UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ALPHI PHI ALPHA FRATERNITY, INC,,
a nonprofit organization on
behalf of members residing in
Georgia; SIXTH DISTRICT OF THE
AFRICAN METHODIST EPISCOPAL
CHURCH, a Georgia nonprofit
organization; ERIC T. WOODS;
KATIE BAILEY GLENN; PHIL BROWN;
JANICE STEWART,
Plaintiffs,
vs. CASE NO. 1:21-CV-05337-SCJ

BRAD RAFFENSPERGER, in his
official capacity as Secretary
of Georgia,

Defendant.

DEPOSITION of WILLIAM S. COOPER

February 10, 2023

9:00 a.m.

Tayor English Duma, LLP

1600 Parkwood Circle, Suite 200

Atlanta, GA 30339

Lucy C. Rateau, CCR, RPR

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Juan Ruiz Toro
Jonathan Hawley, Esq. - Elias Law Group
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Ming Cheung, ACLU

MR. TYSON: This will be the deposition of William Cooper taken by Defendant Brad Raffensperger for the purpose of discovery and all purposes allowed under the Federal Rules of Civil Procedure and Federal Rules of Evidence.

Ari, if it's okay with you we'll reserve objections except as to form and responsiveness and privilege until the trial or first use.

MR. SAVITZKY: Okay.

MR. TYSON: And does Mr. Cooper want to read and sign his deposition or waive signature?

MR. SAVITZKY: Do you want to read and sign?

MR. COOPER: I don't know.

MR. TYSON: That's fine. We can decide later.

MR. COOPER: Quite possibly I would say something that I would perhaps realize maybe I should have explained something differently, so I don't know. Maybe.

MR. SAVITZKY: We'll do it.

MR TYSON: Okay. That's fine. Will you please swear the witness.

WILLIAM S. COOPER

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. TYSON:

Q. Good morning, Mr. Cooper. It's good to see you again.

A. Nice to see you.

Q. I know we've been through this process a few times together, but I just want to kind of remind us of the ground rules for depositions.

Number one, it's good to be back in person doing depositions again. The virtual thing seemed challenging.

So my purpose today is just to kind of walk primarily through your report and understand the opinions you're offering in this case. My goal today is not to confuse you or ask a bunch of questions that are trick questions. If a question doesn't make sense to you, please let me know that and I'll rephrase the question. Will that work for you?

A. That will work.

Q. And even though we're in person, in conversation we tend to talk over each other

sometimes. It will make life easier for our court reporter if you just let me finish a question and then you begin your response.

We can take as many breaks as we need to. My only request is we don't take a break while a question is pending, that you answer the question first and then take a break.

And then the last is using yes and no answers instead of huh-uh or uh-huh just so we have a better, clearer transcript that we can use moving forward.

A. Yes.

Q. So what I'll do is kind of move through some brief biographical pieces just to get some background. I know we have that from other depositions, and we'll talk through that briefly. I'll talk to you about some past cases you've been in and your report, we'll work through that, and then kind of dive into the meat of the report.

A. Very good.

Q. So with that can you give me your full name for the record?

A. William Sexton Cooper.

Q. And do you have a business address, Mr. Cooper?

A. My address that I use for mailing is P.O. Box 16066, Bristol, Virginia, 24209.

Q. And I have to ask this question, but are you on any medication or have any medical condition that would keep you from participating fully and truthfully today?

A. No.

Q. Can you tell me a little bit about what you did to get ready for your deposition today?

A. I have looked back over my declaration and reviewed the exhibits and glanced sort of at some of the other information that I referenced.

Q. And did you look at just your December 5th declaration or did you look at your preliminary injunction declaration as well?

A. I glanced at the preliminary injunction materials. I did not study them carefully because they're sort of off the table now with this new -- the districts are different, to a large degree they're different. So I just thought I would focus on this rather than going back in time.

Q. So besides the declaration in this case, did you look at any other documents to get ready for today?

A. I think that would be it. I don't believe

that I referred to any other documents that would be outside this case, no.

Q. And did you meet with anybody to get ready for your deposition today?

A. Just Ari.

Q. And I don't want to get into the substance of what you and Mr. Savitzky talked about, but do you remember approximately when and how long that meeting was?

A. It was last Monday, I think. And I don't recall the specific time. I'm thinking three hours, maybe four hours. There were other individuals on the call. They were all associated with Wilmer Hale, and in most cases I've not really met them personally.

Q. Got it.

A. They were there though listening.

Q. And besides people associated with the law firm, have you discussed this deposition with anybody else?

A. No. Nobody back in Bristol, Virginia would have any interest in this.

Q. I understand that. All right. Now I know it's been a little while since you and I were last together. Have you had any employment changes since

2018?
A. No. I was self employed then and I'm self employed now.
Q. And you're self employed. Do you have an LLC or a company that you work with?
A. No. Just me.
(Exhibit 1 marked.)
Q. So I've handed you what we've marked as Exhibit 1. Exhibit 1 is your declaration, I believe, minus the exhibits. And if you could just confirm that is what that document is for me.
A. I believe it is my declaration.
Q. And this is the declaration from December 5th, right?
A. Yes.
Q. So what I want to do, on the first page beginning in paragraph two you talk about different places where you've testified as an expert witness in redistricting. Do you see that?
A. I do.
Q. Is this a complete list in paragraphs two through five of cases where you've testified as an expert?
A. No. I have a listing in Exhibit B of cases that I've either testified in or produced

declarations even if it didn't go to trial, going all the way back to like 1987 or '88.

Q. Yes. I know you've been doing mapping for quite a while.

Did you testify in the case of the Alabama State Conference of the NAACP versus Alabama that was decided in 2020?

A. Where are you seeing that?

Q. So that's --

A. That's a judicial case.

Q. It's a judicial case.

A. I did testify in that case.

(Exhibit 2 marked.)

Q. I'm going to hand you what we've marked as Exhibit 2. Have you ever seen the opinion in the Alabama State Conference of the NAACP versus Alabama case?

A. I did see it in 2020.

Q. And do you recall the discussion of some maps that you drew in that opinion?

A. I recall that I testified on maps, and so there was some discussion.

Q. So this is a lengthy opinion. I'm just going to kind of cut to where I wanted to ask you about. So if you could turn to page 24 of this

1 document. The page numbers are at the top right of
2 each corner.
3 A. Yes.
4 Q. So in the first full paragraph on the page
5 it begins with, "Mr. Cooper characterizes himself as
6 a consultant on geographic information systems,
7 software applications for redistricting analysis."
8 Do you see that?
9 A. Yes.
10 Q. And that's a reference to you, right?
11 A. Right.
12 Q. And it's in reference to a trial
13 transcript, so you did testify at trial in this
14 case, right?
15 A. I did.
16 Q. So did you draw the plans that are called
17 the SC plans and the AC plans in this case?
18 A. I drew the plaintiff's plans in that case.
19 Q. And were those titled by the numbers SC and
20 AC?
21 A. Yes. SC for supreme court and AC for
22 appellate court.
23 Q. And down on page 24, the last full
24 paragraph, all the way towards the bottom there's a
25 reference to District 1's boundaries in both plans

are formed solely by county lines from east to west -- and skipping ahead -- and encompasses all but one of the Black Belt counties. Do you see that?

A. I do.

Q. And so did you use the Black Belt in Alabama as a basis to draw districts in these plans?

A. I did. They were part of the plaintiff's plans in the sense that those were part of the majority Black districts.

Q. Going to page 25, there's a section that begins, "The shape of District 1..." Do you see that?

A. What paragraph?

Q. It's about halfway down the page. It begins, "The shape of District 1..."

A. Oh, yes.

Q. And it says you used two methods to evaluate shape, an eyeball test and the Reock test?

A. Right.

Q. You would agree that the eyeball test is a way to measure compactness in redistricting plans, right?

A. The eyeball test, it's a visual test that is sometimes just as effective as a compactness score.

Q. And the Court in the next paragraph said that your statement that the plans passed the eyeball test is cursory and does not address the odd feature of District 1 in the AC plans. Do you see that?

A. I do see that. I do see that.

Q. Going to the next page, on page 26, the third full paragraph down begins, "Second, Mr. Cooper's testimony about the scores in the Reock test is vague and unhelpful." Do you see that?

A. Page 26?

Q. Yes.

A. I don't see that.

Q. The third full paragraph begins, "Second, Mr. Cooper's testimony..." Do you see that?

A. Yes.

Q. And you see that the Court found that your testimony about Reock scores was vague and unhelpful?

A. Yes. I'm sorry it was not helpful. It's the way I testify in every case, most of which I've been successful in.

Q. Going over to page 27, the very bottom of page 27 the Court said, "While there might be reasons peculiar to Alabama for configuring

appellate judicial districts of roughly equal population, Mr. Cooper does not articulate any." Do you see that?

A. Where do you see that?

Q. On the bottom of page 27, the beginning of the last line there, "While there might be reasons peculiar to Alabama..."

A. Well, the districts were designed -- I think I prepared an illustrative supreme court plan and an illustrative appellate court plan that was plus or minus five percent and also one that was plus or minus one percent, so I'm not sure if I understand the point.

Q. So you disagree with the Court here?

A. Oh, absolutely. I did not ignore one person, one vote population, no.

Q. Going to page 28, the paragraph after the one that has a bold "Communities of Interest" there, there's a reference that you didn't discuss the regional cultural, social, economic or political ties, if any, among the African-American communities in Birmingham, in the Black Belt or any other area in the District 1 of the AC plans. Do you see that?

A. In the third paragraph?

Q. Yes.

A. Yes.
Q. And then going over to page 29, there's a section that begins, "Findings as to AC plans..." Do you see that?
A. Yes.
Q. And the Court found that plaintiffs have not proven that the African-American population in District 1 is sufficiently compact, right?
A. Right.
Q. And you testified that you had found the African-American population in District 1 was sufficiently compact, right?
A. I did.
Q. And the Court further found that District 1 carved out Jefferson County's substantial African-American population and connects it just barely to District 1 by way of Bibb County so as to create an oddly shaped appendage. Do you see that?
A. I do see that. And I can state with virtual 100 percent certainty that the state of Alabama drew a school board plan in the 2000s that connected Bibb County and Jefferson County to the Black Belt. So it's been done before in Alabama.
Q. District 1, drawn the way the Court is discussing here, was the map that you drew, right?

A. That's right, because there are no districts in Alabama. It's at large.

Q. And then at the end of that section the Court said, "All factors considered, plaintiff failed to show that the AC plans were designed consistent with traditional districting principles." Do you see that?

A. I see that.

Q. And the AC plans are the plans that you drafted, right?

A. Yes. And as far as I know this is the only time a court has ever made that ruling about a plan that I've drawn.

Q. And that was going to be my question. You testified that these plans were designed consistent with traditional districting principles, but the Court didn't take your testimony, right?

A. For whatever reason. But I would encourage the listeners to look at the plans I drew. They were drawn based on whole counties. They took into account the historical significance of the Alabama Black Belt and the clear cultural connections between Jefferson County and the more rural Black Belt counties. So the judge is from Alabama. He made his ruling, so that's the ruling. But that's

Alabama and a judicial case, not a legislative case.
Q. Certainly. And my question, just to be clear, the judge disagreed with your assessment of the use of traditional redistricting principles and maps you drew in this case, right?
A. In the Alabama case, apparently so.
Q. You can set that aside.
You've referenced that you've testified in some cases in Georgia as well. And there's reference to NAACP versus Fayette County, NAACP versus Emanuel County. Do you see those?
A. Yes.
Q. And there's a reference to the Georgia NAACP versus Gwinnett County at the end of that section. Do you see that?
A. I do. I believe you were involved in that one, too, weren't you? No, you weren't.
Q. I wasn't. I was involved in Fayette and in --
A. In the congressional case.
Q. Yes.
(Exhibit 3 marked.)
So I'm going to hand you what I've marked as Exhibit 3. And is this the declaration that you filed in the Georgia NAACP versus Gwinnett County

case?
A. Yes, I believe it is. I mean it looks to be similar, if not the exact same declaration.
Q. If you'll turn to page five. In paragraph 15, your conclusion in this report was that the minority population in Gwinnett -- about the creation of two minority-majority CVAP districts under the County Commission and Board of Education plans that comply with traditional districting principles, right?
A. Right.
Q. And those minority-majority districts were not a majority of a single race but a majority not a white population?
A. Yes. It was a coalition plan involving the Black population, Latino and Asian.
Q. And in this case, in the Alpha Phi Alpha case you have not looked at other minority groups; you've looked solely at Black voters in Georgia; is that right?
A. In terms of Gingles 1. I do report the actual voting age population in one of the exhibits for the districts based on Black plus Latino plus Asian.
Q. We can set that to the side now.

You also referenced the Thompson case, Thompson versus Kemp. Do you recall that case?

A. I get the case names confused. Thompson v. Kemp was the House lawsuit?

Q. State house district, yes.

A. Yes.

(Exhibit 4 marked.)

Q. I'm going to hand you what I've marked as Exhibit 4. Is this your report from the Thompson versus Kemp case?

A. Probably, yes. I believe it is.

Q. And if you'll turn to page three, paragraph seven. In this case you weren't asked to look at Gingles 1. You were asked to look at some modifications to state house districts in Gwinnett and Henry counties, right?

A. I believe so.

Q. And if you could turn to page seven, Figure 3. Do you recall creating Figure 3 on this particular plan -- or particular report, I mean?

A. No.

Q. If you look underneath there you'll see that the table in Figure 4 on the next page shows the VTD splits that reconfigured HD-105 from black-line 2012 plan to the color-coded green area

in 2015. Do you see that?
A. Yes.
Q. And the effect was to drop the minority voting age population to 47 percent from 51 percent, right?
A. Apparently that was my statement at the time in paragraph 14.
Q. And moving down to paragraph 16 on the next page, you reference the split of the Harbins A precinct that was split to shift predominantly white census blocks from House District 104 to House District 105 and to shift majority-minority census blocks from 104 into 105. Do you see that?
A. I do.
Q. And, do you recall, were you criticizing that decision in this report or were you just noting it? I didn't find an opinion directly on that in here.
A. I was noting that. My involvement in the House litigation was fairly limited. It had been ongoing before I arrived. I was asked to produce this I guess in the spring of 2017 maybe. What's the date on this...
Q. If you could just turn to page 12, paragraph --

A. December 2017. Yes.
Q. If you could turn to page 12, paragraph 22. In this paragraph you're noting that majority-minority areas of Hickory Flat precinct and Flippen precinct in the House District 109 were shifted to House District 111, right?
A. Right.
Q. And then a 90 percent white area in the Tussahaw precinct was shifted from House District 110 to House District 111, right?
A. That was the statement in paragraph 22.
Q. And you were the expert for the plaintiff in this case, right?
A. I was.
Q. We can set that one aside.
So, Mr. Cooper, in the various cases where you've testified as an expert witness in a Section 2 case, the Voting Rights Act, you've never testified in a case that a jurisdiction -- I'm sorry -- that a map could not be drawn for a jurisdiction that failed to meet prong one of Gingles, right?
A. I'm not sure what you mean exactly.
Q. Let me try that again. That was a double negative.
In every case where you've testified in a

Section 2 case, you found that you could draw a map that met Gingles prong one, right?

A. In every case that I've testified in -- Every voting case? Not necessarily. This case, for example, in Gwinnett County did not involve Gingles 1, correct? There would be others voting related. Most of the cases I've testified have been Gingles 1 cases where I've worked on behalf of plaintiffs -- but not all, not all. I was involved in one in Quincy, Florida back in 2020 where I was working for the city of Quincy, and the Court found that my testimony was credible. And the plaintiffs lost that lawsuit. It was a preliminary injunction hearing. So things were moving very fast in the summer of 2020, so everything was being done via Zoom.

Q. My question was specifically about Section 2 cases where you've testified. So was the Quincy case a Section 2 case?

A. Yes, it was Section 2, filed by voters in Quincy.

Q. And in that case you testified for the defense that Gingles prong one could not be met?

A. That's my recollection, yes. There was a population issue there.

Q. And aside from the Quincy case, in every other Section 2 case where you've testified have you found that Gingles prong one was met?

A. Well, I mean if it actually got to the point where I testified, that in all likelihood is true. But I also have been asked to examine the potential for districts and have basically said it just couldn't be done.

Q. Aside from the Quincy case have you ever testified on behalf of a jurisdiction that was defending against a Section 2 case?

A. I cannot think of one that would exactly fit that category. I have worked on behalf of local governments, at least in one instance in Virginia I recall. I was working for the County Board of Supervisors in Sussex County. But that was in state court, so that's different.

Q. So let's turn to your involvement with this particular case, the Alpha Phi Alpha case. Do you recall when you first heard about this case or the potential of this case?

A. It would have been in the summer of 2021.

Q. And it was before the legislature met in special session in November 2021, right?

A. Correct. It was before the census was

1 released.
2 Q. And do you recall who first contacted you
3 about this case in the summer of 2021?
4 A. I think Sophia Lakin and Theresa Lee, two
5 lawyers with the ACLU national office, asked me to
6 look at Georgia.
7 Q. And before you were retained -- so I want
8 to be clear -- before you were retained were you
9 told what you were being hired to do?
10 A. Yes, to look at the Georgia legislature,
11 the General Assembly.
12 MR. SAVITZKY: And I just want to
13 caution the witness that the substance of
14 discussions with attorneys would be privileged.
15 BY MR. TYSON:
16 Q. In moving forward, Mr. Cooper, I want to
17 make sure after you were retained as an expert your
18 conversations with lawyers is different.
19 I'm not asking for the substance for this
20 question, I'm asking for a yes or no. Were you told
21 what the plaintiffs wanted to prove or their
22 position on the issues in the case?
23 A. No.
24 Q. So you've obviously testified as an expert
25 in a lot of cases. If you were to describe in your

own words what the role of an expert witness is, how would you describe that?

A. Well, it could run the gamut in terms of the work that I do leading up to a lawsuit or testifying. But as I view it I'm primarily focused on Gingles 1. I'm not a Gingles 2 or Gingles 3 expert. So most of the work I do is related to plan drawing and some background demographic and socioeconomic information. That's the bulk of what I would be doing in a case. Gingles 2 and 3 are always handled by someone else.

Q. In your role as an expert is it your view that an expert in a court case should always be objective?

A. I think so.

Q. Now I was looking in your report and didn't see your hourly rate for work in this case. Do you have an hourly rate for your work here?

A. Yes. I bill $150 an hour.

Q. And is that consistent with what you bill for all cases where you testify for plaintiffs?

A. Yes. I've charged less than that of course going back in time, but that's what I've charged to date.

Q. Do you have a different rate that you

1 charge if you're working on behalf of a government
2 entity?
3 A. No. Well, I charged I think $125 an hour
4 to the San Juan County Commission to draw their
5 commission plan. I gave them a break. I like San
6 Juan County.
7 Q. It's beautiful.
8 A. Yes. I didn't get to go out there though
9 this time. That was tragic.
10 Q. Sorry. So have you been paid for your work
11 in this case so far?
12 A. Yes, in part, last summer.
13 Q. And do you send your bills to Mr.
14 Savitzky's firm or somebody else?
15 A. It would go to the ACLU national office,
16 initially anyway.
17 Q. And do you have an estimate of how much
18 you've billed on this case so far?
19 A. I think it was around $20,000 through the
20 actual preliminary injunction hearing. I don't
21 believe I've even sent them a bill since then.
22 Q. So you don't have an estimate for how much
23 more you expect to bill on the case at this point?
24 A. I don't, but it's probably about the same
25 because I'm basically replicating stuff that I

previously did but with modifications and with another declaration. So I assume it would be at least that.

Q. Do you have a written -- again, this is a yes or no. I'm not asking for the terms. But do you have a written engagement agreement with the plaintiffs?

A. Yes.

Q. So turning to the preparation for your report, you've listed the facts that you've relied on in your report; is that right?

A. I believe so.

Q. So did the plaintiffs' counsel provide you with any facts or data that you considered in forming your opinions in this case that's not listed in your report?

A. I don't think so. I've gotten information about incumbent residences, for example, from the plaintiffs' counsel.

Q. Did the plaintiffs' counsel tell you to assume anything that you relied on when forming your opinions in this case?

A. No.

Q. Have you spoken with anybody about the depositions of the various plaintiffs in this case?

A. No.
Q. So you don't know what those individuals said in their deposition?
A. No.
Q. Have you ever attended a meeting about the issues in this case where someone besides the plaintiffs and their counsel was present?
A. No.
Q. Following the 2020 census did you draw any other maps in Georgia, or was it only for this case and the Pendergrass case?
A. I drew a few plans for Fayette County during the redistricting of the County Commission -- I drew them for the Legal Defense Fund, and those plans were submitted to the Commission in November of -- or thereabouts -- of 2021.
Q. So besides the Fayette County Commission maps that you drew for the Legal Defense Fund -- which is the NAACP Legal Defensive Fund?
A. Yes.
Q. Besides those County Commission maps and the maps you've drawn in Alpha Phi Alpha and Pendergrass, have you drawn any other Georgia maps since the release of the 2020 census?
A. I don't believe so. Nothing comes to mind

1 immediately. I'll let you know if something does.
2 Q. That works.
3 I think I know the answer to this question,
4 but do you have anybody who works with you in the
5 drawing process of maps or are all these maps in
6 this report drawn by you?
7 A. I have no one to assist me, so they're all
8 drawn by me.
9 Q. And, again, I'm not asking for the
10 substance of anything that might have been told on
11 this, but did anyone give you instructions about how
12 to draw the plans you drew in the Alpha Phi Alpha
13 case?
14 A. No.
15 Q. And so in thinking about the various pieces
16 of this case so far, I want to make sure I have all
17 the maps together that were drawn. So I believe we
18 had an initial illustrative House and illustrative
19 State Senate plan that were drawn for the filing of
20 the preliminary injunction; is that right?
21 A. That's right, in November of 2021.
22 Q. And those are maps that you began working
23 on before November of 2021?
24 A. I think I've mentioned that I looked at the
25 potential for additional majority Black districts

using 2015, 2019 ACS data before the census data was released. So I did a little bit of work there in the summer of 2021. But I don't think I really started drawing additional plans based on the 2020 census until probably late October or early November. Things were really busy at that time. I spread myself a little too thin. I don't think I fully appreciated the possibility of a preliminary injunction of about three or four cases.

Q. I understand that. So you began working on the maps, the first set of maps for the preliminary injunction for the House and Senate before November 2021 but completed them sometime after November 2021?

A. Well, yes, sometime in I guess maybe the first or second week of December probably they were basically complete. I don't know if the declaration was completed until the end of the month, but, yes.

Q. And then after Mr. Morgan's first report you drew changes to your illustrative House and illustrative Senate plans for the preliminary injunction hearing, right?

A. I did.

Q. And those changes primarily focused on the unpairing of incumbents; is that right?

A. I think that was one of the primary considerations, right.

Q. And then we have an illustrative House and an illustrative Senate plan for purposes of your December 5th report, right?

A. Yes.

Q. Did you, in drawing the illustrative House and Senate plans in your December 5th report, use your preliminary injunction plans as a foundation to begin from in drawing those December 5th maps?

A. Yes. Certainly the second plan that I produced, I guess the PI2 or whatever it would be called, was something of a basis. But also by then of course I had the enacted plan to work with, given a little more time. So I was looking at both.

Q. So then I guess what I count then is three illustrative state House plans and three illustrative state Senate plans that you've drawn for the Alpha Phi Alpha case, right?

A. Yes.

Q. Do you maintain drafts of any of your plans in between the versions of them, or do you just have the final version of each of those plans?

A. I save different versions. Sometimes they never go beyond my desk, so I just back up stuff. I

1 don't want to lose it and have to start all over
2 again.
3 Q. Do you have your Maptitude software set to
4 save a backup after a certain number of changes you
5 make?
6 A. No.
7 Q. So unless you affirmatively create backup
8 of a map, there's no prior versioning of that map on
9 your Maptitude system?
10 A. Yeah, there's no automatic backup. I think
11 it automatically backs up if you exit the program
12 altogether. But I don't have it set to back up
13 something every 10 minutes or so. I just back up
14 whenever I feel the need to. And usually the actual
15 names of the backups make no sense to anybody else
16 because some days I'm just using a time and other
17 days something else.
18 Q. So in creating the various illustrative
19 plans for this case is it fair to say that your goal
20 was to create additional majority Black districts
21 above those created by the Georgia legislature on
22 its plans for the House and Senate?
23 A. Well, the goal was to determine whether it
24 would be possible within the constraints of
25 traditional redistricting principles. And I

1 determined that it unequivocally is possible.
2 Q. Are the majority Black districts you've
3 created in the illustrative plans in your December
4 5th report the highest number of majority Black
5 districts you've created in any draft?
6 A. Yeah, I did not try to -- in some cases I
7 do hypothetical plans just to make the point that
8 more districts could have been drawn or you could
9 have made it five points higher or something. I
10 don't think I drew -- I believe in the first two
11 plans for the preliminary injunction one or two
12 districts were sort of organically majority Black.
13 So I just had, I believe, one less Senate district
14 that is majority Black in this particular
15 plaintiff's plan than the earlier ones.
16 Q. So you mentioned drawing hypothetical
17 plans. Do you recall creating any hypothetical
18 plans for Georgia with more majority Black districts
19 above your preliminary injunction plans?
20 A. No, I didn't do that in this case. I've
21 had enough of drawing plans in Georgia. It's one
22 thing to do hypotheticals for a County Commission or
23 something.
24 Q. So it's correct then that your preliminary
25 injunction plan contained the most Black districts

of any plans that you drew for the Georgia legislature, right?

A. I think that's probably safe to say. I drew them differently here and there, but I don't think I drew any that had more than seven districts.

Q. And I know you referenced -- and I've been there with you -- drawing 180 House districts is not an easy proposition. Have you ever drawn state-wide legislative plans for Georgia before your involvement in the Alpha Phi Alpha case?

A. Yes.

Q. And what was that?

A. I guess it's okay to divulge. I mean I've worked --

MR. SAVITZKY: I'll just caution the witness that if there's some non-public work that you did for an attorney, you should exercise care.

A. Well, I did a little work for a law firm in Atlanta in the 2011, 2012 period. A lawsuit was not filed. It was a fairly small project, but it did involve House and Senate plans -- or at least certainly House plans. I'm not sure about Senate.

Q. And I believe when we spoke about this in a prior case, that was the Bondurant Mixson and Elmore

firm?
A. You've got it. So I've already given up the ghost.
Q. So besides your work for Bondurant in the 2011 cycle and the Alpha Phi Alpha case here, have you ever drawn state-wide legislative plans for the state of Georgia?
A. It is conceivable that I did something for the ACLU in the 1990s, but not for litigation. At one point I did become involved at the tail end of one of the congressional cases in looking at different configurations for the ACLU. I think it's probably listed in my listing of cases I've worked on. I did file a declaration. It involved Cynthia McKinny's district. But I was not involved in any of the stuff leading up to that point in time. So it was at the very end, like in 1997 when that particular declaration was filed. And it was very short. Back in those days you could get away with just doing a five-page declaration. And it may not have even been that long.
Q. And any reference to the Cynthia McKinny district, that was to District 11 in the 1990 cycle that ran from Atlanta to Savannah; is that right?
A. Yes, but I didn't draw a district that went

from Atlanta to Savannah.

Q. When you began working on your illustrative plans for your December 5th declaration, do you know or did you have the principles that the Georgia legislature drew or used when drawing its plans?

A. Yes. They were posted on the website.

Q. So the last section I would like to get into before we kind of get into the meat of your report, is just to kind of get some terminology pieces down. I know there's a lot of unique terminology for redistricting.

So if I ask you what your definition of a majority Black district is, how would you define that?

A. Well, it could be very different depending on the place and the time. Is it legislative or is it city council. It would be very difficult to make that distinction. One might also look at things like citizen voting age population.

Q. And so for purposes of your report in this case you use the term "majority Black", right?

A. Right.

Q. And what do you mean by the term majority Black in this report in Alpha Phi Alpha?

A. I mean a district which is over 50 percent

any part Black voting age.

Q. And, for reference, we've been calling that the AP Black VAP number?

A. Yes.

Q. Earlier we looked at a report from Gwinnett County where you used the term minority-majority district, right?

A. I would have because that was a lawsuit involving a coalition of plaintiffs, Latino, Black and Asian.

Q. And would it be fair to refer in your definition to a minority-majority district as a majority non-white district?

A. You could. But one must also take into account that a fair percentage of Latinos identify as white, so that's a little problematic maybe to use that term. But as long as it's kind of understood that you're focusing on a minority population and taking into account the differences in how Latinos identify, whether they identify as white or some other race. One can say a majority not white essentially means majority-minority -- or a majority of population which is not non-Hispanic white.

Q. That's helpful. Thank you. So just so I'm

clear then, the term majority-minority in your mind is separate from the term majority Black as referred to districts in a legislative plan, right?

A. Yes, in my mind ultimately the definition would be different.

Q. Do you use the term "minority opportunity district" in your work at all?

A. I have used it. And typically though when I'm using it -- because I'm doing Gingles 1 work -- I would be referring to a district which is majority Black or majority Latino, majority indigenous and not say a 40 percent district.

Q. So an opportunity district as you use the term would refer to a district that has a majority of persons of color in it, right?

A. Well, the plaintiff class. So in this case if I say it's a minority Black opportunity district I'm referring to a district that's majority Black. Majority Black any part voting age population, or I have a couple of senate districts, for example, that are majority Black citizen voting age population but actually less than a majority Black voting age population. So one has to make those distinctions as well.

Q. Do you ever use the term "coalition

1 district" in your work?
2 A. I probably did in Gwinnett County.
3 Q. And how would you define a coalition
4 district when you use that term?
5 A. A coalition of minority plaintiffs, in
6 other words, typically it would be African-Americans
7 and Latinos, but in Gwinnett County it was
8 African-Americans, Latinos and Asian-Americans. In
9 some places out West you would have a coalition of
10 African-Americans, Latinos and native Americans,
11 indigenous population, certainly in Arizona.
12 Q. In your work do you ever use the term
13 "ability to elect districts"?
14 A. I probably have almost never used that term
15 because that's sort of the Gingles 2, Gingles 3
16 expert. But I might have accidentally. If you know
17 of one case where I used that term, I probably
18 should have not used it because that's not my
19 bailiwick.
20 Q. That's helpful. Thank you.
21 So you're aware that race can predominate
22 in the drawing of a redistricting plan, right?
23 A. It could.
24 Q. Do you have a way you would determine in
25 your work if race predominated in a districting

plan?

A. I don't think there's a metric that would necessarily identify that, other than perhaps one could look at a legislative plan and make an assessment that a plan was disproportionately weighted towards one race or another, so perhaps in that sense.

Q. So in your view if the goal of a map drawer is to draw the maximum number of majority black districts on a plan, that plan wouldn't necessarily be drawn predominantly based on race?

MR. SAVITZKY: I'm just going to object to the extent it calls for a legal conclusion. You can answer if you're able to do so.

A. Could you repeat the question?

BY MR. TYSON:

Q. Sure. You talked about the different ways you would see race predominating in a plan, like the ways that you could look at that. And my question was if the map drawer's goal is to draw the maximum number of majority black districts on a plan, in your view would race predominate in the creation of that district plan?

A. Well, not necessarily. I mean that's sort of an open-ended question. I really can't say.

Normally you would not go into a situation where you were drawing to draw the maximum number of majority Black or majority Latino districts. If you were to do that you would likely run into conflict with some of the other traditional redistricting principles.

Q. And you mentioned earlier the Cynthia McKinney district in the 1990 cycle in Georgia. Are you familiar with the term "max Black" from the 1990 cycle?

A. I've heard that term used. I've never used it and thought it was a stupid term to use from the outset. I remember seeing the I-85 North Carolina district. I still have a clear memory of seeing that standing next to the director of the ACLU in Virginia, and we were both just shaking our head. I mean that's just -- that's as close to insanity as one could get in redistricting.

Q. And it was your belief that a district like that I-85 district in North Carolina didn't comply with traditional redistricting principle?

A. Absolutely. And I said as much at the time in a public setting at Norfolk State like in May of 1991 on some time like that.

Q. Do you ever use the term "proportionality" in any of your work related to Section 2 of the

Voting Rights Act?

A. Not really. I just said disproportionate. But I don't ever enter into something where I would be aiming to achieve proportionality necessarily.

Q. Let's jump into your report then. In preparing your report did you save any drafts of your report before the final version of it?

A. Well, I'm a slow writer, so I save things and then delete things. So, yes, I probably did save some different versions.

Q. Did the Plaintiffs' counsel provide you any substantive edits or proposals to include in your draft? I'm not asking for what they provided; I'm just asking whether they provided that.

A. Not so much substantive. The edits would have been more of an improvement on my skills with the English language, eliminating infelicities of language and clarifying some points.

Q. When you were drawing the redistricting plans that became the illustrative plans in this case, did you take any notes during that drawing process that you kept?

A. No. I should have though, shouldn't I, because it's easy to forget stuff. If you start working on a plan and go away from it for two weeks

and then suddenly, wait a minute, what did I do.

Q. So do you recall when you started writing what became your December 5th report?

A. Well, I guess I started writing it in December of 2021 or November even, because a lot of what's in my current declaration was initially in the first report.

Q. Do you recall approximately how long it took you to prepare the report in terms of numbers of hours or weeks?

A. No. I mean it took -- this particular declaration, I think I started it in mid-November maybe and -- well, no, it would have been earlier than that. Probably the first part of November.

Q. Of 2022?

A. Yes.

Q. So let's turn to the report itself. If you could turn with me to paragraph number seven on page three. You can just put it in front of you. We're going to kind of walk through the report.

You say the attorneys for the Plaintiffs asked you to determine whether the African-American population in Georgia is sufficiently large and geographically compact to allow for the creation consistent with traditional redistricting

principles, additional majority Black Senate and House districts above those -- or beyond those created in the legislative plans; is that right?

A. Yes.

Q. I want to do this in order. On paragraph 13 you reach the opinion that you were able to draw an illustrative Senate plan with 18 majority Black Senate districts, right?

A. Yes.

Q. And that was two additional majority Black districts in south metro Atlanta and one additional majority Black district in the eastern portion of the Black Belt for the Senate, right?

A. Right.

Q. And then for the state House, the next page over, you say you were able to draw an illustrative House plan with at least 54 majority Black districts that was five additional districts above those drawn on the legislative House plan, right?

A. Yes.

Q. Does this report, the December 5th report contain the entirety of the opinions you're offering in this case?

A. I believe so.

Q. Are there any --

A. Well, I mean to date anyway.
Q. So are there other opinions that you have in this case that you're planning to offer in this case that are not included in your report?
A. Not at this point in time. I'm not sure how all this works, but I guess if something came up that required my response in some fashion, then I maybe would have another opinion somewhere along the lines. These cases go on for a long time. We could be here in five years and still be talking about this case.
Q. Maybe to make it easier I'll take out any further developments, any further factual developments. Based on the facts as they're known today are you planning to offer any other expert opinions in this case that are not included in your report.
A. Well, not key expert opinions. I mean I might make a comment or opine on something in response to something you say, but the report is as it is.
Q. So there's no other opinions -- an expert opinion, to be clear, not just an opinion generally but an opinion as an expert that you're planning to offer as of today that's not included in this

report, right?
A. Right, no other opinions.
Q. Thank you.
So let's turn back to paragraph number seven in what you were asked to do in the case, and then we'll get into the meat of this. But can you describe generally the methodology you used to determine if Gingles prong one was met in this case for the House and Senate plans?
A. Yes. I draw drafts of state-wide legislative plans and analyze the demographics and the geography and determine where and how one might create additional districts, additional majority Black districts while also adhering to traditional redistricting principles.
Q. So where do you begin with your process then? Do you start with drawing the map? Do you start with demographic analysis? Where does your methodology start for determining Gingles prong one?
A. Well, I look at the enacted plan. I look at demographic change since the 2000 census. I look at the previous plans, the benchmark plan. I look at other geographies unrelated to the legislative redistricting, like the planning districts in the state and metropolitan statistical areas. So I'm

1 looking at various factors all along the way.
2 Q. And in terms of looking at those
3 metropolitan statistical areas or other regional
4 items, do you look at those after you've drawn a
5 plan or before you draw a plan?
6 A. Before.
7 Q. And after you've reviewed all those
8 different data points, is that when you commence
9 drawing the redistricting plans?
10 A. Yes. Obviously, you can spend more time, a
11 lot of time looking at MSAs and other regions, but
12 I'm certainly aware of those regions as I'm drawing
13 the plans.
14 Q. If you would look with me at paragraph
15 number 10 of your report. You state that the
16 illustrative plans comply with traditional
17 redistricting principles. Do you see that?
18 A. Yes.
19 Q. And you list out some different traditional
20 redistricting principles. Are the items in
21 paragraph 10 all of the traditional redistricting
22 principles that you comply with in the drawing of
23 plans or are there others?
24 A. Usually in the background there is the
25 incumbent factor, not exactly a redistricting

principle, but once you try to avoid pairing incumbents to the extent one can.

Q. Is maintaining the core of an existing district a traditional redistricting principle?

A. I don't believe it is. It was not mentioned in the discussion of guidelines for redistricting that the state of Georgia published on the website. And I just recently did a review, a quick review of states that have core retention mentioned as a factor to consider. And I think there's 17 states that do that nationwide. And Georgia would not be one of them, I don't think, unless I'm misunderstanding something.

Q. So did you obtain or make the list of traditional redistricting principles in paragraph 10 based on the Georgia general assembly guidelines or based on your knowledge as a map drawer?

A. Based on my knowledge. And what I'm saying here does not appear to conflict in any way with what the state of Georgia laid out in their brief discussion of guidelines.

Q. So then I just want to make sure I understand for district cores then. Is maintaining district cores a traditional principle generally for you as a map drawer even if it's not specifically

for Georgia?
A. Well, it's something to consider. I'm not tossing it out as not being something that's worth taking into consideration.
Q. And so it's worth taking into consideration like taking incumbent pairing into consideration?
A. Yes, although the state of Georgia in the guidelines published on the website I believe does specifically mention the incumbent issue. I don't see anything about core retention. And core retention is really problematic in some ways in a state like Georgia that's growing so fast. Districts are going to change, right.
Q. I see you don't mention transportation corridors in paragraph 10 as a traditional principle. Is maintaining transportation corridors a traditional principle of redistricting?
A. Well, it's part of communities of interest, right. It's a factor to consider.
Q. So you would put transportation corridors under communities of interest?
A. Yes, I think you could.
Q. I also don't see where you specifically reference maintaining existing jurisdictional boundaries like counties and precincts. Is that a

traditional principle of redistricting?
A. It would fall under the category of communities of interest in my opinion. You could also perhaps set that out as a separate traditional redistricting principle perhaps.
Q. And I see you don't include compliance with the Voting Rights Act as a traditional principle. Is that also a traditional principle of redistricting?
A. Yes, it is. And the state of Georgia has clearly made that one of the guideline principles as set forth on the website.
Q. Is there a reason why, if it's a traditional principle, why you didn't include it in paragraph 10?
A. I did. Non-dilution of minority voting strength I think would be compliance of the Voting Rights Act.
Q. So it's your testimony that non-dilution of minority voting strength in compliance with the Voting Rights Act is the same interchangeable terminology?
A. Well, I'm not a lawyer. One reason that I probably didn't just spell out compliance with the Voting Rights Act is because I'm not a lawyer.

Q. So when you're drawing maps you take the Voting Rights Act into account though, right?

A. Well, yes. I mean I pay attention to the demographics of a region or a county. So I'm aware of the minority population, not just Black population but other minorities as well.

Q. And when you're drawing maps and taking the Voting Rights Act into account, is the way you think about compliance with the Voting Rights Act in that context, the non-dilution of minority voting strength?

MR. SAVITZKY: Objection; vague. Although, if you understand it you can answer.

A. Well, it is in a simple Gingles one fashion, but ultimately a statistician would have to also be called in to examine whether a district that is 50 percent Black is a district that would meet Gingles 2 and Gingles 3 prongs. So that's a general statement. I think what I've said in paragraph 10 is a pretty common recitation of the traditional redistricting principles.

Q. And so is it correct to say then that you as a map drawer would not offer an opinion of whether a particular district complied with the Voting Rights Act because you would need a

statistician like you said to make some of those calls?

A. Well, a statistician, lawyers, judges. I'm not going to say definitely that one thing I've done is fully comply with the Voting Rights Act.

Q. So you would rely on counsel, other people before you would say for sure a map complied with the Voting Rights Act?

A. Well, I don't think I can really say that. I'm not a lawyer.

Q. Let's talk about some of these specifically. You talk about the traditional redistricting principle of compactness. How do you go about complying with the traditional principle of compactness when you're drawing an illustrative plan?

A. I attempt to put together districts that are reasonably shaped, easy to understand, and lately I also consider compactness scores.

Q. Do you use compactness scores when you're drawing a plan or after you've finished drawing a plan?

A. Both.

Q. So you will run a compactness report while you're drawing a plan, or do you have it displayed

some other way?
A. I might. I don't routinely check compactness scores, but I might take a look.
Q. You rely primarily on how a district looks when you're drawing it and then check the compactness score at the end, right?
A. Right. If it looks crazy it's probably not a good idea to offer that as a potential Gingles 1 district.
Q. And in your report I believe you use the Reock and the Polsby-Popper compactness scores; is that right?
A. I did, yes.
Q. There are other scores that can measure compactness, right?
A. Yes, there are.
Q. And you didn't use those in this report?
A. I did not report those in this report.
Q. Is there a reason why you chose just the Reock and the Polsby-Popper?
A. They're the most widely used, I think, so I just settled on using those two to simplify things. I think when you look at areas that are costal, maybe there are other measures that would be a little better.

Q. And you would agree that the Reock and the Polsby-Popper score both measure different elements of compactness, right?

A. Yes.

Q. And so a district may be more compact in a Reock score but less compact in a Polsby-Popper score because they measure different things?

A. Right. The Polsby-Popper is perimeter based, and so that can make a district appear to be much worse than it really is if in fact it's following a coastline or a river or a bizarre, oddly-shaped jurisdictional boundary.

Q. And I think we can probably agree Georgia has some jurisdictions that have unusual boundaries?

A. Yes. A lot of states do have. Tennessee is bad.

Q. In considering compactness is there what you would refer to as an acceptable range of compactness on compactness scores?

A. No. There's so many factors involved that one cannot really rule out a score. Once you get down into the single digits, low single digits on Polsby-Popper, it's probably a sign that you need to take another look. But, again, with strange boundaries, strange municipal boundaries even single

digits is okay probably in some instances.

Q. So there is no point at which a district is kind of objectively not compact, right?

A. Oh, yes, there is.

Q. Where is that?

A. Well, objectively I cannot say because there are so many factors here in the equation. But you can look at it and look at other districts that have been drawn in the same plan and come to some conclusions subjectively, for whatever that's worth.

Q. And so is it correct then to say that you can say a district is more compact or less compact than another district, but you can't say a district is compact or is not compact?

A. You can come to a subjective conclusion about whether a district is compact or not compact.

Q. Is compactness always measured in relation to something else?

A. Well, statistically with the Polsby-Popper and Reock scores, I guess not, because you could just measure a single district.

Q. But you would agree that even the Reock and Polsby-Popper scores are comparing a district shape to some other geometric shape, right?

A. Well, yes, right.

Q. So I'll ask again, it's correct then that compactness is always measured in relation to something else, right?

A. Right, in that sense.

Q. Let's talk about a traditional principle of contiguity. How do you go about complying with the traditional principle of contiguity when drawing a map?

A. Well, Maptitude has a nice feature in that you can get it to check for contiguity. So if a district is not contiguous it will indicate that. The district should be connected -- unless, of course, there's something odd about a municipal boundary; or maybe one could, at least in some instances, like in a local plan, have a non-contiguous district.

Q. Do you know of any Georgia geographical features, like county boundaries that are non-contiguous?

A. Well, there would be some in a way. I mean they're not contiguous by land, I'll put it that way, along a coast for sure.

Q. How do you go about complying with the traditional redistricting principle of respect for communities of interest when you're drawing plans?

A. That is a broad area and one can disagree about what a community of interest is. And so I do the best I can from what I understand. Another person might have another opinion. And, again, it's a subjective determination.

Q. If you were giving a definition of how you're using the term "communities of interest" in paragraph 10, how would you define that?

A. Let me find paragraph 10. Is that the listing of --

Q. Traditional principles.

A. That's a very broad statement and could not be easily defined because community of interest varies from place to place, situation to situation. And it's just a general subjective conclusion which one reaches about a particular plan when it's drawn, and one can have differences of opinion, as I'm sure you guys do with respect to this case.

MR. TYSON: We've been going a little bit over an hour. Would now be a good time for a break? Do you want to keep going? I'm at a breaking point in my questioning, so I thought I would ask.

MR. SAVITZKY: It's fine if you would like to take a break, that's fine.

A. Whatever you guys want to do.
MR. TYSON: I'm fine. You're the deponent, so you get to make the call, or our court reporter.
MR. SAVITZKY: If you want to keep going, we can keep going.
(Off-the-record discussion).
(Recess 10:18 a.m. - 10:26 a.m.)
BY MR. TYSON:
Q. Mr. Cooper, we were talking about different traditional redistricting principles, and you mentioned the last one there, the non-dilution of minority voting strength. Maptitude is the software you use to draw redistricting maps, right?
A. Yes.
Q. And Maptitude has features that allow you to display the racial makeup of particular pieces of geography on the screen while you're drawing, right?
A. It does.
Q. And that includes things that can color, for example, precincts or census blocks by the racial makeup, right?
A. It does. I don't use that when I'm drawing a plan, but I obviously did to show county, rough, 20 percentage point Black population percentages as

part of my declaration.
Q. And you can also display with labels the racial makeup of particular pieces of geography, right?
A. Well, you can, yes.
Q. And you can also put little graphs on various pieces of geography to show the racial makeup, right?
A. I can. I don't do that, but you could.
Q. And that was going to be my next question. When you were drawing the illustrative plans, at any point did you have a display from Maptitude that showed you the racial makeup of particular precincts on the map?
A. Well, you know, I sometimes utilize little dots to show where the precincts are that are say 30 percent or over Black. So that was sometimes present on the screen as I was drawing a plan.
Q. And when that was present on the screen you were able to know where 30 percent or higher Black population existed in a particular precinct?
A. Not within the precinct, just the precinct itself.
Q. So the whole precinct had a concentration of Black voters greater than 30 percent?

A. Yes.
Q. Did you ever have any features of Maptitude that displayed racial data about census blocks when you were, for example, dividing a precinct when drawing the illustrative plans?
A. I don't specifically recall. I sort of think I did not. I did sometimes go down to block level and look at total population, because Georgia has very tight deviation standards so that you can't go more than plus or minus one percent. And so sometimes that gets a little tricky if you're trying to avoid splitting a county or something and maybe you could look at another option and by examining what the total population is, get a handle on whether or not you could stay within one percent.
Q. But you do not recall ever turning on racial information for census blocks when you were dividing a precinct in drawing the illustrative plans?
A. I don't have a specific recollection, but I probably did at some point. I mean I can't really single out where that happened or when it happened.
Q. So in looking at the way you divided precincts, if they were divided along racial lines, is it possible that you had racial information

displayed to make that division of a precinct?
A. It's conceivable but not always the case. I mean sometimes I need to split a precinct to meet the plus or minus one percent or plus or minus 1.5 percent, so I would use a clearly observable boundary, block group boundary or a municipal boundary.
Q. You mentioned having a doc that would show you greater than 30 percent Black population in a particular precinct. Did you ever use something like that that displayed the concentration of Black voters in a county while you were drawing the illustrative plans?
A. You mean like getting the total population of a county and identifying whether it was 30 percent or higher? Maybe not. I basically had that information anyway from just a table of counties in the state, and I sort of knew where the counties were that were virtually all white. I mean it's not that hard to figure out in Georgia. Once you get north of Atlanta it's pretty much a monolithic white population.
Q. So when you're drawing you had you said a list of counties. And did it have the racial makeup of the counties listed when you were drawing those

plans?

A. Well, I was not referencing it very often, if at all. But I mean I produced a table in my declaration showing what the breakdown is for the Black population, Black counties.

Q. Before you began drawing the illustrative plans in your report did you turn on any features of Maptitude that showed you the racial makeup of counties or precincts to look at before you began drawing?

A. It was probably simultaneous. I mean, as I say, I was aware of the overall Black population percentage in precincts for most of the work I did, just whether or not it was a precinct that was over or under 30 percent.

Q. Is there a particular reason why you chose 30 percent Black population for a precinct to display?

A. That's just something I've usually done. It identifies more or less where the Black population lives or the minority population.

Q. Let's go to paragraph 12. I just had one question on page six in paragraph 12. You reference a potential database of incumbent address information filed in the November 2022 general

election. What did you mean by potential database?
A. Where do you see this? What paragraph?
Q. It's paragraph 12 but it's on the top of page six.
A. It is a database that I was given by the attorneys for the Plaintiffs. I'm sorry. Yes, by the attorneys for the Plaintiffs at the very end of the preparation of my declaration, so that I did not have that information as I was drawing the plan we have before us today. But I was able to at least retroactively determine whether or not incumbents were paired, literally done at the last moment, around the 2nd or 3rd of December. It might have been later than that even, because the election had only been in November. So it's possible that illustrative plan two, looking forward in the future, will be able to take into account those changes a little bit better and maybe not pair as many incumbents.
Q. But sitting here today you've not drawn illustrative plan two?
A. No. I've had my fill so far.
Q. Let's move to paragraph 13. So I'm a lawyer and not good with math, so I want you to help me understand something. You say that the 2021

Senate plan has 14 majority Black districts, and your illustrative Senate plan has 18 majority Black districts, but then you only chronicle three additional districts. But it appears like you're saying there's four additional districts.

A. Where are we?

Q. On paragraph 13, page six, state Senate.

A. That's a long paragraph, right?

Q. Yes. It's really where B, Summary of Expert Conclusions on page six is.

A. On page six. Well, here we are. Okay. Well, thank you.

MR. SAVITZKY: I'm just going to help the witness get the papers.

MR. TYSON: Sure.

BY MR. TYSON:

Q. You might want to do them that way where we can work our way through.

A. I'm getting confused because it's on both sides of the paper.

Q. So are you with me now?

A. I think, yes.

Q. So what I'm trying to understand is, you say the 2021 plan has 14 majority Black districts. Your illustrative plan has 18 majority Black

1 districts. But then you only describe three
2 additional districts. So can you help me understand
3 why 14 plus 3 seems to equal 18 here?
4 A. Because another district that is not being
5 challenged, an area that is not being challenged, it
6 just sort of organically became majority Black. I
7 think it's the Senate District 41 maybe. Oh, I'm
8 sorry. It's 33.
9 Q. Senate 33?
10 A. Yes.
11 Q. So you're not, in this report, saying that
12 Senate 33 is a majority Black district that could
13 have been drawn and was not drawn by the
14 legislature?
15 A. It could have been drawn, but we're not --
16 that's not being challenged. I suspect that it's a
17 district that may already be electing a minority
18 candidate. I don't remember.
19 Q. So then it's correct that your illustrative
20 Senate plan has four more majority Black districts
21 than the 2021 Senate plan, but your recollection is
22 that for whatever reason Senate District 33 is not
23 being challenged in this lawsuit?
24 A. Correct.
25 Q. Do you recall that in your preliminary

1 injunction report you said you could create 19
2 majority Black districts on the Senate plan?
3 A. Yes, I do recall that.
4 Q. Can you tell me about the difference in the
5 19 districts on the preliminary injunction plan
6 versus 18 districts here?
7 A. Not exactly. I think that's another
8 situation where another district was organically
9 majority Black just based on the end result of the
10 plan, and I think it was probably in Gwinnett County
11 if I'm not mistaken, Gwinnett or Henry County.
12 Q. And I think you mentioned a district
13 already electing a candidate of choice in a minority
14 community?
15 A. Well, I can't say whether it's the
16 candidate of choice or not. I'm not the historian
17 or the Gingles 2 or Gingles 3 expert. But I think
18 that that district is probably electing a Black
19 candidate of choice; otherwise, it might have been
20 included as a challenged district.
21 I don't specifically recall working on
22 District 33. It just formed itself as I was trying
23 to avoid splitting counties and cities and keep as
24 many Senate districts as I possibly could as drawn
25 by the General Assembly. So it just happened.

Q. Are you aware that the three districts or -- let me start over.

Are you aware that the two additional majority Black districts in south metro Atlanta and the additional majority Black district anchored in the eastern portion of Georgia's Black Belt that you reference in this report are currently held by Republican senators?

A. I did not know the partisan makeup of those districts, I don't think, but I knew that they were not African-American.

Q. So you knew the race of the candidate but not the partisan affiliation of the candidate?

A. I don't think I did look at that specifically, but I knew that the elected representative was white.

Q. Do you ever use partisan data or election results in your creation of illustrative plans?

A. No. I'm not a political science. Somebody else would have to opine on that.

Q. Do you have any past political data in your Maptitude databases?

A. I do not. I just have demographic data.

Q. Let's talk next about the House over on page seven. We have 49 majority Black districts on

the House plan, and then you were able to create 54 majority Black districts, right?

A. Right.

Q. And that's the same number as in the preliminary injunction illustrative plans, right?

A. Correct.

Q. And I believe you testified earlier, 54 is the highest number of majority Black districts on any House plan that you drew in this case, right?

A. I might have drawn 55 in the previous plan. I don't recall.

Q. Well, let me do this instead of us guessing here.

A. I probably have that information in my report somewhere.

(Exhibit 5 marked.)

Q. That's what I'm going to do. I'm actually going to hand you, and at the risk of us getting papers mixed up, I'm going to hand you what I've marked as Exhibit 5. If you could take a look at this. Is this the report you submitted with the preliminary injunction?

I'm sorry, Mr. Cooper. I handed you the rebuttal declaration. They both look the same on the outside. We'll refer to it in a minute.

1 Let me just mark this one as Exhibit 6.
2 (Exhibit 6 marked.)
3 Is this the report you submitted in the
4 preliminary injunction proceeding?
5 A. It's dated January 13, so I presume it is.
6 Q. Could you turn with me in Exhibit 6 to page
7 six. On the bottom it's number six and at the top
8 it's number seven. And there's a reference to State
9 House and the number of districts in the State House
10 plan. Do you see that?
11 A. Yes.
12 Q. So what I want to do is just understand the
13 differences here. So in the preliminary injunction
14 narrative you talk about 54 majority Black
15 districts, so that number is the same. Then you say
16 "including four additional majority Black districts
17 anchored in south metro Atlanta" in the preliminary
18 injunction report.
19 In your report from December 5th you say
20 two of the additional majority Black districts are
21 anchored in south metro Atlanta. Can you explain to
22 me the difference of why you went from four
23 districts in south metro to two districts with these
24 two different plans?
25 A. I believe because I drew a plan that,

again, organically had an additional majority Black district in Henry County and maybe another in Henry and Gwinnett counties.

Q. And that was on the preliminary injunction plan but not the illustrative plan from December 5th?

A. Right. Those two districts were not challenged as far as I know at the preliminary injunction hearing. So that is why there may be some confusion in my mind, because I have listed four plus two. That's six. So you see I said at least 54. In fact, I think maybe there were 55 in that plan, but I would have to look at the table. And it's been some time since I've looked at it.

Q. What I was trying to figure out is where everything is. So we can circle back to that in a little bit.

Next in the preliminary injunction report you reference two additional majority Black districts in Georgia's Black Belt. And then in your December 5th report you say two are in Georgia's Black Belt. So that stayed the same, right?

A. Yes.

Q. Then in your 12/5 report you have one is in metropolitan Macon. And I didn't find a reference

to a metropolitan Macon district in your preliminary injunction report.

A. That's true. Given more time and more thought it was clear to me that an additional majority Black district could be drawn in the Macon/Bibb area.

Q. So although the total number of majority Black districts is the same in your preliminary injunction report and your December 5th report, there is some movement about where those districts are located, right?

MR. SAVITZKY: I'm just going to object; mischaracterizing the testimony. He said they were the same in both. But you can answer the question.

A. Well, I've drawn a different configuration. And I mean clearly upon further investigation you could draw, based on just seeing the Senate District 12 in Macon/Bibb/Houston area that that district is majority Black. So there are only two majority Black House districts. So it was reasonable to think that there was -- there was the possibility of drawing a third House district there instead of two that are very strong districts, in the 60s, Black percentage. So I was able to create a third

1 district in that area. And it's basically a
2 district that's almost entirely Macon/Bibb but I had
3 to go over into Monroe County to get the deviation
4 below 1.5 percent.
5 Q. So in the third bullet of your preliminary
6 injunction report you reference three additional
7 compact majority Black districts in metro Atlanta.
8 A. Which page?
9 Q. Page six of the preliminary injunction
10 report under State House. It's seven at the top,
11 six at the bottom.
12 A. Okay.
13 Q. And then the third bullet of your 12/5
14 report you say that there is enough population to
15 allow for the creation of at least two additional
16 majority Black districts in metro Atlanta, right?
17 A. In south metro Atlanta?
18 Q. Yes.
19 A. Yes.
20 Q. And so that's a decrease of one district
21 from the opinions you offered at the preliminary
22 injunction to the opinions in your December 5th
23 report, right?
24 A. Well, not exactly. The difference is, is
25 that I have drawn a third district that I think was

mainly in Henry County, and it was not challenged. So I made the statement that there were three in south metro Atlanta that were majority Black; however, only two were being challenged.

Q. So it's your recollection that only two districts in south metro Atlanta were being challenged in the preliminary injunction?

A. I think that's the case, but I could be corrected by my attorneys.

Q. Then the next two bullets reference one district in eastern Black Belt, one district in western Black Belt. And your 12/5 report also said an additional district can be created in eastern Black Belt and an additional district in the western Black Belt, right?

A. Right.

Q. And then there's no additional districts referenced in your preliminary injunction report, but you've added the metropolitan Macon district as an additional House district on your 12/5 report, right?

A. Right.

Q. Let's set the preliminary injunction to the side.

So, Mr. Cooper, let's keep working our way

through your 12/5 report here. So you reference in paragraph number 14 -- at the bottom of page eight is where that begins. And you say in the very last line of page eight, you reference the state's Black population going up by a certain number of people which is the equivalent of two and a half 100 percent Black Senate districts or eight 100 percent Black House districts.

A. Yes.

Q. You can only draw 100 percent Black House or Senate district if those new Black individuals lived with no other racial groups around them, right?

A. Of course. That was just to emphasize the magnitude of the growth of the Black population that's happened in the last 10 years. I mean this is like, I don't know, Las Vegas, Clark County, Nevada kinds of dramatic population change really. I mean it's stunning.

Q. And so you're not saying that all these new Black individuals could be put into districts like that; you're just showing the magnitude of the increase?

A. Correct.

Q. And you would agree that, assuming for a

1 hypothetical, that if every one of these additional
2 Black individuals that's arrived or been born, I
3 guess, since 2010 moved equally over every census
4 block in the state of Georgia, you wouldn't be able
5 to create additional majority Black districts based
6 on that population growth alone, right?
7 A. If they scattered across all of Georgia, of
8 course not. But they've honed in on metro Atlanta.
9 Q. So then you move into a discussion -- going
10 to paragraph 18 on page 10 -- of areas that you
11 focused on that has substantial Black population.
12 And there are two of them. One is the metro Atlanta
13 counties in the Atlanta metropolitan statistical
14 area, or MSA, and the other is Georgia's Black Belt,
15 right?
16 A. Yes.
17 Q. So let's take a look at each of those. I'm
18 going to hand you what I'll mark as Exhibit 7, which
19 is Exhibit C from your report that's referenced
20 there in paragraph 18.
21 (Exhibit 7 marked.)
22 Q. And is this the map of MSAs in Georgia that
23 you utilized when discussing the Atlanta MSA?
24 A. Yes. This is official U.S. Census Bureau
25 map dated January 1, 2020 based on March 2020

delineation lines.
Q. Now you say that the Atlanta MSA has substantial Black population in your report, right?
A. Yes.
Q. And you're not saying that every county contained in the Atlanta MSA has substantial Black population, right?
A. No.
Q. So when you were conducting your review of the Atlanta MSA did you review the entirety of the MSA or only parts of it?
A. Well, I looked at both. I looked at -- I believe my demographic section in this declaration looks at the MSA as well as the five south metro Atlanta counties that I focused on.
Q. How did you determine to focus on the five counties in the Atlanta MSA that you focused on?
A. Well, I was very familiar with Fayette as a result of the lawsuit in 2012. I was very familiar with Gwinnett as a result of the lawsuit in 2017. And, also, I was familiar to a certain extent with Henry as a result of the House district lawsuit that was filed in 2017. So that part of metro Atlanta was relatively familiar to me. And I had looked at population estimates over the course of a decade and

could see that the Black population was increasing rapidly in those counties, so it was the obvious place to look for new districts as far as I could tell.

Q. And so you chose then some counties that you were familiar with and looked at the data related to those counties?

A. Yes.

Q. Did you look at the rate of growth of the Black population in DeKalb County?

A. I had that information, but I didn't focus on DeKalb as a place to draw new districts. I mean it's had majority Black districts for some time. And I'm not sure whether you could draw an additional one there or not.

Q. You didn't look at that question?

A. I did not.

Q. Did you look at the rate of growth in Black population in Douglas or Cobb Counties?

A. Yes, I was aware of Black population change in those two areas.

Q. How about Clayton County?

A. I don't recall whether I actually examined the changes that had occurred in Clayton County. I have tables that show that information though. I

1 think the Black population was growing in all the
2 counties you've mentioned, clearly. It's just that
3 the area that I focused on is an area that has not
4 had a majority Black House district specifically in
5 Spalding and, you know, parts of Henry and Fayette
6 of course have not either. Fayette was nine percent
7 Black in 1990, and now it's in the mid 20s. Henry
8 was nine or 10 percent Black in 1990, and now it's
9 over 50 percent. I remember getting a request from
10 persons associated with the ACLU, a community
11 organizer, early in the '90s when efforts were being
12 made to create new majority Black districts all over
13 Georgia, and I was asked to draw one for Henry
14 County, and it was flat out impossible. There was
15 no way. And I told him that, and that was the end
16 of it.
17 Q. We can set this off to the side for the
18 moment. We might be coming back to it though.
19 You next reference Georgia's Black Belt as
20 illustrated by the Georgia Budget and Policy
21 Institute Map in Figure 1. Do you see that?
22 A. Yes.
23 (Exhibit 8 marked.)
24 Q. I'm going to hand you what we've marked as
25 Exhibit 8 and ask you if you've seen this document

before.
A. Not in a paper format, but I did review it as a PDF.
Q. And is this the document that's referenced in footnote 10 of your report, Education in Georgia's Black Belt: Policy Solutions to Help Overcome a History of Exclusion.
A. Yes. Both documents have October 2019 publication date.
Q. So it's safe to say then that you relied on this document in preparing your report about the Black Belt, right?
A. Yes, the contemporary Black Belt.
Q. So let's turn to page number five of this report. Could you read the very first sentence at the top of that page?
A. "There is no uniform definition for the Black Belt."
Q. Do you agree that there's no uniform definition for the Black Belt?
A. I think that's a reasonable statement.
Q. And the definition that the Georgia Budget and Policy Institute used was a general description where the majority of people in an area are Black or live in poverty, right?

A. Yes. I think the focus was on school districts.

Q. And in looking at the map that's here on page five of the report, it appears that's the same map produced on page 11 of your report, right?

A. Yes.

Q. And that map includes Savannah and Chatham County as part of the Black Belt, right?

A. It does, as part of the contemporary Black Belt, again based on school enrollment and poverty.

Q. And it includes Athens, Georgia, Clark County as part of the contemporary Black Belt; is that right?

A. Yes.

Q. And it includes Glenn County and Brunswick on the coast as part of the contemporary Black Belt?

A. It believe so.

Q. And you relied on this report to determine which counties were in the Black Belt for purpose of your focus area that you looked at for your report, right?

A. Yes. I just wanted to see if the area that I had outlined around Augusta was also an area that the Georgia Budget and Policy Institute had identified.

Q. And you would agree that Glascock County near Augusta they did not consider part of the contemporary Black Belt, right?

A. That's true.

Q. Did you consider Glascock County as part of the contemporary Black Belt in your map drawing?

A. It's part of the majority Black districts. It's a very small county. And it's right in the center, so it's included in both Senate District 2 and House District 133 I believe -- not 133. I will have to double-check. But it's one of the House districts as majority Black. I believe it's in one of the House districts as majority Black maybe even under the enacted plan.

Q. And it's correct that you did utilize all the counties that the Georgia Budget and Policy Institute identified as Black Belt counties as part of your analysis of the contemporary Black Belt, right?

A. Well, I'm just using this as general background information. That's not to say that you can't draw majority Black districts outside of the areas that GBPI identified as part of their contemporary Black Belt based on student enrollment and poverty.

Q. Did you have a particular method by which you excluded counties that the GBPI found were part of the Black Belt and that you did not find to be part of the Black Belt?

A. No. This was included as, I thought, a very informative report that was hot off the press at the time. It was only a year or so old, year and a half. So I thought that was pertinent information, and for that reason I included it.

Q. So it's fair to say then that this report illustrates your opinions about the Black Belt as opposed to you using it to form your opinions about the Black Belt?

A. Well, both.

Q. So if you used this report to help form your opinions about the Black Belt, I guess I come back to my earlier question, how did you choose which areas not to include as part of the Black Belt in your analysis in your report?

A. I didn't -- I don't exactly understand the question. I mean as they make clear at outset, there is no uniform definition for the Black Belt, so I'm speaking in very general terms when I refer to eastern Black Belt and western Black Belt.

Q. Let's move to next paragraph 20 of your

report. And you discuss you narrowed your focus to four regions within those larger areas. And I'm assuming those larger areas are the Atlanta MSA and the contemporary Black Belt, right?

A. Yes, although I was also aware of the regional planning district boundaries. So those regions also factored into my approach.

Q. And you only looked at three regions in your preliminary injunction report, right?

A. Well, that's true. As I've indicated, upon further investigation and reflection I reassessed and drew a third House district in the Macon/Bibb MSA that actually is kind of metropolitan Macon/Bibb and it's expanded to include Peach and Houston, which is a separate MSA.

Q. So let's move to Region A. Region A you defined as south metro Atlanta, right?

A. Yes.

Q. And you identify that as the counties of Fayette, Spalding, Henry, Rockdale and Newton counties, right?

A. Right.

Q. How did you go about selecting these five counties as Region A?

A. They are in south metro Atlanta and they

are fast growing and have seen significant increases in the Black population over the past 30 years.

Q. Are any of these counties majority Black?

A. Rockdale is majority Black, if I'm not mistaken. And if Henry is not majority Black it's very close to it.

Q. But you would agree that Fayette, Spalding and Newton are not majority Black, right?

A. Definitely Fayette and Spalding are not majority Black, but they have significant Black populations. And I would have to refer back to the table. I don't think Newton is majority Black. You may know off the top of your head.

Q. Let's do this, just so we can make it clean on this point --

A. I'm not just looking at a number and saying, okay, this county is 50 percent over, 50 percent plus Black so therefore I'm targeting it.

Q. Have you reviewed Mr. Morgan's expert report in the Alpha case?

A. I have reviewed -- quickly looked at what he filed back in December, very quickly, and I also looked at the one he filed just recently.

(Exhibit 9 marked.)

Q. I'm going to hand you what's been marked as

Exhibit 9, which is Mr. Morgan's January report. And if you could turn back towards the end to page 46, there is a table of counties along with eight key Black VAP percentages of the counties. Do you see that?

A. Yes.

Q. And on this table from Mr. Morgan you would agree that Fayette County is 25.8 percent AP Black VAP, right?

A. I have no reason to doubt that. That sounds about what I just said when I said it was somewhere in the mid 20s.

Q. And Newton County on this report is 47.7 percent AP Black VAP, right?

A. Yes.

Q. Henry County on this report is 49.8 percent AP Black VAP?

A. Yes.

Q. And Spalding County down there at the bottom is 33.6 percent Black, right?

A. Right.

Q. And so of these five counties you selected for Region A, you have one that is majority Black VAP and the others are not majority Black VAP, right?

A. Right.
Q. And it's your testimony you didn't use a particular rule to identify which counties would go in Region A beyond they had Black population growth over the last decade; is that right?
A. Black population growth, rapid Black population growth, and a significant chunk of the population would be placed in districts that were not majority Black.
Q. So let's move next to Region B, which you identify as the eastern Black Belt. We can set Mr. Morgan's report to the side as well.
And you have a group of rural Black Belt counties in a geographically compact area. You refer to that, right?
A. Yes.
Q. And you state that all of the Region B counties in paragraph 26 are part of the central Savannah River area regional commission; is that right?
A. That is correct.
Q. Can you describe briefly what a regional commission is in Georgia?
A. I think they are -- they were commissions set up by the state sometime probably in the past 40

1 years that look to enhance cooperation and
2 facilitate economic development, social capital
3 projects. So it's a body designated by the state
4 and it consists of various counties which have
5 certain things in common.
6 Q. And do you know the method by which you're
7 determining that the counties have certain things in
8 common to be part of the same regional commission?
9 A. I'm relying on the assessment that the
10 state made.
11 Q. So if the state put counties in regional
12 commissions for reasons unrelated to them being in
13 common, you're relying on just that decision to put
14 them in a regional commission?
15 A. There could have been reasons to actually
16 put a county that may belong elsewhere, but for one
17 reason or another ended up being placed in the
18 commission it's in right now. Partly because some
19 of those counties have changed a lot over the past
20 40 years, but I don't think the regional commissions
21 themselves have changed.
22 Q. So it's your understanding that regional
23 commissions have not changed in roughly 40 years or
24 so?
25 A. I don't know that to be a fact, but it

1 wouldn't surprise me if they've been in place for a
2 long time. Like the Atlanta regional commission is
3 only 11 counties, and the Census Bureau is now
4 defining metro Atlanta as a 29 county MSA. I think
5 maybe Atlanta regional commission was only 10, but
6 Fayette was added recently and maybe other counties
7 have been added since the late 20 teens. I have not
8 looked at their website recently to see if they
9 added any other counties beyond the eleven. But I
10 know Fayette -- I said Fayette. I meant... What is
11 the county.... I need the map. Sorry. The name of
12 the county escapes me. It's in the northern part.
13 It's Forsyth. I knew it started with an F.
14 Q. So it's correct then to say that you're
15 relying on whatever reason a county is in a regional
16 commission, at whatever point it was put in that
17 commission, for it having something in common with
18 the surrounding counties?
19 A. There was some rationale for that, sure.
20 Q. And you acknowledge a county may have
21 changed and not been moved out of regional
22 commission, right?
23 A. Possibly, yes.
24 (Exhibit 10 marked.)
25 Q. I'm going to hand you what we've marked as

Exhibit 10, which is Exhibit F from your report. It's a map that you obtained of the regional commission in Georgia.

A. Yes.

Q. So I wanted to ask you -- and maybe to make this a little easier, if you want to flip to page 22 of your report, you have the map of the various regions. Do you see that?

A. Yes.

Q. So what I want to do is look at the regional commission map, Exhibit 10, and your Figure 4.

You've defined Region B by the red line on Figure 4, right?

A. Yes.

Q. And so that region does not include Lincoln and Columbia counties, right?

A. It does not, because I was identifying areas where it would be most likely to create a majority Black district. So Columbia didn't seem like a very promising place to look because it's under 40 percent, even though Lincoln is actually considered to be, I think by GBPI, as a Black Belt county. It in some ways couldn't be included just because of where it's located right on the South

Carolina line.

Q. So when you say you used the regional commission boundaries of the central Savannah River area for the creation of Region B, you were using that as a general guide but you didn't include every county from that regional commission in Region B, right?

A. That's true. Columbia and Lincoln are not included.

Q. Region C is in the green on Figure 4. Do you see that?

A. Yes.

Q. And that includes counties that are located in the southwest Georgia regional commission and also the River Valley regional commission, right?

A. Right.

Q. And what methodology did you use to put Region C together when you're crossing these regional commissions that you were utilizing to help create them?

A. I was looking at the GBPI map for one thing, but also I was looking at the enacted Senate plan, which had a majority Black district in that part of the state. And there are only two majority Black House districts in that area of southwest

Georgia, so I felt that the area around Senate District 12 could easily contain three Houses as opposed to just two.

Q. And you're aware that along the Florida border, Seminole, Decatur, Grady and Thomas counties are in both the GBPI map of Black Belt counties and in the southwest Georgia regional commission, right?

A. Right.

Q. But they're not included in your Region C, right?

A. Correct.

Q. And why did you exclude those counties?

A. Because they're not in Senate District 12 for one thing. But they are considered to be part of the modern day Black Belt all the way over to Valdosta, I think -- except Miller is not part of the GBPI Black Belt. It's a very small county. I think it's got 6,000 people in it or something.

Q. And Sumter County is not in the southwest Georgia regional commission but is in your Region C, right?

A. Yes.

Q. And then your Region D is metropolitan Macon, right?

A. Yes.

Q. I note that you didn't include Baldwin County in Region D, but it's in the same regional commission as Bibb County, isn't it?

A. It is. We've got overlapping areas. I'm just sort of looking at things from a very general level. And so Baldwin County in terms of the regional commissions is in middle Georgia.

Q. And that's in the same regional commission as Macon, right?

A. Yes.

Q. And so I guess what I'm trying to understand is the methodology you used for selecting the counties in your various regions. Did you create these regions before you drew the illustrative plans or after?

A. Before. That's why I didn't stay within the lines. I was still working on the plans, and I just used that as a guidepost. These lines are not there to prevent a district from crossing them. Because your plan crossed -- the enacted plans cross regional commission lines as well. In fact, I think I tally it up in the latter part of my declaration where the plan I've drawn actually splits fewer regional commissions than the enacted plan.

Q. So is it fair to say that the regions that

you selected were just kind of a collection of counties you thought fit. You're not necessarily saying these particular counties in this region are a community of interest, right?

A. No. There is that community of interest, and then there is the community of interest which the Census Bureaus define based on commuting patterns and economic factors. And there are other communities of interest, like the historical community of interest which all Black Americans share. And that relates to the historical Black Belt as well as the contemporary Black Belt, which was identified I think with a good deal of clarity by the GBPI.

Q. You reference the historical community that all Black Americans share. Is it your belief that Black Americans by being Black, wherever they are, have a community of interest together?

A. On a certain level, yes. Don't you agree with that?

Q. Is that something you use in the formation of your illustrative plans for determining there was a community of interest in a majority Black district, for example?

A. I'm aware of U.S. history. Yes.

Q. And so in creating your illustrative plans you rely in part on the history of the experience of Black Americans and the commonality that goes with that as the basis for a community of interest, right?

A. I think that's legitimate, yes.

Q. On your map of regions, you are also aware that the Census Bureau has different statistical areas for Warner Robins and Houston County and for Bibb County, right?

A. Yes. But then they have a new category that they call a consolidated statistical area where they combine them and say they're adjacent. For example, the Athens area is now part of a consolidated statistical area with the Atlanta MSA. So they've got this extra layer of commonality.

Q. And so it's fair to say then for all the different regions in your report that you're just looking for things that they have in common; some based on regional commission, some based on census, some based on historical Black Belt, it just depends on that particular region?

A. Yeah. I mean all that is in the background. When you're drawing a plan there's a lot of -- sort of an amorphous quality to what

you're working on because there are different ways of interpreting things.

Q. In designing your regions you could have included other counties in those regions but you just chose not to, right?

A. I wasn't definitively choosing not to. As I was drawing the plans some districts looked more viable in terms of shape than others. Contiguity is an issue. So there was a multiplicity of factors, as you know, when you're drawing a plan. I'm comfortable with what I've drawn. I think it would hold up well against anything that the state has done today or historically, and would hold up elsewhere in the country if I drew them in other states.

Q. I'm not quite jumping ahead to the districts yet. I'm talking about the regions. Were the regions still being formed while you were drawing the districts then?

A. What do you mean?

Q. Well, you've identified these four regions that you focused on. And my question was you could have included other counties in those regions but you choose not to. And then you gave an answer about districts. So I wanted to understand --

A. I was looking at county level data. So it just seemed to me that Columbia County didn't really fit into the prospects of creating another majority Black district.

Q. So then I guess the answer to my question is yes, you could have chosen other counties, but just chose not to based on your assessment of the population there, right?

A. Yeah, to a certain extent, right. But I did not rule in or rule out any county and still haven't. Maybe there is a way to include Lincoln County. I don't think so, but maybe there is.

Q. So your regions then are just kind of the guidelines that you used as you were drafting plans?

A. Right, just in the background, right.

Q. Mr. Cooper, I'm about to move to the section beginning with census data. Are you still good? Do you want to take a short five-minute break?

A. No. I'm fine. Or whatever. I'm in no rush. I'm here until Tuesday.

Q. We can keep plowing ahead.

Let's turn to page 19 of your report, Figure 2. So in Figure 2 you would agree that the increase in Georgia's Black population, as measured

by the AP Black number, from 2010 to 2020 census was an increase of one and a half points, right?

A. One and a half percentage points, almost 500,000 people.

Q. And the single race Black number increased from 2010 to 2020 was a little bit more than half of a percentage point, right?

A. Correct.

Q. So let's turn to page 20 in Figure 3. And here you're comparing the 2020 VAP percentage from the census to the 2021 CVAP percentage from the ACS data of the census, right?

A. From the one year 2021 ACS, which was released in September of 2021. I'm sorry. It was released in September of 2022. Excuse me. It's always a year behind.

Q. So what I want to try to figure out -- and if you could go back to your preliminary injunction report, which I believe is Exhibit 6. Go back to Exhibit 6, page 16 of that report. You have a similar table, right?

A. Yes.

Q. And the table in your preliminary injunction report is comparing the 2020 census VAP percentage with the 2019 CVAP percentage from the

ACS data, right?

A. Right. Two years prior. Because of the pandemic the ACS was not imported for 2020 for the one-year survey.

Q. So I want to just compare these two tables to understand. On your preliminary injunction report, Figure 3 shows the 2019 AP Black VAP percentage was 33.8 percent?

A. CVAP.

Q. CVAP. I'm sorry. Let me restate that.

In Exhibit 6, Figure 3 shows the 2019 AP Black CVAP percentage as 33.8 percent. Then Figure 3 in your 12/5 report shows that same percentage as 33.3 percent, right?

A. Right.

Q. And so that number has gone down by half of a point between 2019 and 2021?

A. Well, there is a margin of error. So it may very well be that -- the point estimate has gone down between 2019 and 2021. That could be because of -- what's the breakout for Latinos? Notice how it's jumped to 5.9 percent from 5.0 percent in the 2019 CVAP -- in the 2019 ACS.

Q. And, similarly, Figure 3 in Exhibit 6 shows the 2019 single race, Black, including Black

Hispanic CVAP percentage as 32.9 percent, whereas in your 12/5 report that same number has gone down to 31.4 percent in 2021, right?

A. I'm not sure what table we're looking at now.

Q. I'm still looking at the same table, Figure 3. Looking at the preliminary injunction report, single race Black row, do you see that?

A. Yes.

Q. To Figure 3 on your 12/5 report, which looks like that's gone down by a point and a half for the single race Black number between 2019 and 2021.

A. It does look like that. Again, it's margin of error. It's a one-year survey. So you have to take it with a grain of salt to a certain extent.

Q. So in your 12/5 report, the next -- or a couple of paragraphs down you say the Black CVAP in Georgia is poised to go up this decade. Do you see that?

A. Yes.

Q. And I guess I'm just trying to figure out how are you concluding that the Black CVAP is poised to go up when the census ACS data shows it's gone down between 2019 and 2021?

A. Well, I'm looking at it from the standpoint of December of 2022 and the 2021 one-year ACS has a figure for all Black Georgians, citizenship rate overall, consisting of 34.45 percent of the population of all ages. So that's higher by a percentage point, so there does seem to be some likelihood that the Black CVAP will be increasing in Georgia, understanding that there will be in-migration and out-migration; and if I were guessing I would say that the in-migration is going to be a bigger factor because people are still coming to Atlanta, right?

But at the same time we're looking also at probably big changes in the Latino population in terms of citizenship, which will not only cut what might have happened with the Black CVAP over the decade but it will have a bigger impact probably on the white population.

Q. It's correct that the 2020 census data does not have CVAP reported, right?

A. Exactly.

Q. And so in your table when you're comparing 2020 VAP to 2021 CVAP, you're looking at two different metrics, right?

A. Well, yeah. One is a complete count based

on the census and the other is a survey. And, in fact, the 2021 survey was taken during the pandemic, which also makes it -- it may not have that much statistical significance apparently, but arguably that was not a year where one could be 100 percent confident that ACS was really connecting with everyone they needed to.

Q. But you're relying on that 2021 ACS data for your conclusions in paragraph 45 and 46?

A. Right, yes. I mean it's clear that Black citizen population, all ages, is now well over a third, 34 percent. And so as they age into adulthood one could expect that the Black CVAP will start rising again.

Q. And there is no 2020 Black CVAP number reported from the census, right?

A. That's correct, because they canceled the 2020 ACS.

Q. So let's move to page 24, Figure 6 of your 12/5 report. Are you with me?

A. Oh, page -- page 24?

Q. Yes.

A. Yes.

Q. And Figure 6 reports the population of the Atlanta MSA by race and ethnicity, right?

A. Yes.
Q. And on the 2010 census the AP Black percentage was 33.61 and in the 2020 census it was 35.91 percent, right?
A. Right.
Q. And that's an increase of about 2.3 points?
A. Yes.
Q. Turning over to page 26 and Figure 8, this is a count of the eastern Black Belt area, and this refers to your Region B specifically, right?
A. Right.
Q. And just the counties that you chose to place in Region B?
A. Yes.
Q. And you would agree that the Black population in Region B between 2010 and 2020 censuses went up by less than a percentage point, right?
A. Slightly less than a percentage point. Meanwhile, the white population dropped by slightly more than three percentage points.
Q. And the total population growth in this region is fewer than 3,000 people from 2010 to 2020, right?
A. Total, that is right.

Q. Looking at Figure 9 on the next page. This is what you've called the western Black Belt area, right?
A. Yes.
Q. And this is the counties that you chose to include in your Region C, right?
A. Right.
Q. And in this area you would agree with me that the Black population as a raw number went down between 2010 and 2020, right?
A. Yes, for the first time in three decades it dropped.
Q. And moving to the next page, Region D, Figure 10, this are the counties you chose to include in Region D; is that right?
A. Yes.
Q. And the increase of the Black population in this region was a little bit more than two percentage points over the 2010 to 2020 period, right?
A. Yes. 20,000 people, that's a third of a House district.
Q. But, again, only two percentage points, right?
A. Yes. But it's the aggregate numbers that

really matter when you're drawing districts. I mean you've got to meet one person, one vote first and foremost. The fact that it's a growing population and that it's essentially 20,000 people makes it easier to draw the district.

Q. Doesn't that assume that those 20,000 people move into largely the same geographic area within that region?

A. Well, yes. But I've proven that by drawing a certain district.

Q. So in paragraph 67 of your report here you calculated the number of districts based on the Black population. So do you see that where you say about seven House districts can be drawn in metropolitan Macon?

A. Yes.

Q. And I didn't see this kind of calculation for any of the other regions that you analyzed. Did you conduct that kind of calculation for any other region?

A. I thought I did, but maybe it's not in my report.

Q. So you think you ran the number but just didn't include the number in your report?

A. I don't know. I'm under the impression

that that is included in my declaration. Maybe I didn't do it for other reasons. I did not do it for south metro. That's the other fast-growing area. So I may not have done it for C and D -- for B and D because there hadn't been a lot of population change. There has been a change in the racial demographics in that area, but the total population has not changed much in Regions B and C. It's actually gone down in Region C, I believe.

Q. Well, let's move next to the Senate plans. I want to ask you first about Figure 11 on page 31. Are you with me?

A. Yes.

Q. So historically the 1990s plan you're referencing here, does that refer to the plans drawn after the litigation of the 1990 cycle, do you recall?

A. Yes. That would be the benchmark plan for the 2000 redistrict.

Q. And Democrats were the majority in Georgia when that plan was drawn, right?

A. I think so. I don't know that to be a fact, but I believe the Democrats were the majority in the legislature and general assembly until the early 2000s.

Q. In the 2006 plan that you reference is the three-judge panel plan from the Larios case; is that right?

A. I think so, yes. A new plan had to be drawn, and I think that was the one.

Q. So then you reference in Figure 12, turning to the next page, the percentage of state-wide Black VAP in majority Black districts and the percentage of non-Hispanic white VAP in majority white districts. Do you see that?

A. Yes.

Q. And you would agree, if the 2006 plan is the court-drawn plan of the state Senate, there's not a significant difference in the statistical percentages between that 2006 plan and the 2021 plan for both of those metrics on Figure 12, right?

MR. SAVITZKY: Objection to form. You can answer if you're able to.

A. Well, I agree. That's why it's just so astonishing, because of the incredible dramatic population growth that has occurred since the 2000 census within the Black population. So that's why it's stunning. It doesn't make any sense.

Q. And so, in other words, you would say that even if someone was leveling the same charge you're

leveling against the 2021 plan against the 2006 plan, that wouldn't be a valid attack because there's a difference in population growth over the 15 years between those plans?

A. Well, first of all, the 2006 plan was based on the 2000 census, so it would only reflect the population change between 1990 and 2000. And, secondly, while there's still a big gap there, it improved from 43.5 percent in the 1990s to 53 percent of the Black population, 54 percent living in majority Black districts. And the white VAP living in majority white districts actually dropped by seven points. So that was a pretty big change between 2006 and the 1990s plan. But then everything just sort of froze in place, and it really hasn't changed hardly at all since 2006. We're now in 2023 with hundreds and hundreds of thousands of additional Black residents in the state, and the white population continues to decline in percentage terms.

Q. You would agree that if new people were moving to Georgia evenly across the entire state over that 20-year period you wouldn't expect those percentages to change, right?

A. If they were moving across the state. But

I don't think very many are moving to Rabun Gap from the Mississippi Delta. I may be wrong, but I don't think so.

Q. Let me ask next -- so the paragraph that describes Figure 12 is on page 31, is the page before it. And you say that this Figure 12 indicates that Black populations are disproportionately cracked or divided into majority white districts rather than placed in majority Black districts. Do you see that?

A. Yes.

Q. And so then you have a footnote where you give definitions for packing and cracking.

A. Yes.

Q. So what methodology, if you were trying to figure out is a particular district packed, how would you go about determining if in your opinion it was packed?

A. It's fairly subjective. I really -- I've used packing and cracking in this litigation, but I tend to shy away from it because it just -- the words are overused. Better to say divided or fragmented.

Q. So in your definition here in footnote 23, when you say a minority population is unnecessarily

1 concentrated as part of the definition of packing,
2 are you saying that's kind of context dependent on
3 whether the concentration is necessary or not?
4 A. Well, yeah. You can have places where
5 there are populations that are overwhelming Black,
6 80, 90 percent Black where it's difficult to reduce
7 the percentages, even in Georgia. The core
8 counties, DeKalb, Fulton, that situation occurs.
9 Q. So do you have a particular numerical
10 threshold that you would consider a district packed?
11 A. Oh, no, no. That's a subjective
12 interpretation.
13 Q. So if a district was over 75 percent Black
14 you wouldn't know if that district was packed or not
15 just from that number?
16 A. No, you wouldn't, because there are
17 districts in the Mississippi Delta that are 75
18 percent Black, County Commission districts, what
19 they call the Board of Supervisors. And sometimes
20 the population is so segregated in those areas that
21 you end up with percentages that high.
22 Q. What information would you need to know to
23 know whether, for example, a 75 percent district was
24 packed?
25 A. Whether or not you could draw another

1 district that was lower in Black population while at
2 the same time complying with traditional
3 redistricting principles. And then, of course, in a
4 Section 2 case you would have to go one step further
5 than what I do and look at it from the Gingles 2 and
6 Gingles 3 perspective as to whether a district that
7 is say 60 percent Black as opposed to 80 percent
8 Black would perform, depending on the context.
9 Q. And so is it correct that you can never
10 determine whether a district is packed with Black
11 voters without the context of the districts around
12 it?
13 A. Right. Right, there is that up to a point.
14 Q. When you say "up to a point", what do you
15 mean?
16 A. Well, you just have to develop a
17 redistricting plan and draw districts and recognize
18 the districts that are populated in the range of 70
19 to 80 percent is very high and determine whether or
20 not there might be other ways to draw
21 reasonably-shaped districts that are lower in Black
22 population and in that process create a new district
23 that would be majority Black, also lower than the
24 present 75 or 80 in whatever district you're looking
25 at.

Q. Have you ever used the term "striping" in creating additional majority Black districts?

A. I've never even heard of it. I didn't hang out with redistricting people. What does that mean?

MR. SAVITZKY: Present company excluded.

MR. TYSON: We can talk about it on a break. It may be just my term.

BY MR. TYSON:

Q. Just to kind of round out this piece then, to understand if a district is packed or not you would need to essentially draw the district and then look at what's around it and see if you could draw a district with a different configuration and create an additional majority Black district to determine that a particular district was packed?

A. Well, you know, there are situations where you would have a district that is packed and you still couldn't create a majority Black district. But if you unpack that district you could create a district where the Black population, along with a coalition of other minorities, could elect a candidate of choice. So you would not necessarily have to create another majority Black district to indicate whether or not a district is packed.

Q. Thank you. That's really helpful.

A. Now I'm worried.

MR. TYSON: It's 11:45. Do you want to pause here for a minute, anybody? I would like a five-minute break if you don't mind.

MR. SAVITZKY: That's fine.

(Recess 11:45 a.m. - 11:50 a.m.)

BY MR. TYSON:

Q. Mr. Cooper, let's turn to page 36 of your report, which is your illustrative Senate plan that you drew. And in Figure 15 you've identified the three additional majority Black districts that you've created on this plan above the districts drawn by the legislature, right?

A. Yes. It's sort of hard to see in this photocopy, but yes.

Q. Just so we're on the same page, those additional majority Black districts that you drew that were not included on the legislative plans are Districts 28 in Clayton, Henry -- I'm sorry -- Clayton, Fayette, Spalding area?

A. Yeah0. I've got an error there in that particular paragraph 86. 28 is in Clayton, Fayette and Spalding and 17 is in the counties of Clayton and Henry. It's reverse. The numbers on the map are okay though.

Q. Got it. So in south metro, District 17 and District 28 are new districts. And then your eastern Black Belt, Region B, District 23 is a new majority Black district, right?

A. Yes.

Q. And you did not create any new majority Black Senate districts in Regions C or D, right?

A. I did not, because I don't think you can.

Q. And I think we said earlier District 33 in south Cobb County was the one that organically is an additional majority Black district but is not challenged in this case?

A. I believe the Senate District 33, yes.

Q. So what I wanted to do is just look at two of your statistical exhibits, the tables that go with this. So your Exhibit 01 I'm going to mark as Exhibit 11.

(Exhibit 11 marked.)

And this is the Population Summary Report for your illustrative Senate plan, right?

A. Yes.

Q. And in looking at the new districts, just to be clear, Senate District 2 still shows as less than majority on AP Black VAP on your illustrative plan, right?

A. Senate District 2 is under 50 percent Black VAP, but it is 52.01 percent -- here's another one -- non-Hispanic DOJ Black CVAP.

Q. Just for completeness, can you explain what non-Hispanic DOJ Black CVAP is?

A. It is based on the five-year American Community Survey data, special tabulation that the Census Bureau publishes in conjunction with a request from the Department of Justice on an annual basis. I think there will be a 2017 - '21 ACS out very shortly, probably in March. But for now it's the operative year 2016 - 2020. And that particular category includes all non-Hispanic persons of -- Black persons of voting age who are single race Black or single race -- or Black and white. In other words, they're of two races, and that's it. Although you can calculate it out a step further and get data on persons who are Black and Asian or Black and indigenous. So this is a conservative figure in a sense in terms of citizen voting age population. It's not in any part a Black citizen voting age population number.

Q. And your count of the number of non-Hispanic DOJ Black CVAP districts on the illustrative plan is 19, right?

A. Right.
Q. And going back to a more familiar column of AP Black VAP, you see District 33 is at 52.6 percent, right?
A. Yes.
Q. And your District 34 is at 77.84 percent Black VAP, right?
A. Yes.
Q. And that's almost three points above 75 percent Black, right?
A. Yes. That could be your District 34 though. I'm not sure. I would have to go back and look.
(Exhibit 12 marked.)
Q. We'll get to it in a minute here. What I want to look at next, I want to look at each of the new majority Black districts you've drawn and look at the county components of those districts.
So I am handing you what we've marked as Defendant's Exhibit 12, which is your Exhibit 02 from your 12/5 report. This is a report that you ran as part of your illustrative Senate districts?
A. Yes.
Q. So what I want to do is just look at District 17, Districts 23 and 28.

Let's start with District 17. Can you just briefly explain what your 02 plan components report shows about particular districts on the illustrative plan?

A. This simply shows the total population in a given county, for example, in District 17. You can see that the total population for DeKalb, voting age population for DeKalb broken out by race and ethnicity. And also in 17 a part of Henry is in there and a part of Rockdale, and then you get a bottom line total.

Q. And your District 17 is 62.55 percent AP Black VAP, right?

A. Yes.

Q. And so the portion of District 17 that's in DeKalb County, if I'm reading this report right, is 57,301 total people, right?

A. Right.

Q. And the AP Black VAP percentage of that population group is 94.94 percent, right?

A. Yes.

Q. And so the portion of District 17 that's in DeKalb County is sitting on 95 percent Black as of --

A. Yes.

Q. And the portion of Henry County that's in District 17 is 41.07 percent Black, right?
A. Yes.
Q. And the portion of Rockdale that is in District 17 is 60.15 percent white, correct?
A. Black.
Q. I'm sorry. 60.15 percent Black, right?
A. Right.
Q. And Henry County is the largest county by population in District 17, right?
A. I believe it would be, yes.
Q. And so it's correct then that in your illustrative District 17, the largest county by population is not -- the portion that's in District 17 is not majority Black, correct?
A. That is correct. It's substantially Black but not majority Black.
Q. I'm getting slightly out of order. Let's go to 28 next. And for District 28 Fayette County has the largest number of people in District 28, right?
A. Yes, just barely.
Q. And the only portion of a county that's majority Black in District 28 is Clayton County, right?

A. That would be correct.
Q. And so the portions of Fayette and Spalding that are included are not majority Black portions of those counties, right?
A. They are not. They're significant but not majority Black.
Q. In splitting Fayette County to create District 28, did you have any racial information displayed when you were drawing that district?
A. I doubt if I did because I've worked in cases in Fayette County.
Q. Good point.
A. So it's pretty clear that most of the Black population in Fayette County lives in the eastern part of the county.
Q. And most of the western part of Fayette County is heavy white, right?
A. The area around Peachtree City would be predominantly white, yes.
Q. So like in District 17, the largest county making up District 28 is not majority Black, right?
A. Going back to District 17?
Q. District 17, I think you agreed with me, that the largest county was Henry County and it was not majority Black in District 17. And my question

is that's true of District 28 as well, the largest county is not majority Black, correct?

A. That's correct. I mean it's nothing unusual about that. If you examine your plan you'll find some of the same breakouts that majority Black districts also have some majority white county portions.

Q. So let's stick with the south metro theme for a minute. Set this aside and work our way through the next few pages of your report here about south metro.

You can go to page 40, Figure 16. That's the 2021 enacted Senate District 16, right?

A. Yes.

Q. And none of that district has any part of Clayton County in District 16, correct?

A. That is correct.

Q. So moving to illustrative District 28, paragraph 99 of your report, you say in the last sentence there, in the 2021 Senate plan the BVAP in these two packed districts -- and you're referring to 16 and 34 I believe -- stands at about 70 percent. Do you see that?

A. Yes.

Q. And what methodology did you use to

determine that the neighboring districts were packed districts?

A. Well, the fact that I can produce a plan that has a neighboring district that is majority Black suggests to me that there's no reason for Clayton County districts to be 70, 80, 90 percent when you can draw perfectly reasonable districts that would allow for a new majority Black district that would include part of Clayton but also parts of Spalding and Fayette with significant Black populations.

Q. And on your illustrative District 28, you still have a district that's above 75 percent in this immediate vicinity, right, District 34?

A. You know, I'm not looking at 34. That I guess is in DeKalb County. And I would need to double-check. I was trying to preserve some of your districts, so maybe 34 is one of the districts that was -- when I say "your" I mean the enacted plan districts. There are limits to what you can accomplish just because of the one person, one vote requirement. So some districts ultimately just have to be packed as it were. It implies one person, one vote, which is kind of nonnegotiable. Well, you could have plus or minus five percent deviation for

House and Senate district, as is the case in other states. And if you did that, of course, you would probably split fewer counties, and it might be easier to go through the redistricting process. But that's neither here nor there in this case. I'm taking your range at plus or minus one percent for Senate districts to be the rule.

Q. So just to look at Figure 16 and Figure 17, you see the orange District 34 on Figure 16 includes north Fayette and part of Clayton County, and that's District 34 on the enacted plan. Do you see that?

A. Yes.

Q. And on your illustrative Senate 28, that portion of north Fayette is now in the new 28, right?

A. Right.

Q. So District 34 changes between the enacted plan and the illustrative plan, correct?

A. A good point. You've identified where 34 is. Right.

Q. And so it's your testimony that District 34 is not packed on the illustrative plan and is packed on the enacted plan?

A. Yeah. You can't just look at percentages and jump to a conclusion one way or the other. It's

clear that one can create a very reasonably shaped Senate District 28 by including parts of old 34 or -- yeah, old 34, as you drew it and the state drew it and create a new majority Black district that would include Fayette, Spalding and part of Clayton. And just knowing the percentages doesn't mean much because of the issue relating to one person, one vote.

Q. In looking at Figure 17A for your illustrative Senate 28 and vicinity, the yellow district in the right is District 44, right?

A. In my plan, yes.

Q. I'm trying not to do too much back and forth on our paper, but on the statistical list, District 44 is not a majority Black district as you've drawn it, right?

A. No, it's not.

Q. And so while District 16 is majority Black on your plan -- well, essentially you've swapped District 16 and District 44 in terms of the numbering because District 16 was not previously majority Black and now is. District 44 was previously majority Black and now is not; is that right?

A. District 44 is -- I don't know the numbers

for current District 44, the Enacted Plan 44. Numbers do change in the plans I've drawn because as districts change the geographies in the different areas change, the numbers are changing unfortunately.

Q. So we're looking at Figure 17A in the illustrative District 28. The only portion from what we looked at earlier of this district that is majority Black in one county is the Clayton County portion, right?

A. Well, what does that mean though? It's true, that that part of Clayton County is majority Black, and the areas in Fayette and Spalding had very significant Black populations. But in the area that I've included they're not majority Black. What is wrong with that?

Q. I'm just trying to understand, in paragraph 101 on the next page you reference unpacking 34 and 44 allows the creation of illustrative 28, while uncracking the surrounding Black population that is drawn into 2021 District 16. Where is the surrounding Black population drawn in the 2021 District 16 that is uncracked in your plan?

A. Where are you? I sort of lost my place.

Q. So paragraph 101, the last part of that

paragraph --
A. Oh, yes.
Q. So my question is, where is the surrounding Black population that is drawn in the 2021 District 16 that is uncracked on the illustrative plan versus the enacted plan?
A. Can I look at one of my regional maps?
Q. Sure.
A. These are zoomed-in maps and sometimes it's hard to see.
Q. If you turn back to page --
A. There's an exhibit that will have like a zoomed-out area of the Atlanta metro, and I think there I can get a better idea of where these districts are.
MR. TYSON: Why don't we go off the record for just a second.
(Off the record).
Q. So, Mr. Cooper, we've located several of the exhibits to your report, and I believe you're reviewing Exhibit P3 and P4 right now that show the metro Atlanta region under the 2021 plan and your illustrative plan; is that right.
A. It actually shows part of the south metro area -- well, it shows the south metro area

primarily.

Q. And so getting back to the question I asked before we located those maps, in paragraph 101, where is the surrounding Black population you were uncracking that had previously been drawn into 2021 Senate District 16?

A. Well, the Black population that had previously been drawn into Senate District 16 was in the majority Black city of Griffin for one place and parts of Fayette County and areas to the north of Griffin and Spalding County.

Q. And paragraph 101 specifically references Senate District 16. So it's your testimony that that is the Griffin population and some population in Fayette County?

A. I'm looking at the enacted plan, which does not include Griffin or any of the Black population on the eastern border of Fayette County except in the northeast corner in a majority Black district, which I've done with Senate District 28, along with part of Clayton County. And District 16 encompasses all of Spalding County. It's a majority white district. So you have all the Black population in Spalding County is in a majority white district.

Q. Thank you. So for your illustrative

District 28, what connections are there between the Black communities in Spalding County and the Black communities in Clayton County?

A. They're very close geographically. And I would expect that the Black community in Griffin area is perhaps a little bit older. It's a smaller town. It's not as urban but certainly there are connections. I mean it's almost no distance at all between Griffin and southern Clayton County.

Q. So in creating illustrative District 28 what traditional redistricting principles did you apply to its creation?

A. I tried to keep voting district precincts whole and was able to combine communities that clearly have connections, because they're right next door to one another, into a majority Black district that includes Fayetteville and southern Clayton County and the majority Black city of Griffin in Spalding County.

Q. Is there a community of interest between southern Fayette County and Clayton County?

A. Southern Fayette County is a little more rural. Clayton County is more urbanized, so there is that factor. But, again, those districts were packed with Black voters. And I think that the

Black community in Clayton County would approve of the creation of a second district, even though they're going to be shifted into another district as opposed to District 34 that they're currently in.

Q. And what is the basis for your belief that the Black community in Clayton County would be fine being split into another district?

A. Well, I guess we'll hear that from the Plaintiffs. That's my belief, and if I'm wrong, then I apologize.

Q. If the Black community in Clayton County did not want to be included in the district that includes Spalding County, would you still think that tis district showed a geographically compact Black community?

A. Yes. If you can prove the Black community wants nothing to do with the new majority Black district in south metro Atlanta, then it's a factor to consider. I've heard nothing of the sort though.

Q. And in preparing your illustrative plan did you review any of the public testimony from individuals about the Georgia redistricting plans?

A. I did not review that testimony. It's voluminous, right. Lots of different opinions no doubt.

Q. Have you reviewed Mr. Morgan's report that indicated that the portion of Fayette County that you put into District 39 is essentially equal population to the portion of Spalding County in illustrative 28?

A. Is 39 -- 39 is the area around Peachtree City?

Q. Yes.

A. I think I read something to that be effect, yes.

Q. And do you agree with his conclusion that if you made Fayette County whole in District 28 and removed the Spalding County portion that the district would be below majority Black status?

A. I have not attempted to analyze that conclusion by Mr. Morgan, but I don't think it means a whole lot.

Q. When you split Fayette County and included Peachtree City in District 39 on illustrative 28, you were aware that you were taking a heavily white portion of Fayette County into District 39, right?

A. I was aware that white majority -- there is some transition going on though in Fayette County. So I don't know the underlying demographics of that particular chunk. I guess it's in my declaration

1 though, in the tables. We just kind of reviewed
2 them a moment ago.
3 Q. I believe you testified earlier you are
4 familiar with the demographics of Fayette County,
5 right?
6 A. Well, just generally speaking because of my
7 involvement in the Fayette County lawsuit back in
8 the early part of the decade, the one that stretched
9 into 2014, 2015 actually.
10 Q. On this plan, your illustrative 16 also
11 runs from northern Clayton County down into the very
12 southern part of Spalding County, right?
13 A. It does.
14 Q. Did you identify a community of interest
15 between northern Clayton County and the rural part
16 of Spalding County that you've included in it?
17 A. Again, it is my belief that the
18 African-American community in Clayton County, even
19 though it's somewhat more urbanized, would not mind
20 being in a second majority Black senate district in
21 Clayton, Henry and Griffin County. Henry is
22 suburban, and so it fits well with either one of
23 those two. It's an in-between area.
24 I mean you've got lots of vertical
25 districts in your plan. This is not particularly

1 vertical, but it does extend from southern Spalding
2 County into Clayton County in the north end.
3 Q. And you would agree that both District 28
4 and District 16 on the illustrative plan connect
5 more urban population with more rural population,
6 right?
7 A. Or ex-urban, yeah. The extreme southern
8 part of Spalding County is getting more rural.
9 That's just going to happen. I mean these are
10 Senate districts.
11 You've included parts of Fayette County
12 that are high income around Peachtree City with Pike
13 and Lamar Counties that are much more rural in
14 District 16 and very, very different in terms of
15 income, education, workforce participation. So,
16 again, because of that there should not be a problem
17 with my taking one more step and creating a second
18 -- well, in this case it would be a second of three
19 majority Black Senate districts in that part of the
20 state.
21 Q. Would you categorize the portion of Fayette
22 County that's currently an enacted Senate District
23 16 as a suburban area of Fayette County?
24 A. Suburban, ex-urban, yeah. Some rural.
25 Q. And you would categorize Spalding, Pike and

Lamar as rural counties?
A. I would say they're ex-urban. They're part of the Atlanta MSA, so the Census Bureau determines their commonalities there that place them in the same MSA as downtown Atlanta.
Q. And then your split of Griffin on illustrative 28 is along the city boundaries; is that correct?
A. I believe so. No problem with that, is there?
Q. Do you know if that corresponds to the voting precincts in Spalding County?
A. I would have to check the table. But I think that if you're splitting along municipal lines, even though it's important to be aware of VTDs and precincts, they do change. They're constantly changing in Georgia. So I don't know right off the top of my head whether there is a split of the VTD or not. Can we check? We can look and see. I'm sort of curious now.
Q. You can't really tell on the map either.
A. Well, let's check.
Q. Okay, where would we check?
A. What is the plan components of the illustrative Senate plan?

Q. Is that Exhibit 02 that we had --
A. Isn't it broken out by VTD?
MR. TYSON: Let's go off the record for just a second.
(Off the record).
BY MR. TYSON:
Q. Mr. Cooper, during the break we just confirmed that I don't think either of us believe there is a split of a precinct in this Griffin area, that there may be a precinct split in a different part of Spalding County.
A. And it could relate strictly to staying within the plus or minus one percent. I don't know that to be a fact, but perhaps that is the reason.
Q. So let's go to District 17. So your discussion on that begins on page 43. From the bottom of 44 over to the top of 45 in paragraph 103 you criticize enacted 17 for splitting multiple counties as it extends out to Morgan County. Do you see that?
A. It extends out to Morgan and up to Walton in kind of a circular fashion.
Q. And you also criticize in here Districts 10 and 43 for being districts that are packed, right?
A. Where do you see that? I don't doubt that

I might have, but what paragraph is that?
Q. It's the last paragraph of paragraph 103 before paragraph 104.
A. Okay.
Q. So you criticize Districts 10 and 43 for being packed?
A. Yes. They're BVAPs of 70 and 65 percent respectively.
Q. Illustrative District 10 though -- Senate District 10 is still almost 70 percent. It's at 69.76 percent, right?
A. You can only go unpacking so far. Let's be clear. It's easy to think of packing and unpacking in metro Atlanta by just taking into account the congressional districts and the percentages that are Black in those congressional districts in the Atlanta area, and they're all in the 50s. And, in fact, if you go further south even into the rural areas they're around 45. Representative Bishop's district is actually now under 50 percent Black VAP, and it's in the southwest part of the state.
So there is no need in Georgia -- I'm not talking about other states -- to have districts that are 70 and higher if you can avoid that within the context of adhering to traditional redistricting

principles, which I believe I've successfully done. You don't, but so be it.

Q. So in paragraph 103, when you're saying Districts 10 and 43 are packed, it's not the percentage of BVAP alone that is telling you that those districts are packed or not in your estimation, right?

A. That's right. There are situations where geography and population just make it impossible to reduce Black populations that are as high as 70 percent.

Q. And so turning over to the next page, to paragraph 105, when you say that you unpacked Districts 10 and 43, again, you're not referring to the Black VAP percentage because Senate District 10 percentage is still around 70 percent, right?

A. I'm not looking at the actual percentages, but it would be possible to move some people out of Senate District 10 or other Senate district; and then to comply with one person, one vote, shift other population in that would end up taking you back where you were; but the adjacent population would have been shifted into a new majority Black district.

Q. But specifically on the illustrative plan

you didn't do that; you drew a District 10 that is still at 69.76 percent, right?

A. I'm not looking at the numbers but -- is that in my declaration?

Q. That is in Exhibit 01 of your declaration.

A. Senate District 10 is 69.76.

Q. So just to clarify, when you reference in paragraph 105 unpacking Senate Districts 10 and 43, that's not referring only to the Black voting age population percentage of Senate District 10, right?

A. Well, it's also referring to 43, which I do think was reduced, right? What's the Black VAP in District 43 under the enacted plan?

Q. I believe that one does go down from the enacted plan to the illustrative plan.

A. So perhaps I should have phrased the paragraph with a little more clarity, because really 10 doesn't go down much but 43 did.

Q. Okay. Thank you.

A. If you take the two together, there is a fairly significant change.

Q. In Senate District 17, illustrative 17 includes portions of DeKalb, Rockdale and Henry -- Never mind. We've already covered that question.

In looking at Figure 17D on page 46 that

shows the illustrative Senate 17, where is the geographically compact Black community in illustrative District 17?

A. Well, it's in Henry, Rockdale and part of DeKalb. The distance between McDonough in the south end of 17 and the north end of the district in DeKalb is not much distance at all. It's compact by any measure visually or using a Reock and Pope.

Q. So it's your testimony that the geographically compact minority community in District 17 is kind of in the entirety of District 17, DeKalb, Rockdale and Henry Counties?

A. There's a significant portion in DeKalb, for sure. But, again, with minor modifications, one can draw a new district that includes Rockdale and Henry. And some of that population, a large piece of it, maybe not 50 percent, is Black. And presently they are in districts like District 17 that stretches out into the hinterlands, almost to South Carolina. I'm exaggerating, of course. It's not exactly compact.

Q. Speaking of stretching to South Carolina, you should check out Senate District 24 on the 2001 Georgia Senate Plan. That one ran from Griffin to South Carolina.

A. You know, in that appendix, that I really haven't spent a lot of time on, there's some strange-looking districts down there in that part of the state. But that was a 2001 plan you're talking about. 2006 wasn't much better, but it may have fixed that problem. That's pretty amazing.

Q. So paragraph 106, picking up on the theme you just mentioned, you criticize the 2021 plan for repeatedly cracking the growing and diversifying south metro region by submerging it in districts that stretch out into more rural outlying counties in the outer ring of the Atlanta MSA and beyond. Do you see that?

A. Yes.

Q. And you would agree that some of your illustrative districts, like District 16 that we looked at, stretched from an urban area into a more rural area, too, right?

A. You mean district -- Yes. It's not quite as extreme because Spalding County is in the Atlanta MSA, but it does include a more urban population up in Clayton with a more suburban-rural area in Spalding County, a small town, Griffin.

Q. And you would agree that Walton County is also in the Atlanta MSA, right?

A. Is it? I would have to check.
Q. I'll hand you what's marked as Exhibit 7, which is Exhibit C. Walton and Morgan Counties are also in the Atlanta MSA, right?
A. Yes.
Q. And so enacted District 17 still stays within the Atlanta MSA even though it includes Walton and Morgan Counties, right?
A. Yes. Do you have a bigger -- I need to look at enacted District 17 though.
Q. Page 44, Figure 17C will show you the borders of it.
A. Okay. That's still in Atlanta MSA, okay, as is 17, as I've drawn it. But you will agree that Morgan County is rather rural as well, right?
Q. I would consider Spalding and Morgan to be pretty rural counties.
A. But Henry County would be ex-urban and suburban.
MR. TYSON: Why don't we go off the record for just a second.
(Recess 12:38 p.m. - 1:17 p.m.)
Q. Mr. Cooper, we're going to turn next to Senate District 23. And before we get to 23, on Figure 18 on page 49, Senate District 22 is wholly

within Richmond County on the enacted plan, right?
A. Yes.
Q. In paragraph 108 below that map, you say that you can draw an additional district by unpacking the Black population in Senate District 22 and Senate District 26. Do you see that?
A. Yes.
Q. So you believe that Senate District 22 is packed on the enacted plan?
A. Yes, I do. Maybe I should just have access to my table of districts and population breakdown and one person, one vote deviations so that I can refer to that as we're looking at these maps.
MR. TYSON: Let's go off the record for a second.0.
(Off-the-record discussion).
(Exhibit 13 marked.)
Q. So, Mr. Cooper, I've handed you Exhibit M1 from your maps. And so now we have that as exhibit -- we've marked it as Exhibit 13. And that is the Population Summary for the Enacted State Senate Plan, right?
A. Right.
Q. So in looking at that population summary report you can see District 22 is about 56.5 percent

AP Black VAP, right, on the enacted plan?
A. Right.
Q. And in the illustrative plan you've lowered Senate District 22 to 50.36 percent AP Black VAP, right?
A. It is 50.36.
Q. And it's also underpopulated by minus 0.9?
A. It is underpopulated. It's within plus or minus one percent, but it is minus 0.92 percent.
Q. And in looking at page 50 of your report -- if you want to set those tables to the side maybe just for a minute.
Page 50 of your report, Figure 19A shows that you've taken Senate District 22 from its position wholly in Richmond County and you've added Warren, McDuffie and Glascock Counties into Senate 22, right?
A. Right.
Q. And in doing that you have essentially freed up some Black population in Richmond County to now go into Senate District 23 on the illustrative plan, right?
A. That's true.
Q. And so you end up then with a Senate 22 that's 50.36 percent AP Black VAP and then your

1 illustrative Senate District 23 is only 50.21
2 percent AP Black VAP, right?
3 A. Right. It might be a little bit higher on
4 CVAP. I'm not really looking at that.
5 Q. So in looking at illustrative District 23,
6 it includes counties both from your Region B and
7 from Region D, right?
8 A. That is true.
9 Q. And it includes counties that are located
10 in the -- I'm sorry. It includes counties that are
11 outside of the central Savannah River area regional
12 commission, correct?
13 A. Yes. The counties of Wilkinson and Baldwin
14 and Twiggs are in middle Georgia.
15 Q. So if you were looking at these particular
16 regions, why then does illustrative District 23
17 cross regions to create this new majority Black
18 district?
19 A. Well, the regions are informative and
20 instructive, but they're not cast in stone. You can
21 certainly cross regions, as your plan does. As I've
22 mentioned previously, I think, I've got fewer
23 splints of the regional planning districts than in
24 the enacted plan. Very close, but there's a three
25 or four commission difference in terms of the

splits.

Q. But you would agree that District 23 does cross regional commission boundaries, right?

A. It does. But it's also adding in districts that have been identified as part of the Black Belt, Baldwin and Twiggs specifically and probably Wilkinson, too.

Q. So you've separated in this plan Hancock and Warren Counties. Are there differences between those counties that led you to separate them?

A. Well, they're separated, but it's conceivable they could be put in district -- one could be put in 23. It's not dramatically different. So it would fit into District 23. But to do so would have created an issue with one person, one vote, I think. It would also not have been quite as reasonably shaped.

Q. In your division of Wilkes County, I believe you said is along County Commission boundaries; is that right?

A. That's correct. I just followed the boundaries established by Wilkes County as recently as this time last year.

Q. And you would agree that that split divided the city of Washington, Georgia, right?

A. It did. It did, between two different commission districts.

Q. Looking at Figure 19B on page 51 --

A. Let me back up. It does not divide -- the illustrative District 23 follows commission lines except that once it reaches the town of Washington on the southwest side it just follows the town boundaries. So it's not like people aren't going to be able to figure out which district they're in.

Q. And so you didn't follow the commission boundaries on that western side of Washington, but you followed the city boundaries in the split?

A. Yes. They're more permanent probably than commission boundaries -- although annexations are common in Georgia, so that may not hold.

Q. Do you know the racial impact of following the boundary line you followed in the split of the city of Washington?

A. Not off the top of my head, no.

Q. So in looking back at Figure 19A in illustrative Senate District 23, what is the community of interest between Richmond County and Twiggs County?

A. Both counties are part of the Black Belt. Richmond County, of course, is a consolidated city,

right, except for one little extension that is predominantly white, I think, in sort of the mid section of the county; a small town.

But the connection is that this entire area is part of the Black Belt; and although Twiggs is not far from Macon, it's not so distant from Augusta that one could not find commonalities between the Black population in Twiggs and the Black population in Augusta.

Q. And you would agree Twiggs is one county over from the city of Macon, right?

A. That's right.

Q. Do you know what route you would take to drive from Twiggs County to Augusta?

A. I don't have Google Maps up right now, but you could get there one way or another. I think there's a primary road there. I'm sure there is. But you might have to go a little further north towards Baldwin to get to it.

Q. How did you determine that the Black community in Augusta is connected with the Black community in Milledgeville?

A. Again, it's part of the Black Belt. It's in an area that's not that far apart. And so if there is an issue there, I would have been advised

by now by the Plaintiffs and their fellow citizens, I think, would have alerted them to the fact that for whatever reason it would be a bad idea to combine part of Richmond County with Baldwin County.

Q. And so you're relying on them not advising you that was a problem to believe there's a connection?

A. Right. Can you tell me why that's not okay? Senate districts have a lot of people in them, you know. And these are small rural counties. Even parts of Richmond County are rural. So it's not surprising that it covers a larger -- a fairly large geographic area, as do your districts in the enacted plan.

For example, District 23 in your plan -- I'm sorry. I don't want to blame you for anything related to the enacted plan -- not that all of it is bad. But the enacted plan combines Taliaferro -- you taught me how to say that -- it extends from Taliaferro to Screven County -- well, Screven County is in the costal planning district, right. Yeah. So you've crossed a line there. And Emanuel is, I think, also in -- Let me see the regional commission if I could.

MR. SAVITZKY: It's right here, Exhibit

10.

BY MR. TYSON:

Q. So, Mr. Cooper, you're looking at Exhibit 10, the Regional Commission Map?

A. I'm looking at the enacted Senate District 23. And it extends into Screven County, which is in costal Georgia. It extends into Emanuel County, which is in heart of Georgia. And I guess that would be the extent of the area that crosses over into another commission area; so costal Georgia and heart of Georgia. So the fact that the illustrative plan extends into middle Georgia is a fact. I mean I did that, but you've done it. You've done it in two places and I just did it in one.

Q. Do you have any evidence that the General Assembly relied on the boundaries of a regional commission district in creating the Senate plan?

A. I don't, but they probably should have at least thought about it. I mean they're politicians and so they have some understanding of the areas they serve. So I would think that might have been a factor in some ways -- could have been.

Q. And you would agree that legislators have an understanding of the area that they're severing

and the connections between those parts of the state?

MR. SAVITZKY: Objection. Calls for speculation. You can answer.

A. I mean it's a perception, and I'm sure they think they do. I don't dispute that.

Q. So, Mr. Cooper, looking at illustrative District 23, can you tell me where the geographically compact Black community is in this Senate district?

A. Well, almost all of these counties have significant Black populations. And so there's areas that are more densely populated, like around Augusta. And then beyond that most of these are more rural counties, and so the population would be less densely distributed.

Q. So before we leave the illustrative Senate plan, in paragraph 116 of your report you note that you split one fewer county on the illustrative Senate plan than is on the enacted plan; is that right?

A. That is correct, unless I've miscounted.

Q. Let me get Mr. Morgan's report, Exhibit Number 9. Could you take Exhibit Number 9 and turn with me to page 21 of Mr. Morgan's report?

A. Yes.
Q. And this is a chart showing counties that were split in the enacted Senate plan that was made whole in the illustrative Senate plan, correct?
A. There is no title to it. There is Chart 4 -- oh, on page 20?
Q. Starting on page 20 on to page 21.
A. They're consistently splitting the same counties until we get to 21. And I have kept Clark, Coffee, Columbia, Jackson and Newton whole and split Monroe, Rockdale, Spalding and Wilkes.
Q. So what I want to ask is, Clark County is not close to Senate District 17, 23 or 28 on the illustrative plan, right?
A. What do you mean? What do you mean it's not close?
Q. Let me hand you our county maps, which we've marked as Exhibit 7.
A. I know where it is, but I don't really understand the question.
Q. Let me ask it this way. Was un-splitting Clark County necessary to the creation of illustrative Senate District 23?
A. Not to draw illustrative District 23. But it was important to try to keep it whole if I could,

and I did.

Q. So you made a change to the enacted plan in Clark County on your illustrative plan with the goal of making the counties whole but unrelated to the creation of the new Black majority district?

A. I think so. I don't think deviation would come into play there. The shape of the districts comes into play, so there could have been any number of factors. And certainly you could maintain that all of my illustrative districts, the Plaintiffs' plan, and split Clark County should you wish to do so. That can be done.

Q. So staying with the same area, making Jackson County whole was also not part of the effort to create Senate Districts 17, 23 or 28 as majority Black districts, right?

A. That is true.

Q. And Coffee County down in south Georgia, you making it whole was not related to your efforts to make Senate District 17, 23 or 28 majority Black, right?

A. Probably not. Again, there is a ripple effect with these Senate districts, and deviation is in play. And I'm also worried about, in some instances, protecting the incumbents because I've

1 changed the district but still want to make sure
2 that the incumbent is assigned to the district
3 that's been changed, if possible, without pairing
4 incumbents. So all of those factors come into play.
5 And I frankly don't recall the sequence of events
6 that would have led me specifically to make Clark
7 County whole or make Coffee County whole, because
8 there were incumbents -- and, again, I'm using the
9 January '22 data set that we got from you guys. And
10 I have not attempted to take into account the
11 November '22 election results and the residences of
12 the incumbents under that scenario. And so other
13 things could change clearly to take that into
14 account in the next illustrative plan, should there
15 be one.
16 Q. And you would agree with me that of the
17 five counties that you unsplit on the illustrative
18 plan, all of those counties are not majority Black,
19 right?
20 A. Well, they're not majority Black voting
21 age. Newton County is almost 50 percent. It's
22 49.7. Columbia is 20.8. Coffee and Clark, there's
23 a significant Black population in those two
24 counties. It's 26.2 for Clark and 29.2 for Coffee.
25 The only one that is overwhelmingly white really is

Jackson County in the north.

Q. We can set that aside for the moment. You can set Mr. Morgan's report aside. You might want to hold onto the map for just a second.

A. Okay.

Q. Going to paragraph 119 of your report, you talk about regional splits.

A. Yes.

Q. And you run this based on the regional commissions that we've discussed and also the 39 federally-designated core-based statistical areas in Georgia; is that right?

A. Right.

Q. So is the map of the MSAs and other geography that we have, I believe, as Exhibit 7, the map of the core-based statistical areas in Georgia?

A. Yes. This map shows both MSAs, Metropolitan Statistical Areas, which have populations that are greater than 50,000 in the combined counties they cover, but it also includes smaller counties with populations of 10,000 and above. Those are called micropolitan statistical areas.

So I think there are 10 or 12 MSAs and maybe more than that in terms of micropolitan

statistical areas. The micropolitan statistical areas are light green. And then, as I have mentioned I think maybe off the record, there are consolidated statistical areas which would combine say contiguous Athens-Clarke MSA with the Atlanta MSA which is now suddenly become -- not suddenly, but it's now Atlanta, Sandy Springs, Alpharetta. I believe that was changed maybe as recently as four or five years ago. But the whole thing is a consolidated statistical area, the Athens, Clarke and Atlanta MSA.

Q. So just so the record is clear in terms of what a divided CBSA is, looking at the Augusta-Richmond County area there, do you see that MSA?

A. Yes.

Q. So if Lincoln County was in a different district than McDuffie, Columbia, Richmond and Burke Counties, that would be considered a divided CBSA, right?

A. Yes.

Q. And if Gainesville -- I guess that's a MSA. If Hall County was in more than one district, but wholly within Hall County, would that be a divided CBSA or not?

A. Hall County is in the Atlanta MSA.
Q. Oh, I see. Let me go to a different one. You see the Fitzgerald --
A. Wait a minute. I take that back. It does look like there is a separate MSA for Gainesville. Is that possible? I guess there is. I mean it's a pretty populous county.
So what was your question about Hall County?
Q. Let me go to a different area that's easier to look at. Let's go down to the far southwest corner of the state. Do you see the Bainbridge micropolitan statistical area?
A. Yes.
Q. If Decatur County was divided into more than one district, that would also be counted as a divided CBSA on your Figure 22 in your report?
A. Right. That's true. So you can see that the Plaintiffs' illustrative plan is superior across regional commission lines, across core-based statistical areas, and just in terms of the unique district CBS numbers, so that it's higher -- Lower is better in all three categories. And so the illustrative Senate splits 83 regional commissions. The 2021 Senate splits 89. And there are 23 splits

of whole CBSAs versus 20. So actually in terms of whole CBSAs, the higher number is better. And then when you get to the CBSA splits, there are fewer CBS splits, 72 to 79. So better across all three categories.

Q. We discussed you considering regional commissions as you drew the plan. Did you also consider CBSAs as you drew the illustrative Senate plan?

A. Yes. I mean obviously you're going to end up splitting things. But I was looking at those lines.

Q. Do you have any evidence that the legislature was looking at the CBSAs when drawing the enacted Senate plan?

A. I don't. But, again, implicit in the legislature, I think, would be some knowledge of the counties that are part of their MSA or smaller micropolitans maybe. Maybe not. I guess it just depends on the individual legislator. This is sort of getting into the weeds of boundaries.

Q. Did you look at any other jurisdictional boundary splits while you were preparing this report?

A. Well, I looked at county splits and I

1 looked at municipal splits.
2 Q. Actually, let me do it this way. Aside
3 from county splits, municipal splits, regional
4 commission splits and CBSA splits, did you look at
5 any other jurisdictional splits when you were
6 working on this report?
7 A. Yes. Municipalities.
8 Q. And I was excluding municipalities.
9 A. Oh, I'm sorry. Okay. Well, the VTDs. The
10 illustrative plan has fewer VTDs.
11 Q. Let me ask a better question. Is there any
12 jurisdictional split analysis you conducted
13 comparing the illustrative plan to the enacted plan
14 that you did not include the results of in your
15 report.
16 A. I don't think so, maybe because I couldn't
17 think of another angle to take into consideration.
18 Q. Going to paragraph 121. We're on the home
19 stretch of the Senate plan here.
20 You say that the illustrative plan modifies
21 35 of the 56 districts in the enacted plan.
22 Correct?
23 A. Correct.
24 Q. And that's more than half of all the
25 districts, right?

A. Correct; however, you can still maintain these illustrative districts that I've drawn that are new majority Black districts with fewer modifications to the enacted plan districts. It would, however, result in more splits in some of the other counties involved. So there's a trade-off there. I opted for looking at this in terms of pure traditional redistricting principles, and that would be not to worry so much about core retention and think more about county splits and MSA splits and regional commission splits which are more permanent.

Q. So it's correct that you have not created a plan that includes majority Blacks in Districts 17, 23 and 28 that modifies fewer districts than 35, right?

A. At some point I did, but it also had more county splits. And so I made a decision to reduce the county splits at the expense of maintaining what are often just ephemeral enacted plan districts that you guys changed even in mid decade, like you did in 2015 and 2014. So they are very volatile in terms of their lines, whereas county lines in Georgia and even the regional commission lines are unlikely to change.

Q. In paragraph 122, the illustrative plan has

three districts where incumbent complex may exist; is that right?

A. 122?

Q. Yes.

A. Four, five and 35 based on the information that I got from the Plaintiffs' attorneys, right. I just geocoded it. And it would be unofficial in a sense because it's not from you guys.

Q. And when you say you just geocoded it, you didn't rely on the Maptitude incumbent report; you relied on your review of a layer of geocoded data?

A. Well, I geocoded data and I did -- well, I mean it was just obvious. I don't think I printed out the report, but I examined it and there was three incumbent pairings.

Q. And in the last sentence there when you say you analyzed incumbent information following the November 2022 election pursuant to the 2021 House plan, that's really the 2021 Senate plan, right?

A. Yes. Sorry about that.

Q. No problem.

So next we have a section on the American Community Survey, right?

A. Yes.

Q. So just a few questions on these.

Paragraph 125, you compare the labor force participation rates in Fayette, Spalding and Clayton Counties, right?

A. Yes.

Q. Did you compare the labor force participation rates in any of the other districts aside from Senate District 28 on the illustrative plan?

A. On the illustrative plan I did not do that. Although, you can quickly get that information just by going into CDs. That kind of analysis could just go on forever. This is just an example to show that there are similarities in District 28, even though Clayton County is fairly urban and Spalding less so.

Q. And did you look at, for example, the number of bachelor degree, the rate of that for Fayette, Spalding, and Clayton Counties?

A. I did not report it. I believe that -- I would have to look at the data. Fayette County has very high socioeconomic statistics. In fact, it -- and I'm talking about the Black population here. It outscores the white population in many, many of the other counties in the state. It's high income, suburban, ex-urban Black population.

Q. Is it a distinct --

A. It's not entirely high income, but there is a significant population there around the airport area and south that socioeconomically are in good shape.

Q. And you would say that's kind of a unique community of Black population in Georgia?

A. Well, it's obviously different than say southwest Georgia.

Q. So as I understand it, you might have looked at the bachelor degree or higher kind of educational attainment for Fayette, Spalding and Clayton, but you didn't report it here, right?

A. Well, I don't know if I -- I mean I looked through some of the county level ACS stats. And I don't recall whether I looked at that particular variable or not.

I think if you do look at those charts you'll see above all it demonstrates that there are disparities between Blacks and whites across the state in almost every county. White Georgians outpace Black Georgians across most socioeconomic variables, but there are some exceptions.

Q. In paragraph 129 you talk about the poverty line, the incomes below the poverty line in illustrative Senate District 23. Do you see that?

A. Yes.
Q. Did you review or report the labor force participation rate for the counties in District 23 on the illustrative plan?
A. No, I did not report that. I think that one would see that the labor force participation rates are lower in those rural counties of Senate District 23.
Q. Lower than the rate in Richmond County?
A. Probably a little bit lower than Richmond and certainly lower than the south metro counties we've been discussing.
Q. Did you review the --
A. But I can't say much beyond that -- and probably shouldn't even say that -- because I'm not looking at the CD. There are like thousands of charts and so have at it if you want to take a look.
Q. I guess what I'm asking is, you look at each of the new districts that you've drawn using a different metric from the ACS data.
A. Yeah. I was not necessarily cherry picking. I didn't have time to really go through and compare and contrast, so I just selected a couple that I caught hurriedly.
Q. Did you conduct this analysis of the ACS

data after the districts were drawn or before?

A. The actual documentation, after. But there are some things that I knew without even accessing the charts. I knew that Senate District 23 would be significantly poorer than say Senate District 28. And I knew that Senate District 28 would be much better off financially, the African-American population and the white population, than say Senate District 12. Of course, that's already there. It's the enacted plan. But that's where I drew the new House district -- so the things that I knew that I did not necessarily need in terms of drawing the plan.

Q. And this ACS data, you can't display it by any particular method on Maptitude while you're drawing maps, right?

A. You could. You could.

Q. Did you?

A. I did not. I think really it's better to look at county level data. There is less of a margin of error.

Q. And to be clear, when you're talking about these various districts, you're not looking below the county layer to any split counties; you're looking only in total county rates, right?

A. Correct. I will say that next year you'll be able to get a breakout of the present enacted plan in the ACS by the enacted Senate and House districts. That's reported starting next year, I believe, with the -- I guess it would be the 2018 - 2022 ACS. But then I wouldn't be able to take that apart and look at the illustrative plan, because it's not an enacted plan so the Census Bureau is not going to run that analysis.

Q. Understood.

We're going to move to the House map. Do you want a break or keep on going?

A. I don't care.

Q. Okay. We'll plow ahead into the House.

So let's begin in the same place. We start with a number of majority Black districts. And you would agree that from Figure 23 on page 59 that when you apply the 2020 census numbers to the prior House district plan there were 47 majority Black districts, right?

A. Yes.

Q. And the 2021 enacted House plan increased that number of majority Black districts by two, to 49, right?

A. Yes.

Q. And those two additional districts I guess were in metro Atlanta because that number of districts that were majority Black increased from 31 to 33, right?

A. Right.

Q. And looking at Figure 24 on the next page, again the 2006 plan in this scenario was the court-drawn plan following the Larios litigation, right?

A. Yes.

Q. In comparing the 2006 plan to the 2021 plan, there is an increase in the percentage of state-wide Black VAP in majority Black districts and a decrease in the number of non-Hispanic white VAP in majority white districts, right?

A. Yes. Well, the 1990's benchmark plan had 48.81 and the court-drawn 2006 plan was 44.6, the Black VAP living in a majority Black district. So it was about the same.

And then, as you say, the white population percentage living in majority white districts dropped from over 90 percent to 83 percent.

Q. And from your analysis that's a good thing, right, the drop from 2006 to 2021?

A. Well, it does suggest or indicate that the

1 districts were becoming more racially diverse. It
2 doesn't really show up as necessarily a positive
3 impact on Black population, but it did in fact
4 result in eight additional majority Black districts
5 compared to the 1990's plan, which was based on
6 1990's data initially. And so I imagine that by
7 2000 there was a lot of under-population deviation
8 issues that resulted in there being so few majority
9 Black districts based on the 2000 census that had
10 been drawn during the 1990s, not to mention all the
11 litigation-changed districts. Who knows what was
12 going on.
13 Q. Just so I'm clear, when we looked at this
14 same chart for the Senate you said that it was a
15 very bad thing that the percentage of Black VAP in
16 majority Black districts had barely moved from 2006
17 to 2021. So you think it was a good thing that it
18 moved by seven points between 2006 and 2021 in the
19 House plan, right?
20 A. It's an improvement in that regard, yes.
21 In the 2006 plan there were 45 districts and in the
22 2021 plan -- 45 majority Black districts -- and in
23 the 2021 plan there are 49. But as I've shown with
24 the illustrative House plan, we could have added
25 four more.

Q. So just a quick question on page 61 for the Figure 25, the 2015 benchmark plan, that's the same Regions A, B, C and D as you had on the Senate plan, right?

A. Yes.

Q. So let's get into the illustrative plan, which begins on page 64. And this plan increases the number of majority Black districts on the House plan by five over the enacted plan, right?

A. Yes.

Q. And on the illustrative plan, paragraph 152, you have a reference to 67 districts that are majority B plus L plus A CVAP. What does that refer to?

A. Those are districts that are majority non-white; in other words, Black plus Latino plus Asian citizen voting age population.

Q. So we discussed earlier you have in paragraph 153 your five additional districts. And your preliminary injunction plan also had five new districts but only described four of them in the report. Do you recall that?

A. Yes, I do.

Q. And so in comparing the PI plan to the illustrative plan, both still have 54 majority Black

1 districts, but it's one fewer in metro Atlanta and
2 one more in Macon when looking at the two plans,
3 right?
4 A. Yes. I believe the additional majority
5 Black district in the second illustrative plan that
6 I drew for the PI hearing did have a majority Black
7 House District 111 or maybe 115 that was partly in
8 Gwinnett, partly in Henry or something like that.
9 That was the area that had the additional Black
10 majority district.
11 Q. So while both the PI map and this map are
12 basically plus five on the majority Black districts,
13 only four of the districts between the two plans are
14 in generally the same territory, right?
15 A. That's true, because I added the new House
16 District 145 majority Black, potential new House
17 district that is Macon/Bibb.
18 Q. When you were adding the district in
19 Macon/Bibb did you rely on any racial data to make
20 the determination of if that district could be drawn
21 there?
22 A. Well, I knew that the Senate district had
23 been drawn in that general area. So one-third of a
24 Senate district is basically a House district, so
25 for that reason I thought it could be accomplished.

Q. And the reason why that wasn't included on your PI plan was because you didn't have enough time to do that analysis at that point?

A. It was an oversight on my part. I should have looked at it more closely.

Q. Do you believe there might be other districts you overlooked in your design of the illustrative plan?

A. Quite possible. I mean you can spend a lot of time looking at things. At some point you just have to go with what you've got. You know, just making the least little change can then ripple across a dozen more counties. So at this point that's all that I've prepared, just those five districts.

Q. Let's move to some specific districts. So the first area you look at beginning on page 67 is the south metro Atlanta region, correct?

A. Yes.

Q. And you indicate in paragraph 163 that you unpacked Black population in adjacent House District 78 and uncracked Black population in House District 74. Do you see that?

A. Yes.

Q. Looking at Figure 28 there above that

paragraph, where is the Black population that was uncracked in House District 74 on the enacted plan?

A. The population that was uncracked was in Henry County and part of Spalding County.

Q. And so is the area in Spalding County that was uncracked the area around Sunnyside or --

A. Well, it's the area -- all of that area in the north end was -- in the House plan is merged into majority white House District 74. And so I removed some of that population that is in the south end of Spalding County and added part of Clayton County to create House District 74, a very compact district. It's reasonably shaped and covers a much smaller land area than the enacted House District 74.

Q. I think you might have just said this, but essentially 74 moves completely out of Fayette County and goes into Clayton County, right?

A. Yes.

Q. You also mentioned that you had unpacked District 78 as part of creating illustrative 64, right -- I mean 74, right?

A. That I uncracked?

Q. Unpacked House District 78.

A. Oh, House District 78. Yes, that changed.

(Exhibit 14 marked.)

Q. Let me hand you what we've marked as Exhibit 14. Is this the population summary for the illustrative House plan?

A. Yes.

Q. So in looking at House District 78 on the illustrative plan, that district is at 65.54 percent AP Black, right?

A. Right.

Q. And it was previously, according to paragraph 163, 71.58 percent Black VAP, correct?

A. Which?

Q. House District 78. You reference that in paragraph 163 on the enacted plan.

A. 163?

Q. Yes.

A. Yes, 71.5.

Q. And so is the decrease of about six points of Black population what you did to unpack House District 78?

A. No. I was just not looking at percentages that closely. So it changed District 78, but -- I'm using this term "cracking" and "packing" way too loosely. It's a shorthand just to say that population was moved. And I probably should choose

different words.

Q. And so in saying that House District 78 was packed, it's not the percentage BVAP that's leading you to that conclusion ultimately?

A. Clearly -- I don't have the numbers for House District 78 in front of me. It's 71.58 percent, so that is high. We know that African-Americans are elected to U.S. Congress in districts that are in the low 50s from those five poor counties of Atlanta. So, yes, I think it's packed.

MR. SAVITZKY: Mr. Tyson, can we give Mr. Cooper a copy of his Z1, which is the same report for the enacted plan?

MR. TYSON: Sure.

(Exhibit 15 marked.)

BY MR. COOPER:

Q. Mr. Cooper, your Z1 is Exhibit 15. So that way you'll have both sets.

A. That will help. What was your question now?

Q. So you were saying you felt 71.58 percent BVAP was packed at least in part because members of Congress can be elected in Georgia from districts in the low 50s, who are Black candidates of choice,

right?
A. Well, that's an indicator. I mean it will vary from one county to another once you get down to the sub-county level. It just seems to be way high when it could easily be reduced slightly, modified slightly to allow for the creation of another majority Black House District.
Q. And so when you drew your House District 78 on the illustrative plan at 65.54 percent Black, you don't consider that to be a packed district?
A. I was able to draw a new House district. Is it possible then you could take that 65 percent district and create a six majority Black district in metro Atlanta? Maybe. I don't know. It's just something I haven't explored.
Q. So you don't consider your House District 78 to be packed because you haven't explored whether an additional district could be created; is that right?
A. From a Gingles 1 perspective. But Gingles 2 and Gingles 3, I have to assume that 65 percent is adequate for that particular configuration. No one has told me otherwise. And there would be ways probably to reduce it further, but I'm not sure what the point would be. I mean I

created five new House districts, and I think that's worthy of consideration by the legislature.

Q. Looking at House District 78 on the illustrative plan, do you know if the portion of Henry and Spalding Counties in those districts is majority Black?

A. I'm sorry. What paragraph are you on?

Q. Figure 29. I'm looking at illustrative plan District 74. Do you know if the Henry and Spalding portions of that district are majority Black or not?

A. So your question is do I know if the Spalding portion of 134 is majority --

Q. 74. 74 has components of Clayton, Henry and Spalding, right?

A. Uh-huh (affirmative).

Q. Is that a yes?

A. Yes. I don't have the numbers in front of me. I think it's possible that the Sunnyside area there in the northern part of Spalding County may be majority white. I'm just guessing now. And it is probably a 50/50 proposition around District 74 in the Hampton area of Henry County.

(Exhibit 16 marked.)

Q. Let's take a look. I'm handing you what

I've marked as Defendant's Exhibit 16, which is your Exhibit AA2 to your report. Is that the plan components report for your illustrative House plan?

A. Yes.

Q. And page 24 has House District 74. And I think we'll find your memory is almost perfect on the racial makeup of the components of that district. Can you turn there with me?

A. I see it.

Q. So in looking at that same components report, the portion that's in House District 74 in Clayton County is 79.28 percent AP Black VAP, right?

A. Yes.

Q. And the portion in Henry is 47.42 percent AP Black VAP, right?

A. Yes, that's right. It's 50 percent total pop but 47.42 VAP.

Q. And the Spalding portion is 13.48 percent AP Black VAP?

A. Yes.

Q. Let's move next to your House District 117. So in looking at pages 70 and 71, the House District 117, it looks like House District 117, instead of running from Heron Bay and Locust Grove north up to the Newton border now turns south and

goes down into Griffin; is that right?
A. Right, which is a majority Black city.
Q. And in the process, the city of Locust Grove looks like it's divided on the illustrative plan; is that right?
A. Locust Grove is split, right.
Q. Would it be correct to say that you used Black population from enacted District 116 when you extended -- I'm sorry. Hang on.
House District 117 is a new majority Black district, right?
A. What about it?
Q. Is a new majority Black district, right?
A. It is, yes.
Q. What was the basis for connecting part of the city of Locust Grove with part of Griffin?
A. By and large probably one person, one vote. It was a clear -- there was a clear dividing line there at the precinct level I'm pretty sure.
Q. And so the only connection between Locust Grove and Griffin you can identify is one necessary to get one person, one vote?
A. Well, there are -- I mean Locust Grove is a stone's throw from the Spalding County line, metaphorically speaking anyway. So there are

connections, of course.
Q. What are some of those connections?
A. They are ex-urban and in some places rural. I've driven through Locust Grove. It's a pretty town. There are obvious connections. The two towns are very close. Griffin and Locust Grove are not far apart at all.
Q. So the geographic proximity would be the primary basis for connecting them?
A. That would be one basis.
Q. What are others?
A. Others would be the opportunity to create a new majority Black district in an area that is growing in terms of Black population but not seeing a commensurate increase in majority Black districts over the past 15 years.
Q. And District 117 as configured divides the city of Griffin as well, right?
A. Part of Griffin is taken out of House District 117. Again, I think it's probably the precinct level. But basically it's following the main highway there, State Route 16 I think it is.
Q. And in the geography of House Defendant 117 between Locust Grove and Griffin, you would agree there's intervening rural white population, right?

A. Yes, certainly there is. You are more focused on race than most of my opposing counsel in depositions. You're paying a lot of attention to this. I don't. I'm trying to draw a majority Black district, but I'm not in any way going to be concerned if some white folks end up in a majority Black district, just as some Black folks end up in a majority white district.

Q. If you could turn with me to page 73, Figure 26C. Do you see that?

A. Figure 26C?

Q. 29C. I'm sorry.

A. I do see that now.

Q. In looking at the configuration here of the south metro area on the illustrative plan, can you explain to me any sort of traditional principles beyond what we've talked about already that govern the configuration of the districts on this plan?

A. I believe the plan complies or adheres to the traditional redistricting principles. The districts are reasonably shaped, comply with one person, one vote requirements. It enhances the opportunity for Black voters in south metro Atlanta to live in a majority Black district by adding two more majority Black districts in that area. I don't

see a problem. They're lovely districts.

Q. And for Fayette County, you would agree that the southern part of illustrative District 69 and the southern part of illustrative District 77 are in more heavily white areas and rural areas of Fayette County, right?

A. Yes. The part of -- the area that's south of the city of Fayetteville is probably majority white. But I've not -- again, you seem to be very focused on the race of people at one point or another within a district, and I just am not that concerned about getting to that level of detail when I'm drawing a plan.

Q. You would agree that illustrative Districts 68, 69 and 77 both connect more urban population with more rural population, right?

A. Not so much. I mean it's pretty urbanized there from Fayetteville north. Once you go further south, yes, but that's not as densely populated. So the rural population would be a minority in 77 and 69. I know there are probably people who live in Atlanta who would think that Fayetteville is rural. But I mean it is a town, it's urbanized.

Q. So your testimony is in 68, 69 and 77 there is probably some rural population but it's a small

group at the bottom of those districts?
A. Yeah. I think it would be a minority of the population in the districts, I believe. But I'm just talking off the top of my head, and I am not looking at block-level data and not able to really give you a definitive answer as to where the exact dividing line would be between urban and rural with 77, 69 and 68, other than the further south you go the more rural it would get. Although, it's still very suburban, frankly. It's overwhelmingly suburban until you get down to around Woolsey probably, and maybe that's more rural.
Q. So let's move next to the eastern Black Belt area. And here you indicate that you have drawn a new majority Black district, which is District 133; is that right?
A. Yes.
Q. To do that, according to paragraph 169, you unpacked, as I read it, 128, 129, 130, 131 and 132, correct?
A. Yes.
Q. Do you have your population summary report for the illustrative plan handy?
A. I do. Oh, you mean just the percentage?
Q. Yes.

A. Yes.
Q. So in looking at that group of districts from 128 through 133, the districts you've unpacked in the new district, only District 130 is over 55 percent Black on the AP Black VAP number, right?
A. 130 is 59.91 percent. And what are the other districts that I listed?
Q. Let's check and make sure --
A. 132 is --
Q. Mr. Cooper, if you could refer to the illustrative plan population summary. I'm looking for illustrative.
A. Oh, you're looking at illustrative. I thought you were looking at enacted plan. Sorry.
Q. Let me just set us up again. For illustrative 128 through 133, which includes the five districts you say you unpacked in the new majority Black district, only District 130 is above 55 percent on the AP Black VAP number, right?
A. That's right.
Q. Let's take a look at District 133 on Figure 31 of your report. District 133 begins in Wilkinson County on the south end and runs up to Wilkes County on the north end, right?
A. True.

Q. And in this map you place Warren County back in the same district with Taliaferro and Hancock --

A. Did what?

Q. In this map you've placed Warren County with Hancock and Taliaferro counties, whereas in your illustrative Senate 23 you've separated Warren from Hancock and Taliaferro. Why did you make a different treatment of the area on this plan?

A. Because this is a House plan and the other was a Senate plan. And so you have to take into consideration the underlying population so that you can keep counties whole to the extent possible.

Q. You say in paragraph 171 that the Black population in Milledgeville was submerged in majority white 2021 House District 133.

A. Yes.

Q. What did you mean by submerged in the district?

A. Well, it's placed in a district that is majority white, even though the Black population in Milledgeville is significant in terms of population size. It's not a major metropolitan urban center but it's a big town.

Q. Turning to the next page, Figure 31B shows

the split you made of Milledgeville between District 133 and District 144, right?

A. Yes.

Q. Did you have any racial information displayed about the blocks in Milledgeville when you made this split?

A. I did have to go down to the block level to figure out a way to try to draw a plan that was somewhat more reasonably shaped than the municipal boundaries of Milledgeville.

Q. And at the block level you only have racial and population information available to you, right?

A. Right. I was using population data but trying to make the district reasonably shaped. I mean you can see that Milledgeville -- parts of it are not even contiguous with one another. It's just a very oddly shaped town. It may go down to -- I don't know how long these lines have been in place, but it perhaps has something to do with segregated housing patterns going back into the Jim Crow era, perhaps. I shouldn't say, but I mean it's just a weird-looking town from the 30,000 foot level. It's a lovely town otherwise, of course.

Q. And you don't know specifically why the borders of Milledgeville are the way they are?

A. I do not. Do you know?
Q. I don't actually. I have the story of some of our cities, but not Milledgeville.
Have you ever reviewed the racial composition of the split at Milledgeville in this map?
A. I have not, I don't believe.
Q. And you would agree that the split of District 133 in Milledgeville does split the city into two different districts, right?
A. Right. I think there's an incumbent who lives somewhere in all this as well.
Q. Do you have AA2, our plan components report for the illustrative plan handy?
A. Yes, I have AA2.
Q. Go to page number 43 if you could with me. And you can see that the yellow portion of Baldwin County in District 133, that part is 51.46 percent AP Black VAP, right?
A. Yes.
Q. And then the other district is District 144 that has the remainder of Baldwin County; is that right?
A. It does have the remainder of Baldwin County, right.

Q. So if you flip over to page 48, the remaining portion of Baldwin COUNTY that you did not include in District 133 is only 22.32 percent AP Black VAP, right?

A. So?

Q. Does that surprise you that there's most of the Black population in 133 and the remaining white population in District 144?

A. Well, most of the Black population lives along the east side of the county. And, again, there is an incumbent there, but I frankly cannot recall exactly what part of the county the incumbent lives in. You split, you, the enacted plan splits Baldwin County and cleaves off a little bit for -- I'm not sure of the district number, but the rest of it would be in 144. So I've added some of the population that's presently in 144, some of the Black population, back into 133. That's clear.

Q. So it is clear that you moved Black population from 144 into 133?

A. I think so. I think some was moved, right, creating a majority Black district.

Q. Moving to paragraph 173, you talk about the split of Wilkes County in House District 133. Do you see that?

A. Which paragraph?
Q. Paragraph 173.
A. Yes.
Q. And you note at the end of paragraph 173 that all of the city of Washington is in the same district, which is illustrative 133, right?
A. Right.
Q. But you would agree that Washington was divided on the Senate plan, the illustrative Senate plan?
A. I believe it was in the Senate plan, right -- again, quite possibly due to the need to stay within plus or minus one percent in that district or one of the adjoining districts.
I was following County Commission lines though with the Senate plan though. Surely that's okay.
Q. And County Commission and municipal lines --
A. One little municipal boundary there, yes, that's true. In this case, I'm again following County Commission boundaries except that I've followed a 2020 VTD, the red line there to the northwest of Washington County. Everything else follows Commission lines.

Q. Going back a page just to the overview of House District 133 on Figure 31. Just go back one page to look at the overall view.

What is the geographically compact Black community contained in House District 133?

A. It is found in Hancock County, Taliaferro County, Warren County, part of Wilkes. Wilkinson is majority white but still a significant Black population and a significant Black population in Baldwin County. So it's slightly elongated, but it's easy to follow. It's following county boundaries basically except for the area in Baldwin where I made a Herculean effort to follow municipal boundaries; and Wilkes, which is following County Commission lines that were just established last winter. So I don't see how this could possibly be considered to not follow traditional redistricting principles.

Q. And in the creation of House District 133 you also had to move the boundaries for House District 128, right?

A. I would have to go back and look at the enacted plan. What figure is that?

Q. So Figure 30 and 31 on --

A. Wait. I guess I do have the enacted plan.

Okay.

Q. And so on the illustrative plan, House District 128 splits four counties, right, Burke, Jefferson, Johnson and Lawrence?

A. Yes, it would split four counties, I believe.

Q. Do you know if that's the most counties any single House district splits on their plan?

A. I think that might be.

Q. And the adjustments to 128 were necessary to create the additional majority Black District 133?

A. There may be ways to reconsider how 128 is drawn. Again, I wanted to avoid pairing incumbents. It's not a traditional redistricting principle per se, but it seems to be so important -- and I don't off the top of my head know exactly where the incumbent lives in 128, but that was a factor I'm sure.

Q. And House District 126 also splits four counties, right, Screven, Burke, Jefferson and Richmond?

A. It does split those counties, right.

Q. And in the enacted plan, in this same area, Screven, Burke, Jefferson, Johnson, Lawrence were

all maintained as whole counties, right?
A. True.
Q. And so your plan adds county splits in service of adding House District 133 as a majority Black district, right?
A. Right.
MR. SAVITZKY: Object to the form. You can answer.
A. Well, the... It is entirely possible that had I not tried to avoid pairing incumbents, that I could have drawn a 128 that was different in shape.
Q. But you don't know sitting here today whether incumbency was the reason for the shape of House District 128?
A. I'm sure it was a factor. What I don't know is whether I could have overcome that with some other configuration.
Q. But on the illustrative plan you're presenting in this report you don't have any other configuration, right?
A. Well, no. It's the illustrative plan. So 133 splits two counties, one of which is Wilkes and the other is Baldwin.
Q. Let's move to southwest Georgia. You call this the western Black Belt Region, right?

A. Yes.
Q. And you describe illustrative District 171 as along the Highway 19 corridor, right?
A. Yes, it follows Highway 19.
Q. What is the community of interest that connects --
A. US Highway 19.
Q. US Highway 19.
What is the community of interest that connects Albany and Thomasville, Georgia?
A. Well, they're not very far apart. And there is a Senate district down there that would include all of 171 except for the Thomasville part. So the state is determined, the legislature is also determined that that area is okay to draw into a single Senate district. So the only thing I've really done is add a little extension into Thomas County in Thomasville to what they have already identified is an area where a Senate district can be drawn.
Q. So the community of interest you identify as the enacted Senate district, and then Thomas County is adjacent to that?
A. Yes.
Q. Any other --

A. I've been through Thomasville and actually driven through -- I can't say that right -- Albany. But I do not -- I just cannot imagine that those two towns are so different that they could not be placed in a single House district. And I would just point you to the plan that the state adopted in 2015 that stretched from -- not House District 171 but the plan stretched from Albany -- I say Albany. I can't make myself say Albany -- all the way down to Seminole County. So it's a much longer distance. It's majority white as it cuts through Miller County. But in terms of being elongated and travel time, certainly less of a connection there than it would be between Thomasville and Albany. Did I say that right?

Q. Close. Do you know if Thomasville is closer to Albany or to Tallahassee, Florida?

A. I don't know, but I'll bet it's not that far from Tallahassee, since you mentioned it.

Q. And you mentioned --

A. We can't put Tallahassee in a Georgia state House district.

Q. It's fine for Florida to keep Tallahassee. That's fine.

In paragraph 178 you talk about a corridor

of the western division of the historic Dixie Highway recognized by the Southwest Georgia Regional Commission.

A. Yes.

Q. And then you reference a Corridor Management Plan from 2014 in a Footnote 32, right?

A. Right.

(Exhibit 17 marked.)

Q. I'm going to hand you what I've marked as Defendant's 17. Is this the Corridor Management Plan that you referenced in that footnote?

A. I think. There it is, 1.2, Corridor Management Plan.

Q. Do you recall how you located this particular Corridor Management Plan that you cited in your report?

A. I was looking around for information about US Highway 19 and found it.

Q. Was that after you drew the illustrative District 171?

A. In this particular case it probably was.

Q. So after you drew the district you were hunting around looking for information about Highway 19 and what it connected; is that fair to say?

A. I did look at that. I mean I knew that

Highway 19 was, in a sense, a historical highway. US highways of that vintage with a 19 on it go way back in time, so it's not like there haven't been transportation connections between Thomasville and Albany since the 1930s.

Q. So turning to page seven of Exhibit 17, you see there's a heading 1.6, "How to Use the CMP".

A. Yes.

Q. And it says that the CMP should be utilized in conjunction with the associated planning documents, including -- and then it lists a series of five other documents. Do you see that?

A. Yes.

Q. Did you ever review any of those five documents?

A. No, I did not.

Q. And going to 1.7 there is a route description that begins at the Albany Welcome Center and it's almost kind of a metes-and-bounds-like set of bullets of where this route proceeds. Do you see that?

A. Yes.

Q. Have you analyzed whether all the pieces listed in 1.7 of this route description are included in illustrative 117?

A. No, I have not.
Q. So it's --
A. But I do know that US Highway 19 is.
Q. And so it's fair to say you didn't utilize this particular document when you were creating illustrative 117, right?
A. Well, it just shows that there is, present day -- although 2014 is no longer present day, but it's certainly the modern era -- a study and an interest in maintaining the historic route between Albany and Thomasville. It shows there is a connection there between the governments.
Q. We can set that document aside.
Looking back at page 78, Figure 32, on the enacted plan there's one House district that's wholly within Dougherty County, District 153, right?
A. Right.
Q. And on the illustrative plan on page 80, the next page, Figure 33, there's now no longer one district that is wholly within Dougherty County, correct?
A. That is correct; however, the illustrative plan splits Dougherty County three ways, and the enacted plan splits it four ways. So there's that. Why is that, I wonder.

Q. Why is what? I'm sorry.
A. Why would there be four splits in Dougherty County?
Q. I don't have a good answer for you on that.
But are you aware if, historically, there's always been at least one state House district wholly within Dougherty County?
A. I'm not aware of that.
Q. So in thinking about the Black communities in Albany and Thomasville, besides the Dixie Highway that you've referenced, is there anything else that you're aware of that unites those communities as a community of interest?
A. They're in southwest Georgia. They are counties that have been identified as part of the Black Belt, the modern Black Belt and probably -- I haven't looked at the historical Black Belt in recent times of Georgia, but I think probably Thomas County and Dougherty County would have been in the original Black Belt historical maps going back 100 years.
Q. Anything else you can think of that unites them besides those items?
A. Well, they're smaller in size. Albany is a modest size city, but Thomasville is not a village,

so there could be connections there. I would be shocked if the high school football teams don't play one another. But maybe they don't. Maybe they're in a different division. Do you know?

Q. I don't.

A. So surely there are connections. That's not exactly a half a state away.

Q. Let's go last but not least to metropolitan Macon. And this is the district that you drew that was not on the PI plans that were proposed, right?

A. Right.

Q. And the new district, you indicate you have to unpack Districts 142 and 143; is that correct?

A. Yes.

Q. And if we can just briefly compare, for your tables, population summaries. So let's get the enacted 142 and 143. House District 142 on the enacted plan has a Black voting age population of 59.5 percent; is that right?

A. Right.

Q. And House District 142, on the illustrative plan, has a Black percentage of 52.51 percent; is that right?

A. Right.

Q. So you lowered that district by seven

1 points from the enacted to the illustrative,
2 correct?
3 A. Roughly, yes.
4 Q. And then House District 143 is 60.79
5 percent Black VAP on the enacted plan, right?
6 A. Right.
7 Q. And it's lowered by a little bit more than
8 two points to 58.23 percent on illustrative 143,
9 correct?
10 A. Right.
11 Q. So kind of getting back to the question I
12 asked before, can you just walk me through how
13 you're unpacking District 143 if it's only going
14 down by two points on the illustrative plan?
15 A. Well, it's two points. It's a smaller
16 Black percentage in the district.
17 Q. So just the reduction --
18 A. I should have used a different choice of
19 words. I was using shorthand, packing, uncracking.
20 It's probably not the best choice of words.
21 Q. So to create illustrative District 145,
22 which is a new Black district, you first had to free
23 up some Black population in downtown Macon; is that
24 right?
25 A. That is true. I put part of the downtown

Black population into 145.
Q. And show you extended District 143 further north into Macon -- into Bibb County but also further south into Twiggs County, right?
A. Yes.
Q. And then you extended District 142 south out of Bibb County into north Houston County, correct?
A. Yes.
Q. And then that freed up enough Black population for you to extend 145 out into Monroe County starting in downtown Macon, right?
A. Yes.
Q. And so, unlike the enacted plan which has two districts wholly within Bibb County, the illustrative plan has no districts that are wholly within Bibb County, right?
A. That is true.
Q. And District 145, as you've configured it, is only 50.2 percent AP Black VAP, right?
A. That's correct.
Q. So can you walk me through what downtown Macon has in common with this piece of Forsyth County over towards Upson County in District 145?
A. It's in the Macon/Bibb MSA. And there is

some Black population in that precinct, but I believe it's a majority white precinct. But that was mainly because I had to make sure that the deviation was within plus or minus one percent. Ninety percent plus of the population in 145 under the illustrative plan lives Macon/Bibb.

Q. And you would agree that District 142 extends out of Macon/Bibb County MSA into the Warner Robins MSA, right?

A. Right, which has a significant Black population.

Q. So unlike 145 where it's the same MSA, 142 crosses MSAs?

A. That is true. But it's part of the consolidated Warner Robins, Macon consolidated statistical area, because they're adjacent, right next to one another. Metropolitan Macon -- actually -- I'm looking for the commission map.

Q. This?

A. No.

MR. SAVITZKY: For the record, I'm handing him Exhibit 10.

MR. TYSON: Thank you.

A. So the middle Georgia commission includes Bibb, Houston, Peach, Pulaski, and going further

north, Crawford, Monroe, Jones, Putnam, Baldwin, Wilkinson, Twiggs. So I'm staying entirely within the middle Georgia commission with House District 145.

Q. And Baldwin County is in that middle district commission, too, right?

A. That's true.

Q. The House District 142 is 52.51 percent AP Black VAP. Did you analyze how much of the population in 142 is the Air Force base in Houston County?

A. I did not. I know you came after me for putting the Air Force base in the original Senate District 23, I believe, so I took care of it there. But they can vote. They're citizens, right? Most military personnel are citizens, so why not.

Q. Is it your understanding that military personnel in Georgia tend to be registered to vote in Georgia?

A. I don't know the percentage of voters on the military base who are registered, no.

Q. Let's move to the supplemental plan information. Mr. Cooper, going to paragraph 184, you indicate that you stayed within a one and a half percent, plus or minus, population deviation limits,

right?
A. Right. Even though the guidelines established by the General Assembly did not really specify that it was necessary to stay within that range, that's the range that the enacted plan was in so I just stuck to that range.
Q. You would agree that the deviation on the illustrative plan as a whole is higher than the deviation on the House enacted plan?
A. Right, it's slightly higher, like a couple of tenths of a percentage point or so.
Q. But either way, the illustrative plan did increase the total deviation over the enacted plan even if only slightly, right?
A. Well, it's only slightly, so it's a meaningless distinction.
Q. And you note that you have one fewer county split in the enacted plan in Figure 37; is that right?
A. One less split county. And the same number of county splits, because that's a different metric.
Q. So we'll go back to Exhibit Number 9. And if you could turn with me to page 45 of Mr. Morgan's report.
Mr. Cooper, are you with me on page 45 of

Exhibit 9?
A. Yes.
Q. And this is a chart comparing split counties in the enacted House plan and in your illustrative House plan. Do you see that?
A. Yes.
Q. So what I want to do is go to page number 47 and look at the counties that are different in the illustrative plan and the enacted plan.
In looking at the counties that you made whole that were previously split on the enacted plan and are whole on the illustrative plan, you would agree with me that none of them have a Black population greater than 38.7 percent for McDuffie County, right?
A. Well, in terms of total Black population McDuffie is 41 percent, almost 42 percent.
Q. I'm sorry. I was looking at --
A. That's what we would be using for one person, one vote purposes anyway, the total population.
Q. So you would agree that the highest county of the counties that you unsplit in terms of total Black population was 41.8 percent?
A. Yes. Again, you're looking at race much

more carefully than it. Ben Hill is 38 percent apparently.

Q. So kind of like we did in the other plan, I was looking to see which of those counties you unsplit related to the creation of the five new majority Black districts. And the only ones I could identify that were somewhere close were Lamar, McDuffie and Jones. Were any of these other counties unsplit related to the creation of the five new majority Black districts?

A. Ben Hill perhaps because of the ripple effect. So some of that spills out. I mean even though Ben Hill is not one of the majority Black, potentially a new majority Black district, it's not that far from the area.

Q. Any other counties you can identify?

A. Well, I've not attempted to identify these. Oconee is not split, but it's close to a majority Black Senate district. And House District 133 almost borders on Oconee -- and maybe it does. I need to look at the map. It's very close.

Q. You would agree that Dawson County with one and a half percent Black population is nowhere close to any of the new majority Black districts you created, right?

A. Yes. And so what? Why does that matter? I'm happy to bring Dawson back into a single county.

Q. I guess what I'm trying to get to is you, in paragraphs 189 and 190 talk about having fewer county splits in the enacted plan. But that's only because you unsplit some counties in parts of the state far away from where you added new majority Black districts, right?

A. To a certain extent. But why does that matter? I've produced a plan that splits fewer counties. So if that's an important metric, and it is, then the illustrative plan based on split counties and county splits and VTD splits is basically on par with the enacted plan.

Q. But it's only on par with the enacted plan if counties in north Georgia unrelated to the creation of new majority Black districts are unsplit in the drawing process, right?

A. Well, the thing is, is this ripple effect that does begin to be a factor, along with incumbents. So it was apparent to me that I could avoid splitting a couple of counties up there while protecting incumbents. So, yes, I avoided splitting them. And because of that we have split fewer counties.

Q. So when you made Gordon County whole, it's your testimony that that was in part from the ripple effect of making changes?

A. It could have been. I honestly don't recall. I may not have even done it with the knowledge that I was unsplitting the enacted plan split in Gordon County. It's a small county, nice rectangular county, and it may have just happened.

Q. We can set Mr. Morgan's report aside. Turning to page 86, paragraph 192, you have the split report for the CBSAs, and the illustrative plan and the enacted plan are the same in terms of CBSAs that are whole, right?

A. Right.

Q. And the illustrative plan splits slightly more CBSAs than the enacted plan on your CBSA splits column, right?

A. That's correct, it splits four more, so I guess roughly two percent more.

Q. And for the Senate, was there any other geographic wholeness analysis you did that is not reported in this report?

A. Well, you didn't mention regional commission splits. The illustrative House plan has 223 discrete splits for regional commissions, and

the 2021 House plan has 225. So on that score the illustrative plan wins. I don't think I did on the other form of analysis. I'm trying to think of whatever kind of analysis I could have done. That's an interesting question. But I did not perform any in the preparation of this report.

Q. Turning to paragraph 194 of your report, you indicate that you changed about half of the districts in the state, 92 districts, to create the five new majority Black districts, right?

A. Yes.

Q. And the illustrative plan also pairs incumbents in eight districts based on your analysis, in paragraph 195?

A. Based on the unofficial database that was provided to me by the ACLU in like the first couple of days of December of 2022. And I did not -- I drew the plan to protect the incumbents as they existed in January of 2022, not November of 2022; so it is possible that these conflicts can be reduced.

Q. And moving into the next section, the American Community Survey, again you're comparing in this section of your report whole county data, not data specific to particular House and Senate districts, right?

A. It is whole county data, that's correct. And Henry, Spalding and Clayton are split.

Q. And you did not consider one sole metric that pointed to similarities in counties, as I looked at it, for each one. You looked at a different part of the ACS data for the counties covering those districts, right?

A. Yes. I was just looking as -- pulling things out as an example. But there is a complete array of socioeconomic and they cross about 40 different measures -- and actually more than that if you start breaking up the categories by age and ethnicity.

Q. And it's correct that you didn't engage is this comparative socioeconomic analysis using ACS data until after you had completed drawing the House illustrative plan, right?

A. Well, I looked at the ACS data, but I had not broken out these specific points until after the plan had been drawn.

MR. TYSON: If we could take maybe a 10-minute break and let me go over my notes. I may be finished with my questions.

(Recess 3:02 p.m. - 3:11 p.m.)

Q. We're back on the record, Mr. Cooper.

Thank you for your time today. That's all the questions I have. Mr. Savitzky has some questions for you, so I'll hand you off to him.

MR. SAVITZKY: Thanks. And, yes, just a few. I'm not going to keep us here too much longer.

EXAMINATION

BY MR. SAVITZKY:

Q. Let's turn back to paragraph 10 of your report, page five. So you were talking to Mr. Tyson about the traditional redistricting principles that are mentioned here in paragraph 10. And we talked specifically about respecting communities of interest. Are municipalities an example of a community of interest in your view?

A. Well, yes, they can be. But they're not the be all and end all because municipalities can have a long history of being racially segregated, so there would be other factors that one would have to take into consideration because you want to respect other kinds of communities of interest, like neighborhoods and history.

Q. So could core-based statistical areas also be a community of interest that one might consider?

A. Yes.

Q. Could regional commissions be a type of community of interest that one might consider?

A. Absolutely. If one were to draw a plan for the state legislature I would think that you would look at those maps in the process of drawing the plans.

Q. Could transportation corridors be a community of interest that one might consider?

A. Well, yes. That's one of the key components of determining what counties are in an MSA, transportation factors.

Q. And could socioeconomic connections or commonalities form a community of interest?

A. Absolutely.

Q. And could historical or cultural connections form a community of interest?

A. Unquestionably.

Q. You mentioned at one point the shared history that Black Americans have. Would you agree that at times Black communities in different areas of a state may also have difference sets of interests that are unrelated to that broader shared history?

A. Well, yes, but they all have that broader shared district which connects African-Americans in

Georgia beyond a shadow of a doubt.

Q. Would you agree that just from a communities of interest perspective sometimes it might not make sense to group all Black voters together?

A. It might not.

Q. Would you agree that looking at other shared socioeconomic or cultural factors in addition to a shared history could be another way of determining whether particular Black communities in particular areas can properly be grouped together as a community of interest?

A. Right. The shared history for African-Americans is in many ways such stronger than the shared history for Anglos. And because of that it's less of an issue maybe if you join a rural area with an urban area that is predominantly Black.

Q. Do all of the different communities of interest considerations that we've talked about potentially come into play when you think about the connections within a district?

A. Yes, that's constantly in play.

Q. Just very briefly on paragraph 11, the next paragraph, I just want to point out in this paragraph you talk specifically about following

county and VTD boundaries; is that right?
A. Yes.
Q. And are you addressing here the illustrative plan's compliance with the traditional districting principle of following political subdivision lines?
A. Yes, because I made every effort to avoid splitting VTDs and, in fact, most plans -- the Senate plan is superior in terms of VTD splits compared to the enacted plan. And the House plan is the same.
Q. So just moving on, we talked some about the regions that you looked at, Regions A, B, C and D. Would you say that those regions were hard boundaries that you applied in drawing districts?
A. No. I just developed regional areas at the outset and did not think of them as being hard boundaries, just boundaries that I could rely upon to examine whether or not a majority Black district could be created in or around those regions.
Q. So would it be fair to say -- and maybe I'm just restating what you just said -- but would it be fair to say that those regions sort of focused your inquiry at the outset into whether it was possible to draw additional Black majority Districts?

A. Right. Those were the regions that I looked at -- or the set of counties, initially.

Q. Turning to paragraph 30, just to clarify for the record, are the boundaries of Region C that you identified the boundaries of Senate District 12?

A. Yes.

Q. So when you see that shape on some of the maps of the regions we talked about, that's just saying District 12, right?

A. Right.

Q. Now I just want to look at --

A. Enacted Senate District 12.

Q. Enacted Senate District 12. Thank you.

Just looking at -- starting at page 24. Just for the record I want to get the increase in population for some of these areas. I know you talked to Mr. Tyson about percentage increase. Starting with page 24, so starting just with the Atlanta MSA -- and looking at page 24, Figure 6 in your report -- what is the total increase population, Black population in the Atlanta metro over the last decade?

A. It's up by over -- almost 500,000 people. The numbers is here in one of my paragraphs here, is it not? It's up from 1.8 million to almost 2.2

million, so almost 500,000.
Q. Almost 500,000 or --
A. 400,000, a little over 400,000.
Q. And just turning to that region, Figure 7 on page 25, what is the total pop increase in that five-county region in the Black population over the last 10 years, 2010 to 2020?
A. About 90,000.
Q. 90,000 out of how many?
A. Out of currently -- as of 2022, 294,000.
Q. That's almost a 50 percent increase?
A. Right. If you go all the way back to 2000, it's basically quadrupled.
Q. And just turning the page again to page 26 and looking at Figure 8 in that eastern Black Belt area.
A. In the eastern Black Belt area the Black population has increased by 4,000 people while the white population has decreased by about 9,000 people.
Q. And what does that change do to the concentration of Black voters in that area?
A. Well, it increases the likelihood that a district can be drawn in 2020 that could not have been drawn in 2010 or years earlier.

Q. And just looking at the next page, page 27, Figure 9, I think you talked with Mr. Tyson about how the Black population absolute terms has decreased in that Region C.

A. By about 8,000 people since 2010. But the white population has decreased by almost 20,000 people. I'm sorry. By about 12,000 people. Overall the population has fallen by about 12,000.

Q. And so what has happened to the percentage of the population that's Black in that area?

A. It's up by a bit. It was 58.96 in 2010 and now it's 60.59.

Q. So it would be accurate to say the Black population in that Region C area in southwest Georgia is more concentrated now?

A. A little bit more concentrated, yes.

Q. Just looking finally at page 28, Figure 10, what's the total -- and I think you may have actually said this with respect to Region D, but what's the total population increase for the Black population in that Region D?

A. It's up by 20,000 since 2010.

Q. Has the percentage of population that's Black in that area increased as well?

A. Yes. It's gone from 39.38 to 41.67.

Q. You talked with Mr. Tyson some about the terms packing and cracking. I just want to clarify. When you say that a district is packed or cracked or unpacked or uncracked, is that a conclusion you're drawing or is that a characterization?

A. It's a characterization. Another term would be fragmenting, divided. Packing would be -- packing may work a little better linguistically than cracking, which I just don't quite follow.

Q. And let me ask -- Were you done with your answer?

A. Yes.

Q. And does the particular term that you choose to characterize the increase or decrease in percentage of population in a district, does that have any effect on your conclusions about whether the Black community in a particular area is sufficiently numerous and compact to form an additional Black majority district?

A. No.

Q. And just looking at very briefly paragraph 71 in your report, I also --

MR. TYSON: Page 31?

BY MR. SAVITZKY:

Q. There we go, yes. Page 31, and then on to

page 32 we've got Figure 12. You talked about this some, this chart. Is the point of this chart to illustrate packing and cracking?

A. It's suggestive of packing and cracking, yes.

Q. Is it fair to say that the point of the chart is to show whether Black voters are or were not disproportionately divided into white majority districts compared to white voters?

A. That's another way to express it, yes. It clearly shows that only, surprisingly, in spite of all this astonishing growth since the mid 2000s, nothing has changed in terms of the VAP living in majority Black districts, 53.52 in the '21 plan.

Q. And looking at paragraph 71 of your report, is that what you mean when you say that the Figure 12 indicates that Black populations are disproportionately divided into majority white districts rather than placed in majority Black districts?

A. Yes.

Q. And just jumping ahead to paragraph 123 of your report where you talk about the corresponding chart that you have on the House side, it also shows -- Is it 123? It's Figure 24. Excuse me. It's

page 60 of your report, Figure 24. Just looking at that chart, does what we just talked about, about the purpose of this comparison between Black voters in majority Black districts versus white voters in majority white district, is that also true for this chart with respect to those metrics for the House side of things?

A. Yes.

Q. Just to clarify, you discussed with Mr. Tyson some changes in the Senate plan that united Clark, Jackson and Coffee counties. Is it possible that ripple effects from the other changes that you made opened the possibility of uniting those counties in your illustrative map?

A. Yes.

Q. And just looking at Figure 29A and turning to specific districts, this is your illustrative 2021 -- sorry.

A. I've got it now.

MR. TYSON: 29A --

MR. SAVITZKY: It's mislabeled.

A. Wait. There are two 29As, aren't there.

MR. TYSON: I believe the second 29A on page 71 is actually 29B, because this is the configuration of the illustrative plan, not the

enacted plan.
A. That is confusing.
BY MR. SAVITZKY
Q. So looking at what should be labeled 29B, the map on page 71 of your report.
A. It does have in the legend -- and I was really looking at the legend during the deposition. It does show that that's the illustrative plan.
Q. Just to clarify for the record, you mentioned that there were commonalities between the communities of Locust Grove and Griffin. Was proximity one of those?
A. Well, that's what I was trying to say, yes. It's not far from one to the other. Regardless of your race, they're close.
Q. And was the character of those communities in terms of being suburban or ex-urban versus urban a commonality that you identified?
A. I think so. They're both small towns, so they're certainly ex-urban.
Q. In your view did those commonalities support uniting those communities in a compact district?
A. I see no reason why you can't.
Q. And now looking at pages 78, starting at

78, you discussed with Mr. Tyson the illustrative District 171, and specifically you were discussing connections between Albany and Thomasville. You mentioned the Georgia Budget and Policy Institute designation of counties as being in the Black Belt. Did you consider that a connection between Albany and Thomasville?

A. Yes.

Q. You mentioned the relevant proximity to one another --

A. Yes. Highway 19.

Q. You mentioned Highway 19, that connection as well?

A. Yes.

Q. In just looking at Exhibit 10, the Regional Commissions, do you view the placement of those counties in Regional Commissions is a connection that they share as well?

A. They're both in southwest Georgia Regional Commission, exactly.

Q. And just looking at paragraph 200 of your report, the socioeconomic analysis, you note Dougherty, Thomas and Mitchell counties all have comparatively high Black poverty rates.

A. Yes.

Q. Do you view that as a connection between those areas as well?
A. Yes.
Q. Do you think those connections support connecting those areas in the district?
A. Absolutely.
Q. You spoke to Mr. Tyson about plans being on par with respect to splits. If your plan had one or two more county splits would you still conclude that they're basically on par with one another?
MR. TYSON: Object to the form.
A. Yes. I'm giving them the benefit of the doubt. We have one less split county in the Senate plan and one less in the House plan. So I'm still saying they're on par.
Q. But if your plan had one more than the illustrative plan, would they still be -- I think your words were basically on par?
MR. TYSON: Object to the form.
A. Yes.
BY MR. SAVITZKY:
Q. If your plan had one or two more county splits than the enacted plan, would you still be confident that your plan is consistent with traditional districting principles?

A. Yes.
MR. TYSON: Object to the form.
A. Because all you need to do is take a look at the stats for the plan that was in place between 2015 and 2021, and you'll see that there were many more splits in the enacted House plan, the benchmark House plan.
Q. Mr. Cooper, is it possible to determine whether or not more Black majority districts can be drawn without having some awareness of race?
A. I guess you could put it through some kind of algorithm or something, but that's the only way.
Q. I guess is it possible for a map drawer to determine whether more Black majority districts can be drawn without having any awareness of race?
A. It would be very difficult unless they knew nothing at all about Georgia, absolutely nothing about Georgia, then maybe it would be possible. I don't know.
Q. What do you mean?
A. What was your question again?
Q. Is it possible to determine whether additional Black majority districts can be drawn without any awareness of race?
A. Well, I don't think it is. But I could

imagine that an algorithm might be able to produce a plan -- that may be crazy -- and someone could do something from that, I don't know.

Q. Mr. Cooper, did you prioritize race over other traditional districting considerations in drawing your illustrative map?

A. Absolutely not.

MR. SAVITZKY: That's all.

FURTHER EXAMINATION

BY MR. TYSON:

Q. I have a few questions in response to that. Mr. Cooper, Mr. Savitzky asked you about what different things could form communities of interest. Do you recall that?

A. Yes.

Q. Could cores of existing districts also form a community of interest?

A. If there were cores maybe that extend beyond a handful of years, perhaps under certain circumstances, sure.

Q. And you considered the boundaries of Senate District 12 to be a community of interest in a region, didn't you?

A. I did in the sense that it's a district that you had enacted as part of your Senate plan.

And so in that instance I made the determination that you did something right. I keep saying "you". You representing the General Assembly, of course.

Q. Mr. Savitzky asked you about the charts for both the Senate and House plans that show the state-wide Black VAP in majority Black districts and the non-Hispanic white VAP in the majority white districts. Do you recall that?

A. Yes.

Q. And you reported various results. Did you run a similar analysis on either your Senate or House illustrative plan?

A. I did not.

Q. Mr. Savitzky asked you about the proximity between Locust Grove and Griffin. Do you recall that?

A. Yes.

Q. Have you ever tried to drive from Locust Grove directly to Griffin?

A. I don't think I have. Have you?

Q. Mr. Savitzky asked you about the distance between Albany and Thomasville in driving between those. Do you recall that?

A. Well --

MR. SAVITZKY: Objection.

Mischaracterizes his testimony.
A. I don't remember that specific question.
BY MR. TYSON:
Q. Let me ask a better question. Do you remember Mr. Savitzky asking you about the distance between Albany and Thomasville?
A. I don't remember him asking me the distance. Specific mileage?
Q. No, just in terms of proximity, that they're relatively close to each other I believe was your testimony.
A. Well, they are relatively close to one another. I mean, again, as I mentioned in the deposition earlier, in the 2014 Senate plan -- no, I guess it was the 2015 House plan you've connected Albany to Seminole County. And that distance as the crow flies is clearly longer, and probably driving it is even longer because Highway 19 would be a fairly quick transit compared to some of the rural roads between Albany and Seminole County which borders on Alabama and Florida.
Q. Would it surprise you if it took an hour to drive between Albany and Thomasville?
A. Depending on the time, it could. That's not unheard of.

Q. Mr. Savitzky asked you about paragraph 200 and the poverty rate in Dougherty, Thomasville and Mitchell counties as a basis to connect those counties in District 171. Do you recall that?

A. Yes.

Q. Only Mitchell County is whole in illustrative District 171, right?

A. That is one of three counties, right? Yes.

Q. And so the data you relied on for Dougherty and Thomas County and the poverty rate in paragraph 200, you don't know if that's specifically the portion in House District 171 because that's only whole county data and those counties are divided?

A. That's true. The socioeconomic information is just background. And it would be possible to take it all the way down to the block group and reaggregate it and come up with a rough estimate of what the poverty rate is in the individual districts.

Q. But you haven't done that here, right?

A. I have not. It's not beyond my capacity. It would take some time. I don't think you would want me to do it. I do a lot of work at the block group levels. I just recently uploaded a bunch of maps showing areas of -- not poverty, but areas of

qualification for summer food programs. And a lot of Georgia counties have a lot of block groups that qualify. It's a USDA program. And I don't even need to look at southwest Georgia to know that almost all of the area that I have included in House District 171 would be in an area that would qualify for special subsidies from the USDA for summer food programs.

Q. And that would be true of most of southwest Georgia, not just the area of 171?

A. That's probably true. I would give you the map. I don't have it in front of me.

Q. Thank you, Mr. Cooper. That's all I have.

MR. TYSON: That's all.

(Signature reserved.)

(Deposition concluded at 3:40 p.m.)

CERTIFICATE

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

I have no relationship of interest in this matter which would disqualify me from maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

I have no direct contract with any party in this action and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

This the 9th day of March 2023.

Lucy Rateau

Lucy C. Rateau, RPR, CCR 2766

To: Ari Savitzky, Esq., asavitzky@aclu.org
Re: Signature of Deponent William S. Cooper
Date Errata due back at our offices: 30 Days

Greetings:
This deposition has been requested for read and sign by the deponent. It is the deponent's responsibility to review the transcript, noting any changes or corrections on the attached PDF Errata.
The deponent may fill out the Errata electronically or print and fill out manually. Once the Errata is signed by the deponent and notarized, please email it to the offices of Veritext (below).
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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