

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF FLORIDA

3 Case No. 1:24-cv-21983-JB

4 -----X

5 CUBANOS PA'LANTE, et al., :

6 Plaintiffs, :

7 v. :

8 FLORIDA HOUSE OF REPRESENTATIVES :

9 and CORD BYRD, in his official :

10 capacity as Florida Secretary :

11 of State, :

12 Defendants. :

13 -----X

14  
15  
16 DEPOSITION OF CORY MCCARTAN, Ph.D.

17 CONDUCTED VIRTUALLY

18 TUESDAY, JULY 15, 2025

19 9:33 a.m. EST

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23 Job No.: 588374

24 Pages 1 - 218

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

2 THE STENOGRAPHER: As we begin this  
3 proceeding, I will ask our witness to please  
4 raise your right hand.

5 THE WITNESS: (Complies).

6 THE STENOGRAPHER: Do you swear or  
7 affirm that the testimony you are about to  
8 give will be the truth, the whole truth, and  
9 nothing but the truth?

10 THE WITNESS: I do.

11 THE STENOGRAPHER: Thank you.

12 THEREUPON:

13 CORY MCCARTAN, PH.D.

14 being first duly sworn or affirmed to  
15 testify to the truth, the whole truth, and  
16 nothing but the truth, was examined and  
17 testified as follows:

18 THE STENOGRAPHER: We may begin.

19 EXAMINATION

20 BY MR. BARDOS:

21 Q. Good morning, Dr. McCartan. My name is  
22 Andy Bardos. I represent the Florida House of  
23 Representatives in the Cuban Pa'Lante  
24 litigation.

25 Are you -- I understand you're an expert

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1 retained by the plaintiffs in that case.

2 We'll go over some initial ground rules  
3 at the very beginning of the deposition that  
4 you're probably already familiar with.

5 It's important for the court reporter to  
6 be able to take down a clear transcript of what we  
7 say here. So, for that reason, I would ask that  
8 we not interrupt each other or talk over each  
9 other.

10 If you could let me finish my questions  
11 and I'll try to do my best to let you finish your  
12 answers before I start, and then that will make  
13 for --

14 A. Okay.

15 Q. -- a cleaner transcript.

16 A. Fine. Okay.

17 Q. Likewise, when you --

18 MR. BARDOS: Andrew, sorry, we can hear  
19 you. Andrew.

20 THE STENOGRAPHER: Mr. Frackman, can you  
21 hear us?

22 MR. BARDOS: Let's--

23 (Recess in proceedings.)

24 BY MR. BARDOS:

25 Q. When you answer questions, if you could

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1 avoid nodding your head or shaking you or saying  
2 "uh-huh." You know, if you answer in words, that  
3 will make the transcript clearer as well.

4 If you need a break at any time, just  
5 let me know. And if there's a question pending,  
6 I'll ask you to answer before we take the break.  
7 But, otherwise, you know, we'll accommodate any  
8 requests for a break that you have.

9 And you are, of course, under oath to  
10 tell the truth, as you would be if you were  
11 testifying in court.

12 Does all of that sound fair to you?

13 A. Yes.

14 Q. Okay. Are you aware of any reason why  
15 you would not be able to answer questions fully  
16 and truthfully today?

17 A. No.

18 Q. Okay. All right. I will begin by  
19 providing an exhibit. This will be Exhibit 1 to  
20 the deposition. It is your initial expert report  
21 in this case.

22 (Exhibit 1 was marked for identification  
23 and is attached to the transcript.)

24 Q. And while I do that, let me ask you: Do  
25 you have any information, such as printouts or

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1 documents, available to you as you're sitting here  
2 this morning?

3 A. No.

4 Q. Okay. So you don't have a printout of  
5 your report?

6 A. No.

7 Q. Okay. So -- so, then, you can access  
8 this electronic version. So I'm about to add  
9 that.

10 If I add documents to the chat, will you  
11 be able to download them and access them from  
12 there?

13 A. Yes. I have a copy on -- electronically  
14 of the report on my computer as well, so.

15 Q. Okay. Are there any other documents or  
16 applications that you have open on your computer  
17 right now, other than the Zoom platform?

18 A. No.

19 Q. Okay. All right.

20 So I just added your initial report to  
21 the chat. This will be Exhibit 1.

22 MR. BARDOS: And, Andrew, some of your  
23 colleagues have not been able to access  
24 documents in the chat. It might be a setting  
25 with your firm. Are you able to see and

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1 access documents that I'm adding to the chat?

2 Do you see Exhibit 1, for example?

3 MR. FRACKMAN: I'm sorry, Andy. You  
4 were asking me?

5 MR. BARDOS: Yes.

6 MR. FRACKMAN: Yeah. I -- it does look  
7 like access to file is restricted, but I have  
8 his reports, so --

9 MR. BARDOS: Okay.

10 MR. FRACKMAN: -- so for the time being,  
11 we're okay.

12 MR. BARDOS: As we go through other  
13 exhibits, either I or one of my colleagues  
14 will e-mail them to you, if you're not able  
15 to access them in the chat.

16 MR. FRACKMAN: Okay. Thank you very  
17 much.

18 MR. BARDOS: Sure.

19 Q. All right. And at the very beginning,  
20 Dr. McCartan, I would like to agree on some  
21 nomenclature, so as we are talking about these  
22 maps and districts, we are using the same  
23 terminology, or at least I understand -- or you  
24 understand what I'm saying when I use certain  
25 terms.

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1                   So if I refer to the "enacted state  
2                   house" or "congressional districts" or the  
3                   "enacted state house or congressional map," I will  
4                   be referring to the districts or the maps that  
5                   were enacted by the Florida Legislature in 2022.

6                   Does that make sense?

7                   A.    Yes.

8                   Q.    Okay. If I refer to the "benchmark  
9                   state house" or "congressional maps or districts,"  
10                  I'll be referring to the maps that were in effect  
11                  immediately before the 2022 maps, the enacted  
12                  maps, took effect.

13                  Does that make sense?

14                  A.    Yes.

15                  Q.    Okay. I might also use the acronym VAP,  
16                  which is voting age population, or HVAP to refer  
17                  to Hispanic voting age population.

18                  Will you understand that as well?

19                  A.    I will.

20                  Q.    Okay. And, for shorthand, I might use  
21                  the terms -- the acronym "CD" to refer to  
22                  congressional districts. Is that fair?

23                  A.    It is.

24                  Q.    All right. So let's begin -- let me  
25                  begin by asking you whether you've served as an

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1 expert witness before in litigation.

2 A. Yes, I have.

3 Q. Okay. In what cases have you served as  
4 an expert witness?

5 A. I'm not going to have all the -- the  
6 cites off the top of my head.

7 But there was a case involving Louisiana  
8 state house districts, another involving Louisiana  
9 congressional districts, one involving Miami city  
10 council districts, one involving Florida state  
11 senate districts in the Tampa area, and one  
12 involving county commission districts in -- in and  
13 around Birmingham, Alabama.

14 Q. Okay. So would that be five cases,  
15 thereabouts?

16 A. That sounds right.

17 Q. Okay. And were you deposed in each of  
18 those cases?

19 A. I was.

20 Q. Okay. Did you testify at trial as well  
21 in each of those cases?

22 A. I did.

23 Q. Okay. Did you work with the ACLU or any  
24 local or state chapters of the ACLU in those other  
25 cases?

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1 A. Some of them.

2 Q. Okay. Do you recall which ones?

3 A. I was retained by the ACLU in the  
4 Louisiana state house, state senate case; the two  
5 Florida cases.

6 Q. Okay. The Louisiana case that you're  
7 referring to, is that -- is that Callais,  
8 C-A-L-L-A-I-S?

9 A. I was on that case, but, no, the one I'm  
10 referring to is the state -- state map -- the  
11 state house, state senate, which I think was  
12 Nairne.

13 Q. Okay. N-A-I-R-N-E?

14 A. That's right.

15 Q. Okay. So this is your third case for  
16 the ACLU?

17 A. That's right.

18 Q. Okay.

19 A. No. I'm sorry. I'm sorry. That would  
20 be four.

21 Q. Four. Okay.

22 When were you retained in this case,  
23 Cubanoses?

24 A. Spring 2024, I believe.

25 Q. All right. And how were you retained?

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1 Did someone call you or how did that  
2 come about?

3 A. The possibility of this, being retained  
4 for this case, had been mentioned to me in  
5 connection with another case in Miami. And then,  
6 we executed the paperwork in spring 2024.

7 Q. Okay. The Miami case was the Grace  
8 case?

9 A. That's correct.

10 Q. Yeah.

11 So the same lawyers who were working  
12 with you on that case spoke with you about being  
13 involved in this, in the Cubanos case?

14 A. That's right.

15 Q. Okay. All right. Let me add the next  
16 exhibit to the chat. And this is Exhibit 2.

17 (Exhibit 2 was marked for identification  
18 and is attached to the transcript.)

19 MR. BARDOS: And, Andrew, I just sent  
20 that to you by e-mail.

21 Q. All right. So, Dr. McCartan, do you see  
22 Exhibit 2?

23 A. Yes.

24 Q. Okay. Is this the -- well, you tell me  
25 what this is.

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1           A.    This looks to be a copy of the initial  
2   letter with instructions in this matter.

3           Q.    Okay.  So is this the first written set  
4   of instructions that you received from counsel in  
5   this case?

6           A.    Yes.

7           Q.    Okay.  And, in general, what were you  
8   instructed to do in this letter?

9           A.    I was provided with copies of the  
10   enacted plan with certain districts removed and  
11   asked to redraw those areas and any other areas  
12   that were needed to have a set of districts that  
13   were compliant with the Florida constitutional  
14   standards.

15          Q.    Walk me through, at a high level,  
16   chronologically, what you -- what you did in this  
17   case after you received these instructions.

18                   How did your work proceed from here?

19          A.    So I was provided with the -- the shade  
20   files with the districts removed, and I loaded  
21   those into map drawing software and started  
22   exploring options and configurations.

23                   That was an iterative process.

24                   And over the course of several months, I  
25   ended up with a set of, I believe, six

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1 congressional plans and seven house plans, you  
2 know, per my instructions.

3 And I then wrote a report about that  
4 process.

5 And after I completed the initial draft  
6 of that report, I was asked to append to the  
7 report some additional maps showing Hispanic  
8 population in the areas that I understand now to  
9 be challenged.

10 Several months after submitting that  
11 report, then I was contacted about a rebuttal  
12 report regarding two of, I believe, defendants'  
13 experts. And I read their reports and produced a  
14 rebuttal report in response.

15 Q. Okay. You mentioned six congressional  
16 districts and seven -- I'm sorry, six  
17 congressional maps and seven state house maps.  
18 Did you draw any other maps besides those 13 maps?

19 A. Yes. There would have been intermediate  
20 maps that were produced, or edited, as I went over  
21 that -- over that period of coming up with the --  
22 the final maps that made it into the report.

23 Q. Okay. Did you -- do you know whether  
24 any of those intermediate maps leading up to the  
25 six congressional and state house -- seven state

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1 house maps were produced to the defendants in this  
2 litigation?

3 A. Not specifically.

4 It -- I may have heard secondhand that  
5 some version, I'm not sure exactly which, was  
6 included or was -- that the picture was included  
7 in an initial complaint in this case and  
8 presumably, then, that would have been something  
9 the defendants saw.

10 Q. Okay. Did you ever draw any maps that  
11 you considered to be final, other than those six  
12 congressional or seven state house maps, or -- or  
13 is everything else sort of a -- kind of an  
14 intermediate step toward the final product?

15 A. Everything else was an intermediate step  
16 toward the final product.

17 Q. Okay. Who did you communicate with  
18 while you were performing your work on the --  
19 on -- in drawing the maps or in preparing your  
20 report subsequently?

21 A. Counsel for the plaintiffs and some  
22 staff for the plaintiffs.

23 Q. Okay. To the best of your recollection,  
24 could you name those counsel and staff?

25 A. Yeah. I'm not going to remember

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1 everything. It's -- 'cause it was around a  
2 year-plus ago that most of the map drawing  
3 happened.

4 So -- I mean, the -- the folks on this  
5 call, so Andrew Frackman, Andrea Ojeda, Nicholas  
6 Warren, Joe Dye.

7 I think there were several other  
8 O'Melveny or ACLU attorneys on calls at various  
9 points, but I don't remember exactly who.

10 Q. Okay. So that's everyone you can  
11 remember at the moment?

12 A. That's right.

13 Q. Okay. Did you at any point discuss your  
14 work on this case with other experts retained by  
15 the plaintiffs?

16 A. No. Not to my knowledge.

17 Q. Okay. How about any colleagues or  
18 students or anyone else besides counsel for --  
19 counsel and staff for the plaintiffs, whom you've  
20 mentioned before?

21 A. It's possible at some point I mentioned  
22 to people that I know that I was retained in some  
23 case involving, but never the substance of -- of  
24 any work.

25 Q. Okay. So you produced two reports in

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1 this case, and we'll look in more detail at those,  
2 but did you -- did you author those reports  
3 entirely yourself?

4 A. Yes.

5 Q. Okay. What materials did you review  
6 in -- to educate yourself about the criteria or  
7 standards that apply to redistricting maps in  
8 Florida?

9 A. Well, the plain language of the  
10 Constitution was included in my instruction  
11 letter.

12 The letter was also -- attached to the  
13 letter was also a memo. I forget, actually, at  
14 this point who it was sent from or to, but Jay  
15 Ferrin, who was the senate map drawer. And that  
16 memo described the senate staff's interpretation  
17 in more detail of these -- actually, I think it  
18 was to Ferrin from Rodrigues. And it describes  
19 sort of the -- in more detail how those  
20 constitutional standards could be interpreted.

21 So those were the primary materials I  
22 reviewed in interpreting these standards.

23 Q. Do you recall any other materials that  
24 you reviewed regarding the standards or the  
25 criteria that apply?

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1 A. No, not at this time.

2 Q. Did you review any court decisions  
3 interpreting those standards?

4 A. Not during the drawing of the maps.

5 The -- in the rebuttal phase, there was  
6 a dispute about what counted as a split. And  
7 counsel for plaintiffs assisted me in finding a, I  
8 believe, Florida Supreme Court decision that  
9 touched on that matter. And I could -- and I  
10 cited that in my report.

11 But beyond that, which happened after  
12 the maps were drawn, to my recollection, no, no  
13 court cases.

14 Q. Okay. Did you review any redistricting  
15 maps other than the maps that you were provided  
16 with some of the districts reviewed -- removed?

17 A. No.

18 Q. Okay. So you didn't go on the  
19 Legislature's website to look at other maps that  
20 had been considered or submitted during the  
21 redistricting process?

22 A. Well, to be specific, in this other  
23 litigation in Tampa, I was asked to look at those  
24 maps; however, the portions of those maps that I  
25 was instructed to look at were specifically chosen

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1 by counsel in those cases to not overlap with --  
2 with the -- with the districts at issue here.

3 So I never looked at, for instance,  
4 southern Florida and the congressional map or the  
5 Miami area and the house map.

6 Q. Okay. Sitting here today, do you recall  
7 any other materials that you reviewed, whether  
8 maps or laws or court decisions or memos, or  
9 anything like that, that would inform you in your  
10 drawing of districts?

11 A. No.

12 Q. What is your understanding of what the  
13 plaintiffs claim or allege in this litigation?

14 A. To be honest, I'm not -- I'm not very  
15 sure.

16 I have not read the Complaint.

17 At this point, I understand this to be a  
18 racial gerrymandering claim. And I can infer what  
19 parts of the state it's -- you know, we're  
20 challenging here. But that's the level of detail  
21 I know about, about the claims here.

22 Q. All right. Do you know which districts  
23 the plaintiffs are challenging?

24 A. Presumably, the ones that were removed  
25 in my instructions. The set that were removed

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1 were amended at a later point in the drawing.

2 Q. Okay. Let me ask you about -- about  
3 that.

4 I'll add a couple of additional exhibits  
5 to the chat here. We'll go ahead and add Number 3  
6 and Number 4.

7 (Exhibit 3 was marked for identification  
8 and is attached to the transcript.)

9 (Exhibit 4 was marked for identification  
10 and is attached to the transcript.)

11 Q. Okay. Let's start with Exhibit 4. If  
12 you'll take a look at that.

13 Is this the memo that you mentioned  
14 was -- that was provided to you along with the  
15 initial instruction letter that we looked at  
16 previously as Exhibit 2?

17 A. Yes.

18 Q. Okay. And so you reviewed this memo in  
19 its entirety began -- before you began to draw?

20 A. Yes.

21 Q. Okay. Now let's take a look at  
22 Exhibit 3. And I believe you just testified that  
23 at some point the -- the number of districts that  
24 were removed from the maps that were provided to  
25 you changed. Is that accurate?

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1 A. Yes.

2 Q. Okay. And is this the -- or did you  
3 receive this instruction letter at that time?

4 A. Yes.

5 Q. And what was the change that was made to  
6 the map that was provided to you?

7 A. Previously, Districts 19, 26, 27, and 28  
8 were removed. In the new instructions, only  
9 District 26 was removed.

10 Q. Okay. So at this time, they -- counsel  
11 provided you with a new shade file that had the  
12 entire map except Congressional District 26?

13 A. That's right.

14 Q. Okay. Now, before you received this new  
15 shade file in February of 2025, had you already  
16 drawn congressional maps?

17 A. Yes. Yes.

18 Q. And so what did you do when you received  
19 this instruction letter?

20 Did you start over or did you modify the  
21 maps you had already worked on?

22 A. The latter. Yeah, the latter.

23 Q. Okay. So did you use the shape files  
24 that counsel provided that had only one district  
25 removed?

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1           A.    In -- in that -- when a single district  
2   is removed, obviously, you know -- you know, it's  
3   like changing the color of the district from color  
4   to transparent or something.

5                    So I consulted -- I used it and looked  
6   at -- and consulted the -- the new shade file to  
7   better understand the choice that we made outside  
8   of the challenged district and whether those  
9   boundaries were, you know, consistent with my  
10   choices. And that led to adjustments in the map  
11   in the Miami area.

12          Q.    Okay. All right. But you -- but at  
13   that point, you were simply modifying the  
14   congressional maps that you were already preparing  
15   before you received the February 2025 instruction?

16          A.    That's right.

17                    So modifications that were then  
18   consistent with my superseding set of  
19   instructions.

20          Q.    Right. Okay.

21                    When the redistricting process was going  
22   on in Florida in 2021 and 2022, were you following  
23   the process?

24          A.    Not beyond what showed up in the  
25   national news.

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1 Q. Okay. So we've looked at two letters in  
2 which you were provided with instructions on  
3 drawing districts.

4 Were you provided with any other  
5 instructions that were not -- that were not  
6 written?

7 A. No.

8 Q. Okay. So, for example, were you  
9 instructed to not cross the Everglades with a  
10 district from Miami-Dade over to Collier County?

11 A. I see.

12 No, not specifically.

13 Q. Okay. And when you say "not  
14 specifically," what do you mean?

15 A. I was never specifically instructed not  
16 to cross the Everglades.

17 Q. Okay. Was there any general discussion  
18 about the Everglades?

19 A. I believe there would have been.

20 Q. Okay. Tell me a little bit about that.

21 A. Well, there was certainly some  
22 discussion of the Everglades in the context of the  
23 rebuttal reports or -- I'm sorry, the defendants'  
24 expert reports that we received.

25 Prior to that, in earlier drafts of my

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1 maps, I think plaintiffs' counsel shared that I  
2 was, like -- I don't know how to put this. I'm  
3 not super familiar and I wasn't super familiar  
4 with the geography of South Florida and the  
5 extent -- the geographical extent of the  
6 Everglades.

7 So plaintiffs' counsel shared some  
8 information of that nature, which helped me  
9 understand sort of the extent of that, of that  
10 natural boundary, and informed, in future maps,  
11 how I drew districts in that area of the state.

12 Q. Okay. So in the earlier drafts, did you  
13 have a district that crossed the Everglades?

14 A. I think one of the earliest maps that I  
15 drew looked at, you know, would it be possible to  
16 not have to change any -- any district assignments  
17 outside of the erased area. This was back when  
18 four or so districts had been removed from the  
19 map. And that configuration -- it's been awhile.  
20 I think there might have been a district that --  
21 that -- that spanned the Everglades.

22 And then as I came to understand the  
23 nature of that geographical boundary, it became  
24 clear to me that that configuration wasn't  
25 consistent with the Tier 2 constitutional

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1 standards, and that changes outside of the erased  
2 area would be required to fully comply.

3 Q. Okay. And when you -- when you had that  
4 district that spanned the Everglades in the  
5 earlier map, can you describe what that district  
6 looked like?

7 Was it similar to enacted CD 26 or were  
8 there differences?

9 A. I -- I can't be sure. I didn't see the  
10 shape of CD 26 until I got the new file months or  
11 a year later with 26 removed. And at that point,  
12 this map we're talking about was, you know, very  
13 transitory, you know, a month or two, year prior.  
14 So I couldn't really say.

15 Q. Okay. And at the time that you drew  
16 this map, the early map with the district that  
17 span the Everglades, had you already read the memo  
18 that we talked about, Exhibit 4, and the  
19 constitutional provisions that were provided to  
20 you?

21 A. Yes.

22 Q. Okay. And so having read that and --  
23 and then drawing -- having drawn this district,  
24 what was it that convinced you that the -- a  
25 district that crosses the Everglades is, I think

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1 you said, not consistent with the Tier 2  
2 standards?

3 A. I think a better study of the sort of  
4 distribution of the population and the extent of  
5 that natural feature and the lack of boundaries in  
6 that area.

7 So my first map was a pretty rough  
8 sketch, just quickly fill in and see what that  
9 looked like. And upon spending more time with  
10 the -- with the facts on the ground, as it were, I  
11 realized that we weren't really connecting these  
12 two disparate areas, and that wasn't across this  
13 major geographical boundary, and that wasn't  
14 really consistent with my instructions.

15 Q. Okay. Was -- when you kind of came to  
16 believe that crossing the Everglades is not  
17 consistent with Tier 2 standards, were -- was --  
18 was -- did you have conversations with counsel  
19 that also contributed to your kind of subsequent  
20 belief that was not -- that that was not  
21 consistent with Tier 2?

22 A. Well, as I -- as I just testified,  
23 counsel shared some of the -- you know, pointed  
24 out some of these geographical features to me. So  
25 to the extent that that contributed, then -- then

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1 yes.

2 Q. And did you understand that they did not  
3 want a district crossing the Everglades?

4 A. I -- I wouldn't say specifically.

5 The -- I had been very sort of limited  
6 in my view as to sort of the larger claims or the  
7 strategy or anything in this case, so I couldn't  
8 really speculate.

9 Q. Okay. Is that something that you  
10 inferred from the information that they shared  
11 with you regarding the geography of the Everglades  
12 area?

13 A. Sorry. What's the -- what's the  
14 inference I'm hypothetically drawing?

15 Q. The inference that -- that counsel did  
16 not want the district crossing the Everglades.

17 A. No.

18 As I say, I didn't reach that  
19 conclusion, that they didn't want that. Because I  
20 just didn't have visibility into -- so I did reach  
21 the conclusion that my district shouldn't cross  
22 the Everglades, but not because I specifically  
23 intuited some preference on -- by plaintiffs'  
24 counsel.

25 Q. Okay. And when you say that the

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1 district crossing the Everglades is not consistent  
2 with Tier 2 standards, which Tier 2 standard are  
3 you referring to specifically?

4 A. Sure.

5 This is the requirements that district  
6 shall, where feasible, utilize existing political  
7 and geographic boundaries.

8 Q. Okay. And in what way does a district  
9 crossing the Everglades not utilize, where  
10 feasible, existing political and geographical  
11 boundaries?

12 A. Sure.

13 The Everglades is a significant  
14 geographical boundary. And by spanning it, you're  
15 not utilizing that boundary versus a configuration  
16 that keeps the populations across that boundary  
17 separate, that respects and uses that geographic  
18 boundary as a natural boundary between -- between  
19 two of the districts on the east and the west  
20 coast.

21 Q. Okay. So your -- your view is that the  
22 Everglades is a geographical boundary, as that  
23 term is used in the Tier 2 standards?

24 A. Yes.

25 Q. Okay. And it sounds like your

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1 understanding, also, is the districts should not  
2 cross geographical boundaries?

3 A. I would say where feasible.

4 If there's a configuration that has the  
5 border follow or use those boundaries versus one  
6 that crosses them, then the Tier 2 standards would  
7 mandate, but the former would be a more  
8 appropriate configuration.

9 Q. Okay. What -- what else would qualify,  
10 in your mind, as a geographical boundary, besides  
11 the Everglades?

12 A. Well, some states have mountains.  
13 That's a very common one. But Florida doesn't.  
14 So in Florida, major rivers, bays, other sort of  
15 estuaries or swamplands, if you will. Those would  
16 be -- major canals, possibly.

17 Q. Anything man-made, like roads or  
18 railroads -- railways?

19 A. Sure. So highways, major county roads,  
20 major railroads. Sure.

21 Q. Okay. And so is it your view that a  
22 district shouldn't cross any of those geographical  
23 boundaries, such as rivers, bays, major roads,  
24 railways?

25 A. Shouldn't cross any? No.

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1 Q. Okay. I mean, because your districts  
2 also cross highways; right?

3 A. Yes.

4 Q. Okay. And they cross major roads?

5 A. Yes.

6 Q. And they cross rivers?

7 A. Yes.

8 Q. And -- and they cross railways?

9 A. I assume.

10 Q. Yeah.

11 Is there something about the Everglades  
12 that makes it more important that we not cross the  
13 Everglades than all of the other geographical  
14 boundaries?

15 A. Well, I think there's some space in  
16 between these two things you're talking about  
17 because refusing to cross any geographical  
18 boundary is not the same as where possible, where  
19 feasible, using those boundaries.

20 So I think I did, where feasible,  
21 utilize those other forms of boundaries, roads,  
22 railways, et cetera.

23 The Everglades is also substantially  
24 larger. And it's not a linear feature, like a  
25 road or a railroad. It is an aerial feature that

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1 really puts a lot of distance between major  
2 population centers.

3 So because of the geographical nature of  
4 redistricting, just that size and that area it  
5 spans on the map is going to necessitate different  
6 configurations. It's going to have a different  
7 impact on -- on the map drawing than a smaller  
8 linear feature, like a -- like a stub of a railway  
9 or a short road.

10 Q. Okay. So the Everglades -- do you know  
11 how large the Everglades is?

12 A. We're talking, you know, the national  
13 park, the -- there's a couple different  
14 definitions, as we discussed in rebuttal. It  
15 occupies a substantial portion of southeast  
16 Florida.

17 Q. Uh-hmm.

18 Do you have an opinion on kind of where  
19 its boundaries are, if you want to describe it  
20 descriptively?

21 Like, is it everything south of Lake  
22 Okeechobee?

23 Or how would you describe sort of where  
24 the Everglades is?

25 A. I think it's easier to spot on a

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1 satellite view than anything, really. You can see  
2 where there's really a lack of population and  
3 where you have this particular sort of ecological  
4 system.

5 I can't really describe it well exactly  
6 in words.

7 It clearly coincides -- you know,  
8 overlaps the interpolitical boundaries of the  
9 county borders inside the state. And no matter  
10 where exactly you draw the margins, you still end  
11 up, at the end of the day, with the Everglades as  
12 a boundary separating populations on the east and  
13 west coast.

14 So the implication for how you configure  
15 the districts is, I think, very similar,  
16 regardless of exactly where you draw the margin of  
17 the Everglades.

18 Q. How far north does the Everglades go?

19 A. I think some people would say it goes to  
20 Lake Okeechobee.

21 I think once the population starts to  
22 sort of -- there'd be more population, then the  
23 strength of that geographical boundary as regards,  
24 you know, what -- what districts follows is  
25 probably weakened.

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1 Q. And would you agree that it goes as far  
2 north as Lake Okeechobee?

3 Do you have an opinion on that?

4 A. I'm not offering an opinion on that.

5 Q. Okay. And so you would agree, then,  
6 that the Everglades is very different from a  
7 linear boundary, such as a road?

8 A. It's different.

9 Q. Okay. And so -- and so, I guess,  
10 your -- your view is that the -- that a district  
11 shouldn't cross the Everglades.

12 Are there other -- are there other  
13 geographical boundaries in Florida that you would  
14 say that districts shouldn't cross?

15 A. Well, just to be clear, I think my view  
16 is that given the configuration of the districts  
17 and the geography and the population, that a  
18 configuration that didn't span the Everglades,  
19 that will comply with the Tier 2 standards, and so  
20 that's what I produced.

21 It's possible if you drew a map from a  
22 completely blank slate, that you might come to a  
23 different conclusion. So I just want to emphasize  
24 the contextual.

25 It's not an absolute rule, in my

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1 opinion, that you can never cross the Everglades.

2 So, similarly, if in drawing another  
3 portion of the map, another portion of the state,  
4 you know, there was a major federal highway and it  
5 spanned, you know, several counties and it was  
6 possible to configure a district that, you know,  
7 used that as a significant portion of its  
8 boundary, then I think that would also be  
9 compliant with Tier 2.

10 Q. Okay. What about Interstate 95?

11 So you have districts that cross  
12 interstate 95; right?

13 A. I believe so.

14 Q. All right. So what's the difference, in  
15 your mind, between crossing Interstate 95, which  
16 you did, and crossing the Everglades, which you  
17 say it violates the Constitution?

18 A. I think the keyword in the Constitution  
19 is the word "feasible."

20 So I explored a number of  
21 configurations. I didn't end up finding a  
22 configuration that, for instance, never crossed  
23 I-95 that also complied with the other  
24 constitutional standards.

25 Q. Okay. So how do you -- you know,

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1 obviously, you would agree that there are many  
2 different ways the districts can be drawn;  
3 correct?

4 A. Yes.

5 Q. Okay. So if you wanted to, you could  
6 draw a district that -- well, that used I-95 or  
7 I-75 as a separator and never crossed the  
8 interstate; correct? If that was important to  
9 you.

10 A. I haven't tried that configuration  
11 specifically as you outline it, but I wouldn't be  
12 shocked if it were possible to just do something  
13 like that.

14 Q. Okay. So why didn't you prioritize  
15 other geographical boundaries as the thing that  
16 you didn't want to cross or breach with your  
17 districts?

18 A. I don't think I can agree with the  
19 premise of your question now.

20 Q. Okay. In what way?

21 A. I wouldn't say that there was a  
22 prioritization or a hierarchy of which boundaries  
23 were more or less important.

24 What is true is that the requirements  
25 within Tier 2 are co-equal. So in trying to, for

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1 instance, not cross I-95, you produce a district  
2 that's very non-compact or can't satisfy the  
3 population constraints. Then to insist on not  
4 crossing I-95 would actually, at that point, then  
5 violate the Tier 2 standards.

6 Q. I guess, I'm trying to figure out --  
7 obviously, there are many major roads and highways  
8 and rivers and railways in Florida. I'm wondering  
9 why you chose the Everglades as a thing that you  
10 wanted to highlight and not cross as opposed to  
11 all of the other geographical boundaries.

12 A. I guess, I wouldn't say that's a point  
13 that I highlight. I think it's a configuration  
14 choice that I made. I also respected other  
15 political and geographic boundaries. So, I guess,  
16 that's -- to me, a special decision, I'm not sure  
17 that I agree with that.

18 Q. All right. Well, you would agree as a  
19 prominent part of your report you talk quite a bit  
20 about the Everglades in your reports?

21 A. I discuss the Everglades. It's a long  
22 report.

23 I discuss a little bit more in the  
24 rebuttal report, I think.

25 Q. So why did you make the choice to not

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1 cross the Everglades at the same time that your  
2 districts do cross major roads, highways, rivers,  
3 railways?

4 A. Well, my districts also, in many cases,  
5 respect other major roads, rivers, railways,  
6 county boundaries.

7 So, you know, there are other natural  
8 parts of Florida I'm sure that the districts also  
9 cross. So, again, I just -- I just -- I'm not  
10 sure I agree with the premise.

11 Q. So you're not saying that the Everglades  
12 has some sort of, you know, superior position or  
13 superior importance relative to other geographical  
14 boundaries?

15 A. No.

16 To the extent I'm differentiating it at  
17 all, the reason it's discussed in my report would  
18 be that -- recognizing that boundary is something  
19 that should be respected, and it is possible to be  
20 respected under Tier 2, that then does have  
21 implications for how much the rest of the map has  
22 to be redrawn, given the configuration of the  
23 existing districts and the population in Florida.

24 So because it's just sort of this domino  
25 effect from there, I discuss that, you know, as

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1 you say, prominently in the report, but certainly  
2 as regards the constitutional standards it has no  
3 special constitutional significance.

4 Q. Okay. So -- so, just to be clear, for  
5 the record, you're not saying that it's more  
6 important to avoid crossing the Everglades than it  
7 is to avoid crossing other geographical limits?

8 A. No.

9 Q. Okay. I think I've read in some of your  
10 past work, maybe in some of your past depositions,  
11 that -- you've said that there are more ways to  
12 draw a redistricting map than there are atoms in a  
13 universe. Is that --

14 A. Yes.

15 Q. Is that something you've said?

16 A. Yes.

17 Q. Okay. And is that -- do you know that  
18 to be literally true?

19 A. In some states, yeah.

20 Florida's a hard one to answer. I  
21 wouldn't -- it wouldn't shock me. There's so many  
22 additional standards, though, in Florida. But --  
23 but, yeah.

24 An example I go to is in Montana.

25 It's -- if you ask, let's draw a map with exactly

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1 equal populations only as whole counties -- so  
2 whole counties, not a single -- single person  
3 deviation between those districts, there's 36,000  
4 ways to do that. And there's only, like, 40  
5 counties in Montana.

6 So there are lots of ways to draw maps,  
7 certainly.

8 Q. Okay. What data did you consult in  
9 drawing the maps that you produced in this case?

10 A. Would have been basically just the  
11 population data and the map drawing software and  
12 toll -- toll population data, the underlying  
13 background map, as it were, showing, you know,  
14 cities, roads, et cetera.

15 It also would have shown county  
16 boundaries, municipal boundaries.

17 I would have consulted a census map that  
18 showed which incorporated -- sorry, which census  
19 places were incorporated versus not incorporated.

20 That's all that comes to mind.

21 Q. Okay. How about Reock scores and Convex  
22 Hull scores and Polsby-Popper scores?

23 A. Sorry. What about them?

24 Q. Did you review those or consult those  
25 while drawing your maps?

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1 A. Oh. No, not while drawing my maps.

2 Q. Okay. Is that something you looked at  
3 after you completed the maps?

4 A. Yeah. After completing the maps, I then  
5 used software to calculate those, yeah.

6 Q. Okay. What other data did you look at  
7 after you completed the drawing of the maps?

8 A. Sure.

9 I loaded the maps into the Legislature  
10 software at the end and -- or maybe I did it  
11 myself, I can't remember. Anyway, I created these  
12 boundary scores. I think it was the Legislature  
13 software, compactness Legislative software.

14 I would have then also computed counts  
15 of municipality splits, county splits.

16 Separately from -- from the map drawing,  
17 I was also asked, at the end of all this, to  
18 produce maps showing HVAP in certain parts of the  
19 state. So I would have consulted HVAP data, or at  
20 least imported it into software at that point.

21 Q. Okay. So my understanding from your  
22 reports and your testimony is that in drawing your  
23 maps, you did not, at any point, review either  
24 political or racial data. Is that accurate?

25 A. Yes.

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1 Q. Okay. And that would include HVAP or  
2 black VAP, correct?

3 A. That's correct.

4 Q. And that would include -- in terms of  
5 political data, it would include registration  
6 data, turnout data, and election results?

7 A. That's right. I didn't use any of that.

8 Q. Okay. Was it your understanding, when  
9 you were drawing the maps, that at least some of  
10 the districts in South Florida are protected by  
11 Florida's constitutional provisions that secure  
12 minority voting rights?

13 A. Yes.

14 I think my instruction letters mention  
15 specific districts, since I wouldn't have  
16 otherwise known.

17 Q. Okay. And were those -- was it your  
18 understanding that those districts -- the minority  
19 group in those districts was black voters?

20 A. No. I don't think I knew or know,  
21 necessarily, which districts or if they're  
22 coalition districts or what.

23 Q. Okay. Let's take a look at your  
24 instruction letter. This is Exhibit 2.

25 Are you referring to paragraph 9 in the

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1 instruction letter?

2 A. Yes.

3 Q. Okay. And so what are the districts  
4 that you were told in your instruction letter are  
5 protected under Florida's minority protection  
6 provisions?

7 A. House Districts 108, 109, 117, and Cs 20  
8 and 24.

9 Q. Now, did you make any changes to those  
10 five districts in the maps that you generated?

11 A. Some of the districts in some of the  
12 maps.

13 Q. Okay. And when you modified those  
14 districts, did you use any political or racial  
15 data to assess the impact of what your -- the  
16 changes that you were making?

17 A. No.

18 Q. Okay. And do you know whether some --  
19 another expert retained by the plaintiffs did a  
20 subsequent analysis on those districts?

21 A. That's my understanding from -- from  
22 this paragraph, yes.

23 Q. Okay. But you, yourself, didn't use any  
24 black voting age population data or Hispanic  
25 voting age population data when you modified those

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1 districts?

2 A. No.

3 Q. Okay. What -- what software did you use  
4 when you were drawing the districts?

5 A. Dave's Redistricting App.

6 Q. Okay. And then at some point, I think,  
7 you said that you took the maps and you imported  
8 them into the Legislature's map drawing  
9 application?

10 A. That's correct.

11 Q. After that point, what -- from the  
12 moment that you imported them into the  
13 Legislature's map drawing application, did you  
14 make any subsequent changes to the districts in  
15 your map?

16 A. I don't recall, exactly.

17 I think perhaps, because there was this  
18 lag -- the maps were pretty close to their final  
19 form around September of '24. And then, I think,  
20 the complaint was -- anyway, I got a new set of  
21 instructions and some adjustments were made. And  
22 so I think I would have run the boundary scores  
23 around September of '24 and -- in drafting the  
24 initial version of my report.

25 And then I would have run them again

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1 based on any changes that I made after the new set  
2 of instructions.

3 Q. Okay. So did you make -- so did you  
4 make changes to the district when -- in the  
5 Legislature's map drawing application?

6 A. Not in the Legislature's map drawing  
7 application.

8 Sorry. If that was your question.

9 Q. Okay. So you might have made changes  
10 after you -- after that point in time when you  
11 first imported them into the map drawing  
12 application, but any changes would have been made  
13 in Dave's Redistricting App?

14 A. That's right.

15 Q. Okay. Now, when you were drawing the  
16 districts, what units of geography did you use?

17 For example, were you drawing at the  
18 block level or the VTD, voting tabulation  
19 district, level or some other level of geography?

20 A. Both. And, also, I would say cities and  
21 counties. So it depended on the -- you can sort  
22 of pick what you're filling in at the time. And  
23 sometimes the whole county, if you want to assign.

24 At the end of the day, it's transmitted  
25 back to the block level, right, so the smallest

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1 unit drab is the census block.

2 Q. Okay. To your knowledge, who -- who  
3 reviewed your maps before they were provided to  
4 the defendants in this case?

5 A. All I would be aware of is the people  
6 who were on -- you know, I mentioned earlier, you  
7 know, who I discussed the maps with during this  
8 process.

9 Any comments they had about areas to  
10 consider for improving Tier 2 compliance or  
11 anything like that would have been provided at  
12 that time. So if it was reviews that happened  
13 outside of those meetings, I wouldn't know.

14 Q. Okay. So -- so you don't know of anyone  
15 having reviewed your maps other than the list of  
16 folks who we discussed before?

17 A. Right.

18 Or anyone who was there that I didn't  
19 remember.

20 Q. Right.

21 Okay. And did all of your  
22 communications with counsel take place remotely,  
23 like this Zoom setting, or phone call?

24 A. Yes, to the best of my recollection.

25 Q. Okay. Now, did you make any changes to

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1 your maps in response to conversations that you  
2 had with counsel?

3 A. Yes.

4 Q. Okay. What were those?

5 A. Those changes?

6 Q. Yes.

7 A. I don't recall, specifically.

8 The general type of discussion would be,  
9 "Dr. McCartan, could you look at, you know, Tier 2  
10 compliance in this area; can you explore a  
11 configuration that maybe doesn't, you know, split  
12 so many cities in this county" or -- or things of  
13 that nature, so...

14 At which point I would go explore some  
15 configurations and -- and see what changes should  
16 be made.

17 And so I don't recall any specific -- I  
18 don't believe there were any specific, you know,  
19 "please adjust this boundary to this location"  
20 or -- or things of that nature.

21 Q. Did you have any -- in drawing your  
22 maps, did you have any sort of resource  
23 constraints, whether it was time or anything else?

24 Did you, for example, say I wish I had  
25 this or had this in order to draw these maps?

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1           A.    Well, you always get frustrated with the  
2   software sometimes. But, no. No, no constraints.

3           Q.    Okay. And in the actual drawing of  
4   maps, you did that alone, you didn't receive  
5   assistance from anyone else in drawing the maps  
6   other than, of course, comments and feedback after  
7   review?

8           A.    That's correct.

9           Q.    All right. Let's take a look at the  
10   next exhibit. This is Exhibit 5.

11                   I'll go ahead and add Exhibit 6 as well.  
12                   (Exhibit 5 was marked for identification  
13                   and is attached to the transcript.)

14          Q.    Okay. Do you have Exhibit 5 open?

15          A.    Yes.

16          Q.    Okay. Take a look at this document. Is  
17   this something that you have seen before? Do you  
18   recognize it?

19          A.    I believe I have seen a portion of this  
20   document yesterday.

21          Q.    Okay. All right.

22                   So this is an interrogatory that the  
23   defendants served on the plaintiffs. And it asks  
24   for certain information about alternative maps  
25   that the plaintiffs have produced in the

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1 litigation.

2 And this was provided in -- on page 6,  
3 you'll see the date, it's February 10th of 2025.  
4 So before you would have produced the maps with  
5 your report, which was in March.

6 And so, you know, I'll represent to you  
7 that we did receive some maps back in September of  
8 last year.

9 So is -- if you look at the supplemental  
10 response that begins on page 4, is there any --  
11 anything that you need to change or correct or add  
12 or subtract in order to make these answers  
13 complete and accurate?

14 I just want to confirm that what's  
15 provided here is the full -- you know, full,  
16 truthful answer, correct answer.

17 So, you know, take a minute to -- to  
18 read through this and let me know if there's  
19 anything in this that's inaccurate or incomplete,  
20 if you would.

21 A. Sure.

22 MR. FRACKMAN: Andy, your question is  
23 about Exhibit 5 or Exhibit 6?

24 MR. BARDOS: Currently we're on 5, but  
25 then I'll ask the same question about

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1 Exhibit 6.

2 A. Okay. So, obviously, there's some  
3 portions of the responses that I don't have  
4 personal knowledge of. I don't know who this  
5 Dr. Walker is, for instance, or what happened  
6 outside.

7 But -- and I'm not sure what these  
8 exhibit numbers are, as far as criteria.

9 But other than that, nothing here  
10 appears incorrect to me today.

11 Q. Okay. If you would, take a look at  
12 Exhibit 6 as well.

13 (Exhibit 6 was marked for identification  
14 and is attached to the transcript.)

15 Q. And just read through that.

16 This is information that we received in  
17 response to a similar interrogatory. This one was  
18 provided after we received the maps that you  
19 provided with your report.

20 A. Okay.

21 All right. So with the same caveats,  
22 nothing here appears incorrect to me today.

23 Q. Okay. Good. All right.

24 So in drawing these districts -- I think  
25 I know the answer to this, but can you confirm

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1 that you did all of the map drawing yourself as  
2 opposed to -- and I'm thinking here about as  
3 opposed to having, say, an algorithm draw these  
4 maps?

5 These were all you as a human being  
6 deciding where to put the district boundaries?

7 A. That's correct.

8 I did write a small amount of computer  
9 code to help me identify, at the end, combinations  
10 of blocks that would exactly cancel the  
11 populations and balance out. So, to the extent  
12 that was computer-assisted. But, no, everything  
13 else was done by me.

14 Q. Okay. And that -- that algorithm was to  
15 help you equalize populations at the -- kind of  
16 the tail end of the drafting process?

17 A. Yeah.

18 So several dozen people and -- had  
19 boundaries being moved at a time.

20 Q. Okay. And so, then, your maps reflect  
21 choices and decisions that -- that you made in  
22 your preferences in establishing the district  
23 boundaries?

24 A. Yes.

25 Q. You mentioned that you didn't use racial

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1 data in drawing the districts. Is it also fair to  
2 assume that you didn't use any information  
3 regarding national origin, such as Columbian or  
4 Nicaraguan, or any information along those lines?

5 A. Yes.

6 Q. Okay.

7 MR. BARDOS: All right. So we've been  
8 going for about an hour. If it's okay with  
9 everyone, I'd like to take a quick break,  
10 maybe ten minutes, and then we can reconvene.

11 THE WITNESS: Sure.

12 MR. FRACKMAN: Okay. So it's 10:30,  
13 10:40.

14 MR. BARDOS: Sounds good. See you then.

15 MR. FRACKMAN: All right.

16 (Recess in Proceedings.)

17 BY MR. BARDOS:

18 Q. All right. Dr. McCartan, so in your  
19 maps, I noticed that there's a nomenclature. So  
20 you have an A, a B, a C, and then sometimes there  
21 will be a B1 or a B2, something along those lines.  
22 Tell me about that nomenclature.

23 How do you -- why would you have, like,  
24 more than one B or more than one C as opposed to  
25 simply A, B, C, D, E, F?

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1 A. Sure.

2 In the congressional plans, the left are  
3 mostly reported in terms of the size of the  
4 changes to the overall congressional map, outside  
5 of the immediately challenged areas. And the  
6 numbers for them would be sort of variations that  
7 roughly change about the same amount of the  
8 enacted map.

9 On the house side, I think, it's more --  
10 not dissimilar to A, B, C, D, different  
11 configurations. Or A, B, C, sorry. To do  
12 different configurations.

13 And then, within any one of those  
14 configurations, there might be, you know, some  
15 more -- some more versions sort of also growing  
16 out of this, but the order in which I produced or  
17 more iteratively refined these maps.

18 Q. Would you agree that in drawing district  
19 boundaries, map drawers must balance many  
20 competing constraints and criteria?

21 A. Yes.

22 Q. Would you agree that redistricting  
23 criteria are not independent of one another and  
24 that map drawer -- the map drawer determines how  
25 those tradeoffs happen?

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1 A. In general, yes.

2 Q. Okay. I want to ask you a few more  
3 questions about your understanding of the  
4 political and geographical boundaries requirement.

5 But first, let me ask you: Are you --  
6 are you offering an opinion as an expert on what  
7 the legal requirements are and what the law  
8 requires, or are you simply explaining what your  
9 understanding of it is as someone who drew maps in  
10 this case?

11 A. I would say mostly the latter.

12 I am not a court which would make  
13 judgments on what the law requires in a particular  
14 case.

15 Q. All right. So let's talk about the  
16 political and geographical boundaries standard and  
17 what you understand it to require.

18 Do you understand it to require the  
19 Legislature, or whoever draws the map, subject to  
20 these criteria, to keep counties and  
21 municipalities whole to the extent feasible?

22 A. It is a little tricky because, as we  
23 talked about, I'm not making a judgment on that.  
24 And it may depend on whether or not doing so is  
25 possible with the other -- you know, keeping the

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1 other -- the other Tier 2 criteria intact.

2 But, yeah, in general, if there's a  
3 configuration that satisfies all the other  
4 criteria and keeps a county or municipality whole,  
5 then that would be more compliant with Tier 2 than  
6 one that splits those -- those units.

7 Q. Okay. And then, another way to look at  
8 the same standard would be that the district's  
9 boundary must coincide with or -- or trace an  
10 existing boundary, such as following the road or  
11 following a river. Is that also your  
12 understanding of what that requires or do you not  
13 see that as -- as part of the -- the Tier 2  
14 requirement?

15 A. To me, that is part of the Tier 2  
16 requirements.

17 I -- I would not interpret "utilize" to  
18 only mean that you're utilizing if you exactly --  
19 the boundary exactly coincides.

20 So, you know, if the plan is drawn to  
21 include a whole county or municipality, either the  
22 boundary is not completely coincident -- to me,  
23 that would still be utilizing that boundary to  
24 configure the district. Certainly, if the  
25 boundary is coincident, then at least in that

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1 portion of the boundary you're utilizing existing  
2 geographic political boundaries complying with  
3 Tier 2.

4 Q. Okay. So, just so I understand what you  
5 understand it to mean, if you have a district that  
6 includes a municipality and keeps it whole, and  
7 say that municipality is within the district and  
8 not along its perimeter, but it's within the  
9 district not touching the boundary, that's sort of  
10 a Tier 2 value; right?

11 To keep that municipality whole, if  
12 possible, but also coincide -- coincidence of  
13 boundaries is also a Tier 2 value. Is that -- is  
14 that your understanding?

15 A. Yes. Broadly.

16 If you can imagine two districts, both  
17 of which contain, you know, hypothetical  
18 districts, both contain municipality, if one's  
19 boundary is coincident with another municipality  
20 or the other one's coincident with nothing and its  
21 just reaping all over the place, certainly those  
22 are different, so the boundary's part of it.

23 But the fact that they both keep the  
24 municipality whole also relates to the Tier 2  
25 standards, in my opinion.

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1 Q. Okay. Then we talked about some  
2 boundaries that are linear, like roads and rivers,  
3 and then some that are not. And -- and we have,  
4 of course, municipalities that are not linear, we  
5 have counties that are not linear, and we have the  
6 Everglades.

7 Now, with counties and municipalities,  
8 my understanding is you think that Tier 2 would  
9 counsel for keeping those whole, whereas with the  
10 Everglades it sounds like you're saying it  
11 shouldn't be kept whole; is that correct?

12 A. So there's a couple of parts to your  
13 question, I guess.

14 So as regards to linear features,  
15 certainly all you can do with linear features is  
16 examine to what extent, you know, without an  
17 external side.

18 Within aerial features, how we described  
19 the other ones, I'm guided by, in part, the Ray  
20 Rodrigues memo, which, you know, does state that  
21 keeping, you know, these geographicals whole is,  
22 you know, compliant with Tier 2.

23 I think that reflects, in general, the  
24 traditional registrant criteria you see not only  
25 in Florida, but elsewhere as well. Redistricting

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1 to that people and keeping people in a unit  
2 together is -- you know, serves those -- those  
3 purposes.

4 The Everglades don't have people in  
5 them. That's partly why they're a geographic  
6 boundary. So, I think, to consistently apply  
7 Tier 2 standards to Everglades actually requires  
8 treating it different than a city or county that  
9 contains people and has clear -- very clear, you  
10 know, survey boundaries. Yeah.

11 Q. Okay. Now, when we talk about linear  
12 boundaries, let's say you have a district that --  
13 whose boundary allegedly coincides with political  
14 and geographical boundaries for the full extent of  
15 the district's perimeter 100 percent but it  
16 does -- the district does cross various major  
17 roads and interstates. Is that a Tier 2 concern  
18 or is it, you know, for you -- since the boundary  
19 follows political and geographical boundaries for  
20 the full extent, is that compliant with Tier 2?

21 A. I think it depends on the context.

22 So, I mean, geographically -- sorry,  
23 redistricting is an intensely local and  
24 geographical process.

25 So, yeah, I think you could imagine

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1 situations where that's, you know, really what --  
2 the spirit of the law and the constitution and  
3 produces a reasonable configuration of districts,  
4 and then you can also imagine scenarios where, you  
5 know, that would produce a district that would --  
6 that would not be as compliant.

7 So I think there is some judgment there  
8 that would depend on the specific example.

9 Q. Okay. So -- so in addition to trying to  
10 keep municipalities and counties whole, trying to  
11 trace existing boundaries, coincidence of  
12 boundaries, is there also a component of the  
13 political and geographic boundary standard that,  
14 in your mind, counsels against crossing political  
15 and geographical boundaries?

16 A. Yeah. I mean, I think that's partly  
17 what motivated, you know, our earlier discussion  
18 about the Everglades. Again, you know, the  
19 constitutional language is pretty terse and  
20 there's a reason we have a -- you know, this memo  
21 which tries to expand on that and interprets that  
22 utilization requirement in a number of different  
23 ways.

24 So depending on the context, crossing a  
25 particular road, political, geographical boundary,

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1       whatever, may be consistent. In other cases it  
2       may be very inconsistent with the bigger picture  
3       of the Tier 2 standards.

4           Q.    Okay. And how would you differentiate  
5       situations in which it's consistent from those in  
6       which it's inconsistent?

7           A.    Again, I don't -- I don't have a  
8       hard-and-fast rule.

9                    I think I'd have to look at it, a  
10       particular example, like one, you know, with my  
11       maps, like I discuss in my report, with the way  
12       the rest of the map is configured, having a  
13       district that expands the full Everglades, when  
14       there exists alternatives that don't and are still  
15       complying with the other Tier 2 standards, that  
16       would be a case where -- where crossing such a  
17       geographical boundary would be inconsistent, in my  
18       opinion.

19          Q.    Okay. What if -- what if eliminating  
20       the district that crosses the Everglades produces  
21       a split of a county somewhere nearby, is that --  
22       how does that balance out, in your mind?

23          A.    Well, I think it would be, you know,  
24       warranted in that case to look at if there were  
25       other changes that could be made elsewhere in the

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1 map to further reduce the number of county splits.  
2 And if you could, across the board, improve, then  
3 that would be an option that you could -- would  
4 also want to consider, I think.

5 You know, recently, after drawing these  
6 maps, I heard testimony of Mr. Ferrin himself, and  
7 he described a similar process of producing  
8 several options that maybe put some of these  
9 harder decisions up in front of the  
10 decision-makers. And then, ultimately, there's a  
11 decision that's made by, you know, the  
12 representatives or the court or what have you.

13 Q. Okay. Do you have any opinion on other  
14 natural boundaries in Florida that are not linear?

15 So, for example, you know, the  
16 Everglades. Are there others that you can name in  
17 Florida that you would consider to be a  
18 geographical boundary but that is natural and is  
19 not linear?

20 A. Well, as we discussed earlier, so, you  
21 know bays, lakes, some rivers are sort of wide  
22 enough, that are open to estuaries and so on.  
23 Right?

24 So, I think, you know, like the way the  
25 census -- you know, the census might have a block

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1 that's fully in a particular water feature versus  
2 just using that water feature as a boundary.  
3 That's kind of -- so, like in Jacksonville, you  
4 might have some -- you know, the river might be  
5 wide enough that that counts as an aerial feature.  
6 So, yeah, lakes, bays, large rivers.

7 Q. Are you familiar with the Kississimme  
8 River Basin between Orlando, south of Orlando and  
9 Lake Okeechobee?

10 A. No.

11 Q. Have you been to Florida before?

12 A. Yes.

13 Q. Okay. When were you -- when did you  
14 last visit Florida?

15 A. In June, for the Tampa case.

16 Q. Okay. How about before that?

17 A. The preceding January, I think, for the  
18 Miami case.

19 Q. Okay. You visit us to litigate.

20 How about -- how about before that?

21 A. I've been to Miami and the Keys before.  
22 I've been to Orlando before.

23 Q. Okay.

24 A. That's all I can recall.

25 Q. Okay. But you've never lived in

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1 Florida; correct?

2 A. That's right.

3 Q. Let's talk about compactness.

4 I believe you say, maybe in your  
5 rebuttal report, that compactness is primarily a  
6 visual test. Do you agree with that statement?

7 A. Yes, generally.

8 Q. Okay. And that the mathematical  
9 measures of compactness are secondary in the  
10 assessment to the visual examination. Would you  
11 agree with that?

12 A. Yeah. That's my understanding as  
13 regards Florida.

14 Q. Yeah.

15 Among the mathematical measures, would  
16 you agree that each one has certain pros and cons?

17 A. Each one is sensitive to different parts  
18 of geography in a different way. So depending on  
19 what you're measuring, those could be pros or  
20 cons. But if you're measuring something else, the  
21 pros could become a con.

22 Q. Okay. And do you have a preferred  
23 mathematical measure of compactness?

24 A. It depends on the work I'm doing. So  
25 when I do algorithms, there's a different measure

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1 than if I'm trying to -- like I say, it depends on  
2 what you're trying to measure as well.

3 So if you want to be sensitive to --  
4 with boundaries versus the overall shape and so  
5 on.

6 Q. Let's say for purposes of this case,  
7 between the three compactness scores that we've  
8 utilized in this litigation, so Reock --

9 MR. BARDOS: And for the court reporter,  
10 that's R-E-O-C-K.

11 Q. -- the Convex Hull measure, and the  
12 Polsby-Popper measure, P-O-L-S-B-Y-P-O-P-P-E-R, do  
13 you have a preference out of those, one that you  
14 like better than the others?

15 A. No.

16 Q. Okay. Any that you think are -- that  
17 you like less than the others?

18 A. Not particularly.

19 If the goal is to assess the compactness  
20 portion of the constitutional standards, then I  
21 think each of them might be sensitive in different  
22 ways to parts of districts that might not actually  
23 be problematic under the constitutional standards,  
24 but when that's the case is -- is  
25 district-specific, I would say.

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1 Q. Okay. Do you have any rule of thumb as  
2 to whether -- when a difference in compactness  
3 scores becomes meaningful?

4 A. Not a hard rule.

5 And generally, you can look at sort of  
6 the range of scores that exist, and that can kind  
7 of give you a benchmark scale for, you know,  
8 what -- what might -- you might personally  
9 consider to be meaningful or not.

10 Ultimately, what counts as meaningful is  
11 contextual to what we're talking about. Right?  
12 So...

13 But, you know, in general, unless you  
14 have a map that's, you know, extremely unusual,  
15 you know, differences on these scores on the order  
16 of one part in a thousand is usually -- usually  
17 the range you see in the districts themselves.  
18 It's much larger. So that would usually, for  
19 instance, not be meaningful.

20 Q. Okay. Uh-huh.

21 What about, you know, the Reock score,  
22 there's a difference in a Reock score of 100th of  
23 a point. Is that something that you would  
24 consider meaningful or does it depend?

25 A. Like 100, like .01 or .0001?

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1 Q. .001.

2 A. All right.

3 Yeah. I mean, it depends. You would  
4 have to look at sort of what the range of Reock  
5 scores you see in that area or plant-wide or...

6 Sometimes when I do simulations, you can  
7 use the range from those.

8 Q. Um-hmm.

9 So, I believe you said in your report  
10 that you used redistmetrics to calculate the  
11 compactness scores; is that correct?

12 A. That's right.

13 Q. Okay. And -- and what is redistmetrics?

14 A. It's software that a high-end academic  
15 team have developed, which takes in plans in  
16 computer format and it will actually calculate a  
17 number of different redistricting metrics. Not  
18 just compactness. Population, you know, if you  
19 have partisan data, partisan metrics, things of  
20 that sort.

21 Q. Is there any reason that you didn't use  
22 either Dave's Redistricting App or the  
23 Legislature's map drawing application to calculate  
24 compactness scores?

25 A. Yes.

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1 Q. What are those reasons?

2 A. Dave's, I -- I just have not -- I  
3 haven't really looked at their -- how they  
4 calculate these -- these numbers. They have an  
5 open-source library, but I haven't dived into it.

6 So I've written the code in  
7 redistmetrics myself and know that it produces --  
8 we've tested the specific numbers against, for  
9 instance, the papers that develop these metrics in  
10 the first place. So I'm confident in those.

11 As for the Legislature's software, the  
12 output is a PDF file. It's kind of hard to  
13 summarize and put in my own table and so on.

14 So, like I say, used a tool that I know  
15 produces the right answer I've developed.

16 Q. Do you have an opinion as to whether all  
17 of the 13 maps that you produced in this  
18 litigation are compliant with Florida's  
19 redistricting standards?

20 A. Yes.

21 Q. Okay. So your opinion is that they are  
22 compliant?

23 A. Yes.

24 Q. Okay. Do you have -- say, out of the  
25 six congressional maps that you produced, do you

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1 have one that you prefer, that you think is the  
2 best out of the six?

3 A. No, not particularly.

4 I mean, there's features of different  
5 maps that I locally prefer, but I haven't really  
6 thought about overall if I had a magic wand and my  
7 goal was maximum compliance, you know, what I  
8 would pick.

9 Q. What about the State House maps, any  
10 preference among the maps?

11 A. No.

12 Q. Okay. In drawing the maps, did you  
13 encounter situations where you had to make  
14 tradeoffs between the different Tier 2 criteria?

15 A. Probably. I don't recall specific  
16 instances.

17 Generally, at that point, I would look  
18 for backtracking a little more and see if you  
19 could draw things in a way that didn't force a  
20 tradeoff or create another version, like B1, B2,  
21 to present different ways of interpreting that  
22 tradeoff.

23 Q. Are there situations in which utilizing  
24 political and geographical boundaries could be  
25 intentioned with the compactness requirement?

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1 A. Hypothetically, yeah.

2 I think we talked about, you know, what  
3 if you tried to hide the coast and be bounded by  
4 I-95, you know, could that cause problems. So, it  
5 might.

6 Q. Okay. But you think in all of the 13  
7 maps that you produced you were able to harmonize  
8 the standards in a way that your maps comply with  
9 the redistricting criteria?

10 A. In my -- in my judgment, yeah.

11 Q. Okay. And now when you say that you  
12 didn't use racial data or political data, would  
13 that include when you're drawing using a heat map  
14 or some other, like, shading on the -- on the --  
15 on the screen that you're looking at that would  
16 indicate where concentrations of minority  
17 populations are?

18 A. Yes.

19 I used no such heat map.

20 Q. Okay. Okay.

21 Let's take a look at -- let's take a  
22 look at some maps.

23 Okay. We'll go out of order with some  
24 of these exhibits, so...

25 A. Okay.

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1 Q. We might come back to the ones that we  
2 skip over for now.

3 Okay. Dr. McCartan, do you see  
4 Exhibit 31?

5 (Exhibit 31 was marked for  
6 identification and is attached to the  
7 transcript.)

8 A. Yes.

9 Q. Do you recognize this document?

10 A. I haven't seen this specific document  
11 before.

12 Q. Okay. So I'll represent to you that  
13 this is the map, congressional map B2 that you  
14 drew. And it's in a kind of map-and-data package  
15 that the Legislature generates.

16 So if you look on the second page,  
17 you'll see that the Hispanic voting age population  
18 for Congressional Districts 26, 27, 28 are all  
19 within the range of about 71.6 percent to 74.2  
20 percent.

21 Do you see that?

22 A. Yes.

23 Q. Okay. Now, in drawing those districts,  
24 since you weren't using racial data, I take it  
25 that you weren't trying to balance the HVAPs in

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1 those three districts; correct?

2 A. That's right.

3 Q. Okay. Tell me how you -- you went about  
4 drawing the South Florida area in this particular  
5 map.

6 A. B2. Yeah, I don't -- I don't recall  
7 exactly because this would have -- this may have  
8 been one of the ones that saw more changes after  
9 February. I don't recall.

10 This might be the one where I tried to  
11 keep 27 from changing too much. I can't remember  
12 exactly.

13 But anyway, in general, this map would  
14 have come out of earlier maps. It also would have  
15 started with the same premise, if you will, which  
16 was to respect the Tier 2 standards. We don't  
17 want to have District 26, I think, cross -- span  
18 the Everglades.

19 So I would have brought the districts  
20 out to the road mark 997 or, in this map,  
21 further -- further east, and then made adjustments  
22 south to balance populations, and then made  
23 adjustments north and so on to further balance  
24 populations.

25 Q. All right. We can close this for now.

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1 We might come back to it.

2 Let's take a look at Exhibit 1, which is  
3 your report. And if you would go to paragraph 15.

4 A. 15. Okay.

5 Q. And part of -- I guess, let's go to  
6 Figure 1, which is on page 5.

7 A. Okay.

8 Q. Now, in this map, does it appear that at  
9 least most water blocks are unassigned?

10 A. Could you describe who unassigned them,  
11 then?

12 Q. So are there water blocks off the coast  
13 of the State of Florida that are not assigned to  
14 any particular district in Figure 1?

15 A. All blocks were assigned in all my  
16 plans. Figure 1 doesn't show periods outside the  
17 census coastline file.

18 Q. Okay. Do you know whether Figure 1  
19 shows the census blocks off the coast that don't  
20 have population in them?

21 A. It -- it's clipped. Like, you know, the  
22 two -- what the census defines as the coastline.  
23 So there would probably be water blocks that are  
24 wholly contained outside the census coastline  
25 boundary that would not be shown in Figure 1.

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1 Q. Okay. And were those water blocks that  
2 are not shown in Figure 1, were they, in your map,  
3 assigned to a district?

4 A. Yes.

5 Q. Okay. They simply don't show up on --  
6 in this particular figure?

7 A. That's right.

8 Q. Okay. And so when you calculated  
9 redistricting -- I'm sorry, compactness scores in  
10 redistmetrics, was it calculating compactness  
11 scores based on the shape that included those  
12 water blocks or on a shape that did not include  
13 those water blocks?

14 A. A shape that included the water blocks.

15 Q. Okay. So this is simply kind of a  
16 visual description, but the version that you used  
17 to calculate compactness scores took account of  
18 water blocks up -- off the coast?

19 A. That's right.

20 Q. Okay. All right. What is the ALARM  
21 Project?

22 A. It's an academic operation/team that I  
23 helped start and am now an affiliate of at Harvard  
24 University, generally studying the application of  
25 algorithmic redistricting tools to study

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1 legislative redistricting in the U.S. and abroad.

2 Q. Okay. When did you start or help start  
3 the ALARM Project?

4 A. Around 2021, I believe.

5 Q. Were you a student at that time?

6 A. Yes. A Ph.D. student.

7 Q. Okay. And what are redistricting  
8 simulations?

9 A. Redistricting plans that have been  
10 randomly generated according to a particular  
11 computer algorithm. And it can be applied to  
12 answer questions about redistricting and to  
13 explore sort of the space of possible  
14 configurations in a map.

15 Q. Okay. How are -- how are they generally  
16 used?

17 How would you, like -- say expert  
18 witness work, how would you use redistricting  
19 simulations?

20 A. Most commonly in litigation, experts use  
21 redistricting simulations to examine whether  
22 features of a particular, for instance, benchmark  
23 or enacted map are unusual compared to a set of  
24 simulations.

25 The simulations in those cases are

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1 usually fed no information about, for instance,  
2 politics or race. And then you can compare on a  
3 political or racial metric how the enacted or  
4 benchmark plan compares to simulations. And if  
5 there's discrepancies, discrepancies -- that can  
6 be taken as evidence that those factors may have  
7 influenced the drawing of -- of the maps.

8 Q. Okay. So my understanding of  
9 simulation, correct me if I'm wrong, is if you're  
10 testing to determine whether a particular factor,  
11 like race or politics, influence the enacted map,  
12 then you could run simulations that don't utilize  
13 that factor and then you can compare the output to  
14 the enacted map in an attempt to determine whether  
15 the enacted map did utilize that factor. Is that  
16 a fair summary?

17 A. It's a pretty -- pretty fair summary.

18 Q. Okay. And in doing that you would you  
19 want to -- the simulations to -- to stimulate the  
20 other factors, the ones you're not testing for,  
21 that were applicable to the enacted map; correct?

22 A. Correct.

23 Q. Okay. So why -- why would you want to  
24 do that?

25 Why would you want simulations to be

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1 subject to the same constraints minus the one that  
2 you're testing for?

3 A. If the goal is -- it's this particular  
4 kind of test that you're mentioning, then you want  
5 an apples-to-apples comparison so that the  
6 difference can be attributed only to the one  
7 factor, which would be the one you're testing.

8 Q. Okay. How would you determine how many  
9 simulated plans to generate?

10 A. That's a statistical judgment. The more  
11 plans, the more confidence you can say  
12 statistically that there's a difference. We call  
13 it power, so that the test is more powerful if you  
14 have more simulations, in general. There's  
15 diminishing returns as you go. And generating  
16 more takes more time, computing time. So there's  
17 a tradeoff.

18 There's some numerical measures you can  
19 use to determine if you have sufficient number of  
20 simulations.

21 Q. Okay. What's -- what's kind of a  
22 typical range for the number of simulations that  
23 you would find to be sufficient?

24 A. It actually depends on the algorithm  
25 that you use to generate the simulations in

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1 question.

2 Q. What's maybe the -- what's the low end  
3 of the range?

4 A. Some -- some tests, some questions  
5 you're asking are -- the evidence is so clear that  
6 it's as few as 500 or a thousand maps with certain  
7 algorithms might be enough to get you a reliable  
8 answer.

9 Q. Okay. And did -- as part of the ALARM  
10 Project, did you generate maps, simulated maps  
11 to -- to use to compare against enacted maps in  
12 different states?

13 A. At the congressional level, using  
14 certain sets of criteria, yes.

15 Q. Okay. Did you generate simulated maps  
16 for Florida congressional districts?

17 A. The -- our ALARM team did, that's right,  
18 yes.

19 Q. And were you part of the ALARM team at  
20 the time that that was happening?

21 A. Yes.

22 Q. What was your role at that time with the  
23 ALARM team?

24 A. I was still a student. The project that  
25 produced these congressional maps had a number of

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1 undergraduate students as well. So undergraduate  
2 students would usually generate the first set of  
3 simulations. They would produce a report showing  
4 aspects of these simulations.

5           Myself or another graduate student would  
6 review these reports, and there would be some  
7 iteration to ensure there was some quality checks.  
8 So my role, as regards these simulations in  
9 various states, was with the quality check phase.

10           Q. Okay. Who designed the algorithm for  
11 the ALARM Project?

12           A. The algorithm we used in the  
13 congressional simulations is the one I developed  
14 in the paper with my adviser a year or two before  
15 that.

16           Q. Okay. And so in the ALARM Project, how  
17 many simulated maps did you generate for each  
18 State's congressional maps?

19           A. It varied. It's always at least 5,000.  
20 Some states required more.

21           Q. Okay.

22           A. And then we would take a sample from  
23 them, the total number down to 5,000.

24           Q. And so why do you need so many? Why not  
25 five or ten?

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1           A.    Like I say, it's a statistical judgment.

2                    So we have found that with that  
3   algorithm, the types of questions people usually  
4   want to ask about these maps, 5,000 usually gives  
5   you enough to have statistical confidence in  
6   differences that are out there.

7                    So in some states, if you want to probe  
8   smaller differences, you might need more. Or if  
9   you have a particular question about a very  
10   localized region, you might need more.

11                   But we found 5,000 to be a good tradeoff  
12   between the questions that people ask, the  
13   statistical power and statistical demand and our  
14   computational and storage constraints.

15           Q.    And in practical terms, do you need a  
16   large number so that you can have a high level of  
17   confidence that your simulated maps are displaying  
18   the fuller range of possibilities that come out of  
19   a map-drawing exercise subject to particular  
20   constraints?

21           A.    The range, as you put it, is part of it.  
22   Although, that's not really the primary. So the  
23   example I would give is polling. Right? So if  
24   you ask opinion polling, there's certainly a very  
25   wide range of beliefs out there, and you don't

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1 need to sample a million people and get the most  
2 extreme right-winger and left-winger to have an  
3 accurate poll. You just want to have enough to  
4 understand the average. Right? So opinion polls  
5 are usually at least a thousand people, if not  
6 more.

7 Q. Okay.

8 A. It's actually a very similar reason why  
9 we're in the several thousands range, just to get  
10 that kind of accuracy.

11 Q. Okay. So did you say you generated  
12 5,000 simulated maps as part of the ALARM Project  
13 for congressional districts in Florida?

14 A. At least 5,000.

15 Florida's a larger state with more  
16 constraints, and many of the constitutional  
17 standards we didn't even, you know, fully  
18 incorporate into the simulations, to be honest.  
19 So we had to do more -- could be as many as  
20 100,000, and then we discarded randomly for a  
21 final set of 5,000.

22 Q. Okay. Why didn't you use the  
23 simulations in your work in this case?

24 A. So the congressional simulations were  
25 nationwide. So the goal is to be able to ask

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1 questions about the nation as a whole with, you  
2 know, the budget and manpower that we had. That  
3 meant we couldn't do as detailed a interpretation  
4 and calibration of the simulations to the local  
5 requirements of every state.

6 So we did our best. We did a lot better  
7 than the status quo, but I wouldn't say that any  
8 of our simulations were litigation quality, as it  
9 were, in that there were, in many cases, pretty  
10 clear discrepancies between the rules that we fed  
11 in and the rules that actually apply to districts  
12 drawn in a particular state.

13 So we think the answers were good to ask  
14 questions about, you know, what's the total amount  
15 of gerrymandering in the U.S. Congress nationally  
16 because a lot of those things would cancel.

17 But if you want to go into a particular  
18 state and ask particular questions and really get  
19 a precise answer that you can be confident with,  
20 for instance, in litigation, you know, that's a  
21 different question entirely, so...

22 Yeah.

23 And I think -- I think we say something  
24 to that effect, you know, when we release these to  
25 the public.

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1 Q. Okay. And in the simulations that you  
2 generated as part of your ALARM Project for  
3 Florida congressional districts, did the  
4 simulation take account of race in any way?

5 A. Yeah, it would have.

6 Again, like the hard -- the hardest  
7 thing in the South is the Voting Rights Act. And  
8 Florida, that's additionally part of the  
9 Constitution, and interpreting that, as you well  
10 know, often involves extensive litigation with  
11 experts.

12 So a simulation can do a very rough  
13 approximation. And, you know, we use race in that  
14 way to try to, you know, roughly respect the  
15 Voting Rights Act. But that's certainly, like,  
16 the biggest limitation of our national simulation  
17 work, is the use of race, and specifically with  
18 the Voting Rights Act.

19 Q. Okay. Do you recall in the simulations  
20 how -- what the simulation algorithm was designed  
21 to do, if anything, with respect to Hispanic  
22 populations in South Florida?

23 A. I don't recall.

24 I do remember that we did run, I  
25 believe, a separate set of simulations in South

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1 Florida as part of building up the whole map. I  
2 don't believe there were specific instructions  
3 about HVAP versus BVAP versus coalition districts  
4 in general in this project. We observed sort of  
5 lumped minorities together, which is obviously less  
6 justified in South Florida. So I don't remember,  
7 specifically.

8 Q. Would it be possible to create -- I  
9 think you said "litigation quality."

10 Would it be possible to create  
11 litigation quality simulations for districts in  
12 Florida?

13 A. I would never say never. I think it  
14 would be one of the hardest things to do, in my  
15 experience.

16 I was in a case in Ohio helping out,  
17 that was up there in difficulty, and I think  
18 that's due to the number of constitutional  
19 criteria. So if you compare it to Texas, where  
20 there's nothing written down, or Illinois, where  
21 there's nothing written down, and Florida has  
22 rules and they have -- about race and they both  
23 interact, so it would be difficult.

24 I was in a case in Louisiana where I  
25 testified about -- you know, I'm not even sure it

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1 would be possible to generate simulations that  
2 would be, you know, reliable and trustworthy,  
3 given the constraints in this case.

4 So, I'm not sure. It may be possible.  
5 I would like to do so. We try to build tools that  
6 are powerful like that, but I can't be sure, one  
7 way or the other.

8 Q. So the challenge would be in developing  
9 an algorithm that faithfully implements the  
10 criteria that Florida has?

11 A. Yeah.

12 And as we talked about, there are  
13 tradeoffs and there are tiers. And it's one thing  
14 to work with that as a human. It's another to  
15 explain to a computer how exactly to navigate  
16 those. And so it would, at minimum, take a long  
17 time, I think, to refine the instructions to the  
18 algorithm, as it were, to reflect your best  
19 understanding of those -- of those criteria.

20 Q. As part of your work on this case, did  
21 you at any point go back and refer to the  
22 simulations, or review them, the simulations that  
23 you had done for the ALARM Project for Florida  
24 congressional districts?

25 Had you had -- you know, did you have

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1 any -- on any prior occasion review them or  
2 consult them in any way?

3 A. No.

4 Q. Did you, as part of your work on this  
5 case, at any point generate any simulations?

6 A. No.

7 Q. Okay. Did you do any analyses as part  
8 of your work on this case that are not reflected  
9 in your two expert reports?

10 A. No, not that I can recall.

11 Q. Let me show you an exhibit. This will  
12 be Exhibit 13.

13 (Exhibit 13 was marked for  
14 identification and is attached to the  
15 transcript.)

16 Q. And once you've had a chance to open it,  
17 let me know whether you recognize this document.

18 A. It appears to be a printout of a page on  
19 the ALARM Project website.

20 Q. Okay. And so is this a page that  
21 discusses the Florida congressional district  
22 simulations that the ALARM Project generated?

23 A. Yes.

24 Q. Take a look at page 4, if you would.

25 A. Okay.

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1 Q. Okay. And under the heading,  
2 Traditional Redistricting Criteria, beginning with  
3 the third sentence, it says, "As far as  
4 compactness, Florida's enacted plan scores a 0.35  
5 more than 100 percent of all simulated plans. A  
6 higher score means more compact."

7 Do you see that?

8 A. Yes.

9 Q. And is this using the Polsby-Popper  
10 measure of compactness?

11 A. Yes.

12 Q. Okay. And -- and so is it accurate to  
13 say that the enacted plans mean Polsby-Popper  
14 score was higher than the mean Polsby-Popper score  
15 in any of the simulated plans that the ALARM  
16 Project generated for Florida congressional  
17 districts?

18 A. Yeah. In this set of 5,000, yes.

19 Q. Okay. And what was the -- can you tell  
20 from this document or can you tell what the mean  
21 impactness score was, the Polsby-Popper score was  
22 for the simulated plans?

23 A. No, not beyond eyeballing the chart in  
24 front of me.

25 Q. Okay. When you eyeball it, can you come

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1 up with an educated, you know, guess or estimate?

2 Not guess, but can you estimate what the means

3 Polsby-Popper score was in the simulated plans.

4 A. Say the .207 plus or minus .101.

5 Q. Okay. Had the -- on the first page of

6 this document, it says that the ALARM Project

7 generated 5,000 sets of randomly simulated

8 districts.

9 Do you see that?

10 MR. FRACKMAN: Yeah. Sorry to

11 interrupt, Andy. I haven't gotten a copy.

12 Did you send me one?

13 MR. BARDOS: I thought I sent it. Let

14 me see who I sent it to.

15 MS. CARTAYA: I've been sending -- I've

16 been sending it to Mr. Frackman.

17 MR. FRACKMAN: Yeah, I haven't gotten

18 either yet. Sometimes our -- always our

19 security takes awhile.

20 MS. CARTAYA: Yeah.

21 MR. BARDOS: Oh. You know what it is?

22 It is 26 megabytes, so it's probably -- let

23 me see if I can reduce the file size here.

24 MR. FRACKMAN: It will come eventually.

25 Just give me a second to catch up to you.

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1 MS. CARTAYA: Andy, I've been sending, I  
2 believe, all the exhibits as well. So I  
3 don't know if we're both sending it.

4 MR. FRACKMAN: Yeah, you've both been  
5 sending it.

6 MS. CARTAYA: Okay.

7 MR. BARDOS: Andrew has two sets of  
8 exhibits. All right. Let me see if I can  
9 reduce this size.

10 THE WITNESS: The link is also -- you  
11 know, it's still on the website, like this  
12 page, and that would load faster.

13 MS. CARTAYA: Thank you.

14 Maybe that's easier, Andy. Just to  
15 share that, I think.

16 MR. BARDOS: Well, it went down to 19  
17 megs. I don't know whether that will get to  
18 you, Andrew, but I'll try.

19 MR. FRACKMAN: Not a problem.

20 You may proceed.

21 MR. BARDOS: Okay. I just re-sent it.

22 MR. FRACKMAN: What page are you on,  
23 Andy?

24 MR. BARDOS: Well, my last question was  
25 about page 1.

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1 MR. FRACKMAN: Okay. I'm with you.

2 MR. BARDOS: Do you have it now?

3 MR. FRACKMAN: Yes, I do.

4 MR. BARDOS: Okay. Good.

5 BY MR. BARDOS:

6 Q. So, Dr. McCartan, do you see on page 1  
7 it says that the ALARM Project generated 5,000  
8 sets of randomly simulated districts for Florida's  
9 congressional districts?

10 A. I see that, yes.

11 Q. Okay. And so on the Polsby-Popper  
12 measure, the enacted plan outranked all 5,000 maps  
13 generated by the ALARM Project?

14 A. That's right.

15 Q. Okay. And then if we go back to  
16 page 4 --

17 MR. BARDOS: And, Andrew, we're under  
18 the heading Traditional Redistricting  
19 Criteria.

20 Q. -- the last sentence of that paragraph  
21 says, "It," referring to the enacted plan, "split  
22 17 counties compared to an average of 18 counties  
23 for our simulated plans."

24 Do you see that?

25 A. Yes.

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1 Q. Okay. So the average out of the 5,000  
2 simulated plans generated by the ALARM Project,  
3 the average plan split 17 counties?

4 A. Yes.

5 So it's measuring it as like how many  
6 counties were split once or more. There's some  
7 other ways you can measure it, but if you use that  
8 metric, then the average you'll see is 18 compared  
9 to 17 for the enacted.

10 Q. Okay. And I misspoke, I said 17.

11 So 18 is the average for the simulated  
12 plans and the enacted plan split 17?

13 A. In this set of simulations, yes, that's  
14 right.

15 Q. Okay. All right. Let's close this.

16 And I would like to share with you your  
17 report in the Grace litigation. This is Exhibit  
18 14.

19 A. Okay.

20 (Exhibit 14 was marked for  
21 identification and is attached to the  
22 transcript.)

23 A. Okay.

24 Q. Okay. Turn to paragraph 5, please.

25 A. Okay.

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1 Q. And in the -- on the third line, there's  
2 a sentence that reads, "One effort that I led as  
3 part of the ALARM Project involved collecting  
4 every congressional district drawn in the 2021 to  
5 2022 redistricting cycle and generating over  
6 200,000 algorithmic redistricting plans which  
7 complied with all relevant state laws and  
8 constitutions."

9 Do you see that?

10 A. Yes.

11 Q. Okay. So are you representing here in  
12 this report, in the Grace case, that all of the  
13 200,000 algorithmic redistricting plans, including  
14 the 5,000 that the ALARM Project generated for  
15 Florida congressional districts, complied with all  
16 the relevant state laws and constitutions?

17 A. Yeah.

18 I should have been more precise in this  
19 Qualification and Experience section in the Grace  
20 report, as it was going to qualifications and  
21 experience. I may have been more concise than --  
22 than may be warranted.

23 So, I guess, to answer your question  
24 directly, I wouldn't represent today that it's the  
25 case that every single one of the 200,000 plans

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1 complies with all relevant state laws and  
2 constitutions or necessarily even the federal  
3 Voting Rights Act.

4 Q. Okay. And would that same thing be true  
5 for the -- specifically for the 5,000 simulated  
6 plans of the ALARM Project generated for Florida  
7 congressional districts?

8 A. Yes.

9 And as we discussed earlier, I think  
10 there's more reasons to be -- there's more wiggle  
11 room, potentially, between the simulations and  
12 various interpretations of the Florida  
13 Constitutional standards in Florida compared to  
14 other states.

15 Q. Okay. So if you were rewriting what you  
16 wrote here in paragraph 5 of the report in the  
17 Grace case, how would you -- how would you change  
18 that sentence?

19 A. Something along the lines of one effort  
20 that I led ... in generating over 200,000  
21 algorithmic redistricting plans which attempted to  
22 comply with all relevant state laws and  
23 constitutions.

24 Q. I see.

25 Okay. Are there any particular

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1 requirements, legal requirements that you feel  
2 confident the algorithm was able to appropriately  
3 implement for Florida?

4 A. So certainly things like the districts  
5 are all contiguous. The algorithm can't generate  
6 exactly equi-populous districts, but to the extent  
7 that you're okay with, you know, half a percent or  
8 tenth of a percent, then that would also -- that  
9 would also be compliant.

10 I have to go through some of those  
11 standards in more detail, but I think, on average,  
12 we produce plans across the nation that are, you  
13 know -- give the right answers on the partisan --  
14 certain metrics that we were mostly interested in  
15 that project.

16 Q. Okay. And so I think you said that  
17 you're not certain whether you could have designed  
18 an algorithm for Florida redistricting that  
19 complies with all of the redistricting standards.

20 A. Yeah. To the level that I would feel  
21 comfortable, for instance, you know, putting my  
22 name on a litigation report.

23 Q. Okay. And that's not something that you  
24 attempted to do in this litigation?

25 A. Correct.

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1 Q. Okay. And if you had been able to do  
2 that, to generate a simulation that appropriately  
3 complies with Florida's redistricting standards,  
4 what would that simulation have been able to tell  
5 us about the use of race in the enacted plans?

6 A. That's a bit of a hypothetical.

7 When you design simulations, and I  
8 testified to this before, you -- that's  
9 hand-in-hand with the question you're trying to  
10 ask about, the enacted plans.

11 I'm not familiar with the legal claims  
12 at issue in this case or the facts in question, so  
13 I don't know exactly what those simulations would  
14 look like or what questions they'd be able to  
15 answer or be designed to answer. That's just not  
16 something I was -- that is outside the scope of my  
17 assignment.

18 Q. Do you agree that a properly implemented  
19 simulation would be able to at least indicate  
20 whether race was a consideration in drawing the  
21 enacted map?

22 A. So that -- that's always one of the  
23 trickiest ones. Because when you're in a state  
24 that's subject to the Voting Rights Act, race is  
25 always a consideration, and so there's a question

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1 of to what extent was race a consideration above  
2 and beyond that required by the Voting Right Act  
3 and that's very thorny very quickly.

4 If you can get all the parties to agree  
5 on what exactly the extent of race you were trying  
6 to measure, then, in principal, you could -- you  
7 could get an answer to that kind of question.

8 Or if the question was, you know, was  
9 race at all, you don't need simulations for that.

10 But you could -- you could put no racial  
11 information in and then pretty readily establish,  
12 I imagine, that race did influence the drawing of  
13 certain districts.

14 Q. And simulations tell us whether  
15 particular configurations of districts are likely  
16 to result from a compliant drawing of districts?

17 A. Sorry. Could you just say that again or  
18 maybe rephrase.

19 Q. Sure.

20 So would a simulation be able to tell us  
21 whether, in a redistricting plan drawn according  
22 to the applicable standards, you would expect to  
23 see districts with a particular configuration?

24 A. I see.

25 MR. FRACKMAN: I'll object to the form

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1 of the question.

2 A. I mean, expect -- it's one -- it's hard  
3 to prove a negative with simulations, but  
4 certainly you could -- again, like earlier, you  
5 could just, you know, determine whether or not a  
6 particular configuration is -- would be very  
7 unusual among compliant plans or not and,  
8 conversely, not unusual.

9 Q. Okay. So a simulation might be able to  
10 tell us, for example, whether a map drawer who is  
11 complying with the standards, you know, how -- how  
12 usual or unusual it would be for a map drawer  
13 complying with the standards to draw a district  
14 that connects Miami-Dade County with Collier  
15 County?

16 A. Right.

17 So if you had a set of simulations that  
18 incorporated all of the Tier 2 standards in a way  
19 that you felt you had converted the English to  
20 computer code in a fair way, then, yeah, you could  
21 use simulations for that purpose.

22 Q. Now, in this case, correct me if I'm  
23 wrong, but my -- I don't read your reports to be  
24 offering an opinion as to whether race was the  
25 predominant factor in drawing the enacted

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1 districts. Is that correct?

2 A. That's correct.

3 Q. Okay. Let me show you a report that you  
4 prepared in one of the Louisiana cases. This will  
5 be Exhibit 15.

6 (Exhibit 15 was marked for  
7 identification and is attached to the  
8 transcript.)

9 A. Okay.

10 Q. Okay. Let's go to paragraph 71, please.

11 A. Okay.

12 Q. And here it looks like you're rebutting  
13 the opinions of a -- of an expert, Dr. Barber. Do  
14 you recall what opinion Dr. Barber offered and  
15 what your rebuttal position was?

16 A. It's been awhile.

17 I believe there was an illustrative plan  
18 issued by plaintiffs. In that case, Dr. Barber  
19 offered the opinion that the illustrative plan was  
20 drawn with race as a predominant factor. And I --  
21 and on the basis mainly of -- of simulations that  
22 he attempted to conduct. And I didn't think that  
23 his evidence supported those conclusions.

24 Q. Okay. Okay. Go down to paragraph 73,  
25 please.

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1 A. Okay.

2 Q. And as I understand it, Dr. Barber  
3 generated simulated maps and, based on those  
4 simulated maps, concluded that race was the  
5 predominant motive in whatever map was being  
6 challenged in that case?

7 A. I think he was making a claim about the  
8 illustrative plans offered by plaintiffs.

9 This was, I believe, a voting rights act  
10 case. So this would have been, like, a jingles  
11 prong that he was arguing about promise for. I  
12 don't believe -- I don't recall if he also applied  
13 his methodology into the stated and enacted plan.

14 Q. Okay. And Dr. Barber apparently made  
15 some sort of analogy to baking a cake with eggs  
16 and baking a cake without eggs. Do you recall  
17 that?

18 A. Yes.

19 Q. Okay. And what was the -- what was that  
20 analogy?

21 What was his point?

22 A. It was what we discussed earlier, the  
23 general idea of simulations. By removing a  
24 particular factor from the simulations, you can  
25 hopefully evaluate the impact of that factor on --

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1 on plans that -- that didn't have that factor  
2 removed.

3 Q. Okay. So analogy-wise, if you bake a  
4 cake without eggs, then you can compare to a cake  
5 made with eggs and you can tell whether X, you  
6 know, made a -- made a difference in the -- in the  
7 baking of the cake or whether eggs were used in  
8 the baking of the cake?

9 A. That's right.

10 Q. Okay. All right. So in paragraph 73,  
11 in your rebuttal report, you say, "Dr. Barber goes  
12 too far, however, in concluding that race is,  
13 therefore, the predominant factor in the drawing  
14 of the illustrative plan. For eggs to predominate  
15 in the baking of a cake requires more than just  
16 the eggs are important or even critical to the  
17 cake's structure. Flour, sugar, butter and other  
18 ingredients would have to take a secondary  
19 position compared to the amount and impact of the  
20 eggs. Such a claim simply cannot be made on the  
21 basis of a single alternative cake. Similarly, a  
22 single set of redistricting simulations cannot  
23 establish the predominance of racial factors."

24 Do you see that?

25 A. Yes.

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1 Q. Okay. And what are you saying there?

2 A. That predominance is a different  
3 question from: Was race used? Is there a  
4 difference on a racial metric? That predominance  
5 is fundamentally about a comparison of different  
6 factors and, as such, the evidence you need to  
7 bear to justify predominance requires looking  
8 at -- at other factors at least with regards to  
9 districting simulations.

10 Q. Okay. And so -- so using the analogy  
11 even if eggs were important or critical in baking  
12 the cake, it might -- it might or might not be  
13 predominant because we -- that, by itself, doesn't  
14 tell us what role flour, sugar, butter and other  
15 ingredients had in the baking of the cake; would  
16 that be fair to say?

17 A. Yeah. It's what I wrote there.

18 Q. Great. Okay.

19 And same, so the application of that to  
20 a redistricting plan would be that even if race  
21 was important or even critical to the drawing of  
22 the districts, that by itself wouldn't tell us  
23 whether it was the predominant factor; is that  
24 also fair?

25 A. Not quite.

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1 I was -- this analogy was in the context  
2 of redistricting simulations. So simulation might  
3 establish that race played a role. The difference  
4 in a racial metric might even be quite large. But  
5 that alone, without other context, other factors  
6 provided by other simulation analyses, wouldn't --  
7 would no longer establish predominance.

8 Q. Okay. And that's because you need -- in  
9 order to establish predominance, you need to know  
10 not only that the factor that you're assessing was  
11 important or critical, you would need to know its  
12 importance relative to other factors that were  
13 involved in preparing the map?

14 A. In general, that's -- that's how I  
15 interpret predominance.

16 You know, in this case there's a lot of  
17 discussion about what that meant, obviously. You  
18 know, the court makes the ultimate decision in  
19 litigation. But in my opinion, predominance  
20 necessarily does relate to the role that other  
21 factors played in comparison to the -- you know,  
22 the factor question.

23 Q. Okay. Let's go down to paragraph 75.  
24 In paragraph 75 you say, "Had Dr. Barber conducted  
25 multiple additional valid simulation studies

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1 measuring the effect of other redistricting  
2 criteria on the number of HVAP majority districts  
3 and other traditional redistricting criteria, he  
4 may have been able to distinguish that some  
5 factors had larger effects than others. He did  
6 not. Even if he had done so, however, he still  
7 could not have concluded that race predominated  
8 over other factors. All of the factors of  
9 criteria that go into a redistricting plan  
10 necessarily interact with one another and multiple  
11 factors may be important without one predominated.  
12 Claiming that race is the predominant factor in a  
13 particular plan with us always require more  
14 evidence than simply establishing that racial  
15 information had an impact on the way the plan  
16 looks."

17 Do you see that?

18 A. Yes.

19 Q. Okay. And so specifically the -- with  
20 respect to the last sentence there, do you stand  
21 by the statement here that "all of the factors or  
22 criteria that go into a redistricting plan  
23 necessarily interact with one another and multiple  
24 factors may be important without one  
25 predominated"?

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1 A. Yes. I think that's generally true.

2 Q. And, likewise, the -- the last sentence,  
3 do you -- do you stand by the assertion in this  
4 report that -- claiming that "race is the  
5 predominant factor in a particular plan will  
6 always require more evidence than simply  
7 establishing that racial information had an impact  
8 on the way the plan looks"?

9 A. Yeah.

10 And, again, that's sort of my  
11 understanding of what predominant means to me,  
12 but...

13 Yes.

14 Q. Okay. All right. We can close that  
15 exhibit.

16 All right. Are you offering any  
17 opinions in this case on the subjective  
18 motivations of the Legislature in enacting either  
19 the congressional or state house maps?

20 A. No.

21 Q. Okay. And you don't claim to have any  
22 personal knowledge about what motivated  
23 legislators or their staff's -- staff members in  
24 drawing the districts that the plaintiffs  
25 challenge here?

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1 A. I don't.

2 Q. Okay. All right. Let's look back at  
3 Exhibit 2 which was the initial set of  
4 instructions that you received.

5 A. Okay.

6 Q. And let's go to paragraph 5. So  
7 paragraph 5 says, "Alter surrounding districts  
8 fully to the extent necessary to follow these  
9 instructions and comply with the Florida  
10 constitutional mandates."

11 Do you see that?

12 A. Yes.

13 Q. Okay. Do you -- do you believe that in  
14 drawing the -- let's say specifically the  
15 congressional maps, the six congressional maps  
16 that you prepared, that you complied with that  
17 instruction?

18 A. Yes.

19 Q. Okay. So you -- you believe that it  
20 would not have been possible to draw a map that  
21 complies -- that follows the instructions you were  
22 given and complies with the Florida constitutional  
23 mandates while altering surrounding districts to a  
24 lesser extent than you did?

25 MR. FRACKMAN: Object to the form of the

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1 question.

2 A. Yes, I agree with that.

3 Q. Okay. How many districts -- let's go by  
4 each map.

5 Do you know in congressional map A how  
6 many districts you altered?

7 A. Look at -- look that up here.

8 MR. FRACKMAN: Just tell us what exhibit  
9 you're looking at.

10 THE WITNESS: Oh. I'm sorry.

11 A. This is my report with the -- the visual  
12 of the map in Fig. 4. Gosh, I think -- sorry. I  
13 lost track. Hold on.

14 I think 12.

15 Q. Could it have been 13 districts,  
16 Districts 16 through 28?

17 A. It very well might have been.

18 Yeah. So I -- I don't recall changing  
19 20, but it's possible that I changed a couple  
20 small blocks of 20 in this map. I think that's 12  
21 versus 13.

22 Q. How about map B1, did you change 15  
23 districts, specifically District 11 and then 15  
24 through 28?

25 A. I believe so.

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1 Q. Okay. And same for map B2?

2 A. I believe so.

3 Q. And map C1, did you change 18 districts,  
4 those being Districts 8 through 11 and 15 through  
5 28?

6 A. I believe so.

7 Q. Okay. And the same for map C2?

8 A. Yes.

9 Q. And map D, did you change 20 districts,  
10 specifically Districts 6 through 11 and 15 through  
11 28?

12 A. Six, I don't recall exactly. It's  
13 certainly possible I changed 6, so...

14 I believe -- I believe that sounds about  
15 right.

16 Q. Okay. So based on that, it seems like  
17 the -- the smallest number of districts that you  
18 thought needed to be changed was 13 -- 12 or 13 in  
19 map A?

20 A. Right.

21 So the instruction sort of has two parts  
22 which is before alternating and also complying  
23 with the standards. And so, as we talked about,  
24 the standards are a judgment call.

25 So I presented some options that sort

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1 of, you know, comply in my opinion, more or less,  
2 with the standards overall and -- and then trade  
3 that off, if you will, against the changes of the  
4 original map.

5 So at minimum, I think 12 or 13  
6 districts had to be changed.

7 Q. Okay. So, in your view, there was no  
8 way to alter fewer districts while still following  
9 the instructions in Exhibit 2 and complying with  
10 Florida's constitutional mandates?

11 A. Correct.

12 Q. Okay. And -- and, then, what about the  
13 other maps, you know, if they alter 15, 18 or 20  
14 districts, doesn't that make greater alterations  
15 than necessary to follow the instructions and  
16 comply with the Florida constitutional mandates  
17 since you showed it could be done altering only 13  
18 districts?

19 A. Well, as I said, the other plans, I  
20 think, better comply with parts of or -- or  
21 more -- parts of the -- the -- the Tier 2  
22 standards.

23 And so, again, I just made a judgment  
24 call as to what -- what counts as fully complying  
25 with these -- with those standards.

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1           And so in the event that I am presenting  
2     options and stuff, if, you know, a decision maker  
3     or person wants to look at, okay, could you better  
4     comply, what would that look like and -- here's  
5     what I think the minimum number of changes would  
6     be in that scenario.

7           So some of the plans have fewer splits  
8     of counties and municipalities and then so on. So  
9     I don't -- I don't think the fact that I produced  
10    the range is inconsistent with my instructions.

11          Q.    So why would it -- if -- and the -- the  
12    map that you were ultimately given, the shape file  
13    that you were ultimately given in February of 2025  
14    had only one district removed; correct?

15          A.    Yes.

16          Q.    Okay. So why would it be necessary in  
17    redrawing that district to redraw a minimum of 12  
18    or 13 districts or as many as 20?

19          A.    Sure.

20                The existing districts have basically  
21    all used sort of the north-south set of county  
22    boundaries that sort of line up along the middle  
23    of the -- of the spine of South Florida. So once  
24    I judged that having a district span the  
25    Everglades was inconsistent with the Tier 2

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1 standards, you then had this population excess on  
2 one side and gap on the other so there needs to be  
3 some adjustment. There needs to be some net  
4 movement of boundaries so the population is equal  
5 as on the two coasts. And you can't do that  
6 across those existing county boundaries without  
7 creating what's, in my opinion, not consistent  
8 with the Tier 2 standards.

9 Instead, you had to sort of flow the  
10 districts up through sort of the Tampa latitude or  
11 the splits that had already been -- that had  
12 already been judged that those splits were going  
13 to be there.

14 So sort of the pop- -- the balance of  
15 the populations, I think, mandated those, like I  
16 say, domino effect, to comply fully with -- with  
17 the standards.

18 Q. Okay. Were there any -- were there any  
19 ways in which -- that you observed in which the  
20 enacted congressional plan complied with or  
21 implemented the Tier 2 standards that when you'd  
22 redo congressional district 26 you were not able  
23 to do in your map?

24 MR. FRACKMAN: Object to the form of the  
25 question.

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1 A. Nothing specific comes to mind. But if  
2 there's a specific question, maybe I might have an  
3 opinion.

4 Q. Well, we'll get to that.

5 Let's go back to Exhibit 1 which is your  
6 report.

7 A. Okay.

8 Q. And turn please to paragraph 32.

9 A. Okay.

10 Q. All right. So -- specifically, Table 1.  
11 Just -- I want you to just make sure I understand  
12 clearly what -- what the table references.

13 So the column that says -- that has the  
14 heading Split 1+, do you see that?

15 A. Yes.

16 Q. Okay. So would that be the number of  
17 counties in the map that are split regardless of  
18 how many times but the number of counties that are  
19 split?

20 A. Yeah.

21 Specifically by "split" I mean a county  
22 for -- it's municipalities, actually. So it's a  
23 municipality for which there is census-reported  
24 population in more than one district within a  
25 municipality.

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1 Q. Okay. And then municipalities Split 2+,  
2 what specifically does that refer to?

3 A. The number of municipalities that have  
4 census-reported population in more than two  
5 districts within their boundaries.

6 Q. Okay. So there are at least three  
7 districts that have some population from that  
8 municipality?

9 A. That's correct.

10 Q. And then Total Splits, how do you count  
11 that?

12 A. So every time the boundary -- like you  
13 have a district boundary sort of cross into and  
14 take a portion, that would count as a split, so...

15 If it's -- if -- for instance, if a  
16 county falls into the Split 2+ column but not the  
17 Split 1+ column, there should be two splits that  
18 are going to be counting toward that Total Splits  
19 number.

20 Q. Okay. So if you have a municipality  
21 and, let's say, there's a district boundary that  
22 runs straight through the middle, is that -- does  
23 that count one time in your total splits because  
24 there's one line running through it or does it  
25 count twice because there's two districts in that

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1 municipality?

2 A. It should count once. Because if it  
3 hasn't gone to the double duty, one district with  
4 one municipality map, that would count as no  
5 splits, so it should count once.

6 Q. Okay. And, then, if you have a  
7 municipality with two lines running through it  
8 with three districts, that would count as two in  
9 your Total Splits column?

10 A. Yes, it should.

11 Q. Okay. In maps A1 and A2, you split the  
12 City of Miami five ways, and I'm wondering if you  
13 can explain why. And I'm happy to -- if you want  
14 to look at it, I'm happy to show you maps A1 and  
15 A2.

16 A. All right. Let me take a quick look  
17 here.

18 Q. Congressional maps.

19 A. So to be clear, this would involve  
20 Districts 108, 109, 112, 113 and 114.

21 I'm sorry. They're the congressional  
22 maps, not the house maps.

23 Q. Congressional maps, yes.

24 A. Oh, okay. I'm sorry. I thought you  
25 said A1 and A2.

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1 Q. No. I'm sorry. You're right. State  
2 house maps.

3 A. State house. Okay.

4 So I see that there are five house  
5 districts that contain some population in the City  
6 of Miami.

7 Q. Okay. Yeah.

8 Could you walk me through why --

9 MR. FRACKMAN: What -- what -- sorry to  
10 interrupt, Andy. What page are we looking  
11 at?

12 THE WITNESS: Five.

13 MR. BARDOS: So -- yeah, we're looking  
14 at 5.

15 I can make the map itself an exhibit, if  
16 you all prefer.

17 MR. FRACKMAN: Not necessary.

18 MR. BARDOS: Okay.

19 MR. FRACKMAN: I just wanted to be on  
20 the right page.

21 MR. BARDOS: Sure.

22 A. Could you repeat the question? I'm  
23 sorry.

24 Q. Sure.

25 So in maps -- state house maps A1 and

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1 A2, I think we agree that the City of Miami is  
2 split into five different districts. Can you kind  
3 of walk me through why the City of Miami is split  
4 into five districts.

5 A. Sure.

6 So some of the -- like 108 and 109 were  
7 not originally erased in -- in my map, and that  
8 creates some splits.

9 And I'll cover the whole city.

10 The other boundaries were set trying to  
11 incorporate other major municipalities, major  
12 roads in the area, the airport, the highways. You  
13 have the sort of various peninsulas and the bay.  
14 And so in juggling all those these two  
15 configurations ended up with five districts.

16 Other maps I drew had Miami in fewer  
17 pieces.

18 Q. So was this an example of balancing  
19 different standards and trying to harmonize them  
20 but recognizing that there are tradeoffs?

21 A. Yes.

22 Q. Okay. You mentioned the airport. Did  
23 you have any -- was the airport in any way  
24 significant to your map drawing in the state house  
25 maps?

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1 Did you have any particular idea about  
2 what you wanted to do with the map -- with the  
3 airport?

4 A. I wouldn't say particularly.

5 It impacted the maps to the extent that  
6 it's a large geographic area, not populated,  
7 bounded by highways on -- on multiple sides. So  
8 that impacts how the districts are going to look.  
9 But I didn't have, to use your words, any  
10 particular ideas about the airport.

11 Q. Okay. Now, the City of Miami was split  
12 five ways. There are multiple other  
13 municipalities in Miami-Dade that you did keep  
14 whole. Is there -- is there some difference  
15 between the City of Miami and other municipalities  
16 in Miami-Dade that Miami-Dade ended up being --  
17 or, I'm sorry, the City of Miami ended up being  
18 split five times but others were either not split  
19 or were split fewer times?

20 A. Well, Miami is much larger, so I don't  
21 believe you can fit the whole city in a single  
22 house district.

23 Q. All right. Let's go to page --  
24 paragraph 34 of your report. So we're back on  
25 Exhibit 1. And you write that "the illustrative

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1 plans respect municipal boundaries at least as  
2 well as the enacted plan and in some cases  
3 better."

4 Do you see that?

5 A. Yes.

6 Q. Okay. And here are we talking about  
7 state house districts?

8 A. Yes.

9 Q. Okay. So how would you -- how would you  
10 compare the performance of the illustrative maps  
11 to the enacted map as it relates to  
12 municipalities?

13 You know, how would you evaluate?

14 Would you say it's comparable, better,  
15 worse? Kind of what characterization would you  
16 put on -- on that?

17 A. Well, I think, as I write here, I would  
18 say in comparable and in some cases some of the  
19 maps do better than the enacted map.

20 Q. Uh-hmm.

21 Okay. And are you taking a position on  
22 the significance of that difference?

23 You know, are you -- when you say do  
24 better, are you saying -- are you opining on,  
25 like, the magnitude of that difference or that

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1 improvement or -- or not?

2 A. Unless I'm misunderstanding you, knowing  
3 that there is a difference, knowing that it's in  
4 the direction of additional compliance with the  
5 Tier 2 standards and the numbers and the tables  
6 that speak for themselves.

7 Q. All right. Are you offering any opinion  
8 on whether the enacted maps' treatment of  
9 municipalities indicates a consideration of race  
10 by the Florida Legislature?

11 A. No.

12 Q. And does that go for both the  
13 congressional and house district maps?

14 A. That's right. I looked at no racial  
15 data.

16 Q. And, likewise, are you taking any  
17 position on whether the congressional and state  
18 house maps and the -- or districts in the enacted  
19 maps, whether their treatment of counties  
20 indicates the consideration of race by the  
21 Legislature?

22 A. No, I'm not.

23 Q. Okay. Now, as to compactness, are you  
24 offering any opinion as to whether the compactness  
25 of districts in the enacted maps suggest the

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1 consideration of race by the literature?

2 A. No.

3 Q. And similarly, as to geographical  
4 boundaries, are you offering an opinion as to  
5 whether the way that the Legislature treated  
6 geographical boundaries in the enacted  
7 congressional and state house maps indicates the  
8 Legislature's consideration of race?

9 A. No.

10 Q. I believe in your report, in paragraphs  
11 29 and 55, you mentioned that you, in some of your  
12 maps, split municipalities in Polk County that  
13 were not split in the enacted map. Do you recall  
14 that?

15 A. Let me just briefly review paragraphs 29  
16 and 55.

17 Q. Sure.

18 A. Yes, I see that. I see that discussion.

19 Q. So why did you split the municipalities  
20 in Polk County?

21 A. Those municipalities are some of the  
22 most irregularly-shaped municipalities in the  
23 country, partly due to the -- the lakes and the  
24 area, but I think also just the history of the  
25 annexations and so on. So in some cases don't

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1 even have, you know, fully contiguous  
2 municipalities.

3 So in the interest of balancing and  
4 keeping co-equal the Tier 2 standards, my  
5 judgment, you could -- you could do that, but the  
6 cost in some cases and some configurations was --  
7 splits through some of these municipalities. In  
8 some cases those splits were through unpopulated  
9 regions which wouldn't -- wouldn't count as a  
10 split by my other calculations.

11 Q. Okay. So is it fair to say that you  
12 split those municipalities in order to make the  
13 districts in that area more compact?

14 A. Yes. In order to balance those two  
15 criteria across the whole map.

16 Almost every map is going to have to  
17 split some districts. And by splitting -- sorry,  
18 some municipalities. And by splitting those  
19 municipalities in that area, I thought I could  
20 better balance and comply with the Tier 2  
21 standards.

22 Q. And that would be an example of a  
23 situation in which the Tier 2 standards are in  
24 some tension with each other; correct?

25 A. I would disagree with that.

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1 MR. FRACKMAN: Object to the form of the  
2 question.

3 Q. And you resolved that in favor of  
4 compactness at the expense of keeping the  
5 municipalities whole in Polk County?

6 A. In Polk County, in the particular --  
7 some of the illustrative examples, that's correct.

8 Q. Okay. And that's an example of the  
9 sorts of tradeoffs that any map drawer, whether  
10 it's the Legislature or anybody else drawing maps,  
11 has to make when balancing the Tier 2 criteria;  
12 correct?

13 A. Yes.

14 Q. Now, in paragraph 32, there's some -- I  
15 believe that's where you discuss -- maybe you  
16 don't discuss it there, but the calculations, I  
17 think, reflect it.

18 So you split certain counties and  
19 municipalities in a way that -- that one portion  
20 of that, of the county or municipality, had zero  
21 population. Do you recall that?

22 A. Just to make sure I'm clear, some of my  
23 districts that I drew had boundaries that are  
24 regions that overlap another county but that was  
25 regions that are unpopulated, that's right.

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1 Q. Okay. And so -- and that -- and that  
2 would be true in both your state house maps and  
3 congressional maps, you have those -- that type of  
4 split occur?

5 A. I believe so.

6 Q. And I believe you explained in your  
7 rebuttal report that you understand from the  
8 Florida Supreme Court precedent that a split that  
9 results in no population in one of the fragments  
10 doesn't really count against the map drawer, it  
11 doesn't violate the Tier 2 standards; is that  
12 correct?

13 A. That's my understanding.

14 Q. Okay. So in those situations, why did  
15 you split the county or the municipality?

16 And I'm talking in about situations  
17 where the split results in one piece that has no  
18 population. Why did you make those splits?

19 A. Sure.

20 I -- a full answer probably depends on a  
21 specific example we're discussing.

22 In general, it was often possible to  
23 create boundaries that better respected static  
24 geographic and -- and natural and political  
25 features by, you know, drawing the way that may

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1 have, you know, cut off an unpopulated portion.

2 And so that was a way to comply with  
3 both -- you know, both parts of that Tier 2  
4 standard respecting boundaries, respecting both  
5 the municipal county boundary and the national  
6 geographic or other political boundaries.

7 Q. Okay. Were there also situations in  
8 which you created such lists in order to make the  
9 district for compact?

10 A. Probably.

11 Q. Okay. Do you know, for example -- and  
12 we can look at the map, if you'd like, but Hendry  
13 County, whether it had that little narrow  
14 triangular piece that goes up into Lake  
15 Okeechobee?

16 Do you recall that feature?

17 A. Yes.

18 So reassigning that through the district  
19 both respects sort of the coastline of that lake  
20 as well as increasing the compactness visually and  
21 according to some of the compactness measures.

22 Q. Do you know whether the Legislature,  
23 notwithstanding the Florida Supreme Court's  
24 opinion, tried to avoid splits that resulted in an  
25 unpopulated tract?

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1           A.    No.  I don't at this moment recall  
2 specifically knowing that, one way or another.

3           Q.    If the Legislature tried to avoid such  
4 splits, would it be fair to say that the  
5 Legislature subjected itself to a constraint that  
6 you did not subject yourself to in drawing your  
7 maps?

8                   MR. FRACKMAN:  Objection to form.

9           A.    I would -- I would say rather that if  
10 that were true -- and, again, I don't -- that --  
11 that it might be the case, the Legislature and I  
12 have slightly different interpretations of what it  
13 means to respect political and geographical  
14 boundaries in that -- in that narrow way.

15                   I wouldn't describe it as an additional  
16 constraint.  I think it's an interpretation of --  
17 of that portion of the Tier 2 standards.

18           Q.    Okay.  But you wouldn't see it as a  
19 constraint or -- well -- and let me -- let me go  
20 back.

21                   So what I'm asking you to hypothesize is  
22 not that the Legislature interpreted the standards  
23 that way, but it basically held itself to a  
24 standard above what the law required.  It wasn't  
25 going to split municipalities or counties in a way

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1 that resulted in unpopulated fragment even if  
2 it -- even if the law allows it. So that's --  
3 that's kind of what I'm hypothesizing.

4 So if that were the case and if that's  
5 how the Legislature drew its maps, would you agree  
6 that the Legislature placed itself under certain  
7 limitations or constraints that you were not bound  
8 by in drawing the maps?

9 MR. FRACKMAN: Objection to form.

10 A. So if I understand the question  
11 correctly, that's definitionally true. If the  
12 hypothesis had additional criteria, then the  
13 answer would be yes, they had additional criteria  
14 that I did not.

15 Q. And the -- just to be clear, the data  
16 that you present in Tables 1 and 2 of your initial  
17 report, where you summarize split counties and  
18 county splits and split municipalities and  
19 municipality splits, those do not include county  
20 and municipal -- and municipal splits that  
21 resulted in an unpopulated fragment?

22 A. That's correct.

23 Q. And so if we were to count those, some  
24 of the numbers at least in Tables 1 and 2 would be  
25 different?

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1 A. I believe so.

2 MR. BARDOS: Andrew, what are you  
3 thinking or what's your preference in terms  
4 of lunch?

5 MR. FRACKMAN: Well, it's really up to  
6 you and Cory.

7 Cory, you want to break now?

8 THE WITNESS: I don't know, Mr. Bardos,  
9 what your questioning looks like. I can go  
10 for another 15, 20 minutes before I need a  
11 break, so...

12 MR. BARDOS: Okay. Are you -- what time  
13 zone are you in, Dr. McCartan?

14 THE WITNESS: Eastern.

15 MR. BARDOS: Okay. All right. So  
16 you're on the same lunch schedule that we're  
17 on.

18 THE WITNESS: Yes.

19 MR. BARDOS: This might be a good time  
20 to take a break, if it works for everybody.

21 Do we want to reconvene in, what, 45  
22 minutes or an hour?

23 MR. FRACKMAN: Cory, up to you. 45  
24 minutes enough?

25 THE WITNESS: Yeah. I think that should

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1 be enough.

2 MR. BARDOS: Okay. All right. Let's  
3 convene at -- let's say --

4 MR. FRACKMAN: Let's shoot for 1:05.

5 MR. BARDOS: 1:05.

6 MR. FRACKMAN: 1:00. 1:00 is good.

7 We'll shoot for 1. We'll do that.

8 MS. CARTAYA: Thank you.

9 MR. BARDOS: 1:00, it is.

10 Thanks, Everyone.

11 (Recess in proceedings.)

12 BY MR. BARDOS:

13 Q. And, Dr. McCartan, during the break, did  
14 you discuss your testimony with anybody?

15 A. Yeah. Mr. Frackman called and just said  
16 you're doing a good job and it's going to get  
17 tiring in the afternoon.

18 Q. Yeah. All right.

19 So nobody else besides Mr. Frackman?

20 A. That's right.

21 Q. All right. Turn to page 38 of your  
22 report, please.

23 A. Okay.

24 Q. I'm sorry. Paragraph, paragraph 38.

25 A. Oh. Paragraph 38.

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1 Q. Yeah.

2 A. Okay.

3 Q. And this is when you begin discussing  
4 the boundary utilization scores.

5 A. Yes.

6 Q. And on the next page, on page 17, you  
7 have a Table 3 that displays the average  
8 utilization scores for a group of districts. Do  
9 you see that?

10 A. Yes.

11 Q. Okay. What I'd like to do is focus  
12 specifically on Congressional District 26 and its  
13 boundary utilization scores. So turn, please, to  
14 page 28 which is part of the appendix to your  
15 report.

16 A. Okay.

17 Q. All right. Now, here you have, in Table  
18 8, which begins on page 28, the boundary scores  
19 for your six congressional maps as well as the  
20 inactive congressional map; is that correct?

21 A. Yes.

22 Q. Okay. And there's a column called --  
23 called Other. Do you see that?

24 A. Yes.

25 Q. And what do you understand Other to

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1 refer to?

2 A. The portion of the total perimeter which  
3 does not coincide with city, county, road, water  
4 or rail boundaries as to the software.

5 Q. Okay. And so the theory is that the  
6 lower that -- the number is under Other the  
7 better; correct?

8 A. This is one way of quantifying  
9 compliance with -- with Tier 2.

10 A lot of tradeoffs there. But if you  
11 buy into this metric then smaller Other score is  
12 better compliance with Tier 2.

13 Q. Okay. And -- and so let's go through  
14 and look at the scores achieved by Congressional  
15 District 26.

16 Could you walk us through that and let  
17 us -- and kind of just recite for the record in  
18 each of the maps -- your six maps and the enacted  
19 map the -- the score achieved by Congressional  
20 District 26.

21 A. Map CDA other 15 percent, CDB1 17  
22 percent, CDB2 4 percent, CDC1 15 percent, CDC2 15  
23 percent, CDD 15 percent, CD enacted 9 percent.

24 Q. And so would you agree that apart from  
25 map D2, the enacted map has a lower boundary score

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1 for CD26 than in -- than in your enacted -- or,  
2 I'm sorry, your alternative maps?

3 A. Yes.

4 Q. Okay. And now let's do the same thing  
5 looking specifically at the column called County.

6 And what do you understand that column  
7 to be referring to?

8 A. One moment. Sorry. I'm scrolling back  
9 up.

10 That would be the portion of the total  
11 perimeter that coincides with county boundaries.

12 Q. Okay. And so let's go through that same  
13 exercise looking at the -- the portion of the  
14 district boundary that coincides with county  
15 boundaries for Congressional District 26 in each  
16 of your six maps and the enacted maps.

17 A. CDA 13 percent, CDB1 7 percent, CDB2 16  
18 percent, CDC1 13 percent, CDC2 13 percent, CDD 13  
19 percent, CD enacted 54 percent.

20 Q. And so would you agree that the boundary  
21 of enacted Congressional District 26 coincides  
22 with county boundaries to a greater extent than  
23 the boundary of Congressional District 26 in your  
24 maps?

25 A. Yes.

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1 Q. Let's turn to paragraph 43 of your  
2 report.

3 A. Paragraph -- okay.

4 Q. And here you're discussing compactness.  
5 And in Table 4 you show the difference in the  
6 average compactness scores for the various maps.

7 Do you see that?

8 A. Yes.

9 Q. Okay. And what I'd like to do is look  
10 at the compactness scores of three South Florida  
11 districts in particular. And to do that I will  
12 provide Exhibit 22. But I want you to feel free  
13 to reference the -- the data in your appendix.

14 MR. BARDOS: I'll make sure Mr. Frackman  
15 has this exhibit as well.

16 (Exhibit 22 was marked for  
17 identification and is attached to the  
18 transcript.)

19 A. Okay. If it's all right, I'm just going  
20 to spot check this document to make sure I  
21 understand what this document is showing.

22 Q. Yeah. And, in fact, that was going to  
23 be my next question.

24 Can you confirm the accuracy of the  
25 scores in the document which is Exhibit 22?

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1           A.    Okay.  So I'm just checking a couple of  
2           numbers because it would take a long time to check  
3           every single one.

4                    But this appears to be a rearrangement  
5           of the compactness tables in my appendix rounded  
6           to two decimal places.

7           Q.    Okay.  So -- so this Exhibit 22 shows  
8           the Reock, Convex Hull and Polsby-Popper scores  
9           for Congressional Districts 24, 25 and 27 in the  
10          enacted map and in -- and in your six illustrative  
11          maps.

12                   Would you agree that the compactness  
13          scores in your maps for these three districts are  
14          all lower than the compactness scores in the  
15          enacted map with the exception of CD27 and map B2  
16          where two of the scores are the same?

17          A.    That appears to be the case.

18          Q.    Okay.  Now, do you consider the  
19          differences between the compactness scores in the  
20          enacted map for these three districts and the  
21          compactness scores in your maps for these three  
22          districts to be meaningful?

23                   MR. FRACKMAN:  Object to the form of the  
24          question.

25          A.    "Meaningful" in what sense?  Sorry.

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1 Q. Just in whatever -- whatever sense or  
2 whatever opinion you're giving in this case.

3 Are -- is -- are you -- would you  
4 consider this to be meaningful or significant, the  
5 differences, or -- or not significant or  
6 meaningful?

7 A. Sure.

8 I would, you know, want to contextualize  
9 some of these numbers in the context of the full  
10 tables to make a definitive opinion.

11 Some of these differences are certainly  
12 larger than others. And in many cases the  
13 differences are -- you know, between enacted and  
14 the illustrative plans are bigger than any  
15 illustrative plans themselves. So I just suspect  
16 some of these differences could be -- I might  
17 consider meaningful.

18 Q. Do you have a -- and I think we talked  
19 about this before, but you don't have a -- a  
20 bright line rule that says, for example, if  
21 it's -- if the difference is more than a tenth  
22 than that's a, you know, kind of substantively  
23 meaningful difference?

24 You don't have that kind of bright line  
25 rule?

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1 A. That's right.

2 Q. Are you offering -- going back to your  
3 report.

4 Are you offering an opinion as to  
5 whether the differences in compactness scores  
6 reported in Table 4 of your report on page 18 are  
7 meaningful or significant or are you simply  
8 reporting the data?

9 A. Let me flip back to Table 4.

10 I think my opinion in my report is that  
11 the numbers are higher, lower or comparable, and  
12 that my districts are or are not visually compact  
13 or just generally compact.

14 The numbers in Table 4 are averages  
15 across 28 districts. And so those are going to be  
16 measured on a different scale than looking at one  
17 particular district in its -- in its -- its  
18 metrics, for instance.

19 Q. Okay. So where -- where the scores in  
20 your map as reported on Table 4 are higher or  
21 lower than the enacted map, are you rendering an  
22 opinion there about the significance of that  
23 difference or just reporting that -- that they  
24 are, in fact, higher or lower?

25 A. In my report, it offers that it's higher

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1 or comparable or lower, not that a certain  
2 magnitude quantifies, to use your word,  
3 significantly.

4 Q. All right. Let's take a look at some of  
5 your maps.

6 And we'll start with -- let's see.  
7 Start with congressional map A which is about to  
8 become Exhibit 29.

9 (Exhibit 29 was marked for  
10 identification and is attached to the  
11 transcript.)

12 A. Okay.

13 Q. Okay. And I'd like to ask you about the  
14 visual compactness of some of the districts in the  
15 map.

16 So let me catch up to you.

17 All right. Let's take a look at  
18 District 21 in map A.

19 A. All right.

20 Q. Do you consider District 21 to be  
21 visually compact?

22 A. Broadly, yes.

23 Q. Okay. "Broadly, yes," is that -- does  
24 that indicate some -- some qualification of that  
25 opinion?

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1           A.   Well, in my alchemist-favored  
2   redistricting, you know, we think of compactness  
3   as a continuum, so I'm always low to, you know,  
4   make a bright-line distinction.

5                   I understand the judgment as regards  
6   Tier 2 standards is maybe compact or not and so,  
7   you know, if pressed, I would say yeah, 20 -- 21  
8   is compact visually.

9           Q.   Okay. And you consider that visually  
10   compact notwithstanding the -- the protuberance at  
11   the northwest corner of District 21?

12          A.   Again, you know, if you kind of factor  
13   that you didn't have that, you could ask is it  
14   more or less compact. Right now, I don't have an  
15   answer. But taken together, yes.

16          Q.   Okay. How about District 18, would you  
17   consider that to be compact?

18          A.   Yes.

19          Q.   And what about District 24, is -- and  
20   on -- on the right side of the first page there's  
21   a -- kind of an enlargement of that southeast  
22   Florida area, if that's helpful.

23          A.   Yes, I see.

24          Q.   And do you consider District 24 to be  
25   visually compact?

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1           A.    I would say it's less compact than, for  
2 instance, 26 or 27, but broadly, yes, I would say  
3 24 is visually compact.

4           Q.    Notwithstanding its horizontal  
5 orientation?

6           A.    That's -- well, the fact it is wider  
7 than it is tall, yes.

8           Q.    Okay. And there's no difference between  
9 the -- in terms of compactness the particular  
10 orientation of a district, whether it's horizontal  
11 or vertical; correct?

12                   It's just really the shape of the  
13 district that determines compactness?

14           A.    Well, certainly, numerical scores are  
15 what we call rotation variants. But some people  
16 have studied this and find that judges, for  
17 instance, actually are sensitive to the direction.  
18 There's some metrics of compactness that do take  
19 into account orientation.

20                   So I can't undo exactly what's going on  
21 in my brain, but when I look at 24 that's visually  
22 compact.

23           Q.    If we rotate District 24 90 degrees,  
24 would it still be visually compact?

25           A.    Yes.

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1 Q. Okay. What about District 25, just to  
2 the north of it, do you consider that to be  
3 visually compact?

4 A. That's more borderline for me because of  
5 the impact to District 20.

6 Q. And District 20, is that drawn the way  
7 that it is because of the minority voting  
8 protections that you were told about in the  
9 instruction letter?

10 A. That was my inference based on the two  
11 protrusions, that the only reasonable way you can  
12 figure that district for that reason or to look  
13 like that is because those areas contain protected  
14 voters.

15 Q. Okay. So why does District 25 go up the  
16 coast north of Fort Lauderdale and through Pompano  
17 Beach?

18 A. Well, it needs to have the same  
19 population as the other district and there isn't  
20 enough in the area line below the arm of 20, if  
21 you will, so it has to extend up the coast. The  
22 only way to not have it look like that would be to  
23 reconfigure 20 substantially.

24 Q. Do you know whether the Legislature's  
25 District 25 has this L shape?

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1           A.   Well, the Legislature's numbers aren't  
2 going to correspond exactly the same as to this  
3 map because of the sort of counterclockwise  
4 movement of population. So if I had to guess, I  
5 would say 25 is probably located further south and  
6 that a different district involves the sort of  
7 stretch from Pompano to Fort Lauderdale beach  
8 rather than District 25.

9           Q.   Okay. Let's look at the enacted  
10 congressional map. I'll add that to the chat.

11                   And are you able to kind of look at two  
12 maps at once side by side?

13           A.   I should be able to.

14           Q.   Okay. All right. So here comes Exhibit  
15 27.

16                   (Exhibit 27 was marked for  
17 identification and is attached to the  
18 transcript.)

19           Q.   And let me know once you have 27 open.

20           A.   I do, side by side here.

21           Q.   Okay. Perfect.

22                   So in the -- do you see District 25 in  
23 the Legislature's map?

24           A.   Yes.

25           Q.   Okay. And you agree that District 25

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1 doesn't go north of Fort Lauderdale in the  
2 Legislature's map; correct?

3 A. Yes.

4 Q. Okay. So why did District 25 turn north  
5 and go up the coast in your map?

6 A. Well, because of what I just mentioned,  
7 the movement of population. So 26 takes a  
8 different set of population so the districts  
9 around it get moved.

10 To keep 25 with equal populous, as is  
11 required by the Constitution, requires taking the  
12 population north, the -- the only alternative is  
13 refiguring District 20.

14 Q. Okay. So let's talk about District 26  
15 and its -- its impact.

16 So would you agree with me that when  
17 District 26 moved entirely within Miami-Dade  
18 County as it did in your map, then some other  
19 district in Miami-Dade County must at least in  
20 part move out of Miami-Dade County?

21 MR. FRACKMAN: I'm going to object to  
22 the form of that question.

23 A. I think that follows if you basically  
24 maintain the other county boundaries that are  
25 not -- that are not split and that would be

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1 consistent with Tier 2.

2 So if you want to maintain consistent  
3 with Tier 2, then you're going to have to move  
4 some district in Miami-Dade, a larger portion of  
5 that district is going to include areas outside  
6 Miami-Dade.

7 Q. Right.

8 So, just as a matter of equal  
9 population, if District 26 is taking more of  
10 Miami-Dade's population, some other district has  
11 to take less; right?

12 A. That's correct.

13 Q. Okay. So in your map, once you move to  
14 Miami-Dade -- I'm sorry, moved Congressional  
15 District 26 entirely into Miami-Dade, which  
16 district did -- in other words, which district  
17 took less of Miami-Dade's population?

18 A. CD24.

19 Q. Okay. So CD24 moved -- took less  
20 population from Miami and took more population --  
21 Miami-Dade and took more population from Broward  
22 than in the enacted map?

23 A. That's correct.

24 Q. Okay. So, basically, it moved a little  
25 bit to the north?

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1 A. That's right.

2 Q. Okay. And is it that movement of  
3 District 24 to the north taking more population  
4 from Broward that required District 25 to go north  
5 along the coast as well to take population along  
6 the coast?

7 A. That's right.

8 Q. Okay. And, then, how did that impact  
9 Districts 23 and 22?

10 A. Those also move northward. So 23 was  
11 configured to not wrap around the arm of -- of 20  
12 so it became -- it became visually compact, for it  
13 being not visually compact in my judgment. And  
14 then 22 was pushed north as well and had to wrap  
15 around the arm of 20 and became less compact.  
16 They both moved north.

17 Q. Okay. So instead of 23 wrapping around  
18 the southern arm of 20, we have 22 wrapping around  
19 the northern arm?

20 A. Yes. Well, wrapping more around the  
21 northern arm. It had extended up to West Palm  
22 Beach, a very -- sliver of it had, in the enacted  
23 map.

24 Q. Yeah.

25 But in the enacted map it doesn't really

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1 wrap around the northern arm; right?

2 It sort of ends where the northern arm  
3 sort of comes closest to the coast?

4 A. That's right.

5 It's more like 25 has kind of like this  
6 L thing going on.

7 Q. And north of that, do you see in the  
8 enacted map that District 21 follows county  
9 boundaries along the west and northern boundaries?

10 A. Yes.

11 Q. Okay. And in your map, because these  
12 districts are being pushed to the north, were you  
13 able to maintain District 21's adherence to those  
14 county boundaries?

15 A. Well, it follows them in the west and  
16 almost to all of the south and most of the north  
17 but then crosses the county boundary into, I  
18 believe, Polk County.

19 Q. Okay. But it was not -- it no longer  
20 follows the western boundary of Martin and St.  
21 Lucie counties; correct?

22 A. That's right. It follows the western  
23 boundaries of Highlands and Glades instead.

24 Q. Okay. And, then -- and, then, at a  
25 point it does deviate from county boundaries,

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1 District 21; correct? In your map.

2 A. Yes.

3 Q. And that's within Polk County?

4 A. Yes.

5 Q. Okay. And those changes were required

6 by your move of District 26 entirely within

7 Miami-Dade County?

8 A. They followed from that move to maintain

9 compliance with Tier 2 standards.

10 Q. Okay. And to ensure equal population;

11 right?

12 A. Yeah.

13 Q. Okay.

14 A. That's part of the Tier 2 standards that

15 I'm -- well, it's related.

16 Q. And you actually are -- yeah, you're

17 right about that.

18 Okay. All right. Let's close this one.

19 Let me show you Exhibit 30.

20 (Exhibit 30 was marked for

21 identification and is attached to the

22 transcript.)

23 A. Okay.

24 Q. So this is map B1. And similar question

25 here. Do you consider District -- District 25 to

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1 be visually compact?

2 A. 25. Yeah. That's the more borderline  
3 sort of L shape, but -- but it's on the margin.

4 Q. Okay. And then 24, I guess the  
5 configuration is somewhat similar but not exactly  
6 the same, do you consider that to be visually  
7 compact in this map?

8 A. Yes.

9 Q. And that would be true even if we rotate  
10 it 90 degrees?

11 A. Yes.

12 Q. And what about District 22 which wraps  
13 around the northern arm of District 20, does that  
14 visually compact?

15 A. No.

16 Q. And what about 18, do you consider that  
17 to be visually compact?

18 A. It's a little more of a close call. I  
19 would say yes.

20 Q. Okay. Why does District 18 have that  
21 extension to the west?

22 A. It's just -- I think the population's  
23 equal. There's not a lot of population in that --  
24 well, I can't read the county name, but that --  
25 that eastern portion of that county, there's not a

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1 lot of population there and so -- and so to  
2 balance the population, to take a little more  
3 closer to the bay there.

4 Q. Okay. Now, District 21 here, on the  
5 east side it begins at the Atlantic Ocean;  
6 correct?

7 A. Yes.

8 Q. And on the west it goes about as far  
9 west as Port Charlotte. Do you see that?

10 Or do you know -- I guess, you might not  
11 know where Port Charlotte is.

12 A. It approaches that area, yeah.

13 Q. Okay. Which is near the west coast of  
14 Florida; correct?

15 A. Yeah. In the -- so the closest part is  
16 to the inlet, I guess.

17 Q. Yeah.

18 Do you agree that west to east District  
19 21 is longer than enacted Congressional District  
20 26?

21 A. Let me pull it up.

22 It's not enacted again. It's about 27.  
23 It appears to be east-west a little longer.

24 Q. Okay. And do you know whether the  
25 Kississimme River flows south through the middle

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1 of District 21 in your map B1?

2 A. No, I don't particularly.

3 Q. Do you know whether there's much  
4 population in the Kississimme River Basin?

5 A. My recollection in drawing this area is  
6 that, if you're referring to this area sort of in  
7 the center north of 21, that's more sparsely  
8 populated than sort of the coasts.

9 Q. Do you know whether in the middle of  
10 District 21, where the Kississimme River flows  
11 south, whether there are conservation lands set  
12 aside where there's little or no population?

13 A. I can see on this map, I think that  
14 there are some that overlap with District 21, in  
15 that area.

16 Q. Is that something that you looked at and  
17 considered when drawing District 21, whether it's  
18 bisected by the Kississimme River basin that has  
19 little or no population?

20 A. My recollection in drawing this area  
21 wasn't -- wasn't completely devoid of population.

22 And I produced some other maps that --  
23 that configure this -- this -- this issued  
24 boundary differently. So I would say that the  
25 overall population density and the -- you know,

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1 the features in this area were -- were a factor in  
2 my drawing these illustrative maps.

3 Q. Okay. Do you know how many people live  
4 around the Kississimme River?

5 A. Well, I don't know, sir, what area  
6 specifically that corresponds to close to the --  
7 to the river, so -- so, no.

8 Q. All right. Let's take a look at Exhibit  
9 31 which I circulated earlier in the deposition.  
10 Let me know if you have that.

11 A. I have that still.

12 31. I'm ready when you are.

13 Q. Okay. So do you see that this map has  
14 the same District 18 as map B1 does?

15 A. Yes.

16 I think the only things that changed in  
17 this map are the 20 and the northern Miami-Dade  
18 counties.

19 Q. Okay. So, then, your answers regarding  
20 visual compactness, the visual compactness of  
21 Districts 18, 22 and 25, would be the same as they  
22 were for map B1?

23 A. That's right.

24 Q. Okay. Now, if you look at Districts 26  
25 and 24 --

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1 A. 26 and 24. Okay.

2 Q. -- do you see that they are oriented  
3 horizontally?

4 A. Yes.

5 Q. Okay. And do you consider those  
6 districts to be visually compact?

7 A. Yes.

8 Q. And if those two districts together were  
9 rotated 90 degrees, would they still be visually  
10 compact?

11 A. I don't know what you mean by  
12 "together," but yeah. My judgment of each of  
13 their compactness is not dependent on their  
14 orientation horizontally.

15 Q. Okay. Okay. I'll somehow you Exhibit  
16 C1 which will be Exhibit 32.

17 (Exhibit 32 was marked for  
18 identification and is attached to the  
19 transcript.)

20 A. Okay.

21 Q. Okay. In map C1, take a look at  
22 District 17. Do you consider District 17 to be  
23 visually compact?

24 A. Yes.

25 Q. Okay. And that's despite the kind of

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1 tripod shape of District 17?

2 MR. FRACKMAN: I'll object to the form  
3 of the question.

4 A. Yeah. The shape of 17 is impacted by  
5 the -- the coastline and -- and so on. But, yeah,  
6 I would judge it visually compact.

7 Q. And how about District 18?

8 A. Likewise, compact.

9 Q. And District 20 -- District 24 and 25  
10 look similar to some of the Districts 24 and 25  
11 that we've looked at in previous maps, so would  
12 your answers about the visual compactness of those  
13 be the same?

14 A. Yes.

15 Q. Okay. All right. Let's take a look at  
16 map C2. This will be Exhibit Number 33.

17 (Exhibit 33 was marked for  
18 identification and is attached to the  
19 transcript.)

20 A. Okay.

21 Q. Take a look at District 17 in your map  
22 C2.

23 A. Okay.

24 Q. Do you consider that to be visually  
25 compact?

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1 A. Yes.

2 Q. And is that -- so even though along the  
3 northern boundary it has this sort of stair step  
4 or stairway shape?

5 A. Yeah. It's a very regular feature there  
6 in the stair step so, yes.

7 Q. Okay. That's it for that map.

8 We'll do --

9 A. Excuse me.

10 Q. Map D is next. That will be Exhibit 34.

11 (Exhibit 34 was marked for  
12 identification and is attached to the  
13 transcript.)

14 A. Okay.

15 Q. Okay. Take a look at District 18.

16 A. Okay.

17 Q. And do you consider District 18 to be  
18 compact?

19 A. Yes.

20 Q. And along the eastern boundary do you  
21 see that stair-step shape going up from the  
22 southern end to maybe Apollo Beach in Hillsborough  
23 County?

24 A. Sorry. We're looking at --

25 MR. FRACKMAN: I'm looking at a

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1 different map.

2 A. That's southwest.

3 Q. All right. So this is map D, Exhibit  
4 34.

5 A. Uh-hmm.

6 Q. On District 18. And I might have said  
7 east, but I am referring to the -- sort of the  
8 western boundary of 18 as it goes up at front,  
9 right angles --

10 A. I agree.

11 Q. -- from the southern end of the district  
12 up to the kind of western most part of the  
13 district.

14 A. Yes. I see that.

15 Q. Okay. Do you think that renders the  
16 district non-compact?

17 A. I do not.

18 Q. Okay. Now, what about District 8 in  
19 this map, do you think that's compact?

20 A. Yes.

21 Q. Okay. Notwithstanding the kind of thin  
22 vertical orientation of that district?

23 A. Yeah.

24 And this kind of depends on a few -- to  
25 what extent you visually judge the water blocks to

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1 be part of -- part of the district. So it is a  
2 little more borderline than some other cases. But  
3 it's very close to a rectangle in some sense. So  
4 I would say it's visually compact.

5 Q. Okay. So you would consider a rectangle  
6 to be compact even if it's somewhat thin?

7 A. I mean, you -- I think you have to judge  
8 compactness in the context of where you are in the  
9 map.

10 So 8, where it is, that part of the  
11 state where it is, to me, that looks compact.  
12 That's just my visual judgment.

13 I think we discussed earlier, you know,  
14 a hypothetical district that was even longer than  
15 8 and snap to the -- you know, I-95. You know, it  
16 might also look like a rectangle, but I don't  
17 think I would judge that to be compact.

18 Q. So when you're looking at visual  
19 compactness, what -- what are the things that you  
20 look for?

21 A. I mean, I don't know. It's a, you know,  
22 I-know-it-when-I-see-it-type question.

23 And so if there's, you know, sort of the  
24 extremely irregular boundaries that aren't  
25 obviously following any, for instance, river,

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1 there's excessive, you know, protuberances, if  
2 it's non-convex, substantially non-convex, if it's  
3 substantially elongated along some axis -- and  
4 that also is a conversation with what's happening  
5 around it. So we discussed earlier when 20 is  
6 extending into 22 and 22 is wrapping around it or  
7 23 or whatever, that's clearly different than if  
8 that protuberance was along a peninsula, for  
9 instance, at least to my eye.

10 Q. Okay. And what about District 21 just  
11 to the south of it, is that compact?

12 A. Yes.

13 Q. Now, looking back at the enacted  
14 congressional map --

15 A. Okay.

16 Q. -- do you see that Districts 20 and 21,  
17 along their western --

18 A. Yes.

19 Q. -- along their western boundary, for the  
20 entirety of their western boundary follow county  
21 lines and then 21 along the northern boundary  
22 follows county -- a county line?

23 Do you see that?

24 A. Yes.

25 Q. Okay. Now, did your -- in any of your

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1 six congressional maps, did you maintain that  
2 adherence to this -- the -- that county line, the  
3 same county line that is the western boundary of  
4 Broward, Palm Beach, Martin and St. Lucie counties  
5 and the northern boundary of St. Lucie?

6 A. No, not exactly that set of boundaries.

7 Q. Okay. And is that because District 26,  
8 when it moved entirely within Miami-Dade, as we  
9 talked about, pushed the districts to the north  
10 and that prevented the maintenance of that county  
11 boundary that we just discussed?

12 A. That's a natural consequence, yes.

13 Q. Okay. Let's look back at your -- the  
14 latest map of yours that we looked at, so map D.

15 A. Okay.

16 Q. And, I guess, the counties are not  
17 marked on this map.

18 But are you aware of whether your six  
19 congressional maps all split Sarasota County?

20 A. Give me a second to -- still learning  
21 some of these county names. Sarasota.

22 MR. FRACKMAN: Can we get the exhibit  
23 number, Andy?

24 MR. BARDOS: So I'm looking at  
25 Exhibit --

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1 MR. FRACKMAN: If that would be okay.

2 MR. BARDOS: I'm looking at Exhibit 34  
3 right now.

4 A. I'm on 34 and also 27 which has the  
5 counties labeled.

6 I believe the Sarasota boundary would be  
7 split in some portion or in whole in all of my  
8 illustrative maps.

9 Q. Okay. And to confirm, you have -- do  
10 you know if you, like, look in your report, or  
11 somewhere elsewhere, where you could kind of  
12 definitively determine whether Sarasota County is  
13 split in each of your six congressional maps?

14 A. I just have to pull up the ones we just  
15 went through. So I could do that, if you'd like.

16 Q. Okay.

17 A. 28. Wait. Exhibit 28 is not a map?  
18 I'm just going to the -- I don't have a 28.

19 Q. Yeah. 28 is a -- we haven't used 28  
20 yet.

21 A. Okay.

22 So the -- actually, the boundaries  
23 aren't marked, but it appears that all of them  
24 don't maintain the northern border of Sarasota  
25 County but Manatee.

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1 Q. Okay. So Sarasota County is split in  
2 each of the six congressional maps you drew?

3 A. It appears that way. Again, that -- you  
4 know, I don't have it labeled on here, but yes.

5 Q. Okay. And in the enacted map Sarasota  
6 County is whole?

7 A. That's right.

8 Q. All right. And do you know why Sarasota  
9 County would have been split in your maps?

10 A. It wasn't a specific choice. It would  
11 have followed from the same considerations we  
12 discussed of populations moving and needing to  
13 keep each district equal populous.

14 Q. Okay. So would that have been a  
15 consequence of the -- of your redraw District 26?

16 A. Ultimately, yes.

17 Q. And I don't think you're contending  
18 this, but do you contend that it's more important  
19 to keep Collier County whole than it is to keep  
20 Sarasota County whole?

21 A. You're right, I'm not -- I'm not  
22 contending that.

23 Q. Okay. So in -- in the enacted map that  
24 we looked at which was map -- I'm sorry, Exhibit  
25 27, now we looked at the county boundary along the

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1 western boundary of Districts 20 and 21 and the  
2 northern boundary of District 21, if the  
3 Legislature decided to follow that boundary, can  
4 you tell or do you have an opinion as to whether  
5 it would have been possible to draw a map that  
6 doesn't connect part of Miami-Dade to Collier  
7 County in one district?

8 A. I don't have an opinion on that. I  
9 haven't thought about all those configurations.

10 Q. So as you -- as you look at the enacted  
11 map -- so we see that -- that county boundary  
12 that -- that we talked about, northern end of St.  
13 Lucie and then the western side of St. Lucie,  
14 Martin, Palm Beach and Broward, within that that  
15 sort of forms a -- kind of a pocket if you  
16 consider the Atlantic Ocean as a boundary on the  
17 east side as well. Then we have District 21 kind  
18 of moving north to south, District 21, 20, 22, 23  
19 and 25, so -- and then we have 24, 27 and 28 in  
20 Miami-Dade. 28 comes around to Monroe. And 26  
21 goes west to Collier.

22 I mean, looking at that, is there any  
23 way that you can think of that the Legislature  
24 could have maintained that county boundary along  
25 the western side of Districts 20 and 21 and the

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1 northern side of 21 without taking a district down  
2 to Collier?

3 MR. FRACKMAN: Objection to form.

4 A. As I said, I haven't thought through all  
5 these combinations specifically.

6 To what extent Monroe could play in that  
7 particular hypothetical, it's not obvious to me,  
8 one way or another, whether it's absolutely  
9 impossible or that it's absolutely possible.

10 Q. So would you agree that in the enacted  
11 map Monroe is wholly within District 28?

12 A. Yes.

13 Q. Okay. So if we look at the portion of  
14 District 26 that's in Collier County, where else  
15 could 26 go to get population since it can't go  
16 to --

17 A. I'm assuming we're continuing your  
18 hypothetical here.

19 Again, possibly 26 stays inside  
20 Miami-Dade. 27, 28 is adjusted. 28 takes some  
21 population from Collier and -- some portion of  
22 Collier.

23 Yeah, there's a couple permutations I'd  
24 want to go through, but...

25 Q. Okay. So in that situation, if 28 goes

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1 into Collier, 28 would still be partially in  
2 Miami-Dade County; correct?

3 A. It would depend on the balance  
4 populations.

5 Again, it wouldn't shock me if that has  
6 to be the case, given the Keys are not that  
7 heavily populated, but it's a hypothetical I  
8 haven't gone through. I -- I don't want to make a  
9 definitive yes/no on that.

10 Q. Would it help you to see the -- the  
11 population of different counties?

12 Turn to -- go to page 16 of this  
13 exhibit.

14 A. Okay.

15 Q. And do you see where -- this Miami-Dade  
16 and specifically District 28?

17 A. Yeah.

18 Q. Do you see that 680,347 people who live  
19 in District 28 are located in Miami-Dade County?

20 A. I do.

21 Q. Okay. And that's much smaller [sic]  
22 than the portion of District 26 that is in Collier  
23 County; right? I'm sorry, much larger.

24 A. It's about three times as large.

25 Q. Right.

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1           So if Miami-Dade -- if 26 were to move  
2           entirely within 20 -- into Miami-Dade, that  
3           wouldn't push 28 wholly out of Miami-Dade; right?

4           A.    I believe not.

5           Q.    Okay. And so even if it's Miami -- if  
6           it's 28 that goes up into Collier, you would still  
7           have a district that includes both Collier and  
8           Miami-Dade?

9           A.    Seems very well reasoned.

10          Q.    And so is there any scenario that you  
11          can think of, sitting here, that -- in which the  
12          Legislature, if it wanted to follow this county  
13          boundary along the northern end of St. Lucie and  
14          the western side of St. Lucie, Martin and Palm  
15          Beach and Broward counties, could have drawn a  
16          district that doesn't include Miami-Dade and  
17          Collier counties?

18          MR. FRACKMAN: Objection to form.

19          A.    If it made that judgment, which may or  
20          may not be consistent with the constitutional  
21          standards, then, as we've discussed, I don't think  
22          it is positive to both insist on that entire  
23          boundary and avoid any district containing both  
24          population in Collier and Miami-Dade.

25          Q.    Okay. All right. So we can close that

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1 exhibit.

2 Do you know -- I know you didn't look at  
3 population data when you were drawing the  
4 districts, but do you know, sitting here today,  
5 what the Hispanic voting age population of your  
6 Congressional Districts 26 is, I guess, for the  
7 six different maps?

8 Do you know what the age maps are?

9 A. No.

10 Q. Okay. Do you know whether at least  
11 in -- well, let me ask you this. How many  
12 different configurations of District 26 are  
13 contained in your six maps?

14 A. Sorry. I should amend my last question.

15 I think we did -- you showed me earlier  
16 that one of mine -- I forget which, maybe it was  
17 B1, had an HVAP somewhere in the low 70s. So  
18 that's my only -- that's my only knowledge of  
19 that, to correct that answer.

20 Q. Yes, sir.

21 A. As far as configurations of 26, it's not  
22 six. I want to say it's maybe two or three.

23 Q. Okay. And -- and so you know now based  
24 on our earlier conversation in this deposition  
25 that one of them has an HVAP in the -- in the

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1 lower 70 percent range.

2 Do you know what the HVAP is for the  
3 other District 26 or Districts 26 that you drew?

4 A. No.

5 Q. Would it surprise you if the HVAP is in  
6 the range of 90 percent?

7 A. Maybe a little bit. Only because I  
8 maybe grasped that it was -- there was that much  
9 residential segregation in that portion of the  
10 county, but I'm not as -- I know the broad sort of  
11 patterns of Miami-Dade, but I'm not as familiar  
12 with the demographics to really be surprised, one  
13 way or the other, if that were true or not. I  
14 don't know.

15 Q. Okay. Do you have an opinion on whether  
16 if you are drawing, you know, a map and -- and you  
17 had a district, a congressional district with a 90  
18 percent Hispanic voting age population, does  
19 that -- you know, do you have any concerns about  
20 that, the way that that -- that would be drawn?

21 A. Could you be more specific? Like, what  
22 kind of terms specifically?

23 Q. Packing.

24 Are you familiar with the term of  
25 "packing"?

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1           A.    In the context of, like, a racial  
2 gerrymandering type of claim.

3           Q.    What's your understanding of the term  
4 "packing"?

5           A.    Well, you can use it for not just race  
6 but -- but partisanship.

7                   But the way I use it in my work is when  
8 you have a district that has a substantially  
9 higher concentration of a group than you would  
10 otherwise expect in, for instance, a neutral set  
11 of simulations.

12                   So as to answer your original question,  
13 90 percent -- it would depend, for instance, if  
14 you're drawing -- many parts of the country where  
15 you draw maps you're going to have extremely  
16 concentrated groups in one race. For instance,  
17 you're going to have 90 percent white in huge  
18 counts. So it really depends on the local  
19 geography. So I don't know what's typical in this  
20 area.

21                   And as to racial gerrymandering or -- or  
22 racial rights, that consideration would depend on  
23 factors like racially polarized voting, which I  
24 haven't analyzed.

25           Q.    Is the fact itself that the HVAP of the

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1 district is in the range of 90 percent, that by  
2 itself wouldn't cause you concerns?

3 A. Given my current state of knowledge  
4 about local voting patterns and demographics, you  
5 know, without additional background, I wouldn't --  
6 I wouldn't make a judgment necessarily, one way or  
7 the other.

8 Q. Okay. What about in the state house  
9 map, if you drew districts in which certain  
10 maps -- in which three of the districts that you  
11 redrew had Hispanic voting age populations of  
12 approximately 90 percent or greater, would that  
13 fact in itself cause you any concern?

14 A. It would surprise me a little less  
15 probably just because of the size of the district  
16 is featured in drama homogenous districts that are  
17 smaller.

18 As I say, as far as concern, I would  
19 need more local context and background to -- to  
20 form a concern or lack thereof, one way or  
21 another.

22 Q. Okay. Do you know whether your -- apart  
23 from map B2, whether your -- your Congressional  
24 Districts 26 each have at least 100,000 more  
25 Hispanics of voting age than the enacted District

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1 26 does?

2 A. I'm sorry. The question is: Do I know  
3 that he to be true?

4 Q. Right. Right.

5 A. No, I don't know that, one way or the  
6 other.

7 Q. Do you have any thoughts on whether that  
8 proves or disproves that the enacted Congressional  
9 District 26 is racially gerrymandered?

10 A. So if I understand your question  
11 correctly, does the fact alone hypothetically that  
12 the illustrative plans have a hundred thousand  
13 ballpark more Hispanic voting age population or  
14 citizen, I don't know which, does that increase --  
15 make -- make me reevaluate some understanding of  
16 racial gerrymandering in the action plan? Again,  
17 without -- without a context and other factors,  
18 I -- it doesn't really tell me anything.

19 Q. Okay. Focusing now on the state house  
20 maps. And we can -- let me share the enacted map.  
21 This is the exhibit that you were asking about  
22 before, Exhibit 28.

23 (Exhibit 28 was marked for  
24 identification and is attached to the  
25 transcript.)

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1 A. All right.

2 Q. All right. So do you recall that House  
3 District 117 was one of the -- the districts that  
4 in the instruction letter you received, Exhibit 2,  
5 was identified as having been drawn to comply with  
6 Florida's minority protection provisions?

7 A. Sorry. That was 116?

8 Q. 117.

9 A. 117.

10 Yes, I do remember that.

11 Q. Okay. Did you make any changes to 117  
12 as drawn in the enacted map?

13 A. I don't believe so.

14 Q. Okay. Do you know whether there were  
15 some unpopulated blocks near the northern end of  
16 117 that you moved out of the district or into the  
17 district.

18 A. It's possible, though I thought at some  
19 point I tried to clean those up. But it is  
20 possible that there are a couple of unpopulated  
21 blocks at some corners of the north end that are  
22 different.

23 Q. Okay. So there wasn't any sort of, you  
24 know, design or -- or attention associated -- I  
25 guess intention maybe isn't -- the wrong word.

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1 But there's no particular reason why you  
2 did that?

3 A. If, in fact, there were changes -- and,  
4 I'm sorry, I don't remember at the moment -- it  
5 would be -- it would have been, I think, to  
6 regularize the borders around -- sort of the  
7 districts around -- for instance, snapping to a  
8 different medium to -- because of the way the  
9 blocks are configured or something like that.

10 Q. Okay. Now, in looking at the enacted  
11 map, do you see the -- the boundary that runs  
12 along the west side of 111 and then continues  
13 along the west side 119 and then turns east and  
14 forms the southern boundary of 119 and then 118  
15 before it hits 117?

16 A. Yes.

17 Q. Okay. Did you, in your seven state  
18 house maps, follow that same boundary?

19 A. Let me just quickly refresh myself here  
20 in my report.

21 I believe -- yes, I do.

22 Q. Okay. And why did you choose to follow  
23 that same boundary in your maps?

24 A. Well, first of all, it minimizes changes  
25 to -- to 120, consistent with my instructions.

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1           It's a pretty substantial road boundary  
2   that has marks, it looks like, since the edge of  
3   civilization in that part of the county. So just  
4   consistent with my instructions in the charging  
5   criteria not to make changes past that, past that  
6   boundary.

7           Q.   And then, on the other side of 117, do  
8   you see the northern boundary of 120 as it goes  
9   east first along District 115 and touching  
10   District 114 and then District 113?

11          A.   Yes.

12          Q.   Okay. In maps -- your maps A1, A2, B  
13   and C1, do -- do you follow that same boundary?

14          A.   I don't remember.

15          Q.   Okay. Do you have those exhibits  
16   available?

17          A.   I don't think we've looked at the --

18          Q.   Oh. I'm sorry. You're right. I  
19   haven't given you those yet.

20          A.   All right.

21          Q.   Too many maps.

22          A.   Sorry. These look like these are  
23   congressional maps.

24          Q.   Okay. Let me try this again.

25          A.   No problem. There are a lot of maps.

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1 Q. Yeah.

2 So this will be -- just so I'm straight,  
3 this will be Exhibits 35 through 38.

4 A. Excellent.

5 (Exhibit 35 was marked for  
6 identification and is attached to the  
7 transcript.)

8 (Exhibit 36 was marked for  
9 identification and is attached to the  
10 transcript.)

11 (Exhibit 37 was marked for  
12 identification and is attached to the  
13 transcript.)

14 (Exhibit 38 was marked for  
15 identification and is attached to the  
16 transcript.)

17 A. Okay. Let me look at those.

18 Q. Okay.

19 A. Those appear to have the same northern  
20 boundary in 120 and region we were just  
21 discussing.

22 Q. Okay.

23 MR. BARDOS: Let me just make sure that  
24 Mr. Frackman has all of these.

25 Q. So in those four maps why did you not

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1 change that boundary?

2 A. These were all a bit ago.

3 I think, from memory, there's not a ton  
4 of water blocks in that area. There were fewer  
5 options of where you're going to draw the  
6 boundary. So this particular set sort of keeps  
7 the districts relatively compact and in some cases  
8 it follows municipal boundaries and avoids  
9 altering 120. So together, I think it was no  
10 reason to do something different than in these  
11 particular maps.

12 Q. Do you have any understanding of the --  
13 of the political preferences of Hispanics who live  
14 in Miami-Dade and South Florida, I guess,  
15 generally?

16 A. I do a little research on sort of  
17 racially polarized voting in that area and how  
18 it's changed recently, but pretty high level.

19 Q. Okay. Do you know -- do you have an  
20 opinion on whether Hispanics in southeast  
21 Florida -- let me say South Florida, I mean, are  
22 Republican or Democrat?

23 A. My understanding is it changes a lot  
24 from election to election and there's segregated  
25 by country of Hispanic origin.

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1 Q. Is there overall a leaning, one way or  
2 the other, to your -- in your -- to your  
3 understanding?

4 A. Even the last presidential -- again, I  
5 should caveat that, like, actually no one knows  
6 because of the secret ballot, and our methods are  
7 actually -- anyway, I could go on for a long time  
8 about how little we know about this.

9 But I think our best estimates are at  
10 least in the last presidential, in this region  
11 Hispanics voted more Republican than Democratic.

12 Q. But in this case you're not offering an  
13 opinion on this?

14 A. No.

15 As I say, like, this is what I recall  
16 and haven't -- you know, I'm not -- I wouldn't  
17 wager on any of those statements.

18 Q. Okay. In drawing maps, did you -- did  
19 you consider census designated places or did you  
20 draw without regard to them?

21 A. I considered census designated places  
22 that were described by census as incorporated  
23 municipalities.

24 So I suppose to the extent there were  
25 municipal boundary changes post census or

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1 discrepancies between the file Florida sent to the  
2 census and the actual, I might have missed those,  
3 but incorporated census places did not factor into  
4 my map drawing.

5 Q. Okay.

6 MR. FRACKMAN: Andy, maybe we can have a  
7 coffee break at some point.

8 MR. BARDOS: Let's do that. That's a  
9 good idea. How much time do you propose?

10 MR. FRACKMAN: Five minutes.

11 MR. BARDOS: Five minutes. Okay.

12 MR. FRACKMAN: Whatever you want. I was  
13 just seeking to --

14 MR. BARDOS: Let's say ten minutes,  
15 2:20.

16 MR. FRACKMAN: Sure. Sounds good.

17 (Recess in proceedings.)

18 BY MR. BARDOS:

19 Q. Dr. McCartan, turn to Exhibit 1, your  
20 initial report.

21 A. Got it.

22 Q. Page 19, part 6.

23 A. Okay.

24 Q. And in this section of your report you  
25 discuss comparisons between your maps and

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1 different maps enacted by the Legislature.

2 What is the -- the point that you're  
3 trying to make in this section of your report?

4 A. Should point out, similarities between  
5 decisions I made that were consistent with a  
6 similar type of approach that had been taken  
7 elsewhere in the state.

8 Q. Okay. And how did you -- how did you  
9 find or -- the maps that you're comparing your  
10 maps to or were you provided those?

11 A. As in, like, the enacted plans at the  
12 congressional and senate and state and house  
13 levels?

14 Q. Yes.

15 A. Yeah. I guess at the time I wrote this  
16 section, which would have been after drafting the  
17 plans, I think I would have been provided with  
18 copies of those maps or maybe I would have found  
19 them on the Legislature's -- they have a -- they  
20 show all their maps on their website. I don't  
21 remember exactly which.

22 Q. Okay. And the similarities that you  
23 found between your maps and the congressional  
24 state house congressional state maps, how did you  
25 find those similarities?

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1 A. I don't recall exactly.

2 I would have reviewed the -- oh, I  
3 guess -- okay. So, I guess, some of these are  
4 historical plans, so -- I'm sorry, it's been  
5 awhile since I put this together, so.

6 So if they were historical plans, I  
7 would have found them on the Legislature's  
8 website. And I would have, you know, I think,  
9 probably reviewed side by side and looked at  
10 places where the Legislature was, you know,  
11 splitting or changes that were being made.

12 I don't recall exactly the process, to  
13 be honest.

14 Q. Okay. Did you receive any assistance in  
15 doing this analysis?

16 A. Any specific comparisons would have been  
17 my work. I don't remember -- it's -- it's  
18 possible some plans or some districts might have  
19 been suggested to me to look at or make a  
20 comparison to by plaintiffs' counsel. Or maybe  
21 not. I don't really remember, actually.

22 Q. Okay. But you drafted this part six of  
23 your report yourself?

24 A. Yes.

25 Q. Did you also look for dissimilarities

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1 between your maps and the legislatures maps?

2 A. Well, I certainly would have noticed  
3 differences -- I mean, these are different maps,  
4 after all. Populations have changed.

5 I think it's harder to look at the maps  
6 and point to differences and styles or  
7 interpretations or -- or judgments, so...

8 I didn't discuss terms of that sort in  
9 this section.

10 Q. Okay. But you would agree that there  
11 are both similarities and dissimilarities between  
12 your maps and the maps you were comparing yours  
13 to?

14 A. Sure.

15 I mean, I made some comparisons to  
16 senate districts which are different sizes and --  
17 and congressional or house districts.

18 Q. And, you know, that's an obvious  
19 example. There have been congressional as well  
20 state house districts in the past that have  
21 crossed the Everglades and gone to Collier County;  
22 correct?

23 A. That's my understanding.

24 I know it was, I think, Dr. Trende,  
25 mentioned some of these -- some of them,

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1 obviously, predated the constitutional standards  
2 in their current form.

3 Q. Okay. When did the constitutional  
4 standards take effect?

5 A. My understanding is they were adopted  
6 around 2010 and so were, I believe, in effect for  
7 the 2010 cycle.

8 Certainly, I know there was some  
9 litigation that sort of happened automatically as  
10 part of that process.

11 Q. Okay. All right. So you would agree  
12 that in -- in some respects you found similarities  
13 in the maps and in other respects there would be  
14 dissimilarities?

15 A. That's fair.

16 Q. Okay. And, likewise, there are -- are  
17 similarities and dissimilarities between the  
18 enacted congressional map and the enacted state  
19 house map and these other maps from past cycles or  
20 senate maps that -- that you were looking at?

21 A. That's fair.

22 Q. Do you think that comparing  
23 congressional districts to state house districts  
24 or senate districts to congressional districts is  
25 a -- is sort of an apples-to-apples comparison

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1 given the different populations of those  
2 districts?

3 A. Well, I suppose it depends what features  
4 of the apples you're comparing.

5 So, obviously, for instance, if we're  
6 comparing populations, it's kind of nonsensical.  
7 But given that all three have to follow the same  
8 tiers of criteria, if you can see choices that  
9 were made that reflect interpretations of those  
10 criteria, I believe those could be comparable  
11 across the types of maps.

12 Q. What about, for example, you -- you note  
13 that the senate map doesn't contain a district  
14 that crosses over to -- from southeast Florida to  
15 the -- to the west coast.

16 You would agree that a state senate  
17 district has fewer people than a congressional  
18 district; correct?

19 A. Yes.

20 Q. Okay. And so does that impact the --  
21 any comparisons you would make between a senate  
22 dis- -- a senate map that doesn't contain a  
23 district but goes from Miami-Dade to the west to  
24 Collier and a congressional map that does?

25 A. It would have an effect, certainly,

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1 because the populations are different. I don't  
2 think it -- I don't think the populations are so  
3 small that it completely rules out that censorship  
4 could exist. So I think it is still probative  
5 that the Legislature choose not to do that.

6 But I would agree that part of that  
7 context is the -- the difference in population  
8 between the districts.

9 Q. In the features that you point out in  
10 these various state house, state senate and  
11 congressional maps, did you examine whether there  
12 were any -- any specific factors peculiar to that  
13 map or that kind of district that might have  
14 been -- that might have explained why the  
15 districts were configured the way that they were?

16 A. So that's sort of a very specific, yet  
17 vague question.

18 So nothing off the top of my head falls  
19 into that category.

20 I tried to placidly review all the maps  
21 and draw comparisons that -- that I thought were  
22 helpful and draw parallels between -- between  
23 choices that were made.

24 If there's a specific example, I -- I  
25 might have a different opinion.

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1 Q. Okay. And maybe I'll -- I'll ask it  
2 this way. Was your -- were your comparisons that  
3 are contained in part six of your report based  
4 solely on a visual exam comparison of the  
5 districts or did you look beyond that to determine  
6 why the districts might have been configured the  
7 way that they were?

8 A. I didn't do numerical analysis. I  
9 didn't -- I didn't load these, for instance, in a  
10 different software and do like every detailed  
11 bookmark on a boundary or something like that.

12 Q. Okay. So it is simply based on a visual  
13 comparison?

14 A. That's right.

15 Q. Going back to simulations, I have one  
16 more question I wanted to ask you about.

17 So, as I understand it, simulations, I  
18 think you compared it to a poll, it functions like  
19 a poll. So it gives you some indication as to  
20 what would be typical or atypical in a larger  
21 universe of the possibilities. Is that accurate?

22 A. Yeah.

23 And just like a poll, the universe of  
24 possibilities are something that you design or  
25 pick. So if I poll Republicans, that's different

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1 from polling adults which is different from  
2 polling citizens. So, likewise, the universe  
3 defines the algorithm, changes your answers. But  
4 it's a similar function.

5 Q. Okay. Now, can that same function be  
6 performed by six or seven maps drawn by an  
7 individual?

8 A. The "function" being --

9 MR. FRACKMAN: I'll object. Sorry,  
10 carry. I object. Sorry.

11 MR. BARDOS: That's okay.

12 Q. So the "function" being, can the six or  
13 seven maps drawn by an individual as opposed to  
14 the perhaps 5,000 maps drawn by an algorithm tell  
15 you what features in the enacted map are typical  
16 or atypical in the universe of possibilities?

17 A. No.

18 So a set of maps drawn by a person can't  
19 fulfill that -- that same goal, the way you can  
20 make a statistical plan with some great certainty  
21 from a simulation algorithm.

22 Q. Okay. And why not?

23 A. To say something's typical, you either  
24 have to go and list all the possible plans which  
25 is -- as we've discussed, we'll be here for a very

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1 long time or you'd have to use statistics and  
2 sampling to -- to -- so there's no systematic bias  
3 in the plans you're picking.

4 And a human is not random. So a human  
5 cannot sub in for a computer's judgment about what  
6 is typical or atypical. They can show something  
7 exists, they can show a plan or configuration, or  
8 options in the space, or possibilities in the  
9 universe, but, you know, typicality is something  
10 you have to use statistics for.

11 Q. Okay. And so even if a human being  
12 would draw 5,000 maps and -- you know, like a  
13 simulation draws 5,000, would you -- would your  
14 answer still be the same, that a human being,  
15 because the human being's map drawing is not  
16 random, can't be -- the 5,000 maps drawn by a  
17 human being can't be used to -- as an indication  
18 of what would be typical or atypical in the  
19 universe of possibilities?

20 A. Yeah.

21 Unless your universe were restricted  
22 enough that those 5,000 contained a pretty  
23 substantial set or what your universe was defined  
24 in terms of what a human would specifically do.  
25 You know, those are different things.

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1 But in the way that -- in the type of  
2 universe with your answer of simulations, no  
3 number of human-drawn maps is really going to be  
4 comparable.

5 Q. Okay. All right. Let me ask you a few  
6 questions now about your rebuttal report.

7 A. Okay.

8 Q. I'm going to add this to -- this will be  
9 Exhibit 44.

10 (Exhibit 44 was marked for  
11 identification and is attached to the  
12 transcript.)

13 Q. All right. And part two of your  
14 rebuttal report addresses the expert report of  
15 Alfredo Gonzalez; correct?

16 A. Yes.

17 Q. Okay. Now, in Figures 1 and 2 of your  
18 report -- well, why don't -- instead of me  
19 characterizing it, why don't you tell me what  
20 Figures 1 and 2 depict.

21 A. Figures 1 and 2 show South Florida and  
22 Miami area, respectfully, an overlay on -- on that  
23 area, a set of boundaries that correspond to what  
24 Mr. Gonzalez has described as commonly understood  
25 and ascertainable in his report.

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1 Q. Okay. And which boundaries are those?  
2 Are there certain categories within  
3 that?

4 A. So roads, rivers, railroads,  
5 municipalities, county boundaries, I believe.

6 Q. Is there some limitation on which roads  
7 are included?

8 A. Yes.

9 So Mr. Gonzalez describes his  
10 classification of what counts as major and minor  
11 and gives specific examples. And from that I  
12 match those up to these classifications from F. --  
13 sorry, the Florida Department of Transportation.  
14 So it's their -- what they classify to be  
15 principal arterials, minor arterials and major  
16 collectors.

17 Q. Okay. So those are the three categories  
18 of roads that are depicted in Figures 1 and 2?

19 A. That's right.

20 Q. Okay. All right. Let me add Mr.  
21 Gonzalez' report to the chat this. Will be  
22 Exhibit 42.

23 (Exhibit 42 was marked for  
24 identification and is attached to the  
25 transcript.)

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1 A. Okay.

2 Q. And I'd like you to take a look at Mr.  
3 Gonzalez' report.

4 And before you do that, let me ask you:  
5 So is it your understanding that Mr. Gonzalez  
6 opined that all principal arterial, minor arterial  
7 and major collector roads are clearly  
8 ascertainable and commonly understood?

9 A. I'm sorry. Could you just say that one  
10 more time.

11 Q. Sure.

12 So is it your understanding that Mr.  
13 Gonzalez opined that all principal arterial, minor  
14 arterial and major collector roads are clearly  
15 ascertainable and commonly understood?

16 A. Not directly, but that was my  
17 understanding of professionally what corresponded  
18 to his -- his definition of commonly understood  
19 and ascertainable after reading his report and his  
20 appendices.

21 Q. I see.

22 Okay. So when you say "not directly,"  
23 what do you mean?

24 A. Well, what I recall is not a specific  
25 sentence in his report that says in my opinion the

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1 assessed roads are...

2 Of course, rather, he lists a bunch of  
3 different types of roads and maps and then goes  
4 through and classifies a whole bunch of different  
5 boundary segments as something -- or not.

6 Based on the ones he classified in the  
7 definitions of his report, that, to me,  
8 corresponded to my -- you know, my -- my set of  
9 roads that I -- that I plotted on this -- on this  
10 map.

11 Q. Okay. All right.

12 So, just to be clear, you would agree,  
13 then, that Mr. Gonzalez doesn't say in his report  
14 that all principal arterial, minor arterial and  
15 major collector roads are clearly ascertainable  
16 and commonly understood?

17 A. He doesn't say that directly, but the  
18 boundaries he describes as commonly understood,  
19 ascertainable, the only way to make that  
20 consistent across the map would be if that were  
21 the case.

22 Q. Does he, in his report, discuss other  
23 factors besides those classifications when  
24 discussing specific roads?

25 A. He often, when discussing specific

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1 roads, does mention other local features.

2 Obviously, roads are often located close to other  
3 map features.

4 Q. Okay. So -- okay.

5 So he doesn't -- he doesn't say in his  
6 report that the only thing that he's relying on or  
7 looking to is this particular classification of  
8 roads as principal arterial, minor arterial or  
9 major collector roads?

10 A. That's right, he doesn't say that.

11 Q. All right. Then we -- I don't think  
12 we'll need to look at 42, but let me ask you: Are  
13 you -- so do you recall that in his report he  
14 mentions specific roads by name and then has some  
15 discussion or description of those roads?

16 Do you recall that?

17 A. Yes.

18 Q. Okay. Are you disputing -- as to those  
19 roads that he specifically mentions by name, are  
20 you disputing that those roads are currently  
21 ascertainable and commonly understood?

22 A. Excuse me. I'm not offering an opinion  
23 on -- on those directly.

24 I didn't line-by-line review those  
25 particular other than to gain an understanding of

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1 what generally types of roads he was classifying  
2 this way.

3 So, again, the -- simply, I'm offering  
4 the opinion, would be that my understanding of  
5 his -- his classification as far as principal  
6 sectional line roads differs from the Legislature  
7 software and probably my own understanding. But  
8 I'm not offering opinions on specific named roads  
9 in this report.

10 Q. Okay. All right.

11 So if he says Krome Avenue is clearly  
12 ascertainable and commonly understood, you're not  
13 saying that these -- for purposes of this case  
14 that it's not?

15 A. That's right.

16 Q. Okay. And you don't dispute that county  
17 and municipal boundaries are considered political  
18 boundaries for Tier 2?

19 A. No.

20 Q. And you don't dispute that railway lines  
21 and rivers are also considered -- are considered  
22 geographic boundaries for purposes of Tier 2?

23 A. No.

24 Q. Let me see if I can streamline this. I  
25 think we've already covered a lot of this ground.

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1 Oh. Turn, if you would, in your  
2 rebuttal report to paragraph 28.

3 A. Okay.

4 Q. You see that paragraph 28 says, "Dr.  
5 Trende does consult Dave's Redistricting App for a  
6 count of total county splits, but DRA employs  
7 split rules that are contrary to Florida law and  
8 inappropriate to use here as a result"?

9 Did I get that correctly?

10 A. Yes.

11 Q. Now, are you referring -- do you have  
12 Dr. Trende's report?

13 Have I provided that? I don't think so.

14 A. Not yet.

15 Q. Okay. This is not marked, but we can  
16 make this Exhibit 45.

17 (Exhibit 45 was marked for  
18 identification and is attached to the  
19 transcript.)

20 A. Okay.

21 Q. And turn please to page 40 of Dr.  
22 Trende's report.

23 A. I'm sorry. Page 40 in terms of he  
24 numbered the pages or 40 in terms of the total  
25 number of?

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1 Q. Good question. Let's see.

2 A. So I see 30 in the corner of my page 40,  
3 but I can go the other way.

4 Q. So it's 40 on -- on his page numbering.

5 A. Ah. I see. Okay. I'm there.

6 MR. FRACKMAN: 5.5. Section 5.5.

7 MR. BARDOS: Yes.

8 Q. So we're in -- I'll be asking questions  
9 about 5.4 which is at the top of page 40.

10 A. Okay. Correct.

11 Q. So in paragraph 28 of your rebuttal  
12 report, is this -- this first paragraph that's on  
13 page 40, is that what you're referring to?

14 A. I believe so.

15 Q. Okay. And is his count of splits  
16 different from the count that you had in your  
17 report?

18 A. Let me consult my report here.

19 These numbers appear to correspond to my  
20 Total Splits column.

21 Q. Okay. So in 28, when you -- where you  
22 critique Dr. Trende's count of total county  
23 splits, what -- what are you referring to there?

24 A. One moment.

25 So I think I was looking at the table on

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1 page 39. And I think, then, that the paragraph 28  
2 in the rebuttal should not refer to total county  
3 splits but split counties.

4 Q. Okay. So do you dispute that the  
5 counties listed in Fig. 20 are, in fact, split?

6 A. I believe, yes.

7 For instance -- I'm not going to get  
8 them off the top of my head, but I could -- the  
9 number in each column is not corresponding to my  
10 column labeled Split 1+ in my Table 2 from my  
11 original report, I don't believe.

12 Wait. Maybe I counted wrong.

13 Yeah. So I -- I think he ends up with  
14 one more split on all these than I do. So I think  
15 that goes to the unpopulated region.

16 It is possible I made a mistake here.  
17 This is a compressed timeline, on the rebuttal  
18 report.

19 Q. All right. So is -- is the only  
20 difference between your account in Figure -- in  
21 Table 2 of your report and Dr. Trende's Figure 20  
22 that he is counting Hendry County with that split  
23 and you're not counting Hendry County?

24 A. I believe that's the case, yes.

25 Q. Okay. And that would be the only -- the

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1 explanation for that difference would be that the  
2 split of Hendry County resulted in an unpopulated  
3 fragment which you are not including but he is  
4 including in Fig. 20; correct?

5 A. Yes.

6 Q. Okay. All right.

7 So would you agree that even if we don't  
8 count Hendry County, your -- each of your maps  
9 splits at least as many counties as the enacted  
10 congressional map does?

11 A. As in counties which were split one or  
12 more times, yes.

13 Q. And that -- and -- I'm sorry?

14 A. I'm sorry.

15 As or more, yeah.

16 Q. Okay. And, then, five of your six maps,  
17 even if we don't count Hendry County, split more  
18 counties than the enacted map does?

19 A. In terms of the number of counties that  
20 are split, right.

21 So, like, they split fewer counties more  
22 than twice in fewer total splits in some cases,  
23 but, yeah, in terms of the number that are split,  
24 five split more.

25 Q. Okay. Now, in paragraph 28 of your

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1 rebuttal report where you say Dave's Redistricting  
2 App employs split rules that are contrary to  
3 Florida law, what are you referring to there?

4 A. So my recollection from looking at  
5 municipalities -- again, this is my recollection  
6 from what it counts as split -- that those counted  
7 unpopulated splits as splits, the -- which is  
8 different from the rule -- from the League of  
9 Women Voters case that I mentioned in paragraph  
10 24.

11 Q. Next in paragraph 29 of your rebuttal  
12 report, reading from the third line, there you  
13 say, "But as noted in my report changes in  
14 District 46 required additional changes to other  
15 districts to comply with the Florida's  
16 constitutional standards. Rather than having a  
17 budget to spend elsewhere and choosing to split  
18 additional counties, these additional splits were  
19 a natural result of redrawing District 26 - the  
20 district I was instructed to redraw consistent  
21 with Florida's Constitutional standards."

22 MR. FRACKMAN: Excuse me. Excuse me.

23 Andy, I don't -- I couldn't hear that. I  
24 don't know whether the witness could. Maybe  
25 you had something over your mic or over the

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1 computer -- the sound --

2 MR. BARDOS: I'm -- I can read it again.

3 Q. Dr. McCartan, did you hear it?

4 A. I heard the question. Although, I agree  
5 with Andrew the audio quality has gone down  
6 recently. But I heard the question. Well, sorry,  
7 I heard you read it out.

8 Is the question whether it was accurate?

9 Q. So I'll reask the question so everyone  
10 hears it. I'll try to be better. And let me know  
11 if you're still having trouble understanding.

12 So paragraph 29, beginning on the third  
13 line, this is on your rebuttal report, you write,  
14 "But as noted in my report changes in District 46  
15 required additional changes to other districts to  
16 comply with the Florida's constitutional  
17 standards. Rather than having a budget to spend  
18 elsewhere and choosing to split additional  
19 counties, these additional splits were a natural  
20 result of redrawing District 26 - the district I  
21 was instructed to redraw consistent with Florida's  
22 Constitutional standards."

23 Do you see that?

24 A. Yes.

25 (Off-the-Record Discussion).

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1 BY MR. BARDOS:

2 Q. All right. So, Dr. McCartan, in  
3 paragraph 29 of your report, you -- you refer to  
4 additional splits that were a natural result of  
5 redraw- -- redrawing District 26. Which splits  
6 are you referring to there?

7 A. I believe the ones that Dr. Trende  
8 refers to, any ones above what you would have had  
9 by eliminating the split across the  
10 Collier-Miami-Dade line. So I think above and  
11 beyond that would be additional.

12 Q. Okay. So that's -- are you talking  
13 about the split counties in Fig. 20?

14 A. Sorry. I'm quoting Dr. Trende on page  
15 40 here. Let me just...

16 So, yeah, on page 40 Dr. Trende claims  
17 that "I start out with two county splits," and I  
18 believe he's referring to total splits. And -- so  
19 anything above. So that inaction plan has --  
20 sorry.

21 The inaction plan has 29. Then "too  
22 few" would take you to 27, so...

23 Taking his argument face value, anything  
24 above 27 I am claiming there in paragraph 29 is  
25 not intentionally additional but, rather, just a

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1 consequence of having to comply with Florida's  
2 constitutional standards.

3 Q. Okay. And a consequence of redrawing  
4 District 26?

5 A. Yes.

6 And, of course, in CDD, actually have 27  
7 total splits which there are no additional splits  
8 in that case.

9 Q. Okay. In paragraph 40 of your report  
10 you say that Dr. Trende also exams the  
11 illustrative house maps I provided in my report.  
12 He simultaneously finds that the illustrative maps  
13 substantially reconfigure the enacted districts  
14 but also that the changes are limited.

15 Do you see that?

16 A. Yes.

17 Q. Okay. And let's go -- you're citing  
18 page 104 of Dr. Trende's report. Let's take a  
19 look at that.

20 And if you could review his report and  
21 tell me whether he's saying the changes are  
22 limited or something else is limited.

23 A. My -- my plain reading of -- of the  
24 third paragraph of this section 9 is that little  
25 changes in terms of configuration of the

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1 districts.

2 Q. Great.

3 In paragraph -- in that paragraph, in  
4 the following paragraph, is he talking about  
5 Tier 2 metrics rather than the configuration of  
6 the districts?

7 MR. FRACKMAN: Object to the form of the  
8 question.

9 A. Later in this -- in this section, yeah,  
10 later in that paragraph he does talk about Tier 2  
11 metrics.

12 Q. Okay. Those are all the questions that  
13 I have regarding the rebuttal report.

14 Have you, since preparing your reports,  
15 identified any errors that require correction?

16 A. Well, I guess, today I would further  
17 edit to clean up paragraph 28 in the rebuttal,  
18 referring to the splits issue we talked about and  
19 what that's referring to.

20 Beyond that, in reports in this case,  
21 no, nothing comes to mind as far as errors.

22 Q. Have you reviewed the expert reports  
23 prepared by the plaintiffs' other experts?

24 A. No, not to my knowledge. No.

25 I'm not sure who the plaintiffs' experts

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1 are, but I haven't seen any reports except for  
2 Dr. Gonzalez and Mr. Trende -- Dr. Trende's.

3 Q. If I could have just a minute here.

4 Okay. Just a few more questions.

5 Are you a registered Democrat?

6 A. In Pennsylvania, I believe so.

7 Q. Okay. Is that where you currently live,  
8 in Pennsylvania?

9 A. Yes.

10 Q. Okay. Have you ever voted for a  
11 Republican?

12 A. So Washington state, I think, all the  
13 offices are officially non- -- to be honest, I  
14 can't remember exactly. But there was a Secretary  
15 of State candidate who was not the Democratic  
16 nominee, I believe was still affiliated with the  
17 Republican party at that time.

18 So I believe the answer's yes.

19 Q. And is it -- was that a partisan race?

20 A. I'd have to check.

21 I know the primaries are -- are open,  
22 but I -- I think -- I think the way it appears on  
23 the voter's pamphlet is, you know, so and so  
24 "prefers Republican party, prefers Democratic  
25 party." I think that's the only -- there's no

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1 official party system in Washington state. So I  
2 believe it was analogous to a partisan race in  
3 other states.

4 Q. Okay. All right. Let me show you an  
5 exhibit. This is Exhibit 25.

6 (Exhibit 25 was marked for  
7 identification and is attached to the  
8 transcript.)

9 A. Okay. I have that up.

10 Q. Okay. And these are from the Federal  
11 Elections -- Election Commission website. And  
12 these are -- these look like political  
13 contributions. Is this you?

14 A. Let me go through these.

15 Yeah, these appear to be me.

16 Q. So on March 1st, 2016 you made a one  
17 dollar contribution through ActBlue to Bernie  
18 2016?

19 A. Yes.

20 Q. Okay. And what was "Bernie 2016"?

21 A. It's the presidential campaign of  
22 Bernard Sanders.

23 Q. Okay. A/k/a Bernie Sanders?

24 A. That's correct.

25 Q. Okay. What is ActBlue?

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1           A.    I'm not going to get this exactly right,  
2           but basically a payment processor for political  
3           donations.

4                    I think they process donations for the  
5           Democratic party affiliate campaigns and some of  
6           their associated 501(c)(3)s and (c)(4)s -- sorry,  
7           probably just (c)(4)s.

8           Q.    Okay. And, then, if you go to page 3,  
9           does this reflect a ten dollar contribution that  
10          you made to Bernie 2020 on January 23rd, 2020,  
11          also through ActBlue?

12          A.    Yes, it looks like it.

13          Q.    Okay. And was this -- is Bernie 2020  
14          the Bernie Sanders presidential campaign?

15          A.    Yes.

16          Q.    Okay. So this says, "Bellevue,  
17          Washington."

18                   Is that where you're from?

19          A.    That's where I grew up.

20                   In January, that's where I was located.

21          Q.    Is that -- that's right across from  
22          Seattle, across from -- across from Lake  
23          Washington?

24          A.    That's right.

25          Q.    All right. Page 5. Does this reflect a

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1 one dollar contribution to Bernie 2020 on January  
2 26th, 2020, through ActBlue?

3 A. It appears to.

4 Q. Okay. Page 7. Did you make a \$2.70  
5 contribution on February 29th of 2020 to Bernie  
6 2020, also through ActBlue?

7 A. It looks like it.

8 I honestly don't remember these one  
9 dollar and 2.70 donations, but, I mean, it's the  
10 FEC, so I must have, but...

11 Q. Okay. Were you -- did you support  
12 Bernie Sanders in his 2020 presidential race?

13 A. Define.

14 MR. FRACKMAN: Obviously, not very  
15 energetically.

16 Q. Did you want him to win? I guess, that  
17 would be --

18 A. I'm sorry. So what's the question or  
19 what do you mean by "support"?

20 Q. Support, like were you -- did you want  
21 him to win?

22 Was he your preferred candidate?

23 A. Yeah.

24 Q. Okay. Page 9, does this reflect a \$7.30  
25 contribution to Bernie 2020 on March 2nd, 2020,

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1 through ActBlue?

2 A. Yes.

3 I'm suspecting that somehow these were  
4 split by ActBlue. I just -- I can't imagine a  
5 reason I would have done it in cents. And if you  
6 add 2.70 and 7.30 you get a whole number, so...

7 Anyway, the record shows a March 2nd  
8 donation in that amount, yes.

9 Q. Okay. And on page 11, is this a ten  
10 dollar contribution from you to Fetterman for PA,  
11 Pennsylvania, on August 16th, 2022, through  
12 ActBlue?

13 A. Yes, it is.

14 Q. Okay. Do you have a Bluesky account?

15 A. Yes.

16 Q. All right. What is Bluesky?

17 A. Social media network.

18 Q. All right. Is it -- does it cater to a  
19 particular audience?

20 A. Not that I'm aware.

21 Q. Does it appeal to people of a particular  
22 political persuasion?

23 A. I think people of all political  
24 persuasions use it. It's a pretty broad social  
25 network at this point.

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1 Q. Okay.

2 MR. FRACKMAN: Even I have a Bluesky  
3 account. Although, I can't figure out  
4 exactly what to do with it, so.

5 MR. BARDOS: Maybe we'll learn in -- in  
6 looking at these next two exhibits.

7 (Exhibit 26 was marked for  
8 identification and is attached to the  
9 transcript.)

10 A. Okay. I have this up.

11 Q. Okay. So is this a -- one of your posts  
12 on Bluesky?

13 A. Yes, it is.

14 Q. And the post says, "Great turnout in  
15 State College to tell the fascists hands off our  
16 freedom and our government."

17 Do you see that?

18 A. I do.

19 Q. Okay. And did you post this on -- did  
20 you post this on April 5th of 2025?

21 A. Yes, at 1:10 Eastern.

22 Q. Okay. And you see there's a picture  
23 here, it looks like a picture of a protest?

24 A. I see that.

25 Q. And was this part of the April 5th

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1 protests, like it was an organized set of protests  
2 called the "April 5th Protests"?

3 A. Yes.

4 Q. Okay. What was being protested on April  
5 5th?

6 A. I wasn't involved in organizing.

7 I think a lot of people came out for a  
8 lot of reasons. Nexus as it were, was the  
9 unlawful dismantling of federal agencies and the  
10 violation of federal laws.

11 Q. So it was protesting President Trump and  
12 his administration and his policies?

13 A. Yeah. Specifically, the violation of  
14 federal laws part.

15 Q. Okay. And you refer to State College.  
16 Is State College where Penn State is located?

17 A. Actually, Penn State is in University  
18 Park which is a different zip code. It's a very  
19 interesting story, you should look at it.

20 But it is immediately adjoining State  
21 College and I reside in State College.

22 Q. Gotcha. Okay.

23 And so who are the fascists?

24 A. That I'm referring to here?

25 Q. Yes.

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1           A.    I would like to put myself back in that  
2           state of mind.

3                    I think I was probably referring broadly  
4           to most members of the Republican party and the  
5           presidential administration.

6           Q.    Okay. And when you say "most members of  
7           the Republican party," are you talking about  
8           elected officials or, like, all Republican voters  
9           or who -- how would you define that?

10          A.    Well, I think it would depend. Some of  
11          them have different views. I wouldn't say all  
12          Republican voters would -- I don't think I was --  
13          I was thinking of that when I wrote this.  
14          Although, this was just a couple months ago.

15          Q.    Okay. So "fascist" generally refers to  
16          most Republicans?

17          A.    Well, "fascist" refers to people who  
18          practice fascism which, in my opinion, is  
19          expressed in this post, as we've just discussed,  
20          would cover many, if not most, Republican-elected  
21          officials.

22          Q.    Okay. Do you have an opinion on how  
23          many Republican voters would -- that would cover?

24          A.    No, I don't have an opinion on that.

25          Q.    Okay. All right. We can take that down

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1 and we'll look at one more.

2 This is Exhibit 43.

3 (Exhibit 43 was marked for  
4 identification and is attached to the  
5 transcript.)

6 A. All right.

7 Q. All right. Do you have 43 open?

8 A. I do.

9 Q. Okay. Is this a post by you on July 3rd  
10 of this year?

11 A. Yes, it is.

12 Q. Okay. And your post says, "The NYT  
13 comments section gets it."

14 Do you see that?

15 A. Yes.

16 Q. And does "NYT" stand for New York Times?

17 A. Yes, it does.

18 Q. And below that there's a -- an image of  
19 a -- of what appears to be the comment in the  
20 comment section that you're referring to. Is that  
21 accurate?

22 A. Yes.

23 Q. Okay. And the comment that you're  
24 responding to here was posted by someone named  
25 R.M. in California.

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1 Do you see that?

2 A. Yes.

3 Q. And R.M. says, "I don't care if he  
4 identifies as part extraterrestrial, the gentleman  
5 will be the next mayor of New York City, proving  
6 that at least some of the residents haven't  
7 bargained away their souls to the Christo-fascists  
8 taking over every corner of our once great  
9 country."

10 Do you see that?

11 A. I do see that.

12 Q. And this is something that when you say  
13 the New York Times comment section gets it, that  
14 you're expressing agreement with; correct?

15 A. Well, not the whole comment necessarily.

16 Q. Okay.

17 A. This comment is about a particular  
18 article which was the subject of much -- of much  
19 debate for a couple days there in early July.

20 So both these things are referring to  
21 that article and the journalistic practices behind  
22 it. So I'm not necessarily expressing agreement  
23 with whoever this R.M. person is who I, obviously,  
24 never met.

25 Q. Okay. But this is the one comment that

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1 you displayed in -- within your post; correct?

2 A. Yes.

3 Q. Okay. And you say, "The New York Times  
4 comment section gets it."

5 Right?

6 A. Yes, referring to the correct response  
7 in my opinion at that point to this article and  
8 the journalistic practices and so on.

9 Q. Okay. So in your mind, who are the --  
10 what are -- well, first of all, what is a  
11 Christo-fascist?

12 What does that mean to you?

13 A. I don't know. These are not -- these  
14 are not my words.

15 MR. FRACKMAN: I was going to say -- I  
16 was going to object to the form of the  
17 question. It's not his post. R.M. is not  
18 Cory McCartan, so...

19 Q. Does that --

20 MR. FRACKMAN: Calls for speculation to  
21 be more precise as an objection.

22 MR. BARDOS: Okay.

23 Q. Does the term "Christo-fascist" mean  
24 anything to you?

25 A. I suspect something about fascists who

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1 are also half Christian nationalism as a part of  
2 that, you know, fascist ideology.

3 Q. Okay. So I think you said you agreed or  
4 disagreed with some part of this post. How  
5 much -- what -- what did you agree with in this  
6 comment?

7 A. So this comment is responding to an  
8 article in the New York Times about the mayoral  
9 candidate. And the Times attained some hacked  
10 documents about his college admissions and wrote a  
11 story about this.

12 And myself, and including Mr. or Mrs.  
13 R.M. here, didn't think that was good use of  
14 journalistic resources or fair coverage. And so  
15 this R.M. person expressed their disagreement with  
16 the Times editorial decision in this particular  
17 way. And I agree with them that how this person  
18 checked boxes on his or her college admission is  
19 not relevant to their campaign for the -- for the  
20 mayoral race in New York City.

21 Q. Okay. Now, the comment itself doesn't  
22 mention any of that; right?

23 A. Any of what? I'm sorry.

24 Q. It doesn't mention in the documents  
25 that, whatever was marked on the application or

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1 the documents that you mentioned, it doesn't talk  
2 about that?

3 A. Well, it's a comment on the same web  
4 page where those things are discussed, so...

5 No, it doesn't directly, but it is  
6 associated. It's a comment on the article in  
7 question.

8 Q. Yeah.

9 Do you think that Christo-fascists are  
10 taking over every corner of our once great  
11 country?

12 A. I don't agree with that statement.

13 Q. You don't?

14 A. No.

15 Q. Okay. What part of this statement do  
16 you agree with?

17 MR. FRACKMAN: I'll object as asked and  
18 answered. He just answered that question.

19 A. Yeah.

20 So, repeat my answer, which is the first  
21 part of this as a political opinion about the  
22 propriety of this article is the reason I shared  
23 and agreed with it.

24 Q. Okay. So you -- the part that you agree  
25 with is the statement that the gentleman will be

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1 the next mayor of New York City?

2 A. Again, I'm not -- sorry. I should -- so  
3 my agreement is not on factual matters raised by  
4 Mr. or Mrs. R.M. It is with the political opinion  
5 expressed by Mr. or Mrs. R.M. which I don't think  
6 can be reduced to a particular clause or subclause  
7 in this one-sentence comment.

8 Q. So you can't point to anything within  
9 R.M.'s post that you agree with?

10 A. In a factual sense? I mean, like, do I,  
11 in particular --

12 Q. I mean, you say here that "the comments  
13 section gets it." I just want to know which part  
14 of this comment you agree with.

15 MR. FRACKMAN: No, no. It's not that --  
16 Andy, that totally mischaracterizes this. It  
17 is the New York Times comment section gets  
18 it. Not R.M. comments get it. That's not  
19 fair.

20 MR. BARDOS: Let the witness answer the  
21 questions. And you can make nonspeaking,  
22 concise, non-argumentative objections.

23 A. So, to reiterate, I was agreeing with  
24 the political opinions expressed in this post.

25 If you want to ask me about specific

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1 clauses and whether or not that's a separate  
2 matter out of context, I agree or disagree with  
3 them, I'm happy to give you an answer about those.

4 Q. Okay. And the political opinion that  
5 you're saying this post expresses is that it  
6 wasn't right for the paper to divulge these, what  
7 was it, college applications?

8 A. And to do so based on hacked documents  
9 passed to the paper by a neogenesis, yes.

10 Q. Okay. And so that's what you were  
11 agreeing with even though R.M.'s post doesn't talk  
12 about that?

13 A. That's what I was agreeing with because  
14 R.M.'s post is in response and it is attached to  
15 the web page that this exact article's -- so it's  
16 the same page.

17 Unlike in a court of law, on a social  
18 media network there's no full document you can  
19 excerpt and screenshot and not have to have the  
20 entire document in order to have people understand  
21 what you're saying.

22 Q. So when you posted this did you choose  
23 R.M. or was that something that was just kind of  
24 automatically populated into that -- into  
25 whatever, you know, box is appearing here in your

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1 post?

2 A. Let me remember. So I'm reading the  
3 article. The comment section is there. I see  
4 this comment which I think succinctly expresses  
5 the views of all of the comments I was seeing on  
6 this New York Times article, as I think as a board  
7 we're discussing, and so I took a picture of that  
8 portion of the page as an example of the type of  
9 opinion which was being shared by the readers in  
10 the New York Times comment section which I thought  
11 aptly understood the issues and the journalism at  
12 play.

13 Q. Okay. So you selected R.M.'s comment to  
14 be displayed on -- within your post?

15 A. So that's correct.

16 Q. Okay. All right.

17 MR. BARDOS: If we can take a  
18 five-minute break. I think I'm done. I just  
19 want to go over my notes.

20 And, then, if we can reconvene at, say,  
21 3:30, I'm -- I might be finished.

22 MR. FRACKMAN: Good.

23 MR. BARDOS: Okay. Thanks so much.

24 (Recess in Proceedings.)  
25

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1 BY MR. BARDOS:

2 Q. What did you do to prepare for today's  
3 deposition?

4 A. I had a two-hour meeting with counsel  
5 for the plaintiffs yesterday.

6 Q. Okay. Anything else?

7 A. No. No.

8 Q. Did you review any documents?

9 A. Not outside the meeting.

10 Q. What is your hourly rate in this case?

11 A. \$125 an hour.

12 Q. Do you know how many hours you have  
13 worked so far?

14 A. Not exactly.

15 Q. Okay. Do you know roughly how many  
16 hours you've worked?

17 A. Not really, no.

18 Q. Do you know whether it's more than a  
19 hundred hours?

20 A. More than a hundred would put me at  
21 12,500 which, I think, is outside the cap of my  
22 retainer. So I think it's less than a hundred.

23 Q. Okay. Have you been paid so far?

24 A. I bill monthly usually. So mostly, yes.

25 Q. Okay. And -- and who has paid you for

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1 your work?

2 A. I think generally O'Melveny but some of  
3 the payments have been split with the ACLU of  
4 Florida, if I remember right.

5 Q. Okay. And what is the cap in your  
6 agreement?

7 A. I believe it's \$10,000.

8 Q. Okay. All right.

9 MR. BARDOS: I have no further  
10 questions.

11 MR. FRACKMAN: Okay.

12 MR. BARDOS: All right.

13 MR. FRACKMAN: Anyone -- anyone else for  
14 the defendants?

15 Okay. I have no, no questions at this  
16 time.

17 MR. BARDOS: Well, thank you, Everybody.

18 April, we'll be ordering a copy of the  
19 transcript.

20 THE STENOGRAPHER: And do you want the  
21 exhibits attached?

22 MR. BARDOS: Yes, please.

23 MR. FRACKMAN: As do we, April. Thank  
24 you.

25

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1 AND FURTHER THIS DEPONENT SAITH NOT.

2 SIGNATURE RIGHTS RESERVED.

3 (Deposition concluded at 3:34 p.m.)

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1 STATE OF FLORIDA:

2 COUNTY OF ORANGE:

3 I, April Reid, Registered Professional  
4 Reporter, Certified Realtime Reporter and Notary  
5 Public in and for the State of Florida,  
6 and whose commission expires August 22, 2027,  
7 do certify that the aforementioned appeared  
8 before me, was sworn by me, and was thereupon  
9 examined by counsel; and that the foregoing is a  
10 true, correct, and full transcript of the  
11 testimony adduced.

12 I further certify that I am neither  
13 related to nor associated with any counsel or  
14 party to this proceeding, nor otherwise interested  
15 in the event thereof.

16 Given under my hand and notarial seal in  
17 Orlando, Florida, this 28th day of July, 2025.

18   
19

20 \_\_\_\_\_  
21 April Reid, RPR, CRR, Notary Public

22 State of Florida, County of Orange

23 Commission No. 455787/HH 436060  
24  
25

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A			
<b>a1</b>	<b>accurate</b>	23:5, 50:11,	<b>adults</b>
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170:12	88:12, 181:21,	203:6	80:14
<b>a2</b>	195:8, 207:21	<b>added</b>	<b>aerial</b>
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<b>able</b>	2:12, 13:23,	<b>adding</b>	75:23, 201:5
8:6, 9:15,	13:24, 14:3,	11:1	<b>affiliated</b>
10:11, 10:23,	14:16, 19:8,	<b>addition</b>	199:16
10:25, 11:14,	216:3	61:9	<b>affirm</b>
71:7, 82:25,	<b>acronym</b>	<b>additional</b>	7:7
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96:4, 96:14,	<b>across</b>	41:22, 103:25,	7:14
96:19, 97:20,	29:12, 31:16,	119:4, 125:15,	<b>aforementioned</b>
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