and against that 24 proposition; is that right? 25 A That's correct.</p>	<p>20</p> <p>1 A I believe I was interviewed. 2 Q Do you know by who? 3 A I don't know, specifically, what media 4 outlets they are because I think when I went to 5 gatherings, if there are medias, sometimes they 6 will come and ask. I didn't look, specifically, 7 as to what media. 8 Q Did you ever see any comments from your 9 interviews in the print media? 10 A I do not recall seeing, specifically, 11 me -- my view on that being mentioned. I cannot 12 recall. But I think they covered this widely. So 13 perhaps they just edited my name out or they just 14 didn't include. But I do not recall seeing it. 15 Q Do you recall ever seeing any video 16 interviews in the news media with you? 17 A I do not recall seeing any video of me 18 speaking on Prop 50. 19 Q So when you say you attended meetings, 20 what kind of meetings were these? 21 A I believe there was meetings, 22 Republican -- a LAGOP meeting. 23 Q Were there other meetings? 24 A Can you -- meetings, you're talking 25 about -- can you clarify the word "meeting"?</p>

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<p style="text-align: right;">21</p> <p>1 Because I think sometimes -- when you gather, is 2 that considered a meeting, where there are few 3 people? 4 Q Yes. If you could just list for me, as 5 much as you can recall, any gathering that you 6 attended to discuss the Prop 50 map? 7 A I don't recall, specifically, what 8 meetings they talk about Prop 50. But I do recall 9 when there's a gathering, I will be hearing people 10 talking about Prop 50. 11 Q Why did you feel the need to speak up 12 about the Prop 50 map in the course of this public 13 debate? 14 A Because I believe Prop 50 is against 15 California Constitution, as well as the U.S. 16 Constitution. It's based on -- the main purpose 17 of that is to use race as a main point to redraw 18 the map. 19 Q Is that the argument that you presented 20 to others in the course of the debate prior to the 21 election? 22 A I believe I also -- I believe, you 23 know, I also speak about the process itself, how 24 it became a Prop 50. The speed that it took in 25 the California Legislature to make this happen and</p>	<p style="text-align: right;">23</p> <p>1 close allies. I don't recall making -- make that 2 statement in large public gatherings because I 3 don't think the opportunity presented. 4 Q Did you make other statements about the 5 Prop 50 map in those large public gatherings? 6 A Other than what I said, I don't believe 7 I made other statements. 8 Q Did you make statements about the 9 process of the Prop 50 map in those public 10 gatherings? 11 A I believe I made statements about the 12 process. 13 Q Did you make statements about the 14 partisan effects of the Prop 50 map in those 15 public gatherings? 16 A I don't recall specifically about the 17 partisan, but I may have speak about the 18 Democratic Party wants to grab power, something 19 along those lines. 20 Q Did you coordinate, at all, with the 21 California Republican Party during the public 22 debate on the Prop 50 map? 23 A Can you clarify the word "coordinate"? 24 Q Did you discuss the issue with them? 25 A I have not specifically discussed this</p>
<p style="text-align: right;">22</p> <p>1 the way -- the way it happened. 2 Q Mr. Ching, at any point prior to the 3 election, did you speak on the public debate about 4 the Prop 50 map to say that it was drawn with the 5 main purpose of using race? 6 A My recollection is that I did not speak 7 specifically about that. I want to clarify 8 myself. When I go to meetings, I am not the one 9 who usually hosts the meeting, and I don't -- I 10 will say I'm not a host of the meeting. I 11 participated in discussions. I don't recall 12 saying it or as a main speaker on the subject. 13 Q Do you recall any statements that you 14 made, prior to the election, about the racial 15 motivations of the Prop 50 map? 16 MR. MEUSER: And I'm going to object to 17 the extent it calls for attorney-client 18 communications. 19 You can answer. 20 Q So let me clarify the question. Other 21 than communications with your attorney, do you 22 recall any statements that you made about the 23 racial motivations behind the Prop 50 map prior to 24 the election? 25 A I may have discussed amongst friends or</p>	<p style="text-align: right;">24</p> <p>1 issue with members of -- with the party. 2 Q Did you attend -- sorry, you had 3 something else? 4 A No, I was saying that if you're talking 5 about the party organization, itself, I have not. 6 But if you're talking about, you know, gatherings 7 where there were other Republicans, California 8 Republican members, I'm sure I have discussed with 9 them. 10 Q And in the course of those discussions, 11 at any point, did you state that you believed that 12 the Prop 50 map was based on race? 13 A I do not recall, specifically, who I 14 talk about, you know, specifically what you're 15 asking. 16 Q And in the course of those discussions, 17 did you specifically mention the Democratic power 18 grab in the Prop 50 map? 19 A I recall, for the most part, in the 20 gatherings, people were talking about the same 21 thing. So I do not recall, myself, specifically 22 repeating what they're already asked -- saying or 23 reading -- reporting on the news or social medias. 24 Q So in those public gatherings that you 25 attended, regarding a debate on the Prop 50 map,</p>

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<p>25</p> <p>1 do you recall anyone, at any time, talking about 2 the racial motivations of the Prop 50 map? 3 <b>A I do not recall, specifically, who said</b> 4 <b>it, but I think, in the gatherings, people saw</b> 5 <b>that there's understanding that that is the case</b> 6 <b>because there will be all kinds of points flowing</b> 7 <b>around the gatherings. So I don't recall,</b> 8 <b>specifically, who said what and when. But I think</b> 9 <b>at the gatherings, people are -- the one that I</b> 10 <b>attended, I believe that they understand that's</b> 11 <b>the case.</b> 12 Q And how did you come to that 13 understanding, that there was a certain 14 understanding about the racial motivations about 15 the Prop 50 map? 16 <b>A When I was in the gatherings, you can</b> 17 <b>hear people talking about it. So that's my</b> 18 <b>understanding, that that's the understanding of</b> 19 <b>the gathering of the groups.</b> 20 Q And what did they talk about, when you 21 said that people were talking about it? 22 <b>A What they talk about, mostly, is they</b> 23 <b>complain that this is unconstitutional, and then</b> 24 <b>the gathering has stated there's something must be</b> 25 <b>done on this -- on the constitutionality as to how</b></p>	<p>27</p> <p>1 drawn on the basis of race; is that correct? 2 MR. MEUSER: I'm going to object to the 3 extent that it misstates his prior testimony. 4 Q You may answer. 5 <b>A I don't recall specific incidence, who</b> 6 <b>I talked to, but I think I may have mentioned it</b> 7 <b>in the gatherings, how I feel about it.</b> 8 Q When you say you may have mentioned how 9 you feel about it, what do you recall you said? 10 <b>A I think I was being pretty consistent</b> 11 <b>about the unconstitutionality of the process and</b> 12 <b>how the map was drawn.</b> 13 Q And consistent -- consistent in what 14 way? 15 <b>A Consistent in saying or believing that</b> 16 <b>this is unfair and this is unconstitutional</b> 17 <b>because it's drawn based on race.</b> 18 Q So, Mr. Ching, is it your testimony 19 today that in the weeks and months leading up to 20 the election, you were consistent about your 21 statements about the Prop 50 mapping based on 22 race? 23 <b>A I was consistent -- that's part of what</b> 24 <b>I said.</b> 25 Q In what forum did you say that?</p>
<p>26</p> <p>1 <b>we can deal with things of that nature.</b> 2 Q Unconstitutional in what way? 3 <b>A Unconstitutional --</b> 4 MR. MEUSER: I'm going to object to the 5 extent that it calls for a legal conclusion. 6 You may answer. 7 <b>A Unconstitutional, meaning that if</b> 8 <b>Prop 50 uses race as the main purpose -- main base</b> 9 <b>to draw the maps. That's our -- my understanding.</b> 10 <b>I think that's my understanding, what I hear -- my</b> 11 <b>suspicion of the understanding of how</b> 12 <b>Proposition 50 was done.</b> 13 Q Mr. Ching, in the course of the meeting 14 that you -- the meetings that you attended about 15 the Prop 50 map, was there any person who 16 specifically said that the Prop 50 map is 17 unconstitutional because it was drawn on the basis 18 of race? 19 <b>A I do not recall any specific person</b> 20 <b>speak about this -- on that. But I believe I</b> 21 <b>heard, or understand that I've heard in the</b> 22 <b>gatherings, that's been talked about.</b> 23 Q And in the course of those gatherings, 24 it's fair to say that you never said that the 25 Prop 50 map was unconstitutional because it was</p>	<p>28</p> <p>1 <b>A Can you clarify your question?</b> 2 Q When did you say that? 3 <b>A I think I said that in many places,</b> 4 <b>either to friends, volunteers, or gatherings,</b> 5 <b>whatever, talking about this subject. If I had</b> 6 <b>the chance to speak about it, I would say along</b> 7 <b>the lines I've been saying.</b> 8 Q In the course of those discussions, 9 where you say you were speaking about the racial 10 motivations of the map, what was your basis for 11 why you believed it to be racially motivated? 12 <b>A Because I've seen news clips and then,</b> 13 <b>also, saw people's -- other people's postings on</b> 14 <b>social media, that legislation, some members of</b> 15 <b>legislation in California, or even they had a</b> 16 <b>press conference -- press conferences or news</b> 17 <b>releases, they stated as such.</b> 18 Q Do you recall when you saw those press 19 statements or news clips? 20 <b>A I don't recall specific dates or</b> 21 <b>specific time. But I recall seeing a piece of it,</b> 22 <b>part of it, or people repost on the subject.</b> 23 Q And these are statements that you saw 24 on your own, or that you saw because they were 25 provided to you by your counsel?</p>



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<p>29</p> <p>1 A I saw it on my own, as well as people 2 posting in different medias. 3 Q Do you recall what people? 4 A There are too many to count. I think, 5 when I open my emails, or just open my social 6 media, you will see posting or people talking 7 about all over the place. I cannot tell 8 specifically, but I think the number of reposts 9 could be pretty large. 10 Q You said when you open your emails. 11 What emails -- from whom did you receive emails 12 regarding the racial motivations of the Prop 50 13 map? 14 A I don't recall specific person, but I 15 think it is on the subject line, to the subject, 16 about Prop 50. 17 Q And specifically about race? 18 A For the most part. I don't read 19 through all the emails because when you can see 20 the title, I typically don't open too many emails. 21 They are just way too many for me to check each 22 and every one. If they're talking about same 23 subject, once I saw the headline, then I won't 24 necessarily open it. So I don't know the specific 25 details in the emails.</p>	<p>31</p> <p>1 over? 2 A I don't recall that I have 3 specifically, about the new map, but I recall 4 people talking about the subject through, like, 5 mass emails or news posts. I don't recall, 6 specifically, if there's any maps. 7 Q It's fair to say that you have not 8 produced any of those emails in this litigation, 9 correct? 10 A That is correct. Because I don't 11 believe that you -- your request ask -- my 12 understanding is if I have sent or repost or 13 commented on those, and I have not. 14 Q Sitting here today, can you state the 15 names or handles of any of the people you follow 16 on social media who would have been actively 17 posting about the Prop 50 map? 18 A I follow President Donald Trump, so I'm 19 sure that he talked about that. But, you know, he 20 probably sends quite a few a day. So I don't even 21 know how to search on what he posts. 22 So, but, also, there are a few people, 23 I think -- I don't recall the specific names, but 24 I think they're more active on the social medias. 25 When I receive, I just look at the headline. If</p>
<p>30</p> <p>1 Q Can you recall, sitting here, any of 2 the people or entities who send you these types of 3 emails? 4 A I do not recall, but I think there are 5 a few people who are more active on the subject, 6 but I don't recall, specifically, if they sent it 7 or not. 8 Q Do you recall -- 9 A I don't know who sent it, but I just -- 10 I can recall -- I believe I had seen it from the 11 headlines. But when I see many of them, I treat 12 those as spam or junk mail, so I would delete them 13 as, you know, when I accumulate certain numbers of 14 them. 15 Q Have you produced any of those emails 16 in the course of this litigation? 17 A I have not produced those emails 18 because they were sent to me as a mass email. So 19 I did not reply, repost, or make comment back on 20 those emails. 21 So I don't believe the request was -- 22 asked me what I received. 23 Q So it's your understanding that you 24 have emails in your inbox regarding the Prop 50 25 map but that you were not required to turn those</p>	<p>32</p> <p>1 they're of interest to me, I may have opened it, 2 but I don't recall specific. 3 Q Do you recall any specific individuals 4 or entities who posted on social media who spoke 5 about the racial implications of the Prop 50 map? 6 A I cannot tell you, specifically, if 7 they mentioned that or not. I recall that they're 8 against Prop 50. But when I saw the headline, my 9 understanding is they follow the same thoughts 10 that I -- that I believe -- you know, that I talk 11 about in the meetings. 12 So I would not, you know, open the 13 emails or the posts to look at things that I 14 already -- that I understand to be the case, to be 15 the issues. 16 Q You filed this lawsuit right after 17 Election Day; is that correct? 18 A Correct. 19 Q And it's fair to say that you believe 20 that the Prop 50 map is unlawful? 21 A That's my understanding. 22 Q Do you believe that you were personally 23 harmed by the Prop 50 map? 24 A I believe I'm personally harmed. 25 Q How so?</p>

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<p>33</p> <p>1 A First thing is, based on what I -- 2 based on the County of Los Angeles. Even last 3 week, they cannot give me, definitely, how the 4 line is drawn. So the day of start collecting 5 signature is December the 19th. And then, when I 6 asked them about a specific date, if they will 7 have the map for me, they couldn't even answer me. 8 They said, hopefully, I will have. So based on 9 that issue, I don't even know where I can get -- 10 gather the signatures to make sure that I'm in the 11 right congressional district. 12 Q So you believe you are harmed in your 13 capacity as a candidate; is that correct? 14 A I believe I'm harmed as a candidate 15 and, also, as a voter. 16 Q And that is because you are unclear 17 about the -- where the lines are drawn? 18 A That's correct. That's one, yes. 19 Sorry. 20 Q Are there any other ways that you 21 believe yourself to be harmed by the Prop 50 map? 22 A I believe I was harmed because the 23 original map, there were originally large Asian 24 population in the original map. But in my 25 understanding of the new map, my district will be</p>	<p>35</p> <p>1 against the U.S. Constitution, as well as 2 California Constitution. 3 Q Are there any other ways that you 4 believe you, personally, have been harmed by the 5 Prop 50 map? 6 A I believe that's the main harm. 7 May I take a sneeze one more time? 8 Sorry about that. 9 Q Yes. And let me know if you need a 10 break. 11 A No. Thank you. I'm back. 12 Q Not at all. 13 Do you believe that the California 14 Legislature gave greater weight to race than to 15 partisanship when drawing the Prop 50 map? 16 MR. MEUSER: And I'm going to object to 17 the extent that that calls for a legal conclusion. 18 But you may answer. 19 A I believe they weighed heavily on the 20 race, used race as a main consideration. But I 21 also believe they used partisan as a 22 consideration. 23 Q So you believe that it was primarily 24 based on race and only secondarily based on party? 25 MR. MEUSER: I'm going to object to the</p>
<p>34</p> <p>1 cut into three pieces. 2 Q And how does that harm you? 3 A It will harm me because I'm Asian and 4 there's a large number of Asian population in the 5 original district. By splitting to three, you 6 just, basically, cut the Asian population into a 7 third. 8 Q How else do you believe you've been 9 harmed by the Prop 50 map? 10 A I believe, besides stated earlier, I 11 took an oath to promote and defend our 12 Constitution. I believe, you know, the whole 13 country will be harmed if I don't stand up and 14 defend our Constitution. 15 Q How would that whole country -- the 16 whole country be harmed? 17 A Because congressional districts will 18 affect how many members to present in Congress, 19 and the policies Congress are making will affect 20 everybody, including myself, in the United States. 21 Q So do you believe you are harmed based 22 on the partisan composition of the map? 23 A Not necessarily partisan composition, 24 but, more specifically, about race, divisive race 25 issues in our country. And I believe that's</p>	<p>36</p> <p>1 extent that it calls for a legal conclusion. 2 You may answer. 3 A I don't know what's in their mind, but 4 they have publicly speak about using race. So I 5 don't know how to weight it, how many percent, as 6 to how they draw the map. 7 Q What is your -- what is the basis for 8 your understanding about the fact that the map was 9 drawn on the basis of race? 10 A Based on what I was able to see and 11 then their own news or press releases. 12 Q And you say "they," who are you 13 referring to specifically? 14 A I'm talking about the California 15 Legislature. 16 Q Is there anything else that forms your 17 basis of the belief that the map was drawn 18 primarily on the basis of race? 19 A I believe I recall seeing the map or 20 saw some reports that the legislature has 21 mentioned that the use -- because they wanted to 22 increase Latinos presentation. 23 Q So you're talking about news clippings 24 and press statements from members of the 25 California Legislature; is that correct?</p>

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<p>37</p> <p>1 <b>A Yes. That's correct.</b></p> <p>2 Q Are there any other bases on which your</p> <p>3 beliefs about the racial origins of the map, what</p> <p>4 is that based on?</p> <p>5 <b>A I think based on the news -- like I</b></p> <p>6 <b>said, social media, so that I was able to see.</b></p> <p>7 Q But you can't, sitting here today, tell</p> <p>8 us what that social media was or who it came from?</p> <p>9 <b>A The social medias and what I saw was</b></p> <p>10 <b>from clips or short pieces that they gather from</b></p> <p>11 <b>the press releases or statements made by the</b></p> <p>12 <b>California Legislature. So I have reason to</b></p> <p>13 <b>believe that those re-clips or posts are true.</b></p> <p>14 Q Do you believe that the Prop 50 map</p> <p>15 unlawfully favors Hispanic voters?</p> <p>16 <b>A I believe that's the case, at least in</b></p> <p>17 <b>my district.</b></p> <p>18 Q And how so?</p> <p>19 <b>A Because the incumbent is a Latino. And</b></p> <p>20 <b>the new map, you know, more than -- will probably,</b></p> <p>21 <b>most likely, be a Latino. And the incumbent has</b></p> <p>22 <b>won twice. But I was able to gain grounds since</b></p> <p>23 <b>2022 and 2024, I was able to gain substantial</b></p> <p>24 <b>number of voters on my part. So I believe that's</b></p> <p>25 <b>also part of the strategy for the legislature to</b></p>	<p>39</p> <p>1 a better chance of winning the seat under the</p> <p>2 Prop 50 map if he or she were not Latino?</p> <p>3 <b>A I have not looked at the new map</b></p> <p>4 <b>carefully, and I have not studied the boundary</b></p> <p>5 <b>because I don't know what they are. But I believe</b></p> <p>6 <b>whoever draw the map, or the California</b></p> <p>7 <b>Legislature, believed that to be the case or else</b></p> <p>8 <b>they would not be redrawing my own district.</b></p> <p>9 Q You believe that your district was</p> <p>10 drawn to favor the Democratic candidate in your</p> <p>11 district?</p> <p>12 <b>A I believe that's -- that's part of it,</b></p> <p>13 <b>yes.</b></p> <p>14 Q And what do you believe is the other</p> <p>15 part of it?</p> <p>16 <b>A The other part is they want to use race</b></p> <p>17 <b>to still maintain power; that's what I believe.</b></p> <p>18 Q Who's "they"?</p> <p>19 <b>A They, I believe, is the Democratic</b></p> <p>20 <b>Party in California --</b></p> <p>21 Q The Democratic --</p> <p>22 <b>A -- as a whole.</b></p> <p>23 Q So it is your understanding that the</p> <p>24 Democratic Party wants to favor Latino -- Latino</p> <p>25 candidates?</p>
<p>38</p> <p>1 <b>draw this map, is give my opponent, who is a</b></p> <p>2 <b>Latino, more advantage, whoever I will be facing,</b></p> <p>3 <b>to win the congressional seat.</b></p> <p>4 Q So you believe the map was drawn to</p> <p>5 favor your Latino opponent?</p> <p>6 <b>A I believe that to be the case.</b></p> <p>7 Q What party does your Latino opponent</p> <p>8 belong to?</p> <p>9 <b>A Democrat.</b></p> <p>10 Q Is it your understanding that the</p> <p>11 Prop 50 map was drawn to favor Latino candidates?</p> <p>12 <b>A Based on my understanding, that is the</b></p> <p>13 <b>case.</b></p> <p>14 Q And so, is it your understanding that</p> <p>15 the map was drawn to favor Latino voters?</p> <p>16 <b>A Let me think about that. I don't</b></p> <p>17 <b>believe that necessarily benefits Latino voters.</b></p> <p>18 <b>But I think it favors Latino candidates,</b></p> <p>19 <b>especially in my district.</b></p> <p>20 Q And how does it favor the Latino</p> <p>21 candidates in your district?</p> <p>22 <b>A I believe because that would give my</b></p> <p>23 <b>opponent, whoever that is, more -- better chance</b></p> <p>24 <b>of retaining or winning the seat.</b></p> <p>25 Q Do you believe your opponent would have</p>	<p>40</p> <p>1 <b>A I believe the Democratic Party wants to</b></p> <p>2 <b>maintain power, whether they use Latinos or</b></p> <p>3 <b>whether you use different race to their benefit.</b></p> <p>4 <b>But I think they draw the map or -- in order to</b></p> <p>5 <b>retain power, they will use any means necessary,</b></p> <p>6 <b>including race as a means to retain their power.</b></p> <p>7 MS. KHANNA: Can we, please, pull up</p> <p>8 tab 1 to the deposition, which we'll mark as</p> <p>9 Ching Exhibit 1.</p> <p>10 PLANET DEPOS TECHNICIAN: Stand by.</p> <p>11 (Ching Exhibit 1 marked for</p> <p>12 identification and attached to the transcript.)</p> <p>13 MS. KHANNA: Thank you.</p> <p>14 Q Mr. Ching, do you recognize the</p> <p>15 document that you see right now?</p> <p>16 <b>A All these legal documents look very</b></p> <p>17 <b>similar to me, since I'm not a lawyer. So I</b></p> <p>18 <b>recall seeing something very similar. I don't</b></p> <p>19 <b>recall specific documents, unless I have more time</b></p> <p>20 <b>to look through it.</b></p> <p>21 Q I understand. I'm going to represent</p> <p>22 to you, Mr. Ching, that this is the Complaint or</p> <p>23 the document that initiated the case for this</p> <p>24 particular case.</p> <p>25 Does that look correct?</p>

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<p style="text-align: right;">41</p> <p>1 A It looks -- based on this, it looks 2 very similar. I don't know, hundred percent, if 3 it's correct because it's legal documents. One 4 comma or one missed name could be different. So I 5 cannot tell you definitely because I'm not a 6 lawyer, and I didn't have a chance to look at this 7 and compare it side by side. 8 So I will just trust what you represent 9 to me. 10 Q Understood. And you see your name in 11 the top of that caption there, right after 12 David Tangipa? 13 A Yes, I do see my name there. 14 Q Do you know David Tangipa? 15 A I have seen him on TV, on news reports. 16 I have not met him personally. So I don't know 17 him personally. 18 Q Do you know any other of the individual 19 plaintiffs listed on this caption? 20 A Yes. 21 Q Who in particular? 22 A I know Roxanne Hoge. She's the 23 chairwoman of LAGOP. And, let me see. I know 24 Mike Netter, I see him in gatherings. 25 I think I recognize the name Peter</p>	<p style="text-align: right;">43</p> <p>1 Mr. Netter regarding the Prop 50 map? 2 A I cannot recall specific emails from 3 him. I may have received mass emails, but I do 4 not recall specific emails from him. 5 Q Do you follow Mr. Hernandez on social 6 media? 7 A I do not. 8 Q Do you recall receiving any specific 9 emails from him about the Prop 50 map? 10 A I do not recall. 11 Q Do you follow the 12 California Republican Party on social media? 13 A I do not. 14 Q Do you recall receiving any emails 15 about the Prop 50 map from the 16 California Republican Party? 17 A I don't recall specifically, but I 18 think I may have received emails from 19 California Republican Party about that issue. 20 Q Do you follow any of the individuals 21 listed as the plaintiffs in this Complaint on 22 social media? 23 A I do not. 24 Q You mentioned that you know you follow 25 Donald Trump on social media; is that correct?</p>
<p style="text-align: right;">42</p> <p>1 Hernandez, but I don't know if that's the same 2 Peter Hernandez that I know. 3 Q Who is the Peter Hernandez that you 4 know? 5 A Peter Hernandez that I know, who is a 6 former supervisor in the Central Valley or central 7 California. 8 Q Did you talk to Ms. Hoge, at any time, 9 about this lawsuit? 10 A When I see her in gatherings, I do not 11 recall we talk about this case specifically, just 12 saying, hey, we're in this case. Something along 13 those lines. I did not talk to her specifically 14 about anything about this case. I cannot recall. 15 Q Do you follow Ms. Hoge on social media? 16 A I do not. 17 Q Do you receive any emails from Ms. Hoge 18 about -- did you receive any emails from Ms. Hoge 19 regarding the Prop 50 map? 20 A I recall seeing emails about Prop 50. 21 I don't recall seeing details about Prop 50 map. 22 Q Do you follow Mr. Netter on social 23 media? 24 A I do not. 25 Q Do you recall seeing any emails from</p>	<p style="text-align: right;">44</p> <p>1 A When you say follow -- when I say 2 "follow," I believe that the word follow, to me, 3 is kind of you click and follow them. It's just 4 sent to my box automatically. So I don't know if 5 that's a follow or if he's just sending it to the 6 masses and I'm just on the receiving end. 7 Q What social media platforms do you 8 view? 9 A I view Facebook. I view, sometimes, 10 Instagram. Sometimes on YouTube as well. 11 Q How about X. 12 A I have X account, but I don't log -- 13 participate in it. 14 Q Mr. Ching, I believe you previously 15 testified about seeing statements about race and 16 the Prop 50 map on the social media that you 17 follow. 18 Is that correct? 19 A My recollection, you know, that's based 20 on my recollection. But my recollection could 21 have been wrong. Because there are just so many 22 out there, so I cannot tell specifically when or 23 how I see it. 24 Q And you can't tell me, today, what 25 individuals or groups would have posted statements</p>

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<p style="text-align: right;">45</p> <p>1 about race and the Prop 50 map that you saw?</p> <p>2 <b>A I don't know if they posted the maps,</b></p> <p>3 <b>but when they post about the issues, in my mind, I</b></p> <p>4 <b>have already made -- you know, there's</b></p> <p>5 <b>understanding, there's a conclusion. So my mind</b></p> <p>6 <b>has already connect the dots, so I don't</b></p> <p>7 <b>necessarily open or receive the same answer one</b></p> <p>8 <b>more time. So for me, for the most part, I look</b></p> <p>9 <b>at the headline and I will not open them.</b></p> <p>10 Q Mr. Ching, did you testify earlier that</p> <p>11 you understood, from social media, that the map,</p> <p>12 the Prop 50 map was drawn on the basis of race?</p> <p>13 <b>A From social media, as well as pieces of</b></p> <p>14 <b>news clips and, also, the press release by the</b></p> <p>15 <b>state legislature themselves.</b></p> <p>16 Q But you can't recall where, on social</p> <p>17 media, you would have seen those statements?</p> <p>18 <b>A I cannot recall specifically. There</b></p> <p>19 <b>are just too many of them out there.</b></p> <p>20 Q Did you review a copy of the legal</p> <p>21 Complaint in this case before it was filed?</p> <p>22 <b>A Yes.</b></p> <p>23 MS. KHANNA: If we can scroll down to</p> <p>24 page 8 of this document. Maybe I'm on the wrong</p> <p>25 page. I am looking at -- actually, I'm looking</p>	<p style="text-align: right;">47</p> <p>1 of your knowledge?</p> <p>2 <b>A Other than I'm not so sure that</b></p> <p>3 <b>Congressional District 31, that's where the final</b></p> <p>4 <b>map will be. Because, according to</b></p> <p>5 <b>County of Los Angeles, they cannot tell me</b></p> <p>6 <b>specifically, when I provided my information.</b></p> <p>7 Q And Congressional District 31 was, your</p> <p>8 understanding, your previous congressional</p> <p>9 district under the Commission's redistricting map?</p> <p>10 <b>A Before the Prop 50, it was</b></p> <p>11 <b>Congressional District 38. I can be pretty sure</b></p> <p>12 <b>about that.</b></p> <p>13 Q So it was not District 31 under the</p> <p>14 previous map?</p> <p>15 <b>A Under the previous map, it was 38.</b></p> <p>16 Q Okay. The next sentence says he was</p> <p>17 formerly a city councilman and he plans to run for</p> <p>18 election, too, and vote in the 2026 District 31</p> <p>19 congressional election.</p> <p>20 Is that accurate?</p> <p>21 <b>A Yeah. If Congressional District 31 is</b></p> <p>22 <b>the final map, that is accurate.</b></p> <p>23 Q Did you believe that to be accurate at</p> <p>24 the time when you saw this Complaint, before it</p> <p>25 was filed?</p>
<p style="text-align: right;">46</p> <p>1 for paragraph 7.</p> <p>2 Sorry, I think it's page 4 of the</p> <p>3 document. All right.</p> <p>4 Q Mr. Ching --</p> <p>5 MR. MEUSER: Oh, okay. Sorry.</p> <p>6 Q -- do you see paragraph 7, Mr. Ching?</p> <p>7 <b>A I do see paragraph 7, but it's kind of</b></p> <p>8 <b>small.</b></p> <p>9 Q Okay.</p> <p>10 MS. KHANNA: Can we make that a little</p> <p>11 bigger?</p> <p>12 <b>A I don't see 7. Now I see 6.</b></p> <p>13 Q Yeah. Let's give it one second.</p> <p>14 MS. KHANNA: All right. Thank you.</p> <p>15 Q Can you see that now?</p> <p>16 <b>A Yes.</b></p> <p>17 Q All right. And you see that this</p> <p>18 paragraph is about you?</p> <p>19 <b>A Yes.</b></p> <p>20 Q This paragraph states that plaintiff</p> <p>21 Eric Ching is an Asian voter and congressional</p> <p>22 candidate who resides in Congressional District 31</p> <p>23 in Los Angeles County, where he has resided for</p> <p>24 about 42 years.</p> <p>25 Is that statement accurate, to the best</p>	<p style="text-align: right;">48</p> <p>1 <b>A To the best of my knowledge, I have to</b></p> <p>2 <b>make decision as to the -- to what I believe. So</b></p> <p>3 <b>I believe, based on what I can gather at that</b></p> <p>4 <b>time, I believe that to be correct.</b></p> <p>5 Q The final sentence says that the</p> <p>6 challenged plan assigns him to a district drawn</p> <p>7 with race as the predominant factor, causing</p> <p>8 stigmatic and representational injury.</p> <p>9 Did I read that correctly?</p> <p>10 <b>A Yes.</b></p> <p>11 Q Did you believe that to be accurate at</p> <p>12 the time?</p> <p>13 <b>A Yes.</b></p> <p>14 Q Can you explain to me what type of</p> <p>15 stigmatic and representational injury you suffer?</p> <p>16 <b>A Because the district, the old district</b></p> <p>17 <b>will be cut in three pieces. And the population</b></p> <p>18 <b>there was a large population, in the old 38th</b></p> <p>19 <b>district. And in the new district, if 31 to be</b></p> <p>20 <b>the final map, the Asian population will be cut</b></p> <p>21 <b>into three pieces. So about each district will</b></p> <p>22 <b>have about less than a third, or about a third,</b></p> <p>23 <b>maybe not exact map, but the population will be</b></p> <p>24 <b>cut into three.</b></p> <p>25 Q Is it your understanding that your</p>



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<p>49</p> <p>1 district was drawn to divide the Asian population?</p> <p>2 <b>A I believe that because I was able to</b></p> <p>3 <b>advance in primary. I believe the map was drawn</b></p> <p>4 <b>to give every -- to give an advantage to my</b></p> <p>5 <b>opponent, whoever that may be in the new district,</b></p> <p>6 <b>to take away chances for me to win.</b></p> <p>7 <b>Sorry, may I take one more sneeze?</b></p> <p>8 Q Please, take your time.</p> <p>9 <b>A Okay. Back. Thank you.</b></p> <p>10 Q Do you understand what is meant here by</p> <p>11 "stigmatic injury"?</p> <p>12 <b>A I don't know the legal term, but my</b></p> <p>13 <b>general understanding is what I stated.</b></p> <p>14 Q Do you know what the partisan</p> <p>15 composition is of your district, under the Prop 50</p> <p>16 map?</p> <p>17 <b>A You're talking about the new map, the</b></p> <p>18 <b>new Prop 50 map?</b></p> <p>19 Q Yes.</p> <p>20 <b>A I do not. Because as I stated earlier,</b></p> <p>21 <b>even the County of Los Angeles cannot give me a</b></p> <p>22 <b>definitive map. So I do not know.</b></p> <p>23 Q If, as the Complaint states, you are,</p> <p>24 in fact, located in Congressional District 31.</p> <p>25 <b>A That's my intention, to run in the</b></p>	<p>51</p> <p>1 Prop 50 map, including the districts that</p> <p>2 implicate you, were drawn primarily to advantage</p> <p>3 Hispanic voters?</p> <p>4 <b>A I believe that's a factor. But I</b></p> <p>5 <b>don't -- let me say it this way: I'm not so sure</b></p> <p>6 <b>if it advanced the Hispanic voters, but I believe</b></p> <p>7 <b>it advance -- benefit Latino candidates or</b></p> <p>8 <b>candidates that the Democratic Party chooses.</b></p> <p>9 Q Do you think that the Hispanic voting</p> <p>10 age population in any of the new districts that</p> <p>11 implicate you in the Prop 50 map is too high?</p> <p>12 <b>A I did not look -- study each of the new</b></p> <p>13 <b>district maps, but I believe, based on what I was</b></p> <p>14 <b>able to gather from their -- from the California</b></p> <p>15 <b>Legislature statement themselves, I believe that</b></p> <p>16 <b>they use race as a basis to redraw the maps. That</b></p> <p>17 <b>benefits certain candidates or the Latino</b></p> <p>18 <b>population to vote -- vote for whoever is running</b></p> <p>19 <b>for each district.</b></p> <p>20 Q So would you tell potential voters and</p> <p>21 constituents in the district that you run in that</p> <p>22 there are too many Hispanic voters in your</p> <p>23 district?</p> <p>24 <b>A I would not be making that statement.</b></p> <p>25 Q Why not?</p>
<p>50</p> <p>1 <b>district where I reside, but I may run in a</b></p> <p>2 <b>different district to represent the population</b></p> <p>3 <b>that's there. So it could be a different</b></p> <p>4 <b>district. I have not made the final decision yet.</b></p> <p>5 Q And what will that decision ultimately</p> <p>6 be based on, what district you decide to run in?</p> <p>7 <b>A Based on if I can represent our country</b></p> <p>8 <b>and, then, also the population in that specific</b></p> <p>9 <b>district the best.</b></p> <p>10 Q And how would you make that</p> <p>11 determination?</p> <p>12 <b>A I would consider all factors, including</b></p> <p>13 <b>if I can make the most impact to help the</b></p> <p>14 <b>residents in that specific district.</b></p> <p>15 Q Would that decision be based, in part,</p> <p>16 on the partisan composition of the districts?</p> <p>17 <b>A I would say not only the partisan</b></p> <p>18 <b>composition, but, also, the -- how I can best</b></p> <p>19 <b>represent the district.</b></p> <p>20 Q Is it fair to say that you'll want to</p> <p>21 run in a district where you'll have the highest</p> <p>22 likelihood of actually winning?</p> <p>23 <b>A I would not say that's necessarily the</b></p> <p>24 <b>case.</b></p> <p>25 Q Is it your understanding that the</p>	<p>52</p> <p>1 <b>A Because in Southern California, Latinos</b></p> <p>2 <b>is one of the largest populations. In some</b></p> <p>3 <b>communities, they're the largest. So my goal is</b></p> <p>4 <b>to serve all residents in whatever district that</b></p> <p>5 <b>I'm running in.</b></p> <p>6 <b>So, to me, it really doesn't matter the</b></p> <p>7 <b>composition of who's in the district. I just</b></p> <p>8 <b>wanted to select a district where I could</b></p> <p>9 <b>represent the best.</b></p> <p>10 Q Would you tell voters and constituents,</p> <p>11 in your new district, that you believe the map</p> <p>12 unduly favors Hispanic voters?</p> <p>13 <b>A I have not considered on that part, but</b></p> <p>14 <b>I don't believe I will be making that statement</b></p> <p>15 <b>because I believe if the map is drawn based on</b></p> <p>16 <b>independent commissions map, which is partisan,</b></p> <p>17 <b>and if it's fair, then I don't have any problem</b></p> <p>18 <b>with it.</b></p> <p>19 <b>My goal is to make sure that the map is</b></p> <p>20 <b>drawn following U.S. Constitution, as well as</b></p> <p>21 <b>California Constitution, and my decision will be</b></p> <p>22 <b>based on if I can represent the district the best.</b></p> <p>23 Q If the map that goes into effect for</p> <p>24 the 2026 elections is, in fact, the Prop 50 map,</p> <p>25 would you tell voters and constituents that you</p>



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<p>53</p> <p>1 believe the map unduly favors Latino?</p> <p>2 <b>A I don't think I will be making that</b></p> <p>3 <b>statement because my decision will be based on if</b></p> <p>4 <b>I can represent the -- which district the best.</b></p> <p>5 Q Is it your understanding that you are</p> <p>6 making that statement about the Prop 50 map in</p> <p>7 this complaint?</p> <p>8 MR. MEUSER: And I'll object to the</p> <p>9 extent that it calls for a legal conclusion.</p> <p>10 But go ahead and answer.</p> <p>11 <b>A I believe the map is drawn based on --</b></p> <p>12 <b>heavily based on race. But if that becomes the</b></p> <p>13 <b>fact, that we will be using Prop 50 as the final</b></p> <p>14 <b>maps, then I will make a decision as to which</b></p> <p>15 <b>districts that I will be running, that I can</b></p> <p>16 <b>represent the district the best.</b></p> <p>17 MS. KHANNA: Okay. I'm going -- I</p> <p>18 actually don't have that much more left, but I'm</p> <p>19 going to move on to a slightly different topic.</p> <p>20 Would now be a good time for a short,</p> <p>21 five-minute break?</p> <p>22 MR. MEUSER: Works for me.</p> <p>23 MS. KHANNA: Madam Court Reporter, is</p> <p>24 five minutes enough?</p> <p>25 Thanks. We'll reconvene at 10:15.</p>	<p>55</p> <p>1 <b>A I recognize the format of the document.</b></p> <p>2 <b>But I cannot tell you, specifically, if this</b></p> <p>3 <b>document that I reviewed earlier. Because, like I</b></p> <p>4 <b>said, I'm not a lawyer. I cannot, with the short</b></p> <p>5 <b>period of time, review all the commas, names, and</b></p> <p>6 <b>things on the document. But I believe this is the</b></p> <p>7 <b>document that's filing against State of</b></p> <p>8 <b>California. Shirley Weber and State of</b></p> <p>9 <b>California, California State Legislature.</b></p> <p>10 Q Thank you. I'll represent to you, for</p> <p>11 purposes of this deposition, that this is a copy</p> <p>12 of the petition that was filed in this case, in</p> <p>13 the California Supreme Court.</p> <p>14 Do you see your name among the list of</p> <p>15 petitioners?</p> <p>16 <b>A Yes, I do see my name.</b></p> <p>17 Q And this is a lawsuit that you chose to</p> <p>18 bring, correct?</p> <p>19 <b>A That's correct.</b></p> <p>20 Q And Mr. Columbo and Mr. Meuser were</p> <p>21 your counsel in that lawsuit as well?</p> <p>22 <b>A Yes.</b></p> <p>23 Q What was your understanding about what</p> <p>24 this case was about --</p> <p>25 MR. MEUSER: Objection to --</p>
<p>54</p> <p>1 (Recess taken from 1:10 p.m. to</p> <p>2 1:17 p.m.)</p> <p>3 MS. KHANNA: Back on the record.</p> <p>4 BY MS. KHANNA:</p> <p>5 Q Mr. Ching, this is not the first</p> <p>6 challenge that you filed against the Prop 50 map;</p> <p>7 is that correct?</p> <p>8 <b>A That is correct.</b></p> <p>9 Q You also filed a petition with the</p> <p>10 California Supreme Court to try to block the</p> <p>11 Prop 50 map?</p> <p>12 <b>A That is correct.</b></p> <p>13 MS. KHANNA: Can we pull up what's</p> <p>14 been -- we'll mark it as Exhibit 2 to this</p> <p>15 deposition.</p> <p>16 PLANET DEPOS TECHNICIAN: Would you</p> <p>17 like to label it Ching Exhibit 2?</p> <p>18 MS. KHANNA: Yes, please.</p> <p>19 PLANET DEPOS TECHNICIAN: Stand by.</p> <p>20 (Ching Exhibit 2 marked for</p> <p>21 identification and attached to the transcript.)</p> <p>22 MS. KHANNA: Maybe we can make it a</p> <p>23 little -- see the whole page at once. Great.</p> <p>24 Q Mr. Ching, do you recognize this</p> <p>25 document?</p>	<p>56</p> <p>1 Q -- the one referenced in this lawsuit.</p> <p>2 MR. MEUSER: -- (indiscernible due to</p> <p>3 cross-talking).</p> <p>4 But he may answer.</p> <p>5 <b>A I believe this case is about</b></p> <p>6 <b>unconstitutionality. The way Prop 50 was prop --</b></p> <p>7 <b>about Prop 50.</b></p> <p>8 Q And what, in particular, do you recall</p> <p>9 or do you understand that this petition argued</p> <p>10 the -- sorry, strike that.</p> <p>11 Do you recall the basis for the</p> <p>12 argument in this petition, that the Prop 50 map</p> <p>13 was unconstitutional?</p> <p>14 MR. MEUSER: Again, I'm going to object</p> <p>15 to the extent that calls for attorney-client</p> <p>16 communications.</p> <p>17 You can answer.</p> <p>18 <b>A My understanding of this lawsuit has to</b></p> <p>19 <b>do with the way the prop -- the process of</b></p> <p>20 <b>Prop 50, that violated the California</b></p> <p>21 <b>Constitution. The way -- the speed and the manner</b></p> <p>22 <b>in which this was done.</b></p> <p>23 Q If we can turn to page 425 of the PDF.</p> <p>24 You might want to, yeah, put that in there.</p> <p>25 Do you see that this is a page entitled</p>

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<p>57</p> <p>1 the "Verification of Eric Ching"? 2 <b>A Yes.</b> 3 Q And do you recall seeing this before? 4 <b>A Yes.</b> 5 Q Is that your signature at the bottom? 6 <b>A Yes.</b> 7 Q Do you need to take a minute to read 8 this? 9 <b>A Yes.</b> 10 Q And you verified that you had personal 11 knowledge of the facts stated in this petition; is 12 that correct? 13 <b>A Yes.</b> 14 Q What was that personal knowledge based 15 on? 16 <b>A The personal knowledge is based on the</b> 17 <b>way and the manner that Proposition 50 went</b> 18 <b>through the legislation of California.</b> 19 Q And you stood by those facts, under 20 penalty of perjury? 21 <b>A Yes.</b> 22 Q And do you understand what the term 23 "under penalty of perjury" means? 24 <b>A Yes.</b> 25 Q Do you still stand by the statements in</p>	<p>59</p> <p>1 <b>State of California in the previous lawsuit. You</b> 2 <b>know, so in the -- yes.</b> 3 Q So is it your testimony that you only 4 stand by the statement for the purpose of the 5 previous lawsuit, but not otherwise? 6 <b>A And also for the -- I think this is</b> 7 <b>also -- let me make sure that I -- that I answer</b> 8 <b>it correctly.</b> 9 <b>I believe the -- the way it was formed</b> 10 <b>also applies to the purpose of today's, you know,</b> 11 <b>testimony for the new lawsuit.</b> 12 Q Mr. Ching, regardless of what lawsuit 13 we're talking about, do you stand by your 14 statement that the congressional districts 15 reflected in AB 604 were drawn without public 16 notice, hearings, or input, and for an express 17 partisan purpose? 18 MR. MEUSER: The document speaks for 19 itself. And to -- as of the date that he signed 20 this document, the document speaks for itself. 21 You can answer if you can. 22 <b>A The document --</b> 23 MS. KHANNA: I request, for the record, 24 that Counsel, please, not testify. 25 I'm asking the witness whether he,</p>
<p>58</p> <p>1 this petition? 2 <b>A Yes.</b> 3 Q Under penalty of perjury? 4 <b>A Yes.</b> 5 Q If we can scroll up to page 19 of the 6 PDF. This is back to the petition itself. 7 And let's specifically go to paragraph 8 23. 9 Can you, please, read paragraph 23 into 10 the record. 11 <b>A You want me to read it?</b> 12 Q Yes, please, read it out loud. 13 <b>A 23, "The congressional districts</b> 14 <b>reflected in AB 604 were drawn without public</b> 15 <b>notice, hearings, or input, and for an express</b> 16 <b>partisan purpose."</b> 17 Q Do you stand by that statement? 18 <b>A Yes. For the purpose of this lawsuit.</b> 19 Q Do you stand by this statement today? 20 <b>A Yes. For the purpose of this</b> 21 <b>particular lawsuit.</b> 22 Q When you refer to "this particular 23 lawsuit," you mean the one that we are presently 24 in, for this deposition; is that right? 25 <b>A No. The purpose of the lawsuit against</b></p>	<p>60</p> <p>1 today, stands by this statement. 2 <b>A I stand by this statement, as stated in</b> 3 <b>this particular document that you show in front of</b> 4 <b>me.</b> 5 Q If we could go to paragraph 24. Can 6 you read that paragraph? Just in your head. 7 <b>A Do you want me to read it out loud?</b> 8 Q Yeah, actually, go ahead, read it out 9 loud. 10 <b>A AB 604's proposed maps would carve up</b> 11 <b>counties 114 times and cities 141 times, more and</b> 12 <b>differently than current maps; dissect the</b> 13 <b>historically Chinese and Asian-American contiguous</b> 14 <b>communities of Walnut, Diamond Bar,</b> 15 <b>Rowland Heights, and Chino Hills into three</b> 16 <b>different districts; cleave the Hispanic enclaves</b> 17 <b>of Baldwin Park, El Monte, Pico Rivera, and part</b> 18 <b>of Stockton from their existing districts; and</b> 19 <b>shatter San Joaquin County into five separate</b> 20 <b>districts, slicing Stockton's southern Hispanic</b> 21 <b>core from the district containing the rest of</b> 22 <b>Stockton.</b> 23 Q Thank you, Mr. Ching. 24 And I'm just going to ask specifically 25 about that last clause, starting with "cleave the</p>

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<p>61</p> <p>1 Hispanic enclaves." And I believe that the -- 2 that, from there on in the paragraph, that's where 3 you're talking about the Hispanic community in the 4 map; is that correct? 5 Is that correct, Mr. Ching? 6 <b>A Can you repeat your question one more</b> 7 <b>time?</b> 8 Q Sure. Is it fair to say that at the 9 end of this paragraph, you're talking about the 10 effects on the Hispanic community? 11 <b>A I don't understand your question.</b> 12 Q Do you see the portions where you say 13 "cleave the Hispanic enclaves" of various 14 neighborhoods? 15 <b>A Yes. Hold on, let me see. Where do</b> 16 <b>you see that?</b> 17 Q About five lines down from -- in 18 paragraph 24. 19 <b>A Okay. Before Baldwin Park?</b> 20 Q Yes. Starting with "cleave the 21 Hispanic enclaves." 22 <b>A Yes.</b> 23 Q And if you'd like to just take a moment 24 and re-read, in your head, that portion, starting 25 with "cleave the Hispanic enclaves," through the</p>	<p>63</p> <p>1 <b>2, when it engaged in the redistricting process,</b> 2 <b>and did so without complying with the</b> 3 <b>Constitution's redistricting requirements,</b> 4 <b>including secretly developing new congressional</b> 5 <b>district maps without public input and</b> 6 <b>redistricting solely for" the one -- "for one</b> 7 <b>party's advantage. Indeed, the redistricting</b> 8 <b>proponents have been unequivocal in proclaiming</b> 9 <b>that the express purpose of their redistricting</b> 10 <b>effort has been to redraw congressional boundaries</b> 11 <b>to" -- do you want me to continue to read on?</b> 12 Q Yeah, just those last few words there. 13 <b>A "Benefit Democrats over Republicans."</b> 14 Q Thank you. 15 Do you stand by that statement? 16 <b>A I stand by that statement as presented</b> 17 <b>on this document.</b> 18 MS. KHANNA: If we could scroll down to 19 the bottom of the next page of this page here. 20 Okay. Great. 21 Q Do you see the last complete sentence 22 on this page. It states that "The most egregious 23 violation of those requirements by AB 604 and the 24 maps it creates is their flouting of Article XXI, 25 Section 2, of our State Constitution by</p>
<p>62</p> <p>1 rest of the paragraph. 2 <b>A Okay.</b> 3 Q Is it your understanding that this 4 statement suggests the Hispanic community is 5 harmed or helped by the Prop 50 map? 6 MR. MEUSER: I'm going to object to the 7 extent that it calls for attorney-client privilege 8 communications. You can answer it if you can 9 answer it absent any communications that you or I 10 have had on this. 11 <b>A I don't know if this will harm the</b> 12 <b>Hispanic community. But I do believe that this</b> 13 <b>will give an advantage to the Democratic Party,</b> 14 <b>whoever they wanted to put in, in this district,</b> 15 <b>in the districts this city belongs to, ultimately.</b> 16 Q Okay. Let's turn to page 33 of the 17 PDF. 18 This is now part of the memorandum in 19 support of the petition. If we could go to the 20 bottom of the page. 21 Can you, please, read, out loud, the 22 last paragraph on this page, until the open 23 parentheses beginning with "the legislature." 24 <b>A "The legislature thus violated the</b> 25 <b>clear text and purpose of Article XXI Section 1,</b></p>	<p>64</p> <p>1 'discriminating against a political party.'" 2 Did I read that sentence correctly? 3 <b>A Let me double-check. The most</b> 4 <b>egregious. So you started from there, correct?</b> 5 Q Yes, just that one sentence. 6 <b>A Yes.</b> 7 Q Do you stand by that statement? 8 <b>A I stand by the statement as presented</b> 9 <b>on the document.</b> 10 Q As far as you recall, Mr. Ching, were 11 there any statements in this petition, or 12 memorandum, stating that the map also 13 discriminates on the basis of race? 14 <b>A I don't recall, specifically, what part</b> 15 <b>in this document mentioned about race because this</b> 16 <b>is a long document. I don't recall any specific</b> 17 <b>areas.</b> 18 Q Do you recall that it mentioned race at 19 all? 20 MR. MEUSER: I'm going to just object 21 to the extent that the document speaks for itself, 22 so... 23 Q You can answer. 24 <b>A I don't know, specifically, if this is</b> 25 <b>mentioned in this because there are many legal</b></p>

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<p>65</p> <p>1 documents.</p> <p>2 Sorry, let me take a sneeze one more</p> <p>3 time.</p> <p>4 Q Take your time.</p> <p>5 A Thank you.</p> <p>6 Q Mr. Ching, did something change between</p> <p>7 the time that you signed your name, under penalty</p> <p>8 of perjury, in the document that we have on the</p> <p>9 screen right now and the time that you filed the</p> <p>10 present lawsuit after Election Day?</p> <p>11 MR. MEUSER: I'm going to object to the</p> <p>12 extent that it calls for attorney-client</p> <p>13 communications that took place.</p> <p>14 And I'm going to instruct him that he</p> <p>15 can only answer that question if it comes to</p> <p>16 anything that he heard outside of conversations</p> <p>17 with counsel.</p> <p>18 Q You can answer.</p> <p>19 A Can you repeat the question so I know</p> <p>20 how to answer?</p> <p>21 Q Did anything change between the time</p> <p>22 that you signed your name to this lawsuit on the</p> <p>23 screen right now, the Sanchez lawsuit, and the</p> <p>24 time that you signed your name to the present</p> <p>25 lawsuit, the Tangipa lawsuit?</p>	<p>67</p> <p>1 But in my mind, I did not change.</p> <p>2 Q Did you see any information, other than</p> <p>3 communications with your counsel, that would</p> <p>4 change your mind as to the reason the Prop 50 map</p> <p>5 was unconstitutional, between the Sanchez lawsuit</p> <p>6 and the Tangipa lawsuit?</p> <p>7 A Based on what I was able to see, to</p> <p>8 gather, and what I heard, as of today, I believe</p> <p>9 Prop 50 violated California Constitution, as well</p> <p>10 as the U.S. Constitution.</p> <p>11 Q And, therefore, nothing changed your</p> <p>12 position as to that belief between the Sanchez</p> <p>13 lawsuit and the Tangipa lawsuit?</p> <p>14 MR. MEUSER: Objection to the extent</p> <p>15 that it calls for attorney-client communications</p> <p>16 and documents presented by attorneys to him in</p> <p>17 reaching any conclusions that he has.</p> <p>18 You may answer, if you can, absent</p> <p>19 communications that you had with me and my firm</p> <p>20 and any attorneys.</p> <p>21 A I believe that in the beginning, I</p> <p>22 believe that today, that Prop 50 violated</p> <p>23 California Constitution, as well as the U.S.</p> <p>24 Constitution.</p> <p>25 Q And other than communications with</p>
<p>66</p> <p>1 MR. MEUSER: Same objection.</p> <p>2 A When you say "anything change," are you</p> <p>3 talking about anything in my mind or any facts</p> <p>4 outside of in my mind, changed?</p> <p>5 Q Yes. So let me be more specific.</p> <p>6 Other than communications and</p> <p>7 understandings that you derived from your lawyer,</p> <p>8 did your belief change about the Prop 50 map</p> <p>9 between the Sanchez lawsuit and the current</p> <p>10 Tangipa lawsuit?</p> <p>11 A My mind did not change. I believe the</p> <p>12 previous lawsuit and this current lawsuit,</p> <p>13 Prop 50, violated the California Constitution, as</p> <p>14 well the U.S. Constitution.</p> <p>15 Q And did your mind change as to the</p> <p>16 basis of the violation that you're asserting?</p> <p>17 MR. MEUSER: And I'm going to object to</p> <p>18 the extent that it calls for attorney -- I mean,</p> <p>19 object to the extent that it calls for a legal</p> <p>20 conclusion.</p> <p>21 You can answer.</p> <p>22 A My mind did not change because I'm not</p> <p>23 a lawyer, I don't know how -- specifically how</p> <p>24 they filed it, the lawsuit, as to -- there are</p> <p>25 obviously privileges.</p>	<p>68</p> <p>1 counsel, there's no -- you have no change in your</p> <p>2 opinion as to the basis for why the Prop 50 map is</p> <p>3 unconstitutional; is that correct?</p> <p>4 MR. MEUSER: Objection to the extent</p> <p>5 that it calls for a legal conclusion.</p> <p>6 You can answer if you can.</p> <p>7 A Can you -- I just want to understand</p> <p>8 your question clearly. Can you repeat your</p> <p>9 question, please?</p> <p>10 Q Sure. Other than information you have</p> <p>11 obtained from your communications with your own</p> <p>12 counsel, am I correct that nothing changed, in</p> <p>13 your mind, or your opinion, as to the reason why</p> <p>14 the Prop 50 map is unconstitutional?</p> <p>15 MR. MEUSER: Same objections.</p> <p>16 You can answer if you can.</p> <p>17 A I have not changed my mind. When I</p> <p>18 first learned about it, as of today, I have not</p> <p>19 changed my mind as to the violation of the</p> <p>20 California Constitution, as well as the U.S.</p> <p>21 Constitution.</p> <p>22 Q And you haven't changed your mind as to</p> <p>23 the reasons why you believe that it violates these</p> <p>24 constitutions?</p> <p>25 A I have not changed my mind as of the</p>

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<p style="text-align: right;">69</p> <p>1 reasons that the Prop 50 violated the California 2 Constitution, as well as the U.S. Constitution. 3 MS. KHANNA: Thank you, Mr. Ching, I 4 have no further questions for you today. 5 I'm going to pass the witness on to, I 6 believe, Ms. McCall, for the State. 7 Thank you so much for your time this 8 morning. I appreciate it. 9 THE WITNESS: Thank you. 10 EXAMINATION BY COUNSEL FOR GOVERNOR NEWSOM AND 11 SECRETARY OF STATE SHIRLEY WEBER 12 BY MS. McCALL: 13 Q Good morning, Mr. Ching. My name is 14 Christina McCall and I'm a deputy attorney general 15 with the California Department of Justice. My 16 colleague Katrina and I represent Governor Newsom 17 and Secretary of State Shirley Weber. 18 Ms. Khanna was just talking to you 19 about the prior challenge to Prop 50 or what 20 became Prop 50 that you were involved with. 21 Do you remember the date that that case 22 was filed with the California Supreme Court? 23 A I don't remember the exact date, but I 24 think it is probably around August 24th or -- on 25 or about.</p>	<p style="text-align: right;">71</p> <p>1 Q You remember seeing the term "Voting 2 Rights Act" in that petition of Sanchez v. Weber? 3 A I cannot say specifically if I saw the 4 term mentioned in that document, as of today, 5 because I reviewed many, many documents. My mind 6 could be clouded with different legal documents. 7 But I recall the term. So I cannot tell you, 8 specifically, if it was on that document or on 9 other documents that I received. 10 Q Okay. So you don't know whether or not 11 the Sanchez v. Weber petition, that you and your 12 colleagues filed, mentions Voting Rights Act? 13 A Can you repeat your question so I can 14 understand? I want to make clear that I 15 understand the question. 16 Q Yes. Do you know whether or not this 17 Sanchez v. Weber petition ever mentions the term 18 Voting Rights Act? 19 MR. MEUSER: And I'm just going to 20 object. The document speaks for itself. 21 You can answer if you know. 22 A I don't understand, specifically, if it 23 mentioned on that document because, as I stated, 24 I've seen many, many documents, I read all the 25 documents. And in my mind there would be -- maybe</p>
<p style="text-align: right;">70</p> <p>1 Q Okay. And do you remember about how 2 many days later the State Supreme Court denied 3 that petition? 4 A I believe it was shortly after, but I 5 don't know -- I don't recall the specific date. 6 Q Does two days later sound about right? 7 A I don't recall the exact date, but I 8 think it was pretty shortly after. 9 Q Okay. And we were talking about that 10 lawsuit, and you said you don't remember whether 11 or not there was any mention of race in all those 12 dozens of pages in that initial petition, correct? 13 A I don't remember, specifically, on the 14 document. 15 Q And do you remember ever seeing the 16 term "racial," that word racial, in that document? 17 A I don't remember, specifically, on that 18 particular document. 19 Q Would you be surprised that the term 20 "race" or "racial" never appears in that document? 21 A I don't know if I would be surprised. 22 Q Do you remember that lawsuit ever 23 mentioning Voting Rights Act? 24 A Yes. I recall the term, but I don't 25 know where, specifically, I saw the term.</p>	<p style="text-align: right;">72</p> <p>1 the term was misplaced somewhere. So I cannot 2 tell you where, specifically, it's mentioned on 3 the document. 4 Q Okay. 5 A Yeah. 6 Q Do you know whether the Sanchez v. 7 Weber Supreme Court document ever mentioned the 8 term "Latino"? 9 A I don't remember, specifically, whether 10 it's mentioned on the document or not. 11 Q Okay. 12 MS. McCALL: And could we put up that 13 document, please, that we just had up, the Sanchez 14 v. Weber document. I believe that might be 15 Exhibit 2. And go to paragraph 23, please. 16 PLANET DEPOS TECHNICIAN: Stand by. 17 MS. McCALL: Sorry, 23 might be up a 18 page or so. 19 PLANET DEPOS TECHNICIAN: Oh. My 20 apologies. 21 MS. McCALL: No problem. 22 And if we could zoom in a bit, please, 23 Jasmine. 24 BY MS. McCALL: 25 Q Okay. Mr. Ching, would you, please,</p>



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<p>73</p> <p>1 read the allegation in paragraph 23 from the 2 Sanchez petition? 3 <b>A "The congressional districts reflected 4 in AB 604 were drawn without public notice, 5 hearings, or input, and for an express partisan 6 purpose."</b> 7 Q Do you remember, approximately, how 8 many times the word "partisan" was mentioned in 9 this writ petition before the Supreme Court? 10 <b>A I don't recall how many times that 11 partisan appeared in this document.</b> 12 Q Would nine surprise you? 13 <b>A It would not.</b> 14 Q Okay. And do you know how many times 15 Latino was mentioned in this writ petition before 16 the California Supreme Court? 17 <b>A I do not.</b> 18 Q Would it surprise you that it's not 19 mentioned at all? 20 <b>A No, it would not.</b> 21 Q And would it surprise you that the only 22 mention of Hispanic, in this writ petition, is in 23 paragraph 24, which Ms. Khanna already covered 24 with you? 25 <b>A I would not.</b></p>	<p>75</p> <p>1 MS. McCALL: Thank you. And we can 2 kind of scroll a bit. 3 Q Does this document look familiar, 4 Mr. Ching? 5 <b>A This document looks very familiar with 6 many documents that I reviewed. So I don't know, 7 specifically, what documents you're mentioning.</b> 8 Q A lot of legal documents -- so this one 9 says, in the title, "Defendants' First Set of 10 Requests for Production of Documents to Plaintiffs 11 and Plaintiff-Intervenor." 12 Do you see that part? 13 <b>A Yes.</b> 14 MS. McCALL: And, Jasmine, let's scroll 15 down to page 6, please. 16 Q The rest of it is instructions and 17 definitions. 18 MS. McCALL: And can we zoom in a bit? 19 Q Before the signature block, there is 20 only one request for production, correct? 21 MR. MEUSER: The document speaks for 22 itself. 23 MS. McCALL: I'm asking Mr. Ching for 24 his understanding, if there is only one request 25 for production in this document.</p>
<p>74</p> <p>1 Q So we talked a lot, with Ms. Khanna, 2 about email messages and social media things. Did 3 you receive the request for production of 4 documents sent by the California defendants, 5 defendants' first set of request for production of 6 document to plaintiffs? 7 <b>A I received document request from 8 attorneys -- our attorneys on this case.</b> 9 Q Okay. And you don't have to talk about 10 any communications you had with your attorneys. 11 After kind of a long definition 12 section, do you remember there's only one request 13 for production in this document? 14 <b>A I don't recall, specifically, how many 15 documents were requested, but at the time --</b> 16 Q Okay. 17 <b>A -- I was preparing, I looked through 18 it, and I complied with it, with what was asked of 19 me.</b> 20 MS. McCALL: Jasmine, would you mind, 21 please, marking the document that begins with 25 22 11 25, and let's mark that as Exhibit 3, please. 23 (Ching Exhibit 3 marked for 24 identification and attached to the transcript.) 25 PLANET DEPOS TECHNICIAN: Stand by.</p>	<p>76</p> <p>1 <b>A As is stated on this document.</b> 2 Q Right. And do you see there that it 3 calls for all non-privileged documents and 4 communications in any challenger's possession, 5 custody, or control, relating to both the 2025 6 California congressional redistricting and either 7 race or partisanship? 8 Did you provide any documents or 9 communications in response to this request for 10 production? 11 MR. MEUSER: And I'm going to object to 12 the extent that it calls for attorney-client 13 communications. There have been a lot of meet and 14 confers on this particular document. And 15 Mr. Ching has been instructed by attorneys as to 16 what he was supposed to do, and he has produced in 17 accordance with that. 18 And I'm going to instruct him not to 19 answer any question on this that deals with 20 attorney-client communication, and I think your 21 question's getting pretty darn close to there. So 22 if you have to ask a narrow question, I'll let him 23 answer that, but your question is way too broad 24 and it will require him to give attorney-client 25 communications in order to respond to your</p>



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<p>77</p> <p>1 question.</p> <p>2 Q Okay. Not involving any communication</p> <p>3 with your attorney, did you produce any documents</p> <p>4 or communications to the defendants in response to</p> <p>5 this request for documents?</p> <p>6 A I have not.</p> <p>7 Q So you haven't produced anything in</p> <p>8 your possession relating to the 2025</p> <p>9 congressional -- California congressional</p> <p>10 redistricting in either race or partisanship?</p> <p>11 A Based on my understanding, I don't have</p> <p>12 anything -- any documents that pertains to the</p> <p>13 request.</p> <p>14 Q And do you have --</p> <p>15 MR. MEUSER: I'm going to object to the</p> <p>16 extent other than what as -- you know, what we</p> <p>17 have told him, after meet and confer conference,</p> <p>18 and what he has gone and looked for, he has told</p> <p>19 us, what he assures, based on the meet and</p> <p>20 confers, that there are no responsive documents.</p> <p>21 I want to make sure we have a clear</p> <p>22 record here. But you can continue.</p> <p>23 Q Okay. Did you, Mr. Ching, search for</p> <p>24 documents and communications that meet this</p> <p>25 request for production?</p>	<p>79</p> <p>1 Q And without getting into the substance</p> <p>2 of any conversations you had with your attorneys,</p> <p>3 you did not provide any recordings from meetings</p> <p>4 that would be responsive to this request, did you?</p> <p>5 A Based on the instruction provided by</p> <p>6 attorney, I followed what's asked to produce.</p> <p>7 Q Okay. So notwithstanding -- we're</p> <p>8 trying not to discuss anything you might have</p> <p>9 confidentiality communicated with your attorney.</p> <p>10 But you didn't provide any email messages relating</p> <p>11 to the Prop 50 issue, did you?</p> <p>12 A I provided everything on my end to</p> <p>13 what's asking of me. I say provide -- I will say</p> <p>14 I followed the instruction as to what's required</p> <p>15 of me.</p> <p>16 Q So it's your understanding that nothing</p> <p>17 was required of you in response to this request</p> <p>18 for production, notwithstanding any attorney</p> <p>19 communications that were confidential?</p> <p>20 A I followed the instruction based on my</p> <p>21 understanding communicated by my attorney, to -- I</p> <p>22 followed that.</p> <p>23 Q So let's move on.</p> <p>24 You mentioned that you had previously</p> <p>25 run for congressional representative in -- was it</p>
<p>78</p> <p>1 MR. MEUSER: I'm going to object.</p> <p>2 And I'm going to instruct him not to</p> <p>3 answer.</p> <p>4 MS. McCALL: You're going to instruct</p> <p>5 him not to answer the question whether he searched</p> <p>6 for documents and communications meeting this</p> <p>7 request?</p> <p>8 MR. MEUSER: I'm going to instruct him</p> <p>9 not to answer because there have been attorney</p> <p>10 communications that have been very narrowly</p> <p>11 whittled down as to what he was actually asked to</p> <p>12 go and search for. This document was sent out.</p> <p>13 There was follow-ups, there have been meet and</p> <p>14 confer conferences. And as such, your question is</p> <p>15 not applicable to what he was instructed by</p> <p>16 attorneys to do.</p> <p>17 And I'm going to instruct him, at this</p> <p>18 time, to not answer that question.</p> <p>19 Q Okay. Let me ask it more specifically.</p> <p>20 You did not provide any text messages that would</p> <p>21 be responsive to this request, did you?</p> <p>22 MR. MEUSER: And I will object to the</p> <p>23 extent that it calls for attorney-client</p> <p>24 communications as to what the attorneys asked him</p> <p>25 to go look for.</p>	<p>80</p> <p>1 District 38?</p> <p>2 A Yes.</p> <p>3 Q And who was your opponent both times</p> <p>4 that you ran?</p> <p>5 A It was Representative Linda Sanchez.</p> <p>6 Q And about how long has</p> <p>7 Representative Sanchez served in the United States</p> <p>8 Congress?</p> <p>9 A I believe over ten terms.</p> <p>10 Q So for over 20 years?</p> <p>11 A That's my understanding, over ten</p> <p>12 terms.</p> <p>13 Q And did I hear you say that your</p> <p>14 percentage of the vote increased between 2022 and</p> <p>15 2024, or did I get that wrong?</p> <p>16 A I didn't say the percentage. I meant</p> <p>17 to say the number of votes.</p> <p>18 Q So the number of votes. But did the</p> <p>19 percentage increase or decrease, that you got of</p> <p>20 the votes, did it increase or decrease between</p> <p>21 2022 and 2024?</p> <p>22 A I didn't look specifically after a</p> <p>23 certain period of time, so I don't know the final,</p> <p>24 final count.</p> <p>25 Q Would it surprise you to learn that the</p>

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<p>81</p> <p>1 percentage of the votes that you got in 2022 was 2 41.9 percent? 3 <b>A No, it would not surprise me.</b> 4 Q And would it surprise you to know the 5 percentage of the votes that you got in 2024 was 6 40.2 percent? 7 <b>A It would not surprise me.</b> 8 MS. McCALL: And, Jasmine, can we, 9 please, put up the Complaint in the instant case, 10 the Tangipa v. Newsom Complaint, and go to 11 paragraph 31. 12 MS. KHANNA: And just to clarify, I 13 believe that is Exhibit 1 to this deposition. 14 MS. McCALL: Thank you, Ms. Khanna. 15 PLANET DEPOS TECHNICIAN: Stand by. Do 16 you know what the document is titled, exactly? 17 MS. McCALL: I believe it was the 18 Complaint filed in the case of Tangipa and a lot 19 of other defendants, including the witness, versus 20 Gavin Newsom. 21 PLANET DEPOS TECHNICIAN: Understood. 22 There are four exhibits. 23 MS. McCALL: I think it's previously 24 marked, through Ms. Khanna's testimony, as 25 Exhibit 1.</p>	<p>83</p> <p>1 <b>was running for Congress in Congressional District</b> 2 <b>38. However, because of the passage of</b> 3 <b>Proposition 50, he now lives in Congressional</b> 4 <b>District 41. Ching has not yet announced if he</b> 5 <b>will still run for Congress or if he does, which</b> 6 <b>district."</b> 7 MR. MEUSER: And I am just going to let 8 the parties know that this is something that we 9 caught when we were doing -- preparing him for 10 deposition, and that we will be filing an errata, 11 that that was a typo. 12 But you can ask him your question. 13 Q Okay. So that was going to be my 14 question, Mr. Ching, is whether or not this 15 paragraph of the Complaint in this case is 16 accurate, with respect to which district you now 17 live in after Prop 50? 18 <b>A Based on -- there's a typo. Based on</b> 19 <b>what I was able to research from the California</b> 20 <b>website, I live in Congressional District 31, if</b> 21 <b>that's the final map.</b> 22 Q Okay. And let's -- we've been talking 23 about elections and things like this. And as a 24 candidate for public office, you strongly believe 25 in democracy, correct?</p>
<p>82</p> <p>1 PLANET DEPOS TECHNICIAN: Exhibit 1. 2 Now I'm following. 3 MS. McCALL: Ah, thank you. 4 BY MS. McCALL: 5 Q And, Mr. Ching, you said that you 6 reside in, is it District 31, according to the new 7 map? 8 <b>A I don't know exactly where the new map</b> 9 <b>boundary is, at least according to</b> 10 <b>County of Los Angeles.</b> 11 Q Okay. How about -- 12 <b>A But based on --</b> 13 Q According to the legislature's website, 14 have you checked out the maps on that website? 15 <b>A Yes.</b> 16 Q Okay. And is it your understanding 17 your new district would be 31 or 41? 18 <b>A It would be 31.</b> 19 MS. McCALL: So, Jasmine, could you, 20 please, go to paragraph, I believe it's 31. 21 Q And could you read this paragraph, 22 please, Mr. Ching. 23 <b>A Is it 31?</b> 24 Q Paragraph 31, yes. 25 <b>A "Plaintiff Eric Ching had announced he</b></p>	<p>84</p> <p>1 <b>A When you talk about the word</b> 2 <b>"democracy," I'm thinking about Constitution. So</b> 3 <b>when you talk about democracy, there are many</b> 4 <b>things that come to my mind, so I don't know how</b> 5 <b>to answer that term. We live in a constitution</b> 6 <b>republic. So when you talk about democracy, I</b> 7 <b>don't know if you're talking about the same thing.</b> 8 Q Well, do you believe that a core tenet 9 of our government is the ability for citizens to 10 vote in elections? 11 <b>A I believe that.</b> 12 Q And do you believe that the will of the 13 voters should be reflected in the laws of our 14 state? 15 MR. MEUSER: I'm going to object to the 16 extent that it calls for a legal conclusion. 17 If you can answer it, go for it. 18 <b>A Can you re -- I want to make sure I</b> 19 <b>understand your question.</b> 20 <b>Could you ask one more time?</b> 21 Q Yes. Do you believe that the will of 22 the voters should be reflected in the laws of our 23 state? 24 MR. MEUSER: Same objection. 25 You can answer.</p>

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<p>85</p> <p>1 <b>A I believe the will of voters should be</b> 2 <b>respected, provided that if the legislature or the</b> 3 <b>writing of the law, or what they're voting, they</b> 4 <b>understand. If they understand how they vote.</b> 5 Q Okay. And California voters 6 overwhelmingly voted in support of Proposition 50 7 just a month ago, correct? 8 <b>A Correct.</b> 9 Q Do you know the percentage of 10 California voters who voted in favor of 11 Proposition 50? 12 <b>A I don't know the exact number, but it</b> 13 <b>was a pretty high number.</b> 14 Q Does 64.4 percent sound about right? 15 <b>A That sounds about right.</b> 16 Q And do you know how many people, how 17 many actual voters, the number of voters who 18 favored -- who voted in favor of Prop 50 a month 19 ago? How many millions of people? 20 <b>A I do not.</b> 21 Q Would it surprise you to know that it 22 was 7.45 million people who voted for it? 23 <b>A I would not be surprised.</b> 24 Q And do you know how many voters voted 25 against Prop 50 a month ago?</p>	<p>87</p> <p>1 Prop 50 changed the California Constitution by 2 vote as the actual citizens who voted? 3 MR. MEUSER: I'm going to object to the 4 extent that it calls for a legal conclusion. 5 If you can answer that, you're welcome 6 to. 7 <b>A I believe the process, in order to pass</b> 8 <b>Prop 50, was in violation of the Constitution.</b> 9 Q Which Constitution? 10 <b>A Constitution of California, as well as</b> 11 <b>Constitution of United States.</b> 12 Q You believe that the voters changing 13 the California Constitution by initiative violated 14 the California Constitution? 15 How? How do you believe that? 16 <b>A I believe the process violated the</b> 17 <b>Constitution of California, as well as the</b> 18 <b>Constitution of the United States.</b> 19 Q The voting process? What process are 20 you talking about? 21 <b>A Process in which to call the Prop 50</b> 22 <b>violated the California Constitution, as well as</b> 23 <b>Constitution of the United States.</b> 24 Q Okay. You understand that the main 25 goal of Prop 50 was to, basically, flip five</p>
<p>86</p> <p>1 <b>A I do not.</b> 2 Q Would it surprise you to learn that it 3 was 4.11 million? 4 <b>A I do not [sic].</b> 5 Q So if you prevail in this lawsuit, 6 isn't it fair to say it will erase the votes of 7 7.45 million California voters? 8 MR. MEUSER: I'm going to object to the 9 extent that that calls for a legal conclusion. 10 To the extent you can answer it, so be 11 it. 12 <b>A I do not believe that because in the</b> 13 <b>process of -- in the Proposition 50 process, if</b> 14 <b>California Legislature violated the California</b> 15 <b>Constitution and violated the U.S. Constitution, I</b> 16 <b>believe the Constitution is the supreme law of our</b> 17 <b>land, so it does matter -- does not matter how</b> 18 <b>people voted. We must follow the Constitution,</b> 19 <b>unless that's been a changed or modified, the</b> 20 <b>Constitution trump the people, however they voted.</b> 21 Q Isn't it your understanding -- I'm 22 sorry, I cut you off. Go ahead. 23 <b>A I believe Constitution is the supreme</b> 24 <b>law of our land.</b> 25 Q Okay. Is it your understanding that</p>	<p>88</p> <p>1 congressional Republican seats to Democratic 2 seats, right? 3 MR. MEUSER: I'm going to object -- 4 Q Is that your understanding? 5 MR. MEUSER: -- that mischaracterizes 6 his prior testimony. 7 Q What's your understanding of the goal 8 of Prop 50. 9 <b>A My understanding of the Prop 50 is the</b> 10 <b>California Legislature used race as one of the</b> 11 <b>main means to push out Prop 50. And this --</b> 12 <b>because race is one of the main consideration,</b> 13 <b>therefore, it violated the California</b> 14 <b>Constitution, as well as the U.S. Constitution.</b> 15 Q And which exact statements from 16 California Legislatures can you point to that race 17 was the main point of the drawing of these 18 boundary maps? 19 <b>A I believe the California Legislature</b> 20 <b>number of elected or appointed officers have said</b> 21 <b>it in the press or they have press releases, they</b> 22 <b>stated as such, that they used race to -- I'm just</b> 23 <b>paraphrasing. I don't know the specific of it,</b> 24 <b>but I've seen the -- some of the press releases,</b> 25 <b>seen some of the news clips, that is one of the</b></p>

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<p>89</p> <p>1 main means to form -- push forward Prop 50. 2 Q Who sent it, and when and where? 3 A May I take -- let me answer, and then 4 I'll sneeze. Okay. 5 Q Of course. 6 A I don't know specific person who sent 7 it, when and where, but I have seen a news clip 8 independently, as well as, possibly, headlines 9 that I received from emails or posting on social 10 medias. 11 Q And, again, you didn't provide any of 12 these communications, correct? 13 A Before you -- I said I need to take 14 a -- 15 Q Yes, of course. 16 A Sorry, could you repeat your question 17 again, please? 18 Q You did not provide any of these 19 communications in response to the request for 20 production, correct? 21 A I followed what was requested of me, 22 communicated through my attorney. 23 Q Let's see. So you mentioned you might 24 plan to run for Congress in 2026; is that right? 25 A If nothing changes, I will be filing</p>	<p>91</p> <p>1 everything, I do not. 2 Q Okay. Have you raised funds for the 3 2026 election? 4 A I have some funds remaining from the 5 last campaign, and I have plans to fund raise in 6 the very near future. 7 Q And have you raised funds in this 8 calendar year for your congressional campaign? 9 A I don't recall specifically, but I 10 believe people has -- have contributed to the 11 campaign, possibly from my website or from my, you 12 know, campaign donations link. I don't know the 13 specifics to answer your question. 14 Q Did you recently file a disclosure that 15 you'd raised more than \$8,000 in 2025 for your 16 campaign? 17 A I followed whatever the FEC asked to 18 do. We filed the quoted papers as required of me. 19 Q And it seems like the number one donor 20 in 2025 is Jennifer Chiang, C-H-I-A-N-G. 21 Does that sound familiar? 22 A I do not follow who donated to me. 23 Maybe somebody that donated via online or check, 24 to my campaign finance person. I do not have 25 independent knowledge as to who has donated.</p>
<p>90</p> <p>1 papers to run for 2026, for congressional seat. 2 Q What do you mean if nothing changes? 3 A As of today, my mind is to run in 2026. 4 I have made appointments to pull papers on 5 December 19th, 2026. 6 Q And which district will you run in, 7 assuming the Prop 50 map remains? 8 A If we're able to overturn Prop 50, I 9 will be running the old district, which was 38. 10 Q Okay. And if Prop 50 stands, which 11 district will you run in? 12 A I lean heavily on 31st, but I may 13 consider other districts, based on if I can 14 provide the best representation to that district. 15 Q And you mentioned December 19th. Which 16 steps have you taken to run for Congress in 2026? 17 A I have maintained my federal status to 18 run for office, the County of Los Angeles, to pull 19 papers on the 19th of December 2026 -- '5. 20 Q And have you hired a campaign manager 21 for 2026? 22 A I have many campaign staff members or 23 volunteers, but I don't know -- well, I shouldn't 24 say that. I don't know, the term "manager," 25 meaning that there's one person handling</p>	<p>92</p> <p>1 Q Even if someone donated over \$6,000 in 2 one year, you're not sure who that is? 3 A I don't handle campaign finance. So 4 everything is handled by my campaign finance 5 person. 6 Q Is your campaign finance person the 7 same person from 2024 election? 8 A That's correct. 9 Q And who is that? 10 A Her name is Sue Ho. 11 Q Okay. Have you filed a Statement of 12 Candidacy, otherwise known as FEC Form 2, for 13 2026? 14 A I don't know if I have to file one. I 15 have maintained my status. So I don't know if my 16 campaign finance person has made contact with them 17 to maintain that status. 18 But I have maintained the status, the 19 campaign registration. So I don't know if she 20 filed independently or if there's other processes 21 that I must do. But I intend -- if I didn't 22 complete a process, I intend to file within due 23 time. 24 Q And what's your understanding of when 25 the FEC Form 2 needs to be filed?</p>

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<p>93</p> <p>1 MR. MEUSER: I'm going to object to the</p> <p>2 extent that it calls for attorney-client</p> <p>3 communication or to the extent that it calls for a</p> <p>4 conclusion of law.</p> <p>5 If he can answer, so be it.</p> <p>6 <b>A I don't recall specifically. But we</b></p> <p>7 <b>will comply with all requirements.</b></p> <p>8 Q And so, you don't know whether you have</p> <p>9 filed the Statement of Candidacy yet for 2026?</p> <p>10 <b>A Personally, I do not file myself. I</b></p> <p>11 <b>don't know if my campaign staff or my treasurer</b></p> <p>12 <b>has filed it. I cannot answer that question.</b></p> <p>13 Q So you don't know which district you</p> <p>14 listed on the Statement of Candidacy?</p> <p>15 <b>A I could not possibly list any district</b></p> <p>16 <b>in my campaign filing because it's, per</b></p> <p>17 <b>Los Angeles County, they don't even have a</b></p> <p>18 <b>definitive map. So there is no way for me to file</b></p> <p>19 <b>at this time.</b></p> <p>20 Q Do you plan to collect signatures to</p> <p>21 get onto the primary ballot or pay the filing fee?</p> <p>22 <b>A I plan to collect as many signatures as</b></p> <p>23 <b>possible for 2026.</b></p> <p>24 Q And how many signatures do you think</p> <p>25 you need to qualify for the ballot without paying</p>	<p>95</p> <p>1 MR. KOVACS-GOODMAN: Maybe, 20,</p> <p>2 30 minutes. So maybe a break, short break,</p> <p>3 five-minute break, would work.</p> <p>4 MS. McCALL: Great. If it works for</p> <p>5 everybody, maybe we resume at 11:15 Pacific.</p> <p>6 (Recess taken from 2:10 p.m. to</p> <p>7 2:18 p.m.)</p> <p>8 MR. KOVACS-GOODMAN: Back on the</p> <p>9 record.</p> <p>10 EXAMINATION BY COUNSEL FOR THE LEAGUE OF LATIN</p> <p>11 AMERICAN CITIZENS</p> <p>12 BY MR. KOVACS-GOODMAN:</p> <p>13 Q I'm Jacob Kovacs-Goodman for the League</p> <p>14 of Latin American Citizens, along with my</p> <p>15 colleague Jon Greenbaum.</p> <p>16 Good morning, Mr. Ching. Thanks for</p> <p>17 doing this on a Saturday.</p> <p>18 MR. KOVACS-GOODMAN: I'd like to start,</p> <p>19 actually, by returning, briefly, to</p> <p>20 Ching Exhibit 1.</p> <p>21 PLANET DEPOS TECHNICIAN: Stand by.</p> <p>22 MR. KOVACS-GOODMAN: And can we return</p> <p>23 to paragraph 7 on page 4, please.</p> <p>24 Q And so, I know we've discussed this a</p> <p>25 little bit, but just to confirm, this says you</p>
<p>94</p> <p>1 the filing fee?</p> <p>2 MR. MEUSER: I'm going to object to the</p> <p>3 extent that it calls for a legal conclusion.</p> <p>4 You can answer if you know.</p> <p>5 <b>A I believe it's over a thousand. I</b></p> <p>6 <b>can't remember exact number.</b></p> <p>7 Q Have you already designed your 2026</p> <p>8 campaign website?</p> <p>9 <b>A I have my website from 2022 and 2024.</b></p> <p>10 <b>I intend to change some things and use the same</b></p> <p>11 <b>website.</b></p> <p>12 Q Does that website mention a particular</p> <p>13 congressional district?</p> <p>14 <b>A The previous one, I believe it did.</b></p> <p>15 <b>But it depends -- depending on the outcome of this</b></p> <p>16 <b>legal challenge, we may have to modify it.</b></p> <p>17 Q All right.</p> <p>18 MS. McCALL: I think that concludes the</p> <p>19 questions that I have for Mr. Ching, so I will</p> <p>20 pass it over, I believe, to counsel for LULAC.</p> <p>21 Unless we take a break.</p> <p>22 Does anyone want to take a short break?</p> <p>23 MR. MEUSER: How long does LULAC have</p> <p>24 of questions? Think that would be the determining</p> <p>25 factor.</p>	<p>96</p> <p>1 plan to run for election and vote in 2026,</p> <p>2 congressional District 31; is that --</p> <p>3 Do you see that?</p> <p>4 <b>A Yes, I do see that.</b></p> <p>5 Q Is that accurate?</p> <p>6 <b>A If the final map -- if Prop 50 stands,</b></p> <p>7 <b>that's -- I plan on running in District 31. But I</b></p> <p>8 <b>may have -- I may change my mind, depending on</b></p> <p>9 <b>where I can best represent.</b></p> <p>10 Q Okay.</p> <p>11 <b>A At the time of the document, that was</b></p> <p>12 <b>my intention.</b></p> <p>13 Q Okay. Understood.</p> <p>14 MR. KOVACS-GOODMAN: And could we bring</p> <p>15 up Ching Exhibit Number 4, please, which is a</p> <p>16 screenshot from the California State Assembly</p> <p>17 website.</p> <p>18 PLANET DEPOS TECHNICIAN: Counsel, I'll</p> <p>19 mark it at the end. It is a PNG file and it's not</p> <p>20 a PDF picture.</p> <p>21 MR. KOVACS-GOODMAN: Okay. I can</p> <p>22 export it quickly.</p> <p>23 PLANET DEPOS TECHNICIAN: Let me know</p> <p>24 when you're all set.</p> <p>25 MR. KOVACS-GOODMAN: Okay. How's that?</p>

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<p>97</p> <p>1 PLANET DEPOS TECHNICIAN: Stand by. 2 MR. KOVACS-GOODMAN: Thank you. 3 PLANET DEPOS TECHNICIAN: Counsel, it's 4 still a PNG file in the browser. 5 MR. KOVACS-GOODMAN: I think it says 6 png.pdf, but it should have converted. 7 Are you seeing that? 8 PLANET DEPOS TECHNICIAN: I'll do it 9 again. I'll try it one more time. 10 MR. KOVACS-GOODMAN: Thanks. 11 PLANET DEPOS TECHNICIAN: And it is 12 still a PNG file. 13 Would you still like me to show that? 14 MR. KOVACS-GOODMAN: Yeah, I'll try one 15 last thing. Sorry. 16 How's that? 17 PLANET DEPOS TECHNICIAN: Stand by. 18 Counsel, that worked. Stand by. 19 MR. KOVACS-GOODMAN: Great. Thank you. 20 (Ching Exhibit 4 marked for 21 identification and attached to the transcript.) 22 Q Great. So, Mr. Ching, you had 23 mentioned earlier that you had an opportunity to 24 review the maps on the California State Assembly 25 website; is that right?</p>	<p>99</p> <p>1 Q Sure. Okay. 2 MR. KOVACS-GOODMAN: Can we return to 3 Ching Exhibit 1, please. And to paragraph 31 on 4 page 8, please. 5 Q Could you read the last sentence of 6 that paragraph, please? 7 A <b>Talking about 31?</b> 8 Q Yes, please. 9 A <b>"Ching has not yet announced if he will 10 still run for Congress or if he does, which 11 district."</b> 12 Q Okay. Is that statement accurate? 13 A <b>I have stated earlier, I always use the 14 same phrase, I will continue to run until God 15 tells me not to.</b> 16 <b>So I don't know when God will tell me, 17 but that's the message between he and I.</b> 18 Q Okay. So which district might you run 19 in, in 2026? 20 A <b>If we prevail in this lawsuit, I will 21 run in District 38. If not, I will be running, 22 likely, in 31 or 38. There are other 23 possibilities.</b> 24 Q Okay. What are the other 25 possibilities?</p>
<p>98</p> <p>1 A <b>That's correct.</b> 2 Q Okay. Great. Does this look familiar? 3 A <b>Yes.</b> 4 Q Okay. And is your address 22077 East 5 Snow Creek Drive? 6 A <b>Yes.</b> 7 Q Okay. And do you see where this 8 address is located on this map? 9 A <b>I cannot pinpoint it, but it should be 10 within District 31.</b> 11 Q Okay. Do you see the purple 31 in the 12 middle, sort of just east of Covina here? 13 A <b>I see 31, the number 31.</b> 14 Q Okay. Great. And do you remember, in 15 the Complaint, you mentioned that it says you have 16 not yet announced if you'll run for Congress or, 17 if you do, which district? 18 MR. MEUSER: I'm going to object that 19 it mischaracterizes the Complaint. 20 But he can answer. 21 A <b>We announced -- I have always stated, 22 in public stated that I will continue to run for 23 office until God tells me not to run, and I will 24 stop. That's my message, starting from 2022, 25 2024, and I will continue to say the same message.</b></p>	<p>100</p> <p>1 A <b>I have not looked at all the districts, 2 but I would say it would be district close to my 3 residence, where I can represent the best.</b> 4 Q And how will you decide where you can 5 represent the best? 6 A <b>Based if I can make the most impact.</b> 7 Q And what sort of things do you look for 8 in how to make the most impact? 9 A <b>When I look, the communities throughout 10 Southern California, or California in general, I 11 see raising crime, I see homelessness, I see 12 businesses suffering, I see many things in the 13 streets need fixing. I want to run in a district 14 where I can represent the best, to fix whatever 15 district.</b> 16 Q Okay. And so, if several districts 17 have some of those problems you've just described, 18 how will you determine which one you can best 19 represent? 20 A <b>Although they have similar issues, but 21 one will stand out to me. And, also, I will be 22 praying to God to see which district I will be 23 running. So depending on the outcome of this 24 lawsuit, you know, so if that comes, hopefully 25 soon, then I will make the final determination, as</b></p>

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<p>101</p> <p>1 well as praying to God.</p> <p>2 Q Okay. And if the Prop 50 maps stay in</p> <p>3 place, and you run in CD31, do you think you'll</p> <p>4 have a more difficult time than you did when you</p> <p>5 ran in the old CD38?</p> <p>6 A I think it will be new challenges</p> <p>7 because I -- there are some cities that I'm not as</p> <p>8 familiar.</p> <p>9 Q Okay. Is that the only challenge?</p> <p>10 A That wouldn't be the only challenge.</p> <p>11 Q What are some of the other challenges?</p> <p>12 A Other challenges meaning that I have</p> <p>13 not studied the geographic, perhaps the boundary</p> <p>14 will be bigger. I have not been able to look in</p> <p>15 each and every CD to determine what needs they</p> <p>16 need, and also, as a whole, what -- other than</p> <p>17 issues I mentioned about, if there are other</p> <p>18 issues this is not familiar to me at this point.</p> <p>19 Q Okay. What issues -- or what cities</p> <p>20 seem unfamiliar in the new CD31?</p> <p>21 A I would say cities -- two cities, you</p> <p>22 know, above my, perhaps cities like Durate or even</p> <p>23 Azusa, for example. I don't know all the issues</p> <p>24 in those particular areas. I want to make sure</p> <p>25 that I study those to determine if I'm the best</p>	<p>103</p> <p>1 District 38, please. Thank you. Okay. It's</p> <p>2 plenty disconnected -- sorry.</p> <p>3 Can we scroll to the top for the</p> <p>4 headers, please? Thank you.</p> <p>5 Q So the categories, do you see the</p> <p>6 categories on the second half of the top row</p> <p>7 there?</p> <p>8 A Yes.</p> <p>9 Q The citizen voting age population</p> <p>10 numbers?</p> <p>11 A Yes.</p> <p>12 Q Okay. And now, if we look at 38,</p> <p>13 please. So the Latino -- what is the Latino</p> <p>14 citizen voting age of your old District 38? Are</p> <p>15 you able to see that there?</p> <p>16 A Yes, it appears to be 55.64 percent.</p> <p>17 Q Okay. And the one next to it is, I</p> <p>18 believe, the -- right. Does that number look</p> <p>19 right as well?</p> <p>20 A I don't know if it's right or not. But</p> <p>21 I can read, from your exhibit, it's 2.45 percent.</p> <p>22 Q Sure. And the next column?</p> <p>23 A Is 20.95 percent.</p> <p>24 Q Right. And what is that number?</p> <p>25 A I believe that's the Asian population.</p>
<p>102</p> <p>1 fit to be best to represent the residents in the</p> <p>2 districts to make final decision.</p> <p>3 Q Okay. And you had represented to</p> <p>4 counsel earlier that you were also looking at some</p> <p>5 of the racial composition of the districts; is</p> <p>6 that right?</p> <p>7 A I have not been able to look at in</p> <p>8 details. I have just kind of, in a general</p> <p>9 fitting as to what the composition may be.</p> <p>10 Q Did you know the racial demographics of</p> <p>11 the old District 38 when you ran?</p> <p>12 A I'm somewhat familiar.</p> <p>13 Q Would it help to look at redistricting</p> <p>14 data?</p> <p>15 A Yes, it would.</p> <p>16 Q Okay.</p> <p>17 MR. KOVACS-GOODMAN: Let's look at</p> <p>18 Ching Exhibit Number 5, please.</p> <p>19 PLANET DEPOS TECHNICIAN: Stand by.</p> <p>20 MR. KOVACS-GOODMAN: Thank you.</p> <p>21 (Ching Exhibit 5 marked for</p> <p>22 identification and attached to the transcript.)</p> <p>23 Q This is 2020 census data from the</p> <p>24 California Commission.</p> <p>25 MR. KOVACS-GOODMAN: And can we locate</p>	<p>104</p> <p>1 Q Okay. And do you have any reason to</p> <p>2 doubt the accuracy of these numbers?</p> <p>3 A I don't know if that's -- how accurate</p> <p>4 it is. But I will say this: It is reasonably a</p> <p>5 reflect of the district.</p> <p>6 Q Okay. And are you familiar with the</p> <p>7 citizen voting age populations of different</p> <p>8 demographics of the new Prop 50 District 31?</p> <p>9 A I do not [sic].</p> <p>10 MR. KOVACS-GOODMAN: Okay. Can we,</p> <p>11 please, turn to Ching Exhibit 6.</p> <p>12 PLANET DEPOS TECHNICIAN: Stand by.</p> <p>13 (Ching Exhibit 6 marked for</p> <p>14 identification and attached to the transcript.)</p> <p>15 PLANET DEPOS TECHNICIAN: Counsel, can</p> <p>16 you, please, identify the document?</p> <p>17 MR. KOVACS-GOODMAN: Yeah, this is from</p> <p>18 the California State Assembly website.</p> <p>19 PLANET DEPOS TECHNICIAN: Is this the</p> <p>20 one you're looking for, Counsel?</p> <p>21 MR. MEUSER: I don't think that's what</p> <p>22 he's looking for.</p> <p>23 MR. KOVACS-GOODMAN: Yeah, I don't</p> <p>24 think so either. It should say Exhibit 6</p> <p>25 ab604-compressed.</p>

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<p>105</p> <p>1 PLANET DEPOS TECHNICIAN: Let me</p> <p>2 refresh.</p> <p>3 MR. KOVACS-GOODMAN: Okay.</p> <p>4 Q While we wait, I can ask. You had</p> <p>5 mentioned to Counsel, previously, that you</p> <p>6 suffered harm because Prop 50 cut the Asian</p> <p>7 population of your prior district into thirds; is</p> <p>8 that right?</p> <p>9 <b>A It cut the area into three pieces.</b></p> <p>10 Q And, specifically, the Asian</p> <p>11 population; is that right?</p> <p>12 <b>A That's correct.</b></p> <p>13 Q So if Prop 50 had not cut the Asian</p> <p>14 citizen voting age population to thirds, is it</p> <p>15 correct that it would not have caused you the same</p> <p>16 harm?</p> <p>17 <b>A I don't understand the question. Could</b></p> <p>18 <b>you ask one more time so I can understand in my</b></p> <p>19 <b>mind.</b></p> <p>20 Q Sure. Yes. So if Proposition 50 did</p> <p>21 not cut the Asian citizen voting age population</p> <p>22 into thirds, would it not have caused you harm?</p> <p>23 MR. MEUSER: I'm going to object to the</p> <p>24 extent that it calls for a legal conclusion.</p> <p>25 Q You can answer, Mr. Ching.</p>	<p>107</p> <p>1 <b>say that, in that statement. I don't know how to</b></p> <p>2 <b>answer that statement because there are other</b></p> <p>3 <b>factors.</b></p> <p>4 Q What are the other factors?</p> <p>5 MR. MEUSER: Asked and answered.</p> <p>6 <b>A Other factors could involve party</b></p> <p>7 <b>affiliation, obviously, and as well as the</b></p> <p>8 <b>candidates, the strength of candidates, you know,</b></p> <p>9 <b>things of that nature.</b></p> <p>10 Q Okay. So if we can turn to page 38,</p> <p>11 please, of Exhibit 6. Okay. Great.</p> <p>12 Now, what is this document, Mr. Ching?</p> <p>13 <b>A This appears to be the document</b></p> <p>14 <b>reflecting District 31 as to citizen voting age</b></p> <p>15 <b>population. That's what it appear to me.</b></p> <p>16 Q Right. And so, this -- does this</p> <p>17 reflect the district you now currently reside in,</p> <p>18 after the passage of Prop 50?</p> <p>19 <b>A I could not verify the number it</b></p> <p>20 <b>reflects.</b></p> <p>21 Q Well, do you remember locating, in</p> <p>22 Exhibit 4, that your current address is located in</p> <p>23 Proposition 50 District 31?</p> <p>24 <b>A Yes.</b></p> <p>25 Q Okay. And is this also a map of</p>
<p>106</p> <p>1 <b>A So you're talking about the old prop</b></p> <p>2 <b>38 -- I mean, the District 38, if -- should</b></p> <p>3 <b>Prop 50 overturn; is that the question you're</b></p> <p>4 <b>asking?</b></p> <p>5 Q So if Prop 50 had not cut the Asian</p> <p>6 citizen voting age population into thirds, you</p> <p>7 would not have suffered harm from Proposition 50;</p> <p>8 is that right?</p> <p>9 <b>A I don't know if I can answer right or</b></p> <p>10 <b>not.</b></p> <p>11 <b>So you're talking about Prop 50 the way</b></p> <p>12 <b>it is, if I will be harmed?</b></p> <p>13 Q Right.</p> <p>14 <b>A So you're saying if Prop 50 overturned</b></p> <p>15 <b>and it went back to prop 38 [sic], is that what</b></p> <p>16 <b>you're asking?</b></p> <p>17 Q No. The current -- if Proposition 50</p> <p>18 had not cut the Asian CVAP into thirds in your</p> <p>19 area, would you not have suffered harm?</p> <p>20 MR. MEUSER: I'm going to object that</p> <p>21 it misstates his testimony. You're focusing in on</p> <p>22 only one of the many things he said.</p> <p>23 But you can answer to the extent</p> <p>24 possible.</p> <p>25 <b>A I don't necessarily, you know, would</b></p>	<p>108</p> <p>1 Proposition 50 District 31?</p> <p>2 <b>A Yes.</b></p> <p>3 Q Okay. And in this new district, what</p> <p>4 is the Latino citizen voting age population?</p> <p>5 <b>A I can only base on what it says on this</b></p> <p>6 <b>map.</b></p> <p>7 Q Okay. And what does this map say?</p> <p>8 <b>A On the top it says 21 percent other,</b></p> <p>9 <b>50 percent -- 56 percent Latino. It's too small</b></p> <p>10 <b>now, I cannot see.</b></p> <p>11 Q Okay. It's actually -- sorry.</p> <p>12 PLANET DEPOS TECHNICIAN: I was going</p> <p>13 to make it bigger, but it's hard to.</p> <p>14 MR. KOVACS-GOODMAN: It's hard to --</p> <p>15 Q Okay. It's actually the row below</p> <p>16 that, that has the citizen voting age population.</p> <p>17 Are you able to see that row?</p> <p>18 MR. MEUSER: Are you talking about the</p> <p>19 graph or are you talking about the data below the</p> <p>20 map, Counsel?</p> <p>21 MR. KOVACS-GOODMAN: I was speaking</p> <p>22 about the data below the map. But the graphs seem</p> <p>23 to round down in the same -- they round down to a</p> <p>24 whole percentage point.</p> <p>25 So if the graphs are easier to see,</p>

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<p>109</p> <p>1 then that's easier.</p> <p>2 <b>A The graph is easier to see.</b></p> <p>3 Q Okay. Great. And so, what is the</p> <p>4 citizens voting age population breakdown in CD31?</p> <p>5 <b>A Do you want me to read the top or the</b></p> <p>6 <b>bottom?</b></p> <p>7 Q You can read it for yourself, and</p> <p>8 that's okay.</p> <p>9 Is the -- are these -- okay. I'll take</p> <p>10 them one at a time. Is the Latino citizen voting</p> <p>11 age population in your new district, your new</p> <p>12 Prop 50 District 31, lower than when you ran in</p> <p>13 '24, in District 38?</p> <p>14 <b>A Are you talking about the top graph or</b></p> <p>15 <b>the bottom?</b></p> <p>16 Q The bottom graph, the citizen voting</p> <p>17 age population.</p> <p>18 <b>A Based on the map, it's 4 percent lower.</b></p> <p>19 Q Okay. And the Asian citizen voting age</p> <p>20 population in this new Prop 50 District 31, is it</p> <p>21 lower or higher than when you ran in District 38,</p> <p>22 in 2024?</p> <p>23 <b>A It seems to be the same.</b></p> <p>24 Q Okay. We can -- I know it's a lot of</p> <p>25 columns and numbers.</p>	<p>111</p> <p>1 Q And how does the Latino citizen voting</p> <p>2 age population here compare to your previous</p> <p>3 District 38?</p> <p>4 <b>A I would say similar.</b></p> <p>5 Q And how does the Asian citizen voting</p> <p>6 age population compare to your previous District</p> <p>7 38 in 2024?</p> <p>8 <b>A This number seems to be higher.</b></p> <p>9 Q Okay. So in the Complaint do you</p> <p>10 recall it says that Prop 50 assigns you to a</p> <p>11 district drawn with race as the predominant</p> <p>12 factor, causing stigmatic and reputational injury?</p> <p>13 <b>A Yes.</b></p> <p>14 Q So which district is your injury based</p> <p>15 on?</p> <p>16 MR. MEUSER: Object to the extent that</p> <p>17 it calls for a legal conclusion.</p> <p>18 You can answer if you can.</p> <p>19 <b>A Here, I think the issue is if you lump</b></p> <p>20 <b>Asian as a whole, it's a misrepresentation.</b></p> <p>21 <b>Because Asians from Vietnam, from Laos, from</b></p> <p>22 <b>Singapore, from China, from Taiwan, from Hong Kong</b></p> <p>23 <b>are all different.</b></p> <p>24 <b>So if you lump -- you know, in each</b></p> <p>25 <b>geographic area, you tend to have Asians or even</b></p>
<p>110</p> <p>1 MR. KOVACS-GOODMAN: We can go back to</p> <p>2 Exhibit 5. It'll have --</p> <p>3 Q So District 38, it's that second column</p> <p>4 from the right, it's 20.95 percent.</p> <p>5 MR. KOVACS-GOODMAN: So, and then, if</p> <p>6 we could go back to Exhibit 6, please.</p> <p>7 Q Is the Asian citizen voting age</p> <p>8 population higher or lower in the new district?</p> <p>9 <b>A This map is lower.</b></p> <p>10 Q Right. By about how much?</p> <p>11 <b>A By about, maybe, 4 percent.</b></p> <p>12 Q Yeah. 2, 3 percent, right. Or is --</p> <p>13 how is 20.95 percent compared to 18.5 percent?</p> <p>14 <b>A Right. About 3 percent.</b></p> <p>15 Q Okay. And you said you were</p> <p>16 considering running in District 31. Are there</p> <p>17 other districts you're considering in the new map?</p> <p>18 <b>A The one below this, I believe, is 38.</b></p> <p>19 Q Okay.</p> <p>20 MR. KOVACS-GOODMAN: Could can we turn</p> <p>21 to page 45, please.</p> <p>22 Q And what is this?</p> <p>23 <b>A It's too small. I can't see.</b></p> <p>24 Q What is -- okay.</p> <p>25 <b>A It's thirty --</b></p>	<p>112</p> <p>1 <b>Korea tend to congregate in certain areas.</b></p> <p>2 <b>The needs and the wants or the service</b></p> <p>3 <b>for an area may be different. You can just point</b></p> <p>4 <b>to Little Saigon, you can point to Little Japan or</b></p> <p>5 <b>Koreatown, all different.</b></p> <p>6 <b>So, just, if you base on population</b></p> <p>7 <b>alone, percentage alone, that would be a mis -- a</b></p> <p>8 <b>gross misrepresentation.</b></p> <p>9 <b>Just like, I believe in Latinos, you</b></p> <p>10 <b>have people from many different countries. So if</b></p> <p>11 <b>you lump Latinos as a whole, it's a</b></p> <p>12 <b>misrepresentation of the true representation for</b></p> <p>13 <b>whatever their specific congressional district.</b></p> <p>14 Q So lumping Latinos in together as a</p> <p>15 whole, in aggregate, and measuring their increase</p> <p>16 or decrease as a voting block is a similar</p> <p>17 distortion?</p> <p>18 <b>A I believe it's a distortion until I</b></p> <p>19 <b>have a chance to do a more detailed analysis.</b></p> <p>20 Q And so, what is your stigmatic and</p> <p>21 representational injury?</p> <p>22 MR. MEUSER: Asked and answered.</p> <p>23 THE WITNESS: I can answer?</p> <p>24 <b>A Okay. The answer will be this:</b></p> <p>25 <b>Because as I stated, the needs and the -- for the</b></p>

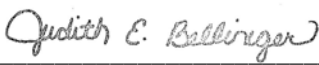
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<p>113</p> <p>1 community for each race, you can separate into 2 many different parts. So maybe issues with one 3 community may be different -- a population of race 4 would be different than the other. 5 For example, I think certain race, 6 depending on where they live, maybe crime is their 7 number one issue. And for different, even though 8 they're Asian or Latino, maybe economy is their 9 number one issue. 10 So unless this I have a detail -- I did 11 a detail -- or do a detail analysis, I don't know 12 how to answer. But I can tell you, based on my 13 knowledge, at least, you know, in my city where 14 people gathered, I think crime is number one 15 issue. Maybe a city right next to mine, 16 homelessness may be the biggest issue. 17 Q Which city is that? 18 A I would say that you will see more 19 population of homelessness in Hacienda Heights, 20 Rowland Heights area, but not as much in the city 21 where I reside, that is Walnut, or my next city, 22 Diamond Bar. 23 So even just, you know, a few minutes' 24 drive, the needs for that particular community may 25 be very different.</p>	<p>115</p> <p>1 A The purple one appear to be -- I 2 couldn't tell, but it could be 38. 3 Q The old District 38? 4 A It appear to be. I cannot tell for 5 sure. 6 Q And then the yellow dotted lines? 7 A They appear to be new District 31. 8 Q Okay. And then assuming this document 9 is correct, the percentage of voters registered 10 Republican has increased in Prop 50 District 31 as 11 compared to your old District 38; is that correct? 12 MR. MEUSER: The document speaks for 13 itself. 14 A I could not tell the validity of this 15 map it true or not because you just presented this 16 to me. So I can't tell you precisely if that's 17 the case. 18 Q So have you -- do you have reason to 19 doubt the accuracy of these numbers? 20 A I have no information to doubt one way 21 or the other. 22 Q Okay. Assuming the accuracy of the 23 map, would the three-percentage-point gain in 24 registered Republicans be beneficial to you or 25 your campaign?</p>
<p>114</p> <p>1 Q Sure. And you mentioned you haven't 2 done the thorough analysis you would need yet. 3 A The reason why is, again, I stated even 4 the County of Los Angeles cannot tell me 5 definitively what district, if this will be the 6 final map. 7 Q So you don't know what your particular 8 stigmatic injury is at this point; is that right? 9 A I generally can tell if I'm going to be 10 serving in District 31, that will be very 11 different than District 38 because it also 12 includes -- new District 31 include many cities 13 that's not in the previous 38. 14 Q Okay. I have just a few more 15 questions. 16 MR. KOVACS-GOODMAN: If we can turn to 17 Exhibit 7, please. This is from Nonprofit 18 Nonpartisan News Organization Cal Matters. 19 (Ching Exhibit 7 marked for 20 identification and attached to the transcript.) 21 Q And what does this appear to be? 22 A This appear to be the registration for 23 two major parties, the Democrat and Republican. 24 Q And what is the purple -- the purple 25 section on the map?</p>	<p>116</p> <p>1 A It may. It may not. 2 Q Why would it not? 3 A For example, I believe strongly that 4 the mean is not -- the end does not justify the 5 means. If by gaining 3 percent Republican will 6 benefit me, but in the process it violated the 7 California Constitution, as well as the U.S. 8 Constitution, I'd rather it go back to the old map 9 38. I will take that 3 percent margin down 10 because I believe strongly the ultimate law, 11 supreme law in our land is the Constitution. And 12 I will follow that to the T because I took oath to 13 promote and defend our Constitution. 14 So with that 3 percent margin more or 15 less, that is not my consideration. 16 Q So your main consideration is the 17 Constitution; is that right? 18 A I believe that should be our, all our 19 goals is to follow, defend, and protect our 20 Constitution. And then the day I step on this 21 foot in this country and became a citizen, I took 22 an oath and I stand by my oath. 23 Q And so -- and so how is -- how is 24 the -- what you're describing as the 25 constitutional harm, how is that causing your</p>

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<p>117</p> <p>1 stigmatic injury here?</p> <p>2 <b>A I do not consider my party or</b></p> <p>3 <b>registration or whatever the racial compass in</b></p> <p>4 <b>whatever the district.</b></p> <p>5 <b>I look at, you know, first, based on</b></p> <p>6 <b>the Constitution. Based on if this is fair and</b></p> <p>7 <b>provided it follow the Constitution.</b></p> <p>8 <b>Then I go down the list a number of</b></p> <p>9 <b>points and priority. It goes down to see if we</b></p> <p>10 <b>follow the Constitution of this -- of the</b></p> <p>11 <b>residents in the districts, if it will harm, you</b></p> <p>12 <b>know, the community of people, then I will go down</b></p> <p>13 <b>to list.</b></p> <p>14 <b>So I believe -- because the process,</b></p> <p>15 <b>you know, I believe violated the Constitution, the</b></p> <p>16 <b>risk will follow. But not as an important factor,</b></p> <p>17 <b>but as a part of it.</b></p> <p>18 <b>May I take a sneeze real quick again?</b></p> <p>19 Q Yes, of course.</p> <p>20 <b>A Thank you. Thank you.</b></p> <p>21 Q Sure. Yeah.</p> <p>22 MR. KOVACS-GOODMAN: Can we take,</p> <p>23 maybe, a 60-second break while I'll just review</p> <p>24 and see if I have any last questions?</p> <p>25 MR. MEUSER: Look over your notes. We</p>	<p>119</p> <p>1 Mr. Greenbaum?</p> <p>2 MR. KOVACS-GOODMAN: He's also LULAC.</p> <p>3 PLANET DEPOS TECHNICIAN: Understood.</p> <p>4 MR. KOVACS-GOODMAN: Thank you so much.</p> <p>5 (Off the record at 2:57 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>118</p> <p>1 won't leave.</p> <p>2 MR. KOVACS-GOODMAN: Thank you. Okay.</p> <p>3 Yeah, I think that's it. No further questions.</p> <p>4 Thank you so much.</p> <p>5 PLANET DEPOS TECHNICIAN: Any more</p> <p>6 questions, anyone? All right. May I have</p> <p>7 transcript orders on record, please.</p> <p>8 MR. MEUSER: On behalf on the</p> <p>9 plaintiff, we'll take a 24-hour certified.</p> <p>10 PLANET DEPOS TECHNICIAN: Please state</p> <p>11 your name. I have the witness pinned only.</p> <p>12 MR. MEUSER: Mark Meuser on behalf of</p> <p>13 the Dhillon Law Group.</p> <p>14 MS. KHANNA: And the same request</p> <p>15 for -- I believe I'll just say for everyone on the</p> <p>16 defendant side. We're all operating under the</p> <p>17 same timeline here.</p> <p>18 MS. McCALL: Confirming that on behalf</p> <p>19 of Cal DLJ. This is Christina McCall.</p> <p>20 PLANET DEPOS TECHNICIAN: Thank you.</p> <p>21 MR. KOVACS-GOODMAN: And LULAC will do</p> <p>22 the same.</p> <p>23 PLANET DEPOS TECHNICIAN: Mr. Goodman.</p> <p>24 All right.</p> <p>25 And did I get an answer from</p>	<p>120</p> <p>1 CERTIFICATE OF REPORTER - NOTARY PUBLIC</p> <p>2 I, JUDITH E. BELLINGER, RPR, CRR, CSR,</p> <p>3 the officer before whom the foregoing deposition</p> <p>4 was taken, do hereby certify that the foregoing</p> <p>5 transcript is a true and correct record of the</p> <p>6 testimony given; that said testimony was taken by</p> <p>7 me and thereafter reduced to typewriting under my</p> <p>8 direction; that reading and signing was not</p> <p>9 requested; and that I am neither counsel for,</p> <p>10 related to, nor employed by any of the parties to</p> <p>11 this case and have no interest, financial or</p> <p>12 otherwise, in its outcome.</p> <p>13 IN WITNESS WHEREOF, I have hereunto set</p> <p>14 my hand and affixed my notarial seal this 14th day</p> <p>15 of December, 2025.</p> <p>16 My Commission Expires: November 3, 2028</p> <p>17</p> <p>18</p> <p>19 </p> <p>20</p> <p>21 E-NOTARY PUBLIC IN AND FOR</p> <p>22 THE STATE OF MARYLAND</p> <p>23</p> <p>24</p> <p>25</p>



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## **Exhibit 440**

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17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 **DAVID TANGIPA; et al.,**

20 Plaintiffs,

21 vs.

22 **GAVIN NEWSOM**, in his official  
23 capacity as the Governor of California; *et*  
24 *al.*;

25 Defendants.

CASE NO. 2:25-cv-10616-JLS-WLH-  
KKL

**PLAINTIFFS' SECOND  
AMENDED RESPONSES  
AND OBJECTIONS TO  
DEFENDANTS' AND  
DEFENDANT-  
INTERVENORS' FIRST  
SET OF  
INTERROGATORIES**

Hon. Josephine L. Staton  
Hon. Kenneth K. Lee  
Hon. Wesley L. Hsu

Tangipa v. Newsom

**DX440**

2:25-cv-10616-JLSWLH-KKL

SECOND AMENDED RESP. TO INTERROGATORIES CASE # 2:25-cv-10616

1 PROPOUNDING PARTY: DEFENDANTS and DEFENDANT-  
2 INTERVENORS

3 RESPONDING PARTIES: PLAINTIFFS

4 SET NUMBER: ONE

5 Pursuant to the Court's November 21, 2025, Order Granting in Part and Denying  
6 in Part Defendants' and Defendant-Intervenors' Ex Parte Application to Modify  
7 Preliminary Injunction Briefing and Hearing Schedule (ECF No. 81), Plaintiffs  
8 ("Responding Party") hereby respond and object to the First Set of Interrogatories  
9 propounded by Defendants Gavin Newsom, in his official capacity as the Governor of  
10 California, and Shirley Weber, in her official capacity as the Secretary of State of  
11 California, and Defendant-Intervenors Democratic Congressional Campaign Committee  
12 and League of United Latin American Citizens (collectively, "Propounding Parties").

13 **PRLEIMINARY STATEMENT**

14 1. Responding Party's investigation and development of all facts and  
15 circumstances relating to this action is ongoing. These responses and objections are made  
16 without prejudice to, and are not a waiver of, Responding Party's right to rely on other  
17 facts or documents at trial.

18 2. By making the accompanying responses and objections to Propounding  
19 Parties' interrogatories, Responding Party does not waive, and hereby expressly reserves,  
20 its right to assert any and all objections as to the admissibility of such responses into  
21 evidence in this action, or in any other proceedings, on any and all grounds including,  
22 without limitation, competency, relevancy, materiality, and privilege. Further,  
23 Responding Party makes the responses and objections herein without in any way  
24 implying that it considers the interrogatories and responses and objections to the  
25 interrogatories to be relevant or material to the subject matter of this action.

26 3. Responding Party expressly reserves the right to supplement, clarify, revise,  
27 or correct any or all of the responses and objections herein, and to assert additional  
28 objections or privileges, in one or more subsequent supplemental responses.

**GENERAL OBJECTIONS**

1  
2 1. Responding Party objects to these interrogatories to the extent that they  
3 purport to impose any requirement or discovery obligation greater than or different from  
4 those under the Federal Rules of Civil Procedure and Orders of the Court.

5 2. Responding Party objects to each interrogatory to the extent it is overly  
6 broad; unduly burdensome; not relevant to any party's claim or defense in this action;  
7 and disproportionate to the needs of this case, considering the importance of the issues  
8 at stake in the action, the amount in controversy, the parties' relative access to relevant  
9 information, the parties' resources, the importance of the discovery in resolving the  
10 issues, and whether the burden or expense of the proposed discovery outweighs its likely  
11 benefit.

12 3. Responding Party objects to each instruction and interrogatory to the extent  
13 it seeks information protected from disclosure by the attorney-client privilege, work  
14 product doctrine, or any other applicable privilege. Should any such disclosure by  
15 Responding Party occur, it is inadvertent and shall not constitute a waiver of any  
16 privilege.

17 4. Responding Party incorporates by reference every general objection set  
18 forth above into each specific response set forth below. A specific response may repeat  
19 a general objection for emphasis or some other reason. The failure to include any general  
20 objection in any specific response does not waive any general objection the that request.

**RESPONSES AND OBJECTIONS TO INTERROGATORIES**

**INTERROGATORY NO. 1**

23 State the address where each individual Plaintiff is registered to vote.

**RESPONSE TO INTERROGATORY NO. 1**

25 Responding Party objects to this interrogatory on the grounds that it seeks  
26 information already in the possession of Propounding Parties and, therefore, the burden  
27 of responding to it is substantially the same or less for Propounding Parties as for  
28 Plaintiff.

1 Subject to and without waiving the foregoing objections, Responding Party  
2 responds:

- 3 1. David Tangipa
- 4 a. 3075 Timmy Avenue, Clovis, California 93612.
- 5 2. Eric Ching
- 6 a. 22077 E. Snow Creek Drive, Walnut, California 91789.
- 7 3. Saul Ayon
- 8 a. 1015 Kala Loop, Mc Farland, California 93250.
- 9 4. Peter Hernandez
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- 11 5. Roxanne Hoge
- 12 a. 6046 Rhodes Avenue, Valley Glen, California 91606.
- 13 6. Joel Guterrez Campos
- 14 a. 2509 Garvey Avenue, Modesto, California 95350.
- 15 7. Solomon Verduzco
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- 17 8. Paul Ramirez
- 18 a. 15815 Arbela Drive, Whittier, California 90603.
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- 25 12. Doug Buchanan
- 26 a. 2338 Regal Road, Modesto, California 95358.
- 27 13. Sayrs Morris
- 28 a. 578 Snapdragon Way, Imperial, California 92251.



- 1 14. Mike Netter
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- 3 15. Christina Raughton
- 4 a. 7613 Homestead Lane, Highland, California 92346.
- 5 16. Kristi Hays
- 6 a. 7006 Stratus Street, Eastville, California 92880.
- 7 17. James Reid
- 8 a. 17373 East Park, Chino Hills, California 91709.
- 9 18. Michael Tardif
- 10 a. 1419 E. 19th Street, Santa Ana, California 92705.
- 11 19. Alex Galicia
- 12 a. 1418 Franceschi Drive, Chula Vista, California 91913.
- 13 20. California Republican Party
- 14 a. Plaintiff California Republican Party is not registered to vote.

15  
16  
17 Date: December 3, 2025

By: /s Mark P. Meuser  
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