

In the Matter Of:
HODGES V. PASSIDOMO

8:24-cv-879

MATTHEW BARRETO, PH.D.

November 25, 2024



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November 25, 2024

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IN THE UNITED STATES DISTRICT COURT
TAMPA DIVISION
CASE NO. 8:24-cv-879

KETO NORD HODGES, et al.

Plaintiffs,

vs.

KATHLEEN PASSIDOMO, et al.,

Defendants.

VIDEOCONFERENCE EXPERT TESTIMONY OF MATTHEW BARRETO, PH.D.

Monday, November 25, 2024
11:30 a.m. - 3:16 p.m.

Esquire Deposition Solutions
Zoom Videoconference

Stenographically Reported by:
Nancy H. Swartz, Court Reporter
Notary Public, State of Florida at Large
Appearing Remotely from Hillsborough County, Florida
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HODGES V. PASSIDOMO

November 25, 2024

2

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(Appeared via Zoom)

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(Appeared via Zoom)

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19 ALSO PRESENT: OLIVER THOMAS, FLORIDA SENATE

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

3

I N D E X

WITNESS	EXAMINATION	PAGE NO.
---------	-------------	----------

Called by the Defendants:

Expert Witness Matthew Barreto, Ph.D.

Direct by Ms. Price	4
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Certificate of Oath	116
---------------------	-----

Certificate of Reporter	117
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Errata Page	118
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E X H I B I T S

Exhibit Number	Description	Page
----------------	-------------	------

Exhibit 1	Expert Report	17
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Exhibit 2	Rebuttal Report	87
-----------	-----------------	----

Exhibit 3	Voss Expert Report	90
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MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

4

1 The EXPERT TESTIMONY of MATTHEW BARRETO, PH.D., was taken
2 pursuant to Notice by counsel for the Defendants on Monday,
3 November 25, 2024, commencing at 11:30 a.m. via Zoom. Said
4 deposition was reported by NANCY H. SWARTZ, Court Reporter and
5 Notary Public, State of Florida at Large.

6 - - - - -

7 WHEREUPON:

8 THE REPORTER: Please raise your right hand.

9 Do you swear or affirm the testimony you are about
10 to give will be the truth, the whole truth and nothing but
11 the truth?

12 THE WITNESS: I do.

13 MATTHEW BARRETO, PH.D.,
14 a witness, having been duly sworn to tell the truth, the whole
15 truth and nothing but the truth, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MS. PRICE:

19 Q. Good morning, Doctor. How are you doing this
20 morning?

21 A. Good.

22 Q. My name is Tara Price. As I said before, I'll be
23 taking your deposition.

24 Would you mind stating your full legal name for the
25 record.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

5

1 A. My name is Matthew Alejandro Barreto Guy.

2 Q. And would you mind identifying where you're located
3 right now, just city, state?

4 A. Yeah, I'm in Los Angeles County, California.

5 Q. Thank you. Dr. Barreto, I've reviewed your expert
6 report, so I understand you've likely had your deposition
7 taken several times before; is that correct?

8 A. That is correct.

9 Q. So you're familiar with the general ground rules?

10 A. I would say so, probably.

11 Q. I'll mention them, but I'll go through it briefly to
12 spare you the detail.

13 A. Okay.

14 Q. So you understand your testimony here today is under
15 oath, and you have an obligation to tell the truth, the same
16 as if we were in a courtroom; is that right?

17 A. Yes.

18 Q. And when you respond to my questions, as you just
19 did, you'll need to make sure you say yes or no instead of
20 shaking your head or nodding, essentially since we're on Zoom.
21 You understand?

22 A. Yes, I do.

23 Q. Thank you. And if for any reason you don't
24 understand my questions, and I know I'm a little hoarse today,
25 please feel free to let me know so I can either explain it or

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

6

1 rephrase it or say it again if I'm not being clear.

2 A. Okay.

3 Q. And is it fair, do you agree if you answer my
4 question, then I'm going to assume you understood it. Is that
5 a fair assumption?

6 A. Probably. If I don't understand something I will
7 probably let you know.

8 Q. Well, will you agree to let me know?

9 A. I will try my best, yes, I usually do.

10 Q. Thank you. I appreciate that.

11 And today is, you know, there's no test today. If
12 you don't know the answer to something I'm asking you, just
13 please let me know. That's fine and we can move on to the
14 next subject. Do you understand?

15 A. Yes.

16 Q. Great. And if at any point you need a break, please
17 let me know. I just ask if we're in the middle of a question,
18 you finish the answer to that question and then we can go
19 ahead and take a break.

20 A. Sounds good.

21 Q. Great. Is there any reason today why you might be
22 unable to testify completely and truthfully?

23 A. No.

24 Q. Okay. So you're not feeling sick or ill or under
25 any medication that might affect your participation in the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

7

1 deposition?

2 A. No.

3 Q. Thank you very much. I appreciate that.

4 And since we're doing the deposition via Zoom, I
5 have to ask, is there anybody else in the room with you?

6 A. There is not.

7 Q. Do you have any materials or notes in front of you?

8 A. I have two screens on my computer. One of them,
9 when I turn my head this way, has the expert report in PDF and
10 that's it. The other screen I'm looking at now has the Zoom
11 with the camera.

12 Q. And your expert report that is up on the screen to
13 your right, does it have any writing or notes or comments on
14 it?

15 A. Just the text that I typed into it and saved as a
16 PDF and submitted to counsel.

17 Q. Okay. So it would be identical to the version that
18 we should be looking at today?

19 A. I believe so, yes.

20 Q. Okay. You'll let me know if it's not?

21 A. Yes.

22 Q. Is there any highlighting or any kind of marks on
23 it?

24 A. Nope.

25 Q. Okay. Thank you.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

8

1 And is there anybody that's communicating with you
2 right now via your computer or your cell phone?

3 A. You.

4 Q. Anyone else?

5 A. Just you.

6 Q. Okay. Thank you.

7 Dr. Barreto, so who hired you to participate in this
8 lawsuit?

9 A. I believe it was the ACLU of Florida.

10 Q. Do you remember when you were first contacted?

11 A. Not off the top of my head.

12 Q. Do you remember the month?

13 A. I do not.

14 Q. Do you remember the year?

15 A. I would have to guess it was this year, 2024.

16 Q. You're not sure. It could have been 2023?

17 A. I also worked on a matter in the state of Florida in
18 2022 and 2023 for a different group of plaintiffs. So I don't
19 exactly recall when, but I believe it was 2024 that I heard
20 from the ACLU of Florida.

21 Q. Okay. Were you aware of this lawsuit before you
22 were contacted?

23 A. I don't believe so.

24 Q. And you mentioned there was some other litigation
25 that you worked on in 2022 and 2023. Was that through ACLU

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

9

1 Florida or on behalf of another entity?

2 A. I think that was on behalf of Common Cause.

3 Q. There were two lawsuits on behalf of Common Cause?

4 A. I think there was one that got started and then it
5 was dropped or dismissed. And then a second one that moved
6 forward.

7 Q. Okay. And those are the other two lawsuits you were
8 referring to?

9 A. I think so, yeah.

10 Q. And other than that, it's just that and then this
11 current lawsuit that we're talking about today?

12 A. In Florida, is that your question?

13 Q. In Florida. Yes.

14 A. I think so, yes. I don't recall other Florida
15 voting rights matters, no.

16 Q. Okay.

17 A. Not since the --

18 Q. I'm sorry. Can you say that one more time?

19 A. Not since the redistricting.

20 Q. Okay.

21 A. I might have worked on something the last decade,
22 but not this decade.

23 Q. Understood.

24 And just as an overview, getting back to this
25 lawsuit, can you explain what you were asked to do in this

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

10

1 litigation?

2 A. I think to evaluate some maps that the plaintiffs
3 drew and to determine whether or not the benchmark map, which
4 was passed in the new redistricting cycle this decade,
5 diminished African-American voting strength generally. I know
6 I have a paragraph in my report that's more specific.

7 Q. Understand.

8 You mentioned a benchmark map. Can you describe
9 what you mean by "benchmark"?

10 A. The map that was passed -- well, I guess there's --
11 depending on the year that we're in, usually we refer to the
12 benchmark as the most recent, an active map. In this case I
13 know I also refer to the 2016 benchmark, which would have been
14 the previous district. And then of course a new district was
15 passed in 2022, I believe. And so that would be the current
16 benchmark.

17 Q. Will you understand if when -- well, tell me if this
18 works for you. If we're talking about the benchmark, we mean
19 the map that was in place prior to 2022 or I guess up through
20 the spring of 2022. And if we want to refer to the map that
21 was enacted in 2022, we can use the "enacted map," does that
22 work?

23 A. That makes sense to me.

24 Q. Great. Thank you.

25 And then you mentioned some map from the plaintiffs.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

11

1 Can you talk to me about what those maps are?

2 A. I believe there was three different maps. I believe
3 they were lettered A, B, C. And they were drawn by another
4 expert working with the plaintiffs in the Tampa Bay region.

5 Q. Is that Dr. McCartan, Dr. Corey McCartan?

6 A. I think that might be his name, or her name. I
7 don't know if it's a male or a female.

8 Q. You don't know Dr. McCartan?

9 A. I do not.

10 Q. Have you ever spoken with Dr. McCartan?

11 A. Not to my knowledge.

12 Q. Have you ever emailed with Dr. McCartan?

13 A. I don't think so.

14 Q. Did you create or draw any maps as a part of this
15 litigation?

16 A. I did not.

17 Q. And what about any maps that might not have made it
18 into your expert report?

19 A. I did not draw any maps as a part of this
20 litigation.

21 Q. Did you draw any maps for the 2020 redistricting
22 cycle that are not a part of this litigation?

23 A. My co-author, Dr. Kassra Oskooii, was the co-author
24 on my other report we were talking about.

25 Q. Okay.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
12

1 A. He drew a map in the Jacksonville area.

2 Q. Okay.

3 A. And that was included in the report, I believe, that
4 we submitted.

5 Q. Okay. Anything in the Tampa Bay area?

6 A. I don't recall if he drew any Tampa Bay maps. I
7 believe the previous litigation was mostly focused on a map in
8 the Jacksonville area. Although, I know there were data
9 analyses of at least four regions of the state. But I believe
10 the map, my recollection is the map was in the Jacksonville
11 area that he drew.

12 Q. Okay. But you don't recall drawing or creating any
13 maps as a part of the 2020 redistricting cycle? I mean,
14 there's none in your report and none that you drew that are
15 not in your report?

16 A. That's my recollection, that's correct.

17 Q. What about Dr. McCartan, did you review any maps
18 that Dr. McCartan created that are not in Dr. McCartan's
19 expert report?

20 A. I only reviewed the maps that are lettered A, B, and
21 C.

22 Q. Okay.

23 A. Which I used for my analyses.

24 Q. And besides the enacted map, did you review any of
25 the senate staff drawn maps that the Florida Senate considered

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
13

1 during the redistricting process?

2 A. That was a large part of my original report. When I
3 say "original," I mean the other litigation.

4 Q. Okay.

5 A. I had to, for the other litigation, review almost
6 every single document related to redistricting. Which
7 included: testimony, maps, memos, veto declarations. But
8 that was, I'd say about two years ago.

9 Q. For your work in this litigation did you review the
10 materials?

11 A. I did not rereview the materials I had already
12 reviewed when I wrote this report, no.

13 Q. Did you review any of the maps that were submitted
14 to the Florida Senate from the public during the redistricting
15 process?

16 A. I believe for the previous litigation I did. As I
17 said, it was a very intensive effort to determine why the maps
18 were drawn and why certain maps were picked and certain
19 boundaries were drawn.

20 Q. Okay.

21 A. And so as part of that previous litigation, I
22 reviewed almost all documents related to the redistricting
23 that took place for the State House, the State Senate and the
24 U.S. Congress.

25 Q. Did you review those for this litigation?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

14

1 A. I did not reread any of those for this litigation,
2 no. As I said, that would have been well over a year ago.

3 Q. Are you familiar with the public submission the
4 State Senate received known as P00S0042 or Plan 42?

5 A. Possibly. I don't have the numbers memorized off
6 the top of my head.

7 Q. Okay. That was a public submission that was created
8 and submitted by Nicholas Warren. Do you remember whether you
9 might have reviewed that or not?

10 A. If it was part of the 2022 redistricting cycle when
11 I took on the previous case, there's a good chance I reviewed
12 it. I don't have the case numbers or plan numbers memorized.
13 But as a part of that previous litigation I was asked to
14 review a lot of maps.

15 Q. Okay. And that was only as a part of the previous
16 litigation, not the current litigation?

17 A. For the current litigation I just reviewed the maps
18 lettered A, B, and C in the Tampa Bay region for State Senate
19 and did a functional analysis of those. As well as enacted --

20 Q. Understood.

21 Were you given any financial constraints with regard
22 to your analysis in this case?

23 A. I don't think so.

24 Q. What about any time constraints?

25 A. The only time constraints of the real world that at

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
15

1 some point the court orders reports due and depositions and
2 things like that.

3 Q. Okay. Do you recall offhand or do you know about
4 how much time you spent between the time you were hired and
5 the time that you submitted your expert report?

6 A. I don't recall.

7 Q. Would it be days?

8 A. I don't recall. I work on a lot of projects and
9 2024 was a busy year.

10 Q. Let's talk about today's deposition. Can you tell
11 me what you did to prepare for today's deposition?

12 A. Yeah.

13 Q. Would you mind telling me?

14 A. Oh, okay. I had a conversation with Mr. Chen. It's
15 the first time he and I have worked on a deposition together,
16 so he gave me sort of his ground rules and just some
17 deposition, general deposition advice. I reviewed my expert
18 report and my rebuttal and select portions of Dr. Voss's
19 report that applied to me. And that was about it.

20 Q. Can you tell me when you spoke with Mr. Chen?

21 A. I think it was Friday. This past Friday, about
22 three or four days ago.

23 Q. And for about how long?

24 A. Probably about 40 minutes.

25 Q. And is that the only time that you've spoken with

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

16

1 Mr. Chen?

2 A. He was probably on some other calls with the entire
3 team, but I believe that was the only time he and I spoke
4 one-on-one.

5 Q. Okay. Is that the only person you spoke to for
6 preparation of this deposition?

7 A. Yes.

8 Q. And for documents, you said your expert report, your
9 rebuttal report, Dr. Voss's report, I'm probably missing
10 something.

11 A. I think that's about it.

12 Q. Did you review the complaint?

13 A. I did not.

14 Q. Okay. What about any documents that might have been
15 exchanged in discovery?

16 A. Not since Friday.

17 Q. How recently did you review documents that might
18 have been exchanged in discovery?

19 A. Whenever it would have been relevant to my report, I
20 would guess, or to my rebuttal.

21 Q. Okay. So it would have been prior to those dates --
22 nothing since those dates?

23 A. Nothing since I've turned in my report or rebuttal.

24 Q. Okay. What about did you review either the Florida
25 or the Federal Constitution in preparation for today?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

17

1 A. I did not.

2 Q. What about any case law?

3 A. Nope.

4 Q. And nothing else comes to mind?

5 A. Nothing else.

6 Q. I am going to go ahead and pull up your expert
7 report. I'm going to show you this document entitled -- I'm
8 going to share the screen -- "Report of Matthew Barreto, PhD."
9 Do you see that, Doctor?

10 A. I do.

11 Q. And we can just very slowly scroll through to about
12 page 17, and I know that was kind of fast. Do you see your
13 signature there on page 17, Doctor?

14 A. I do.

15 Q. Again, I know this was a quick scroll through, but
16 does this appear to be a true and correct copy of the expert
17 report that you authored in this case?

18 A. It appears to be, yes, through what I can see
19 through Zoom.

20 Q. And there's several appendices you'll see, with the
21 page count. We don't need to go through all of those.

22 MS. PRICE: But let's go ahead and mark this as
23 Exhibit Number 1.

24 (EXHIBIT NUMBER 1 WAS MARKED FOR IDENTIFICATION.)
25

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
18

1 BY MS. PRICE:

2 Q. Dr. Barreto, we talked about Exhibit 1 and your
3 preparation, but as part of your work, can we talk about what
4 documents you reviewed as part of preparation for the expert
5 report?

6 A. It would have been whatever I listed in this expert
7 report. I believe I wrote this back in July, so I don't
8 recall sitting here what documents I reviewed, but I know that
9 I would have put footnotes or referenced them in this report.

10 Q. So every single document you would have reviewed,
11 would be listed in here?

12 A. My understanding is whatever I relied on, like if I
13 reviewed something that was irrelevant, I probably wouldn't
14 have said that, but I don't have such list, so my answer is
15 yes. Whatever is important in my report that I relied on, I
16 would have referenced in here for sure.

17 Q. Okay. And I imagine you would have gotten
18 Dr. Marcartan's plan, Plans A, B, and C from the plaintiffs'
19 attorney since you've never spoken or emailed with
20 Dr. McCartan, correct?

21 A. I believe that's correct.

22 Q. Okay.

23 A. Whenever they sent me some map files.

24 Q. Okay. Are there any other documents that
25 plaintiffs' attorney sent you to review as a part of your

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
19

1 work?

2 A. They probably sent me the complaint. Nothing
3 specific that I recall though.

4 Q. Okay. And if we go to page 2 of your report,
5 paragraph 5, it says, I think the last sentence says you were
6 assisted in this matter by a research assistant, Michael Rios;
7 do you see that?

8 A. I do.

9 Q. Is this big enough for you, Doctor?

10 A. Yeah, it's about right.

11 Q. All right. Can you tell us who Mr. Rios is?

12 A. He is a data scientist at the UCLA Voting Rights
13 Project.

14 Q. How long have you known him?

15 A. Probably six or -- yeah, I'd say six years.

16 Q. Okay. And what did he do with you for this
17 litigation?

18 A. He served as my research assistant.

19 Q. And so what does that mean?

20 A. He may have organized some of the data files, may
21 have merged some files together, insured that the files were
22 ready for analysis, perhaps made some of the tables or charts
23 that are in the appendix, those sorts of tasks.

24 Q. Okay. Did he draft any sections of the expert
25 report?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
20

1 A. Not the narrative, no.

2 Q. Were there any -- you said some parts of the
3 appendices. Would he possibly have created any of the maps or
4 anything within your expert report?

5 A. I think there's some visual image maps that I recall
6 working on with him in Esri and then perhaps some of the data
7 tables that are in the appendix, yes.

8 Q. And I'm sorry. Did you say you worked with somebody
9 else as well?

10 A. Esri, that's the name of the software.

11 Q. The software. Okay. Thank you.

12 A. I definitely worked with the software. It sounds
13 like a person's name but, yeah, it's just the initials
14 E-S-R-I.

15 Q. I understand. Thank you.

16 Did you double-check all his work or review all his
17 work for accuracy?

18 A. Yes. Always.

19 Q. And if we move to paragraph 6, right below that it
20 says here: Your work is ongoing and you reserve the right to
21 modify or supplement conclusions as additional information is
22 made available or as I perform additional further analysis; do
23 you see that?

24 A. I do.

25 Q. And I think we just talked about this but I want to

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
21

1 be clear. Have you had additional information made available
2 to you since you submitted this report on July 2, 2024?

3 A. Yes.

4 Q. And what is that?

5 A. The Dr. Voss report.

6 Q. Anything else?

7 A. I don't think anything else. I know I issued a
8 response or a rebuttal to the Dr. Voss report after July.

9 Q. Okay. Is there any, as of today, have you performed
10 any further analysis?

11 A. I have not.

12 Q. Is your work still ongoing?

13 A. My general sense is that my work is always ongoing.
14 Sometimes even the court asks experts on both sides to weigh
15 in on some things, so I don't have any current open files on
16 this case, but, you know, if yourself or the other attorneys
17 or the court asks the experts to do something, certainly we
18 should do that.

19 Q. Okay. So as of right now do you plan to perform any
20 further analysis?

21 A. I have no current plans, no.

22 Q. Do you plan to modify or supplement any of the
23 conclusions or opinions in your report?

24 A. Only if asked. I don't have any pending assignments
25 in my mind.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
22

1 Q. Okay. You're not aware of any pending assignments
2 that have been asked of you or that might be asked of you in
3 the future?

4 A. I'm not aware of anything in the future, that's for
5 sure. I don't think any of us are, but right now I have
6 nothing pending.

7 Q. If you were, I would ask you for the winning lotto
8 numbers.

9 A. Exactly.

10 Q. So no expectations of future work at this moment as
11 we sit here today?

12 A. Not today.

13 Q. Great. And then as we get to paragraph 7 at the
14 bottom, you start talking about the scope of your work. Can
15 you explain a little bit what you mean by assessing whether
16 alternative configurations of Senate District 16 diminish flag
17 voters as compared to the benchmark District 19?

18 A. Sure. There I believe I'm referring to the enacted
19 map or the plaintiffs' three maps.

20 Q. Enacted map, is that where we're talking about
21 Senate District 16? I'm just trying to understand from a
22 broad perspective, this paragraph in your own words, what this
23 means.

24 A. My understanding is that there are probably five
25 versions of the Senate district: the benchmark from 2016, the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

23

1 enacted map that went into place where I believe it changed
2 its number, and then three lettered versions from the
3 plaintiffs. Those would be the sub or alternative
4 configurations I think that I'm referring to.

5 Q. And then it says here that you were to assess
6 whether the alternative configurations were diminished. Can
7 you tell me, for purpose of the analysis you performed, what
8 does "diminishment" mean?

9 A. Well, my understanding is that there is a legal
10 standard established by either the Constitution or amendments
11 or different laws in Florida. So I'll leave that to the
12 lawyers to decide what diminishment means.

13 Here I was just looking at whether or not voting
14 opportunities could be, for African-Americans in particular,
15 for representation, could be maintained or if they were
16 decreased or diminished under different configurations.

17 Q. Okay. So for your purposes, diminishment meant a
18 decrease? If it wasn't equal, it was a diminishment?

19 A. If their opportunity to elect their candidate and
20 have influence in that district so, you know, it depends on
21 the context. If you go from a 52 percent performing district
22 to a 48 percent performing district, those four points would
23 seem fairly substantial, because you fall under 50 now.

24 If you go from a 62 percent performing district to a
25 58 percent performing district, those four points might not

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
24

1 seem so substantial, because the district might still perform.

2 That's my general understanding of diminishment. As
3 I also said, that it's also a legal concept and that's for the
4 lawyers to determine. Or the courts, not even the lawyers.
5 So I was just providing data tables that would help instruct
6 that decision of whether or not there was this decrease or
7 diminishment in the opportunity or representation.

8 Q. Okay. I understand. And I'm not asking for a legal
9 opinion, I'm just trying to figure out what you meant by that
10 word. Because you do use the word "diminishment" as opposed
11 to "decrease," so I'm just trying to understand how it
12 triggers diminishment for you, whether something is not a
13 diminishment?

14 A. Well, I think from one account diminishment can just
15 mean lessening opportunity. And there is, as I've tried to
16 maintain, there's separately a legal standard of whether or
17 not a voting rights violation has taken place, because
18 opportunities for representation have been diminished or
19 decreased.

20 So here I was just comparing, as I said, tables of
21 the five districts, of the five versions of the maps, to
22 assess whether or not there had been any sort of diminishment
23 or decrease in African-American voting strength.

24 As I said, in some cases one percent could be
25 consequential. My understanding is that in this case, the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
25

1 plaintiffs' maps are all quite similar and within that one
2 percent boundary of the 2016 benchmark map.

3 Q. And so you analyzed Plan A, B, and Plan C for
4 diminishment against the benchmark District's 19; is that
5 correct?

6 A. And I believe the enacted plan as well.

7 Q. Where -- can you point to me where in your expert
8 report you analyzed the enacted plan for diminishment?

9 A. I believe it's in some of the map images in the
10 discussion of the movement of VTDs in pointing out the
11 decrease in the black population.

12 Q. Do you want to scroll through the images or do you
13 want to take a look at your PDF? I just want to make sure I
14 understand where that is.

15 A. Well, I know for sure in Figure 3, which is on
16 page 14.

17 Q. And you're saying Figure 3 shows diminishment?

18 A. It shows the -- these figures that show both the
19 enacted and the benchmark at the same time. So many of these
20 figures show both the enacted and the benchmark at the same
21 time, or they show where the enacted map moved the boundary
22 specifically.

23 I demonstrate that as well as in paragraph, I think
24 39. Yeah, on the bottom of page 15. I go through and compare
25 each of the precinct VTDs in the enacted versus the benchmark

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
26

1 to demonstrate that the enacted map picked lower black
2 population VTDs to include.

3 Q. Did you analyze either District 16 or 18 as a whole
4 for diminishment against District 19?

5 A. I analyzed the enacted -- so, yes, to answer your
6 question, yes, in the maps and the analysis in paragraph 39
7 and the subsequent paragraphs, those refer to those. And I
8 believe I refer specifically to 16 and 18. In the tables,
9 which start on page 19, I use the benchmark from 2016 to
10 compare to the three illustratives.

11 Q. Can you point to me where you have any opinions or
12 comments in the narrative about diminishment of enacted 16 or
13 18?

14 A. Well, all these sections, starting with the map, I
15 guess that starts on paragraph 30 on page 11 and continues all
16 the way down through paragraph 43 on page 17. I'm talking
17 about the movement of black voter populations out of districts
18 and into districts to leave the resulting districts less
19 conducive to black representation.

20 So this section here is talking about how when you
21 look at 16 and 18 as compared to where the old benchmark lines
22 used to be, these lines appeared to follow racial boundaries
23 with the purpose of decreasing the black population on one
24 side of a district, I believe that was 18, and packing it into
25 another side of a district.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
27

1 Q. Doctor, in -- let's go to paragraph 26, maybe this
2 will help.

3 Paragraph 26 you specifically talk about Plans A, B,
4 and C, about how there's no diminishment whatsoever. I'm
5 trying to understand where in this report, if at all, if at
6 all, if you were asked to opine on diminishment in enacted 16
7 or 18 and where I can find that statement?

8 A. So I think I already answered that, but I'm happy to
9 say the same exact words again out loud. Which is if you
10 start on page 11, paragraph 30, and you continue through
11 paragraph 43 on page 17, here I have an analysis of the
12 enacted maps. And how they followed racial boundaries in VDTs
13 and have the purpose of decreasing the black voting population
14 or packing the black voting population into an adjacent
15 district.

16 Q. Can you point me to a paragraph that uses the word
17 "diminishment" in District 16 or District 18?

18 A. Your question is, is the word "diminishment"
19 specifically in paragraph 33 or 43, is that what --

20 Q. Anywhere -- my question is: Can you point me to a
21 paragraph in your expert report where you're talking about
22 diminishment, using that word, with regard to enacted District
23 16 or enacted District 18?

24 A. I'm going to go ahead and read my whole report, so
25 give me a few minutes here. I'll be back to you soon.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
28

1 Q. Okay. Do you want to take a quick --

2 A. No, I'm going to stay on. You asked me a question
3 about my report, so I'm not going off the record.

4 Q. Whatever is convenient for you, Doctor.

5 A. Okay. You want a list of paragraphs or what do you
6 want?

7 Q. Sure. Let's go one at a time.

8 A. Paragraph 32, page 12; paragraph 33 --

9 Q. Hold on. Paragraph 32. Where's the reference to
10 which district you're saying is diminished or not diminished
11 or . . .

12 A. Last sentence "What's more, SD18 has moved lines so
13 as to exclude black populations and increase its white map."

14 Q. So that means you -- it's your opinion that Senate
15 District 18 is diminished as compared to benchmark 19?

16 A. That's correct.

17 Q. Next?

18 A. Paragraph 33, page 13.

19 Q. What part of that paragraph?

20 A. The entire part of it. It's comparing 16 and 18 and
21 how the black population was moved into 16 and excluded from
22 18.

23 Q. Okay. And so that constitutes diminishment for
24 purposes of your analyses?

25 A. Paragraph 35, page 13.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
29

1 Q. Sorry. Was that -- I didn't hear you, Doctor. Was
2 that a yes? In 33, that constitutes diminishment?

3 A. I didn't know you asked a question. You made a
4 statement. I'm sorry.

5 Q. I'm asking a question. Does that constitute
6 diminishment for purposes of your analysis?

7 A. I believe it demonstrates that the black population
8 was decreased in District 18.

9 Q. Does that constitute diminishment?

10 A. Well, that's a legal standard in my opinion. And
11 what I'm attempting to do is use data to document where the
12 black population was decreased and by what amount. And I'll
13 leave it to the judge and the court to decide the legal
14 standards.

15 Q. I understand that, Dr. Barreto, but with regard to
16 Plans A, B, and C, you very specifically used the word
17 "diminishment" and you said you were asked to provide analysis
18 and opinions about whether those plans diminished. I'm trying
19 to figure out if you're planning to provide an expert opinion
20 about whether District 18 or 16 diminished. That's all I'm
21 trying to do. I'm not asking you for a legal opinion.

22 A. I believe District 18 has diminished the black
23 opportunity and increased non-black populations there. I
24 believe that is the point of page 11 through 17 of my report,
25 is to demonstrate how the specific boundaries followed the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
30

1 black population so as to further increase the black
2 population in 16 and remove it from 18.

3 Q. And so is it accurate then to say that your opinion
4 is that 18 is diminished, not 16, since you're saying it was
5 moved into 16? I'm just trying to understand which of these
6 districts you believe are diminished.

7 A. The entire analysis here demonstrates that 18 has
8 seen a decreased black population.

9 Q. I understand that. I'm specifically using the word
10 "diminishment" in the same context that you used it for Plans
11 A, B, and C. Are you planning to offer an opinion in this
12 case that District 18 diminishes against the benchmark 19?

13 A. I don't know that I'm planning to offer any specific
14 legal analysis of diminishment. I'm only planning to testify
15 to all of the maps and tables that I have in here to
16 demonstrate how race was used in this section to follow the
17 black population and specifically put the black population in
18 one district where previous lines had had it higher perhaps in
19 another district.

20 And you asked me where there is any evidence of
21 diminishment or decrease, so I'm attempting to find that.
22 Those all happen to be pointing to District 18.

23 Q. Sure. Let's go back to paragraph 26. I want to
24 make sure we're not speaking past each other.

25 In paragraph 26 you state: There's no diminishment

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
31

1 whatsoever for illustrative A, B, or C.

2 Is that an opinion you plan on offering in this
3 litigation?

4 A. Whatever I wrote there, yes.

5 Q. Do you plan on offering an opinion as to whether
6 there's diminishment in District 18 in the enacted map?

7 A. I only plan to offer the opinions related to my
8 analysis in this report in Sections 31, wherever we started,
9 through 43. So if there is some sort of specific, you know,
10 legal analysis of what is constituting diminishment, I'm going
11 to completely leave that up to the legal scholars and judge.
12 I'm only planning to offer opinions as outlined in this
13 report. As you asked me earlier, I've not done any new
14 analysis. And so I'm happy to stick to all the paragraphs
15 here.

16 Q. Can you explain what you mean by that, you're happy
17 to stick to the paragraphs here?

18 A. In this report and in my rebuttal. Those are my
19 opinions.

20 Q. So does that mean if you're using the word
21 "diminishment" with A, B, and C, you may offer an opinion on
22 that, but if you're not using the word "diminishment" with 18
23 or 16, you're not going to offer that opinion?

24 A. I'm not going to offer any legal interpretations of
25 the diminishment clause in the law. That's not my role here.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
32

1 My role is just to collect data, aggregate it, put it in
2 tables and maps, and tell you what I see in the data.

3 Q. Doctor, I'm not asking --

4 A. That's all --

5 Q. -- you for a legal opinion --

6 A. A legal opinion is a legal standard. I mean,
7 neither one of us --

8 Q. Okay.

9 A. -- misunderstands that. I completely understand the
10 question you're attempting to ask me, and so do you.
11 Diminishment is a Florida legal standard. And so I'm trying
12 to be very clear that I'm not a JD, I'm not a lawyer. My job
13 is not to interpret the Florida clause of diminishment. It's
14 just to provide data that can assist others, including the
15 judge, in drawing that conclusion. I am not attempting to
16 make a legal conclusion about diminishment as it is defined
17 under law. Just to provide data tables.

18 Q. Does that mean that you are not going to be offering
19 an opinion about whether Plans A, B, and C were diminished --

20 A. I'm going to --

21 Q. -- analysis?

22 A. I'm going to be offering all the opinions in my
23 report. Which is that if the data demonstrates there is no
24 decrease or diminishment from a nonlegal standard, that's what
25 I'm attempting to demonstrate. If the data demonstrates that

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
33

1 there was, then that's what my data will demonstrate.

2 My report, as in every report I write, is just a
3 collection of actual, real census data, election results data
4 and then aggregating them to different map boundaries. And
5 then it is for others to argue whether or not those factual
6 pieces of data constitute some sort of violation of the law.
7 And that's --

8 Q. Right.

9 A. -- what I've attempted to do in this case, was to
10 compile as much data as possible and to use these words
11 "diminishment," "increase," "exclude," "decrease," in the
12 social science sense. I'm not offering these opinions as
13 legal fact or legal matter or whatever you would call it.

14 Q. If that's the case, why can you use the word
15 "diminishment" with Plans A, B, and C but not with enacted
16 Districts 18 or 19 -- I'm sorry. 18 or 16.

17 A. We can use it anywhere. It's just a word choice.
18 If it's not in there, I'm not trying to argue with you that
19 the word is in a paragraph or not. That's an empirical
20 question. We can both read the paragraph and decide what
21 English words are in the paragraph. I'm not arguing with you.
22 I can use whatever words make sense to describe something. So
23 if it's not in there with respect to those, that's fine with
24 me. I --

25 Q. I'm just trying to understand the analysis you did

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

34

1 and how you would describe it. Not putting anything on you.

2 So what I see as you're talking about diminishment
3 with A, B, and C, and I see an analysis of what you've been
4 talking about with regard to District 16 and 18, but I don't
5 see any conclusions or opinions regarding diminishment. So I
6 just want to make sure that's significant that that word is
7 not present. If it's not and you're planning to offer an
8 opinion about diminishment on 16 and 18. I'm just trying to
9 understand that.

10 A. The only opinions I'm planning to offer on 16 and 18
11 are the ones outlined in these exact paragraphs. About how
12 race was used to draw 16 and 18 and what the black population
13 was on either side of the boundaries as the boundaries
14 shifted, and whether or not the black population was increased
15 or decreased in 16 or 18.

16 If somebody else comes along and says there's clear
17 evidence that the black population was excluded from District
18 18 according to the Barreto report, which appears to be the
19 case from my eye, based on actual pieces of data, then they
20 can make those interpretations.

21 There's nothing extra. I'm not trying to hide
22 anything. I'm not going to sneak anything on you at trial.
23 I'm going to stick to what's in this report, which is what I
24 always do.

25 Q. I'm just wondering if you did the same type of

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

35

1 analysis for enacted District 16 and 18 that you did with
2 regard to your diminishment analysis for Plans A, B, and C?

3 A. I only did analysis that's reported in this report.

4 Q. Okay. It says here, going back to paragraph 7, and
5 elsewhere throughout your report, you compared a number of
6 things, and I'd just kind of like to go through them one by
7 one.

8 It looks like you compared the black voting age
9 population. Is that correct?

10 A. I see that in paragraph 7, yes.

11 Q. Can you tell me about why you made that comparison?

12 A. I think it says there was three types of demographic
13 data: black voting age population, black voter registration,
14 black voter turnout. Those would be the demographic
15 population items that are in there. And those are all three
16 potential indicators of the electoral strength that a racial
17 or ethnic community might have in a district.

18 Q. So if you wanted to look at the racial or electoral
19 strength of a community, you would assess those three?

20 A. Those are among three things that you could assess
21 by themselves --

22 Q. Okay.

23 A. -- they don't tell the entire story. There has to
24 be a functional analysis as well. Which we refer to in the
25 social science more as a performance analysis, looking at the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
36

1 outcomes of the elections. And that's, I believe, the fourth
2 item I indicate in that same paragraph, black candidates of
3 preference.

4 Q. Okay. Did you analyze each of these four things for
5 enacted District 16?

6 A. I believe we already looked at those tables in the
7 appendix, and it's the benchmark and the plaintiffs' three
8 illustrative lettered districts.

9 Q. So not enacted 16. What about enacted 18?

10 A. I believe it's just benchmark 19, I believe the
11 benchmark was called 19 --

12 Q. Yes.

13 A. -- and then the three illustrative.

14 Q. Okay.

15 A. Those make up the tables.

16 Q. Thank you.

17 Can you -- we've talked a little about this when we
18 were talking about 16 and 18, but can you, just kind of
19 briefly, summarize what you concluded or what your opinion is
20 with regard your comparisons of A, B, and C as compared to
21 benchmark District 19?

22 A. Yeah, I think I have that in paragraph 9.

23 Q. Yeah, looks like that's a summary?

24 A. Yeah, paragraph 9, I state that "I conclude that the
25 three maps offered by plaintiffs performed nearly identically

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
37

1 as the benchmark SD19." And then I go through some more
2 specific data points.

3 Q. And then it looks like in paragraphs 18 through 26,
4 if you want to scan on your own, you go through more detail on
5 that point?

6 A. Yes. Down below on paragraph, starting at
7 paragraph 18 on page 7, I believe I go into more specific
8 detail on the three lettered districts, the illustrative
9 districts A, B, and C, as compared to the benchmark District
10 19. Many of those tables are included in the appendix.

11 Q. Understood. And then if we could go to 26. That
12 looks like your final conclusion on this point, and you say
13 "If anything, two of the three Illustrative maps (A and B)
14 offer Black voters a slightly better opportunity to elect
15 candidates of their choice." Do you see that?

16 A. I do.

17 Q. Does that mean those plans are better than C in your
18 opinion?

19 A. No.

20 Q. Can you tell me what you mean by that statement?

21 A. That in the data tables they, across the different
22 metrics of population, voter registration, and voter turnout,
23 and black candidates of choice, that two of the maps, A and B,
24 have consistently higher numbers supporting black opportunity
25 by one to two to three points over the SD19 benchmark. That

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
38

1 C, I believe is either tied or, in some cases, one point
2 lower.

3 So that summary sentence there is just indicating
4 that those two maps, A and B, have even higher functional or
5 performance analysis, sort of, measures. But all three of
6 them, including SD19, in my opinion, are clearly above the bar
7 in terms of measuring black opportunity and opportunity to
8 elect candidates of choice.

9 Q. Is that -- are you saying that's a positive or a
10 slightly better opportunity?

11 A. I'm just reporting that they have a slightly better
12 opportunity, meaning the numbers that I just reviewed are
13 higher in A and B. And in C, the numbers are slightly slower.
14 So if somebody were picking maps, I think these are all
15 illustrative. None of these are meant for the purposes of
16 creating a district. So I don't know -- I don't know what the
17 core plan is to do with the three illustrative maps, actually.

18 Q. So the statement, this is just a summary of data,
19 it's not an opinion?

20 A. I mean, the entire report is my opinion I believe.
21 But, yes, it is a summary of data. It's stating that
22 throughout all of the tables, A and B appear to have slightly
23 higher numbers than the benchmark.

24 Q. Mm-hmm.

25 A. And that C appears to have either equal or very

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

39

1 slightly lower numbers than the benchmark.

2 I believe at some point there was a question as to
3 whether or not it was even possible to draw a district that
4 could match the benchmark. That was my recollection, was that
5 someone stated that perhaps it wasn't possible. And so here
6 I'm just demonstrating that not only is it possible, but you
7 could actually even exceed the benchmark, you could have
8 "slightly better opportunity."

9 Q. Do you know if any of the districts in the enacted
10 map have slightly better opportunity?

11 A. I believe they do not. I believe they have slightly
12 worse opportunity or significantly worse opportunity. In this
13 region.

14 Q. Understood.

15 I am going to move on to your analysis about
16 cohesion next, so I'm wondering if it's okay if we take a
17 5-minute comfort break?

18 A. Yup. I can keep going or take a break. Whatever
19 works for you is fine with me.

20 (RECESS TAKEN.)

21 CONTINUING EXAMINATION

22 BY MS. PRICE:

23 Q. Thank you, Dr. Barreto, I appreciate it.

24 Before we took that break we were talking about a
25 number of paragraphs, including number 7. And towards the end

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
40

1 you talk about how you reviewed voting patterns by race and
2 ethnicity to look for whether certain groups were cohesive.

3 Do you see that? Oh. Let's share screen. My
4 apologies.

5 A. I think it was paragraph 27, is that where we were?

6 Q. We can go there if you want to get into the more
7 detailed portion. That's fine.

8 A. I want to go wherever your questions are, so.

9 Q. I think the bottom is just one sentence of the
10 summary. So 27 is actually probably a better place to be.
11 Thank you.

12 Can you tell me a little about what cohesion is and
13 why you looked at this?

14 A. Here I'm referring to cohesion as similarities in
15 candidate choice by racial or ethnic voters. In this report,
16 looking at black and white voters and whether or not they vote
17 for the same, which would be cohesive, or different
18 candidates.

19 Q. Okay. And can you tell me for this litigation what
20 racial or ethnic group you analyzed?

21 A. I believe most of the focus was on black and white
22 voters. I believe we also had data on Hispanic voters using
23 census data. And in the charts and graphs in this original
24 report, I broke voters out by white, Hispanic and black.

25 Q. And by original report, do you mean the expert

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

41

1 report you did in Common Cause Florida versus Byrd?

2 A. I believe I'm referring to this report that we're
3 talking about, and I was contrasting that to my rebuttal. I'm
4 sorry. The July 2nd report.

5 Q. I see. So you're saying you did an additional
6 cohesive analysis in the rebuttal report?

7 A. That is a true statement. I did do an additional
8 analysis in the rebuttal report. Well, I responded to
9 Dr. Voss.

10 Q. Understood. For this litigation I'm looking at
11 paragraphs 27 through 29. And if I need to look somewhere
12 else, please let me know.

13 I see where you're talking about black cohesion and
14 I see where you're talking about black voters and white
15 voters. When you reference Hispanic, is that the additional
16 cohesive analysis for the rebuttal?

17 A. No, I know that's in this report. If you scroll
18 down to page 27, Figure 5 contains data on candidate choice by
19 race. I believe in the rebuttal I confine the analysis to
20 just black versus not black voters.

21 Q. Are you planning to offer an opinion with regard to
22 Plans A, B, or C and cohesion of Hispanics?

23 A. These analyses here are in reference to the region
24 of both -- where these districts are, in the Tampa region I
25 believe there's two counties there, mostly. These analyses

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
42

1 are not necessarily confined to the district boundaries of any
2 one particular district, but more how voters in the region
3 voted in these three primary elections.

4 Q. Is this analysis that you did for the other Common
5 Cause federal case?

6 A. This analysis you're looking at right now is an
7 analysis that was part of the July 2nd report.

8 Q. I understand it's in the report. I'm trying to
9 understand when you did this analysis.

10 A. In the months or weeks leading up to the submission
11 of the July 2nd report.

12 Q. Okay.

13 A. I did separate analyses for the Common Cause
14 redistricting statewide case.

15 Q. Okay.

16 A. And those are actually included. I attached my
17 entire appendix in the original report.

18 Q. I saw that. I'm just trying to -- let's stick with
19 this. So for the analysis you did for cohesion in this
20 litigation, you analyzed the region but not a specific
21 district or potential district or plan you're offering?

22 A. With respect to racially polarized voting patterns I
23 analyzed the region, whether it was a one-county region or
24 two-county region as a whole.

25 With respect to the functional analysis, the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

43

1 performance analysis of reaggregated election results, that's
2 where I honed in just specifically on either the 2016
3 benchmark or the illustrative maps A, B, and C. But the
4 rationally polarized voting analysis is meant to tell us how
5 voters in the region are voting.

6 Q. So, yeah, just sticking with racially polarized, we
7 can leave the earlier topics. What did you consider the
8 region that you analyzed?

9 A. Well, there's Hillsborough and Pinellas County,
10 there's two counties. I don't have the maps memorized. I
11 believe one of the two counties, perhaps Hillsborough,
12 contains more of the region that might be in dispute. But
13 that, generally, the Tampa Bay region as a whole is understood
14 to be those two counties. And so I believe I described those
15 two counties, Hillsborough and Pinellas, in this report.

16 In my rebuttal I believe there are some sections
17 where I just analyzed one of the counties and then both of
18 them together.

19 Q. Thank you. That's helpful.

20 So when you refer to the region or refer to your
21 analysis, it would have been one of those two counties, but
22 are you saying not any other counties?

23 A. I'm almost certain that I only pulled data for this
24 report, this July 2nd report and my rebuttal, which was in
25 October, for Hillsborough and Pinellas County. I don't

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
44

1 believe I went outside of those two counties for this racially
2 polarized voting analysis. In --

3 Q. Okay.

4 A. -- Common Cause versus Byrd, the other one --

5 Q. Mm-hmm.

6 A. -- I analyzed almost the entire state, but not for
7 this report.

8 Q. And for this report why did you do it on a
9 countywide basis as opposed to looking at racially polarized
10 voting within specific districts?

11 A. Well, I think this is the accepted standard in the
12 social sciences, which is to understand the region. Because
13 the district boundaries can shift by one census block or one
14 census tract. And, indeed, when districting is done, those
15 boundaries are somewhat artificial and can move, and do move,
16 during the districting process as different versions of a map
17 are being drawn.

18 So from our perspective, as political scientists,
19 what we're interested in is how are voters in this region,
20 where the maps could be drawn, how are the voters in this
21 region voting. Are they cohesive? Are they on opposite sides
22 of each other? Are they in coalition? And so for this
23 purpose, I focused on those two counties.

24 Q. Okay. So -- I understand.

25 If there were nuances or changes, they might be

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
45

1 outside of those counties, but for purposes of what you needed
2 to do, you looked at that -- the entirety of that region?

3 A. Correct. And in some cases just on Hillsborough
4 County, which I believe contained more of the focal point of
5 the districts in question.

6 Q. What would make you decide to look at just one
7 county versus the entire region?

8 A. If more of the -- if most of the district of the
9 voters that are being questioned as to whether or not they're
10 in coalition with each other, meaning cohesive, or if they're
11 block voting against each other, if where the real population
12 of interest is, is only in one county, then it might make
13 sense to hone in on that county.

14 If the population perhaps in a more suburban or
15 rural area stretches across six counties and that makes up a
16 region or community, then we would want to expand and include
17 all of those, perhaps, areas.

18 In this case almost all of the boundaries are
19 existing in Pinellas and Hillsborough County and so those are
20 the county regions that contain the voters that I'm the most
21 interested in understanding.

22 Q. That's helpful. Thank you.

23 And what were your -- well, before we get there, you
24 mentioned the Common Cause analysis that you did, where you
25 analyzed the whole state. Can you tell me why you attached

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
46

1 that and made that part of your report in this case?

2 A. Yeah, one of the regions -- I don't know if I did
3 every single county in the state, I would say across the state
4 in the first report. One of the regions that I did do
5 analysis in in the Common Cause versus Byrd report was the
6 Tampa Bay region. And so in one section here of my report, in
7 this report, July 2nd report, I reference the established
8 findings of racially polarized voting in the state of Florida.
9 And because I had just analyzed a variety of elections in the
10 Tampa Bay region, I included that as an exhibit or attachment,
11 appendix, whatever the court would call it here, because it
12 was just further evidence that had already been introduced in
13 a public litigation and relied upon as more evidence that,
14 yes, in fact, there is racially polarized voting in this
15 region. So it was just for the purpose of referencing
16 additional evidence.

17 Q. Okay. So a supplementation as opposed to something
18 you're relying on for this case?

19 A. I mean, I would say I'm relying on it, because it's
20 my own original analysis in this region of interest. And I'm
21 familiar with it. I would agree that it's from a previous
22 case and that it does supplement the analysis I did do for
23 this case.

24 Q. And if we move to paragraph 28 on page 11, it looks
25 like you talk about a stipulation that was entered into in

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

47

1 state court in another case. Do you see that?

2 A. I do.

3 Q. Can you tell me why you're referencing that as a
4 part of this expert report?

5 A. As I said, my approach here was an attempt to
6 demonstrate that this is a widely accepted phenomenon that
7 African-American voters in Florida generally, and in the Tampa
8 region specifically, are cohesive and vote for like candidates
9 and that they are opposed by white voters in this region or in
10 the state generally. And so there have been a number of court
11 cases that have been decided over the past two decades that
12 have demonstrated this.

13 And I recalled, because the state court -- the state
14 case was moving, I believe, just before the federal case. I
15 was involved in the federal case. And as a part of the state
16 case, I had recalled that the attorneys for the State of
17 Florida had agreed with the plaintiffs that there was in fact
18 racially polarized voting throughout the state of Florida and
19 that black voters were cohesive.

20 So I was just referencing, almost in a way to say,
21 and I believe your own expert agrees with the conclusion, that
22 this is not really a controversial or debated topic, that
23 black voters are cohesive. In fact, even the attorneys for
24 the State of Florida have previously stipulated to these facts
25 in front of a state court.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
48

1 So that is why I referenced my previous report, and
2 other items, is just to try to demonstrate that while there
3 might be some parts of this litigation where there's a lot of
4 debate and disagreement, this one is generally, at least for
5 the last 20 years, has been one in which courts and lawyers
6 and experts on all sides have generally agreed that black
7 voters are cohesive and that white voters block vote against
8 their interests.

9 Q. And in paragraph 29 you talk about an analysis of
10 three primary elections.

11 Can you tell me, and I understand you supplemented
12 this in your rebuttal, and we'll get there, but can you tell
13 me a little bit about why you chose these elections and what
14 the purposes of this is and what you were setting out to do?

15 A. Yeah, these were primary elections in previous
16 statewide election cycles, so '18 and '14 were both years,
17 mid-term congressional years in which Florida's constitutional
18 offices are up. And there were identifiable black candidates
19 of choice running in primary elections. And so I analyzed
20 those. I think there was only three. Determined whether or
21 not there was continued evidence of cohesion in the Tampa
22 region.

23 Q. Did you choose those because they were statewide
24 races or -- I'm trying to understand why you picked those
25 particular elections as opposed to local races or something

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
49

1 else.

2 A. Sure. Usually when we're going across the counties
3 or across districts, local races for mayor, city council,
4 school board, or even a congressional district may not
5 encompass an entire region. And so, therefore, statewide
6 elections are often seen as a nice stand-in, because it's the
7 same ballot for voters in all counties and all cities across
8 the state.

9 Q. We've just been through 27 through 29 and there's a
10 part in paragraph 7 that's all of your expert opinions with
11 regard to cohesion, are they all contained here in your expert
12 report?

13 A. And then also in my rebuttal as we referenced a
14 couple times.

15 Q. Of course.

16 Except for your rebuttal, are there any opinions
17 relating to cohesion that you're planning to offer that are
18 not in your expert report?

19 A. I don't know what the direct will look like and
20 whether or not they'll ask me about my appendix that I
21 attached, which was my original report. They might. And if
22 it is, I'll give them the same answer, which I already gave
23 you here, which is that I see that as just additional evidence
24 documenting very consistent patterns of cohesion among black,
25 I believe I also analyzed Hispanic voters in that previous

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
50

1 report, in block voting by white voters.

2 Q. And in that report did you do -- I know you said the
3 region. Did you also do it on a statewide basis or do you
4 really need to focus on region or how does that work?

5 A. In the previous report I believe we looked at it by
6 region. I'm sure you know, you are from Florida or have
7 studied it, that there's a dramatic difference in Hispanic
8 voters in Miami-Dade County than Orange, Osceola,
9 Hillsborough, Pinellas, and other parts. And so typically I
10 look at regional analyses, especially because the questions
11 are usually about districts in a region. And so, I believe in
12 that previous report, I looked at racially polarized voting in
13 the North Florida area, the Tallahassee to Jacksonville area,
14 in the Tampa/St. Pete area, in the Orange/Osceola area, and
15 then in South Florida maybe as well.

16 Q. So for expectation purposes in this litigation, if
17 you're talking about your prior report, are you going to offer
18 expert opinions only about the Tampa Bay region or are you
19 going to also offer opinions about cohesion among
20 African-Americans in other areas of Florida?

21 A. My expectation is that most of the testimony will be
22 about Tampa. I don't know. If they ask me a question about
23 another part of the state and the judge allows me to answer
24 it, I will certainly answer it. I imagine you might try to
25 object to that. I don't know what will happen. We'll see.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

51

1 But my expectation is we're mostly talking about Tampa.

2 Q. Is there any instance in which you would go outside
3 of either the expert report in this litigation or the expert
4 report you offered in Common Cause for your rebuttal report?

5 A. Go outside in what way?

6 Q. To offer an opinion on cohesion that's not contained
7 within one of the three reports?

8 A. I mean, I will plan to answer whatever questions are
9 asked of me by either my plaintiffs' counsel or your team
10 during the cross. And so my experience, having done this more
11 than a few times, is that sometimes people will ask me
12 questions, well, what do you think about the 2022 election?
13 And if the judge lets me answer it, I'll answer the question
14 as someone who studies elections quite closely.

15 I don't have any immediate plans, no, as I told you
16 from the start. I'm planning to keep my testimony to the
17 reports I've submitted in the case. But having been on the
18 stand numerous times, I can't predict what questions I'll be
19 asked. And my job is to do my best to answer those based on
20 my expertise.

21 Q. But that would be a question on the stand. You're
22 not planning on doing an analysis as part of this litigation
23 that's separate from the current reports?

24 A. That is correct.

25 Q. And then going to -- I know you talk about this.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
52

1 Just starting on page 11 and then also paragraph 8. We can
2 start with paragraph 30. That's fine.

3 It looks like you were -- no, I lied. I'm sorry.
4 Let's go back to 8. It looks like you were asked to assess
5 whether and the extent to which race explains the shapes and
6 borders of enacted Districts 16 and 18; is that correct?

7 A. Yes, as I wrote there in paragraph 8.

8 Q. Can you explain a little bit about that and what
9 that means?

10 A. Well, as I get down to, I think you were going to
11 paragraph 30, I include some maps and some VTD precinct
12 analysis of VTDs right along the district border boundaries.

13 And here in this section, generally, I'm attempting
14 to assess whether or not the district boundaries appear to
15 follow racial boundaries.

16 Q. You used the acronym "VTDs," can you explain what
17 that is, please?

18 A. A voting district as defined by the census.

19 Q. Is that the same as a precinct? Or kind of walk me
20 through the different areas and boundaries and what that
21 specifically means.

22 A. They are quite similar to precincts. Some states,
23 they're 100 percent identical. It's a designation, a
24 geographic designation that the census has used, called VTD.
25 Precincts are additional boundaries that might encompass

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
53

1 slightly different neighborhoods or streets by which voters
2 are grouped and by which the ballots are prepared. So that if
3 you live in District 18, as you can see on this map, or
4 District 16, you need to make sure you get the right ballot
5 and you're in the right precinct in terms of your ballot
6 assignment and polling place location.

7 Q. Why is a VTD the measurement of choice?

8 A. Depends on the question. And then depending on what
9 question you're trying to answer, you might use different
10 types of data.

11 Q. For the analysis you did here, why did you choose
12 VTDs?

13 A. In these maps, you mean?

14 Q. Mm-hmm.

15 A. In this case, VTDs are often observable to map
16 drawers. And they are easy geographic components to
17 understand and to see. And as a result, they're quite often
18 used in districting. Even when other levels of geography,
19 such as census blocks are also available, VTDs are one that
20 are quite common. And so as a result, it was the level of
21 analysis that I used here.

22 Q. Okay. If you want to go back up to 10. I know this
23 is just the summary. It looks like -- this is your conclusion
24 for that summary and you say you found a clear pattern
25 regarding boundary edges and cores. Do you see that?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
54

1 A. I see that.

2 Q. Can you tell me what you mean by "clear pattern"?

3 A. That the boundary lines are following closely racial
4 and ethnic population demographics of geographic units, and
5 that it's not explained by chance alone, that a line might
6 have been drawn somewhere. But that there is a clear
7 association between race and ethnicity of a geographic unit
8 and where the line was placed.

9 Q. Can you -- and if we need to go to a certain page on
10 the report, that's fine. But can you kind of walk me through
11 how you did this boundary analysis?

12 A. Yeah. I think that starts on paragraph 30. There
13 it is just on the bottom of the page.

14 So it starts with a series of maps in which the
15 geographic units in this map contain the percent black among
16 the voting age population. And they're shaded either pink or
17 red if there's a larger black population, and they're shaded
18 green if there's a larger non-black population.

19 And in these maps I have overlaid the enacted
20 boundaries of Districts 16 and 18 so that someone can visually
21 see where the boundaries are, and they can visually see, on
22 different levels of Zoom, how close the boundaries follow the
23 black or the non-black population.

24 And then as you scroll through, some of the maps
25 also contain the enacted -- excuse me -- the benchmark

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

55

1 boundary. I believe the next figure, Figure 3, is an example
2 that it has -- the former black line there is the old boundary
3 and the red line is the new boundary.

4 And this is one example, I believe there are
5 numerous additional maps in the appendix, demonstrating that
6 this red line, which is the enacted boundary, deviates from
7 the old benchmark by following very closely to black
8 populations and excluding white populations.

9 So that's generally what I did, is I went across and
10 looked where there were changes in the boundaries and whether
11 or not those changes are correlated with race and ethnicity.

12 Q. And which boundary edges did you find more closely
13 related with race and ethnicity?

14 A. I think starting in Figure 2 just above. Zooming in
15 on a portion of St. Petersburg there demonstrates, I believe I
16 write in the text, on the western portion of the boundary,
17 that it follows closely along larger black population centers
18 and excludes places that have white populations. I believe
19 Figure 3 we already looked at.

20 Figure 4 on page 15, this attempts to look in on the
21 portion of the district near the City of Tampa. And, again,
22 shows that the red line follows closely to population centers
23 that are larger in the black population.

24 And as I said, I replicated these maps, I believe
25 they're in the appendix down below on page, let's see where

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
56

1 those are -- starting on page 36. I replicated all these for
2 different population --

3 Q. Mm-hmm.

4 A. -- center -- population characteristics, such as
5 registered voters, registered Democrats, by demonstrating
6 where those lines fall vis-à-vis the populations.

7 Q. This is page 36?

8 A. The appendix maps, I believe start on page 36.

9 Q. Okay. So we just talked about a boundary between 18
10 and 16. And we talked about boundary between 14 and 16 with
11 regard to Tampa; is that correct?

12 A. I think that's right, yes.

13 Q. Starting with District 18, are there any other
14 boundaries besides the one that we talked about that would
15 have that clear pattern regarding boundary edges?

16 A. I'm just looking at my appendix to see if I included
17 additional maps. I think the main focus is on the
18 St. Petersburg region. There's probably also some exclusion
19 of black populations in Clearwater on the northern reach of
20 18.

21 Q. Are you -- when you say "probably," does that mean
22 you're going to offer an expert opinion?

23 A. I think if you scroll down to Figure 13, which is a
24 couple pages down.

25 Q. Mm-hmm.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
57

1 A. I can show you what I'm talking about. Yeah, so
2 this one here -- no, that's 14, go up one, 13.

3 So I'll plan to answer questions and offer opinions
4 on anything that's included in my report. So just as I was
5 looking at this, you asked me a question of if there were any
6 other boundaries. And this Figure 13, I think demonstrates
7 that there's a cut there in the, sort of, Clearwater region
8 where a high-density black Democratic geographic area there
9 shaded in pink, appears to have been just below the line and
10 not included.

11 So that might be, you know, something of interest to
12 the court. But I believe most of my analysis, at least the
13 text, is focused on the St. Petersburg region.

14 Q. Okay. Yeah, that's what I'm trying to understand.
15 I hear what you're saying might be of interest. I'm trying to
16 figure out what you're going to offer an opinion on as to
17 whether that's a clear pattern of a boundary edge or if you're
18 going to limit yourself to the narrative that's in your
19 report, which is the boundary between 18 and 16. With regard
20 to 18.

21 A. Yeah, I'm going to be prepared to offer, you know,
22 thoughts on all of the charts, maps, and figures in my report.
23 So that's why I'm highlighting this for you right now, is that
24 this appears to show an additional portion of District 18
25 where a higher-density black population was drawn on the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
58

1 outside edge of District 18.

2 Q. Okay. What else with regard to District 18 would
3 qualify as a clear pattern?

4 A. I would say those seem to be the main regions.

5 Q. And then if we turn to 16, we talked about the
6 boundary between 18 and 16, correct?

7 A. Yes.

8 Q. And we talked about a boundary between 14 and
9 Tampa -- do you mean towards the bottom? Can you be a little
10 descriptive with what you're talking about?

11 A. I'd say most of the western border of 16 and the
12 boundary between 14 and 16.

13 Q. That fits a clear pattern to you?

14 A. Yes.

15 Q. Okay. What about the northern part of District 16?

16 A. Need to zoom out a bit more. Let me see if I have
17 one where it's zoomed out. I believe the northern -- the
18 northern portion also hones in more on areas that have
19 higher-density black populations.

20 Q. By honing in on higher-density areas of black
21 population, do you mean that also qualifies as a clear pattern
22 regarding the boundary edges?

23 A. I think everything in here is what I used to draw my
24 conclusion. There's not a specific data point that turns my
25 entire analysis but, rather, looking at the maps, looking at

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
59

1 the adjacency graph in the appendix, it all points in a
2 similar direction for me, and that's where I draw my
3 conclusion that there's a clear pattern.

4 Q. In your report in the narrative you talk about the
5 boundary between 16 and 18. And I don't see a discussion
6 about other boundary edges. And so that's what I'm trying to
7 understand. What boundary edges -- the specific language is,
8 make sure I've got this right -- you say they follow a clear
9 pattern and there are numerous examples where the district
10 followed racial populations.

11 So I'm just trying to figure out what those numerous
12 examples are and whether you consider the northern border or
13 whether it's your opinion that the northern border of 16 is
14 one of those numerous examples?

15 A. Can I get you to scroll up a little bit to
16 Figure 12? You can see there that when we look at percent
17 black among registered, there is a large non-black population
18 just on the other side of that red line on the northern edge.
19 And as you go further north, it gets more heavily non-black.
20 So I think that would be a reasonable interpretation that
21 there's a line there that is attempting to consider race.

22 And in the adjacency analysis that I have, I think
23 starting on paragraph 38 -- 39, excuse me -- I go through and
24 try to look at the different black voting age populations on
25 either side of the district boundaries.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
60

1 Q. In Figure 12 which you just pointed to, that's
2 percent black among registered. And Figure 13 is percent
3 black among Democrats. Are you looking at both or one or the
4 other to do your boundary analysis?

5 A. All of them. As I stated, there's three different
6 population considerations that have been informative, I would
7 say in other analyses in Florida over the years. That's: the
8 voting age population, the registered population, and then the
9 voting population, and then sometimes if primary elections are
10 in question, honing down to the percent within the Democratic
11 or Republican party.

12 So all of those things to me are important pieces of
13 data that help us understand why a mapmaker might have been
14 drawing a line in a particular place.

15 Q. Okay. So you then would consider the northern -- I
16 think you said this, I just want to clarify. You would
17 consider the northern boundary of 16 as one of those examples?

18 A. I think anywhere that there's a boundary that the
19 map visually demonstrates distinct racial populations on
20 either side of the boundary, and then the boundary itself
21 seems to be a demarcator, that that is additional evidence
22 that race was relied on as the primary factor.

23 Q. Is that true for the boundary north of 16 for you?

24 A. In this instance, in Figure 12, appears to be
25 telling us that there are less black registered voters on the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
61

1 northern excluded part of the boundary than in the southern
2 included part of the boundary.

3 So as I said, as you go through, you can apply these
4 different types of population and voting data to help
5 understand whether or not there is a pattern.

6 And as I look at these maps and then compare the
7 actual demographics of the VTDs on the inside or the outside,
8 they all point in the same direction, that there is, in fact,
9 a pattern by which the red boundaries are following more
10 closely to the racial demographics.

11 Q. What about the eastern boundary of 16?

12 A. In Tampa or which part?

13 Q. We can start at the top if you want to look at
14 the -- let's go back to -- I don't know if you want to use 12
15 or 13. 12 only shows the top. But do any parts -- if you
16 want to scroll to 13, do any parts of the eastern portion of
17 16 provide you with an example that race shaped the boundary
18 edge?

19 A. I would say generally, if the edges of 16, you know,
20 appear to follow closer to black populations if you, in
21 particular, go to that sort of southeastern part, you can see
22 the red boundary follows much closer between the sort of light
23 shaded areas and the dark green shaded areas. The dark green
24 shaded areas are on the excluded side of 16. Those would be
25 areas that have substantially less African-Americans.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
62

1 And, you know, so those are the sorts of things that
2 are part of the analysis, looking at places where the boundary
3 appears to be following very closely to racial demographics.
4 And when you piece together the entire district, as I said, I
5 don't think any analysis turns singly on one census block or
6 one VTD. But taken holistically and then taken with the
7 adjacency analysis on what is the actual population of the
8 inside and outside of the boundary, they sort of help point us
9 to an understanding of whether or not race was a factor.

10 Q. You talked a little about the southeastern portion,
11 I guess the line that's kind of on a diagonal. What about the
12 line that goes pretty much almost up and down along almost the
13 whole way of 16, is there any part of that that provides an
14 example to you that race was used in the boundary edges?

15 A. I would say that part is not quite as clear. I
16 would have to go in and look at the exact -- visually it's not
17 quite as clear. I would have to go and look at the exact
18 demographics on either side of the boundary, which is what I
19 did do in the adjacency analysis. There I looked at the black
20 population on the inside and the outside.

21 So in some cases, even if a geographic unit is
22 shaded a similar color, such as that north, south, eastern
23 boundary, what the adjacency analysis found was that where the
24 line was put, the black population was always smaller on the
25 excluded side. Not always. I should say predominantly

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
63

1 smaller on the excluded side.

2 So even sometimes when the map visually appears to
3 cut through a section that is, in this case, say 35 percent
4 black, what the adjacency analysis found was that the excluded
5 portion was perhaps 20 percent black and the included portion
6 was 41 percent black.

7 And so even in areas that were somewhat similar,
8 more often than not, the lower black population was excluded
9 and the higher black population was included.

10 Q. Did you do the adjacency analysis on every boundary
11 for 16?

12 A. I don't recall off the top of my head, but I know I
13 have listed a table of all the VTDs. I'm just scrolling
14 through my own report so I can reference that. It's Table 6
15 starting on page 32.

16 And I believe I looked at the edges of 16 in both
17 Pinellas and Hillsborough and listed them by number, 6A and
18 6B.

19 Q. At the edge of where 16, I guess, Pinellas and
20 Hillsborough are adjacent on 16?

21 A. I don't understand your question.

22 Q. I'm trying to understand where you did this
23 analysis. Like, for what boundaries of 16 this separate
24 analysis was run on?

25 A. My recollection, we could map all these precinct

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
64

1 numbers, VTD numbers, these are precincts, these have them
2 listed. So I'm not trying to avoid your question or hide
3 anything. Like, these are all the precincts that I analyzed
4 in 16 and 18. My recollection is that it is all the boundary
5 edges in Pinellas and Hillsborough.

6 Q. Okay. So your recollection is that it's the whole
7 thing for 16?

8 A. That's my recollection. But as I said, I have them
9 listed here exactly. And I have them broken out by county,
10 so --

11 Q. Okay.

12 A. -- we could see.

13 Q. Is the same true for 18 or is that just an analysis
14 done from 16?

15 A. In some places it's implied for 18, but the analysis
16 is meant to look at the 16 boundary. In some places the
17 boundary division is 16, 18. And in other places, as we just
18 discussed, it might be 16 and 14.

19 But my recollection is that these are the precincts
20 on the inside versus the immediate outside adjacent edge of
21 16. And I was attempting to determine what was the black
22 population of the included and excluded precincts along the
23 entire boundary, and determine if it was higher or lower on
24 the excluded or included.

25 Q. That's helpful. Thank you.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
65

1 You also stated, if we could go back to
2 paragraph 10. I know we just talked about the racial
3 populations.

4 A. Paragraph 10?

5 Q. Paragraph 10, mm-hmm.

6 You say "Rather than respecting community or natural
7 boundaries." Do you see that?

8 A. I see that.

9 Q. Can you tell me what you meant by "community
10 boundary"?

11 A. It has a different meaning in, you know, different
12 circumstances. Here I'm thinking in the more general, you
13 know, districting sense of communities and that can encompass,
14 you know, just a city, or just a part of a city if it's a huge
15 city. It can also encompass sort of a region if there are
16 similarities. But usually referring to communities as
17 communities of interest where there's similarities.

18 Q. What communities of interest did you analyze in this
19 litigation with regard to this boundary edge analysis?

20 A. I didn't analyze any specific proper name
21 communities. If you, you know, have specific communities by a
22 proper name, that's not what I was looking at. I was looking
23 at whether or not these district boundaries were more likely
24 to just follow racial boundaries.

25 Q. What community boundaries, I guess, rather than

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
66

1 respecting community -- it also says natural, we'll get to
2 that. But rather than respecting community boundaries. So
3 I'm just wondering what community boundaries you looked at
4 that were ignored?

5 A. I would say what I already said, which is that
6 communities could represent: cities, parts of cities, regions
7 of cities. In some cases the suburbs or portions just outside
8 of a city limit might have a lot in common with those adjacent
9 areas. And in which case, sometimes the cities are kept
10 together or the region is kept together.

11 Q. And you're talking in the abstract. And I'm
12 specifically talking about the analysis that you did in this
13 litigation. Are there any community boundaries that you
14 looked at as a part of your analysis that you're going to
15 offer an expert opinion on?

16 A. Just the ones I've described.

17 Q. And specifically which ones are those?

18 A. Cities, regions within cities.

19 Q. Okay. Let's start with the cities. What city
20 community boundaries were not respected?

21 A. Where there are areas that the lines deviate from
22 the exact city limits. Whether it's in St. Petersburg or
23 Tampa specifically. Those are the two largest cities in this
24 area.

25 Q. So you're saying the fact that the district doesn't

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
67

1 encompass the city as a whole?

2 A. And then in some cases it might have used to
3 encompass the city as a whole, but things were changed. That
4 is sometimes an example of community and community boundaries.

5 In some cases, as I said, there's communities within
6 cities.

7 Q. I hear you. And I understand some cases and
8 possible -- and lots of different applications. But if I'm
9 the judge and I ask you what communities were not respected
10 for purposes of this litigation, do you have an expert opinion
11 on that?

12 A. Lots of parts of St. Petersburg were cut out of 16
13 that had been included in the previous district. Parts of
14 Tampa as well which had been included were also cut out or
15 excluded based on the new boundaries. Or cut in half in some
16 places.

17 Q. And is that something that you are planning to offer
18 an expert opinion on?

19 A. I'm just planning to offer the opinion exactly as it
20 has in here. I don't have, as I said, proper name communities
21 of interest outlined in this report. I'm speaking more
22 generally that the boundaries do not appear to be explainable
23 by specific city limits or community of interest boundaries or
24 areas. Instead they appear to be more reasonably explained by
25 the racial demographics of the precincts or the VDTs or the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
68

1 census blocks that the mapmaker chose.

2 Q. And thank you for sharing that with regard to
3 cities. You mentioned communities of interest.

4 What communities of interest did your analysis show
5 were not respected?

6 A. I don't have proper names of specific communities.
7 I'd leave that to sort of folks local on the ground to discuss
8 and offer opinions on. Here what I've done is just attempted
9 to follow the lines and demonstrate that the lines do not
10 appear to be drawn by any specific communities of interest.
11 Instead, they appear to hue very closely to the racial
12 demographics.

13 Q. I'm not trying to get you to have an opinion on
14 something that you don't, right, or you're not planning on
15 offering. I'm just trying to understand what your opinion is
16 going to be. And so if the judge asks you what communities of
17 interest were not respected, are you going to say, I don't
18 know, I'm going to leave that to other folks? Or are you
19 going to say, these are the communities of interest that were
20 not respected?

21 A. I'll say exactly what I just said under oath.
22 You've got my testimony. I'm not going to change it. I
23 guarantee you that.

24 Q. Can you answer my question as to which -- whether
25 you're going to identify communities of interest that were not

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

69

1 respected with a drawing of boundaries?

2 A. Well, I don't know which iteration this is, fourth
3 maybe. I'll attempt to use the same words, because I don't
4 like to contradict myself when I'm under oath.

5 There are city boundaries, there are regions within
6 the cities. Primarily the two largest cities in this region
7 are St. Petersburg and Tampa. There are places where either
8 the whole city was not included or was excluded or the city
9 boundaries themselves were not followed, which they could have
10 been. And, instead, it appears that the boundaries followed
11 much more closely to the racial demographics on either side of
12 the line in both the St. Petersburg city region and in the
13 Tampa city region.

14 As I said, I do not have proper names of subregions
15 within the cities. I know that every city in America has
16 regions within the city that are often referred to as a
17 community. As I stated, I did not attempt to create a
18 delineated list of subregions within these cities, but rather
19 to focus on, from my perspective, what do the lines appear to
20 follow. And that is they appear to follow the racial
21 demographics of the black population.

22 Q. I think we're clear on cities. I think we're clear
23 on your conclusion. I understand you don't know any specific
24 names of communities of interest. You mentioned subregions.
25 Are there any subregions that you don't know the names of that

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
70

1 you can identify today that you would say as an example that
2 wasn't respected?

3 A. I did not do this analysis for this report, no.

4 Q. Thank you.

5 You also said the same for natural boundaries, that
6 natural boundaries were not respected. Can you tell me what
7 you mean by natural boundaries?

8 A. I think just places where, across the bay, lines
9 could have been drawn slightly differently. If there was a
10 decision that, you know, this boundary needed to more closely
11 follow one particular area or another. Certainly this
12 District 16, you know, stretches across the water, is not
13 physically contiguous and so, you know, portions of, you know,
14 the peninsula, South Tampa, I think that's what I'm referring
15 to in terms of the natural boundaries. Is that there does not
16 appear to be an obvious natural boundary reason why these
17 lines were drawn in such a way.

18 Q. And you mentioned the bay. Is that the only natural
19 boundary that you have an opinion on that wasn't respected or
20 are there other natural boundaries for 16 that were not
21 respected?

22 A. I think that's the most, you know, obvious. The
23 most obvious natural boundary is certainly the bay. And the
24 decision, not just in the bay, but the different -- and I may
25 not get the wording right as a non-geographer or geologist or

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
71

1 whatever the word would be, but the various peninsulas and
2 islands and other sort of natural boundaries within the
3 region. You know, there's also oftentimes consideration of,
4 you know, other rivers and marshes and that sort of land in
5 Florida.

6 But I think primarily looking at whether or not the
7 sort of different fingers and islands and peninsulas and
8 different portions that might constitute, you know, a natural
9 boundary are included or excluded.

10 Q. That's what I'm asking about, is not hypothetically
11 but specific for this litigation, if you did an analysis on
12 natural boundaries for anything for District 16 besides the
13 bay?

14 A. Well, I would say, you know, all of the -- all of
15 the area that touches the bay, certainly. But as I said,
16 there's, you know, I know -- without being -- I hope no one
17 tries to qualify me as a geographic expert on the Tampa Bay
18 region, that's not what I'm suggesting. But I know there's
19 also, from having looked at the region, you know, various
20 rivers and wetlands and things that run off, which sometimes
21 we as map drawers consider to be natural boundaries.
22 Oftentimes if there's a big river that separates different
23 communities or because there's a bridge or there happens to
24 not be a bridge there, those are the examples of natural
25 boundaries that, you know, may have been considered or, in

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

72

1 this case, not considered for purposes.

2 Similar to the communities of interest, I'm not
3 outlining, this is a sentence in one of my conclusions, I'm
4 not outlining a delineated list of all the natural boundaries
5 in the region. I meant this more to say that it does not
6 appear that the explanation can be natural boundaries or
7 communities, such that the main peninsula of Tampa was drawn
8 into 14 instead of 16. And that, you know, East Tampa was
9 drawn into 16 and other portions of the city were drawn into
10 14. Then it goes south and then it jumps across the bay. So
11 I've seen other maps, including the Bay Area in San Francisco,
12 where lines much more closely approximate the natural
13 boundaries. And I'm going to offer the opinion that that does
14 not appear to be the case here.

15 Q. I heard you mention 14, so I guess as we're talking
16 about 18 and 16, you see the same issues with 14 and 16?

17 A. Well, just in terms of if somebody said, why is
18 there a line, you know, in the middle of Tampa and excludes
19 the main peninsula and even parts of the islands, there are
20 natural boundary regions why oftentimes mapmakers try to keep
21 certain parts of a district together or whole, whether it's
22 ports or shipping channels or all sorts of bridges. And we
23 already discussed the western portion of Tampa, which goes
24 between 16 and 14.

25 Q. Mm-hmm.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
73

1 A. So if I'm asked questions, that's clearly part of my
2 Figure 1 on page 12, I would be happy to talk about it.

3 Q. And I'm going to use "the bay" just to refer to
4 anything that touches the big blue bunch of water. I'm not
5 trying to get you on a channel or an inlet or peninsula or
6 anything like that.

7 A. Okay.

8 Q. If you look at -- we're on -- go to 12, Figure 1.
9 If you look at Figure 1 on page 12, I'm just trying to figure
10 out, like, any of the red line for 16 that touches green, no
11 blue, just green, did you look at any natural boundaries for
12 those lines?

13 A. I think if you go into Figure 2, you can see sort of
14 more of a Zoom there on that southern portion of 16. You
15 know, I think there are portions there on the western boundary
16 there of St. Petersburg where the city of St. Petersburg
17 extends beyond that red line in many instances. There's also
18 these --

19 Q. Oh yeah. I'm sorry. I'm talking about the
20 Hillsborough side of 16 for this question. For the
21 Hillsborough side of 16, anything on the east in Figure 1.
22 Not counting anything touching the blue. I'm not trying to
23 get you. I'm just wondering, like, the boundary between 14
24 and 16 or the boundary between 16 and whatever is in the top
25 right corner or the boundary between 16 and 20, did you look

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
74

1 at natural boundaries for those?

2 A. I'd say maybe Figure 4 is the zoom in on Tampa, that
3 might be a relevant one to look at.

4 Q. Okay. Great. So just for the green parts, not
5 talking about anything with the water.

6 A. Yeah, so there's, you know, just on the south part
7 of Tampa where the main peninsula comes down, you know,
8 there's questions as to why the red line sort of cuts there in
9 the southern part and then dissects one of the islands or -- I
10 don't know if that's an island or if it's actually physically
11 connected right there, I can't tell, and excludes the main
12 peninsula, which is still within Tampa Bay city limits.

13 And so those are the sort of discussions that, you
14 know, we would have about natural boundaries of whether or
15 not, you know, the line is following, purposefully following
16 natural boundaries, and that can be an explanation that
17 mapmakers give, that, oh, we had to draw the line there
18 because there's an inlet or there's a shipping channel or
19 there's something else that keeps those communities together.

20 And in this case, I think you can see the red line
21 kind of, in my opinion and based on my data, it appears to
22 more closely follow racial demographics and is not drawn in
23 such a way that follows a natural boundary.

24 There appears to be a river there, just sort of in
25 the center part of the screen on the left, and the map could

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
75

1 have followed part of that, you can see the map does follow
2 the river, and then it juts in, it turns east instead of
3 continuing to follow that river. And so I think that's --
4 that's like a pretty specific example of whether or not the
5 map is trying to follow a natural boundary such as a river or
6 a waterway or something else.

7 Q. Yeah. And I appreciate you saying that. I'm just
8 wondering if looking at this map today, if you did as a part
9 of your analysis or if you can identify any other natural
10 boundaries that you would have looked at on land?

11 A. I think that's what I was just talking about. I
12 mean, this little squiggly black line is a river or
13 waterway --

14 Q. Okay. What else?

15 A. -- part of it follows that.

16 Well, I think the southern part, the decision not to
17 follow and include the sort of main peninsula of Tampa city.
18 There's a decision after you kind of come really closely
19 around this area that's got a 35 and 55 percent black
20 population, that little part that kind of sticks out, it
21 follows it in very, very closely, then cuts up, cuts across,
22 it dissects either an island or a wetland there. You know,
23 the question would be, why wasn't that included.

24 Q. Do you know if there's natural boundaries there?

25 A. What's that?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
76

1 Q. Do you know today if there's natural boundaries
2 there?

3 A. I don't know looking at it from here. I'm just
4 saying that there is an opportunity to follow some natural
5 boundaries, but instead the map -- the line, red line appears
6 to follow more closely to the racial and ethnic boundaries.

7 Q. On this map. I hear you. But it doesn't sound like
8 you took a geographic map with all the rivers or tributaries
9 or any of these other things and then overlaid this on top of
10 it.

11 A. Well, that's exactly what you're looking at. I
12 mean, you can see rivers and tributaries and inlets. It just
13 depends on the level of zoom you want to put onto these.

14 Q. But do we know if it's not shown here whether it
15 exists or not?

16 A. Whether what exists?

17 Q. A natural boundary?

18 A. I don't understand your question right now. Natural
19 boundaries either exist or they don't.

20 Q. Are you telling me that for Figure 4, every natural
21 boundary that exists in this area is shown on this map?

22 A. You asked me if it was possible to overlay, and I'm
23 telling you that's exactly what this is. This has lots of
24 examples. If you zoom in to a higher level of zoom, you'll
25 see, you know, more and different types of natural boundaries.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

77

1 It's up to --

2 Q. Is every natural boundary that exists, if you did
3 analysis -- and I'm trying to talk about anything but the bay,
4 so if you want to talk about -- we talked about the river. Is
5 there anything else about the western portion of 16, the
6 northern portion of 16, the eastern portion of 16, is there
7 any natural boundaries, that you're aware of as of today, that
8 were not respected?

9 A. Well, I think if you want to go through this and
10 zoom in, I mean, we could probably talk about this for hours
11 would be my guess --

12 Q. I'm asking what analysis you did and what opinion
13 you're planning to offer, Doctor. I'm not asking for a
14 hypothetical. I'm not trying to quiz you. I want to know if
15 that's something you're going to testify about in this case.

16 A. If I'm asked, then I will definitely testify about
17 it.

18 Q. Sitting here today, can you identify any other
19 natural boundaries in Figure 4 that were not respected that we
20 have not already discussed?

21 A. That's what I was attempting to say. That if we
22 zoom in and we go back to some other figures, Figure 1 even,
23 and then zoom in on different portions, I think we could find
24 lots of different examples. Which is why I tried to include
25 levels of zoom in here where there are boundaries, that we

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
78

1 might define as natural boundaries, that the red line either
2 cuts through or could have followed but didn't.

3 And that's the exact type of analysis that would be
4 done, is to have a map like this, whether it's in Figure 1,
5 which is more of a wide angle, or Figure 4, which is more of a
6 zoom, if you're talking about the Tampa region. And you could
7 even zoom in further in the Esri software.

8 And by doing that, it makes clear that there are
9 places where natural boundaries could have been offered as the
10 explanation but, at least according to this map, it does not
11 appear that they were followed.

12 And I think there's numerous examples. If you want
13 to go back up to Figure 1, zoom in a lot, we can go through
14 there and see them.

15 Q. What about manmade boundaries like roads, did you
16 analyze any of those?

17 A. I think those are typically to be considered parts
18 of communities, and people will oftentimes consider roads.

19 Q. I'm asking whether you considered roads?

20 A. Only if they were important parts of communities. I
21 did not do a separate analysis of roads, no.

22 Q. You mentioned before that 16, the enacted 16, was
23 not physically contiguous. Can you tell me what you mean by
24 that?

25 A. That all the portions of it don't physically touch

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
79

1 each other. The land --

2 Q. And were you -- I'm sorry. Go ahead.

3 A. The land portions.

4 Q. Are you planning to offer an expert opinion on the
5 contiguousness of District 16?

6 A. I mean, I don't think that's an opinion. I think
7 it's a fact, that it doesn't all physically touch each other.

8 Q. Is that -- do you know if you're defining contiguous
9 in the way that it's defined under Florida Law?

10 A. I did not do an analysis of Florida Law. As I've
11 tried to maintain from the first minute of this, I'm not
12 offering any legal opinions.

13 Q. You also mentioned -- I'm almost done with 10. Go
14 back to paragraph 10. You also mentioned that you did an
15 analysis of not just the boundary edges but the cores. And
16 I'm wondering what you -- can you go to -- I'm sorry. Can you
17 go to page 5, paragraph 10. It says "16 and 18 follow a clear
18 pattern whereby the boundary edges, as well as the cores, can
19 be explained by the race and ethnicity of voters/residents."

20 Can you tell me what you mean by cores?

21 A. I'd say just the more interior portions of the
22 district that have larger black or white populations.

23 Q. And what analysis did you do regarding the core for
24 16?

25 A. I would say that all the maps that are included,

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
80

1 both in the main portion of the report and the appendix, are
2 -- support that conclusion.

3 Q. It's a visual conclusion, that the cores are clear
4 examples?

5 A. I would say when you're not comparing edges, yes,
6 you would have to just sort of look at the map to determine
7 that Figure 1 is a reasonable figure to demonstrate this. The
8 sort of denser parts or larger population centers, which are
9 sometimes considered the cores for both 16 and 18 have, you
10 know, very large, either black or white populations.

11 Q. And when you're referring to this analysis that you
12 did for the cores for 16 and 18, is that different than a core
13 retention analysis?

14 A. I did not do a core retention analysis.

15 Q. Okay. Why not?

16 A. I didn't think that was relevant to determine
17 whether or not race was followed on the drawing of these maps.

18 Q. Can you explain what a core retention analysis is?

19 A. Usually it's used in a statewide redistricting,
20 comparing across multiple districts when there are questions
21 as to how substantial of changes are being made to districts,
22 comparisons are made between a benchmark previous map and a
23 new map.

24 Q. With regard to this boundary analysis and the core
25 analysis, did you also conduct that on Plans A, B, and C?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

81

1 A. I only conducted the functional and demographic
2 analysis on A, B, and C as compared to the benchmark.

3 Q. Okay. So you did not do an analysis like we're
4 talking about here about the boundary edges and the core?

5 A. I did not.

6 Q. Is there any reason why not?

7 A. The illustrative maps are not enacted. And here I
8 was just looking at whether or not the enacted map, which had
9 been drawn, followed racial boundaries. My question I was
10 attempting to answer about the illustrative maps was whether
11 or not they allowed African-Americans to retain voting
12 strength as compared to the benchmark. So they were just
13 different types of questions that I was asked to answer.

14 Q. So is it correct then, you do not plan to offer an
15 expert opinion about the boundary edges or cores of Plans A,
16 B, and C?

17 A. I do not.

18 Q. Dr. Barreto, you talked a little bit about how -- I
19 know there's parts of your expert report that say -- you
20 talked about how it doesn't respect community or natural
21 borders and you said it seems to follow along racial
22 populations. What is the significance of that statement?

23 A. That from my opinion, and my data, it seems that the
24 map drawers were paying close attention to the racial
25 demographics of the boundaries when attempting to draw the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
82

1 lines and that they were using that as their metric.

2 Q. Sole metric?

3 A. What's the question? Sorry. I didn't hear that.

4 Q. Are you saying that they were using that as their
5 sole metric?

6 A. I think I outlined in here in paragraph 10, the one
7 we were talking about.

8 Q. Mm-hmm.

9 A. I'm just saying that they can be explained by race
10 and ethnicity, and I think it's up to the court to decide
11 whether or not that was appropriate.

12 Q. Do you know what it means for race to predominate in
13 the drawing of district lines?

14 A. I've heard that phrase before.

15 Q. Do you know what it means?

16 A. Probably varies by state and district court and what
17 the interpretations of that have been. It's mostly a legal
18 standard.

19 Q. Are you planning on offering an opinion as to
20 whether race predominated in the drawing of enacted District
21 16?

22 A. I would say I'm going to stick to the opinions that
23 I've outlined here. Which is that these lines can be
24 explained by race and ethnicity. That there are numerous
25 examples where the district borders follow very closely to

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
83

1 racial populations. And that the placement of the boundaries
2 cannot be explained by chance, but rather there is an
3 overwhelming statistical probability that race was relied on.

4 Q. Are you planning to offer an opinion about the
5 quantitative amount that race was relied on?

6 A. In my probability analysis, towards the end of the
7 report, I assess what is the likelihood of the black
8 population being higher on the included and lower on the
9 excluded adjacent pairs of VTDs. And I conclude in that
10 section, with some statistical probability analysis, that
11 it's, you know, far less than a 100th of a percent probability
12 that this occurred by chance.

13 Q. Is it your understanding that if it didn't occur by
14 chance, that it's unlawful?

15 A. I'm not going to offer --

16 MR. CHEN: Object as to form. Excuse me.

17 THE WITNESS: I'm not going to offer any legal
18 opinions. I'm just going to tell you what my data says
19 and you and Mr. Chen and the judge can all figure out what
20 the law says.

21 BY MS. PRICE:

22 Q. So does that mean you are not going to offer an
23 opinion that race predominated in the drawing of enacted
24 District 16?

25 MR. CHEN: Objection to form.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

84

1 THE WITNESS: I don't know how you want me to use
2 that word. I know it's a legal standard, just like
3 diminishment. I've been in voting rights cases a lot, so
4 I've heard these words a lot and I know that these are
5 legal standards. And I know what my job is as a political
6 scientist. And that is to analyze the data and give my
7 opinion on what the data says.

8 In this case my opinion is that the boundaries do
9 follow race very closely, and that there are numerous
10 examples of this. And that it's clear to me, both through
11 the visual maps, the analysis of the adjacent VTDs, that
12 race was clearly relied on in drawing Senate District 16.

13 Someone else can determine exactly whether or not
14 that was lawful or not. But that's my opinion, is that
15 it's very clear that race was relied on. And I don't
16 quantify if it was 100 percent of the decision or 99
17 percent.

18 BY MS. PRICE:

19 Q. Okay. That's just what I'm trying to understand. I
20 think this is similar to our earlier discussion regarding
21 diminishment. I'm not trying to get you to have an opinion on
22 something that you may or may not have an opinion on. But I'm
23 trying to make sure that I understand the words that we're
24 gonna hear at trial that are your expert opinion.

25 And so I hear you saying that it's clear to you that

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

85

1 race was relied upon. I hear you saying race was used as a
2 metric. Both of those are correct, right?

3 A. Yes.

4 Q. And I'm just wondering, let's take "predominate" out
5 of it. I'm wondering whether we're going to hear a statement
6 from you at trial about whether race was the primary metric,
7 the sole metric, the guiding principle, if we're going to hear
8 anything that says anything other than race was used?

9 A. I would agree with all of those characterizations.
10 That it was a primary metric, that it was a guiding principle,
11 that's what it appears to me.

12 You're gonna have to get the mapmaker under oath and
13 he or she will probably have a very different opinion based on
14 what his lawyers tell him or her. But that's what it appears
15 to.

16 Q. But you agree it was the primary --

17 A. Guiding, primary. I'm not attempting to qualify it
18 but -- in terms of a quantification. But from my perspective,
19 as someone who has looked at lots of maps and done this exact
20 type of boundary analysis before, it appears to me that the
21 mapmaker was closely following racial boundaries on these
22 edges of these districts.

23 Q. And we've discussed all the reasons for that today.
24 And those are all contained within your expert report?

25 A. I don't know the reasons. Only the map drawer and

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

86

1 the map drawer's --

2 Q. I'm sorry. I don't mean that the lines were drawn
3 by the legislature, I mean the reasons why you come to that
4 conclusion.

5 A. Yes, they're all contained within this report.

6 Q. Okay.

7 A. And the images and the maps. As I said in one
8 point, I think if we zoomed in on the maps, Figure 1 and
9 really kept zooming in, we would see all different types of
10 boundaries and we might say, ah-ha, look at that. And what I
11 have attempted to do in my report is tell you, in summary
12 format, how I drew my conclusions.

13 Q. Okay. We talked about 16. So it sounds like, would
14 that be the same for 18 then?

15 A. I would say generally the same logic. We could pull
16 up those maps, maybe look at, you know, Figure 2, Figure 3.
17 Wherever 18 is in more of the picture as opposed to 14. I
18 think that's the St. Petersburg portion of the district. But
19 I would say generally the same rationale, logic, and standards
20 were applied.

21 Q. And I think before you talked about, we went
22 through 14 and 16, so the same would be true for 14 as well?

23 A. Correct.

24 Q. Okay. Let's go ahead and turn to your rebuttal
25 report. We've talked about it a couple of times.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
87

1 Pull that up. And I think we're close, but if you
2 need a short break, that's okay.

3 A. I'm good.

4 Q. Okay. Thank you, Doctor.

5 All right. The title of this is "Rebuttal Report of
6 Matthew Barreto, Ph.D."

7 Do you see that?

8 A. I see it.

9 Q. Okay. Let's slowly scroll down to page 5. And do
10 you see your signature there?

11 A. Yes.

12 Q. It's dated October 9th; is that right?

13 A. That's correct.

14 Q. Okay. And I know we went through this fast, but
15 does this appear to be a true and correct copy of your
16 rebuttal expert report?

17 A. As best as I can tell through Zoom, yes, it looks
18 correct.

19 MS. PRICE: Let's mark that as Exhibit 2.

20 (EXHIBIT NUMBER 2 WAS MARKED FOR IDENTIFICATION.)

21 BY MS. PRICE:

22 Q. I think we touched on this a little bit, but can you
23 explain why you wrote this rebuttal report?

24 A. I'd say it's fairly standard. The opposing expert
25 wrote a report. And portions of his report, Dr. Voss, raised

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
88

1 criticisms of portions of my report, which is the custom. I
2 believe that's what you paid him money to do, and he did it,
3 so now I'm responding to him.

4 Q. Okay. Do you have any additional opinions regarding
5 Dr. Voss's report that are not -- let me start over. I don't
6 want to ask a confusing question.

7 Are all the opinions regarding Dr. Voss's report,
8 that you're planning on giving, contained within your rebuttal
9 report?

10 A. I would say probably not.

11 Q. Okay. What other opinions regarding Dr. Voss's
12 report are not within your rebuttal report?

13 A. I don't have a list, but I have read Dr. Voss's
14 report. I disagree with many of the sentences that he wrote
15 and his interpretation or his conclusion.

16 In my rebuttal report here I chose to respond to
17 some of the specific things that I thought needed additional
18 data analysis or clarification. But in no way does that mean
19 that the portions that I did not specifically respond to I
20 agree with.

21 This is my custom in every rebuttal. I think it's
22 every expert's custom is that they respond to the points that
23 they need to get on paper, but there's, you know, additional
24 sections of his report. Mostly that applies to me. I don't
25 have a lot of opinions on the portions of his expert report

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
89

1 that apply to other experts. But I disagree with lots of
2 words he wrote.

3 Q. Let's start from the top.

4 Are you planning to offer any opinions in this
5 litigation about portions of Dr. Voss's expert report that are
6 not about you?

7 A. I don't think so. There are portions where he's
8 just talking about performance analysis sort of in general,
9 and it wasn't clear if he named me. But I recall reading his
10 report, you know, and discussing with my attorneys and saying,
11 well, that's just a factually wrong statement. I don't need
12 to spend two hours of my time writing an essay as to why
13 that's wrong. I can just explain to the judge when someone
14 asks me that that's a factually wrong statement.

15 But I think they were mostly about performance or
16 functional analysis. I don't have opinions on the portions of
17 his expert report that explicitly don't apply to me. So I
18 know he was discussing other experts, and I'll sort of leave
19 that between them.

20 Q. Okay. So what's kind of then your -- so no opinions
21 that you're going to offer if it's specific to another expert;
22 is that correct?

23 A. I don't think so. And I'm not trying to be elusive.
24 I just don't have his report up. I'm going to open it up, if
25 you don't mind?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
90

1 Q. Sure.

2 A. Maybe you want to open it up as well. I did glance
3 at it this weekend. I didn't go super in depth. I think I
4 just mostly control F'ed on my name and tried to find my name.

5 But there were portions where he talked about
6 combining my data with the McCartan data and other stuff like
7 that, that didn't appear to be super relevant to me.

8 Q. Well, so I guess here's my -- my question, you know
9 it's November and trial is in June and the discovery cutoff is
10 a week from today. And I'm trying to figure out how I figure
11 out what opinions you're going to offer if they're not all
12 contained in your rebuttal report?

13 A. I would say the best way is to take me to a
14 paragraph of his report and ask me a question. That's usually
15 how it works at trial; for me at least.

16 MS. PRICE: Let's go ahead and mark this as
17 Exhibit 3, please.

18 (EXHIBIT NUMBER 3 WAS MARKED FOR IDENTIFICATION.)

19 BY MS. PRICE:

20 Q. Dr. Barreto, does this look like the expert report
21 of Dr. D. Stephen Voss that you reviewed?

22 A. Yes, it does.

23 Q. Do you plan to offer any expert opinions with regard
24 to paragraph 1(a)?

25 A. Nope.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
91

1 Q. What about paragraph 1(b)?

2 A. Nope.

3 Q. Paragraph 1(c)?

4 A. I will say I probably disagree with his
5 characterization that this paper he wrote with Brad has got
6 widespread prominence or influence in race politics. But he's
7 entitled to his opinion on that.

8 Q. Are you planning to offer an opinion about that in
9 the litigation?

10 A. I will say if you ask me about it, I will tell you
11 that I've written 83 articles specifically about race in
12 politics, and that I disagree that it's a prominent -- his
13 paper with Brad is a prominent paper. But he's entitled to
14 his own opinion on his own papers and how prominent he thinks
15 they are.

16 Q. I understand if you disagree. I'm trying to
17 understand if you are planning to offer an expert opinion
18 about this at the litigation?

19 A. Just exactly what I just told you. I don't think it
20 will probably come up at trial.

21 Q. Okay. Paragraph 1(d)?

22 A. No.

23 Q. Paragraph 1(e)?

24 A. Nope.

25 Q. Paragraph 1(f)?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

92

1 A. No.

2 Q. Paragraph 2(a)?

3 A. Nope.

4 Q. Paragraph 2(b)?

5 A. Yup.

6 Q. What opinions are you going to offer in this
7 litigation regarding paragraph B?

8 A. He does not employ the same ecological inference
9 methods.

10 Q. How are they different?

11 A. He subset his analysis to blocks, I think in part,
12 because he misunderstood what I did. And that's not what I
13 did. I subset my analysis to VTDs.

14 Q. So is your opinion -- what else, what other opinions
15 are you going to offer regarding 2(b)?

16 A. That's it on 2(b). He goes into that a little bit
17 later in his report where he talks about how I used census
18 block data as my geographic unit, which is factually
19 incorrect.

20 Q. Okay. 2(c)?

21 A. No. No. Nothing to offer there.

22 Q. 2(d)?

23 A. No.

24 Q. 2(e)?

25 A. Yes.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
93

1 Q. Okay. What opinions are you planning to offer
2 regarding 2(e)?

3 A. That he was provided with all of my data and code
4 that he needed.

5 Q. Anything else?

6 A. Also, there was more -- there was no error in my
7 code. He's incorrect in how he attempted to apply the
8 analysis. I disagree with almost everything.

9 Q. Okay. What about 3(a)?

10 A. Nothing there.

11 Q. 3(b)?

12 A. I don't plan to debate him on this. As I mentioned
13 before, I noted that with respect to natural boundaries, the
14 district is not contiguous. But my job in this case was not
15 to do an analysis of the districts to see if they met the
16 traditional redistricting criteria. I believe that other
17 expert did that, so . . .

18 Q. Does that mean nothing in 3(b)?

19 A. No. I just don't want you surprised if I state,
20 which I've already stated under oath, that I don't think SD16
21 follows natural boundaries and is contiguous and physically
22 touches itself across all land portions.

23 Q. Is there any other opinions that you would offer on
24 3(b)?

25 A. I don't think so, no.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
94

1 Q. What about 3(c)?

2 A. I did not do a compactness analysis, no.

3 Q. Would that include Table 1?

4 A. Correct. That's a compactness analysis. I didn't
5 do that --

6 Q. And --

7 A. (Inaudible.)

8 Q. I'm sorry. Can you say that again one more time?

9 A. I presume McCartan might have, but I don't know.

10 Q. What about 3(d)?

11 A. I would say my section on the drawing of 16 and
12 following racial boundaries disagrees with this.

13 Q. Is there anything about 3(d) that would not be
14 contained within your expert reports for which we haven't
15 discussed today?

16 A. I believe the part that we spent a long time
17 discussing in terms of the boundary analysis, directly
18 responds to the italicized first sentence. And if asked,
19 that's what I would point to.

20 Q. Right. I'm just wondering -- and that's in your
21 report. I'm just wondering if there are any other opinions
22 regarding 3(d) that we haven't talked about, whether or not
23 they're in your report.

24 A. I'm going to stick to my report, so, no.

25 Q. Okay. Next page 3(e)?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
95

1 A. Nothing specifically on 3(e). My data does refer to
2 African-American Democratic partisanship. So I suppose that
3 could come up, but I did not do a partisan analysis.

4 Q. Okay. Can you scroll back up to Table 2? Sorry. I
5 jumped over Table 2. I just want to make sure whether you
6 plan on offering any opinions with regard to Table 2?

7 A. I did not analyze Table 2. It appears to just be
8 actual partisanship scores or rates, so I presume, I presume
9 it to just be a factual table.

10 Q. I'm just asking whether you're planning on offering
11 an opinion regarding Table 2?

12 A. I don't know how Table 2 will come up. It wasn't
13 part of my report. What I'm telling you is that this is just
14 a factual piece of information, is what it appears to be. And
15 so I can envision you or someone else asking me a question
16 saying, you know, isn't it the case that Hillsborough County
17 is 51 percent Democrat. And I don't want to say -- I'm not
18 going to say yes.

19 Q. Are you planning on rebutting --

20 A. No.

21 Q. -- Table 2. Thank you. Yeah, I'm not trying to
22 trap you in semantics here. I just want to know what your
23 opinions are going to be.

24 Let's scroll down to 3(f), which looks like it spans
25 two pages, so let's go slowly.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
96

1 A. No.

2 Q. Okay. Let's go to the second page for F.

3 A. Nothing on F.

4 Q. What about just that first paragraph of G? G is
5 pretty long, so let's start there.

6 A. Nothing on the first part.

7 Q. Okay. (g)(1)?

8 A. No.

9 Q. Let's go to (g)(2), looks like it spans a couple
10 pages, so let's just do (g)(2) on the bottom of the page 6 for
11 now.

12 A. Nothing there.

13 Q. Top of page 7 has Table 3. Is there anything that
14 you would rebut in Table 3?

15 A. Probably. This appears to be somewhat similar to
16 some of the analysis I did in my tables. And so to the extent
17 there's any disagreement, I would probably lean on my tables
18 and interpret my tables differently.

19 A lot of the words in here are Dr. Voss's opinions
20 on hypothetical scenarios in the future. But Table 3 does
21 appear to be somewhat similar to some of the tables I created,
22 at least for the ACLU or the McCartan maps. So I can imagine
23 some scenario in which someone says, hey, is this different
24 than the table you created? And I would probably testify to
25 that.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
97

1 Q. Okay. So you created tables regarding percentage
2 Republicans and percentage Democrats in these districts?

3 A. The functional analysis essentially does that, yes.

4 Q. Are you planning on offering any opinions -- I
5 understand if you're asked a question about something. Are
6 you planning on offering any opinions with regard to the
7 percentage of Democrats or Republicans in either the enacted
8 map districts or the ACLU A, B, C that are listed here for
9 these districts?

10 A. Well, I have similar tables in my original report,
11 for example, Table 4. Table 5, both Table 4 and Table 5 in my
12 original report I would think, you know, speak to some of
13 these same things.

14 He's kind of trying to squeeze in some performance
15 analysis assessment here, which is what my reports are about.
16 So I think my Tables 4 and 5 probably speak directly to some
17 of the claims he's making here.

18 Q. Is that in your appendix? I'm sorry.

19 A. Yeah, pages 24 and 25. 26 --

20 Q. Okay.

21 A. 24, 25, 26.

22 Q. Are you planning on offering opinions regarding, not
23 the functional analysis or not regarding cohesion, but are you
24 planning on offering opinions regarding the performance of
25 political parties in these districts?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

98

1 A. That's what the functional analysis is.

2 Q. Okay. Let me back up. Are you planning on offering
3 any opinions with regard to whether maps favor -- sorry --
4 whether specific districts favor a Democratic candidate or a
5 Republican candidate?

6 A. Probably. I mean, that's in my analysis as well.
7 We identified Democratic candidates as typically candidates of
8 choice of African-American voters, so probably so.

9 Q. Are you planning on offering any opinions with
10 regard to whether Districts 16 or 18 were drawn with the
11 intent to benefit a political party or candidate?

12 A. By inference, yes, I would say. Because they may
13 have been drawn, 18 in particular, may have been drawn to the
14 detriment of African-American voting interests and, as I just
15 said, their candidates of choice, in this region of Florida
16 have, in the elections I analyzed, been Democrats.

17 So I imagine that question could come up and I would
18 be prepared to offer an opinion, based on my data, that
19 District 18, in particular, would appear to be one that
20 decreased those opportunities.

21 Q. Okay. I'm not asking if District 18 decreased
22 opportunities for black voters. I'm asking if you're planning
23 on offering an expert opinion that District 18 or District 16
24 were drawn with intent to benefit the political party or
25 political candidate?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

99

1 MR. CHEN: I'm going to object to form.

2 THE WITNESS: I would say probably not on the intent
3 for partisan reasons. I'm saying that my data would be
4 informative, what I've already written would be
5 informative to answer that question though. Because my
6 data suggests that Republican candidates, as is being
7 highlighted in this loss table, tend to be the candidates
8 of choice of white voters. And that Democratic candidates
9 tend to be the candidates of choice of black voters.

10 BY MS. PRICE:

11 Q. And does your data also have any of this information
12 with regard to District 16?

13 A. I don't believe we did a performance analysis of 16.
14 As I stated earlier, the performance analysis was comparing
15 the illustrative maps to the 2016 benchmark of SD19.

16 Q. And does the data or information in your report,
17 does it shed any light with regard to partisan leanings or
18 intent for Plan A?

19 MR. CHEN: Object to form.

20 THE WITNESS: I don't understand what you mean by --
21 I don't understand the question at all.

22 BY MS. PRICE:

23 Q. Okay. Let's go back. Starting with Table 3. I'm
24 trying to understand what opinion you might offer, if any, in
25 this litigation with regard to Table 3. And correct me if I'm

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
100

1 wrong, but I understand you said, well, there's parts of my
2 report and data that kind of were similar to parts of
3 information that's in Table 3, so maybe if I'm asked a
4 question.

5 A. That's exactly correct. I cannot forecast how the
6 question would come in direct, cross, or redirect. I cannot
7 envision that right now. But looking at Table 3, I can tell
8 you that there's lots of data there that is somewhat similar
9 to data I have compiled. And I can envision somebody asking
10 me a question as to whether or not this is consistent or
11 inconsistent with my own data. And I'm just trying to tell
12 you that I will not be surprised if that came up, and that I
13 would stick to my report to point out where there were
14 similarities and differences.

15 Q. And will your testimony about Table 3 be limited to
16 the similarities and differences in the data that's presented
17 in Table 3 and the data that's presented in your report?

18 A. I think it would be limited to how the question is
19 answered. It's very difficult for me to forecast. Because I
20 don't want to tell you an answer and then someone asks an
21 extremely similar but slightly different question and you
22 stand up and say, ah-ha, in your deposition you said it would
23 be limited.

24 I don't know what questions are going to be asked at
25 trial. I'm just trying to tell you that my tables are in

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
101

1 conversation with these Voss tables, and it would be a
2 disservice, if there's a reasonable question between the two
3 experts, for me to not state what I think.

4 So I don't know what the question will be, but I
5 could envision talking about this, because it's somewhat
6 similar to some of my tables.

7 Q. If asked, have you done sufficient analysis to where
8 you would give an opinion with regard to packing and cracking
9 Republican voters in these districts?

10 A. I did not do an analysis of partisanship. I did the
11 analysis of whether or not race was being followed in using
12 these districts. As I mentioned earlier, in Florida there's a
13 connection, in this region in particular, between black voters
14 preferring Democratic candidates of choice and white voters
15 preferring Republican candidates of choice. So there is an
16 inherent connection between partisanship and race there.

17 But my analysis, as we just mentioned I was going
18 through, focuses on the racial demographics of the population
19 and of the voting population in these districts.

20 Q. Thank you.

21 Let's go to the paragraph that's right under
22 Table 3, which is a continuation of 3(g)(2). I know that's
23 just a portion, but is there anything written there that you
24 plan to offer an opinion on?

25 A. Only if it relates to Table 3. I don't envision

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
102

1 anything specific. That paragraph appears to be a debate
2 between himself and McCartan.

3 Q. Okay. And then if we can just go to -- let's skip
4 Figure 3 and go to the top of 8 so you can see the end of that
5 paragraph just to make sure.

6 A. Same answer.

7 Q. Okay. If we can go back up to Figure 3. Is there
8 anything about that figure that you plan to offer an expert
9 opinion on?

10 A. No.

11 Q. Thank you.

12 Next one is paragraph 3 on page 8.

13 A. I remember reading this, and as I already mentioned,
14 I did not do an analysis of the McCartan shapes. I only did
15 the performance analysis. But I could envision responding to
16 this, because he's using similar language as I am in my
17 critique of 16 and 18, just to explain perhaps to the judge or
18 if someone asks, that Dr. Voss is trying to draw similar
19 conclusions about the use of race that I am in my section.

20 Q. Anything else with regard to paragraph 3?

21 A. I don't think so. Not to rebut necessarily.

22 Q. What does that mean?

23 A. Well, he has a sentence that says "The partisan
24 racial pattern is plainly visible." Which is, I think we
25 could both agree, is similar to a sentence I had written about

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
103

1 the racial pattern is clear. I don't remember my language.
2 But he's attempting to do a similar type of analysis where
3 he's talking about how the boundary follows racial boundaries.
4 And in his opinion, that type of analysis suggests that there
5 is some sort of racial gerrymandering going on. Those are the
6 types of words he's using.

7 So I will probably reference this in saying, see,
8 even your expert agrees that doing this type of analysis, of
9 following the district boundary lines, is how we can draw
10 conclusions about whether or not there is some racial
11 boundaries. He's especially --

12 Q. Anything else?

13 A. -- making the same arguments as me.

14 Q. Okay. I didn't mean to cut you off. Anything else?

15 A. No.

16 Q. Great. Next page is Figure 4. District maps.

17 A. Yes.

18 Q. What would you rebut about Figure 4?

19 A. I'm sorry. I thought you were on Section 4.

20 Nothing on Figure 4 --

21 Q. Okay. Thank you. Let's go to Section 4(a).

22 A. Yes.

23 Q. What opinions do you have regarding that?

24 A. He's wrong.

25 Q. Can you elaborate on that?

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
104

1 A. He says that it was necessary to pack black voters
2 into this district. I disagree with that.

3 And he says that -- he implies that Map C is taking
4 them to a point where they've slipped. That's false. My
5 performance analysis demonstrates that's false.

6 So a lot of his interpretations or opinions are
7 wrong in A.

8 Q. Okay. What about 4(b) which goes on two different
9 pages?

10 A. Yeah, I disagree with his conclusion there.

11 Q. What would you rebut in 4(b)?

12 A. Again, he's saying that the packing of black voters
13 is needed; and that's not true.

14 Q. I'll just scroll to the second part of B. Is there
15 anything different or additional?

16 A. I disagree with all these sections where he's
17 attempting to justify the use of race to pack D16. I agree
18 that the enacted map did pack SD16, so he and I agree on that.
19 He said it was necessary, that is not true. So most of my
20 report suggests that's the case. And all of these sections
21 where he's talking about that, I don't plan to offer my
22 opinion.

23 Q. Okay. So would that be A through -- would that be
24 all of Section 4?

25 A. That was my recollection, is that a lot of this was

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
105

1 stuff that I didn't need to go line by line on, but I
2 definitely disagree with him on. And some of his sentences
3 are factually untrue and others are, he's drawing a conclusion
4 that I disagree with.

5 Q. For each paragraph in Section 4?

6 A. I think so.

7 Q. Okay. Is there anything else about Section 4 that
8 we haven't discussed that you plan to offer an opinion on?

9 A. I mean, I plan to offer opinions on Section 4 as I
10 am asked questions about them. Part of it will depend how the
11 question is asked of me, but I disagree with much of what he
12 has said here. And I think that's evidenced in my report
13 already.

14 Q. Is there any analysis that you plan to offer an
15 opinion on with regard to Section 4 that is not present in
16 your expert reports?

17 A. I would say mostly using my expert report to rebut
18 statements he has in here that are factually incorrect.

19 Q. Is there anything you would use besides your expert
20 report?

21 A. I mean, possibly. I assume you've put experts on
22 before. Sometimes we get asked about, have you ever seen an
23 election where this happened. And, you know, I'm not planning
24 to do any new analysis at all, but oftentimes we get asked
25 questions about our general expertise on both sides, on direct

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
106

1 and cross. So I don't want to say I'm not going to answer a
2 question with facts that I know if I have to, but I'm not --

3 Q. Understood --

4 A. -- offering any new analysis.

5 Q. Understood. Thank you.

6 Let's go to Section 5. And this talks a lot about
7 you. Let's go paragraph by paragraph.

8 Do you plan to offer a rebuttal to Section 5(a)?

9 A. Yes.

10 Q. Okay. And is that the rebuttal that's included
11 within your rebuttal report that discusses this or is there
12 more?

13 A. As I said before, in the sections where he's
14 specifically talking about ecologic inference in my report, I
15 did not get into a line-by-line systemic disagreement. I
16 didn't think that that would be helpful for anyone. But I --
17 my opinion is that he has misread or does not understand my
18 report, and that he is misinterpreting or factually wrong
19 about many of these statements that he has made here; and I
20 will testify to that.

21 Q. Okay. What about 5(b)?

22 A. Yes, I thought you were talking about all of 5,
23 sorry.

24 Q. Yes, that applies to all of 5.

25 A. I plan to have opinions on, I would say, every

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
107

1 single bullet point of 5, if asked.

2 Q. Are you planning on doing any additional analysis
3 that would inform those opinions?

4 A. Nope.

5 Q. Let's skip over to page 15. And Section 6?

6 A. I would say the same thing pretty much for the
7 entirety of Section 6 and all the tables. I mean, all the
8 part where he's directly engaging with me, I disagree with
9 many of his interpretations and conclusions. Some of which I
10 very specifically outlined in my rebuttal. But I have read
11 these and I plan to rebut pretty much every letter in his
12 substructure if asked about them.

13 Q. 6, is that correct?

14 A. 6, exploring the ecological inference results. And
15 there's a couple --

16 Q. Okay.

17 A. -- charts and a table.

18 Q. And that goes all the way to Page 21, correct?

19 A. That's correct.

20 Q. Is there any additional analysis that you're
21 planning to do that you would use in your rebuttal for
22 Section 6?

23 A. Nothing new, just pointing out the portions of his
24 lettered paragraphs which are wrong or misinterpreted.

25 Q. Is it the same for Section 6 as it was for

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
108

1 Section 5, that you're going to disagree with every paragraph
2 of Section 6?

3 A. Most likely. And there's some parts where he says,
4 yes, I also found racially polarized voting. So I definitely
5 agree with him on that. Multiple times he says that he also
6 found racially polarized voting. He just appears to want to
7 start a methods fight for some reason.

8 So my census are conclusions about how people of
9 this region in Florida vote are actually the same. But he has
10 made many misstatements here that, if I'm asked, I will give
11 my opinion on.

12 Q. We're not going to know what those are until we show
13 up at trial and you're asked at trial?

14 A. You can ask me right now. Here we are, we still got
15 four hours left.

16 Q. Are these things you can identify or do you want to
17 go sentence by sentence?

18 A. There's huge, factually wrong statements that he
19 makes in here. And his understanding of ecological inference
20 and how it is applied and how it is implemented is, at times,
21 incorrect. There are times where he confuses rows by columns
22 with iterative. There are times where he misunderstands the
23 competence intervals. There are times where he's actually
24 wrong about the type of data I used.

25 So, I mean, we can go through more if you want, but

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
109

1 some of the high points are laid out in my rebuttal. But
2 there's just a lot of, I would say, inconsistencies and
3 misinterpretations.

4 Q. Okay. Prior to that conclusion -- so let's go to --
5 this is Section 5, but let's go to paragraph A on 21.

6 A. Okay.

7 Q. Is there anything that you plan to offer an opinion
8 on regarding paragraph A?

9 A. Yes.

10 Q. And those are?

11 A. This idea that there are errors in what I submitted.
12 I can't speak for the other expert, but . . .

13 Q. Okay. Anything else?

14 A. That's probably the main thing in A.

15 Q. Okay. What about B?

16 A. B appears to be more about McCartan.

17 Q. Does that mean you will not have an expert opinion
18 on that?

19 A. Well, part of this is already what you asked me in
20 Table 3 above, so I don't think I will. But I feel like my
21 job is to answer the questions I'm asked when I'm on the stand
22 and not to get into some sort of thing where you say, oh, but
23 you said you won't say anything about B on 21. It's, like,
24 I'm just trying to get my opinion to the judge. But I don't
25 have anything planned for B. But I'm also not trying to hide

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
110

1 anything. And if someone asks me a question, I want to be
2 able to say, actually, that's inconsistent with Table 3 or
3 that's inconsistent with mine.

4 And as I said, I don't have opinions on the Voss and
5 McCartan debate, that's between them.

6 Q. What about C? It spans two pages.

7 A. Yes, I disagree that black voters are weakened in
8 the ACLU maps.

9 Q. And what is that based on?

10 A. My functional analysis that shows that in all three
11 illustrative maps, black voters are able to retain a
12 performing district in the illustrative map.

13 Q. All right. What else about paragraph C, if
14 anything?

15 A. I think his interpretation of racially polarized
16 voting is wrong.

17 Q. Okay. How do you define it?

18 A. He's drawing inferences without pointing to a
19 specific data point here on how high or low racially polarized
20 voting would need to be for African-Americans to win or not
21 win, but this is just a made-up opinion. It's not referenced
22 in any of his performance analysis tables that demonstrate
23 this. And my performance analysis or what Florida calls
24 functional analysis, clearly indicates that the illustrative
25 maps will all perform well for African-American voters.

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

111

1 Q. Okay. Anything else in C?

2 A. I don't think so.

3 Q. Paragraph D?

4 A. Yes.

5 Q. Okay. What opinions do you plan to offer regarding
6 paragraph D?

7 A. He is wrong that I used census blocks. I cleared
8 that up in my rebuttal, just pointed out that I used VDTs, not
9 blocks. That was just an error that he made in his
10 interpretation of my data. I disagree with his conclusions
11 about that. I disagree with most every single word in this
12 paragraph. Except the last one, "No one denies racial/ethnic
13 identity still shapes voting behavior in Florida." I agree
14 with that.

15 Q. I imagine you disagree with the second half of that
16 sentence?

17 A. You imagine correctly.

18 Q. Is there any additional data or analysis that you
19 would rely upon that's not in your expert report to rebut
20 paragraph D?

21 A. I don't think so. I think, you know, where we
22 started this discussion I'm, we'll probably refer to, just in
23 terms of supplemental evidence, the Common Cause versus Byrd
24 report or the stipulation that you guys made, or any number of
25 other huge amounts of pieces of data that racially polarized

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
112

1 voting does in fact exist in the state of Florida. But I
2 don't plan any new analysis, no.

3 Q. Anything else in paragraph D?

4 A. I mean, I think I said I disagree with almost all
5 the words, but I think that covers it.

6 Q. What about paragraph E?

7 A. Yes, I disagree with E.

8 Q. What parts?

9 A. I disagree that it holds together the black
10 neighborhoods. I believe that that's justification for
11 packing, and that it was attempting to reverse erosions of
12 black voting power, like my analysis of the illustrative maps
13 demonstrates that that is not true.

14 I think that it follows racial boundaries pretty
15 clearly. He says it's unremarkable. But I think that it
16 follows racial boundaries very clearly using the same logic
17 that he applied to the McCartan maps above. And I don't
18 believe that the plaintiffs' maps would dilute the black vote.

19 Q. Anything else?

20 A. I don't think so.

21 Q. We've reached the end.

22 A. He's got this appendix where he criticizes me on the
23 next page, and I disagree with most of it.

24 Q. Okay. So that's just that page or going through?

25 A. He's written some sort of theory of ecological

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
113

1 inference that is just generic, it doesn't apply to this case
2 in particular. But it's a long, sort of appendix with some
3 tomography plots and other stuff that there's lots of parts I
4 disagree with. I don't know if he plans to use it, but . . .

5 Q. Is it fair to say if he does, you have done the data
6 analysis in order to provide a rebuttal opinion on that?

7 A. That is correct.

8 Q. Is there anything else about Dr. Voss's report that
9 we haven't discussed that you plan to offer an opinion on?

10 A. I don't think so. Nothing that I planned, no.

11 Q. Okay. I think I have just a few more questions.

12 A. Okay.

13 Q. I may be done, but if you need a comfort break, we
14 can go.

15 A. No, I'm good.

16 Q. Okay. Again, I'm not trying to -- let me see. What
17 about Dr. Stephen Trende, did you review his expert report as
18 part of your work in this litigation?

19 A. I don't recall doing that no.

20 Q. Okay.

21 A. Is it Sean Trende, maybe?

22 Q. Maybe I read it wrong. My apologies.

23 So you did not read that?

24 A. Nope.

25 Q. Do you plan on offering any opinions regarding any

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

114

1 topics discussed within Dr. Trende's report?

2 A. I don't know. There's some chance that counsel
3 might want me to look at it. That might be something McCartan
4 is supposed to do. I don't know. I've read Trende's work
5 before and rebutted it in other cases. I know him. He mostly
6 does maps and jingles one stuff (phonetic), but he does a
7 little bit of everything. So I don't currently have any
8 plans. And as I said, I don't recall reading or seeing his
9 report.

10 Q. Has anybody asked you to look at it?

11 A. No one has asked me at this point.

12 Q. Do you mind giving me two minutes and we might be
13 close to done?

14 A. Sounds great.

15 (RECESS TAKEN.)

16 CONTINUING EXAMINATION

17 BY MS. PRICE:

18 Q. I just want to ask if there's anything else that
19 you're planning to testify about that we haven't talked about
20 today?

21 A. I don't think so.

22 MS. PRICE: I think that's it. Thank you so much
23 for your time, Dr. Barreto.

24 We'd like to order the transcript, please.

25 MR. CHEN: We'd like to take a look at the

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
115

1 transcript and see if we need to correct for any errors.

2 COURT REPORTER: So the witness is going to read.

3 Are you ordering a copy, Mr. Chen?

4 MR. CHEN: We'd also like to order a copy.

5 (TESTIMONY WAS CONCLUDED AT 3:16 P.M.)

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
116

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, the undersigned authority, certify that
MATTHEW BARRETO, PH.D., remotely appeared before me on
November 25, 2024, and was duly sworn.

WITNESS my hand and official seal this 9th day of
December 2024.



Nancy H. Swartz

Florida Court Reporter

Notary Public - State of Florida

My Commission Expires: 4/2/2028

Commission No. HH 511217

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMONovember 25, 2024
117

REPORTER'S CERTIFICATE

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, Nancy H. Swartz, Florida Court Reporter, Notary Public, certify that I was authorized to and did stenographically report the deposition of MATTHEW BARRETO, PH.D.; that a review of the transcript was requested; and that the transcript is a true and complete record of the testimony given by the witness.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 9th day of December 2024.



Nancy H. Swartz, Court Reporter

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

118

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: Hodges, et al. v. Kathleen Passidomo, et al.

WITNESS: Matthew Barreto, Ph.D.

DATE OF DEPOSITION: November 24, 2024

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Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

DATE	MATTHEW BARRETO, PH.D.
------	------------------------

Reporter: Nancy H. Swartz

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: (g)(1)..2(e)

	1(a)	25:16	71:12	64:4,13,
Exhibits	90:24	48:16	72:8,9,	15,17
	1(b)	56:10	16,24	72:16
11986647 Ma	91:1	57:2	73:10,14,	79:17
tthew.		58:8,12	20,21,24,	80:9,12
Barreto,	1(c)	64:18	25 77:5,6	86:14,17
Ph.D..	91:3	72:8,10,	78:22	98:10,13,
EXHIBIT1	1(d)	15,16,24	79:5,17,	19,21,23
3:13	91:21	73:23	24 80:9,	102:17
17:23,24	1(e)	86:17,22	12 82:21	19
18:2	91:23	15	83:24	22:17
11986647 Ma	1(f)	25:24	84:12	25:4
tthew.	91:25	55:20	86:13,22	26:4,9
Barreto,		107:5	94:11	28:15
Ph.D..	10	16	98:10,23	30:12
EXHIBIT2	53:22	22:16,21	99:12,13	33:16
3:14	65:2,4,5	26:3,8,	102:17	36:10,11,
87:19,20	79:13,14,	12,21	17	21 37:10
11986647 Ma	17 82:6	27:6,17,	17:12,13	
tthew.	100	23 28:20,	26:16	2
Barreto,	52:23	21 29:20	27:11	
Ph.D..	84:16	30:2,4,5	29:24	
EXHIBIT3	100th	31:23	18	2
3:15	83:11	33:16	26:3,8,	19:4 21:2
90:17,18	11	34:4,8,	13,21,24	55:14
	26:15	10,12,15	27:7,17,	73:13
(27:10	35:1	23 28:15,	86:16
	29:24	36:5,9,18	20,22	87:19,20
(g)(1)	46:24	52:6 53:4	29:8,20,	95:4,5,6,
96:7	52:1	54:20	22 30:2,	7,11,12,
(g)(2)	12	56:10	4,7,12,22	21
96:9,10	28:8	57:19	31:6,22	2(a)
	59:16	58:5,6,	33:16	92:2
	60:1,24	11,12,15	34:4,8,	2(b)
1	61:14,15	59:5,13	10,12,15,	92:4,15,
	73:2,8,9	60:17,23	18 35:1	16
1	13	61:11,17,	36:9,18	2(c)
17:23,24	28:18,25	19,24	37:3,7	92:20
18:2	56:23	62:13	48:16	2(d)
73:2,8,9,	57:2,6	63:11,16,	52:6 53:3	92:22
21 77:22	60:2	19,20,23	54:20	2(e)
78:4,13	61:15,16	64:4,7,	56:9,13,	92:24
80:7 86:8	14	14,16,17,	20 57:19,	93:2
94:3		18,21	20,24	
		67:12	58:1,2,6	
		70:12,20	59:5	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: 20..83

20 48:5 63:5 73:25	29 41:11 48:9 49:9	30 26:15 27:10 52:2,11 54:12	103:21	55 75:19
2016 10:13 22:25 25:2 26:9 43:2 99:15	2nd 41:4 42:7,11 43:24 46:7	31 31:8	4(b) 104:8,11	58 23:25
2020 11:21 12:13	3	32 28:8,9 63:15	40 15:24	6
2022 8:18,25 10:15,19, 20,21 14:10 51:12	3 25:15,17 55:1,19 86:16 90:17,18 96:13,14, 20 99:23, 25 100:3, 7,15,17 101:22,25 102:4,7, 12,20	33 27:19 28:8,18 29:2	41 63:6	6 20:19 63:14 96:10 107:5,7, 13,14,22, 25 108:2
2023 8:16,18, 25	3 7,15,17 101:22,25 102:4,7, 12,20	35 28:25 63:3 75:19	42 14:4	62 23:24
2024 8:15,19 15:9 21:2	3 109:20 110:2	36 56:1,7,8	43 26:16 27:11,19 31:9	6A 63:17
21 107:18 109:5,23	3(a) 93:9	38 59:23	48 23:22	6B 63:18
24 97:19,21	3(b) 93:11,18, 24	39 25:24 26:6 59:23	5 19:5 41:18 79:17 87:9 97:11,16 106:6,22, 24 107:1 108:1 109:5	7 22:13 35:4,10 37:7 39:25 49:10 96:13
25 97:19,21	3(c) 94:1	4 55:20 74:2 76:20 77:19 78:5 97:11,16 103:16, 18,19,20 104:24 105:5,7, 9,15	5(a) 106:8	8 52:1,4,7 102:4,12
26 27:1,3 30:23,25 37:3,11 97:19,21	3(d) 94:10,13, 22	4(a)	5(b) 106:21	83 91:11
27 40:5,10 41:11,18 49:9	3(e) 94:25 95:1		5-minute 39:17	
28 46:24	3(f) 95:24		50 23:23	
	3(g)(2) 101:22		51 95:17	
			52 23:21	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: 9..analysis

	41:5,7,15	age	amendments	53:11,21
9	46:16	35:8,13	23:10	54:11
	49:23	54:16	America	57:12
9	52:25	59:24	69:15	58:25
36:22,24	55:5	60:8	amount	59:22
	56:17	aggregate	29:12	60:4
99	57:24	32:1	83:5	62:2,5,7,
84:16	60:21	aggregating	amounts	19,23
9th	88:4,17,	33:4	111:25	63:4,10,
87:12	23 104:15	agree	analyses	23,24
	107:2,20	6:3,8	12:9,23	64:13,15
	111:18	46:21	28:24	65:19
A	adjacency	85:9,16	41:23,25	66:12,14
	59:1,22	88:20	42:13	68:4 70:3
abstract	62:7,19,	102:25	50:10	71:11
66:11	23 63:4,	104:17,18	60:7	75:9
accepted	10	108:5	analysis	77:3,12
44:11	adjacent	111:13	14:19,22	78:3,21
47:6	27:14	agreed	19:22	79:10,15,
account	63:20	47:17	20:22	23 80:11,
24:14	64:20	48:6	21:10,20	13,14,18,
accuracy	66:8 83:9	agrees	23:7 26:6	24,25
20:17	84:11	47:21	27:11	81:2,3
accurate	advice	103:8	29:6,17	83:6,10
30:3	15:17	ah-ha	30:7,14	84:11
ACLU	6:25	86:10	31:8,10,	85:20
8:9,20,25	affirm	100:22	14 32:21	88:18
96:22	4:9	ahead	33:25	89:8,16
97:8	African-	6:19	34:3	92:11,13
110:8	american	17:6,22	35:1,2,3,	93:8,15
acronym	10:5	27:24	24,25	94:2,4,17
52:16	24:23	79:2	38:5	95:3
active	47:7 95:2	86:24	39:15	96:16
10:12	98:8,14	90:16	41:6,8,	97:3,15,
actual	110:25	Alejandro	16,19	23 98:1,6
33:3	African-	5:1	42:4,6,7,	99:13,14
34:19	americans	allowed	9,19,25	101:7,10,
61:7 62:7	23:14	81:11	43:1,4,21	11,17
95:8	50:20	alternative	44:2	102:14,15
additional	61:25	22:16	45:24	103:2,4,8
20:21,22	81:11	23:3,6	46:5,20,	104:5
21:1	110:20		22 48:9	105:14,24
			51:22	106:4
			52:12	107:2,20
				110:10,
				22,23,24
				111:18

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: analyze..ballot

112:2,12	109:16	70:11	assignment	103:2
113:6	appendices	71:15	53:6	104:17
analyze	17:20	72:11	assignments	112:11
26:3 36:4	20:3	75:19	21:24	attempts
65:18,20	appendix	76:21	22:1	55:20
78:16	19:23	areas	assist	attention
84:6 95:7	20:7 36:7	45:17	32:14	81:24
analyzed	37:10	50:20	assistant	attorney
25:3,8	42:17	52:20	19:6,18	18:19,25
26:5	46:11	58:18,20	assisted	attorneys
40:20	49:20	61:23,24,	19:6	21:16
42:20,23	55:5,25	25 63:7	association	47:16,23
43:8,17	56:8,16	66:9,21	54:7	89:10
44:6	59:1 80:1	67:24	assume	authored
45:25	97:18	argue	6:4	17:17
46:9	112:22	33:5,18	105:21	avoid
48:19	113:2	arguing	assumption	64:2
49:25	application	33:21	6:5	aware
64:3	s	arguments	attached	8:21
98:16	67:8	103:13	42:16	22:1,4
Angeles	applied	articles	45:25	77:7
5:4	15:19	91:11	49:21	
angle	86:20	artificial	attachment	B
78:5	108:20	44:15	46:10	
apologies	112:17	asks	attempt	back
40:4	applies	21:14,17	47:5	9:24 18:7
113:22	88:24	68:16	69:3,17	27:25
appeared	106:24	89:14	attempted	30:23
26:22	apply	100:20	33:9 68:8	35:4 52:4
appears	61:3	102:18	86:11	53:22
17:18	89:1,17	110:1	93:7	61:14
34:18	93:7	assess	attempting	65:1
38:25	113:1	23:5	29:11	77:22
57:9,24	approach	24:22	30:21	78:13
60:24	47:5	35:19,20	32:10,15,	79:14
62:3 63:2	approximate	52:4,14	25 52:13	95:4 98:2
69:10	72:12	83:7	59:21	99:23
74:21,24	area	assessing	64:21	102:7
76:5	12:1,5,8,	22:15	77:21	ballot
85:11,14,	11 45:15	assessment	81:10,25	49:7
20 95:7,	50:13,14	97:15	85:17	53:4,5
14 96:15	57:8			
102:1	66:24			
108:6				

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: ballots..boundary

ballots	benchmark	34:12,14,	111:7,9	67:4,15,
53:2	10:3,8,9,	17 35:8,	blue	22,23
bar	12,13,16,	13,14	73:4,11,	69:1,5,9,
38:6	18 22:17,	36:2	22	10 70:5,
Barreto	25 25:2,	37:14,23,	board	6,7,15,20
4:13 5:1,	4,19,20,	24 38:7	49:4	71:2,12,
5 8:7	25 26:9,	40:16,21,	border	21,25
17:8 18:2	21 28:15	24 41:13,	52:12	72:4,6,13
29:15	30:12	14,20	58:11	73:11
34:18	36:7,10,	47:19,23	59:12,13	74:1,14,
39:23	11,21	48:6,18	borders	16 75:10,
81:18	37:1,9,25	49:24	52:6	24 76:1,
87:6	38:23	54:15,17,	81:21	5,6,19,25
90:20	39:1,4,7	23 55:2,	82:25	77:7,19,
114:23	43:3	7,17,23	bottom	25 78:1,
based	54:25	56:19	22:14	9,15
34:19	55:7	57:8,25	25:24	81:9,25
51:19	80:22	58:19,20	40:9	83:1 84:8
67:15	81:2,12	59:17,24	54:13	85:21
74:21	99:15	60:2,3,25	58:9	86:10
85:13	benefit	61:20	96:10	93:13,21
98:18	98:11,24	62:19,24	boundaries	94:12
110:9	big	63:4,5,6,	13:19	103:3,11
basis	19:9	8,9 64:21	26:22	112:14,16
44:9 50:3	71:22	69:21	27:12	boundary
bay	73:4	75:12,19	29:25	25:2,21
11:4	bit	79:22	33:4	53:25
12:5,6	22:15	80:10	34:13	54:3,11
14:18	48:13	83:7	42:1	55:1,2,3,
43:13	52:8	98:22	44:13,15	6,12,16
46:6,10	58:16	99:9	45:18	56:9,10,
50:18	59:15	101:13	52:12,14,	15 57:17,
70:8,18,	81:18	104:1,12	15,20,25	19 58:6,
23,24	87:22	110:7,11	54:20,21,	8,12,22
71:13,15,	92:16	112:9,12,	22 55:10	59:5,6,7
17 72:10,	114:7	18	56:14	60:4,17,
11 73:3	black	block	57:6	18,20,23
74:12	25:11	44:13	59:25	61:1,2,
77:3	26:1,17,	45:11	61:9	11,17,22
behalf	19,23	48:7 50:1	63:23	62:2,8,
9:1,2,3	27:13,14	62:5	65:7,23,	14,18,23
behavior	28:13,21	92:18	24,25	63:10
111:13	29:7,12,	blocks	66:2,3,	64:4,16,
	22 30:1,	53:19	13,20	17,23
	8,17	68:1		65:10,19
		92:11		70:10,16,

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: Brad..clarify

19,23	Byrd	30:12	centers	40:15
71:9	41:1 44:4	33:9,14	55:17,22	41:18
72:20	46:5	34:19	80:8	48:19
73:15,23,	111:23	42:5,14		53:7
24,25		45:18	chance	98:8,15
74:23		46:1,18,	14:11	99:8,9
75:5	C	22,23	54:5	101:14,15
76:17,21		47:1,14,	83:2,12,	
77:2	California	15,16	14 114:2	choose
79:15,18	5:4	51:17	change	48:23
80:24	call	53:15	68:22	53:11
81:4,15	33:13	63:3 66:9	changed	chose
85:20	46:11	72:1,14	23:1 67:3	48:13
94:17		74:20	channel	68:1
103:3,9	called	77:15		88:16
Brad	36:11	84:8	73:5	circumstanc
91:5,13	52:24	93:14	74:18	es
break	calls	95:16	channels	65:12
6:16,19	16:2	104:20	72:22	cities
39:17,18,	110:23	113:1		49:7
24 87:2	camera	cases	characteris	66:6,7,9,
113:13	7:11	24:24	tics	18,19,23
bridge	candidate	38:1 45:3		67:6 68:3
71:23,24	23:19	47:11	characteriz	69:6,15,
bridges	40:15	62:21	ation	18,22
72:22	41:18	66:7		
briefly	98:4,5,	67:2,5,7	characteriz	city
5:11	11,25	84:3	ations	5:3 49:3
36:19	candidates	114:5	85:9	55:21
broad	36:2	cell	charts	65:14,15
22:22	37:15,23	8:2	19:22	66:8,19,
broke	38:8	census	40:23	22 67:1,
40:24	40:18	33:3	57:22	3,23
broken	47:8	40:23	107:17	69:5,8,
64:9	48:18	44:13,14	Chen	12,13,15,
bullet	98:7,15	52:18,24	15:14,20	16 72:9
107:1	99:6,7,8,	53:19	16:1	73:16
bunch	9 101:14,	62:5 68:1	83:16,19,	74:12
	15	92:17	25 99:1,	75:17
busy	case	108:8	19 114:25	claims
15:9	10:12	111:7	115:3,4	97:17
	14:11,12,	center	choice	clarificati
	22 17:2,	56:4	33:17	on
	17 21:16	74:25	37:15,23	88:18
	24:25		38:8	clarify

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: clause..confuses

60:16	75:18,21	comfort	26:10	83:9
clause	76:6	39:17	61:6	concluded
31:25	82:25	113:13	compared	36:19
32:13	84:9	comments	22:17	conclusion
clear	85:21	7:13	26:21	32:15,16
6:1 21:1	closer	26:12	28:15	37:12
32:12	61:20,22	common	35:5,8	47:21
34:16	co-author	9:2,3	36:20	53:23
53:24	11:23	41:1	37:9	58:24
54:2,6	coalition	42:4,13	81:2,12	59:3
56:15	44:22	44:4	comparing	69:23
57:17	45:10	45:24	24:20	80:2,3
58:3,13,	code	46:5 51:4	28:20	86:4
21 59:3,8	93:3,7	53:20	80:5,20	88:15
62:15,17	cohesion	66:8	99:14	104:10
69:22	39:16	111:23	comparison	105:3
78:8	40:12,14	communicati	35:11	109:4
79:17	41:13,22	ng	comparisons	conclusions
80:3	42:19	8:1	36:20	20:21
84:10,15,	48:21	communities	80:22	21:23
25 89:9	49:11,17,	65:13,16,	competence	34:5 72:3
103:1	24 50:19	17,18,21	108:23	86:12
cleared	51:6	66:6	compile	102:19
111:7	97:23	67:5,9,20	33:10	103:10
Clearwater	cohesive	68:3,4,6,	compiled	107:9
56:19	40:2,17	10,16,19,	100:9	108:8
57:7	41:6,16	25 69:24	complaint	111:10
close	44:21	71:23	16:12	conductive
54:22	45:10	72:2,7	19:2	26:19
81:24	47:8,19,	74:19	completely	conduct
87:1	23 48:7	78:18,20	6:22	80:25
114:13	collect	community	31:11	conducted
closely	32:1	35:17,19	32:9	81:1
51:14	collection	45:16	components	configurati
54:3	33:3	65:6,9,25	53:16	ons
55:7,12,	color	66:1,2,3,	computer	22:16
17,22	62:22	13,20	7:8 8:2	23:4,6,16
61:10	columns	67:4,23	concept	confine
62:3	108:21	69:17	24:3	41:19
68:11	combining	81:20	conclude	confined
69:11	90:6	compactness	36:24	42:1
70:10	compare	94:2,4	confuses	
72:12	25:24			
74:22				

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: confusing..created

108:21	constitutin	continues	correct	counting
confusing	g	26:15	5:7,8	73:22
88:6	31:10	continuing	12:16	county
Congress	Constitutio	39:21	17:16	5:4 43:9,
13:24	n	75:3	18:20,21	25 45:4,
congression	16:25	114:16	25:5	7,12,13,
al	23:10	contradict	28:16	19,20
48:17	constitutio	69:4	35:9 45:3	46:3 50:8
49:4	nal	contrasting	51:24	64:9
connected	48:17	41:3	52:6	95:16
74:11	constraints	control	56:11	countywide
connection	14:21,24,	90:4	58:6	44:9
101:13,16	25	controversi	81:14	couple
consequenti	contacted	al	85:2	49:14
al	8:10,22	47:22	86:23	56:24
24:25	contained	convenient	87:13,15,	86:25
considerati	45:4	28:4	18 89:22	96:9
on	49:11	conversatio	94:4	107:15
71:3	51:6	n	99:25	court
considerati	85:24	15:14	100:5	15:1
ons	86:5 88:8	101:1	107:13,	21:14,17
60:6	90:12	copy	18,19	29:13
considered	94:14	17:16	113:7	46:11
12:25	context	87:15	115:1	47:1,10,
71:25	23:21	115:3,4	correctly	13,25
72:1	30:10	core	111:17	57:12
78:17,19	contiguous	38:17	correlated	82:10,16
80:9	70:13	79:23	55:11	115:2
consistent	78:23	80:12,14,	council	courtroom
49:24	79:8	18,24	49:3	5:16
100:10	93:14,21	81:4	counsel	courts
consistentl	contiguousn	cores	7:16 51:9	24:4 48:5
y	ess	53:25	114:2	covers
37:24	79:5	79:15,18,	count	112:5
constitute	continuat	20 80:3,	counties	cracking
29:5,9	n	9,12	41:25	101:8
33:6 71:8	101:22	81:15	43:10,11,	create
constitutes	continue	Corey	14,15,17,	11:14
28:23	27:10	11:5	21,22	69:17
29:2	continued	corner	44:1,23	created
	48:21	73:25	45:1,15	12:18
			49:2,7	14:7 20:3

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: creating..depend

96:21, 24	cycles	18, 25	32:24	demographic
97:1	48:16	113:5	33:11	s
creating		dated	decreased	54:4
12:12	D	87:12	23:16	61:7, 10
38:16		dates	24:19	62:3, 18
criteria	D16	16:21, 22	29:8, 12	67:25
93:16	104:17	days	30:8	68:12
criticisms	dark	15:7, 22	34:15	69:11, 21
88:1	61:23	debate	98:20, 21	74:22
criticizes	data	48:4	decreasing	81:25
112:22	12:8	93:12	26:23	101:18
critique	19:12, 20	102:1	27:13	demonstrate
102:17	20:6 24:5	110:5	define	25:23
cross	29:11	debated	78:1	26:1
51:10	32:1, 2,	47:22	110:17	29:25
100:6	14, 17, 23,	decade	defined	30:16
106:1	25 33:1,	9:21, 22	32:16	32:25
current	3, 6, 10	10:4	52:18	33:1 47:6
9:11	34:19	decades	79:9	48:2 68:9
10:15	35:13	47:11	defining	80:7
14:16, 17	37:2, 21	decide	79:8	110:22
21:15, 21	38:18, 21	23:12	delineated	demonstrate
51:23	40:22, 23	29:13	69:18	d
custom	41:18	33:20	72:4	47:12
88:1, 21,	43:23	45:6	demarcator	demonstrate
22	53:10	82:10	60:21	s
cut	58:24	decided	Democrat	29:7 30:7
57:7 63:3	60:13	47:11	95:17	32:23, 25
67:12, 14,	61:4	decision	Democratic	55:15
15 103:14	74:21	24:6	57:8	57:6
cutoff	81:23	70:10, 24	60:10	60:19
90:9	83:18	75:16, 18	95:2	104:5
cuts	84:6, 7	84:16	98:4, 7	112:13
74:8	88:18	declaration	99:8	demonstrati
75:21	90:6	s	101:14	ng
78:2	92:18	13:7	Democrats	39:6 55:5
cycle	93:3 95:1	decrease	56:5 60:3	56:5
10:4	98:18	23:18	97:2, 7	denies
11:22	99:3, 6,	24:6, 11,	98:16	111:12
12:13	11, 16	23 25:11	demographic	denser
14:10	100:2, 8,	30:21	35:12, 14	80:8
	9, 11, 16,		81:1	depend
	17 108:24			105:10
	110:19			
	111:10,			

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: depending..district

depending	98:14	28:23	disagrees	22:16,17,
10:11	deviate	29:2,6,9,	94:12	21,25
53:8	66:21	17 30:10,	discovery	23:20,21,
depends	deviates	14,21,25	16:15,18	22,24,25
23:20	55:6	31:6,10,	90:9	24:1
53:8	diagonal	21,22,25	discuss	26:3,4,
76:13	62:11	32:11,13,	68:7	24,25
deposition	difference	16,24	discussed	27:15,17,
4:23 5:6	50:7	33:11,15	64:18	22,23
7:1,4	differences	34:2,5,8	72:23	28:10,15
15:10,11,	100:14,16	35:2	77:20	29:8,20,
15,17	differently	84:3,21	85:23	22 30:12,
16:6	70:9	direct	94:15	18,19,22
100:22	96:18	4:17	105:8	31:6
depositions	difficult	49:19	113:9	34:4,17
15:1	100:19	100:6	114:1	35:1,17
depth	dilute	105:25	discusses	36:5,21
90:3	112:18	direction	106:11	37:9
describe	diminish	59:2 61:8	discussing	38:16
10:8	22:16	directly	89:10,18	39:3
33:22	diminished	94:17	94:17	42:1,2,21
34:1	10:5	97:16	discussion	44:13
descriptive	23:6,16	107:8	25:10	45:8 49:4
58:10	24:18	disagree	59:5	52:12,14,
designation	28:10,15	88:14	84:20	18 53:3,4
52:23,24	29:18,20,	89:1	111:22	55:21
detail	22 30:4,6	91:4,12,	discussions	56:13
5:12	32:19	16 93:8	74:13	57:24
37:4,8	diminishes	104:2,10,	dismissed	58:1,2,15
detailed	30:12	16 105:2,	9:5	59:9,25
40:7	diminishmen	4,11	dispute	62:4
determine	t	107:8	43:12	65:23
10:3	23:8,12,	108:1	dissects	66:25
13:17	17,18	110:7	74:9	67:13
24:4	24:2,7,	111:10,	75:22	70:12
64:21,23	10,12,13,	11,15	disservice	71:12
80:6,16	14,22	112:4,7,	101:2	72:21
84:13	25:4,8,17	9,23	distinct	79:5,22
Determined	26:4,12	113:4	60:19	82:13,16,
48:20	27:4,6,	disagreemen	district	20,25
detriment	17,18,22	t	10:14	83:24
		48:4		84:12
		96:17		86:18
		106:15		93:14
				98:19,21,
				23 99:12
				103:9,16

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: District's..enacted

104:2	documenting	110:18	61:11,16	election
110:12	49:24	drawn	62:22	33:3 43:1
District's	documents	11:3	77:6	48:16
25:4	13:22	12:25	easy	51:12
districting	16:8,14,	13:18,19	53:16	105:23
44:14,16	17 18:4,	44:17,20	ecologic	elections
53:18	8,24	54:6	106:14	36:1 42:3
65:13	double-	57:25	ecological	46:9
districts	check	68:10	92:8	48:10,13,
24:21	20:16	70:9,17	107:14	15,19,25
26:17,18	draft	72:7,9	108:19	49:6
30:6	19:24	74:22	112:25	51:14
33:16	dramatic	81:9 86:2	edge	60:9
36:8	50:7	98:10,13,	57:17	98:16
37:8,9	draw	24	58:1	electoral
39:9	11:14,19,	drew	59:18	35:16,18
41:24	21 34:12	10:3	61:18	elusive
44:10	39:3	12:1,6,	63:19	89:23
45:5 49:3	58:23	11,14	64:20	emailed
50:11	59:2	86:12	65:19	11:12
52:6	74:17	dropped	edges	18:19
54:20	81:25	9:5	53:25	empirical
80:20,21	102:18	due	55:12	33:19
85:22	103:9	15:1	56:15	employ
93:15	drawer	duly	58:22	92:8
97:2,8,9,	85:25	4:14	59:6,7	enacted
25 98:4,	drawer's		61:19	10:21
10 101:9,	86:1	E	62:14	12:24
12,19	drawers	E-S-R-I	63:16	14:19
division	53:16	20:14	64:5	22:18,20
64:17	71:21	earlier	79:15,18	23:1
Doctor	81:24	31:13	80:5	25:6,8,
4:19	drawing	43:7	81:4,15	19,20,21,
17:9,13	12:12	84:20	85:22	25 26:1,
19:9 27:1	32:15	99:14	effort	5,12
28:4 29:1	60:14	101:12	13:17	27:6,12,
32:3	69:1	east	elaborate	22,23
77:13	80:17	72:8	103:25	31:6
87:4	82:13,20	73:21	elect	33:15
document	83:23	75:2	23:19	35:1
13:6 17:7	84:12	eastern	37:14	36:5,9
18:10	94:11		38:8	39:9 52:6
29:11	105:3			54:19,25
				55:6

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: encompass..experts

78:22	envision	16 48:21	67:15	12 11:4,
81:7,8	95:15	49:23	69:8 71:9	18 12:19
82:20	100:7,9	60:21	83:9	15:5,17
83:23	101:5,25	111:23	excludes	16:8
97:7	102:15	evidenced	55:18	17:6,16
104:18	equal	105:12	72:18	18:4,6
encompass	23:18	exact	74:11	19:24
49:5	38:25	27:9	excluding	20:4 25:7
52:25	erosions	34:11	55:8	27:21
65:13,15	112:11	62:16,17	exclusion	29:19
67:1,3	error	66:22	56:18	40:25
end	93:6	78:3	excuse	47:4,21
39:25	111:9	85:19	54:25	49:10,11,
83:6	errors	EXAMINATION	59:23	18 50:18
102:4	109:11	4:17	83:16	51:3
112:21	115:1	39:21	exhibit	56:22
engaging	Esri	114:16	17:23,24	66:15
107:8	20:6,10	examined	18:2	67:10,18
English	78:7	4:15	46:10	71:17
33:21	essay	examples	87:19,20	79:4
entered	89:12	59:9,12,	90:17,18	81:15,19
46:25	essentially	14 60:17	exist	84:24
entire	5:20 97:3	71:24	76:19	85:24
16:2	established	76:24	112:1	87:16,24
28:20	23:10	77:24	existing	88:25
30:7	46:7	78:12	45:19	89:5,17,
35:23	ethnic	80:4	exists	21 90:20,
38:20	35:17	82:25	76:15,16,	23 91:17
42:17	40:15,20	84:10	21 77:2	93:17
44:6 45:7	54:4 76:6	exceed	expand	94:14
49:5	ethnicity	39:7	45:16	98:23
58:25	40:2 54:7	exchanged	expectation	102:8
62:4	55:11,13	16:15,18	50:16,21	103:8
64:23	79:19	exclude	51:1	105:16,
entirety	82:10,24	28:13	expectation	17,19
45:2	evaluate	33:11	s	109:12,17
107:7	10:2	excluded	22:10	111:19
entitled	evidence	28:21	experience	113:17
17:7	30:20	34:17	51:10	expert's
91:7,13	34:17	61:1,24	expert	88:22
entity	46:12,13,	62:25	5:5 7:9,	expertise
9:1		63:1,4,8		51:20
		64:22,24		105:25
				experts
				21:14,17

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: explain..follow

48:6	34:19	5:9 14:3	18,20	16:24
89:1,18		46:21	figures	23:11
101:3		fast	25:18,20	32:11,13
105:21	F	17:12	57:22	41:1 46:8
explain	F'ED	87:14	77:22	47:7,17,
5:25 9:25	90:4	favor	files	18,24
22:15	fact	98:3,4	18:23	50:6,13,
31:16		federal	19:20,21	15,20
52:8,16	33:13	16:25	21:15	60:7 71:5
80:18	46:14	42:5	final	79:9,10
87:23	47:17,23	47:14,15	37:12	98:15
89:13	61:8	feel	financial	101:12
102:17	66:25	5:25	14:21	108:9
explainable	79:7	109:20	find	110:23
67:22	112:1	feeling	27:7	111:13
explained	factor	6:24	30:21	112:1
54:5	60:22	female	55:12	Florida's
67:24	62:9	11:7	77:23	48:17
79:19	facts	fight	90:4	focal
82:9,24	47:24	108:7	findings	45:4
83:2	106:2	figure	46:8	focus
explains	factual	24:9	fine	40:21
52:5	33:5	25:15,17	6:13	50:4
explanation	95:9,14	29:19	33:23	56:17
72:6	factually	41:18	39:19	69:19
74:16	89:11,14	55:1,14,	40:7 52:2	focused
78:10	92:18	19,20	54:10	12:7
explicitly	105:3,18	56:23	fingers	44:23
89:17	106:18	57:6,16	71:7	57:13
exploring	108:18	59:11,16	finish	focuses
107:14	fair	60:1,2,24	6:18	101:18
extends	6:3,5	73:2,8,9,	fits	folks
73:17	113:5	13,21	58:13	68:7,18
extent	fairly	74:2	flag	follow
52:5	23:23	76:20	22:16	26:22
96:16	87:24	77:19,22	Florida	30:16
extra	fall	78:4,5,13	8:9,17,20	52:15
34:21	23:23	80:7	9:1,12,	54:22
extremely	56:6	83:19	13,14	59:8
100:21	false	86:8,16	12:25	61:20
eye	104:4,5	90:10	13:14	65:24
	familiar	102:4,7,8		68:9
		103:16,		69:20
				70:11

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: footnotes..high-density

74:22	81:1	53:18	ground	happened
75:1,3,5,	89:16	geologist	5:9 15:16	105:23
17 76:4,6	97:3,23	70:25	68:7	happy
79:17	98:1	gerrymander	group	27:8
81:21	110:10,24	ing	8:18	31:14,16
82:25	future	103:5	40:20	73:2
84:9	22:3,4,10	give	grouped	head
footnotes	96:20	4:10	53:2	5:20 7:9
18:9		27:25	groups	8:11 14:6
forecast	G	49:22	40:2	63:12
100:5,19		74:17	guarantee	hear
form	gave	84:6	68:23	29:1
83:16,25	15:16	101:8		57:15
99:1,19	49:22	108:10	guess	67:7 76:7
format	general	giving	8:15	82:3
86:12	5:9 15:17	88:8	10:10,19	84:24,25
forward	21:13	114:12	16:20	85:1,5,7
9:6	24:2	glance	26:15	heard
found	65:12	90:2	62:11	8:19
53:24	89:8	good	63:19	72:15
62:23	105:25	4:19,21	65:25	82:14
63:4	generally	6:20	72:15	84:4
108:4,6	10:5	14:11	77:11	heavily
fourth	43:13	87:3	90:8	59:19
36:1 69:2	47:7,10	113:15	guiding	helpful
Francisco	48:4,6	graph	85:7,10,	43:19
72:11	52:13	59:1	17	45:22
free	55:9	graphs	Guy	64:25
5:25	61:19	40:23	5:1	106:16
Friday	67:22	great	guys	hey
15:21	86:15,19	6:16,21	111:24	96:23
16:16	generic	10:24	H	hide
front	113:1	22:13		34:21
7:7 47:25	geographic	74:4	half	64:2
full	52:24	103:16	67:15	109:25
4:24	53:16	114:14	111:15	high
functional	54:4,7,15	green	hand	109:1
14:19	57:8	54:18	4:8	110:19
35:24	62:21	61:23	happen	high-
38:4	71:17	73:10,11	30:22	density
42:25	76:8	74:4	50:25	57:8
	92:18			
	geography			

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: higher..influence

higher	112:9	7:17	images	106:10
30:18		52:23	25:9,12	including
37:24	holisticall	identically	86:7	32:14
38:4,13,	y	36:25	imagine	38:6
23 63:9	62:6	identifiabl	18:17	39:25
64:23	hone	e	50:24	72:11
76:24	45:13	48:18	96:22	inconsisten
83:8	honed	IDENTIFICAT	98:17	cies
higher-	43:2	ION	111:15,17	109:2
density	hones	17:24	implemented	inconsisten
57:25	58:18	87:20	108:20	t
58:19,20	honing	90:18	implied	100:11
highlighted	58:20	identified	64:15	110:2,3
99:7	60:10	98:7	implies	incorrect
highlightin	hope	identify	104:3	92:19
g	71:16	68:25	important	93:7
7:22	hours	70:1 75:9	18:15	105:18
57:23	77:10	77:18	60:12	108:21
Hillsboroug	89:12	108:16	78:20	increase
h	108:15	identifying	Inaudible	28:13
43:9,11,	House	5:2	94:7	30:1
15,25	13:23	identity	include	33:11
45:3,19	hue	111:13	26:2	increased
50:9	68:11	ill	45:16	29:23
63:17,20	huge	6:24	52:11	34:14
64:5	65:14	illustrativ	75:17	indicating
73:20,21	108:18	e	77:24	38:3
95:16	111:25	31:1	94:3	indicators
hired	hypothetica	36:8,13	included	35:16
8:7 15:4	l	37:8,13	12:3 13:7	inference
Hispanic	77:14	38:15,17	37:10	92:8
40:22,24	96:20	43:3	42:16	98:12
41:15	hypothetica	81:7,10	46:10	106:14
49:25	lly	99:15	56:16	107:14
50:7	71:10	110:11,	57:4,10	108:19
Hispanics		12,24	61:2	113:1
41:22		112:12	63:5,9	inferences
hoarse	I	illustrativ	64:22,24	110:18
5:24	idea	es	67:13,14	influence
Hold	109:11	26:10	69:8 71:9	23:20
28:9	identical	image	75:23	91:6
holds		20:5	79:25	
			83:8	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: inform..lawful

inform	46:20	75:22	32:15	74:21
107:3	57:11,15	islands	50:23	75:18,20
information	65:17,18	71:2,7	51:13	89:20
20:21	67:21,23	72:19	67:9	97:14
21:1	68:3,4,	74:9	68:16	100:2
95:14	10,17,19,	issued	83:19	knowledge
99:11,16	25 69:24	21:7	89:13	11:11
100:3	72:2	issues	102:17	
informative	interested	72:16	109:24	<hr/> L <hr/>
60:6	44:19	italicized	July	
99:4,5	45:21	94:18	18:7	laid
inherent	interests	item	21:2,8	109:1
101:16	48:8	36:2	41:4	land
initials	98:14	items	42:7,11	71:4
20:13	interior	35:15	43:24	75:10
inlet	79:21	48:2	46:7	79:1,3
73:5	interpret	iteration	jumped	93:22
74:18	32:13	69:2	95:5	language
inlets	96:18	iterative	jumps	59:7
76:12	interpretat	108:22	72:10	102:16
inside	ion	<hr/> J <hr/>	June	103:1
61:7	59:20	Jacksonvill	90:9	large
62:8,20	88:15	e	justificati	13:2
64:20	110:15	12:1,8,10	on	59:17
instance	111:10	50:13	112:10	80:10
51:2	interpretat	JD	justify	larger
60:24	ions	32:12	104:17	54:17,18
instances	31:24	jingles	juts	55:17,23
73:17	34:20	114:6	75:2	79:22
instruct	82:17	job	<hr/> K <hr/>	80:8
24:5	104:6	32:12	Kassra	largest
insured	107:9	jingles	11:23	66:23
19:21	intervals	32:12	kind	69:6
intensive	108:23	51:19	7:22	law
13:17	introduced	84:5	17:12	17:2
intent	46:12	93:14	35:6	31:25
98:11,24	involved	109:21	36:18	32:17
99:2,18	47:15	judge	52:19	33:6
interest	irrelevant	29:13	54:10	79:9,10
45:12	18:13	31:11	62:11	83:20
	island			lawful
	74:10			84:14

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: laws..made

laws	84:2,5	line-by-	65:19	lot
23:11		line	66:13	14:14
	legislature	106:15	67:10	15:8 48:3
lawsuit	86:3		71:11	66:8
8:8,21	lessening	lines	89:5	78:13
9:11,25	24:15	26:21,22	91:9,18	84:3,4
		28:12	92:7	88:25
lawsuits	lets	30:18	99:25	96:19
9:3,7	51:13	54:3 56:6	113:18	104:6,25
lawyer	letter	66:21		106:6
32:12	107:11	68:9	live	109:2
		69:19	53:3	
lawyers	lettered	70:8,17		lots
23:12	11:3	72:12	local	67:8,12
24:4 48:5	12:20	73:12	48:25	76:23
85:14	14:18	82:1,13,	49:3 68:7	77:24
leading	23:2 36:8	23 86:2	located	85:19
42:10	37:8	103:9	5:2	89:1
	107:24		location	100:8
lean		list	53:6	113:3
96:17	level	18:14		
	53:20	28:5	logic	lotto
leanings	76:13,24	69:18	86:15,19	22:7
99:17		72:4	112:16	
	levels	88:13		loud
leave	53:18		long	27:9
23:11	54:22	listed	15:23	
26:18	77:25	18:6,11	19:14	low
29:13		63:13,17	94:16	110:19
31:11	lied	64:2,9	96:5	
43:7	52:3	97:8	113:2	lower
68:7,18	light			26:1 38:2
89:18	61:22	litigation	looked	39:1 63:8
left	99:17	8:24 10:1	36:6	64:23
74:25		11:15,20,	40:13	83:8
108:15	likelihood	22 12:7	45:2	
	83:7	13:3,5,9,	50:5,12	M
legal	limit	16,21,25	55:10,19	
4:24 23:9	57:18	14:1,13,	62:19	made
24:3,8,16	66:8	16,17	63:16	11:17
29:10,13,		19:17	66:3,14	19:22
21 30:14	limited	31:3	71:19	20:22
31:10,11,	100:15,	40:19	75:10	21:1 29:3
24 32:5,	18,23	41:10	85:19	35:11
6,11,16	limits	42:20		46:1
33:13	66:22	46:13	Los	80:21,22
79:12	67:23	48:3	5:4	106:19
82:17	74:12	50:16	loss	108:10
83:17		51:3,22	99:7	111:9,24

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: made-up..methods

made-up	20, 21, 25	22:19	marks	82:12, 15
110:21	12:1, 7,	24:21	7:22	meant
	10, 24	25:1 26:6		
main	18:23	27:12	marshes	23:17
56:17	22:19, 20	30:15	71:4	24:9
58:4	23:1	32:2	match	38:15
72:7, 19	25:2, 9, 21	36:25	39:4	43:4
74:7, 11	26:1, 14	37:13, 23		64:16
75:17	28:13	38:4, 14,	materials	65:9 72:5
80:1	31:6 33:4	17 43:3,	7:7	measurement
109:14	39:10	10 44:20	13:10, 11	53:7
maintain	44:16	52:11	matter	measures
24:16	53:3, 15	53:13	8:17 19:6	38:5
79:11	54:15	54:14, 19,	33:13	
	60:19	24 55:5,	matters	measuring
maintained	63:2, 25	24 56:8,	9:15	38:7
23:15	71:21	17 57:22		
make	74:25	58:25	Matthew	medication
5:19	75:1, 5, 8	61:6	4:13 5:1	6:25
25:13	76:5, 7, 8,	72:11	17:8 87:6	memorized
30:24	21 78:4,	79:25		14:5, 12
32:16	10 80:6,	80:17	mayor	43:10
33:22	22, 23	81:7, 10	49:3	
34:6, 20	81:8, 24	84:11	Mccartan	memos
36:15	85:25	85:19	11:5, 8,	13:7
45:6, 12	86:1 97:8	86:7, 8, 16	10, 12	mention
53:4 59:8	104:3, 18	96:22	12:17, 18	5:11
84:23	110:12	98:3	18:20	72:15
95:5	mapmaker	99:15	90:6 94:9	mentioned
102:5	60:13	103:16	96:22	8:24
makes	68:1	110:8, 11,	102:2, 14	10:8, 25
10:23	85:12, 21	25	109:16	45:24
45:15		112:12,	110:5	68:3
78:8	mapmakers	17, 18	112:17	69:24
108:19	72:20	114:6	114:3	70:18
	74:17	Marcartan's	Mccartan's	78:22
making	maps	18:18	12:18	79:13, 14
97:17	10:2			93:12
103:13	11:1, 2,	mark	meaning	101:12, 17
	14, 17, 19,	17:22	38:12	102:13
male	21 12:6,	87:19	45:10	
11:7	13, 17, 20,	90:16	65:11	merged
manmade	25 13:7,	MARKED	means	19:21
78:15	13, 17, 18	17:24	22:23	met
map	14:14, 17	87:20	23:12	93:15
10:3, 8,	20:3, 5	90:18	28:14	methods
10, 12, 19,			52:9, 21	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: metric..object

92:9	misread	moved	78:1,9	61:1 77:6
108:7	106:17	9:5 25:21	81:20	noted
metric	missing	28:12,21	93:13,21	93:13
82:1,2,5	16:9	30:5	necessarily	notes
85:2,6,7,	misstatemen	movement	42:1	7:7,13
10	ts	25:10	102:21	November
metrics	108:10	26:17	needed	90:9
37:22	misundersta	moving	45:1	nuances
Miami-dade	nds	47:14	70:10	44:25
50:8	32:9	multiple	88:17	number
Michael	108:22	80:20	93:4	17:23,24
19:6	misundersto	108:5	104:13	23:2 35:5
mid-term	od		neighborhoo	39:25
48:17	92:12	N	ds	47:10
middle	mm-hmm		53:1	63:17
6:17	38:24	named	112:10	87:20
72:18	44:5	89:9	nice	90:18
mind	53:14	names	49:6	111:24
4:24 5:2	56:3,25	68:6	Nicholas	numbers
15:13	65:5	69:14,24,	14:8	14:5,12
17:4	72:25	25	nodding	22:8
21:25	82:8	narrative	5:20	37:24
89:25	modify	20:1	non-black	38:12,13,
114:12	20:21	26:12	29:23	23 39:1
mine	21:22	57:18	54:18,23	64:1
110:3	moment	59:4	59:17,19	numerous
minute	22:10	natural	non-	51:18
79:11	money	65:6 66:1	geographer	55:5
minutes	88:2	70:5,6,7,	70:25	59:9,11,
15:24	month	15,16,18,	nonlegal	14 78:12
27:25	8:12	20,23	32:24	82:24
114:12	months	71:2,8,	north	84:9
misinterpre	42:10	12,21,24	50:13	O
tations	morning	72:4,6,	59:19	
109:3	4:19,20	12,20	60:23	oath
misinterpre	move	73:11	62:22	5:15
ted	6:13	74:1,14,	northern	68:21
107:24	20:19	16,23	56:19	69:4
misinterpre	39:15	75:5,9,24	58:15,17,	85:12
ting	44:15	76:1,4,	18 59:12,	93:20
106:18	46:24	17,18,20,	13,18	object
		25 77:2,	60:15,17	
		7,19		

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: Objection..original

50:25	92:6,15,	20:20	101:8,24	23:14
83:16	21 93:1,	21:12,13	102:9	24:18
99:1,19	23 98:18	open	103:4	98:20,22
Objection	99:24	21:15	104:22	opportunity
83:25	101:24	89:24	105:8,15	23:19
	102:8	90:2	106:17	24:7,15
obligation	104:21	opine	108:11	29:23
5:15	105:8,9,	27:6	109:7,17,	37:14,24
observable	14 106:8	opinion	24 110:21	38:7,10,
53:15	109:7	24:9	113:6,9	12 39:8,
obvious	111:5	opinions		10,12
70:16,22,	113:9	28:14	21:23	76:4
23	offered	29:10,19,	26:11	opposed
	36:25	21 30:3,	29:18	24:10
occur	51:4 78:9	11 31:2,	31:7,12,	44:9
83:13	offering	5,21,23	19 32:22	46:17
occurred	31:2,5	32:5,6,19	33:12	47:9
83:12	32:18,22	34:8	34:5,10	48:25
October	33:12	36:19	49:10,16	86:17
43:25	42:21	37:18	50:18,19	opposing
87:12	68:15	38:6,19,	57:3 68:8	87:24
	79:12	20 41:21	79:12	opposite
offer	82:19	51:6	82:22	44:21
30:11,13	95:6,10	56:22	83:18	Orange
31:7,12,	97:4,6,	57:16	88:4,7,	50:8
21,23,24	22,24	59:13	11,25	Orange/
34:7,10	98:2,9,23	66:15	89:4,16,	osceola
37:14	106:4	67:10,18,	20 90:11,	50:14
41:21	113:25	19 68:13,	23 92:6,	order
49:17	offhand	15 70:19	14 93:1,	113:6
50:17,19	15:3	72:13	23 94:21	114:24
51:6	offices	74:21	95:6,23	115:4
56:22	48:18	77:12	96:19	ordering
57:3,16,	oftentimes	79:4,6	97:4,6,	115:3
21 66:15	71:3,22	81:15,23	22,24	orders
67:17,19	72:20	82:19	98:3,9	15:1
68:8	78:18	83:4,23	103:23	organized
72:13	105:24	84:7,8,	104:6	19:20
77:13	one-county	14,21,22,	105:9	original
79:4	42:23	24 85:13	106:25	13:2,3
81:14	one-on-one	91:7,8,	107:3	40:23,25
83:4,15,	16:4	14,17	110:4	42:17
17,22	ongoing	92:14	111:5	
89:4,21		95:11	113:25	
90:11,23		98:18,23	opportuniti	
91:8,17		99:24	es	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: Osceola..percent

46:20	pages	91:1,3,	92:11	10:4,10,
49:21	56:24	21,23,25	94:16	15
97:10,12	95:25	92:2,4,7	95:13	past
Osceola	96:10	96:4	96:6	15:21
50:8	97:19	101:21	104:14	30:24
Oskooii	104:9	102:1,5,	105:10	47:11
11:23	110:6	12,20	107:8	pattern
outcomes	paid	105:5	109:19	53:24
36:1	88:2	106:7	113:18	54:2
outlined	pairs	108:1	participate	56:15
31:12	83:9	109:5,8	8:7	57:17
34:11	paper	110:13	participati	58:3,13,
67:21	88:23	111:3,6,	on	21 59:3,9
82:6,23	91:5,13	12,20	6:25	61:5,9
107:10	papers	112:3,6	parties	79:18
outlining	91:14	paragraphs	97:25	102:24
72:3,4	paragraph	26:7 28:5	partisan	103:1
overlaid	10:6 19:5	31:14,17	95:3	patterns
54:19	20:19	34:11	99:3,17	40:1
76:9	22:13,22	37:3	102:23	42:22
overlay	25:23	39:25	partisanship	49:24
76:22	26:6,15,	41:11	p	paying
overview	16 27:1,	107:24	95:2,8	81:24
9:24	3,10,11,	part	101:10,16	PDF
overwhelmin	16,19,21	11:14,19,	parts	7:9,16
g	28:8,9,	22 12:13	20:2 48:3	25:13
83:3	18,19,25	13:2,21	50:9	pending
	30:23,25	14:10,13,	61:15,16	21:24
	33:19,20,	15 18:3,	66:6	22:1,6
	21 35:4,	4,25	67:12,13	peninsula
	10 36:2,	28:19,20	72:19,21	70:14
P	22,24	42:7 46:1	74:4	72:7,19
	37:6,7	47:4,15	78:17,20	73:5
P00s0042	40:5	49:10	80:8	74:7,12
14:4	46:24	50:23	81:19	75:17
pack	48:9	51:22	100:1,2	peninsulas
104:1,17,	49:10	58:15	108:3	71:1,7
18	52:1,2,7,	61:1,2,	112:8	people
packing	11 54:12	12,21	113:3	51:11
26:24	59:23	62:2,13,	party	78:18
27:14	65:2,4,5	15 65:14	60:11	108:8
101:8	79:14,17	66:14	98:11,24	percent
104:12	82:6	73:1	passed	
112:11	90:14,24	74:6,9,25		
		75:1,8,		
		15,16,20		

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: percentage..point

23:21, 22,	69:19	95:14	25:1 36:7	91:8, 17
24, 25	85:18	pieces	51:9	93:1
24:24	Pete	33:6	112:18	95:10, 19
25:2	50:14	34:19	plan	97:4, 6,
52:23	Petersburg	60:12	14:4, 12	22, 24
54:15		111:25	18:18	98:2, 9, 22
59:16	55:15	Pinellas	21:19, 22	105:23
60:2, 10	56:18	43:9, 15,	25:3, 6, 8	107:2, 21
63:3, 5, 6	57:13	25 45:19	31:2, 5, 7	114:19
75:19	66:22	50:9	38:17	plans
83:11	67:12	63:17, 19	42:21	18:18
84:16, 17	69:7, 12	64:5	51:8 57:3	21:21
95:17	73:16	pink	81:14	27:3
percentage	86:18	54:16	90:23	29:16, 18
97:1, 2, 7	Ph.d.	57:9	93:12	30:10
perform	4:13 87:6	place	95:6	32:19
20:22	Phd	10:19	99:18	33:15
21:19	17:8	13:23	101:24	35:2
24:1	phenomenon	23:1	102:8	37:17
110:25	47:6	24:17	104:21	41:22
performance	phone	40:10	105:8, 9,	51:15
35:25	8:2	53:6	14 106:8,	80:25
38:5 43:1	phonetic	60:14	25 107:11	81:15
89:8, 15	114:6	placement	109:7	113:4
97:14, 24	phrase	83:1	111:5	114:8
99:13, 14	82:14	places	112:2	plots
102:15	physically	55:18	113:9, 25	113:3
104:5	70:13	62:2	planned	point
110:22, 23	74:10	64:15, 16,	109:25	6:16 15:1
performed	78:23, 25	17 67:16	113:10	25:7
21:9 23:7	79:7	69:7 70:8	planning	26:11
36:25	93:21	78:9	29:19	27:16, 20
performing	picked	plainly	30:11, 13,	29:24
23:21, 22,	13:18	102:24	14 31:12	37:5, 12
24, 25	26:1	plaintiffs	34:7, 10	38:1 39:2
110:12	48:24	8:18	41:21	45:4
person	picking	10:2, 25	49:17	58:24
16:5	38:14	11:4 23:3	51:16, 22	61:8 62:8
person's	picture	36:25	67:17, 19	86:8
20:13	86:17	47:17	68:14	94:19
perspective	piece	plaintiffs'	77:13	100:13
22:22	62:4	18:18, 25	79:4	104:4
44:18		22:19	82:19	107:1
			83:4 88:8	110:19
			89:4	114:11

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: pointed..projects

pointed	15 37:22	101:23	62:25	49:25
60:1	45:11,14			50:5,12
111:8	54:4,16,	portions	predominate	67:13
	17,18,23	15:18	82:12	80:22
pointing	55:17,22,	66:7	85:4	
25:10	23 56:2,4	70:13	predominate	previously
30:22	57:25	71:8 72:9	d	47:24
107:23	58:21	73:15	82:20	Price
110:18	59:17	77:23	83:23	4:18,22
points	60:6,8,9	78:25	preference	17:22
23:22,25	61:4	79:3,21	36:3	18:1
37:2,25	62:7,20,	87:25		39:22
59:1	24 63:8,9	88:1,19,	preferring	83:21
88:22	64:22	25 89:5,	101:14,15	84:18
109:1	69:21	7,16 90:5	preparation	87:19,21
	75:20	93:22	16:6,25	90:16,19
polarized	80:8 83:8	107:23	18:3,4	99:10,22
42:22	101:18,19	ports		114:17,22
43:4,6		72:22	prepare	primarily
44:2,9	populations		15:11	69:6 71:6
46:8,14	26:17	positive		
47:18	28:13	38:9	prepared	primary
50:12	29:23		53:2	42:3
108:4,6	55:8,18	possibly	57:21	48:10,15,
110:15,19	56:6,19	14:5 20:3	98:18	19 60:9,
111:25	58:19	105:21		22 85:6,
political	59:10,24	potential	present	10,16,17
44:18	60:19	35:16	34:7	
84:5	61:20	42:21	105:15	principle
97:25	65:3		presented	85:7,10
98:11,24,	79:22	power	100:16,17	prior
25	80:10	112:12		10:19
politics	81:22	precinct	presume	16:21
91:6,12	83:1	25:25	94:9 95:8	50:17
		52:11,19	pretty	109:4
polling	portion	53:5	62:12	
53:6	40:7	63:25	75:4 96:5	probability
	55:15,16,		107:6,11	83:3,6,
population	21 57:24	precincts	112:14	10,11
25:11	58:18	52:22,25		
26:2,23	61:16	64:1,3,	previous	process
27:13,14	62:10	19,22	10:14	13:1,15
28:21	63:5	67:25	12:7	44:16
29:7,12	72:23		13:16,21	Project
30:1,2,8,	73:14	predict	14:11,13,	19:13
17 34:12,	77:5,6	51:18	15 30:18	
14,17	80:1	predominant	46:21	projects
35:9,13,	86:18	ly	48:1,15	15:8

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: prominence..read

prominence	38:15	53:8,9		76:6
91:6	45:1	57:5	R	81:9,21,
	48:14	60:10		24 83:1
prominent	50:16	63:21	race	85:21
91:12,13,	67:10	64:2	30:16	94:12
14	72:1	68:24	34:12	101:18
proper		73:20	40:1	102:24
65:20,22	put	75:23	41:19	103:1,3,
67:20	18:9	76:18	52:5 54:7	5,10
68:6	30:17	81:9 82:3	55:11,13	112:14,16
69:14	32:1	88:6	59:21	racial/
	62:24	90:8,14	60:22	ethnic
provide	76:13	95:15	61:17	111:12
29:17,19	105:21	97:5	62:9,14	racially
32:14,17	putting	98:17	79:19	42:22
61:17	34:1	99:5,21	80:17	43:6
113:6		100:4,6,	82:9,12,	44:1,9
provided		10,18,21	20,24	46:8,14
93:3	Q	101:2,4	83:3,5,23	47:18
providing	qualifies	105:11	84:9,12,	50:12
24:5	58:21	106:2	15 85:1,	108:4,6
public	qualify	110:1	6,8 91:6,	110:15,19
13:14	58:3	questioned	11	111:25
14:3,7	71:17	45:9	101:11,16	
46:13	85:17	questions	102:19	raise
pull	quantificat	5:18,24	104:17	4:8
17:6	ion	40:8	racess	raised
86:15	85:18	50:10	48:24,25	87:25
87:1		51:8,12,	49:3	rates
pulled	quantify	18 57:3	racial	95:8
43:23	84:16	73:1 74:8	26:22	rationalale
purpose	quantitativ	80:20	27:12	86:19
23:7	e	81:13	35:16,18	rationaly
26:23	83:5	100:24	40:15,20	43:4
27:13	question	105:10,25	52:15	reach
44:23	6:4,17,18	109:21	54:3	56:19
46:15	9:12 26:6	113:11	59:10	reached
purposefull	27:18,20	quick	60:19	112:21
y	28:2	17:15	61:10	
74:15	29:3,5	28:1	62:3	read
purposes	32:10	quiz	65:2,24	27:24
23:17	33:20	77:14	67:25	33:20
28:24	39:2 45:5		68:11	88:13
29:6	50:22		69:11,20	107:10
	51:13,21		74:22	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: reading..relates

113:22,23	43:16,24	39:4	110:21	44:12,19,
114:4	48:12	63:25	referencing	21 45:2,
115:2	49:13,16	64:4,6,8,	46:15	7,16
reading	51:4	19 104:25	47:3,20	46:6,10,
89:9	86:24	record	referred	15,20
102:13	87:5,16,	4:25 28:3	69:16	47:8,9
114:8	23 88:8,	red	referring	48:22
ready	12,16,21	54:17	9:8 22:18	49:5
19:22	90:12	55:3,6,22	23:4	50:3,4,6,
reaggregate	11	59:18	40:14	11,18
d	107:10,21	61:9,22	41:2	56:18
43:1	109:1	73:10,17	65:16	57:7,13
real	111:8	74:8,20	70:14	65:15
14:25	113:6	76:5 78:1	80:11	66:10
33:3	rebutted	redirect	regard	69:6,12,
45:11	114:5	100:6	14:21	13 71:3,
reason	rebutting	redistricti	27:22	18,19
5:23 6:21	95:19	ng	29:15	72:5 78:6
70:16	recall	9:19 10:4	34:4 35:2	98:15
81:6	8:19 9:14	11:21	36:20	101:13
108:7	12:6,12	12:13	41:21	108:9
reasonable	15:3,6,8	13:1,6,	49:11	regional
59:20	18:8 19:3	14,22	56:11	50:10
80:7	20:5	14:10	57:19	regions
101:2	63:12	42:14	58:2	12:9
reasons	89:9	80:19	65:19	45:20
85:23,25	113:19	93:16	68:2	46:2,4
86:3 99:3	114:8	refer	80:24	58:4
rebut	recalled	10:11,13,	90:23	66:6,18
96:14	47:13,16	20 26:7,8	95:6 97:6	69:5,16
102:21	received	35:24	98:3,10	72:20
103:18	14:4	43:20	99:12,17,	registered
104:11	recent	73:3 95:1	25 101:8	56:5
105:17	10:12	111:22	102:20	59:17
107:11	recently	reference	105:15	60:2,8,25
111:19	16:17	28:9	region	registratio
rebuttal	RECESS	41:15,23	11:4	n
15:18	39:20	46:7	14:18	35:13
16:9,20,	114:15	63:14	39:13	37:22
23 21:8	recollectio	103:7	41:23,24	related
31:18	n	referenced	42:2,20,	13:6,22
41:3,6,8,	12:10,16	18:9,16	23,24	31:7
16,19		48:1	43:5,8,	55:13
		49:13	12,13,20	relates

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: relating..roads

101:25	18:5,7,9,	94:21,23,	research	81:11
relating	15 19:4,	24 95:13	19:6,18	110:11
49:17	25 20:4	97:10,12	reserve	retention
relevant	21:2,5,8,	99:16	20:20	80:13,14,
16:19	23 25:8	100:2,13,	respect	18
74:3	27:5,21,	17 104:20	33:23	reverse
80:16	24 28:3	105:12,	42:22,25	112:11
90:7	29:24	17,20	81:20	review
relied	31:8,13,	106:11,	93:13	12:17,24
18:12,15	18 32:23	14,18	respected	13:5,9,
46:13	33:2	111:19,24	66:20	13,25
60:22	34:18,23	113:8,17	67:9	14:14
83:3,5	35:3,5	114:1,9	68:5,17,	16:12,17,
84:12,15	38:20	reported	20 69:1	24 18:25
85:1	40:15,24,	35:3	70:2,6,	20:16
rely	25 41:1,	REPORTER	19,21	113:17
111:19	2,4,6,8,	4:8 115:2	77:8,19	reviewed
relying	17 42:7,	reporting	respecting	5:5 12:20
46:18,19	8,11,17	38:11	65:6	13:12,22
remember	43:15,24	reports	66:1,2	14:9,11,
8:10,12,	44:7,8	15:1	respond	17 15:17
14 14:8	46:1,4,5,	51:7,17,	5:18	18:4,8,
102:13	6,7 47:4	23 94:14	88:16,19,	10,13
103:1	48:1	97:15	22	38:12
remove	49:12,18,	105:16	responded	40:1
30:2	21 50:1,	represent	41:8	90:21
rephrase	2,5,12,17	66:6	responding	rights
6:1	51:3,4	representat	88:3	9:15
replicated	54:10	ion	102:15	19:12
55:24	57:4,19,	23:15	responds	24:17
56:1	22 59:4	24:7,18	94:18	84:3
report	63:14	26:19	response	Rios
5:6 7:9,	67:21	Republican	21:8	19:6,11
12 10:6	70:3 80:1	60:11	result	river
11:18,24	81:19	98:5 99:6	53:17,20	71:22
12:3,14,	83:7	101:9,15	resulting	74:24
15,19	85:24	Republicans	26:18	75:2,3,5,
13:2,12	86:5,11,	97:2,7	results	12 77:4
15:5,18,	25 87:5,	reread	33:3 43:1	rivers
19 16:8,	16,23,25	14:1	107:14	71:4,20
9,19,23	88:1,5,7,	rereview	retain	76:8,12
17:7,8,17	9,12,14,	13:11		roads
	16,24,25			78:15,18,
	89:5,10,			
	17,24			
	90:12,14,			
	20 92:17			

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: role..sides

19,21	scientist	30:16	38:3 40:9	shed
role	19:12	46:6	72:3	99:17
31:25	84:6	52:13	94:18	shift
32:1	scientists	63:3	102:23,25	44:13
room	44:18	83:10	108:17	shifted
7:5	scope	94:11	111:16	34:14
rows	22:14	102:19	sentences	shipping
108:21	scores	103:19,21	88:14	72:22
rules	95:8	104:24	105:2	74:18
5:9 15:16	screen	105:5,7,	separate	short
run	7:10,12	9,15	42:13	87:2
63:24	17:8 40:3	106:6,8	51:23	show
71:20	74:25	107:5,7,	63:23	17:7
running	screens	22,25	78:21	25:18,20,
48:19	7:8	108:1,2	separately	21 57:1,
rural	scroll	109:5	24:16	24 68:4
45:15	17:11,15	sections	separates	108:12
	25:12	19:24	71:22	shown
	41:17	26:14	series	76:14,21
S	54:24	31:8	54:14	shows
	56:23	43:16	served	25:17,18
San	59:15	88:24	19:18	55:22
72:11	61:16	104:16,20	setting	61:15
saved	87:9	106:13	48:14	110:10
7:15	95:4,24	select	shaded	sick
scan	104:14	15:18	54:16,17	6:24
37:4	scrolling	semantics	57:9	side
scenario	63:13	95:22	61:23,24	26:24,25
96:23	SD16	senate	62:22	34:13
scenarios	93:20	12:25	shaking	59:18,25
96:20	104:18	13:14,23	5:20	60:20
scholars	SD18	14:4,18	shaped	61:24
31:11	28:12	22:16,21,	61:17	62:18,25
school	SD19	25 28:14	shapes	63:1
49:4	37:1,25	84:12	52:5	69:11
science	38:6	sense	102:14	73:20,21
33:12	99:15	21:13	111:13	sides
35:25	Sean	33:12,22	share	21:14
sciences	113:21	45:13	17:8 40:3	44:21
44:12	section	65:13	sharing	48:6
	26:20	sentence	68:2	105:25
		19:5		
		28:12		

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: sightly..standard

sightly	sitting	62:8	spare	spend
39:10	18:8	65:15	5:12	89:12
signature	77:18	68:7	speak	spent
17:13	skip	71:2,4,7	97:12,16	15:4
87:10	102:3	73:13	109:12	94:16
significanc	107:5	74:8,13,	speaking	spoke
e	slightly	24 75:17	30:24	15:20
81:22	37:14	80:6,8	67:21	16:3,5
significant	38:10,11,	103:5	specific	spoken
34:6	13,22	109:22	10:6 19:3	11:10
significant	39:1,8,11	112:25	29:25	15:25
ly	53:1 70:9	113:2	30:13	18:19
39:12	100:21	sorts	31:9	spring
similar	slipped	19:23	37:2,7	10:20
25:1	104:4	62:1	42:20	squeeze
52:22	slower	72:22	44:10	97:14
59:2	38:13	sound	58:24	squiggly
62:22	slowly	76:7	59:7	75:12
63:7 72:2	17:11	sounds	65:20,21	St
84:20	87:9	6:20	67:23	55:15
96:15,21	95:25	20:12	68:6,10	56:18
97:10	smaller	86:13	69:23	57:13
100:2,8,	62:24	114:14	71:11	66:22
21 101:6	63:1	south	75:4	67:12
102:16,	sneak	50:15	88:17	69:7,12
18,25	34:22	62:22	89:21	73:16
103:2	social	70:14	98:4	76:18
similaritie	33:12	72:10	102:1	staff
s	35:25	74:6	110:19	12:25
40:14	44:12	southeaster	specificall	stand
65:16,17	software	n	y	51:18,21
100:14,16	20:10,11,	61:21	25:22	100:22
single	12 78:7	62:10	26:8	109:21
13:6	sole	southern	27:3,19	stand-in
18:10	82:2,5	61:1	29:16	49:6
46:3	85:7	73:14	30:9,17	standard
107:1	sort	74:9	43:2 47:8	23:10
111:11	15:16	75:16	52:21	24:16
singly	24:22	spans	66:12,17,	29:10
62:5	31:9 33:6	95:24	23 88:19	32:6,11,
sit	38:5 57:7	96:9	91:11	24 44:11
22:11	61:21,22	110:6	95:1	82:18
			106:14	
			107:10	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: standards..table

84:2	49:8	31:14,17	submitted	21 40:10
87:24	50:23	34:23	7:16 12:4	53:23,24
standards	82:16	42:18	13:13	86:11
29:14	93:19	82:22	14:8 15:5	super
84:5	101:3	94:24	21:2	90:3,7
86:19	112:1	100:13	51:17	supplement
start	stated	sticking	109:11	20:21
22:14	39:5 60:5	43:6	subregions	21:22
26:9	65:1	sticks	69:14,18,	46:22
27:10	69:17	75:20	24,25	supplementa
51:16	93:20	stipulated	subsequent	l
52:2 56:8	99:14	47:24	26:7	111:23
61:13	statement	stipulation	subset	supplementa
66:19	27:7 29:4	46:25	92:11,13	tion
88:5 89:3	37:20	111:24	substantial	46:17
96:5	38:18	story	23:23	supplemente
108:7	41:7	35:23	24:1	d
started	81:22	streets	80:21	48:11
9:4 31:8	85:5	53:1	substantial	support
111:22	89:11,14	strength	ly	80:2
starting	statements	10:5	61:25	supporting
26:14	105:18	24:23	substructur	37:24
37:6 52:1	106:19	35:16,19	e	suppose
55:14	108:18	81:12	107:12	95:2
56:1,13	states	stretches	suburban	supposed
59:23	52:22	45:15	45:14	114:4
63:15	statewide	70:12	suburbs	surprised
99:23	42:14	studied	66:7	93:19
starts	48:16,23	50:7	sufficient	100:12
26:15	49:5 50:3	studies	101:7	swear
54:12,14	80:19	51:14	suggesting	4:9
state	stating	stuff	71:18	sworn
5:3 8:17	4:24	90:6	suggests	4:14
12:9	38:21	105:1	99:6	systemic
13:23	statistical	113:3	103:4	106:15
14:4,18	83:3,10	114:6	104:20	
30:25	stay	subject	summarize	
36:24	28:2	6:14	36:19	T
44:6	Stephen	submission	summary	
45:25	90:21	14:3,7	36:23	table
46:3,8	113:17	42:10	38:3,18,	63:13,14
47:1,10,	stick			
13,15,16,				
18,24,25				

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: tables..today

94:3	talked	12:5,6	111:23	thinks
95:4,5,6,	18:2	14:18		91:14
7,9,11,	20:25	41:24	test	
12,21	36:17	43:13	6:11	thought
96:13,14,	56:9,10,	46:6,10	testified	88:17
20,24	14 58:5,8	47:7	4:15	103:19
97:11	62:10	48:21		106:22
99:7,23,	65:2 77:4	50:18,22	testify	thoughts
25 100:3,	81:18,20	51:1	6:22	57:22
7,15,17	86:13,21,	55:21	30:14	
101:22,25	25 90:5	56:11	77:15,16	tied
107:17	94:22	58:9	96:24	38:1
109:20	114:19	61:12	106:20	time
110:2		66:23	114:19	9:18
	talking	67:14	testimony	14:24,25
tables	9:11	69:7,13	4:9 5:14	15:4,5,
19:22	10:18	70:14	13:7	15,25
20:7	11:24	71:17	50:21	16:3
24:5,20	22:14,20	72:7,8,	51:16	25:19,21
26:8	26:16,20	18,23	68:22	28:7
30:15	27:21	74:2,7,12	100:15	89:12
32:2,17	34:2,4	75:17		94:8,16
36:6,15	36:18	78:6	text	114:23
37:10,21	39:24		7:15	
38:22	41:3,13,	Tampa/st	55:16	times
96:16,17,	14 50:17	50:14	57:13	5:7 49:14
18,21	51:1 57:1			51:11,18
97:1,10,	58:10	Tara	theory	86:25
16 100:25	66:11,12	4:22	112:25	108:5,20,
101:1,6	72:15	tasks	thing	21,22,23
107:7	73:19	19:23	64:7	
110:22	74:5	team	107:6	title
	75:11	16:3 51:9	109:14,22	87:5
taking	78:6 81:4		things	today
4:23	82:7 89:8	telling	15:2	5:14,24
104:3	101:5	15:13	21:15	6:11,21
	103:3	60:25	35:6,20	7:18 9:11
talk	104:21	76:20,23	36:4	16:25
11:1	106:14,22	95:13	60:12	21:9
15:10			62:1 67:3	22:11,12
18:3 27:3	talks	tend	71:20	70:1 75:8
40:1	92:17	99:7,9	76:9	76:1
46:25	106:6		88:17	77:7,18
48:9		terms	97:13	85:23
51:25	Tallahassee	38:7 53:5	108:16	90:10
59:4 73:2	50:13	70:15		94:15
77:3,4,10	Tampa	72:17	thinking	114:20
	11:4	85:18	65:12	
		94:17		

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: today's..vis-à-vis

today's	Trende	two-county	32:9	units
15:10,11	113:17,21	42:24	33:25	54:4,15
told	Trende's	type	34:9	unlawful
51:15	114:1,4	34:25	42:8,9	83:14
91:19	trial	78:3	44:12,24	unremarkabl
tomography	34:22	85:20	48:11,24	e
113:3	84:24	103:2,4,8	53:17	112:15
top	85:6	108:24	57:14	untrue
8:11 14:6	90:9,15	typed	59:7	105:3
61:13,15	91:20	7:15	60:13	
63:12	100:25	types	61:5	
73:24	108:13	35:12	63:21,22	v
76:9 89:3	tributaries	53:10	67:7	
96:13	76:8,12	61:4	68:15	varies
102:4	triggers	76:25	69:23	82:16
topic	24:12	81:13	76:18	variety
47:22	true	86:9	84:19,23	46:9
topics	17:16	103:6	91:16,17	VDTS
43:7	41:7	typically	97:5	27:12
114:1	60:23	50:9	99:20,21,	67:25
touch	64:13	78:17	24 100:1	111:8
78:25	86:22	98:7	106:17	version
79:7	87:15		understandi	7:17
touched	104:13,19	U	ng	versions
87:22	112:13	U.S.	18:12	22:25
touches	truth	13:24	22:24	23:2
71:15	4:10,11,	UCLA	23:9	24:21
73:4,10	14,15	19:12	24:2,25	44:16
93:22	5:15	unable	45:21	versus
touching	truthfully	6:22	62:9	25:25
73:22	6:22	understand	83:13	41:1,20
tract	turn	5:6,14,	108:19	44:4 45:7
44:14	7:9 58:5	21,24	understood	46:5
traditional	turned	6:6,14	6:4 9:23	64:20
93:16	16:23	10:7,17	14:20	111:23
transcript	turnout	20:15	37:11	veto
114:24	35:14	22:21	39:14	13:7
115:1	37:22	24:8,11	41:10	violation
trap	turns	25:14	43:13	24:17
95:22	58:24	27:5	106:3,5	33:6
	62:5 75:2	29:15	unit	vis-à-vis
		30:5,9	54:7	56:6
			62:21	
			92:18	

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024

Index: visible..works

visible	20 42:2	111:13	western	word
102:24	43:5	112:1,12	55:16	24:10
	44:19,20		58:11	27:16,18,
visual	45:9,20	VTD	72:23	22 29:16
20:5 80:3	47:7,9,	52:11,24	73:15	30:9
84:11	19,23	53:7 62:6	77:5	31:20,22
	48:7	64:1		33:14,17,
visually	49:7,25	VTDS	wetland	19 34:6
54:20,21	50:1,8	25:10,25	75:22	71:1 84:2
60:19	53:1 56:5	26:2	wetlands	111:11
62:16	60:25	52:12,16	71:20	
63:2	98:8,22	53:12,15,		wording
Voss	99:8,9	19 61:7	whatsoever	70:25
21:5,8	101:9,13,	63:13	27:4 31:1	
41:9	14 104:1,	83:9	white	words
87:25	12 110:7,	84:11	28:13	22:22
90:21	11,25	92:13	40:16,21,	27:9
101:1			24 41:14	33:10,21,
102:18	voters/		47:9 48:7	22 69:3
110:4	residents	W	50:1	84:4,23
	79:19		55:8,18	89:2
Voss's			79:22	96:19
15:18	voting	walk	80:10	103:6
16:9	9:15 10:5	52:19	99:8	112:5
88:5,7,	19:12	54:10	101:14	
11,13	23:13	wanted		work
89:5	24:17,23	35:18	wide	10:22
96:19	27:13,14	Warren	78:5	13:9 15:8
113:8	35:8,13	14:8	widely	18:3 19:1
	40:1		47:6	20:16,17,
vote	42:22	water	widespread	20 21:12,
40:16	43:4,5	70:12	91:6	13 22:10,
47:8 48:7	44:2,10,	73:4 74:5		14 50:4
108:9	21 45:11	waterway	win	113:18
112:18	46:8,14	75:6,13	110:20,21	114:4
voted	47:18	weakened		worked
42:3	50:1,12	110:7	winning	8:17,25
	52:18		22:7	9:21
voter	54:16	week	wondering	15:15
26:17	59:24	90:10	34:25	20:8,12
35:13,14	60:8,9	weekend	39:16	
37:22	61:4	90:3	66:3	working
	81:11	weeks	73:23	11:4 20:6
voters	84:3	42:10	75:8	works
22:17	98:14	weigh	79:16	10:18
37:14	101:19	21:14	85:4,5	39:19
40:15,16,	108:4,6		94:20,21	90:15
22,24	110:16,20			
41:14,15,				

MATTHEW BARRETO, PH.D.
HODGES V. PASSIDOMO

November 25, 2024
Index: world..zooming

world	19:15
14:25	48:5,16,
	17 60:7
worse	
39:12	Yup
	39:18
write	92:5
33:2	
55:16	
writing	Z
7:13	
89:12	zoom
	5:20 7:4,
written	10 17:19
91:11	54:22
99:4	58:16
101:23	73:14
102:25	74:2
112:25	76:13,24
wrong	77:10,22,
89:11,13,	23,25
14 100:1	78:6,7,13
103:24	87:17
104:7	
106:18	zoomed
107:24	58:17
108:18,24	86:8
110:16	zooming
111:7	55:14
113:22	86:9
wrote	
13:12	
18:7 31:4	
52:7	
87:23,25	
88:14	
89:2 91:5	
Y	
year	
8:14,15	
10:11	
14:2 15:9	
years	
13:8	