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

ALPHA PHI ALPHA FRATERNITY, INC., ET AL., PLAINTIFFS, -VS- BRAD RAFFENSPERGER, DEFENDANT.	DAY 3 - P.M. SESSION DOCKET NO.1:21-CV-05337-SCJ
COAKLEY PENDERGRASS, ET AL., PLAINTIFFS, -VS- BRAD RAFFENSPERGER, ET AL., DEFENDANTS.	DOCKET NO. 1:21-CV-5339-SCJ
ANNIE LOIS GRANT, ET AL., PLAINTIFFS, -VS- BRAD RAFFENSPERGER, ET AL., DEFENDANTS.	DOCKET NO. 1:22-CV-00122-SCJ

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
THURSDAY, SEPTEMBER 7, 2023

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RPR, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

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I N D E X

WITNESSES: PAGES:

WILLIAM S. COOPER

CROSS-EXAMINATION.....778
REDIRECT EXAMINATION.....826
RECROSS-EXAMINATION.....847

LISA HANDLEY

DIRECT EXAMINATION.....852
VOIR DIRE EXAMINATION.....856
DIRECT EXAMINATION (CONT'D).....861

- - - - -

(PROCEEDINGS HELD IN OPEN COURT AT 1:42 P.M., ATLANTA, GEORGIA.)

THE COURT: You-all can be seated. Hope everyone had a good lunch.

Mr. Tyson, you can proceed.

MR. TYSON: Thank you, Your Honor.

I know everyone is excited to have me and Mr. Cooper talking about maps again. I do have some slides that I've supplied to opposing counsel. I'll hand them up if that's all right?

THE COURT: That's all right. Yes.

CROSS-EXAMINATION

BY MR. TYSON:

Q. Good afternoon, Mr. Cooper.

A. Good afternoon.

Q. I know for everybody's benefit today us talking as slowly and directly as we can and not talking over each other is going to make life easiest for everyone. It may put people to sleep after lunch, but I guess we'll see.

A. I imagine so.

Q. That's a danger we'll have to encounter.

A. Including me.

Q. So, Mr. Cooper, I want to begin today talking about a case where you previously submitted an expert report in a Section 2 challenge to Georgia's congressional districts.

Do you recall the case of *Dwight v. Kemp*?

A. I do.

Q. And in that case, do you recall submitting an expert --

(Technical interruption.)

BY MR. TYSON:

Q. So, Mr. Cooper, in the Dwight case you submitted an expert report that said Georgia should have drawn an additional majority Black district on its 2011 congressional plan; right?

A. I don't know if I said should, but could have drawn.

Q. Thank you. That's a reasonable correction.

If you could take the exhibit notebook that's in front of you and turn to tab 2.

A. Yes.

Q. And if you could look at that document, is this a copy of the expert report that you submitted in the *Dwight v. Kemp* case?

A. It would appear to be a report that I wrote in 2018 maybe, is that -- yes, I think it is the *Dwight v. Kemp* report written in December of 2018.

MR. TYSON: And, Your Honor, we would move the admission of this report. And I apologize that I gave away my exhibit notebook and don't have the number on the front of tab 2.

THE COURT: Defendant's Exhibit 21.

MR. TYSON: Defendant's Exhibit 21 into evidence.

THE COURT: Any objections?

MS. KHANNA: No objection, Your Honor.

THE COURT: It's admitted without objections.

(Defendant's Exhibit 21 was admitted and marked into evidence.)

MR. TYSON: Thank you.

BY MR. TYSON:

Q. So, Mr. Cooper, if you could turn to page 4 on the blue numbers at the top of the report.

A. At the top of the report? Yes.

Q. And the sentence there that's beginning at the top of that page, this report analyzed whether there was sufficient Black population to allow for the creation of a majority Black congressional district in Central and Southeast Georgia; right?

A. Yes.

Q. And in paragraph 7, you say that in the Dwight case you specifically excluded looking at counties within the Atlanta MSA and the Athens MSA; correct?

A. Yes.

Q. And that was because you were trying to minimize changes to that plan, the existing plan?

A. That, and this was a more rural area of the state, so it seemed preferable not to have an encroachment on Athens or

Atlanta, which were metropolitan statistical areas.

Q. And turning to page 15 of that report and Figure 6, you relied in part for your conclusions on the growth in Black population from 2000 to 2010 in Central and Southeast Georgia; correct?

A. In what paragraph are you referencing?

Q. Paragraph 36 and Figure 6.

A. Yes.

Q. And ultimately with this report you created two congressional plans that drew new -- a new majority Black congressional district by joining African-American communities in Macon, Augusta and Savannah. And I'm referring to paragraph 63 of your report.

A. Yes.

Q. And in preparing this report in the Dwight case I didn't find any reference to the Black Belt. Do you recall including that as part of your analysis?

A. I don't think I would have, because congressional plans encompass populations. I guess in this case it would have been a population over 700,000; right? I don't have the numbers -- I have the numbers here somewhere, but I need to find them.

Q. And in this case, the Pendergrass case, you only looked at adding an additional majority Black congressional district in Metro Atlanta, not anywhere else in the state; is that

correct?

A. I think the request was to look at the whole state, but it was clear that all the population growth, or 80 percent or more of the Black population growth since 2010 has occurred in Metro Atlanta. So that's where I focused. And it proved to be very easy to create the new additional majority Black district in Metro Atlanta as opposed to some other part of the state.

Q. And at the time of the Dwight case, Congresswoman McBath had been elected from Congressional District 6; right?

MS. KHANNA: Objection, Your Honor. This is beyond the scope of his report. He doesn't opine on how districts have performed or for whom they've been -- they're elected.

THE COURT: I'm not quite -- state that objection again.

MS. KHANNA: Mr. Cooper is a *Gingles* 1 expert who deals in demographics and census data. While he in his lay capacity may know who represents these various districts, that's not part of his analysis in this case and it's not part of his expert testimony in this case.

MR. TYSON: And, Your Honor, I'm simply looking here for the decision-making process that went into Mr. Cooper's decision to focus on Atlanta versus another part of the state. And I think a relevant consideration to that is when Congresswoman McBath was elected, the plan looked outside of

metro for a new Black district.

When she lost the election or actually moved into District 7 and District 6 became Republican, then Mr. Cooper's next report focused on Metro Atlanta as a place for a new Black majority district.

THE COURT: Mr. Tyson, if you keep it to the reason why he moved from North Georgia in 2018 to -- I mean, South Georgia in 2018 to North Georgia in 2019 -- 2021, I'll allow that, Ms. Khanna, but I won't allow you to get into anything outside the scope, that's really like on the borderline of the scope. But I -- if he keeps it to that, I'll allow him to do that.

MS. KHANNA: Thank you, Your Honor.

MR. TYSON: Understood. Thank you, Your Honor.

BY MR. TYSON:

Q. So, Mr. Cooper, just so we're clear, in 2018, 2019 when you submitted this report in the Dwight case, you drew a new majority Black district in Eastern Georgia. In the 2021 report and 2022 reports you submitted in Pendergrass, you drew a new majority Black district in Metro Atlanta; right?

A. Yes.

Q. So let's move into the process of drawing congressional districts this cycle. And I've included on the screen two exhibits from your report, Exhibits E and G. And this is the 2011 congressional plan and the 2021 congressional plan.

And before we get into this, Mr. Cooper, the exhibits that you've attached to your expert report in this case summarize the data that you relied on in forming your opinions in this case; right?

A. Yes.

Q. And I just want to compare briefly, looking at the 2011 plan versus the 2021 plan, as you did in your report, South Georgia remained, would you say, largely similar between 2011 and 2021?

A. Well, there are three districts that would be identified, three, arguably four, that would be identified with South Georgia, part of Macon-Bibb area in the 2011 plan was in a district that extends to South Georgia. And the same holds true in the 2021 plan.

Q. And on both plans in Metro Atlanta, Congressional District 11 includes a cut kind of through the middle of Cobb County, would you say?

A. The middle of Cobb County and extending up into Cherokee County and Barrow County, I think; is that right? Yes.

Q. And, Mr. Cooper, if you could just try as much as you can with your microphone. I know you're looking at the screen and trying to see things back and forth, but answering in the microphone would be most helpful for everybody.

A. Right. Sorry.

Q. And District 14 in 2011 had a piece of Pickens County,

but in 2021 Pickens County is made whole; correct?
A. Well, regarding Pickens County and which congressional district?
Q. So just pointing here, 2011 Pickens County is split. 2021 Pickens County is whole; right?
A. Yes.
Q. And the 13th District on both plans includes portions of Cobb, Douglas, Fulton, Fayette, Clayton and Henry Counties; right?
A. Yes.
Q. And the 5th District is centered primarily on Fulton County on both plans?
A. Yes.
Q. And the 4th District is centered primarily on DeKalb County in both plans?
A. Yes.
Q. And would you agree that the most significant change was to District 6, with it moving substantially north up to Dawson County on the 2021 plan?
A. I think that is probable. I can't give you figures off the top of my head, but that would seem to be correct.
Q. Mr. Cooper, I'd like to move next to your illustrative plan side by side with the 2021 plan. And I know we talked about this earlier in terms of which districts were changed and which ones were not. But this is a plan that you're

offering today that is different from the illustrative plan you offered with the preliminary injunction proceeding; right?

A. Yes. That was based on 2010 census data and the plan was drawn about five years ago.

Q. And as we covered earlier, three of the districts you did not change are Districts 2, 5 and 7; right?

A. In the illustrative plan, vis-à-vis the 2021 plan, well, I held six constant. And so there are more than just those three.

Q. I'm aware there are more --

A. Right.

Q. -- but I'm just asking specifically, 2, 5 and 7, are three of the six districts that you did not change; right?

A. Yes, that's correct.

Q. And all of those districts, 2, 5 and 7, currently elect Black Democrats; correct?

MS. KHANNA: Objection, Your Honor. Again, this is about the performance and the election of candidates out of these districts which, while Mr. Cooper may know it in his lay capacity, is not part of his expertise in this case. We have performance experts who have testified, who will testify, but Mr. Cooper's not one of them.

THE COURT: But that's what Mr. Tyson's -- Mr. Tyson is trying to show that race was predominated. That's where I'm reading these questions are going, but you answer for

yourself.

MR. TYSON: Yes, Your Honor. What I was trying to get at is the districts that are already electing Black Democratic members of Congress were excluded from the analytical process. Mr. Cooper focused on a district that was electing a Republican.

THE COURT: I'm going to allow the question over objection.

MS. KHANNA: Thank you, Your Honor.

BY MR. TYSON:

Q. So, Mr. Cooper, you would agree that Districts 2, 5 and 7 are currently electing Black Democratic members of Congress; right?

A. Well, I'm speaking as a layperson and so I am aware of that.

Q. And District 7 is not a majority Black district; correct?

A. It is not.

Q. And in creating your report, you did not offer any changes to District 7. You instead only offered a new majority Black district as District 6; right?

A. Well, that's correct. I tried to keep as many districts whole as in the enacted plan as I possibly could. But due to the ripple effect, you know, maybe there would have been another way to do it and change District 7. I did not exhaust all possibilities. But the illustrative plan as drawn keeps

Congressional District 7 whole as it is in the enacted plan.

Q. You would agree that every district that touches District 7 was altered on the illustrative plan; right?

A. I believe so. I -- I mean, certainly in some fashion; right?

Q. And, Mr. Cooper, again, looking at these side by side as to District 6 on the illustrative plan, you'd agree with me that it appears most of the population of Fulton County that you've placed in District 6 was already in majority Black District 13 on the enacted plan; correct?

A. It would have been in District 13 under the 2010 plan, right, or the 2011 plan.

Q. And Douglas County, or at least a portion of it, was in District 13 on the enacted plan; correct?

A. Yes.

Q. And at least a portion of Cobb County that you've included in District 6 on the illustrative plan was also in majority Black District 13 on the enacted plan; right?

A. Yes.

Q. District 13 on the enacted plan does not include any portion of DeKalb, Rockdale or Newton Counties; right?

A. It does not.

Q. Mr. Cooper, you talked with Ms. Khanna earlier about the Atlanta MSA.

Do you recall that conversation?

A. Yes.
Q. And looking at the black line of the Atlanta MSA on your illustrative plan, you'd agree that District 14, District 9, District 10 and District 3 both include counties that are in the Atlanta MSA and counties that are outside the Atlanta MSA; correct?
A. Yes.
Q. And I know it's difficult to see on this particular view, but you've also added a split of Cobb County by bringing District 3 into part of Western Cobb; correct? I can get to a closer zoom if that would help.
A. Well, yes. I did bring in a portion of District 3 into Cobb County. All of that is in the process of balancing the many different traditional redistricting principles, one of which is population equality. So holding all your districts constant, it became necessary to add a split -- well, to have three splits of Cobb County rather than two, because it's certainly possible just to have two splits of Cobb County.
Q. And as you were drawing the illustrative congressional plan, you would sometimes display demographic information, including racial makeup of component parts of areas you were drawing; right?
A. I had information about the district-level totals, but I was not examining the county components of those totals.
Q. Did you utilize your dots that you've discussed to mark

precincts that were greater than 30 percent Black?
A. Yes, I would have --
Q. And that -- I'm sorry.
A. Yes.
Q. And that would have been information displayed on the screen as you were drawing the plan; right?
A. Yes. Not necessarily the population numbers, because I'm not constantly looking at that, but I would have seen precincts that were 30 percent or more Black on screen most of the time, but not always.
Q. And in drawing the illustrative plan here, like in the Alpha case, you did not have any election return data to use; correct?
A. I did not.
Q. So, Mr. Cooper, looking here at the 2011 6th District and the 6th District on the illustrative plan, you'd agree that 6th District on the illustrative plan contains almost no population that the legislature included in District 6 -- I'm sorry -- that was included in District 6 on the 2011 plan; right?
A. Are we looking at the 2011 plan in the other panel or what?
Q. So just to orient you, Mr. Cooper, the map on the left is your Exhibit E, plan Congress 12. And on the right is the picture from page 82 of your report, which is the illustrative

District 6.

A. Yes. And this is my exhibit, but the map itself was prepared by the State, just to clarify.

THE COURT: Prepared by mistake?

THE WITNESS: By the State, State Office of -- what is it called? Redistricting office, I guess, reapportionment office.

BY MR. TYSON:

Q. But you would agree that illustrative District 6 contains almost none of the population that was contained on District 6 on the 2011 plan; correct?

A. I think it's true, there was sort of a switch there. District 6 was moved further north in the enacted plan than where it had been under the 2012 benchmark plan.

Q. Mr. Cooper, you discussed with Ms. Khanna a line at page -- paragraph 44 of your report that one of the ways you knew you could draw additional majority -- an additional majority Black congressional district is because there were four State Senate districts near the area where you drew the district; right?

A. Yes. And that was not a difficult thing to know, because I was also simultaneously working on the legislative plan for the Alpha Phi Alpha plaintiffs, so I had that information from the get-go in the fall of 2021.

Q. And, Mr. Cooper, in looking at Figure 10 from your

report, these are the four State Senate districts you were referring to; right?

A. Yes.

Q. And you'd agree that District 33 in Cobb County is not a majority Black district; right?

A. No. It is a racially diverse district of about 43 percent Black population.

Q. Okay. And District 35 is encompassed within illustrative Congressional District 6; right?

A. Yes.

Q. And Districts 38 and 39 only include basically the very southern ends of those districts in the area encompassed in illustrative District 6; right?

A. Yes. Recall that Congressional District 5 in the illustrative plan and Congressional District 5 in the enacted plan are identical. So that part of Fulton County is essentially not changed. District number might change, but it's not changed. The core population there stays together.

Q. And none of those four State Senate districts include any part of Fayette County; right?

A. They did not, but, again, recall that in order to create the illustrative District 13, I needed to remove some population from Fayette County and put it into the Cobb County illustrative District 6, Cobb County, Fulton and Douglas County illustrative District 6. And so approximately 4500

1 people in Fayette County were placed into Congressional
2 District 6 under the illustrative plan.
3 **Q.** And none of these four State Senate districts go as far
4 north as Kennesaw in Cobb County; correct?
5 **A.** They do not.
6 **Q.** And you've also made Douglas County whole on this plan, I
7 think as we discussed, by bringing a portion of District 3
8 into Cobb County; right?
9 **A.** Yes.
10 **Q.** In your report at paragraph 72, you say that the dividing
11 line between illustrative District 6 and District 13 generally
12 follows the municipal boundary of Tyrone.
13 Do you recall that?
14 **A.** Yes.
15 **Q.** It actually splits the city of Tyrone; right?
16 **A.** In places, yes.
17 **Q.** So the city of Tyrone is not whole in illustrative
18 District 6; correct?
19 **A.** Correct. I believe that's the case. It's been some time
20 since I've looked at that part of the map.
21 **Q.** Mr. Cooper, on paragraph 59, you say that you included
22 district assignments by county population as Exhibit I3 of
23 your report; right?
24 **A.** Yes.
25 **Q.** And that report would show the population and the racial

makeup of each portion of the county you included in a district on the illustrative plan; right?

A. Yes.

Q. So if you could turn to Exhibit I3 of your report.

A. Well, I'm in your -- oh, in my -- well, let me -- this is my report; right? Okay.

Q. It's the same report. So whichever copy you'd like to use, you're welcome to.

A. Either way, I've got to kind of fumble around and look for it. I will get to it in a moment.

I'm at Exhibit I3.

Q. And the first page of Exhibit I3 indicates that it's a report for the illustrative plan; right?

A. Yes.

Q. If you turn to the second and subsequent pages, what plan name is referenced on that exhibit?

A. November 14, GA Congress, which is the illustrative plan.

Q. So it's your testimony that the November 14 GA Congress is not the benchmark plan, it's the illustrative plan; right?

A. It is the illustrative plan, right. I mean, this is a planned component report for the illustrative plan.

Q. So just so we're clear, the naming convention November 14 GA Congress refers to the illustrative plan?

A. Yes, it should.

Q. So, Mr. Cooper, if you'll turn to page 8 of that report,

or you can review what's on the screen if you'd like to, this is the planned components report for District 6; correct?

A. Yes. Is that my report or someone else's?

Q. That's from Exhibit I3. You're welcome to --

A. Right.

Q. -- check me with the printed copy.

A. Right.

Q. In reviewing the components of illustrative District 6, the Fulton County portion is 88.29 percent Black; correct? On voting age population?

A. Voting age population it would be 88.29 percent.

Q. And you'd agree with me that on voting age population, none of the other components of District 6 are majority Black; correct?

A. I would agree with that. The Douglas County portion is 49.23 percent.

Q. And you'd agree that Cobb County is the largest county in illustrative District 6, correct?

A. Yes.

Q. And the portion of Cobb that is included in District 6 is 37.40 percent AP Black VAP; right?

A. Yes.

Q. And is it your understanding that the western part of Douglas County is more rural than the eastern part of Douglas County?

A. Yes, but it's -- you know, it's still one of the 11 core counties in the Atlanta Regional Commission. So there are connections to more suburban and exurban areas.

Q. And, Mr. Cooper, as you testified earlier, illustrative District 6 is 50.23 percent voting age population any part Black; right?

A. Yes.

Q. And the only portion of a county that's majority Black on VAP in illustrative District 6 is Fulton County; right?

A. That would be correct.

Q. What did you consider to be the geographically compact minority community or Black community encompassed in illustrative District 6?

A. Well, it is the area that is defined by District 6. It starts in -- basically in Fulton County, with significant Black population throughout. It may not be as concentrated Black population as one finds in the southwest corner of Fulton County, but there is significant Black population throughout that district.

Q. You'd agree that if the heavily Black portion of Fulton County was not included in illustrative 6, it wouldn't be a majority Black district; correct?

A. Well, yes. But you could make the same kind of statement about just about any majority Black district. There's no way you could draw a district that would magically encompass

50.2 percent Black population throughout as a homogenous Black district.

Q. And you'd agree that in the Fulton portion of this district, you have the heaviest Black concentration. And then in the largest county, you have the second smallest Black concentration; right?

A. I think that is correct, but it's a meaningful population, a meaningful Black population. In other words, it's obvious that a lot of Black people live there. And in absolute numbers, you can see that Cobb County has 175,000 Black persons in that portion of District 6. And Fulton County has 146,000. So in absolute numbers, Cobb County wins, but it's not as Black overall as the Fulton County portion.

Q. And so just to go with what you were pointing out, 109,000 of the 123,000 approximately voting age population Black individuals -- I'm sorry, let me start this over.

In the Fulton County portion included in illustrative District 6, you'd included 123,766 individuals of voting age; right?

A. Yes.

Q. And of that 123,766, 109,273 are any part Black voting age individuals; right?

A. Yes, voting age. I gave you total population because you have to -- we have to have population equality independent of the voting age population.

Q. Certainly. And then in Cobb County, there are 131,674 any part Black individuals of voting age; correct?

A. Yes. Again, more persons of -- who are Black and of voting age are in the Cobb County portion of Congressional District 6.

Q. But that's out of 352,053 individuals of voting age in Cobb; correct?

A. Oh, correct.

Q. And you'd agree that illustrative District 6 contains three split counties and one whole county; right?

A. I would agree to that. One of them is a necessary split for deviation purposes unrelated to CD6. Of course, there's a ripple effect throughout the plan, but were it possible to have a higher one-person, one-vote deviation than plus or minus one, then perhaps Fayette County portion could have been cut out and one could have picked up other parts of Cobb County.

Q. But you didn't attempt that on this plan; right?

A. I didn't. Again, partly because I was trying to hold, at least in this case, six districts constant, so that's not to say that it wouldn't be possible. But I would probably have had to change more than just the six districts to accomplish that.

Q. And can you identify any communities of interest between Fairburn and Union City in the south side of illustrative

District 6 and Kennesaw in the north part of District 6?

A. That area is part of suburban Atlanta. And if you ask somebody -- if you're in Virginia and ask somebody where are you from and that person happens to be from Fairburn, they're probably going to say I'm from the Atlanta area. And if you ask somebody from Marietta, they might just say Atlanta area because everybody knows where Atlanta is.

And the distance between Fairburn and Marietta is pretty inconsequential really if you're just driving along. I've sort of driven that route myself. I got lost, because I'm not Fairburn or Douglas County and so it takes me longer. But it's like same neighborhood almost, speaking in terms of congressional districts. Because as I think I may have mentioned in this deposition we had or in another one, there are some congressional districts that are really quite large, like, say, Wyoming, right.

Q. And this district is configured to be a majority Black district; correct?

A. It was configured to demonstrate that the first *Gingles* precondition could be met.

Q. Mr. Cooper, I just want to look briefly at a slightly different District 6 that you offered in your illustrative -- preliminary injunction proceeding. Can you turn to tab 3 of the notebook that's in front of you? I'm sorry.

A. Tab 3?

Q. Yes, sir. It's going to be deeper in.
A. Oh, it's way in here. Yes, okay.
Q. And what's the exhibit number on that one?
A. It says Exhibit 1.
Q. Does the blue label say Exhibit 1? I'm sorry, Mr. Cooper.

THE COURT: 154.

MR. TYSON: 54?

THE COURT: 154.

MR. TYSON: 154. Thank you, Your Honor. I apologize. Gave away my last notebook.

THE WITNESS: Oh, I see now. Yes. I see the Exhibit 154.

BY MR. TYSON:

Q. Mr. Cooper, is this the preliminary injunction report that you offered in this case?
A. I'll have to look at the date of it. Dated January 12th, 2022, so this would have been the one I used in the preliminary injunction hearing.

MR. TYSON: And, Your Honor, we'd move the admission of Defendant's Exhibit 154.

MS. KHANNA: No objection, Your Honor. Also my understanding is it's in the preliminary injunction record already, so...

THE COURT: Yeah, just a number change. In the

injunction I think it's No. 2. So it's admitted without objection.

(Defendant's Exhibit 154 admitted and marked into evidence.)

MR. TYSON: Thank you.

BY MR. TYSON:

Q. So, Mr. Cooper, if you turn to page 21 of that report.

THE COURT: Mr. Tyson, hold on one second. I think the court reporter is having a connection problem that you don't know about.

(Pause in the proceedings.)

THE COURT: Go ahead, Mr. Tyson. Sorry.

MR. TYSON: Thank you, Your Honor.

BY MR. TYSON:

Q. So, Mr. Cooper, if you could turn to page 21 of the preliminary injunction report and look at Figure 8.

Do you see that?

A. Yes.

Q. And the plan you submitted for the preliminary injunction split Douglas County; correct?

A. Yes.

Q. And as you discussed with Ms. Khanna, it also contained a different split of Cobb County than the one you're offering now; right?

A. Yes.

Q. Do you know if you would be able to alter the split in North Cobb County from Figure 8 of your preliminary injunction plan without bringing District 3 into Cobb County and achieve a majority Black status of District 6?

A. It's very likely.

Q. It's correct that the Black voting age population on both illustrative District 6 on the preliminary injunction plan and illustrative District 6 that you're offering in your report now is the same; right?

A. I believe so. I'm a little surprised it is exactly the same. Is there a typo in there?

Q. If you want to check me on this, you can go to page 22 of your --

A. I see it, yes, I see it.

Q. Okay. And so you'd agree it's the same number?

A. Apparently so. I was not aiming to get the same number, but it appears that happened.

Q. So it's your testimony it just happened to be the exact same number on the Black voting age population?

A. Yes. Of course.

Q. Mr. Cooper, let me move to paragraph 68 of your report. And you criticize the 2021 plan for, as you say, it inexplicably mixes Appalachian North Georgia with urban/suburban Metro Atlanta; correct?

A. Okay. So we're back in my 2003 declaration.

Q. Oh, I apologize, Mr. Cooper. Yes, we're back to your 2003 declaration. We're finished with your preliminary injunction declaration.

A. Okay. And what paragraph are you referencing?

Q. Paragraph 68 on -- I believe it's page 27.

A. Yes.

Q. And so just so we're clear, you criticize the enacted plan because you say it inexplicably mixes Appalachian North Georgia with urban/suburban Metro Atlanta; correct?

A. Correct.

Q. And you have not submitted an illustrative plan that made fewer changes to other districts than this one; right?

A. I have not submitted a plan that holds more than six districts constant. I kept six districts whole in the preliminary injunction hearing and I kept six districts whole in this illustrative plan; right.

Q. So, Mr. Cooper, do any of the districts on the illustrative plan that you altered mix parts of rural Georgia with urban/suburban Metro Atlanta?

A. Parts of?

Q. Rural Georgia.

A. Well, District 3 would include, for example, Upson County, which I suppose would be arguably rural.

Q. So you would agree that District 3 on the illustrative plan includes urban /suburban Metro Atlanta mixed with rural

population; right?

A. Yes. I don't think that's anything unusual, though, given that we're working with districts that are large in terms of population, 765,000. So I think it's almost inevitable that at some point you're going to be mixing urban and some more rural areas. I mean, it just is almost unavoidable. What does seem to me to be un -- what does seem to be avoidable was the four-way split in Cobb County that is in the enacted plan.

Q. Would it be --

A. It just doesn't make any sense to me at all that you would slice Cobb County and put part of that county in District 14 and put them in a district that would extend all the way to Chattanooga. It just doesn't make sense to me. I mean, there may be a rationale there that I don't understand.

Q. But you'd agree that the illustrative plan places a portion of Cobb County in a district that runs all the way down to Columbus; right?

A. Yes. But that's not as crazy as putting it in the Appalachian district in my opinion.

Q. And what is the basis for that opinion?

A. There's Appalachia and there is Central Georgia. And if push comes to shove, Cobb County is probably a better fit for Central Georgia. I mean, there is Kennesaw Mountain, so maybe there's a connection to Appalachia there, but basically I'm

satisfied with the way CD3 is constructed under the illustrative plan.

Q. And to follow up on that, what is the basis for your conclusion that Cobb County would have a more close connection to Columbus than to Appalachia?

A. It's really closer to Columbus, I think. Just travel time it -- Congressional District 3 doesn't extend as far southwest, I don't think, as District 14 would extend northwest.

Q. So --

A. District 13 almost goes east of the Chattahoochee, doesn't it? I mean, it's -- as drawn in the illustrative plan -- I'm not looking at it -- but it extends pretty far west, I think, or -- east over the top half -- top portion of the state and Appalachia.

Q. And, Mr. Cooper, I placed the enacted plan back on the screen on the left from your Exhibit G. And what were you referring to --

A. Oh, okay. I retract that statement, then. It does not extend east of Chattahoochee.

Q. And so it's your belief that Western Cobb County is closer to Columbus than to North Georgia?

A. I think so. I mean, it's a close call.

Q. But that was your basis?

A. I mean, the north -- northwest corner of Georgia is, you

1 know, a -- parts of it are suburbs of Chattanooga, which is
2 not really in Georgia. And the south portion of Congressional
3 District 3 is in Georgia around Columbus. I don't really see
4 a problem with that, but be that as it may.
5 **Q.** I'm sorry.
6 **A.** Be that as it may.
7 And I'm not saying that the illustrative plan is the only
8 way to construct a plan that would have a majority Black
9 district in Fulton, Douglas and Cobb County.
10 **Q.** And you would agree that the illustrative plan in
11 District 10 connects majority Black Hancock County with the
12 Appalachian Mountains in Northwest Georgia; right?
13 **A.** I would. And one could, I'm certain, extend District 14
14 further east to pick up towns in Rabun County so that the
15 entire northern tier of Congressional District 14 would be in
16 District 14. That would require other changes to District 14,
17 like, say, splitting part of Floyd County, but that could
18 easily be done.
19 **Q.** But you haven't offered that plan here; right?
20 **A.** I've developed one that I didn't get -- I didn't actually
21 produce it all the way down to perfect deviation, but there's
22 no question that can be done because I've done it. It's just
23 not an exhibit in this case.
24 **Q.** Are you aware of where any mountain ranges are along the
25 north Tennessee border with Georgia?

A. Basically, yes. I mean, it's rugged country.
Q. Do you know if you crossed a particular mountain range in the configuration of District 14 on the illustrative plan?
A. I may well have.
Q. And, ultimately, Mr. Cooper, you had to reconfigure the eight districts you reconfigured in order to create the new -- what you're calling the new majority Black District 6; correct?
A. I changed eight districts, that's right.
Q. And last question on the urban to rural areas. Looking at illustrative Exhibit 13 you would agree it connects urban areas in Clayton with rural areas in Fayette, Spalding, Butts and Jasper Counties; right?
A. It would include a southern part of Clayton County that would be suburban, perhaps more urbanized. And it would extend into an area that still was in the Atlanta MSA. So it's, I think, appropriate to do that.
Q. Mr. Cooper, are you aware that the only majority Black VAP portions of District 13, as you've configured it, are in Newton and Clayton County per your Exhibit I3?
A. Yes. Generally speaking, it's not a surprise. But as I've suggested, when you're constructing a district that has 765,000 people in it, it's not going to be evenly distributed so that all people are -- wherever you look, are roughly 50 percent Black. There are towns that are predominantly

Black, towns that are predominantly white, towns that are racially diverse. So it is what it is. And I have no concerns at all about the way I've drawn the illustrative plan.

Q. And so you'd agree that on illustrative District 6 and illustrative District 13 you've included higher white concentrations of voters with more heavily Black concentrations of voters; right?

A. Well, and that's the way the state of Georgia is; right? I mean, it doesn't add up to me that I could somehow avoid that in drawing a congressional plan. Maybe you can enlighten me on that, but I think that's just an inevitability, that certain parts of counties are going to be racially mixed, some are going to be predominantly white, some predominantly Black.

Q. So, Mr. Cooper, just kind of circling back to paragraph 68 of your report. When you criticize the illustrative plan because it inexplicably mixes Appalachian North Georgia with urban/suburban Metro Atlanta, the illustrative plan does that same thing in several districts, right?

A. It does to a certain extent in District 10. But the question is why did you need to split Cobb County four ways. It just doesn't add up. Something else was in the works, I don't know what. But there was -- there should have been an effort to determine whether or not a majority Black district

could have been created in that area where the four Senate districts show the concentration of the Black population.

Q. And you say something else was in the works. That something else could have been politics; right?

A. Well, it could have been anything; right. But someone was not paying attention.

MS. KHANNA: Objection, Your Honor. That question is eliciting testimony about Mr. Cooper's perceptions of somebody's intent. That's not -- that's beyond the scope of his report in this case.

THE COURT: I'll say it, Mr. Tyson. He doesn't know what the intent was in the General Assembly. If he did, he can't say what they said.

MR. TYSON: Understood, Your Honor.

THE WITNESS: And I really didn't mean intent necessarily --

THE COURT: In your head. In your head. Don't talk.

MR. TYSON: That's good advice from the judge.

BY MR. TYSON:

Q. So, Mr. Cooper, let me talk about some of the statistics that you talked about with Ms. Khanna about the district plan that was created.

You provided the individual district scores in Exhibits L1 and L3; is that right?

A. Yes.

Q. And so looking at those exhibits, for the districts that changed, you would agree that District 3 is more compact on the enacted plan than on the illustrative plan; correct?

A. District 3?

Q. Yes, sir.

A. It is. But the compactness score for the illustrative plan is a .39 Reock score and a .24 Polsby-Popper, so those scores would certainly pass in flying colors under most circumstances. And they do here as well.

Q. And you would agree that District 4 is more compact on the enacted plan than on the illustrative plan; right?

A. Yes. But, again, the Reock score for District 4 is .28 and Polsby-Popper .22. So I think that's okay.

Q. And District 6, as you explored with Ms. Khanna, is slightly more compact on the illustrative plan; right?

A. Yes, it is.

Q. And I believe you testified earlier that a longer district may have a lower compactness score. Do I have that right?

A. That can happen, right.

Q. And you'd agree the enacted District 6 is a longer district than the illustrative District 6; right?

A. Let me look at the enacted plan. I know there's a zoom on it in the declaration, but I'm struggling to find it.

So what was your question again?

Q. You would agree that enacted District 6 is a longer district than illustrative District 6; right?

A. Well, I need to look at an exhibit, so just a moment.

Enacted District 6, that stretches from Marietta up north through Fulton, Forsyth, Cherokee Counties and Dawson County, right?

Q. So you would agree that enacted District 6 is a longer district than illustrative District 6?

A. I haven't measured it, but it probably is.

Q. And continuing our work through the compactness scores, District 9 is slightly more compact on the illustrative plan; correct?

A. Yes, slightly more.

Q. District 10 is more compact on the enacted plan; right?

A. It would be, yes.

Q. District 11 is more compact on the enacted plan; right?

A. Yes. But just because something is more compact doesn't mean it's -- does not mean that there's something wrong with the way the district is constructed. These scores that I see are all acceptable, generally speaking, both for the illustrative plan and the enacted plan.

Q. And finishing this out, District 13 is more compact on the illustrative plan; correct?

A. Yes.

Q. And District 14 is more compact on the enacted plan for

Polsby-Popper, but more compact on Reock for the illustrative plan; right?

A. Yes.

Q. Moving to Figure 14 of your report, this is where you report the various Black voting age metrics for both the illustrative plan and the enacted plan; right?

A. Yes.

Q. And I think we've confirmed District 20 -- District 6 is 50.23 percent Black VAP?

A. Yes.

Q. And District 7 is unchanged, but it's 29.82 percent Black VAP?

A. I'm sorry, what was -- could you repeat that?

Q. District 7 is unchanged and has a Black VAP of 29.82 percent?

A. Yes.

Q. And District 13, if you look at it, the non-Hispanic Black citizen voting age population is actually below 50 percent; right?

A. It would be, although I also have a column for the non-Hispanic DOJ Black CVAP, which I think would be the preferred metric --

THE COURT: Can you repeat that answer? I know it's kind of hard to look down and talk into the mic, but it helps a little bit.

THE WITNESS: Yes.

What I said is the non-Hispanic DOJ Black CVAP is actually 54.34 percent, which I think would be the preferred metric when analyzing a congressional district in Georgia.

THE COURT: Go ahead.

BY MR. TYSON:

Q. And looking at the non-Hispanic DOJ Black CVAP, using that metric, there would be four majority Black districts on the enacted plan; is that right?

A. There -- there would be, yes. District 2 would be 50.001 percent. However, since that particular figure was produced, the Census Bureau has released the 2017-2021 ACS with CVAP information. And, in fact, now Congressional District 2 is no longer 50 percent non-Hispanic DOJ CVAP. It has dropped into the 49s. So it's no longer Black VAP majority, it's no longer single non-Hispanic Black CVAP majority, and it's no longer non-Hispanic DOJ Black CVAP, according to the 2017-2021 ACS data special tabulation that was released by the Census Bureau I think sometime about the time we were having our deposition in February.

THE COURT: This is District 2?

THE WITNESS: Yes. Yes, that's District 2.

BY MR. TYSON:

Q. And to be clear, Mr. Cooper, that information is not included in this report; correct?

A. It's not, but it could -- I mean, it couldn't be, because that information hadn't been released at the time I developed this report. It wasn't released until very late -- possibly late January, but sometime in early February.

Q. And you have not filed a supplemental report with that information in it.

A. Well, I can provide that information to you today if you wish.

THE COURT: Let him finish his question.

BY MR. TYSON:

Q. So, Mr. Cooper, just so our record is clear, you have not provided a supplemental report with an update on district statistics from the new ACS data you've referenced; right?

A. I have not. But I'm here under oath and I will tell you that the number is under 50 percent, somewhere in the 49s, for non-Hispanic DOJ Black CVAP in Congressional District 2 under the enacted plan. And also under the illustrative plan, because CD2 didn't change in the illustrative plan.

MR. TYSON: And, Your Honor, we would just request that if Mr. Cooper is going to rely on information he has not provided as part of the expert report, that he be required to supplement that report.

THE COURT: Ms. Khanna, you-all are going to need to supplement the report or I can't consider this. You've got to give it to Mr. Tyson, is what I'm saying, because you've

probably -- you just heard this today yourself?

MS. KHANNA: I didn't elicit the answer or ask the question, Your Honor, so I --

THE COURT: I guess what I'm saying is that you-all -- Mr. Cooper, are you -- depending on this new information, are you making your decision-making based on the information you had prior to that?

THE WITNESS: The information I had prior to that is fine. I mean, it's not really necessary to bring that into this case, I don't think. You can see how close the --

THE COURT: Let's do this. Let's do this. Let's just go with the information we have. Okay?

THE WITNESS: Right.

MR. TYSON: Thank you, Your Honor.

MS. KHANNA: Thank you, Your Honor.

BY MR. TYSON:

Q. Last question on Figure 14, Mr. Cooper. You would agree that the illustrative plan reduces the Black voting age population of District 14 by more than -- or by approximately nine points; right?

A. Yes.

Q. And it lowers the Black voting age population of District 13 by a little more than 15 points; correct?

A. Correct.

Q. So, Mr. Cooper, I want to ask about some of the

socioeconomic statistics that you include at the end of your Pendergrass report.

A. Yes.

Q. And I've finished with the slides at this point, so you don't need to keep referring to that.

The socioeconomic statistics you reference at the end of the report are only available at the county level, not a lower level of geography; is that right?

A. Yes. What page is that on? Oh.

Q. That is at the very end -- yeah, right -- on your current report.

A. Yes.

Q. Not the preliminary injunction report.

A. This. Where is that information?

Q. Page 33, beginning on paragraph 83.

A. Yes.

Q. And so, Mr. Cooper, you've reported these statistics but you're not offering any opinions about these statistics; is that correct?

A. I believe that's correct. I think Dr. Collingwood is offering opinions on similar datasets he obtained from the Census Bureau.

Q. And you didn't rely on the socioeconomic statistics as any basis for drawing the illustrative plans you've offered in this case; correct?

A. I was aware of some of that information, but it didn't control the plan drawing per se; correct.

Q. So, Mr. Cooper, what I'd like to do now is work back through kind of the repetitive portion of this.

MR. TYSON: So, Your Honor, I haven't checked the time.

THE COURT: I have to stop at 3:00 and take a phone call for about ten minutes. So we'll probably try to take the break at 3:00, so you've got 15 more minutes.

MR. TYSON: I'll see how quickly we can work through. This will be a lot of questions we discussed previously in the Alpha case, just so the record is complete.

THE COURT: Okay. And if you don't finish by 3:00, we'll take a break, come back and finish. So don't...

MR. TYSON: Thank you, Your Honor.

BY MR. TYSON:

Q. So, Mr. Cooper, when you had prepared the illustrative plans, I want to go through the data you had and didn't have in the drawing process. You had racial and demographic information from the census; correct?

A. Yes.

Q. And you had the ability to, as we discussed, run reports on compactness and split geographies; right?

A. Right.

Q. And in the drawing process, you relied primarily for

compactness on how a district looks while you're drawing it and then you run compactness scores at the end; is that right?

A. Not necessarily at the end, but I don't habitually check the compactness scores while I'm drawing a plan.

Q. And did you utilize or have any incumbent addresses for the congressional plan?

A. Yes. I did have what I believed to be the incumbent addresses. I think there may have been some uncertainty with respect to District 10, CD10, but, yes, I did.

Q. But incumbent addresses don't matter as much for congressional districts because a member of Congress doesn't have to live in the district from which they're elected; right?

A. Right.

Q. And you had the boundaries of the prior and the enacted plans; right?

A. Yes.

Q. And you had the guidelines from the General Assembly; correct?

A. Yes.

Q. And I believe we've covered you didn't have any election returns or political data; correct?

A. I did not.

Q. And you did not have the American Community Survey data that you referenced at the end in a format that you could

display in Maptitude; right?

A. Well, I certainly did not have the 2017-2021 ACS -- oh, you're just talking about the socioeconomic data.

Q. Yes.

A. Right. No. I was just using -- referring or reviewing some of the socioeconomic data at the county or municipal level; right.

Q. And the ACS data couldn't be displayed in Maptitude and also was not available except at the county and municipal level for what you've referenced in this case; right?

A. Right. But you could obtain bloc group-level data of some of the socioeconomic information.

Q. And you did not review public testimony from Georgia voters when you were preparing your plan?

A. I did not.

Q. So in terms of definition of terms, in this report a majority Black district is a district with an any part Black voting age population of over 50 percent; right?

A. Right.

Q. And as we discussed the other day, a majority-minority district is not necessarily the same thing as a majority Black district; right?

A. Correct.

Q. And all majority Black districts are majority-minority districts, but not all majority-minority districts are

1 majority Black districts; correct?
2 **A.** Correct.
3 **Q.** Another term we talked a lot about, I'm sure everyone is
4 tired of the word by now, the word "packing." And you're not
5 opining that any of the existing districts on the 2021
6 congressional plan are packed; correct?
7 **A.** Well, I'm not able to really use that term in a legal
8 fashion. I think that in the enacted plan, that Congressional
9 District 13 overconcentrates Black population.
10 **Q.** So, Mr. Cooper, could you point me to where in your
11 report you discuss Congressional District 13 being
12 overconcentrated?
13 **A.** I don't know. I -- is it not in there?
14 **Q.** I'm asking you. I didn't find a reference to
15 overconcentration or packing, which is why I asked you if it
16 was an opinion you were offering in this case.
17 **A.** Yes. Well, I do have a table that shows the percentages
18 of the Black VAP in all the districts, but -- right.
19 **Q.** So you are offering the opinion in this case that
20 District 13 -- in District 13 Black voters are
21 overconcentrated, but you're not offering the opinion that
22 Black voters are packed in District 13?
23 **A.** Well, packed is sometimes a legal term. And I -- I was
24 trying to avoid, based on our conversation day before
25 yesterday, or was it yesterday, because there were some issues

with how I was referring to the word "packing." So I have used a synonym, overconcentrate. And it doesn't have any sort of a legal meaning, I don't think.

Q. So can you explain your definition of overconcentrate?

A. Well, it just means that, by reducing the Black voting age population in District 13, it then becomes possible to create the new majority Black district anchored in Fulton, Cobb and Douglas Counties, which previously parts of it were in Congressional District 13.

Q. And so your definition of overconcentrate is tied to the fact that you can create an additional majority Black district?

A. Not necessarily, but there -- I have no hard fast rule about what constitutes overconcentration. So that's as far as I can go with it. I mean, I'm just trying to explain that one point, that there are -- Congressional District 13 historically has never had a population that was that high. If you go back to the 2000 era plans, I think that Congressional District 13 was only in the low to mid 50s Black VAP. So it's -- it's been electing a Black member to Congress, I think, for more than two decades. And at the outset, Congressional District 13 was not over 60 percent Black and now it is, under the enacted plan.

MR. TYSON: And, Your Honor, I would just ask that the Court not consider Mr. Cooper's opinions about

overconcentration in District 13. I've just done a search of his report and can't find that word anywhere. Rule 26 requires that be the opinions that he offers in this case, so I don't think that's an appropriate opinion for him to offer, unless he can point us to something in his report.

THE COURT: Ms. Khanna?

MS. KHANNA: No objection, Your Honor.

THE COURT: All right. Mr. Cooper, you understand, since you have not provided that information in your reports, don't talk about overconcentration or packing for District 13.

THE WITNESS: Fine. I will -- I would just as soon not.

BY MR. TYSON:

Q. Mr. Cooper, you don't believe there is a metric that would tell you if race predominated in the creation of a district plan; correct?

A. I'm not sure what you mean by that, but -- so -- yeah, I don't know what you mean. I...

Q. So when I use the term "racial predominance," that's not a term that you're familiar with?

A. Well, how do you come to that conclusion? I mean, it's a general statement, right? And I -- in drafting this plan, I have attempted to balance all of the traditional redistricting principles so that no one principle predominates.

Q. And --

A. Except for population equality, which apparently mathematically has to be plus or minus one person in a congressional district in Georgia. It could vary a little bit in some of the other states, like West Virginia and Arkansas.

Q. Mr. Cooper, do you believe it's hypothetically possible to draw a district plan prioritizing only equal population and race in the drawing of that plan?

MS. KHANNA: Objection, calls for speculation and asking about what he did in this case.

THE COURT: How can he answer that question without speculating, Mr. Tyson?

MR. TYSON: I believe as an expert, he can offer a hypothetical, Your Honor. Offer an answer to a hypothetical. He's drawn hundreds of district plans. I'm assuming he would know when race was prioritized over every other traditional districting principle.

THE COURT: I'll allow him to answer if he can.

MS. KHANNA: Thank you, Your Honor.

THE WITNESS: Well, I believe you have to take into account all the traditional redistricting principles. So it would not be enough just to create a majority Black district and have a perfect plus or minus one district. Just hypothetically that doesn't mean anything.

BY MR. TYSON:

Q. Mr. Cooper, in terms of the data that you displayed, we

talked about you had dots that identified the precincts or areas with greater than 30 percent Black population; is that right?

A. Generally speaking, at the VTD level. As you know I don't use the shading that apparently your expert Mr. Morgan uses. And I only work at the VTD level unless there's a deviation issue.

Q. And did you display the demographic percentages of other levels of geography as part of the label at any point when you were drawing these plans? I'm sorry.

Did you display the demographic percentages of any piece of geography as a label on that piece of geography while you were drawing the illustrative plans?

A. I don't think so. I think I was basically working with VTD levels. I do have the map that is shown in the opening portion of my declaration that has an indication of where the majority Black counties are. That's in the -- that is actually in the Alpha Phi Alpha declaration. I'm not sure if it's even in this declaration, is it? I don't think it is.

Q. And you also had a table of counties in the state that included the racial information for each county; is that right?

A. I have a table in this report that I believe breaks out county population change between 2010 and 2020 in the 29-county MSA area. So it's not a statewide breakout, I

believe. I don't think it includes other counties outside of the MSA.

Q. And is part of the process of creating the illustrative plan you relied in part on the history of the experience of Black Americans and the commonality that goes with that as a basis for a community of interest; right?

MS. KHANNA: Objection, Your Honor, it mischaracterizes testimony.

MR. TYSON: Your Honor, I believe I asked the exact question in Alpha Phi Alpha and received a positive answer from Mr. Cooper.

THE COURT: Let me hear the question again.

BY MR. TYSON:

Q. Mr. Cooper, in creating the illustrative plan, you relied in part on the history of the experience of Black Americans and the commonality that goes with that as a basis for a community of interest; right?

THE COURT: Do you remember that question?

THE WITNESS: Well, yes --

THE COURT: Hold on, hold on. Do you remember that question.

THE WITNESS: Not precisely, no.

THE COURT: A question that was close to that?

THE WITNESS: I think maybe so, yes.

MS. KHANNA: Well, and, Your Honor, I'm not sure how

Mr. Cooper did or was instructed to develop plans in a different case, but in this case --

THE COURT: That's --

MS. KHANNA: Yeah, that is my objection. In this case, he has not testified to that.

THE COURT: Well, it's two different plaintiffs, Mr. Tyson. The Alpha plaintiffs, they did not object. Grant and Pendergrass are objecting. So I don't know if he's qualified to answer that because -- I think there's another way you could ask it, though. I think commonality is a question that needs to be asked. Rephrase the question.

MR. TYSON: Certainly, Your Honor.

MS. KHANNA: Thank you, Your Honor.

BY MR. TYSON:

Q. Mr. Cooper, in considering communities of interest that you included as part of your illustrative plan, was the common experience of Black Americans one of those communities of interest you relied on?

A. Well, I'm not a historian, but I am aware of that commonality. It was not controlling exactly how I drew the plan, but I -- I can go that far and say, yes, I'm aware of that common experience.

THE COURT: The question is did it bear on how you drew the plan, though?

THE WITNESS: I don't think so. Not -- not -- no, it

did not. It's just overall in the background.

BY MR. TYSON:

Q. Mr. Cooper, you testified earlier that no one would want to be in a split city. Do you recall that testimony?

A. That who would not want to be --

Q. I believe in response to a question from Ms. Khanna you said no one would want to be in a split city.

A. Generally speaking. But some folks might want to be in a split city. I will grant you that.

Q. And you're aware that there are cities in Georgia that cross county boundaries; right?

A. Yes.

Q. And in this report in the Pendergrass case, you did not provide information about splits of metropolitan statistical areas; right?

A. I provided a split report that combined MSAs and micropolitan statistical areas. In other words, core-based statistical areas, all hard defined by the Census Bureau and the Office of Planning and Budget. So it would include some of the smaller areas that are sometimes a single county or two counties, but -- and those areas would have an urban center that would be between 10,000 and 50,000. And then the MSAs are over 50,000 and generally include more than one county.

Q. So to be clear, you included that information as an exhibit, but you didn't summarize it in your report; right?

A. Well, I did. I think I have a CBSA split table in my report, unless I'm mistaken. Well, I guess I don't. I included the information, I think.

THE COURT: Mr. Tyson, I need to stop right here and take a break. Let's take a 15-minute break and be right back.

MR. TYSON: Thank you, Your Honor.

(After a recess, the proceedings continued at 3:16 p.m. as follows:)

THE COURT: You-all can be seated.

Mr. Tyson, you may proceed.

MR. TYSON: Thank you, Your Honor. Sometimes when there's a break you get more questions, sometimes you get fewer, so I have one question for Mr. Cooper that's left.

THE COURT: Okay. Maybe we should take more breaks.

BY MR. TYSON:

Q. Mr. Cooper, in your report in the Pendergrass case, you did not report on the number of regional commission splits for the enacted plan and illustrative plan; right?

A. That's right. Just before we broke I realized that I was confusing Alpha Phi Alpha with this case.

Q. So those are not included?

A. They are not in the Grant report.

MR. TYSON: Okay. That's all the questions I have.

THE WITNESS: Or Pendergrass report, I should say.

THE COURT: Thank you, Mr. Tyson.

Ms. Khanna.

MS. KHANNA: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MS. KHANNA:

Q. I'd like to pull up page 100 of your -- of Pendergrass Plaintiffs' Exhibit 1, which I believe you walked through with Mr. Tyson as well. I want to make sure I'm looking at the right one. This is the plan component report for your illustrative map; is that right?

A. Yes.

Q. And what is the Black voting age population of the portion included -- the portion of Fayette County included in your illustrative District 6?

A. It is -- you want voting age?

Q. Yes.

A. It is 21.73 percent.

Q. And that's just 652 people or Black -- people of Black voting age, Black voting age people.

A. Right. 998 all ages.

Q. And 652 voters?

A. Right. Of Black voting age.

Q. And is it fair to say that the portion of Fayette County included in your illustrative District 6 is not dispositive in making the district a majority Black district or --

A. Correct.

Q. -- it was not needed to make that a majority Black district?

A. Correct. And I somewhat misspoke when I said there was 4500 people in Fayette County that were put into District 6. It's actually just 4,143 people.

Q. And you testified earlier that the portions of -- included in -- from Fayette County were meant to zero out the population between the districts; is that right?

A. Exactly. That's the only reason I crossed the border.

Q. Now -- so other than Fayette County, you had mentioned that the district is really anchored in three counties; is that right?

A. Yes.

MS. KHANNA: And, actually, if we could go to the page before this, because I think it starts on the previous page with Cobb County. No? It should be page 99 of the exhibit.

THE WITNESS: Yes. I have it.

BY MS. KHANNA:

Q. Okay. I'm just going to wait one second to get it up on the screen so we make sure we're all looking at the same thing.

Yes. Looking at the very last portion there, you see at the bottom of page 99 is the Cobb County portion of your illustrative District 6; is that right?

A. Yes.
Q. And Mr. Tyson mentioned that the Black voting age population percentage of that portion of the district is 37.4 percent; is that right?
A. Yes.
Q. And I think you pointed out that the -- in terms of the absolute numbers of individuals of -- with Black -- Black voting age individuals, it's actually 131,674; is that right?
A. Of voting age, yes.
Q. And you would agree that without those 131,674 Black individuals of voting age, you might -- you would not have a majority Black district?
A. I might what?
Q. You would not have a majority Black district.
A. Well, true. I mean, you'd have to go elsewhere to find enough population to meet one-person, one-vote.
Q. Well, put another way, certainly those 131,604 Black individuals of voting age contributed to illustrative CD6's overall Black voting age population?
A. Oh, yes. Of the four counties, I think as I mentioned, they are the largest component that is Black of voting age.
Q. And if we move on again, now back to page 100, which is the other -- the remaining counties in the district, and go to that top portion. Now, Mr. Tyson did point out that the portions from Fulton County are 88 -- over 88 percent Black

voting age population; is that right?
A. Yes.
Q. And you noted there that that's 109,273 Black individuals of voting age; is that right?
A. Right.
Q. Also a significant contributor to the overall Black voting age population percentage of the district?
A. Yes.
Q. And then the only remaining county that we haven't discussed is Douglas County. And Douglas County is included in full in the district; correct?
A. Yes.
Q. And the voting age population percentage there?
A. Is 49 -- I'm sorry, is -- it's 49.23 percent.
Q. 49.23 percent is the Black voting age population. And that includes an absolute number of Black individuals of voting age, 53,377; is that correct?
A. Correct.
Q. Also a significant contributor to the overall Black voting age population percentage in your district?
A. Yes.
Q. So those three adjacent counties included in your illustrative District 6 all had significant Black population?
A. Yes. And would have been essentially probably, what, 99 percent of the Black population in the district, because

Fayette County only has 652 persons who are Black of voting age.

Q. If we could turn to page 110 of this exhibit, which looks at the plan component report for District 13 and I believe you also looked at this with Mr. Tyson.

And Mr. Tyson, I think, indicated that -- I don't know exactly how he phrased it, that most or all of the Black population -- or rather the only majority Black population counties in District 13 in the illustrative plan include Clayton and Newton. Does that sound right from what you recall from that testimony?

A. I seem to recall that he identified those two counties with respect to Clayton County -- with respect to District 13.

Q. So looking at Clayton County here in District 13, the Black voting age population is 71.9 percent; is that right?

A. Yes.

Q. What's the absolute number of Black individuals of voting age?

A. 138,553.

Q. And let's turn to the next page, page 111, to see the remainder of the district and the counties in it.

A. Yes.

Q. And he also pointed you to Newton County, and the Black voting age population percentage there is 58.35 percent. What is the absolute number of individuals of Black -- Black

individuals of voting age in that district?

A. 18,246.

Q. Now, one district that Mr. Tyson did not point out is Henry County -- or sorry -- one county he did not point out was Henry County in District 13. What is the Black voting age population percentage in Henry County?

A. 49.82 percent.

Q. Rounded to 50 percent; correct?

A. Correct.

Q. And what is the absolute number of Black individuals of voting age in the Henry County portion of illustrative CD 13?

A. 89,657.

Q. Would you call that a significant contributor to the overall Black population percentage of the district?

A. Yes.

Q. Mr. Cooper, as a demographer does it surprise you that majority Black districts include areas with high concentrations of Black people?

A. No. It's almost -- call it logical. You draw a district that's majority Black, there are going to be areas that are majority Black.

Q. And would you expect there to be a uniform concentration of Black people throughout every portion of a majority Black district?

A. No, I would not. That would be highly unusual. I'm not

sure if there is anyplace in America where you could draw a congressional district that would have a homogeneous Black population of plus or minus 5 percent Black even.

Q. I'd like to take another look at illustrative District 6 of page 71 of your report. Do you have that in front of you?

A. Oh, I must be looking at the wrong page. That's fine. I can see that.

Q. Do you see there's a little legend at the bottom, trying to indicate how many -- I guess how much an inch is in miles?

A. Yes.

Q. Can you approximate looking -- using that legend of your map about how long is District 6?

A. Well, if you look at the legend, it seems like it's maybe 25 miles. I mean, it's not very long.

Q. It's certainly not two of those inches --

A. Certainly not.

Q. -- is it?

A. It is not.

Q. So likely 40 miles or less from top to bottom?

A. It could be 40 maybe, yeah, by road, if that. If that.

Q. Do you know how long it would take to drive the length of that district?

A. I -- it would depend on rush hour traffic, but --

Q. It is Metro Atlanta after all.

A. Yes. On Saturday you could -- or on Sunday morning you

could probably drive it in a half hour; right?

Q. Would you -- do you think any portion of this district is far flung from any other portion of this district?

A. Of course not.

Q. Let's turn to paragraph 68 of your report on page 27. And if we can just zoom in on that paragraph, this is a paragraph that Mr. Tyson asked you about in some detail. In particular, he focused on one sentence. Can you do me a favor, Mr. Cooper, and read out loud the entire paragraph?

A. The entire paragraph here?

Q. Yes. The full context of the paragraph.

A. Just read the paragraph?

Q. Just read the paragraph.

A. "Going beyond these quantifiable measures of communities of interest, it simply makes more sense to anchor illustrative CD6 in the western part of Metro Atlanta. As the illustrative plan demonstrates, CD6 can be drawn in a compact fashion that keeps Atlanta area urban/suburban/exurban voters together. In sharp contrast, the 2021 plan, its treatment of Cobb County in particular, inexplicably mixes Appalachian North Georgia with urban/suburban Metro Atlanta. In some redistricting plans, it might be necessary to mix urban and rural voters in a sprawling congressional district, but that is not the case here. Congress -- Cobb County can be combined in a congressional district with all or part of Douglas, Fulton and

Fayette Counties, all of which are core Metro Atlanta counties under the Atlanta Regional Commission map. Illustrative CD6 thus unites Georgians in the Metro Atlanta with shared interest and concerns."

Q. Okay. Thank you.

The first two sentences of this paragraph are your explanation as to why you believe your illustrative CD6 respects a community or communities of interest; is that right?

MR. TYSON: Your Honor, I'll just object to leading on this one. I mean, this -- Mr. Cooper has testified about his communities of interest.

THE COURT: That is a little leading. Sustained.

MS. KHANNA: I appreciate that, Your Honor.

BY MS. KHANNA:

Q. Mr. Cooper, is it fair to say that this paragraph describes the community of interest that you drew in illustrative CD6?

A. Yes. This describes the essence of the community of interest. It makes no sense to put Black voters and all voters in Cobb County in a congressional district that would extend into what amounts to the Chattanooga MSA.

Q. If you look at just the first two sentences of the paragraph.

A. Yes.

Q. Those are about the -- those sentences refer to the community of interest that you included in your illustrative District 6; correct?

A. Yes.

Q. You also describe as a comparator how the enacted map treats that area; is that right?

A. Yes.

Q. Similarly, when you were analyzing political subdivision splits you explained in your report how many splits your map had; correct?

A. Correct.

Q. And you provided the enacted plan as a comparator; correct?

A. Yes.

Q. I believe in response to some of Mr. Tyson's questions you mentioned -- well, it appeared you did not like the way that the enacted map treats this area; is that right?

A. I do not. I mean, it -- the enacted map divides Cobb County four ways and splits a number of municipalities.

Q. You didn't think it was necessary?

A. Not necessary.

Q. I think you even said it seemed crazy; is that right?

A. I -- you could call it crazy.

Q. In your opinion; correct?

A. Yes.

Q. Mr. Cooper, were you -- when we talked about what you were asked to do in this case, were you asked to opine on the intent of the legislature in drawing the enacted map?

A. No, no. I have no intention of describing the underlying -- I have no intention of describing the underlying intent. I'm just making a statement about the demographic reality in Western Metro Atlanta.

Q. Were you asked to opine on your thoughts and beliefs about how the enacted map pairs communities?

A. No, not my thoughts and beliefs.

Q. You were asked to look at the size and location of the Black population to determine whether it's large enough and geographically compact enough to form an additional majority Black district; correct?

A. Yes.

Q. Turning to District 7, Mr. Tyson asked you a few questions about District 7, which remained untouched in your illustrative plan; is that right?

A. Yes.

MS. KHANNA: If we could turn to the data on page 68 of your report. If we can get a closer look at the districts there. Thank you.

BY MS. KHANNA:

Q. And I believe Mr. Tyson noted with you that District 7 is not a majority Black district; is that correct?

A. Yes. I'm not yet at --

Q. Sorry. Take your time.

A. Yes.

Q. And you would agree that District 7 is not a majority Black district; correct?

A. I agree.

Q. Is District 7 a majority white district?

A. District 7 is -- is not majority white either. It is 32.78 percent non-Hispanic white.

Q. You might be looking at a different -- wait.

A. I'm sorry. I'm looking at -- I'm looking at the enacted plan, but that is the same thing; right? The District 7 did not change.

Q. Right. So if I'm looking on what I have on the screen, I think what I'm looking at on page 68 of your report is the total population.

A. Oh, right. I'm looking at VAP.

Q. You're looking at page 69.

A. I'm looking at the VAP, but I see what you mean.

Q. You can turn to page 69 so we're all looking at the same thing.

A. Yes. Oh, okay.

Q. Let's take a look at 69 instead.

All right. This is the -- so this is the demographics of District 7 in the enacted map; is that right?

A. Right.
Q. District 7 in the enacted map is the same as District 7 in the illustrative map?
A. Yes.
Q. And is District 7 a majority Black district in the enacted map?
A. No.
Q. What is the Black voting age population?
A. The non-Hispanic Black population -- voting age population is 27.35 percent. And that, of course -- that number would, of course, not include the any part Black population, so that number will be slightly different than the table I produced in my report, which breaks out the any part Black VAP.
Q. Is District 7 a majority white district?
A. No. It is a plurality minority district.
Q. Can you explain what that means, a plurality minority district?
A. It means that the population has a plurality of white, non-Hispanic white population, but would also have a minority population that, taken together, would be more than 50 percent. So that the Hispanic population in District 7 is 21.27 percent, non-Hispanic Asian is 15 percent, and then there is some indigenous population also.
Q. And the white voting age population in District 7 is less

than 33 percent; correct?

A. Correct.

MS. KHANNA: You can take this down.

BY MS. KHANNA:

Q. Mr. Cooper, how many people are in a congressional district?

A. Well, roughly 765,000, but to be precise, 765,136.

Q. Are you aware of any congressional district in Georgia's enacted plan in which every city and community has commonalities with every other city and community within a 765,000-person district?

A. I'm not aware of that.

MR. TYSON: I object. Sorry. I object to that as beyond the scope of the opinions Mr. Cooper has offered in his report. I believe Ms. Khanna just had him testify that he is not offering an opinion about the enacted plan on communities and those types of things.

MS. KHANNA: I'm acting -- I'm actually ask -- you're right. I don't have to ask him about the -- I guess I'm using this as a comparator, Your Honor. He was asked by Mr. Tyson about what communities, what does this part of a community have to do with another part of the district in the illustrative plan. And I'm trying to make an understanding about whether that's an applicable community of interest analysis when looking at a congressional map.

THE COURT: You didn't ask about commonality.

MR. TYSON: I did, Your Honor. If that's where we're going with this, I guess that's an appropriate question to ask. I can follow up after that.

THE COURT: Yeah. As long as you keep it there, you're fine.

MS. KHANNA: Thank you, Your Honor.

BY MS. KHANNA:

Q. Would you like me to say the question again?

A. You can rephrase.

Q. Are you aware of any congressional district in Georgia's enacted map in which every city and community has commonalities with every other city and community in the district?

A. No.

Q. Based on your redistricting experience more broadly are you aware of any congressional district in the country in which any -- every city and community has commonalities with every other city and community across the 760,000-plus people in the district?

A. I am not aware of any place like that.

Q. Earlier during your direct examination you and I talked about how you defined and considered community of interest in drawing your illustrative plan.

Do you remember that?

A. Yes.
Q. And I asked you what communities of interest you considered in drawing your illustrative plan; is that right?
A. Right.
Q. And if I recall correctly, you noted two categories, one was political subdivisions, municipalities -- census-designated places, counties, and the other was the Atlanta MSA and ARC 11-county region.
A. Right.
Q. Is that right?
A. Right.
Q. And are those the communities of interest you considered when drawing your illustrative plan?
A. Yes. I was also aware of other MSA, CBSA or, in other words, micropolitan lines as I was drawing the plan.
Q. You didn't also try to connect or disconnect urban and rural areas when drawing your illustrative plan, did you?
A. I did not. I mean, you're going to have a mix almost invariably once you get outside of the core Atlanta counties.
Q. And when you were considering communities of interest in drawing your illustrative plan you didn't go door to door to get residents' views of their communities of interest, did you?
A. No, I did not.
Q. When you were considering communities of interest in

drawing your illustrative plan, did you cherry-pick certain kinds of communities to favor or disfavor in the plan?

A. No.

Q. The communities of interest that you did consider are all objectively defined communities; correct?

A. Yes. These communities are defined by Census Bureau boundaries showing the municipal lines.

Q. And showing county lines?

A. Of course. Yes. County lines for sure. And census-designated places, which would be unincorporated communities.

Q. And the MSA is a federally defined community; correct?

A. Correct. A broad region.

Q. And the 11-county core Atlanta Metro area is defined by the Atlanta Regional Commission; correct?

A. I think so. I don't know the exact procedure, because some counties have been added over time. As I mentioned, I think Forsyth County was added at some point in the 20 -- late 2010s.

Q. I believe Mr. Tyson asked you a hypothetical question about whether one could prioritize race and population equality in drawing a map in disregard of other traditional districting principles.

Do you recall that question?

A. I think so. I said no, I hope.

Q. Well, I think your answer was, no, that's not how you should do it; is that correct?

A. Right.

Q. But one could prioritize race and population equality in disregard to other traditional districting principles; correct?

A. Right. But then --

THE COURT: Hold on, hold on, hold on.

MR. TYSON: I'll just object. When I tried to explore this line of questioning with Mr. Cooper, it was objected to as a legal conclusion here, so --

THE COURT: It was objected to.

MS. KHANNA: And I believe this is the exact hypothetical that Mr. Tyson asked that I objected to as calling for speculation and I think I was overruled.

THE COURT: I have to think back on all my rulings. You-all have been quite active this afternoon.

MR. TYSON: We have, Your Honor. Now I'm trying think back.

THE COURT: I think she's right. I overruled it.

MR. TYSON: Actually, I believe Ms. Khanna is correct, Your Honor. And I'll withdraw my objection, I apologize.

THE COURT: All right.

BY MS. KHANNA:

Q. So to repeat the question, it is hypothetically possible for a map drawer to draw a map that prioritizes only race and population equality in disregard of other redistricting principles; correct?

A. Well, it's hypothetically possible, yes.

Q. Did you do that here?

A. No.

MS. KHANNA: Thank you. No further questions.

THE COURT: Recross?

RECROSS-EXAMINATION

BY MR. TYSON:

Q. Mr. Cooper, I just have a couple more questions for you here. And I'm going to take a great personal risk and try to do some math on the spot with you.

Going to Exhibit I3, the plan components report that Ms. Khanna reviewed with you.

A. What page is that on?

Q. I do not have a page number. I apologize. I can get it pulled up on the screen.

A. We're back on your exhibit now?

MS. KHANNA: You're looking at page 99 to 100 of our exhibit.

BY MR. TYSON:

Q. 99 to 100 of the exhibit, Mr. Cooper.

A. Right. Okay.

Q. And on that exhibit Ms. Khanna asked you questions regarding the racial makeup of the individuals involved in a number of different counties.

Do you recall that -- those questions?

A. Yes.

Q. And if you go to the bottom of that, it shows you the totals for the district; is that correct?

A. Yes.

Q. And the total number of Black voters of voting age in District 6 as you've drawn it is 294,976; right?

A. In District 6?

Q. Yes.

A. No. It should be -- oh, voting age. Okay. Voting age; right.

Q. And then the total number of individuals of voting age is 587,247; right?

A. Yes.

Q. So if I divide 587,247 by two, I will get 50 percent of the population of the district; right?

A. Yes.

Q. And using my trusty calculator, I've calculated that at 293,623 and a half.

Does that sound right to you?

A. I will take your word for it.

Q. And if we then subtract 294,976 from that number, we get

roughly 1,353 Black individuals above 50 percent.

Does that sound right to you?

A. I'll accept that it sounds reasonable, if not precise.

Q. And so in a district that's 50.23 percent Black, if 1,350, approximately, individuals were white instead of Black of what's included in the district, the district would not be a majority Black district; right?

A. That is true.

Q. And so when you testified that the 652 Black individuals --

A. Well, let me -- yeah, if the 1,000 or so people who are any part Black were of some other race, then, yes, it would no longer be majority Black.

Q. And 1,350-odd people is almost half of -- I mean, 652 Black individuals in Fayette County is almost half of that number that puts the district over majority VAP status; right?

A. Well, it -- that's true. It is a bloc of persons of voting age who are in Fayette County. And in that area there are 652 persons who are of Black voting age. And that area that I include there was only 21.73 percent Black voting age.

Q. I'm sorry.

A. Only 21.73 percent Black voting age.

Q. But you would agree that in a district of more than 765,000 people, a change in as few as 1353 people could take that district below majority Black status; right?

A. Well, theoretically. But I could have also expanded it further north, if I weren't dealing with the deviation issue in Congressional District 13, and added enough people to match one-person, one-vote in Cobb County.

Q. But you didn't offer a map that does that and remains that district as a majority Black district; right?

A. Well, I couldn't, because you have to factor in one-person, one-vote.

Q. Ms. Khanna also asked you about Congressional District 3 in paragraph 68 of the report.

Do you recall those questions?

A. Yes.

Q. And I believe you testified that you didn't know of any district on the enacted plan where every city and county shared commonality with every other part of the city and county in that district; is that right?

A. That is correct.

Q. Did you analyze the enacted plan to determine an answer to that question?

A. Not in totality, I did not.

Q. And you didn't change districts like District 5 on the enacted plan; right?

A. No, I -- that's correct. I left districts intact in order to at least acknowledge the efforts of the legislature and how they chose to draw the plan.

Q. Is it your testimony that District 5, the -- it's on the screen if you need to look at it -- does not share commonalities with each part of the population included in District 5?

A. I think there are probably areas that are different for sure. North Fulton County.

Q. So it's your testimony that District 5 goes into North Fulton County?

A. It does extend into parts of North Fulton County. And that's a little different than core Atlanta, city of Atlanta. And that was drawn by the State; right.

MR. TYSON: Mr. Cooper, let me check with my co-counsel. I think I may be finished with questions for you. Just a moment, please.

THE WITNESS: Sure.

MR. TYSON: Mr. Cooper, thank you for your endurance this afternoon. That's all the questions I have for you.

Thank you, Your Honor.

THE COURT: Thank you.

Alpha and Pendergrass and Grant people, do you plan on calling Mr. Cooper for anything else?

MR. SAVITZKY: Not for Alpha.

MS. KHANNA: We're all done, Your Honor. Thank you.

THE COURT: Mr. Cooper, I'm going to give you those great words that most witnesses want to hear: You are

excused.

THE WITNESS: Thank you so much, Judge.

THE COURT: Thank you.

(Witness excused.)

THE COURT: Call your next witness.

MS. LAKIN: Your Honor, Sophia Lakin for the Alpha Phi Alpha plaintiffs. Alpha Phi Alpha plaintiffs call Dr. Lisa Handley.

THE COURT: Dr. Lisa Handley.

Oh, no objection, Mr. Tyson?

MR. TYSON: Oh, to releasing Mr. Cooper? None whatsoever, Your Honor.

LISA HANDLEY

a witness herein, being first duly sworn,

was examined and testified as follows:

DEPUTY CLERK: You can have a seat and please state and spell your name for the record.

THE WITNESS: Lisa Handley, H-A-N-D-L-E-Y. Lisa, L-I-S-A.

DEPUTY CLERK: Thank you.

DIRECT EXAMINATION

BY MS. LAKIN:

Q. Good afternoon, Dr. Handley.

Have you been engaged by the Alpha Phi Alpha plaintiffs to offer an expert opinion in this case?

A. I have.

MS. LAKIN: Your Honor, the Alpha Phi Alpha plaintiffs call Dr. Lisa Handley. And she will be testifying as to *Gingles* 2 and 3, as well as to the totality of the circumstances as we had discussed earlier this week. And I will endeavor to be clear where there is a distinction.

THE COURT: All right. Thank you.

MS. LAKIN: Your Honor, I have some witness notebooks and slides to provide. Can I approach?

THE COURT: Thank you. Yes.

BY MS. LAKIN:

Q. Dr. Handley, can you open to the document behind the first tab of your binder labeled APA Exhibit 5.

A. Yes.

Q. What is this document?

A. This is the expert report I submitted in this case.

MS. LAKIN: Your Honor, I'd like to move APA Exhibit 5 into evidence.

THE COURT: Any objection?

MR. JACOUTOT: No objection.

THE COURT: It's admitted without objection.

(APA Exhibit 5 was admitted and marked into evidence.)

BY MS. LAKIN:

Q. Dr. Handley, please turn to tab E of your binder. What is this document?

A. This is a copy of my CV.

Q. Is this CV up to date?

A. There are a couple of court cases that I have been engaged in since I created this.

Q. Do you have examples of what those court cases are?

A. I can tell you where they're located. I'm doing a case in Michigan. And I'm doing a case in Mississippi.

Q. Thank you.

Dr. Handley, you served as an expert witness at the preliminary injunction stage of the case; is that right?

A. That's correct.

Q. And you were allowed to offer expert opinions during the preliminary injunction phase of the case?

A. That's correct.

Q. Dr. Handley, could you briefly remind the Court of your professional background?

A. I'm a political scientist by training. I have a PhD in political science from George Washington University many, many years ago. I started a company -- I taught for a while. I started a company that specializes in sort of post-conflict transitional democracy electoral consulting. I've worked for the UN in that respect. And I also do redistricting

assistance here in the United States.

Q. And what kind of redistricting assistance work do you do in the United States?

A. For the most part, I help jurisdictions who come to me for assistance in redistricting to meet legal requirements, especially requirements of the Voting Rights Act.

Q. Do you do consulting work on minority vote dilution as well?

A. Yes.

Q. How many years of experience do you have on these topics?

A. Forty.

Q. And how many times have you testified as an expert witness over those 30 or so years working on those topics?

A. I would say twoscore maybe. Maybe 40 cases. That's a ballpark figure.

Q. Have courts previously credited and relied on your testimony?

A. They have.

Q. What are you typically asked to do as an expert in these cases?

A. I'm almost inevitably asked to do a racial bloc voting analysis to estimate voting patterns by race. And I'm also frequently asked to view plans in terms of the opportunities they provide for minority voters to elect their candidates of choice.

Q. Approximately how many times have you performed a racial bloc voting analysis?

A. Oh, hundreds.

Q. How about evaluating districts for whether they provide an opportunity to elect?

A. Again, probably hundreds of times. I don't do that just in the context of litigation. I do this for jurisdictions in general.

Q. Have you ever served as an expert for a defendant jurisdiction in the redistricting context?

A. Yes. I'm serving as an expert for the defendants in the Michigan case right now. But I've certainly done it in a number of other states as well.

Q. Do you have some other examples?

A. Virginia, Alaska, Arizona, Florida.

MS. LAKIN: Your Honor, the Alpha Phi Alpha plaintiffs offer Dr. Lisa Handley as an expert in racial polarization analysis and analysis of minority vote dilution and redistricting.

THE COURT: Do you wish to voir dire?

MR. JACOUTOT: Yes, Your Honor.

VOIR DIRE EXAMINATION

BY MR. JACOUTOT:

Q. Good afternoon, Dr. Handley.

A. Good afternoon.

Q. You and I have met before, but my name is Bryan Jacoutot. I represent the State defendants -- or excuse me -- the Secretary of State. I just have a few questions for you.

Do you recall testifying in a recent Section 2 case with the citation *Alabama State Conference of the NAACP v. Alabama*?

A. If you could tell me -- I'm not very good at citations. Can you describe the case to me?

Q. Sure, yes. It was a Section 2 case brought in the -- I believe it was the -- I want to say the Southern District of Alabama, but it -- the opinion came down in early 2020, so you would have probably been testifying, I would say, around 2019.

A. Can you tell me what was -- what was the --

Q. I can actually provide the case for you if it would help refresh your recollection.

A. Is this a judicial -- the only one I can think of is the judicial case.

Q. Yes. The judicial elections, that's the one.

A. Yes, yes, yes.

Q. So in that case you were testifying as an expert on racially polarized voting for the plaintiffs; is that correct?

A. That's correct.

Q. And isn't it true there the Court called into question the credibility of your conclusions in that case?

A. I believe that they felt I should have analyzed some

elections that occurred about 20, 25 years prior to the case that was being decided. And I didn't have the data and couldn't have done it even if I thought they were relevant.

Q. Okay.

THE COURT: What was that last part again, even if you thought they were?

THE WITNESS: Relevant.

THE COURT: Okay. Thank you.

BY MR. JACOUTOT:

Q. And that was an area where the -- I think the Court took issue, but it's also true that the Court specifically took issue with your decision to limit your analysis to only those election contests that included both a Black and white candidate; is that right?

A. I don't recall.

Q. Well, I have the case. If I can just read a brief quote, maybe that will refresh your recollection.

MR. JACOUTOT: Would the Court like a copy of the case?

THE COURT: I have read that case probably twice in the last 30 days. I can tell you who wrote the opinion.

MR. JACOUTOT: Fair enough. Fair enough.

BY MR. JACOUTOT:

Q. Well, Dr. Handley, I just want to ask if this sounds correct to you, that the Court's --

MS. LAKIN: Your Honor, objection to improper procedure for refreshing recollection --

THE COURT: Yeah. I think you have to let the witness take a look at it and see does that refresh her memory.

MR. JACOUTOT: Certainly. May I approach?

THE COURT: Yes.

MR. JACOUTOT: For Ms. Lakin it's on page 32.

THE WITNESS: I'm on page 32.

BY MR. JACOUTOT:

Q. At the bottom of the first paragraph, under section 2 on page 32, the Court stated, "The parameters for the election she chose," "she" referring to you, Dr. Handley, "only statewide elections with a Black candidate running against a white candidate, exclude other relevant elections, thereby diminishing the credibility of her conclusions."

Do you see that?

A. I do.

Q. Okay. And is it true in that case that you analyzed only Black and white -- or excuse me -- only election contests that included Black and white candidates?

A. Clearly those were the predominant number of elections. I don't remember if I included any white versus white contests.

Q. And it's also true that for that reason and the other

reason that you mentioned earlier, that your report, quote, exaggerates the extent of polarization and renders the data unreliable for other experts to rely upon for opinions on the cause of defeat of Black-preferred candidates?

A. Are you reading something to me? I'm sorry.

Q. Yes, if you -- I can read --

THE COURT: I don't think you need to read it.

Does this case -- looking at what you're looking at, does any of that refresh your memory?

THE WITNESS: I remember the case.

THE COURT: Well, do you dispute in that case that the -- I think it was a three-judge panel, that they disagreed with how you went about making your analysis? Do you disagree with that? Do you dispute that?

THE WITNESS: I think they disagreed with how I -- I believe I did it correctly. They did not.

THE COURT: Judges do that sometimes. Okay.

I think there's enough here to say it's the same case and what you said happened.

MR. JACOUTOT: Certainly.

BY MR. JACOUTOT:

Q. And then I would just conclude with a final question, that in your analysis in this case, you've only analyzed races with a Black candidate running against a white candidate with just two exceptions, those exceptions being Senator Ossoff's

election and the election between Raphael Warnock and Herschel Walker; is that correct?

A. Not exactly. I looked at some state legislative contests that had only white candidates as well.

Q. Okay. And how many election -- well, we'll get to that later.

MR. JACOUTOT: That's all I have, Your Honor, so...

THE COURT: Any objection to this witness testifying as an expert as submitted?

MR. JACOUTOT: No objection.

THE COURT: The witness will be allowed to testify as an expert in that area.

DIRECT EXAMINATION (CONT'D)

BY MS. LAKIN:

Q. Dr. Handley, what were you asked to do in this case?

A. I was asked to conduct a racial bloc voting analysis to determine if voting was polarized in seven specific areas in Georgia. I was also asked to look at the effectiveness of districts in these seven areas of interest.

Q. Why did you focus on these particular seven areas?

A. These are seven areas of the state of Georgia where state legislative districts could have -- districts that offered Black voters opportunities to elect their candidates of choice could have been drawn and were not drawn when you compare the illustrative to the adopted plan.

Q. At a high level can you summarize your opinions with respect to whether there is racially polarized voting in the areas of Georgia that you examined?

A. The general elections, both the statewide and the state legislative elections in the seven areas that I examined was starkly polarized, starkly racially polarized.

Q. When you say "starkly polarized," what do you mean by that?

A. There are some levels of polarization. And in this particular instance, you had something like over 90 percent of the Black voters supporting the Black-preferred candidate and nearly or sometimes over 90 percent of the white voters not supporting that candidate, supporting the opponent of that candidate.

Q. At a high level, how, if at all, did this starkly racially polarized voting affect the ability of Black voters to elect candidates of their choice in the areas that you analyzed?

A. Because voting is polarized, the only way that you could elect Black-preferred candidates is to create districts that provide Black voters with this opportunity.

Q. And what conclusions did you draw regarding the ability of Black voters to elect candidates of their choice under the illustrative plan as compared to the plans adopted by the state legislature?

A. As I said, I looked at seven areas. Each of those areas offered at least one additional -- one area offered two additional districts that provided Black voters with the opportunity to elect their candidates of choice compared to the adopted plans.

Q. And what conclusions did you reach regarding the success of Black-preferred candidates in general elections in each of the seven areas you analyzed?

A. In each of the areas, the districts that provided Black voters with an opportunity to elect were districts that were at least 50 percent Black in voting age population.

Q. I'd like to turn first to your opinions on racially polarized voting.

Dr. Handley, how do you define racially polarized voting?

A. I define -- an election is racially polarized if the election outcome would be different if Black voters and white voters voted separately.

Q. And is this a definition that you've used in your previous work as an expert in racially polarized voting?

A. Yes.

Q. At a high level, how did you go about determining whether voting in the areas of interest was racially polarized?

A. Of course we don't have the race of the candidate on -- the race of the voter on the ballot they submit, so we use a statistical analysis to estimate the percentage of Black and

white voters who supported each of these candidates.

Q. Now, we'll get to the specific elections that you looked at in a moment, but, first, what kind of data do you use for these statistical analyses techniques?

A. So you need an aggregate-level database that combines the demographic composition of the election precincts with voting for each of the candidates in the election precincts. So you're creating an election precinct-level database that includes both of these pieces of information. Now, for demographic composition, Georgia is a state that keeps not only registration by race, but turnout by race, which is the closest data that you can get to the electorate -- to the actual electorate. So this is actually a good state to do racially bloc voting analysis in because you have good data.

Q. What are the statistical techniques that you used in this case?

A. I used three techniques. Two of them derive from *Thornburg v. Gingles* and have been around for however long it's been around, 40 years, homogeneous precinct analysis and ecological regression. And then I used a third more recently developed technique called ecological inference.

Q. Did each of these statistical techniques allow you to estimate the level of support by race that a given candidate receives in a given election?

A. That's correct.

MS. LAKIN: Let's pull up the next slide.

BY MS. LAKIN:

Q. At a high level, and very high level, can you explain what homogeneous precinct analysis is?

A. Homogeneous precinct analysis is simply comparing precincts that are overwhelmingly one race, so a precinct that -- in which the turnout is at least 90 percent -- or all precincts in which the turnout is at least 90 percent Black compared to precincts in which the turnout is 90 percent white.

Q. And at a very high level can you explain what ecological regression is?

A. Ecological regression, you're looking for patterns. You're going to place each precinct on a scatterplot, on a graph, based on the percentage Black and the percentage of vote for a particular candidate. And you're going to see if there's a pattern. Chances are, if voting is polarized, you'll see a linear pattern. As the percentage of Black turnout increases, the percentage of votes for a particular candidate increases. So you have a linear pattern and use that linear pattern to estimate the percentage of Black voters and white voters overall who voted for each of the candidates.

Q. And with ecological regression, is it possible to get estimates that are outside of logical bounds, so greater than 100 percent or negative numbers?

A. Yes. So the lines can be very steep if voting is polarized. And you will get something like 105 percent of Black voters supported the Black candidate or negative 5 percent. So they can be outside of the bounds.

Q. And at a high level -- one moment.

Under what circumstances does this typically occur, outside of the logical bounds?

A. Again, if you have a very steep line. So if voting is very polarized, you're more likely to get out-of-bounds estimates.

Q. Thank you.

And at a high level can you explain what ecological inference is?

A. I can give it a try.

You don't have to assume linear patterns in this case. What you do is a series of simulations to try and figure out the best estimates for what are called the marginals on the table. You know the percentage of votes that the Black candidate got, you know the composition of all these precincts, so you're going to do literally about a half million simulations to figure out what the best estimates are in terms of the percentage of Black voters who voted for that Black candidate overall and the percentage of white voters. That's the best I can do.

Q. Is there more than one version of ecological inference

that you used in this case?

A. Yes. So it was first developed by Professor Gary King at Harvard. And he developed this because -- because courts frowned on these out-of-bounds estimates. So he developed a technique that produced estimates that always fell within bounds. But you could only use it in a sort of two-by-two situation, two races, two candidates.

About 10 years later, or 15 years later, they developed a more sophisticated form of EI called EI RxC, that allows you to use more than two groups. So if you had a situation where you had Black voters, white voters and Hispanic voters, you would use RxC. The other advantage to RxC is it has confidence intervals that are generally accepted.

Q. And what groups for your RxC analysis did you use for this case?

A. So we -- I divided voters into three groups, white voters, Black voters, and all other voters. There aren't so many all other voters. And so the estimates for other voters have very wide confidence intervals and weren't of particular interest to me in this case, so I didn't report them.

THE WITNESS: I'm sorry, I --

THE COURT: You need to speak towards the mic.

Go ahead.

THE WITNESS: Yes. Black voters, white voters and all other voters. And I did the analysis that way, but

reported the estimates for Black and white voters.

BY MS. LAKIN:

Q. And why is that?

A. Well, those are the voters of interest here, but also it's the case that there aren't that many other voters.

Q. Why do you use all of these techniques?

A. They're all different methods of arriving at estimates. And if they all come up with very similar estimates, I'm very confident in those estimates that I am producing.

Q. Have all of these statistical techniques been accepted by courts in voting rights cases?

A. Yes.

Q. Is there one of the three techniques, homogeneous precinct, ecological regression and ecological inference, that you primarily rely on?

A. Well, over time these methods have gotten more sophisticated. So, at this point, I think most experts at least would agree that ecological inference produces the best, most accurate estimates.

Q. Turning to the elections that you looked at, can you tell us generally what types of elections you analyzed in this case?

A. I looked at statewide, general and general runoff elections. I looked at state legislative general elections. And I looked at statewide Democratic primaries.

Q. Over what period of time did these elections occur?
A. 2016 to 2022.
Q. I'd like to turn now to the geographical areas that you focused on. So let's turn to the first tab in your binder, which is your report, and turn to Table 1 on pages 7 and 8. And it's up on the screen.
What does this table show?
A. This indicates each of the areas that I looked at. It lists the illustrative and adopted districts that I directly compared in this area. And it lists the counties that fall in these areas.
Q. Would you walk us quickly through each area of interest?
A. So the Eastern Atlanta Metro region, I think there's a map for that region. So that's the first region.
This relates -- the first three areas relate to State Senate districts. So this is map 1 or area of interest 1, Eastern Atlanta Metro region.
The second is the Southern Atlanta Metro region.
The third is the East Central -- is East Central Georgia, including Augusta.
And then going to the House districts, area of interest 4, or map 4, is Southeastern Atlanta Metro region.
Map 5 is Central Georgia.
Map 6 is Southwest Georgia.
And map 7 is the Macon region.

Q. What are -- why are some of the districts numbers bolded?
A. Districts that are bolded are the districts that are both majority Black voting age population, I'm going to say VAP, districts and districts that my analysis indicated were affected Black opportunity districts.
Q. So we started to get into the conversation about the recent statewide, general and runoff elections that you analyzed a moment ago. Let's go back a few pages to page 5 of your report. Are the statewide general elections and general runoff elections that you analyzed listed here?
A. That's correct. I looked at these 16 elections.
Q. And there are -- there's 16.
And you looked at all these 16 statewide general elections and general runoff elections in each of the areas of interest?
A. That's correct.
Q. Why did you look at these statewide, general and runoff elections in particular?
A. 14 of these contests included Black candidates. The two additional contests did not include Black candidates, but it included a white candidate that ran in a primary, a Democratic primary that included Black candidates, but -- in other words, a contest in which Black voters had the option to vote for Black candidates, but did not. They clearly preferred the white candidate. And so I looked at those two contests.

These are Jon Ossoff contests, because he was clearly the Black-preferred candidate of choice.

Q. Why do you generally focus on elections that include at least one Black candidate?

A. The courts have indicated that those are the most probative contests.

Now, I have in a number of jurisdictions looked at white versus white contests. For example, in Arkansas, where two candidates ran statewide in the last 20 years, I looked at white versus white contests. But if I have enough contests that include Black candidates, I focus on those, because the courts have made it clear and because we want to make sure that Black voters are able to elect Black candidates of choice and not just white candidates of choice, if that's what they choose to do.

Q. And in doing -- in focusing on these elections, do you make any assumptions about the race of the minority preferred candidate?

A. No. I -- I'm only looking to see -- I only want to make sure that Black voters had the option to vote for Black candidates if they so wish. And, again, as I pointed out, that's not always the case. For example, in the Ossoff Democratic primary, that was not the candidate of choice. I think there were two Black candidates and neither of them were the candidates of choice.

Q. You mentioned that in some instances where there are few elections to analyze that include the minority -- a candidate of the minority group of interest, that you will sometimes then look elsewhere. In this case, was that the -- was that true in this case?

A. With the exception of the two Ossoff contests, I had 14 contests to look at that -- that's a lot of contests. A lot of statewide contests to look at. A lot of recent statewide contests to look at. I did not feel the need to go to white versus white contests.

Q. Have you taken this approach of focusing on elections that include at least one candidate of the minority group of interest in other cases?

A. Yes.

Q. So let's focus on one of the areas of interest and walk through an example of your racial polarization analysis. Can you turn to Appendix A5 of your report, which is behind tab A in your binder. I think that's also up on your screen.

A. Okay.

Q. First, what is contained in Appendix A of your report generally?

A. These -- these are the estimates produced when I did the racial bloc voting analysis. These are the estimates for the 16 general election contests in the seven areas.

Q. And what area are we looking at in Appendix A5?

A. The Central Georgia region.

Q. And before we get started, is there anything that you'd like to correct in Appendix A?

A. Yes. In the commissioner of insurance, I have John King as white. I believe he's actually Hispanic.

Q. Does this change have any impact on your analysis?

A. It does not. No. It doesn't change the estimates at all.

Q. Does it change your conclusions in any way?

A. It does not.

Q. Now, can you walk us through what this table shows?

A. So it lists -- in the first few columns, it lists the year and the contest, the individual candidates, the race and party of that candidate. And then it goes and provides the estimates first for Black voters and then for white voters using the various techniques, statistical techniques that I mentioned.

So you have EI RxC, which is the most recent, most sophisticated method, the confidence intervals that I briefly mentioned for that estimate. And then the original Kings EI, ER. And in the white column -- for white voters you can see homogeneous precinct, or HP, estimates. There are no homogeneous precincts that are overwhelmingly Black in this particular area, so there were no HP estimates for Black voters in this area.

Q. And for the record, EI is ecological inference?
A. Sorry, ecological inference. ER is ecological regression. HP is homogeneous precinct.
Q. Can you walk us through what this table shows for this -- let's turn to the first election on this table.
MS. LAKIN: And can we pull that up on the screen.
BY MS. LAKIN:
Q. What is this first election?
A. This is the 2022 general election for US Senate with Warnock and Walker.
Q. Can you walk us through what this table shows for this particular election?
A. You can see that the estimate for Black voters ranges from what's 96.9, if you're looking at EI RxC. It's actually over 100 if you're looking at ER. And white voter support for Warnock was 11.2 and less than that when you look at EI, ER or HP estimates.
Q. And this column that says 95 percent confidence interval in each of these sections for Black voters and white voters, can you explain what that is?
A. It's akin to sort of margins of error in a survey. It's derived a slightly different way. You remember I talked about the 500,000 simulations you ran? Well, this is telling us that 95 percent of those simulations produced estimates that fell within that range. So you're supposed -- you have

95 percent confidence that your actual value is within that range.

Q. How would you characterize this election?

A. This contest is quite polarized. Well over 90 percent of the Black voters supported Warnock and over 88 percent of the white voters supported Walker.

Q. And what does that mean in terms of Black voters cohesiveness in this area?

A. Black voters are very cohesive. I mean, it's over 96 percent of Black voters supported Warnock.

Q. And what about vis-à-vis white voters?

A. I don't know what you mean by vis-à-vis white voters.

Q. In terms of -- how would you characterize white support in this area for different candidates?

A. The white support for Warnock was very low, close to 10 percent, but the support for Warnock was quite high.

THE COURT: For Walker.

THE WITNESS: For Walker. Sorry.

THE COURT: Could it be argued that -- you're going to be asked this so I'll just kind of -- let's say I was Bryan Tyson.

THE WITNESS: Okay.

THE COURT: Could we say that the Black voters are voting for the Democratic candidate?

THE WITNESS: The Black voters do vote for the

Democratic candidate.

THE COURT: So it's not necessarily the person, if they're a Democrat, they vote for the Democrat?

THE WITNESS: Well, I mean, everybody who's voting in the --

THE COURT: Speak into the mic.

THE WITNESS: I'm sorry.

First of all, you are not explaining why white voters choose to vote for Republicans and Black voters choose to vote for Democrats.

THE COURT: You say you're not explaining why. I'm not quite following you there.

THE WITNESS: It -- I would say that race impacts the decision on who you're going to vote for, what party you're going to support. So to say that it is party instead of race is ignoring the fact that actually race explains party in part.

THE COURT: Okay. So the two are not one and the same? In other words, could a non-Democrat -- did you find a situation where a non-Democrat was supported by more than 50 percent in the south of Black voters in an election?

THE WITNESS: In my lifetime of doing this, certainly. Here in Georgia in the elections that I looked at --

THE COURT: With regard to this case.

THE WITNESS: In this case, I cannot think of an instance in which Black voters did not support the Democrat.

THE COURT: Okay.

BY MS. LAKIN:

Q. And just to clarify, and that is with respect to the general elections?

A. I'm sorry?

Q. With respect to the Judge's questions, that is -- your answer, that you can't think of a situation in which the Black voters did not support the Democrat, is specific to general elections that you analyzed in this case?

A. Well, the other one was the Democratic primaries where they're also Democrats, yes.

Q. Turning back to the -- the -- this particular first race here. Would you -- would you -- is it fair to say that white voters bloc voted against the Black-preferred candidate in this election?

A. Yes.

Q. How would you characterize the remaining elections that you evaluated in this table?

A. All of these contests are quite starkly polarized.

Q. Did you analyze voting patterns in the six other areas of interest that you identified earlier?

A. That's correct, I did.

Q. And all of the analysis is in Appendix A of your

report in similar tables?

A. That's correct. All of general -- all the statewide general elections are in Appendix A for the seven areas.

THE COURT: Let me interrupt again. In your analysis were the white voters mainly supporting Democrats or Republicans?

THE WITNESS: Well, in the Democratic primary they're all supporting Democrats.

THE COURT: In the general election. The general election.

THE WITNESS: In general elections, the majority of white voters in all of these instances voted for Republican candidates.

THE COURT: Now, here you have 96 percent. Did you have a percentage of white voters that support Republicans?

THE WITNESS: Well, it -- it varies by area.

THE COURT: Let me change the question.

THE WITNESS: Okay.

THE COURT: If a Black voter was voting for a certain preferred candidate, did you find that white voters usually voted for that candidate or did they vote a higher percent against that candidate?

In other words, here you have Warnock was the Black-preferred candidate as you testified, yes?

THE WITNESS: Yes.

THE COURT: Okay. And you indicated that 10 percent of the white voters voted for him, so that means 90 percent voted against him; is that correct?

THE WITNESS: Yes.

THE COURT: Is that the trend, or was that unusual?

THE WITNESS: That is not unusual in most of these areas that I looked at.

THE COURT: What were the exceptions? Were there any exceptions?

THE WITNESS: Well, the degree of white crossover vote was slightly variable. So, for example, I think it's in the first area, you'll see a higher percentage of whites supporting the Democratic candidate in some of the -- as compared to some of these other areas.

So voting was still polarized, but there was variability in the percentage of white voters who voted for the Black-preferred Democratic candidates. More variability among white voters than there is among Black voters.

THE COURT: Go ahead.

MS. LAKIN: And Your Honor's questions anticipates something that we were going to get into a little bit later that I would clarify goes, in our view, to the totality of the circumstances.

BY MS. LAKIN:

Q. But, Dr. Handley, did you -- when -- you considered

Democratic primaries in this case as well; is that correct?

A. I analyzed 11 statewide Democratic primaries.

MS. LAKIN: And, again, this particular portion of these particular questions go specifically to the totality of the circumstances.

BY MS. LAKIN:

Q. When evaluating the Democratic primaries in this case, did you reach any conclusions with respect to their polarization?

A. Yes. More than half of those contests, the Democratic primaries that I analyzed were polarized.

MS. LAKIN: Can we pull up slide 3.2. Sorry. 20. 20. Slide 20.

BY MS. LAKIN:

Q. What, if anything, did you conclude with respect to the non-polarized Democratic primaries you examined?

A. A strong majority of the Democratic primaries that were not polarized were not polarized because the Black voters supported the white candidate rather than because the white voters supported the Black candidate.

Q. And speaking of polarization in Democratic primaries, could party alone explain the racial polarization that you see there?

MR. JACOUTOT: Objection, Your Honor. Her report doesn't go to explanation of why voting patterns are occurring

where they are. It specifically only deals with the fact that the voting patterns are occurring where they are. I think this is outside the scope.

MS. LAKIN: Your Honor, all of these opinions were offered during the PI stage of this case. And I'm happy to put that -- you know, the rebuttal report where she outlines some of these opinions formally into the record, but they were also included in the PI record as well. And she was asked extensively about this at her deposition.

THE COURT: I'm going to allow the question. Overruled.

BY MS. LAKIN:

Q. With respect to the Democratic primaries, can party alone explain the racial polarization that you see, that you've identified?

A. Party can't explain it at all, because everyone participating in the Democratic primary is a Democrat. So if you have polarization, it couldn't be explained by party.

Q. What if you had found no racial polarization in party primaries in Georgia, what would that mean -- would that mean that race is not a factor?

MR. JACOUTOT: I'm sorry, just another objection that we're now speculating that -- on something that she hasn't found in her report and then trying to explain what it means. I think we're well outside the scope of the report.

THE COURT: Is this not in the report?

MS. LAKIN: Your Honor, this is a -- whether or not -- what reasonable inference could be made in terms of the analysis that she has done? She's opining with respect to the data she has found and what would be or not be reasonable inferences from that data.

THE COURT: Well, I think she's saying based on the data she's found as an expert she can do it if she's given you all at least something. You haven't gotten anything on this aspect of it?

MR. JACOUTOT: I'm sorry?

THE COURT: You haven't received any information on the aspect she's testifying about now?

MR. JACOUTOT: Not that I have -- I have not seen anything about inferences that could be made based on voting patterns that have not occurred.

MS. LAKIN: Your Honor, she's an expert. She is testifying as to the --

THE COURT: Yeah, that's part of my question, because there's got to be something that she's basing it on. I'm hearing that they have received nothing that she's basing this on. You're saying something different.

MS. LAKIN: That's correct, Your Honor. I'm happy to pull up Exhibit -- Alpha Phi Alpha Exhibit 10, which is the rebuttal report that Dr. Handley --

THE COURT: Can I see it?

MS. LAKIN: -- submitted in the -- into the --

THE COURT: Hold on a second.

It says it right there. She gives it right there.

Have you seen rebuttal declaration number 10?

MS. LAKIN: It's Alpha Phi Alpha Exhibit 10.

THE COURT: I'm asking, have you seen this prior to today?

MR. JACOUTOT: Yes, Your Honor, prior to the PI hearing -- or it might have been -- yeah, that was prior to the PI hearing. Obviously the Rule 26 report that she submitted for this case and for the trial does not contain this information. And as far as I know, that -- these questions can certainly be, you know, explaining or expanding somewhat on what's considered -- what's written in the 26 report, Rule 26 report. But going back to the PI hearing and rebuttal declaration, I'm not familiar with that.

MS. LAKIN: Your Honor, Mr. Tyson just offered into evidence Mr. Cooper's preliminary injunction report, which was submitted into evidence, as well as the fact that there have been no objections lodged to this exhibit on the exhibit list.

THE COURT: I'm going to allow it in over objection. I'll note your objection.

MR. JACOUTOT: Thank you.

MS. LAKIN: So I'm handing up what is marked as

Exhibit APA 10.

Your Honor, Alpha Phi Alpha plaintiffs move to admit Alpha Phi Alpha Exhibit 10 into the trial record.

THE COURT: I'm allowing it over objection. And I'll note your objection for the record.

MR. JACOUTOT: Thank you, Your Honor.

(APA Exhibit 10 was admitted and marked into evidence.)

MS. LAKIN: Your Honor, I would also note that the primary data that she analyzed that we're discussing is in --

THE COURT: What's your next question?

MS. LAKIN: -- is in the report. Is in her December 2023 report.

BY MS. LAKIN:

Q. Dr. Handley, can you -- you were discussing whether party alone could explain racial polarization in the Democratic primaries that you identified. And the question that I asked was what if you had found no racial polarization in party primaries in Georgia, would that mean that race is not a factor in the racially polarized voting patterns that you've documented in general elections?

A. No. Because it still doesn't explain why white voters are voting for Republicans and why Black voters are voting for Democrats. Race is still playing a role in that decision. In fact, social scientists have known this for a long time.

We've traced the movement of the -- of white voters from the Democratic party to the Republican party, the realignment of southern whites to civil rights legislation in the 1960s. When national Democrats passed, for example, the Voting Rights Act, that led to the white flight out of the Democratic party.

And this idea that the parties are divorced from race is just not true because racial attitudes between the two parties are quite different. And it's not surprising that Black voters would support the Democratic party.

THE COURT: Didn't they basically just do a switch in the '60s? Up until about 1960s Blacks voted heavily Republican.

THE WITNESS: They didn't vote very much at all in Georgia.

THE COURT: When they voted, they voted Republican, did they not?

THE WITNESS: When they were allowed to vote, it's true that they --

THE COURT: White supported the Democrat.

THE WITNESS: They supported Lincoln's party originally, that's right.

THE COURT: And then you had the 1964 Civil Rights Act pass and they more of less kind of did a flip. Blacks started voting, well, Democratic, and whites started voting Republican.

THE WITNESS: That's correct.

BY MS. LAKIN:

Q. And, Dr. Handley, do those trends continue to this day?

A. That's correct. That's correct. And I think you can see it reflected in attitudes about things like affirmative action and racial justice. There is a decided difference between the two parties.

Q. So going back to your conclusion that the majority of Democratic primaries that you examined were racially polarized, could that be due to chance?

A. Only if you believed that voters voted randomly and all of your contests had only two candidates in it. I don't believe -- I know that all the contests didn't have two candidates in it. And I don't believe that voters vote randomly.

Q. Did you see any evidence that voters were voting randomly in the Democratic primaries that you looked at here?

A. I did not. You would see much -- much less variation than you do.

THE COURT: Let's take a ten-minute break here. And we'll go from 4:55 and we'll stop at 5:30. We probably won't finish direct today. We definitely won't finish cross today. They've got a lot of questions over there, so let's do that.

So giving a little -- some people, the court reporter needs a break. Thanks. Let's stop right here for ten

minutes.

MS. LAKIN: Thank you, Your Honor.

(After a recess, the proceedings continued at 4:52 p.m. as follows:)

THE COURT: You-all can be seated.

Ms. Lakin, it was pointed out to me that I need to apologize to you that my questioning threw you off your presentation. So I will sit here and listen.

MS. LAKIN: Not at all, Your Honor. I want to answer the questions that you're most interested in and so that is what I have been trying to accomplish. And I hope this has been helpful.

THE COURT: It's been very helpful, but you-all have a presentation you-all have prepared, so I will listen and not talk.

Ms. Lewis is going, that's not possible.

MS. LAKIN: We are happy to take the questions that you have any time you have them.

BY MS. LAKIN:

Q. So, Dr. Handley, I have one last question with respect to these Democratic primary elections that we've been talking about for now.

Just to be clear, you have said that the majority of Democratic primary elections that you evaluated were polarized, racially polarized; is that right?

A. That's correct.

Q. And that means, therefore, that in the majority of primaries you evaluated, Black and white -- Black Democrats and white Democrats would have elected different candidates if the election had been run just with Black voters versus just with white voters?

A. That's correct.

Q. Thank you.

I'd like to return now to our discussion about general -- your analysis of general statewide elections and runoffs and voting patterns by race for purposes of the *Gingles* 2 and 3 analysis.

So we were talking about the table in Appendix A5 and you were walking us through that particular area. And you -- we last left off, I believe, with you characterizing the remaining elections that you evaluated in that region.

Do you recall this?

A. Yes.

Q. Did you do the same analysis that we walked through with respect to area 5 for the other six areas of interest?

A. That's correct. There are identically formatted appendices for each of the areas.

Q. What, if anything, did you conclude about racially polarized voting in these seven areas based on your analysis of statewide, general and runoff elections?

A. I found that voting in these seven areas in these general elections were very polarized, voting was very polarized.

Q. And what does that mean in terms Black -- Black candidates voted?

A. Black cand- -- how Black voters voted?

Q. That's correct.

A. Black voters were very cohesive in all of these areas in all of these contests.

Q. So I'd like to turn to state legislative contests that you analyzed in your racially polarized voting analysis.

Why did you also look at state legislative contests?

A. Well, the 2022 state legislative contests were an obvious look at, but, of course, those are only for the adopted plans, not for the illustrative plans. But we only had one set of elections that occurred under the adopted plans. So I also looked at state legislative contests that occurred under the old plan in the areas of interest.

Q. Why did you decide to look at state legislative elections, general elections at all?

A. The courts have said that endogenous elections, that is elections for the office at issue, are particularly probative. But, again, I only had one set of elections that occurred under the adopted plans, so I went and looked at earlier endogenous elections.

Q. And those earlier endogenous elections were in the areas

of interest in this case?

A. That's correct. If a state legislative district was wholly contained within the area of interest, or if it overlapped one of the adoptive or illustrative districts, I looked at it if it was a biracial contest. Again, if it was 2022, I looked at it even if it was not a biracial contest.

Q. And is that analysis that you've done with respect to state legislative general elections in Appendix B of your report?

A. That's correct.

Q. And how many state legislative elections did you analyze?

A. 54 elections.

Q. What opinions did you form about racial polarization based on the state legislative general election races you analyzed?

A. 53 of the 54 contests that I looked at were racially polarized. They were just as polarized as the general elections in these areas, the statewide general elections. In other words, they were very polarized. Black voters were very cohesive in support of their preferred candidates and white voters bloc voted against these candidates.

Q. Those summary statistics are up on your slide; is that correct?

A. Yes. But if I talk and turn this way, I'll get in trouble.

THE COURT: Go ahead.

BY MS. LAKIN:

Q. What, if anything, did you find regarding the districts where Black-preferred Black candidates were successful?

A. Black-preferred Black candidates were successful only in districts that were majority Black in the elections that I looked at.

Q. And I may have missed this, but can you tell us more about the lone district that was not majority Black, where the Black-preferred candidate was successful?

THE COURT: Can you repeat that?

BY MS. LAKIN:

Q. Can you tell us more about the lone district that was not majority Black, where the Black-preferred candidate was successful?

A. I'm sorry, I should have said that they were majority-minority. All of the districts in which the Black-preferred candidate won were majority-minority. Almost all of them were majority Black, one was majority-minority, in other words. If you add other minority groups, they composed a majority. Whites were a minority in that district.

Q. Just to clarify, the -- the one state legislative election that you found that was majority that you're talking about here, the majority-minority district, that was one election that you found that was not racially polarized; is

that correct?

A. No. I thought that I -- no. That was the one in which a Black-preferred candidate won. But I'm going to have to --

Q. Take a look at your report.

A. Yes. Do you know -- I think I have it in a footnote. If you'll hold on a second, I will look for the footnote.

Q. I'm sorry, Dr. Handley. I believe you were correct.

A. I was correct.

Q. My apologies.

What did you conclude based on your analysis of general elections about racially polarized voting in the areas of interest?

A. In the areas of interest that I looked at, the -- all seven areas voting was starkly racially polarized.

Q. And what does that mean with respect to the Black community -- Black voters in terms of their support for their preferred candidates in the area?

A. Because voting is polarized, you would need to draw districts that provide minorities with an opportunity to elect their candidates of choice if you wanted to elect their -- Black voters' candidates of choice.

Q. I'm going to turn briefly back to this -- the primary elections that we have been talking about earlier for a moment. Can you explain why you looked at these Democratic primary elections in the first instance?

A. Yes. We have a two-part election system here and you have to make it through the Democratic primary to make it into the general election. Now, in some jurisdictions that I've worked in, the Democratic primary is actually the barrier, and that's why I would always look at both. That is not the case in Georgia. But it could be the case that Democratic primaries are stopping the minority-preferred candidates from even getting the nomination. So I look at both.

Q. Let's go back to your report and turn to page 6 and go to the -- the next slide.

And these are the Democratic elections that you analyzed, they're listed here; is that correct?

A. I'm sorry, on page --

Q. Page 6. And --

A. At the top.

MS. LAKIN: Go to the prior slide.

BY MS. LAKIN:

Q. Are they also listed on the screen?

A. That's correct.

Q. Why did you look at these Democratic primary elections in particular?

A. These 11 Democratic primaries offered Black voters an opportunity to vote for a Black candidate should they so wish to do so. They didn't necessarily wish to do so. So I'm not saying that the Black candidate was the Black-preferred

candidate, only that they had the option to vote for a Black candidate if they so desired.

Q. Did you examine any Republican primary elections?

A. I did not.

Q. Why not?

A. Because less than 5 percent of Black voters who choose to vote in a primary actually choose to vote in the Republican primary. So you would be -- you would not be finding the Black-preferred candidates in the Republican primary. On top of that, the very low number of Black voters participating meant that the estimates would be very unreliable, the estimates for Black voters would be very unreliable.

Q. As it relates specifically to your conclusions regarding racial bloc voting for purposes of *Gingles* 2 and 3, what conclusions did you draw with respect to the Democratic primaries that you analyzed in the areas of interest in this litigation?

A. I would say that because the Democratic primaries were not a barrier, that they were -- well, I'm not a lawyer, but I think that they're probably not relevant to the second and third prong of *Gingles*. I -- my opinion about the second and third prong of *Gingles* rests on general elections.

Q. And did you offer any opinion in your report regarding whether Democratic primaries are the barrier to electing Black-preferred candidates outside the areas of interest?

A. No, I only looked at the areas of interest.

MS. LAKIN: Your Honor, I have just one or two clean-up questions that bear specifically on the totality of the circumstances with respect to the Democratic primaries.

THE COURT: Thank you.

BY MS. LAKIN:

Q. So you testified earlier that a majority of the -- you found that a majority of the Democratic primaries that you evaluated were racially polarized.

Do you remember that?

A. That's correct.

Q. Can you comment on the cohesion in these Democratic primaries that you evaluated?

A. Certainly Black and white voters were less cohesive, but, of course, you would expect that in a Democratic primary, primarily because the candidates are so much more similar than they are in general elections, but also because you -- maybe in a majority of the cases you had more than two candidates. So you would not expect the level of cohesion that we found in the general elections in the Democratic primaries.

Q. And in the Democratic primaries that you evaluated in this case, were there instances of multiple candidates running?

A. There were.

Q. Do these observations about cohesion in Democratic

primaries preclude a finding of racially polarized voting?

A. No. Again, I define racially polarized voting as a -- a voting -- a contest is polarized if Black voters and white voters, voting separately, would have elected different candidates. There's no level of cohesion that's required.

Q. And just to be clear, though, there was a high degree of cohesion among Black voters in general elections?

A. Absolutely.

MS. LAKIN: Now, Your Honor, I'm returning back to questions that bear on *Gingles* 2 and 3. And to the extent Senate Factor 2 relates to *Gingles* 2 and 3, the totality of the circumstances --

THE COURT: Hold on, hold on.

MS. LAKIN: Senate Factor 2 also incorporates racially polarized voting. These questions also bear on the totality of the circumstances.

THE COURT: All right. Thank you.

BY MS. LAKIN:

Q. Let's turn, Dr. Handley, now to your analysis of Black voters' opportunities to elect candidates of their choice in the illustrative and adopted plans. How did you go about evaluating whether Black voters have an opportunity to elect their preferred candidates in the illustrative and adopted plans in this case?

A. I looked at several factors. I looked at the Black

voting age population in the districts. I looked at what I call my general election effectiveness score that essentially looks at how previous statewide Black candidates would perform in these newly drawn districts. I did the same thing for the Democratic primaries. And if it was an adopted district and there was actually an election in it, I could also look at the election results and the voting patterns in that particular election if it was contested.

Q. So how did you go about looking at these historical elections that you've discussed in compiling your general election scores?

A. So the -- the way that this is done, I didn't invent this, lots of redistrictors and experts do this, is I took previous elections, in fact, the elections -- the statewide general elections that I looked at, and I included them all in this effectiveness score. I'm essentially looking at the average percentage of the vote these candidates combined would get in the district.

I'm looking at these previous elections because it has to be statewide, because it has to be an area big enough to encompass the entirety of the newly drawn district. And I wanted contests that is racially polarized because I want to know if the Black-preferred candidate will win in a polarized contest.

Q. And how do you determine -- how do you determine how a

candidate would do based on these historical elections? Can you walk us through that process?

A. So the election results, the precinct election results were disaggregated down to the bloc level and reaggregated up to the level of the -- I'm going to say proposed district, because I mean both the illustrative and adopted, but up to that level. And then just looking at how the candidates would have done. And it's simply an average of how those candidates would have done across those elections.

Q. And this is what you call recompiled election analysis; is that right?

A. Yeah, probably called it that there in the report.

Q. Had you previously used this method for evaluating opportunity to elect in other cases?

A. I have.

Q. Has this analysis been accepted by courts?

A. Yes, and as I said before, this is quite commonly used by redistrictors as well, usually for different purposes.

Q. Let's turn to the bottom of page 11 and top of page 12 of your report. You mentioned that you looked at some general elections to compile your general election score. Are these the elections that you looked at?

A. That's correct.

Q. Why did you include these elections?

A. These elections were polarized. And they -- and the

Black-preferred -- these were just polarized contests in which -- in each case the Black-preferred candidate -- the Black-preferred -- the voters preferred the Black candidate.

Q. Why are these your criteria?

A. Again, I want to make sure that the district would elect a Black-preferred Black candidate if the voters so desired in a racially polarized contest.

Q. And you mentioned that you calculated an average based on these elections. And that's what you call the general effective -- general election effectiveness, or GE, score?

A. That's correct.

Q. And you -- and you did the same thing with respect to primary elections as well; right? Is that right?

A. That's correct.

Q. And the average vote share that Black-preferred candidates received for those elections, you called the Democratic primary effectiveness, or DPR, score?

A. That's correct.

Q. Could you determine whether a district is an opportunity -- a Black opportunity district based purely on whether the Black district elects a candidate of choice?

A. Do you mean in a single election or across a series of elections? I'm not sure about that question. Could you clarify it a bit?

THE COURT: Could you repeat that question?

MS. LAKIN: Sure.

BY MS. LAKIN:

Q. I asked could you determine whether a district is a Black opportunity district based purely on whether the district elects a Black candidate of choice? So no other analysis was provided.

A. So do you mean I've done a racial bloc voting analysis and I know that the Black-preferred candidate won?

Q. Simply purely on the basis that the district elects a Black candidate of choice.

A. A Black candidate of choice. So I've done a racial bloc voting analysis.

Q. Well, let me phrase it a different way.

Would you consider all districts that elect Democrats to be Black opportunity districts?

A. Not without doing any analysis, no.

Q. And what exactly would the analysis you'd need to do be?

A. Well, the first thing I would be interested in is the Black voting age population. If you're talking about a district that has a, say, 5 or 10 percent Black voting age population, then you're not talking about a district in which Blacks have a -- any ability to influence the election. They're too small a number.

But you would also look at Democratic primaries, because we would want to know if the Democrat who was elected was the

Democrat chosen by Black voters in the Democratic primary.

Q. And these are factors that you looked at in the districts you analyzed in the areas of interest in this case?

A. That's correct. But, of course, in the adopted district I also had -- yeah, I had actual election results, yes.

Q. Let's turn to page 16 of your report and walk through an example of your effectiveness analysis.

MS. LAKIN: Next slide.

BY MS. LAKIN:

Q. What area of interest is represented by the maps here?

A. This is the Eastern Atlanta Metro region.

Q. And what do these two maps represent?

A. These shaded-in districts are the districts that I compared in the illustrative and the adopted plans.

Q. And turning to the next page of your report, what are these tables?

A. These are the comparison tables that allow me to compare the adopted districts and the illustrative districts on the factors that I just outlined for you earlier, the percent Black voting age population, the GE score, the DPR score, and in the case of the adopted plan, whether the -- whether there was an election, whether it was polarized and who won.

Q. And what does the pink shading in the maps mean?

A. The districts that are pink are districts that provide Black voters with an opportunity to elect their candidates of

choice.

MS. LAKIN: And can we go to slide 26. There we go. 26.

BY MS. LAKIN:

Q. And what does the gray shading in the tables represent?

A. Gray shading in the tables represent districts in which Black voters have an opportunity to elect their candidates of choice.

Q. So if you can, just walk us through District 17, comparing that district in the adopted State Senate map versus the illustrative State Senate map. Can you walk us through the -- the different areas. Let's start with the adopted State Senate district map. And we focus on District 17.

A. Okay. So District 17, this is a Senate District 17, is -- this is in the adopted State Senate plan, is 32 percent Black in voting age population. The GE score is .366. The DPR score is .611. The contest in 2022 was racially polarized. And the white-preferred candidate defeated the Black Democrat with 61.6 percent of the vote. That candidate, who now represents the district, is Brian Strickland. He's a white Republican.

Q. And is this a district that provides Black -- Black voters an opportunity to elect?

A. It is not.

Q. What about the two other districts in this adopted plan,

table?

A. The other two districts in the adopted State Senate districts table are effective minority districts.

Q. Let's take a look at the same table for the illustrative plan in the same region. It's the next slide.

Can you explain what the table shows for District 17 in the illustrative plan?

A. The Black voting age population has been increased to 62.5 percent. The GE score is now .654. The DPR score is .659. I've, therefore, determined that that district would provide Black voters with an opportunity to elect their candidate of choice.

Q. And the same is true of the two other districts in the illustrative plan?

A. Yes, that's correct.

Q. Based on your analysis -- analyses summarized in comparison Table 1, did you draw any conclusions about Black voters' opportunity to elect in this area under the two different plans?

A. Yes. Under the illustrative State Senate plan, there is an additional district that provides Black voters with an opportunity to elect their candidate of choice. That's District 17.

Q. Let's turn to another of the areas of interest in Central Georgia where Your Honor had some questions about the

performance of districts in Mr. Cooper's illustrative plan.

Does this -- this is East Central Georgia. Does this slide contain the same analysis we previously walked through?

A. Yes. The tables are identical, not the entries, but the table format, yes.

Q. And this area includes Richmond County; is that right?

A. That's correct.

Q. Let's compare enacted and illustrative Senate District 22. So let's look first at the adopted -- is Senate District 22 a Black opportunity district?

A. In the adopted, yes, yes, it is.

Q. And why is that? How do you know?

A. Well, it has a Black VAP of 56.5. It has a GE score of .668, a DPR score of .631. And in a racially polarized contest, the Black-preferred candidate won with 70.4 percent of the vote.

Q. Now, looking at the illustrative Senate District 22, is that a Black opportunity district as well?

A. It is.

Q. And how do you know that?

A. It has a Black VAP of 50.4. It has a GE score of .591 and a DPR score of .625.

Q. And the new opportunity district created in the illustrative plan is Senate District 23; is that right?

A. That's correct.

Q. How do you know illustrative Senate District 23 is a Black opportunity district in the illustrative plan?

A. Again, I looked at the Black voting age population, the GE score and the DPR score. The GE and DPR scores are both above .5. And the Black VAP is 50.2 percent.

Q. And how does illustrative Senate District 23 compare to adopted Senate District 23?

A. Adopted District 23 is not a Black opportunity district, while it is a Black opportunity district in the illustrative State Senate plan.

Q. Thank you, Dr. Handley.

The analysis that we just walked through for Eastern Atlanta and East Central Georgia regions, did you do that same analysis in the five other areas of interest?

A. Yes.

Q. And how does your analysis in these other areas compare to your analysis of these two areas that we just talked about?

A. Each of the areas offers at least one additional Black opportunity district based on my criteria.

Q. In the illustrative plans?

A. In the illustrative plans.

Q. In these seven areas, what can you say about the Black voting age population in the districts that you have found to provide Black voters with an opportunity to elect?

A. In each of the cases, these were districts that were at

least 50 percent Black in voting age population.

Q. Combining your racial polarization analysis and your opportunity to elect analysis, how does racial bloc voting in these areas affect Black voters' opportunity to elect?

A. Because voting is starkly polarized in these general elections, without drawing districts that provide Black voters with an opportunity to elect, these districts would not elect Black-preferred candidates.

MS. LAKIN: Thank you, Dr. Handley. No further questions at this time.

THE COURT: Okay. We'll start the cross-examination tomorrow morning at 9:00.

MR. JACOUTOT: Yes, Your Honor.

THE COURT: Is there anything else before we leave for today, any administrative matters?

MR. TYSON: Nothing for the State, Your Honor.

MS. KHANNA: Nothing, Your Honor.

THE COURT: Thank you, all. Have a good evening. See you tomorrow morning.

(Proceedings were adjourned at 5:28 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 8th Day of September, 2023.

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER-

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'60S [1] - 885:10

/

/SUBURBAN [1] - 803:25

1

1 [8] - 782:16, 800:4, 800:5, 829:6, 869:4, 869:15, 903:16
1,000 [1] - 849:11
1,350 [1] - 849:5
1,350-ODD [1] - 849:14
1,353 [1] - 849:1
10 [16] - 789:4, 791:25, 806:11, 808:21, 811:14, 818:9, 867:7, 875:15, 878:25, 882:23, 883:4, 883:5, 883:25, 884:2, 884:6, 900:19
10,000 [1] - 827:22
100 [6] - 829:5, 831:22, 847:21, 847:24, 865:24, 874:14
105 [1] - 866:1
109,000 [1] - 797:15
109,273 [2] - 797:21, 832:3
11 [6] - 784:16, 796:1, 811:16, 880:1, 893:21, 898:18
11-COUNTY [2] - 844:8, 845:14
11.2 [1] - 874:15
110 [1] - 833:3
111 [1] - 833:20
12 [2] - 790:24, 898:18
123,000 [1] - 797:15
123,766 [2] - 797:18, 797:21
12TH [1] - 800:17
13 [33] - 788:10, 788:11, 788:14, 788:18, 788:20, 792:22, 793:11, 805:11, 807:11, 807:19, 808:6, 811:22, 812:17, 815:23, 820:9, 820:11, 820:20, 820:22, 821:6, 821:9, 821:16, 821:19, 821:22, 822:1, 822:10, 833:4, 833:9, 833:13, 833:14, 834:5, 834:11, 850:3
131,604 [1] - 831:17
131,674 [3] - 798:1, 831:8, 831:10
1353 [1] - 849:24
138,553 [1] - 833:19
13TH [1] - 785:7
14 [18] - 784:25, 789:3, 794:17, 794:18, 794:22, 804:13, 805:8, 806:13, 806:15, 806:16, 807:3, 811:25, 812:4, 815:17, 815:19, 870:18, 872:5
146,000 [1] - 797:12
15 [5] - 781:2, 815:23, 817:9, 841:23, 867:7
15-MINUTE [1] - 828:5
154 [6] - 800:7, 800:9, 800:10, 800:13, 800:21, 801:3
16 [5] - 870:10, 870:11, 870:12, 872:23, 901:5
17 [6] - 902:8, 902:12, 902:13, 903:5, 903:22
175,000 [1] - 797:10
18,246 [1] - 834:2
1960S [2] - 885:2, 885:10
1964 [1] - 885:21
1:21-CV-5339-SCJ [1] - 775:10
1:22-CV-00122-SCJ [1] - 775:15
1:42 [1] - 778:1

2

2 [23] - 778:25, 779:13, 779:24, 786:6, 786:12, 786:15, 787:11, 801:1, 813:10, 813:14, 813:21, 813:22, 814:16, 853:6, 857:4, 857:9, 859:11, 888:10, 894:13, 896:9, 896:10, 896:13
20 [7] - 812:8, 845:18, 858:1, 871:8, 880:11, 880:12
2000 [2] - 781:4, 821:18
2003 [3] - 802:25, 803:2, 884:12
2010 [5] - 781:4, 782:4, 786:3, 788:11, 824:24
2010S [1] - 845:19
2011 [12] - 779:8, 783:25, 784:6, 784:8, 784:12, 784:25, 785:4, 788:12, 790:15, 790:19, 790:21, 791:11
2012 [1] - 791:14
2016 [1] - 869:1
2017-2021 [3] - 813:12, 813:18, 819:2
2018 [5] - 779:18, 779:20, 783:7, 783:8, 783:16
2019 [3] - 783:8, 783:16, 857:12
2020 [2] - 824:24, 857:11
2021 [15] - 783:8, 783:18, 783:25, 784:7, 784:9, 784:14, 785:1, 785:5, 785:19, 785:23, 786:7, 791:24, 802:22, 820:5, 836:19
2022 [7] - 783:19, 800:18, 869:1, 874:8, 889:11, 890:5, 902:16
2023 [2] - 775:21, 907:9
21 [5] - 779:25, 780:1, 780:5, 801:7, 801:15
21.27 [1] - 841:23
21.73 [3] - 829:16, 849:20, 849:22
22 [5] - 802:12, 810:13, 904:8, 904:9, 904:16
23 [5] - 904:23, 904:25, 905:5, 905:6, 905:7
24 [1] - 810:7
25 [2] - 835:14, 858:1
26 [6] - 822:2, 883:10, 883:14, 883:15, 902:1, 902:2
27 [2] - 803:5, 836:5
27.35 [1] - 841:10
28 [1] - 810:12
29-COUNTY [1] - 824:25
29.82 [2] - 812:11, 812:15
293,623 [1] - 848:22
294,976 [2] - 848:10, 848:25

3

3 [20] - 775:4, 789:4, 789:10, 789:12, 793:7, 799:23, 799:25, 802:3, 803:22, 803:24, 805:7, 806:3, 810:2, 810:4, 850:9, 853:6, 888:10, 894:13, 896:9, 896:10
3.2 [1] - 880:11
30 [5] - 790:1, 790:9, 824:2, 855:13, 858:21
32 [4] - 859:8, 859:9, 859:12, 902:14
32.78 [1] - 840:9
33 [3] - 792:4, 816:15, 842:1
35 [1] - 792:8
352,053 [1] - 798:6
36 [1] - 781:7
366 [1] - 902:15
37.4 [1] - 831:4
37.40 [1] - 795:21
38 [1] - 792:11
39 [2] - 792:11, 810:7
3:00 [3] - 817:7, 817:9, 817:13
3:16 [1] - 828:8

4

4 [5] - 780:9, 810:10, 810:12, 869:21
4,143 [1] - 830:5
40 [4] - 835:19, 835:20, 855:14, 864:18
43 [1] - 792:7
44 [1] - 791:16
4500 [2] - 792:25, 830:4
49 [1] - 832:14
49.23 [3] - 795:16, 832:14, 832:15
49.82 [1] - 834:7
49S [2] - 813:15, 814:15
4:52 [1] - 887:3
4:55 [1] - 886:20
4TH [1] - 785:14

5

5 [21] - 786:6, 786:12, 786:15, 787:11, 792:14, 792:15, 835:3, 850:21, 851:1, 851:4, 851:7, 853:15, 853:20, 853:24, 866:3, 869:22, 870:7, 888:19, 894:5, 900:19, 905:4
50 [12] - 807:25, 812:19, 813:14, 814:15, 819:18, 834:8, 841:22, 848:18, 849:1, 863:10, 876:20, 905:25
50,000 [2] - 827:22, 827:23
50.001 [1] - 813:11
50.2 [2] - 797:1, 905:4
50.23 [3] - 796:5, 812:9, 849:4
50.4 [1] - 904:20
500,000 [1] - 874:22
50S [1] - 821:19
53 [1] - 890:15
53,377 [1] - 832:17
54 [3] - 800:8, 890:11, 890:15
54.34 [1] - 813:3

56.5 [1] - 904:12
58.35 [1] - 833:24
587,247 [2] - 848:16, 848:18
59 [1] - 793:21
591 [1] - 904:20
5:28 [1] - 906:19
5:30 [1] - 886:20
5TH [1] - 785:11

6

6 [66] - 781:2, 781:7, 782:10, 783:3, 785:18, 787:20, 788:7, 788:9, 788:17, 790:18, 790:19, 791:1, 791:9, 791:10, 791:13, 792:9, 792:13, 792:24, 792:25, 793:2, 793:11, 793:18, 795:2, 795:8, 795:13, 795:18, 795:20, 796:5, 796:9, 796:13, 796:14, 796:21, 797:11, 797:18, 798:5, 798:9, 799:1, 799:22, 802:4, 802:7, 802:8, 807:7, 808:5, 810:14, 810:21, 810:22, 811:1, 811:2, 811:4, 811:7, 811:8, 812:8, 829:13, 829:23, 830:4, 830:25, 832:23, 835:4, 835:12, 838:3, 848:10, 848:11, 869:23, 893:8, 893:13
60 [1] - 821:22
61.6 [1] - 902:18
611 [1] - 902:16
62.5 [1] - 903:8
625 [1] - 904:21
63 [1] - 781:13
631 [1] - 904:13
652 [6] - 829:17, 829:20, 833:1, 849:9, 849:14, 849:19
654 [1] - 903:8
659 [1] - 903:9
668 [1] - 904:13
68 [7] - 802:21, 803:5, 808:16, 836:5, 839:20, 840:15, 850:10
69 [3] - 840:18, 840:20, 840:23
6TH [3] - 790:15, 790:16, 790:17

7

7 [30] - 775:21, 780:18, 783:3, 786:6, 786:12, 786:15, 787:11, 787:16, 787:19, 787:24, 788:1, 788:3, 812:11, 812:14, 839:16, 839:17, 839:24, 840:4, 840:7, 840:8, 840:12, 840:25, 841:2, 841:5, 841:15, 841:22, 841:25, 869:4, 869:24
70.4 [1] - 904:14
700,000 [1] - 781:20
71 [1] - 835:5
71.9 [1] - 833:15
72 [1] - 793:10
760,000-PLUS [1] - 843:19
765,000 [4] - 804:4, 807:23, 842:7, 849:24
765,000-PERSON [1] - 842:11
765,136 [1] - 842:7

8

8 [4] - 794:25, 801:16, 802:2, 869:4
80 [1] - 782:3
82 [1] - 790:25
83 [1] - 816:15
88 [3] - 831:25, 875:4
88.29 [2] - 795:9, 795:11
89,657 [1] - 834:12
8TH [1] - 907:9

9

9 [2] - 789:3, 811:11
90 [7] - 862:9, 862:11, 865:6, 865:7, 865:8, 875:3, 879:1
95 [3] - 874:17, 874:23, 874:25
96 [2] - 875:9, 878:13
96.9 [1] - 874:13
99 [5] - 830:16, 830:24, 832:25, 847:21, 847:24
998 [1] - 829:19
9:00 [1] - 906:11

A

A5 [3] - 872:16, 872:24, 888:12
ABHA [1] - 776:11
ABILITY [4] - 817:22, 862:15, 862:21, 900:21
ABLE [3] - 802:1, 820:7, 871:12
ABSOLUTE [7] - 797:10, 797:12, 831:7, 832:16, 833:17, 833:25, 834:10
ABSOLUTELY [1] - 896:7
ACCEPT [1] - 849:3
ACCEPTABLE [1] - 811:20
ACCEPTED [3] - 867:12, 868:9, 898:15
ACCOMPLISH [2] - 798:22, 887:10
ACCORDING [1] - 813:18
ACCOUNT [1] - 823:20
ACCURATE [1] - 868:18
ACHIEVE [1] - 802:3
ACKNOWLEDGE [1] - 850:24
ACS [5] - 813:12, 813:18, 814:13, 819:2, 819:8
ACT [3] - 855:6, 885:4, 885:22
ACTING [1] - 842:18
ACTION [1] - 886:4
ACTIVE [1] - 846:17
ACTUAL [3] - 864:12, 874:25, 901:4
ADD [4] - 789:16, 808:10, 808:23, 891:19
ADDED [4] - 789:9, 845:17, 845:18, 850:3
ADDING [1] - 781:24
ADDITIONAL [12] - 779:8, 781:24, 782:6, 791:17, 821:11, 839:13, 863:1, 863:2, 870:19, 903:20, 905:17
ADDRESSES [3] - 818:5, 818:8, 818:10
ADJACENT [1] - 832:22
ADJOURNED [1] - 906:19
ADMINISTRATIVE [1] - 906:14
ADMISSION [2] - 779:22, 800:20
ADMIT [1] - 884:1
ADMITTED [7] - 780:4, 780:5, 801:1, 801:3, 853:23, 853:24, 884:6
ADOPTED [24] - 861:24, 862:23, 863:4, 869:8, 889:12, 889:14, 889:22, 896:20, 896:22, 897:4, 898:5, 901:3, 901:13, 901:17, 901:20, 902:9, 902:11, 902:14, 902:24, 903:1, 904:8, 904:10, 905:6, 905:7
ADOPTIVE [1] - 890:3
ADVANTAGE [1] - 867:11
ADVICE [1] - 809:18
AFFECT [2] - 862:15, 906:3
AFFECTED [1] - 870:4
AFORESAID [1] - 907:8
AFRICAN [1] - 781:11
AFRICAN-AMERICAN [1] - 781:11
AFTERNOON [7] - 778:14, 778:15, 846:17, 851:17, 852:25, 856:24, 856:25
AGE [68] - 795:10, 795:11, 795:12, 796:5, 797:15, 797:18, 797:22, 797:23, 797:25, 798:2, 798:4, 798:6, 802:6, 802:19, 812:5, 812:18, 815:18, 815:22, 819:18, 821:6, 829:11, 829:14, 829:18, 829:21, 831:2, 831:8, 831:9, 831:11, 831:18, 831:19, 831:21, 832:1, 832:4, 832:7, 832:13, 832:15, 832:17, 832:20, 833:2, 833:15, 833:18, 833:24, 834:1, 834:5, 834:11, 841:8, 841:9, 841:25, 848:9, 848:13, 848:15, 849:18, 849:19, 849:20, 849:22, 863:10, 870:2, 896:25, 900:18, 900:19, 901:19, 902:15, 903:7, 905:2, 905:22, 905:25
AGES [1] - 829:19
AGGREGATE [1] - 864:4
AGGREGATE-LEVEL [1] - 864:4
AGO [3] - 786:4, 854:22, 870:7
AGREE [32] - 785:17, 787:11, 788:2, 788:7, 789:3, 790:16, 791:9, 792:4, 795:12, 795:15, 795:17, 796:20, 797:3, 798:9, 798:11, 802:15, 803:24, 804:16, 806:10, 807:11, 808:5, 810:2, 810:10, 810:21, 811:1, 811:7, 815:17, 831:10, 840:4, 840:6, 849:23, 868:17
AHEAD [5] - 801:12, 813:5, 867:22, 879:18, 890:25
AIMING [1] - 802:16
AKIN [1] - 874:20
AL [5] - 775:4, 775:9, 775:12, 775:14, 775:17
ALABAMA [3] - 857:5, 857:6, 857:11
ALASKA [1] - 856:15
ALEX [1] - 776:4
ALLOW [10] - 780:14, 783:8, 783:9, 783:11, 787:7, 823:17, 864:21, 881:9, 883:21, 901:16

ALLOWED [3] - 854:15, 861:11, 885:16
ALLOWING [1] - 884:3
ALLOWS [1] - 867:8
ALMOST [12] - 790:17, 791:10, 799:12, 804:4, 804:6, 805:11, 834:19, 844:18, 849:14, 849:15, 855:21, 891:17
ALONE [3] - 880:21, 881:12, 884:15
ALPHA [31] - 790:12, 791:23, 817:12, 824:18, 825:10, 826:7, 828:20, 851:20, 851:22, 852:6, 852:7, 853:1, 853:4, 856:16, 882:23, 883:5, 884:1, 884:2
ALPHA [2] - 775:4
ALTER [1] - 802:1
ALTERED [2] - 788:3, 803:18
AMERICA [1] - 835:1
AMERICAN [2] - 781:11, 818:24
AMERICANS [3] - 825:5, 825:15, 826:17
AMOUNTS [1] - 837:22
ANALYSES [2] - 864:3, 903:15
ANALYSIS [49] - 781:17, 782:19, 842:25, 855:22, 856:2, 856:18, 858:12, 860:13, 860:23, 861:15, 863:24, 864:13, 864:18, 865:3, 865:4, 867:13, 867:24, 870:3, 872:15, 872:22, 873:5, 877:24, 878:3, 882:3, 888:9, 888:11, 888:18, 888:23, 889:9, 890:6, 892:9, 896:18, 898:9, 898:15, 900:4, 900:6, 900:11, 900:15, 900:16, 901:6, 903:15, 904:2, 905:11, 905:13, 905:15, 905:16, 906:1, 906:2
ANALYTICAL [1] - 787:5
ANALYZE [4] - 850:18, 872:1, 877:21, 890:10
ANALYZED [18] - 780:13, 857:25, 859:19, 860:23, 862:17, 863:7, 868:20, 870:7, 870:9, 877:10, 880:1, 880:10, 884:9, 889:9, 890:14, 893:10, 894:15, 901:2
ANALYZING [2] - 813:4, 838:8
ANCHOR [1] - 836:15
ANCHORED [2] - 821:7, 830:11
ANNIE [1] - 775:14
ANSWER [12] - 786:25, 812:23, 815:2, 823:10, 823:13, 823:17, 825:10, 826:9, 846:1, 850:18, 877:8, 887:8
ANSWERING [1] - 784:22
ANTICIPATES [1] - 879:19
ANUJ [1] - 776:8
ANYPLACE [1] - 835:1
AP [1] - 795:21
APA [5] - 853:15, 853:19, 853:24, 883:25, 884:6
APOLOGIES [1] - 892:8
APOLOGIZE [6] - 779:22, 800:11, 803:1, 846:23, 847:18, 887:6
APPALACHIA [4] - 804:22, 804:25, 805:5, 805:15
APPALACHIAN [6] - 802:23, 803:8, 804:20, 806:12, 808:17, 836:20
APPEAR [1] - 779:18
APPEARANCES [1] - 776:1
APPEARED [1] - 838:16
APPENDICES [1] - 888:21
APPENDIX [8] - 872:16, 872:19, 872:24, 873:2, 877:24, 878:2, 888:12, 890:7
APPLICABLE [1] - 842:24
APPRECIATE [1] - 837:14
APPROACH [3] - 853:11, 859:6, 872:10
APPROPRIATE [3] - 807:17, 822:4, 843:3
APPROXIMATE [1] - 835:11
ARC [1] - 844:8
AREA [39] - 780:24, 784:12, 791:19, 792:12, 796:14, 799:2, 799:5, 799:6, 807:16, 809:1, 824:25, 836:18, 838:6, 838:17, 845:14, 849:18, 849:19, 858:10, 861:12, 863:1, 869:9, 869:11, 869:15, 869:20, 872:24, 873:23, 873:24, 875:7, 875:13, 878:15, 879:11, 888:13, 888:19, 890:2, 892:16, 897:19, 901:9, 903:17, 904:5
AREAS [63] - 781:1, 789:21, 796:3, 804:6, 807:10, 807:12, 824:2, 827:15, 827:17, 827:18, 827:20, 827:21, 834:17, 834:20, 844:17, 851:5, 861:16, 861:18, 861:19, 861:20, 862:2, 862:4, 862:16, 862:25, 863:7, 863:8, 863:21, 869:2, 869:7, 869:10, 869:14, 870:13, 872:14, 872:23, 877:21, 878:2, 879:6, 879:13, 888:19, 888:21, 888:23, 888:25, 889:6, 889:16, 889:24, 890:17, 892:10, 892:12, 892:13, 894:15, 894:24, 894:25, 901:2, 902:11, 903:23, 905:13, 905:15, 905:16, 905:17, 905:21, 906:3
ARGUABLY [2] - 784:11, 803:23
ARGUED [1] - 875:18
ARI [1] - 776:3
ARIZONA [1] - 856:15
ARKANSAS [2] - 823:4, 871:7
ARRIVING [1] - 868:6
ASIAN [1] - 841:23
ASPECT [2] - 882:9, 882:12
ASSEMBLY [2] - 809:12, 818:18
ASSIGNMENTS [1] - 793:22
ASSISTANCE [3] - 855:1, 855:2, 855:5
ASSUME [1] - 866:14
ASSUMING [1] - 823:14
ASSUMPTIONS [1] - 871:16
AT [1] - 778:1
ATHENS [2] - 780:20, 780:25
ATLANTA [3] - 775:2, 775:25, 778:2
ATLANTA [44] - 780:19, 781:1, 781:25, 782:5, 782:7, 782:23, 783:4, 783:20, 784:15, 788:24, 789:2, 789:5, 796:2, 799:2, 799:5, 799:6, 799:7, 802:24, 803:9, 803:19, 803:25, 807:16, 808:18, 835:24, 836:16, 836:18, 836:21, 837:1, 837:2, 837:3, 839:7, 844:8, 844:19, 845:14, 845:15, 851:10, 869:12, 869:16, 869:17, 869:21, 901:10, 905:12
ATTACHED [1] - 784:2
ATTEMPT [1] - 798:18
ATTEMPTED [1] - 822:23
ATTENTION [1] - 809:6
ATTITUDES [2] - 885:6, 886:4
AUGUSTA [2] - 781:12, 869:19
AVAILABLE [2] - 816:7, 819:9
AVERAGE [4] - 897:16, 898:7, 899:7, 899:14
AVOID [2] - 808:10, 820:24
AVOIDABLE [1] - 804:8
AWARE [14] - 786:10, 787:14, 806:24, 807:18, 817:1, 826:19, 826:21, 827:10, 842:8, 842:12, 843:11, 843:17, 843:21, 844:14

B

BACKGROUND [2] - 827:1, 854:19
BALANCE [1] - 822:23
BALANCING [1] - 789:13
BALLOT [1] - 863:23
BALLPARK [1] - 855:15
BARRIER [3] - 893:3, 894:18, 894:23
BARROW [1] - 784:19
BASED [17] - 786:3, 815:6, 820:24, 827:17, 843:16, 865:14, 882:6, 882:14, 888:23, 890:13, 892:9, 897:25, 899:7, 899:19, 900:3, 903:15, 905:18
BASING [2] - 882:19, 882:20
BASIS [7] - 804:21, 805:3, 805:24, 816:24, 825:6, 825:16, 900:8
BEAR [4] - 826:23, 895:2, 896:9, 896:14
BECAME [2] - 783:3, 789:16
BECOMES [1] - 821:6
BEFORE [1] - 775:20
BEGIN [1] - 778:23
BEGINNING [2] - 780:12, 816:15
BEHALF [2] - 776:2, 776:12
BEHIND [2] - 853:14, 872:16
BELIEF [1] - 805:21
BELIEFS [2] - 839:8, 839:10
BELOW [2] - 812:18, 849:25
BELT [1] - 781:16
BENCH [1] - 775:19
BENCHMARK [2] - 791:14, 794:19
BENEFIT [1] - 778:16
BEST [4] - 866:16, 866:20, 866:23, 868:17
BETTER [1] - 804:23
BETWEEN [10] - 784:8, 793:11, 798:24, 799:8, 824:24, 827:22, 830:8, 861:1, 885:6, 886:5
BEYOND [4] - 782:11, 809:9, 836:14, 842:14

BIBB [1] - 784:12
BIG [1] - 897:19
BINDER [4] - 853:15, 854:2, 869:3, 872:17
BIRACIAL [2] - 890:4, 890:5
BIT [4] - 812:25, 823:3, 879:20, 899:23
BLACK [1] - 789:2
BLACK [330] - 779:8, 780:14, 781:3, 781:10, 781:16, 781:24, 782:4, 782:6, 783:1, 783:5, 783:18, 783:20, 786:16, 787:3, 787:12, 787:16, 787:20, 788:9, 788:18, 790:1, 790:9, 791:18, 792:5, 792:7, 795:9, 795:13, 795:21, 796:6, 796:8, 796:12, 796:16, 796:17, 796:18, 796:20, 796:22, 796:24, 797:1, 797:4, 797:5, 797:8, 797:9, 797:11, 797:13, 797:16, 797:21, 798:2, 798:3, 799:17, 802:4, 802:6, 802:19, 806:8, 806:11, 807:7, 807:18, 807:25, 808:1, 808:7, 808:14, 808:25, 809:2, 812:5, 812:9, 812:11, 812:14, 812:18, 812:21, 813:2, 813:7, 813:8, 813:15, 813:16, 813:17, 814:16, 815:18, 815:22, 819:17, 819:21, 819:24, 820:1, 820:9, 820:18, 820:20, 820:22, 821:5, 821:7, 821:11, 821:19, 821:20, 821:23, 823:21, 824:2, 824:17, 825:5, 825:15, 826:17, 829:11, 829:17, 829:18, 829:21, 829:24, 830:1, 831:2, 831:7, 831:10, 831:12, 831:14, 831:17, 831:19, 831:21, 831:25, 832:3, 832:6, 832:15, 832:16, 832:19, 832:23, 832:25, 833:1, 833:7, 833:8, 833:15, 833:17, 833:23, 833:25, 834:5, 834:10, 834:14, 834:17, 834:18, 834:20, 834:21, 834:23, 835:2, 835:3, 837:20, 839:12, 839:13, 839:25, 840:5, 841:5, 841:8, 841:9, 841:11, 841:14, 848:9, 849:1, 849:4, 849:5, 849:7, 849:9, 849:12, 849:13, 849:15, 849:19, 849:20, 849:22, 849:25, 850:6, 855:21, 858:13, 859:14, 859:20, 859:21, 860:4, 860:24, 861:15, 861:22, 862:10, 862:15, 862:19, 862:20, 862:22, 863:2, 863:6, 863:8, 863:10, 863:15, 863:24, 864:13, 865:7, 865:14, 865:17, 865:20, 866:2, 866:17, 866:21, 866:22, 867:10, 867:16, 867:23, 867:25, 870:2, 870:4, 870:18, 870:19, 870:21, 870:22, 870:23, 871:1, 871:3, 871:10, 871:12, 871:19, 871:23, 873:14, 873:22, 873:23, 874:12, 874:18, 875:4, 875:6, 875:8, 875:9, 875:22, 875:24, 876:8, 876:20, 877:1, 877:8, 877:15, 878:18, 878:23, 879:16, 879:17, 880:17, 880:19, 884:22, 885:7, 888:2, 888:4, 889:2, 889:4, 889:6, 890:18, 891:3, 891:4, 891:5, 891:8, 891:9, 891:13, 891:17, 891:18, 892:2, 892:14, 892:15, 892:20, 893:21, 893:22, 893:24, 893:25, 894:5, 894:8, 894:9, 894:11, 894:24, 895:13, 896:2, 896:6, 896:18, 896:21, 896:24, 897:2, 897:22, 898:25, 899:1, 899:2, 899:5, 899:14, 899:19, 899:20, 900:2, 900:4, 900:6, 900:7, 900:9, 900:10, 900:14, 900:18, 900:19, 900:25, 901:19, 901:24, 902:6, 902:15, 902:18, 902:21, 903:7, 903:10, 903:16, 903:20, 904:9, 904:12, 904:14, 904:17, 904:20, 905:1, 905:2, 905:4, 905:7, 905:8, 905:17, 905:21, 905:23, 905:25, 906:3, 906:5, 906:7
BLACK-PREFERRED [26] - 860:4, 862:10, 862:19, 863:6, 871:1, 877:15, 878:23, 879:16, 891:3, 891:4, 891:9, 891:13, 891:17, 892:2, 893:24, 894:8, 894:24, 897:22, 898:25, 899:1, 899:2, 899:5, 899:14, 900:7, 904:14, 906:7
BLACKS [3] - 885:10, 885:22, 900:21
BLOC [9] - 819:11, 849:17, 856:2, 872:22, 877:15, 890:20, 894:13, 898:3, 906:2
BLUE [2] - 780:9, 800:5
BOLDED [2] - 869:25, 870:1
BORDER [2] - 806:25, 830:9
BORDERLINE [1] - 783:10
BOTTOM [6] - 830:24, 835:8, 835:19, 848:6, 859:11, 898:18
BOUNDARIES [3] - 818:15, 827:11, 845:7
BOUNDARY [1] - 793:12
BOUNDS [6] - 865:23, 866:3, 866:6, 866:8, 867:3, 867:5
BOYLE [1] - 776:15
BRAD [3] - 775:7, 775:12, 775:17
BREAK [7] - 817:9, 817:14, 828:5, 828:12, 886:19, 886:24
BREAKOUT [1] - 824:25
BREAKS [3] - 824:23, 828:14, 841:13
BRIAN [1] - 902:19
BRIEF [1] - 858:16
BRIEFLY [5] - 784:6, 799:21, 854:18, 873:18, 892:21
BRING [2] - 789:12, 815:9
BRINGING [3] - 789:9, 793:7, 802:3
BROAD [1] - 845:13
BROADLY [1] - 843:16
BROKE [1] - 828:19
BROUGHT [1] - 857:9
BRYAN [2] - 776:13, 776:14
BRYAN [2] - 857:1, 875:19
BUDGET [1] - 827:19
BUREAU [5] - 813:12, 813:19, 816:22, 827:18, 845:6
BUTTS [1] - 807:12
BY [59] - 775:23, 778:13, 779:5, 780:8, 783:15, 787:10, 791:8, 800:14, 801:6, 801:14, 809:19, 813:6, 813:23, 814:10, 815:16, 817:16, 822:13, 823:24, 825:13, 826:14, 827:2, 828:15, 829:4, 830:19, 837:15, 839:23, 842:4, 843:8, 846:25, 847:11, 847:23, 852:24, 853:13, 854:1, 856:23, 858:9, 858:23, 859:10, 860:21, 861:13, 865:1, 868:1, 874:6, 877:3, 879:23, 880:5, 880:13, 881:11, 884:13, 886:1, 887:18, 891:1, 891:11, 893:16, 895:5, 896:17, 900:1, 901:8, 902:3

C

CAITLIN [1] - 776:6
CALCULATED [2] - 848:21, 899:7
CALCULATOR [1] - 848:21
CAND [1] - 889:4
CANDIDATE [57] - 858:14, 859:14, 859:15, 860:24, 862:10, 862:12, 862:13, 863:22, 864:22, 865:15, 865:19, 866:2, 866:18, 866:22, 870:20, 870:24, 871:1, 871:3, 871:17, 871:22, 872:1, 872:11, 873:13, 875:23, 875:25, 877:15, 878:19, 878:20, 878:21, 878:23, 879:12, 880:18, 880:19, 891:9, 891:13, 891:17, 892:2, 893:22, 893:24, 893:25, 894:1, 897:22, 897:25, 899:1, 899:2, 899:5, 899:20, 900:4, 900:7, 900:9, 900:10, 902:17, 902:18, 903:11, 903:21, 904:14
CANDIDATES [58] - 786:18, 855:24, 859:21, 860:4, 861:4, 861:22, 862:16, 862:19, 862:22, 863:3, 863:6, 863:25, 864:6, 865:21, 867:6, 870:18, 870:19, 870:21, 870:23, 871:8, 871:10, 871:12, 871:13, 871:20, 871:23, 871:24, 873:12, 875:13, 878:12, 879:16, 886:11, 886:13, 888:3, 889:3, 890:19, 890:20, 891:3, 891:4, 892:16, 892:19, 892:20, 893:6, 894:8, 894:24, 895:15, 895:17, 895:21, 896:4, 896:19, 896:22, 897:2, 897:16, 898:6, 898:7, 899:15, 901:24, 902:6, 906:7
CANNOT [1] - 876:25
CAPACITY [2] - 782:18, 786:20
CASE [90] - 778:24, 779:1, 779:3, 779:6, 779:17, 780:18, 781:15, 781:19, 781:23, 782:9, 782:19, 782:20, 783:17, 784:2, 784:4, 786:20, 790:12, 793:19, 798:20, 800:16, 806:23, 809:10, 815:10, 816:25, 817:12, 819:10, 820:16, 820:19, 822:3, 823:9, 826:2, 826:5, 827:13, 828:16, 828:20, 836:23, 839:2, 853:2, 853:18, 854:9, 854:10, 854:13, 854:16, 856:12, 857:4, 857:8, 857:9, 857:14, 857:17, 857:20, 857:24, 858:1, 858:16, 858:19, 858:20, 859:19, 860:8,

860:10, 860:11, 860:18, 860:23, 861:14, 864:15, 866:14, 866:25, 867:14, 867:19, 868:4, 868:21, 871:21, 872:3, 872:4, 876:24, 876:25, 877:10, 879:25, 880:6, 881:4, 883:11, 889:25, 893:4, 893:5, 895:21, 896:23, 899:1, 901:2, 901:20, 907:8
CASES [9] - 854:6, 854:8, 855:14, 855:20, 868:10, 872:12, 895:17, 898:13, 905:24
CATEGORIES [1] - 844:5
CBSA [2] - 828:1, 844:14
CD [1] - 834:11
CD10 [1] - 818:9
CD2 [1] - 814:18
CD3 [1] - 805:1
CD6 [6] - 798:12, 836:16, 836:17, 837:2, 837:7, 837:18
CD6'S [1] - 831:18
CENSUS [5] - 813:12, 813:19, 816:22, 827:18, 845:6
CENSUS [5] - 782:17, 786:3, 817:20, 844:7, 845:10
CENSUS-DESIGNATED [2] - 844:7, 845:10
CENTER [1] - 827:21
CENTERED [2] - 785:11, 785:14
CENTRAL [11] - 780:15, 781:4, 804:22, 804:24, 869:18, 869:22, 872:25, 903:23, 904:1, 905:12
CERTAIN [5] - 806:13, 808:13, 808:21, 845:1, 878:18
CERTAINLY [15] - 788:4, 789:18, 798:1, 810:8, 819:2, 826:12, 831:17, 835:15, 835:16, 856:12, 859:6, 860:20, 876:22, 883:13, 895:13
CERTIFY [1] - 907:6
CHALLENGE [1] - 778:25
CHANCE [1] - 886:9
CHANCES [1] - 865:16
CHANGE [16] - 785:17, 786:6, 786:13, 787:24, 792:17, 798:22, 800:25, 814:18, 824:24, 840:13, 849:24, 850:21, 873:5, 873:6, 873:8, 878:16
CHANGED [5] - 785:24, 792:17, 792:18, 807:9, 810:2
CHANGES [4] - 780:22, 787:19, 803:12, 806:16
CHARACTERIZE [3] - 875:2, 875:12, 877:18
CHARACTERIZING [1] - 888:14
CHATTAHOOCHEE [2] - 805:11, 805:20
CHATTANOOGA [3] - 804:14, 806:1, 837:22
CHECK [4] - 795:6, 802:12, 818:3, 851:12
CHECKED [1] - 817:5
CHEROKEE [2] - 784:18, 811:5
CHERRY [1] - 845:1
CHERRY-PICK [1] - 845:1
CHEUNG [1] - 776:7
CHOICE [21] - 855:25, 861:22, 862:16, 862:22, 863:3, 871:1, 871:12, 871:13, 871:22, 871:24, 892:19, 892:20, 896:19, 899:20, 900:4, 900:9, 900:10, 901:25, 902:7, 903:11, 903:21
CHOOSE [5] - 871:14, 876:8, 894:5, 894:6
CHOSE [2] - 850:25, 859:13
CHOSEN [1] - 900:25
CIRCLING [1] - 808:15
CIRCUMSTANCES [8] - 810:9, 853:7, 866:5, 879:22, 880:4, 895:3, 896:11, 896:15
CITATION [1] - 857:5
CITATIONS [1] - 857:7
CITIES [1] - 827:10
CITIZEN [1] - 812:18
CITY [1] - 798:25
CITY [14] - 793:15, 793:17, 827:4, 827:7, 827:9, 842:9, 842:10, 843:12, 843:13, 843:18, 843:19, 850:14, 850:15, 851:10
CIVIL [1] - 885:2
CIVIL [1] - 885:21
CLARIFY [5] - 791:3, 877:4, 879:21, 891:21, 899:23
CLAYTON [7] - 785:8, 807:12, 807:14, 807:20, 833:10, 833:13, 833:14
CLEAN [1] - 895:2
CLEAN-UP [1] - 895:2
CLEAR [11] - 782:3, 783:16, 794:22, 803:7, 813:24, 814:11, 827:24, 853:8, 871:11, 887:22, 896:5
CLEARLY [3] - 859:22, 870:23, 870:25
CLERK [2] - 852:18, 852:22
CLOSE [5] - 805:4, 805:23, 815:10, 825:23, 875:14
CLOSER [4] - 789:11, 805:6, 805:22, 839:21
CLOSEST [1] - 864:11
CO [1] - 851:13
CO-COUNSEL [1] - 851:13
COAKLEY [1] - 775:9
COBB [41] - 784:16, 784:18, 785:8, 788:16, 789:9, 789:10, 789:13, 789:17, 789:18, 792:4, 792:23, 792:24, 793:4, 793:8, 795:17, 795:20, 797:10, 797:12, 798:1, 798:4, 798:7, 798:16, 801:23, 802:2, 802:3, 804:8, 804:12, 804:17, 804:23, 805:4, 805:21, 806:9, 808:22, 821:8, 830:16, 830:24, 836:19, 836:24, 837:21, 838:18, 850:4
COHESION [5] - 895:11, 895:18, 895:24, 896:4, 896:6
COHESIVE [4] - 875:8, 889:6, 890:19, 895:13
COHESIVENESS [1] - 875:7
COLLINGWOOD [1] - 816:20
COLORS [1] - 810:8
COLUMBUS [5] - 804:18, 805:5, 805:6, 805:22, 806:3
COLUMN [3] - 812:20, 873:20, 874:17
COLUMNS [1] - 873:11
COMBINED [3] - 827:16, 836:24, 897:16
COMBINES [1] - 864:4
COMBINING [1] - 906:1
COMMENT [1] - 895:11
COMMISSION [1] - 828:17
COMMISSION [3] - 796:2, 837:2, 845:15
COMMISSIONER [1] - 873:3
COMMON [2] - 826:16, 826:22
COMMONALITIES [4] - 842:10, 843:13, 843:18, 851:3
COMMONALITY [6] - 825:5, 825:16, 826:10, 826:20, 843:1, 850:15
COMMONLY [1] - 898:16
COMMUNITIES [20] - 781:11, 798:24, 826:15, 826:17, 836:14, 837:8, 837:12, 839:9, 842:16, 842:21, 844:2, 844:12, 844:20, 844:22, 844:25, 845:2, 845:4, 845:5, 845:6, 845:11
COMMUNITY [1] - 818:24
COMMUNITY [19] - 796:12, 825:6, 825:17, 837:8, 837:17, 837:19, 838:2, 842:9, 842:10, 842:21, 842:24, 843:12, 843:13, 843:18, 843:19, 843:23, 845:12, 892:15
COMPACT [13] - 796:11, 810:2, 810:10, 810:15, 811:11, 811:14, 811:16, 811:17, 811:22, 811:25, 812:1, 836:17, 839:13
COMPACTNESS [7] - 810:6, 810:18, 811:10, 817:23, 818:1, 818:2, 818:4
COMPANY [2] - 854:22, 854:23
COMPARATOR [3] - 838:5, 838:12, 842:20
COMPARE [6] - 784:6, 861:23, 901:16, 904:7, 905:5, 905:15
COMPARED [6] - 862:23, 863:3, 865:8, 869:9, 879:13, 901:13
COMPARING [2] - 865:4, 902:9
COMPARISON [2] - 901:16, 903:16
COMPILE [1] - 898:20
COMPILING [1] - 897:9
COMPLETE [1] - 817:12
COMPONENT [5] - 789:21, 794:21, 829:8, 831:21, 833:4
COMPONENTS [5] - 789:24, 795:2, 795:8, 795:13, 847:15
COMPOSED [1] - 891:19
COMPOSITION [3] - 864:5, 864:9, 866:18
CONCENTRATED [1] - 796:16
CONCENTRATION [4] - 797:4, 797:6, 809:2, 834:22
CONCENTRATIONS [3] - 808:7, 808:8, 834:18
CONCERNS [2] - 808:3, 837:4

CONCLUDE [4] - 860:22, 880:14, 888:22, 892:9
CONCLUSION [4] - 805:4, 822:21, 846:11, 886:7
CONCLUSIONS [10] - 781:3, 857:24, 859:16, 862:21, 863:5, 873:8, 880:7, 894:12, 894:14, 903:16
CONDUCT [1] - 861:15
CONFERENCE [1] - 857:5
CONFIDENCE [5] - 867:12, 867:18, 873:18, 874:17, 874:25
CONFIDENT [1] - 868:8
CONFIGURATION [1] - 807:3
CONFIGURED [3] - 799:17, 799:19, 807:19
CONFIRMED [1] - 812:8
CONFLICT [1] - 854:23
CONFUSING [1] - 828:20
CONGRESS [1] - 836:24
CONGRESS [8] - 787:4, 787:12, 790:24, 794:17, 794:18, 794:23, 818:11, 821:21
CONGRESSIONAL [21] - 782:10, 784:15, 788:1, 792:9, 792:14, 792:15, 793:1, 798:4, 805:7, 806:2, 806:15, 813:13, 814:16, 820:8, 820:11, 821:9, 821:16, 821:19, 821:22, 850:3, 850:9
CONGRESSIONAL [30] - 778:25, 779:8, 780:15, 781:10, 781:11, 781:18, 781:24, 783:22, 783:25, 785:2, 789:19, 791:18, 799:13, 799:15, 808:11, 813:4, 818:6, 818:11, 820:6, 823:3, 835:2, 836:23, 836:25, 837:21, 842:5, 842:8, 842:25, 843:11, 843:17
CONGRESSWOMAN [2] - 782:9, 782:25
CONNECT [1] - 844:16
CONNECTION [3] - 801:9, 804:25, 805:4
CONNECTIONS [1] - 796:3
CONNECTS [2] - 806:11, 807:11
CONSIDER [5] - 796:11, 814:24, 821:25, 845:4, 900:13
CONSIDERATION [1] - 782:24
CONSIDERED [5] - 843:23, 844:3, 844:12, 879:24, 883:14
CONSIDERING [3] - 826:15, 844:20, 844:25
CONSTANT [4] - 786:8, 789:16, 798:20, 803:14
CONSTANTLY [1] - 790:8
CONSTITUTES [1] - 821:14
CONSTRUCT [1] - 806:8
CONSTRUCTED [2] - 805:1, 811:19
CONSTRUCTING [1] - 807:22
CONSULTING [2] - 854:24, 855:7
CONTAIN [2] - 883:11, 904:2
CONTAINED [4] - 791:10, 801:22, 872:19, 890:2
CONTAINS [3] - 790:17, 791:9, 798:9
CONTEST [10] - 870:22, 873:12, 875:3, 890:4, 890:5, 896:2, 897:23, 899:6, 902:16, 904:14
CONTESTED [1] - 897:7
CONTESTS [31] - 858:13, 859:20, 859:24, 861:3, 870:18, 870:19, 870:24, 870:25, 871:5, 871:7, 871:9, 872:5, 872:6, 872:7, 872:8, 872:9, 872:23, 877:20, 880:9, 886:11, 886:12, 889:7, 889:8, 889:10, 889:11, 889:15, 890:15, 897:21, 898:25
CONTEXT [3] - 836:11, 856:7, 856:10
CONTINUE [1] - 886:2
CONTINUED [2] - 828:7, 887:2
CONTINUING [1] - 811:10
CONTRAST [1] - 836:19
CONTRIBUTED [1] - 831:18
CONTRIBUTOR [3] - 832:6, 832:19, 834:13
CONTROL [1] - 817:2
CONTROLLING [1] - 826:20
CONVENTION [1] - 794:22
CONVERSATION [3] - 788:25, 820:24, 870:5
COOPER [71] - 778:7, 778:14, 778:23, 779:6, 780:9, 782:16, 783:16, 784:1, 784:20, 785:22, 786:19, 787:5, 787:11, 788:6, 788:23, 790:15, 790:23, 791:15, 791:25, 793:21, 794:25, 796:4, 799:21, 800:6, 800:15, 801:7, 801:15, 802:21, 803:1, 803:17, 805:16, 807:5, 807:18, 808:15, 809:20, 813:24, 814:11, 814:20, 815:5, 815:17, 815:25, 816:17, 817:3, 817:17, 820:10, 822:8, 822:14, 823:5, 823:25, 825:11, 825:14, 826:1, 826:15, 827:3, 828:13, 828:16, 834:16, 836:9, 837:11, 837:16, 839:1, 842:5, 842:14, 846:10, 847:12, 847:24, 851:12, 851:16, 851:21, 851:24, 852:11
COOPER [1] - 777:3
COOPER'S [7] - 782:22, 783:3, 786:22, 809:8, 821:25, 883:18, 903:25
COPY [5] - 779:15, 794:7, 795:6, 854:4, 858:18
CORE [7] - 792:18, 796:1, 827:17, 837:1, 844:19, 845:14, 851:10
CORE-BASED [1] - 827:17
CORNER [2] - 796:17, 805:25
CORRECT [121] - 780:20, 781:5, 782:1, 785:1, 785:21, 786:14, 786:16, 787:16, 787:21, 788:10, 788:14, 789:6, 789:10, 790:13, 791:11, 793:4, 793:18, 793:19, 795:2, 795:9, 795:14, 795:18, 796:10, 796:22, 797:7, 798:2, 798:7, 798:8, 799:18, 801:20, 802:6, 802:24, 803:9, 803:10, 807:8, 810:3, 811:12, 811:23, 813:25, 815:23, 815:24, 816:19, 816:20, 816:25, 817:2, 817:20, 818:19, 818:22, 819:23, 820:1, 820:2, 820:6, 822:16, 829:25, 830:3, 832:11, 832:17, 832:18, 834:8, 834:9, 838:3, 838:10, 838:11, 838:13, 838:24, 839:14, 839:25, 840:5, 842:1, 842:2, 845:5, 845:12, 845:13, 845:15, 846:2, 846:6, 846:22, 847:4, 848:7, 850:17, 850:23, 854:14, 854:17, 857:21, 857:22, 858:25, 861:2, 864:24, 870:10, 870:15, 873:2, 877:23, 878:1, 879:2, 879:25, 882:22, 885:25, 886:3, 887:25, 888:6, 888:20, 889:5, 890:1, 890:9, 890:22, 891:25, 892:6, 892:7, 893:11, 893:18, 895:10, 898:22, 899:10, 899:13, 899:17, 901:3, 903:14, 904:6, 904:24, 907:7
CORRECTION [1] - 779:11
CORRECTLY [2] - 844:5, 860:16
COUDRIET [2] - 775:24, 907:15
COUNSEL [2] - 778:9, 851:13
COUNTIES [23] - 780:19, 789:4, 789:5, 796:2, 798:10, 808:13, 824:17, 824:20, 825:1, 827:21, 830:11, 831:20, 831:23, 832:22, 833:9, 833:12, 833:21, 837:1, 844:7, 844:19, 845:17, 848:3, 869:9
COUNTIES [6] - 785:8, 788:21, 807:13, 811:5, 821:8, 837:1
COUNTRY [2] - 807:1, 843:17
COUNTY [22] - 789:24, 793:22, 794:1, 795:17, 796:8, 797:5, 798:10, 804:12, 816:7, 819:6, 819:9, 824:21, 824:24, 827:11, 827:20, 827:23, 832:9, 834:4, 845:8, 845:9, 850:14, 850:16
COUNTY [98] - 784:17, 784:18, 784:19, 784:25, 785:1, 785:2, 785:4, 785:5, 785:12, 785:15, 785:19, 788:8, 788:13, 788:16, 789:9, 789:13, 789:17, 789:18, 792:4, 792:16, 792:20, 792:23, 792:24, 792:25, 793:1, 793:4, 793:6, 793:8, 795:9, 795:15, 795:17, 795:24, 795:25, 796:9, 796:15, 796:18, 796:21, 797:10, 797:12, 797:13, 797:17, 798:1, 798:4, 798:15, 798:17, 799:11, 801:20, 801:23, 802:2, 802:3, 803:23, 804:8, 804:12, 804:17, 804:23, 805:4, 805:21, 806:9, 806:11, 806:14, 806:17, 807:14, 807:20, 808:22, 811:5, 829:12, 829:22, 830:4, 830:7, 830:10, 830:16, 830:24, 831:25, 832:10, 833:1, 833:13, 833:14, 833:23, 834:4, 834:5, 834:6, 834:11, 836:19, 836:24, 837:21, 838:19, 845:18, 849:15, 849:18, 850:4, 851:6, 851:8, 851:9, 904:5
COUPLE [2] - 847:12, 854:6
COURSE [10] - 798:12, 802:20, 836:4, 841:10, 841:11, 845:9, 863:22,

889:12, 895:14, 901:3
COURT [7] - 821:25, 854:18, 857:23, 858:10, 858:11, 858:18, 859:12
COURT [122] - 775:1, 775:24, 775:25, 778:1, 778:3, 778:11, 779:25, 780:2, 780:4, 782:14, 783:6, 786:23, 787:7, 791:4, 800:7, 800:9, 800:25, 801:8, 801:12, 809:11, 809:17, 812:23, 813:5, 813:21, 814:9, 814:23, 815:4, 815:11, 817:7, 817:13, 822:6, 822:8, 823:10, 823:17, 825:12, 825:18, 825:20, 825:23, 826:3, 826:6, 826:23, 828:4, 828:9, 828:14, 828:25, 837:13, 843:1, 843:5, 846:8, 846:12, 846:16, 846:20, 846:24, 847:9, 851:19, 851:24, 852:3, 852:5, 852:9, 853:9, 853:12, 853:21, 853:23, 856:20, 858:5, 858:8, 858:20, 859:3, 859:7, 860:7, 860:11, 860:17, 861:8, 861:11, 867:21, 875:16, 875:18, 875:22, 876:1, 876:5, 876:10, 876:17, 876:24, 877:2, 878:3, 878:8, 878:13, 878:16, 878:18, 878:25, 879:4, 879:7, 879:18, 881:9, 881:25, 882:6, 882:11, 882:18, 882:25, 883:2, 883:6, 883:21, 884:3, 884:10, 885:9, 885:14, 885:18, 885:21, 886:19, 887:4, 887:12, 890:25, 891:10, 895:4, 896:12, 896:16, 899:24, 906:10, 906:13, 906:17, 907:3, 907:15
COURT [4] - 801:9, 854:6, 854:8, 886:23
COURT'S [1] - 858:25
COURTS [7] - 855:16, 867:2, 868:10, 871:4, 871:11, 889:19, 898:15
COVERED [2] - 786:5, 818:21
CRAZY [3] - 804:19, 838:22, 838:23
CREATE [7] - 782:6, 792:21, 807:6, 821:7, 821:11, 823:21, 862:19
CREATED [5] - 781:9, 809:1, 809:22, 854:7, 904:22
CREATING [4] - 787:18, 825:3, 825:14, 864:7
CREATION [2] - 780:14, 822:15
CREDIBILITY [2] - 857:24, 859:16
CREDITED [1] - 855:16
CRITERIA [2] - 899:3, 905:18
CRITICIZE [3] - 802:22, 803:7, 808:16
CROSS [3] - 827:11, 886:21, 906:10
CROSS [2] - 777:4, 778:12
CROSS-EXAMINATION [1] - 778:12
CROSS-EXAMINATION [1] - 906:10
CROSS-EXAMINATION..... [1] - 777:4
CROSSED [2] - 807:2, 830:9
CROSSOVER [1] - 879:9
CRR [2] - 775:24, 907:15
CURRENT [1] - 816:10
CUT [2] - 784:16, 798:16
CV [2] - 854:4, 854:5
CVAP [8] - 812:21, 813:2, 813:7, 813:13, 813:14, 813:16, 813:17, 814:16
CYCLE [1] - 783:23

D

DANGER [1] - 778:21
DANIEL [1] - 776:15
DATA [24] - 782:17, 784:3, 786:3, 790:12, 813:18, 814:13, 817:18, 818:22, 818:24, 819:3, 819:6, 819:8, 819:11, 823:25, 839:20, 858:2, 860:2, 864:2, 864:11, 864:13, 882:4, 882:5, 882:7, 884:9
DATABASE [2] - 864:4, 864:7
DATASETS [1] - 816:21
DATE [2] - 800:17, 854:5
DATED [1] - 800:17
DAWSON [2] - 785:18, 811:5
DAY [1] - 775:4
DAYS [1] - 858:21
DEALING [1] - 850:2
DEALS [2] - 782:17, 880:25
DECADES [1] - 821:21
DECEMBER [2] - 779:20, 884:12
DECIDE [1] - 889:17
DECIDED [2] - 858:2, 886:5
DECISION [6] - 782:22, 782:23, 815:6, 858:12, 876:13, 884:23
DECISION-MAKING [2] - 782:22, 815:6
DECLARATION [9] - 802:25, 803:2, 803:3, 810:24, 824:16, 824:18, 824:19, 883:4, 883:16
DEEPER [1] - 800:1
DEFEAT [1] - 860:4
DEFEATED [1] - 902:17
DEFENDANT [1] - 856:9
DEFENDANT [2] - 775:8, 776:12
DEFENDANT'S [5] - 779:25, 780:1, 780:5, 800:21, 801:3
DEFENDANTS [2] - 856:11, 857:2
DEFENDANTS [2] - 775:13, 775:18
DEFINE [3] - 863:13, 863:14, 896:1
DEFINED [7] - 796:14, 827:18, 843:23, 845:5, 845:6, 845:12, 845:14
DEFINITELY [1] - 886:21
DEFINITION [4] - 819:16, 821:4, 821:10, 863:17
DEGREE [2] - 879:9, 896:5
DEKALB [2] - 785:14, 788:21
DEMOCRACY [1] - 854:24
DEMOCRAT [11] - 876:2, 876:18, 876:19, 877:1, 877:9, 881:16, 885:18, 900:24, 900:25, 902:18
DEMOCRATIC [50] - 787:4, 787:12, 868:24, 870:20, 871:22, 875:23, 875:25, 877:11, 878:6, 879:12, 879:16, 879:25, 880:1, 880:6, 880:9, 880:15, 880:16, 880:20, 881:12, 881:16, 884:15, 885:1, 885:4, 885:8, 885:23, 886:8, 886:16, 887:20, 887:23, 892:23, 893:1, 893:3, 893:5, 893:10, 893:19, 893:21, 894:14, 894:17, 894:23, 895:3, 895:7, 895:11, 895:14, 895:19, 895:20, 895:24, 897:4, 899:16, 900:23, 900:25
DEMOCRATS [10] - 786:16, 876:9, 877:12, 878:4, 878:7, 884:23, 885:3, 888:2, 888:3, 900:13
DEMOGRAPHER [1] - 834:16
DEMOGRAPHIC [7] - 789:20, 817:19, 824:8, 824:11, 839:6, 864:5, 864:9
DEMOGRAPHICS [2] - 782:17, 840:24
DEMONSTRATE [1] - 799:19
DEMONSTRATES [1] - 836:17
DENISE [1] - 776:5
DEPOSITION [3] - 799:14, 813:20, 881:8
DEPUTY [2] - 852:18, 852:22
DERIVE [1] - 864:16
DERIVED [1] - 874:21
DESCRIBE [2] - 838:5, 857:8
DESCRIBES [2] - 837:17, 837:19
DESCRIBING [2] - 839:4, 839:5
DESIGNATED [2] - 844:7, 845:10
DESIRED [2] - 894:1, 899:5
DETAIL [1] - 836:7
DETERMINE [8] - 808:25, 839:12, 850:18, 861:16, 897:24, 899:18, 900:2
DETERMINED [1] - 903:9
DETERMINING [1] - 863:20
DEVELOP [1] - 826:1
DEVELOPED [7] - 806:20, 814:2, 864:20, 867:1, 867:2, 867:3, 867:7
DEVIATION [5] - 798:12, 798:14, 806:21, 824:7, 850:2
DIANE [1] - 776:14
DIFFERENCE [1] - 886:5
DIFFERENT [23] - 786:1, 789:14, 799:22, 801:23, 826:2, 826:6, 840:10, 841:12, 848:3, 851:5, 851:10, 863:15, 868:6, 874:21, 875:13, 882:21, 885:7, 888:3, 896:3, 898:17, 900:12, 902:11, 903:18
DIFFICULT [2] - 789:8, 791:21
DIGIUSEPPE [1] - 776:9
DILUTION [2] - 855:7, 856:18
DIMINISHING [1] - 859:16
DIRE [1] - 856:20
DIRE [1] - 856:22
DIRECT [2] - 843:22, 886:21
DIRECT [2] - 777:8, 852:23
DIRECTLY [2] - 778:17, 869:8
DISAGGREGATED [1] - 898:3
DISAGREE [1] - 860:13
DISAGREED [2] - 860:12, 860:15
DISCONNECT [1] - 844:16
DISCUSS [1] - 820:11
DISCUSSED [10] - 789:25, 791:15,

793:7, 801:22, 817:11, 817:22, 819:20, 832:10, 853:7, 897:9
DISCUSSING [2] - 884:9, 884:14
DISCUSSION [2] - 801:11, 888:8
DISFAVOR [1] - 845:2
DISPLAY [4] - 789:20, 819:1, 824:8, 824:11
DISPLAYED [3] - 790:5, 819:8, 823:25
DISPOSITIVE [1] - 829:23
DISPUTE [2] - 860:11, 860:14
DISREGARD [3] - 845:22, 846:5, 847:3
DISTANCE [1] - 799:8
DISTINCTION [1] - 853:8
DISTRIBUTED [1] - 807:23
DISTRICT [182] - 782:10, 783:3, 784:16, 784:25, 785:7, 785:11, 785:14, 785:18, 787:16, 787:19, 787:20, 787:24, 788:1, 788:3, 788:7, 788:9, 788:10, 788:11, 788:14, 788:17, 788:18, 788:20, 789:3, 789:4, 789:10, 789:12, 790:15, 790:16, 790:17, 790:18, 790:19, 791:1, 791:9, 791:10, 791:13, 792:4, 792:8, 792:9, 792:13, 792:14, 792:15, 792:22, 792:24, 792:25, 793:2, 793:7, 793:11, 793:18, 795:2, 795:8, 795:13, 795:18, 795:20, 796:5, 796:9, 796:13, 796:14, 797:11, 797:18, 798:5, 798:9, 799:1, 799:22, 802:3, 802:4, 802:7, 802:8, 803:22, 803:24, 804:13, 805:7, 805:8, 805:11, 806:3, 806:11, 806:13, 806:15, 806:16, 807:3, 807:7, 807:19, 808:5, 808:6, 808:21, 810:2, 810:4, 810:10, 810:12, 810:14, 810:21, 810:22, 811:1, 811:2, 811:4, 811:7, 811:8, 811:11, 811:14, 811:16, 811:22, 811:25, 812:8, 812:11, 812:14, 812:17, 813:10, 813:14, 813:21, 813:22, 814:16, 815:19, 815:23, 818:9, 820:9, 820:11, 820:20, 820:22, 821:6, 821:9, 821:16, 821:19, 821:22, 822:1, 822:10, 829:13, 829:23, 830:4, 830:25, 832:23, 833:4, 833:9, 833:13, 833:14, 834:5, 835:4, 835:12, 838:3, 839:16, 839:17, 839:24, 840:4, 840:7, 840:8, 840:12, 840:25, 841:2, 841:5, 841:15, 841:22, 841:25, 848:10, 848:11, 850:3, 850:9, 850:21, 851:1, 851:4, 851:7, 857:10, 902:8, 902:12, 902:13, 903:5, 903:22, 904:8, 904:9, 904:16, 904:23, 904:25, 905:5, 905:6, 905:7
DISTRICT [6] - 775:1, 775:1, 775:20, 775:25, 907:3, 907:4
DISTRICT [147] - 779:8, 780:15, 781:11, 781:24, 782:7, 783:1, 783:5, 783:18, 783:20, 784:13, 785:3, 787:5, 787:16, 787:20, 788:2, 789:23, 791:18, 791:20, 792:5, 792:6, 792:17, 793:22, 794:2, 796:19, 796:22, 796:24, 796:25, 797:2, 797:4, 799:17, 799:18, 804:13, 804:17, 804:20, 806:9, 807:22, 808:25, 809:21, 809:23, 810:18, 810:22, 811:2, 811:8, 811:19, 813:4, 814:12, 818:1, 818:12, 819:17, 819:21, 819:22, 821:7, 821:12, 822:16, 823:3, 823:6, 823:14, 823:21, 823:22, 829:24, 830:2, 830:11, 831:3, 831:12, 831:14, 831:23, 832:7, 832:11, 832:20, 832:25, 833:21, 834:1, 834:3, 834:14, 834:19, 834:24, 835:2, 835:22, 836:2, 836:3, 836:23, 836:25, 837:21, 839:14, 839:25, 840:5, 840:7, 841:5, 841:15, 841:16, 841:18, 842:6, 842:8, 842:11, 842:22, 843:11, 843:14, 843:17, 843:20, 848:7, 848:19, 849:4, 849:6, 849:7, 849:16, 849:23, 849:25, 850:6, 850:14, 850:16, 890:1, 891:8, 891:12, 891:20, 891:23, 897:4, 897:17, 897:20, 898:4, 899:4, 899:18, 899:19, 899:20, 900:2, 900:3, 900:8, 900:19, 900:20, 901:3, 902:9, 902:12, 902:19, 902:21, 903:9, 903:20, 904:9, 904:17, 904:22, 905:1, 905:7, 905:8, 905:18
DISTRICT-LEVEL [1] - 789:23
DISTRICTING [3] - 823:16, 845:23, 846:5
DISTRICTS [3] - 786:6, 787:11, 792:11
DISTRICTS [90] - 778:25, 782:12, 782:18, 783:23, 784:10, 785:24, 786:5, 786:13, 786:15, 786:19, 787:3, 787:21, 789:15, 791:19, 792:1, 792:12, 792:19, 793:3, 798:20, 798:22, 799:13, 799:15, 803:12, 803:14, 803:15, 803:17, 804:3, 807:6, 807:9, 808:19, 809:2, 810:1, 813:8, 818:11, 819:24, 819:25, 820:1, 820:5, 820:18, 830:8, 834:17, 839:21, 850:21, 850:23, 856:4, 861:18, 861:21, 862:19, 863:2, 863:8, 863:9, 869:8, 869:15, 869:20, 869:25, 870:1, 870:3, 870:4, 890:3, 891:2, 891:5, 891:16, 892:18, 896:25, 897:3, 900:13, 900:14, 901:1, 901:12, 901:17, 901:23, 902:5, 902:24, 903:1, 903:2, 903:12, 903:25, 905:22, 905:24, 906:5, 906:6
DIVERSE [2] - 792:6, 808:2
DIVIDE [1] - 848:18
DIVIDED [1] - 867:15
DIVIDES [1] - 838:18
DIVIDING [1] - 793:10
DIVISION [1] - 775:2
DIVORCED [1] - 885:5
DIXIT [1] - 776:8
DOCKET [3] - 775:5, 775:10, 775:15
DOCUMENT [4] - 779:15, 853:14, 853:17, 854:3
DOCUMENTED [1] - 884:20
DOJ [6] - 812:21, 813:2, 813:7, 813:14, 813:17, 814:16
DON'T.. [1] - 817:14
DONALD [1] - 776:15
DONE [14] - 806:18, 806:22, 822:1, 851:23, 856:12, 858:3, 882:3, 890:6, 897:11, 898:7, 898:8, 900:6, 900:10
DOOR [2] - 844:21
DOTS [2] - 789:25, 824:1
DOUGLAS [14] - 785:8, 788:13, 792:24, 793:6, 795:15, 795:24, 799:11, 801:20, 806:9, 821:8, 832:10, 836:25
DOWN [7] - 804:18, 806:21, 812:24, 842:3, 857:11, 898:3, 907:7
DPR [8] - 899:16, 901:19, 902:16, 903:8, 904:13, 904:21, 905:3
DR [24] - 816:20, 852:8, 852:9, 852:25, 853:5, 853:14, 854:2, 854:12, 854:18, 856:17, 856:24, 858:24, 859:13, 861:14, 863:13, 879:24, 882:24, 884:14, 886:2, 887:19, 892:6, 896:18, 905:10, 906:8
DRAFTING [1] - 822:22
DRAW [11] - 791:17, 796:25, 823:6, 834:19, 835:1, 847:2, 850:25, 862:21, 892:17, 894:14, 903:16
DRAWER [1] - 847:2
DRAWING [25] - 783:22, 789:19, 789:22, 790:6, 790:11, 808:11, 816:24, 817:2, 817:19, 817:25, 818:1, 818:4, 823:7, 824:10, 824:13, 839:3, 843:24, 844:3, 844:13, 844:15, 844:17, 844:21, 845:1, 845:22, 906:5
DRAWN [14] - 779:7, 779:10, 786:4, 787:25, 805:12, 808:3, 823:14, 836:17, 848:10, 851:11, 861:23, 897:3, 897:20
DREW [7] - 781:10, 783:17, 783:19, 791:19, 826:20, 826:24, 837:17
DRIVE [2] - 835:21, 836:1
DRIVEN [1] - 799:10
DRIVING [1] - 799:9
DROPPED [1] - 813:15
DUE [2] - 787:22, 886:9
DULY [1] - 852:15
DURING [3] - 843:22, 854:15, 881:4
DWIGHT [8] - 779:1, 779:6, 779:16, 779:19, 780:18, 781:15, 782:9, 783:17

E

EARLY [2] - 814:4, 857:11
EASIEST [1] - 778:18
EASILY [1] - 806:18
EAST [4] - 869:18, 904:1, 905:12
EAST [4] - 805:11, 805:14, 805:20, 806:14
EASTERN [5] - 783:18, 869:12, 869:16, 901:10, 905:11
EASTERN [1] - 795:24

EASY [1] - 782:6
ECOLOGICAL [13] - 864:19, 864:20, 865:10, 865:12, 865:22, 866:11, 866:24, 868:13, 868:17, 873:25, 874:1
ED [1] - 776:5
EFFECT [2] - 787:23, 798:13
EFFECTIVE [2] - 899:9, 903:2
EFFECTIVENESS [6] - 861:17, 897:1, 897:15, 899:9, 899:16, 901:6
EFFORT [1] - 808:25
EFFORTS [1] - 850:24
EI [7] - 867:8, 873:17, 873:19, 873:25, 874:13, 874:15
EIGHT [2] - 807:6, 807:9
EITHER [2] - 794:9, 840:8
ELECT [28] - 786:15, 855:24, 856:5, 861:22, 862:16, 862:19, 862:22, 863:3, 863:9, 871:12, 892:18, 892:19, 896:19, 896:21, 898:13, 899:4, 900:13, 901:24, 902:6, 902:22, 903:10, 903:17, 903:21, 905:23, 906:2, 906:3, 906:6
ELECTED [7] - 782:10, 782:13, 782:25, 818:12, 888:3, 896:3, 900:24
ELECTING [5] - 787:3, 787:6, 787:12, 821:20, 894:23
ELECTION [46] - 783:2, 786:18, 790:12, 818:21, 858:13, 859:12, 859:20, 861:1, 861:5, 863:14, 863:15, 864:5, 864:6, 864:7, 864:23, 872:23, 874:4, 874:7, 874:8, 874:11, 875:2, 876:20, 877:16, 878:8, 878:9, 888:4, 890:13, 891:22, 891:24, 892:25, 893:2, 897:1, 897:5, 897:6, 897:7, 897:10, 898:2, 898:9, 898:20, 899:9, 899:21, 900:21, 901:4, 901:21
ELECTIONS [78] - 857:18, 858:1, 859:14, 859:15, 859:22, 862:3, 862:4, 863:6, 864:1, 868:19, 868:20, 868:23, 868:25, 870:6, 870:8, 870:9, 870:10, 870:13, 870:17, 871:2, 871:15, 872:1, 872:10, 876:22, 877:5, 877:10, 877:18, 878:2, 878:10, 884:20, 887:20, 887:23, 888:9, 888:15, 888:24, 889:1, 889:14, 889:18, 889:19, 889:20, 889:21, 889:23, 889:24, 890:7, 890:10, 890:11, 890:17, 891:5, 892:10, 892:22, 892:24, 893:10, 893:19, 894:2, 894:21, 895:16, 895:19, 896:6, 897:9, 897:13, 897:14, 897:18, 897:25, 898:8, 898:20, 898:21, 898:23, 898:24, 899:8, 899:12, 899:15, 899:22, 906:5
ELECTORAL [1] - 854:24
ELECTORATE [2] - 864:11, 864:12
ELECTS [3] - 899:20, 900:4, 900:8
ELICIT [1] - 815:2
ELICITING [1] - 809:8
ELSEWHERE [2] - 831:15, 872:3
ENACTED [46] - 787:22, 788:1, 788:10, 788:14, 788:18, 788:20, 791:13, 792:15, 803:7, 804:9, 805:16, 810:3, 810:11, 810:21, 810:23, 811:1, 811:4, 811:7, 811:14, 811:16, 811:21, 811:25, 812:6, 813:9, 814:17, 818:15, 820:8, 821:23, 828:18, 838:5, 838:12, 838:17, 838:18, 839:3, 839:9, 840:11, 840:25, 841:2, 841:6, 842:9, 842:16, 843:12, 850:14, 850:18, 850:22, 904:7
ENCOMPASS [3] - 781:19, 796:25, 897:20
ENCOMPASSED [3] - 792:8, 792:12, 796:12
ENCOUNTER [1] - 778:21
ENCROACHMENT [1] - 780:25
END [6] - 816:1, 816:6, 816:10, 818:2, 818:3, 818:25
ENDEAVOR [1] - 853:8
ENDOGENOUS [3] - 889:19, 889:23, 889:24
ENDS [1] - 792:12
ENDURANCE [1] - 851:16
ENGAGED [2] - 853:1, 854:7
ENLIGHTEN [1] - 808:11
ENTIRE [3] - 806:15, 836:9, 836:10
ENTIRETY [1] - 897:20
ENTRIES [1] - 904:3
EQUAL [1] - 823:6
EQUALITY [6] - 789:15, 797:24, 823:1, 845:22, 846:4, 847:3
ER [4] - 873:20, 874:1, 874:14, 874:15
ERA [1] - 821:18
ERROR [1] - 874:20
ESPECIALLY [1] - 855:6
ESQ [22] - 776:3, 776:3, 776:4, 776:4, 776:5, 776:5, 776:6, 776:6, 776:7, 776:7, 776:8, 776:8, 776:9, 776:9, 776:10, 776:10, 776:11, 776:13, 776:14, 776:14, 776:15, 776:15
ESSENCE [1] - 837:19
ESSENTIALLY [4] - 792:17, 832:24, 897:1, 897:15
ESTIMATE [6] - 855:22, 863:24, 864:22, 865:20, 873:19, 874:12
ESTIMATES [22] - 865:23, 866:9, 866:16, 866:20, 867:3, 867:4, 867:17, 867:25, 868:6, 868:7, 868:8, 868:18, 872:21, 872:22, 873:6, 873:14, 873:21, 873:23, 874:16, 874:23, 894:10, 894:11
ET [5] - 775:4, 775:9, 775:12, 775:14, 775:17
EVALUATED [7] - 877:19, 887:23, 888:2, 888:15, 895:8, 895:12, 895:20
EVALUATING [4] - 856:4, 880:6, 896:21, 898:12
EVENING [1] - 906:17
EVENLY [1] - 807:23
EVIDENCE [9] - 780:1, 780:6, 801:4, 853:20, 853:25, 883:18, 883:19, 884:7, 886:15
EXACT [4] - 802:18, 825:9, 845:16, 846:13
EXACTLY [6] - 802:10, 826:20, 830:9, 833:7, 861:3, 900:16
EXAGGERATES [1] - 860:2
EXAMINATION [2] - 843:22, 906:10
EXAMINATION [5] - 778:12, 829:3, 847:10, 852:23, 856:22
EXAMINATION..... [1] - 777:5
EXAMINATION..... [1] - 777:5
EXAMINATION..... [1] - 777:8
EXAMINATION..... [1] - 777:4
EXAMINE [1] - 894:2
EXAMINED [5] - 852:16, 862:2, 862:4, 880:15, 886:8
EXAMINING [1] - 789:24
EXAMPLE [7] - 803:22, 871:7, 871:21, 872:15, 879:10, 885:3, 901:6
EXAMPLES [2] - 854:8, 856:14
EXCEPT [2] - 819:9, 823:1
EXCEPTION [1] - 872:5
EXCEPTIONS [4] - 860:25, 879:7, 879:8
EXCITED [1] - 778:7
EXCLUDE [1] - 859:15
EXCLUDED [2] - 780:19, 787:4
EXCUSE [2] - 857:2, 859:20
EXCUSED [2] - 852:1, 852:4
EXHAUST [1] - 787:24
EXHIBIT [16] - 779:12, 779:23, 791:2, 794:16, 800:3, 806:23, 811:3, 827:25, 830:17, 833:3, 847:20, 847:22, 847:24, 848:1, 883:20
EXHIBIT [28] - 779:25, 780:1, 780:5, 790:24, 793:22, 794:4, 794:11, 794:12, 795:4, 800:4, 800:5, 800:13, 800:21, 801:3, 805:17, 807:11, 807:20, 829:6, 847:15, 853:15, 853:20, 853:24, 882:23, 883:5, 883:25, 884:2, 884:6
EXHIBITS [3] - 783:24, 784:1, 810:1
EXHIBITS [2] - 783:24, 809:24
EXISTING [2] - 780:23, 820:5
EXPANDED [1] - 850:1
EXPANDING [1] - 883:13
EXPECT [3] - 834:22, 895:14, 895:18
EXPERIENCE [6] - 825:4, 825:15, 826:17, 826:22, 843:16, 855:10
EXPERT [25] - 778:24, 779:3, 779:7, 779:16, 782:16, 782:20, 784:2, 814:21, 823:12, 824:5, 853:2, 853:18, 854:12, 854:15, 855:12, 855:19, 856:9, 856:11, 856:17, 857:20, 861:9, 861:12, 863:18, 882:7, 882:16
EXPERTISE [1] - 786:20
EXPERTS [4] - 786:21, 860:3, 868:16, 897:12

EXPLAIN [15] - 821:4, 821:15, 841:17, 865:2, 865:10, 866:11, 874:19, 880:21, 881:13, 881:15, 881:23, 884:15, 884:21, 892:23, 903:5
EXPLAINED [2] - 838:9, 881:17
EXPLAINING [3] - 876:7, 876:10, 883:13
EXPLAINS [1] - 876:15
EXPLANATION [2] - 837:7, 880:24
EXPLORE [1] - 846:10
EXPLORED [1] - 810:14
EXTEND [8] - 804:13, 805:7, 805:8, 805:20, 806:13, 807:16, 837:22, 851:9
EXTENDING [1] - 784:18
EXTENDS [2] - 784:13, 805:13
EXTENSIVELY [1] - 881:8
EXTENT [3] - 808:21, 860:2, 896:9
EXURBAN [1] - 796:3

F

FACT [7] - 813:13, 821:11, 876:15, 880:25, 883:19, 884:24, 897:13
FACTOR [3] - 850:7, 881:20, 884:19
FACTOR [2] - 896:10, 896:13
FACTORS [3] - 896:24, 901:1, 901:18
FAIR [5] - 829:22, 837:16, 858:22, 877:14
FAIRBURN [4] - 798:25, 799:4, 799:8, 799:11
FALL [2] - 791:24, 869:9
FAMILIAR [2] - 822:20, 883:16
FAR [7] - 793:3, 805:7, 805:13, 821:14, 826:21, 836:3, 883:12
FASHION [3] - 788:4, 820:8, 836:17
FAST [1] - 821:13
FAVOR [2] - 836:9, 845:2
FAYETTE [15] - 785:8, 792:20, 792:23, 793:1, 798:15, 807:12, 829:12, 829:22, 830:4, 830:7, 830:10, 833:1, 837:1, 849:15, 849:18
FEBRUARY [2] - 813:20, 814:4
FEDERALLY [1] - 845:12
FELL [2] - 867:4, 874:24
FELT [1] - 857:25
FEW [6] - 839:16, 849:24, 857:3, 870:7, 871:25, 873:11
FEWER [2] - 803:12, 828:13
FIGURE [7] - 781:2, 781:7, 791:25, 801:16, 802:2, 812:4, 815:17
FIGURE [4] - 813:11, 855:15, 866:15, 866:20
FIGURES [1] - 785:20
FILED [1] - 814:5
FINAL [1] - 860:22
FINE [4] - 815:9, 822:11, 835:6, 843:6
FINISH [5] - 814:9, 817:13, 817:14, 886:21
FINISHED [3] - 803:2, 816:4, 851:13
FINISHING [1] - 811:22
FIRST [24] - 794:12, 799:19, 837:6, 837:23, 852:15, 853:15, 859:11, 863:11, 864:2, 867:1, 869:3, 869:13, 869:14, 872:19, 873:11, 873:14, 874:4, 874:7, 876:7, 877:13, 879:11, 892:24, 900:17, 904:8
FIT [1] - 804:23
FIVE [2] - 786:4, 905:13
FLIGHT [1] - 885:4
FLIP [1] - 885:22
FLORIDA [1] - 856:15
FLOYD [1] - 806:17
FLUNG [1] - 836:3
FLYING [1] - 810:8
FOCUS [6] - 782:23, 861:19, 871:2, 871:10, 872:14, 902:12
FOCUSED [5] - 782:5, 783:4, 787:5, 836:8, 869:3
FOCUSING [2] - 871:15, 872:10
FOLKS [1] - 827:8
FOLLOW [2] - 805:3, 843:4
FOLLOWING [1] - 876:11
FOLLOWS [4] - 793:12, 828:8, 852:16, 887:3
FOOTNOTE [2] - 892:4, 892:5
FOR [1] - 775:1
FOREGOING [1] - 907:6
FORM [3] - 839:13, 867:8, 890:12
FORMALLY [1] - 881:6
FORMAT [2] - 818:25, 904:4
FORMATTED [1] - 888:20
FORMING [1] - 784:3
FORSYTH [2] - 811:5, 845:18
FORTH [1] - 784:22
FORTY [1] - 855:11
FOUR [11] - 784:11, 791:19, 792:1, 792:19, 793:3, 804:8, 808:22, 809:1, 813:8, 831:20, 838:19
FOUR-WAY [1] - 804:8
FRATERNITY [1] - 775:4
FREQUENTLY [1] - 855:23
FRONT [4] - 779:12, 779:23, 799:24, 835:5
FROWNED [1] - 867:3
FULL [2] - 832:11, 836:11
FULTON [22] - 785:8, 785:11, 788:8, 792:16, 792:24, 795:9, 796:9, 796:15, 796:18, 796:20, 797:3, 797:11, 797:13, 797:17, 806:9, 811:5, 821:7, 831:25, 836:25, 851:6, 851:8, 851:9
FUMBLE [1] - 794:9

G

GA [3] - 794:17, 794:18, 794:23
GARABADU [1] - 776:4
GARY [1] - 867:1
GE [8] - 899:9, 901:19, 902:15, 903:8, 904:12, 904:20, 905:3
GENERAL [46] - 822:22, 856:8, 862:3, 863:6, 868:22, 868:23, 870:6, 870:8, 870:12, 870:13, 870:16, 872:23, 874:8, 877:5, 877:9, 878:1, 878:2, 878:8, 878:10, 884:20, 888:8, 888:9, 888:24, 888:25, 889:18, 890:7, 890:13, 890:16, 890:17, 892:9, 893:2, 894:21, 895:16, 895:19, 896:6, 897:1, 897:9, 897:14, 898:19, 898:20, 899:8, 899:9, 906:4
GENERAL [2] - 809:12, 818:18
GENERALLY [10] - 793:11, 807:21, 811:20, 824:4, 827:8, 827:23, 867:12, 868:20, 871:2, 872:20
GEOGRAPHICAL [1] - 869:2
GEOGRAPHICALLY [1] - 796:11
GEOGRAPHIES [1] - 817:23
GEOGRAPHY [5] - 816:8, 824:9, 824:12, 839:13
GEORGE [1] - 776:7
GEORGE [1] - 854:21
GEORGIA [45] - 779:7, 780:15, 781:4, 783:7, 783:8, 783:18, 784:8, 784:12, 784:13, 802:23, 803:9, 803:18, 803:21, 804:22, 804:24, 805:22, 805:25, 806:2, 806:3, 806:12, 806:25, 808:9, 808:18, 813:4, 819:13, 823:3, 827:10, 836:20, 861:17, 861:20, 862:2, 864:9, 869:18, 869:22, 869:23, 872:25, 876:22, 881:19, 884:18, 885:13, 893:5, 903:24, 904:1, 905:12
GEORGIA [4] - 775:1, 775:25, 778:2, 907:4
GEORGIA'S [3] - 778:25, 842:8, 843:11
GEORGIANS [1] - 837:3
GET-GO [1] - 791:24
GINGLES [10] - 782:16, 799:19, 853:6, 864:17, 888:10, 894:13, 894:20, 894:21, 896:9, 896:10
GIST [1] - 776:10
GIVEN [4] - 804:3, 864:22, 864:23, 882:7
GRANT [1] - 827:9
GRANT [3] - 826:7, 828:22, 851:20
GRANT [1] - 775:14
GRAPH [1] - 865:14
GRAY [2] - 902:4, 902:5
GREAT [2] - 847:13, 851:25
GREATER [3] - 790:1, 824:2, 865:23
GROUP [3] - 819:11, 872:2, 872:11
GROUP-LEVEL [1] - 819:11
GROUPS [4] - 867:9, 867:13, 867:15, 891:19
GROWTH [3] - 781:3, 782:3, 782:4
GUESS [8] - 778:19, 781:19, 791:6, 815:4, 828:2, 835:9, 842:19, 843:3
GUIDELINES [1] - 818:18

H

H-A-N-D-L-E-Y [1] - 852:20

HABITUALLY [1] - 818:3
HALF [7] - 805:14, 836:1, 848:22, 849:14, 849:15, 866:19, 880:9
HANCOCK [1] - 806:11
HAND [1] - 778:9
HANDING [1] - 883:24
HANDLEY [2] - 777:7, 852:14
HANDLEY [24] - 852:8, 852:9, 852:20, 852:25, 853:5, 853:14, 854:2, 854:12, 854:18, 856:17, 856:24, 858:24, 859:13, 861:14, 863:13, 879:24, 882:24, 884:14, 886:2, 887:19, 892:6, 896:18, 905:10, 906:8
HAPPY [3] - 881:4, 882:22, 887:16
HARD [3] - 812:24, 821:13, 827:18
HARVARD [1] - 867:2
HEAD [3] - 785:21, 809:17
HEAR [2] - 825:12, 851:25
HEARD [1] - 815:1
HEARING [6] - 800:19, 803:15, 882:20, 883:9, 883:10, 883:15
HEAVIEST [1] - 797:4
HEAVILY [3] - 796:20, 808:7, 885:10
HELD [1] - 786:8
HELD [1] - 778:1
HELP [3] - 789:11, 855:4, 857:14
HELPFUL [3] - 784:23, 887:11, 887:12
HELPS [1] - 812:24
HENRY [5] - 785:8, 834:4, 834:5, 834:6, 834:11
HEREBY [1] - 907:6
HEREIN [1] - 852:15
HERSCHEL [1] - 861:1
HIGH [12] - 821:17, 834:17, 861:25, 862:14, 863:20, 865:2, 865:10, 866:4, 866:11, 875:15, 896:5
HIGHER [4] - 798:14, 808:6, 878:20, 879:11
HIGHLY [1] - 834:25
HISPANIC [15] - 812:17, 812:21, 813:2, 813:7, 813:14, 813:16, 813:17, 814:16, 840:9, 841:9, 841:20, 841:22, 841:23, 867:10, 873:4
HISTORIAN [1] - 826:19
HISTORICAL [2] - 897:8, 897:25
HISTORICALLY [1] - 821:17
HISTORY [2] - 825:4, 825:15
HOLD [11] - 798:19, 801:8, 825:20, 846:8, 883:2, 892:5, 896:12
HOLDING [1] - 789:15
HOLDS [2] - 784:13, 803:13
HOMOGENEOUS [8] - 835:2, 864:18, 865:3, 865:4, 868:12, 873:21, 873:22, 874:2
HOMOGENOUS [1] - 797:1
HONOR [70] - 778:6, 779:21, 780:3, 782:11, 782:21, 783:13, 783:14, 786:17, 787:2, 787:9, 800:10, 800:20, 800:22, 801:13, 809:7, 809:14, 814:19, 815:3, 815:14, 815:15, 817:5, 817:15, 821:24, 822:7, 823:13, 823:18, 825:7, 825:9, 825:25, 826:12, 826:13, 828:6, 828:11, 829:2, 837:10, 837:14, 842:20, 843:2, 843:7, 846:18, 846:22, 851:18, 851:23, 852:6, 852:12, 853:4, 853:10, 853:19, 856:16, 856:21, 859:1, 861:7, 880:23, 881:3, 882:1, 882:16, 882:22, 883:8, 883:17, 884:1, 884:5, 884:8, 887:1, 887:8, 895:1, 896:8, 903:24, 906:12, 906:15, 906:16
HONOR'S [1] - 879:19
HONORABLE [1] - 775:20
HOPE [3] - 778:3, 845:25, 887:10
HOUR [2] - 835:23, 836:1
HOUSE [1] - 869:20
HP [4] - 873:21, 873:23, 874:2, 874:16
HUNDREDS [3] - 823:14, 856:3, 856:6
HYPOTHETICAL [4] - 823:13, 845:20, 846:14
HYPOTHETICALLY [4] - 823:5, 823:23, 847:1, 847:5

I

I.. [1] - 822:18
I3 [7] - 793:22, 794:4, 794:11, 794:12, 795:4, 807:20, 847:15
IDEA [1] - 885:5
IDENTICAL [2] - 792:16, 904:3
IDENTICALLY [1] - 888:20
IDENTIFIED [7] - 784:10, 784:11, 824:1, 833:12, 877:22, 881:14, 884:16
IDENTIFY [1] - 798:24
IGNORING [1] - 876:15
ILLUSTRATIVE [129] - 785:22, 786:1, 786:7, 787:25, 788:3, 788:7, 788:17, 789:3, 789:19, 790:11, 790:16, 790:17, 790:25, 791:9, 792:8, 792:13, 792:15, 792:22, 792:24, 792:25, 793:2, 793:11, 793:17, 794:2, 794:13, 794:17, 794:19, 794:20, 794:21, 794:23, 795:8, 795:18, 796:4, 796:9, 796:13, 796:21, 797:17, 798:9, 798:25, 799:22, 802:7, 802:8, 803:11, 803:16, 803:18, 803:24, 804:16, 805:2, 805:12, 806:7, 806:10, 807:3, 807:11, 808:3, 808:5, 808:6, 808:17, 808:19, 810:3, 810:6, 810:11, 810:15, 810:22, 811:2, 811:8, 811:11, 811:21, 811:23, 812:1, 812:6, 814:17, 814:18, 815:18, 816:24, 817:17, 824:13, 825:3, 825:14, 826:16, 828:18, 829:9, 829:13, 829:23, 830:25, 831:18, 832:23, 833:9, 834:11, 835:4, 836:15, 836:16, 837:2, 837:7, 837:18, 838:2, 839:18, 841:3, 842:23, 843:24, 844:3, 844:13, 844:17, 844:21, 845:1, 861:24, 862:23, 869:8, 889:13, 890:3, 896:20, 896:22, 898:5, 901:13, 901:17, 902:10, 903:3, 903:6, 903:13, 903:19, 903:25, 904:7, 904:16, 904:23, 904:25, 905:1, 905:5, 905:8, 905:19, 905:20
IMAGINE [1] - 778:20
IMPACT [1] - 873:5
IMPACTS [1] - 876:12
IMPROPER [1] - 859:1
IN [1] - 778:1
INC [1] - 775:4
INCH [1] - 835:9
INCHES [1] - 835:15
INCLUDE [19] - 788:20, 789:4, 792:11, 792:19, 803:22, 807:14, 816:1, 827:19, 827:23, 833:9, 834:17, 841:11, 849:20, 870:19, 871:2, 871:10, 872:1, 872:11, 898:23
INCLUDED [34] - 783:23, 788:17, 790:18, 790:19, 793:21, 794:1, 795:20, 796:21, 797:17, 797:18, 808:6, 813:25, 824:21, 826:16, 827:24, 828:3, 828:21, 829:12, 829:23, 830:7, 832:10, 832:22, 838:2, 849:6, 851:3, 858:13, 859:21, 859:23, 870:18, 870:20, 870:21, 881:7, 897:14
INCLUDES [7] - 784:16, 785:7, 803:25, 825:1, 832:16, 864:8, 904:5
INCLUDING [4] - 778:22, 781:16, 789:21, 869:19
INCONSEQUENTIAL [1] - 799:9
INCORPORATES [1] - 896:13
INCREASED [1] - 903:7
INCREASES [2] - 865:18, 865:19
INCUMBENT [3] - 818:5, 818:7, 818:10
INDEPENDENT [1] - 797:24
INDICATE [1] - 835:9
INDICATED [4] - 833:6, 870:3, 871:4, 878:25
INDICATES [2] - 794:12, 869:7
INDICATION [1] - 824:16
INDIGENOUS [1] - 841:24
INDIVIDUAL [2] - 809:23, 873:12
INDIVIDUALS [21] - 797:16, 797:18, 797:22, 798:2, 798:6, 831:7, 831:8, 831:11, 831:18, 832:3, 832:16, 833:17, 833:25, 834:1, 834:10, 848:2, 848:15, 849:1, 849:5, 849:10, 849:15
INEVITABILITY [1] - 808:12
INEVITABLE [1] - 804:5
INEVITABLY [1] - 855:21
INEXPLICABLY [4] - 802:23, 803:8, 808:17, 836:20
INFERENCE [8] - 864:20, 866:12, 866:24, 868:13, 868:17, 873:25, 874:1, 882:2
INFERENCES [2] - 882:5, 882:14
INFLUENCE [1] - 900:21
INFORMATION [26] - 789:20, 789:23, 790:5, 791:23, 813:13, 813:24, 814:2, 814:6, 814:7, 814:20, 815:6, 815:7, 815:8, 815:12, 816:14, 817:1, 817:20,

819:12, 822:9, 824:21, 827:14, 827:24, 828:3, 864:8, 882:11, 883:12
INJUNCTION [16] - 786:2, 799:23, 800:15, 800:19, 800:23, 801:1, 801:16, 801:19, 802:2, 802:7, 803:3, 803:15, 816:13, 854:13, 854:16, 883:18
INSTANCE [3] - 862:9, 877:1, 892:24
INSTANCES [3] - 871:25, 878:11, 895:21
INSTEAD [4] - 787:19, 840:23, 849:5, 876:14
INSTRUCTED [1] - 826:1
INSURANCE [1] - 873:3
INTACT [1] - 850:23
INTENT [5] - 809:9, 809:12, 809:15, 839:3, 839:6
INTENTION [2] - 839:4, 839:5
INTEREST [45] - 798:24, 825:6, 825:17, 826:15, 826:18, 836:15, 837:4, 837:8, 837:12, 837:17, 837:20, 838:2, 842:24, 843:23, 844:2, 844:12, 844:20, 844:22, 844:25, 845:4, 861:18, 863:21, 867:19, 868:3, 869:11, 869:15, 869:20, 870:14, 872:2, 872:12, 872:14, 877:22, 888:19, 889:16, 889:25, 890:2, 892:11, 892:12, 894:15, 894:24, 894:25, 901:2, 901:9, 903:23, 905:13
INTERESTED [2] - 887:9, 900:17
INTERRUPT [1] - 878:3
INTERRUPTION [1] - 779:4
INTERVAL [1] - 874:17
INTERVALS [3] - 867:12, 867:18, 873:18
INVARIABLY [1] - 844:19
INVENT [1] - 897:11
INVOLVED [1] - 848:2
ISSUE [5] - 824:7, 850:2, 858:11, 858:12, 889:20
ISSUES [1] - 820:25
ITSELF [1] - 791:2

J

JACOUTOT [23] - 776:14, 853:22, 856:21, 856:23, 858:9, 858:18, 858:22, 858:23, 859:6, 859:8, 859:10, 860:20, 860:21, 861:7, 861:10, 880:23, 881:21, 882:10, 882:13, 883:8, 883:23, 884:5, 906:12
JACOUTOT [1] - 857:1
JANUARY [2] - 800:17, 814:4
JASPER [1] - 807:13
JOHN [1] - 873:3
JOINING [1] - 781:11
JON [1] - 870:25
JONES [1] - 775:20
JOSEPH [1] - 776:9
JOYCE [1] - 776:10
JR [1] - 776:15
JUAN [1] - 776:8
JUDGE [1] - 852:2
JUDGE [2] - 809:18, 860:12
JUDGE [1] - 775:20
JUDGE'S [1] - 877:7
JUDGES [1] - 860:17
JUDICIAL [3] - 857:16, 857:17, 857:18
JURISDICTION [1] - 856:10
JURISDICTIONS [4] - 855:4, 856:7, 871:6, 893:2
JUSTICE [1] - 886:5

K

KEEP [4] - 783:6, 787:21, 816:5, 843:5
KEEPS [4] - 783:11, 787:25, 836:18, 864:9
KELSEY [1] - 776:6
KEMP [3] - 779:1, 779:16, 779:19
KENNESAW [3] - 793:4, 799:1, 804:24
KEPT [2] - 803:14, 803:15
KHANNA [15] - 783:9, 788:23, 791:15, 801:22, 809:21, 810:14, 814:23, 822:6, 827:6, 829:1, 842:15, 846:21, 847:16, 848:1, 850:9
KHANNA [37] - 776:11, 780:3, 782:11, 782:16, 783:13, 786:17, 787:9, 800:22, 809:7, 815:2, 815:15, 822:7, 823:8, 823:18, 825:7, 825:25, 826:4, 826:13, 829:2, 829:4, 830:14, 830:19, 837:14, 837:15, 839:20, 839:23, 842:3, 842:4, 842:18, 843:7, 843:8, 846:13, 846:25, 847:8, 847:21, 851:23, 906:16
KIND [10] - 784:16, 794:9, 796:23, 808:15, 812:24, 817:4, 855:2, 864:2, 875:19, 885:22
KINDS [1] - 845:2
KING [2] - 867:1, 873:3
KINGS [1] - 873:19
KNOWN [1] - 884:24
KNOWS [1] - 799:7

L

L-I-S-A [1] - 852:21
L1 [1] - 809:24
L3 [1] - 809:24
LA [1] - 776:14
LABEL [3] - 800:5, 824:9, 824:12
LABELED [1] - 853:15
LAKIN [56] - 776:3, 852:6, 852:24, 853:4, 853:10, 853:13, 853:19, 854:1, 856:16, 859:1, 861:13, 864:25, 865:1, 868:1, 874:5, 874:6, 877:3, 879:19, 879:23, 880:2, 880:5, 880:11, 880:13, 881:3, 881:11, 882:1, 882:16, 882:22, 883:1, 883:5, 883:17, 883:24, 884:8, 884:11, 884:13, 886:1, 887:1, 887:8, 887:16, 887:18, 891:1, 891:11, 893:15, 893:16, 895:1, 895:5, 896:8, 896:13, 896:17, 899:25, 900:1, 901:7, 901:8, 902:1, 902:3, 906:8
LAKIN [3] - 852:6, 859:8, 887:5
LARGE [3] - 799:15, 804:3, 839:12
LARGELY [1] - 784:8
LARGEST [3] - 795:17, 797:5, 831:21
LAST [9] - 800:11, 807:10, 815:17, 830:23, 858:5, 858:21, 871:8, 887:19, 888:14
LATE [3] - 814:3, 814:4, 845:18
LAWYER [1] - 894:18
LAY [2] - 782:17, 786:19
LAYPERSON [1] - 787:14
LEADING [2] - 837:10, 837:13
LEAST [14] - 788:13, 788:16, 798:20, 850:24, 863:1, 863:10, 865:6, 865:7, 868:17, 871:3, 872:11, 882:8, 905:17, 905:25
LEAVE [1] - 906:13
LED [1] - 885:4
LEFT [5] - 790:23, 805:17, 828:13, 850:23, 888:14
LEGAL [5] - 820:7, 820:23, 821:3, 846:11, 855:5
LEGEND [3] - 835:8, 835:11, 835:13
LEGISLATION [1] - 885:2
LEGISLATIVE [15] - 791:22, 861:3, 861:21, 862:4, 868:23, 889:8, 889:10, 889:11, 889:15, 889:17, 890:1, 890:7, 890:10, 890:13, 891:21
LEGISLATURE [4] - 790:18, 839:3, 850:24, 862:24
LENGTH [1] - 835:21
LESS [7] - 835:19, 841:25, 874:15, 885:22, 886:17, 894:5, 895:13
LEVEL [24] - 789:23, 816:7, 816:8, 819:7, 819:10, 819:11, 824:4, 824:6, 861:25, 862:14, 863:20, 864:4, 864:7, 864:22, 865:2, 865:10, 866:4, 866:11, 895:18, 896:4, 898:3, 898:4, 898:6
LEVELS [3] - 824:9, 824:15, 862:8
LEWIS [1] - 887:15
LEWIS [1] - 776:10
LIFE [1] - 778:18
LIFETIME [1] - 876:21
LIKELY [3] - 802:5, 835:19, 866:8
LIMIT [1] - 858:12
LIN [1] - 776:3
LINCOLN'S [1] - 885:19
LINE [5] - 789:2, 791:15, 793:11, 846:10, 866:7
LINEAR [4] - 865:17, 865:19, 865:20, 866:14
LINES [5] - 844:15, 845:7, 845:8, 845:9, 865:25
LISA [6] - 852:8, 852:9, 852:20, 853:5, 856:17
LISA [2] - 777:7, 852:14
LIST [1] - 883:20

LISTED [3] - 870:9, 893:11, 893:17
LISTEN [2] - 887:7, 887:13
LISTS [4] - 869:8, 869:9, 873:11
LITERALLY [1] - 866:19
LITIGATION [2] - 856:7, 894:16
LIVE [2] - 797:9, 818:12
LOCATED [1] - 854:9
LOCATION [1] - 839:11
LODGED [1] - 883:20
LOGICAL [3] - 834:19, 865:23, 866:6
LOIS [1] - 775:14
LONE [2] - 891:8, 891:12
LOOK [38] - 779:15, 782:2, 794:9, 799:21, 800:17, 801:16, 807:24, 810:23, 811:3, 812:17, 812:24, 835:4, 835:13, 837:23, 839:11, 839:21, 840:23, 851:2, 859:4, 861:17, 870:16, 872:3, 872:6, 872:7, 872:8, 874:15, 889:10, 889:12, 889:17, 892:3, 892:5, 893:4, 893:7, 893:19, 897:5, 900:23, 903:3, 904:8
LOOKED [37] - 781:23, 782:25, 793:20, 833:5, 861:3, 862:25, 864:1, 868:19, 868:22, 868:23, 868:24, 869:7, 870:10, 870:12, 870:24, 871:6, 871:8, 876:22, 879:6, 886:16, 889:15, 889:22, 890:4, 890:5, 890:15, 891:6, 892:12, 892:23, 894:25, 896:24, 896:25, 897:14, 898:19, 898:21, 901:1, 905:2
LOOKING [43] - 780:19, 782:21, 784:6, 784:21, 788:6, 789:2, 790:8, 790:15, 790:21, 791:25, 805:13, 807:10, 810:1, 813:7, 829:7, 830:21, 830:23, 833:14, 835:6, 835:11, 840:10, 840:11, 840:14, 840:15, 840:17, 840:18, 840:19, 840:20, 842:25, 847:21, 860:8, 865:12, 871:18, 872:24, 874:13, 874:14, 897:8, 897:15, 897:18, 898:6, 904:16
LOOKS [3] - 818:1, 833:3, 897:2
LOST [2] - 783:2, 799:10
LOUD [1] - 836:9
LOW [3] - 821:19, 875:14, 894:9
LOWER [2] - 810:18, 816:7
LOWERS [1] - 815:22
LUNCH [2] - 778:4, 778:19

M

MACON [3] - 781:12, 784:12, 869:24
MACON-BIBB [1] - 784:12
MAGICALLY [1] - 796:25
MAJORITY [80] - 779:8, 780:14, 781:10, 781:24, 782:6, 783:5, 783:18, 783:20, 787:16, 787:20, 788:9, 788:18, 791:17, 791:18, 792:5, 795:13, 796:8, 796:22, 796:24, 799:17, 802:4, 806:8, 806:11, 807:7, 807:18, 808:25, 813:8, 813:16, 813:17, 819:17, 819:20, 819:21, 819:24, 819:25, 820:1, 821:7, 821:11, 823:21, 824:17, 829:24, 830:1, 831:12, 831:14, 833:8, 834:17, 834:20, 834:21, 834:23, 839:13, 839:25, 840:4, 840:7, 840:8, 841:5, 841:15, 849:7, 849:13, 849:16, 849:25, 850:6, 870:2, 878:10, 880:16, 886:7, 887:22, 888:1, 891:5, 891:8, 891:13, 891:16, 891:17, 891:18, 891:20, 891:22, 891:23, 895:6, 895:7, 895:17
MAJORITY-MINORITY [7] - 819:20, 819:24, 819:25, 891:16, 891:17, 891:18, 891:23
MAKEBA [1] - 776:10
MAKEUP [3] - 789:21, 794:1, 848:2
MAP [32] - 790:23, 791:2, 793:20, 824:15, 829:9, 835:12, 837:2, 838:5, 838:9, 838:17, 838:18, 839:3, 839:9, 840:25, 841:2, 841:3, 841:6, 842:25, 843:12, 845:22, 847:2, 850:5, 869:13, 869:15, 869:21, 869:22, 869:23, 869:24, 902:9, 902:10, 902:12
MAPS [4] - 778:8, 901:9, 901:11, 901:22
MAPTITUDE [2] - 819:1, 819:8
MARGINALS [1] - 866:16
MARGINS [1] - 874:20
MARIETTA [3] - 799:6, 799:8, 811:4
MARISA [1] - 776:9
MARK [1] - 789:25
MARKED [5] - 780:5, 801:3, 853:24, 883:24, 884:6
MATCH [1] - 850:3
MATH [1] - 847:14
MATHEMATICALLY [1] - 823:2
MATTER [1] - 818:10
MATTERS [1] - 906:14
MAY [1] - 776:6
MCBATH [2] - 782:9, 782:25
MEAN [42] - 783:7, 788:4, 794:20, 804:6, 804:15, 804:24, 805:12, 805:23, 805:25, 807:1, 808:10, 809:15, 811:18, 814:1, 815:9, 821:15, 822:17, 822:18, 822:21, 823:23, 831:15, 835:14, 837:11, 838:18, 840:19, 844:18, 849:14, 862:6, 875:6, 875:8, 875:11, 876:3, 881:19, 884:18, 889:2, 892:14, 898:5, 899:21, 900:6, 901:22
MEANING [1] - 821:3
MEANINGFUL [2] - 797:7, 797:8
MEANS [6] - 821:5, 841:17, 841:19, 879:1, 881:23, 888:1
MEANT [2] - 830:7, 894:10
MEASURED [1] - 811:9
MEASURES [1] - 836:14
MEET [2] - 831:16, 855:5
MEMBER [2] - 818:11, 821:20
MEMBERS [2] - 787:4, 787:12
MEMORY [2] - 859:5, 860:9
MENTIONED [12] - 799:14, 830:10, 831:2, 831:20, 838:16, 845:17, 860:1, 871:25, 873:16, 873:19, 898:19, 899:7
MET [2] - 799:20, 857:1
METHOD [2] - 873:18, 898:12
METHODS [2] - 868:6, 868:15
METRIC [4] - 812:22, 813:4, 813:8, 822:14
METRICS [1] - 812:5
METRO [23] - 781:25, 782:5, 782:7, 783:4, 783:20, 784:15, 802:24, 803:9, 803:19, 803:25, 808:18, 835:24, 836:16, 836:21, 837:1, 837:3, 839:7, 845:14, 869:12, 869:16, 869:17, 869:21, 901:10
METRO [1] - 783:1
METROPOLITAN [2] - 781:1, 827:14
MIC [3] - 812:24, 867:21, 876:5
MICHIGAN [2] - 854:10, 856:12
MICROPHONE [2] - 784:21, 784:23
MICROPOLITAN [2] - 827:17, 844:15
MID [1] - 821:19
MIDDLE [2] - 784:16, 784:18
MIGHT [8] - 792:17, 799:6, 827:8, 831:11, 831:13, 836:22, 840:10, 883:9
MILES [3] - 835:9, 835:14, 835:19
MILLER [2] - 776:4, 776:6
MILLION [1] - 866:20
MING [1] - 776:7
MINIMIZE [1] - 780:22
MINORITIES [1] - 892:18
MINORITY [22] - 796:12, 819:20, 819:24, 819:25, 841:16, 841:17, 841:20, 855:7, 855:24, 856:18, 871:16, 872:1, 872:2, 872:11, 891:16, 891:17, 891:18, 891:19, 891:20, 891:23, 893:6, 903:2
MINORITY-PREFERRED [1] - 893:6
MINUS [4] - 798:15, 823:2, 823:22, 835:3
MINUTE [1] - 886:19
MINUTES [3] - 817:8, 817:9, 886:25
MISCHARACTERIZES [1] - 825:8
MISSED [1] - 891:7
MISSISSIPPI [1] - 854:10
MISSPOKE [1] - 830:3
MISTAKE [1] - 791:4
MISTAKEN [1] - 828:2
MIX [3] - 803:18, 836:22, 844:18
MIXED [2] - 803:25, 808:13
MIXES [4] - 802:23, 803:8, 808:17, 836:20
MIXING [1] - 804:5
MOMENT [7] - 794:10, 811:3, 851:14, 864:2, 866:4, 870:7, 892:23
MORGAN [1] - 824:5
MORNING [3] - 835:25, 906:11, 906:18
MOST [15] - 784:23, 785:17, 788:8, 790:9, 810:8, 833:7, 851:25, 855:4,

868:16, 868:18, 871:4, 873:17, 879:5, 887:9
MOUNTAIN [2] - 806:24, 807:2
MOUNTAIN [1] - 804:24
MOUNTAINS [1] - 806:12
MOVE [8] - 779:21, 783:22, 785:22, 800:20, 802:21, 831:22, 853:19, 884:1
MOVED [3] - 783:2, 783:7, 791:13
MOVEMENT [1] - 884:25
MOVING [2] - 785:18, 812:4
MR [82] - 778:6, 778:13, 779:5, 779:21, 780:1, 780:7, 780:8, 782:21, 783:14, 783:15, 787:2, 787:10, 791:8, 800:8, 800:10, 800:14, 800:20, 801:5, 801:6, 801:13, 801:14, 809:14, 809:18, 809:19, 813:6, 813:23, 814:10, 814:19, 815:14, 815:16, 817:5, 817:10, 817:15, 817:16, 821:24, 822:13, 823:12, 823:24, 825:9, 825:13, 826:12, 826:14, 827:2, 828:6, 828:11, 828:15, 828:23, 837:10, 842:13, 843:2, 846:9, 846:18, 846:21, 847:11, 847:23, 851:12, 851:16, 851:22, 852:11, 853:22, 856:21, 856:23, 858:9, 858:18, 858:22, 858:23, 859:6, 859:8, 859:10, 860:20, 860:21, 861:7, 861:10, 880:23, 881:21, 882:10, 882:13, 883:8, 883:23, 884:5, 906:12, 906:15
MS [90] - 780:3, 782:11, 782:16, 783:13, 786:17, 787:9, 800:22, 809:7, 815:2, 815:15, 822:7, 823:8, 823:18, 825:7, 825:25, 826:4, 826:13, 829:2, 829:4, 830:14, 830:19, 837:14, 837:15, 839:20, 839:23, 842:3, 842:4, 842:18, 843:7, 843:8, 846:13, 846:25, 847:8, 847:21, 851:23, 852:6, 852:24, 853:4, 853:10, 853:13, 853:19, 854:1, 856:16, 859:1, 861:13, 864:25, 865:1, 868:1, 874:5, 874:6, 877:3, 879:19, 879:23, 880:5, 880:11, 880:13, 881:3, 881:11, 882:1, 882:16, 882:22, 883:1, 883:5, 883:17, 883:24, 884:8, 884:11, 884:13, 886:1, 887:1, 887:8, 887:16, 887:18, 891:1, 891:11, 893:15, 893:16, 895:1, 895:5, 896:8, 896:13, 896:17, 899:25, 900:1, 901:7, 901:8, 902:1, 902:3, 906:8, 906:16
MSA [13] - 780:20, 788:24, 789:2, 789:5, 807:16, 824:25, 825:2, 837:22, 844:8, 844:14, 845:12
MSAS [2] - 827:16, 827:22
MULTIPLE [1] - 895:21
MUNICIPAL [4] - 793:12, 819:6, 819:9, 845:7
MUNICIPALITIES [2] - 838:19, 844:6
MUST [1] - 835:6

N

NAACP [1] - 857:5
NAME [3] - 794:16, 852:19, 857:1
NAMING [1] - 794:22
NATIONAL [1] - 885:3
NEAR [1] - 791:19
NEARLY [1] - 862:11
NECESSARILY [7] - 790:7, 809:16, 818:3, 819:21, 821:13, 876:1, 893:23
NECESSARY [6] - 789:16, 798:11, 815:9, 836:22, 838:20, 838:21
NEED [14] - 781:21, 808:22, 811:3, 814:23, 816:5, 828:4, 851:2, 860:7, 864:4, 867:21, 872:8, 887:5, 892:17, 900:16
NEEDED [2] - 792:22, 830:1
NEEDS [2] - 826:11, 886:24
NEGATIVE [2] - 865:24, 866:2
NEIGHBORHOOD [1] - 799:12
NEVER [1] - 821:17
NEW [14] - 781:10, 782:6, 783:1, 783:4, 783:17, 783:20, 787:19, 807:6, 807:7, 814:13, 815:5, 821:7, 904:22
NEWLY [2] - 897:3, 897:20
NEWTON [4] - 788:21, 807:20, 833:10, 833:23
NEXT [10] - 783:4, 785:22, 833:20, 852:5, 864:25, 884:10, 893:9, 901:7, 901:14, 903:4
NINE [1] - 815:20
NO [2] - 775:10, 775:15
NO.1:21-CV-05337-SCJ [1] - 775:5
NOMINATION [1] - 893:7
NON [15] - 812:17, 812:21, 813:2, 813:7, 813:14, 813:16, 813:17, 814:16, 840:9, 841:9, 841:20, 841:23, 876:18, 876:19, 880:15
NON-DEMOCRAT [2] - 876:18, 876:19
NON-HISPANIC [12] - 812:17, 812:21, 813:2, 813:7, 813:14, 813:16, 813:17, 814:16, 840:9, 841:9, 841:20, 841:23
NON-POLARIZED [1] - 880:15
NONE [5] - 791:10, 792:19, 793:3, 795:13, 852:11
NORTH [9] - 785:18, 791:13, 793:4, 799:1, 805:25, 806:25, 811:4, 850:2, 851:6
NORTH [10] - 783:7, 783:8, 802:2, 802:23, 803:8, 805:22, 808:18, 836:20, 851:7, 851:9
NORTHERN [2] - 775:1, 907:4
NORTHERN [1] - 806:15
NORTHWEST [2] - 805:9, 805:25
NORTHWEST [1] - 806:12
NOTE [3] - 883:22, 884:4, 884:8
NOTEBOOK [4] - 779:12, 779:23, 799:24, 800:11
NOTEBOOKS [1] - 853:10
NOTED [3] - 832:3, 839:24, 844:5
NOTHING [3] - 882:20, 906:15, 906:16
NOVEMBER [3] - 794:17, 794:18, 794:22
NUMBER [28] - 779:23, 792:17, 800:3, 800:25, 802:15, 802:16, 802:19, 814:15, 828:17, 832:16, 833:17, 833:25, 834:10, 838:19, 841:11, 841:12, 847:18, 848:3, 848:9, 848:15, 848:25, 849:16, 856:13, 859:22, 871:6, 883:4, 894:9, 900:22
NUMBERS [9] - 780:10, 781:21, 790:7, 797:10, 797:12, 831:7, 865:24, 869:25

O

OATH [1] - 814:14
OBJECT [5] - 826:7, 837:10, 842:13, 846:9
OBJECTED [3] - 846:11, 846:12, 846:14
OBJECTING [1] - 826:8
OBJECTION [26] - 780:3, 782:11, 782:14, 786:17, 787:8, 800:22, 801:2, 809:7, 822:7, 823:8, 825:7, 826:4, 846:22, 852:10, 853:21, 853:22, 853:23, 859:1, 861:8, 861:10, 880:23, 881:21, 883:21, 883:22, 884:3, 884:4
OBJECTIONS [3] - 780:2, 780:4, 883:20
OBJECTIVELY [1] - 845:5
OBSERVATIONS [1] - 895:24
OBTAIN [1] - 819:11
OBTAINED [1] - 816:21
OBVIOUS [2] - 797:9, 889:11
OBVIOUSLY [1] - 883:10
OCCUR [2] - 866:5, 868:25
OCCURRED [6] - 782:4, 858:1, 882:15, 889:14, 889:15, 889:21
OCCURRING [2] - 880:24, 881:1
OF [5] - 775:1, 775:19, 776:2, 776:12, 907:4
OFF-THE-RECORD [1] - 801:11
OFFER [9] - 787:18, 822:4, 823:12, 823:13, 850:5, 853:2, 854:15, 856:17, 894:22
OFFERED [13] - 786:2, 787:19, 799:22, 800:16, 806:19, 816:24, 842:14, 861:21, 863:1, 881:4, 883:17, 893:21
OFFERING [9] - 786:1, 801:23, 802:8, 816:18, 816:21, 820:16, 820:19, 820:21, 842:16
OFFERS [2] - 822:3, 905:17
OFFICE [2] - 791:5, 827:19
OFFICE [3] - 791:6, 791:7, 889:20
OFFICIAL [2] - 775:24, 907:15
OLD [1] - 889:16
ON [2] - 776:2, 776:12
ONCE [1] - 844:19
ONE [66] - 786:22, 789:14, 791:16, 796:1, 796:17, 798:10, 798:11, 798:14, 798:15, 798:16, 799:14, 800:3, 800:18, 801:8, 801:23, 803:12, 806:13, 806:20, 821:15, 822:24, 823:2, 823:22, 826:17, 827:3, 827:7, 827:23, 828:13, 829:8, 830:20,

831:16, 834:3, 834:4, 836:8, 837:11, 844:5, 845:21, 846:4, 850:4, 850:8, 857:16, 857:18, 863:1, 865:5, 866:4, 866:24, 868:12, 871:3, 872:11, 872:14, 876:17, 877:11, 887:19, 889:13, 889:21, 890:3, 891:18, 891:21, 891:23, 892:1, 895:1, 905:17
ONE-PERSON [4] - 798:14, 831:16, 850:4, 850:8
ONE-VOTE [4] - 798:14, 831:16, 850:4, 850:8
ONES [1] - 785:25
OPEN [1] - 853:14
OPEN [1] - 778:1
OPENING [1] - 824:15
OPINE [3] - 782:12, 839:2, 839:8
OPINING [2] - 820:5, 882:3
OPINION [13] - 804:20, 804:21, 820:16, 820:19, 820:21, 822:4, 838:24, 842:16, 853:2, 857:11, 858:21, 894:20, 894:22
OPINIONS [13] - 784:3, 816:18, 816:21, 821:25, 822:3, 842:14, 854:15, 860:3, 861:25, 863:11, 881:3, 881:6, 890:12
OPPONENT [1] - 862:12
OPPORTUNITIES [3] - 855:23, 861:22, 896:19
OPPORTUNITY [30] - 856:5, 862:20, 863:3, 863:9, 870:4, 892:18, 893:22, 896:21, 898:13, 899:19, 900:3, 900:14, 901:24, 902:6, 902:22, 903:10, 903:17, 903:21, 904:9, 904:17, 904:22, 905:1, 905:7, 905:8, 905:18, 905:23, 906:2, 906:3, 906:6
OPPOSED [1] - 782:7
OPPOSING [1] - 778:9
OPTION [3] - 870:22, 871:19, 893:25
ORDER [3] - 792:21, 807:6, 850:24
ORIENT [1] - 790:23
ORIGINAL [1] - 873:19
ORIGINALLY [1] - 885:20
OSSOFF [3] - 870:25, 871:21, 872:5
OSSOFF'S [1] - 860:25
OUT-OF-BOUNDS [2] - 866:8, 867:3
OUTCOME [1] - 863:15
OUTLINED [1] - 901:18
OUTLINES [1] - 881:6
OUTSET [1] - 821:22
OUTSIDE [11] - 782:25, 783:10, 789:5, 825:1, 844:19, 865:23, 866:3, 866:6, 881:2, 881:24, 894:24
OVERALL [8] - 797:13, 827:1, 831:19, 832:6, 832:19, 834:14, 865:21, 866:22
OVERCONCENTRATE [3] - 821:2, 821:4, 821:10
OVERCONCENTRATED [2] - 820:12, 820:21
OVERCONCENTRATES [1] - 820:9
OVERCONCENTRATION [4] - 820:15, 821:14, 822:1, 822:10
OVERLAPPED [1] - 890:3
OVERRULED [3] - 846:15, 846:20, 881:10
OVERWHELMINGLY [2] - 865:5, 873:22

P

P.M [2] - 775:4, 778:1
P.M [3] - 828:8, 887:3, 906:19
PACKED [3] - 820:6, 820:22, 820:23
PACKING [4] - 820:4, 820:15, 821:1, 822:10
PAGE [43] - 780:9, 780:13, 781:2, 790:25, 791:16, 794:12, 794:25, 801:7, 801:15, 802:12, 803:5, 816:9, 816:15, 829:5, 830:15, 830:16, 830:24, 831:22, 833:3, 833:20, 835:5, 835:6, 836:5, 839:20, 840:15, 840:18, 840:20, 847:17, 847:18, 847:21, 859:8, 859:9, 859:12, 870:7, 893:8, 893:12, 893:13, 898:18, 901:5, 901:14
PAGES [4] - 794:15, 869:4, 870:7, 907:6
PAGES [1] - 777:2
PAIRS [1] - 839:9
PANEL [2] - 790:21, 860:12
PARAGRAPH [25] - 780:18, 781:6, 781:7, 781:13, 791:16, 793:10, 793:21, 802:21, 803:4, 803:5, 808:16, 816:15, 836:5, 836:6, 836:7, 836:9, 836:10, 836:11, 836:12, 836:13, 837:6, 837:16, 837:24, 850:10, 859:11
PARAMETERS [1] - 859:12
PART [43] - 781:3, 781:17, 782:7, 782:19, 782:23, 784:12, 786:20, 789:10, 792:16, 792:20, 793:20, 795:23, 795:24, 796:5, 797:21, 798:2, 799:1, 799:2, 804:12, 806:17, 807:14, 814:21, 819:17, 824:9, 825:3, 825:4, 825:15, 826:16, 836:16, 836:25, 841:11, 841:13, 842:21, 842:22, 849:12, 850:15, 851:3, 855:4, 858:5, 876:16, 882:18, 892:25
PARTICIPATING [2] - 881:16, 894:9
PARTICULAR [19] - 789:8, 807:2, 813:11, 836:8, 836:20, 861:19, 862:9, 865:15, 865:18, 867:18, 870:17, 873:23, 874:11, 877:13, 880:2, 880:3, 888:13, 893:20, 897:6
PARTICULARLY [1] - 889:20
PARTIES [3] - 885:5, 885:6, 886:6
PARTLY [1] - 798:19
PARTS [8] - 789:21, 798:16, 803:18, 803:20, 806:1, 808:13, 821:8, 851:9
PARTY [16] - 873:13, 876:13, 876:14, 876:15, 880:21, 881:12, 881:15, 881:17, 881:18, 884:14, 884:17, 885:1, 885:4, 885:8, 885:19
PASS [2] - 810:8, 885:22
PASSED [1] - 885:3
PATTERN [4] - 865:16, 865:17, 865:19, 865:20
PATTERNS [10] - 855:22, 865:12, 866:14, 877:21, 880:24, 881:1, 882:15, 884:19, 888:10, 897:6
PAYING [1] - 809:6
PENDERGRASS [1] - 775:9
PENDERGRASS [9] - 781:23, 783:19, 816:2, 826:8, 827:13, 828:16, 828:24, 829:5, 851:20
PENNY [2] - 775:24, 907:15
PEOPLE [21] - 778:18, 793:1, 797:9, 807:23, 807:24, 829:17, 829:18, 830:4, 830:5, 834:18, 834:23, 842:5, 843:19, 849:11, 849:14, 849:24, 850:3, 851:20, 886:23
PER [2] - 807:20, 817:2
PERCENT [74] - 782:3, 790:1, 790:9, 792:7, 795:9, 795:11, 795:16, 795:21, 796:5, 797:1, 807:25, 812:9, 812:11, 812:15, 812:19, 813:3, 813:11, 813:14, 814:15, 819:18, 821:22, 824:2, 829:16, 831:4, 831:25, 832:14, 832:15, 832:25, 833:15, 833:24, 834:7, 834:8, 835:3, 840:9, 841:10, 841:22, 841:23, 842:1, 848:18, 849:1, 849:4, 849:20, 849:22, 862:9, 862:11, 863:10, 865:6, 865:7, 865:8, 865:24, 866:1, 866:3, 874:17, 874:23, 874:25, 875:3, 875:4, 875:9, 875:15, 876:20, 878:13, 878:20, 878:25, 879:1, 894:5, 900:19, 901:18, 902:14, 902:18, 903:8, 904:14, 905:4, 905:25
PERCENTAGE [20] - 831:3, 832:7, 832:13, 832:20, 833:24, 834:6, 834:14, 863:24, 865:14, 865:17, 865:18, 865:20, 866:17, 866:21, 866:22, 878:14, 879:11, 879:15, 897:16
PERCENTAGES [3] - 820:17, 824:8, 824:11
PERCEPTIONS [1] - 809:8
PERFECT [2] - 806:21, 823:22
PERFORM [1] - 897:2
PERFORMANCE [3] - 786:18, 786:21, 903:25
PERFORMED [2] - 782:13, 856:1
PERHAPS [2] - 798:15, 807:15
PERIOD [1] - 868:25
PERSON [7] - 798:14, 799:4, 823:2, 831:16, 850:4, 850:8, 876:1
PERSONAL [1] - 847:13
PERSONS [5] - 797:11, 798:3, 833:1, 849:17, 849:19
PHASE [1] - 854:16
PHD [1] - 854:20
PHI [13] - 791:23, 824:18, 825:10, 828:20, 852:7, 853:1, 853:4, 856:16, 882:23, 883:5, 884:1, 884:2
PHI [1] - 775:4

PHONE [1] - 817:7
PHRASE [1] - 900:12
PHRASED [1] - 833:7
PI [5] - 881:4, 881:7, 883:8, 883:10, 883:15
PICK [2] - 806:14, 845:1
PICKED [1] - 798:16
PICKENS [5] - 784:25, 785:1, 785:2, 785:4, 785:5
PICTURE [1] - 790:25
PIECE [3] - 784:25, 824:11, 824:12
PIECES [1] - 864:8
PINK [2] - 901:22, 901:23
PLACE [3] - 783:4, 843:21, 865:13
PLACED [3] - 788:9, 793:1, 805:16
PLACES [4] - 793:16, 804:16, 844:7, 845:10
PLAINTIFFS [4] - 775:5, 775:10, 775:15, 776:2
PLAINTIFFS [10] - 791:23, 826:6, 826:7, 852:7, 853:1, 853:5, 856:17, 857:21, 884:1
PLAINTIFFS' [1] - 829:6
PLAN [161] - 779:9, 780:23, 782:25, 783:25, 784:7, 784:12, 784:14, 785:19, 785:23, 785:25, 786:1, 786:3, 786:7, 787:22, 787:25, 788:1, 788:3, 788:7, 788:10, 788:11, 788:12, 788:14, 788:17, 788:18, 788:20, 789:3, 789:20, 790:6, 790:11, 790:16, 790:17, 790:19, 790:21, 790:24, 791:11, 791:13, 791:14, 791:22, 792:15, 792:16, 793:2, 793:6, 794:2, 794:13, 794:15, 794:17, 794:19, 794:20, 794:21, 794:23, 798:13, 798:18, 801:19, 802:3, 802:7, 802:22, 803:8, 803:11, 803:13, 803:16, 803:18, 803:25, 804:9, 804:16, 805:2, 805:13, 805:16, 806:7, 806:8, 806:10, 806:19, 807:3, 808:4, 808:11, 808:17, 808:19, 809:21, 810:3, 810:7, 810:11, 810:15, 810:23, 811:11, 811:14, 811:16, 811:21, 811:23, 811:25, 812:2, 812:6, 813:9, 814:17, 814:18, 815:18, 817:2, 818:4, 818:6, 819:14, 820:6, 820:8, 821:23, 822:16, 822:22, 823:6, 823:7, 825:4, 825:14, 826:16, 826:21, 826:24, 828:18, 829:8, 833:4, 833:9, 836:17, 836:19, 838:12, 839:18, 840:12, 842:9, 842:16, 842:23, 843:24, 844:3, 844:13, 844:15, 844:17, 844:21, 845:1, 845:2, 850:14, 850:18, 850:22, 850:25, 851:20, 861:24, 862:23, 889:16, 901:20, 902:14, 902:24, 903:4, 903:6, 903:13, 903:19, 903:25, 904:23, 905:1, 905:9
PLANNED [3] - 794:21, 795:2, 847:15
PLANNING [1] - 827:19
PLANS [28] - 781:10, 781:18, 784:15, 785:7, 785:12, 785:15, 816:24, 817:18, 818:16, 821:18, 823:14, 824:10, 824:13, 826:1, 836:21, 855:23, 862:23, 863:4, 889:12, 889:13, 889:14, 889:22, 896:20, 896:23, 901:13, 903:18, 905:19, 905:20
PLAYING [1] - 884:23
PLURALITY [3] - 841:16, 841:17, 841:19
PLUS [4] - 798:14, 823:2, 823:22, 835:3
POINT [11] - 804:5, 816:4, 820:10, 821:16, 822:5, 824:9, 831:24, 834:3, 834:4, 845:18, 868:16
POINTED [4] - 831:6, 833:23, 871:20, 887:5
POINTING [2] - 785:4, 797:14
POINTS [2] - 815:20, 815:23
POLARIZATION [14] - 856:18, 860:2, 862:8, 872:15, 880:8, 880:20, 880:21, 881:13, 881:17, 881:18, 884:15, 884:17, 890:12, 906:1
POLARIZED [52] - 857:21, 861:16, 862:1, 862:5, 862:6, 862:15, 862:18, 863:12, 863:13, 863:14, 863:18, 863:21, 865:16, 866:1, 866:8, 875:3, 877:20, 879:14, 880:10, 880:15, 880:17, 884:19, 886:9, 887:24, 888:23, 889:1, 889:9, 890:16, 890:18, 891:24, 892:10, 892:13, 892:17, 895:8, 895:25, 896:1, 896:2, 896:14, 897:21, 897:22, 898:24, 898:25, 899:6, 901:21, 902:17, 904:13, 906:4
POLITICAL [5] - 818:22, 838:8, 844:6, 854:20, 854:21
POLITICS [1] - 809:4
POLSBY [3] - 810:7, 810:13, 812:1
POLSBY-POPPER [3] - 810:7, 810:13, 812:1
POPPER [3] - 810:7, 810:13, 812:1
POPULATION [92] - 780:14, 781:4, 781:20, 782:3, 782:4, 788:8, 789:15, 790:7, 790:18, 791:10, 792:7, 792:18, 792:23, 793:22, 793:25, 795:10, 795:11, 795:12, 796:5, 796:16, 796:17, 796:18, 797:1, 797:8, 797:15, 797:23, 797:24, 797:25, 802:6, 802:19, 804:1, 804:4, 809:2, 812:18, 815:19, 815:22, 819:18, 820:9, 821:6, 821:17, 823:1, 823:6, 824:2, 824:24, 829:11, 830:8, 831:3, 831:16, 831:19, 832:1, 832:7, 832:13, 832:15, 832:20, 832:23, 832:25, 833:8, 833:15, 833:24, 834:6, 834:14, 835:3, 839:12, 840:16, 841:8, 841:9, 841:10, 841:12, 841:19, 841:20, 841:21, 841:22, 841:24, 841:25, 845:21, 846:4, 847:3, 848:19, 851:3, 863:10, 870:2, 896:25, 900:18, 900:20, 901:19, 902:15, 903:7, 905:2, 905:22, 905:25
POPULATIONS [1] - 781:19
PORTION [34] - 788:13, 788:16, 788:21, 789:12, 793:7, 794:1, 795:9, 795:15, 795:20, 796:8, 796:20, 797:3, 797:11, 797:13, 797:17, 798:4, 798:15, 804:17, 805:14, 806:2, 817:4, 824:16, 829:12, 829:22, 830:23, 830:24, 831:3, 831:24, 834:11, 834:23, 836:2, 836:3, 880:2
PORTIONS [4] - 785:7, 807:19, 830:6, 831:25
POSITIVE [1] - 825:10
POSSIBILITIES [1] - 787:25
POSSIBLE [9] - 789:18, 798:13, 798:21, 821:6, 823:5, 847:1, 847:5, 865:22, 887:15
POSSIBLY [2] - 787:22, 814:3
POST [1] - 854:23
POST-CONFLICT [1] - 854:23
PRECINCT [10] - 864:7, 864:18, 865:3, 865:4, 865:5, 865:13, 868:13, 873:21, 874:2, 898:2
PRECINCT-LEVEL [1] - 864:7
PRECINCTS [10] - 790:1, 790:9, 824:1, 864:5, 864:6, 865:5, 865:7, 865:8, 866:19, 873:22
PRECISE [2] - 842:7, 849:3
PRECISELY [1] - 825:22
PRECLUDE [1] - 895:25
PRECONDITION [1] - 799:20
PREDOMINANCE [1] - 822:19
PREDOMINANT [1] - 859:22
PREDOMINANTLY [4] - 807:25, 808:1, 808:14
PREDOMINATED [2] - 786:24, 822:15
PREDOMINATES [1] - 822:24
PREFERABLE [1] - 780:25
PREFERRED [37] - 812:22, 813:3, 860:4, 862:10, 862:19, 863:6, 870:23, 871:1, 871:16, 877:15, 878:19, 878:23, 879:16, 890:19, 891:3, 891:4, 891:9, 891:13, 891:17, 892:2, 892:16, 893:6, 893:24, 894:8, 894:24, 896:22, 897:22, 898:25, 899:1, 899:2, 899:5, 899:14, 900:7, 902:17, 904:14, 906:7
PRELIMINARY [15] - 786:2, 799:23, 800:15, 800:19, 800:23, 801:16, 801:19, 802:2, 802:7, 803:2, 803:15, 816:13, 854:13, 854:16, 883:18
PREPARED [4] - 791:3, 791:4, 817:17, 887:13
PREPARING [2] - 781:15, 819:14
PRESENTATION [2] - 887:7, 887:13
PRETTY [2] - 799:8, 805:13
PREVIOUS [5] - 830:15, 863:18, 897:2, 897:13, 897:18
PREVIOUSLY [6] - 778:24, 817:11, 821:8, 855:16, 898:12, 904:2
PRIMARIES [29] - 868:24, 877:11, 879:25, 880:1, 880:6, 880:10, 880:15,

880:16, 880:20, 881:12, 881:19, 884:16, 884:18, 886:8, 886:16, 888:2, 893:6, 893:21, 894:15, 894:17, 894:23, 895:3, 895:7, 895:12, 895:19, 895:20, 895:25, 897:4, 900:23
PRIMARILY [5] - 785:11, 785:14, 817:25, 868:14, 895:15
PRIMARY [21] - 870:20, 870:21, 871:22, 878:6, 881:16, 884:9, 887:20, 887:23, 892:21, 892:24, 893:1, 893:3, 893:19, 894:2, 894:6, 894:7, 894:8, 895:14, 899:12, 899:16, 900:25
PRINCIPLE [2] - 822:24, 823:16
PRINCIPLES [6] - 789:14, 822:24, 823:20, 845:23, 846:5, 847:4
PRINTED [1] - 795:6
PRIORITIZE [2] - 845:21, 846:4
PRIORITIZED [1] - 823:15
PRIORITIZES [1] - 847:2
PRIORITIZING [1] - 823:6
PRITTY [2] - 775:24, 907:15
PROBABLE [1] - 785:20
PROBATIVE [2] - 871:5, 889:20
PROBLEM [2] - 801:9, 806:4
PROCEDURE [2] - 845:16, 859:2
PROCEED [2] - 778:5, 828:10
PROCEEDING [2] - 786:2, 799:23
PROCEEDINGS [1] - 906:19
PROCEEDINGS [3] - 828:7, 887:2, 907:7
PROCEEDINGS [1] - 778:1
PROCESS [8] - 782:22, 783:22, 787:5, 789:13, 817:19, 817:25, 825:3, 898:1
PRODUCE [1] - 806:21
PRODUCED [5] - 813:12, 841:13, 867:4, 872:21, 874:23
PRODUCES [1] - 868:17
PRODUCING [1] - 868:8
PROFESSIONAL [1] - 854:19
PROFESSOR [1] - 867:1
PRONG [2] - 894:20, 894:21
PROPOSED [1] - 898:4
PROVED [1] - 782:5
PROVIDE [12] - 814:7, 827:14, 853:11, 855:24, 856:4, 857:14, 862:20, 892:18, 901:23, 903:10, 905:23, 906:5
PROVIDED [9] - 809:23, 814:12, 814:21, 822:9, 827:16, 838:12, 863:2, 863:8, 900:5
PROVIDES [3] - 873:13, 902:21, 903:20
PUBLIC [1] - 819:13
PULL [5] - 829:5, 864:25, 874:5, 880:11, 882:23
PULLED [1] - 847:19
PURELY [3] - 899:19, 900:3, 900:8
PURPOSES [4] - 798:12, 888:10, 894:13, 898:17
PUSH [1] - 804:23
PUT [8] - 778:18, 792:23, 804:12, 804:13, 830:4, 831:17, 837:20, 881:5
PUTS [1] - 849:16
PUTTING [1] - 804:19

Q

QUALIFIED [1] - 826:9
QUANTIFIABLE [1] - 836:14
QUESTIONING [2] - 846:10, 887:6
QUESTIONS [26] - 786:25, 817:11, 828:12, 828:23, 838:15, 839:17, 847:8, 847:12, 848:1, 848:4, 850:11, 851:13, 851:17, 857:3, 877:7, 879:19, 880:3, 883:13, 886:22, 887:9, 887:16, 895:2, 896:9, 896:14, 903:24, 906:9
QUICKLY [2] - 817:10, 869:11
QUITE [9] - 782:14, 799:15, 846:17, 875:3, 875:15, 876:11, 877:20, 885:7, 898:16
QUOTE [2] - 858:16, 860:1

R

RABUN [1] - 806:14
RACE [26] - 786:24, 822:15, 823:7, 823:15, 845:21, 846:4, 847:2, 849:12, 855:22, 863:22, 863:23, 864:10, 864:22, 865:5, 871:16, 873:12, 876:12, 876:14, 876:15, 877:13, 881:20, 884:18, 884:23, 885:5, 888:10
RACES [3] - 860:23, 867:6, 890:13
RACIAL [25] - 789:21, 793:25, 817:19, 822:19, 824:21, 848:2, 855:21, 856:1, 856:17, 861:15, 872:15, 872:22, 880:21, 881:13, 881:18, 884:15, 884:17, 885:6, 886:5, 890:12, 894:13, 900:6, 900:10, 906:1, 906:2
RACIALLY [30] - 792:6, 808:2, 808:13, 857:21, 862:1, 862:5, 862:15, 863:11, 863:13, 863:14, 863:18, 863:21, 864:13, 884:19, 886:8, 887:24, 888:22, 889:9, 890:15, 891:24, 892:10, 892:13, 895:8, 895:25, 896:1, 896:14, 897:21, 899:6, 902:16, 904:13
RAFFENSPERGER [3] - 775:7, 775:12, 775:17
RAHUL [1] - 776:4
RAN [3] - 870:20, 871:8, 874:22
RANDOMLY [3] - 886:10, 886:14, 886:15
RANGE [3] - 807:2, 874:24, 875:1
RANGES [2] - 806:24, 874:12
RAPHAEL [1] - 861:1
RATHER [3] - 789:17, 833:8, 880:18
RATIONALE [1] - 804:15
REACH [2] - 863:5, 880:7
READ [7] - 836:9, 836:12, 836:13, 858:16, 858:20, 860:6, 860:7
READING [2] - 786:25, 860:5
REAGGREGATED [1] - 898:3
REALIGNMENT [1] - 885:1
REALITY [1] - 839:7
REALIZED [1] - 828:19
REALLY [10] - 783:10, 799:9, 799:15, 805:6, 806:2, 806:3, 809:15, 815:9, 820:7, 830:11
REAPPORTIONMENT [1] - 791:6
REASON [4] - 783:6, 830:9, 859:25, 860:1
REASONABLE [4] - 779:11, 849:3, 882:2, 882:4
REBUTTAL [4] - 881:5, 882:24, 883:4, 883:16
RECEIVED [4] - 825:10, 882:11, 882:20, 899:15
RECEIVES [1] - 864:23
RECENT [4] - 857:4, 870:6, 872:7, 873:17
RECENTLY [1] - 864:19
RECESS [2] - 828:7, 887:2
RECOLLECTION [3] - 857:15, 858:17, 859:2
RECOMPILED [1] - 898:9
RECONFIGURE [1] - 807:5
RECONFIGURED [1] - 807:6
RECORD [10] - 800:23, 801:11, 814:11, 817:12, 852:19, 873:25, 881:6, 881:7, 884:2, 884:4
RECORDED [1] - 775:23
RECROSS [2] - 777:5, 847:10
RECROSS [1] - 847:9
RECROSS-EXAMINATION [1] - 847:10
RECROSS-EXAMINATION..... [1] - 777:5
REDIRECT [2] - 777:5, 829:3
REDISTRICTING [12] - 789:14, 791:6, 822:23, 823:20, 836:21, 843:16, 847:3, 854:25, 855:2, 855:5, 856:10, 856:19
REDISTRICTORS [2] - 897:12, 898:17
REDUCES [1] - 815:18
REDUCING [1] - 821:5
REFER [1] - 838:1
REFERENCE [3] - 781:16, 816:6, 820:14
REFERENCED [4] - 794:16, 814:13, 818:25, 819:10
REFERENCING [2] - 781:6, 803:4
REFERRING [7] - 781:12, 792:2, 805:18, 816:5, 819:5, 821:1, 859:13
REFERS [1] - 794:23
REFLECTED [1] - 886:4
REFRESH [4] - 857:15, 858:17, 859:4, 860:9
REFRESHING [1] - 859:2
REGARD [1] - 876:24
REGARDING [7] - 785:2, 848:2, 862:21, 863:5, 891:2, 894:12, 894:22
REGION [13] - 844:8, 845:13, 869:12, 869:13, 869:16, 869:17, 869:21, 869:24, 872:25, 888:15, 901:10, 903:4
REGIONAL [1] - 828:17

REGIONAL [3] - 796:2, 837:2, 845:15
REGIONS [1] - 905:12
REGISTRATION [1] - 864:10
REGRESSION [6] - 864:19, 865:11, 865:12, 865:22, 868:13, 874:2
RELATE [1] - 869:14
RELATES [3] - 869:14, 894:12, 896:10
RELEASED [4] - 813:12, 813:19, 814:2, 814:3
RELEASING [1] - 852:11
RELEVANT [5] - 782:24, 858:3, 858:7, 859:15, 894:19
RELIED [7] - 781:3, 784:3, 817:25, 825:4, 825:14, 826:18, 855:16
RELY [4] - 814:20, 816:23, 860:3, 868:14
REMAINDER [1] - 833:21
REMAINED [2] - 784:8, 839:17
REMAINING [4] - 831:23, 832:9, 877:18, 888:15
REMAINS [1] - 850:5
REMEMBER [7] - 825:18, 825:20, 843:25, 859:23, 860:10, 874:21, 895:9
REMIND [1] - 854:18
REMOVE [1] - 792:22
RENDERS [1] - 860:2
REOCK [3] - 810:7, 810:12, 812:1
REPEAT [5] - 812:13, 812:23, 847:1, 891:10, 899:24
REPETITIVE [1] - 817:4
REPHRASE [2] - 826:11, 843:10
REPORT [107] - 778:24, 779:7, 779:16, 779:18, 779:19, 779:22, 780:10, 780:11, 780:13, 781:2, 781:9, 781:13, 781:15, 782:12, 783:4, 783:17, 783:19, 783:24, 784:2, 784:7, 787:18, 790:25, 791:16, 792:1, 793:10, 793:23, 793:25, 794:4, 794:6, 794:7, 794:13, 794:21, 794:25, 795:2, 795:3, 800:15, 801:7, 801:16, 802:8, 802:21, 808:16, 809:10, 812:4, 812:5, 813:25, 814:3, 814:5, 814:12, 814:21, 814:22, 814:24, 816:2, 816:7, 816:11, 816:13, 819:16, 820:11, 822:2, 822:5, 824:23, 827:13, 827:16, 827:25, 828:2, 828:16, 828:17, 828:22, 828:24, 829:8, 833:4, 835:5, 836:5, 838:9, 839:21, 840:15, 841:13, 842:15, 847:15, 850:10, 853:18, 860:1, 867:19, 869:4, 870:8, 872:16, 872:19, 877:25, 880:23, 881:5, 881:23, 881:24, 881:25, 882:24, 883:10, 883:15, 883:18, 884:11, 884:12, 890:8, 892:3, 893:8, 894:22, 898:11, 898:19, 901:5, 901:14
REPORTED [2] - 816:17, 867:25
REPORTER [2] - 801:9, 886:23
REPORTER [2] - 775:24, 907:15
REPORTS [3] - 783:19, 817:22, 822:9
REPRESENT [4] - 857:2, 901:11, 902:4, 902:5
REPRESENTED [1] - 901:9
REPRESENTS [2] - 782:18, 902:19
REPUBLICAN [11] - 783:3, 787:6, 878:11, 885:1, 885:11, 885:14, 885:24, 894:2, 894:6, 894:8, 902:20
REPUBLICANS [4] - 876:8, 878:5, 878:14, 884:22
REQUEST [2] - 782:2, 814:19
REQUIRE [1] - 806:16
REQUIRED [2] - 814:21, 896:4
REQUIREMENTS [2] - 855:5, 855:6
REQUIRES [1] - 822:3
RESIDENTS' [1] - 844:22
RESPECT [18] - 818:9, 833:13, 854:25, 862:1, 877:4, 877:7, 880:7, 880:14, 881:12, 882:3, 887:19, 888:19, 890:6, 892:14, 894:14, 895:3, 899:11
RESPECTS [1] - 837:8
RESPONSE [2] - 827:6, 838:15
RESTS [1] - 894:21
RESULTS [4] - 897:6, 898:2, 901:4
RETRACT [1] - 805:19
RETURN [2] - 790:12, 888:8
RETURNING [1] - 896:8
RETURNS [1] - 818:22
REVIEW [2] - 795:1, 819:13
REVIEWED [1] - 847:16
REVIEWING [2] - 795:8, 819:5
RICHMOND [1] - 904:5
RIGHTS [3] - 855:6, 885:3, 885:21
RIGHTS [2] - 868:10, 885:2
RIPPLE [2] - 787:23, 798:13
RISK [1] - 847:13
RMR [2] - 775:24, 907:15
ROAD [1] - 835:20
ROCKDALE [1] - 788:21
ROLE [1] - 884:23
ROSS [1] - 776:14
ROUGHLY [3] - 807:24, 842:7, 849:1
ROUNDED [1] - 834:8
ROUTE [1] - 799:10
RPR [1] - 775:24
RUGGED [1] - 807:1
RUIZ [1] - 776:8
RULE [3] - 822:2, 883:10, 883:15
RULE [1] - 821:13
RULINGS [1] - 846:16
RUN [3] - 817:22, 818:2, 888:4
RUNNING [3] - 859:14, 860:24, 895:22
RUNOFF [6] - 868:22, 870:6, 870:9, 870:13, 870:16, 888:24
RUNOFFS [1] - 888:9
RUNS [1] - 804:17
RURAL [11] - 780:24, 795:24, 803:18, 803:21, 803:23, 803:25, 804:6, 807:10, 807:12, 836:22, 844:17
RUSH [1] - 835:23
RUTAHINDURWA [1] - 776:10
RXC [6] - 867:8, 867:11, 867:13, 873:17, 874:13

S

SATISFIED [1] - 805:1
SATURDAY [1] - 835:25
SAVANNAH [1] - 781:12
SAVITZKY [2] - 776:3, 851:22
SCATTERPLOT [1] - 865:13
SCIENCE [1] - 854:21
SCIENTIST [1] - 854:20
SCIENTISTS [1] - 884:24
SCOPE [7] - 782:12, 783:10, 783:11, 809:9, 842:14, 881:2, 881:24
SCORE [21] - 810:6, 810:7, 810:12, 810:18, 897:1, 897:15, 898:20, 899:9, 899:16, 901:19, 902:15, 902:16, 903:8, 904:12, 904:13, 904:20, 904:21, 905:3
SCORES [8] - 809:23, 810:8, 811:10, 811:19, 818:2, 818:4, 897:10, 905:3
SCREEN [14] - 783:23, 784:21, 790:6, 790:9, 795:1, 805:17, 830:21, 840:14, 847:19, 851:2, 869:5, 872:17, 874:5, 893:17
SE [1] - 817:2
SEARCH [1] - 822:1
SEAT [1] - 852:18
SEATED [3] - 778:3, 828:9, 887:4
SECOND [9] - 794:15, 797:5, 801:8, 830:20, 869:17, 883:2, 892:5, 894:19, 894:20
SECRETARY [1] - 857:3
SECTION [1] - 859:11
SECTION [3] - 778:25, 857:4, 857:9
SECTIONS [1] - 874:18
SEE [33] - 778:19, 784:22, 789:8, 797:10, 800:12, 801:17, 802:14, 806:3, 811:19, 815:10, 817:10, 830:23, 833:20, 835:7, 835:8, 840:19, 859:4, 859:17, 865:15, 865:17, 871:18, 873:20, 874:12, 879:11, 880:21, 881:13, 882:25, 886:3, 886:15, 886:17, 906:18
SEEM [4] - 785:21, 804:7, 833:12
SENATE [24] - 791:19, 792:1, 792:19, 793:3, 809:1, 869:15, 874:8, 896:10, 896:13, 902:9, 902:10, 902:12, 902:13, 902:14, 903:1, 903:19, 904:7, 904:8, 904:16, 904:23, 904:25, 905:5, 905:6, 905:9
SENATOR [1] - 860:25
SENSE [4] - 804:11, 804:14, 836:15, 837:20
SENTENCE [2] - 780:12, 836:8
SENTENCES [3] - 837:6, 837:23, 838:1
SEPARATELY [2] - 863:16, 896:3
SEPTEMBER [1] - 775:21
SEPTEMBER [1] - 907:9

SERIES [2] - 866:15, 899:21
SERVED [2] - 854:12, 856:9
SERVING [1] - 856:11
SESSION [1] - 775:4
SET [2] - 889:13, 889:21
SEVEN [13] - 861:16, 861:18, 861:19, 861:20, 862:4, 862:25, 863:7, 872:23, 878:2, 888:23, 888:25, 892:13, 905:21
SEVERAL [2] - 808:19, 896:24
SHADED [1] - 901:12
SHADED-IN [1] - 901:12
SHADING [4] - 824:5, 901:22, 902:4, 902:5
SHARE [2] - 851:2, 899:14
SHARED [2] - 837:3, 850:15
SHARP [1] - 836:19
SHOVE [1] - 804:23
SHOW [4] - 786:24, 793:25, 809:2, 869:6
SHOWING [2] - 845:7, 845:8
SHOWN [1] - 824:15
SHOWS [6] - 820:17, 848:6, 873:10, 874:3, 874:10, 903:5
SIDE [5] - 785:23, 788:6, 798:25
SIGNIFICANT [7] - 785:17, 796:15, 796:18, 832:6, 832:19, 832:23, 834:13
SIMILAR [5] - 784:8, 816:21, 868:7, 877:25, 895:15
SIMILARLY [1] - 838:8
SIMPLY [5] - 782:21, 836:15, 865:4, 898:7, 900:8
SIMULATIONS [4] - 866:15, 866:20, 874:22, 874:23
SIMULTANEOUSLY [1] - 791:22
SINGLE [3] - 813:16, 827:20, 899:21
SIT [1] - 887:7
SITUATION [4] - 867:6, 867:9, 876:19, 877:8
SIX [9] - 786:8, 786:13, 798:20, 798:22, 803:13, 803:14, 803:15, 877:21, 888:19
SIZE [1] - 839:11
SLEEP [1] - 778:19
SLICE [1] - 804:12
SLIDE [1] - 880:12
SLIDE [9] - 864:25, 880:11, 890:21, 893:9, 893:15, 901:7, 902:1, 903:4, 904:2
SLIDES [3] - 778:8, 816:4, 853:11
SLIGHTLY [7] - 799:21, 810:15, 811:11, 811:13, 841:12, 874:21, 879:10
SLOWLY [1] - 778:16
SMALL [1] - 900:22
SMALLER [1] - 827:20
SMALLEST [1] - 797:5
SO.. [2] - 800:24, 861:7
SOCIAL [1] - 884:24
SOCIOECONOMIC [6] - 816:1, 816:6, 816:23, 819:3, 819:6, 819:12
SOMEONE [2] - 795:3, 809:5
SOMETIME [2] - 813:19, 814:4
SOMETIMES [8] - 789:20, 820:23, 827:20, 828:11, 828:12, 860:17, 862:11, 872:2
SOMEWHAT [2] - 830:3, 883:14
SOMEWHERE [2] - 781:21, 814:15
SOON [1] - 822:11
SOPHIA [1] - 852:6
SOPHIA [1] - 776:3
SOPHISTICATED [3] - 867:8, 868:16, 873:18
SORRY [28] - 784:24, 790:3, 790:19, 797:16, 799:24, 800:5, 801:12, 806:5, 812:13, 824:10, 832:14, 834:4, 840:2, 840:11, 842:13, 849:21, 860:5, 867:20, 874:1, 875:17, 876:6, 877:6, 880:11, 881:21, 882:10, 891:15, 892:6, 893:12
SORT [6] - 791:12, 799:10, 821:2, 854:23, 867:5, 874:20
SOUND [3] - 833:10, 848:23, 849:2
SOUNDS [2] - 849:3, 858:24
SOUTH [3] - 798:25, 806:2, 876:20
SOUTH [4] - 783:7, 784:7, 784:11, 784:13
SOUTHEAST [2] - 780:15, 781:4
SOUTHEASTERN [1] - 869:21
SOUTHERN [2] - 857:10, 869:17
SOUTHERN [3] - 792:12, 807:14, 885:2
SOUTHWEST [1] - 869:23
SOUTHWEST [2] - 796:17, 805:8
SPALDING [1] - 807:12
SPEAKING [7] - 787:14, 799:12, 807:21, 811:20, 824:4, 827:8, 880:20
SPECIAL [1] - 813:18
SPECIALIZES [1] - 854:23
SPECIFIC [3] - 861:16, 864:1, 877:9
SPECIFICALLY [7] - 780:19, 786:12, 858:11, 880:3, 880:25, 894:12, 895:2
SPECULATING [2] - 823:11, 881:22
SPECULATION [2] - 823:8, 846:15
SPELL [1] - 852:19
SPLIT [16] - 785:4, 789:9, 789:16, 798:10, 798:11, 801:20, 801:23, 802:1, 804:8, 808:22, 817:23, 827:4, 827:7, 827:9, 827:16, 828:1
SPLITS [8] - 789:17, 789:18, 793:15, 827:14, 828:17, 838:9, 838:19
SPLITTING [1] - 806:17
SPOT [1] - 847:14
SPRAWLING [1] - 836:23
STAGE [2] - 854:13, 881:4
STARKLY [7] - 862:5, 862:6, 862:14, 877:20, 892:13, 906:4
START [3] - 797:16, 902:11, 906:10
STARTED [6] - 854:22, 854:23, 870:5, 873:1, 885:23
STARTS [2] - 796:15, 830:15
STATE [28] - 780:24, 781:25, 782:2, 782:8, 782:14, 782:23, 805:15, 808:9, 824:20, 852:18, 861:3, 861:20, 862:3, 862:24, 864:9, 864:12, 868:23, 889:8, 889:10, 889:11, 889:15, 889:17, 890:1, 890:7, 890:10, 890:13, 891:21
STATE [20] - 791:3, 791:5, 791:19, 792:1, 792:19, 793:3, 851:11, 857:2, 857:3, 857:5, 869:14, 902:9, 902:10, 902:12, 902:14, 903:1, 903:19, 905:9, 906:15
STATEMENT [4] - 796:23, 805:19, 822:22, 839:6
STATES [4] - 775:1, 775:20, 775:25, 907:3
STATES [2] - 823:4, 856:13
STATES [2] - 855:1, 855:3
STATEWIDE [20] - 824:25, 859:14, 862:3, 868:22, 868:24, 870:6, 870:8, 870:12, 870:16, 871:8, 872:7, 878:1, 880:1, 888:9, 888:24, 890:17, 897:2, 897:13, 897:19
STATISTICAL [10] - 781:1, 827:14, 827:17, 827:18, 863:24, 864:3, 864:14, 864:21, 868:9, 873:15
STATISTICS [8] - 809:20, 814:13, 816:1, 816:6, 816:17, 816:18, 816:23, 890:21
STATUS [3] - 802:4, 849:16, 849:25
STAYS [1] - 792:18
STEEP [2] - 865:25, 866:7
STENOGRAPHICALLY [1] - 775:23
STEVE [1] - 775:20
STILL [5] - 796:1, 807:16, 879:14, 884:21, 884:23
STOP [4] - 817:7, 828:4, 886:20, 886:24
STOPPING [1] - 893:6
STRETCHES [1] - 811:4
STRICKLAND [1] - 902:19
STRONG [1] - 880:16
STRUGGLING [1] - 810:24
SUBDIVISION [1] - 838:8
SUBDIVISIONS [1] - 844:6
SUBMIT [1] - 863:23
SUBMITTED [13] - 778:24, 779:6, 779:16, 783:17, 783:19, 801:19, 803:11, 803:13, 853:18, 861:9, 883:1, 883:11, 883:19
SUBMITTING [1] - 779:3
SUBSEQUENT [1] - 794:15
SUBSTANTIALLY [1] - 785:18
SUBTRACT [1] - 848:25
SUBURBAN [3] - 796:3, 799:2, 807:15
SUBURBS [1] - 806:1
SUCCESS [1] - 863:5
SUCCESSFUL [4] - 891:3, 891:4, 891:9, 891:14
SUFFICIENT [1] - 780:13
SUGGESTED [1] - 807:22
SUMMARIZE [3] - 784:3, 827:25, 861:25
SUMMARIZED [1] - 903:15

SUMMARY [1] - 890:21
SUNDAY [1] - 835:25
SUPPLEMENT [2] - 814:22, 814:24
SUPPLEMENTAL [2] - 814:5, 814:12
SUPPLIED [1] - 778:9
SUPPORT [12] - 864:22, 874:14, 875:12, 875:14, 875:15, 876:14, 877:1, 877:9, 878:14, 885:8, 890:19, 892:15
SUPPORTED [10] - 863:25, 866:2, 875:4, 875:5, 875:9, 876:19, 880:18, 880:19, 885:18, 885:19
SUPPORTING [6] - 862:10, 862:12, 878:4, 878:7, 879:12
SUPPOSE [1] - 803:23
SUPPOSED [1] - 874:24
SURPRISE [2] - 807:21, 834:16
SURPRISED [1] - 802:10
SURPRISING [1] - 885:7
SURVEY [1] - 818:24
SURVEY [1] - 874:20
SUSTAINED [1] - 837:13
SWITCH [2] - 791:12, 885:9
SWORN [1] - 852:15
SYNONYM [1] - 821:2
SYSTEM [1] - 892:25

T

TAB [8] - 779:13, 779:24, 799:23, 799:25, 853:15, 854:2, 869:3, 872:16
TABLE [18] - 820:17, 824:20, 824:23, 828:1, 841:13, 866:17, 869:6, 873:10, 874:3, 874:4, 874:10, 877:19, 888:12, 902:25, 903:2, 903:3, 903:5, 904:4
TABLE [2] - 869:4, 903:16
TABLES [6] - 877:25, 901:15, 901:16, 902:4, 902:5, 904:3
TABULATION [1] - 813:18
TAUGHT [1] - 854:22
TECHNICAL [1] - 779:4
TECHNIQUE [2] - 864:20, 867:4
TECHNIQUES [9] - 864:3, 864:14, 864:16, 864:21, 868:5, 868:9, 868:12, 873:15
TEN [3] - 817:8, 886:19, 886:24
TEN-MINUTE [1] - 886:19
TENNESSEE [1] - 806:25
TERM [5] - 820:3, 820:7, 820:23, 822:19, 822:20
TERMS [14] - 785:24, 799:12, 804:4, 819:16, 823:25, 831:6, 855:23, 866:21, 875:6, 875:12, 882:2, 889:2, 892:15
TESTIFIED [13] - 786:21, 796:4, 810:17, 826:5, 827:3, 830:6, 837:11, 849:9, 850:13, 852:16, 855:12, 878:23, 895:6
TESTIFY [3] - 786:21, 842:15, 861:11
TESTIFYING [7] - 853:5, 857:4, 857:12, 857:20, 861:8, 882:12, 882:17
TESTIMONY [11] - 782:20, 794:18, 802:18, 809:8, 819:13, 825:8, 827:4, 833:11, 851:1, 851:7, 855:17
THE [164] - 775:1, 775:20, 776:2, 776:12, 778:3, 778:11, 779:25, 780:2, 780:4, 782:14, 783:6, 786:23, 787:7, 791:4, 791:5, 800:7, 800:9, 800:12, 800:25, 801:8, 801:12, 809:11, 809:15, 809:17, 812:23, 813:1, 813:5, 813:21, 813:22, 814:9, 814:23, 815:4, 815:8, 815:11, 815:13, 817:7, 817:13, 822:6, 822:8, 822:11, 823:10, 823:17, 823:19, 825:12, 825:18, 825:19, 825:20, 825:22, 825:23, 825:24, 826:3, 826:6, 826:23, 826:25, 828:4, 828:9, 828:14, 828:24, 828:25, 830:18, 837:13, 843:1, 843:5, 846:8, 846:12, 846:16, 846:20, 846:24, 847:9, 851:15, 851:19, 851:24, 852:2, 852:3, 852:5, 852:9, 852:20, 853:9, 853:12, 853:21, 853:23, 856:20, 858:5, 858:7, 858:8, 858:20, 859:3, 859:7, 859:9, 860:7, 860:10, 860:11, 860:15, 860:17, 861:8, 861:11, 867:20, 867:21, 867:23, 875:16, 875:17, 875:18, 875:21, 875:22, 875:24, 876:1, 876:3, 876:5, 876:6, 876:10, 876:12, 876:17, 876:21, 876:24, 876:25, 877:2, 878:3, 878:6, 878:8, 878:10, 878:13, 878:15, 878:16, 878:17, 878:18, 878:24, 878:25, 879:3, 879:4, 879:5, 879:7, 879:9, 879:18, 881:9, 881:25, 882:6, 882:11, 882:18, 882:25, 883:2, 883:6, 883:21, 884:3, 884:10, 885:9, 885:12, 885:14, 885:16, 885:18, 885:19, 885:21, 885:25, 886:19, 887:4, 887:12, 890:25, 891:10, 895:4, 896:12, 896:16, 899:24, 906:10, 906:13, 906:17
THEORETICALLY [1] - 850:1
THEREBY [1] - 859:15
THEREFORE [2] - 888:1, 903:9
THEY'VE [2] - 782:13, 886:22
THIRD [4] - 864:19, 869:18, 894:20, 894:21
THORNBURG [1] - 864:17
THOUGHTS [2] - 839:8, 839:10
THREE [14] - 784:10, 784:11, 786:5, 786:9, 786:13, 789:17, 798:10, 830:11, 832:22, 860:12, 864:16, 867:15, 868:12, 869:14
THREE-JUDGE [1] - 860:12
THREW [1] - 887:6
THROUGHOUT [5] - 796:16, 796:19, 797:1, 798:13, 834:23
THURSDAY [1] - 775:21
TIED [1] - 821:10
TIER [1] - 806:15
TIRED [1] - 820:4
TODAY [9] - 778:16, 778:23, 786:1, 814:7, 815:1, 883:7, 886:21, 906:14
TOGETHER [3] - 792:18, 836:18, 841:21
TOMORROW [2] - 906:11, 906:18
TOOK [3] - 858:10, 858:11, 897:12
TOP [11] - 780:10, 780:11, 780:12, 785:21, 805:14, 831:24, 835:19, 893:14, 894:8, 898:18
TOPICS [2] - 855:10, 855:13
TORO [1] - 776:8
TOTAL [4] - 797:23, 840:16, 848:9, 848:15
TOTALITY [7] - 850:20, 853:6, 879:21, 880:3, 895:2, 896:10, 896:15
TOTALS [3] - 789:23, 789:24, 848:7
TOUCHES [1] - 788:2
TOWARDS [1] - 867:21
TOWNS [4] - 806:14, 807:25, 808:1
TRACED [1] - 884:25
TRADITIONAL [6] - 789:14, 822:23, 823:15, 823:20, 845:22, 846:5
TRAFFIC [1] - 835:23
TRAINING [1] - 854:20
TRANSCRIPT [1] - 907:7
TRANSCRIPT [1] - 775:19
TRANSITIONAL [1] - 854:24
TRAVEL [1] - 805:6
TREATMENT [1] - 836:19
TREATS [2] - 838:6, 838:17
TREND [1] - 879:4
TRENDS [1] - 886:2
TRIAL [1] - 775:19
TRIAL [2] - 883:11, 884:2
TRIED [2] - 787:21, 846:9
TROUBLE [1] - 890:24
TRUE [14] - 784:14, 791:12, 831:15, 849:8, 849:17, 857:23, 858:11, 859:19, 859:25, 872:4, 885:6, 885:17, 903:12, 907:6
TRUSTY [1] - 848:21
TRY [6] - 784:20, 817:8, 844:16, 847:13, 866:13, 866:15
TRYING [12] - 780:22, 784:22, 786:24, 787:2, 798:19, 820:24, 821:15, 835:8, 842:23, 846:18, 881:23, 887:10
TSAI [1] - 776:5
TURN [28] - 779:13, 780:9, 794:4, 794:15, 794:25, 799:23, 801:7, 801:15, 833:3, 833:20, 836:5, 839:20, 840:20, 854:2, 863:11, 869:2, 869:3, 869:4, 872:16, 874:4, 889:8, 890:23, 892:21, 893:8, 896:18, 898:18, 901:5, 903:23
TURNING [5] - 781:2, 839:16, 868:19, 877:13, 901:14
TURNOUT [5] - 864:10, 865:6, 865:7, 865:8, 865:18
TWICE [1] - 858:20
TWO [40] - 781:9, 783:23, 789:17,

789:18, 821:21, 826:6, 827:20, 833:12, 835:15, 837:6, 837:23, 844:5, 848:18, 860:25, 863:1, 864:16, 867:5, 867:6, 867:9, 870:18, 870:24, 871:7, 871:23, 872:5, 876:17, 885:6, 886:6, 886:11, 886:12, 892:25, 895:1, 895:17, 901:11, 902:24, 903:1, 903:12, 903:17, 905:16
TWO-BY-TWO [1] - 867:5
TWO-PART [1] - 892:25
TWOSCORE [1] - 855:14
TYPES [2] - 842:17, 868:20
TYPICALLY [2] - 855:19, 866:5
TYPO [1] - 802:11
TYRONE [3] - 793:12, 793:15, 793:17
TYSON [27] - 778:5, 783:6, 786:23, 801:8, 801:12, 809:11, 814:25, 823:11, 826:7, 828:4, 828:10, 828:25, 829:7, 831:2, 831:24, 833:5, 833:6, 834:3, 836:7, 839:16, 839:24, 842:20, 845:20, 846:14, 852:10, 875:20, 883:17
TYSON [60] - 776:13, 778:6, 778:13, 779:5, 779:21, 780:1, 780:7, 780:8, 782:21, 783:14, 783:15, 787:2, 787:10, 791:8, 800:8, 800:10, 800:14, 800:20, 801:5, 801:6, 801:13, 801:14, 809:14, 809:18, 809:19, 813:6, 813:23, 814:10, 814:19, 815:14, 815:16, 817:5, 817:10, 817:15, 817:16, 821:24, 822:13, 823:12, 823:24, 825:9, 825:13, 826:12, 826:14, 827:2, 828:6, 828:11, 828:15, 828:23, 837:10, 842:13, 843:2, 846:9, 846:18, 846:21, 847:11, 847:23, 851:12, 851:16, 852:11, 906:15
TYSON'S [2] - 786:23, 838:15

U

ULTIMATELY [2] - 781:9, 807:5
UN [1] - 854:25
UNAVOIDABLE [1] - 804:7
UNCERTAINTY [1] - 818:8
UNCHANGED [2] - 812:11, 812:14
UNDER [19] - 788:11, 791:14, 793:2, 805:1, 810:8, 814:14, 814:15, 814:16, 814:17, 821:23, 837:2, 859:11, 862:22, 866:5, 889:14, 889:15, 889:22, 903:17, 903:19
UNDERLYING [2] - 839:5
UNDERSTOOD [2] - 783:14, 809:14
UNIFORM [1] - 834:22
UNINCORPORATED [1] - 845:10
UNION [1] - 798:25
UNITED [4] - 775:1, 775:20, 775:25, 907:3
UNITED [2] - 855:1, 855:3
UNITES [1] - 837:3
UNIVERSITY [1] - 854:21
UNLESS [3] - 822:5, 824:6, 828:2
UNRELATED [1] - 798:12
UNRELIABLE [3] - 860:3, 894:10, 894:11
UNTOUCHED [1] - 839:17
UNUSUAL [4] - 804:2, 834:25, 879:4, 879:5
UP [27] - 778:9, 784:18, 785:18, 798:16, 805:3, 806:14, 808:10, 808:23, 811:4, 829:5, 830:20, 843:4, 847:19, 854:5, 864:25, 868:7, 869:5, 872:17, 874:5, 880:11, 882:23, 883:24, 885:10, 890:21, 895:2, 898:3, 898:5
UPDATE [1] - 814:12
UPSON [1] - 803:22
URBAN [7] - 803:25, 804:5, 807:10, 807:11, 827:21, 836:22, 844:16
URBAN/SUBURBAN [5] - 802:24, 803:9, 803:19, 808:18, 836:21
URBAN/SUBURBAN/EXURBAN [1] - 836:18
URBANIZED [1] - 807:15
US [1] - 874:8
USES [1] - 824:6
UTILIZE [2] - 789:25, 818:5

V

VALUE [1] - 874:25
VAP [17] - 795:21, 796:9, 807:19, 812:9, 812:12, 812:14, 813:15, 820:18, 821:20, 840:17, 840:19, 841:14, 849:16, 870:2, 904:12, 904:20, 905:4
VARGHESE [1] - 776:7
VARIABILITY [2] - 879:15, 879:16
VARIABLE [1] - 879:10
VARIATION [1] - 886:17
VARIES [1] - 878:15
VARIOUS [3] - 782:18, 812:5, 873:15
VARY [1] - 823:3
VERSION [1] - 866:24
VERSUS [8] - 782:23, 784:7, 859:23, 871:7, 871:9, 872:9, 888:4, 902:9
VIEW [3] - 789:8, 855:23, 879:21
VIEWS [1] - 844:22
VIRGINIA [3] - 799:3, 823:4, 856:15
VIS-À-VIS [3] - 786:7, 875:10, 875:11
VOIR [1] - 856:20
VOIR [1] - 856:22
VOTE [27] - 798:14, 831:16, 850:4, 850:8, 855:7, 856:18, 865:15, 870:22, 871:19, 875:24, 876:2, 876:8, 876:13, 878:20, 879:10, 885:12, 885:16, 886:13, 893:22, 893:25, 894:6, 897:16, 899:14, 902:18, 904:15
VOTED [16] - 863:16, 865:21, 866:21, 877:15, 878:11, 878:20, 879:1, 879:2, 879:15, 885:10, 885:14, 886:10, 889:3, 889:4, 890:20
VOTER [3] - 863:23, 874:14, 878:18
VOTERS [111] - 808:7, 808:8, 819:14, 820:20, 820:22, 829:20, 836:18, 836:22, 837:20, 837:21, 848:9, 855:24, 861:22, 862:10, 862:11, 862:15, 862:20, 862:22, 863:2, 863:9, 863:15, 863:16, 863:25, 865:20, 865:21, 866:2, 866:21, 866:22, 867:10, 867:15, 867:16, 867:17, 867:23, 867:24, 867:25, 868:3, 868:4, 870:22, 871:12, 871:19, 873:14, 873:20, 873:24, 874:12, 874:18, 875:4, 875:5, 875:6, 875:8, 875:9, 875:10, 875:11, 875:22, 875:24, 876:7, 876:8, 876:20, 877:1, 877:9, 877:15, 878:4, 878:11, 878:14, 878:19, 879:1, 879:15, 879:17, 880:17, 880:19, 884:21, 884:22, 884:25, 885:8, 886:10, 886:13, 886:15, 888:4, 888:5, 889:4, 889:6, 890:18, 890:20, 892:15, 893:21, 894:5, 894:9, 894:11, 895:13, 896:2, 896:3, 896:6, 896:21, 899:2, 899:5, 900:25, 901:24, 902:6, 902:22, 903:10, 903:20, 905:23, 906:5
VOTERS' [4] - 892:20, 896:19, 903:17, 906:3
VOTES [2] - 865:18, 866:17
VOTING [121] - 795:10, 795:11, 795:12, 796:5, 797:15, 797:18, 797:21, 797:23, 797:25, 798:2, 798:4, 798:6, 802:6, 802:19, 812:5, 812:18, 815:18, 815:22, 819:18, 821:5, 829:11, 829:14, 829:18, 829:21, 831:2, 831:8, 831:9, 831:11, 831:18, 831:19, 831:21, 832:1, 832:4, 832:7, 832:13, 832:15, 832:17, 832:20, 833:1, 833:15, 833:17, 833:24, 834:1, 834:5, 834:11, 841:8, 841:9, 841:25, 848:9, 848:13, 848:15, 849:18, 849:19, 849:20, 849:22, 855:21, 855:22, 856:2, 857:21, 861:15, 861:16, 862:1, 862:15, 862:18, 863:10, 863:12, 863:13, 863:18, 863:21, 864:5, 864:13, 865:16, 865:25, 866:7, 868:10, 870:2, 872:22, 875:23, 876:3, 877:21, 878:18, 879:14, 880:24, 881:1, 882:14, 884:19, 884:22, 885:23, 886:15, 888:10, 888:23, 888:25, 889:1, 889:9, 892:10, 892:13, 892:17, 894:13, 895:25, 896:1, 896:2, 896:3, 896:14, 896:25, 897:6, 900:6, 900:11, 900:18, 900:19, 901:19, 902:15, 903:7, 905:2, 905:22, 905:25, 906:2, 906:4
VOTING [2] - 855:6, 885:3
VS [3] - 775:6, 775:11, 775:16
VTD [3] - 824:4, 824:6, 824:15

W

WAIT [2] - 830:20, 840:10

WALK [9] - 869:11, 872:14, 873:10, 874:3, 874:10, 898:1, 901:5, 902:8, 902:10
WALKED [4] - 829:6, 888:18, 904:2, 905:11
WALKER [5] - 861:2, 874:9, 875:5, 875:16, 875:17
WALKING [1] - 888:13
WARNOCK [8] - 861:1, 874:9, 874:15, 875:4, 875:9, 875:14, 875:15, 878:22
WASHINGTON [1] - 854:21
WAYS [3] - 791:16, 808:22, 838:19
WEEK [1] - 853:7
WEIGEL [1] - 776:15
WELCOME [2] - 794:8, 795:4
WEST [1] - 823:4
WEST [1] - 805:14
WESTERN [2] - 795:23, 836:16
WESTERN [3] - 789:10, 805:21, 839:7
WHATSOEVER [1] - 852:12
WHICHEVER [1] - 794:7
WHITE [73] - 808:1, 808:6, 808:14, 840:7, 840:8, 840:9, 841:15, 841:19, 841:20, 841:25, 849:5, 858:13, 859:15, 859:20, 859:21, 859:23, 860:24, 861:4, 862:11, 863:15, 863:25, 865:9, 865:21, 866:22, 867:10, 867:15, 867:23, 867:25, 870:20, 870:24, 871:6, 871:7, 871:9, 871:13, 872:8, 872:9, 873:4, 873:14, 873:20, 874:14, 874:18, 875:5, 875:10, 875:11, 875:12, 875:14, 876:7, 877:14, 878:4, 878:11, 878:14, 878:19, 879:1, 879:9, 879:15, 879:17, 880:18, 884:21, 884:25, 885:4, 885:18, 888:2, 888:3, 888:5, 890:19, 895:13, 896:2, 902:17, 902:20
WHITE-PREFERRED [1] - 902:17
WHITES [4] - 879:11, 885:2, 885:23, 891:20
WHOLE [10] - 782:2, 785:1, 785:5, 787:22, 788:1, 793:6, 793:17, 798:10, 803:14, 803:15
WHOLLY [1] - 890:2
WIDE [1] - 867:18
WILLIAM [1] - 777:3
WILLIAMS [1] - 776:5
WIN [1] - 897:22
WINS [1] - 797:12
WISH [5] - 814:8, 856:20, 871:20, 893:22, 893:23
WITHDRAW [1] - 846:22
WITNESS [1] - 852:4
WITNESS [44] - 791:5, 800:12, 809:15, 813:1, 813:22, 815:8, 815:13, 822:11, 823:19, 825:19, 825:22, 825:24, 826:25, 828:24, 830:18, 851:15, 852:2, 852:20, 858:7, 859:9, 860:10, 860:15, 867:20, 867:23, 875:17, 875:21, 875:24, 876:3, 876:6, 876:12, 876:21, 876:25, 878:6, 878:10, 878:15, 878:17, 878:24, 879:3, 879:5, 879:9, 885:12, 885:16, 885:19, 885:25
WITNESS [8] - 852:5, 852:15, 853:10, 854:12, 855:13, 859:4, 861:8, 861:11
WITNESSES [1] - 777:2
WITNESSES [1] - 851:25
WON [5] - 891:17, 892:2, 900:7, 901:21, 904:14
WORD [5] - 820:4, 821:1, 822:2, 848:24
WORDS [9] - 797:8, 827:17, 844:15, 851:25, 870:21, 876:18, 878:22, 890:18, 891:19
WORKS [2] - 808:23, 809:3
WRITTEN [2] - 779:20, 883:14
WROTE [2] - 779:18, 858:21
WYOMING [1] - 799:16

Y

YEAR [1] - 873:12
YEARS [9] - 786:4, 854:22, 855:10, 855:13, 858:1, 864:18, 867:7, 871:8
YESTERDAY [2] - 820:25
YOU-ALL [8] - 778:3, 814:23, 815:5, 828:9, 846:17, 887:4, 887:12, 887:13
YOURSELF [2] - 787:1, 815:1

Z

ZABEL [1] - 776:9
ZERO [1] - 830:7
ZOOM [3] - 789:11, 810:23, 836:6