

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL : CIVIL ACTION  
VERSUS : NO. 3:22-178-SDD  
KYLE ARDOIN, ET AL : DECEMBER 5, 2023

=====

DAY 7  
BENCH TRIAL  
BEFORE THE HONORABLE SHELLY D. DICK  
UNITED STATES CHIEF DISTRICT JUDGE

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**PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING  
COMPUTER-AIDED TRANSCRIPTION SOFTWARE**

**I N D E X****DEFENDANTS' WITNESSES:****JEFFREY LEWIS****PAGE****DIRECT EXAMINATION BY MS. MCKNIGHT .....5****CROSS-EXAMINATION BY MS. ROHANI .....29****REDIRECT EXAMINATION MS. MCKNIGHT .....42****PLAINTIFFS' REBUTTAL WITNESSES:****MARVIN P. KING****VOIR DIRE BY MS. GIGLIO .....51****DIRECT EXAMINATION BY MS. GIGLIO .....59****CROSS-EXAMINATION BY MR. LEWIS .....86****CORY MCCARTAN****VOIR DIRE BY MS. BRANNON .....119****DIRECT EXAMINATION BY MS. BRANNON .....122****CROSS-EXAMINATION BY MS. HOLT .....160****LISA HANDLEY****DIRECT EXAMINATION BY MS. BRANNON .....165****CROSS-EXAMINATION BY MS. MCKNIGHT .....189****REDIRECT EXAMINATION BY MS. BRANNON .....212**

10:01a

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(DECEMBER 5, 2023)

PROCEEDINGS

(CALL TO THE ORDER OF COURT.)

THE COURT: GOOD MORNING, EVERYONE. BE  
SEATED.

MS. MCKNIGHT, I THOUGHT YOU WERE  
FINISHED. YOU'RE NOT FINISHED?

MS. MCKNIGHT: NO. YESTERDAY WHEN YOU ASKED  
IF --

THE COURT: OH, THAT'S RIGHT. WE TOOK A  
BREAK AT -- OKAY. THANK YOU FOR HAVING DR. CLARK  
BACK ON THE STAND.

MS. MCKNIGHT: MAY I PROCEED, YOUR HONOR?

THE COURT: YOU MAY.

MS. MCKNIGHT: THANK YOU.

DIRECT EXAMINATION (CONTINUED)

BY MS. MCKNIGHT:

Q DR. LEWIS, LET'S START WHERE WE ENDED  
YESTERDAY --

THE COURT: DR. LEWIS. I'M SORRY.

MS. MCKNIGHT: THAT'S OKAY.

THE COURT: IT'S BEEN A LONG WEEK, DR.  
LEWIS.

THE WITNESS: I KNOW IT HAS.

BY MS. MCKNIGHT:

10:01a

1 Q LET'S START WHERE WE ENDED YESTERDAY WITH  
2 DEMONSTRATIVE LEWIS 4. WE'LL BRING IT UP ON THE  
3 SCREEN.

4 DO YOU REMEMBER TESTIFYING ABOUT THIS  
5 YESTERDAY, DR. LEWIS?

6 A I DO.

7 Q OKAY. COULD YOU TELL THE COURT: WHAT IS  
8 THE AVERAGE PERSON BLACK VAP NEEDED FOR A WIN BY A  
9 BLACK-PREFERRED CANDIDATE IN PLAINTIFFS' ILLUSTRATIVE  
10 HD 1?

11 A AS, YOU KNOW, ESTIMATED FROM THESE DATAS --  
12 APPROXIMATELY FROM THESE DATA -- 49 PERCENT.

13 Q AND WHAT DOES THIS ANALYSIS SHOW ABOUT THAT  
14 FIGURE FOR PLAINTIFFS' ILLUSTRATIVE HD 23?

15 A 45 PERCENT.

16 Q AND FOR HD 38?

17 A 35 PERCENT.

18 Q AND FOR HD 60?

19 A 34 PERCENT.

20 Q AND HD 65?

21 A 48 PERCENT.

22 Q HD 68?

23 A 38 PERCENT.

24 Q HD 69?

25 A 42 PERCENT.

10:03a

1 Q SD 17?

2 A 41 PERCENT.

3 Q SD 19?

4 A 13 PERCENT.

5 Q SD 38?

6 A 44 PERCENT.

7 Q HAVE WE COVERED ALL THE FIGURES ON THIS  
8 CHART?

9 A IN THAT COLUMN, YES.

10 Q FOR ANY OF THE TEN DISTRICTS WE JUST  
11 DISCUSSED, ACCORDING TO THIS ANALYSIS, DID ANY OF  
12 THOSE DISTRICTS NEED 50 PERCENT BLACK VAP IN ORDER TO  
13 ELECT A BLACK-PREFERRED CANDIDATE?

14 A ON AVERAGE, NO.

15 Q AND I'D LIKE TO MOVE ON TO ASK YOU ABOUT THE  
16 DISTRICTS THAT BORDER THESE TEN DISTRICTS.

17 NOW, IN CONDUCTING YOUR ANALYSIS YOU RELIED  
18 ON DR. HANDLEY'S DATA. CORRECT?

19 A THAT'S CORRECT.

20 Q WERE YOU ABLE TO CONDUCT YOUR ANALYSIS ON  
21 EVERY SINGLE DISTRICT IN THE PLANS?

22 A NO, I DID NOT.

23 Q AND WOULD YOU HAVE BEEN ABLE TO?

24 A I THINK IT WOULD HAVE BEEN -- IT WOULD HAVE  
25 BEEN QUITE TIME-CONSUMING, MOSTLY FOR COMPUTER, TO

10:04a

1 HAVE ANALYZED EVERY DISTRICT THAN

2 DISTRICT-BY-DISTRICT THE WAY THAT WE DID.

3 Q SO I'D LIKE TO ASK YOU QUESTIONS ABOUT SOME  
4 OF THE DISTRICTS WHERE YOU WERE ABLE TO CONDUCT AN  
5 ANALYSIS. WE'RE GOING TO PULL UP TWO DOCUMENTS ON  
6 THE SCREEN. ON THE LEFT SIDE LET'S START WITH  
7 PLAINTIFFS' EXHIBIT 72. THESE ARE ENLARGED MAPS OF  
8 PLAINTIFFS' ILLUSTRATIVE DISTRICTS. WE BELIEVE THIS  
9 HAS ALREADY BEEN ADMITTED THROUGH MR. COOPER'S  
10 TESTIMONY.

11 NOW, ON THE RIGHT SIDE OF THE SCREEN, LET'S  
12 PULL UP YOUR REPORT, DTH 52. SO IN PLAINTIFFS'  
13 ILLUSTRATIVE MAPS, LET'S MOVE TO PAGE PL -- PAGE 22  
14 TO LOOK AT HD 65. AND THEN ON THE RIGHT-HAND OF THE  
15 SCREEN IN YOUR REPORT, LET'S MOVE TO PAGE 38 FOR THE  
16 FIGURES ON THE DISTRICTS NEAR THIS DISTRICT.

17 TO START WITH, DID I UNDERSTAND CORRECTLY  
18 THAT HD 65 IN PLAINTIFFS' ILLUSTRATIVE PLAN DOES NOT  
19 NEED 50 PERCENT BVAP TO WIN, ACCORDING TO YOUR  
20 ANALYSIS?

21 A 65 I'M NOT SURE APPEARS ON THIS PAGE, SO WE  
22 SHOULD CHECK. IS IT --

23 Q LET'S TURN TO PAGE 39. AND LET'S LOOK AT  
24 H23-65 AND THE AVERAGE PERCENT BLACK VAP NEEDED FOR  
25 WIN. IS THAT FIGURE ABOVE 50 PERCENT OR AT 50



10:06a

1 PERCENT?

2 A I -- WITHOUT A PIECE OF PAPER, IT'S A LITTLE  
3 HARD TO READ ACROSS THE LINE. IS IT CORRECT THAT THE  
4 NUMBER THAT'S -- THAT REGISTERS WITH THAT LINE IS 46?

5 Q YES. COULD WE --

6 MS. MCKNIGHT: COULD WE -- MR. WILLIAMSON,  
7 COULD WE HIGHLIGHT THE ROW FOR H23-65.

8 BY THE WITNESS:

9 A 48. LESS THAN 50.

10 Q SO I'D LIKE TO ASK THE TRIAL TECH TO PUT A  
11 RED CIRCLE AROUND THE NUMBER 65 ON THE LEFT SIDE OF  
12 THE SCREEN.

13 OKAY. LET'S -- ON THE RIGHT SIDE OF THE  
14 SCREEN, LET'S TURN BACK TO PAGE 38 AND LET'S START  
15 WITH THE DISTRICT BORDERING TO THE WEST OF HD 65.  
16 THIS IS PLAINTIFFS' ILLUSTRATIVE DISTRICT 29.

17 NOW, ON THE RIGHT SIDE OF THE SCREEN IN YOUR  
18 REPORT, WHEN YOU LOOK AT THE ROW TITLED -- AND I'D  
19 ASK THIS TO BE HIGHLIGHTED AS WE GO -- THE ROW TITLED  
20 "H 2329," WHAT IS THE AVERAGE PERCENT VAP NEEDED FOR  
21 A WIN IN THAT DISTRICT?

22 A 42.

23 Q AND IS THAT BELOW 50?

24 A IT IS.

25 Q LET'S PUT A RED CIRCLE AROUND THE NUMBER 29

10:07a

1 ON THE MAP.

2 NOW, LET'S MOVE ON TO THE NEXT DISTRICT. I  
3 SEE DISTRICT 62 UP IN THE UPPER RIGHT CORNER. ON THE  
4 RIGHT-HAND PAGE, LET'S TURN TO PAGE 39 OF YOUR REPORT  
5 AT LDTX 52. AND LET'S HIGHLIGHT THE ROW FOR S23 -- I  
6 MEAN H23-62.

7 WHAT IS THE BVAP NEEDED TO WIN FOR H23-62?

8 A THE ESTIMATE THAT APPEARS THERE IS 39  
9 PERCENT.

10 Q AND IS THAT BELOW 50?

11 A IT IS BELOW 50.

12 Q LET'S PUT A RED CIRCLE AROUND THE NUMBER 62  
13 IN THE MAP ON THE LEFT.

14 NOW LET'S GO BACK TO THE RIGHT SIDE. LET'S  
15 LOOK AT HD 63. COULD WE HIGHLIGHT THE ROW FOR HD 63.

16 DR. LEWIS, WHAT IS THE PERCENT BLACK VAP  
17 NEEDED FOR A WIN IN HD 63 IN PLAINTIFFS' ILLUSTRATIVE  
18 MAP?

19 A THAT ESTIMATE IS 46 PERCENT.

20 Q AND IS THAT AT 50 OR ABOVE?

21 A THAT IS BELOW 50.

22 Q AND THEN IN THE LEFT-HAND SIDE OF THE  
23 SCREEN, LET'S PUT A CIRCLE AROUND HD 63, PLEASE.

24 LET'S MOVE ON TO THE NEXT ONE. WE HAVE --  
25 ROTATING DOWN TO THE SOUTH THERE IS DISTRICT HD 67.

10:08a

1 DO YOU SEE THAT IN THE MAP, DR. LEWIS?

2 A I DO.

3 Q OKAY. SO ON THE RIGHT SIDE, WHAT IS THE  
4 BVAP NEEDED FOR WIN IN HD 67 IN PLAINTIFFS'  
5 ILLUSTRATIVE MAP?

6 A THE ESTIMATE IS 26.

7 Q OKAY. IS THAT BELOW 50?

8 A IT IS.

9 Q LET'S PUT A RED CIRCLE AROUND HD 67 IN  
10 PLAINTIFFS' ILLUSTRATIVE MAP.

11 MOVING ON AROUND, I SEE HD 61 IN THE AREA.  
12 DO YOU SEE THAT DISTRICT?

13 A I DO.

14 Q SO ON THE RIGHT SIDE OF THE SCREEN, LET'S  
15 LOOK AT THE BVAP NEEDED FOR WIN IN HD 61 IN  
16 PLAINTIFFS' ILLUSTRATIVE 61. WHAT IS THAT FIGURE?

17 A 20.

18 Q AND IS THAT BELOW 50?

19 A IT IS.

20 Q AND IN THE LEFT SCREEN LET'S PUT A RED  
21 CIRCLE AROUND 61.

22 NOW, I SEE HD 68 BORDERING HD 65. DO YOU  
23 SEE THAT, DR. LEWIS?

24 A I DO.

25 Q AND ON THE RIGHT-HAND SIDE OF YOUR SCREEN,

10:09a

1 WHAT IS THE PERCENT BLACK VAP NEEDED FOR WIN IN HD  
2 68?

3 A 38.

4 Q IS THAT BELOW 50?

5 A IT IS.

6 Q LET'S PUT A RED CIRCLE AROUND THE NUMBER 68  
7 ON THE LEFT-HAND SIDE OF THE SCREEN.

8 LET'S MOVE ON TO HD 69. IN YOUR REPORT,  
9 WHAT WAS THE BVAP NEEDED FOR WIN IN -- IDENTIFIED BY  
10 THE ANALYSIS YOU CONDUCTED IN YOUR REPORT?

11 A THE ESTIMATE IS 42.

12 Q AND IS THAT BELOW 50?

13 A IT IS.

14 Q SO LET'S PUT A RED CIRCLE AROUND HD 69 IN  
15 PLAINTIFFS' ILLUSTRATIVE MAP.

16 NOW, I SEE A DISTRICT ON THE EASTERN BORDER  
17 OF HD 65 AS BEING HD 64. DO YOU SEE THAT, DR. LEWIS?

18 A I DO.

19 Q WERE YOU ABLE TO CONDUCT AN ANALYSIS ON HD  
20 64 FOR YOUR REPORT?

21 A I DID NOT.

22 Q AND NOW LET'S TURN THE PAGE TO PAGE 40 OF  
23 YOUR REPORT, LDTX 52 AT PAGE 40. AND I SEE A  
24 DISTRICT BORDERING THE SOUTH OF HD 65, DISTRICT NO.  
25 101 IN PLAINTIFFS' ILLUSTRATIVE PLAN.

10:11a

1 WHAT WAS THE BVAP NEEDED FOR WIN ACCORDING  
2 TO YOUR ANALYSIS IN HD 101?

3 A THE ESTIMATE IS 37.

4 Q IS THAT BELOW 50?

5 A IT IS.

6 Q LET'S PUT A RED CIRCLE AROUND 101 IN THE  
7 MAP.

8 SO, DR. LEWIS, FOR THE SEVEN RED-CIRCLED  
9 DISTRICTS AROUND HD 65 IN PLAINTIFFS' ILLUSTRATIVE  
10 PLAN, DID ANY OF THESE NEED 50 PERCENT BVAP IN ORDER  
11 FOR A BLACK CANDIDATE TO BE -- TO WIN?

12 A THE ESTIMATED AVERAGE PERCENT NEEDED TO WIN  
13 WAS BELOW 50 PERCENT IN EVERY CASE.

14 Q ALL RIGHT. LET'S STAY ON LDTX 52, BUT IN  
15 THE MAP ON THE LEFT SIDE LET'S SWITCH FROM PL 72 TO  
16 PL 53.

17 NOW, DR. LEWIS, WE WERE JUST DISCUSSING AN  
18 EXAMPLE IN PLAINTIFFS' HOUSE ILLUSTRATIVE MAPS. I'D  
19 LIKE TO ASK YOU ABOUT AN EXAMPLE FROM PLAINTIFFS'  
20 SENATE ILLUSTRATIVE MAPS. SO IN PL 53 LET'S TURN TO  
21 PAGE 10 ON THE MAP. IN LDTX 52 COULD WE TURN THE  
22 PAGE TO THE NEXT PAGE, PLEASE.

23 MS. MCKNIGHT: THANK YOU, MR. WILLIAMSON.

24 BY MS. MCKNIGHT:

25 Q SO STARTING WITH THE DISTRICT AT THE HEART

10:13a

1 HERE, SENATE DISTRICT 19 IN PLAINTIFFS' ILLUSTRATIVE  
2 PLANS, IN LDTX 52 WHAT DOES YOUR ANALYSIS SHOW IS THE  
3 BVAP NEEDED FOR WIN FOR S23-19? AND WE'LL HAVE THAT  
4 HIGHLIGHTED FOR YOU.

5 A 30 PERCENT.

6 Q AND IS THAT FIGURE BELOW 50?

7 A IT IS.

8 Q OKAY. SO IN THE MAP LET'S PUT A RED CIRCLE  
9 AROUND THE NUMBER 19.

10 NOW, IT'S A LITTLE HARD TO SEE, DR. LEWIS,  
11 BUT THERE IS A NUMBER 3 -- THESE ARE PLAINTIFFS'  
12 ILLUSTRATIVE MAPS. THERE IS A NUMBER 3 UNDER THE KEY  
13 THAT SAYS "ILLUSTRATIVE SENATE." AND UNDER THE  
14 WORD -- NEXT TO THE WORD "MILES," YOU CAN BARELY MAKE  
15 OUT A NUMBER 3. DO YOU SEE THAT?

16 A I HAVE VERY POOR VISION. I'LL TAKE YOUR  
17 WORD THAT IT'S THERE.

18 Q LET'S START THERE, BECAUSE IT'S THE LOWEST  
19 NUMBER. WE'LL JUST GO IN NUMERICAL ORDER.

20 COULD YOU LOOK AT YOUR ANALYSIS IN YOUR  
21 REPORT FOR S23-3. THIS IS PLAINTIFFS' ILLUSTRATIVE  
22 SENATE MAP 3. AND WHAT IS THE PERCENT VAP NEEDED FOR  
23 A WIN IN SD 3?

24 A 15.

25 Q IS THAT LOWER THAN 50?

10:15a

1 A IT IS.

2 Q SO LET'S PUT A RED CIRCLE AROUND THAT  
3 SLIGHTLY SHADED NO. 3 UP NEXT TO THE WORD "MILES" IN  
4 THE MAP. SO IN THE MAP -- THERE WE GO. THANK YOU.

5 SO NOW -- IT'S A LITTLE HARD TO SEE IN THE  
6 ILLUSTRATIVE WITH THE KEY OVER IT. BUT LET'S LOOK AT  
7 SD 4 AND WHICH -- WHAT THE RESULT IS FOR BLACK VAP  
8 NEEDED FOR WIN IN SD 4; S23-4. AND WE'LL HIGHLIGHT  
9 THAT FOR YOU.

10 AND WHAT IS THE BLACK VAP NEEDED FOR A WIN  
11 IN SD 4?

12 A 16.

13 Q OKAY. AND I'LL REPRESENT TO YOU THAT THE  
14 NUMBER 4 IS HIDING JUST BENEATH THE WORD "MSA" IN  
15 ILLUSTRATIVE SENATE.

16 MS. MCKNIGHT: SO, MR. WILLIAMSON, COULD WE  
17 PUT A CIRCLE AROUND THAT WORD "MSA" SO IT'S CLEAR  
18 WHERE SENATE DISTRICT 4 IS IN PLAINTIFFS'  
19 ILLUSTRATIVE MAP. THANK YOU.

20 BY MS. MCKNIGHT:

21 Q LET'S MOVE ON TO HD -- TO SD 5. DO YOU SEE  
22 SENATE DISTRICT 5 IN THE MAP JUST NORTH OF THE RIVER  
23 IN SENATE DISTRICT 7?

24 A YES, I DO.

25 Q SO IN YOUR ANALYSIS FOR SENATE DISTRICT 5,

10:17a

1 WHAT DOES YOUR ANALYSIS SHOW AS THE BLACK VAP NEEDED  
2 FOR WIN IN THAT DISTRICT?

3 A ONE PERCENT.

4 Q IS THAT BELOW 50?

5 A IT IS.

6 Q LET'S MOVE ON TO SENATE DISTRICT 8. WHAT  
7 DOES YOUR ANALYSIS SHOW ABOUT THE BLACK VAP NEEDED  
8 FOR WIN IN SENATE DISTRICT 8?

9 A LOOKS LIKE 41 PERCENT.

10 Q AND IS THAT BELOW 50?

11 A IT IS.

12 Q LET'S PUT A RED CIRCLE AROUND SENATE  
13 DISTRICT 8. I'LL NEED TO GO BACK TO PUT A RED CIRCLE  
14 AROUND SENATE DISTRICT 7 AND SENATE DISTRICT 5.

15 DR. LEWIS, FOR THE FIVE RED CIRCLES -- FOR  
16 THE SIX RED CIRCLES IN THE DISTRICTS IN SENATE  
17 DISTRICT 19 AND THE SURROUNDING DISTRICTS, DID ANY OF  
18 THESE DISTRICTS NEED 50 PERCENT BVAP IN ORDER FOR A  
19 WIN?

20 A AS ESTIMATED ON AVERAGE, NO.

21 Q IS IT FAIR TO SAY THAT THERE IS VARIATION IN  
22 RACIALLY POLARIZED VOTING PATTERNS WITHIN THE STATE  
23 OF LOUISIANA?

24 A YES.

25 Q LET'S BRING UP YOUR REPORT ON THE RIGHT-HAND



10:18a

1 SIDE. AND WE'LL GO TO PAGES 42 AND 43 OF YOUR  
2 REPORT. SO THAT'S LDTX 52 AT 42 AND 43.

3 DO THESE TABLES ADDRESS THIS VARIATION?

4 A ONE ASPECT OF THE VARIATION, YES.

5 Q AND WHAT DO THE NUMBERS SHOW ABOUT WHERE  
6 THIS VARIATION OCCURRED?

7 A WE SEE VARIATION IN THE LEFT PAGE IN FIGURE  
8 1. WE SEE VARIATION IN THE DEGREE OF WHITE CROSSOVER  
9 VOTING, AS THE PERCENT OF THE DISTRICT THAT IS  
10 DESIGNATED BY THE CENSUS TO LIE WITHIN AN URBAN AREA,  
11 INCREASES.

12 Q AND SO IS IT POSSIBLE -- WE WERE JUST  
13 LOOKING AT DISTRICTS NEAR AND BORDERING PLAINTIFFS'  
14 ILLUSTRATIVE DISTRICTS. IS IT POSSIBLE THAT THERE  
15 ARE OTHER DISTRICTS NEAR THOSE PLAINTIFFS'  
16 ILLUSTRATIVE DISTRICTS THAT REQUIRE 50 PERCENT OR  
17 MORE BVAP ACCORDING TO THE ANALYSIS?

18 A I'M SORRY. COULD YOU RESTATE THE QUESTION?

19 Q SURE. WE WERE JUST DISCUSSING VARIATION.  
20 AND SO THE QUESTION WAS: IS IT POSSIBLE THAT THERE  
21 ARE DISTRICTS NEAR OR AROUND PLAINTIFFS' ILLUSTRATIVE  
22 DISTRICTS THAT DO NOT NEED -- WHERE THE ILLUSTRATIVE  
23 DISTRICTS DO NOT NEED 50 PERCENT BVAP BUT THERE ARE  
24 OTHER DISTRICTS NEARBY THAT MIGHT NEED 50 PERCENT OR  
25 ABOVE BVAP?

10:20a

1 A THAT'S CORRECT, YES.

2 Q WE CAN TAKE THIS DOWN.

3 DR. LEWIS, DID YOU UNDERSTAND THERE TO BE  
4 CRITICISM BY PLAINTIFFS THAT YOUR ANALYSIS ISN'T  
5 CHECKED AGAINST REALITY?

6 A YES.

7 Q WHAT IS YOUR UNDERSTANDING OF THAT CRITICISM  
8 AND WHAT IS YOUR RESPONSE?

9 A WELL, I GUESS THE FIRST THING IS THAT I  
10 WOULD SAY MY ANALYSIS IS BASED ON THE SAME REALITY AS  
11 OTHER EXPERTS AND CERTAINLY AS DR. HANDLEY'S HERE  
12 BASED ON THE SAME DATA. IT'S -- IT'S DIFFICULT TO DO  
13 A REALLY TRUE REALITY CHECK, BECAUSE IN ORDER TO DO A  
14 TRUE REALITY CHECK ONE WOULD HAVE TO KNOW EXACTLY THE  
15 THINGS THAT WE'RE HERE OR THAT I'M HERE TO -- TO TALK  
16 ABOUT, WHICH CAN'T BE KNOWN. AND SO IN A CERTAIN  
17 SENSE I DON'T THINK THAT YOU CAN SAY THAT IT'S  
18 POSSIBLE TO DO A TRUE REALITY CHECK; IN OTHER WORDS,  
19 WE CAN'T -- YOU KNOW, WE'RE HERE, AS WE TALKED ABOUT  
20 BEFORE, TO THINK ABOUT HOW THESE DISTRICTS -- HOW  
21 PEOPLE WOULD VOTE IN THEM IN THE FUTURE. WE DON'T  
22 KNOW THAT.

23 WE CAN DO WHAT YOU MIGHT CALL SORT OF SANITY  
24 CHECKS TO MAKE SURE THAT IT DOESN'T SEEM LIKE  
25 SOMETHING HAS GONE HORRIBLY AWRY. BUT IT'S VERY

10:21a

1 DIFFICULT TO KNOW BY LOOKING -- YOU KNOW, IN OTHER  
2 WORDS, WE APPLY THESE METHODS EXACTLY BECAUSE WE  
3 CAN'T KNOW IN SOME OTHER WAY WHICH WE COULD THEN USE  
4 AS A BENCHMARK.

5 Q AND DID YOU UNDERSTAND ANY CRITICISM BY  
6 PLAINTIFFS ABOUT THE FACT THAT THERE -- WHERE THERE  
7 ARE NO DISTRICTS DRAWN BETWEEN 40 AND 50 PERCENT,  
8 WHAT THAT MEANS FOR YOUR ANALYSIS?

9 A YEAH. I THINK THE CHALLENGE IS IF YOU WERE  
10 TO ASK THE QUESTION COULD WE THINK ABOUT HOW  
11 DISTRICTS IN CERTAIN PARTS OR IN ALL OF LOUISIANA  
12 WOULD PERFORM AT 40 TO 60 PERCENT AND THEN WE DON'T  
13 SEE ANY -- THERE ARE VERY FEW THAT ARE IN THAT  
14 INTERVAL -- THEN IT'S VERY HARD TO DRAW A CONCLUSION  
15 ABOUT WHETHER THEY WOULD PERFORM OR NOT. SO TO SAY  
16 WE DON'T SEE SOMEONE OF -- YOU KNOW, A DEMOCRAT OR A  
17 BLACK-PREFERRED CANDIDATE GETTING ELECTED IN  
18 DISTRICTS THAT WE DON'T SEE VERY MANY OF, IT'S HARD  
19 TO KNOW WHAT THAT MEANS.

20 SO, FOR EXAMPLE, I DON'T THINK IT WOULD BE A  
21 VERY COMPELLING ARGUMENT PERHAPS -- AND, YOU KNOW,  
22 I'M NOT HERE TO MAKE ARGUMENTS, YOU KNOW. BUT I  
23 GUESS IF I WERE TO TRY TO THINK ABOUT JUST ANSWERING  
24 THE QUESTION HOW WOULD -- A 40 TO 50 PERCENT  
25 DISTRICT, WHAT WOULD BE THE MINIMUM PERCENT NEEDED TO

10:22a

1 WIN, WHAT WOULD THE WIN RATE BE IN A DISTRICT LIKE  
2 THAT IF WE HAVEN'T SEEN ONE, I DON'T THINK THAT IT  
3 WOULD BE -- THAT IF, FOR EXAMPLE, WE WERE IN A WORLD  
4 IN WHICH THE DISTRICTS HAD BEEN DRAWN IN A WAY THAT  
5 THERE WERE NO DISTRICTS BELOW 65 PERCENT BLACK BVAP  
6 AND THEN DOWN TO, SAY, 25 OR 30, I DON'T THINK WE  
7 WOULD REALLY THINK IT WAS A VERY GOOD SORT OF  
8 SCIENTIFIC CONCLUSION; THAT BECAUSE WE ONLY SEE  
9 DISTRICTS THAT ARE TWO-THIRDS BLACK OR MORE AND THOSE  
10 ARE THE ONLY DISTRICTS THAT ARE ELECTING  
11 BLACK-PREFERRED CANDIDATES, THAT A DISTRICT BELOW  
12 TWO-THIRDS COULDN'T FUNCTION. I THINK THAT WOULD BE  
13 A STANDARD THAT -- OF EVIDENCE THAT WOULDN'T BE VERY  
14 COMPELLING.

15 Q IN YOUR OPINION, ARE CONTESTS WITH A BLACK  
16 CANDIDATE ALWAYS MORE PROBATIVE THAN CONTESTS WITHOUT  
17 A BLACK CANDIDATE IN DOING THE TYPE OF ANALYSIS YOU  
18 DID IN THIS CASE?

19 A NOT CATEGORICALLY. THAT'S CERTAINLY ONE  
20 FACTOR THAT I THINK THE COURTS HAVE THOUGHT ABOUT  
21 MAYBE. AND I KNOW THAT IN SOME CASES THAT'S  
22 SOMETHING THAT'S FOCUSED ON. SO I PROVIDE THE  
23 ANALYSIS THAT'S BROKEN DOWN TO CONTESTS THAT INVOLVE  
24 ONLY -- THAT INVOLVE AT LEAST ONE BLACK CANDIDATE  
25 SEPARATELY FROM THE LARGER SET.

10:24a

1 BUT THERE ARE OTHER FEATURES THAT MIGHT MAKE  
2 A CERTAIN ELECTION MORE ANALOGOUS TO WHAT WE MIGHT  
3 EXPECT A FUTURE STATE HOUSE OR STATE SENATE ELECTION  
4 TO LOOK LIKE IN A PARTICULAR DISTRICT. AND SO I  
5 THOUGHT IT WAS USEFUL TO PROVIDE THE COURT WITH SOME  
6 SENSE OF WHAT THE ANSWER MIGHT BE IF WE WENT BEYOND  
7 JUST CASES WITHOUT BLACK CANDIDATES.

8 I ALSO WOULD JUST QUICKLY SAY THAT YEAH, I  
9 MEAN, THERE COULD BE CASES WHERE PROBABLY YOU  
10 COULDN'T FIGURE OUT MUCH ABOUT BLACK-PREFERRED  
11 CANDIDATES BY NOTING THE FACT THAT THERE IS A BLACK  
12 CANDIDATE IN THE RACE. SO, FOR EXAMPLE, I THINK IF  
13 WE WERE IN SOUTH CAROLINA, I'M NOT SURE THAT  
14 ELECTIONS INVOLVING TIM SCOTT WOULD BE MORE PROBATIVE  
15 WITH RESPECT TO -- FOR SENATE -- A BLACK POLITICIAN  
16 WOULD BE MORE PROBATIVE THAN OTHER ELECTIONS. THAT  
17 WOULD BE AN EXAMPLE.

18 Q AS A RELATED EXAMPLE, WOULD THE ELECTION OF  
19 JOHN BEL EDWARDS HERE IN LOUISIANA BE AN EXAMPLE OF  
20 THE COROLLARY POINT TO THAT?

21 A IT COULD BE, YES. I MEAN, I THINK ONE OF  
22 THE ISSUES THAT YOU HAVE IS THAT THERE ARE OTHER --  
23 THERE ARE OTHER FEATURES OF THESE ELECTIONS WHICH YOU  
24 WOULD LIKE TO BE SIMILAR WHEN YOU'RE USING THEM AS  
25 ANALOGS FOR WHAT WOULD HAPPEN IN THESE DISTRICTS THAT

10:25a

1 ARE DRAWN IN A WAY THAT'S MEANT TO EITHER BE  
2 COMPETITIVE OR -- OR EVEN MORE THAN COMPETITIVE FOR  
3 DEMOCRATIC CANDIDATES. AND THE STATEWIDE ENVIRONMENT  
4 IN LOUISIANA IS TYPICALLY NOT THAT COMPETITIVE FOR  
5 DEMOCRATS STATEWIDE.

6 AND SO YOU END UP IN SITUATIONS SOMETIMES I  
7 THINK WHERE YOU'VE GOT CANDIDATES WITH HIGH NAME  
8 RECOGNITION THAT ARE WELL-FUNDED ON ONE SIDE RUNNING  
9 AGAINST CANDIDATES ON THE OTHER SIDE THAT DON'T HAVE  
10 A LOT OF ELECTORAL EXPERIENCE, THAT DON'T HAVE A LOT  
11 OF CAMPAIGN FINANCE BACKING, MAYBE DON'T HAVE A LOT  
12 OF NAME RECOGNITION. A NUMBER OF THOSE CANDIDATES AT  
13 THE STATEWIDE LEVEL ALSO HERE MIGHT BE BLACK, SO YOU  
14 MIGHT WANT TO LOOK BEYOND THOSE CONTESTS TO SEE ALSO  
15 IF THERE ARE CONDITIONS -- ELECTORAL CONDITIONS WHERE  
16 THE CANDIDATES THAT ARE BEING SELECTED AMONG ARE ONES  
17 THAT ARE MORE SIMILAR IN THEIR RELATIVE AMOUNT OF --  
18 THEIR RELATIVE COMPETITIVENESS THAN YOU WOULD SEE IN  
19 AN ELECTION THAT MAYBE DID INVOLVE A BLACK CANDIDATE  
20 BUT DIDN'T HAVE THOSE OTHER FEATURES OF BALANCE THAT  
21 YOU MIGHT EXPECT TO SEE IN A MORE COMPETITIVE  
22 ELECTORAL SETTING.

23 MS. ROHANI: OBJECTION, YOUR HONOR. THERE  
24 IS NOTHING IN DR. LEWIS'S REPORT THAT DEALS WITH  
25 CANDIDATE FUNDING OR ANYTHING THAT HE RESPONDED IN

10:26a

1 RESPONSE TO MS. MCKNIGHT'S QUESTION.

2 MS. MCKNIGHT: I CAN -- I'M HAPPY TO BRING  
3 UP THE PORTION OF HIS REPORT WHERE HE ADDRESSES  
4 CANDIDATE FUNDING, IF THAT WOULD BE HELPFUL.

5 THE COURT: WELL, THE QUESTION HAS BEEN  
6 ASKED AND ANSWERED, SO I'M GOING TO OVERRULE THE  
7 OBJECTION.

8 BUT I WOULD ASK YOU TO CONFINE YOUR  
9 QUESTIONS TO THOSE THINGS THAT ARE DISCUSSED IN HIS  
10 REPORT.

11 MS. MCKNIGHT: OKAY.

12 BY MS. MCKNIGHT:

13 Q OKAY. DR. LEWIS, IN GENERAL WHEN YOU ARE  
14 CONDUCTING A RACIALLY POLARIZED VOTING ANALYSIS AND  
15 YOU'RE FACED WITH AN ENVIRONMENT WHERE THERE ARE NOT  
16 THAT MANY CONTESTS WITH A BLACK CANDIDATE, HOW DO YOU  
17 ADDRESS THIS ISSUE?

18 A WELL, SOMETIMES THAT'S JUST A LIMITATION.  
19 BUT AGAIN, I WOULD LOOK BEYOND THE CONTESTS THAT  
20 INVOLVE A BLACK CANDIDATE TO TRY TO FIND OTHER  
21 CONTESTS THAT MIGHT HAVE VALUE IN ESTABLISHING THE  
22 ANSWERS TO THE QUESTIONS THAT WE'RE SEEKING HERE  
23 ABOUT WHETHER THERE IS AN OPPORTUNITY TO ELECT.

24 Q DID YOU FIND IN YOUR ANALYSIS THAT SOMETIMES  
25 WHITE DEMOCRATS WERE THE CANDIDATE OF CHOICE FOR

10:28a

1 BLACK VOTERS?

2 A YES.

3 Q SO WHAT WILL ANALYZING RACES WITH WHITE  
4 DEMOCRATS TELL THE COURT ABOUT WHETHER BLACK VOTERS  
5 ARE ABLE TO ELECT THEIR CANDIDATES OF CHOICE?

6 A WELL, A GREAT DEAL OF I THINK WHAT  
7 CHARACTERIZES ELECTIONS IN THE UNITED STATES THESE  
8 DAYS IS RIGOR ON PARTISAN LINES. SO IF YOU HAVE AN  
9 ELECTION THAT INVOLVES A DEMOCRAT AND A REPUBLICAN,  
10 IT'S LIKELY THAT THAT ELECTION WILL GIVE SOME INSIGHT  
11 INTO THE PREFERENCES OF VOTERS OF DIFFERENT RACIAL  
12 GROUPS.

13 Q CAN THE COURT STILL LEARN ABOUT RACIALLY  
14 POLARIZED VOTING THROUGH ELECTIONS WHERE A BLACK  
15 CANDIDATE IS NOT ON THE BALLOT?

16 A YES.

17 Q LET'S LOOK AT LDTX 54, TABLE 1.

18 DR. LEWIS, DOES THIS TABLE ADDRESS THE ISSUE  
19 OF CONTESTS WITH OR WITHOUT BLACK CANDIDATES?

20 A IT DOES.

21 Q AND WHAT DOES IT SHOW THE COURT?

22 A IT SHOWS THAT IN THE CONTESTS THAT I  
23 ANALYZED HERE, THE ANSWERS ARE GENERALLY SIMILAR.  
24 THE QUANTITIES THAT WE TALKED ABOUT THE OTHER DAY ARE  
25 GENERALLY SIMILAR ACROSS THE TWO SETS OF CONTESTS



10:29a

1 THAT I SET FORTH. SO THE SET OF CONTESTS THAT  
2 INCLUDES CERTAIN CONTESTS THAT DID NOT HAVE A BLACK  
3 CANDIDATE AND THEN, WHEN I DRILL DOWN, TO JUST THOSE  
4 THAT DID.

5 Q AND DO YOU RECALL CRITICISM FROM PLAINTIFFS  
6 FOR YOU AVERAGING SOME OF YOUR NUMBERS? DO YOU  
7 RECALL THAT CRITICISM?

8 A I DO.

9 Q DID YOU RESPOND TO THIS CRITICISM IN YOUR  
10 SURREBUTTAL REPORT?

11 A I DID.

12 Q LET'S TURN TO PAGE 7 OF LDTX 54.

13 IS THIS WHERE YOU ADDRESS THE CRITICISM OF  
14 AVERAGING?

15 A YES.

16 Q OKAY. AND WHAT DOES THIS SHOW THE COURT?

17 A WELL, YOU KNOW, ONE QUESTION HERE IS, IS THE  
18 AVERAGE SORT OF -- YOU KNOW, YOU GET THE SAME AVERAGE  
19 IN DIFFERENT WAYS, AND YOU MIGHT BE INTERESTED IN  
20 SOMETHING THAT'S MORE ANALOGOUS TO THE WIN RATE THAT  
21 WE TALKED BEFORE ABOUT.

22 AND SO RATHER THAN THINKING ABOUT WHAT THE  
23 MINIMUM PERCENTAGE IS REQUIRED ON AVERAGE FOR THE  
24 BLACK-PREFERRED CANDIDATES AS ESTIMATED TO WIN BY ONE  
25 VOTE, AS WE TALKED ABOUT BEFORE, YOU COULD RATHER

10:30a

1 WANT TO THINK ABOUT LIKE, WELL, WHAT -- WHAT  
2 PERCENTAGE IS REQUIRED TO ELECT DIFFERENT PERCENT --  
3 DIFFERENT FRACTIONS OF THE -- DIFFERENT FRACTIONS  
4 OF -- I'M SORRY -- BLACK-PREFERRED CANDIDATES IN  
5 DIFFERENT FRACTIONS OF THE CONTEST. SORRY. THERE IS  
6 A LOT OF PERCENTAGES GOING BACK AND FORTH HERE. SO  
7 THAT'S SOMETHING THAT YOU COULD DO.

8 AND IF WE WANT TO THINK ABOUT 50 PERCENT, SO  
9 YOU WOULD EXPECT -- YOU KNOW, HOW MANY BLACK VOTERS  
10 WOULD YOU NEED -- HOW MUCH BLACK POPULATION WOULD YOU  
11 NEED IN ORDER TO -- FOR THE BLACK-PREFERRED CANDIDATE  
12 TO WIN HALF THE TIME. THAT'S WHAT'S SORT OF SHOWN IN  
13 THE 50 PERCENT COLUMN THERE. SO YOU CAN ESTIMATE IT  
14 THAT WAY. AND THAT'S ACTUALLY THE MEDIAN OF THE  
15 RESULTS ACROSS THE ELECTIONS THAT I'M LOOKING AT  
16 HERE. SO SIX ELECTIONS IN THE CASE OF H 4 AND H 69  
17 AND SO FORTH. AND SO REALLY, YOU KNOW, IT'S JUST A  
18 COMPARISON OF THE MEAN AND THE MEDIAN HERE.

19 HERE YOU CAN SEE THAT THE DIFFERENCE BETWEEN  
20 THOSE TWO NUMBERS IS GENERALLY SMALL. SO IN THIS  
21 CASE, WHETHER YOU'RE LOOKING AT THE AVERAGE OR THE  
22 MEDIAN, THE 50 PERCENT NUMBER THERE ON THE NEXT  
23 COLUMN YOU GET PRETTY SIMILAR -- YOU GET PRETTY  
24 SIMILAR ANSWERS.

25 Q WE CAN TAKE THIS DOWN.

10:32a

1 DR. LEWIS, AT WHAT LEVEL OF GEOGRAPHY DID  
2 YOU CONDUCT YOUR EI ANALYSIS?

3 A I FIT THE MODEL THAT -- I CREATED AN  
4 ESTIMATE OF BLACK COHESION IN WHITE CROSSOVER VOTING  
5 AND ALSO THE SUPPORT FOR THE VARIOUS CANDIDATES AMONG  
6 FOLKS THAT DIDN'T IDENTIFY AS BLACK OR WHITE FOR  
7 EVERY DISTRICT INDEPENDENTLY.

8 Q AND WHY DID YOU DO THIS?

9 A TO RECOGNIZE THAT THERE COULD BE  
10 HETEROGENEITY IN THE DEGREE OF COHESION AND THE  
11 DEGREE OF CROSSOVER VOTING ACROSS THE DIFFERENT  
12 DISTRICTS.

13 Q DID YOU FIND THAT HETEROGENEITY?

14 A YES. WE'VE SEEN SOME OF THAT HETEROGENEITY  
15 IN SOME OF THE PREVIOUS SLIDES THAT YOU'VE PUT UP.

16 Q IF YOU CONDUCTED YOUR EI ANALYSIS AT A  
17 STATEWIDE LEVEL OR EVEN AT A REGIONAL LEVEL, WHAT  
18 COULD YOU MISS OUT ON THAT YOU DETECTED IN YOUR  
19 DISTRICT-SPECIFIC ANALYSIS?

20 A WELL, SOME OF THAT HETEROGENEITY, SO WE  
21 WOULD BE AVERAGING EFFECTIVELY ACROSS THAT  
22 HETEROGENEITY. AND IT'S ALSO A CHALLENGE IN THESE  
23 MODELS -- AS I SAID BEFORE, THEY REST ON THE DATA,  
24 BUT THEY ALSO REST HEAVILY ON ASSUMPTION. AND ONE OF  
25 THE ASSUMPTIONS IS THAT THE SUPPORT OF WHITE VOTERS

10:33a

1 FOR THE BLACK-PREFERRED CANDIDATE OR ANY OTHER  
2 CANDIDATE IS NOT VARYING AS A FUNCTION OF THE  
3 DEMOGRAPHIC COMPOSITION OF THE PRECINCT OR THE  
4 DISTRICT. SO IT CAN'T BE THE CASE, IF THESE MODELS  
5 ARE TO BE EFFECTIVE, THAT THE BLACKER THE PRECINCT  
6 IS -- BY WHICH I MEAN THE MORE HIGHER THE BLACK  
7 BVAP -- BLACK VOTER POPULATION IS, THE -- IT CAN'T BE  
8 THE CASE THAT THE WHITE VOTERS BECOME MORE LIKELY TO  
9 SUPPORT THE BLACK-PREFERRED CANDIDATE.

10 AND, OF COURSE, WHAT WE'VE SEEN HERE IS THAT  
11 IN -- AT LEAST IN SOME CASES, IT IS TRUE THAT IF YOU  
12 DRILL DOWN YOU FIND THAT IN SOME OF THESE DISTRICTS  
13 THAT HAVE HIGHER BLACK POPULATION, THE WHITE VOTERS  
14 ARE CROSSING OVER MORE. SO IF YOU DON'T TRY TO  
15 ISOLATE THOSE REGIONS THAT HAVE HIGHER, LOWER BLACK  
16 VOTING AGE POPULATION, WHEN YOU APPLY THE ANALYSIS  
17 YOU COULD CREATE WHAT'S CALLED AGGREGATION BIAS,  
18 WHICH IS A TENDENCY TO MISATTRIBUTE THE BEHAVIOR OF  
19 WHITE VOTERS TO BLACK VOTERS, WHICH LEADS TO AN  
20 OVERSTATEMENT OF COHESION AND AN UNDERSTATEMENT OF  
21 CROSSOVER VOTING IN SOME CASES.

22 MS. MCKNIGHT: NO FURTHER QUESTIONS, YOUR  
23 HONOR.

24 THE COURT: CROSS-EXAMINATION?

25 MS. ROHANI: GOOD MORNING. SARA ROHANI ON

10:34a

1 BEHALF OF THE PLAINTIFFS.

2 **CROSS-EXAMINATION**

3 **BY MS. ROHANI:**

4 Q GOOD MORNING, DR. LEWIS. IT'S GOOD TO SEE  
5 YOU AGAIN.

6 A GOOD TO SEE YOU AGAIN. GOOD MORNING.

7 MS. ROHANI: STEPHEN, CAN YOU PLEASE PULL UP  
8 LDTX 52, PAGE B-2 OF THE APPENDIX. THANK YOU.

9 **BY MS. ROHANI:**

10 Q SO, DR. LEWIS, THE ELECTIONS THAT YOU  
11 INCLUDE IN YOUR WIN RATE CALCULATIONS IN TABLE 1 ARE  
12 PRIMARY ELECTIONS WITH THREE OR MORE CANDIDATES.  
13 CORRECT?

14 A YES.

15 MS. ROHANI: AND THEN, STEPHEN, CAN YOU  
16 PLEASE TURN TO PAGE 6 OF THIS EXHIBIT.

17 **BY MS. ROHANI:**

18 Q AND FOR PURPOSES OF TABLE 1, YOU DEFINE WIN  
19 AS A CANDIDATE WHO GAINED OVER 50 PERCENT OF THE VOTE  
20 OR WAS AMONG THE TWO CANDIDATES WHO ADVANCED TO THE  
21 RUNOFF. IS THAT CORRECT?

22 A YES.

23 Q AND THEN NOW GOING BACK TO B 2, FOR EACH  
24 DISTRICT IN THIS TABLE IN TABLE 1 YOU LISTED THE  
25 NUMBER OF CONTESTS THAT YOU CONSIDERED. IS THAT

10:35a

1 CORRECT?

2 A YES.

3 Q AND SO NOWHERE IN YOUR REPORT DO YOU STATE  
4 HOW MANY OF THOSE ELECTION CONTESTS RESULTED IN AN  
5 OUTRIGHT WIN. CORRECT?

6 A I DO NOT.

7 Q AND NOWHERE IN YOUR REPORT DO YOU STATE HOW  
8 MANY OF THOSE ELECTION CONTESTS INVOLVED A CANDIDATE  
9 ADVANCING TO A RUNOFF. IS THAT CORRECT?

10 A I'M TRYING TO THINK IF THAT'S SOMETHING THAT  
11 COULD BE INFERRED FROM THESE NUMBERS OR NOT. I DON'T  
12 KNOW. I DON'T BELIEVE I EXPLICITLY DISCUSS HOW MANY  
13 END IN RUN-OFFS VERSUS OUTRIGHT WINS, IF THAT'S YOUR  
14 QUESTION.

15 Q THANK YOU.

16 AND A CANDIDATE WHO ADVANCES TO A RUNOFF MAY  
17 ULTIMATELY GO TO LOSE THAT RUNOFF ELECTION. IS THAT  
18 CORRECT?

19 A OF COURSE, YES.

20 Q AND NOWHERE IN YOUR REPORT DO YOU STATE HOW  
21 MANY OF THOSE CANDIDATES FROM TABLE 1 WHO ADVANCED TO  
22 THE RUNOFF ACTUALLY WON THE RUNOFF. IS THAT CORRECT?

23 A THAT'S -- NOT EXPLICITLY. IN OTHER WORDS,  
24 WE DON'T FOLLOW THEM FROM TABLE 1 FORWARD, OTHER THAN  
25 THAT IN TABLE 2 WE ANALYZE THE ELECTIONS THAT ARE

10:36a

1 RUNOFFS. AND PRESUMABLY THOSE ALL CAME FROM CASES IN  
2 WHICH SOMEBODY GOT THROUGH THE PRIMARY TO GET TO THE  
3 RUNOFF.

4 Q BUT JUST TO CONFIRM, THAT THIS TABLE WHICH  
5 DOES NOT ADDRESS THAT ISSUE -- NOWHERE IN YOUR REPORT  
6 DO YOU STATE THAT IN THIS TABLE HOW MANY OF THE  
7 CANDIDATES ADVANCED TO THE RUNOFF AND ACTUALLY WON  
8 THE RUNOFF?

9 A NO, THAT'S CORRECT.

10 Q SO NOW TURNING TO TABLE 3 ON PAGE B-14 OF  
11 THE APPENDIX. SO TABLE 3 WAS CONSTRUCTED IN THE SAME  
12 WAY AS TABLE 1 BUT INCLUDED ONLY ELECTIONS WITH BLACK  
13 CANDIDATES. IS THAT CORRECT?

14 A I BELIEVE SO, YES.

15 Q AND SO THE WIN RATES WERE CONSTRUCTED IN THE  
16 SAME WAY AS THEY WERE IN TABLE 1. IS THAT CORRECT?

17 A THAT'S CORRECT.

18 Q AND FOR TABLE 3 YOU ALSO DON'T REPORT THE  
19 NUMBER OF ELECTIONS THAT RESULTED IN AN OUTRIGHT WIN.  
20 IS THAT CORRECT?

21 A NOT IN THE TABLE, NO.

22 THE REPORTER: I'M SORRY. "NOT" --

23 THE WITNESS: NOT IN THE TABLE, NO. I'M  
24 SORRY. LET ME MOVE THE MICROPHONE.

25 BY MS. ROHANI:

10:37a

1 Q AND THEN TURNING BACK TO PAGE 6. SO IN  
2 TABLE 2 YOU LOOKED AT TWO CANDIDATE CONTESTS. AND  
3 THE DEFINITION THAT YOU PRESENT IS: TABLE 2 PRESENTS  
4 RESULTS FOR GENERAL ELECTIONS AND TWO-CANDIDATE  
5 PRIMARY ELECTIONS THAT INCLUDED A BLACK CANDIDATE.  
6 DID I READ THAT CORRECTLY?

7 A I BELIEVE SO.

8 Q AND SO WIN FOR PURPOSES OF TABLE 2 MEANS  
9 WHOEVER OF THE TWO CANDIDATES ACTUALLY WON THE SEAT.  
10 IS THAT CORRECT?

11 A YES.

12 Q SO NOW TURNING BACK TO PAGE B-20. B-20 OF  
13 THE APPENDIX. THANK YOU.

14 SO THIS IS TABLE 4. NOW, TABLE 4 WAS  
15 CONSTRUCTED IN THE SAME WAY AS TABLE 2 BUT INCLUDED  
16 ONLY ELECTIONS WITH BLACK CANDIDATES. IS THAT  
17 CORRECT?

18 A YES.

19 Q AND SO THE WIN RATES IN TABLE 4 WERE  
20 CONSTRUCTED IN THE SAME WAY AS THEY WERE FOR TABLE 2.  
21 IS THAT CORRECT?

22 A YES.

23 Q NOW, CAN WE PLEASE PULL UP LDTX 54 ON PAGE  
24 3.

25 SO DO YOU SEE THE SENTENCE THAT BEGINS WITH



10:38a

1 "THAT IS, TO SUCCEED" --

2 MS. ROHANI: AND IF, STEPHEN COULD HIGHLIGHT  
3 THAT. IT'S "THAT IS, TO SUCCEED IN" -- PERFECT.

4 BY MS. ROHANI:

5 Q DR. LEWIS, WOULD YOU MIND READING THE  
6 SENTENCE OUT LOUD FOR THE RECORD?

7 A SURE. "THAT IS, TO SUCCEED IN AN ELECTION  
8 IN LOUISIANA, A CANDIDATE MUST SURVIVE THE PRIMARY  
9 AND (IF NECESSARY) GO ON TO WIN THE RUNOFF. THE  
10 QUESTION IN ESTABLISHING WHETHER A DISTRICT HAS  
11 SUFFICIENT BVAP FOR BLACK-PREFERRED CANDIDATES TO WIN  
12 ELECTION IS EXACTLY WHETHER BVAP IS SUFFICIENT TO  
13 SUPPORT SUCCESS AT BOTH STAGES."

14 Q THANK YOU.

15 SO THE BVAP SUFFICIENT -- THE BVAP  
16 SUFFICIENT TO SUPPORT SUCCESS AT BOTH STAGES IS THE  
17 BVAP THAT WAS PRESENTED IN TABLES 2 AND 4. CORRECT?

18 A THE -- I'M TRYING TO MAKE SURE THAT I  
19 UNDERSTAND THE QUESTION. MAYBE IF YOU COULD JUST TRY  
20 AND RESTATE IT ONE MORE TIME FOR ME. I DON'T MEAN TO  
21 BE DIFFICULT.

22 Q NO PROBLEM. SO THE SENTENCE THAT YOU JUST  
23 READ --

24 A YEAH.

25 Q -- STATED THAT THE -- I'M JUST GOING TO

10:39a

1 REPEAT IT. THE QUESTION IN ESTABLISHING WHETHER A  
2 DISTRICT HAS SUFFICIENT BVAP FOR BLACK-PREFERRED  
3 CANDIDATES TO WIN IS EXACTLY WHETHER THE BVAP IS  
4 SUFFICIENT TO SUPPORT SUCCESS AT BOTH STAGES.

5 AND THEN SO MY QUESTION WAS: THAT THE BVAP  
6 SUFFICIENT TO SUPPORT SUCCESS OF BOTH STAGES IS ONLY  
7 PRESENT IN TABLES 2 AND 4. IS THAT CORRECT?

8 A WELL, IF IT WERE THE CASE THAT IN TABLES 1  
9 AND 3 THE BVAP REQUIRED TO ESCAPE THE PRIMARY AND  
10 REACH A RUNOFF HAD BEEN -- WERE HIGHER THAN THOSE IN  
11 TABLES 2 AND 4, THEN I DON'T THINK THAT WHAT YOU SAID  
12 WOULD BE CORRECT. IN OTHER WORDS, THE BINDING  
13 CONSTRAINT COULD BE THE PRIMARY STAGE.

14 Q BUT YOU DID JUST STATE THAT -- ARE THERE ANY  
15 DISTRICTS LIKE THAT IN YOUR REPORT?

16 A I DON'T -- I DON'T RECALL. I KNOW GENERALLY  
17 SPEAKING THE MINIMUM REQUIRED TO SUCCEED IS HIGHER --  
18 NECESSARY MINIMUM REQUIRED TO SUCCEED IS HIGHER IN  
19 THE RUNOFF FOR TWO-CANDIDATE ELECTIONS THAN IN THE  
20 FIRST STAGE OR PRIMARY ELECTIONS.

21 Q SO IS IT FAIR TO SAY THAT THE  
22 BLACK-PREFERRED CANDIDATE WOULD WIN IF -- IF WE'RE  
23 LOOKING AT WHETHER THE BLACK-PREFERRED CANDIDATE TO  
24 WIN IF A RUNOFF IS REQUIRED, YOU WOULD NEED TO LOOK  
25 AT THE BVAPs IN TABLES 2 AND 4?

10:41a

1           A     YES. YOU WOULD NEED TO -- WELL, I MEAN,  
2 YOU -- IN GENERAL YOU WOULD NEED TO LOOK AT BOTH.  
3 AND THEN AS IT IS REQUIRED TO WIN BOTH ELECTIONS IN  
4 ORDER TO SUCCEED, YOU COULD LOOK AT THE LARGER OF  
5 THOSE TWO NUMBERS AS BEING THE MINIMUM REQUIRED.

6           Q     AND JUST TO CONFIRM, THESE DEFINITIONS OF  
7 WIN THAT WE JUST DISCUSSED, THEY APPLY TO YOUR WIN  
8 RATES?

9           A     YES.

10          Q     AND DO THEY -- THEY APPLY TO YOUR  
11 PERCENT-NEEDED-TO-WIN FIGURES AS WELL. IS THAT  
12 CORRECT?

13          A     YES.

14          Q     SO YESTERDAY YOU TESTIFIED ABOUT WHAT YOU  
15 CALLED A THOUGHT EXPERIMENT. AND IN THAT THOUGHT  
16 EXPERIMENT THAT YOU DISCUSSED YESTERDAY, THE  
17 DISTRICTS IN THE ILLUSTRATIVE PLAN THAT ARE OVER 50  
18 PERCENT BVAP, THEY COULD PERFORM AT LESS THAN 50  
19 PERCENT BVAP AS WELL. CORRECT?

20          A     THAT'S WHAT THE ESTIMATES SUGGEST IN I THINK  
21 MOST ALL CASES, YES.

22          Q     AND MEANING THAT YOUR PERCENT NEEDED TO WIN  
23 IN THOSE DISTRICTS IS LESS THAN 50 PERCENT?

24          A     YES.

25          Q     SO YOU WOULD AGREE THAT IF YOU CHANGED THE

10:42a

1 BOUNDARIES OF A DISTRICT IN A WAY THAT REDUCED THE  
2 BVAP OF THE DISTRICT, THAT WOULD CHANGE WHICH VOTERS  
3 ARE IN THE DISTRICT?

4 A CERTAINLY.

5 Q AND THEN YOU'D HAVE TO RUN A NEW EI ANALYSIS  
6 TO UNDERSTAND THE VOTING PATTERNS IN THAT NEW  
7 DISTRICT?

8 A ONCE YOU DRAW IT, THEN YOU COULD DO THAT,  
9 YES.

10 Q YOU COULD DO THAT OR YOU WOULD NEED TO RUN A  
11 NEW EI ANALYSIS?

12 A WELL, FOR WHAT PURPOSE?

13 Q IN ORDER TO UNDERSTAND THE VOTING PATTERNS  
14 IN THE NEW DISTRICT. BECAUSE YOU JUST AGREED THAT IF  
15 YOU CHANGE THOSE BOUNDARIES IN THE DISTRICT WHICH  
16 CHANGES THE BVAP, IN ORDER TO UNDERSTAND THE VOTING  
17 PATTERNS YOU WOULD HAVE TO RUN A NEW EI ANALYSIS FOR  
18 THAT DISTRICT. IS THAT CORRECT?

19 A YEAH. YOU COULD DO THAT, YES.

20 Q YOU COULD OR YOU HAVE TO? AGAIN, IN ORDER  
21 TO UNDERSTAND THE VOTING PATTERNS IN THAT NEW  
22 DISTRICT, WHICH IS DIFFERENT THAN THE PREVIOUS ONE,  
23 DO YOU HAVE TO OR COULD YOU?

24 A IT DEPENDS ON HOW MUCH OF A CHANGE YOU MADE  
25 AND WOULD YOU NEED TO ANALYZE IT AGAIN TO MAKE A GOOD

10:43a

1 INFERENCE ABOUT WHAT THE LIKELY EFFECT WOULD BE. BUT  
2 YEAH, I MEAN, ULTIMATELY ONCE YOU'VE DRAWN YOUR  
3 DISTRICTS, I THINK I WOULD WANT TO DO THE ANALYSIS ON  
4 THOSE DISTRICTS HAVING THEM HAD BEEN DRAWN.

5 Q TO UNDERSTAND A GOOD INFERENCE, YOU WOULD  
6 PERSONALLY DO THAT; RUN A NEW EI ANALYSIS?

7 A AGAIN, I -- I THINK THAT THE ANSWER TO THAT  
8 IS YES. BUT I'M NOT SURE THAT THAT -- YOU KNOW,  
9 I'M -- AGAIN, THE THOUGHT EXPERIMENT WOULD DEVIATE  
10 VERY MUCH FROM THAT -- FROM THAT ANSWER.

11 Q AND THEN YOU'D HAVE TO RECALCULATE THE  
12 PERCENT NEEDED TO WIN?

13 A YES. OR YOU CAN RECALCULATE THE -- I MEAN,  
14 YOU WOULD. IF YOU GOT NEW ESTIMATES, THEN YOU WOULD  
15 HAVE TO RECALCULATE, YES.

16 Q SO THE PERCENT NEEDED TO WIN IN THAT  
17 DISTRICT MIGHT BE DIFFERENT?

18 A IN ANY DISTRICT THAT YOU DREW IT MIGHT BE  
19 DIFFERENT. SO THE THOUGHT EXPERIMENT, AGAIN, AS WE  
20 TALKED ABOUT YESTERDAY, HOLDS CERTAIN THINGS CONSTANT  
21 THAT IN REALITY MIGHT NOT BE CONSTANT.

22 Q SO I'D LIKE TO TAKE AN EXAMPLE.

23 MS. ROHANI: STEPHEN, CAN YOU PULL UP LDTX  
24 52 AT B-21 OF THE APPENDIX. B-21 WOULD BE THE PAGE.  
25 BY MS. ROHANI:

10:44a

1 Q AND THIS IS YOUR INITIAL REPORT, DR. LEWIS.  
2 THANK YOU.

3 SO I'D LIKE TO LOOK AT -- ACTUALLY, IS IT  
4 YOUR UNDERSTANDING THAT ENACTED DISTRICT 69 AND  
5 ILLUSTRATIVE DISTRICT 69 OVERLAP?

6 MS. MCKNIGHT: OBJECTION. BEYOND THE SCOPE  
7 OF HIS OPINION; OVERLAP BETWEEN DISTRICTS ENACTED AND  
8 SIMULATED IN THE ILLUSTRATIVE.

9 THE COURT: YOU CAN RESPOND.

10 MS. ROHANI: YOUR HONOR, THIS IS ABOUT HIS  
11 UNDERSTANDING OF HIS NUMBERS THAT HE STATED HIMSELF  
12 WERE HIS OPINIONS AND CONCLUSIONS.

13 THE COURT: I'M GOING TO ALLOW IT.  
14 OVERRULED.

15 BY MS. ROHANI:

16 Q SO, DR. LEWIS, AGAIN, IS IT YOUR  
17 UNDERSTANDING THAT ENACTED DISTRICT 69 AND  
18 ILLUSTRATIVE DISTRICT 69 OVERLAP?

19 A I DON'T KNOW IF THEY OVERLAP OR NOT.

20 Q SO JUST LOOKING AT YOUR TABLES, ENACTED  
21 DISTRICT 69 IS 23.7 PERCENT BVAP. DID I READ THAT  
22 CORRECTLY?

23 A YES.

24 Q AND ILLUSTRATIVE DISTRICT 69, WHICH WOULD BE  
25 ON THE NEXT PAGE -- ON B-23. WE CAN TURN TO THAT,

10:46a

1 TWO PAGES LATER.

2 SO ILLUSTRATIVE DISTRICT 69, HOUSE DISTRICT  
3 69, IS 50.2 PERCENT BVAP. IS THAT CORRECT?

4 A YES.

5 Q AND THEN TURNING BACK TO B-21, IN TABLE 4  
6 YOUR PERCENT NEEDED TO WIN FOR ENACTED DISTRICT 69 IS  
7 60 PERCENT. IS THAT CORRECT?

8 A YES.

9 Q AND THEN TURNING BACK TO B-23 TO TABLE 4,  
10 YOUR PERCENT NEEDED TO WIN IN ILLUSTRATIVE DISTRICT  
11 69 IS 42 PERCENT. IS THAT CORRECT?

12 A YES.

13 Q AND THAT'S BECAUSE THERE ARE DIFFERENT  
14 VOTERS IN ENACTED DISTRICT 69 THAN ILLUSTRATIVE  
15 DISTRICT 69. IS THAT CORRECT?

16 A I ASSUME SO, YES.

17 Q YOU ASSUME SO?

18 A WELL, I -- YOU KNOW, I DON'T ACTUALLY KNOW  
19 HOW MANY OF THE VOTERS ARE THE SAME VOTERS OR  
20 DIFFERENT VOTERS OR --

21 Q OF COURSE.

22 A SO THAT WOULD EXPLAIN THE DIFFERENCE, YES.

23 Q SO IN THE ENACTED PLAN, ARE YOU -- WE CAN  
24 PULL THIS DOWN.

25 ARE YOU AWARE OF ANY DISTRICTS THAT ARE NOT

10:47a

1 MAJORITY BLACK THAT WHERE THE WIN RATE YOU CALCULATED  
2 IS OVER 30 PERCENT?

3 A I HAVEN'T THOUGHT ABOUT THAT NUMBER, SO I  
4 DON'T KNOW. I'M NOT -- ACTUALLY, IT'S FAIR TO SAY  
5 I'M NOT AWARE. I DON'T THINK IT'S FAIR TO SAY THAT  
6 I -- THAT THERE ARE OR AREN'T ANY ON THE BASIS OF  
7 WHETHER I'M AWARE.

8 Q OKAY. I WILL SUBMIT TO YOU THAT I LOOKED  
9 THROUGH YOUR TABLES AND WAS ONLY ABLE TO FIND ONE,  
10 WHICH IS HOUSE DISTRICT 91. DO YOU AGREE WITH THAT?

11 A I BELIEVE THAT YOU WOULD NOT LIE TO ME.

12 Q THANK YOU.

13 DO YOU KNOW IF THAT DISTRICT IS MAJORITY  
14 WHITE?

15 A I DO NOT KNOW.

16 Q AND WOULD IT SURPRISE YOU TO FIND OUT THAT  
17 THIS DISTRICT IS ACTUALLY A MAJORITY-MINORITY  
18 DISTRICT?

19 A WOULD IT SURPRISE ME? I GUESS I -- I  
20 HAVEN'T GIVEN THAT QUESTION VERY MUCH THOUGHT,  
21 EITHER. IT'S CERTAINLY POSSIBLE. I KNOW THAT THERE  
22 ARE DISTRICTS WHERE THE OTHER POPULATION -- AND I'D  
23 BE LESS FAMILIAR WITH WHAT THE CENSUS BREAKDOWN WOULD  
24 BE BECAUSE I WAS MORE IN THE VOTING SIDE OF THE  
25 EQUATION HERE AND JUST MAKING SOME ADJUSTMENTS FOR



10:48a

1 TURNOUT AT THE END.

2 BUT THERE ARE PLACES WHERE THERE IS A  
3 SIGNIFICANT OTHER POPULATION, SO I KNOW THERE TO BE  
4 DISTRICTS WHICH ARE MAJORITY-MINORITY BUT NOT  
5 MAJORITY BLACK. SO I KNOW SUCH THINGS EXIST. I  
6 COULDN'T TELL YOU WHETHER THE ONE YOU'RE REFERRING TO  
7 IS ONE OF THEM.

8 Q THANK YOU.

9 AND JUST TO CLARIFY, YOU'D AGREE WITH ME  
10 THAT A MAJORITY-MINORITY DISTRICT IN LOUISIANA IS ANY  
11 DISTRICT IN WHICH A MAJORITY OF THE VOTERS ARE  
12 NON-WHITE?

13 A I BELIEVE THAT YOU COULD DEFINE IT THAT WAY,  
14 YES.

15 Q THANK YOU.

16 AND SO JUST TO RETURN, ARE THERE ANY HOUSE  
17 DISTRICTS THAT ARE NOT MAJORITY BLACK WHERE THE WIN  
18 RATE IS ABOVE 30 PERCENT?

19 A I DON'T KNOW, AGAIN. MAYBE YOU WILL TELL ME  
20 THAT THAT'S THE CASE.

21 MS. ROHANI: JUST ONE MOMENT WHILE I CONFER  
22 WITH MY COLLEAGUES.

23 NO FURTHER QUESTIONS, YOUR HONOR.

24 THE COURT: ANY REDIRECT?

25 MS. MCKNIGHT: JUST ONE QUESTION.

10:49a

1 **REDIRECT EXAMINATION**

2 **BY MS. MCKNIGHT:**

3 **Q** DR. LEWIS, ARE YOU AWARE OF ANY EXPERT  
4 REPORT IN THIS MATTER THAT STUDIED THE OVERLAP  
5 PERCENTAGE OF ENROLLED, THE ENACTED DISTRICTS AS  
6 COMPARED TO THE ILLUSTRATIVE DISTRICTS, ON A  
7 DISTRICT-BY-DISTRICT BASIS?

8 **A** I'M NOT AWARE.

9 **MS. MCKNIGHT:** YOUR HONOR, I WOULD LIKE TO  
10 LODGE A STANDING OBJECTION TO ANY TESTIMONY OR  
11 PROVISION OF EVIDENCE THAT PLAINTIFFS WILL SEEK TO  
12 PUT FORWARD IN FINDINGS OF FACT, ET CETERA, THAT  
13 COMPARES THE ILLUSTRATIVE DISTRICT TO THE ENACTED  
14 PLAN AND THE POPULATION OVERLAP. THAT IS SOMETHING  
15 THAT COULD HAVE BEEN DONE BY AN EXPERT. IT WAS NOT  
16 DONE HERE. IT REQUIRES A COMPARISON OF PERCENTAGE OF  
17 POPULATION AND WHAT IT'S LIKE AND WHAT IT'S LIKE.  
18 IT'S DONE IN THESE CASES. IT WASN'T DONE HERE.

19 **THE COURT:** DO YOU WANT TO RESPOND?

20 **MS. KEENAN:** YES, YOUR HONOR. BECAUSE THIS  
21 IS AN OBJECTION TO THE FINDING OF FACT, MEGAN KEENAN  
22 FOR THE PLAINTIFFS RESPONDING.

23 **THE COURT:** GO AHEAD.

24 **MS. KEENAN:** MR. COOPER'S REPORT HAS  
25 DETAILED TABLES WITH THE POPULATION OF EACH, IN

10:50a

1 ADDITION TO MAPS THAT SHOW THE OVERLAPPING OF THE  
2 DISTRICTS, SO WE WOULD DEFINITELY DISAGREE ABOUT WHAT  
3 WE CAN PUT INTO THE FINDINGS OF FACT AS TO THAT  
4 POINT.

5 MS. MCKNIGHT: TO BE SPECIFIC, YOUR HONOR,  
6 WORDS MATTER HERE. I SAID DISTRICT-BY-DISTRICT  
7 BASIS, AND THAT'S IMPORTANT HERE. AND THAT WAS  
8 NOT -- THAT WAS NOT DONE BY MR. COOPER.

9 SO WE'LL -- WE NEED TO ASSERT THAT  
10 OBJECTION AND MAKE CLEAR ON THE RECORD THAT THAT WAS  
11 NOT DONE.

12 MS. KEENAN: AND, YOUR HONOR, WE CAN POINT  
13 YOU TO -- THE TABLES ARE ALL IN THE RECORD. THEY ARE  
14 DISTRICT BY DISTRICT AND MAY BREAK DOWN A DECENT  
15 AMOUNT OF INFORMATION ABOUT THE POPULATION.  
16 ADDITIONALLY, THE MAPS SHOW EACH DISTRICT, OF COURSE,  
17 SO YOU CAN SEE IT IN THE PHOTOS AS WELL.

18 THE COURT: WELL, THE COURT WILL TAKE --  
19 WILL CONSIDER THE OBJECTION AND TAKE IT UNDER  
20 CONSIDERATION IN RENDERING ITS RULING.

21 MS. MCKNIGHT: YOUR HONOR, ONE MORE ISSUE.  
22 I NEED -- I WOULD LIKE TO MOVE FOR THE ADMISSION OF  
23 THOSE FOUR LEWIS DEMONSTRATIVES. IT'S LEWIS 1  
24 THROUGH 4. THOSE ARE THE DEMONSTRATIVES WE DISCUSSED  
25 YESTERDAY. THEY ARE SUMMARIES UNDER RULE 1006 OF

10:51a

1 VOLUMINOUS DATA. THERE IS NO CHANGE FROM THE  
2 INFORMATION FROM HIS REPORT TO WHAT THEY APPEAR ON  
3 THE DEMONSTRATIVES.

4 MS. ROHANI: SUBJECT TO OUR OBJECTION THAT  
5 THE INFORMATION ABOUT PERCENT NEEDED TO WIN IS  
6 IRRELEVANT, WE HAVE NO OBJECTIONS TO THE EXHIBITS  
7 BEING INTRODUCED.

8 THE COURT: WHAT ARE YOUR EXHIBIT NUMBERS?

9 MS. MCKNIGHT: SO THIS WOULD BE -- I BEG  
10 YOUR PARDON, YOUR HONOR.

11 THANK YOU, YOUR HONOR. WE WILL SUBMIT  
12 THAT AS LDTX 62. AND THOSE ARE LEWIS 1 THROUGH 4  
13 DEMONSTRATIVES.

14 THE COURT: ADMITTED.

15 MS. MCKNIGHT: THANK YOU, YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN. THANK YOU,  
17 SIR.

18 THE WITNESS: THANK YOU.

19 (OFF THE RECORD)  
20  
21  
22  
23  
24  
25

10:52a

1           **THE COURT:** OKAY. NEXT WITNESS.

2           **MR. STRACH:** WE DON'T HAVE ANY FURTHER  
3 WITNESSES AT THIS TIME. WE'LL MOVE THE ADMISSION OF  
4 ANY EXHIBITS THAT WE NEED TO MOVE IN, PLUS A PROFFER.  
5 WE'LL DO A PROFFER OF SOLANKY'S REPORT. AND I THINK  
6 MR. LEWIS WANTS TO ADDRESS THE PROFFER OF PARTS OF  
7 THE DOUG JOHNSON REPORT.

8           **THE COURT:** OKAY. SO LET'S START WITH  
9 WHATEVER EXHIBITS THAT YOU THINK YOU NEED TO MOVE IN.

10           **MS. HOLT:** YES, YOUR HONOR. WE HAVE NO  
11 FURTHER EXHIBITS FOR THE RECORD AT THIS TIME. BUT WE  
12 DO WANT TO MAKE A PROFFER.

13                   MY NAME IS CASSIE HOLT ON BEHALF OF  
14 SECRETARY ARDOIN. AND PURSUANT TO RULE 103 AND FOR  
15 THE REASONS SET FORTH IN RECORD DOCUMENT 160,  
16 DEFENDANTS PROFFER DR. SOLANKY'S THREE EXPERT  
17 REPORTS, WHICH WERE PREVIOUSLY UPLOADED TO JERS AT  
18 SOS 2, WHICH IS ENTITLED "EXPERT REPORT OF TUMULESH"  
19 -- THAT'S T-U-M-U-L-E-S-H -- "K. SOLANKY" -- THAT'S  
20 S-O-L-A-N-K-Y -- "PH.D." DATED JULY 28, 2023.

21                   ADDITIONALLY, THAT'S SOS 5, WHICH IS  
22 DR. SOLANKY'S REBUTTAL REPORT DATED AUGUST 21, 2023,  
23 AND SOS 39, WHICH IS DR. SOLANKY'S SUPPLEMENTAL  
24 REPORT DATED OCTOBER 27, 2023.

25           **THE COURT:** THE FIRST REPORT -- I'M SORRY, I

10:54a

1 JUST DIDN'T WRITE THE EXHIBIT NUMBER DOWN. HIS  
2 INITIAL REPORT WAS EXHIBIT NUMBER WHAT?

3 MS. HOLT: SOS 2, YOUR HONOR.

4 THE COURT: 2.

5 ALL RIGHT. THE COURT WILL ADMIT 2, 5  
6 AND 39 AS PROFFERS AND THAT --

7 MS. GIGLIO: YOUR HONOR --

8 THE COURT: YOU MAY BE HEARD, YES.

9 MS. GIGLIO: I APOLOGIZE, YOUR HONOR, FOR  
10 INTERRUPTING.

11 THE COURT: GO AHEAD. YOU MAY BE HEARD.

12 MS. GIGLIO: WE'D JUST LIKE TO MAINTAIN THE  
13 OBJECTIONS TO DR. SOLANKY'S REPORTS AS ARTICULATED IN  
14 THE MOTION IN LIMINE PRACTICE BEFORE THIS COURT AND  
15 AS ARTICULATED IN YOUR HONOR'S DECISION ON DR.  
16 SOLANKY'S TESTIMONY.

17 WE WOULD ALSO FURTHER OBJECT TO THE  
18 PROFFER OF DR. SOLANKY'S SUPPLEMENTAL REPORT. THAT'S  
19 AT SOS 39 I BELIEVE, AS COUNSEL REPRESENTED. TO THE  
20 EXTENT THAT DR. SOLANKY'S SUPPLEMENTAL REPORT GOES  
21 BEYOND RESPONDING TO DR. HANDLEY'S SUPPLEMENTAL  
22 REPORT WHICH WAS PREVIOUSLY ADMITTED TO THIS COURT AS  
23 PLAINTIFFS' EXHIBIT 19 -- 16 THROUGH 19, YOUR HONOR.

24 THE COURT: OKAY. THE COURT OF APPEAL WILL  
25 TAKE UP YOUR OBJECTIONS IN THE EVENT THAT THE COURT

10:55a

1 DETERMINES THAT THE MOTION IN LIMINE EXCLUDING DR.  
2 SOLANKY'S PROPOSED OPINION TESTIMONY WAS EXCLUDED BY  
3 THE COURT.

4 EXHIBITS 2, 5 AND 39 ARE ADMITTED AS  
5 PROFFER EXHIBITS. AND COUNSEL FOR THE DEFENDANTS ARE  
6 INSTRUCTED TO AMEND YOUR JERS DESCRIPTION TO SHOW  
7 "PROFFER," SO THAT WHEN IT GOES TO THE COURT OF  
8 APPEAL THERE IS NO CONFUSION ABOUT WHAT'S PART OF THE  
9 PROFFER AND WHAT'S PART OF THE RECORD.

10 SO THE FIRST -- THE FIRST WORDS IN YOUR  
11 DESCRIPTION SHOULD SAY "PROFFER" AND THEN SAY, YOU  
12 KNOW, "DR. SOLANKY REPORT" OR WHATEVER.

13 **MS. GIGLIO:** AND, YOUR HONOR, FOR THE SAKE  
14 OF THE RECORD -- MY NAME IS AMANDA GIGLIO ON BEHALF  
15 OF PLAINTIFFS. AND I JUST WANT TO BE CLEAR, YOUR  
16 HONOR, THAT OUR OBJECTION TO USE DR. SOLANKY'S REPORT  
17 OR DR. SOLANKY'S SUPPLEMENTAL REPORT AT SOS 39 IS  
18 THAT ANY PORTIONS OF IT THAT GO BEYOND DR.  
19 HANDLEY'S -- BEYOND RESPONDING TO DR. HANDLEY'S OWN  
20 SUPPLEMENTAL REPORT ARE UNTIMELY.

21 **THE COURT:** OKAY. IT'S NOTED FOR THE  
22 RECORD.

23 **MS. HOLT:** YES. AND, YOUR HONOR, IF I MAY  
24 BRIEFLY RESPOND.

25 **THE COURT:** YOU MAY.

10:56a

1           **MS. HOLT:** SOS 39 IS DIRECTLY IN RESPONSE TO  
2 DR. HANDLEY'S SUPPLEMENTAL REPORT, WHICH DEFENDANTS  
3 MAINTAIN WAS UNTIMELY. THANK YOU.

4           **THE COURT:** OKAY. ANYTHING ELSE THAT THE  
5 DEFENDANTS NEED TO TAKE CARE OF IN THE WAY OF  
6 HOUSEKEEPING OR PROFFERS BEFORE YOU CLOSE --  
7 BEFORE YOU REST?

8           **MR. LEWIS:** YES. YOUR HONOR, PATRICK LEWIS  
9 ON BEHALF OF THE LEGISLATIVE DEFENDANTS.

10                   YOUR HONOR, YOUR RULING ON THE MOTION  
11 IN LIMINE EXCLUDED PORTIONS BUT NOT THE ENTIRETY OF  
12 THE TWO REPORTS OF DR. DOUGLAS JOHNSON AT LDTX 51 AND  
13 58. YOUR HONOR DIRECTED US TO PREPARE A REDACTED  
14 VERSION OF THOSE TWO EXHIBITS THAT REDACTED THE  
15 EXCLUDED PORTIONS.

16                   I AM PLEASED TO REPORT TO THE COURT  
17 THAT WE HAVE MET AND CONFERRED WITH PLAINTIFFS'  
18 COUNSEL AND, AS OF ROUGHLY 20 MINUTES AGO, HAVE FINAL  
19 REDACTED VERSIONS. WE WOULD PROPOSE TO UPLOAD THOSE  
20 AT THE NEXT BREAK.

21           **THE COURT:** SO YOUR REDACTED VERSIONS WILL  
22 BE 1 AND 58. IS THAT CORRECT?

23           **MR. LEWIS:** 51 AND 58. YES, YOUR HONOR.

24           **THE COURT:** 51 AND 58. OKAY.

25           **MR. LEWIS:** YES, YOUR HONOR.



10:58a

1 AND THEN I UNDERSTAND -- AND WE WILL  
2 VERIFY AT THE BREAK -- THAT THE UNREDACTED VERSIONS  
3 HAVE BEEN RELABELED AS LDTX 51-A AND LDTX 58-A. AND  
4 THOSE UNREDACTED VERSIONS, YOUR HONOR, PURSUANT TO  
5 RULE OF EVIDENCE 103 AND FOR THE REASONS STATED ON  
6 THE RECORD, AS WELL AS IN RECORD DOCUMENT NO. 160, WE  
7 WOULD PROFFER IS THE TESTIMONY OF AND OPINIONS OF  
8 DR. JOHNSON, THE SUBSTANCE OF THAT TESTIMONY AND  
9 OPINIONS THAT HE WOULD HAVE PROVIDED IF HE WOULD HAVE  
10 BEEN ALLOWED TO TESTIFY AS TO THOSE ISSUES.

11 THE COURT: DO YOU WANT TO BE HEARD?

12 MS. KEENAN: YOUR HONOR, I BELIEVE THAT WE  
13 MADE THE OBJECTION AT THE TIME THAT THE REPORTS WERE  
14 ATTEMPTED TO BE ADMITTED DURING DR. JOHNSON'S DIRECT.  
15 WE WOULD STAND AGAIN ON THE MOTIONS IN LIMINE  
16 PRACTICE AS WELL AS THE RULINGS ARTICULATED IN YOUR  
17 HONOR'S ORDER AS TO WHY THE PORTIONS OF MISTER -- OF  
18 DR. JOHNSON'S REPORT SHOULD BE EXCLUDED.

19 AND I WOULD OTHERWISE JUST REPRESENT  
20 THAT MR. LEWIS IS CORRECT THAT WE AGREED TO THE  
21 REDACTED PORTIONS THAT CAN BE ADMITTED INTO THE  
22 RECORD.

23 THE COURT: OKAY. SO HERE'S WHAT I WANT YOU  
24 TO DO. ON 51-A AND 58-A -- IS IT THE FULL REPORT ALL  
25 OVER AGAIN?

10:59a

1           **MR. LEWIS:** YES, IT IS LITERALLY THE  
2 ORIGINAL VERSIONS OF 51 AND 58 RELABELED.

3           **THE COURT:** WHY DON'T YOU JUST PUT THE  
4 REDACTED VERSIONS IN SO WE DON'T HAVE SO VOLUMINOUS A  
5 RECORD? I'M ACTUALLY JUST TRYING TO SAVE SOME --  
6 WHAT?

7           **THE COURTROOM DEPUTY:** I'VE ALREADY MARKED  
8 THEM "PROFFERED" AND "UNDER SEAL," THE AS.

9           **THE COURT:** OKAY. THEY'RE ALREADY IN JERS  
10 AS 51-A AND 58-A AS PROFFER AND UNDER SEAL. AND THE  
11 SAME NAMING NOMENCLATURE WILL APPLY TO THE  
12 DR. JOHNSON PROFFER AS APPLIED TO THE DR. SOLANKY  
13 PROFFER. OKAY?

14           **MR. LEWIS:** THANK YOU, YOUR HONOR.

15           **THE COURT:** YOU'RE WELCOME.

16           **MS. KEENAN:** YOUR HONOR, IF I MAY BRIEFLY  
17 CLARIFY ONE OTHER THING NOT RELATED TO DR. JOHNSON  
18 BUT RELATED TO MS. MCKNIGHT'S OBJECTION RELATED TO  
19 THE OVERLAPPING DISTRICTS.

20                   JUST FOR THE CLARITY OF THE RECORD, THE  
21 COOPER EXHIBITS AND REPORT THAT I WAS SPEAKING ABOUT  
22 CAN BE FOUND AT EXHIBIT 20, PARAGRAPHS 92 AND 120, AS  
23 WELL AS EXHIBITS 56, 57, 58, 59, 75, 76, 77 AND 78,  
24 JUST SO THE RECORD IS CLEAR ON THAT ISSUE.

25           **MS. MCKNIGHT:** YOUR HONOR, I NEED TO

11:00a

1 WITHDRAW MY OBJECTION. I'VE BEEN CORRECTED, AND I  
2 WANT TO MAKE CLEAR THAT I WITHDRAW THAT OBJECTION.

3 THE COURT: THANK YOU FOR YOUR  
4 PROFESSIONALISM.

5 MS. MCKNIGHT: THANK YOU.

6 THE COURT: ALL RIGHT.

7 MR. STRACH: THANK YOU, YOUR HONOR. PHIL  
8 STRACH.

9 ALL OF THE DEFENDANTS REST.

10 THE COURT: THE DEFENDANTS AND THE  
11 INTERVENING DEFENDANTS ARE RESTING?

12 MR. STRACH: CORRECT.

13 THE COURT: OKAY.

14 ALL RIGHT. IS THERE ANY REBUTTAL?

15 MS. GIGLIO: YES, YOUR HONOR. PLAINTIFFS  
16 CALL DR. MARVIN KING TO THE STAND.

17 THE COURT: I'M SO SORRY. I WAS READING  
18 SOMETHING. WHAT -- WHO ARE YOU CALLING?

19 MS. GIGLIO: PLAINTIFFS CALL REBUTTAL  
20 WITNESS DR. MARVIN P. KING TO THE STAND.

21 (WHEREUPON, MARVIN P. KING, BEING DULY  
22 SWORN, TESTIFIED AS FOLLOWS.)

23 MS. GIGLIO: YOUR HONOR, MAY I APPROACH THE  
24 WITNESS TO HAND HIM A COPY OF HIS REPORT?

25 THE COURT: YOU MAY.

11:01a

1           **THE COURTROOM DEPUTY:** WOULD YOU PLEASE  
2 STATE YOUR NAME AND SPELL IT FOR THE RECORD, PLEASE.

3           **THE WITNESS:** MARVIN KING. M-A-R-V-I-N,  
4 K-I-N-G.

5           **MS. GIGLIO:** AND GOOD MORNING AGAIN. THIS  
6 IS AMANDA GIGLIO, G-I-G-L-I-O, ON BEHALF OF  
7 PLAINTIFFS.

8   **VOIR DIRE**

9 **BY MS. GIGLIO:**

10           **Q** GOOD MORNING, DR. KING.

11           **A** GOOD MORNING.

12           **Q** CAN YOU PLEASE SHARE YOUR EDUCATIONAL  
13 BACKGROUND WITH THE COURT, STARTING WITH COLLEGE?

14           **A** I HAVE A DEGREE IN GOVERNMENT FROM THE  
15 UNIVERSITY OF TEXAS AT AUSTIN AND A PH.D. FROM THE  
16 UNIVERSITY OF NORTH TEXAS IN POLITICAL SCIENCE, 2005.

17           **Q** SO YOU RECEIVED YOUR PH.D. IN 2005?

18           **A** YES.

19           **Q** AND WHAT WAS THE FOCUS OF YOUR PH.D.  
20 RESEARCH, DR. KING?

21           **A** AFRICAN-AMERICAN VOTING BEHAVIOR.

22           **Q** WHAT WAS YOUR DISSERTATION ABOUT?

23           **A** WHY AFRICAN AMERICANS VOTE THE WAY THEY DO,  
24 SPECIFICALLY THEIR PARTISANSHIP, GIVEN THAT IT'S BEEN  
25 SO CONSISTENTLY DEMOCRATIC FOR SO MANY YEARS BEYOND

11:02a

1 THE CIVIL RIGHTS MOVEMENT.

2 Q WHAT HAVE YOU DONE SINCE RECEIVING YOUR  
3 PH.D., DR. KING?

4 A I HAVE BEEN A PROFESSOR -- ASSOCIATE  
5 PROFESSOR OF POLITICAL SCIENCE WITH A JOINT  
6 APPOINTMENT IN AFRICAN-AMERICAN STUDIES AT THE  
7 UNIVERSITY OF MISSISSIPPI.

8 Q DO YOU HAVE TENURE AT THE UNIVERSITY OF  
9 MISSISSIPPI?

10 A I DO. I'M A ASSOCIATE PROFESSOR WITH THAT  
11 JOINT APPOINTMENT.

12 Q WHAT ARE YOUR AREAS OF RESEARCH?

13 A AFRICAN-AMERICAN VOTING BEHAVIOR. AND RIGHT  
14 NOW I'M WRITING A BOOK MANUSCRIPT ON ECONOMIC AND  
15 WEALTH INEQUALITY AND HOW IT AFFECTS POLITICS BUT  
16 SPECIFIC TO BLACK AMERICANS.

17 Q DO YOU STUDY AFRICAN-AMERICAN POLITICS?

18 A YES.

19 Q WHAT IS AFRICAN-AMERICAN POLITICS?

20 A AFRICAN-AMERICAN POLITICS IS UNDERSTANDING  
21 THAT BLACKS AS A NUMERIC MINORITY IN THE UNITED  
22 STATES HAVE ALWAYS HAD A DIFFERENT POLITICAL  
23 EXPERIENCE. SO WHEN WE THINK OF AFRICAN-AMERICAN  
24 POLITICS, AT LEAST IN MY CLASSES I EXPLAIN HOW IT'S  
25 BEEN A DIFFERENT POLITICAL ORIENTATION FOR BLACKS

11:03a

1 GOING ALL THE WAY BACK TO THE CONSTITUTION. WE'LL  
2 LOOK AT, FOR INSTANCE, THE IMPOSITION OF JIM CROW,  
3 HOW JIM CROW WAS OVERCOME LEGALLY AND THROUGH  
4 LEGISLATION AS WELL AS THROUGH THE COURTS, AND THEN  
5 CONTEMPORARY POLITICAL AND VOTING ISSUES TODAY.

6 Q AND ASIDE FROM YOUR DISSERTATION, DR. KING,  
7 HAVE YOU PUBLISHED ACADEMIC ARTICLES?

8 A YES, I HAVE.

9 Q ARE ALL OF THE ARTICLES THAT YOU'VE  
10 PUBLISHED REFLECTED ON YOUR C.V.?

11 A YES, THEY ARE.

12 Q WHAT'S THE GENERAL FOCUS OF YOUR ACADEMIC  
13 RESEARCH -- OR YOUR ACADEMIC ARTICLES? EXCUSE ME,  
14 DR. KING.

15 A AFRICAN-AMERICAN POLITICS, VOTING BEHAVIOR,  
16 DONATIONS, POLITICAL DONATIONS.

17 Q AND YOU MENTIONED THAT YOU'RE WORKING ON A  
18 BOOK MANUSCRIPT, DR. KING. CAN YOU TELL THE COURT A  
19 LITTLE BIT MORE ABOUT THE BOOK THAT YOU'RE WORKING  
20 ON?

21 A YES. SO I'M LOOKING AT INCOME AND WEALTH  
22 INEQUALITY AND HOW POLITICS AFFECTS THAT. AND SO,  
23 YOU KNOW, ONE OF THE POLITICAL MANIFESTATIONS OF  
24 POLITICAL INEQUALITY, IF YOU WILL, BEING A NUMERIC  
25 MINORITY, CAN MANIFEST ITSELF IN TERMS OF INCOME AND

11:04a

1 WEALTH INEQUALITY.

2 Q DR. KING, ARE YOU FAMILIAR WITH THE CONCEPT  
3 OF RACIALLY POLARIZED VOTING?

4 A YES, I AM.

5 Q CAN YOU BRIEFLY DESCRIBE RACIALLY POLARIZED  
6 VOTING FOR THE COURT?

7 A YES. RACIALLY POLARIZED VOTING IS WHEN YOU  
8 HAVE A MAJORITY OF ONE RACE VOTING AGAINST A MAJORITY  
9 OF ANOTHER RACE.

10 Q AND IS RACIALLY POLARIZED VOTING A TOPIC  
11 THAT YOU STUDY?

12 A YES. IT HAS APPEARED IN A COUPLE OF MY  
13 PUBLISHED WORKS AND IN THE CLASSES THAT I TEACH.

14 Q CAN YOU TELL US A LITTLE BIT ABOUT HOW IT  
15 COMES UP IN THE CLASSES THAT YOU TEACH?

16 A SO TWO CLASSES IN PARTICULAR -- I TEACH  
17 SEVERAL CLASSES, BUT TWO IN PARTICULAR THAT ARE  
18 RELEVANT TO THIS WOULD BE MY AFRICAN-AMERICAN  
19 POLITICS CLASS AS WELL AS POLITICS OF THE AMERICAN  
20 SOUTH.

21 Q CAN YOU TELL US A LITTLE BIT HOW ABOUT --  
22 CAN YOU TELL US A LITTLE BIT ABOUT HOW RACIALLY  
23 POLARIZED VOTING COMES UP IN YOUR POLITICS OF THE  
24 AMERICAN SOUTH CLASS?

25 A SURE. SO THAT CLASS IS ESSENTIALLY ABOUT

11:05a

1 PARTY CHANGE. THE AMERICAN SOUTH WAS LARGELY A  
2 ONE-PARTY DEMOCRATIC PARTY STRONGHOLD, BUT THEN  
3 BEGINNING IN THE 1960s IT TRANSITIONED TO REPUBLICAN  
4 PARTISANSHIP.

5 SO IN UNDERSTANDING AFRICAN-AMERICAN  
6 POLITICS HERE, THERE HAS LONG BEEN A RECOGNITION THAT  
7 BLACK AND WHITE VOTING BEHAVIOR HAS BEEN DIFFERENT,  
8 AND SO THAT HELPS EXPLAIN THE PARTY CHANGE FROM  
9 DEMOCRATIC PARTY DOMINANCE TO REPUBLICAN PARTY  
10 DOMINANCE IN THE SOUTH. MUCH OF THE LITERATURE  
11 ASSERTS THAT YOU HAD A RACE-BASED PARTISAN  
12 REALIGNMENT, SO YOU DID HAVE PARTY POLARIZATION BUT  
13 IT WAS BECAUSE OF A RACIAL TRIGGER.

14 Q CAN YOU TELL US A LITTLE BIT ABOUT HOW  
15 RACIALLY POLARIZED VOTING COMES UP IN YOUR AFRICAN-  
16 AMERICAN POLITICS CLASS?

17 A SURE. SO IT COMES UP LOTS OF WAYS. BUT  
18 JUST AS ONE EXAMPLE: SO IN MY CLASSES I MIGHT  
19 EXPLAIN, FOR INSTANCE, THE EXISTENCE OF, SAY, THE  
20 CONGRESSIONAL BLACK CAUCUS, OR AT THE STATE LEVEL YOU  
21 HAVE LEGISLATIVE BLACK CAUCUSES. AND SO THEN I HAVE  
22 TO EXPLAIN TO MY CLASS WHY WE HAVE BLACK CAUCUSES,  
23 WHAT TYPE OF DISTRICTS THEY REPRESENT. SO THAT LEADS  
24 INTO A DISCUSSION OF MAJORITY-MINORITY DISTRICTS. SO  
25 THEN I MIGHT EXPLAIN WHY WE HAVE MAJORITY-MINORITY



11:06a

1 DISTRICTS.

2 AND WHEN I SAY "WHY," YOU KNOW, THE PROCESS  
3 OF WHERE THE COURTS HAVE ALLOWED THESE TYPES OF  
4 DISTRICTS TO BE CREATED. SO ALL OF THAT, THOUGH, IS  
5 LAID ON A FOUNDATION THAT THERE IS RACIALLY POLARIZED  
6 VOTING AND, THEREFORE, WE HAVE THESE LEGAL, YOU KNOW,  
7 LEGISLATIVE AND JUDICIAL, YOU KNOW, EDICTS TO CREATE  
8 THESE MAJORITY-MINORITY DISTRICTS.

9 Q IS RACIALLY POLARIZED VOTING A TOPIC THAT  
10 YOU PUBLISH ON?

11 A YEAH. IT HAS COME UP IN A COUPLE OF THE  
12 ARTICLES I HAVE PUBLISHED.

13 Q CAN YOU POINT THOSE ARTICLES OUT TO THE  
14 COURT?

15 A SURE. SO POLITICAL RACIAL CYCLES, THE  
16 ELECTORAL CYCLES IN RACIAL POLARIZATION IN THE 2006  
17 SENATE ELECTIONS, AND THEN THE ELECTORAL GEOGRAPHY OF  
18 BLACK ELECTORAL SUCCESS.

19 Q AND AGAIN, BOTH OF THOSE ARTICLES ARE  
20 REFLECTED ON YOUR C.V. IS THAT RIGHT?

21 A YES, THAT IS CORRECT.

22 Q DR. KING, ARE YOU FAMILIAR WITH REGRESSION  
23 ANALYSIS?

24 A YES, I AM.

25 Q HOW DID YOU BECOME FAMILIAR WITH IT?

11:07a

1 A IN GRADUATE SCHOOL IN A METHODS COURSE.

2 Q DO YOU USE REGRESSION ANALYSIS IN YOUR WORK?

3 A YES, IT HAS COME UP IN MY WORK.

4 Q CAN YOU BRIEFLY DESCRIBE WHAT REGRESSION  
5 ANALYSIS IS FOR US?

6 A SURE. ESSENTIALLY REGRESSION ANALYSIS IS  
7 JUST SEEING WHAT THE EFFECTS OF ONE VARIABLE ARE ON  
8 OTHER VARIABLES.

9 Q AND ARE YOU FAMILIAR WITH ECOLOGICAL  
10 INFERENCE?

11 A YES, I AM.

12 Q IF I REFER TO IT AS EI, WILL YOU UNDERSTAND  
13 WHAT I MEAN?

14 A YES.

15 Q DO YOU ENCOUNTER ECOLOGICAL INFERENCE IN  
16 YOUR WORK?

17 A YES, ESPECIALLY AND MOST RELEVANT TO, YOU  
18 KNOW, UNDERSTANDING THIS SORT OF SPECIFIC WORK THAT  
19 WE'RE LOOKING AT IN THIS SORT OF CASE; YOU KNOW,  
20 UNDERSTANDING VOTING BEHAVIOR.

21 Q WHEN YOU SAY "THIS SORT OF CASE," WHAT DO  
22 YOU MEAN BY THAT?

23 A SO REDISTRICTING CASES, YES.

24 Q AND CAN YOU BRIEFLY DESCRIBE WHAT ECOLOGICAL  
25 INFERENCE ACCOMPLISHES TO THE COURT?

11:08a

1           A       SURE. SO ESSENTIALLY YOU'RE JUST TAKING --  
2 YOU'RE TRYING TO UNCOVER INDIVIDUAL LEVEL BEHAVIOR  
3 WITH AGGREGATE DATA. SO ESSENTIALLY YOU'VE GOT A  
4 POPULATION AND THEN YOU'RE TRYING TO FIGURE OUT MAYBE  
5 HOW A SUBPOPULATION BEHAVED. AND SO ECOLOGICAL  
6 INFERENCE IS THE TOOL AND IT'S WHAT'S RECOMMENDED FOR  
7 USE IN REDISTRICTING CASES INVOLVING RACE, YES.

8                   **MS. GIGLIO:** YOUR HONOR, AT THIS TIME  
9 PLAINTIFFS SEEK TO MOVE DR. KING'S REPORT, WHICH IS  
10 PLAINTIFFS 133, AND DR. KING'S C.V., WHICH IS  
11 PLAINTIFFS 134, INTO EVIDENCE. PLAINTIFFS ALSO SEEK  
12 TO TENDER DR. KING AS AN EXPERT IN POLITICAL SCIENCE,  
13 VOTING BEHAVIOR, AND RACIALLY POLARIZED VOTING.

14                   **THE COURT:** ALL RIGHT. ANY CROSS ON THE  
15 TENDER?

16                   **MR. LEWIS:** NO, YOUR HONOR.

17                   **THE COURT:** AND NO OBJECTIONS TO THE  
18 ADMISSIONS?

19                   **MR. LEWIS:** THAT IS CORRECT, YOUR HONOR.

20                   **THE COURT:** THE C.V. AND REPORT ARE  
21 ADMITTED.

22                                   **DIRECT EXAMINATION**

23 **BY MS. GIGLIO:**

24           Q       DR. KING, WE'RE NOW GOING TO TAKE A LOOK AT  
25 THE EXPERT REPORT THAT YOU PREPARED IN THIS CASE.

11:09a

1 AND CAN WE PULL UP PLAINTIFFS' EXHIBIT 133.

2 AND IF YOU TURN TO THE FIRST TAB IN YOUR  
3 BINDER, DR. KING, IS THAT A COPY OF THE REPORT THAT  
4 YOU PREPARED FOR THIS CASE?

5 A YES, IT IS.

6 Q AND, DR. KING, WHAT WERE YOU ASKED TO DO?

7 A I WAS ASKED TO PROVIDE A REBUTTAL REPORT TO  
8 DR. ALFORD SPECIFIC TO HIS CONCLUSIONS ON THE  
9 EXISTENCE OR NONEXISTENCE OF RACIALLY POLARIZED  
10 VOTING AS WELL AS A DISCUSSION ON COHESION AND POLICY  
11 PREFERENCES.

12 Q AND I'M GOING TO TAKE THOSE IN TURN, DR.  
13 KING. WHAT DID YOU DO TO REBUT DR. ALFORD'S  
14 CONCLUSIONS REGARDING POLITICAL -- OR REGARDING THE  
15 EXISTENCE OF RACIAL POLARIZATION?

16 A SO I RAN A ECOLOGICAL INFERENCE TEST ON AN  
17 ELECTION -- THE 2022 U.S. SENATE ELECTION. AND I DID  
18 IT SLIGHTLY DIFFERENT THAN SOME OTHER ECOLOGICAL  
19 INFERENCE TESTS, BUT -- JUST BECAUSE I WANTED TO  
20 RECREATE A DEMOCRATIC PRIMARY, WHICH DOESN'T STRICTLY  
21 EXIST HERE IN LOUISIANA BECAUSE OF LOUISIANA'S UNIQUE  
22 ELECTORAL SYSTEM.

23 Q CAN YOU TELL US A LITTLE BIT ABOUT WHY OR  
24 HOW LOUISIANA'S ELECTORAL SYSTEM IS UNIQUE?

25 A SURE. SO, YOU KNOW, HISTORICALLY IT WAS

11:11a

1 KNOWN AS A JUNGLE PRIMARY WHERE IN LOUISIANA YOU  
2 WOULD HAVE CANDIDATES OF BOTH PARTIES, REPUBLICAN AND  
3 DEMOCRATS AS WELL AS INDEPENDENTS, ALL ON ONE BALLOT.  
4 AND SO THEN VOTERS WOULD BE FACED WITH ANY NUMEROUS  
5 NUMBER OF CANDIDATES.

6 AND SO IN DR. ALFORD'S REPORT, HIS  
7 CONCLUSION IS THAT THERE IS EVIDENCE OF PARTY  
8 POLARIZATION. AND PARTY POLARIZATION DOES EXIST, BUT  
9 THAT DOESN'T MEAN THAT RACIAL POLARIZATION DOESN'T  
10 ALSO EXIST. AND SO WHAT I WANTED TO DO ESSENTIALLY  
11 WAS SIMULATE A DEMOCRATIC PRIMARY. IN OTHER STATES  
12 YOU REALLY WOULDN'T HAVE TO WORRY ABOUT IT. YOU  
13 WOULD HAVE A DEMOCRATIC PRIMARY AND A REPUBLICAN  
14 PRIMARY. BUT HERE IN LOUISIANA THAT'S NOT THE CASE.

15 SO ESSENTIALLY WHAT I DID WAS JUST -- IN THE  
16 ANALYSIS I RAN THE SAME ECOLOGICAL INFERENCE METHODS.  
17 IT WAS JUST A DIFFERENT UNIT OF ANALYSIS. SO I JUST  
18 EXCLUDED THE REGISTERED REPUBLICANS AND JUST FOCUSED  
19 ON REGISTERED DEMOCRATS. AND THAT WAY PARTISANSHIP  
20 IS KIND OF OUT OF THE EQUATION AND NOW WE'RE JUST  
21 LOOKING AT: IS THERE STILL A DIFFERENCE IN VOTING  
22 AMONG WHITE VOTERS AND BLACK VOTERS, BUT NOW YOU'VE  
23 ELIMINATED PARTY. SO THAT'S WHAT I WANTED TO DO.

24 Q EXCUSE ME. HOW DID THE 2022 U.S. SENATE  
25 ELECTION IN LOUISIANA ALLOW YOU TO ACCOMPLISH THIS

11:12a

1 GOAL?

2 A WELL, SO THE NICE THING ABOUT A FEDERAL  
3 SENATE ELECTION IS IT'S A BIG ELECTION, AND THAT'S  
4 IMPORTANT IN THE SENSE THAT YOU'RE GOING TO HAVE THE  
5 HIGHEST LEVELS OF TURNOUT WITH YOUR FEDERAL  
6 ELECTIONS, ESPECIALLY A STATEWIDE FEDERAL ELECTION.  
7 AND THEN ALSO THIS PARTICULAR ELECTION FEATURED A  
8 VIABLE BLACK DEMOCRATIC CANDIDATE AS WELL AS A VIABLE  
9 WHITE DEMOCRATIC CANDIDATE. SO YOU HAVE GARY  
10 CHAMBERS, THE BLACK CANDIDATE, AND LUKE MIXON, THE  
11 WHITE CANDIDATE. THERE WERE OTHER CANDIDATES AS  
12 WELL, BUT YOU HAD TWO VIABLE CANDIDATES; ONE BLACK,  
13 ONE WHITE.

14 Q WHAT DO YOU MEAN BY "VIABLE"?

15 A WHAT I MEAN IS THAT THEY RAISED MONEY, THEY  
16 HAD NAME RECOGNITION, SO THEY WERE ABLE TO RUN  
17 STRONG, CREDIBLE CAMPAIGNS. THERE WERE SOME MINOR  
18 CANDIDATES THAT DID NOT RAISE SUBSTANTIAL AMOUNTS OF  
19 MONEY, SO THEY WEREN'T ABLE TO REALLY CONDUCT A  
20 STRONG CAMPAIGN, AND THEY WERE MINOR CANDIDATES, IF  
21 YOU WILL. BUT THIS RACE FEATURED A VIABLE BLACK  
22 CANDIDATE AS WELL AS A VIABLE WHITE CANDIDATE.

23 Q AND, DR. KING, WHAT DATA DID YOU USE TO  
24 CONDUCT THE ECOLOGICAL INFERENCE ANALYSIS YOU DID ON  
25 THE 2022 U.S. SENATE ELECTION IN LOUISIANA?

11:13a

1           A     SO PLAINTIFFS' COUNSEL PROVIDED ME A DATA  
2 SET WITH ALL OF THE INFORMATION. AND THEIR  
3 INFORMATION CAME FROM THE SECRETARY OF STATE'S  
4 INFORMATION, WHICH HAD THE VOTE RESULTS BY -- WELL,  
5 ACTUALLY BY PRECINCT, BUT PARISH. AND IT HAD THE  
6 NUMBER OF WHITE REGISTERED DEMOCRATS AND THE NUMBER  
7 OF BLACK REGISTERED DEMOCRATS, YOU KNOW, SO THAT  
8 INFORMATION IS JUST PROVIDED.

9           Q     AND DID YOU DO ANYTHING TO CONFIRM THE  
10 ACCURACY OF THAT DATA?

11          A     SURE. I THEN LOOKED AT THE SECRETARY OF  
12 STATE'S DATA JUST TO MAKE SURE THAT THE DATA I  
13 RECEIVED FROM PLAINTIFFS COMPORTED WITH THE SECRETARY  
14 OF STATE'S DATA. AND IT DID.

15          Q     AND DO YOU THINK THAT ANALYZING ONLY  
16 REGISTERED DEMOCRATS AS OPPOSED TO ALL VOTERS AFFECTS  
17 THE RELIABILITY OF YOUR ANALYSIS?

18          A     NO. IT'S THE SAME METHOD. IT'S JUST A  
19 DIFFERENT UNIT OF ANALYSIS. THEY JUST FOCUSED ON  
20 DEMOCRATS, AGAIN, JUST TO TAKE PARTISANSHIP OUT OF  
21 THE EQUATION.

22                BUT THAT'S WHY IT WAS IMPORTANT TO DO A --  
23 YOU KNOW, FOR ME AT LEAST -- A STATEWIDE FEDERAL  
24 RACE, BECAUSE THEN YOU HAD A LARGE IN, A LARGE NUMBER  
25 OF VOTERS; YOU KNOW, COMBINED -- I DON'T KNOW THE

11:15a

1 NUMBER OFFHAND. BUT COMBINED, CHAMBERS AND MIXON HAD  
2 TWO HUNDRED AND FIFTY-SOMETHING THOUSAND VOTES, SO  
3 YOU'RE DEALING WITH A LARGE NUMBER.

4 Q I'D LIKE TO TURN TO PAGE 5 AND 6 OF YOUR  
5 REPORT, WHICH AGAIN IS PLAINTIFFS' EXHIBIT 133 FOR  
6 THE RECORD, SPECIFICALLY TABLE 4.

7 A OKAY.

8 Q ARE THESE RESULTS OF THE ECOLOGICAL  
9 INFERENCE ANALYSIS YOU CONDUCTED ON THE U.S. SENATE  
10 ELECTION IN 2022 IN LOUISIANA?

11 A IT IS.

12 Q AND CAN YOU JUST DESCRIBE THE DATA THAT IS  
13 REFLECTED IN THIS CHART FOR THE COURT?

14 A SURE. JUST MOVING LEFT TO RIGHT WE HAVE  
15 FIVE COLUMNS. THE FIRST COLUMN LIST THE PARISH, AND  
16 UNDERNEATH THAT YOU HAVE YOUR CREDIBLE INTERVALS,  
17 WHICH IS JUST A MEASURE OF UNCERTAINTY. AND THEN  
18 I'VE GOT THE PERCENTAGE OF BLACK SUPPORT FOR  
19 CHAMBERS -- THIS WAS THE RESULTS FROM THE EI -- THE  
20 PERCENTAGE OF WHITE SUPPORT FOR CHAMBERS, AND THEN  
21 THE PERCENTAGE OF BLACK SUPPORT FOR MIXON AND THE  
22 PERCENTAGE OF WHITE SUPPORT FOR MIXON.

23 Q AND CAN YOU REMIND THE COURT OF THE RACES OF  
24 THESE CANDIDATES AGAIN?

25 A SURE. SO CHAMBERS, COLUMNS 2 AND 3, IS THE



11:16a

1 BLACK CANDIDATE; AND MIXON, COLUMNS 4 AND 5, WOULD BE  
2 THE WHITE CANDIDATE.

3 Q AND, DR. KING, YOU INDICATE THAT YOU  
4 SELECTED PARISHES TO ANALYZE HERE. HOW DID YOU  
5 SELECT THOSE PARISHES?

6 A MY UNDERSTANDING IS THAT PLAINTIFFS ARE NOT  
7 BRINGING A STATEWIDE CHALLENGE, AND SO THAT THE  
8 PARISHES THAT I USED ARE THE ONES THAT ARE MOST  
9 RELEVANT TO THE SPECIFIC CHALLENGE IN THIS CASE.

10 Q AND YOU INDICATED THAT THE -- THAT YOU  
11 INCLUDED CREDIBLE -- CREDIBLE INTERVIEWS?

12 A INTERVALS, YES.

13 Q CREDIBLE INTERVALS. EXCUSE ME. AND THAT  
14 THEY INDICATE A MEASURE OF UNCERTAINTY. CAN YOU  
15 EXPLAIN THAT A LITTLE BIT FURTHER TO THE COURT?

16 A SURE. IT'S JUST A RANGE. SO ESSENTIALLY IF  
17 YOU WERE TO RUN THIS TEST A HUNDRED TIMES, 95 PERCENT  
18 OF THE TIME YOUR MEDIAN RESULT IS GOING TO BE  
19 SOMEWHERE BETWEEN -- SO, FOR INSTANCE, WITH ASCENSION  
20 AND BLACK SUPPORT FOR CHAMBERS, THE RANGE YOU'RE  
21 GOING TO GET WILL BE SOMEWHERE BETWEEN 71 AND 76  
22 PERCENT.

23 Q AND, DR. KING, LOOKING AT ALL OF TABLE 4 AS  
24 A WHOLE -- AND IF WE COULD JUST PULL THEM UP SIDE BY  
25 SIDE -- WHAT DOES THE EVIDENCE REFLECTED IN TABLE 4

11:17a

1 EVIDENCE?

2       A     WHEN I LOOK AT THIS I SEE EVIDENCE OF  
3 RACIALLY POLARIZED VOTING, BECAUSE, AGAIN, WE'RE JUST  
4 LOOKING AT REGISTERED DEMOCRATIC VOTERS. AND SO, FOR  
5 INSTANCE, WITH ASCENSION YOU SEE 73 -- ALMOST 74  
6 PERCENT OF BLACKS SUPPORTED CHAMBERS BUT ONLY 40  
7 PERCENT OF WHITES, SO THAT'S A 33 PERCENT GAP. AND  
8 THEN LIKEWISE SUPPORT FOR MIXON YOU HAVE 25  
9 PERCENT -- ALMOST 26 PERCENT OF BLACKS WHO SUPPORTED  
10 MIXON BUT 60 PERCENT OF WHITES SUPPORTED MIXON. SO,  
11 YOU KNOW, MORE THAN A TWO-TO-ONE DIFFERENCE. SO WHEN  
12 I LOOK AT THAT, I'M SEEING EVIDENCE OF RACIALLY  
13 POLARIZED VOTING.

14       Q     WE CAN TAKE THIS DOWN.

15             SO, DR. KING, YOU INDICATED THAT YOU WERE --  
16 YOU REVIEWED DR. ALFORD'S REPORT IN THIS CASE. IS  
17 THAT RIGHT?

18       A     YES, I DID.

19       Q     SO I'D LIKE TO BRING UP DR. ALFORD'S REPORT.  
20 THAT'S LDTX 53, AND IT'S BEEN PREVIOUSLY ADMITTED.  
21 AND I'D LIKE TO PULL UP TABLE 3, WHICH IS ON PAGE 10  
22 OF THIS REPORT. IF WE COULD BLOW THAT UP, THAT WOULD  
23 BE GREAT.

24             SO, DR. KING, WHAT DO YOU UNDERSTAND TABLE 3  
25 TO REPRESENT?

11:18a

1           A     I AM LOOKING AT A VARIETY OF STATEWIDE  
2 ELECTIONS SHOWING THE DATE, THE CONTEST, THE  
3 CANDIDATES, THEIR PARTY, THEIR RACE, AND SIMILAR  
4 ECOLOGICAL INFERENCE RESULTS.

5           Q     AND I'D LIKE TO FOCUS SPECIFICALLY ON THE  
6 DATA CONTAINED IN THE BOTTOM-MOST CHART OF THIS, OF  
7 TABLE 3, WHICH IS THE NOVEMBER 2022 SENATE ELECTION.

8                     DR. KING, IS THIS THE SAME ELECTION THAT YOU  
9 ANALYZED IN YOUR REPORT?

10          A     YES, IT IS.

11          Q     AND CAN YOU WALK ME THROUGH WHAT  
12 DR. ALFORD'S DATA INDICATES TO YOU?

13          A     SURE. SO AGAIN, WE'RE LOOKING AT THE DATE,  
14 THE CONTEST, THE CANDIDATES; WE'VE GOT THEIR PARTY  
15 AND THEIR RACE AND THEN THE BLACK SUPPORT, AGAIN,  
16 WITH THOSE CREDIBLE INTERVALS, AND THEN THE WHITE  
17 SUPPORT WITH THOSE CREDIBLE INTERVALS.

18          Q     WHAT WAS THE BLACK SUPPORT FOR MR. CHAMBERS,  
19 THE BLACK CANDIDATE IN THIS RACE, AS REPORTED BY DR.  
20 ALFORD?

21          A     SO THIS IS 56.8 PERCENT. AND I WOULD JUST  
22 NOTE THAT THIS WOULD BE STATEWIDE RESULTS.

23          Q     AND THIS -- THESE RESULTS REFLECT ALL  
24 VOTERS?

25          A     YES. YES. WE'VE GOT BOTH DEMOCRATS AND

11:19a

1 REPUBLICAN VOTERS HERE, YES.

2 Q UNDERSTOOD. SO WE INDICATE -- YOU INDICATED  
3 EARLIER THAT THE BLACK SUPPORT FOR GARY CHAMBERS AS  
4 REFLECTED IN DR. ALFORD'S DATA IS 56.8 PERCENT. WHAT  
5 ABOUT THE WHITE SUPPORT FOR GARY CHAMBERS AS  
6 REFLECTED IN DR. ALFORD'S REPORT?

7 A 4.3 PERCENT.

8 Q AND CAN WE TAKE US THROUGH THE DATA  
9 REFLECTED FOR MR. MIXON, THE WHITE CANDIDATE?

10 A SURE. FOR MR. MIXON IT IS 23.9 PERCENT  
11 BLACK SUPPORT AND NINE PERCENT WHITE SUPPORT. SO  
12 JUST -- YOU KNOW, SO THAT WOULD BE AMONG, YOU KNOW,  
13 VOTES FOR THE DEMOCRATS THERE. SO NINE PERCENT OF  
14 WHITES VOTED FOR MIXON, FOUR PERCENT OF WHITES VOTED  
15 FOR CHAMBERS.

16 Q AND HOW DID THOSE RESULTS COMPARE?

17 A SO WHEN I LOOK AT THAT, I'M SEEING A --  
18 ESSENTIALLY LIKE A TWO-TO-ONE DIFFERENCE. SO AMONG  
19 VOTE -- AMONG PEOPLE WHO VOTED FOR DEMOCRATS, I'M  
20 SEEING A TWO-TO-ONE ADVANTAGE FOR THE WHITE CANDIDATE  
21 FROM WHITE VOTERS, SO I'M SEEING RACIALLY POLARIZED  
22 VOTING JUST -- WHEN YOU JUST LOOK AT DEMOCRATS.

23 AND SO WHEN I WAS DOING MY REBUTTAL,  
24 ACTUALLY I SAW THIS FIRST AND I THOUGHT, OKAY, THIS  
25 IS EVIDENCE OF RACIALLY POLARIZED VOTING. AND SO

11:21a

1 THEN I JUST WANTED TO LOOK AT THOSE PARISHES SPECIFIC  
2 TO THE AREAS THAT ARE BEING CHALLENGED IN THIS CASE.

3 Q UNDERSTOOD. I'D LIKE TO TAKE ANOTHER --  
4 TAKE A LOOK AT ANOTHER ELECTION CONTAINED IN TABLE 3  
5 OF DR. ALFORD'S REPORT. CAN WE TURN TO PAGE 9 OF DR.  
6 ALFORD'S REPORT. AND AGAIN, THIS IS LDTX 53. SO I'D  
7 LIKE TO TAKE A LOOK AT THE ELECTION THAT TOOK PLACE  
8 IN NOVEMBER 2018 FOR SECRETARY OF STATE.

9 AND, DR. KING, BASED ON THE DATA IN FRONT OF  
10 YOU, HOW MANY DEMOCRATS RAN IN THIS ELECTION?

11 A I SEE TWO CANDIDATES.

12 Q AND WHO WERE THEY?

13 A WE HAVE GWEN COLLINS-GREENUP, WHO IS BLACK,  
14 AND RENEE FONTENOT FREE, WHO IS WHITE.

15 Q WHAT ARE THE -- YOU ALREADY GAVE ME THE  
16 RESPECTIVE RACES, DR. KING. WAY TO JUMP AHEAD.

17 A APOLOGIES.

18 Q SO LET'S LOOK AT THE PERCENTAGE OF BLACK  
19 SUPPORT FOR MS. COLLINS-GREENUP AS REFLECTED. WHAT  
20 DOES THAT FIGURE REFLECT?

21 A SO I SEE 56.3 PERCENT BLACK SUPPORT FOR  
22 COLLINS-GREENUP.

23 Q WHAT WAS THE PERCENTAGE OF WHITE SUPPORT FOR  
24 MS. COLLINS-GREENUP?

25 A 5.4 PERCENT.

11:22a

1 Q WHAT ABOUT FOR MS. FONTENOT FREE? WHAT WAS  
2 THE BLACK SUPPORT FOR MS. FONTENOT FREE?

3 A 31.1 PERCENT.

4 Q AND WHAT ABOUT THE WHITE SUPPORT FOR  
5 MS. FONTENOT FREE?

6 A 9.7 PERCENT.

7 Q AND AGAIN, WHAT CONCLUSIONS CAN YOU DRAW  
8 FROM THIS ELECTION?

9 A WHILE IT'S NOT QUITE A TWO-TO-ONE, IT'S MORE  
10 ABOUT -- I CAN'T DO THAT MATH IN MY HEAD, BUT 1.75  
11 PERCENT DIFFERENCE ROUGHLY. SO I'M SEEING EVIDENCE  
12 OF RACIALLY POLARIZED VOTING. SO JUST EVEN AMONG  
13 THOSE VOTING FOR THE DEMOCRATS, WE SEE WHITE AND  
14 BLACK VOTERS DIFFER SUBSTANTIALLY ON THEIR PREFERRED  
15 CANDIDATE.

16 Q AND IN YOUR EXPERT OPINION, DR. KING, WHAT  
17 DOES THE EI ANALYSIS THAT WE JUST EXAMINED FROM  
18 YOURSELF AND FROM DR. ALFORD TELL YOU ABOUT VOTING  
19 BEHAVIOR IN LOUISIANA?

20 A IT TELLS ME THAT PARTY POLARIZATION IS ONLY  
21 PART OF THE STORY, THAT RACIAL POLARIZATION ALSO  
22 EXISTS EVEN AMONG COPARTISANS. AND BY "COPARTISANS,"  
23 I MEAN EVEN PEOPLE WHO SHARE THE SAME PARTY  
24 IDENTIFICATION, YOU STILL SEE RACIALLY POLARIZED  
25 PREFERENCES. VOTERS CAN SHARE THE SAME PARTY BUT NOT

11:23a

1 WANT THE SAME CANDIDATE. WE ARE SEEING THIS WITH  
2 THE -- SORRY. I WAS GOING TO SAY THE REPUBLICAN  
3 PRESIDENTIAL NOMINATION RIGHT NOW. SO YOU CAN SHARE  
4 THE SAME PARTY BUT HAVE STRONGLY DIFFERENT  
5 PREFERENCES ON WHO YOU WANT.

6 Q HOW, IF AT ALL, DOES THIS OBSERVATION IMPACT  
7 BLACK VOTERS IN LOUISIANA?

8 A OH. WELL, WHAT IT MEANS IS IN THE ABSENCE  
9 OF A DISTRICT DRAWN WHERE BLACKS ARE A NUMERIC  
10 MAJORITY, LIKE A MAJORITY-MINORITY DISTRICT OR AT  
11 LEAST A STRONG POLARITY, BLACK VOTERS CANNOT COUNT ON  
12 WHITE COPARTISANS TO ELECT THEIR PREFERRED CANDIDATE.

13 Q DR. KING, I'D LIKE TO MOVE TO A  
14 DISCUSSION -- THANK YOU SO MUCH, STEPHEN.

15 I'D LIKE TO MOVE TO A DISCUSSION OF THE  
16 CONCEPT OF COHESION. WHAT IS YOUR UNDERSTANDING OF  
17 COHESION?

18 A COHESION IS WHEN YOU HAVE -- YOU KNOW, SO IN  
19 THIS INSTANCE WHERE WE'RE DEALING WITH RACIAL GROUPS,  
20 COHESION WOULD BE WHERE YOU HAVE MORE THAN 50 PERCENT  
21 SUPPORT FOR A PREFERRED CANDIDATE.

22 Q AND ARE YOU FAMILIAR WITH DR. ALFORD'S  
23 PERSPECTIVE ON COHESION?

24 A YES, I AM.

25 Q WHAT IS IT?

11:24a

1           A     SO MY UNDERSTANDING OF DR. ALFORD'S -- THE  
2 WAY HE REPRESENTS COHESION IS THAT IT'S A CONTINUUM  
3 BUT THAT YOU -- IN ORDER TO -- COHESION TO BE  
4 OPERATIONAL OR DEFINITIVE, IT WOULD NEED TO BE CLOSER  
5 TO 70 PERCENT OR MORE, EVEN CLOSER TO 80 PERCENT. HE  
6 DOES NOT -- IN HIS REPORT HE SAYS THAT THERE IS NOT A  
7 THRESHOLD OR A CUT POINT, WHICH I WOULD AGREE WITH.  
8 BUT I WOULD ARGUE THAT 70 PERCENT IS TOO HIGH TO SAY  
9 THAT A GROUP IS VOTING COHESIVELY.

10          Q     YOU INDICATED THAT YOU WOULD AGREE WITH DR.  
11 ALFORD THAT THERE IS NO THRESHOLD. IS THERE ANY  
12 POLITICAL SCIENCE LITERATURE THAT YOU'RE AWARE OF  
13 THAT DISCUSSES A THRESHOLD?

14          A     THERE IS NOT.

15          Q     YOU MENTIONED BEFORE, DR. KING, THAT  
16 LOUISIANA HAS A UNIQUE ELECTION SYSTEM. DOES THAT  
17 UNIQUE ELECTION SYSTEM AFFECT YOUR UNDERSTANDING OF  
18 COHESION?

19          A     SURE. SO PRIMARIES AND GENERAL ELECTIONS  
20 ARE GOING TO SEE SOMETHING DIFFERENT, AND THAT'S JUST  
21 BECAUSE IN PRIMARIES WHERE YOU'VE GOT LOTS OF  
22 CANDIDATES, BY DEFINITION -- I SHOULDN'T SAY BY  
23 DEFINITION, BUT ALMOST INVARIABLY YOU'RE GOING TO  
24 HAVE VOTES SPREAD OUT AMONG MORE CANDIDATES. AND SO  
25 AS A RESULT, YOU'RE LESS LIKELY TO SEE COHESION



11:26a

1 REACHED. I WOULD STILL SAY IT'S THE SAME -- TO ME  
2 COHESION IS ONCE YOU GET TO ABOUT 50 PERCENT.

3 BUT IN A GENERAL ELECTION WHERE YOU JUST  
4 HAVE TWO CANDIDATES, COHESION IS GOING TO LOOK --  
5 IT'S GOING TO BE EASIER TO REACH THAT BAR BECAUSE  
6 YOU'RE JUST LOOKING AT TWO CANDIDATES. BUT IN A  
7 WIDE-RANGING PRIMARY, ESPECIALLY THE WAY IT'S  
8 CONDUCTED IN LOUISIANA WHERE YOU CAN HAVE MANY, MANY  
9 CANDIDATES OF BOTH PARTIES, COHESION IS GOING TO LOOK  
10 DIFFERENT.

11 Q AND ARE YOU AWARE OF ANY POLITICAL SCIENCE  
12 LITERATURE THAT DISCUSSES THE CONCEPT OF COHESION?

13 A NO, NOT IN THIS SENSE. THE ONLY -- THE ONLY  
14 PLACE WHERE I'VE SEEN VOTING COHESION TALKED ABOUT IN  
15 A SIMILAR MANNER IS ACTUALLY IN STUDIES OF  
16 LEGISLATIVE BODIES, SO SPECIFICALLY HOW PARTIES VOTE  
17 TOGETHER, HOW MAYBE DEMOCRATS VOTE TOGETHER AS A  
18 GROUP AGAINST REPUBLICANS IN LEGISLATIVE, SO IN  
19 CONGRESS OR IN STATE LEGISLATIVE BODIES. BUT EVEN  
20 THEN THERE IS NO DEFINITION OF SAYING HERE'S WHEN  
21 COHESION IS MET.

22 BUT, YOU KNOW, THE CLOSER YOU GET TO 100  
23 PERCENT IN SAYING THAT'S COHESIVE, THEN YOU'RE REALLY  
24 ACTUALLY GETTING TOWARDS UNANIMITY, WHICH TO ME IS A  
25 DIFFERENT STANDARD THAN COHESION.

11:27a

1 Q UNDERSTOOD. DR. KING, ARE YOU FAMILIAR WITH  
2 DR. MURRAY'S PERSPECTIVE ON COHESION?

3 A YES. I LOOKED AT A COUPLE OF PARAGRAPHS OF  
4 DR. MURRAY'S REPORT, NOT HIS ENTIRE REPORT BUT JUST A  
5 COUPLE OF THOSE PARAGRAPHS DEALING WITH COHESION.  
6 AND MY UNDERSTANDING OF DR. MURRAY'S REPORT IS THAT  
7 IF YOU REDUCE THE NUMBER OF BLACKS, THE BLACK VOTING  
8 AGE POPULATION IN A DISTRICT, THAT THAT MIGHT SOMEHOW  
9 REDUCE COHESION.

10 Q AND DO YOU AGREE WITH THAT PERSPECTIVE?

11 A NO. COHESION IS IRRESPECTIVE OF THE NUMBER  
12 OF -- THE BLACK VOTING AGE POPULATION IN A DISTRICT.  
13 SO YOU COULD HAVE 50 BLACKS OR 500,000 BLACKS, BUT  
14 THAT'S NOT GOING TO CHANGE COHESION OR HOW I WOULD  
15 THINK OF WHAT COHESION MEANS.

16 Q UNDERSTOOD. I'D LIKE TO TAKE A LOOK AT  
17 ANOTHER PORTION OF YOUR REPORT, DR. KING. SO IF WE  
18 COULD TURN TO TABLE 5, WHICH IS PAGE 7 OF PLAINTIFFS'  
19 EXHIBIT 133.

20 DR. KING, WHAT TABLE -- WHAT DATA IS SHOWN  
21 IN TABLE 5?

22 A SO THIS IS WHITE SUPPORT FOR RECENT  
23 DEMOCRATIC PRESIDENTIAL NOMINEES.

24 Q WHY DID YOU INCLUDE THIS DATA IN YOUR  
25 REPORT?

11:28a

1           A     WELL, AGAIN, AS I WAS WRITING A REBUTTAL  
2 REPORT TO DR. ALFORD, HE HAD TALKED ABOUT IN HIS  
3 REPORT THE PERFORMANCE OF THE CLINTON-KAINE TICKET IN  
4 2016 AND HOW IT PERFORMED POORLY AMONG WHITES. AND  
5 HE WAS USING IT TO DEMONSTRATE THAT AN ALL-WHITE  
6 TICKET, THAT THERE WAS STILL -- THAT THERE WAS STILL  
7 -- HE WAS JUST ESSENTIALLY -- FROM MY RECOLLECTION  
8 NOW IS THAT HE WAS CITING THE CLINTON-KAINE TICKET AS  
9 A PROXY FOR WHITE SUPPORT FOR -- WHITE VOTER SUPPORT  
10 FOR AN ALL-WHITE DEMOCRATIC TICKET.

11           Q     HOW DOES THE DATA THAT YOU INCLUDE IN TABLE  
12 5 ADDRESS THAT CONCLUSION?

13           A     I JUST WANTED TO PUT IT IN CONTEXT HOW WELL  
14 CLINTON AND KAINE DID. CLINTON AND KAINE WERE  
15 PARTICULARLY ILL-RECEIVED IN LOUISIANA AND OTHER DEEP  
16 SOUTH STATES, AND SO I JUST WANTED TO PUT THAT IN  
17 CONTEXT. SO DEPENDING ON WHICH CANDIDATE YOU SELECT,  
18 YOU CAN ALWAYS DRAW, YOU KNOW, CERTAIN INFERENCES.  
19 BUT CLINTON-KAINE WERE PARTICULARLY UNDERPERFORMING,  
20 IF YOU WILL, AND SO I JUST WANTED TO ILLUSTRATE THAT  
21 WITH THIS.

22           Q     ARE ANY OTHER ALL-WHITE TICKETS REFLECTED ON  
23 THIS CHART?

24           A     WELL, SURE. SO IN PARTICULAR IN 2004 YOU  
25 HAVE THE KERRY-LIEBERMAN TICKET WHICH RECEIVED 41

11:30a

1 PERCENT SUPPORT, SO FOUR PERCENT MORE THAN CLINTON-  
2 KAINE. AND IN MY REPORT I REFERENCE SOME LITERATURE  
3 SPECIFIC TO LOUISIANA AND THE WHITE VOTER SUPPORT FOR  
4 THESE -- IN THESE ELECTIONS.

5 Q WE CAN TAKE THIS DOWN.

6 SO, DR. KING, I'D LIKE TO MOVE TO A  
7 DISCUSSION OF ONE OF THE OTHER ISSUES THAT YOU  
8 STATED YOU ADDRESSED IN YOUR REPORT, WHICH IS BLACK  
9 AND WHITE ATTITUDES ON POLICY ISSUES.

10 A OKAY.

11 Q WHAT DO YOU UNDERSTAND DR. ALFORD'S POSITION  
12 TO BE ON THAT TOPIC?

13 A MY UNDERSTANDING OF DR. ALFORD'S REPORT IS  
14 THAT BECAUSE WE ELECTED -- "WE" AS IN AMERICANS --  
15 ELECTED A BLACK MAN, BARACK OBAMA, AS PRESIDENT AND  
16 BECAUSE THERE IS SOME PUBLIC OPINION POLLING SHOWING  
17 CONVERGENCE ON INTERRACIAL MARRIAGE, THAT BLACKS AND  
18 WHITES HAVE LARGELY THE SAME POLICY PREFERENCES.

19 Q DO YOU AGREE WITH DR. ALFORD'S POSITION?

20 A I DO NOT.

21 Q WHY NOT?

22 A SO FIRST, WHEN IT COMES TO INTERRACIAL  
23 MARRIAGE, IT HAS BEEN SETTLED LAW SINCE 1967 WITH THE  
24 *LOVING V VIRGINIA* DECISION, AND AS A RESULT IT'S NOT  
25 A SALIENT ISSUE. IT JUST MEANS THIS ISN'T SOMETHING

11:31a

1 THAT PEOPLE ARE THINKING ABOUT WHEN THEY'RE VOTING,  
2 BECAUSE IT'S SETTLED LAW. AND SO AS A RESULT, IT'S  
3 NOT THE MOST RELEVANT -- IT'S RELEVANT BUT IT'S NOT  
4 SALIENT.

5 MORE IMPORTANTLY, YOU'VE GOT SOMETHING OF A  
6 SOCIAL DESIRABILITY BIAS, SO WITH SOME SPECIFIC  
7 ISSUES IN INTERRACIAL MARRIAGE WOULD BE ONE OF THEM.  
8 SOCIAL DESIRABILITY BIAS JUST SIMPLY MEANS THAT  
9 RESPONDENTS TO SURVEYS MAY NOT GIVE THEIR FULLY  
10 TRUTHFUL ANSWER FOR FEAR OF OFFENDING OR JUST SAYING  
11 SOMETHING THAT THEY MIGHT -- THEY KNOW MIGHT BE  
12 CONSIDERED AS LIKE POLITICALLY INCORRECT, IF YOU  
13 WILL. AND SO THAT CAN BE AN ISSUE WITH THAT.

14 BUT MORE IMPORTANTLY, YOU KNOW -- SO BEYOND  
15 THOSE SPECIFIC CRITICISMS OF INTERRACIAL MARRIAGE TO  
16 ACT AS A PROXY FOR POLICY CONVERGENCE, I WOULD JUST  
17 SAY THAT THERE ARE MANY OTHER EXAMPLES OF PUBLIC  
18 POLICY ISSUES WHERE WE KNOW THERE IS WIDE POLICY  
19 DIVERGENCE BETWEEN BLACKS AND WHITES.

20 Q SO I JUST WANT TO BREAK THAT DOWN A LITTLE  
21 BIT. SO YOU SAID THAT THE CONCEPT OF SOCIAL  
22 DESIRABILITY BIAS COULD IMPACT SURVEY RESULTS ON  
23 ISSUES LIKE INTERRACIAL MARRIAGE. HOW WOULD THAT  
24 POSSIBLY PLAY OUT?

25 A SO LET ME -- COULD YOU REASK THAT? I JUST

11:33a

1 WANT TO MAKE SURE I UNDERSTAND WHAT YOU'RE ASKING ME.

2 Q SURE. SO YOU INDICATED THAT SOCIAL  
3 DESIRABILITY BIAS COULD IMPACT POLLING RESULTS ON  
4 ISSUES LIKE INTERRACIAL MARRIAGE. HOW WOULD IT  
5 IMPACT POLLING RESULTS?

6 A WELL, SO IF PEOPLE DON'T GIVE THEIR  
7 FORTHRIGHT RESPONSE, THERE IS SOME -- IN THE  
8 POLITICAL SCIENCE LITERATURE THERE IS SOME RATIONALE  
9 WHY PEOPLE MIGHT DO THAT. AND SO IF THEY DO THAT,  
10 THEN IT MIGHT -- WE MIGHT HAVE A CONFUSED SENSE OF  
11 WHAT POLICIES ARE MOST IMPORTANT FOR BLACK VOTERS AND  
12 WHITE VOTERS. AND SO IN THE LITERATURE THERE IS  
13 EVIDENCE OF HOW THIS SOCIAL DESIRABILITY BIAS CAN  
14 AFFECT OUR UNDERSTANDING OF PUBLIC POLICY  
15 PREFERENCES.

16 Q DOES DR. ALFORD CITE POLLING TO SUPPORT HIS  
17 VIEWS ON INTERRACIAL MARRIAGE?

18 A YES. SO HE CITES A -- YES, HE DOES. HE  
19 USES GALLUP, AND I USE GALLUP AS WELL.

20 Q SO HE USES A GALLUP POLL TO SUPPORT HIS  
21 POSITION ON INTERRACIAL MARRIAGE ON CHANGING  
22 ATTITUDES?

23 A I BELIEVE THAT'S WHAT HE USES, YES.

24 Q AND YOU ALSO INDICATED THAT THERE ARE OTHER  
25 POLICY ISSUES THAT ARE MORE SALIENT THAN INTERRACIAL

11:34a

1 MARRIAGE. CAN YOU DESCRIBE THOSE KINDS OF POLICY  
2 ISSUES TO THE COURT?

3 A SURE. SO, FOR INSTANCE, YOU WOULD HAVE USE  
4 OF FORCE BY POLICE. THAT IS WHERE WE SEE -- AN  
5 EXAMPLE WHERE WE SEE WIDE DIVERGENCE BETWEEN BLACKS  
6 AND WHITES. ALSO WHEN PEOPLE ARE ASKED QUESTIONS  
7 ABOUT WHETHER OR NOT BLACKS AND WHITES HAVE EQUAL  
8 CHANCES TO SUCCEED, WE SEE WIDE DIVERGENCE. IN FACT,  
9 THE POLLING SHOWS THAT THAT DIVERGENCE HAS GOTTEN  
10 WIDER OVER TIME, EVEN DURING THE OBAMA  
11 ADMINISTRATION. AND THAT'S ONE OF THE REASONS WHY I  
12 WANTED TO USE THE GALLUP AS AIDS, INFORMATION THAT  
13 DR. ALFORD USED. AND SO BECAUSE I WAS WRITING A  
14 REBUTTAL REPORT, I JUST WANTED, YOU KNOW, SIMILAR  
15 INFORMATION. BUT ALSO THE GALLUP POLL SPANS THE  
16 OBAMA ADMINISTRATION.

17 AND SO SPECIFICALLY DR. ALFORD HAD SAID --  
18 HAD CITED THE ELECTION OF BARACK OBAMA AS EVIDENCE  
19 THAT WE'RE MOVING TOWARDS SOME SORT OF POST-RACIAL  
20 AMERICA. BUT I JUST WANTED TO DEMONSTRATE, IN FACT,  
21 THAT GALLUP SHOWS THE OPPOSITE.

22 Q AND IN YOUR OPINION, DR. ALFORD, WHAT  
23 MOTIVATES THE GAP BETWEEN BLACK AND WHITE AMERICANS  
24 ON THESE POLICY ISSUES?

25 A SO FOR A LONG TIME THE POLITICAL SCIENCE

11:35a

1 LITERATURE HAS UTILIZED THIS CONCEPT OF RACIAL  
2 RESENTMENT IN EXPLAINING THE VOTING BEHAVIOR OF  
3 WHITES.

4 Q WHAT IS RACIAL RESENTMENT?

5 A SO RACIAL RESENTMENT IS -- IT'S AN ATTITUDE  
6 BORNE OF BOTH SOME ANTI-BLACK SENTIMENT MARRIED WITH  
7 CONSERVATIVE VIEWS. AND SO BOTH GALLUP AS WELL AS  
8 SOME -- MANY DIFFERENT POLITICAL SCIENCE SPECIFIC  
9 POLLS HAVE BEEN ASKING QUESTIONS THAT GET AT RACIAL  
10 RESENTMENT FOR MANY, MANY, MANY YEARS NOW.

11 Q SO IN THE GALLUP POLL THAT YOU REFERENCED,  
12 HOW DOES THAT GALLUP POLL SEEK TO MEASURE RACIAL  
13 RESENTMENT?

14 A SO I LIST FOUR DIFFERENT -- ON PAGES -- AT  
15 LEAST ON THIS PAPER COPY I'VE GOT IN FRONT OF ME.

16 Q YEAH, WE CAN PULL IT UP.

17 A -- PAGES 9 AND 10 OF MY REPORT WHERE IT  
18 LISTS --

19 Q AND THAT WILL BE PAGES -- JUST FOR THE  
20 RECORD --

21 A SORRY.

22 Q I'M SO SORRY. NO, I'M SORRY, DR. KING. FOR  
23 THE RECORD, THAT'S PAGES 10 AND 11 OF PL 133. THAT'S  
24 JUST A PDF ISSUE. CAN WE HAVE THAT PULLED UP? 10  
25 AND 11. GREAT.



11:37a

1 AND SO, DR. KING, I CAN REASK THE QUESTION.  
2 SO HOW DOES THE GALLUP POLL MEASURE RACIAL RESENTMENT  
3 AS INDICATED ON THESE PAGES?

4 A OKAY. SO, YOU KNOW, WE'VE GOT HERE -- SO AT  
5 THE TOP HERE OF PAGE 10 ON THIS PDF, THAT WOULD BE  
6 THE THIRD AND FOURTH QUESTIONS. SO THESE  
7 QUESTIONS -- THE NICE THING ABOUT THESE QUESTIONS IS  
8 THEY DON'T ASK ABOUT A SPECIFIC POLICY. IT'S JUST  
9 MORE ABOUT AN ATTITUDE. AND SO THESE QUESTIONS ASKED  
10 IN A VERY SIMILAR FORMAT OVER A NUMBER OF YEARS ALLOW  
11 US TO UNDERSTAND IF PEOPLE HAVE DIFFERENT ATTITUDES  
12 TOWARDS RACIAL GROUPS.

13 AND SO, FOR INSTANCE, WITH THIS QUESTION NO.  
14 3: "IN GENERAL, DO YOU THINK THAT BLACKS HAVE AS  
15 GOOD A CHANCE AS WHITES IN YOUR COMMUNITY TO GET ANY  
16 HOUSING THEY CAN AFFORD, OR DON'T YOU THINK THEY HAVE  
17 AS GOOD S A CHANCE?" AND THEN WITH NO. 4: "ARE  
18 BLACKS TREATED LESS FAIRLY THAN WHITES?"

19 SO WHEN WE LOOK AT THESE QUESTIONS AND THEN  
20 HOW PEOPLE ANSWER THEM AND THEN SEE HOW THAT AFFECTS  
21 THEIR VOTING BEHAVIOR OR IF HOW PEOPLE RESPOND TO  
22 THIS IN ANY WAY CORRELATES TO THEIR VOTING  
23 BEHAVIOR -- OR IF THERE IS A RELATIONSHIP, I SHOULD  
24 SAY -- THAT RACIAL RESENTMENT INDEX CAN TELL US A LOT  
25 ABOUT WHO'S LIKELY TO SUPPORT CERTAIN CANDIDATES.

11:38a

1 Q HOW DOES IT TELL US WHO'S LIKELY TO SUPPORT  
2 CERTAIN CANDIDATES?

3 A WELL, WHAT WE SEE IS WHITE VOTERS WHO  
4 EXPRESS RACIAL RESENTMENT ARE LESS LIKELY TO SUPPORT  
5 BLACK CANDIDATES EVEN WHEN THEY SHARE THE SAME PARTY.

6 Q AND, DR. KING, YOU INDICATED THAT THIS IS A  
7 GALLUP SURVEY OR GALLUP POLL. WHY DO YOU THINK THAT  
8 A GALLUP POLL IS A RELIABLE SOURCE OF THIS DATA?

9 A GALLUP POLL. GALLUP IS ONE OF THE MOST  
10 WIDELY RESPECTED, LONG-USED POLLSTERS. THEY'VE BEEN  
11 AROUND FOR DECADES. AGAIN, THERE IS OTHERS:  
12 NATIONAL ELECTION STUDIES THAT POLITICAL SCIENTISTS  
13 COMMONLY USE ASKS VERY SIMILAR QUESTIONS AND HAVE FOR  
14 A LONG TIME. BUT GALLUP IS WIDELY RESPECTED, AND  
15 THEY HAVE A GOOD TRACK RECORD. AND AGAIN, DR. ALFORD  
16 ALSO USED GALLUP, SO I JUST WANTED TO USE SOMETHING  
17 SIMILAR.

18 Q DOES TABLE 6 OF YOUR REPORT INDICATE THE  
19 RESULTS OF THE GALLUP POLL?

20 A YES. AND --

21 Q CAN YOU DESCRIBE THEM FOR THE COURT?

22 A SURE. SO THIS IS JUST LOOKING AT WHITE  
23 VOTERS. SO WE SEE THAT THERE ARE SOME LEVELS OF  
24 RACIAL RESENTMENT AMONG BOTH BLACK -- EXCUSE ME --  
25 AMONG BOTH DEMOCRATS, INDEPENDENTS AND REPUBLICANS.

11:39a

1 YOU TEND TO SEE OVER TIME RACIAL RESENTMENT WENT DOWN  
2 A LITTLE BIT AMONG WHITE DEMOCRATS, IT STAYED  
3 CONSTANT AMONG WHITE REPUBLICANS, BUT WE STILL SEE  
4 IT. AND SO THERE IS LOTS OF IMPLICATIONS FOR THIS  
5 EXISTENCE OF RACIAL RESENTMENT.

6 Q CAN YOU TELL US SOME OF THOSE IMPLICATIONS?

7 A WELL, WHAT IT MEANS IS THAT IF YOU'RE A  
8 BLACK CANDIDATE, YOU CANNOT COUNT ON WHITE SUPPORT,  
9 EVEN AMONG COPARTISANS, TO THE SAME LEVEL THAT YOU  
10 MIGHT BE ABLE TO COUNT ON BLACK SUPPORT. SO WE OFTEN  
11 USE THIS TO EXPLAIN WHY YOU MIGHT GET NON-VOTING, SO  
12 YOU MIGHT GET A LOT OF PEOPLE WHO JUST STAY HOME ON  
13 ELECTION DAY.

14 SO THE RESEARCH SHOWS THAT IF YOU'VE GOT  
15 BLACK CANDIDATES, SAY, IN A BLACK PRIMARY, YOU'RE  
16 MORE LIKELY TO HAVE RACIALLY RESENTFUL WHITE  
17 DEMOCRATS JUST STAY HOME. THEY MAY NOT VOTE FOR THE  
18 REPUBLICAN, BUT THEY MAY JUST NOT VOTE FOR ANYBODY AT  
19 ALL, OR THEY'RE LESS LIKELY TO SUPPORT BLACK  
20 CANDIDATES. AND THE REASON FOR THIS IS -- AS I  
21 REFERENCED EARLIER -- IS PEOPLE CAN SHARE THE SAME  
22 PARTY BUT STILL HAVE DIFFERENT PREFERENCES ON WHO  
23 THEY WANT TO REPRESENT THEM.

24 Q WE CAN TAKE THIS DOWN.

25 DR. KING, YOU TALKED ABOUT HOW RACIAL

11:40a

1 RESENTMENT CAN IMPACT ELECTIONS. ARE THERE ANY  
2 EXAMPLES OF RACIAL RESENTMENT IMPACTING ELECTIONS  
3 THAT YOU CAN THINK OF?

4 A SURE. SO AS I CITE IN MY REPORT, THERE IS  
5 RESEARCH SHOWING THAT BARACK OBAMA EVEN IN VICTORY  
6 STILL LOST SUPPORT BECAUSE OF RACIALLY RESENTFUL  
7 VOTERS; THAT LIKELY HE WOULD HAVE WON BY MORE, ALL  
8 THINGS CONSIDERED, HAD IT NOT BEEN FOR RACIALLY  
9 RESENTFUL VOTERS. AND WE ALSO KNOW AT -- THERE IS  
10 ALSO SOME RESEARCH THAT I CITE AT LOWER LEVELS WHERE  
11 YOU SEE SOMETHING SIMILAR, AND IT TENDS TO MANIFEST  
12 ITSELF IN NON-VOTING, SO PEOPLE JUST STAY HOME. THEY  
13 MAY NOT VOTE FOR THE REPUBLICAN BUT THEY JUST WON'T  
14 VOTE AT ALL.

15 Q AND, DR. KING, IS THERE ANY EVIDENCE OF HOW  
16 MUCH -- HOW MANY MORE VOTES PRESIDENT OBAMA MAY HAVE  
17 GOTTEN IF NOT FOR RACIALLY RESENTFUL VOTERS?

18 A IN THE LITERATURE I CITE, THEY ESTIMATE THAT  
19 IT'S THE EQUIVALENT OF ABOUT ONE STATE'S WORTH OF  
20 ELECTORAL COLLEGE VOTES, SO ON AVERAGE THAT WOULD BE  
21 ABOUT SEVEN ELECTORAL COLLEGE VOTES, WHICH HAD IT  
22 BEEN A CLOSER ELECTION COULD HAVE BEEN -- WE KNOW HOW  
23 MUCH A DIFFERENCE ONE STATE CAN MAKE IN PRESIDENTIAL  
24 ELECTIONS.

25 Q JUST IN SUMMARY, DR. KING, WHAT DOES YOUR

11:42a

1 ANALYSIS INDICATE ABOUT BLACK LOUISIANANS' ABILITY TO  
2 ELECT THEIR CANDIDATE OF CHOICE?

3 A IN THE ABSENCE OF DISTRICTS WHERE BLACKS ARE  
4 A MAJORITY OR CLOSE TO MAJORITY -- A STRONG POLARITY,  
5 I GUESS YOU COULD SAY IT -- THAT BLACK VOTERS  
6 CANNOT -- EXCUSE ME -- BLACK CANDIDATES CANNOT JUST  
7 ASSUME THAT WHITE CROSSOVER VOTES WILL BE THERE; THAT  
8 THEY'LL BE IN SUBSTANTIAL ENOUGH NUMBERS FOR EITHER  
9 THE BLACK CANDIDATE TO WIN OR FOR BLACK VOTERS TO  
10 ELECT THEIR PREFERRED CANDIDATE. RACIAL RESENTMENT  
11 WOULD ARGUE THAT THAT IS IN NO WAY GUARANTEED.

12 Q THANK YOU, DR. KING.

13 MS. GIGLIO: YOUR HONOR, MAY I HAVE A MOMENT  
14 TO CONFER WITH COUNSEL?

15 THE COURT: YOU MAY.

16 MS. GIGLIO: YOUR HONOR, JUST QUICKLY,  
17 BEFORE I TENDER THE WITNESS, WE NOTE THAT I'M NOT  
18 SURE THAT YOU ACTUALLY TENDERED DR. KING AS AN EXPERT  
19 WHEN RULING ON OUR TENDER.

20 THE COURT: ACCEPTING HIM AS AN EXPERT?

21 MS. GIGLIO: OH, DID YOU?

22 THE COURT: WELL, LET ME JUST -- I THOUGHT I  
23 DID, BUT LET'S JUST MAKE SURE.

24 MS. GIGLIO: WELL, YOUR HONOR --

25 THE COURT: THE COURT ACCEPTS DR. KING TO

11:43a

1 GIVE OPINION TESTIMONY IN THE FIELDS OF POLITICAL  
2 SCIENCE, VOTING BEHAVIOR, AND RACIALLY POLARIZED  
3 VOTING. IS THAT THE CORRECT FIELDS?

4 MS. GIGLIO: YES, YOUR HONOR. THANK YOU  
5 VERY MUCH. AND WE TENDER THE WITNESS.

6 THE COURT: MR. LEWIS, ABOUT HOW MUCH TIME  
7 DO YOU THINK YOU NEED?

8 MR. LEWIS: I WOULD HOPE ABOUT 20 MINUTES.

9 THE COURT: OKAY.

10 CROSS-EXAMINATION

11 BY MR. LEWIS:

12 Q GOOD MORNING, DR. KING.

13 A GOOD MORNING. IS IT STILL MORNING?

14 Q IT IS. I JUST WANT TO GO THROUGH QUICKLY  
15 SOME OF THE ASPECTS OF YOUR REPORT.

16 SO LET ME START BY ASKING YOU: YOU WERE  
17 ASKED ON DIRECT EXAMINATION ABOUT YOUR EXPERIENCE  
18 WITH THE ECOLOGICAL INFERENCE TECHNIQUE. IS THAT  
19 RIGHT?

20 A CORRECT.

21 Q NOW, YOU'VE NOT CONDUCTED ECOLOGICAL  
22 INFERENCE ANALYSES IN YOUR PUBLISHED RESEARCH. IS  
23 THAT RIGHT?

24 A THAT IS CORRECT.

25 Q AND I BELIEVE YOU TAUGHT YOURSELF HOW TO USE

11:44a

1 THE SOFTWARE. IS THAT RIGHT?

2 A YES. I WOULD JUST SAY THAT THE SOFTWARE --  
3 I'M NOT SURE IT EXISTED WHEN I WAS IN GRADUATE  
4 SCHOOL. MAYBE IT DID, BUT IT WASN'T FAMILIAR TO ME,  
5 SO I DIDN'T REALLY HAVE A CHOICE.

6 Q OKAY. ALL RIGHT. AND I BELIEVE YOU  
7 TESTIFIED ON DIRECT EXAMINATION THAT YOU TOOK -- THE  
8 VOTING DATA THAT YOU USED FOR YOUR ECOLOGICAL  
9 INFERENCE ANALYSIS, YOU OBTAINED THAT DATA FROM THE  
10 ACLU. IS THAT RIGHT?

11 A YES.

12 Q AND THEN I BELIEVE YOU INDICATED THAT YOU  
13 ENSURED THAT YOUR DATA, QUOTE, COMPORTED WITH THE  
14 SECRETARY OF STATE'S DATA. IS THAT RIGHT?

15 A YES.

16 Q BUT YOU'D AGREE WITH ME THAT THE SECRETARY  
17 OF STATE'S OFFICE REPORTS EARLY AND ABSENTEE BALLOTS  
18 AT THE PRECINCT -- OR EXCUSE ME -- AT THE PARISH  
19 LEVEL INSTEAD OF THE PRECINCT LEVEL. IS THAT RIGHT?

20 A THAT'S MY UNDERSTANDING HOW THEY DO IT.

21 Q AND YOU'D AGREE WITH ME THAT THE DATA YOU  
22 OBTAINED FROM THE ACLU HAD ALLOCATED THE CENTRAL  
23 ABSENTEE AND EARLY VOTING DATA FROM THE PARISH TO THE  
24 PRECINCT LEVEL. IS THAT RIGHT?

25 A YES, THAT'S MY UNDERSTANDING.

11:45a

1 Q AND YOU DIDN'T PERFORM THAT ALLOCATION  
2 YOURSELF. RIGHT?

3 A I DID NOT.

4 Q TURNING TO YOUR ANALYSIS OF THE NOVEMBER  
5 2022 U.S. SENATE ELECTION, AS I UNDERSTAND IT, YOU  
6 RAN YOUR ECOLOGICAL INFERENCE STUDY BY COMPARING THE  
7 TOP TWO DEMOCRATIC VOTE-GETTERS IN THAT ELECTION  
8 AMONG VOTES CAST BY REGISTERED DEMOCRATS. IS THAT  
9 RIGHT?

10 A YES.

11 Q ALL RIGHT. AND ARE YOU AWARE OF PUBLISHED  
12 ACADEMIC RESEARCH THAT USES -- WELL, LET ME TAKE A  
13 STEP BACK.

14 SO DO I UNDERSTAND CORRECTLY THAT THE  
15 ECOLOGICAL INFERENCE TECHNIQUE THAT YOU USED IS  
16 DESIGNED TO ESTIMATE THE PERCENTAGE OF WHITE AND  
17 BLACK SUPPORT FOR A CANDIDATE BECAUSE YOU DON'T KNOW  
18 HOW INDIVIDUALS ARE GOING TO VOTE. IS THAT RIGHT?

19 A YES, RIGHT. SO ECOLOGICAL INFERENCE IS  
20 JUST, YOU KNOW, INFERRING, YOU KNOW, THAT VOTING  
21 BEHAVIOR. BUT WE HAVE THE DATA OF HOW MANY BLACKS  
22 AND WHITES VOTED BECAUSE THAT IS REPORTED.

23 Q SO JUST AT VERY, VERY HIGH LEVELS, IS IT THE  
24 GENERAL IDEA THAT YOU'RE LOOKING THROUGHOUT THE --  
25 YOU'RE COMPARING DIFFERENT PRECINCTS, YOU'RE



11:47a

1 COMPARING THE ELECTION RETURNS FROM THAT PRECINCT TO  
2 THE PERCENTAGE OF THE RACIAL COMPOSITION OF THAT  
3 PRECINCT. THAT'S THE BASIC IDEA AS TO HOW YOU'RE  
4 ESTIMATING SUPPORT. RIGHT?

5 A WELL, I JUST LOOKED AT EVERYTHING AT THE  
6 PARISH LEVEL, SO I DIDN'T --

7 Q I SEE.

8 A SO, YOU KNOW -- BECAUSE I JUST REPORTED IT  
9 BY THE PARISHES, SO I JUST COMBINED ALL THE PRECINCT  
10 DATA FOR EACH PARISH.

11 Q OKAY. I SEE. SO YOU JUST USED IT AT THE  
12 PARISH LEVEL?

13 A YES, THAT'S RIGHT. THAT'S RIGHT. SO I  
14 DIDN'T NEED TO -- HOW THOSE VOTES ARE ALLOCATED TO  
15 THE PRECINCT LEVEL DOESN'T MATTER FOR ME BECAUSE I  
16 JUST COMBINED IT ALL IN, YOU KNOW, PARISH TOTALS.

17 Q I SEE. ARE YOU AWARE OF PUBLISHED RESEARCH  
18 THAT USES ECOLOGICAL INFERENCE TO SIMULTAN- -- TO  
19 ESTIMATE TURNOUT AMONG BLACK DEMOCRATS VERSUS WHITE  
20 DEMOCRATS; IN OTHER WORDS, WHERE YOU'RE CONTROLLING  
21 FOR BOTH RACE AND PARTISAN AFFILIATION?

22 A WELL, I MEAN, THAT'S -- I MEAN, THAT WOULD  
23 BE THE PURPOSE HERE, IS JUST TO -- WELL, YOU KNOW,  
24 AND SO FOR ME BY RUNNING -- BY EXCLUDING THE  
25 REPUBLICAN VOTES AND JUST LOOKING AT THE DEMOCRATIC

11:48a

1 VOTES, SO THEN I'M JUST FOCUSING ON DEMOCRATIC VOTES.

2 Q RIGHT. BUT --

3 A I MAY HAVE MISUNDERSTOOD THE QUESTION, SO IF  
4 YOU WANT TO ASK IT AGAIN.

5 Q SURE. SO YOU DON'T -- YOU'RE NOT ABLE -- IN  
6 YOUR DATABASE YOU'RE NOT ABLE TO EXCLUDE SPECIFIC  
7 VOTES CAST BY REGISTERED REPUBLICANS. RIGHT?

8 A NO. I MEAN, THAT'S WHAT I DID, IS -- YOU  
9 KNOW, WITH THE DATASET. SO THEN I -- I MEAN, SO ALL  
10 OF THAT DATA WAS PRESENTED TO ME, BUT THEN I JUST  
11 KIND OF SET THE REPUBLICAN VOTES ASIDE AND JUST  
12 FOCUSED ON DEMOCRATIC VOTES, WHITES AND BLACKS WHO  
13 ARE DEMOCRATIC, AND THEN THAT WAY PARTY IS OUT OF THE  
14 EQUATION.

15 Q OKAY. BUT YOU HAD TO ESTIMATE THE VOTES  
16 AMONG REGISTERED DEMOCRATS IN ORDER TO DO THAT  
17 ANALYSIS. RIGHT?

18 A YEAH -- SO I WAS ESTIMATING THE PERCENT -- I  
19 WAS ESTIMATING WHAT PERCENTAGE OF THE BLACK VOTE WENT  
20 TO EACH CANDIDATE AND WHAT PERCENTAGE OF THE WHITE  
21 VOTE WENT TO EACH CANDIDATE. BUT THE DATA AS  
22 PRESENTED -- LIKE FROM THE SECRETARY OF STATE'S  
23 WEBSITE THAT THE ACLU USED, IT PRESENTS WHITE  
24 DEMOCRATIC VOTES, BLACK DEMOCRATIC VOTES, WHITE  
25 REPUBLICAN VOTES. THERE AREN'T MANY BLACK REPUBLICAN

11:50a

1 VOTES USUALLY BUT THERE IS A HANDFUL AND -- YOU KNOW,  
2 AT THE PRECINCT LEVEL. AND THEN I JUST KIND OF  
3 AGGREGATED IT TO THE PARISH LEVEL. SO THAT ALL COMES  
4 WITH THE DATA. SO I DON'T HAVE TO -- THE ONLY THING  
5 I'M INFERRING IS JUST THE PERCENT THAT THE BLACK VOTE  
6 WENT TO EACH CANDIDATE OR THE WHITE VOTE WENT TO EACH  
7 CANDIDATE.

8 Q SINCE YOU DON'T KNOW HOW ANY PARTICULAR  
9 PERSON VOTED, YOU'RE STILL HAVING TO DRAW AN  
10 INFERENCE --

11 A YES.

12 Q -- ABOUT HOW WHITE --

13 A CORRECT.

14 Q -- ABOUT THE DIFFERENCE BETWEEN A REGISTERED  
15 DEMOCRAT AND SOMEBODY THAT MIGHT BE A REGISTERED  
16 INDEPENDENT THAT MIGHT ALSO VOTE FOR A DEMOCRAT.  
17 RIGHT?

18 A YES. BUT I JUST LOOKED AT THE REGISTERED  
19 DEMOCRATIC VOTERS.

20 Q AND IN ORDER FOR YOU TO LOOK AT JUST THE  
21 REGISTERED DEMOCRATS, YOU HAD TO PERFORM AN  
22 ESTIMATION PROCEDURE. CORRECT?

23 A NO. NO. I MEAN, IT -- THEY TELL YOU WHO'S  
24 VOTING -- I MEAN, SO THE DATA TELLS YOU WHO'S -- LIKE  
25 HOW MANY WHITE REGISTERED DEMOCRATS VOTED IN EACH

11:51a

1 PARISH.

2 Q RIGHT.

3 A SO I DON'T HAVE TO INFER THAT. THAT JUST  
4 COMES WITH THE DATA FROM THE SECRETARY OF STATE.

5 Q CORRECT. BUT THE SECRETARY OF STATE'S DATA  
6 DOESN'T -- IS IT YOUR POSITION THAT THE SECRETARY OF  
7 STATE'S DATA IS SAYING THAT THERE WERE -- FOR  
8 EXAMPLE, IN ASCENSION PARISH, THAT THERE WERE -- I'LL  
9 MAKE UP A NUMBER -- 10,000 VOTES CAST FOR CANDIDATE  
10 CHAMBERS BY WHITE DEMOCRATS?

11 A NO. IT WOULD JUST TELL ME HOW MANY WHITE  
12 DEMOCRATS VOTED. SO YES, THE ECOLOGICAL INFERENCE  
13 WOULD THEN HAVE TO INFER HOW MANY OF THOSE VOTED FOR  
14 CHAMBERS.

15 Q OKAY. AND IT WOULD HAVE TO INFER THAT FOR  
16 BOTH RACE AND FOR PARTY. CORRECT?

17 A YES.

18 Q OKAY. AND ARE YOU AWARE OF -- WELL, LET ME  
19 ASK THIS. DO YOU CITE ANY ACADEMIC RESEARCH IN YOUR  
20 REPORT THAT HAS USED THE ECOLOGICAL INFERENCE  
21 TECHNIQUE TO SIMULTANEOUSLY ESTIMATE RACE AND PARTY?

22 A I DO NOT CITE THAT.

23 Q OKAY. NOW, BECAUSE OF THE WAY YOU'VE  
24 CONSTRUCTED YOUR STUDY, YOUR STUDY WOULD NOT CONSIDER  
25 HOW BLACK VOTERS WHO ARE NOT REGISTERED DEMOCRATS

11:52a

1 WOULD HAVE VOTED IN THAT PRIMARY. IS THAT RIGHT?

2 A CORRECT.

3 Q OKAY. AND VICE VERSA; YOU WOULD NOT -- YOU  
4 WOULDN'T BE ABLE TO TELL HOW WHITE VOTERS WHO AREN'T  
5 REGISTERED DEMOCRATS VOTED IN THE PRIMARY. RIGHT?

6 A CORRECT.

7 Q ALL RIGHT. SO IF WE GO TO TABLE 4 ON PAGE 4  
8 OF YOUR REPORT, PL 133, IF WE COULD PULL THAT UP.  
9 THERE WE GO.

10 THIS IS YOUR RESULTS AT THE PARISH LEVEL FOR  
11 THIS ELECTION -- FOR THE TWO CANDIDATES IN THIS  
12 ELECTION. IS THAT RIGHT?

13 A YES.

14 Q SO IF WE JUST LOOK AT CADDO PARISH, AM I  
15 LOOKING -- AM I READING THIS CORRECTLY THAT YOU  
16 ESTIMATE 43 PERCENT OF WHITE REGISTERED DEMOCRATS  
17 SUPPORTED THE BLACK CANDIDATE CHAMBERS? IS THAT  
18 RIGHT?

19 A THAT IS CORRECT.

20 Q OKAY. AND WOULD YOU VIEW THAT 43 PERCENT AS  
21 WHITE CROSSOVER VOTING?

22 A IT COULD BE VIEWED THAT WAY.

23 Q OKAY. AND DO YOU VIEW 43 -- AND THAT'S A  
24 FAIR AMOUNT OF WHITE CROSSOVER VOTING. WOULD YOU  
25 AGREE?

11:53a

1           A     IT DEPENDS ON THE NUMBER. I MEAN, THIS  
2 COULD BE 43 PERCENT OF FIVE PEOPLE. IT'S NOT  
3 ACTUALLY, BUT I MEAN -- SO IT WOULD JUST DEPEND ON  
4 HOW BIG OF A POLL POPULATION YOU'RE TALKING WITH. SO  
5 MY OFFICIAL ANSWER I GUESS IS IT DEPENDS.

6           Q     IT DEPENDS, OKAY.

7                     AND YOU'RE NOT OFFERING IN THIS CASE A  
8 PARTICULAR CUT POINT OR A MINIMUM OF WHITE CROSSOVER  
9 VOTING. IS THAT CORRECT?

10          A     I AM NOT.

11          Q     I'D LIKE TO TURN VERY QUICKLY TO YOUR  
12 DISCUSSION OF COHESION. BEFORE I DO, I BELIEVE YOU  
13 AGREE WITH DR. ALFORD'S DATA IN THIS CASE. IS THAT  
14 CORRECT?

15          A     YES, I DO.

16          Q     OKAY. SO THIS IS REALLY A DISAGREEMENT OVER  
17 THE INTERPRETATION OF THE DATA. IS THAT RIGHT?

18          A     CORRECT.

19          Q     OKAY. SO I BELIEVE YOU TESTIFIED THAT YOU  
20 -- THAT YOU GENERALLY LIKE TO SEE 50 PERCENT SUPPORT  
21 FOR A CANDIDATE TO FIND COHESION. IS THAT RIGHT?

22          A     YES. THAT'S A MAJORITY, SO TO ME THAT MAKES  
23 COHESION.

24          Q     OKAY. BUT WOULD YOU AGREE WITH ME THAT AT  
25 50 PERCENT, JUST AS MANY VOTERS OF A GIVEN RACE MAY

11:55a

1 BE VOTING AGAINST THE, QUOTE, PREFERRED CANDIDATE AS  
2 VOTING FOR THAT CANDIDATE?

3 A IF IT'S 50 PERCENT ON THE NOSE, YES. BUT TO  
4 ME, 50 -- YOU KNOW, WHEN I SAY A MAJORITY, I'M  
5 ASSUMING THAT IT'S, YOU KNOW, 50 PERCENT PLUS ONE.

6 Q OKAY. SO AT 50 PERCENT PLUS ONE, THEN THAT  
7 ONE EXTRA PERSON IS WHAT DEFINES COHESION FOR YOU?

8 A IT HAS TO BE SOMEWHERE.

9 Q IT HAS TO BE SOMEWHERE.

10 A IT HAS TO BE SOMEWHERE, AND A MAJORITY IS A  
11 MAJORITY. AND IN ELECTIONS THE MAJORITY IS WHAT  
12 WE'RE LOOKING FOR. YOU KNOW, THAT'S HOW ELECTIONS  
13 ARE WON, IS WITH A MAJORITY.

14 SO THAT TO ME BECOMES THE DECISIVE NUMBER,  
15 NOT A SUPER MAJORITY OR TWO-THIRDS OR THREE-FOURTHS.  
16 THAT'S -- TO ME THEN YOU'RE GETTING CLOSER TO  
17 UNANIMITY, WHICH IS A COMPLETELY DIFFERENT THRESHOLD  
18 THAN COHESION.

19 Q BUT YOU'D AGREE WITH ME THAT 50 PERCENT PLUS  
20 ONE COMPARED TO 40 -- WELL, OR 50 PERCENT MINUS  
21 ONE --

22 A SURE.

23 Q -- IS NOT EXACTLY UNANIMITY. RIGHT?

24 A MY UNDERSTANDING OF DR. ALFORD -- AND AGAIN,  
25 ME JUST WRITING REBUTTAL -- IS THAT HE SAYS COHESION

11:56a

1 IS A CONTINUUM. AND I WOULD AGREE WITH THAT. BUT AS  
2 FAR AS I KNOW, THE -- CERTAINLY NOT IN THE POLITICAL  
3 SCIENCE LITERATURE AND I DON'T THINK THE COURTS HAVE  
4 SAID THERE HAS TO BE A CERTAIN AMOUNT OF COHESION.  
5 IT'S JUST COHESION IS COHESION, SO IT HAS TO BEGIN  
6 SOMEWHERE. AND I ARGUE THAT IT'S A MAJORITY.

7 Q AND AT A 50-PERCENT-PLUS-ONE STANDARD, FAIR  
8 TO SAY THAT, YOU KNOW, YOU'D ALMOST ALWAYS FIND  
9 COHESION IN A TWO-CANDIDATE RACE. RIGHT?

10 A IN A TWO-CANDIDATE -- IN A TWO-CANDIDATE  
11 RACE, YES. BUT, YOU KNOW, LOUISIANA DOESN'T OFTEN  
12 HAVE TWO-CANDIDATE RACES, YOU KNOW, ESPECIALLY WITH  
13 ITS UNIQUE PRIMARY SYSTEM.

14 Q ALL RIGHT. DR. KING, I'D NOW LIKE TO TURN  
15 TO YOUR DISCUSSION OF POLICY DIVERGENCE BASED ON  
16 RACE. NOW, YOU MENTIONED -- WE HAD THIS DISCUSSION  
17 ABOUT ATTITUDES TOWARDS SAME-SEX MARRIAGE. DO YOU  
18 RECALL THAT?

19 A SAME-SEX MARRIAGE OR INTERRACIAL MARRIAGE?

20 Q I'M SORRY. INTERRACIAL MARRIAGE. IT WAS IN  
21 MY NOTES WRONG. IT'S INTERRACIAL MARRIAGE.

22 A WE CAN TALK ABOUT THAT, TOO.

23 Q DIFFERENT CASE.

24 BUT INTERRACIAL MARRIAGE -- WE HAD A  
25 DISCUSSION OF INTERRACIAL MARRIAGE. CORRECT?



11:57a

1 A CORRECT.

2 Q OKAY. AND I BELIEVE YOU GAVE THE VIEW THAT  
3 YOU VIEWED IT AS BEING LESS SALIENT BECAUSE IT HAD  
4 BEEN SORT OF SETTLED LAW SINCE THE '60s THAT  
5 INTERRACIAL MARRIAGE WAS LEGAL. IS THAT RIGHT?

6 A THAT IS CORRECT.

7 Q AND THEN YOU OFFERED AN OPINION IN YOUR  
8 REPORT -- I BELIEVE YOU TESTIFIED TO IT -- THAT THERE  
9 WAS A WIDE PARTISANSHIP GAP IN OPPOSITION TO  
10 INTERRACIAL MARRIAGE EVEN TODAY. IS THAT RIGHT?

11 A YES.

12 Q OKAY.

13 A I DON'T KNOW IF I USED THE WORD "WIDE,"  
14 BUT -- AND IF I DID, THEN I DID. BUT A PARTISAN GAP,  
15 YES.

16 Q WELL, WE'LL SHOW -- SINCE I'M GOING TO GET  
17 INTO THE FOOTNOTES, WE MIGHT AS WELL. IF WE COULD GO  
18 TO PAGE 8 OF YOUR REPORT, TOWARD THE BOTTOM. AND I  
19 BELIEVE IT ALSO MOVES ON TO THE TOP OF PAGE 9, BUT  
20 WE'RE LOOKING AT THAT BOTTOM PARAGRAPH ON PAGE 8.

21 OKAY. SO I GUESS MY QUESTION FOR YOU IS --  
22 NOW, YOU CITE FOR VIEWS ON INTERRACIAL MARRIAGE THIS  
23 ARTICLE BY CHRISTOPHER INGRAHAM. IS THAT RIGHT?

24 A YES.

25 Q OKAY. WOULD YOU AGREE WITH ME THAT THAT

11:59a

1 CITATION INDICATES THAT IN 2021 ONLY SEVEN PERCENT OF  
2 AMERICAN ADULTS EXPRESSED OPPOSITION TO A CLOSE  
3 RELATIVE MARRYING A BLACK PERSON?

4 A YES, SEVEN PERCENT.

5 Q SEVEN PERCENT, OKAY.

6 AND DO YOU RECALL WHERE THAT SAME -- THAT  
7 ARTICLE REPORTED THAT THE SAME PERCENTAGE WAS ABOUT  
8 60 PERCENT IN 1990?

9 A YES.

10 Q OKAY. AND YOU HAVE NO BASIS TO DISAGREE  
11 WITH MR. INGRAHAM'S CALCULATIONS. IS THAT RIGHT?

12 A THAT IS CORRECT.

13 Q OKAY. SO WOULD YOU AGREE THAT A REDUCTION  
14 OF SOME 53 PERCENTAGE POINTS OF AMERICANS OPPOSED TO  
15 INTERRACIAL MARRIAGE FROM 1990 TO 2021 REPRESENTS A  
16 SIGNIFICANT SHIFT IN PUBLIC OPINION?

17 A YES AND NO. YES, BUT IT'S RELATIVE.

18 Q OKAY. WOULD YOU AGREE WITH ME THAT THE  
19 *LOVING VS VIRGINIA* DECISION WAS JUST AS SETTLED LAW  
20 IN 1990 AS IT WAS IN 2021?

21 A YES. BUT WE ALSO KNOW THAT THERE IS A LONG  
22 LAG OF TIME BETWEEN COURT DECISIONS AND PUBLIC  
23 ACCEPTANCE OF THOSE COURT DECISIONS. SO, FOR  
24 INSTANCE, WITH BUSSING CASES FROM THE COURTS IN THE  
25 1970s, A FULL GENERATION AFTER *BROWN VS BOARD*,

12:00p

1 SETTLED LAW DOESN'T MEAN ACCEPTANCE.

2 Q AND SO I BELIEVE THERE WAS ALSO A DISCUSSION  
3 IN YOUR DIRECT EXAMINATION ABOUT SOCIAL DESIRABILITY  
4 BIAS. DO YOU RECALL THAT?

5 A YES.

6 Q OKAY. AND THE WAY THAT QUESTION THAT YOU  
7 CITED FROM MR. INGRAHAM WAS PHRASED, THAT TALKED  
8 ABOUT AMERICAN ADULTS BEING OPPOSED TO A CLOSE  
9 RELATIVE MARRYING A BLACK PERSON. DO YOU RECALL  
10 THAT?

11 A YES.

12 Q OKAY. AND IS THAT AN EXAMPLE OF A SURVEY  
13 DESIGN THAT'S DESIGNED TO MITIGATE THE EFFECTS OF  
14 SOCIAL DESIRABILITY BIAS?

15 A TO THE BEST OF ITS POSSIBILITY, YES.

16 Q JUST TO BE VERY CLEAR FOR THE RECORD, IS THE  
17 IDEA THAT IF YOU ASK SOMEBODY "ARE YOU" -- "WOULD YOU  
18 BE WILLING TO BE IN" -- FOR EXAMPLE, "WOULD YOU BE  
19 WILLING TO BE IN AN INTERRACIAL MARRIAGE?" THAT  
20 PERSON MAY FEEL PRESSURED TO SAY "YES"?

21 A CORRECT. THAT'S RIGHT.

22 Q SO THEN THE IDEA IS IF YOU ASK ABOUT THE --  
23 "WOULD YOU BE OPPOSED TO A CLOSE RELATIVE?" THAT THAT  
24 MAY OFFER MORE COMFORT TO GIVE THE LESS DESIRABLE  
25 OPINION?

12:01p

1 A THAT IS CORRECT.

2 Q OKAY. ALL RIGHT. SO I'D LIKE TO NOW TURN  
3 TO PAGE 9 OF YOUR REPORT, WHICH IS ALREADY ON OUR  
4 SCREEN. AND SPECIFICALLY THAT SECOND -- WELL, FIRST  
5 AND SECOND FULL PARAGRAPHS AT THE TOP, IF WE CAN  
6 START THERE.

7 AND HERE YOU TALK ABOUT GALLUP DIVERGENCES  
8 ON POLICIES. I JUST HAD A QUESTION FOR YOU ABOUT --  
9 IT'S SORT OF IN THE MIDDLE OF THE PAGE WHERE YOU TALK  
10 ABOUT A GALLUP QUESTION ABOUT RACE RELATIONS AND YOU  
11 INDICATE THAT THE GAP INCREASED FROM FOUR TO 14  
12 POINTS ON THAT QUESTION.

13 A YES.

14 Q DO YOU SEE THAT?

15 A YES.

16 Q AND THE QUESTION IS SPECIFICALLY: "DO YOU  
17 THINK THAT RELATIONS BETWEEN BLACKS AND WHITES WILL  
18 ALWAYS BE A PROBLEM FOR THE UNITED STATES, OR THAT A  
19 SOLUTION WILL EVENTUALLY BE WORKED OUT?" IS THAT  
20 CORRECT?

21 A YES.

22 Q OKAY. IS IT FAIR TO SAY THAT THAT QUESTION  
23 IS ATTEMPTING TO MEASURE OPTIMISM VERSUS PESSIMISM?

24 A I THINK YOU COULD LOOK AT IT THAT WAY, YES.

25 Q AND WOULD YOU AGREE THAT MUCH OF THE GROWTH

12:03p

1 IN THAT GAP FROM FOUR TO 14 POINTS BETWEEN 1996 AND  
2 2016 IS EXPLAINABLE BY WHITE RESPONDENTS BECOMING  
3 MORE OPTIMISTIC AS TIME PASSES?

4 A I WOULD HAVE TO GO BACK AND LOOK AT THAT  
5 DATA SPECIFICALLY. IT COULD BE WHITES BEING MORE  
6 OPTIMISTIC BECAUSE OF THE ELECTION OF OBAMA, BUT THEN  
7 IT COULD ALSO BE BLACKS BECOMING MORE PESSIMISTIC.  
8 SO I WOULD HAVE TO -- I COULD ONLY QUALIFY MY ANSWER.

9 Q ALL RIGHT. AND DO YOU RECALL GIVING A  
10 DEPOSITION IN THIS CASE?

11 A YES.

12 Q OKAY. AND DO YOU RECALL BEING ASKED HOW  
13 THAT GAP CAN BE EXPLAINED?

14 A IF YOU TELL ME.

15 Q OKAY.

16 A THERE WERE A LOT OF QUESTIONS.

17 Q THERE WERE A LOT OF QUESTIONS. ALL RIGHT.  
18 SO I'D LIKE TO PULL UP YOUR DEPOSITION ON -- AT PAGE  
19 102.

20 THE COURTROOM DEPUTY: YOU'RE DOING IT FROM  
21 HERE OR BACK THERE?

22 MR. LEWIS: HE'S DOING IT, BUT WE'RE ON THE  
23 SCREEN.

24 BY MR. LEWIS:

25 Q AND DO YOU RECALL GIVING AN OATH TO TELL THE

12:04p

1 TRUTH IN THAT DEPOSITION?

2 A YES.

3 Q OKAY. AND YOU DID SO. IS THAT RIGHT?

4 A YES.

5 Q OKAY. AND SO I'M JUST GOING TO READ TO YOU  
6 THE QUESTION BEGINNING ON LINE 11.

7 A OKAY.

8 Q AND IT READS: "IS IT FAIR TO SAY THAT MUCH  
9 OF THE GAP THAT YOU DESCRIBED, DR. KING, IS  
10 EXPLAINABLE BY WHITE RESPONDENTS BECOMING MORE  
11 OPTIMISTIC AS TIME PASSES INSTEAD OF BLACK  
12 RESPONDENTS BECOMING MORE PESSIMISTIC AS TIME  
13 PASSES?" DO YOU SEE THAT?

14 MS. GIGLIO: YOUR HONOR, RESPECTFULLY, THIS  
15 IS IMPROPER IMPEACHMENT. THIS IS NOT THE QUESTION  
16 THAT MR. LEWIS ASKED. AND, FRANKLY, IT REFLECTS THE  
17 WITNESS'S RESPONSE.

18 THE COURT: IT'S NOT EXACTLY THE SAME  
19 QUESTION. I'M GOING TO OVERRULE THE OBJECTION. YOU  
20 CAN ASK THE QUESTION.

21 MR. LEWIS: THANK YOU, YOUR HONOR.

22 BY MR. LEWIS:

23 Q DO YOU SEE YOUR ANSWER BEGINNING ON LINE 18?

24 A YES.

25 Q OKAY. AND DOES IT SAY "I WOULD MOSTLY AGREE

12:05p

1 WITH THAT, YES"?

2 A YES.

3 Q OKAY. THANK YOU. WE CAN TAKE THAT DOWN.

4 SO, DR. KING, WHEN YOU LOOKED AT THOSE  
5 GALLUP QUESTIONS ABOUT RACE RELATIONS, NONE OF THOSE  
6 WERE SPECIFICALLY STUDYING AREAS OF LOUISIANA AT  
7 ISSUE IN THIS LAWSUIT. IS THAT RIGHT?

8 A FROM THE GALLUP QUESTIONS?

9 Q YES.

10 A NO. I MEAN, SO THIS WOULD HAVE BEEN A  
11 NATIONAL SURVEY.

12 Q OKAY.

13 A A SURVEY OF NATIONAL RESPONDENTS.

14 Q SURE. BUT NOT JUST -- IT WAS NOT, YOU KNOW,  
15 A SURVEY EXCLUSIVELY OF PEOPLE WITHIN THE AREAS OF  
16 LOUISIANA THAT ARE AT ISSUE IN THIS CASE. RIGHT?

17 A THAT IS CORRECT.

18 Q ALL RIGHT. SO, DR. KING, I'D NOW LIKE TO  
19 TURN TO THE -- THIS ANALYSIS OF RACIAL RESENTMENT  
20 THAT YOU PERFORMED. AND I'D LIKE TO TAKE A LOOK AT  
21 THE QUESTIONS. SO IF WE COULD GO TO -- LOOKS LIKE  
22 THE BOTTOM OF PAGE 9 AND THE TOP OF PAGE 10 OF YOUR  
23 REPORT. IF WE COULD PUT THOSE UP SIDE BY SIDE.

24 AND SO WE LOOK AT THE VERY FIRST QUESTION,  
25 AND IT READS, QUOTE, IN GENERAL DO YOU THINK THAT

12:06p

1 BLACKS HAVE AS GOOD A CHANCE AS WHITES IN YOUR  
2 COMMUNITY TO GET ANY KIND OF JOB FOR WHICH THEY ARE  
3 QUALIFIED, OR DON'T YOU THINK THEY HAVE AS GOOD A  
4 CHANCE. IS THAT RIGHT?

5 A YES.

6 Q OKAY. AND SO AS I UNDERSTAND IT, IF THE --  
7 IF A RESPONDENT WERE TO ANSWER "YES" TO THAT  
8 QUESTION, THAT WOULD COUNT AS A FINDING OF RACIAL  
9 RESENTMENT. IS THAT RIGHT?

10 A YES.

11 Q OKAY. AND DO I UNDERSTAND YOUR POSITION --  
12 AND WHY IS THAT?

13 A SO RACIAL RESENTMENT IS AN INDEX. SO WHEN  
14 YOU COMBINE THE ANSWERS TO ALL OF THESE, WHAT -- AS  
15 RACIAL RESENTMENT IS DEFINED AND ARTICULATED IS YOU  
16 HAVE WHITES WHO FEEL THAT BLACKS DO HAVE AS GOOD OF A  
17 CHANCE AS WHITES. AND FOR BLACKS TO SAY THAT THEY  
18 DON'T MEANS THAT THEY ARE NOT PUTTING IN MAYBE FULL  
19 EFFORT OR TRYING AS HARD AS WHITES AND THAT THEY HAVE  
20 ALL THE ADVANTAGES THAT THEY NEED AND SO THEY DON'T  
21 NEED ANY ADDITIONAL HELP FROM GOVERNMENT.

22 Q BUT THEY DON'T -- THERE IS NOTHING IN THIS  
23 QUESTION THAT ACTUALLY SAYS THAT ANYONE NEEDS HELP  
24 FROM THE GOVERNMENT. RIGHT?

25 A THAT IS CORRECT. AND AGAIN, THAT'S WHY THE



12:08p

1 RACIAL RESENTMENT SCALE IS -- IT'S AN ADDITIVE INDEX,  
2 SO IT'S LOOKING AT THE RESPONSES TO A VARIETY OF  
3 QUESTIONS.

4 Q AND THEN IS THE IDEA THAT IF SOMEBODY  
5 ANSWERS "NO," THAT THEY MAY UNDERSTAND, FOR EXAMPLE,  
6 THAT THERE ARE SOCIETY LEVEL INFLUENCES THAT MAY MAKE  
7 CHANCES FOR SUCCESS FOR BLACK AMERICANS MORE  
8 DIFFICULT? IS THAT THE IDEA?

9 A YES, I WOULD AGREE WITH THAT.

10 Q OKAY. AND THEN IF THE PERSON ANSWERS "YES,"  
11 AM I UNDERSTANDING YOU TO TRY TO DRIVE IT, THE  
12 RESPONDENT MAY BE LOOKING AT MORE INDIVIDUAL LEVEL  
13 FACTORS? IS THAT RIGHT?

14 A CORRECT.

15 Q OKAY. AND SO THE IDEA THAT SOCIETY LEVEL  
16 INFLUENCES THAT MIGHT IMPACT CHANGES FOR -- OR  
17 OPPORTUNITY FOR BLACK SUCCESS, THAT'S THE IDEA OF  
18 SYSTEMIC RACISM. IS THAT CORRECT?

19 A YES.

20 Q NOW, YOU'D AGREE THAT SOMEONE WHO ANSWERS  
21 "YES" TO, FOR EXAMPLE, THIS QUESTION MAY NOT  
22 NECESSARILY BE RACIALLY RESENTFUL. RIGHT?

23 A YES. BUT I'M -- I MEAN, YOU'RE ASKING ME --  
24 I MEAN, I'M NOT SURE I CAN GET INTO THE HEAD OF  
25 INDIVIDUAL RESPONSES. SO AGAIN, THIS IS WHY IT'S

12:10p

1 JUST AN ADDITIVE INDEX LOOKING AT, YOU KNOW, THE  
2 CUMULATIVE RESPONSES TO SEVERAL QUESTIONS, SO -- BUT  
3 I WOULD AGREE WITH YOU IN PRINCIPLE, IF I UNDERSTAND  
4 YOU CORRECTLY.

5 Q SURE. OKAY. ALL RIGHT. NOW, IF WE LOOK AT  
6 THE RESULTS -- IF WE COULD PULL BACK FROM THIS AND  
7 THEN LOOK AT TABLE 6. SO YOU HAVE SOME -- YOU HAVE  
8 SOME VALUES HERE ON THE PAGE. DO I UNDERSTAND THAT  
9 WHERE YOU HAVE THE .87 FOR REPUBLICANS -- WELL, I  
10 GUESS YOU HAVE TWO .87s FOR REPUBLICANS. BUT THAT  
11 THAT VALUE MEANS THAT -- DO I UNDERSTAND CORRECTLY  
12 THAT THAT MEANS 87 PERCENT OF REPUBLICANS ANSWERED  
13 "YES" TO AT LEAST ONE QUESTION ON THE BATTERY?

14 A THAT IS CORRECT. AND IF I COULD, EARLIER  
15 YOU ASKED -- YOU PHRASED THIS AS MY ANALYSIS. AND  
16 JUST TO BE CLEAR, THIS IS GALLUP ANALYSIS. I'M JUST  
17 RE- -- REPRINTING, CITING WHAT THEY HAD USED. SO  
18 THIS ISN'T MY ANALYSIS. THIS IS JUST ME REPORTING  
19 GALLUP ANALYSIS. BUT YES, THAT IS CORRECT.

20 Q OKAY. ALL RIGHT. SO THEN IF WE COULD GO  
21 BACK TO -- AND I DON'T MEAN -- YOU KNOW, I DON'T  
22 THINK WE HAVE TO BELABOR THIS. BUT I BELIEVE OF THE  
23 EIGHT QUESTIONS ON THIS BATTERY, WOULD YOU AGREE WITH  
24 ME THAT ONLY THE VERY LAST QUESTION ABOUT DEALING  
25 WITH THE POLICE IS DIRECTLY ASKING A SURVEY

12:11p

1 RESPONDENT ABOUT RACIAL DIFFERENCES AND HOW THE  
2 GOVERNMENT TREATS BLACK AMERICANS?

3 A YES. AND I WOULD JUST SAY, AGAIN, THIS  
4 IS -- IT'S JUST A FUNCTION OF WHICH SOURCE YOU USE.  
5 THE NES, THE NATIONAL ELECTION STUDIES, THEY HAVE  
6 DIFFERENT QUESTIONS THAT GET TO THE SAME EFFECT,  
7 BUT -- AND AGAIN, I JUST WANTED TO USE GALLUP BECAUSE  
8 DR. ALFORD HAD USED GALLUP, SO I JUST WANTED TO USE  
9 SIMILAR DATA.

10 Q SURE. AND AGAIN, YOUR RACIAL RESENTMENT  
11 SCALE DOES NOT MEASURE RACIAL RESENTMENT AMONG  
12 LOUISIANA -- WHITE LOUISIANA RESIDENTS ALONE. IS  
13 THAT CORRECT?

14 A CORRECT.

15 Q OKAY. AND NOT WHITE LOUISIANANS WITHIN THE  
16 AREAS OF LOUISIANA STUDIED IN THIS LAWSUIT. RIGHT?

17 A THAT IS CORRECT.

18 Q OKAY. NOW, IS THE RACIAL RESENTMENT INDEX  
19 THAT YOU REPORT IN YOUR EXPERT REPORT THE ONLY ONE  
20 USED IN THE ACADEMIC LITERATURE?

21 A NO.

22 Q ALL RIGHT. SO, FOR EXAMPLE, IF WE GO TO  
23 PAGE 10 OF YOUR REPORT -- AND I'M LOOKING AT THE  
24 FIRST SENTENCE UNDER TABLE 6 WHERE IT SAYS, "THERE  
25 ARE ELECTORAL CONSEQUENCES TO RACIAL RESENTMENT WITH

12:13p

1 MULTIPLE RESEARCH FINDINGS OF EVIDENCE THAT WHITE  
2 VOTERS DISCRIMINATE AGAINST BLACK CANDIDATES." DO  
3 YOU SEE THAT?

4 A YES.

5 Q OKAY. AND I BELIEVE THE CITATION FOOTNOTE  
6 15 AT THE BOTTOM IS TO AN ARTICLE FROM JACK CITRIN  
7 AND OTHERS IN "PUBLIC OPINION QUARTERLY." DO YOU SEE  
8 THAT?

9 A YES.

10 Q THERE WE GO. SO WE HAVE A COPY OF THAT  
11 ARTICLE, AND I'D LIKE TO PUT THAT UP NOW ON THE  
12 SCREEN AS -- THE FIRST PAGE OF WHICH I BELIEVE IS  
13 LDTX KING 4. IF WE CAN GO TO THAT.

14 OKAY. SORRY FOR THAT DELAY, DR. KING. DO  
15 YOU RECOGNIZE THIS ARTICLE?

16 A YES.

17 Q OKAY. AND SO I'D LIKE TO TURN TO -- LOOKS  
18 LIKE THERE IS A COUPLE OF TITLE PAGES, SO WE'RE GOING  
19 TO GO TO PAGE 3 OF THE EXHIBIT, WHICH I UNDERSTAND IS  
20 PAGE 1 OF THIS ARTICLE. THERE WE GO.

21 ALL RIGHT. AND JUST LOOKING AT THE  
22 ABSTRACT, DO I UNDERSTAND CORRECTLY THAT THIS STUDY  
23 EXAMINED THE 1982 CALIFORNIA GUBERNATORIAL ELECTION?

24 A I BELIEVE IT DOES, YES.

25 Q AND SPECIFICALLY THE ONE WITH TOM BRADLEY

12:15p

1 WHO WAS A BLACK CANDIDATE. IS THAT RIGHT?

2 A YES.

3 Q OKAY. AND THIS PARTICULAR STUDY ALSO LOOKED  
4 AT THE CONCEPT OF RACIAL RESENTMENT. IS THAT RIGHT?

5 A I BELIEVE SO, YES.

6 Q OKAY. SO I'D LIKE TO TURN TO PAGE 11 OF THE  
7 ARTICLE, WHICH UNDER THEIR NUMBERING IS -- I THINK  
8 IT'S PAGE -- NUMBERED PAGE 82. THERE WE GO. ALL  
9 RIGHT. THIS IS TABLE 2.

10 AND THIS TABLE IS REPORTING RACIAL OPINIONS  
11 EXPRESSED AMONG WHITE CALIFORNIA VOTERS. IS THAT  
12 RIGHT?

13 A YES.

14 Q AND SO LIKE THE FIRST QUESTION ASKED, QUOTE,  
15 THE GOVERNMENT SHOULD NOT MAKE ANY SPECIAL EFFORT TO  
16 HELP BLACKS AND OTHER RACIAL MINORITIES BECAUSE THEY  
17 SHOULD HELP THEMSELVES. DO YOU SEE THAT QUESTION?

18 A I DO, YES.

19 Q AND IS THAT A QUESTION THAT COULD MEASURE  
20 RACIAL RESENTMENT?

21 A IT COULD.

22 Q AND IS IT FAIR TO SAY THAT A QUESTION LIKE  
23 THAT IS MEASURING RESENTMENT BASED ON QUESTIONS  
24 TESTING WHAT PEOPLE THINK ABOUT HOW THE GOVERNMENT  
25 TREATS MEMBERS OF ONE RACIAL GROUP VERSUS ANOTHER?

12:16p

1 A YES.

2 Q OKAY. AND IF WE THEN GO TO -- I FEEL LIKE  
3 IT'S THE NEXT PAGE. LET'S SEE IF I'M RIGHT -- PAGE  
4 83, THERE IS THEN ANOTHER CATEGORY OF QUESTIONS THAT  
5 THIS STUDY IS ALSO LOOKING AT UNDER THE HEADING  
6 "PERCEIVED TRAITS OF BLACKS." DO YOU SEE THAT?

7 A YES.

8 Q OKAY. AND SO THE FIRST QUESTION ASKS WHICH  
9 OF THE FOLLOWING GROUPS ARE THE LEAST LAW-ABIDING,  
10 AND THEN IT LISTS A SERIES OF GROUPS. DO YOU SEE  
11 THAT?

12 A YES.

13 Q OKAY. AND IS IT FAIR TO SAY THAT QUESTIONS  
14 LIKE THAT ONE ARE TESTING IF SURVEY RESPONDENTS AGREE  
15 WITH A RACIAL STEREOTYPE?

16 A YES. I WOULD -- I WOULD ALSO -- YES.

17 Q OKAY. AND WE CAN TAKE THAT DOWN.

18 SO IS IT FAIR TO SAY THAT THE QUESTIONS LIKE  
19 THOSE USED IN THE CITRIN ARTICLE THAT YOU CITE IN  
20 YOUR EXPERT REPORT ARE MEASURING DIFFERENT RACIAL  
21 ATTITUDES AND VIEWS THAN THE BATTERY OF QUESTIONS  
22 THAT YOU SELECTED IN YOUR STUDY?

23 A THAT 1982 GUBERNATORIAL RACE IN CALIFORNIA  
24 IS OFTEN CITED AS THE PROTOTYPICAL EXAMPLE OF SOCIAL  
25 DESIRABILITY BIAS, BECAUSE TOM BRADLEY LED IN ALL THE

12:18p

1 POLLS BUT THEN LOST. AND SO I WOULD HAVE TO REREAD  
2 THAT ARTICLE PROBABLY IN ITS ENTIRETY TO UNDERSTAND  
3 IF THEY'RE TRYING TO -- IF THAT ARTICLE IS  
4 SPECIFICALLY FOCUSED ON THE RACIAL RESENTMENT OR THE  
5 SOCIAL DESIRABILITY.

6 Q BUT THOSE QUESTIONS ARE MEASURING RACIAL  
7 ATTITUDES AND VIEWS VERY DIFFERENTLY THAN YOUR  
8 QUESTIONS IN THIS CASE. IS THAT RIGHT?

9 A AS I SAID, THERE ARE MANY DIFFERENT SURVEYS  
10 LOOKING AT RACIAL RESENTMENT; FOR INSTANCE, THE  
11 NATIONAL ELECTION STUDIES THAT POLITICAL SCIENTISTS  
12 OFTEN USE, SO THEY'RE GOING TO ASK SIMILAR QUESTIONS  
13 BUT THEY WILL BE WORDED SLIGHTLY DIFFERENTLY.

14 SO I WOULD AGREE THAT YES, THESE QUESTIONS  
15 ARE DIFFERENT, THEY'RE GETTING AT THE SAME ATTITUDE,  
16 BUT YES, THEY ARE ASKED DIFFERENTLY AND YOU MIGHT GET  
17 SOME SPECIFIC DIFFERENCES, YES.

18 Q SURE. OKAY.

19 AND SO TO WRAP THIS UP, I WANT TO -- AND I'M  
20 SORRY TO HAVE TO KIND OF REWIND A LITTLE BIT. BUT I  
21 WANT TO JUST KIND OF CONCLUDE WITH YOUR REVIEW OF THE  
22 2018 SECRETARY OF STATE ELECTION. SO I'D LIKE TO GO  
23 INTO YOUR REPORT ON PAGE 7. I BELIEVE IT'S THE  
24 SECOND PARAGRAPH. DID I GET THAT RIGHT? THE FIRST  
25 FULL PARAGRAPH. EXCUSE ME. IF WE COULD JUST ZOOM IN

12:19p

1 ON THAT. OKAY.

2 SO DO I UNDERSTAND YOUR POSITION THAT YOU'RE  
3 LOOKING AT A MEASURE OF DIFFERENCE BY RACE BECAUSE  
4 YOU'RE LOOKING AT HOW THE -- AMONG WHITE DEMOCRAT --  
5 AMONG WHITE VOTERS THE BLACK DEMOCRATIC CANDIDATE  
6 RECEIVED FIVE PERCENT OF THE WHITE VOTE AND THE OTHER  
7 RECEIVED 9.7. IS THAT RIGHT?

8 A YES.

9 Q OKAY. AND SO FOR YOU, THE -- YOU'RE FINDING  
10 POLARIZATION BECAUSE YOU'RE SEEING THAT NINE PERCENT  
11 IS HIGHER THAN THE FIVE. IS THAT RIGHT?

12 A YES. MY INTERPRETATION OF DR. ALFORD'S  
13 ANALYSIS.

14 Q AND SO JUST TO MAKE SURE WE'RE LOOKING AT  
15 THE WHOLE THING, I'D LIKE TO PULL UP DR. ALFORD'S  
16 REPORT ADMITTED AS LDTX 53. AND WE'RE GOING TO GO  
17 BACK TO PAGE 9, WHICH I THINK WE LOOKED AT IN YOUR  
18 DIRECT. OKAY. AND IF WE COULD JUST HIGHLIGHT THAT  
19 BOTTOM ELECTION, NOVEMBER 2018 SECRETARY OF STATE.  
20 THERE WE GO. ALL RIGHT.

21 SO DO YOU AGREE WITH ME, JUST AS I'M READING  
22 THIS TABLE, THAT AT THE BOTTOM OF THE PAGE, THE  
23 BOTTOM OF THIS TABLE, IT'S SUMMARIZING THE TOTAL  
24 PERCENT OF BLACK SUPPORT FOR DEMOCRATIC CANDIDATES AT  
25 87 PERCENT?



12:21p

1 A YES.

2 Q OKAY. AND FOR THE PERCENTAGE OF WHITE  
3 SUPPORT FOR DEMOCRATIC CANDIDATES AT 15 PERCENT. IS  
4 THAT RIGHT?

5 A YES.

6 Q AND SO IS IT FAIR TO SAY THAT YOU'RE LOOKING  
7 AT RACIAL POLARIZATION IN THIS ELECTION BY LOOKING  
8 JUST AT THE 15 PERCENT OF THE WHITE VOTES CAST FOR  
9 DEMOCRATIC CANDIDATES. IS THAT RIGHT?

10 A YES, THAT IS CORRECT.

11 Q OKAY. SO YOU'RE NOT ABLE TO EVALUATE THE  
12 VOTE -- RACIAL POLARIZATION SEPARATE FROM PARTY  
13 POLARIZATION IN THIS ELECTION FROM 85 PERCENT OF  
14 WHITE VOTERS. IS THAT RIGHT?

15 A I'M JUST -- YES. SO IN MY INTERPRETATION OF  
16 DR. ALFORD'S DATA, YES, THAT IS CORRECT. I'M JUST  
17 LOOKING AT THE COPARTISANS, JUST THE DEMOCRATS.

18 Q I SEE. OKAY. AND SO IF WE LOOK AT THE 15  
19 PERCENT AND YOU LOOK AT THE 5.4, WOULD YOU AGREE THAT  
20 IN THIS ELECTION THAT THE BLACK CANDIDATE -- THE  
21 BLACK DEMOCRATIC CANDIDATE WAS RECEIVING ABOUT A  
22 THIRD OF THE WHITE VOTE -- WHITE DEMOCRATIC VOTE?

23 A YES.

24 Q OKAY. AND SO YOU'RE UNABLE -- JUST FROM  
25 LOOKING AT THIS, YOU'RE NOT ABLE TO EXCLUDE THE

12:22p

1 POSSIBILITY THAT PARTISAN POLARIZATION RATHER THAN  
2 RACIAL POLARIZATION IS INFLUENCING THE VOTING  
3 BEHAVIOR OF THE 85 PERCENT OF THE WHITE VOTERS THAT  
4 VOTED FOR A REPUBLICAN CANDIDATE IN THIS ELECTION.  
5 IS THAT RIGHT?

6 A TWO THINGS CAN EXIST AT THE SAME TIME WHEN I  
7 LOOK AT THIS. SO AMONG THE DEMOCRATS, AMONG THE  
8 WHITES WHO VOTED FOR DEMOCRATS, THERE'S RACIAL  
9 POLARIZATION. AMONG THE WHITES WHO VOTED FOR THE  
10 REPUBLICANS, I'M NOT MAKING ANY CHARACTERIZATION ON  
11 WHY THEY VOTED FOR THE REPUBLICAN.

12 MR. LEWIS: THANK YOU, YOUR HONOR. I HAVE  
13 NO FURTHER QUESTIONS.

14 THE COURT: ANY REDIRECT?

15 MS. GIGLIO: NO REDIRECT, YOUR HONOR.

16 THE COURT: OKAY. THANK YOU.

17 YOU MAY STEP DOWN, SIR.

18 OKAY. AS A MATTER OF HOUSEKEEPING, I  
19 HAVE SOME GOOD NEWS. AND THE GOOD NEWS IS THAT THE  
20 COURT REPORTER WHO WAS HERE YESTERDAY CAN FILL IN  
21 TODAY FROM TWO TO FIVE, SO WE CAN GO THIS AFTERNOON  
22 MAYBE UNTIL COMPLETION, IF YOU-ALL ARE PREPARED FOR  
23 THAT. I REALIZE THAT I'M KIND OF DOUBLE-CROSSING  
24 YOU, BUT I JUST FOUND OUT THIS MORNING.

25

12:23p

1           **MS. KEENAN:** YES, YOUR HONOR, PLAINTIFFS ARE  
2 PREPARED TO CALL THE REMAINDER OF THEIR WITNESSES  
3 TODAY. WE WOULD LIKE TO INQUIRE ABOUT WHETHER THERE  
4 IS ANY ADDITIONAL LEGAL ARGUMENT YOUR HONOR WOULD  
5 LIKE SO WE CAN PREPARE IN THE REMAINING TIME.

6           **THE COURT:** I WAS GETTING TO THAT.

7           **MS. KEENAN:** SURE.

8           **THE COURT:** SO NO CLOSING ARGUMENTS. AND  
9 FINALLY, I AM GOING TO -- I HAVE RECONSIDERED MY  
10 STATEMENTS AT THE INITIAL -- AT THE OUTSET OF THIS  
11 TRIAL ABOUT TRIAL BRIEFS. THE COURT WILL ACCEPT  
12 TRIAL BRIEFS FROM BOTH PARTIES BUT THEY'LL BE  
13 SIMULTANEOUS FILINGS; PAGE LIMIT OF 40 PAGES AND A  
14 TIME DEADLINE. I DON'T -- I'M TRYING NOT TO MAKE  
15 YOU-ALL HAVE A BRIEF RIGHT DURING THE HOLIDAY SEASON,  
16 BUT I'LL LISTEN TO WHAT YOU HAVE TO SAY.

17           **MS. KEENAN:** YOUR HONOR, MAYBE WE CAN CONFER  
18 WITH OUR COUNSEL DURING THE BREAK AND THEN LET YOU  
19 KNOW WHAT TIME WORKS FOR EACH SIDE.

20           **THE COURT:** YES, WHY DON'T YOU DO THAT.

21           **MR. LEWIS:** WE AGREE WITH THAT.

22           **MR. TUCKER:** AND, YOUR HONOR, ONE OTHER  
23 QUESTION THE -- WE HAD DISCUSSED AT THE BEGINNING OF  
24 TRIAL ABOUT UPDATING THE FINDINGS OF FACT. WOULD THE  
25 COURT STILL WANT UPDATES WITH CITATIONS TO THE RECORD

12:24p

1 AND --

2           **THE COURT:** I THINK NOT. I THINK THAT'S  
3 GOING TO BE PROBABLY MORE LABORIOUS AFTER HAVING GONE  
4 BACK AND LOOKED AT THE PROPOSED FINDINGS OF FACT AND  
5 CONCLUSIONS OF LAW. I'M SORRY TO DOUBLE-CROSS YOU,  
6 MR. TUCKER, BUT IT'S MY PREROGATIVE.

7           **MR. TUCKER:** THAT'S FINE, YOUR HONOR. WE  
8 JUST WANTED TO KNOW WHAT THE COURT WOULD BE LOOKING  
9 FOR.

10           **THE COURT:** I'M REALLY LOOKING FOR TRIAL  
11 BRIEFS SIMULTANEOUSLY FILED, NOT TO EXCEED 40 PAGES,  
12 AND CITATIONS TO THE RECORD WHERE HUMANLY POSSIBLE.  
13 I REALIZE THAT -- YOU'VE GOT A REALTIME REPORTER SO  
14 YOU SHOULD BE ABLE TO CITE TO THE RECORD, BUT, YOU  
15 KNOW, DO THE BEST YOU CAN.

16           **MR. LEWIS:** AND, YOUR HONOR, WE WILL MEET  
17 AND CONFER. I THINK ONE QUESTION I'M SURE WE'LL  
18 DISCUSS IS, YOU KNOW, CITATIONS TO THE ROUGH VERSUS  
19 THE FINAL TRANSCRIPTS. I SUSPECT THE COURT MAY  
20 PREFER US TO CITE TO FINALS, BUT I WILL -- WE WILL  
21 OBVIOUSLY DEFER TO YOUR HONOR.

22           **THE COURT:** OKAY. WELL, YOU MEAN THE  
23 CERTIFIED RECORD FROM THE COURT?

24           **MR. LEWIS:** THAT IS CORRECT, YOUR HONOR.

25           **THE COURT:** NO. I DON'T WANT TO DELAY THIS

12:25p

1 THING THAT LONG, SO YOU CAN CITE TO ROUGH TRANSCRIPT  
2 TESTIMONY. AS YOU WELL KNOW, WE HAVE A RECORDING OF  
3 THIS AND I CAN LISTEN TO THE RECORDING, SO I CAN -- I  
4 MEAN, IF YOU BLATANTLY MISREPRESENT SOMETHING FROM A  
5 ROUGH TRANSCRIPT OR IF -- IT WOULDN'T BE NECESSARILY  
6 A MISREPRESENTATION. IF THE ROUGH TRANSCRIPT IS JUST  
7 REALLY ROUGH, I'M GOING TO BE ABLE TO TELL THAT.  
8 OKAY?

9 MR. LEWIS: YOUR HONOR, WE APPRECIATE THAT.  
10 I KNOW WE HAVE PEOPLE WORKING. I KNOW THE COURT  
11 REPORTERS HERE HAVE BEEN WORKING VERY HARD TO GET US  
12 DAILIES. THERE ARE SOME, YOU KNOW, PEOPLE  
13 MISIDENTIFIED AND LITTLE MISTAKES HERE AND THERE.  
14 THAT'S THE ONLY REASON WE WERE ASKING. THAT HAPPENS  
15 WHEN PEOPLE ARE WORKING VERY QUICKLY. BUT AGAIN,  
16 PERHAPS WE CAN MEET AND CONFER WITH COUNSEL.

17 THE COURT: YES. AND, YOU KNOW, WHEN YOU'RE  
18 CITING TO THE ROUGH TESTIMONY AND IF YOU WANT TO  
19 BRACKET SOMETHING AND THEN DRAW UP A FOOTNOTE THAT  
20 SAYS "IT WAS TRANSCRIBED AS THIS BUT COUNSEL RECALLS  
21 IT TO BE THAT," THAT'S FINE. IF YOU POINT THAT OUT  
22 TO ME, I WILL LISTEN TO THE RECORDINGS, OKAY? SO --  
23 AND THEN WE'LL KNOW.

24 ALL RIGHT. SO LET'S BE IN RECESS UNTIL  
25 1:30.

01:33p

1 (WHEREUPON, A LUNCH RECESS WAS TAKEN.)

2 THE COURT: BE SEATED.

3 ALL RIGHT. BEFORE WE GET STARTED, DID  
4 Y'ALL MAKE ANY DECISIONS ABOUT PRETRIAL OR POST-TRIAL  
5 BRIEFING?

6 MS. KEENAN: YES, YOUR HONOR. MEGAN KEENAN  
7 FOR THE PLAINTIFFS.

8 OUR TEAM HAS CONFERRED. WE THINK WE'D  
9 BE ABLE TO GET THOSE TO YOUR HONOR BY NOT THIS FRIDAY  
10 BUT THE FOLLOWING FRIDAY, THE 20TH. I BELIEVE THE  
11 DEFENDANTS HAVE A DIFFERENT TIMELINE IN MIND. I'M  
12 HAPPY TO LET MR. LEWIS REPRESENT THAT.

13 THE COURT: MR. LEWIS, WHAT'S YOUR PROPOSAL?

14 MR. LEWIS: YOUR HONOR, THE DEFENDANTS WOULD  
15 PROPOSE FRIDAY, DECEMBER 22ND. I BELIEVE PLAINTIFFS  
16 ARE -- WELL, YOU SAID THE 20TH AND FRIDAY. I THINK  
17 YOU MEANT THE 15TH.

18 MS. KEENAN: THAT'S MY FAULT, YOUR HONOR.  
19 IT'S FRIDAY, THE 15TH. AND THE DEFENDANTS ARE  
20 PROPOSING FRIDAY, THE 22ND.

21 THE COURT: OKAY. WE'RE GOING TO SPLIT THE  
22 DIFFERENCE. THEY'LL BE DUE ON TUESDAY, THE 19TH.

23 MR. LEWIS: THANK YOU, YOUR HONOR.

24 MS. KEENAN: THANK YOU, YOUR HONOR.

25 THE COURT: ALL RIGHT.

01:34p

1 OKAY. NEXT WITNESS.

2 MS. BRANNON: YOUR HONOR, SARA BRANNON FOR  
3 THE PLAINTIFFS. AND I CALL DR. CORY MCCARTAN.

4 (WHEREUPON, CORY MCCARTAN, BEING DULY SWORN,  
5 TESTIFIED AS FOLLOWS.)

6 MS. BRANNON: YOUR HONOR, MAY I APPROACH THE  
7 WITNESS TO GIVE HIM A COPY OF HIS REPORT?

8 THE COURT: YES.

9 SIR, IF YOU'LL STATE AND SPELL YOUR  
10 NAME FOR THE RECORD, PLEASE.

11 THE WITNESS: SURE. IT'S CORY MCCARTAN.  
12 C-O-R-Y, M-C-C-A-R-T-A-N.

13 MS. BRANNON: FOR THE RECORD, DR. MCCARTAN'S  
14 REPORT IS EXHIBIT PL 135.

15 VOIR DIRE

16 BY MS. BRANNON:

17 Q DR. MCCARTAN, IS THE C.V. ATTACHED TO YOUR  
18 REPORT?

19 A IT IS.

20 Q CAN WE SEE DR. MCCARTAN'S C.V. ON THE  
21 SCREEN. I BELIEVE IT IS EXHIBIT A IN HIS REPORT.

22 IS THIS A COMPLETE AND ACCURATE SUMMARY OF  
23 YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE?

24 A IT IS.

25 Q WHAT IS YOUR EDUCATIONAL BACKGROUND?

01:35p

1           A     I HAVE A BACHELOR'S IN MATH FROM GRINNELL  
2 COLLEGE AND A MASTER'S AND PH.D. IN STATISTICS FROM  
3 HARVARD.

4           Q     WHAT IS YOUR CURRENT EMPLOYMENT?

5           A     I'M A DATA SCIENCE ASSISTANT PROFESSOR, A  
6 FACULTY FELLOW AT THE CENTER FOR DATA SCIENCE AT NYU.

7           Q     WHAT ARE YOUR FUTURE EMPLOYMENT PLANS?

8           A     THIS NEXT SUMMER I'LL START ON THE TENURE  
9 TRACK AS AN ASSISTANT PROFESSOR OF STATISTICS AT PENN  
10 STATE.

11          Q     APPROXIMATELY HOW MANY PEER-REVIEW ARTICLES  
12 HAVE YOU PUBLISHED?

13          A     MAYBE A DOZEN OR SO.

14          Q     CAN YOU DESCRIBE SOME OF YOUR ACADEMIC WORK  
15 THAT YOU HAVE DONE ON THE TOPIC OF REDISTRICTING AND  
16 THE USE OF SIMULATIONS?

17          A     SURE. SO THE FIRST THING I DID THERE IS I  
18 WROTE AN ARTICLE DEVELOPING A REDISTRICTING  
19 SIMULATION ALGORITHM TO GENERATE REDISTRICTING PLANS.  
20 AND THEN IN WORK SINCE THEN I'VE APPLIED THAT TOOL TO  
21 STUDY --

22                **THE REPORTER:** I'M SORRY. A LITTLE SLOWER.  
23 "TO STUDY" --

24                **THE WITNESS:** I'M SORRY. PARTISAN  
25 GERRYMANDERING, CENSUS DATA, AND OTHER TOPICS.



01:36p

1 **BY MS. BRANNON:**

2 **Q** ARE YOU FAMILIAR WITH THE REPORTS THAT DR.  
3 BARBER PROVIDED IN THIS CASE?

4 **A** I AM.

5 **Q** DID YOU REVIEW THOSE REPORTS?

6 **A** YES.

7 **Q** WHAT SOFTWARE DID DR. BARBER USE IN  
8 CONDUCTING THE ANALYSIS IN HIS REPORTS?

9 **A** HE USED THE REDIST SOFTWARE, WHICH IS  
10 SOFTWARE THAT I HELPED WRITE THAT IMPLEMENTS THIS  
11 ALGORITHM THAT I WAS JUST TALKING ABOUT.

12 **Q** ARE THERE PEER-REVIEWED ARTICLES ABOUT THE  
13 WORK YOU HAVE DONE IN CREATING THIS SOFTWARE?

14 **A** YES. SO I THINK IT'S ACTUALLY THE FIRST ONE  
15 THERE IN MY LIST: "SEQUENTIAL MONTE CARLO FOR  
16 SAMPLING BALANCED AND COMPACT REDISTRICTING PLANS"  
17 THAT DEVELOPED THIS ALGORITHM. AND AS PART OF THAT  
18 WE ALSO RELEASED THE SOFTWARE THAT IMPLEMENTS THAT.

19 **MS. BRANNON:** PLAINTIFFS MOVE TO ADMIT DR.  
20 MCCARTAN AS AN EXPERT IN THE FIELD OF REDISTRICTING  
21 AND THE USE OF SIMULATIONS IN REDISTRICTING.

22 **THE COURT:** ANY OBJECTION OR CROSS ON THE  
23 TENDER?

24 **MS. HOLT:** NO OBJECTION, YOUR HONOR.

25 **THE COURT:** DR. MCCARTAN WILL BE PERMITTED

01:37p

1 TO GIVE OPINION TESTIMONY ON REDISTRICTING AND THE  
2 USE OF -- I'M SORRY. CAN Y'ALL NOT HEAR ME -- AND  
3 THE USE OF SIMULATIONS IN REDISTRICTING.

4 **DIRECT EXAMINATION**

5 **BY MS. BRANNON:**

6 Q WHAT DID THE PLAINTIFFS ASK YOU TO DO IN  
7 THIS CASE?

8 A I WAS RETAINED TO STUDY DR. BARBER'S REPORT  
9 AND THE EVIDENCE HE PRESENTED THERE.

10 Q CAN YOU DESCRIBE IN VERY GENERAL TERMS WHAT  
11 ANALYSIS DR. BARBER DID IN THESE REPORTS?

12 A SURE. SO IN HIS FIRST REPORT DR. BARBER  
13 ATTEMPTED TO RUN A SIMULATION ANALYSIS GENERATING  
14 RANDOM PLANS AND COMPARING THEM AGAINST THE  
15 ILLUSTRATIVE MAP, THE ENACTED PLAN. HE ALSO  
16 PERFORMED A NUMBER OF WHAT HE CALLED REGIONAL  
17 ANALYSES TO FURTHER EXAMINE THOSE TWO PLANS.

18 Q AND DID THESE SIMULATIONS USE A PARTICULAR  
19 SOFTWARE?

20 A YES. HE GENERATED THOSE SIMULATIONS WITH  
21 THIS REDIST SOFTWARE THAT I HELPED WRITE.

22 Q DID THOSE -- DOES THAT SOFTWARE IMPLEMENT AN  
23 ALGORITHM?

24 A YES. SO AS PART OF THAT SOFTWARE YOU CAN  
25 RUN THIS -- WE CALL IT THE SMC ALGORITHM, SEQUENTIAL

01:38p

1 MONTE CARLO. IT'S A WAY OF GENERATING RANDOM  
2 REDISTRICTING PLANS.

3 Q SO IF WE CALL IT SMC THROUGHOUT TODAY'S  
4 PRESENTATION, YOU'LL KNOW WHAT WE'RE TALKING ABOUT?

5 A YES.

6 Q CAN YOU DESCRIBE WHAT THE ALGORITHM DOES?

7 A SURE. SO AS WE SAY, ITS GOAL IS TO GENERATE  
8 A REPRESENTATIVE RANDOM SAMPLE OF REDISTRICTING PLANS  
9 THAT -- FROM THE SET OF ALL THE PLANS THAT MEET  
10 VARIOUS CRITERIA OR SATISFY OR FOLLOWS CERTAIN  
11 PRINCIPLES. SO THE WAY IT DOES THAT IS IT STARTS  
12 WITH A BLANK MAP OF WHATEVER STATE YOU'RE IN. IT  
13 DRAWS DISTRICTS ONE AT A TIME ON THAT MAP. AND IT  
14 DOES THIS ACTUALLY FOR MANY, MANY MAPS AT A TIME.  
15 AND BY KEEPING TRACK OF HOW IT'S DRAWING ALL THESE  
16 DISTRICTS ON THE MAPS, IT'S DESIGNED THEN TO  
17 GUARANTEE THAT THE ULTIMATE SAMPLE YOU HAVE IS  
18 REPRESENTATIVE.

19 Q IS THE REDIST SOFTWARE AVAILABLE FOR PUBLIC  
20 USE?

21 A YEAH. SO IT'S WHAT WE CALL OPEN SOURCE,  
22 MEANING THAT THE CODE AND THE SOFTWARE ITSELF ARE  
23 FREE TO USE AND AVAILABLE, YOU KNOW, FROM OUR  
24 WEBSITE. ANYONE CAN GO AND INSTALL IT VERY QUICKLY  
25 AND EASILY. AND IT COMES ALONG WITH SOME PLAIN

01:40p

1 ENGLISH DOCUMENTATION THAT EXPLAINS WHAT THE SOFTWARE  
2 IS, HOW TO USE IT, AND HOW TO RUN PARTICULAR CODE TO  
3 ACCOMPLISH CERTAIN OBJECTIVES.

4 Q AND YOU JUST MENTIONED CREATING A  
5 REPRESENTATIVE SAMPLE. HOW DO YOU DETERMINE THAT A  
6 SAMPLE IS REPRESENTATIVE?

7 A RIGHT. SO WHEN I SAY "REPRESENTATIVE," I  
8 THINK -- THE GOOD ANALOGY IS LIKE A POLL. YOU HAVE A  
9 BIG POPULATION. IN THE CASE OF A POLL, IT'S LIKE  
10 U.S. VOTERS. IN THE CASE OF THIS ALGORITHM, IT'S ALL  
11 THE PLANS POSSIBLE OUT THERE THAT MEET THESE CRITERIA  
12 OR FOLLOW THESE PRINCIPLES. AND YOU CAN'T ACTUALLY  
13 GO AND CHECK ALL OF THE WHOLE POPULATION. YOU HAVE  
14 TO ONLY LOOK AT A SUBSET, AND YOU CAN LOOK AT A  
15 SAMPLE. AND FOR THAT EXERCISE TO BE USEFUL, THAT  
16 SAMPLE HAS TO BE REPRESENTATIVE SO THAT THE  
17 CONCLUSIONS YOU DRAW FROM THE SAMPLE ALSO HOLD IN THE  
18 POPULATION.

19 SO THE GOAL OF THE ALGORITHM IS TO PROVIDE A  
20 REPRESENTATIVE SAMPLE, JUST LIKE THE GOAL OF A POLL  
21 IS TO TALK TO A REPRESENTATIVE SAMPLE OF THE VOTERS  
22 SO YOU CAN MAKE CONCLUSIONS. AND OBVIOUSLY IF YOU  
23 ARE NOT LOOKING AT A REPRESENTATIVE SAMPLE, YOU CAN  
24 MAKE CONCLUSIONS THAT ARE GOING TO BE FAULTY. SO  
25 LIKE FAMOUSLY WRITE IN, IN 2016 ELECTION POLLING, YOU

01:41p

1 KNOW, HAD HILLARY CLINTON WINNING THE ELECTION AND  
2 THEN THAT DIDN'T HAPPEN, THAT WAS BECAUSE THE SAMPLES  
3 WEREN'T REPRESENTATIVE.

4 SO IN OUR SOFTWARE, UNLIKE IN POLLING, WE  
5 ACTUALLY HAVE CONFLICT WAYS TO TRY TO HELP USER  
6 IDENTIFY WHEN THEY'RE IN THOSE SCENARIOS AND ACTUALLY  
7 KNOW IN ADVANCE THAT WHETHER OR NOT THEY ARE SAMPLES  
8 REPRESENTATIVE OR NOT.

9 Q AND ARE THOSE THE STANDARD DIAGNOSTICS?

10 A RIGHT. SO THE WAY WE DO THAT -- AND YOU  
11 CANNOT BE A HUNDRED PERCENT SURE. BUT WE'VE COME UP  
12 AND WE THEN DEVELOPED WHAT WE CALL DIAGNOSTIC  
13 MEASURES. THESE ARE BASICALLY FORMULAS. THEY  
14 PRODUCE A NUMBER AND THAT NUMBER TAKES ON CERTAIN  
15 VALUES THAT'S INDICATIVE OF PROBLEMS LIKE A RED FLAG,  
16 IF YOU WILL, THAT THE SAMPLE YOU'VE GENERATED IS NOT  
17 REPRESENTATIVE.

18 Q SO WE'RE GOING TO DISCUSS THE IMPLEMENTATION  
19 OF THE STANDARD DIAGNOSTICS AND A FEW OF YOUR OTHER  
20 OPINIONS ABOUT THE STEPS DR. BARBER TOOK TO IMPLEMENT  
21 YOUR SOFTWARE SHORTLY. BUT LET'S START WITH THE BIG  
22 PICTURE.

23 DID YOU REVIEW DR. BARBER'S CONCLUSIONS?

24 A I DID.

25 Q IN VERY GENERAL TERMS, CAN YOU DESCRIBE YOUR

01:42p

1 UNDERSTANDING OF DR. BARBER'S CONCLUSIONS?

2 A RIGHT. SO AS WE TALKED ABOUT, HE ATTEMPTED  
3 TO FIRST RUN THIS SIMULATION STUDY, GENERALLY WHAT HE  
4 CALLED A RACE-NEUTRAL BASELINE OF PLANS, WHICH HE  
5 THEN COMPARED AGAINST THE ILLUSTRATIVE MAP AND THE  
6 ENACTED. ON THE BASIS OF THAT SET, DR. BARBER  
7 CONCLUDED THAT RACE PLAYED A ROLE IN THE DRAWING OF  
8 THE ILLUSTRATIVE MAP.

9 DR. BARBER THEN ALSO PERFORMED WHAT HE  
10 CALLED THESE REGIONAL ANALYSES. AND PUTTING THOSE  
11 THINGS TOGETHER HE CONCLUDED THAT RACE PLAYED A  
12 SIGNIFICANT ROLE, MORE SO AND ABOVE THESE OTHER  
13 TRADITIONAL REDISTRICTING PRINCIPLES.

14 Q DO YOU AGREE WITH DR. BARBER'S CONCLUSIONS?

15 A I DON'T.

16 Q DO YOU THINK DR. BARBER ESTABLISHED -- DR.  
17 BARBER'S SIMULATIONS ESTABLISHED THAT -- LET ME  
18 REPHRASE THE QUESTION.

19 DO DR. BARBER'S SIMULATIONS ESTABLISH A MORE  
20 SIGNIFICANT FACTOR IN THE ILLUSTRATIVE MAP OTHER THAN  
21 REDISTRICTING PRINCIPLES?

22 A NO, THEY DON'T.

23 Q WHY NOT?

24 A WELL, REALLY -- SO DR. BARBER ONLY RAN WHAT  
25 WE CALL ONE SIMULATION STUDY. HE GENERATED ONE SET,

01:43p

1 IN THIS CASE A HUNDRED THOUSAND PLANS. AND THAT ONE  
2 SET IS ACTUALLY NEVER GOING TO BE ENOUGH TO MAKE A --  
3 EVEN IF YOU RUN THAT SET CORRECTLY, IT'S NEVER GOING  
4 TO BE ENOUGH TO ESTABLISH THAT ONE FACTOR DOMINATED  
5 OR OVERWHELMED OTHER FACTORS, BECAUSE FUNDAMENTALLY  
6 IT'S ABOUT HOW FACTORS ARE PLAYING AGAINST EACH  
7 OTHER. AND ALL YOU CAN DO WITH A SINGLE STUDY IS  
8 MEASURE THE IMPACT OF ONE FACTOR ON A PARTICULAR  
9 OUTCOME.

10 Q THE HUNDRED THOUSAND RUNS THAT YOU JUST  
11 MENTIONED, THAT'S THE SIMULATION STUDY THAT DR.  
12 BARBER DID IN HIS FIRST REPORT. IS THAT CORRECT?

13 A THAT'S RIGHT.

14 Q IN GENERAL TERMS, WHAT IS YOUR OPINION OF  
15 THE VALUE OF THAT FIRST SIMULATION STUDY?

16 A SO AS I SAID, YOU KNOW, WHEN DONE CORRECTLY,  
17 THESE SIMULATIONS CAN COME UP WITH A REPRESENTATIVE  
18 SAMPLE, THEY CAN MEASURE THE IMPACT OF MAYBE ONE  
19 FACTOR. BUT DR. BARBER DIDN'T PERFORM THIS FIRST SET  
20 OF SIMULATIONS CORRECTLY. AND SO REALLY, AS FAR AS  
21 I'M CONCERNED, THAT FIRST SET REALLY IS KIND OF  
22 USELESS FOR ANSWERING THE QUESTIONS HE WAS TRYING TO  
23 ASK.

24 Q SO WITH HIS SECOND SIMULATION STUDY BEING OF  
25 MORE VALUE, WHICH WE'LL GET TO, HE ESSENTIALLY ONLY

01:44p

1 RAN ONE SIMULATION STUDY, IN YOUR OPINION?

2 A THAT'S RIGHT. BECAUSE THE FIRST ONE, LIKE I  
3 SAID, WAS -- DIDN'T HAVE ANY VALUE.

4 Q IN YOUR OPINION, CAN SIMULATIONS BE USED TO  
5 CREATE A REPRESENTATIVE SAMPLE OF PLANS THAT COMPLY  
6 WITH CERTAIN REDISTRICTING PRINCIPLES?

7 A YEAH. SO WHEN USED CORRECTLY, THAT'S ONE OF  
8 THE THINGS THEY'RE DESIGNED TO DO.

9 Q HAVE YOU DONE ANY WORK IN ANOTHER STATE  
10 USING THE SMC ALGORITHM TO EVALUATE REDISTRICTING  
11 MAPS?

12 A YEAH. SO AS I MENTIONED, WE -- IN A LOT OF  
13 MY ACADEMIC WORK WE'VE USED THIS ALGORITHM. WE HAD A  
14 PROJECT WHERE WE WERE TRYING TO MEASURE THE IMPACT OF  
15 PARTISAN CONSIDERATIONS OR PARTISAN GERRYMANDERING IN  
16 ALL 50 STATES' CONGRESSIONAL MAPS WHERE WE USED THIS  
17 ALGORITHM THROUGHOUT.

18 Q AND WHAT STEPS WERE INVOLVED IN THAT WORK?

19 A SURE. WELL, MAYBE IT'S EASY TO GIVE YOU AN  
20 EXAMPLE. SO ONE STATE WE LOOKED AT OBVIOUSLY WAS  
21 FLORIDA. AND AS I SAY, THERE WE'RE TRYING TO MEASURE  
22 THE IMPACT OF THIS PARTISANSHIP FACTOR, SO THAT  
23 INVOLVES COMPARING THE PLAN THAT WAS ACTUALLY ADOPTED  
24 IN FLORIDA WITH A SET THAT INCLUDES ALL THE OTHER  
25 FACTORS AND PRINCIPLES THAT YOU WANT IN CONGRESSIONAL



01:46p

1 MAPS IN FLORIDA EXCEPT PARTISANSHIP. SO WE STILL  
2 WANT TO CONSIDER THE COMPACTNESS OF THE DISTRICTS,  
3 THE POPULATION, MAYBE PRESERVING COUNTIES,  
4 MUNICIPALITIES. THE VOTING RIGHTS ACT IS OBVIOUSLY A  
5 CONSIDERATION IN THAT STATE.

6 SO TO INCORPORATE ALL THOSE FACTORS INTO A  
7 SIMULATION, YOU KNOW, YOU START WITH THE FACTORS IN  
8 PLAIN ENGLISH. YOU NEED TO SOMEHOW TRANSLATE THOSE  
9 TO CODE OR MATH THAT THE ALGORITHM CAN ACTUALLY  
10 UNDERSTAND AND WORK WITH. AND THAT'S NOT, YOU KNOW,  
11 A SIMPLE OR ONE-TO-ONE PROCESS. THERE IS CHOICES YOU  
12 CAN MAKE AS TO HOW TO DO THAT INTERPRETATION.

13 AND IN PARTICULAR, YOU KNOW, FOR MANY OF  
14 THESE PRINCIPLES, YOU HAVE TO SORT OF DECIDE HOW  
15 STRONG OF AN INSTRUCTION YOU WANT TO PROVIDE TO THE  
16 ALGORITHM; HOW MUCH SHOULD IT PRIORITIZE THIS  
17 PRINCIPLE AND THIS FACTOR. AND THERE IS NO WAY A  
18 PRIORITY TO REALLY KNOW EXACTLY HOW TO MAKE ALL THE  
19 SETTINGS. WHAT YOU HAVE TO DO IS TRY SOME VALUES,  
20 SOME SETTINGS, SOME WAYS OF INCORPORATING THESE  
21 PRINCIPLES. YOU CAN TRY THAT OUT, PRODUCE A  
22 SIMULATED SET, AND THEN LOOK AT IT AND STUDY IT AND  
23 SAY, OKAY, DID THIS MEET -- DID THIS INCORPORATE THE  
24 PRINCIPLES I WANT? ARE THESE PLANS SATISFACTORY?  
25 YOU MIGHT WANT TO TRY WRITING THE ALGORITHM MULTIPLE

01:47p

1 TIMES, JUST CHANGING ONE THING AT A TIME TO EVALUATE  
2 THE IMPACT OF A SINGLE FACTOR, A SINGLE CHANGE.  
3 THESE TYPE OF EXPERIMENTS ARE LIKE REALLY CRUCIAL FOR  
4 COMING UP ULTIMATELY WITH A SET OF PLANS THAT  
5 INCORPORATES OTHER PRINCIPLES THAT YOU WANT TO  
6 INCORPORATE.

7 SO IN THE CASE OF FLORIDA, I THINK IT TOOK  
8 US ON THE ORDER OF MONTHS REALLY TO RUN ALL THE  
9 EXPERIMENTS WE WANTED, TRY THINGS OUT, STUDY THE  
10 RESULTS AND COME UP WITH ULTIMATELY A FINAL SET OF  
11 INSTRUCTIONS OR PARAMETERS FOR THE ALGORITHM THAT WE  
12 WERE HAPPY WITH.

13 Q HAVE YOU RUN ANY SIMULATION STUDIES YOURSELF  
14 RELATED TO THE LOUISIANA STATE LEGISLATIVE MAPS?

15 A NO, I HAVEN'T. I WASN'T RETAINED TO DO  
16 SIMULATIONS SPECIFICALLY, AND REALLY I DIDN'T NEED TO  
17 DO SIMULATIONS MYSELF TO EVALUATE THE SIMULATION WORK  
18 THAT DR. BARBER DID AND THE OTHER EVIDENCE HE  
19 PRESENTED.

20 Q AND WHY NOT?

21 A WELL, I LIKE I SAY, YOU KNOW -- YOU KNOW,  
22 WHEN YOU'RE DOING A SIMULATION ANALYSIS, THAT  
23 INVOLVES, YOU KNOW, A CERTAIN PROCEDURE AND STEPS.  
24 IT'S NOT A FORMULA, BUT THERE IS A WORKFLOW ISSUE YOU  
25 GENERALLY FOLLOW. AND THERE IS ALSO THINGS YOU CAN

01:48p

1 DO AS PART OF THAT WORKFLOW LIKE CHECKING THESE  
2 DIAGNOSTICS THAT WE'VE BEEN TALKING ABOUT. AND SO IF  
3 YOU'RE NOT CHECKING THESE DIAGNOSTICS OR IF YOU'RE  
4 NOT FOLLOWING THE WORKFLOW PROPERLY, YOU KNOW, YOU --  
5 I WAS ABLE TO, YOU KNOW, SEE IF THOSE STEPS WERE  
6 BEING FOLLOWED, WHERE THE DIAGNOSTICS WERE  
7 APPROPRIATE WITHOUT HAVING TO GO AND DO MY OWN  
8 SIMULATION WORK.

9 Q AND DO YOU KNOW HOW LONG IT MIGHT TAKE TO  
10 RUN REPRESENTATIVE SIMULATION STUDIES FOR THE  
11 LOUISIANA STATE LEGISLATIVE MAPS?

12 A YEAH. WELL, YOU KNOW, IT DEPENDS WHAT WE  
13 MEAN BY "REPRESENTATIVE." AND WHAT I MEAN BY THAT IS  
14 IT DEPENDS WHAT CONSTRAINTS AND PRINCIPLES AND  
15 CRITERIA WE'RE TRYING TO INCORPORATE INTO THE  
16 ALGORITHM, THE SIMULATIONS. YOU KNOW, SOMETIMES  
17 IT'S -- YOU CAN JUST ASK TOO MUCH. YOU KNOW, THESE  
18 ALGORITHMS AREN'T LIKE A MAGIC BULLET. IT'S POSSIBLE  
19 TO SAY -- TO TRY TO PUT TOO MUCH IN. AND IT COULD  
20 ACTUALLY JUST NOT EVEN BE POSSIBLE TO GENERATE A  
21 REPRESENTATIVE SAMPLE WITH CERTAIN COMBINATIONS OF  
22 CONSTRAINTS OR PRINCIPLES. THE ONLY WAY YOU CAN KNOW  
23 FOR SURE IS BY TRYING OUT AND GOING THROUGH THE SORT  
24 OF ITERATIVE EXPERIMENTAL PROCESS THAT I STARTED  
25 TALKING ABOUT WHAT WE DID IN FLORIDA. AND SO JUST

01:49p

1 SITTING AT THE START YOU CAN'T ALWAYS KNOW IF IT'S  
2 POSSIBLE OR, IF IT IS POSSIBLE, HOW LONG IT WOULD  
3 TAKE.

4 Q DID YOU REVIEW THE REPORTS THAT DR. BARBER  
5 ENTERED INTO THIS CASE?

6 A I DID.

7 Q AFTER REVIEWING DR. BARBER'S FIRST REPORT,  
8 DID YOU DRAFT A REPORT REFLECTING YOUR OPINIONS?

9 A YES, I DID.

10 Q CAN WE SEE PL 135.

11 IS THAT -- IS THIS THAT REPORT?

12 A IT LOOKS LIKE IT.

13 Q CAN WE TURN TO PAGES 5 AND 6.

14 ARE YOU FAMILIAR WITH THESE PAGES?

15 A YEAH. THIS IS A SECTION WHERE I SUMMARIZE  
16 MY OPINIONS.

17 Q CAN WE HIGHLIGHT LANGUAGE IN THE FIRST  
18 BULLET POINT? IT STARTS -- CAN YOU READ THE  
19 HIGHLIGHTED LANGUAGE?

20 A SURE. "DR. BARBER DID NOT FOLLOW BEST  
21 PRACTICES IN USING THE SMC ALGORITHM AND REDIST  
22 SOFTWARE. IN PARTICULAR, HE DIDN'T CHECK STANDARD  
23 DIAGNOSTICS THAT WOULD HAVE IDENTIFIED NUMEROUS  
24 PROBLEMS IN BOTH THE SIMULATED SETS OF SENATE AND  
25 HOUSE PLANS."

01:50p

1 Q WHAT DO YOU MEAN BY THIS SENTENCE?

2 A SURE. SO WE'VE TOUCHED ON SORT OF IN  
3 GENERAL TERMS THERE IS NUMERICAL DIAGNOSTICS THAT  
4 INDICATE OR THAT A SIMULATION SAMPLE YOU'VE GENERATED  
5 IS LIKELY NOT REPRESENTATIVE. AND IT'S AN IMPORTANT  
6 PART OF PERFORMING THESE SIMULATION ANALYSES TO RUN  
7 THOSE DIAGNOSTICS AND CHECKS SO THAT YOU KNOW IF  
8 THERE IS PROBLEMS THAT YOU CAN TAKE STEPS TO ADDRESS.

9 DR. BARBER DIDN'T DO THAT, ALTHOUGH HE COULD  
10 HAVE. HE DIDN'T CHECK THESE DIAGNOSTICS AND,  
11 THEREFORE, DIDN'T FIX PROBLEMS THAT TURNED OUT TO BE  
12 PRESENT.

13 Q DR. MCCARTAN, WERE YOU HERE YESTERDAY WHEN  
14 DR. BARBER TESTIFIED?

15 A I WAS.

16 Q WHEN YOU'RE TALKING ABOUT THE STANDARD  
17 DIAGNOSTICS, IS THAT THE SAME THING AS THE CONVERGENT  
18 DIAGNOSTICS DR. BARBER WAS DISCUSSING YESTERDAY?

19 A OH, YES. SO I THINK FOR OUR PURPOSES THESE  
20 ARE PRETTY MUCH SYNONYMOUS. SO WHEN WE SAY A SAMPLE  
21 IS REPRESENTATIVE OR THAT THE ALGORITHM IS CONVERGED,  
22 THOSE ARE REALLY GETTING AT THE SAME THING: YOU  
23 KNOW, CAN WE TRUST THE RESULTS. SO THESE DIAGNOSTICS  
24 ARE DESIGNED TO CHECK CONVERGENCE OR ESTABLISH  
25 REPRESENTATIVENESS. IT'S TWO SIDES OF THE SAME COIN.

01:51p

1 Q DID YOU HEAR DR. BARBER TESTIFY YESTERDAY  
2 THAT HE PROVIDED STANDARD DIAGNOSTICS FOR HIS FIRST  
3 SET OF SIMULATIONS?

4 A I DID.

5 Q AND DO YOU BELIEVE HE ACTUALLY CHECKED THESE  
6 DIAGNOSTICS?

7 A NO. WHAT I UNDERSTOOD HIM TO MEAN WHEN HE  
8 SAID "PROVIDED THE DIAGNOSTICS" IS THAT -- SO THE  
9 DATA THAT ARE NEEDED TO CALCULATE THESE DIAGNOSTICS  
10 ARE ACTUALLY SAVED AUTOMATICALLY BY THE SOFTWARE SO  
11 THAT WHEN THE FINALS WERE TURNED OVER TO ME, I GUESS  
12 THROUGH THE DISCOVERY PROCESS, THAT DATA WAS STILL  
13 INCLUDED. BUT TO ACTUALLY CHECK AND RUN THE  
14 DIAGNOSTICS REQUIRES THAT THE ANALYST, YOU KNOW, RUN  
15 SOME CODE -- RUN A LINE OF CODE AND LOOK AT THE  
16 RESULTS AND EVALUATE THEM.

17 AND THE CODE THAT DR. BARBER TURNED OVER  
18 THAT I REVIEWED, THERE WERE NO SUCH INSTRUCTIONS TO  
19 CHECK THESE DIAGNOSTICS. IN FACT, IF HE HAD RUN THE  
20 CODE, THERE WOULD HAVE BEEN -- THE DIAGNOSTICS WOULD  
21 HAVE IDENTIFIED SEVERAL PARTICULAR ISSUES AND ACTION  
22 STEPS THAT IT RECOMMENDED SHOULD BE TAKEN. SINCE DR.  
23 BARBER DIDN'T, YOU KNOW, ADDRESS THOSE ISSUES, I CAN  
24 ONLY ASSUME THAT HE DIDN'T ACTUALLY CHECK THE  
25 DIAGNOSTICS EVEN THOUGH, AS WE SAID, THEY WERE -- THE

01:53p

1 DATA WERE THERE TO CALCULATE THEM.

2 Q DID YOU CHECK THE DIAGNOSTICS?

3 A I DID.

4 Q CAN WE SEE PAGES 22 AND 23 FROM DR.

5 MCCARTAN'S REPORT, WHICH --

6 AND THEN WHAT DO THESE PAGES SHOW?

7 A SURE. SO THIS SECTION A HERE IS THE ACTUAL  
8 OUTPUT FROM THE COMPUTER YOU'D GET IF YOU RAN THIS  
9 CODE TO PRODUCE THE DIAGNOSTICS FOR HIS SENATE  
10 SAMPLE.

11 Q CAN WE JUST HIGHLIGHT THE LANGUAGE THAT'S ON  
12 PAGE 23 ABOVE THE B BULLET POINT.

13 CAN YOU TELL US IN VERY GENERAL TERMS WHAT  
14 THAT LANGUAGE IS?

15 A SURE. SO EVERYTHING ABOVE THAT IS A BUNCH  
16 OF NUMBERS THAT ARE SORT OF -- CONSTITUTE THE  
17 DIAGNOSTICS. AND THEN WHAT THE COMPUTER DOES IS IT  
18 GOES THROUGH AND SORT OF CHECKS THOSE NUMBERS  
19 ACCORDING TO SOME SORT OF RULES OF THUMB AND FIGURES  
20 OUT IF IT THINKS THERE IS PROBLEMS. AND IF THERE ARE  
21 PROBLEMS, IT SUMMARIZES THOSE HERE AT THE BOTTOM IN  
22 THESE BULLET POINTS.

23 SO HERE THERE IS SORT OF THREE -- THREE  
24 POTENTIAL PROBLEMS THEY IDENTIFIED. THESE ARE ALL  
25 INDICATIVE OF A SAMPLE THAT'S NOT REPRESENTATIVE. SO

01:54p

1 FOR EACH OF THESE PARTICULAR PROBLEMS, SOMETIMES IT  
2 WILL RECOMMEND STEPS THAT YOU COULD TAKE TO TRY TO  
3 ADDRESS THEM. THE GOAL ISN'T NECESSARILY, YOU KNOW  
4 -- THESE AREN'T LIKE -- THESE ARE SYMPTOMS. BUT THE  
5 REAL PROBLEM IS A LACK OF REPRESENTATIVENESS.

6 Q AND HOW WOULD A PERSON WHO IS USING YOUR  
7 REDIST SOFTWARE KNOW ABOUT THESE STANDARD  
8 DIAGNOSTICS?

9 A OH, SURE. SO IN THE PAPER THAT WE TALKED  
10 ABOUT IN MY C.V. THAT INTRODUCED THIS ALGORITHM, WE  
11 ACTUALLY HAVE A WHOLE SECTION TITLED "DIAGNOSTICS"  
12 THAT EXPLAINS WHY THESE ARE IMPORTANT AND RECOMMENDS  
13 PARTICULARLY FORMULAS TO USE IN CALCULATING THESE  
14 DIAGNOSTICS. AS I THINK I MENTIONED, THE SOFTWARE  
15 ALSO COMES WITH DOCUMENTATION. SO IN ADDITION TO  
16 CODE, THERE IS ACTUAL, YOU KNOW, ENGLISH WRITE-UPS OF  
17 HOW TO USE THE SOFTWARE, ET CETERA. AND THOSE  
18 CONTAIN MULTIPLE REFERENCES ABOUT THE IMPORTANCE OF  
19 USING THE DIAGNOSTICS AS WELL AS THE ACTUAL CODE YOU  
20 WOULD RUN TO CHECK -- TO CHECK THEM. AND THAT'S --  
21 LIKE I SAY, THAT DOCUMENTATION IS ACTUALLY BUNDLED  
22 WITH THE SOFTWARE, SO WHEN YOU INSTALL IT IT'S -- A  
23 COPY OF THAT IS DOWNLOADED TO YOUR COMPUTER AND IT'S  
24 REAL EASY TO GO AND VIEW THAT.

25 THE COURT: MS. BRANNON, CAN I JUST



01:55p

1 INTERRUPT FOR ONE SECOND?

2           THERE WAS SOMETHING YOU SAID THAT I DID  
3 NOT -- I DID NOT EITHER CATCH OR DID NOT UNDERSTAND.  
4 YOU SAID THAT -- I APOLOGIZE.

5           **MS. BRANNON:** OF COURSE, YOUR HONOR.

6           **THE COURT:** YOU SAID THAT THE DATA NEEDED TO  
7 RUN THE DIAGNOSTICS IS PRESERVED IN THE DATA FILES  
8 AND THAT YOU GOT THOSE THROUGH YOUR COUNSEL FROM --  
9 ON THE DATA THAT DR. BARBER RAN.

10          **THE WITNESS:** THAT'S RIGHT.

11          **THE COURT:** OKAY. BUT THEN YOU SAID THERE  
12 WERE NO DIAGNOSTICS RUN BY DR. BARBER. I MISSED THE  
13 PART OF HOW YOU MADE THAT -- HOW YOU MADE THAT  
14 FINDING.

15          **THE WITNESS:** OH, SURE. SURE. SO WHEN  
16 YOU'RE WRITING AN ANALYSIS LIKE THIS, LIKE WHAT YOU  
17 DO IS -- THAT INVOLVES WRITING CODE AND YOU PUT  
18 THE -- ALL THE CODE YOU RUN IN A FILE, LIKE A SCRIPT  
19 WE CALL IT. THAT WAY IF YOU NEED TO GO BACK AND  
20 CHANGE THINGS LATER OR RERUN THE ANALYSIS, IT'S ALL  
21 SAVED. RIGHT? SO IT'S LIKE YOU DON'T JUST WRITE IT  
22 AND FORGET ABOUT IT. YOU'RE ACTUALLY BUILDING A  
23 RECORD OF WHAT YOU RAN. SO THAT SCRIPT FILE WAS ALSO  
24 INCLUDED IN THE DISCOVERY OF EVIDENCE.

25               AND SO I TOOK THAT TO BE, YOU KNOW, A

01:56p

1 COMPLETE AND ACCURATE SORT OF TRANSCRIPT, IF YOU  
2 WILL, OF THE CODE THAT DR. BARBER RAN AS PART OF HIS  
3 COMPLETE ANALYSIS. AND NOWHERE IN THAT SCRIPT, THAT  
4 COMPUTER CODE, WAS WITH THE INSTRUCTIONS TO RUN THESE  
5 DIAGNOSTICS.

6 IN ADDITION, IT'S -- YOU KNOW, IT'S  
7 ALWAYS POSSIBLE, I SUPPOSE, THAT HE RAN THEM WITHOUT  
8 RECORDING THEM IN THE SCRIPT. BUT AS WE SEE HERE,  
9 YOU KNOW, IF HE HAD RUN THEM, THERE WOULD HAVE BEEN,  
10 YOU KNOW, STEPS RECOMMENDED THAT HE SHOULD HAVE  
11 TAKEN. AND SINCE THERE WERE NO EFFORTS TO ADDRESS  
12 ANY OF THESE ISSUES IN HIS CODE THAT HE TURNED OVER,  
13 IT HELPED ME SORT OF ALSO CONCLUDE THAT HE HADN'T  
14 CHECKED.

15 THE COURT: THANK YOU.

16 PARDON THE INTERRUPTION.

17 MS. BRANNON: OF COURSE, YOUR HONOR.

18 BY MS. BRANNON:

19 Q JUST TO CLARIFY FOR THE RECORD, THE SCRIPT  
20 WAS PROVIDED BY DEFENDANTS IN THE DISCOVERY IN THIS  
21 CASE AND GIVEN TO YOU BY COUNSEL?

22 A THAT'S MY UNDERSTANDING, YES. YEAH.

23 Q OKAY. TURNING BACK TO YOUR REPORT, CAN WE  
24 GO BACK TO PAGES 5 AND 6 OF PL 135. AND CAN YOU READ  
25 THE SECOND HIGHLIGHTED SENTENCE?

01:57p

1           A     YEAH. "HE" -- DR. BARBER -- "ALSO FAILED TO  
2 PERFORM MULTIPLE INDEPENDENT RUNS OF THE ALGORITHM,  
3 WHICH PREVENTED THE CALCULATION OF IMPORTANT  
4 ADDITIONAL DIAGNOSTICS AND MARGINS OF ERROR."

5           Q     WHAT DO YOU MEAN BY THIS STATEMENT?

6           A     SURE. SO I'VE BEEN USING DIAGNOSTICS AS  
7 SORT OF AN UMBRELLA TERM. THERE'S A NUMBER OF THEM;  
8 YOU KNOW, DIFFERENT FORMULAS. AN IMPORTANT SET OF  
9 DIAGNOSTICS CENTER AROUND BASICALLY CHECKING THAT THE  
10 RESULTS OF THE ALGORITHM ARE RELIABLE. SO I  
11 MENTIONED THIS ALGORITHM IS RANDOM; IT USES RANDOM  
12 NUMBERS. AND SO IF YOU RUN THE ALGORITHM WITH THE  
13 EXACT SAME INSTRUCTIONS TWICE, YOU MIGHT GET SLIGHTLY  
14 DIFFERENT RESULTS.

15                     AND SO AN IMPORTANT THING TO DO IS ACTUALLY  
16 TO DO THAT; TO RUN IT WITH THE EXACT SAME  
17 INSTRUCTIONS TWICE OR MORE AND CHECK THAT THE RESULTS  
18 ARE SIMILAR. AND WE HAVE A PARTICULAR WAY OF  
19 MEASURING THAT. AND THAT CHECK IS AN ADDITIONAL  
20 IMPORTANT SET OF DIAGNOSTICS THAT I'M REFERRING TO  
21 HERE. AND IF YOU DO THAT, YOU CAN HAVE A LOT MORE  
22 CONFIDENCE THAT THE RESULTS YOU HAVE ARE  
23 REPRESENTATIVE AND THE ALGORITHM IS CONVERGED.

24                     IF YOU DON'T DO THESE MULTIPLE INDEPENDENT  
25 RUNS, THEN YOU'RE NOT EVEN ABLE TO RUN THOSE

01:58p

1 DIAGNOSTICS AND YOU'RE LACKING AN IMPORTANT PIECE OF  
2 INFORMATION AROUND CONVERGENCE, REPRESENTATIVENESS.

3 IN THIS CASE DR. BARBER DID NOT RUN MULTIPLE  
4 INDEPENDENT RUNS AND SO HE DIDN'T EVEN HAVE ACCESS TO  
5 THIS IMPORTANT SECOND SET OF DIAGNOSTICS.

6 Q AND DO YOU BELIEVE THAT WAS A MISTAKE THAT  
7 HE DIDN'T RUN THE SECOND SET OF INDEPENDENT -- AN  
8 INDEPENDENT RUN OF THE ALGORITHM?

9 A YES. CERTAINLY, YOU KNOW, LIKE IN THE PAPER  
10 THAT WE TALKED ABOUT, WE ARE VERY CLEAR THIS IS  
11 PROBABLY THE MOST IMPORTANT OF THE DIAGNOSTICS, IS  
12 THIS ONE THAT REQUIRES MULTIPLE INDEPENDENT RUNS. WE  
13 MADE CLEAR THAT'S OUR STRONG RECOMMENDATION FOR  
14 ANYONE USING THE ALGORITHM.

15 Q AND YOU TESTIFIED EARLIER ABOUT THE VALUE  
16 AND NEEDING TO DO MULTIPLE ADDITIONAL VALID  
17 SIMULATIONS. CAN YOU EXPLAIN THE DIFFERENCE BETWEEN  
18 THAT CONCEPT AND THIS CONCEPT THAT WE'RE TALKING  
19 ABOUT DOING AN INDEPENDENT RUN OF THE SAME ALGORITHM?

20 A SURE. THE ALGORITHM IS PROBABLY A LITTLE  
21 CONFUSING. SO A SIMULATION STUDY, WHEN I SAY THAT,  
22 THAT'S -- YOU'RE PRODUCING A SET OF THE RANDOM  
23 PLANS -- TEN THOUSAND, A HUNDRED THOUSAND,  
24 WHATEVER -- AND THAT'S TO ANSWER -- MAKE A PARTICULAR  
25 COMPARISON, ANSWER A PARTICULAR QUESTION WITH A

01:59p

1 PARTICULAR SET OF CRITERIA, PRINCIPLES, WHAT HAVE  
2 YOU.

3 SO WE TALKED ABOUT WHEN YOU'RE DOING THESE  
4 ANALYSES LIKE I DID IN FLORIDA, YOU HAVE TO DO THAT  
5 WHOLE SIMULATION STUDY PROCESS MANY TIMES -- OFTEN  
6 ITERATIVELY, EXPERIMENTALLY -- TO ARRIVE AT A SET OF  
7 INSTRUCTIONS, PARAMETERS, CRITERIA THAT YOU'RE HAPPY  
8 WITH THAT PROVIDES THE EVIDENCE YOU'RE TRYING TO, YOU  
9 KNOW, LOOK FOR. WITHIN ANY SINGLE SIMULATION STUDY,  
10 THIS PRACTICE OF -- WITH THE EXACT SAME INSTRUCTIONS  
11 AND NUMBERS, RUNNING THE ALGORITHM MULTIPLE TIMES, IS  
12 AN IMPORTANT DIAGNOSTIC, YOU KNOW, TECHNICAL CHECK.  
13 SO THAT'S HAPPENING WITHIN EACH OF THESE STIMULATION  
14 STUDIES. BUT DOING MANY STUDIES IS PART OF SORT OF  
15 THE SCIENCE PROCESS OF ALL THIS THAT'S IMPORTANT.

16 Q DO YOU BELIEVE, BASED ON YOUR EXPERIENCE AND  
17 EXPERTISE, THAT THE SIMULATION STUDY IN DR. BARBER'S  
18 FIRST REPORT HAS ANY VALUE?

19 A TO BE HONEST, NO. I THINK IT'S BASICALLY  
20 USELESS FOR THE QUESTIONS HE WAS TRYING TO ANSWER.

21 Q DID YOU REVIEW DR. BARBER'S REBUTTAL REPORT?

22 A I DID.

23 Q AND WHAT'S PROVIDED IN DR. BARBER'S REBUTTAL  
24 REPORT?

25 A SO IN HIS REPLY OR REBUTTAL REPORT, HE DID A

02:01p

1 NEW SET OF SIMULATIONS TO ADDRESS SOME OF THE  
2 CONCERNS I RAISED IN MY REPORT. SO HE DOES ONE  
3 ADDITIONAL SET OF SIMULATIONS WHERE HE CHANGES A  
4 NUMBER OF THINGS ABOUT HOW HE RAN IT, AND THEN HE  
5 CONCLUDES THAT NOTHING REALLY CHANGED AS FAR AS HIS  
6 CONCLUSIONS OR, YOU KNOW, QUANTITATIVE RESULTS  
7 BETWEEN THE FIRST AND SECOND SET.

8 Q AND DID HE CORRECT SOME OF THE MISTAKES THAT  
9 WE HAVE BEEN DISCUSSING TODAY IN HIS SECOND  
10 SIMULATION STUDY?

11 A YEAH. SO SOME OF THESE LIKE TECHNICAL  
12 ISSUES WE'VE BEEN TALKING ABOUT WITH THE DIAGNOSTICS,  
13 WITH THE MULTIPLE INDEPENDENT RUNS, HE DID ADDRESS  
14 THOSE CONCERNS IN THE SECOND SET. SO HE REPRESENTS  
15 IN HIS SECOND REPORT THAT HE DID MULTIPLE INDEPENDENT  
16 RUNS, RAN ALL OF THE DIAGNOSTICS, AND THAT NONE OF  
17 THOSE INDICATED ANY TECHNICAL ISSUES WITH HIS SECOND  
18 SET OF SIMULATIONS.

19 Q CAN WE STILL -- WE HAVE PAGE 5 AND 6 UP.  
20 CAN WE HAVE -- CAN YOU READ THE SECOND HIGHLIGHTED  
21 BULLET POINT?

22 A SURE. "DR. BARBER DID NOT CORRECTLY  
23 IMPLEMENT A 'CORE RETENTION' CONSTRAINT FOR HIS  
24 SENATE SAMPLES, MEANING THAT THEY DO NOT 'RESPECT  
25 PRE-EXISTING DISTRICT BOUNDARIES' BY DESIGN AS

02:02p

1 REQUIRED BY JOINT RULE 21."

2 Q WHAT DOES THIS SENTENCE MEAN?

3 A SURE. SO IN HIS FIRST REPORT DR. BARBER  
4 WROTE THAT HE INSTRUCTED THE ALGORITHM TO FOCUS ON  
5 PRESERVING THE CORES OF THE 2011 DISTRICTS IN THE NEW  
6 MAP THAT HE WAS DRAWING. THE WAY HE WENT ABOUT DOING  
7 THAT -- BECAUSE THAT'S JUST -- YOU KNOW, THE CORE OF  
8 THE DISTRICTS, THAT'S JUST AN ENGLISH SENTENCE. TO  
9 ACTUALLY PUT THAT INTO CODE, YOU HAVE TO COME UP WITH  
10 A WAY OF TRANSLATING WHAT "CORES" MEANS FOR THE  
11 ALGORITHM.

12 THE WAY HE DID THAT IS BY INSTRUCTING THE  
13 ALGORITHM TO MEASURE CORE RETENTION AS FOLLOWS: LOOK  
14 AT A 2011 DISTRICT AND SEE WHETHER OR NOT A NEW  
15 DISTRICT YOU'RE DRAWING IS CONTAINED ENTIRELY WITHIN  
16 IT OR IF IT IS SPLIT OR CROSSES THE 2011 DISTRICT.  
17 ONLY IF IT'S -- IT ALL CROSSES, UNLESS IT'S ENTIRELY  
18 CONTAINED WITHIN THE 2011 DISTRICT, HE HAS THE  
19 ALGORITHM TO RECORD THAT AS ZERO CORE RETENTION. AND  
20 THEN HE TELLS THE ALGORITHM: USING THIS DEFINITION  
21 OF CORE RETENTION, TRY TO MAXIMIZE THIS CORE  
22 RETENTION OR PLACE MORE WEIGHT ON DISTRICTS THAT  
23 RETAIN CORES.

24 SO WHAT I DID IS I ACTUALLY WENT THROUGH ALL  
25 100,000 SENATE MAPS IN HIS SAMPLE AND I LOOKED AT THE

02:04p

1 CORE RETENTION USING THE DEFINITION THAT HE GAVE THE  
2 ALGORITHM AND FOUND THAT ACTUALLY ALL 100,000 PLANS  
3 HAD ZERO CORE RETENTION USING THIS DEFINITION. SO  
4 WHAT THAT MEANS IS, EVEN THOUGH HE TOLD THE ALGORITHM  
5 TRY TO MAXIMIZE YOUR -- OR PLACE MORE WEIGHT USING  
6 THIS DEFINITION OF CORE RETENTION, ALL OF THE PLANS  
7 WERE ZERO. SO THIS INSTRUCTION WAS ACTUALLY HAVING  
8 NO EFFECT ON THE PLANS THAT HE SIMULATED AND,  
9 THEREFORE, HIS CONCLUSIONS.

10 Q AND YOU HEARD DR. BARBER TESTIFY YESTERDAY  
11 THAT IN HIS FIRST SET OF SIMULATIONS HE IMPOSED VERY  
12 LOW CORE RETENTION CONSTRAINTS OR NO CORE RETENTION  
13 CONSTRAINTS. CORRECT?

14 A THAT'S WHAT I REMEMBER, YEAH.

15 Q SO DO YOU AGREE THAT HE IMPOSED NO CORE  
16 RETENTION CONSTRAINTS IN HIS FIRST SET OF  
17 SIMULATIONS, PARTICULARLY IN THE SENATE MAP?

18 A I DO.

19 Q AND THIS IS BECAUSE OF THE REVIEW THAT YOU  
20 HAVE JUST REVIEWED TO THE COURT OF THE RESULTS?

21 A THAT'S RIGHT.

22 Q DO YOU THINK IT WAS A MISTAKE TO NOT  
23 IMPLEMENT ANY CORE RETENTION IN HIS FIRST SET OF HIS  
24 FIRST SIMULATION STUDY?

25 A I THINK IF YOU SAY THAT YOU'RE TRYING TO



02:05p

1 GENERATE SAMPLES THAT RESPECT THE CORES OR PRESERVE  
2 THE CORES, IT WOULD BE A MISTAKE TO IMPLEMENT IT THIS  
3 WAY BECAUSE IT'S -- AS WE'VE SEEN, IT ENDED UP NOT  
4 ACTUALLY HAVING ANY EFFECT.

5 Q DID HE CORRECT THIS MISTAKE IN HIS SECOND  
6 SIMULATION STUDY DISCUSSED IN HIS REBUTTAL REPORT?

7 A WELL, HE COMPLETELY CHANGED HOW HE  
8 IMPLEMENTED THIS CORE RETENTION PRINCIPLE OR  
9 OBJECTIVE IN HIS SECOND SET.

10 Q DID YOU HEAR DR. BARBER TESTIFY ABOUT HIS  
11 DEFINITION OF CORE RETENTION YESTERDAY?

12 A YES.

13 Q AND WHAT'S YOUR UNDERSTANDING OF HIS  
14 DEFINITION OF CORE RETENTION?

15 A IF I REMEMBER RIGHT, HE SAID THAT HE  
16 MEASURES CORE RETENTION AS LOOKING AT THE PERCENT --  
17 PERCENTAGE OF THE POPULATION IN AN OLD DISTRICT  
18 THAT'S MAINTAINED INTO A NEW DISTRICT.

19 Q IS THIS THE MEASUREMENT OF CORE RETENTION  
20 THAT DR. BARBER ACTUALLY USED IN HIS SECOND SET OF  
21 SIMULATIONS?

22 A NO. SO IN HIS SECOND -- SO IN THE FIRST SET  
23 HE DID THIS THING WITH THE SPLITS. IN THE SECOND SET  
24 HE -- BEFORE HE EVEN RAN THE SIMULATIONS, HE SORT OF  
25 PREDEFINED WHAT HE MEANT BY THE CORE OF EACH

02:06p

1 DISTRICT. SO HE DID THAT BY BASICALLY TAKING EACH  
2 PRECINCT AND SAYING, YOU KNOW, THIS PRECINCT BELONGS  
3 TO THE CORE OF A PARTICULAR DISTRICT OR THIS PRECINCT  
4 DOESN'T BELONG TO THE CORE. AND THE WAY HE DEFINED  
5 THESE CORES WAS BY ANY PRECINCT THAT WASN'T ON THE  
6 BOUNDARY OF A DISTRICT. SO IF A PRECINCT TOUCHED A  
7 PRECINCT IN ANOTHER DISTRICT, IT WASN'T IN THE CORE.  
8 OTHERWISE IT WAS IN THE CORE OF THE DISTRICT. SO  
9 ACTUALLY MOST OF THE PRECINCTS IN THE STATE ENDED UP  
10 BEING IN ONE OF DR. BARBER'S CORES BASED ON THE 2011  
11 DISTRICTS.

12 SO ONCE HE PREDEFINED THESE CORES, HE THEN  
13 TOLD THE ALGORITHM TO GUARANTEE THAT ALL THE CORES  
14 WOULD REMAIN TOGETHER, SO ALL THE PRECINCTS IN THE  
15 CORE WOULD HAVE TO END UP IN THE SAME NEW DISTRICT  
16 THAT WOULD BE SIMULATED. SO THIS IS ACTUALLY -- THIS  
17 IS ACTUALLY -- THIS TYPE OF APPROACH WHERE YOU  
18 PREDEFINE THE CORE AND THEN TRY TO HOLD THOSE  
19 TOGETHER, THAT'S ACTUALLY AN APPROACH THAT I'VE USED  
20 IN SOME OF MY ACADEMIC WORK. IT'S A SORT OF GENERAL  
21 APPROACH IN THAT YOU CAN DECIDE HOW BIG YOU WANT  
22 THESE CORES TO BE, RIGHT? SO YOU CAN HAVE THE CORES  
23 GO ALL THE WAY TO THE BOUNDARY OR YOU CAN HAVE THE  
24 CORES JUST BE MUCH SMALLER AND JUST BE IN THE CENTER  
25 OF EACH DISTRICT. SO YOU SORT OF HAVE TO CHOOSE HOW

02:07p

1 STRONG YOU WANT THIS CORE CONSTRAINT TO BE  
2 IMPLEMENTED. WHAT DR. BARBER DID WAS TO JUST MAKE IT  
3 AS STRONG AS POSSIBLE, SO HE MADE THE CORES AS LARGE  
4 AS POSSIBLE.

5 Q AND DO YOU HAVE AN OPINION ABOUT THE IMPACT  
6 ON OUTCOME OF HIS SECOND SIMULATION STUDY OF THIS  
7 APPROACH OF IMPLEMENTING A STRONG CORE RETENTION  
8 CONSTRAINT?

9 A YEAH. WE CAN'T KNOW FOR SURE BECAUSE DR.  
10 BARBER ONLY PROVIDED THIS ONE ADDITIONAL SET OF  
11 SIMULATIONS WHERE HE CHANGED A NUMBER OF OTHER  
12 THINGS, INCLUDING THIS WAY OF DOING CORE RETENTION.  
13 SO WE DON'T HAVE A SIDE-BY-SIDE WHERE ALL HE CHANGED  
14 WAS THIS CORE RETENTION AND WE CAN MEASURE THE IMPACT  
15 OF THAT, SO WE DON'T KNOW FOR SURE.

16 YOU WOULD EXPECT, ESPECIALLY IF WE HAVE A  
17 STRONG CORE CONSTRAINT, THAT WOULD TEND TO PRODUCE  
18 DISTRICTS THAT LOOK MORE LIKE THE 2011 MAP, WHICH THE  
19 CORES ARE BASED ON. TO THE EXTENT THAT THE ENACTED  
20 PLAN LOOKS LIKE THE 2011 MAP, IT WOULD ALSO TEND TO  
21 MAKE THE DISTRICTS LOOK MORE LIKE THE ENACTED MAP.  
22 BUT AGAIN, LIKE I SAY, HOW MUCH OF AN EFFECT THAT  
23 HAD, HARD TO KNOW. WE DO KNOW THAT THE CORE  
24 CONSTRAINT WAS ON THE STRONG END OF THE SCALE.

25 Q DID DR. BARBER EVALUATE THE IMPACT OF THIS

02:08p

1 APPROACH TO IMPLEMENTING A CORE RETENTION CONSTRAINT  
2 IN HIS SECOND SET OF SIMULATIONS?

3 A NOT TO MY KNOWLEDGE. AS I SAID, HE WOULD  
4 HAVE HAD TO, YOU KNOW, RUN THIS WHOLE SIMULATION  
5 STUDY WITH AND WITHOUT A CORE CONSTRAINT OR VARYING  
6 THE STRENGTH OF HIS CONSTRAINT AND THEN REPORT THOSE  
7 RESULTS. HE CERTAINLY DIDN'T REPORT ANYTHING. AND  
8 SO, YOU KNOW, WE JUST DON'T KNOW WHAT THE EFFECT  
9 WOULD HAVE BEEN.

10 Q AND WHAT ARE SOME OTHER OPTIONS FOR  
11 IMPLEMENTING A CORE RETENTION CONSTRAINT THAT YOU  
12 MIGHT RECOMMEND?

13 A WELL, I THINK -- AS I SAID, YOU KNOW, I  
14 DON'T NECESSARILY OBJECT TO THIS GENERAL STRATEGY  
15 THAT HE HAD FOR THIS CORE CONSTRAINT. BUT IT'S UP TO  
16 THE ANALYST TO DECIDE HOW STRONG YOU WANT THAT  
17 CONSTRAINT TO BE. IF IT'S TOO STRONG, IT COULD  
18 ACTUALLY OVERWHELM OTHER PRINCIPLES OR FACTORS YOU'RE  
19 TRYING TO INCORPORATE IN THE MAPS.

20 AND SO AS FAR AS I'M CONCERNED, THE PRACTICE  
21 AN ANALYST SHOULD FOLLOW INVOLVES TRYING MULTIPLE  
22 LEVELS OR STRENGTHS OF HIS CONSTRAINT AND EVALUATING  
23 THAT. I'M SURE THERE IS OTHER WAYS THAT ONE COULD  
24 IMPLEMENT A CORE CONSTRAINT. THERE IS NOT  
25 NECESSARILY EXACTLY ONE WAY. BUT IF YOU'RE GOING TO

02:10p

1 GO DOWN THIS ROUTE, YOU HAVE TO HAVE SOME REASON FOR  
2 PICKING THAT PARTICULAR STRENGTH OF A CONSTRAINT THAT  
3 YOU SETTLE ON.

4 Q CAN WE GO BACK TO PAGE 5 AND 6 OF YOUR  
5 REPORT. AND CAN YOU READ THE NEXT HIGHLIGHTED  
6 SENTENCE IN THE BULLET POINT?

7 A SURE. "DR. BARBER GENERATED HOUSE PLANS BY  
8 DIVIDING LOUISIANA INTO THREE SEPARATE DIVISIONS,  
9 DEFINED BY ARBITRARY GROUPINGS OF PARISHES, AND THEN  
10 GENERATING PLANS WITHIN EACH DIVISION."

11 Q AND HOW DOES THAT WORK?

12 A SURE. SO DR. BARBER LITERALLY TOOK THE  
13 STATE OF LOUISIANA AND DREW TWO LINES ACROSS IT ALONG  
14 PARISH BOUNDARIES, AND THAT CREATED THREE SEPARATE  
15 REGIONS OF THE STATE. I THINK I HAVE A MAP IN MY  
16 REPORT ACTUALLY OF WHAT THAT LOOKS LIKE. BUT WITHIN  
17 EACH DIVISION, THEN, HE RUNS A COMPLETELY SEPARATE  
18 RUN OF THE ALGORITHM TO PRODUCE ROUGHLY A THIRD OF  
19 THE TOTAL DISTRICTS, AND THEN HE PUTS THOSE ALL  
20 TOGETHER TO FORM A STATEWIDE MAP.

21 Q WHAT IMPACT DOES DIVIDING THE STATE INTO  
22 PARTITIONS HAVE ON THE OPTIONS THAT MIGHT BE  
23 GENERATED BY A SIMULATION STUDY?

24 A YEAH. SO AS YOU CAN IMAGINE, IF I'M  
25 GENERATING DISTRICTS WITHIN EACH REGION SEPARATELY,

02:11p

1 NO DISTRICT THAT I GENERATE CAN POSSIBLY CROSS THE  
2 LINES THAT, YOU KNOW, DELINEATE THESE REGIONS. AND  
3 SO IT'S IMPOSSIBLE, ONCE YOU'VE DEFINED THE REGIONS  
4 AND TAKE THIS APPROACH, TO COME UP WITH A PLAN THAT  
5 HAS ANY DISTRICTS CROSSING THESE LINES. YOU'RE  
6 GUARANTEED TO HAVE ALL THE DISTRICTS SORT OF STICK TO  
7 THEIR OWN REGION.

8 NOTABLY, THE ENACTED PLAN IS ONE OF THE  
9 PLANS THAT WOULD ACTUALLY BE IMPOSSIBLE TO GENERATE  
10 UNDER THIS APPROACH.

11 Q DR. MCCARTAN, WHAT DOES IT MEAN TO HAVE  
12 TRANSPARENCY WHEN YOU'RE IMPLEMENTING CONSTRAINTS  
13 INTO AN ALGORITHM BEING RUN BY THE REDIST SOFTWARE?

14 A SO IN PERFORMING ANY SIMULATION ANALYSIS, AS  
15 YOU MAKE THE TRANSLATION FROM SORT OF A PLAIN-  
16 LANGUAGE UNDERSTANDING OF A PRINCIPLE OR A CRITERIA,  
17 AS YOU TRANSLATE THAT INTO CODE YOU HAVE CHOICES.  
18 THERE IS NUMBERS YOU HAVE TO SET, THERE IS DIFFERENT  
19 STRATEGIES YOU CAN TAKE TO IMPLEMENT IT, AS WE SAW  
20 WITH CORE RETENTION. AND BECAUSE THOSE CAN HAVE AN  
21 EFFECT ON YOUR RESULTS, I THINK IT'S IMPORTANT TO BE  
22 TRANSPARENT IN REPORTING YOUR RESULTS ABOUT WHAT  
23 THOSE PARAMETERS WERE OR AT LEAST SORT OF THE  
24 CRITERIA YOU PUT IN AND THE DECISIONS YOU MADE AND  
25 MAYBE WHY YOU MADE THOSE DECISIONS.

02:12p

1 IT WOULD NOT BE, IN MY VIEW, APPROPRIATE OR  
2 SURELY NOT TRANSPARENT TO PUT IN SOME KIND OF  
3 INSTRUCTION OR CRITERIA AND THEN NOT REPORT THAT,  
4 BECAUSE IT COULD HAVE AN EFFECT ON THE RESULTS.

5 Q WOULD YOU CHARACTERIZE DR. BARBER'S REPORTS  
6 AS TRANSPARENT?

7 A I WOULDN'T, ESPECIALLY -- YOU KNOW, THE  
8 FIRST REPORT, THIS DIVISION OF THE HOUSE INTO THREE  
9 REGIONS WASN'T DISCLOSED AT ALL, DESPITE IT, YOU  
10 KNOW, AFFECTING WHAT TYPES OF MAPS COULD EVEN BE  
11 DRAWN. I ONLY DISCOVERED THAT BY GOING THROUGH THAT  
12 TRANSCRIPT OF THE CODE HE RAN. YOU KNOW, THAT --  
13 THERE'S JUST ONE EXAMPLE OF SORT OF THE LACK OF  
14 TRANSPARENCY AROUND THE INSTRUCTIONS HE PROVIDED TO  
15 THE ALGORITHM.

16 Q DID DR. BARBER IMPLEMENT PARTITIONS OF THE  
17 STATE IN THE HOUSE AND SENATE MAPS IN HIS SECOND SET  
18 OF SIMULATIONS?

19 A YEAH. SO IN THE FIRST SET THE SENATE WAS  
20 DONE STATEWIDE. THERE WERE NO REGIONS. THE HOUSE  
21 WAS DIVIDED INTO THREE. IN THE SECOND SET HE DIVIDED  
22 THE STATE INTO SEVEN REGIONS FOR THE HOUSE AND FOUR  
23 FOR THE SENATE.

24 Q HAVE YOU EVER RUN SIMULATIONS WHERE YOU  
25 PARTITIONED A JURISDICTION INTO SUBPARTS?

02:14p

1           A     I THINK I HAVE. SO SOMETIMES -- YOU DO IT  
2 FOR VARIOUS REASONS. BUT THERE IS NOT JUST MAYBE ONE  
3 WAY TO DO THIS. SO I THINK SOMETHING I PROBABLY DO  
4 NOW IS -- MOST OFTEN OR A BEST PRACTICE -- WOULD BE  
5 YOU CAN CREATE THESE DIVIDING LINES, BUT THERE IS A  
6 WAY TO ACTUALLY SORT OF ERASE THEM PARTWAY THROUGH  
7 THE WAY THE ALGORITHM IS RUNNING. SO YOU CAN DRAW  
8 SOME OF THE DISTRICTS AND THEN FORGET ABOUT THESE  
9 DIVISIONS AND FILL IN THE REST. REGARDLESS OF WHAT,  
10 YOU KNOW, SPECIFIC APPROACH YOU'RE TAKING WITH THE  
11 LINES AND ALL -- YOU KNOW, IT'S KIND OF TECHNICAL,  
12 BUT -- I'M GOING TO SOUND LIKE A BROKEN RECORD  
13 HERE -- IT'S ALWAYS IMPORTANT TO UNDERSTAND THE  
14 EFFECT THAT THESE CHOICES ARE HAVING.

15                   VERY RARELY ARE THESE -- YOU KNOW, THESE  
16 DIVISIONS THAT YOU IMPOSE, SOMETHING YOU'RE GOING TO  
17 FIND IN STATE CRITERIA OR IN A LAW OR SOMETHING, SO  
18 THIS IS ALMOST ALWAYS AN ADDITIONAL SORT OF  
19 CONSTRAINT YOU'RE IMPOSING. SO THERE YOU ESPECIALLY  
20 WANT TO BE CAREFUL THAT THAT CHOICE IS NOT GOING TO  
21 INFLUENCE YOUR RESULTS. AND SO, FOR INSTANCE, YOU  
22 COULD -- YOU MIGHT WANT TO TRY DIVIDING THE STATE A  
23 DIFFERENT WAY, INTO FOUR PIECES OR THREE PIECES AND  
24 MAKING SURE THAT YOUR CONCLUSIONS ARE THE SAME.

25 | SO WHEN WE DIVIDE STATES, IF WE DIVIDE



02:15p

1 STATES, YOU KNOW, WE'LL TRY TO FIRST OF ALL BASE THE  
2 GROUPS ON SOMETHING OBJECTIVE LIKE A METROPOLITAN  
3 AREA, AND THEN WE'LL ALWAYS MAKE SURE TO TRY TO  
4 EVALUATE THE EFFECT THAT THAT'S HAVING ON OUR  
5 CONCLUSIONS.

6 Q AND DID DR. BARBER EVALUATE THE EFFECT OF  
7 HIS DECISIONS TO PARTITION THE STATE IN HIS SECOND  
8 SIMULATION RUN?

9 A NOT TO MY KNOWLEDGE. HE ONLY HAS THIS  
10 SINGLE SIMULATION STUDY. AS FAR AS WE CAN SEE, HE  
11 ONLY DIVIDED THE STATE IN ONE PARTICULAR WAY. HE  
12 DOESN'T RECORD ANY OTHER EXPERIMENTS THAT HE RAN.

13 Q DR. MCCARTAN, DID YOU HEAR DR. BARBER  
14 TESTIFY YESTERDAY THAT HE USED THE BOUNDARIES OF THE  
15 ILLUSTRATIVE MAP AS THE BOUNDARIES OF HIS SUBPART HE  
16 CREATED IN THE SECOND SIMULATION STUDY?

17 A YES, I DID.

18 Q DID YOU HEAR HIM TESTIFY THAT HE IMPLEMENTED  
19 THE SUBPARTS IN THIS WAY BECAUSE HE BELIEVED IT WOULD  
20 PROVIDE THE BEST CASE FOR THE ILLUSTRATIVE MAP?

21 A I DID HEAR THAT.

22 Q DO YOU AGREE?

23 A WELL, I DON'T THINK DR. BARBER OR MYSELF OR  
24 ANYONE CAN REALLY KNOW EXACTLY WHAT THE EFFECT WOULD  
25 BE. AGAIN, THAT'S BECAUSE DR. BARBER DIDN'T JUST

02:16p

1 CHANGE THIS REGIONAL DIVISION THING IN HIS SECOND  
2 SET. HE ALSO CHANGED THE CORE RETENTION. HE CHANGED  
3 A NUMBER OF PLANS. HE CHANGED A LOT OF STUFF. SO WE  
4 DON'T HAVE THE SIDE-BY-SIDE THAT WOULD LET US  
5 EVALUATE THE IMPACT OF THIS PARTICULAR CHOICE.

6 THAT BEING SAID, I WOULD PROBABLY AGREE WITH  
7 DR. BARBER TO THE EXTENT THAT THERE MIGHT BE A  
8 TENDENCY TO MAKE THE DISTRICTS LOOK A LITTLE MORE  
9 LIKE THE ILLUSTRATIVE MAP WHEN YOU'RE DEFINING THESE  
10 REGIONS ON THE BASIS OF THE ILLUSTRATIVE MAP. AGAIN,  
11 THE EXTENT TO WHICH THAT'S HAPPENING, I DON'T THINK  
12 ANYONE CAN KNOW BECAUSE WE DIDN'T RUN A SIDE-BY-SIDE  
13 THAT MEASURED THAT.

14 Q AND YOU JUST MENTIONED, AND WE HAD DISCUSSED  
15 EARLIER, THAT THERE IS A POTENTIAL UNKNOWN IMPACT OF  
16 DR. BARBER'S IMPLEMENTATION OF A STRONG CONSTRAINT  
17 FOR CORE RETENTION; AND, THEN, ALSO IT'S AN UNKNOWN  
18 IMPACT WHAT IMPACT THE PARTITIONS HAD ON THE  
19 SIMULATIONS.

20 WHAT IMPACT DOES IT HAVE ON THE MAPS CREATED  
21 BY THE SECOND STIMULATION TO BOTH THESE CONSTRAINTS  
22 IMPOSED TOGETHER?

23 A RIGHT. SO ONCE AGAIN, WE CAN'T KNOW FOR  
24 SURE BECAUSE WE HAVEN'T BROKEN OUT THE PIECES  
25 SEPARATELY. BUT AS WE SAID, ON THE ONE HAND YOU HAVE

02:17p

1 THE CORE CONSTRAINT THAT ANYTHING IS GOING TO PULL  
2 DISTRICTS TO LOOK LIKE THE 2011 MAP; AND THEN ON THE  
3 OTHER HAND YOU HAVE THIS WAY HE DIVIDED THE STATE,  
4 WHICH, IF ANYTHING, IS GOING TO PULL THE DISTRICTS TO  
5 LOOK MORE LIKE THE ILLUSTRATIVE MAP. SO THAT  
6 POSSIBLY CREATES A TENSION. IT CERTAINLY SORT OF  
7 REDUCES YOUR OPTIONS. RIGHT? YOU'RE TRYING TO  
8 SATISFY BOTH THESE THINGS AT THE SAME TIME.

9 AND SO, IF ANYTHING, THAT SORT OF TENDS TO  
10 NARROW, YOU KNOW, THE RANGES OF OUTCOMES YOU MIGHT  
11 EXPECT. BUT THE OVERALL IMPACT REALLY IS NOT  
12 KNOWABLE BECAUSE HE CHANGED ALL THESE THINGS AT ONCE  
13 AND DIDN'T EVALUATE THEIR IMPACTS SEPARATELY.

14 Q DID YOU HEAR DR. BARBER TESTIFY YESTERDAY  
15 THAT IN HIS OPINION THERE WAS VERY LITTLE DIFFERENCE  
16 IN THE RESULTS OF HIS TWO DIFFERENT STIMULATION  
17 STUDIES?

18 A I DID.

19 Q CAN WE CALL UP FROM DR. BARBER'S ORIGINAL  
20 REPORT, WHICH IS EXHIBIT SOS 1, PAGE 56, AND CALL OUT  
21 FIGURE 17; AND THEN ALSO FROM DR. BARBER'S REBUTTAL  
22 REPORT, WHICH IS, FOR THE RECORD, SECRETARY OF STATE  
23 EXHIBIT 4 AT PAGE 5; AND THEN CALL OUT THE HOUSE MAP  
24 THAT IS ON THE RIGHT SIDE OF THE PAGE.

25 DR. MCCARTAN, ARE YOU FAMILIAR WITH THESE

02:19p

1 FIGURES THAT WE'VE JUST PUT ON THE SCREEN?

2 A YES. SO THEY'RE SHOWING THE RANGE OR THE  
3 DISTRIBUTION OF BVAP-MAJORITY HOUSE DISTRICTS. AND  
4 ON THE LEFT I THINK THIS IS A FIRST SIMULATION SET,  
5 AND ON THE RIGHT IS HIS SECOND SIMULATION SET. AND  
6 THEN ALSO PLOTTED ARE THE BVAP DISTRICTS IN THE  
7 ENACTED AND ILLUSTRATIVE MAPS.

8 Q AND DO YOU AGREE WITH DR. BARBER'S OPINION  
9 THAT THERE IS VERY LITTLE DIFFERENCE BETWEEN THE  
10 OUTCOMES OF HIS TWO STIMULATION STUDIES?

11 A I DON'T.

12 Q CAN YOU EXPLAIN?

13 A WELL, JUST EVEN EYEBALLING, THESE ARE PRETTY  
14 DIFFERENT DISTRIBUTIONS. SO THE LEFT IS THE FIRST  
15 SET. THE RANGE OF BVAP DISTRICTS RUNS FROM NINE TO  
16 18, 19, AND THE AVERAGE IS MAYBE 13, 14. IN THE  
17 SECOND SET THE RANGE GOES FROM TEN OR 11 TO I THINK  
18 25, AND THE AVERAGE IS 18. SO IN THE AVERAGE OF THE  
19 NEW SET WAS BASICALLY THE UPPER END OF THE FIRST SET.  
20 SO I WOULD DEFINITELY NOT DESCRIBE THAT AS VERY  
21 LITTLE DIFFERENCE.

22 Q IN YOUR OPINION, THERE WAS A SIGNIFICANT  
23 DIFFERENCE?

24 A YEAH.

25 Q WHAT'S YOUR UNDERSTANDING OF DR. BARBER'S

02:20p

1 ULTIMATE CONCLUSIONS IN HIS SECOND REPORT?

2 A AS I UNDERSTOOD IT, HE, AS WE TALKED ABOUT,  
3 CHANGED A NUMBER OF THINGS, RERAN SIMULATIONS. BUT  
4 HE MADE THE SAME CONCLUSION; THAT THERE WAS NOT --  
5 THAT BASICALLY THE SECOND REPORT WAS -- HAD THE --  
6 MADE THE SAME CONCLUSIONS AS THE FIRST REPORT.

7 Q WHAT'S YOUR OPINION ABOUT THOSE CONCLUSIONS?

8 A I DON'T THINK IT'S FAIR TO CHARACTERIZE THE  
9 SECOND REPORT AS MAKING THE SAME CONCLUSIONS AS THE  
10 FIRST REPORT BECAUSE OF THESE CHANGES IN BOTH THE  
11 HOUSE AND THE SENATE. YEAH.

12 Q AND DO YOU HAVE AN OPINION -- JUST GOING  
13 BACK TO REPEAT SOMETHING I THINK THAT YOU SAID  
14 BEFORE, DO YOU HAVE AN OPINION AS TO WHETHER DR.  
15 BARBER'S SIMULATIONS ESTABLISHED THAT ONE FACTOR WAS  
16 MORE SIGNIFICANT IN THE ILLUSTRATIVE PLAN THAN OTHER  
17 REDISTRICTING PRINCIPLES?

18 A RIGHT. SO WE TALKED ABOUT IN -- ON THE  
19 BASIS OF HIS FIRST SET OF SIMULATIONS AND THE  
20 REGIONAL ANALYSES, I DON'T THINK THAT CONCLUSION WAS  
21 SUPPORTED, PRIMARILY BECAUSE THE FIRST SET OF  
22 SIMULATIONS IS USELESS. THE SECOND SET I STILL THINK  
23 IS NOT SUFFICIENT TO REACH THE CONCLUSION THAT DR.  
24 BARBER DRAWS THERE, MOSTLY, AGAIN, BECAUSE A SINGLE  
25 SET OF SIMULATIONS, A SINGLE SIMULATION STUDY, CAN'T

02:21p

1 EVER REALLY BE SUFFICIENT TO ESTABLISH THAT ONE  
2 FACTOR, YOU KNOW, OVERWHELMINGLY WAS MORE SIGNIFICANT  
3 THAN OTHER FACTORS, BECAUSE FUNDAMENTALLY THAT'S  
4 ABOUT COMPARING MULTIPLE FACTORS OR HOW THOSE TWO  
5 FACTORS INTERSECT OR BUMP UP AGAINST EACH OTHER. AND  
6 A SINGLE STUDY CAN ONLY LOOK AT THE IMPACT OF ONE  
7 FACTOR, SO YOU CAN'T MAKE OR STUDY HOW THOSE FACTORS,  
8 YOU KNOW, RUN INTO EACH OTHER.

9 Q AND I JUST WANT TO ASK ONE FINAL QUESTION  
10 FOR A POINT OF CLARIFICATION. WHEN YOU'RE TALKING  
11 ABOUT MULTIPLE ADDITIONAL VALID SIMULATIONS AND THEN  
12 A SIMULATION STUDY THAT HAS, FOR EXAMPLE, A HUNDRED  
13 THOUSAND MAPS OR FIVE HUNDRED THOUSAND MAPS, THOSE  
14 ARE TWO DISTINCT THINGS. CAN YOU JUST EXPLAIN?

15 A YEAH.

16 Q I JUST WANT THE RECORD TO BE CLEAR.

17 A YEAH. SO AGAIN -- SORRY. IT'S ALL A LITTLE  
18 CONFUSING. BUT WHEN YOU RUN A SINGLE RUN OF THE  
19 ALGORITHM OR SINGLE SIMULATION STUDY, YOU ALSO GET TO  
20 PICK HOW MANY PLANS ARE GOING TO BE IN YOUR SAMPLE.  
21 IN HIS FIRST SET, THAT WAS A HUNDRED THOUSAND; IN THE  
22 SECOND SET, THAT'S 500,000. ALL 500,000 ARE STILL  
23 FOLLOWING THE VARIOUS CRITERIA AND PRINCIPLES THAT  
24 HAD BEEN INSTRUCTED. SO, FOR EXAMPLE, WHEN HE MAKES  
25 THE DIVISIONS OF THE STATE, YOU KNOW, ALL 500,000

02:22p

1 PLANS ARE GOING TO HAVE NO DISTRICTS THAT CROSS THE  
2 LINES HE'S DRAWN IN THE STATE AND SO ON.

3 SO IT'S IMPORTANT TO HAVE ENOUGH -- A  
4 HUNDRED THOUSAND, FIVE -- IT'S IMPORTANT TO GENERATE  
5 ENOUGH PLANS TO GET A REPRESENTATIVE SAMPLE. BUT,  
6 SAY, GOING FROM A HUNDRED THOUSAND TO 500,000 DOESN'T  
7 MAGICALLY PRODUCE SORT OF MORE EVIDENCE AROUND YOUR  
8 ULTIMATE QUESTION. IT'S STILL JUST ONE SIMULATION  
9 STUDY.

10 MS. BRANNON: YOUR HONOR, CAN I JUST CONFER  
11 WITH MY ASSOCIATES?

12 THE COURT: YES, YOU MAY.

13 BY MS. BRANNON:

14 Q IS IT POSSIBLE THAT THE CORE RETENTION  
15 CONSTRAINT IN THE SECOND SIMULATION COULD MAKE IT  
16 IMPOSSIBLE FOR THE COMPUTER TO GENERATE  
17 ILLUSTRATIVE -- THE ILLUSTRATIVE PLAN?

18 A YEAH, IT'S CERTAINLY IMPOSSIBLE. I -- YOU  
19 KNOW, NEITHER DR. BARBER OR MYSELF, YOU KNOW,  
20 PERFORMED EXPERIMENTS TO SORT OF DETERMINE WHETHER  
21 THAT -- WHETHER OR NOT THAT'S POSSIBLE. BUT AGAIN,  
22 GIVEN SORT OF THE FACT THAT THE WAY HE DID THE CORE  
23 CONSTRAINT IN THE SECOND SET WAS SORT OF THE  
24 STRONGEST POSSIBLE WAY YOU COULD TAKE THAT PARTICULAR  
25 APPROACH, YEAH, IT WOULDN'T SURPRISE ME IF IT WAS, IN

02:24p

1 FACT, NOT POSSIBLE TO GENERATE THE ILLUSTRATIVE MAP  
2 USING THAT APPROACH.

3 MS. BRANNON: AND PLAINTIFFS MOVE TO ADMIT  
4 DR. MCCARTAN'S REPORT, PL 135.

5 THE COURT: ADMITTED.

6 CROSS.

7 MS. BRANNON: I PASS THE WITNESS.

8 CROSS-EXAMINATION

9 BY MS. HOLT:

10 Q GOOD AFTERNOON, DR. MCCARTAN. MY NAME IS  
11 CASSIE HOLT. I'M WITH THE LAW FIRM NELSON MULLINS,  
12 AND WE REPRESENT THE LOUISIANA SECRETARY OF STATE IN  
13 THIS MATTER. IT'S NICE TO MEET YOU.

14 A NICE TO MEET YOU.

15 Q DR. MCCARTAN, YOU RECEIVED THE BACK-UP DATA  
16 FOR DR. BARBER'S REPORT. CORRECT?

17 A HIS -- YES, I DID.

18 Q AND THE PARAMETERS THAT DR. BARBER USED WERE  
19 DISCLOSED IN HIS BACK-UP MATERIAL THAT WAS RECEIVED  
20 BY YOU?

21 A THE PARAMETERS HE SET WERE IN THE CODE THAT  
22 WAS PROVIDED, YES.

23 Q ARE YOU AWARE THAT SOME EXPERTS IN THIS  
24 FIELD HAVE WHOLLY REFUSED TO DISCLOSE THE PARAMETERS  
25 USED IN SIMILAR SIMULATIONS?



02:25p

1 A I AM NOT.

2 Q DR. MCCARTAN, DR. BARBER RAN YOUR  
3 DIAGNOSTICS AND CHECKED THEM IN HIS SECOND SET OF  
4 SIMULATIONS. IS THAT CORRECT?

5 A HE REPRESENTED THAT HE DID IN HIS REPORT.

6 Q OKAY. AND IT'S YOUR UNDERSTANDING FROM  
7 REVIEWING HIS REPORT THAT THEY ALL CAME BACK OKAY?

8 A HE SAID THAT THEY DID.

9 Q AND I UNDERSTAND YOUR TESTIMONY TO BE -- TO  
10 CRITICIZE DR. BARBER FOR FAILING TO PERFORM MULTIPLE  
11 INDEPENDENT RUNS OF THE ALGORITHM. CORRECT?

12 A THAT WAS ONE OF THE PROBLEMS IN HIS FIRST  
13 SET OF SIMULATIONS, BECAUSE IT PREVENTED HIM FROM  
14 CALCULATING THAT IMPORTANT SECOND ROUND OF  
15 DIAGNOSTICS.

16 Q "MULTIPLE" MEANS AT LEAST TWO. RIGHT?

17 A RIGHT. SO IT'S IMPOSSIBLE TO COMPUTE THESE  
18 DIAGNOSTICS WITH JUST ONE. BUT TWO WOULD BE  
19 SUFFICIENT.

20 Q THANK YOU, DR. MCCARTAN.

21 AND DR. BARBER DID PERFORM INDEPENDENT RUNS  
22 OF THE ALGORITHM IN HIS SECOND SET OF SIMULATIONS.  
23 IS THAT CORRECT?

24 A YES.

25 Q AND IN YOUR REPORT YOU DID NOT FORM AN

02:26p

1 OPINION ON WHAT REGIONS MIGHT BE NECESSARY TO RUN  
2 SIMULATIONS IN LOUISIANA. IS THAT CORRECT?

3 A SORRY. WHAT DO YOU MEAN BY, LIKE, REGIONS  
4 THAT MIGHT BE NECESSARY?

5 Q SURE. SO YOU DID NOT DEFINE REGIONS IN  
6 LOUISIANA THAT WOULD BE DIFFERENT THAN WHAT DR.  
7 BARBER PROPOSED IN THE HOUSE. IS THAT CORRECT?

8 A LIKE WHAT KIND OF REGIONS? SORRY.

9 Q SURE. SO MY UNDERSTANDING IS THAT DR.  
10 BARBER SET A PARAMETER DIVIDING THE STATE OF  
11 LOUISIANA INTO THREE REGIONS. AND CORRECT ME IF I'M  
12 WRONG, BUT I BELIEVE YOUR TESTIMONY WAS THAT YOU HAD  
13 PERFORMED SIMILAR ANALYSES IN OTHER STATES. IS THAT  
14 CORRECT?

15 A IN OTHER STATES AT SOME POINT I BELIEVE I  
16 HAVE DIVIDED THE STATE INTO DIFFERENT REGIONS.

17 Q OKAY. AND YOUR REPORT HERE DOES NOT CONTAIN  
18 ANY RECOMMENDATIONS ON HOW TO SIMILARLY -- EXCUSE  
19 ME -- DIVIDE THE STATE OF LOUISIANA. IS THAT  
20 CORRECT?

21 A RIGHT. AS I EXPLAINED, MY OBJECTION TO WHAT  
22 DR. BARBER DID WAS NOT THE CREATION OF THE REGIONS  
23 PER SE BUT IN FAILING TO EVALUATE THEIR IMPACT OR  
24 DISCLOSE THEIR PRESENCE OR THE IMPACT THAT THAT WOULD  
25 NECESSARILY HAVE ON THE TYPES OF MAPS THAT THE

02:28p

1 ALGORITHM WOULD GENERATE.

2 Q AND IN DR. BARBER'S FIRST REPORT HE  
3 PERFORMED 100,000 SIMULATIONS. IS THAT CORRECT?

4 A IN EACH OF THE HOUSE AND THE SENATE, YES.

5 Q YES. AND THEN 500,000 IN HIS REPLY REPORT?

6 A YEAH. HE DID 250,000 FOR TWO INDEPENDENT  
7 RUNS. SO PUT THOSE TOGETHER, HALF A MILLION.

8 Q AND ARE YOU AWARE OF OTHER EXPERTS IN THIS  
9 FIELD USING AS LITTLE AS 5,000 TO 10,000 INDIVIDUAL  
10 MAPS?

11 A FOR WHAT KIND OF ANALYSIS?

12 Q FOR SIMULATION FOR PARTISAN REDISTRICTING  
13 ANALYSIS.

14 A I GUESS THE REASON I ASK IS THERE IS NOT  
15 LIKE A THRESHOLD MAGIC NUMBER. THE APPROPRIATE  
16 NUMBER OF PLANS TO GENERATE IN ANY ANALYSIS IS  
17 DEPENDENT ON THE PARTICULARS OF THAT ANALYSIS; THE  
18 DIFFICULTY, THE PROBLEM, HOW MANY DISTRICTS ARE  
19 PRESENT, THE TYPE OF -- THE CONCLUSIONS OR NUMERICAL  
20 SUMMARIES YOU'RE TRYING TO DRAW. AND SO OUR  
21 RECOMMENDATION -- AND YOU'LL FIND THIS IN THE PAPER  
22 THAT WE WERE DISCUSSING -- IS TO USE THE DIAGNOSTICS  
23 TO GUIDE YOU IN DETERMINING WHETHER OR NOT YOU HAVE  
24 ENOUGH PLANS.

25 AND SO IF YOU DON'T -- IF THE DIAGNOSTICS

02:29p

1 ARE INDICATING PROBLEMS, ONE OF THE BEST STEPS YOU  
2 CAN TAKE AT THAT POINT IS TO INCREASE THE NUMBER OF  
3 RANDOM PLANS YOU'RE GENERATING. AND SO AS WE SAW IN  
4 THE DIAGNOSTICS THAT WERE AVAILABLE BUT NOT CHECKED  
5 BY DR. BARBER IN THE FIRST SET, A HUNDRED THOUSAND  
6 WAS NOT SUFFICIENT FOR THE ANALYSIS HE WAS TRYING TO  
7 RUN IN THAT FIRST SET OF SIMULATIONS.

8 MS. HOLT: YOUR HONOR, IF I MAY HAVE A  
9 MOMENT TO CONFER WITH MY CO-COUNSEL.

10 THE COURT: YOU MAY.

11 MS. HOLT: THANK YOU, DR. MCCARTAN. NO  
12 FURTHER QUESTIONS.

13 THE COURT: ANY REDIRECT, MS. BRANNON?

14 MS. BRANNON: NO REDIRECT, YOUR HONOR.

15 THE COURT: THANK YOU, DR. MCCARTAN. YOU  
16 MAY STEP DOWN.

17 THE WITNESS: THANK YOU.

18 THE COURT: SO YOU HAVE ONE MORE WITNESS.  
19 IS THAT CORRECT?

20 MS. BRANNON: YES, YOUR HONOR. WE CALL  
21 DR. LISA HANDLEY TO THE STAND. AND JUST GIVE ME A  
22 MINUTE.

23 THE COURT: OKAY.

24 DR. HANDLEY, YOU HAVE -- GO AHEAD AND  
25 SWEAR HER IN AGAIN.

02:31p

1                   **(WHEREUPON, LISA HANDLEY, BEING PREVIOUSLY**  
2 **SWORN, TESTIFIED AS FOLLOWS.)**

3                   **THE COURT:** IT'S JUST A FORMALITY. I MEAN,  
4 TECHNICALLY YOU'RE PROBABLY STILL UNDER OATH, BUT  
5 THAT WAS SEVERAL DAYS AGO, SO...

6                   **MS. BRANNON:** YOUR HONOR, WE HAVE A BINDER I  
7 THINK FOR DR. HANDLEY WITH COPIES OF HER REPORT THAT  
8 MY PARALEGAL IS ABOUT TO GO GET, BUT I'M HAPPY TO  
9 START IF YOU DON'T MIND THE INTERRUPTION.

10                  **THE COURT:** IF YOU DON'T MIND GOING AHEAD  
11 AND STARTING, AND THEN WHEN SHE GETS HERE SHE MAY  
12 CERTAINLY APPROACH AND PROVIDE HER WITH HER REPORTS.

13                         IF THERE IS SOMETHING THAT YOU CAN'T  
14 ANSWER BECAUSE OF YOUR REPORTS, WE'LL JUST -- WE'LL  
15 TAKE A MINUTE.

16                  **MS. BRANNON:** I THINK IT WON'T BE NECESSARY  
17 FOR THE FIRST PART OF THE DIRECT.

18                                 **DIRECT EXAMINATION**

19 **BY MS. BRANNON:**

20                 **Q** DR. HANDLEY -- WE'LL COME BACK TO THE  
21 REBUTTAL REPORT THAT YOU DRAFTED. DR. HANDLEY, YOU  
22 DID REVIEW THE REPORTS THAT DR. LEWIS PROVIDED IN  
23 THIS CASE. CORRECT?

24                 **A** I DID.

25                 **Q** AND YOU WERE PRESENT WHEN DR. LEWIS

02:32p

1 TESTIFIED TODAY AND YESTERDAY. CORRECT?

2 A YES.

3 Q AND DO YOU KNOW IF DR. LEWIS PROVIDED --

4 MS. BRANNON: YOUR HONOR, CAN I APPROACH THE  
5 WITNESS?

6 THE COURT: YOU MAY APPROACH.

7 MS. BRANNON: WE'LL COME BACK TO THE REPORT,  
8 BECAUSE IT'S MORE RELEVANT TO THE LATER LINE OF  
9 QUESTIONING.

10 BY MS. BRANNON:

11 Q DR. HANDLEY, DO YOU KNOW IF DR. LEWIS  
12 PROVIDED WHAT HE IS REFERRING TO AS WIN RATES IN HIS  
13 REPORTS?

14 A YES. AMONG THE THINGS HE PROVIDED IN HIS  
15 TABLES WERE WHAT HE CALLED WIN RATES.

16 Q AND WHAT'S YOUR UNDERSTANDING OF HOW DR.  
17 LEWIS IS DEFINING A WIN RATE?

18 A IN TWO OF THE TABLES, TABLES 1 AND 3, WITH  
19 MORE THAN -- WITH THREE OR MORE CANDIDATES, A WIN,  
20 ACCORDING TO HIS DEFINITION, WAS SIMPLY EITHER MAKING  
21 IT TO A RUNOFF OR WINNING OUTRIGHT.

22 Q AND DO YOU AGREE WITH HIS DEFINITION?

23 A NO. I THINK MAKING IT TO THE RUNOFF IS  
24 MAKING IT TO THE RUNOFF. YOU STILL HAVE TO WIN THE  
25 ELECTION IN THE RUNOFF TO ACTUALLY WIN THE SEAT.

02:33p

1 Q CAN WE SEE PLAINTIFFS' ILLUSTRATIVE AID 41.

2 MS. BRANNON: YOUR HONOR, WOULD YOU LIKE A  
3 PAPER COPY OF THIS?

4 THE COURT: IS THIS THE SAME ONE THAT WAS  
5 USED WITH DR. LEWIS?

6 MS. BRANNON: NO. THIS IS A NEW ONE.

7 THE COURT: YES, I'D LIKE A PAPER COPY.

8 MS. BRANNON: JUST FOR THE RECORD, YOUR  
9 HONOR, THIS IS AN ILLUSTRATIVE. WE DON'T HAVE ANY  
10 INTENTION TO ENTER THIS INTO THE EVIDENCE.

11 THE COURT: OKAY.

12 BY MS. BRANNON:

13 Q DR. HANDLEY, WOULD YOU LIKE A PAPER COPY?

14 A THIS IS PERFECT. I'M GOOD.

15 MS. BRANNON: OKAY. DOES DEFENSE COUNSEL  
16 WANT A PAPER COPY?

17 MS. MCKNIGHT: THANK YOU.

18 BY MS. BRANNON:

19 Q DR. HANDLEY, DID YOU CREATE THIS CHART?

20 A I DID.

21 Q WHAT INFORMATION -- WHAT IS THE SOURCE OF  
22 INFORMATION PROVIDED IN THIS CHART?

23 A I HAVE PROVIDED THE PERCENT BLACK VAP FOR A  
24 SET OF DISTRICTS AS WELL AS THE PERCENT NEEDED TO  
25 WIN. THIS IS FROM -- DIRECTLY FROM DR. LEWIS, HIS

02:34p

1 TABLE 1 THROUGH 4. I'VE ALSO INCLUDED THE WIN RATES  
2 FROM DR. LEWIS' TABLES 1 THROUGH 4. AND THEN THE  
3 EFFECTIVENESS SCORES COME FROM MY EXPERT REPORT.

4 Q AND FOR THE RECORD, THAT'S PLAINTIFFS'  
5 EXPERT EXHIBIT 1.

6 DO YOU KNOW HOW DR. LEWIS DEFINES WINNING IN  
7 HIS TABLE 1?

8 A IN HIS TABLE 1, FOR BOTH THE WIN RATE AND  
9 THE PERCENT NEEDED TO WIN, THAT WAS, AGAIN, WHETHER  
10 THE BLACK-PREFERRED CANDIDATE EITHER WON OUTRIGHT OR  
11 PROCEEDED TO THE RUNOFF.

12 Q AND WHAT ABOUT IN HIS TABLE 2?

13 A IN TABLE 2 HE FOCUSED ON TWO CANDIDATE RACES  
14 SO THAT THE WINNER WOULD ACTUALLY BE THE WINNER OF  
15 THE SEAT.

16 Q AND WHAT ABOUT TABLE 3?

17 A TABLE 3 LOOKS LIKE TABLE 1, IN THAT HE  
18 LOOKED AT THREE OR MORE CANDIDATES; AND THE CANDIDATE  
19 MERELY HAD TO PROCEED TO THE RUNOFF FOR HIM TO  
20 CONSIDER IT A WIN.

21 Q AND WHAT ABOUT TABLE 4?

22 A TABLE 4, AGAIN, WAS TWO-CANDIDATE CONTESTS,  
23 SO THE WINNER WAS SOMEBODY WHO WOULD -- WAS THE  
24 CANDIDATE WHO RECEIVED AT LEAST 50 PERCENT OF THE  
25 VOTE AND ACTUALLY OBTAINED THE SEAT.



02:36p

1 Q IS -- IN TABLE 3 -- IN TABLE 1 AND TABLE 2,  
2 IS THE METHODOLOGY THAT DR. LEWIS USED HOW YOU WOULD  
3 CALCULATE A WIN RATE?

4 A NO. I THINK THAT A WIN RATE MEANS THAT YOU  
5 HAVE TO HAVE WON THE SEAT.

6 Q AND HOW DID YOU SELECT THE ENACTED DISTRICTS  
7 THAT YOU HAVE INCLUDED IN THIS CHART?

8 A COUNSEL SUGGESTED THAT THOSE ARE THE --  
9 THOSE ARE THE DISTRICTS THAT I SHOULD LOOK AT.

10 Q LET'S WALK THROUGH AN EXAMPLE. CAN WE  
11 HIGHLIGHT ENACTED DISTRICT 8.

12 CAN YOU WALK US THROUGH WHAT'S SHOWN IN EACH  
13 COLUMN THAT HAS BEEN HIGHLIGHTED FOR ENACTED DISTRICT  
14 8 IN THIS CHART?

15 A SO FOR ENACTED DISTRICT 8, IN THE SECOND  
16 COLUMN I REPORT THE PERCENT BLACK VOTING AGE  
17 POPULATION. AND THEN THE NEXT FOUR COLUMNS ARE THE  
18 PERCENT-NEEDED-TO-WIN ESTIMATES THAT DR. LEWIS  
19 PRODUCED IN HIS REPORT.

20 SO IN THE THIRD ROW -- IN THE THIRD COLUMN  
21 WE SEE THAT HE ESTIMATES THAT BASED ON CROSSOVER AND  
22 COHESION AND TURNOUT RATES, THAT A 25 PERCENT BLACK  
23 VAP DISTRICT WOULD BE SUFFICIENT FOR THE  
24 BLACK-PREFERRED CANDIDATE TO WIN. IN TABLE 2 WE ARE  
25 LIMITING IT TO TWO CANDIDATES, AND NOW THE PERCENT

02:37p

1 BLACK VAP NEEDED TO WIN RISES TO 38 PERCENT. IN  
2 TABLE 3 WE'RE GOING BACK TO THREE OR MORE CANDIDATES,  
3 BUT ONE OF THE CANDIDATES AT LEAST HAS TO BE A BLACK  
4 CANDIDATE; AND WE'RE AT 24 PERCENT. AND FINALLY IN  
5 TABLE 4 WE'RE CALCULATING OUR PERCENT NEEDED TO WIN  
6 BASED ON TWO CANDIDATES, ONE OF WHOM IS BLACK; AND  
7 WE'RE UP AT 40 PERCENT FOR THE PERCENT NEEDED TO WIN.

8 SO YOU CAN SEE WE HAVE A VERY LARGE  
9 DIFFERENCE WHEN WE MOVE FROM TABLE 1 AT 25 PERCENT TO  
10 TABLE 4 AT 40 PERCENT.

11 Q DR. HANDLEY, YOU DID NOT DO ANY PERCENT-  
12 NEEDED-TO-WIN ANALYSIS IN THIS CASE. CAN YOU EXPLAIN  
13 TO THE COURT AGAIN WHY NOT?

14 A BECAUSE I ACTUALLY HAD DISTRICTS THAT I  
15 COULD LOOK AT TO DETERMINE IF THEY WERE EFFECTIVE OR  
16 NOT. I DIDN'T NEED TO CALCULATE A PERCENT NEEDED TO  
17 WIN IN TERMS OF IDENTIFYING SOME HYPOTHETICAL  
18 DISTRICT THAT MIGHT OR MIGHT NOT WORK.

19 Q NOW, LET'S TURN TO THE WIN RATES  
20 SPECIFICALLY. AND AGAIN, GOING BACK TO ENACTED  
21 DISTRICTS -- ENACTED SENATE DISTRICT 8, WHAT IS THE  
22 WIN RATE IN DR. LEWIS' TABLE 1 FOR CD 8?

23 A THE WIN RATE IS ACTUALLY AKIN TO MY  
24 RECOMPILED ELECTION RESULTS, SO THIS IS NOT A  
25 HYPOTHETICAL AT THIS POINT. THIS IS LOOKING AT A SET

02:39p

1 OF CONTESTS RECONSTITUTED FOR THIS ENACTED DISTRICT.  
2 AND IT'S TELLING US THE PERCENTAGE OF CONTESTS THAT  
3 DR. LEWIS EXAMINED, IN WHICH IN TABLE 1 THE  
4 CANDIDATES EITHER WON OUTRIGHT OR PROCEEDED TO THE  
5 RUNOFF. IN TABLE 2 WE'VE GOT TWO CANDIDATES AGAIN,  
6 SO THE WINNER IS THE OUTRIGHT WINNER OF THE SEAT. IN  
7 TABLE 3 WE'RE BACK TO THREE OR MORE CANDIDATES, ONE  
8 OF WHOM -- AT LEAST ONE OF WHOM IS BLACK. SO AGAIN,  
9 IT'S A MATTER OF IS THE CANDIDATE GOING TO PROCEED TO  
10 THE RUNOFF OR WIN OUTRIGHT. AND FINALLY IN TABLE 4  
11 WE HAVE TWO CANDIDATES, AT LEAST ONE OF WHOM IS  
12 BLACK.

13 Q CAN YOU EXPLAIN HOW THE WIN RATES IN DR.  
14 LEWIS REPORTS -- DR. LEWIS' REPORT RELATE TO YOUR  
15 EFFECTIVENESS SCORE NO. 1?

16 A MY EFFECTIVENESS SCORE NO. 1 LOOKS  
17 CONSISTENTLY AT ALL 16 CONTESTS THAT I ANALYZED  
18 STATEWIDE AND JUST DETERMINES IF THE CANDIDATE  
19 PREFERRED BY BLACK VOTERS PROCEEDED TO THE RUNOFF --  
20 EITHER WON OUTRIGHT OR PROCEEDED TO THE RUNOFF. SO  
21 IT'S SIMILAR TO TABLE 3, EXCEPT IN DR. LEWIS' TABLE 3  
22 HE ONLY LOOKS AT CONTESTS WITH THREE OR MORE  
23 CANDIDATES. MY EFFECTIVENESS SCORE LOOKS AT ALL  
24 CONTESTS THAT I EXAMINED, WHETHER THERE WAS TWO OR  
25 THREE CANDIDATES.

02:40p

1 THE SECOND SCORE, SCORE NO. 2, IS MORE  
2 SIMILAR TO HIS TABLE NO. 4 BECAUSE IT'S LOOKING AT  
3 TWO CANDIDATES, ONE OF WHOM MUST BE BLACK. BUT YOU  
4 CAN SEE WE HAVE SLIGHTLY DIFFERENT RESULTS, AND  
5 THAT'S BECAUSE WE'RE LOOKING AT A DIFFERENT SET OF  
6 ELECTIONS. WE HAVE THE SAME DEFINITION AT THIS  
7 POINT; THE BLACK-PREFERRED CANDIDATE WAS INEVITABLY  
8 BLACK IN THESE -- IN MY CONTEST ANYWAY. I DON'T KNOW  
9 ABOUT HIS CONTEST. BUT IT'S BLACK IN MY INSTANCE.  
10 AND YOU CAN SEE THAT I HAVE SCORES OF ZERO TO 25  
11 PERCENT.

12 HE LOOKS AT A DIFFERENT SET OF ELECTIONS AND  
13 COMES UP WITH A DIFFERENT SCORE. I DON'T KNOW WHAT  
14 SET OF ELECTIONS HE'S LOOKING AT. AND IT VARIES,  
15 BECAUSE YOU CAN SEE -- LOOKING AT THE TOP WE'VE GOT  
16 7, 7, 6, 6, 7. I'M NOT SURE WHAT THOSE CONTESTS ARE.

17 BUT OTHER THAN THE DIFFERENCE IN THE  
18 CONTESTS WE'RE LOOKING AT AND, THEREFORE, GETTING  
19 SLIGHTLY DIFFERENT RESULTS, THAT TABLE 4 WIN RATE  
20 COMES THE CLOSEST TO MY EFFECTIVENESS SCORE OF 2.

21 Q WHAT'S YOUR UNDERSTANDING OF HOW DR. LEWIS  
22 SELECTED THE ELECTIONS THAT ARE USED IN HIS WIN RATE  
23 CALCULATIONS?

24 A IT'S A LITTLE BIT PUZZLING. HE DOES LIST A  
25 SERIES OF ELECTIONS THAT HE LOOKS AT BUT THEN

02:42p

1 LATER -- I THINK IT WAS IN THE DEPOSITION -- SAYS HE  
2 NARROWED THEM DOWN AT SOME POINT FOR SOME PURPOSE.  
3 HE -- IT'S UNCLEAR AND IT CHANGES.

4 AND ANOTHER THING ABOUT THE ELECTIONS THAT  
5 HE LOOKS AT IS SOME OF THE DISTRICTS -- SOME OF THE  
6 ELECTIONS ARE WHAT WE CALL DISTRICTED ELECTIONS. SO  
7 HE COULD LOOK AT A STATE SENATE ELECTION THAT DOESN'T  
8 COMPLETELY OVERLAP WITH EITHER THE ENACTED OR THE  
9 ILLUSTRATIVE PLAN. BUT SO LONG AS ONLY 75 PERCENT OF  
10 THE VOTERS ARE IN THAT DISTRICT, THE PLAN -- THE  
11 ORIGINAL PLAN DISTRICT, HE WILL TELL YOU WHETHER THEY  
12 WON OR NOT. SO IT'S THESE DISTRICTED CONTESTS  
13 INCLUDED. WE DON'T KNOW WHERE AND WE DON'T KNOW IF  
14 ALL OF THE VOTERS ARE, IN FACT, OVERLAPPING SO THAT  
15 YOU COULD ACTUALLY GET A TRUE WIN RATE.

16 Q THAT'S BECAUSE AT THE TIME THAT HE DID THIS  
17 ANALYSIS THERE WERE NO ELECTIONS THAT HAD BEEN RUN IN  
18 ANY OF THE ACTUAL ENACTED DISTRICTS. CORRECT?

19 A THAT'S CORRECT.

20 Q AND DO YOU HAVE ANY CONCERNS ABOUT HIS  
21 POLICY OF USING -- HIS PRACTICE OF USING DISTRICTED  
22 ELECTIONS THAT OVERLAP 75 PERCENT IN HIS WIN RATE  
23 CALCULATIONS?

24 A SURE. THE OTHER 25 PERCENT COULD HAVE MADE  
25 A DIFFERENCE IN TERMS OF WINNING OR LOSING.

02:43p

1 Q AND THEN DID DR. LEWIS LIST SPECIFICALLY THE  
2 ELECTION CONTESTS HE LOOKED AT FOR THE WIN RATE IN CD  
3 8?

4 A NO.

5 Q DID HE LIST SPECIFICALLY ANY OF THE ELECTION  
6 CONTESTS HE LOOKED AT FOR THE WIN RATES FOR ANY OF  
7 THE ENACTED DISTRICTS THAT ARE REFLECTED ON THIS  
8 CHART?

9 A NO.

10 Q AND THEN I THINK YOU MAY HAVE ALREADY  
11 ADDRESSED THIS. BUT JUST TO MAKE SURE IT'S CLEAR FOR  
12 THE RECORD, HOW DOES DR. LEWIS' DEFINITION OF WINNING  
13 IN TABLE 4 COMPARE WITH YOUR EFFECTIVENESS SCORE IN  
14 TABLE 2?

15 A AGAIN, THAT IS THE MOST COMPARABLE IN TERMS  
16 OF HIS WIN RATE IN TABLE 4 AND MY SCORE TOO, WITH THE  
17 EXCEPTION OF THE FACT THAT DIFFERENT CONTESTS ARE  
18 BEING CONSIDERED.

19 Q AND THEN CAN WE JUST TAKE -- ALSO TAKE A  
20 LOOK AT THE WIN RATE FOR ENACTED SENATE DISTRICT 38.  
21 AND CAN YOU TELL US WHAT THE WIN RATES ARE FOR SENATE  
22 DISTRICT 38?

23 A THE WIN RATES, ACCORDING TO TABLE 1, IS 43  
24 PERCENT. BUT IN TABLE 2 IT'S ZERO PERCENT. IN TABLE  
25 3 IT'S 50 PERCENT. BUT IN TABLE 4 IT'S AT ZERO

02:45p

1 PERCENT.

2 Q AND WHAT ARE THE PERCENT NEEDED TO WINS  
3 REFLECTED FOR TABLE 2 AND TABLE 4 IN DR. LEWIS'  
4 REPORT AS IT'S SHOWN IN THIS CHART?

5 A I'M SORRY. CAN YOU REPEAT THAT? FIRST  
6 START WITH THE DISTRICT. WHAT DISTRICT --

7 Q WE'RE GOING BACK TO DISTRICT THIRTY --  
8 SENATE DISTRICT 38, WHICH HAS BEEN HIGHLIGHTED. AND  
9 I JUST WANT TO KNOW THE PERCENT NEEDED TO WIN AS  
10 REFLECTED IN TABLE 2 AND TABLE 4.

11 A THE PERCENT NEEDED TO WIN UNDER TABLE 2 IS  
12 51 PERCENT; IN TABLE 4, 55 PERCENT.

13 Q AND, DR. HANDLEY, DO YOU THINK THESE  
14 DISTRICTS ARE OPPORTUNITY DISTRICTS, GIVEN THE  
15 RESULTS SHOWN ON THIS CHART?

16 A I DO NOT.

17 Q DR. HANDLEY, WAS YOUR RPV ANALYSIS A  
18 REGIONAL ANALYSIS?

19 A I CALLED IT AN AREA OF INTEREST. IT WAS, I  
20 THINK, NARROWER THAN A REGION. IT WAS ONE-TO-FOUR  
21 PARISHES WIDE.

22 Q AND WHY DID YOU CONDUCT YOUR RPV ANALYSIS  
23 USING THAT METHOD?

24 A WELL, BECAUSE WE DON'T KNOW WHAT REMEDIAL  
25 DISTRICTS WILL LOOK LIKE IF THERE ARE REMEDIAL

02:46p

1 DISTRICTS. WE COULD DO THE ENACTED, WE COULD DO THE  
2 ILLUSTRATIVE. BUT WHAT WE REALLY WANT TO KNOW IS:  
3 IN THAT AREA IN GENERAL, IF YOU WERE GOING TO CREATE  
4 REMEDIAL DISTRICTS, WHAT -- WHAT THE VOTING PATTERNS  
5 ARE A LITTLE MORE BROADLY THAN THE VOTING PATTERNS IN  
6 THESE ILLUSTRATIVE DISTRICTS FOR CERTAIN.

7 Q BECAUSE YOU HEARD -- DID YOU HEAR DR. LEWIS  
8 TESTIFY THIS MORNING THAT DOING A REALITY CHECK OF  
9 HIS PERCENT NEEDED TO -- PERCENTS NEEDED TO WIN WAS  
10 DIFFICULT?

11 A YES.

12 Q DO YOU HAVE ANY OPINION ABOUT WHETHER IT  
13 WOULD BE POSSIBLE TO DO A REALITY CHECK?

14 A IT DEPENDS ON WHAT TABLES YOU'RE TALKING  
15 ABOUT. IF YOU'RE TALKING ABOUT TABLES 2 AND 4 WHERE  
16 HIS PERCENT NEEDED TO WINS FELL WITHIN THE RANGE OF,  
17 SAY -- I THINK IT WAS ABOUT 30 AND 50 PERCENT --  
18 THE -- THERE ARE VERY FEW, IF ANY, DISTRICTS THAT  
19 ACTUALLY FALL WITHIN THAT RANGE IN BOTH THE 2011 PLAN  
20 AND THE TWO THOUSAND TWENTY -- WHATEVER IT WAS --  
21 2021 PLAN.

22 BUT IF YOU'RE TALKING ABOUT TABLES 1 AND 3  
23 WHERE HE FOUND PERCENT NEEDED TO WINS IN THE AREA OF  
24 LIKE 15, 17, 22 PERCENT, CERTAINLY HE COULD HAVE DONE  
25 WHAT I WOULD CALL A REALITY CHECK AND SEE IF



02:47p

1 DISTRICTS COMPOSED OF, SAY, 22 PERCENT BLACK VOTING  
2 AGE POPULATION WERE ELECTING BLACKS TO OFFICE. AND  
3 YOU WOULD FIND THERE WERE NO BLACK LEGISLATORS  
4 ELECTED FROM OFFICES -- FROM DISTRICTS WITH LESS THAN  
5 50 PERCENT, INCLUDING DISTRICTS AROUND 19 OR 27 OR  
6 31, ET CETERA.

7 Q AND, DR. HANDLEY, YOU DID PREPARE A REBUTTAL  
8 REPORT IN THIS CASE. CORRECT?

9 A YES.

10 Q AND THAT REBUTTAL REPORT REFLECTS SOME OF  
11 YOUR OPINIONS ABOUT DR. LEWIS' INITIAL REPORT?

12 A YES.

13 Q AND THAT REPORT, FOR THE RECORD, IS PL 12.  
14 CAN YOU TURN TO YOUR BINDER. AND I BELIEVE  
15 IT'S THE VERY FIRST TAB. AND CAN WE SHOW PL 12 ON  
16 THE SCREEN.

17 IS THIS THE REBUTTAL REPORT THAT YOU DRAFTED  
18 IN THIS CASE?

19 A IT IS.

20 Q DOES THIS REPORT ALSO DISCUSS THE REBUTTAL  
21 REPORT THAT DR. ALFORD PRESENTED IN THIS CASE?

22 A DO YOU WANT TO REPEAT THAT?

23 Q SORRY. DOES THIS -- YOUR REBUTTAL REPORT  
24 ALSO DISCUSS THE REPORT THAT DR. ALFORD PRESENTED IN  
25 THIS CASE?

02:49p

1 A YES.

2 Q DR. HANDLEY, WHAT IS YOUR DEFINITION OF  
3 RACIALLY POLARIZED VOTING?

4 A I BELIEVE A CONTEST IS POLARIZED IF BLACK  
5 AND WHITE VOTERS VOTE DIFFERENTLY SUCH THAT,  
6 CONSIDERED SEPARATELY, BLACK VOTERS WOULD HAVE  
7 ELECTED A DIFFERENT CANDIDATE THAN WHITE VOTERS.

8 Q DR. HANDLEY, DID YOU HEAR DR. ALFORD'S  
9 TESTIMONY LAST WEEK?

10 A I DID.

11 Q AND WHAT IS YOUR UNDERSTANDING OF DR.  
12 ALFORD'S APPROACH TO DETERMINING IF THERE IS RACIALLY  
13 POLARIZED VOTING?

14 A I WOULD SAY THAT WE DIFFER IN AT LEAST TWO  
15 WAYS ON HOW WE APPROACH THIS. THE FIRST IS, HE SEEMS  
16 TO -- HE DOES INSERT A REQUIREMENT THAT BLACK VOTERS  
17 BE VERY COHESIVE BEFORE HE WILL DETERMINE THAT A  
18 SINGLE -- THAT A CONTEST CONSIDERED ALONE IS RACIALLY  
19 POLARIZED. I LOOK AT COHESION AS A SEPARATE INQUIRY  
20 RELATED TO THE SECOND PRONG OF *GINGLES* AND DON'T  
21 INSERT IT INTO MY DETERMINATION OF WHETHER A CONTEST  
22 IS RACIALLY POLARIZED.

23 BUT MORE IMPORTANTLY, HE BELIEVES THAT IF,  
24 US HERE IN LOUISIANA, BLACK VOTERS USUALLY SUPPORT  
25 DEMOCRATS AND WHITE VOTERS USUALLY SUPPORT

02:50p

1 REPUBLICANS, THAT YOU COULD ONLY CONCLUDE YOU HAD  
2 RACIALLY POLARIZED VOTING IF WHITE VOTERS WHO WERE  
3 SUPPORTING DEMOCRATS SUPPORTED BLACK DEMOCRATS AND  
4 WHITE DEMOCRATS UNEQUALLY; DIDN'T PROVIDE THE SAME  
5 SUPPORT FOR BLACK AND WHITE DEMOCRATS.

6 Q DR. HANDLEY, DID YOU DO ANY ANALYSIS TO  
7 REBUT DR. ALFORD'S OPINIONS ABOUT VOTING PATTERNS OF  
8 WHITE AND BLACK DEMOCRATS AND ASSIST YOU IN  
9 EVALUATING WHETHER WHITE VOTERS WHO VOTE FOR  
10 DEMOCRATS ARE VOTING FOR WHITE AND BLACK CANDIDATES  
11 EQUALLY?

12 A I DID DO SUCH AN ANALYSIS.

13 Q CAN WE SEE PL 13.

14 DR. HANDLEY, IS THIS AN EXHIBIT THAT WAS  
15 ATTACHED TO YOUR REBUTTAL REPORT?

16 A YES.

17 Q DO YOU RECOGNIZE THIS TABLE?

18 A YES.

19 Q IS THIS -- CAN YOU EXPLAIN WHAT INFORMATION  
20 IS PROVIDED IN THIS TABLE?

21 A WHAT I WANTED TO DO WAS TO SEE IF WHITE  
22 VOTERS AND BLACK -- AND BLACK VOTERS, AS A MATTER OF  
23 FACT, WERE SUPPORTING WHITE DEMOCRATS AND BLACK  
24 DEMOCRATS AT DIFFERENT RATES. AND I DID THIS USING  
25 THE ESTIMATES PRODUCED BY DR. ALFORD'S REPORT. AND I

02:51p

1 DID IT FOR EACH AREA. SO THIS IS JUST THE AVERAGE  
2 VOTE FOR -- THE AVERAGE, SAY, PERCENT SUPPORT FROM  
3 BLACK VOTERS FOR BLACK DEMOCRATS AND THE AVERAGE  
4 PERCENT OF BLACK VOTER SUPPORT FOR WHITE DEMOCRATS.  
5 AND I COMPARED IT TO THE AVERAGE PERCENT SUPPORT FROM  
6 WHITE VOTERS FOR BLACK DEMOCRATS AND WHITE DEMOCRATS.  
7 AND AGAIN, THIS IS USING DR. ALFORD'S EI ESTIMATES  
8 AND SIMPLY AVERAGING THEM ACROSS THE SEVEN AREAS.

9 Q THE SEVEN AREAS THAT ARE REFERENCED IN THIS  
10 TABLE ARE THE SAME SEVEN AREAS THAT YOU CREATED FOR  
11 YOUR INITIAL REPORT AND HAVE ALREADY TESTIFIED ABOUT  
12 IN THIS CASE?

13 A THEY ARE. AND DR. ALFORD ALSO USED THOSE  
14 AREAS, WHICH IS WHY I WAS ABLE TO USE HIS ESTIMATES.

15 Q DO YOU HAVE ANY OPINION -- DO YOU HAVE AN  
16 OPINION, IF ANY, AS TO WHETHER WHITE VOTERS IN  
17 LOUISIANA WHO VOTED FOR DEMOCRATS, IN THE AREAS OF  
18 INTEREST IN THE ELECTIONS ANALYZED AND INCLUDED IN  
19 THIS TABLE, ON AVERAGE VOTED FOR BLACK CANDIDATES AND  
20 WHITE CANDIDATES EQUALLY?

21 A YOU CAN SEE LOOKING AT THIS TABLE THEY DID  
22 NOT. THE DIFFERENCES ARE VERY -- THEY'RE SMALL, BUT  
23 THEY'RE VERY CONSISTENT. IN EVERY AREA IN ALL  
24 INSTANCES WHITE VOTERS GAVE MORE SUPPORT TO THE WHITE  
25 DEMOCRATS THAN THE BLACK DEMOCRATS. AND CONVERSELY,

02:53p

1 AT LEAST IN THE LARGER SET, BLACK VOTERS GAVE MORE  
2 SUPPORT TO BLACK DEMOCRATS THAN WHITE DEMOCRATS.

3 THE FIRST TWO ROWS ARE LOOKING AT ALL BLACK  
4 DEMOCRATS AND WHITE DEMOCRATS. AND THEN IN THE  
5 SECOND TWO I'M LOOKING AT BLACK AND WHITE DEMOCRATS  
6 WHO WERE RUNNING IN CONTEST WITH ONLY TWO CANDIDATES.  
7 AND FINALLY, THE THIRD IS BLACK DEMOCRATS AND WHITE  
8 DEMOCRATS IN CONTESTS WITH THREE OR MORE.

9 Q AND THERE IS NOT A SINGLE EXAMPLE REFLECTED  
10 IN THIS TABLE WHERE WHITE VOTERS SUPPORTED BLACK  
11 DEMOCRATS AND WHITE DEMOCRATS EQUALLY?

12 A THAT'S CORRECT.

13 Q CAN WE SEE PL 14. AND I THINK THIS IS TAB C  
14 IN YOUR BINDER.

15 DO YOU RECOGNIZE THIS TABLE?

16 A YES.

17 Q THIS IS AN APPENDIX THAT WAS CREATED AS PART  
18 OF YOUR EXPERT REBUTTAL REPORT. CORRECT?

19 A CORRECT.

20 Q CAN YOU DESCRIBE WHAT'S IN THIS TABLE?

21 A I ESSENTIALLY JUST PULLED OUT TWO CONTESTS  
22 TO LOOK AT -- BECAUSE THESE TWO CONTESTS HAD BOTH A  
23 BLACK AND A WHITE DEMOCRAT RUNNING FOR THE SAME  
24 OFFICE AT THE SAME TIME -- TO SEE IF BLACK AND WHITE  
25 VOTERS WERE SUPPORTING THE BLACK AND WHITE DEMOCRATS

02:54p

1 AT EQUAL AMOUNTS.

2 Q I THINK YOU JUST SAID IT, BUT CAN YOU  
3 EXPLAIN AGAIN, JUST SO IT'S CLEAR, WHY YOU THOUGHT  
4 THESE TWO ELECTIONS WERE PARTICULARLY IMPORTANT TO  
5 LOOK AT?

6 A BECAUSE THERE WAS A WHITE DEMOCRAT AND A  
7 BLACK DEMOCRAT RUNNING IN EACH OF THESE ELECTIONS AT  
8 THE SAME TIME.

9 Q DO YOU HAVE AN OPINION IF WHAT -- DO YOU  
10 HAVE AN OPINION, IF ANY, AS TO WHETHER WHITE VOTERS  
11 IN LOUISIANA WHO VOTED FOR DEMOCRATS IN THE NOVEMBER  
12 2022 SENATE ELECTION CONTEST, IN THE AREAS OF  
13 INTEREST ANALYZED BY YOU AND DR. ALFORD, DID NOT  
14 SUPPORT BLACK AND WHITE CANDIDATES EQUALLY?

15 A THAT'S CORRECT. YOU CAN SEE THAT IN THAT  
16 PARTICULAR ELECTION WHITE VOTERS DIDN'T SUPPORT  
17 EITHER DEMOCRAT VERY MUCH. BUT IN ALL INSTANCES IN  
18 ALL AREAS THAT I LOOKED AT, THEY SUPPORTED THE WHITE  
19 DEMOCRAT TO A HIGHER PERCENTAGE THAN THE BLACK  
20 DEMOCRAT.

21 Q AND DO YOU HAVE AN OPINION, IF ANY, AS TO  
22 WHETHER WHITE VOTERS IN LOUISIANA VOTED FOR DEMOCRATS  
23 IN THE NOVEMBER 2018 SECRETARY OF STATE ELECTION  
24 CONTEST, IN THE AREAS OF INTEREST ANALYZED IN THIS  
25 CASE BY YOU AND DR. ALFORD, DID NOT SUPPORT WHITE AND

02:55p

1 BLACK CANDIDATES EQUALLY?

2 A AGAIN, THEY DID NOT SUPPORT WHITE AND BLACK  
3 DEMOCRATS EQUALLY. AGAIN, THE DIFFERENCES ARE SMALL  
4 BUT CONSISTENT. IN EVERY SINGLE AREA IN THIS CONTEST  
5 WHITE VOTERS PROVIDED THE WHITE DEMOCRAT WITH A  
6 HIGHER PERCENTAGE OF THE VOTES THAN THE BLACK  
7 DEMOCRAT. THE RELATIONSHIP WAS REVERSED FOR BLACK  
8 VOTERS.

9 Q DR. HANDLEY, DID YOU DO ANY ADDITIONAL  
10 ANALYSIS RELATED TO YOUR OPINION THAT WHITE VOTERS IN  
11 LOUISIANA, IN THE AREAS OF INTEREST ANALYZED IN THIS  
12 CASE BY YOU AND DR. ALFORD, WHO VOTE FOR DEMOCRATIC  
13 CANDIDATES DO NOT SUPPORT WHITE AND BLACK CANDIDATES  
14 EQUALLY?

15 A I THINK I GOT THE QUESTION. I DID DO  
16 ANOTHER TABLE, AND THAT MIGHT BE WHAT YOU'RE  
17 REFERRING TO.

18 Q YES.

19 A YES.

20 Q LET'S TURN TO -- CAN WE TURN TO PLAINTIFFS'  
21 EXHIBIT 15.

22 IS THIS THE ADDITIONAL TABLE THAT YOU DID AS  
23 PART OF YOUR REBUTTAL REPORT?

24 A YES.

25 Q DO YOU RECOGNIZE THIS -- THIS IS A

02:56p

1 SPREADSHEET, I THINK. DO YOU RECOGNIZE THIS  
2 SPREADSHEET?

3 A YES.

4 Q AND WHAT ANALYSIS IS REFLECTED ON THIS  
5 SPREADSHEET?

6 A HERE I WANTED TO DETERMINE IF WHITE  
7 DEMOCRATS -- NOT JUST WHITE VOTERS IN GENERAL -- BUT  
8 IF WHITE DEMOCRATS VOTED DIFFERENTLY FOR WHITE  
9 DEMOCRATS AND BLACK DEMOCRATS. SO I'M LOOKING  
10 SPECIFICALLY AT WHITE VOTERS WHO ARE REGISTERED AS  
11 DEMOCRATS IN THIS ANALYSIS. THIS IS AN EI ANALYSIS,  
12 THE SAME STATISTICAL TECHNIQUE THAT I USED TO DRAW  
13 ALL OF MY ESTIMATES OF VOTING PATTERNS. AND I LOOKED  
14 AT ALL OF THE VOTERS, AND I'M REPORTING HERE HOW  
15 BLACK REGISTERED DEMOCRATS AND WHITE REGISTERED  
16 DEMOCRATS VOTED IN THESE CONTESTS ACROSS THE SEVEN  
17 AREAS.

18 Q AND JUST TO CLARIFY FOR THE RECORD, HOW DOES  
19 THIS ANALYSIS DIFFER FROM YOUR ANALYSIS IN TABLE 1  
20 AND 2 WE WERE JUST LOOKING AT?

21 A HERE I'M JUST FOCUSING ON VOTERS WHO ARE  
22 REGISTERED AS DEMOCRATS RATHER THAN ALL BLACK VOTERS  
23 AND ALL WHITE VOTERS.

24 Q AND CAN YOU WALK US THROUGH IN GENERAL TERMS  
25 WHAT SPECIFIC ANALYSIS IS REFLECTED ON THIS TABLE 3?



02:58p

1           A     LET'S TAKE AREA 1. YOU SEE THE  
2 GUBERNATORIAL AND THE LIEUTENANT GOVERNOR'S CONTEST  
3 HERE. THIS IS THE NOVEMBER 2015 RUNOFF. AND I AM  
4 ESTIMATING THE PERCENTAGE OF BLACK VOTERS WHO ARE  
5 REGISTERED AS DEMOCRATS WHO SUPPORTED THE CANDIDATES  
6 FOR -- HOW THEY SUPPORTED THE CANDIDATES FOR GOVERNOR  
7 AND LIEUTENANT GOVERNOR. I PROVIDED THE COMPETENCE  
8 INTERVALS. AND THEN I HAVE THE PERCENTAGE OF WHITE  
9 REGISTERED VOTERS -- REGISTERED DEMOCRATS WHO  
10 SUPPORTED EACH OF THESE CANDIDATES AND THE ASSOCIATED  
11 COMPETENCE INTERVALS.

12           Q     WHAT FOUR ELECTIONS DID YOU INCLUDE IN THIS  
13 TABLE ALTOGETHER?

14           A     SO WE HAVE THE NOVEMBER 2015 RUNOFF FOR  
15 GOVERNOR AND LIEUTENANT GOVERNOR AND WE HAVE THE 2019  
16 RUNOFF FOR GOVERNOR AND SECRETARY OF STATE.

17           Q     AND WHY DID YOU SELECT THESE FOUR ELECTIONS?

18           A     BECAUSE ALTHOUGH THEY WEREN'T RUNNING FOR  
19 THE SAME OFFICE, WE HAVE A TWO-CANDIDATE CONTEST THAT  
20 INCLUDES A WHITE DEMOCRAT FOR GOVERNOR AND, IN 2015,  
21 A BLACK DEMOCRAT FOR LIEUTENANT GOVERNOR; IN NOVEMBER  
22 OF 2019, A BLACK CANDIDATE FOR SECRETARY OF STATE --  
23 A BLACK DEMOCRAT.

24           Q     JUST FOR THE RECORD, KIP HOLDEN WAS THE  
25 BLACK CANDIDATE RUNNING FOR LIEUTENANT GOVERNOR.

02:59p

1 CORRECT?

2 A CORRECT.

3 Q AND COLLINS-GREENUP WAS THE BLACK CANDIDATE  
4 RUNNING FOR SECRETARY OF STATE IN THE NOVEMBER  
5 2018 SECRETARY OF STATE -- 2019 SECRETARY OF STATE --  
6 LET ME REPHRASE THIS.

7 COLLINS-GREENUP WAS THE BLACK CANDIDATE  
8 RUNNING FOR SECRETARY OF STATE IN THE NOVEMBER 2019  
9 SECRETARY OF STATE RACE?

10 A CORRECT.

11 Q DO YOU HAVE AN OPINION, IF ANY, AS TO  
12 WHETHER WHITE VOTERS REGISTERED AS DEMOCRATS ARE  
13 SUPPORTING JOHN BEL EDWARDS AT THE SAME RATE AS THEY  
14 ARE SUPPORTING KIP HOLDEN IN THE NOVEMBER 2015 RUNOFF  
15 ELECTION?

16 A NO. WHITE REGISTERED VOTERS ARE SUPPORTING  
17 EDWARDS AT A HIGHER RATE THAN THEY ARE SUPPORTING  
18 HOLDEN ACROSS ALL OF THE DISTRICT -- ALL OF THE  
19 AREAS.

20 Q DO YOU HAVE AN OPINION AS TO WHETHER WHITE  
21 VOTERS REGISTERED AS DEMOCRATS ARE SUPPORTING JOHN  
22 BEL EDWARDS AT THE SAME RATE AS THEY SUPPORTED  
23 COLLINS-GREENUP IN THE NOVEMBER 2019 RUNOFF ELECTION?

24 A AGAIN, THE WHITE REGISTERED DEMOCRATS  
25 SUPPORTED EDWARDS AT A HIGHER RATE THAN THEY

03:01p

1 SUPPORTED COLLINS-GREENUP IN EVERY AREA. ACTUALLY,  
2 NOT EVERY AREA IS UP HERE, BUT I BELIEVE IT'S EVERY  
3 AREA. THERE IS ANOTHER PAGE THAT HAS MORE AREAS.

4 Q JUST FOR THE RECORD, CAN WE TURN TO THE  
5 SECOND PAGE OF TABLE 3. OR THERE'S -- I THINK THERE  
6 ARE THREE PAGES OF TABLE 3.

7 A THAT'S WHY YOU DIDN'T PUT THEM UP.

8 Q THERE ARE THREE PAGES OF TABLE 3.

9 BUT THIS REFLECTS THE SAME EI ANALYSIS FOR  
10 ALL OF THE AREAS OF INTEREST THAT YOU HAVE USED  
11 THROUGHOUT YOUR ANALYSIS IN THIS CASE FOR THESE TWO  
12 RUNOFF ELECTIONS WE'VE BEEN DISCUSSING. CORRECT?

13 A CORRECT.

14 Q OKAY. DR. HANDLEY, WHAT DID YOU CONCLUDE  
15 ABOUT THE BEHAVIOR OF WHITE REGISTERED DEMOCRATS IN  
16 THESE ELECTIONS ACROSS THE AREAS OF INTEREST?

17 A WHITE DEMOCRATIC VOTERS ARE WILLING TO  
18 SUPPORT A WHITE DEMOCRAT IN -- IN FACT, IN 2015 -- IN  
19 ALL -- AT LEAST SIX OF THE SEVEN AREAS A MAJORITY OF  
20 WHITE DEMOCRATS SUPPORTED EDWARDS, BUT IN NO INSTANCE  
21 DID A MAJORITY SUPPORT THE BLACK DEMOCRAT THAT WAS  
22 RUNNING AT THE SAME TIME.

23 MS. BRANNON: PLAINTIFFS MOVE TO ADMIT DR.  
24 HANDLEY'S REBUTTAL REPORT AND RELATED EXHIBITS. SO  
25 THAT IS PLAINTIFFS' EXHIBITS 12, 13, 14 AND 15.

03:02p

1 MS. MCKNIGHT: NO OBJECTIONS, YOUR HONOR.

2 THE COURT: ADMITTED.

3 MS. BRANNON: AND THEN LET ME JUST CONFER  
4 WITH MY CO-COUNSEL.

5 BY MS. BRANNON:

6 Q CAN WE SEE PLAINTIFFS' ILLUSTRATIVE AID 41  
7 AGAIN.

8 AND, DR. HANDLEY, CAN YOU JUST WALK THROUGH  
9 WHICH ENACTED DISTRICTS ARE INCLUDED ON THIS TABLE?

10 A SENATE DISTRICTS 8, 19 AND 38, HOUSE  
11 DISTRICTS 7, 60, 68, 69 AND 70.

12 Q AND IT'S YOUR OPINION THAT NONE OF THESE  
13 DISTRICTS THAT YOU HAVE JUST LISTED OUT ARE  
14 OPPORTUNITY DISTRICTS?

15 A I DO NOT BELIEVE THAT ANY OF THESE DISTRICTS  
16 ARE BLACK OPPORTUNITY DISTRICTS.

17 MS. BRANNON: LET ME JUST CONFER AGAIN.

18 BY MS. BRANNON:

19 Q AND ALSO, DR. HANDLEY, FOR THE RECORD, CAN  
20 YOU TELL US IF ANY OF THOSE ENACTED DISTRICTS THAT  
21 ARE LISTED ON THIS TABLE, THIS CHART, ARE  
22 MAJORITY-BLACK DISTRICTS?

23 A NONE OF THESE DISTRICTS ARE MAJORITY-BLACK  
24 DISTRICTS.

25 Q THE PERCENTAGE BLACK BVAP IS REFLECTED ON

03:04p

1 THE TABLE?

2 A THAT'S CORRECT.

3 MS. BRANNON: AND, YOUR HONOR, WE DID SAY WE  
4 WEREN'T GOING TO MOVE THIS INTO EVIDENCE. BUT GIVEN  
5 THAT DR. LEWIS' ILLUSTRATIVE DEMONSTRATIVE EXHIBIT  
6 WAS MOVED INTO EVIDENCE, WE ARE GOING TO REQUEST THAT  
7 WE CAN MOVE PLAINTIFFS' ILLUSTRATIVE AID 41 INTO  
8 EVIDENCE. ALL OF THE INFORMATION COMES FROM DR.  
9 LEWIS' TABLES, WHICH ARE IN EVIDENCE, AND DR.  
10 HANDLEY'S TABLES, WHICH ARE ALSO IN EVIDENCE.

11 THE COURT: IS THERE ANY OBJECTION?

12 MS. MCKNIGHT: NO OBJECTION, YOUR HONOR.

13 THE COURT: WHAT'S YOUR EXHIBIT NUMBER?

14 MS. BRANNON: THIS IS -- WHAT'S OUR FINAL  
15 EXHIBIT NUMBER? JUST GIVE US ONE MINUTE. SO THIS  
16 WILL BE EXHIBIT 257.

17 THE COURT: EXHIBIT 257 IS ADMITTED.

18 MS. BRANNON: AND I PASS THE WITNESS.

19 THE COURT: MS. MCKNIGHT?

20 MS. MCKNIGHT: THANK YOU, YOUR HONOR.

21 CROSS-EXAMINATION

22 BY MS. MCKNIGHT:

23 Q GOOD AFTERNOON, DR. HANDLEY.

24 A HELLO.

25 Q DR. HANDLEY, I JUST HEARD YOU TESTIFY ABOUT

03:05p

1 DR. LEWIS' REPORTS. HOLD ON ONE MOMENT. LET ME -- I  
2 THINK WE NEED TO -- THANK YOU.

3 I HEARD YOU TESTIFY ABOUT DR. LEWIS' REPORT.  
4 DO YOU RECALL THAT?

5 A YES.

6 Q OKAY. AND YOU DON'T REPORT ANY QUALMS ABOUT  
7 THE ACCURACY OF DR. LEWIS' REPORT. CORRECT?

8 A I WONDER IF YOU COULD -- DO YOU MEAN ABOUT  
9 HOW HE'S CALCULATED THE PERCENT NEEDED TO WIN OR THE  
10 WIN RATES? I DON'T KNOW WHAT YOU MEAN BY "ACCURACY."

11 Q OKAY.

12 A IF YOU COULD SPECIFY.

13 Q YOU DIDN'T REPORT ANY QUALMS ABOUT THE  
14 ACCURACY OF DR. LEWIS' CALCULATIONS. CORRECT?

15 A CORRECT.

16 Q AND YOU RECEIVED BACK-UP DATA FOR DR. LEWIS'  
17 REPORT. ISN'T THAT RIGHT?

18 A CORRECT.

19 Q LET'S BRING UP PLAINTIFFS' EXHIBIT 14.

20 DR. HANDLEY, DO YOU RECALL TESTIFYING ABOUT  
21 THIS WITH PLAINTIFFS' COUNSEL JUST A MOMENT AGO?

22 A YES.

23 Q FOR ANY OF THE AREAS IS THE PERCENT SUPPORT  
24 FROM WHITE VOTERS ZERO?

25 A NO.

03:07p

1 Q AND THE PERCENTAGE POINTS OF SUPPORT FROM  
2 WHITE VOTERS IN THESE AREAS, WOULD YOU CONSIDER THAT  
3 CROSSOVER VOTING?

4 A REPEAT THE QUESTION.

5 Q SURE. THE PERCENTAGE NUMBERS UNDER PERCENT  
6 SUPPORT FROM WHITE VOTERS IN THE DIFFERENT AREAS,  
7 WOULD YOU CONSIDER THAT CROSSOVER VOTING?

8 A I WOULD DEFINE CROSSOVER VOTING AS CONTESTS  
9 THAT WERE -- THE PERCENTAGE OF WHITES WHO WERE VOTING  
10 FOR THE BLACK-PREFERRED CANDIDATE IN A CONTEST THAT  
11 WAS POLARIZED. IF WE UNDERSTAND THE DEFINITION THE  
12 SAME, THEN I WOULD SAY THOSE PERCENTAGES WOULD  
13 REPRESENT THE PERCENTAGE -- THAT WOULD BE CROSSOVER  
14 IN MY DEFINITION.

15 Q OKAY. DR. HANDLEY, WOULD YOU AGREE WITH ME  
16 THAT IT IS THE RACE OF THE CANDIDATE, NOT THE RACE OF  
17 THE VOTER THAT IS RELEVANT TO A VOTE DILUTION CLAIM?

18 A NO. YOU SAID THE RACE OF THE CANDIDATE  
19 IS -- I'M GOING TO MAKE SURE. YOU SAID DO I THINK  
20 THE RACE OF THE CANDIDATE IS RELEVANT?

21 Q I'LL SAY IT AGAIN.

22 A OKAY.

23 Q YOU WOULD AGREE WITH ME THAT IT IS THE RACE  
24 OF THE CANDIDATE, NOT THE RACE OF THE VOTER THAT IS  
25 RELEVANT TO A VOTE DILUTION CLAIM. CORRECT?

03:08p

1           A       NO.

2                   **MS. BRANNON:** SO I'M GOING TO OBJECT, YOUR  
3 HONOR. I THINK THAT THAT'S CALLING FOR A LEGAL  
4 CONCLUSION.

5                   **MS. MCKNIGHT:** YOUR HONOR, DR. HANDLEY HAS  
6 COME BEFORE THE COURT AND SAID THAT CERTAIN ELECTIONS  
7 ARE RELEVANT TO YOU AND CERTAIN ARE NOT. WE HAVE HER  
8 SWORN TESTIMONY PRIOR TO TODAY WITH THIS EXACT  
9 STATEMENT. I'M TRYING TO CONFIRM THAT THAT'S WHAT  
10 SHE BELIEVES BEFORE EXPLORING SOME OF THE ELECTIONS  
11 THAT SHE CHOSE TO PUT BEFORE THIS COURT AND SOME OF  
12 THOSE THAT SHE CHOSE NOT TO PUT BEFORE THIS COURT.

13                   I'M USING DR. HANDLEY'S WORDS IN  
14 RELEVANT. I'M NOT LOOKING FOR A LEGAL CONCLUSION.  
15 I'M LOOKING TO FOR WHAT SHE BELIEVES IS RELEVANT TO  
16 HER ANALYSIS FOR THIS COURT.

17                   **THE COURT:** WHICH IS ULTIMATELY WHAT'S  
18 RELEVANT FOR THE TRIER OF FACT. I'M GOING TO ALLOW  
19 IT, BUT I THINK IT'S VERY marginally IRRELEVANT.

20                   **MS. BRANNON:** THANK YOU.

21                   **THE COURT:** OVERRULED. GO AHEAD.

22 **BY THE WITNESS:**

23           A       YOU'RE ASKING ME IF I -- ARE YOU SUGGESTING  
24 THAT I BELIEVE THAT THE RACE OF THE VOTERS ARE  
25 IRRELEVANT IN THIS KIND OF CASE?



03:09p

1           Q     I'M SIMPLY ASKING IF YOU WOULD AGREE WITH ME  
2 WITH THIS STATEMENT -- AND I CAN READ IT AGAIN.  
3 WOULD YOU AGREE WITH ME THAT IT IS THE RACE OF THE  
4 CANDIDATE, NOT THE RACE OF THE VOTER THAT IS RELEVANT  
5 TO A VOTE DILUTION CLAIM?

6           A     I WOULD NOT AGREE WITH YOU.

7           Q     OKAY. SO IT'S YOUR TESTIMONY TODAY THAT  
8 THAT IS NOT -- YOU DO NOT AGREE WITH THAT STATEMENT?

9           A     I BELIEVE THAT WE'RE LOOKING AT HOW BLACK  
10 VOTERS AND WHITE VOTERS ARE VOTING AND WHETHER  
11 THEY'RE VOTING DIFFERENTLY. SO THAT'S THE RACE OF  
12 THE VOTER, YES.

13          Q     OKAY. AND SO PARDON ME, DR. HANDLEY, I HAVE  
14 TO TAKE THIS IN BABY STEPS AND MAKE SURE I GET A  
15 "YES" OR "NO" ANSWER TO THIS QUESTION.

16                   IS IT YOUR TESTIMONY TODAY THAT YOU DO NOT  
17 AGREE THAT THE RACE OF THE CANDIDATE AND NOT THE RACE  
18 OF THE VOTER IS WHAT IS RELEVANT TO A VOTE DILUTION  
19 CLAIM?

20          A     I DO NOT AGREE WITH THAT STATEMENT.

21          Q     DO YOU RECALL BEING DEPOSED IN THIS MATTER?

22          A     I WAS DEPOSED. IF YOU'RE GOING TO ASK ME  
23 SPECIFIC QUESTIONS ABOUT IT -- BUT YES, I WAS DEPOSED  
24 IN THIS CASE.

25          Q     OKAY. AND DO YOU RECALL MAKING THIS

03:11p

1 STATEMENT DURING THAT DEPOSITION?

2 A I WOULD HAVE TO SEE THE CONTEXT.

3 Q LET'S BRING UP THE HANDLEY DEPOSITION  
4 TRANSCRIPT, PAGE 48, LINES 1 THROUGH 5.

5 THE COURT: MS. MCKNIGHT, HOLD ON JUST A  
6 MINUTE.

7 (OFF THE RECORD)

8 THE COURT: ALL RIGHT. I HAD A MOMENTARY  
9 PANIC ATTACK ABOUT THE COURT REPORTER. GO AHEAD.  
10 I'M SORRY.

11 BY MS. MCKNIGHT:

12 Q AND PARDON ME. I THINK WE NEED TO GO TO THE  
13 LINE -- TO THE PAGE BEFORE THIS. COULD WE TURN TO  
14 PAGE 47.

15 DR. HANDLEY, IT SEEMS THAT YOU WERE  
16 DISCUSSING HERE A SUPREME COURT CASE?

17 A RIGHT.

18 Q I WANT TO GIVE YOU THE CONTEXT, SO WE CAN  
19 TURN THE PAGE TO PAGE 48.

20 A I'M GUESSING. I -- BUT I THINK THAT THIS IS  
21 PROBABLY THE *GINGLES* CASE, AND I'M TALKING ABOUT MY  
22 MENTOR, DR. BERNIE GROFMAN, WHO WAS AN EXPERT IN THAT  
23 CASE.

24 MS. BRANNON: YOUR HONOR, I JUST WANT TO  
25 OBJECT. I THINK THAT THIS LINE OF QUESTIONING DOES

03:13p

1 CROSS OVER THE LINE ABOUT -- INTO ASKING DR. HANDLEY  
2 FOR A LEGAL OPINION. SHE'S DISCUSSING THE *GINGLES*  
3 CASE.

4 THE COURT: THE QUESTION ASKED HER IF SHE  
5 WAS DISCUSSING A SUPREME COURT CASE. I WILL SUSTAIN  
6 THE OBJECTION.

7 MS. MCKNIGHT: THANK YOU, YOUR HONOR.

8 BY MS. MCKNIGHT:

9 Q LET'S MOVE ON. DR. HANDLEY, YOU ANALYZED 16  
10 ELECTIONS -- CORRECT? -- IN THIS CASE?

11 A YES.

12 Q OKAY. AND OF THOSE 16 ELECTIONS, ONLY TWO  
13 HAD BOTH A BLACK DEMOCRATIC CANDIDATE AND A WHITE  
14 DEMOCRATIC CANDIDATE. CORRECT?

15 A YES; ALTHOUGH THERE MIGHT HAVE BEEN WHAT I  
16 WOULD CALL A NONVAILABLE BLACK OR WHITE CANDIDATE IN  
17 SOME OTHER CONTESTS. THESE WERE THE ONLY VIABLE  
18 BLACK AND WHITE CANDIDATES, YES.

19 Q OKAY. LET'S TAKE A LOOK. LET'S BRING UP  
20 LDTX 53 AT PAGE 9. THIS IS TABLE 3 IN DR. ALFORD'S  
21 REPORT TITLED "RACIALLY CONTESTED STATEWIDE ELECTIONS  
22 INCLUDED IN THE HANDLEY REPORT - AVERAGES OF EI RXC  
23 ESTIMATES ACROSS HANDLEY'S SEVEN AREAS OF INTEREST."  
24 DO YOU SEE THAT?

25 A I DO.

03:14p

1 Q AND THE NOVEMBER 2018 SECRETARY OF STATE  
2 CONTEST -- LET'S FOCUS ON THAT ONE. SO THIS CONTEST  
3 IS AN EXAMPLE WHERE IT INCLUDED BOTH A BLACK DEMOCRAT  
4 AND A WHITE DEMOCRAT. CORRECT?

5 A THAT'S CORRECT.

6 Q AND THIS IS THE NOVEMBER 2018 SECRETARY OF  
7 STATE RACE. AND HERE THE WHITE SUPPORT FOR THE BLACK  
8 DEMOCRATIC CANDIDATE WAS 5.4 PERCENT. DO YOU SEE  
9 THAT?

10 A YES.

11 Q AND THAT WOULD BE CROSSOVER VOTING, WOULDN'T  
12 IT?

13 A THAT IS, YES.

14 Q AND WERE YOU AWARE THAT THE BLACK DEMOCRATIC  
15 CANDIDATE HERE, GWEN COLLINS-GREENUP, MOVED ON TO THE  
16 RUNOFF WITH THE WHITE REPUBLICAN CANDIDATE, NOT THE  
17 WHITE DEMOCRAT CANDIDATE?

18 A YES.

19 Q LET'S LOOK AT THE SECOND EXAMPLE. WE'LL  
20 TURN THE PAGE TO PAGE 10 AND GO TO THE NOVEMBER 2022  
21 SENATE RACE.

22 THIS IS AN EXAMPLE OF A CONTEST THAT  
23 INCLUDES BOTH A BLACK DEMOCRAT AND A WHITE DEMOCRAT.  
24 CORRECT?

25 A YES.

03:16p

1 Q HERE WHITE VOTER SUPPORT FOR THE BLACK  
2 DEMOCRATIC CANDIDATE WAS 4.3 PERCENT. IS THAT RIGHT?

3 A YES.

4 Q AND THAT'S CONSIDERED CROSSOVER VOTING?

5 A YES.

6 Q AND THE TWO ELECTIONS WE JUST DISCUSSED ARE  
7 THE ONLY TWO OF THE 16 ELECTIONS THAT INCLUDED A  
8 BLACK DEMOCRAT AND A WHITE DEMOCRAT. IS THAT RIGHT?

9 A AGAIN, THE ONLY TWO VIABLE I THINK, BUT  
10 THERE WERE SOME INSTANT POSSIBLY -- I'M NOT SURE  
11 ABOUT THIS, BUT THERE MIGHT HAVE BEEN A BLACK  
12 DEMOCRAT IN THE CONTEST THAT GOT SOMETHING LIKE ONE  
13 PERCENT OF THE VOTE. BUT THESE ARE THE TWO CONTESTS  
14 THAT INCLUDED BLACK AND WHITE DEMOCRATS THAT RECEIVED  
15 SOME PORTION OF THE VOTE.

16 Q I SEE. SO IF THERE WAS AN ISSUE WITH  
17 VIABILITY, YOU WOULD NOT HAVE INCLUDED IT IN THIS  
18 ELECTION LIST?

19 A IF THE CANDIDATE GOT, SAY, LESS THAN ONE OR  
20 TWO PERCENT OF THE VOTE, I CAN'T GET RELIABLE  
21 ESTIMATES. QUITE OFTEN I WILL GET ESTIMATES THAT  
22 ACTUALLY EXCEED THE AMOUNT OF VOTE THE CANDIDATE GOT.  
23 SO I GROUP THOSE CANDIDATES TOGETHER AND RUN AN  
24 ANALYSIS AND CALL THEM OTHERS.

25 Q I SEE. NOW, LET'S GO BACK TO THE FULL-PAGE

03:17p

1 VIEW. ONE OF THE CONTESTS YOU ANALYZED AND WHICH  
2 SUPPORTED YOUR CONCLUSIONS IN THIS CASE WAS A CONTEST  
3 IN OCTOBER OF 2019 FOR ATTORNEY GENERAL. DO YOU SEE  
4 THAT?

5 A YES.

6 Q AND IT WAS BETWEEN IKE JACKSON AND JEFF  
7 LANDRY. DO YOU SEE THAT?

8 A YES.

9 Q I'M GOING TO HAVE SOME QUESTIONS FOR YOU  
10 LATER ON. I JUST WANT TO RECALL THAT THIS ELECTION  
11 IS PART OF YOUR ANALYSIS, SO THANK YOU.

12 NOW I'D LIKE TO TURN TO AN ELECTION THAT YOU  
13 DID NOT INCLUDE IN YOUR ANALYSIS. LET'S BRING UP  
14 YOUR REBUTTAL REPORT. THIS IS PLAINTIFFS' EXHIBIT  
15 12. AND WE'RE GOING TO GO TO PAGE 10. WE'RE GOING  
16 TO LOOK AT FOOTNOTE 17.

17 IN THAT FOOTNOTE -- AND I'D LIKE YOU TO  
18 CORRECT ME IF I MISREAD THIS -- YOU STATED THERE WAS  
19 A CONTEST YOU HAVE NOT COMPARED HERE. IT WAS FROM AN  
20 OCTOBER 2019 ELECTION FOR COMMISSIONER OF  
21 AGRICULTURE. IT INCLUDED TWO WHITE DEMOCRATS AND A  
22 BLACK DEMOCRAT. IN THIS CONTEST BLACK AND WHITE  
23 VOTERS BOTH SUPPORTED ONE OF THE WHITE DEMOCRATS OVER  
24 THE OTHER WHITE DEMOCRAT AND THE BLACK DEMOCRAT. DO  
25 YOU SEE THAT?

03:18p

1 A I DO.

2 Q LET'S TURN TO LDTX 53. THIS IS DR. ALFORD'S  
3 REPORT ON PAGE 13, AND LET'S TAKE A LOOK AT THIS  
4 CONTEST.

5 MS. MCKNIGHT: PAGE 13. THANK YOU,  
6 MR. WILLIAMSON.

7 BY MS. MCKNIGHT:

8 Q NOW, DR. HANDLEY, I SEE ON HERE THAT THE  
9 RACE IS INCLUDED IN DR. ALFORD'S REPORT. IT IS THE  
10 OCTOBER 2019 COMMISSIONER OF AGRICULTURE RACE. DO  
11 YOU SEE THAT?

12 A YES.

13 Q AND THE NUMBERS SHOW THAT OF DEMOCRATIC  
14 VOTERS, WHITE AND BLACK DEMOCRATIC VOTERS BOTH  
15 SUPPORTED THE WHITE DEMOCRAT MARGUERITE GREEN. DO  
16 YOU SEE THAT?

17 A I'M SORRY. SAY THAT AGAIN. YOU SAID THAT  
18 WHITE VOTERS SUPPORTED MARGUERITE GREEN? THEY  
19 SUPPORTED --

20 Q I'LL SAY IT AGAIN, BECAUSE I WANT TO MAKE  
21 SURE IT'S CLEAR.

22 I'M FOCUSED NOW ON THE TOP THREE ROWS OF  
23 DEMOCRATIC PARTY VOTERS. SO OF DEMOCRATIC VOTERS,  
24 WHITE AND BLACK DEMOCRATIC VOTERS BOTH SUPPORTED THE  
25 WHITE DEMOCRAT MARGUERITE GREEN WITH THE MOST AMOUNT

03:20p

1 OF THEIR SUPPORT. ISN'T THAT RIGHT?

2 A I'M NOT SURE THAT THEY'RE DEMOCRATIC VOTERS.  
3 BUT OF THE WHITES WHO VOTED FOR DEMOCRATS, THE  
4 DEMOCRAT WHO GOT THE MOST VOTE WAS MARGUERITE GREEN.

5 Q AND WHITE AND BLACK DEMOCRAT VOTERS ALSO  
6 SHARED THE SAME CANDIDATE AT THE -- WITH THE SECOND-  
7 MOST AMOUNT OF VOTES, MEANING WHITE SUPPORT OF THE  
8 SECOND AMOUNT -- MOST PERCENTAGE OF VOTES FOR WHITE  
9 DEMOCRATS AND THE BLACK SUPPORT PERCENTAGE FOR THE  
10 SECOND-MOST WAS -- THEY WERE BOTH FOR CHARLIE GREER,  
11 A WHITE DEMOCRAT. ISN'T THAT RIGHT?

12 A I'M NOT SURE THAT YOUR PHRASING IS RIGHT,  
13 BUT CHARLIE GREER WAS THE SECOND DEMOCRAT. I MEAN,  
14 HE GOT 4.8 PERCENT OF THE WHITE VOTES. WE DON'T KNOW  
15 IF THEY'RE DEMOCRATS. BUT HE WAS THE DEMOCRAT WHO  
16 GOT THE SECOND-MOST VOTES OF THE DEMOCRATS FROM WHITE  
17 VOTERS. IS THAT RIGHT? I'M NOT SURE IF I'M GETTING  
18 THAT RIGHT. BUT I SEE WHAT YOU'RE SAYING.

19 Q THANK YOU.

20 A HE GOT 4.8 PERCENT OF THE VOTE.

21 Q AND SIMILARLY, ON THE BLACK SUPPORT SIDE OF  
22 BLACK VOTERS, BLACK SUPPORT, THE CANDIDATE THAT GOT  
23 THE SECOND-MOST PERCENTAGE OF BLACK SUPPORT WAS ALSO  
24 CHARLIE GREER. CORRECT?

25 A YES.



03:21p

1 Q OKAY. AND THEN GOING DOWN TO THE THIRD  
2 CANDIDATE, WHITE AND BLACK DEMOCRATIC VOTERS GAVE THE  
3 SAME CANDIDATE, PETER WILLIAMS, THE LEAST AMOUNT OF  
4 VOTES OF THEIR SUPPORT; MEANING BLACK SUPPORT FOR  
5 PETER WILLIAMS WAS 19.8 PERCENT AND WHITE SUPPORT WAS  
6 TWO PERCENT. DO YOU SEE THAT?

7 A YES.

8 Q AND YOU DID NOT INCLUDE THIS CONTEST IN YOUR  
9 ANALYSIS. CORRECT?

10 A I DID NOT INCLUDE IT IN MY AVERAGES, AND I  
11 EXPLAINED WHY. BUT I ALSO EXPLAINED THAT IT FOLLOWED  
12 THE SAME PATTERN AS THE OTHER CONTEST. BUT IN THIS  
13 PARTICULAR CASE THE BLACK DEMOCRAT WAS NOT THE BLACK-  
14 PREFERRED CANDIDATE.

15 Q AND BY "SAME PATTERN," YOU MEAN THAT BLACK  
16 SUPPORT PERCENTAGE WAS HIGHER THAN WHITE SUPPORT  
17 PERCENTAGE FOR THESE CANDIDATES. RIGHT?

18 A FOR THE BLACK CANDIDATE.

19 Q OKAY. BUT THE BLACK CANDIDATE CAME IN THIRD  
20 FOR BOTH BLACK VOTERS AND WHITE VOTERS. ISN'T THAT  
21 RIGHT?

22 A YES.

23 Q DR. HANDLEY, WOULD YOU AGREE WITH ME THAT  
24 DISTRICTS DRAWN -- AND WE CAN TAKE THIS DOWN -- THAT  
25 DISTRICTS DRAWN BETWEEN 40 AND 50 PERCENT BVAP CAN

03:23p

1 OFFER BLACK VOTERS A BETTER THAN EQUAL OPPORTUNITY TO  
2 ELECT THEIR CANDIDATES OF CHOICE?

3 A AS A GENERAL PROPOSITION, YES. WE'VE SEEN  
4 THAT IN A LOT OF STATES.

5 Q AND YOU HAVE WRITTEN WITH COAUTHORS ABOUT  
6 FINDING THE SO-CALLED SWEET SPOT FOR MINORITY  
7 CANDIDATE SUCCESS IN NON-MAJORITY-MINORITY DISTRICTS.  
8 RIGHT?

9 A YES.

10 Q AND YOU CONCLUDED WITH YOUR COAUTHORS THAT  
11 CAUTION MUST BE EXERCISED. DETERMINING WHETHER A  
12 MINORITY CANDIDATE CAN WIN ELECTION IN A GIVEN  
13 DISTRICT REQUIRES A DISTRICT-SPECIFIC ANALYSIS.  
14 CORRECT?

15 A I DON'T HAVE IT IN FRONT OF ME, BUT THAT --

16 MS. BRANNON: YOUR HONOR, I'M JUST GOING TO  
17 OBJECT. I THINK THIS QUESTION IS BEYOND THE SCOPE OF  
18 THE REBUTTAL PRESENTATION.

19 THE COURT: DO YOU WANT TO RESPOND?

20 MS. MCKNIGHT: THE REBUTTAL PRESENTATION IS  
21 A REACTION TO DEFENDANTS' EXPERT REPORTS THAT TALK  
22 ABOUT ABILITY OF CANDIDATES TO BE ELECTED. SHE HAS  
23 COME IN WITH HER REBUTTAL REPORT AND TOLD THE COURT  
24 THAT DEFENDANTS' REPORT SHOULD BE IGNORED; THEY DON'T  
25 GIVE THE COURT MEANINGFUL INFORMATION.

03:24p

1 AND THIS GOES TO SHOWING THAT SHE  
2 HERSELF UNDERSTANDS THAT THE CANDIDATES CAN WIN IN  
3 THESE ELECTIONS AT LOWER PERCENTAGES AND THAT SHE'S  
4 DONE THE ANALYSIS BEFORE OF WHAT IS REQUIRED TO DRAW  
5 DISTRICTS THAT PERFORM. SO IT'S ABSOLUTELY RELEVANT  
6 TO HER REBUTTAL REPORT AND WHAT DEFENDANTS' REPORTS  
7 HAVE SAID.

8 MS. BRANNON: I THINK, YOUR HONOR, DR.  
9 HANDLEY WAS GIVING A FAIRLY NARROW REBUTTAL  
10 PRESENTATION OF SOME VERY SPECIFIC ELECTIONS IN  
11 LOUISIANA THAT SHE ANALYZED AND SPOKE TO. THIS IS A  
12 VERY GENERAL STATEMENT OF A ARTICLE DR. HANDLEY MAY  
13 HAVE WRITTEN THAT WE DID NOT ADDRESS AT ALL IN HER  
14 DIRECT. AND I THINK HER DIRECT WAS PRETTY LIMITED TO  
15 SPECIFIC ANALYSIS OF LOUISIANA ELECTIONS.

16 MS. MCKNIGHT: YOUR HONOR, WE'RE NOT LIMITED  
17 TO DIRECT. WE ARE ABLE TO EXAMINE HER ON HER  
18 REBUTTAL REPORT IN THIS MATTER.

19 THE COURT: OVERRULED.

20 BY MS. MCKNIGHT:

21 Q WOULD YOU LIKE ME TO READ IT AGAIN, DR.  
22 HANDLEY?

23 A I DON'T HAVE IT IN FRONT ME. BUT IF YOU'RE  
24 READING SOMETHING, YOU COULD SHOW ME OR I COULD GUESS  
25 THAT YOU'RE TELLING -- YOU'RE READING IT CORRECTLY.

03:25p

1 I'M NOT SURE WHAT TO DO HERE.

2 Q IT'S LESS ABOUT WHETHER IT'S ACCURATE. DO  
3 YOU DISAGREE WITH IT?

4 A TELL ME AGAIN WHAT YOU WANT ME TO AGREE  
5 WITH.

6 Q SURE. THAT CAUTION MUST BE EXERCISED  
7 DETERMINING WHETHER A MINORITY CANDIDATE CAN WIN  
8 ELECTION IN A GIVEN DISTRICT BECAUSE IT REQUIRES A  
9 DISTRICT-SPECIFIC ANALYSIS.

10 A I AGREE WITH THAT.

11 Q WOULD YOU ALSO AGREE THAT A DISTRICT-  
12 SPECIFIC ANALYSIS THAT INCLUDES AN ANALYSIS OF VOTING  
13 PATTERNS WOULD PROVIDE AN INDICATION OF HOW TO ADJUST  
14 A MODEL TO ACCOUNT FOR LESS THAN PERFECT MINORITY  
15 VOTING COHESION, LESS THAN 100 PERCENT WHITE  
16 DEMOCRATIC CROSSOVER VOTING FOR THE MAJORITY-MINORITY  
17 CANDIDATE, AND LESS THAN EQUAL MINORITY AND WHITE  
18 VOTING AGE PARTICIPATION?

19 A IT WOULD BE EASIER IF YOU JUST SHOWED ME  
20 THIS. THIS IS KIND OF LENGTHY. IF YOU'RE READING  
21 SOMETHING THAT I'VE WRITTEN, CAN'T WE JUST LOOK AT IT  
22 AND AGREE OR DISAGREE THAT I WROTE IT?

23 Q SURE. BUT AS YOU SIT NOW -- I'M HAPPY TO  
24 PUT IT UP. BUT AS YOU SIT NOW, DO YOU DISAGREE WITH  
25 ANYTHING I JUST SAID?

03:27p

1           A     I DOUBT IT. BUT COULD WE DO IT PIECE BY  
2     PIECE THEN?

3           **THE COURT:** IT WAS COMPOUND. THERE WERE  
4     THREE DIFFERENT STATEMENTS. AND HER STATEMENT MAY  
5     HAVE BEEN COMPOUND, BUT IT IS RATHER DIFFICULT. I  
6     HAVE A HARD TIME FOLLOWING IT. SO BREAK IT INTO  
7     THREE SEPARATE SEGMENTS.

8           **MS. MCKNIGHT:** OKAY.

9     **BY MS. MCKNIGHT:**

10          **Q**     I'LL BREAK IT INTO THREE SEPARATE SEGMENTS  
11     AND LET'S SEE IF YOU AGREE WITH ME.

12                 A DISTRICT-SPECIFIC ANALYSIS THAT INCLUDES  
13     AN ANALYSIS OF VOTING PATTERNS WOULD PROVIDE AN  
14     INDICATION OF HOW TO ADJUST A MODEL TO ACCOUNT FOR,  
15     FIRST, LESS THAN PERFECT MINORITY VOTING COHESION.  
16     IS THAT RIGHT?

17          **A**     YES. I THINK WE'RE TALKING ABOUT ADJUSTING  
18     THE BLACK VOTING AGE POPULATION. WE WOULD ADJUST IT  
19     IF BLACK VOTERS WERE LESS COHESIVE OR MORE COHESIVE  
20     DEPENDING ON THE LEVEL OF COHESION. IS THAT WHAT  
21     WE'RE TALKING ABOUT?

22          **Q**     I WAS ASKING IF YOU WOULD AGREE THAT A  
23     DISTRICT-SPECIFIC ANALYSIS WOULD ALLOW YOU TO ADJUST  
24     IN CIRCUMSTANCES WHERE YOU HAVE LESS THAN PERFECT  
25     MINORITY VOTING COHESION.

03:28p

1           A     I DON'T EVEN KNOW WHAT YOU MEAN BY  
2 "DISTRICT-SPECIFIC" IN THIS PARTICULAR INSTANCE. I  
3 MEAN, HERE IF WE WANTED TO DO A DISTRICT-SPECIFIC  
4 ANALYSIS, WHICH I DID DO, WE KNOW IF IT'S EFFECTIVE  
5 OR NOT. I GUESS -- CAN WE JUST LOOK AT THE ARTICLE?

6           **THE COURT:** SHOW HER WHAT YOU'RE READING  
7 FROM.

8           **MS. MCKNIGHT:** SURE. LET'S BRING UP  
9 SECRETARY OF STATE EXHIBIT 36 AT PAGE 19.

10           **THE COURT:** DID YOU SEE WHICH ARTICLE IT  
11 WAS?

12           **THE WITNESS:** YES.

13           **MS. MCKNIGHT:** PARDON ME. COULD YOU START  
14 WITH PAGE 1, MR. WILLIAMSON. LET'S GET THIS ON THE  
15 RECORD.

16 **BY MS. MCKNIGHT:**

17           **Q**     DR. HANDLEY, THIS IS A 2020 ARTICLE TITLED  
18 "MINORITY SUCCESS IN NON-MAJORITY-MINORITY DISTRICTS:  
19 FINDING THE SWEET SPOT." AND YOU COAUTHORED IT. IS  
20 THAT RIGHT?

21           **A**     YES.

22           **Q**     LET'S TURN TO PAGE 19, WHICH IS PAGE 293 OF  
23 THE ARTICLE. AND HERE I'M LOOKING AT THE VERY LAST  
24 SENTENCE ON THE PAGE IN THIS CONCLUSION SECTION.

25                   DR. HANDLEY, YOU WROTE HERE -- AND MAYBE WE

03:29p

1 COULD GET THAT BOTTOM PAGE CONNECTED WITH THE NEXT  
2 PAGE SO WE CAN READ THE WHOLE QUOTE. YOU WROTE HERE  
3 THAT A DISTRICT-SPECIFIC ANALYSIS THAT INCLUDES AN  
4 ANALYSIS OF VOTING PATTERNS WOULD PROVIDE AN  
5 INDICATION OF HOW TO ADJUST A MODEL TO ACCOUNT FOR  
6 LESS THAN PERFECT MINORITY VOTING COHESION, LESS THAN  
7 100 PERCENT WHITE DEMOCRATIC CROSSOVER VOTING FOR THE  
8 MINORITY CANDIDATE, AND LESS THAN EQUAL MINORITY IN  
9 WHITE VOTING AGE PARTICIPATION. CORRECT?

10 A YES. PARTICIPATION RATES, YES.

11 Q DR. HANDLEY, IN YOUR REPORT, THE ANALYSIS  
12 YOU CONDUCTED IN THIS CASE, DID YOU REPORT OUT  
13 NUMBERS ON MINORITY VOTING COHESION ON A DISTRICT-BY-  
14 DISTRICT BASIS?

15 A YES.

16 Q DID YOU REPORT OUT MINORITY VOTING COHESION  
17 ON A DISTRICT-BY-DISTRICT BASIS IN PLAINTIFFS'  
18 ILLUSTRATIVE PLAN?

19 A THEY'RE INCORPORATED IN THE ANALYSIS, BUT  
20 THERE ARE NOT SPECIFIC ESTIMATES.

21 Q AND IN YOUR REPORT DID YOU REPORT OUT WHITE  
22 DEMOCRATIC CROSSOVER VOTING FOR PLAINTIFFS'  
23 ILLUSTRATIVE PLAN ON A DISTRICT-BY-DISTRICT BASIS?

24 A THEY'RE INCORPORATED IN THE EFFECTIVENESS  
25 ANALYSIS, BUT THEY'RE NOT REPORTED INDIVIDUALLY.

03:32p

1 Q AND THEY'RE INCORPORATED IN THE  
2 EFFECTIVENESS ANALYSIS BECAUSE YOU USED RECOMPILED  
3 ELECTION RESULTS TO CREATE THAT EFFECTIVENESS  
4 ANALYSIS. IS THAT RIGHT?

5 A YES.

6 Q SO WHEN YOU SAY IT'S INCORPORATED, IT'S A  
7 RESULT OF ELECTION RESULTS BEING RECOMPILED WITHIN  
8 DISTRICTS. IS THAT RIGHT?

9 A THAT'S CORRECT.

10 Q ACTUALLY, IS IT NOT DISTRICTS? IT'S BY  
11 REGION. ISN'T THAT RIGHT?

12 A NO.

13 Q OKAY. AND SO WITHIN THESE DISTRICTS YOU  
14 NEVER IDENTIFIED THAT SEPARATE WHITE DEMOCRATIC  
15 CROSSOVER VOTING ON A DISTRICT LEVEL. CORRECT?

16 A NOT FOR THE ILLUSTRATIVE DISTRICTS, BUT IT  
17 IS ON A DISTRICT LEVEL. YOU WOULD BE INCORRECT.

18 Q WELL, I WANT TO MAKE SURE WE'RE CLEAR HERE,  
19 WHEN YOU'RE PRESSING BACK ON "IT'S ON A DISTRICT  
20 LEVEL." I'M INTERESTED IN UNDERSTANDING IF YOU  
21 REPORTED ANY OF THESE NUMBERS FOR PLAINTIFFS'  
22 ILLUSTRATIVE PLAN ON A DISTRICT LEVEL. I BELIEVE THE  
23 ANSWER IS "NO." CORRECT?

24 A THAT'S CORRECT.

25 Q THANK YOU.



03:33p

1           AND NOW ON A DISTRICT-BY-DISTRICT BASIS, DO  
2 YOU -- YOUR REPORT DID NOT IDENTIFY FOR PLAINTIFFS'  
3 ILLUSTRATIVE PLAN WHETHER THERE WAS EQUAL MINORITY IN  
4 WHITE VOTING AGE PARTICIPATION. CORRECT?

5           A     AGAIN, IT INCORPORATES IT BUT NOT -- NO  
6 INDIVIDUAL -- THEY WOULDN'T HAVE TO HAVE BEEN  
7 ESTIMATES. THEY COULD HAVE BEEN ACTUAL FIGURES. BUT  
8 NO, THEY WEREN'T DONE ON AN INDIVIDUAL DISTRICT  
9 BASIS.

10          Q     THANK YOU.

11               NOW, AT THE END OF THIS STATEMENT IN THIS  
12 ARTICLE THERE IS A FOOTNOTE 22. DO YOU SEE THAT  
13 INDICATION THERE?

14          A     I SEE THE 22.

15          Q     LET'S GO TO FOOTNOTE 22. AND THIS IS ON  
16 PAGE 296. AS I READ THIS FOOTNOTE, IT SAYS:  
17 "WHETHER ANY SPECIFIC CANDIDATE CAN WIN A GIVEN  
18 GENERAL ELECTION IS ALSO DEPENDENT ON CONSIDERATIONS  
19 THAT CANNOT BE INCLUDED IN THE MODEL, SUCH AS HOW  
20 WELL-QUALIFIED THE CANDIDATES ARE AND HOW MUCH MONEY  
21 THE CANDIDATES ARE ABLE TO RAISE." DID I READ THAT  
22 CORRECTLY?

23          A     YOU DID.

24          Q     DO YOU AGREE WITH THAT?

25          A     I DO.

03:34p

1 Q OKAY. AND SO DID YOU CONDUCT ANY KIND OF  
2 ANALYSIS IN THIS CASE ON HOW WELL-QUALIFIED  
3 CANDIDATES WERE OR HOW MUCH MONEY THE CANDIDATES WERE  
4 ABLE TO RAISE?

5 A I DID NOT.

6 Q SO YOU DECIDED TO INCLUDE IN YOUR ANALYSIS  
7 AN ELECTION -- I'D LIKE TO LOOK AT AN EXAMPLE OF AN  
8 ELECTION YOU INCLUDED: THE 2019 ATTORNEY GENERAL  
9 RACE BETWEEN JEFF LANDRY AND IKE JACKSON. DO YOU  
10 REMEMBER DISCUSSING THAT A FEW MOMENTS AGO?

11 A YES.

12 Q AND YOU INCLUDED THAT CONTEST IN YOUR  
13 ANALYSIS TO PROVIDE THE COURT CONCLUSIONS ABOUT  
14 RACIALLY POLARIZED VOTING. CORRECT?

15 A CORRECT.

16 Q NOW, CANDIDATE FUND-RAISING IS A MATTER OF  
17 PUBLIC RECORD. CORRECT?

18 A POSSIBLY.

19 Q YOU COULD HAVE LOOKED UP HOW MUCH MONEY JEFF  
20 LANDRY AND IKE JACKSON RAISED IN THEIR CONTEST?

21 A IF IT'S PUBLICLY AVAILABLE, I SUPPOSE I  
22 COULD HAVE.

23 Q BUT YOU DIDN'T IN THIS CASE?

24 A CERTAINLY NOT.

25 Q WOULD IT SURPRISE YOU TO KNOW THAT CANDIDATE

03:36p

1 JEFF LANDRY RAISED CLOSE TO TWO MILLION AND CANDIDATE  
2 IKE JACKSON RAISED LESS THAN \$5,000?

3 A I HAVE NO IDEA.

4 MS. BRANNON: YOUR HONOR, I JUST WANT TO  
5 OBJECT TO THIS LINE OF QUESTIONING, WHICH IS ABOUT  
6 INFORMATION THAT'S NOT IN EVIDENCE AND IS ALSO, I  
7 THINK, CLEARLY BEYOND THE SCOPE OF DR. HANDLEY'S  
8 REBUTTAL AND PERHAPS EVEN BEYOND THE SCOPE OF DR.  
9 HANDLEY'S OPINIONS IN THIS CASE.

10 MS. MCKNIGHT: I'M MOVING ON, YOUR HONOR.  
11 BUT IT IS RELEVANT BECAUSE DR. HANDLEY IS TELLING  
12 THIS COURT THAT CERTAIN CANDIDATES AND THEIR LOSS --  
13 THEIR WIN OR LOSS IS TELLING -- TELLS THIS COURT --  
14 IS PROBATIVE FOR THIS COURT TO EXAMINE WHETHER  
15 CANDIDATES COULD WIN.

16 HERE DR. HANDLEY -- IT'S IMPEACHMENT.  
17 SHE'S ALREADY TOLD THE COURT THAT IT'S IMPORTANT TO  
18 UNDERSTAND IN CERTAIN CASES HOW WELL-QUALIFIED THE  
19 CANDIDATES ARE, HOW MUCH MONEY THEY WERE ABLE TO  
20 RAISE, THAT THAT AFFECTS WHETHER -- HOW PROBATIVE AN  
21 ELECTION IS.

22 SO IT IS RELEVANT TO WHETHER -- TO HER  
23 ANALYSIS, THE ELECTION SHE CHOSE, WHAT -- AND WHAT  
24 ANALYSIS SHE DECIDED TO DO AND OFFER THE COURT AND  
25 WHAT ANALYSIS SHE WITHHELD.

03:37p

1           **THE COURT:** YOU CAN PUT ALL OF THAT IN YOUR  
2 BRIEF. IT IS BEYOND THE SCOPE OF BOTH HER REPORTS  
3 AND THE DIRECT AND THE CASE-IN-CHIEF AND THE DIRECT  
4 ON REBUTTAL. THE QUESTION HAS BEEN ASKED AND  
5 ANSWERED. IT'S ON THE RECORD. THE COURT WILL  
6 CONSIDER IT AS TO WEIGHT.

7           **MS. MCKNIGHT:** THANK YOU, YOUR HONOR.

8 **BY MS. MCKNIGHT:**

9           **Q** DR. HANDLEY, I HEARD YOU TESTIFY EARLIER  
10 THAT 25 PERCENT OF VOTERS WITHIN A PLAN, WITHIN A  
11 DISTRICT, COULD MAKE A DIFFERENCE IN WINNING OR  
12 LOSING. DO YOU REMEMBER THAT TESTIMONY?

13           **A** YES.

14           **Q** ARE YOU AWARE THAT THE AVERAGE FOR THE  
15 ELECTION YEARS THAT YOU STUDIED, ON AVERAGE  
16 APPROXIMATELY 30.6 VOTERS VOTED EARLY OR BY ABSENTEE?

17           **A** I KNOW IT VARIED BY YEAR. I DON'T KNOW --  
18 SOMEWHERE I HAVE THAT INFORMATION. I DON'T KNOW OFF  
19 THE TOP OF MY HEAD.

20           **Q** NO FURTHER QUESTIONS. THANK YOU, DR.  
21 HANDLEY.

22           **THE COURT:** IS THERE ANY REDIRECT?

23           **MS. BRANNON:** I JUST HAVE ONE QUESTION ON  
24 REDIRECT.

25                           **REDIRECT EXAMINATION**

03:38p

1 **BY MS. BRANNON:**

2 **Q** DEFENSE COUNSEL WAS SHOWING YOU AN ARTICLE  
3 THAT YOU WROTE I THINK IN 2015 THAT DISCUSSES A  
4 NUMBER OF ELECTIONS AND CHANGES AND A NUMBER OF  
5 THINGS.

6 BUT IS IT ACCURATE TO SAY THAT THAT ARTICLE  
7 IS DISCUSSING OPPORTUNITIES FOR BLACK-PREFERRED  
8 CANDIDATES IN DISTRICTS THAT HAVE BVAPs BETWEEN 40  
9 AND 50 PERCENT?

10 **A** IT'S ACCURATE TO DESCRIBE IT THAT WAY, YES.

11 **Q** ARE THERE DISTRICTS IN THE STATE OF  
12 LOUISIANA IN THE ENACTED MAP THAT HAVE BVAPs BETWEEN  
13 40 AND 50 PERCENT?

14 **A** THERE MIGHT BE ONE IN THE HOUSE. THERE IS  
15 CERTAINLY NONE IN THE SENATE.

16 **Q** SO IT'S FAIR TO SAY THERE IS ALMOST NO  
17 DISTRICTS IN THE ENACTED MAP IN LOUISIANA THAT HAVE  
18 BVAPs BETWEEN 40 AND 50 PERCENT?

19 **A** THAT WOULD BE CORRECT.

20 **MS. BRANNON:** NOTHING FURTHER, YOUR HONOR.

21 **THE COURT:** YOU MAY STEP DOWN. THANK YOU,  
22 MA'AM.

23 ARE THERE ANY FURTHER WITNESSES?

24 **MS. KEENAN:** NO, YOUR HONOR, NO FURTHER  
25 WITNESSES FROM THE PLAINTIFFS.

03:39p

1 THE COURT: SO BOTH PARTIES HAVE RESTED?

2 MS. KEENAN: YES, YOUR HONOR.

3 MS. MCKNIGHT: YES, YOUR HONOR.

4 THE COURT: THE COURT WILL TAKE THIS MATTER  
5 UNDER SUBMISSION. WE'VE DISCUSSED THE POST-TRIAL  
6 BRIEFS. I'VE FORGOTTEN THE DATE NOW. DO Y'ALL HAVE  
7 THE DATE?

8 MS. KEENAN: DECEMBER 19TH. I THINK IT'S  
9 THE TUESDAY.

10 THE COURT: DECEMBER 19TH. SIMULTANEOUS  
11 BRIEFS, NO REPLIES, LIMITED TO 40 PAGES.

12 ARE THERE ANY OTHER MINISTERIAL MATTERS  
13 THAT WE CAN TAKE UP?

14 MS. MCKNIGHT: YES, YOUR HONOR, BRIEFLY,  
15 JUST ONE.

16 DEFENDANTS MUST RENEW THEIR RULE 52(C)  
17 MOTION FOR THE REASONS DETAILED IN OUR MOTION PAPERS  
18 AND DURING ARGUMENT. THANK YOU, YOUR HONOR.

19 THE COURT: THANK YOU. AND I WILL ADDRESS  
20 IT MOST LIKELY AS ITEM NO. 1 IN THE WRITTEN RULING.

21 ANYTHING ELSE?

22 MS. MCKNIGHT: YOUR HONOR, BRIEFLY. WE JUST  
23 WANT TO THANK EVERYONE, COUNSEL FOR THEIR  
24 PROFESSIONALISM, THE COURT AND THE STAFF. THANK YOU  
25 VERY MUCH.

03:40p

1 MS. KEENAN: SAME FROM PLAINTIFFS. NOTHING  
2 FURTHER. THANK YOU, YOUR HONOR.

3 THE COURT: Y'ALL DID A REMARKABLE JOB, DOWN  
4 TO THE LAST PERSON, SO I THANK YOU FOR YOUR  
5 PROFESSIONALISM, YOUR COURTESY AND ALSO YOUR  
6 PATIENCE.

7 ALL RIGHT. WE WILL STAND ADJOURNED.

8 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

9 C E R T I F I C A T E

10 I CERTIFY THAT THE FOREGOING IS A CORRECT  
11 TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE  
12 ABOVE-ENTITLED NUMBERED MATTER.

13 S:/NATALIE W. BREAUX

14 NATALIE W. BREAUX, RPR, CRR

15 OFFICIAL COURT REPORTER  
16  
17  
18  
19  
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21  
22  
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24  
25