

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL : CIVIL ACTION
VERSUS : NO. 3:22-178-SDD
KYLE ARDOIN, ET AL : NOVEMBER 29, 2023

=====

DAY 3 (AFTERNOON SESSION)
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

A P P E A R A N C E S

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**REPORTED BY: NATALIE W. BREAUX, RPR, CRR
UNITED STATES COURTHOUSE
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**PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE**

I N D E X**PLAINTIFFS WITNESS:****TRACI BURCH** **PAGE****VOIR DIRE EXAMINATION BY MS. WENGER6****DIRECT EXAMINATION BY MS. WENGER11****CROSS-EXAMINATION BY MR. LEWIS74****REDIRECT EXAMINATION BY MS. WENGER105**

01:32p

1 (NOVEMBER 29, 2023 AFTERNOON SESSION)

2 PROCEEDINGS

3 THE COURT: BE SEATED.

4 NEXT WITNESS, PLEASE.

5 MS. WENGER: GOOD AFTERNOON, YOUR HONOR.

6 VICTORIA WENGER WITH LDF.

7 PLAINTIFFS CALL DR. TRACI BURCH.

8 (WHEREUPON, TRACI BURCH, BEING DULY SWORN,
9 TESTIFIED AS FOLLOWS.)

10 MS. WENGER: YOUR HONOR, I'D ASK TO APPROACH
11 THE WITNESS TO PROVIDE A FOLDER CONTAINING THREE
12 DOCUMENTS PREMARKED AS PLAINTIFFS' EXHIBITS 126, 127,
13 128, AND SOME WATER.

14 THE COURT: ARE THERE OBJECTIONS TO 126, 127
15 OR 128? ARE THOSE THE EXPERT REPORTS?

16 MR. LEWIS: YOUR HONOR -- PATRICK LEWIS FOR
17 THE LEGISLATIVE INTERVENORS -- THOSE ARE THE REPORTS
18 AND THE C.V. WE DO NOT OBJECT, SUBJECT TO -- I
19 BELIEVE THE SECOND REPORT IS THE SURREBUTTAL IN
20 RESPONSE TO ANOTHER EXPERT, SO I THINK WE WOULD WANT
21 THE SAME AGREEMENT THAT WE HAD WITH MR. COOPER; THAT
22 IF SHE'S PERMITTED TO TESTIFY IF PLAINTIFFS' CASE-
23 IN-CHIEF IN REBUTTAL TO DEFENSE EXPERTS, THAT SHE
24 TESTIFY ONCE AND NOT COME BACK AGAIN IN REBUTTAL.

25 THE COURT: DO WE HAVE THAT AGREEMENT?

01:34p

1 **MS. WENGER:** ABSOLUTELY. THE SUPPLEMENTAL
2 REPORT, 128, IS IN REBUTTAL TO DR. ALFORD'S
3 TESTIMONY, AND DR. BURCH WOULD NOT BE COMING BACK
4 AFTER HIS TESTIMONY.

5 **THE COURT:** OKAY. YOU MAY CERTAINLY HAND
6 HER THE DOCUMENTS. AND LET'S GO AHEAD AND GET 126,
7 127 AND 128 ADMITTED.

8 **MS. WENGER:** THANK YOU.

9 **THE COURTROOM DEPUTY:** AND WOULD YOU PLEASE
10 STATE YOUR NAME AND SPELL IT FOR THE RECORD.

11 **THE WITNESS:** YES. IT'S TRACI, T-R-A-C-I,
12 BURCH, B-U-R-C-H.

13 **VOIR DIRE**

14 **BY MS. WENGER:**

15 **Q** GOOD AFTERNOON, DR. BURCH.

16 WHAT IS YOUR ROLE IN THIS CASE?

17 **A** I'M HERE AS AN EXPERT.

18 **Q** LET'S TAKE A LOOK AT THE DOCUMENT IN FRONT
19 OF YOU LABELED PLAINTIFFS' EXHIBIT 127. DO YOU HAVE
20 THAT IN FRONT OF YOU?

21 **A** I DO.

22 **Q** ARE YOU FAMILIAR WITH THIS DOCUMENT?

23 **A** YES.

24 **Q** WHAT IS IT?

25 **A** IT'S A COPY OF THE C.V. THAT I PROVIDED WITH

01:35p

1 THIS REPORT. IT'S A COPY OF THE C.V. THAT I PROVIDED
2 WITH THIS REPORT.

3 Q DR. BURCH, WHAT IS YOUR EDUCATIONAL
4 BACKGROUND?

5 A SO I FINISHED MY UNDERGRADUATE WORK AT
6 PRINCETON IN POLITICS, WHICH IS WHAT THEY CALL
7 POLITICAL SCIENCE, WITH A MINOR IN AFRICAN-AMERICAN
8 STUDIES. AND MY PH.D. IS IN GOVERNMENT AND SOCIAL
9 POLICY FROM HARVARD. AND GOVERNMENT IS WHAT THEY
10 CALL POLITICAL SCIENCE THERE AND SOCIAL POLICY IS A
11 SEPARATE DEPARTMENT.

12 Q EXCELLENT. AND JUST FOR THE COURT'S
13 AWARENESS AND THE RECORD, I'LL BE USING AN
14 ILLUSTRATIVE AID SLIDE DECK THAT'S BEEN MARKED WITH
15 CITATIONS THAT CORRESPOND TO THE MATERIALS YOU'LL BE
16 REVIEWING, DR. BURCH. THIS WAS PROVIDED TO
17 DEFENDANTS LAST NIGHT.

18 DR. BURCH, WHAT IS YOUR CURRENT OCCUPATION?

19 A SO CURRENTLY I AM BOTH ASSOCIATE PROFESSOR
20 OF POLITICAL SCIENCE AT NORTHWESTERN AND A RESEARCH
21 PROFESSOR AT THE AMERICAN BAR FOUNDATION.

22 Q HOW LONG HAVE YOU BEEN TEACHING?

23 A I'VE BEEN AT NORTHWESTERN AND THE BAR
24 FOUNDATION SINCE 2007.

25 Q IN YOUR SCHOLARSHIP DO YOU HAVE ANY

01:36p

1 PARTICULAR FOCUS?

2 A YES. SO I WRITE TYPICALLY IN THE FIELD OF
3 POLITICAL BEHAVIOR WITH A FOCUS IN POLITICAL
4 PARTICIPATION. AND THAT INCLUDES THINGS LIKE
5 BARRIERS TO VOTING AS WELL AS OTHER KINDS OF
6 PARTICIPATION LIKE PROTESTS. AND I ALSO DO WORK IN
7 RACE AND ETHNIC POLITICS AND PUBLIC POLICY AND IN
8 CRIMINAL JUSTICE POLICY AS WELL.

9 Q HAVE YOU BEEN PUBLISHED IN PEER-REVIEWED
10 BOOKS OR JOURNALS?

11 A YES. I'VE WRITTEN BOTH AS SOLO AND A
12 CO-AUTHORED BOOK AS WELL AS SEVERAL ARTICLES IN
13 PEER-REVIEWED JOURNALS.

14 Q HAVE YOU RECEIVED ANY AWARDS OR RECOGNITIONS
15 IN YOUR FIELD?

16 A YES. SEVERAL. SO FOR MY DISSERTATION I
17 RECEIVED SEVERAL AWARDS INCLUDING BEST DISSERTATION
18 AWARD FROM HARVARD AS WELL AS BEST DISSERTATION
19 AWARDS IN THE FIELD OF AMERICAN GOVERNMENT FROM THE
20 AMERICAN POLITICAL SCIENCE ASSOCIATION AND SEVERAL
21 OTHERS FOR MY DISSERTATION AS WELL.

22 FOR MY BOOK, "TRADING DEMOCRACY FOR
23 JUSTICE," I RECEIVED THE RALPH BUNCHE AWARD FROM THE
24 AMERICAN POLITICAL SCIENCE ASSOCIATION AS WELL AS
25 AWARDS FROM THE LAW IN COURTS AND URBAN SECTION AS

01:37p

1 WELL. I'VE ALSO RECEIVED SOME RESEARCH GRANTS.

2 Q DR. BURCH, HAVE YOU TESTIFIED AS AN EXPERT
3 BEFORE IN LITIGATION?

4 A YES.

5 Q DOES THAT INCLUDE IN VOTING RIGHTS CASES?

6 A YES.

7 Q ROUGHLY HOW MANY CASES HAVE YOU TESTIFIED IN
8 AS OF THE SUBMISSION OF YOUR ORIGINAL EXPERT REPORT?

9 A I THINK SIX, COUNTING ONE WHERE THE FINAL
10 TESTIMONY WAS A DEPOSITION AND ALSO A PRELIMINARY
11 INJUNCTION HEARING.

12 Q AND HAVE YOU ACTED AS AN EXPERT IN ANY MORE
13 CASES SINCE?

14 A YES. SEVERAL.

15 Q VOTING RIGHTS CASES AS WELL?

16 A YES.

17 Q ANY CASES UNDER SECTION 2 OF THE VOTING
18 RIGHTS ACT?

19 A YES. INCLUDING ONE IN GALVESTON, GEORGIA.
20 AND THOSE ARE THE TWO THAT I'M THINKING ABOUT RIGHT
21 NOW.

22 Q WERE ANY OF THE MATTERS THAT YOU'VE WORKED
23 IN IN THE PAST REGARDING STATE LEGISLATIVE
24 REDISTRICTING PLANS?

25 A YES. THE GEORGIA CASE WAS.

01:38p

1 Q HAVE YOU BEEN ADMITTED AS AN EXPERT IN ALL
2 OF THE CASES IN WHICH YOU HAVE TESTIFIED?

3 A YES.

4 Q HAVE THERE BEEN ANY ADDITIONAL CHANGES TO
5 YOUR C.V. OR QUALIFICATIONS SINCE THEY WERE SUBMITTED
6 FOR THIS CASE?

7 A YES. SO, FOR INSTANCE, I KNOW -- I THINK
8 THERE IS AN ADDITIONAL PUBLICATION THAT HAS COME OUT
9 SINCE, INCLUDING -- THERE IS ACTUALLY TWO. ONE CAME
10 OUT YESTERDAY. SO I HAVEN'T HAD A CHANCE TO UPDATE
11 FOR THAT ONE ESPECIALLY.

12 Q SO PRIMARILY JUST PUBLICATIONS AND MORE
13 CASEWORK?

14 A YES.

15 Q EXCELLENT.

16 MS. WENGER: YOUR HONOR, I WOULD LIKE TO
17 MOVE TO HAVE DR. BURCH ADMITTED AS AN EXPERT WITNESS
18 IN RACIAL DISCRIMINATION, POLITICAL PARTICIPATION,
19 AND BARRIERS TO VOTING.

20 MR. LEWIS: NO OBJECTION, YOUR HONOR.

21 THE COURT: WITHOUT ANY CROSS ON THE TENDER,
22 DR. BURCH WILL BE PERMITTED TO GIVE OPINION TESTIMONY
23 ON RACIAL DISCRIMINATION -- WHAT WAS THE POLITICAL?
24 POLITICAL --

25 MS. WENGER: POLITICAL PARTICIPATION.

01:39p

1 **THE COURT:** -- PARTICIPATION AND BARRIERS TO
2 VOTING.

3 **MS. WENGER:** THANK YOU.

4 **DIRECT EXAMINATION**

5 **BY MS. WENGER:**

6 **Q** DR. BURCH, DID YOU SUBMIT ANY REPORTS AS
7 PART OF YOUR WORK IN THIS CASE?

8 **A** YES; TWO.

9 **Q** CAN YOU DESCRIBE WHAT THOSE WERE?

10 **A** SO ONE WAS AN INITIAL EXPERT REPORT AND THEN
11 A SUPPLEMENT IN RESPONSE TO DR. ALFORD'S REPORT.

12 **Q** ALL RIGHT. LET'S START BY LOOKING AT WHAT
13 IS MARKED AS PLAINTIFFS' EXHIBIT 126, YOUR INITIAL
14 EXPERT REPORT. DO YOU HAVE THAT IN FRONT OF YOU?

15 **A** I DO.

16 **Q** EXCELLENT. AND IS THAT THE REPORT THAT YOU
17 SUBMITTED IN THIS CASE INITIALLY?

18 **A** YES.

19 **Q** ARE YOU BEING PAID AS PART OF YOUR
20 PARTICIPATION IN THIS CASE?

21 **A** I AM. \$300 AN HOUR.

22 **Q** IS YOUR COMPENSATION CONTINGENT OR TIED TO
23 YOUR OPINIONS IN THIS REPORT?

24 **A** NO.

25 **Q** WHAT DID YOU SET OUT TO EVALUATE IN YOUR

01:40p

1 EXPERT REPORT, DR. BURCH?

2 A SO I WAS ASKED TO LOOK AT THE LOUISIANA
3 LEGISLATURE'S PASSAGE OF SB 1 AND HB 14 WITH RESPECT
4 TO THE TOTALITY OF THE CIRCUMSTANCES AS IT RELATES TO
5 SECTION 2 OF THE VOTING RIGHTS ACT. AND I WAS ASKED
6 TO LOOK AT SENATE FACTORS 5, 6, 7, 8 AND 9.

7 Q WHAT METHODOLOGIES DID YOU APPLY FOR THIS
8 ANALYSIS?

9 A SO I LOOKED AT TYPICAL STANDARD METHODS THAT
10 WE USE IN POLITICAL SCIENCE, SUCH AS REVIEWING THE
11 SCHOLARLY LITERATURE, ANALYZING DEMOGRAPHIC AND
12 CENSUS DATA, LOOKING AT HISTORICAL RECORDS AND
13 GOVERNMENT REPORTS AND DATA, NEWS, LEGISLATIVE
14 PROCEEDINGS. I ALSO LOOKED AT PUBLIC OPINION SURVEYS
15 AS WELL.

16 Q AT A HIGH LEVEL, CAN YOU EXPLAIN THE FOCUS
17 OF EACH OF THE SENATE FACTORS YOU WERE ASKED TO
18 ASSESS, STARTING WITH SENATE FACTOR 5?

19 A YES. SO SENATE FACTOR 5 SPECIFICALLY REFERS
20 TO THE EXTENT TO WHICH MINORITY GROUP MEMBERS BEAR
21 THE EFFECTS OF DISCRIMINATION IN AREAS SUCH AS
22 EDUCATION, EMPLOYMENT AND HEALTH, WHICH HINDER THEIR
23 ABILITY TO PARTICIPATE EFFECTIVELY IN THE POLITICAL
24 PROCESS. AND I WAS ASKED TO CONSIDER THAT
25 SPECIFICALLY FOR BLACK LOUISIANIANS.

01:41p

1 AND SENATE FACTOR 6 IS THE USE OF OVERT OR
2 SUBTLE RACIAL APPEALS IN POLITICAL CAMPAIGNS. SENATE
3 FACTOR 7 LOOKS AT THE EXTENT TO WHICH MEMBERS OF THE
4 MINORITY GROUP HAVE BEEN ELECTED TO PUBLIC OFFICE IN
5 THE JURISDICTION. SENATE FACTOR 8 IS ABOUT A LACK OF
6 RESPONSIVENESS ON THE PART OF ELECTED OFFICIALS TO
7 THE PARTICULARIZED NEEDS OF THE MINORITY GROUP
8 MEMBERS. AND SENATE FACTOR 9 IS WHETHER THE POLICY
9 UNDERLYING THE CHANGE, STANDARD, OR PRACTICE IS
10 TENUOUS.

11 Q THANK YOU, DR. BURCH.

12 LET'S GO THROUGH YOUR ANALYSIS OF EACH OF
13 THESE FACTORS, STARTING WITH FACTOR 5 REGARDING THE
14 EFFECTS OF DISCRIMINATION HERE IN LOUISIANA.

15 WHAT WERE YOUR SPECIFIC AREAS OF FOCUS IN
16 ANALYZING THE PRESENCE OF SENATE FACTOR 5 IN THE
17 STATE?

18 A SO FOR SENATE FACTOR 5, IT'S NOT EXHAUSTIVE
19 BUT -- IN THE LIST THAT'S DISCUSSED SPECIFICALLY.
20 BUT I WANTED TO MAKE SURE THAT I TALKED ABOUT THE
21 KINDS OF AREAS THAT WERE IN THE POLITICAL SCIENCE
22 LITERATURE AS AFFECTING VOTER TURNOUT. AND SO I
23 FOCUSED ON EDUCATION, SOCIOECONOMIC STATUS, SEVERAL
24 MEASURES OF THAT INCLUDING EMPLOYMENT AS WELL AS
25 INCOME -- MEDIAN HOUSEHOLD INCOME AND THE LIKE,

01:42p

1 RACIAL RESIDENTIAL SEGREGATION, HEALTH AND CRIMINAL
2 JUSTICE.

3 THE REPORTER: CRIMINAL?

4 THE WITNESS: JUSTICE.

5 BY MS. WENGER:

6 Q DR. BURCH, LET'S BEGIN BY TALKING ABOUT
7 EDUCATION. IF YOU CAN TURN YOUR ATTENTION TO THE
8 ILLUSTRATIVE AID ON YOUR SCREEN, WHICH REPRODUCES
9 HERE FIGURE 1 ON PAGE 7 OF YOUR REPORT, WHAT DOES
10 THIS CHART DISPLAY?

11 A SO THIS CHART IS LOOKING AT EDUCATIONAL
12 ATTAINMENT BY RACE IN LOUISIANA. AND IT'S JUST FOR
13 ADULTS AGES 25 AND OLDER, BECAUSE WE WANT TO GIVE
14 PEOPLE A CHANCE TO, IF THEY'RE GOING TO GO TO
15 COLLEGE, MAYBE TO KIND OF FINISH IT. AND THE SOURCE
16 IS FROM THE AMERICAN COMMUNITY SURVEY ONE-YEAR
17 ESTIMATES THAT COME FROM THE CENSUS BUREAU.

18 AND YOU CAN SEE HERE THAT THE DIFFERENT
19 LEVELS OF EDUCATION ARE RIGHT ACROSS THE BOTTOM OF
20 THE CHART, AND LATINOS ARE HERE. BUT IN PARTICULAR,
21 WHITE PEOPLE ARE LISTED IN GOLD AND BLACK PEOPLE ARE
22 IN THE PURPLE BARS. AND THE IMPORTANT TAKE-AWAY FROM
23 THIS CHART IS THAT YOU CAN SEE THAT AT THE LOWER
24 LEVELS OF EDUCATION -- SPECIFICALLY LESS THAN HIGH
25 SCHOOL -- BLACK PEOPLE ARE MUCH MORE LIKELY THAN

01:43p

1 WHITE PEOPLE IN LOUISIANA TO HAVE NOT COMPLETED HIGH
2 SCHOOL. IN FACT, IF YOU JUST KIND OF COMPARE ACROSS
3 THE PURPLE BARS, YOU CAN SEE THAT MORE -- THERE ARE
4 MORE BLACK PEOPLE IN LOUISIANA WHO HAVEN'T FINISHED
5 HIGH SCHOOL THAN THERE ARE WHO HAVE FINISHED COLLEGE.

6 IN COMPARISON, AMONG WHITE PEOPLE IN
7 LOUISIANA, THERE ARE FEWER OF THEM WHO ARE
8 CONCENTRATED IN THOSE LOWER EDUCATIONAL ECHELONS.
9 AND MANY MORE -- A LARGER PERCENTAGE OF THE GROUP --
10 HAS COMPLETED A BACHELOR'S DEGREE OR HIGHER.

11 Q THANK YOU, DR. BURCH.

12 AND JUST FOR CLARITY OF THE RECORD, THE
13 CORRESPONDING FIGURES IN YOUR REPORT ARE MONOCHROME
14 BUT HAVE BEEN REPRODUCED WITH COLORS IN THE SLIDE
15 JUST FOR EASE OF VISUALIZING THE DATA THAT YOU ARE
16 DISCUSSING HERE.

17 TURNING TO THE NEXT SLIDE, THIS REPRODUCES
18 TABLE 1 FROM PAGE 7 OF YOUR REPORT. WHAT DOES THIS
19 TABLE CONVEY?

20 A SO THIS TABLE IS FROM THE 2020 CURRENT
21 POPULATION SURVEY VOTING AND REGISTRATION SUPPLEMENT,
22 WHICH IS ANOTHER SURVEY THAT'S PRODUCED BY THE CENSUS
23 BUREAU THAT'S SUPPOSED TO BE REPRESENTATIVE AT THE --
24 OF THE NATION AND AT THE STATE LEVEL. AND WHAT THEY
25 DO IS THE CENSUS BUREAU ASKS PEOPLE IF THEY VOTED IN

01:44p

1 THE 2020 GENERAL ELECTION.

2 AND WHAT I HAVE HERE IN THIS CHART IS -- FOR
3 EACH EDUCATIONAL LEVEL I HAVE WHITE TURNOUT AND I
4 HAVE BLACK TURNOUT. NOW, ONE OF THE THINGS THAT'S
5 READILY APPARENT FROM THIS CHART, IF YOU JUST READ
6 DOWN THE TABLE WITH WHITE TURNOUT, YOU CAN SEE THAT
7 WHITE TURNOUT INCREASES ALMOST UNIFORMLY IN TERMS OF
8 IT'S ALWAYS INCREASING WITH EDUCATIONAL ATTAINMENT.
9 SO THE RELATIONSHIP HERE -- AND THE SAME IS TRUE FOR
10 BLACK TURNOUT. SO THE RELATIONSHIP HERE BETWEEN
11 EDUCATIONAL ATTAINMENT AND VOTER TURNOUT, WHEN YOU
12 JUST LOOK AT THESE DIFFERENT LEVELS OF EDUCATION,
13 IT'S QUITE STARK.

14 SO THE ISSUE HERE, OF COURSE, IF WE RECALL
15 FROM THE PREVIOUS SLIDE, IS THAT BLACK PEOPLE ARE
16 CONCENTRATED IN THIS NO HIGH SCHOOL DIPLOMA LOWER --
17 IN HIGH SCHOOL DIPLOMA LOWER TURNOUT CATEGORIES;
18 WHEREAS WHITE PEOPLE ARE MORE LIKELY TO BE IN THESE
19 BACHELOR'S DEGREE AND GRADUATE SCHOOL CATEGORIES,
20 WHICH MAKES IT SO THAT THEY ARE -- THE WAYS THAT THE
21 GROUPS ARE ARRANGED IN THESE CATEGORIES KIND OF
22 SHAPES THE GAP IN TURNOUT. SO HERE YOU CAN CLEARLY
23 SEE THAT EDUCATIONAL ATTAINMENT INCREASES VOTER
24 TURNOUT, AND IT DOES SO FOR BOTH RACIAL GROUPS.

25 Q THANK YOU, DR. BURCH.

01:46p

1 TURNING TO THE NEXT SLIDE, CAN YOU WALK ME
2 THROUGH YOUR FINDINGS REGARDING PATTERNS OF
3 SEGREGATION IN LOUISIANA SCHOOLS?

4 A YES. SO HISTORICALLY THERE HAS BEEN
5 SEGREGATION IN LOUISIANA SCHOOLS. BUT THE DATA ALSO
6 SHOW THAT THERE IS STILL SOME EDUCATIONAL SEGREGATION
7 WITHIN LOUISIANA TODAY. SO ACCORDING TO PROPUBLICA'S
8 *MISEDUCATION* PROJECT, AS RECENTLY AS 2017 HALF OF
9 TRADITIONAL SCHOOL DISTRICTS IN LOUISIANA THAT WERE
10 AVAILABLE DEMONSTRATED HIGH LEVELS OF RACIAL
11 SEGREGATION WITHIN THE DISTRICT. AND THERE ARE NINE
12 OF THE 68 TRADITIONAL SCHOOL DISTRICTS IN LOUISIANA
13 THAT ARE MORE THAN 87 PERCENT NON-WHITE. SO EVEN
14 THOUGH WE KNOW ABOUT THE HISTORICAL SCHOOL
15 SEGREGATION THAT I TALK ABOUT AT LENGTH IN MY REPORT,
16 THIS IS ALSO A CONTINUING ISSUE.

17 Q TURNING TO THE NEXT SLIDE, REPRODUCING
18 FIGURE 2 FROM PAGE 8 OF YOUR REPORT, WHAT DOES THIS
19 CHART TELL US?

20 A SO THIS CHART LOOKS SPECIFICALLY AT EAST
21 BATON ROUGE PARISH, AND IT TALKS ABOUT A COMPARISON
22 BETWEEN, IN THE DOTTED LINES, THE ACTUAL WHITE AND
23 BLACK POPULATIONS OF THE PARISH. AND THE SOLID LINES
24 ARE THE SCHOOL POPULATIONS. AND YOU CAN SEE THAT
25 THERE IS KIND OF PARITY BETWEEN BLACK PEOPLE AND

01:47p

1 WHITE PEOPLE IN EAST BATON ROUGE PARISH. BUT IN THE
2 SCHOOL SYSTEM IT'S OVER -- EXCUSE ME -- OVER 70
3 PERCENT BLACK.

4 AND THE REASON FOR THAT IS FOR -- THERE ARE
5 SEVERAL REASONS FOR THAT. BUT ONE OF THEM, FOR
6 INSTANCE, IS SUCCESSION MOVEMENTS IN WHICH SOME
7 PARENTS CHOSE TO JUST ABANDON -- WHITE PARENTS CHOSE
8 TO ABANDON EAST BATON ROUGE PARISH FOR A DIFFERENT
9 SCHOOL DISTRICT.

10 Q THANK YOU, DR. BURCH.

11 TURNING TO THE NEXT SLIDE, THIS REPRODUCES
12 FIGURE 3 FROM PAGE 9 OF YOUR REPORT. WHAT CAN THIS
13 CHART TELL US?

14 A SO THIS CHART LOOKS AT TEST SCORES IN EIGHTH
15 GRADE IN 2019 FOR MATH IN LOUISIANA. AND IT LOOKS AT
16 IT BY RACE. SO AS YOU CAN SEE FROM THIS CHART, THE
17 WHITE CIRCLES REPRESENT WHITE STUDENTS IN EACH YEAR
18 AND THE CROSSES REPRESENT BLACK STUDENTS IN EACH
19 YEAR. AND THERE IS A PRETTY PERSISTENT 30'ISH POINT
20 GAP BETWEEN BLACK AND WHITE STUDENTS ACROSS TIME.
21 AND IN EACH -- AND IT LOOKS LIKE -- AT THE BOTTOM IT
22 SHOWS YOU WHETHER THAT'S A STATISTICALLY SIGNIFICANT
23 DIFFERENCE. AND THE DIFFERENCE IS SORT OF LIKE NOT
24 CHANGING OVER TIME. AND -- BUT THOSE GAPS IN TEST
25 SCORES ARE PERSISTENT.

01:49p

1 Q LET'S TURN TO THE NEXT SLIDE. REPRODUCING
2 HERE FIGURE 4 FROM PAGE 9 OF YOUR REPORT, WHAT CAN
3 THIS CHART TELL US?

4 A AGAIN, THE OUTCOMES FOR RACIAL GROUPS IN
5 LOUISIANA SCHOOLS ARE THIS TIME FOR EIGHTH GRADE
6 READING BY RACE. AND AGAIN, WHITE STUDENTS' OUTCOMES
7 ON TESTS ARE MUCH BETTER THAN BLACK STUDENTS'
8 OUTCOMES. AND THOSE, AGAIN, ARE ABOUT -- HOVERING
9 AROUND 25 TO -- 22 TO 25 POINTS IN EACH GIVEN YEAR.

10 Q DR. BURCH, I'D LIKE TO TURN TO YOUR
11 OVERARCHING OPINIONS ON EDUCATION DISPARITIES IN
12 LOUISIANA.

13 FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS
14 THESE MEASURES OF INEQUITY IN EDUCATIONAL ATTAINMENT
15 BASED ON RACE IN LOUISIANA?

16 A SO IN MY REPORT I TALK ABOUT BOTH THE
17 HISTORICAL AND THE KINDS OF CONTEMPORARY
18 DISCRIMINATION THAT LOUISIANIANS HAVE FACED -- BLACK
19 LOUISIANIANS HAVE FACED IN THE EDUCATIONAL SYSTEM.
20 AND I POINT OUT THAT, ESPECIALLY FOR THE HISTORICAL
21 DISCRIMINATION, IT'S NOT DISTANT HISTORY. MANY -- A
22 LARGE PROPORTION OF THE ELECTORATE THAT WAS AROUND TO
23 EXPERIENCE THESE LEGALLY SEGREGATED SCHOOLS ARE STILL
24 HERE AND VOTING IN LOUISIANA. AND THAT KIND OF HELPS
25 EXPLAIN SOME OF THOSE RACIAL DISPARITIES THAT I

01:50p

1 SHOWED YOU IN THE CHARTS.

2 THERE ARE RACIAL GAPS IN VOTER TURNOUT IN
3 LOUISIANA. AND VOTER TURNOUT VARIES BY EDUCATIONAL
4 ATTAINMENT IN THE WAYS THAT I SHOWED YOU, SUCH THAT
5 HIGHLY EDUCATED VOTERS ARE MORE LIKELY TO TURN OUT
6 THAN VOTERS WITH LOW EDUCATIONAL ATTAINMENT. AND
7 THAT CAN EXPLAIN SOME OF THE RACIAL GAP IN VOTER
8 TURNOUT IN LOUISIANA.

9 AND EDUCATION IS IMPORTANT -- AND I'M
10 SPENDING SO MUCH TIME ON IT -- BECAUSE FOR A
11 POLITICAL SCIENTIST IT'S ONE OF THE MOST FUNDAMENTAL
12 EXPLANATORY VARIABLES WITH RESPECT TO EXPLAINING HOW
13 AND WHEN PEOPLE VOTE AND PARTICIPATE IN POLITICS
14 GENERALLY. BECAUSE EDUCATION JUST MAKES IT EASIER
15 FOR PEOPLE TO NAVIGATE THE COST OF VOTING AND LIKE
16 ACQUIRING INFORMATION ABOUT THE CANDIDATES OR
17 LEARNING HOW TO REGISTER AND NAVIGATING THE PROCESS.
18 SO IT'S -- SO EDUCATION IS REALLY IMPORTANT. THERE
19 ARE GAPS THAT ARE CAUSED BY CONTEMPORARY AND
20 HISTORICAL DISCRIMINATION BY GOVERNMENT. AND
21 EDUCATION, AGAIN, IS FUNDAMENTAL TO VOTING.

22 Q LET'S MOVE ALONG TO YOUR ANALYSIS OF
23 EMPLOYMENT AND SOCIOECONOMIC INDICATORS.

24 DR. BURCH, WHAT WERE YOUR FINDINGS ABOUT
25 BLACK LOUISIANIANS' PERCEPTIONS OF THEIR

01:51p

1 OPPORTUNITIES RELATED TO HIRING, PAY, AND PROMOTIONS
2 HERE?

3 A SO I LOOKED AT THE 2021 LOUISIANA SURVEY FOR
4 THIS INFORMATION, WHICH IS A REPRESENTATIVE STUDY --
5 SURVEY OF PEOPLE IN LOUISIANA. AND I FOUND -- THE
6 STUDY FOUND THAT 74 PERCENT OF BLACK PEOPLE AGREE
7 THAT BLACK PEOPLE ARE TREATED LESS FAIRLY THAN WHITE
8 PEOPLE IN HIRING, PAY, AND PROMOTIONS AT WORK. AND
9 RESEARCH ACTUALLY SUPPORTS THAT CLAIM. A VARIETY OF
10 AUDIT STUDIES, WHICH HOLD CONSTANT ALL KINDS OF
11 FACTORS AND THEN SENDS IN LIKE TRAINED ACTORS TO
12 APPLY FOR JOBS OR SENDS IN RÉSUMÉS THAT ARE IDENTICAL
13 EXCEPT FOR EITHER THE NAME OR THE RACE OF THE
14 POTENTIAL APPLICANT, THEY SHOW THAT EMPLOYERS DO
15 DISCRIMINATE AGAINST RACIAL MINORITIES IN HIRING.

16 Q ALL RIGHT. LET'S TURN YOUR ATTENTION TO THE
17 NEXT SLIDE, WHICH REPRODUCES FIGURE 5 FROM PAGE 10 OF
18 YOUR REPORT.

19 DR. BURCH, WHAT DOES THIS CHART REFLECT?

20 A SO THIS CHART IS ALSO FROM THE AMERICAN
21 COMMUNITY SURVEY 2019 ONE-YEAR ESTIMATES. AND THIS
22 ONE IS LOOKING AT THE UNEMPLOYMENT RATE BY RACE FOR
23 LOUISIANA, JUST THE CIVILIAN LABOR FORCE, AGES 16 AND
24 OVER. AND YOU CAN SEE FOR BLACK UNEMPLOYMENT -- THAT
25 BLACK UNEMPLOYMENT IS HIGHER THAN WHITE UNEMPLOYMENT

01:52p

1 IN LOUISIANA IN THAT YEAR AND CONSISTENTLY TENDS TO
2 BE HIGHER.

3 Q ALL RIGHT. LET'S TURN TO THE NEXT SLIDE.
4 THIS REPRODUCES FIGURE 6 FROM PAGE 11 OF YOUR REPORT.
5 WHAT DOES THIS CHART DISPLAY?

6 A SO THIS CHART SWITCHES FROM INDIVIDUALS AND
7 LOOKS AT HOUSEHOLDS. AND SO THIS LOOKS AT THE MEDIAN
8 HOUSEHOLD INCOME IN LOUISIANA BY THE RACE OF THE
9 HOUSEHOLDER. AND HERE WE CAN SEE THAT BLACK
10 HOUSEHOLDS -- SORRY -- WHITE HOUSEHOLDS EARN OR HAVE
11 INCOMES THAT ARE TENS OF THOUSANDS OF DOLLARS HIGHER
12 AT THE MEDIAN THAN BLACK HOUSEHOLDS.

13 Q AND TURNING TO THE NEXT SLIDE, WHICH
14 REPRODUCES FIGURE 7 FROM PAGE 11 OF YOUR REPORT, WHAT
15 DOES THIS CHART DISPLAY?

16 A SO THIS CHART LOOKS AT FAMILY POVERTY IN
17 LOUISIANA, AGAIN, BY RACE OF THE HOUSE -- THE HEAD OF
18 THE HOUSEHOLD OF FAMILY. AND 2019 -- AND THIS IS THE
19 2019 AMERICAN COMMUNITY SURVEY AGAIN. AND AGAIN,
20 WHITE PEOPLE IN THIS CHART ARE IN GOLD AND BLACK
21 PEOPLE ARE IN PURPLE. AND THE DATA SHOW THAT BLACK
22 POVERTY IS MORE THAN DOUBLE, ALMOST TRIPLE THAT OF
23 WHITE POVERTY.

24 Q LET'S TURN TO THE NEXT SLIDE, REPRODUCING
25 FIGURE 8 FROM PAGE 12 OF YOUR REPORT.

01:54p

1 WHAT DOES THIS CHART DISPLAY?

2 A SO THIS CHART LOOKS, AGAIN, AT LOUISIANA
3 HOUSEHOLDS AND LOOKS AT HOUSEHOLDS THAT DON'T HAVE
4 ACCESS TO A VEHICLE BY RACE OF THE HOUSEHOLDER. AND
5 AGAIN, BLACK HOUSEHOLDS -- A SIGNIFICANT PERCENTAGE
6 OF BLACK HOUSEHOLDS DON'T HAVE ACCESS TO A CAR,
7 COMPARED WITH LESS THAN -- IT LOOKS LIKE ABOUT 5
8 PERCENT OF WHITE HOUSEHOLDS.

9 Q CAN YOU DISCUSS HOW THAT MIGHT IMPACT A
10 VOTER'S ACCESS?

11 A YES. SO IF YOU NEED TO GO TO A POLLING
12 PLACE OR GO TO REGISTER OR IF YOU'RE GOING TO, FOR
13 INSTANCE, REGISTER THROUGH MOTOR VOTER, IF YOU DON'T
14 HAVE A DRIVER'S LICENSE OR A CAR YOU'RE NOT GOING TO
15 NECESSARILY HAVE TO DO THAT. SO IT DEFINITELY --
16 HAVING A CAR DEFINITELY MAKES IT EASIER FOR PEOPLE TO
17 BE ABLE TO GO IN PERSON TO DO THINGS THEY MAY HAVE TO
18 DO IN ORDER TO VOTE.

19 Q ALL RIGHT, DR. BURCH. I'D LIKE TO TURN TO
20 YOUR OVERARCHING OPINIONS ON EMPLOYMENT DISPARITIES
21 IN LOUISIANA. FROM YOUR ACADEMIC ASSESSMENT, WHAT
22 EXPLAINS THESE MEASURES OF INEQUITY IN EMPLOYMENT IN
23 THE STATE?

24 A SO AS I SAY, THERE IS -- AND AS I SHOW --
25 THERE ARE MARKERS OF CONTEMPORARY AND HISTORICAL

01:55p

1 DISCRIMINATION BY GOVERNMENT AND BY MARKET
2 INSTITUTIONS AND ACTORS THAT ARE -- THAT ARE IN
3 LOUISIANA THAT ARE TAKING -- MAKING IT -- THESE
4 ECONOMIC DISPARITIES APPARENT.

5 AND WHAT'S INTERESTING ABOUT THEM IS THAT
6 THEY'RE -- EDUCATION IS KIND OF ALSO FEEDING INTO
7 THESE SOCIOECONOMIC INDICATORS AS WELL. SO
8 EDUCATIONAL ATTAINMENT KIND OF ALSO AFFECTS INCOME
9 AND OTHER -- ALL OF THESE OTHER SOCIOECONOMIC
10 INDICATORS. SO IF YOU THINK ABOUT THIS COMBINATION,
11 SO PEOPLE WITH WHITE COLOR OCCUPATIONS LIKE MANY OF
12 US IN THIS COURTROOM, IT MAKES -- IT MIGHT MAKE IT
13 EASIER FOR PEOPLE TO DEVELOP CIVIC SKILLS THAT CAN BE
14 USEFUL IN THINKING ABOUT HOW TO NAVIGATE
15 BUREAUCRACIES. AND IT ALSO MIGHT MAKE -- GIVE YOU
16 GREATER FREEDOM TO TAKE TIME OFF OF WORK WITHOUT
17 LOSING OR RISKING YOUR PAY OR HOURLY PAY. AND WORK
18 IS ALSO -- CAN BE AN IMPORTANT SITE FOR RECRUITMENT
19 INTO POLITICS AND ASKING PEOPLE TO BE MORE POLITICAL,
20 WHICH ALSO INCREASES VOTER TURNOUT.

21 SO THERE IS A NUMBER OF MECHANISMS IN THE
22 LITERATURE BY WHICH ALL OF THESE OTHER KINDS OF
23 SOCIOECONOMIC INDICATORS LIKE EMPLOYMENT AND INCOME
24 AND HAVING A VEHICLE CAN FEED INTO VOTING.

25 Q THANK YOU, DR. BURCH. LET'S MOVE TO YOUR

01:56p

1 ANALYSIS OF HOUSING DISPARITIES AND RESIDENTIAL
2 SEGREGATION IN LOUISIANA. TURNING YOUR ATTENTION TO
3 THE NEXT SLIDE, THIS REPRODUCES FIGURES 9 AND 10 FROM
4 PAGES 14 AND 15 OF YOUR REPORT RESPECTIVELY.

5 DR. BURCH, WHAT DO THESE MAPS DEPICT?

6 A SO THESE ARE HISTORICAL MAPS THAT WERE DRAWN
7 BY THE HOMEOWNERS LOAN CORPORATION. AND THEY WERE
8 USED BY THE FHA TO FIGURE OUT WHERE THEY WOULD MAKE
9 LOANS FOR MORTGAGES. AND THESE MAPS -- I HAVE TO
10 CHECK TO SEE. IT'S HARD FOR ME TO SEE AND RECALL THE
11 DATES HERE. BUT THESE WERE TYPICALLY IN THE LATE
12 '30s, EARLY '40s IN WHICH THESE MAPS WERE PRODUCED.

13 WHAT'S INTERESTING ABOUT THE MAPS THAT THE
14 FHA WAS USING FOR UNDERWRITING LOANS IS THAT THIS
15 COLOR CODING IS THE RUBRIC FOR WHERE IT WAS SAFE TO
16 MAKE MORTGAGE LOANS. AND THAT'S WHERE THEY DIRECTED
17 THE MONEY, VERSUS THE ONES WHERE THEY WERE NOT.

18 SO BLUE AND GREEN ARE I THINK A AND B, THOSE
19 GRADES. AND THOSE ARE GOOD PLACES TO MAKE MORTGAGE
20 LOANS; WHEREAS RED AND YELLOW ARE MARKS AS DECLINING
21 OR HAZARDOUS. THESE MAPS, AGAIN, THAT WERE USED BY
22 THE FEDERAL HOUSING ADMINISTRATION FOR MAKING LOANS,
23 THE WAY THAT THIS COLOR CODING TAKES PLACE IS
24 ARGUABLY ALMOST ALL ABOUT RACE.

25 THERE IS SOME INDICATION THAT IN THE NEW

01:58p

1 ORLEANS MAP THE FLOODING AND ELEVATION ALSO PLAY A
2 ROLE IN THESE GRADES. BUT THEN IF YOU LOOK AT WHAT
3 THE ACTUAL DESCRIPTIONS ARE OF SOME OF THESE RED ZONE
4 AREAS -- LIKE, FOR INSTANCE, I TALK ABOUT IN MY
5 REPORT AREA 35 IS DESCRIBED AS, QUOTE, COMPOSED OF
6 TWO-STORY DOUBLES, NEGRO ROW HOUSES AND RAISED
7 SINGLES. THIS AREA INCLUDES WHAT IS OFTEN REFERRED
8 TO AS THE IRISH CHANNEL AND IS ONE OF THE TOUGHEST
9 SECTIONS IN THE ENTIRE CITY. IT HAS A MIXED
10 POPULATION. SOME BLOCKS ARE MIXED WHITE AND COLORED,
11 SOME SOLID WHITE, SOME SOLID COLORED, AND PROPERTIES
12 ARE IN A VARYING CONDITION: FAIR, BAD AND
13 INDIFFERENT. IT IS A REGULAR CONGLOMERATION OF THE
14 WORST FEATURES FOUND IN THE CITY. AND IN SHREVEPORT,
15 ALL THE AREAS GRADED A OR B WERE 100 PERCENT WHITE,
16 WHILE ALL THE AREAS MARKED D OR HAZARDOUS OR RED HAD
17 SOME PROPORTION OF BLACK RESIDENTS.

18 Q DR. BURCH, FOR CLARITY OF THE RECORD, WHAT
19 IS THE FHA?

20 A SO THE FHA IS THE FEDERAL HOUSING
21 ADMINISTRATION. AND AT LEAST WITH RESPECT TO THESE
22 MAPS, THEY WERE TASKED WITH HELPING TO PROVIDE LOANS
23 TO -- UNDERWRITING LOANS SO THAT PEOPLE COULD GET
24 MORTGAGES.

25 Q AND WHAT IS THE HOMEOWNERS LOAN CORPORATION?

01:59p

1 A THE HOMEOWNERS LOAN CORPORATION IS THE
2 ORGANIZATION THAT MADE THESE MAPS FOR -- THAT THE FHA
3 USED IN DETERMINING WHERE IT WAS -- WHERE YOU COULD
4 MAKE THE -- WHICH LOANS THEY WOULD UNDERWRITE.

5 Q AND SPEAKING TO CONTEMPORARY TRENDS, ARE
6 THERE ANY OTHER EXAMPLES OF WAYS IN WHICH AID OR
7 OTHER MONETARY SUPPORT HAS NOT BEEN ABLE TO BE
8 INVESTED IN THOSE REDLINE COMMUNITIES?

9 A SO I THINK IT'S CLEAR THAT THERE -- THE DATA
10 SHOW THAT MANY OF THESE CITIES -- EXCUSE ME -- ARE
11 STILL SEGREGATED BY RACE. SO THERE IS BOTH CENSUS
12 DATA AND THE GEOGRAPHIC ANALYSIS OF CELL PHONE DATA
13 THAT DEMONSTRATE THAT MANY OF THE CITIES AND METRO
14 AREAS YOU CAN THINK OF IN LOUISIANA ARE STILL HIGHLY
15 SEGREGATED BY RACE. SO THE OTHER -- OTHERING &
16 BELONGING INSTITUTE CHARACTERIZED SEVERAL
17 METROPOLITAN AREAS IN THE STATE AS HIGH SEGREGATION,
18 INCLUDING THE NEW ORLEANS, METAIRIE, KENNER AREA,
19 BATON ROUGE, SHREVEPORT, BOSSIER CITY AND LAKE
20 CHARLES AS WELL.

21 Q IS THERE ANY INTERPLAY BETWEEN SEGREGATION
22 AND DISASTER RELIEF?

23 A YES. SO ONE OF THE ISSUES WITH RESPECT TO
24 HOW POLICIES ARE SHAPING BOTH WHERE PEOPLE LIVE AND
25 WHERE PEOPLE CAN LIVE IS WITH RESPECT TO DISASTER

02:01p

1 RELIEF. AND IT'S MUCH HARDER FOR -- FOR INSTANCE,
2 AFTER KATRINA IN 2005, MOST OF THE NEIGHBORHOODS THAT
3 SUSTAINED THE MOST DAMAGE WERE -- HAD A HIGHER BLACK
4 POPULATION THAN NEIGHBORHOODS THAT DIDN'T SUSTAIN A
5 LOT OF DAMAGE. BUT IT'S ALSO THE CASE THEN THAT
6 BLACK NEW ORLEANS RESIDENTS WERE MORE LIKELY TO BE
7 DISPLACED AND THEN HAD A HARDER TIME COMING BACK TO
8 THE CITY AND -- BECAUSE OF DELAYED TIMING OF DISASTER
9 RELIEF AND REBUILDING EFFORTS.

10 SO IT'S NOT JUST THE CASE THAT IT'S
11 CONTEMPORARY ISSUES WITH RESPECT TO POLICY SHAPING --
12 WHO CAN COME BACK AND WHO CAN LIVE WHERE -- THERE IS
13 ALSO SOME -- IN THE PAST THERE IS ALSO SOME
14 CONTEMPORARY POLICIES SUCH AS HOW DISASTER RELIEF IS
15 HANDLED AND WAS HANDLED AFTER NATURAL DISASTERS THAT
16 CAN SHAPE WHO GETS TO LIVE WHERE AND WHO CAN AFFORD
17 TO COME BACK.

18 Q THANK YOU, DR. BURCH.

19 LET'S TURN TO YOUR OVERARCHING OPINIONS ON
20 HOUSING DISPARITIES IN LOUISIANA. FROM YOUR ACADEMIC
21 ASSESSMENT, WHAT EXPLAINS THESE PATTERNS OF
22 SEGREGATION BASED ON RACE IN LOUISIANA IN THE PAST
23 AND TODAY?

24 A SO THERE ARE BOTH CONTEMPORARY AND
25 HISTORICAL FACTORS SUCH AS RACIAL DISCRIMINATION BY

02:02p

1 GOVERNMENT AND MARKET ACTORS THAT CAN SHAPE PATTERNS
2 OF RESIDENTIAL RACIAL SEGREGATION. AND RACIAL
3 RESIDENTIAL SEGREGATION IS IMPORTANT SIMPLY BECAUSE
4 THERE IS -- IT'S BEEN SHOWN TO AFFECT VOTING THROUGH
5 A NUMBER OF MECHANISMS. SEGREGATION HAS BEEN SHOWN
6 TO INCREASE -- DECREASE BLACK VOTER TURNOUT. AND
7 ALSO SEGREGATED BLACK AREAS, I CITE RESEARCH IN MY
8 REPORT THAT TALKS ABOUT HOW THOSE AREAS TEND TO HAVE
9 LESS ACCESS TO PUBLIC GOODS SUCH AS TRANSPORTATION OR
10 POLLING PLACES THAT MIGHT MATTER FOR VOTING. AND
11 RACIAL RESIDENTIAL SEGREGATION IS ALSO AN IMPORTANT
12 DETERMINATE, AS I TALK ABOUT IN MY REPORT, OF SOME OF
13 THE OTHER FACTORS THAT ALSO SHAPE VOTING, LIKE
14 ECONOMIC OUTCOMES AND HEALTH OUTCOMES AS WELL. SO
15 ALL OF THESE FACTORS ARE ALSO NOT SEPARATE BUT
16 INTERPLAY WITH ONE ANOTHER AS WELL.

17 Q LET'S DISCUSS YOUR FINDINGS ON HEALTH
18 DISPARITIES IN LOUISIANA. TURNING TO THE SLIDE ON
19 YOUR SCREEN WHICH REPRODUCES FIGURE 11 FROM PAGE 17
20 OF YOUR REPORT, WHAT CAN YOU TELL US ABOUT THIS
21 CHART?

22 A SO THIS IS A CHART TAKEN FROM THE CDC'S
23 CHRONIC DISEASE INDICATORS FOR LOUISIANA ADULTS. AND
24 IT LOOKS AT DISEASE MORTALITY AND RACE FOR SOME
25 DIFFERENT DISEASES WHICH TYPICALLY TEND TO BE LARGE

02:03p

1 -- HIGH SOURCES OF MORTALITY IN POPULATIONS. AND AS
2 YOU CAN SEE, AGAIN BLACK PEOPLE ARE THE PURPLE BARS
3 AND WHITE PEOPLE ARE THE GOLD BARS. AND FOR EACH OF
4 THESE DISEASES, BLACK PEOPLE ARE MORE LIKELY TO DIE
5 FROM THEM THAN WHITE PEOPLE.

6 INTERESTINGLY ENOUGH, THOUGH, AT LEAST FOR
7 CANCER, ONE OF THE THINGS THAT'S INTERESTING IS THAT
8 THE RATES OF GETTING CANCER BETWEEN BLACK AND WHITE
9 LOUISIANIANS ACTUALLY ISN'T THAT DIFFERENT. BUT
10 BLACK PEOPLE TEND TO JUST HAVE WORSE OUTCOMES WITH
11 RESPECT TO GETTING -- WITH RESPECT TO DYING FROM
12 CANCER.

13 Q TURNING TO THE NEXT SLIDE, REPRODUCING
14 FIGURE 12 FROM PAGE 17 OF YOUR REPORT, WHAT DOES THIS
15 CHART TELL US?

16 A SO THIS CHART LOOKS AT LIFE EXPECTANCY AT
17 BIRTH. AND THIS -- AND LIFE EXPECTANCY IS REALLY
18 JUST KIND OF A -- GIVES YOU A OVERARCHING SENSE OF
19 THE HEALTH OF A POPULATION. AND THIS IS FROM THE
20 LOUISIANA DEPARTMENT OF PUBLIC HEALTH. AND IT LOOKS
21 AT LIFE EXPECTANCY BETWEEN MEN AND WOMEN FOR THE TWO
22 DIFFERENT GROUPS.

23 AND AGAIN, WITH WHITE IN YELLOW AND BLACK IN
24 PURPLE, A LOT OF THESE HEALTH DISPARITIES AND OTHER
25 ISSUES TRANSLATE INTO JUST LONGER LIVES BY A NUMBER

02:04p

1 OF YEARS. SO WHITE MEN ARE EXPECTED -- AND WHITE
2 WOMEN ARE EXPECTED TO LIVE SEVERAL YEARS LONGER THAN
3 BLACK MEN AND WOMEN IN LOUISIANA.

4 Q TURNING TO THE NEXT SLIDE, REPRODUCING
5 FIGURE 13 FROM PAGE 18 OF YOUR REPORT, WHAT DO WE
6 LEARN FROM THIS CHART ABOUT ACCESS TO HEALTH
7 INSURANCE FOR BLACK LOUISIANIANS?

8 A SO SOME OF THESE FACTORS CAN BE EXPLAINED BY
9 SOME POLICIES. SO, FOR INSTANCE, LOUISIANIANS
10 WITHOUT HEALTH INSURANCE COVERAGE BY RACE, WE CAN SEE
11 HERE -- AGAIN, WITH BLACK IN PURPLE AND WHITE IN
12 YELLOW -- THERE ARE SLIGHTLY -- BLACK PEOPLE ARE
13 SLIGHTLY MORE LIKELY TO BE UNINSURED THAN WHITE
14 PEOPLE.

15 Q DR. BURCH, DO ENVIRONMENTAL FACTORS
16 CONTRIBUTE TO RACIAL HEALTH DISPARITIES IN LOUISIANA?

17 A YES. SO I CITE SEVERAL STUDIES THAT TALK
18 ABOUT THE ENVIRONMENTAL FACTORS THAT CAN SHAPE HEALTH
19 OUTCOMES. SO AS I JUST MENTIONED, KATRINA, NATURAL
20 DISASTERS ARE ONE AVENUE. AND ESPECIALLY WITH
21 KATRINA, BLACK PEOPLE WERE SIGNIFICANT -- IN ORLEANS
22 PARISH ACROSS ALL AGE GROUP CATEGORIES AGE 30 YEARS
23 AND OLDER, THEY WERE JUST MORE LIKELY TO HAVE DIED IN
24 THAT STORM THAN PEOPLE OF OTHER RACIAL GROUPS.

25 BUT ALSO THE WAY THAT CHEMICAL PLANTS ARE

02:06p

1 CITED, PARTICULARLY IN THE AREA OF THE STATE KNOWN AS
2 CANCER ALLEY, THAT CAN EXPOSE RESIDENTS TO HIGH
3 LEVELS OF AIR POLLUTION AND OTHER DANGERS. AND THOSE
4 HAVE BEEN SHOWN TO DETRIMENTALLY AFFECT HEALTH. SO
5 STUDIES IN THAT AREA HAVE LINKED HIGH LEVELS OF AIR
6 POLLUTION TO RESPIRATORY ILLNESSES LIKE CANCER, COVID
7 19, AND ASTHMA.

8 Q THANK YOU, DR. BURCH.

9 I'D LIKE TO TURN TO YOUR OVERARCHING
10 OPINIONS ON HEALTH DISPARITIES IN LOUISIANA. FIRST,
11 DR. BURCH, FROM YOUR ACADEMIC ASSESSMENT, WHAT
12 EXPLAINS THESE MEASURES OF INEQUITY IN HEALTHCARE AND
13 HEALTH OUTCOMES AND MORTALITY IN LOUISIANA THAT WE'VE
14 JUST DISCUSSED?

15 A SO I TALK ABOUT IN MY REPORT THE WAYS -- AND
16 I'VE TALKED TODAY -- ABOUT THE WAYS THAT HEALTH
17 DISPARITIES ARE SHAPED BY GOVERNMENT AND MARKET
18 POLICIES. AND THEY CAN AFFECT THE SITE OF
19 ENVIRONMENTAL HAZARDS AS WELL AS ACCESS TO HEALTHCARE
20 THAT CAN HAPPEN THROUGH HEALTH INSURANCE. BUT ALSO I
21 TALK ABOUT IN MY REPORT THE WAYS THAT ACCESS IS
22 SHAPED BY RACIAL RESIDENTIAL SEGREGATION.

23 SO ALSO, THE REASON THAT'S IMPORTANT IS
24 BECAUSE HEALTH, AS I ALLUDED TO EARLIER, IS AN
25 IMPORTANT PREDICTOR OF VOTER TURNOUT. SO THERE ARE

02:07p

1 LOTS OF REASONS THAT HEALTHY PEOPLE ARE MORE LIKELY
2 TO VOTE. BUT PART OF THAT IS JUST THAT IF YOU'RE
3 REALLY SICK, YOU DON'T HAVE THE TIME AND THE MONEY TO
4 GO VOTE OR ENGAGE IN POLITICS. IF YOU HAVE IMPAIRED
5 COGNITIVE FUNCTIONING OR PHYSICAL DISABILITY, IT
6 MIGHT MAKE VOTING MORE DIFFICULT. AND PEOPLE -- AND
7 LIKEWISE, PEOPLE WITH DISABILITIES ARE LESS LIKELY TO
8 VOTE. AND SOMETIMES THAT'S EXPLAINED BY PROBLEMS
9 WITH POLLING PLACE ACCESSIBILITY, BUT THERE MIGHT BE
10 OTHER KINDS OF ISSUES THAT THEY FACE THAT MAKES IT
11 HARDER FOR THEM TO VOTE AS WELL.

12 Q THANK YOU, DR. BURCH.

13 LET'S TURN FINALLY FOR SENATE FACTOR 5 TO
14 YOUR ANALYSIS OF DISPARITIES IN LOUISIANA'S CRIMINAL
15 LAW ENFORCEMENT AND PRISON SYSTEMS.

16 BEFORE WE DIVE INTO SOME OF THE QUANTITATIVE
17 DATA YOU CITE, CAN YOU PLEASE PROVIDE SOME INSIGHT
18 INTO THE HISTORIC ROOTS OF LOUISIANA'S CRIMINAL LAW
19 ENFORCEMENT IN PRISON SYSTEMS THAT FRAME YOUR
20 ANALYSIS?

21 A YES. SO I TALK IN MY REPORT AT FIRST ABOUT
22 THE HISTORY OF ANGOLA PLANTATION AND HOW IT BECAME
23 ANGOLA PENITENTIARY. AND ONE OF THE REALLY
24 INTERESTING PHENOMENA THAT I THINK SHAPE BOTH THAT
25 STORY, WHICH IS SO IMPORTANT TO ANGOLA ITSELF -- THEY

02:08p

1 HAVE IT ON THEIR WEBSITE AS KIND OF LIKE A LONG
2 HISTORY OF THE INSTITUTION. BUT THERE IS THIS REPORT
3 BY THE BUREAU OF JUSTICE STATISTICS THAT LOOKS OVER
4 TIME AT PRISON ADMISSIONS IN DIFFERENT STATES BY
5 RACE.

6 AND ONE OF THE MOST INTERESTING IDEAS THAT
7 COME FROM THIS CHART IS THAT IF YOU LOOK JUST AT THE
8 DATA ON PRISON ADMISSIONS IN LOUISIANA FROM 1925
9 UNTIL 1975, IN THAT 50-YEAR PERIOD, BLACK PEOPLE
10 HAVE -- ADMISSIONS RATES HAVE -- BLACK PEOPLE HAVE
11 ALWAYS BEEN ABOUT 60 PERCENT OF PEOPLE ADMITTED TO
12 PRISON IN LOUISIANA OVER TIME THROUGHOUT HISTORY.
13 AND THEY'RE ABOUT 66 PERCENT OF THE PRISON POPULATION
14 TODAY. SO THAT UNBROKEN LINE I THINK IS -- AND THAT
15 CONTINUITY IS SOMETHING WE DON'T OFTEN SEE IN SOCIAL
16 SCIENCE. SO IT'S DEFINITELY IMPORTANT TO ME TO KIND
17 OF LINK THAT HISTORICAL TRAJECTORY WITH WHAT WE SEE
18 IN THE STATE TODAY.

19 Q TURNING TO THE NEXT SLIDE, REPRODUCING
20 FIGURE 15 FROM PAGE 21 OF YOUR REPORT, WHAT DOES THIS
21 CHART INDICATE?

22 A SO THIS IS A CHART THAT IS FROM THE
23 LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTION
24 THAT LOOKS AT CORRECTIONAL POPULATIONS BY RACE IN THE
25 STATE TODAY. AND AGAIN, BLACK PEOPLE ARE

02:10p

1 OVER-REPRESENTED IN ALL ASPECTS OF CORRECTIONS IN
2 LOUISIANA. SO, OF COURSE, AS I JUST SAID WITH THE
3 PRISON POPULATION, THERE IS ABOUT TWO-THIRDS BLACK,
4 AND THE PROBATION POPULATION IS SLIGHTLY LESS THAN
5 HALF, AGAIN, WHICH REPRESENTS OVER-REPRESENTATION.
6 THE PROBATION POPULATION IS BLACK AND THE PAROLE
7 POPULATION IS DISPROPORTIONATELY AND MAJORITY BLACK
8 AS WELL.

9 Q DR. BURCH, FROM YOUR UNDERSTANDING, ARE
10 PEOPLE WHO ARE INCARCERATED DUE TO A CONVICTION ABLE
11 TO VOTE IN LOUISIANA?

12 A NO.

13 Q FROM YOUR UNDERSTANDING, ARE VOTING RIGHTS
14 AUTOMATICALLY RESTORED FOR PEOPLE ON THE DAY THEY ARE
15 RELEASED FROM INCARCERATION?

16 A NO. IT TAKES SOME TIME.

17 Q TURNING TO SLIDE 37 IN FRONT OF YOU, WHAT IS
18 THE IMPACT OF FELONY DISENFRANCHISEMENT POLICIES IN
19 LOUISIANA ON THE SIZE OF THE ELECTORATE?

20 A SO ACCORDING TO A STUDY OF MANS AND UGGEN --
21 NOT MANS AND UGGEN. I'M SORRY. THE SENTENCING
22 PROJECT AND CHRIS UGGEN AND CO-AUTHORS -- ALMOST
23 48,000 BLACK LOUISIANIANS WERE UNABLE TO VOTE IN THE
24 2020 ELECTION DUE TO THEIR FELONY CONVICTIONS. AND
25 AGAIN, A DISPROPORTIONATE AMOUNT OF THE BLACK VOTING

02:11p

1 AGE POPULATION IN LOUISIANA CANNOT VOTE DUE TO A
2 FELONY, RELATIVE TO PEOPLE IN OTHER GROUPS.

3 Q DR. BURCH, LET'S TURN TO YOUR OVERALL
4 CONCLUSIONS REGARDING THE IMPACT OF CRIMINAL LAW
5 ENFORCEMENT IN LOUISIANA. FROM YOUR ACADEMIC
6 ASSESSMENT, WHAT EXPLAINS THESE MEASURES OF INEQUITY
7 IN THE STATE?

8 A SO CRIMINAL JUSTICE INVOLVEMENT DOES AFFECT
9 VOTING, AND THOSE OUTCOMES, AS I SHOWED, VARY BY
10 RACE. AND -- BUT RESEARCH HAS SHOWN THAT RACIAL
11 DISCRIMINATION PLAYS A ROLE IN PRODUCING THOSE RACIAL
12 DISPARITIES IN CRIMINAL JUSTICE IN LOUISIANA IN THE
13 PAST. AND THERE IS CONTEMPORARY RESEARCH THAT ALSO
14 SHOWS -- THAT I CITE IN MY REPORT -- THAT TALKS ABOUT
15 THESE ISSUES IN LOUISIANA TODAY.

16 SO THERE ARE SEVERAL STUDIES THAT TALKS
17 ABOUT EITHER THE LIKELIHOOD THAT A BLACK PERSON WILL
18 RECEIVE THE DEATH PENALTY FOR KILLING A BLACK VICTIM
19 VERSUS A WHITE VICTIM THAT I CITE, OR DATA THAT TALKS
20 ABOUT HOW PROSECUTORS TREAT BLACK VICTIMS RATHER THAN
21 WHITE VICTIMS. BUT I ALSO CITE SOME REALLY
22 INTERESTING DISPARITIES BETWEEN ARRESTS AND
23 SENTENCING. SO ABOUT TWO -- I THINK ABOUT 63
24 PERCENT -- 65 PERCENT OF THE PEOPLE IN LOUISIANA IN
25 PRISON FOR A DRUG CONVICTION ARE BLACK. BUT THEN

02:13p

1 WHEN YOU LOOK AT THE ARREST DATA, A MAJORITY OF THE
2 PEOPLE WHO ARE ARRESTED FOR SERIOUS DRUG OFFENSES IN
3 LOUISIANA -- SO THOSE THAT INCLUDE EITHER TRAFFICKING
4 OF ANY DRUG OR POSSESSION OF A HARD DRUG -- ARE
5 WHITE. SO THE UNDERLYING DATA IN TERMS OF
6 CRIMINALITY AREN'T REALLY EXPLAINING THOSE OUTCOMES
7 WITH RESPECT TO INCARCERATION IN -- AT LEAST WITH
8 RESPECT TO DRUG CONVICTIONS AND DRUG CRIMES.

9 SO -- YES, SO THOSE PATTERNS OF OUTCOMES
10 CAN'T BE FULLY EXPLAINED BY THE DIFFERENTIAL
11 COMMISSION OF CRIMES BY RACE. AND THEN YOU -- SO
12 THEN YOU HAVE TO LOOK TO THESE OTHER FACTORS LIKE --
13 THAT I CITE IN MY REPORT -- LIKE OVER-POLICING OR
14 DISCRIMINATION IN SENTENCING AND THE LIKE TO EXPLAIN
15 THOSE DISPARITIES.

16 Q YOU TOUCHED ON THIS A BIT, BUT CAN YOU
17 EXPLAIN HOW, IF AT ALL, THESE DISPARITIES REFLECT ON
18 ACCESS TO THE POLITICAL PROCESS FOR BLACK
19 LOUISIANIANS?

20 A YES, SURE. SO PART OF HOW VOTING -- VOTING
21 CAN BE AFFECTED BY CRIMINAL JUSTICE IS VERY CLEAR
22 THROUGH, LIKE I SAID, FELONY DISENFRANCHISEMENT LAWS.
23 BUT MY WORK AND THE WORK OF SEVERAL OTHER PEOPLE IN
24 POLITICAL SCIENCE HAVE -- IT'S SHOWN THAT THESE
25 INTERACTIONS WITH THE CRIMINAL JUSTICE SYSTEM

02:14p

1 GENERALLY, ESPECIALLY THOSE THAT MIGHT BE SEEN AS
2 UNFAIR, TEND TO DEMOBILIZE VOTING AND MAKE PEOPLE SHY
3 AWAY FROM PARTICIPATING IN POLITICS.

4 Q THANK YOU, DR. BURCH.

5 LET'S MOVE ON TO YOUR DISCUSSION OF SENATE
6 FACTOR 6 REGARDING THE USE OF RACIAL CAMPAIGN APPEALS
7 IN LOUISIANA. TO BEGIN, WHAT IS A RACIAL APPEAL?

8 A SO A RACIAL APPEAL IS A USE OF A CODE WORD
9 OR IMAGES OR SOME OTHER KIND OF ASPECT IN A CAMPAIGN
10 THAT MAKES VOTERS THINK ABOUT OR TAKE RACE INTO
11 CONSIDERATION WHEN THEY'RE MAKING CHOICES IN POLICY
12 DECISIONS AND CANDIDATE CHOICE. THOSE CAN BE EITHER
13 OVERT, MEANING THEY SAY THEY'RE TALKING ABOUT RACE,
14 OR SUBTLE, IN WHICH THEY DON'T USE THE ACTUAL
15 LANGUAGE OF RACE BUT MIGHT -- IT MIGHT RELY MORE
16 HEAVILY ON IMAGERY OR OTHER KINDS OF CODE WORDS.

17 Q THINKING ABOUT THE LANGUAGE THAT ADS MAY
18 EMPLOY, WHAT ARE SOME EXAMPLES OF CODE WORDS USED IN
19 RACIAL APPEALS?

20 A THERE IS LOTS OF THEM IN THE LITERATURE. SO
21 "INNER-CITY," "SANCTUARY CITY," "CRIME," "WELFARE,"
22 "ILLEGAL IMMIGRATION," STUFF LIKE THAT.

23 Q ARE THERE ANY ADDITIONAL OR MORE RECENT
24 EXAMPLES FROM CONTEMPORARY POLITICAL DISCOURSE?

25 A THERE IS LIKE "URBAN" OR "GANG," LIKE "WOKE"

02:15p

1 AND "CRITICAL RACE THEORY." BUT I DON'T KNOW IF
2 THOSE -- THOSE ARE -- I DON'T KNOW IF THOSE ARE EVEN
3 CODE WORDS, BECAUSE LIKE "RACE" IS IN "CRITICAL RACE
4 THEORY," SO THAT MIGHT BE MORE EXPLICIT.

5 Q HOW ABOUT VISUAL CUES OR SIGNALS THAT ADS
6 MAY EMPLOY? WHAT ARE SOME EXAMPLES?

7 A SO WHEN ANALYZING TELEVISION CAMPAIGN ADS,
8 THESE ADS -- MCILWAIN AND CALIENDO FIND THAT THEY
9 TEND TO CONTAIN CERTAIN ELEMENTS. AND THOSE ELEMENTS
10 ARE THE INVOCATION OF A SALIENT STEREOTYPE ABOUT THE
11 MINORITY GROUP, SO THAT MIGHT BE CRIMINALITY,
12 LAZINESS, TAKING UNDESERVED ADVANTAGE, COUPLED WITH
13 THE CHARGE OF LIBERALISM, SO EXTREME LIBERAL,
14 DANGEROUS LIBERAL, RADICAL. SO THOSE TWO -- THOSE
15 THINGS GROUPED TOGETHER.

16 THEY SOMETIMES OFTEN SHOW THE IMAGE OF THE
17 MINORITY OPPONENT OR A MINORITY POLITICAL CANDIDATE
18 AND THEN THEY MIGHT ALSO CONTAIN IMAGES OF THE
19 ALL-WHITE -- ALL-WHITE, NONCANDIDATE IMAGES. SO
20 THERE MIGHT BE LIKE IMAGES OF VOTERS WHO ARE ALL
21 WHITE. SO THOSE ARE THE PEOPLE WHO ARE, FOR
22 INSTANCE, BEING PROTECTED FROM THE ISSUES IN THE
23 SALIENT STEREOTYPE. AND SO THAT AUDIENCE WOULD
24 INCLUDE A HIGH PERCENTAGE OF WHITE POTENTIAL VOTERS.

25 Q FROM YOUR REVIEW OF THE ACADEMIC LITERATURE,

02:17p

1 ARE RACIAL APPEALS EFFECTIVE AT INFLUENCING VOTER
2 BEHAVIOR?

3 A YES. SO BOTH IMPLICIT AND NOW EXPLICIT
4 APPEALS HAVE ALSO BEEN SHOWN TO BE EFFECTIVE IN
5 INFLUENCING VOTER BEHAVIOR.

6 Q HOW SO?

7 A TO THE EXTENT THAT THEY CAN -- LET ME MAKE
8 SURE I GET THIS RIGHT. SO THEY CAN MAKE THOSE RACIAL
9 ATTITUDES AND CONCERNS MORE SALIENT IN THE MINDS OF
10 VOTERS, AND THEY CAN MAKE IT SO THAT CERTAIN KINDS OF
11 VOTERS -- I'M SORRY. I'M TRYING TO SUMMARIZE A BUNCH
12 OF LITERATURE AT ONCE. BUT, FOR EXAMPLE, YOU MIGHT
13 SEE PEOPLE THINK MORE ABOUT WEIGHING CRIMINAL JUSTICE
14 OR MIGHT WANT TO THINK ABOUT HARSHER CRIMINAL JUSTICE
15 PENALTIES IF THEY SEE AN AD WITH LIKE A MINORITY
16 MUGSHOT THAN IF THEY'RE LOOKING AT SOME OTHER KIND OF
17 AD IN SUPPORT OF A CANDIDATE.

18 Q AND DO RACIAL APPEALS HAVE ANY DIFFERING
19 IMPACT DEPENDING ON THE AUDIENCE?

20 A YES. SO RACIAL APPEALS, DEPENDING ON
21 WHETHER THEY ARE SHOWN BY -- EXPERIENCED BY BLACK
22 MEMBERS AS WELL AS WHITE MEMBERS CAN HAVE DIFFERENT
23 EFFECT. SO CERTAIN KINDS OF RACIAL APPEALS,
24 ESPECIALLY THOSE THAT ARE DESIGNED TO MAKE BLACK
25 VOTERS FEEL LIKE THEIR CHOSEN CANDIDATES DON'T CARE

02:18p

1 ABOUT THEM. KIND OF LIKE THE STUFF THAT TROLL FARMS
2 DID ABOUT HILLARY CLINTON IN 2016, THOSE KINDS OF ADS
3 HAVE BEEN SHOWN TO DEMOBILIZE BLACK VOTERS, AND THEY
4 DON'T HAVE THAT EFFECT ON WHITE VOTERS.

5 Q DR. BURCH, IF YOU CAN TURN YOUR ATTENTION TO
6 THE NEXT SLIDE, WHAT DOES THIS SLIDE DEPICT?

7 A SO THESE ARE SOME --

8 MR. LEWIS: EXCUSE ME. YOUR HONOR, I'M
9 GOING TO OBJECT TO THIS. THESE IMAGES WERE NOT
10 PRODUCED IN DISCOVERY. THEY WERE NOT PRODUCED AS
11 PART OF DR. BURCH'S REPORT OR HER REPORT BACK-UP.
12 THEY HAVE NOT BEEN PROVIDED, EITHER THE IMAGES OR THE
13 UNDERLYING VIDEOS THAT -- FROM WHICH THE IMAGES WERE
14 DERIVED.

15 THE COURT: MS. WENGER, DO YOU WANT TO
16 RESPOND?

17 MS. WENGER: CERTAINLY. SO THESE IMAGES ARE
18 DISCUSSED IN DR. BURCH'S REPORT. I CAN PULL UP THE
19 SITE. ON PAGE 23 IN THE MIDDLE OF THE PAGE -- WE CAN
20 TAKE THE SLIDE DOWN FOR NOW.

21 IN THE MIDDLE OF THE PAGE ON PAGE 23, THESE
22 IMAGES ARE DISCUSSED AT LENGTH BY DR. BURCH. AND THE
23 SLIDE DECK THAT WE'RE USING IS NOT MEANT TO BE
24 ADMITTED INTO THE RECORD. IT IS SIMPLY AN
25 ILLUSTRATIVE VISUAL AID FOR THE ASSISTANCE OF THE

02:20p

1 COURT AND OTHER PEOPLE IN THE ROOM TO UNDERSTAND WHAT
2 DR. BURCH HAS ALREADY DESCRIBED AT LENGTH AND CAN
3 TEXTUALIZE IN HER EXPERT REPORT. SO WE CERTAINLY
4 DON'T THINK THERE IS ANY UNDUE BIAS BY HAVING THESE
5 DISPLAYED IN THIS SETTING. BUT WE'RE CERTAINLY NOT
6 RELYING ON THEM IF YOUR HONOR FEELS OTHERWISE.

7 THE COURT: MR. LEWIS, DO YOU WANT TO
8 RESPOND TO THAT?

9 MR. LEWIS: YES, YOUR HONOR. IT'S ONE THING
10 TO HAVE A TEXTUAL DESCRIPTION TO SAY THERE WAS AN AD
11 THAT DOES SOMETHING. IT'S QUITE ANOTHER TO THEN, YOU
12 KNOW, DISPLAY IMAGES AND USE -- WHICH IS BEING USED
13 FOR EVID- -- IT'S EVIDENTIARY IN CHARACTER. IT
14 WASN'T PRODUCED. IT WASN'T IN THE REPORT. IT WASN'T
15 LINKED FROM THE REPORT. IT WASN'T IN THE REPORT.

16 THE COURT: IT IS IN THE REPORT, THE IMAGERY
17 OF THE AD THAT CONTAIN ALL-WHITE, NONCANDIDATE IMAGES
18 OF -- AND SHE MENTIONS THE NAMES THAT I BRIEFLY SAW
19 ON THE PHOTOGRAPHS BEFORE THEY WERE TAKEN DOWN. I
20 MEAN, THE REPORT -- I'M LOOKING AT IT AND IT DOES
21 DESCRIBE THOSE EXACT IMAGES, AS BEST I CAN TELL FROM
22 WHAT I SAW. MORE IMPORTANTLY, MS. WENGER IS SAYING
23 THAT THEY'RE NOT -- SHE'S NOT OFFERING THEM INTO
24 EVIDENCE; SHE'S USING THEM ILLUSTRATIVELY.

25 SO DO YOU -- IS IT YOUR CONTENTION THAT

02:21p

1 AS THE TRIER OF THE FACT I'M GOING TO BE SO SHOCKED
2 AND HORRIFIED THAT I'M NOT GOING TO BE ABLE TO --
3 YOU'RE NOT GOING TO BE ABLE TO UNRING THE BELL? I
4 MEAN, THEY DIDN'T LOOK THAT SHOCKING.

5 MR. LEWIS: I DON'T -- YOUR HONOR, I JUST --
6 I'M JUST TRYING TO, YOU KNOW, FOOT TO THE RULES OF
7 EVIDENCE. THEY HAD PLENTY OF OPPORTUNITY --

8 THE COURT: SHE'S NOT PUTTING IT INTO
9 EVIDENCE.

10 MR. LEWIS: AND IT'S ALSO -- WE'D ALSO ADD
11 THAT UNDER RULE 1006, IT'S ALSO NOT IMPROPER SUMMARY
12 BECAUSE IT'S A DIFFERENT MEDIUM, RIGHT. IT'S A TEXT
13 DESCRIPTION, THERE IS A VIDEO, THEN THERE IS THE
14 STILL FROM A VIDEO, YOU KNOW, NONE OF WHICH HAVE
15 BEEN -- HAVE BEEN PROVIDED. SO I -- THAT'S OUR
16 POSITION.

17 THE COURT: AND I THINK YOU MAKE A GOOD
18 POINT. ACTUALLY, THE SUMMARY ARGUMENT THAT YOUR
19 CO-COUNSEL GAVE YOU WAS PRETTY INGENIOUS. BUT SHE'S
20 NOT OFFERING THEM INTO EVIDENCE. AND I THINK, AS THE
21 TRIER OF FACT, THEY'RE NOT -- YOU KNOW, THEY'RE NOT
22 PICTURES THAT -- THEY'RE NOT "SHOCKING THE
23 CONSCIENCE" TYPE PICTURES, SO I THINK THAT IT'S
24 PROBABLY OKAY. I'M GOING TO OVERRULE YOUR OBJECTION.
25 THEY'RE NOT COMING INTO EVIDENCE.

02:22p

1 YOU MAY SHOW THE PHOTOS.

2 MS. WENGER: THANK YOU, YOUR HONOR.

3 BY MS. WENGER:

4 Q DR. BURCH, WITH THE REPORT YOU HAVE IN FRONT
5 OF YOU, IF YOU COULD TURN TO PAGE 23 JUST SO THAT WE
6 CAN USE THAT FOR CONTEXT IN WHAT YOU'RE DESCRIBING.
7 WE HAVE SOME VISUALS ON THIS SCREEN, BUT I'D LIKE TO
8 HAVE YOU WALK THROUGH TRULY WHAT YOU'RE TALKING ABOUT
9 ON PAGE 23 OF YOUR REPORT IN RELATION TO THE 2019
10 GUBERNATORIAL ELECTION.

11 A YES. SO AS I SAID BEFORE, THERE ARE SOME
12 HALLMARKS OF THE KINDS OF ADS THAT WE WOULD -- OF ADS
13 THAT CONSTITUTE IMPLICIT RACIAL APPEALS. AND AS I
14 SAID BEFORE, SO THIS AD THAT WAS BY CANDIDATE EDDIE
15 RISPONE BEGINS WITH MUGSHOTS OF BLACK MEN PROMINENTLY
16 DISPLAYED ALONGSIDE ADDITIONAL MUGSHOTS OF TWO OTHER
17 MEN WHO COULD BE LATINO. THE IMAGERY -- THEN ALSO IN
18 THE UPPER CORNER CONTAINS THE ALL-WHITE, NONCANDIDATE
19 IMAGES OF RISPONE WITH HIS CONSTITUENTS THAT MCILWAIN
20 AND CALIENDO MARK AS COMMON IN THE SENSE THAT IT'S
21 LIKE THESE ARE THE PEOPLE WE'RE TRYING TO PROTECT.

22 AND THEN YOU ALSO SEE WORDS LIKE "SANCTUARY
23 CITY," AGAIN, THOSE CODE WORDS AS WELL. AND I HAVE
24 THE TEXT OF THE AUDIO AS WELL, WHICH SAYS "DANGEROUS,
25 SICK, VIOLENT. JOHN BEL EDWARDS PUT THEM BACK ON OUR

02:23p

1 STREETS WHERE THEY ROBBED, ATTACKED, MURDERED. UNDER
2 EDWARDS MURDER IS UP 20 PERCENT. THOUSANDS OF
3 DANGEROUS CRIMINALS RELEASED AND NEW ORLEANS A
4 SANCTUARY CITY MECCA FOR LAWLESSNESS. EDDIE RISPONE
5 WILL BAN SANCTUARY CITIES AND LEAVE FORGIVENESS TO
6 GOD, NOT GOVERNMENT. COMMIT THE CRIME, DO THE TIME.
7 EDDIE RISPONE FOR GOVERNOR."

8 Q THANK YOU, DR. BURCH.

9 I'D LIKE TO LEAN IN A LITTLE BIT MORE TO
10 YOUR DISCUSSION OF IMPLICIT RACIAL APPEALS. ARE
11 THESE APPEALS MEANT TO SHOCK THE CONSCIENCE OR ARE
12 THEY DESIGNED TO CUE OTHER SIGNALS OR SUBCONSCIOUS
13 BIASES?

14 A YES. SO I CAN GO BACK TO MY REPORT AND TALK
15 SPECIFICALLY ABOUT THIS. CANDIDATES -- BECAUSE --
16 THESE ADS HAPPEN BECAUSE CANDIDATES -- I'M ON PAGE 22
17 OF MY REPORT. THEY STILL HAVE AN INCENTIVE TO APPEAL
18 TO WHITE RACIAL FEARS. AND KIND OF THIS COMBINATION
19 OF PHENOMENA, THE NEED TO APPEAR RACIALLY EGALITARIAN
20 WHILE ACTIVATING RACIAL ATTITUDES IS WHY YOU HAVE TO
21 DO THIS THROUGH COVERT OR IMPLICIT MEANS SUCH AS
22 IMAGES OR CODED LANGUAGE. SO IT'S ALMOST TRYING TO
23 ACT SUBCONSCIOUSLY.

24 Q DOES THAT REFLECT AT ALL ON WHY THESE CUES
25 MIGHT RESONATE DIFFERENTLY FOR DIFFERENT AUDIENCES?

02:25p

1 A YES.

2 Q CAN YOU DESCRIBE EXAMPLES OF ANY OTHER KINDS
3 OF RACIAL APPEALS YOU LOOKED AT IN LOUISIANA BEYOND
4 OR INCLUDING THE STATEWIDE ELECTIONS WE JUST
5 DISCUSSED?

6 A I FOCUSED PRIMARILY ON THE GUBERNATORIAL
7 ELECTION. BUT THERE WERE EVEN IN THAT EXCHANGE SOME
8 OTHER ACTORS, NOT JUST THE CANDIDATES WHO RELEASED
9 ADS. FOR INSTANCE, I INCLUDE AN EXAMPLE FROM STATE
10 SENATOR CONRAD APPEL AND FROM THE LOUISIANA
11 REPUBLICAN PARTY AS WELL.

12 Q ANY OTHER HISTORIC EXAMPLES OF RACIAL
13 APPEALS THAT YOU IDENTIFIED IN YOUR REPORT?

14 A YES. SO I ALSO DISCUSSED THE CANDIDACY IN
15 RACIAL APPEALS GOING BACK TO DAVID DUKE IN LOUISIANA,
16 WHO OBVIOUSLY, FOR THE RECORD, WAS A FORMER GRAND
17 WIZARD OF THE KU KLUX KLAN WHO WON A STRONG MAJORITY
18 OF LOUISIANA'S WHITE VOTE IN THREE STATEWIDE
19 ELECTIONS, AND HE RAN ON A PLATFORM THAT OPENLY
20 APPEALED TO WHITE RACIAL FEARS.

21 Q OVERALL, DR. BURCH, WHAT WERE YOUR
22 CONCLUSIONS ABOUT THE EFFECT OF RACIAL CAMPAIGN
23 APPEALS IN LOUISIANA?

24 A SO I CONCLUDED THAT POLITICAL CAMPAIGNS IN
25 LOUISIANA, THERE IS HISTORICAL EVIDENCE THAT THEY

02:26p

1 HAVE MADE RACIAL APPEALS AND THEY STILL HAVE IMPLICIT
2 AND EXPLICIT RACIAL APPEALS THAT COME OUT IN THESE
3 CAMPAIGNS IN THE ELECTIONS THAT I -- THE CONTEMPORARY
4 ELECTIONS THAT I STUDIED. AND THOSE RACIAL APPEALS
5 FEATURED PROMINENTLY IN THE 2019 GUBERNATORIAL
6 ELECTION. AND NOT JUST BY THE CANDIDATES BUT OTHER
7 POLITICAL ORGANIZATIONS MADE THEM, TOO.

8 Q AND DO YOU HAVE ANY REASON TO BELIEVE THAT
9 SIMILAR TYPES OF APPEALS HAVE CEASED TO EXIST IN THE
10 STATE SINCE 2019?

11 A NO.

12 Q ALL RIGHT. LET'S MOVE ALONG TO YOUR
13 ANALYSIS OF SENATE FACTOR 7 REGARDING THE EXTENT TO
14 WHICH BLACK LOUISIANIANS HAVE BEEN ELECTED TO OFFICE.

15 DR. BURCH, IF YOU CAN TURN YOUR ATTENTION TO
16 THE NEXT SLIDE RIGHT HERE, THIS REPLICATES DATA
17 POINTS FROM PAGE 25 OF YOUR REPORT. JUST OFFERS A
18 VISUALIZATION OF NUMBERS THAT YOU CITE. WHAT DOES
19 THIS SLIDE CONVEY -- LET'S START WITH THE FEDERAL
20 LEVEL HERE. WHAT DID YOUR RESEARCH FIND WITH RESPECT
21 TO REPRESENTATION FOR BLACK LOUISIANIANS IN FEDERAL
22 POSITIONS?

23 A SO IF WE JUST LOOK AT THE LEFT-HAND PART OF
24 THIS SLIDE, WE CAN SEE FOR THE CONGRESSIONAL
25 DELEGATION CURRENTLY IN LOUISIANA THERE -- WHERE THE

02:27p

1 PURPLE IS THE BLACK REPRESENTATIVES AND YELLOW IS
2 WHITE REPRESENTATIVES -- ONE OUT OF SIX
3 REPRESENTATIVES IN THE CONGRESSIONAL DELEGATION ARE
4 BLACK.

5 AND WITH RESPECT TO THE NUMBER OF BLACK
6 LOUISIANIANS WHO HAD EVER BEEN SENT TO CONGRESS,
7 THERE ARE FIVE IN THE HISTORY OF THE STATE. AT LEAST
8 THREE CAME FROM CONGRESSIONAL DISTRICT 2. AND SINCE
9 THE -- AND ONE WAS ELECTED IN RECONSTRUCTION. AND
10 SINCE THEN ALL OF THE OTHERS CAME FROM MAJORITY-
11 MINORITY DISTRICTS.

12 Q HAS THERE EVER BEEN A BLACK SENATOR ELECTED
13 FROM LOUISIANA?

14 A I COULD NOT FIND ONE.

15 Q LET'S LOOK AT SOME OF THE OTHER POSITIONS
16 YOU ANALYZED HERE. WHAT CAN THEY TELL US ABOUT
17 REPRESENTATION OF BLACK PEOPLE IN LOUISIANA?

18 A YES. SO WITH RESPECT TO THE STATE
19 LEGISLATURE, BLACK LEGISLATORS HOLD ABOUT 25 PERCENT
20 OF ALL OF THE STATE LEGISLATIVE SEATS. AND THAT'S
21 ACROSS THE HOUSE AND SENATE. AND THERE IS 26 BLACK
22 LEGISLATORS IN THE HOUSE OUT OF 105 AND LESS -- AND I
23 THINK ABOUT TEN LOUISIANA STATE SENATORS OUT OF 39
24 TOTAL SEATS ARE BLACK.

25 Q WHAT ABOUT SOME OF THE OTHER POSITIONS?

02:29p

1 A SO THERE IS ALSO SOME -- IF YOU THINK ABOUT
2 THE STANDARD OF ABOUT OVER 30 PERCENT OF THE STATE IS
3 BLACK, STATE COURT JUDGES ARE ALSO -- BLACK PEOPLE
4 ARE ALSO UNDER-REPRESENTED ON THE STATE BENCH, ALSO
5 WITH RESPECT TO COUNTY -- WITH EXECUTIVE -- OTHER
6 EXECUTIVE POSITIONS LIKE MAYORS, AND ALSO THERE IS
7 UNDER-REPRESENTATION ON THE BOARD OF ELEMENTARY AND
8 SECONDARY EDUCATION.

9 Q AND FROM YOUR AWARENESS, ARE ANY OF THESE
10 ELECTED OFFICIALS ELECTED FROM BLACK-MAJORITY
11 DISTRICTS?

12 A I'M SURE THAT SOME ARE. I THINK THERE --
13 I'M NOT SURE A HUNDRED PERCENT ABOUT ALL OF THE --
14 FOR INSTANCE, THE MAYORS. BUT THE STATE LEGISLATIVE
15 SEATS MOST PROBABLY ARE.

16 Q HAS THERE EVER BEEN A BLACK GOVERNOR OR A
17 LIEUTENANT GOVERNOR IN LOUISIANA SINCE
18 RECONSTRUCTION?

19 A NOT SINCE RECONSTRUCTION.

20 THE REPORTER: I'M SORRY.

21 THE WITNESS: NOT SINCE RECONSTRUCTION.

22 BY MS. WENGER:

23 Q DR. BURCH, WHAT WERE YOUR OVERALL
24 CONCLUSIONS FROM YOUR ANALYSIS OF SENATE FACTOR 7?

25 A SO OVERALL I CONCLUDED THAT BLACK PEOPLE ARE

02:30p

1 ABOUT A THIRD OF LOUISIANA'S OVERALL POPULATION BUT
2 ARE UNDER-REPRESENTED AMONG ELECTED OFFICIALS AT ALL
3 LEVELS OF GOVERNMENT INCLUDING AMONG EXECUTIVES SUCH
4 AS GOVERNOR, LIEUTENANT GOVERNOR, MAYOR AND
5 LEGISLATORS AT THE FEDERAL AND STATE LEVEL, AND
6 JUDGES.

7 Q THANK YOU.

8 DR. BURCH, LET'S MOVE TO YOUR DISCUSSION OF
9 SENATE FACTOR 8 REGARDING ANY LACK OF RESPONSIVENESS
10 FROM ELECTED OFFICIALS TO THE NEEDS OF BLACK
11 CONSTITUENTS. I'D LIKE TO START WITH THE METRICS YOU
12 ASSESSED. CAN YOU TURN TO THE SLIDE ON YOUR SCREEN
13 HERE AND EXPLAIN A BIT WHAT THESE VISUALIZATIONS
14 INTEND TO CONVEY.

15 A YES. SO THESE DATA POINTS FROM MY REPORT
16 TALK ABOUT THE FACT THAT LOUISIANA -- IF YOU'RE
17 LOOKING IN COMPARISON WITH THE OTHER 50 STATES --
18 LOUISIANA RANKS 48TH OUT OF 50 IN MATH ACHIEVEMENT,
19 46 OUT OF 50 IN CANCER DEATH RATE, 44 OUT OF 50 IN
20 LIFE EXPECTANCY. AND ON ALL OF THESE DIMENSIONS THAT
21 I JUST TALKED ABOUT IN MY REPORT, BLACK PEOPLE ARE
22 WORSE OFF RELATIVE TO WHITE PEOPLE IN THE STATE AMONG
23 ALL OF THESE DIMENSIONS WHERE LOUISIANA IS DOING
24 POORLY.

25 AND SO WHEN WE THINK ABOUT RESPONSIVENESS,

02:31p

1 THEN WE WANT TO THINK ABOUT THE EXTENT TO WHICH WE'RE
2 -- THE STATE IS ENACTING POLICIES THAT ARE DESIGNED
3 TO ADDRESS SOME OF THESE ISSUES. AND SO -- BUT ONE
4 OF THE EXAMPLES OF THE WAYS THAT PERHAPS THIS IS NOT
5 HAPPENING IS A QUOTATION BY SENATOR CASSIDY, WHICH I
6 THINK GOES TO THE HEART OF RESPONSIVENESS.

7 SO IN TALKING ABOUT MATERNAL MORTALITY AND
8 PRESENTED WITH DATA THAT LOUISIANA IS PERFORMING
9 POORLY WITH RESPECT TO MATERNAL MORTALITY, SENATOR
10 CASSIDY SAID IN RESPONSE "ABOUT A THIRD OF OUR
11 POPULATION IS AFRICAN AMERICAN; AFRICAN AMERICANS
12 HAVE A HIGHER INCIDENCE OF MATERNAL MORTALITY. SO,
13 IF YOU CORRECT OUR POPULATION FOR RACE, WE'RE NOT AS
14 MUCH OF AN OUTLIER AS IT'D OTHERWISE APPEAR."

15 Q FOR CLARITY OF THE RECORD, THAT'S FROM PAGE
16 26 OF YOUR REPORT.

17 TURNING TO THE NEXT SLIDE, YOU DISCUSS
18 CANCER ALLEY IN YOUR REPORT AND I HEARD YOU MENTION
19 IT EARLIER. HOW DOES CANCER ALLEY IN LOUISIANA
20 REFLECT ON THE RESPONSIVENESS OF ELECTED OFFICIALS TO
21 THE NEEDS OF BLACK PEOPLE IN YOUR ASSESSMENT?

22 A SO I THOUGHT THAT THIS WAS AN INTERESTING
23 INCIDENT BECAUSE -- EXAMPLE -- BECAUSE THERE IS A
24 SPECIFIC INSTANCE IN WHICH IN 2021 PRESIDENT BIDEN
25 ANNOUNCED SEVERAL CLIMATE-RELATED EXECUTIVE ORDERS

02:33p

1 THAT WERE DESIGNED TO PROMOTE ENVIRONMENTAL JUSTICE
2 AND HELP PLACES AND MENTIONED LOUISIANA'S CANCER
3 ALLEY SPECIFICALLY. SENATOR CASSIDY ACTUALLY GOT
4 ANGRY AND CALLED THOSE REMARKS THAT HE MADE A SLAM ON
5 THE STATE AND THEN DENIED THAT POLLUTION WAS A FACTOR
6 IN CAUSING THESE ELEVATED CANCER RATES, WHICH I HAVE
7 ALREADY SAID RESEARCH HAS SHOWN THAT AIR POLLUTION
8 AND THE LIKE IN THESE AREAS DOES MATTER. AND SO
9 INSTEAD WE SAW BEHAVIORAL FACTORS THAT HE BLAMED FOR
10 THE ELEVATED CANCER RATES.

11 SO SENATOR CASSIDY SAYS -- AND I CITE IT ON
12 PAGE 26 -- "WE HAVE A HIGHER INCIDENCE OF CIGARETTE
13 SMOKING, OF OBESITY, OF CERTAIN VIRAL INFECTIONS, AND
14 OTHER THINGS WHICH INCREASE THE INCIDENCE OF CANCER
15 IN OUR STATE."

16 AND AGAIN, PEOPLE WHO -- ADVOCATES FOR THE
17 AREA CALLED CANCER ALLEY WHO HEARD THIS TOOK THIS AS,
18 YOU KNOW, IT'S ALWAYS -- THE QUOTE IS: "IT'S ALWAYS
19 'BLAME THE FOLKS' -- THE POOR BLACK FOLKS -- FOR
20 THEIR OWN DEMISE." SO THAT, AGAIN, THEY SAW THAT
21 COMMENT AS BEING NOT RESPONSIVE TO THE NEEDS,
22 ESPECIALLY WHEN SOMEONE AT THE FEDERAL LEVEL WAS
23 TRYING TO HELP THE AREA.

24 Q ALL RIGHT. MOVING TO THE NEXT SLIDE,
25 PULLING DATA CITED FROM PAGES 26 TO 27 OF YOUR

02:34p

1 REPORT, CAN YOU DESCRIBE WHY THIS SURVEY DATA -- WHAT
2 THIS SURVEY DATA TELLS US ABOUT BLACK LOUISIANIANS'
3 OWN SENSE OF THEIR ELECTED OFFICIALS' RESPONSIVENESS?

4 A SO I TOOK DATA FROM THE 2022 LOUISIANA
5 SURVEY, WHICH IS A REPRESENTATIVE SURVEY OF THE
6 STATE. AND IT SHOWS THAT ACROSS THE STATE ABOUT 70
7 PERCENT OF BLACK RESPONDENTS TO THE SURVEY AGREED
8 THAT, QUOTE, MOST ELECTED OFFICIALS IN LOUISIANA
9 DON'T CARE WHAT PEOPLE LIKE ME THINK. AND THAT
10 FIGURE IS ACTUALLY PRETTY SIMILAR TO WHAT WHITE
11 LOUISIANIANS THINK. BUT THEN THERE IS SPECIFIC
12 REASONS THAT BLACK LOUISIANIANS FEEL THAT WAY. AND
13 THEY GO ON IN THE SURVEY TO TALK ABOUT BLACK PEOPLE
14 IN THE STATE FEEL THAT THEY ARE DISCRIMINATED AGAINST
15 POLITICALLY. SO FEWER BLACK LOUISIANIANS WERE VERY
16 CONFIDENT THAT PEOPLE WHO ARE LEGALLY QUALIFIED TO
17 VOTE ARE ABLE TO IN THE STATE, AND A MAJORITY OF
18 BLACK LOUISIANIANS BELIEVE THAT, QUOTE, BLACK PEOPLE
19 ARE TREATED LESS FAIRLY THAN WHITE PEOPLE WHEN VOTING
20 IN ELECTIONS.

21 Q THANK YOU.

22 TURNING TO THE NEXT SLIDE, CAN YOU EXPLAIN
23 HOW PUBLIC TESTIMONY FROM THE REDISTRICTING PROCESS
24 PLAYED INTO YOUR ANALYSIS OF SENATE FACTOR 8?

25 A SO IF YOU THINK ABOUT THE DATA THAT I JUST

02:35p

1 CITED ABOUT THE CONCERN ABOUT POLITICAL INEQUALITY
2 AMONG BLACK PEOPLE IN THE STATE, THESE CONCERNS THAT
3 I PULLED FROM THE REDISTRICTING ROADSHOWS AND
4 HEARINGS ACTUALLY IS A REFLECTION OF WHAT WE SEE IN
5 THE SURVEY DATA STATEWIDE. AND SO WE SEE QUOTES, FOR
6 INSTANCE, FROM LYDIA LARSE WHO SAYS -- WHO -- I
7 WATCHED THE VIDEO AND SHE APPEARED TO BE AFRICAN
8 AMERICAN TO ME, AND FROM HER STATEMENTS SEEM SO. SHE
9 SAYS, QUOTE, THE CONSTITUTION STARTS WITH WE THE
10 PEOPLE. I DON'T FEEL THAT. NONE OF YOU GUYS UP HERE
11 REPRESENT ME, BUT A FEW. WE'RE ONE-THIRD OF THE
12 STATE, AND I'M NOT BEING REPRESENTED. OUR VOICES ARE
13 NOT BEING HEARD. AT ALL. I FEEL AS THOUGH MY VOICE
14 IS NOT BEING HEARD BECAUSE Y'ALL DON'T NEED US.
15 WE'RE NOT NEEDED. YOU DON'T CARE.

16 DO YOU -- ADAM MOORE SAYS, "DO WE CARE ABOUT
17 GERRYMANDERING? HEY, LET'S ISOLATE THESE PEOPLE OVER
18 HERE. DO YOU CARE? HELP US. DO ANYONE CARE? HEY,
19 IT'S NOT MY FAULT I'M BLACK. I WAS BORN THIS WAY."

20 A COUPLE OF OTHER PEOPLE IN THOSE -- WELL,
21 SEVERAL OTHER PEOPLE SAID THINGS LIKE THIS, BUT JUST
22 A COUPLE OF EXAMPLES ON THE SLIDE THAT LINK
23 REPRESENTATION TO OUTCOMES COME FROM KETURAH BUTLER-
24 REED WHO SAYS, "I CHALLENGE YOU TO PUSH FOR MORE
25 MAJORITY-MINORITY DISTRICTS BECAUSE MORE MEANS MORE

02:37p

1 RESOURCES POURED INTO BLACK SCHOOLS AND MORE OF A
2 SIGNIFICANT VOICE IN BLACK PEOPLE CHOOSING ELECTED
3 OFFICIALS BECAUSE THAT IS REFLECTIVE OF THE NUMBERS
4 OF THE PEOPLE." SO TYING THAT THEY NEED THOSE
5 MAJORITY-MINORITY DISTRICTS TO TRANSLATE INTO
6 RESOURCES AND OUTCOMES.

7 DEONDRE BELL, II: "AND SO, TO DEPRIVE
8 ONE-THIRD OF THE STATE'S POPULATION OF THE ABILITY TO
9 ELECT THEIR PREFERRED CANDIDATE KEEPS LOUISIANA AT
10 THE BOTTOM OF NEARLY EVERY STATISTIC IN THIS
11 COUNTRY."

12 SO THEY'RE KIND OF, AGAIN, MAKING THOSE SAME
13 CONNECTIONS THAT I MADE IN MY REPORT.

14 Q THANK YOU, DR. BURCH.

15 TURNING TO THE NEXT SLIDE, WHAT DO THESE
16 METRICS PULLED FROM PAGE 28 OF YOUR REPORT INDICATE
17 ABOUT THE RESPONSIVENESS OF LOUISIANA LEGISLATORS
18 DURING THE PASSAGE OF THE CHALLENGED SENATE DISTRICTS
19 HERE?

20 A SO WHAT WAS INTERESTING FROM THE PUBLIC
21 TESTIMONY THAT WE SAW IN LOOKING AT THE PASSAGE OF
22 THE MAPS, 80 PEOPLE SUBMITTED PUBLIC COMMENT CARDS
23 AGAINST THE ENACTED MAP WITHOUT SPEAKING. AN
24 ADDITIONAL 22 PEOPLE SPOKE AGAINST THE ENACTED MAP
25 AND IN FAVOR OF MORE MAJORITY-MINORITY DISTRICTS.

02:38p

1 AND THERE WERE NO PEOPLE THAT MADE PUBLIC COMMENTS IN
2 SUPPORT OF THE STATUS QUO NUMBER OF MAJORITY-MINORITY
3 SENATE SEATS.

4 AND SO IT'S VERY CLEAR THAT THE PUBLIC
5 COMMENT THAT SENATORS HEARD THERE WAS CLEARLY IN
6 SUPPORT IN INCREASING MINORITY REPRESENTATION. AND
7 SIMILARLY, PEOPLE -- 56 PEOPLE SUBMITTED COMMENT
8 CARDS IN SUPPORT OF THE ALTERNATIVE MAP THAT ADDED
9 MAJORITY-MINORITY DISTRICTS. SO THERE IS CLEAR
10 SUPPORT FOR ADDING MAJORITY-MINORITY DISTRICTS, BUT
11 THAT WAS NOT -- OBVIOUSLY WITH THE OUTCOME, THOSE
12 WERE NOT -- THE LEGISLATURE WAS NOT RESPONSIVE TO
13 THOSE.

14 Q THANK YOU, DR. BURCH.

15 OVERALL WHAT WERE YOUR FINDINGS REGARDING
16 THE PRESENCE OF SENATE FACTOR 8 IN THE CONTEXT OF
17 THIS STATE IN THIS CASE?

18 A SO I FIND THAT THE OUTCOMES OF POLICIES DO
19 NOT TRACK THE SPECIFIC NEEDS OF THE MINORITY
20 COMMUNITY IN SEVERAL WAYS. AND I FEEL LIKE IN MY
21 REPORT I'VE SHOWED THE WAYS THAT, AGAIN, OUTCOMES
22 OVER TIME HAVE BEEN PERSISTENT IN TERMS OF RACIAL
23 GAPS IN EDUCATION AND CRIMINAL JUSTICE AND THE LIKE.
24 BLACK LOUISIANIANS EXPRESSED IN SURVEYS AND TO THE
25 LOUISIANA LEGISLATURE THAT THEY ARE NOT VALUED

02:39p

1 EQUALLY AND DON'T FEEL VALUED EQUALLY BY ELECTED
2 REPRESENTATIVES AND FEEL DISCRIMINATED AGAINST IN
3 POLITICS. AND THEN THEY CONNECT THAT POLITICAL
4 INEQUALITY WITH POOR OUTCOMES AS WELL.

5 SO IT'S -- JUST LISTENING TO THE VOICES OF
6 THE PEOPLE, IT'S VERY CLEAR THAT THEY ARE SAYING THEY
7 FEEL THAT THEIR GOVERNMENT IS NOT RESPONSIVE TO THEM.

8 Q THANK YOU, DR. BURCH.

9 LET'S TURN TO YOUR ANALYSIS OF THE LAST
10 SENATE FACTOR YOU WORKED ON HERE REGARDING THE
11 TENUOUSNESS OF THE LEGISLATURE'S UNDERLYING POLICY
12 JUSTIFICATIONS FOR THEIR ENACTED STATE LEGISLATIVE
13 MAPS.

14 FIRST, WHAT SOURCES DID YOU USE TO EXAMINE
15 AND ASSESS SENATE FACTOR 9?

16 A SO I INCLUDE HERE SEVERAL VIDEOS OF -- AND
17 ANALYZED THE HEARINGS, THE ROADSHOWS, THE -- SOME
18 OTHER NEWS OR PUBLIC SPEECHES MADE BY LEGISLATORS IN
19 THIS SECTION OF THE REPORT.

20 Q THANK YOU.

21 BASED ON YOUR REVIEW OF THE LEGISLATORS'
22 STATEMENTS, WHAT DID YOU IDENTIFY AS THE KEY POLICY
23 CONSIDERATIONS LEGISLATORS OFFERED TO JUSTIFY THE
24 LEGISLATIVE MAPS ENACTED WITHOUT SUBSTANTIVELY
25 INCREASING REPRESENTATION FOR BLACK VOTERS?

02:40p

1 A SO IN MY ANALYSIS I PUT THE REASONS FOR NOT
2 DRAWING ADDITIONAL MINORITY DISTRICTS INTO THREE
3 BUCKETS. SO THE SUPPORTERS OF THE BILL ARGUE THAT
4 ADDITIONAL MAJORITY-MINORITY DISTRICTS WOULD FIRST
5 DILUTE THE BLACK VOTE; SECOND, UNDERMINE INCUMBENCY
6 PROTECTION AND; THIRD, VIOLATE COMMUNITIES OF
7 INTEREST. AND SO I DISCUSS THOSE IN TURN IN MY
8 REPORT.

9 Q GENERALLY, DR. BURCH, DID YOU FIND THAT
10 LEGISLATORS SUPPORTED THESE CLAIMS WITH EVIDENCE?

11 A NO.

12 Q LET'S LOOK AT SOME OF THE TESTIMONY YOU
13 ANALYZED, TURNING TO THE SLIDE ON YOUR SCREEN. CAN
14 YOU DESCRIBE YOUR FINDINGS REGARDING THE TESTIMONY
15 PRESENTED BY THE RESPECTIVE SPONSORS OF THE ENACTED
16 MAP? WE CAN START WITH SB 1.

17 A YES. SO SENATE PRESIDENT CORTEZ TESTIFIED
18 AT VARIOUS POINTS. HE AGREED THAT THE MAP IN SENATE
19 BILL 1 DID NOT INCREASE MAJORITY-MINORITY SENATE
20 DISTRICTS FROM THE PRIOR MAP. AND HE DID AGREE THAT
21 LOUISIANA DEMOGRAPHICS HAD SHIFTED. HE AGREED THAT
22 IT WAS POSSIBLE TO CREATE ADDITIONAL MAJORITY-
23 MINORITY DISTRICTS. BUT THEN HE CHOSE NOT TO. AND
24 THEN HE LISTS SPECIFICALLY THREE REASONS. HE SAYS
25 CONTINUITY OF REPRESENTATION, MINORITY VOTE DILUTION,

02:42p

1 AND COMPACTNESS.

2 Q HOW ABOUT FOR HOUSE BILL 14?

3 A SO CHAIRMAN STEFANSKI WAS A LITTLE LESS
4 CLEAR ABOUT THE PRIORITIES FOR DRAWING THE MAP IN HB
5 14, SO HE GAVE A LIST OF FACTORS THAT HE TOOK INTO
6 ACCOUNT AND AT VARIOUS POINTS MENTIONED POPULATION
7 SIZE, GEOGRAPHY, COMMUNITIES OF INTEREST, LAWS,
8 PUBLIC COMMENTS, MEMBERS' DESIRES FOR THEIR COMMUNITY,
9 AND CONCERNS ABOUT POPULATION LOSS IN NORTH LOUISIANA
10 AS WELL.

11 Q AMONG THOSE LAUNDRY LIST OF FACTORS, DID YOU
12 FIND HE ALSO MADE REFERENCE TO THOSE BUCKETS OF
13 CLAIMS THAT YOU HEARD IN PRESIDENT CORTEZ'S
14 TESTIMONY?

15 A YES.

16 Q THANK YOU.

17 ALL RIGHT. LET'S LOOK CLOSER AT YOUR
18 ANALYSIS OF THE LOUISIANA LEGISLATURE'S PURPORTED
19 CONCERNS REGARDING MINORITY VOTE DILUTION. TURNING
20 TO THE SLIDE BEFORE YOU WHICH PULLS FROM PAGES 30
21 THROUGH 35 OF YOUR REPORT, CAN YOU DESCRIBE YOUR
22 FINDINGS?

23 A YES. SO I FOUND THAT THERE WAS AN ARGUMENT
24 THAT WAS MADE BOTH IN SUPPORT OF SB 1 AND HB 14 THAT
25 ADDING A SECOND MAJORITY-MINORITY DISTRICT WOULD

02:43p

1 DILUTE THE BLACK VOTE. AND SO WHAT THAT MEANS
2 SPECIFICALLY IS THAT THE -- SO THERE IS THIS IDEA
3 THAT THE VOTING RIGHTS ACT KIND OF REQUIRES THE
4 PACKING OF MINORITY VOTERS INTO MAJORITY-MINORITY
5 DISTRICTS IN VERY HIGH CONCENTRATIONS IN ORDER TO
6 GUARANTEE THAT THE MINORITY GROUP WILL ELECT A
7 CANDIDATE OF CHOICE. SO IN PRESIDENT CORTEZ'S WORDS,
8 IT CAN'T JUST BE AN OPPORTUNITY BUT A SLAM DUNK. SO
9 UNDER THAT STANDARD, EVEN DISTRICTS WITH LIKE 53
10 PERCENT MINIMUM BLACK VOTING AGE POPULATIONS WOULD
11 NOT BE ADEQUATE UNDER THE VOTING RIGHTS ACT.

12 AND SO HE SAYS SPECIFICALLY -- I QUOTE HIM
13 ON PAGE 31 IN A LONG QUOTE: "SO, WHAT IS 50 PERCENT
14 PLUS ONE GIVES YOU A MAJORITY OF" -- "MAJORITY OF THE
15 MINORITY IF THAT'S THE POPULATION YOU LOOKING AT, BUT
16 IF THEY ONLY TURN OUT AT 30 OR 35% RATE, AND THE
17 OTHER POPULATION TURNS OUT AT 40 OR 50% RATE, THE
18 MINORITY GROUP IS GOING TO, I'M TRYING TO BE CLEAR.
19 THE MINORITY IS GOING TO HAVE A HIGHER NUMBER OF
20 VOTING AGE POPULATION, BUT THEY WON'T VOTE AND THEY
21 WON'T ELECT THE CANDIDATE OF THEIR CHOICE." AND SO
22 THAT'S KIND OF HIS ARGUMENT ABOUT VOTE DILUTION.

23 Q DID HE USE ANY DATA TO BACK UP THAT
24 ARGUMENT?

25 A NO.

02:44p

1 Q IN YOUR ANALYSIS, DR. BURCH, DID ANY OF THE
2 SUPPORTERS' OR THE SPONSORS' COLLEAGUES PUSH BACK
3 AGAINST THE USE OR SUGGESTION OF THE RELEVANCY OF
4 THESE METRICS OR THEORIES?

5 A OH, YES. SO THERE WERE LONG DISCUSSIONS
6 ABOUT THIS, ACTUALLY, IN THE RECORD. AND SO THEY
7 HEARD SEVERAL ARGUMENTS FROM -- ESPECIALLY FROM
8 MEMBERS OF THE BLACK CAUCUS THAT TALKED ABOUT AND
9 CALLED INTO QUESTION THESE CLAIMS. SO, FOR INSTANCE,
10 SENATOR PRICE -- AND I HAVE HIM QUOTED ON PAGE 32.
11 HE'S BASICALLY RECALLING OTHER -- MORE COMMENTS THAT
12 HAD BEEN MADE BY SENATOR TARVER. HE ARGUED THAT THE
13 REQUIREMENT WAS FOR AN OPPORTUNITY, NOT A GUARANTEE.

14 AND SO HE SAYS, "UNDER SECTION 2 OF THE 1965
15 VOTING RIGHTS ACT, IT SPECIFICALLY TALKS ABOUT THE
16 FACT OF GIVING PEOPLE OPPORTUNITY AND OPPORTUNITY, I
17 THINK, IT'S ALL THAT WE CAN ASK FOR, AND YOU SAY,
18 WELL, YOU MAY NOT BE ABLE TO ELECT, BUT AS SENATOR
19 TARVER SAID, IT'S UP TO THE PERSON IN THE DISTRICT TO
20 GET OUT THERE AND MAKE SURE THAT ITS CONSTITUENTS
21 COME OUT AND VOTE AND AT LEAST GIVE THEMSELVES THAT
22 OPPORTUNITY. IF WE DO NOT INCREASE THE MINORITY
23 DISTRICT, WE'LL NEVER HAVE THAT OPPORTUNITY. IF WE
24 JUST STAY STATUS QUO AS THE MAP IS RIGHT NOW WITHOUT
25 EVEN CONSIDERING INCREASE, THEN THE OPPORTUNITY GOES

02:46p

1 AWAY, I THINK, UNDER SECTION 2, IT CLEARLY STATES
2 THAT WE MUST BE GIVEN AN OPPORTUNITY TO ELECT A
3 PERSON OF OUR CHOICE, AND BY NOT PROVIDING THAT
4 OPPORTUNITY, I THINK, IT VIOLATES SECTION 2 OF THE
5 CIVIL RIGHTS ACTS."

6 Q SOME OF THESE CITATIONS THAT YOU PULLED FROM
7 YOUR REPORT -- FOR EXAMPLE, FROM SENATOR PRICE WHO I
8 BELIEVE REPRESENTS NAPOLEONVILLE, SENATOR TARVER, A
9 FORMER OR CURRENT SENATOR FROM SHREVEPORT -- DID YOU
10 FIND THAT THEIR SENTIMENTS AND DEBATE IN THE
11 LEGISLATIVE RECORD THAT YOU REVIEWED BETTER REFLECTED
12 SOME OF THOSE PUBLIC COMMENTS OR TESTIMONY YOU
13 REVIEWED FROM THE ROADSHOW AND THE LEGISLATIVE
14 PROCESS?

15 A YES.

16 Q INCLUDING FROM BLACK CONSTITUENTS?

17 A YES.

18 Q IT WAS MORE RESPONSIVE TO WHAT THEY HAD
19 HEARD FROM THE PEOPLE THAT SPOKE UP IN THIS PROCESS?

20 A YES.

21 Q LET'S TURN TO YOUR ANALYSIS OF THE
22 LEGISLATURE'S PRIORITIZATION OF INCUMBENT PROTECTION,
23 TURNING TO THE NEXT SLIDE PULLED FROM PAGES 35 TO 38
24 OF YOUR REPORT. CAN YOU DESCRIBE YOUR FINDINGS?

25 A YES. SO BY INCUMBENCY PROTECTION, THIS IS

02:47p

1 NOT -- THAT TERM IS NOT EXPLICITLY USED AS -- BUT,
2 RATHER, AT LEAST IT COMES UP IN A COUPLE OF DIFFERENT
3 WAYS.

4 SO PRESIDENT CORTEZ ARGUED THAT ADDING
5 MAJORITY-MINORITY DISTRICTS WOULD VIOLATE THE
6 PRINCIPLE OF WHAT HE CALLED CONTINUITY OF
7 REPRESENTATION. AND WHAT HE MEANT BY THAT IS, QUOTE,
8 THE THIRD TENET OR PRINCIPLE WAS AS BEST AS POSSIBLE
9 TO MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT
10 DO I MEAN BY THAT? IT MEANS THAT IF YOUR DISTRICT
11 ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO
12 HAVE A RIGHT TO REELECT YOU. AND THAT'S ON PAGE 36
13 OF MY REPORT.

14 AND HE TALKS ABOUT THIS AGAIN IN MAKING IT
15 CLEAR THAT HE'S TALKING ABOUT INCUMBENCY PROTECTION.
16 AND THE HOUSE PLAN, THIS COMES UP NOT AS -- QUOTE,
17 UNQUOTE -- CONTINUITY OF REPRESENTATION BUT THE
18 DESIRE TO MAKE CHANGES ONLY TO DISTRICTS WHERE
19 INCUMBENTS WERE NOT RETURNING BECAUSE OF TERM LIMITS.

20 Q WAS INCUMBENCY PROTECTION INCLUDED IN JOINT
21 RULE 21 OR OTHER GUIDANCE PRESENTED IN ADVANCE OF THE
22 REDISTRICTING PROCESS?

23 A NO. AND IT'S ALSO -- IT'S NOT INCLUDED AS A
24 PRIORITY IN JOINT RULE 21, AND NEITHER IS THE TERM
25 "LIMITED" -- STICKING THE TERM "LIMITED MEMBERS"

02:48p

1 THING. BUT EVEN IF IT WERE, THERE ARE ALTERNATIVE
2 HOUSE PLANS THAT -- FOR INSTANCE, THAT MANAGE TO DRAW
3 ADDITIONAL MAJORITY-MINORITY DISTRICTS WHILE FOCUSING
4 ONLY ON THIS TERM "LIMITED DISTRICT" IDEA. SO THAT'S
5 NOT AN IMPEDIMENT TO ADDING MAJORITY-MINORITY
6 DISTRICTS. THE TWO THINGS AREN'T MUTUALLY EXCLUSIVE.

7 Q THANK YOU, DR. BURCH.

8 FINALLY LET'S TURN TO THE NEXT SLIDE PULLING
9 FROM PAGES 38 THROUGH 42 OF YOUR REPORT. WHAT WAS
10 YOUR ASSESSMENT OF THE DISCUSSION OF COMMUNITIES OF
11 INTEREST LEADING TO THE PASSAGE OF THE ENACTED
12 LEGISLATIVE MAPS HERE IN LOUISIANA?

13 A SO THERE WAS SOME DISCUSSION OF COMMUNITIES
14 OF INTEREST AS A REASON THAT THEY -- THE DRAWERS OF
15 THE ENACTED MAPS COULDN'T ADD MORE MAJORITY-MINORITY
16 DISTRICTS. BUT WHAT'S INTERESTING ABOUT THOSE
17 DISCUSSIONS IS THAT FIRST THEY WEREN'T -- AGAIN, A
18 LOT OF TIMES THE DISCUSSION DIDN'T SAY THAT THOSE --
19 KEEPING THOSE COMMUNITIES INTACT WOULD BE MUTUALLY --
20 AND DRAWING A NEW DISTRICT WAS MUTUALLY EXCLUSIVE.

21 SO, FOR INSTANCE, WITH RESPECT TO THE SENATE
22 MAP, SENATE PRESIDENT CORTEZ ARGUED THAT IT WAS
23 IMPOSSIBLE TO CREATE ADDITIONAL MAJORITY-MINORITY
24 DISTRICTS WITHOUT DISRUPTING THE REPRESENTATION OF
25 THAT COMMUNITY BETWEEN ST. CHARLES AND ST. JOHN

02:49p

1 PARISHES. AND THAT WAS THE PROBLEM WITH ONE OF A NEW
2 MAJORITY-MINORITY DISTRICT. BUT THERE WAS NO ANSWER
3 THAT THE OTHER ONE IN THE SENATE MAP WOULD VIOLATE A
4 PARTICULAR COMMUNITY OF INTEREST. SO IT MIGHT BE AN
5 EXCUSE FOR ONE PARTICULAR CONFIGURATION, BUT YOU
6 COULD DO SOMETHING WITH OTHERS.

7 IT'S ALSO TRUE THAT IT'S NOT REALLY CLEAR
8 WHICH COMMUNITIES OF INTEREST WE WERE TALKING ABOUT
9 PRIORITIZING. SO THE NEEDS OF OTHER COMMUNITIES OF
10 INTEREST THAT WERE DISCUSSED IN THE RECORD, SUCH AS
11 THE BLACK RESIDENTS OF THE WESTBANK IN JEFFERSON
12 PARISH, THOSE WERE IGNORED. AND THEY WERE IGNORED
13 FOR REASONS THAT WERE THINGS LIKE ONE SENATOR WHO
14 WANTED TO REPRESENT HIS SISTER AND HE WAS STILL
15 PAYING STUDENT LOANS TO TULANE. SO THE RATIONALE FOR
16 THAT WAS NOT -- IT WAS NOT COMMUNITIES OF -- THAT
17 COMMUNITY OF INTEREST WAS IGNORED FOR REASONS LIKE
18 THAT.

19 Q THANK YOU, DR. BURCH.

20 DR. BURCH, IN YOUR ASSESSMENT IS THERE
21 POLITICAL SCIENCE DATA TO SUPPORT THE EXISTENCE OF
22 EVERY SINGLE SENATE FACTOR YOU ANALYZED IN LOUISIANA?

23 A YES.

24 Q THANK YOU.

25 I'D NOW LIKE TO SHIFT OUR FOCUS TO THE

02:51p

1 SUPPLEMENTAL REPORT THAT DR. BURCH SUBMITTED IN
2 RESPONSE TO DEFENDANTS' EXPERT, DR. ALFORD. THIS IS
3 PLAINTIFFS' EXHIBIT 128.

4 DO YOU HAVE THAT IN FRONT OF YOU, DR. BURCH?

5 A I DO.

6 Q IS THIS THE REPORT THAT YOU SUBMITTED IN
7 RESPONSE TO YOUR REVIEW OF DR. ALFORD'S REPORT?

8 A YES.

9 Q DR. BURCH, WHAT DOES YOUR SUPPLEMENTAL
10 REPORT EXAMINE?

11 A SO IT LOOKS AT DR. ALFORD'S CONCLUSION THAT
12 CLEAR CORRELATIONS BETWEEN RACE AND VOTING IN
13 LOUISIANA ARE CAUSED BY PARTY COHESION RATHER THAN
14 RACE AND THAT MANY MEASURES OF RACIAL POLARIZATION
15 HAVE DECLINED OVER TIME.

16 AND SO IN ANSWERING THAT, I LOOKED AT THE
17 ROLE OF RACE OR RACIAL ATTITUDES AND PARTISANSHIP IN
18 VOTE CHOICE IN THE POLITICAL SCIENCE LITERATURE.

19 Q WHAT DID YOU REVIEW TO REACH YOUR
20 CONCLUSIONS?

21 A THE RELEVANT LITERATURE IN POLITICAL SCIENCE
22 AND I ALSO HAVE A CHART HERE FROM DATA FROM THE
23 LOUISIANA -- VOTING DATA FROM THE LOUISIANA SECRETARY
24 OF STATE'S OFFICE.

25 Q THANK YOU.

02:52p

1 BEFORE CIRCLING BACK TO YOUR OVERALL
2 FINDINGS, DID YOU REACH ANY CONCLUSIONS ABOUT THE
3 HISTORICAL ROOTS OF THE LINK BETWEEN RACE AND PARTY
4 IN THE UNITED STATES AND HERE IN LOUISIANA?

5 A YES. SO THE POLITICAL SCIENCE LITERATURE IS
6 QUITE CLEAR THAT PARTISAN REALIGNMENT -- THEY
7 DISAGREE SOMETIMES ABOUT THE TIMING. BUT PARTISAN
8 REALIGNMENT REALLY HAPPENED BEGINNING AFTER THE NEW
9 DEAL AND ACCELERATING THROUGH WORLD WAR II AS BLACK
10 VOTERS BEGAN TO VOTE FOR DEMOCRATS IN LARGER NUMBERS.
11 AND THAT MADE THE PARTY MORE RESPONSIVE TO THE NEEDS
12 OF AFRICAN AMERICANS.

13 AND SO YOU CAN THINK ABOUT -- THE DIXIECRAT
14 SUCCESSION IN 1948 WAS WHEN THE DEMOCRATIC PARTY
15 FIRST TRIED TO PUT CIVIL RIGHTS AS A PLANK IN ITS
16 PARTY PLATFORM. AND SOUTHERN DEMOCRATS GOT MAD AND
17 SUCCEDED FROM PARTY FOR A MOMENT. AND SO THERE IS
18 THIS HISTORY OF THE DEMOCRATIC PARTY MOVING MORE
19 TOWARD BEING THE PARTY OF LIBERALIZATION ON RACIAL
20 ISSUES AND CIVIL RIGHTS. AND SO THEN THAT ALL
21 CULMINATED IN THE ELECTION OF 1964 AND YOU STARTED TO
22 SEE THIS EXODUS OF SOUTHERN WHITE VOTERS FROM THE
23 DEMOCRATIC PARTY -- BEGINNING IN THAT LATE 1950s,
24 EARLY 1960s TIME PERIOD -- AS A REFLECTION OF THOSE
25 RACIAL ATTITUDES. AND STUDIES HAVE SHOWN THAT IT IS

02:53p

1 THE CIVIL RIGHTS AND RACIAL ATTITUDES THAT MADE
2 PEOPLE CHANGE -- MOVE OUT OF THE PARTY RATHER THAN
3 INCOME OR OTHER POLICY PREFERENCES.

4 AND SO OTHER STUDIES HAVE SHOWN THAT RACIAL
5 ATTITUDES MORE THAN IDEOLOGICAL SHIFTS OR OTHER
6 POLICY PREFERENCES EXPLAIN AN INCREASINGLY LARGE PART
7 OF CANDIDATE CHOICE AND PARTISANSHIP AMONG WHITE
8 VOTERS BETWEEN 1972 AND 2000. AND THAT PARTISAN
9 SORTING BY RACIAL GROUP HAS ACTUALLY ONLY GOTTEN
10 STRONGER BEGINNING IN 2008 WITH THE ELECTION OF
11 PRESIDENT OBAMA.

12 Q THANK YOU, DR. BURCH.

13 AND DOES THIS HISTORY INFORM YOUR
14 PROFESSIONAL OPINIONS AROUND THE EXISTENCE OF
15 RACIALLY POLARIZED VOTING PATTERNS IN THE STATE OF
16 LOUISIANA?

17 A YES. SO I LOOKED AT SEVERAL STUDIES OF
18 LOUISIANA POLITICS TO TALK ABOUT THE FACT THAT
19 LOUISIANA HAS FOLLOWED THIS SAME PATTERN IN ABOUT THE
20 SAME TIMING AS OTHER -- THE ELECTORATE IN OTHER
21 SOUTHERN STATES. AND SO I CONTINUE -- I TALK ABOUT
22 STUDIES THAT HAVE SHOWN HOW THIS HAPPENED
23 HISTORICALLY THROUGH THE 1996 PRESIDENTIAL ELECTION.
24 AND THEN IN MY REPORT I PICK UP ON THAT, LOOKING AT
25 DATA IN LOUISIANA FROM 2000 TO 2022 PARTY

02:54p

1 REGISTRATION BY RACE.

2 Q LET'S ACTUALLY TURN TO THE NEXT SLIDE THEN.
3 THIS REPLICATES FIGURE 1 IN YOUR SUPPLEMENTAL REPORT.
4 CAN YOU SPEAK TO WHAT THIS CHART TELLS US.

5 A YES. SO THIS IS, LIKE I SAID, DATA FROM THE
6 LOUISIANA SECRETARY OF STATE. AND IT SHOWS THE
7 PERCENTAGE OF LOUISIANA VOTERS REGISTERED AS
8 DEMOCRATS BY RACE. AND THE PURPLE IS BLACK VOTERS
9 AND THE YELLOW IS WHITE VOTERS. AND YOU CAN SEE THAT
10 BLACK VOTERS HOVER AROUND 80 PERCENT, BUT THEY WERE
11 REGISTERED AS DEMOCRATIC. AND IT KIND OF STAYS THAT
12 WAY OVER TIME OVER THE PAST 22 YEARS.

13 BUT WHITE VOTERS CONSISTENTLY, ESPECIALLY
14 BEGINNING BETWEEN THE 2004 AND 2008 PERIOD, YOU SEE
15 THAT DEMOCRATIC REGISTRATION DECLINE. AND SO LIKE I
16 SAID, WHITE VOTERS ARE MOVING OUT OF THE DEMOCRATIC
17 PARTY TO THE POINT WHERE AT -- BY 2022 IT ONLY LOOKS
18 LIKE 22, 21 PERCENT OF WHITE VOTERS ARE STILL
19 REGISTERED AS DEMOCRATS. SO YOU SEE THIS
20 POLARIZATION PLAY OUT OVER TIME EXACTLY AS THE
21 LITERATURE SUGGESTS IT WILL.

22 Q WHAT DOES THE LITERATURE YOU REVIEWED
23 INDICATE, IF ANYTHING, REGARDING PERCEPTIONS OF RACE
24 AND PARTY ALIGNMENT IN THE UNITED STATES?

25 A SO IT TELLS -- THE LITERATURE TELLS US THAT

02:56p

1 PARTISANSHIP AND PARTY ALIGNMENT AND PARTY CHOICE IS
2 ITSELF SHAPED BY RACE AND RACIAL ATTITUDES. SO, FOR
3 INSTANCE, FOR BLACK PEOPLE, THE HIGH RATE OF
4 DEMOCRATIC SUPPORT IS PRIMARILY BASED ON THE IDEA OF
5 RACIAL LINKED FATE, AND IT -- AND THE SUPPORT OF
6 RACIAL EGALITARIAN -- RACIALLY EGALITARIAN OR CIVIL
7 RIGHTS PLANKS AND THE LIKE IS ABOUT THE DEGREE TO
8 WHICH A BLACK PERSON BELIEVES THAT THEIR FATE IS TIED
9 TO THE FATE OF THE RACE. AND IT'S ALSO SOMEWHAT
10 ABOUT SOCIAL PRESSURE TO CONFORM TO GROUP IDEAS OF
11 BLACK UPLIFT.

12 SO THERE IS THESE RACIAL CONSIDERATIONS OF
13 PARTISANSHIP THAT AFFECT HOW BLACK VOTERS CHOOSE TO
14 IDENTIFY WITH PARTIES. SO AGAIN, IT'S HARD TO SAY
15 THAT THIS IS -- SO TO SAY THAT THESE PATTERNS ARE
16 ABOUT PARTISANSHIP RATHER THAN RACE IGNORES THE ISSUE
17 THAT PEOPLE ARE CHOOSING PARTIES BASED ON HOW THE
18 PARTIES ALIGN ON RACIAL ISSUES.

19 THAT'S ALSO TRUE FOR WHITE REPUBLICANS. IN
20 THE MINDS OF MOST AMERICANS -- THERE IS THIS REALLY
21 INTERESTING STUDY IN WHICH THEY ASKED AMERICANS TO
22 ENVISION THE TYPICAL PERSON IN A POLITICAL PARTY.
23 AND 97.2 PERCENT OF AMERICANS THINK THAT THE TYPICAL
24 REPUBLICAN IS WHITE. AND THEN ALSO WHITE RESPONDENTS
25 WHO PERCEIVE THE DEMOCRATIC PARTY AS AFRICAN AMERICAN

02:57p

1 OR PRIMARILY AFRICAN AMERICAN ARE ACTUALLY LESS
2 FAVORABLE TOWARD DEMOCRATS. THEY'RE MORE FAVORABLE
3 TOWARD REPUBLICANS AND THEY TAKE MORE CONSERVATIVE
4 ISSUES ON THESE -- ON POLITICAL -- STANCES ON
5 POLITICAL ISSUES.

6 AND SO THERE IS THIS -- AND THERE IS ALSO
7 DATA THAT SHOW THAT RACIAL ATTITUDES ARE -- MUCH MORE
8 STRONGLY PREDICT PARTISANSHIP AND PARTY CHOICE TODAY
9 THAN THEY HAVE PREVIOUSLY. SO THAT RELATIONSHIP IS
10 JUST GETTING MUCH MORE TIGHT AS TIME GOES ON.

11 Q THANK YOU, DR. BURCH.

12 TURNING TO THE NEXT SLIDE, HOW DO METRICS
13 REGARDING SUPPORT FOR INTERRACIAL MARRIAGE DISCUSSED
14 ON PAGE 4 OF YOUR SUPPLEMENTAL REPORT PULLED INTO
15 YOUR ASSESSMENT?

16 A SO I DISCUSSED INTERRACIAL MARRIAGE BECAUSE
17 DR. ALFORD DOES. I THINK THAT IT -- HE CITES A
18 STATISTIC ABOUT INTERRACIAL MARRIAGE. BUT I THINK
19 IT'S INTERESTING BECAUSE THE WAY THAT MOST OF THE
20 LITERATURE MEASURES INTERRACIAL -- SUPPORT FOR
21 INTERRACIAL MARRIAGE ISN'T JUST A GENERALIZED
22 QUESTION LIKE HE USES. IT'S ACTUALLY AN EXAMPLE OF
23 THINKING. TO GET AT THE -- QUOTE, UNQUOTE -- REAL
24 ATTITUDE IS ASKING PEOPLE WHAT THEY THINK ABOUT A
25 CLOSE RELATIVE MARRYING SOMEONE OF A DIFFERENT RACE.

02:58p

1 AND THEN YOU START TO SEE THAT A MINORITY OF
2 WHITE RESPONDENTS SAY THAT THEY FAVORED OR SOMEWHAT
3 FAVORED A CLOSE RELATIVE MARRYING SOMEONE OF A
4 DIFFERENT GROUP. AND THAT'S COMPARED TO LIKE 53.7
5 PERCENT OF BLACK RESPONDENTS. SO IT'S STILL CLEAR
6 THAT THERE IS SOME RESISTANCE TO INTERRACIAL MARRIAGE
7 IN THESE GROUPS, ESPECIALLY WHEN YOU ASK ABOUT A
8 CLOSE RELATIVE RATHER THAN A GENERAL BLANKET POLICY
9 STATEMENT.

10 IT'S ALSO INTERESTING THAT PARTISANSHIP AND
11 IDEOLOGY ARE STATISTICALLY SIGNIFICANT PREDICTORS OF
12 SUPPORT FOR INTERMARRIAGE, SO -- INTERRACIAL
13 MARRIAGE. AND SO EVEN THAT IS TIED UP IN RACIAL
14 POLITICS. AND SO REPUBLICANS AND IDEOLOGICAL
15 CONSERVATIVES ARE ACTUALLY LESS SUPPORTIVE OF
16 INTERMARRIAGE WITH BLACK PEOPLE.

17 Q THANK YOU, DR. BURCH.

18 OVERALL WHAT DID YOU CONCLUDE REGARDING THE
19 CONTEMPORARY RELATIONSHIP BETWEEN RACIAL ATTITUDES
20 AND VOTE CHOICE?

21 A SO I FOUND THAT THE LITERATURE IN POLITICAL
22 SCIENCE VERY CLEARLY SUPPORTS THE POINT THAT PARTY
23 AND CANDIDATE CHOICE IS SHAPED BY RACIAL IDENTITY AND
24 RACIAL ATTITUDES IN THE ELECTORATE. AND THAT
25 RELATIONSHIP HAS BEEN GETTING STRONGER IN RECENT

02:59p

1 YEARS. AND SO TO SAY THAT PARTY COHESION RATHER THAN
2 RACIAL CONSIDERATIONS EXPLAINS VOTING PATTERNS ALONG
3 RACIAL DIMENSIONS IN LOUISIANA, IT JUST CONFUSES THE
4 CAUSALITY. THERE IS REALLY STRONG EVIDENCE IN THE
5 LITERATURE THAT RACE AND RACIAL ATTITUDES ARE WHAT
6 ARE DRIVING PARTY COHESION AND VOTE CHOICE.

7 Q THANK YOU, DR. BURCH.

8 MS. WENGER: YOUR HONOR, IF I CAN HAVE A
9 MOMENT TO CONFER WITH MY CO-COUNSEL?

10 THE COURT: TAKE A MINUTE.

11 MS. WENGER: YOUR HONOR, IF I CAN JUST MAKE
12 SURE WE HAVE A CLEAN RECORD ON THIS. I WANT TO MAKE
13 SURE WE HAVE THE NUMBERS.

14 PLAINTIFFS MOVE TO ADMIT PLAINTIFFS'
15 EXHIBIT 126, 127 AND 128 WITHOUT OBJECTION.

16 THE COURT: I THINK THEY WERE ALREADY
17 ADMITTED. BUT IF THOSE AREN'T THE RIGHT NUMBERS,
18 THEY ARE NOW THE RIGHT NUMBERS. 126, 127 AND 128 ARE
19 ADMITTED.

20 MS. WENGER: THANK YOU, YOUR HONOR.

21 THANK YOU, DR. BURCH.

22 I'LL PASS THE WITNESS.

23 THE COURT: LET'S TAKE A 15-MINUTE RECESS
24 BEFORE YOUR CROSS.

25 THE LAW CLERK: ALL RISE. COURT IS IN

03:00p

1 RECESS.

2 (WHEREUPON, A RECESS WAS TAKEN.)

3 THE COURT: BE SEATED.

4 CROSS.

5 CROSS-EXAMINATION

6 BY MR. LEWIS:

7 Q GOOD AFTERNOON, DR. BURCH. I'M PATRICK
8 LEWIS FOR THE LEGISLATIVE DEFENDANTS.

9 A GOOD AFTERNOON.

10 Q ALL RIGHT. JUST TO BEGIN, I DON'T RECALL
11 YOU TESTIFYING ON DIRECT EXAMINATION ABOUT THE
12 TURNOUT GAP BETWEEN -- THE ACTUAL VALUE OF THE
13 TURNOUT GAP BETWEEN WHITE AND BLACK RESIDENTS IN
14 LOUISIANA. SO I'D LIKE TO START THERE.

15 A OKAY.

16 Q IF WE COULD TURN TO PAGE 6 OF YOUR REPORT,
17 PL 126, WHICH I BELIEVE IS PAGE 8 OF THE EXHIBIT.

18 A I HAVE IT.

19 Q OKAY. WE'RE WAITING FOR THE SCREEN TO GET
20 UP. THERE WE GO.

21 A OKAY. OH. WELL, THAT'S -- YES.

22 Q OKAY. ALL RIGHT. SO IF I'M READING FROM
23 THE THIRD PARAGRAPH CORRECTLY, YOU REPORT THAT IT WAS
24 64 PERCENT WHITE TURNOUT IN 2020 COMPARED TO 58
25 PERCENT FOR BLACK LOUISIANANS?

03:21p

1 A YES.

2 Q FAIR TO SAY THAT THAT LEVEL OF BLACK TURNOUT
3 IS HIGHER THAN IT WAS IN, FOR EXAMPLE, 1982?

4 A I DON'T HAVE THOSE DATA IN FRONT OF ME, SO I
5 DON'T KNOW.

6 Q YOU DON'T KNOW. OKAY.
7 HIGHER THAN BLACK TURNOUT WOULD HAVE BEEN IN
8 1965?

9 A I WOULD -- DON'T KNOW, ACTUALLY.

10 Q YOU DON'T KNOW.

11 A I'D HAVE TO LOOK AT THAT.

12 Q OKAY. SO YOU INCLUDE IN YOUR REPORT AS WELL
13 AND YOU DISCUSSED IN YOUR DIRECT EXAMINATION TABLE 1
14 ON PAGE 7.

15 MR. LEWIS: SO IF WE COULD TURN TO THE NEXT
16 PAGE, MR. WILLIAMSON.

17 BY MR. LEWIS:

18 Q IT'S UP ON THE SCREEN. DO YOU RECOGNIZE
19 THIS TABLE FROM YOUR REPORT?

20 A I DO.

21 Q OKAY, GREAT. SO THIS ANALYSIS SHOWS THAT
22 AMONG THE LEAST EDUCATED LOUISIANANS, BLACK TURNOUT
23 ACTUALLY EXCEEDS WHITE TURNOUT. IS THAT RIGHT?

24 A WELL, IT DEPENDS ON WHAT YOU MEAN BY
25 "LEAST." SO FOR PEOPLE WITH A HIGH SCHOOL DIPLOMA,

03:22p

1 WHITE TURNOUT EXCEEDS BLACK TURNOUT. FOR PEOPLE WITH
2 NO HIGH SCHOOL DIPLOMA, BLACK TURNOUT EXCEEDS WHITE
3 TURNOUT. SO AT THE LOWER END OF THE SCALE IT KIND OF
4 REVERSES.

5 Q OKAY. AND AMONG THOSE WITH A BACHELOR'S
6 DEGREE, BLACK TURNOUT ALSO EXCEEDS WHITE TURNOUT. IS
7 THAT CORRECT?

8 A YES. BUT I'M NOT A HUNDRED PERCENT SURE
9 THOSE ARE STATISTICALLY SIGNIFICANT, SO THEY MAY
10 BE -- THAT MAY BE LIKE PARITY. PARITY, YES.

11 Q I SEE. OKAY. AND THEN AMONG THOSE WITH THE
12 HIGHEST LEVEL OF EDUCA- -- I BELIEVE GRADUATE SCHOOL,
13 YOU HAVE WHITE TURNOUT EXCEEDING BLACK TURNOUT. IS
14 THAT RIGHT?

15 A YES.

16 Q SO THE DIFFERENCE BETWEEN WHITE TURNOUT AND
17 BLACK TURNOUT AS EDUCATION LEVEL INCREASES IS NOT
18 COMPLETELY LINEAR, IS IT?

19 A NO. SO THOSE -- SO I GUESS WHAT YOU --
20 ACTUALLY, I DON'T WANT TO GUESS WHAT YOU MEAN BY
21 THAT. WHAT DO YOU MEAN BY THAT?

22 Q SURE. SO THE IDEA IS THAT AS THAT
23 WHITE TURNOUT -- AS EDUCATION LEVEL INCREASES, WHITE
24 TURNOUT DOESN'T ALWAYS EXCEED BLACK TURNOUT. RIGHT?

25 A THAT'S TRUE.

03:23p

1 Q OKAY. AND --

2 A TO THE EXTENT THAT -- TO THE EXTENT THAT FOR
3 EACH EDUCATIONAL LEVEL. SOMETIMES BLACK PEOPLE AT
4 THAT EDUCATIONAL LEVEL VOTE MORE, SOMETIMES WHITE
5 PEOPLE AT THAT EDUCATIONAL LEVEL VOTE MORE, SOMETIMES
6 IT'S PARITY. LIKE I SAID, IT CAN BE THE SAME.

7 Q SURE. SURE. NO, I UNDERSTAND.

8 AND, IN FACT, THE EDUCATIONAL LEVEL WHERE
9 WHITE TURNOUT EXCEEDS BLACK TURNOUT THE MOST ON THIS
10 TABLE IS AMONG THOSE WITH THE ABSOLUTE HIGHEST LEVEL
11 OF EDUCATION AT GRADUATE SCHOOL. IS THAT RIGHT?

12 A YES.

13 Q SO WE CAN -- ACTUALLY, I'D LIKE NOW TO MOVE
14 TO FIGURE 2 ON PAGE 8 OF YOUR REPORT, SO WE'LL GO TO
15 THE NEXT PAGE.

16 I BELIEVE YOU TESTIFIED ABOUT THIS ON
17 DIRECT. NOW, THIS -- TO MAKE SURE I UNDERSTAND THIS
18 CORRECTLY, THIS FIGURE IS SHOWING THE RACIAL
19 PERCENTAGE SHIFT ENROLLMENT IN EAST BATON ROUGE
20 SCHOOLS FROM 1970 TO 2019. IS THAT RIGHT?

21 A YES.

22 Q AND SO DO YOU BELIEVE THAT THIS FIGURE IS
23 SHOWING US THAT AS -- THERE IS AN INCREASE IN BLACK
24 STUDENT POPULATION RELATIVE TO WHITE POPULATION IN
25 THE SCHOOL SYSTEM. ARE YOU SAYING THAT THAT'S A

03:25p

1 POSITIVE OR A NEGATIVE THING AS FAR AS EQUAL
2 OPPORTUNITY FOR BLACK VOTERS IN LOUISIANA TO VOTE?

3 A SO WHAT I'M SAYING IS RELATIVE TO THE
4 POPULATION IN THE DISTRICT, SCHOOL SEGREGATION IN
5 EAST BATON ROUGE PARISH IS INCREASING. AND THAT IN
6 AND OF ITSELF, AS I SAID BEFORE, AFFECTS OUTCOMES.

7 SO RIGHT HERE I TALK ABOUT THE EFFECTS OF
8 SCHOOL SEGREGATION IN MY REPORT ON PAGE 7. SO SCHOOL
9 SEGREGATION HAS BEEN SHOWN TO DETRIMENTALLY AFFECT
10 THE ACADEMIC PERFORMANCE OF MINORITY STUDENTS. BLACK
11 AND LATINO STUDENTS WHO GREW UP UNDER CONDITIONS OF
12 SEGREGATION WERE LESS ACADEMICALLY PREPARED FOR
13 COLLEGE AND HAD BEEN EXPOSED TO MORE VIOLENCE AND
14 SOCIAL DISORDER THAN THOSE COMING FROM MAJORITY
15 DOMINANT SETTINGS.

16 SO IF WE TAKE THAT A STEP FURTHER AND THINK
17 BACK TO THE CHARTS WE JUST REVIEWED, THEN, AGAIN,
18 BLACK AND LATINO STUDENTS UNDER SEGREGATION BEING
19 LESS PREPARED FOR COLLEGE, THAT SHAPES WHERE ON THAT
20 DISTRIBUTION THEY END UP IN TERMS OF THEIR
21 EDUCATIONAL LEVEL AND THUS THEIR VOTER TURNOUT.

22 Q OKAY. SO THEN IF I UNDERSTAND CORRECTLY
23 THEN, IF YOU'RE -- ARE YOU THEN SUGGESTING THAT AS
24 THERE IS AN INCREASE IN THE SHARE OF THE STUDENT
25 POPULATION IN THE EAST BATON ROUGE SCHOOLS THAT'S

03:26p

1 BLACK, THAT THAT'S THEN INDICATIVE OF AN EDUCATION
2 SYSTEM IN EAST BATON ROUGE THAT WOULD BE HARMFUL TO
3 BLACK VOTING OPPORTUNITY?

4 A YES. THE RESEARCH SAYS THAT IT IS; THAT
5 SEGREGATION IS HARMFUL, YES.

6 Q OKAY. BUT AGAIN, IN YOUR REPORT YOU DON'T
7 SHOW, FOR EXAMPLE, BLACK TURNOUT RATES IN EAST BATON
8 ROUGE PARISH FROM 1970 TO 2019, DO YOU?

9 A NO. JUST STATEWIDE BY EDUCATION.

10 Q OKAY. AND SO YOUR REPORT ALSO INCLUDES --
11 AND WE DON'T NECESSARILY HAVE TO GO THROUGH ALL OF
12 THESE, ALTHOUGH WE CAN -- A DISCUSSION OF, YOU KNOW,
13 VARIOUS SOCIOECONOMIC FACTORS. YOU INCLUDED INCOME,
14 HOUSEHOLD INCOME AND SO FORTH.

15 ALL OF THAT DATA ARE REPORTED ONLY AT THE
16 STATEWIDE LEVEL. IS THAT CORRECT?

17 A YES.

18 Q OKAY. SORRY.

19 A YOU'RE -- SORRY. AND YOU'RE JUST TALKING
20 ABOUT THE SECTION WITH SOCIOECONOMIC DATA?

21 Q SURE. SO JUST TO BE VERY CLEAR, IF WE'RE
22 LOOKING AT FIGURES 5 BEGINNING ON PAGE 10 OF YOUR
23 REPORT AND WE GO THROUGH FIGURE 8 APPEARING ON PAGE
24 12.

25 A YES, THOSE ARE ALL STATEWIDE.

03:28p

1 Q GREAT. OKAY. AND THOSE ARE ALL FROM A
2 SNAPSHOT FROM 2019. IS THAT CORRECT?

3 A YES.

4 Q OKAY. SO -- AND THEN IF WE GO ON TO THE
5 HEALTH ANALYSIS THAT YOU -- IF YOU LOOK AT HEALTH
6 OUTCOMES BEGINNING BETWEEN PAGES 16 AND 19 OF YOUR
7 REPORT -- SORRY, AS I'M FUMBLING THROUGH HERE --
8 FIGURES 11 AND 12 AND 13 ON PAGE 18 OF YOUR REPORT,
9 ALL OF THOSE ARE EFFECTIVELY A SNAPSHOT IN TIME, TOO.
10 ISN'T THAT RIGHT?

11 A THOSE FIGURES, YES, ARE FROM 2019.

12 Q OKAY. AND THOSE, AGAIN, ARE REPORTED SOLELY
13 AT THE STATEWIDE LEVEL. IS THAT RIGHT?

14 A FOR THOSE FIGURES, YES.

15 Q SO IN YOUR REPORT YOU DON'T STUDY HOW THOSE
16 EMPLOYMENT -- ECONOMIC INDICATORS AND HEALTH
17 INDICATORS CHANGE OVER TIME, DO YOU?

18 A WELL, I DO TALK ABOUT SOME ASPECTS -- I
19 MOSTLY TALK ABOUT EDUCATION AS IT CHANGES OVER TIME
20 AND HOUSING AS THEY CHANGE OVER TIME. WITH RESPECT
21 TO HEALTH OUTCOMES, I DO NOT TALK ABOUT OVER-TIME
22 DATA, WITH THE EXCEPTION OF SOME DISCUSSIONS OF
23 THINGS LIKE KATRINA, FOR INSTANCE. AND I ALSO TALK
24 ABOUT SEGREGATION OVER TIME AND I DO -- YEAH.

25 SO MOSTLY MY DATA FOR EDUCATION ARE OVER

03:29p

1 TIME, AND HOUSING AND THE LIKE ARE BOTH CONTEMPORARY
2 AND OVER TIME. AND THEN DATA ABOUT INCOME AND
3 SOCIOECONOMIC STATUS ARE CONTEMPORARY. THAT'S RIGHT.

4 Q AND AGAIN, FOR ALL OF THOSE WITH THE
5 EXCEPTION OF THIS -- WHICH I GUESS IS STILL ON THE
6 SCREEN HERE -- FIGURE 2 WITH THE EAST BATON ROUGE
7 SCHOOLS, ALL THAT DATA REPORTED AT THE STATEWIDE
8 LEVEL, NOT AT THE LOCAL LEVEL. IS THAT RIGHT?

9 A GIVE ME A SECOND.

10 Q SURE.

11 A SO EVEN IN THE EDUCATION SECTION I DO -- IT
12 DEPENDS ON WHAT YOU MEAN BY "STATEWIDE." SO, FOR
13 INSTANCE, I DO TALK ON PAGE 5, FOR INSTANCE, ABOUT
14 HISTORICAL SEGREGATION, TALKING ABOUT 11 OF 64 --
15 THEY CALL THEM COUNTIES, BUT WE KNOW THEY'RE
16 PARISHES -- THAT ARE SEGREGATED AND SPECIFIC DATA
17 ABOUT ORLEANS PARISH AND THE FIGHT TO DESEGREGATE
18 ORLEANS PARISH. I TALK ABOUT DATA ON PAGE 7 AT THE
19 BOTTOM.

20 SO, OF COURSE I HAVE THIS CHART ABOUT EAST
21 BATON ROUGE AS ZOOM IN, BUT I ALSO TALK MORE ABOUT
22 THE FACT THAT HALF OF TRADITIONAL SCHOOL DISTRICTS
23 FOR WHICH DATA WERE AVAILABLE IN THE STATE
24 DEMONSTRATE HIGH LEVELS OF RACIAL SEGREGATION WITHIN
25 THE DISTRICT, AND NINE OF 68 WERE MORE THAN 87

03:31p

1 PERCENT NON-WHITE. SO THAT I THINK IS DATA THAT IS
2 NOT JUST IN THE STATE AS A WHOLE BUT ALSO TALKS ABOUT
3 SPECIFIC -- THAT THESE -- PATTERNS IN DIFFERENT
4 PARISHES.

5 Q I SEE. OKAY. BUT IN YOUR REPORT, THE
6 ONLY -- IN TERMS OF -- I KNOW YOU SET ASIDE THE
7 HISTORICAL EVIDENCE THAT YOU CITED FROM GOING BACK
8 INTO THE '50s. BUT, FOR EXAMPLE, IN THAT PROPUBLICA
9 STUDY, THE ONLY SCHOOL DISTRICT THAT YOU ACTUALLY
10 IDENTIFIED BY NAME AND TALK ABOUT BY NAME IN THAT
11 PART OF YOUR REPORT IS EAST BATON ROUGE. IS THAT
12 RIGHT?

13 A THAT'S NOT FROM THAT REPORT. BUT YES, THE
14 ONLY ONE THAT I TALK ABOUT BY NAME IS THERE. BUT
15 AGAIN, I LIST -- I DO DISCUSS SEVERAL OTHERS WITH
16 RESPECT TO HOW THEY BREAK DOWN IN THE -- SO NOT JUST
17 STATEWIDE SEGREGATION BUT ACROSS -- THE FACT THAT IT
18 EXISTS IN DIFFERENT PLACES AS WELL.

19 Q AGAIN, YOU'RE GOING BACK TO THAT -- THE
20 DESEGREGATION PORTION OF YOUR REPORT. I UNDERSTAND.
21 OKAY.

22 A UH-HUH.

23 Q BUT THERE ARE VARIATIONS, FOR EXAMPLE, IN
24 SOCIOECONOMIC CONDITIONS DEPENDING ON WHERE ONE LIVES
25 WITHIN THE STATE OF LOUISIANA. IS THAT RIGHT?

03:32p

1 A YES.

2 Q SO, FOR EXAMPLE, HOUSEHOLD INCOME FOR BLACK
3 LOUISIANANS IN BATON ROUGE PARISH -- EAST BATON ROUGE
4 PARISH MIGHT NOT BE THE SAME AS HOUSEHOLD INCOME FOR
5 BLACK LOUISIANANS IN, FOR EXAMPLE, THE DELTA
6 PARISHES. IS THAT RIGHT?

7 A THAT COULD BE TRUE.

8 Q AND, IN FACT, WHITE LOUISIANANS WOULD HAVE A
9 SIMILAR HOUSEHOLD INCOME DISPARITY BETWEEN URBAN AND
10 RURAL AREAS, TOO. RIGHT?

11 A THAT COULD BE TRUE.

12 Q COULD BE TRUE, OKAY.

13 AND YOUR REPORT DOESN'T ANALYZE THAT, DOES
14 IT?

15 A NO.

16 Q AND LIKEWISE, YOUR REPORT DOES NOT ANALYZE
17 VOTER TURNOUT BY RACE IN DIFFERENT LOCALITIES IN
18 LOUISIANA, DOES IT?

19 A NO.

20 Q I'D LIKE TO TURN BRIEFLY TO THE PORTION OF
21 YOUR REPORT THAT DISCUSSED RACIAL APPEALS, WHICH
22 IS -- SO WE'RE GOING TO GO TO PAGE 23 OF YOUR REPORT.

23 A OKAY.

24 Q THERE WE ARE.

25 NOW, YOU REFERENCED DAVID DUKE, THE FORMER

03:33p

1 GRAND WIZARD OF THE KKK. WERE YOU -- BUT YOU ONLY
2 REFERENCE HIS CAMPAIGNS I BELIEVE GOING THROUGH 1991.
3 DO I HAVE THAT RIGHT?

4 A THE ONE THAT IS IN THE QUOTE HERE IS 1990
5 SENATE RACE, YES, GUBERNATORIAL RUNOFF.

6 Q WERE YOU AWARE DAVID DUKE ALSO RAN FOR U.S.
7 SENATE IN 2016?

8 A I THINK I RECALL THAT.

9 Q YOU RECALL THAT, OKAY.
10 WERE YOU AWARE WHAT SHARE OF THE VOTE DUKE
11 RECEIVED THAT YEAR?

12 A I BELIEVE IT WAS MUCH LOWER THAN IN THE
13 '90S.

14 Q ABOUT 3 PERCENT? DOES THAT SOUND ABOUT
15 RIGHT?

16 A I DON'T KNOW EXACTLY.

17 Q YOU DON'T KNOW, OKAY.

18 AND YOU DON'T REFERENCE THAT 2016 CAMPAIGN
19 IN YOUR REPORT, DO YOU?

20 A NO. THIS IS JUST, AGAIN, PROVIDING EXAMPLES
21 OF PROMINENT RACIAL APPEALS IN POLITICS, NOT AN
22 EXHAUSTIVE LIST.

23 Q I SEE. SO GOING ON TO THOSE EXAMPLES, YOU
24 PROVIDED, I WANT TO SAY, ABOUT FOUR FROM 2019. IS
25 THAT RIGHT?

03:35p

1 A IF YOU COULD LIST THOSE, WHAT YOU'RE
2 COUNTING, THAT WOULD BE --

3 Q HAPPY TO DO IT. OKAY. SO WE START WITH --
4 ON THE THIRD PARAGRAPH ON 23 YOU DISCUSS AN AD FROM
5 EDDIE RISPONE.

6 A UH-HUH.

7 Q SO THAT'S THE FIRST AD. RIGHT?

8 A YES.

9 Q OKAY. THEN YOU TALK ABOUT AN AD -- IN THE
10 NEXT PARAGRAPH DOWN, AN AD PLACED IN A PROMINENT
11 NEWSPAPER TALKING ABOUT THE CHARGE OF LIBERALISM. DO
12 YOU SEE THAT?

13 A YES. SO THAT'S TWO.

14 Q THAT'S TWO. AND THEN IF WE GO TO THE NEXT
15 PAGE, PAGE 24, YOU THEN DISCUSS IN THE THIRD
16 PARAGRAPH SUPPORTERS OF EDWARDS RUNNING ADS TARGETING
17 BLACK VOTERS, ARGUING THAT RISPONE TARGETED DONALD
18 TRUMP AND CALLING TRUMP A RACIST. DO YOU SEE THAT?

19 A YES.

20 Q THAT'S -- IS THAT THE THIRD?

21 A YES, I THINK SO.

22 Q AND I BELIEVE THE FOURTH IS -- AGAIN, IN THE
23 SAME PARAGRAPH IT SAYS IN -- QUOTE, IN RESPONSE,
24 RISPONE AND THE LOUISIANA GOP SAID THAT EDWARDS, WHO
25 DID NOT RUN THE AD HIMSELF, WAS A RACIST TAKING PART

03:36p

1 IN THE FAMILY TRADITION OF TAKING ADVANTAGE OF BLACK
2 PEOPLE. DO YOU SEE THAT?

3 A YES. THAT'S FOUR.

4 Q THAT'S THE FOURTH?

5 A SO THE FIFTH ONE --

6 Q THERE IS A FIFTH, ALL RIGHT.

7 A YES. SO THE ONE ON THE NEXT PAGE IS I THINK
8 ALSO FROM 2019.

9 Q I SEE. OKAY. AND THAT WAS FROM A STATE
10 SENATE CANDIDATE. RIGHT?

11 A YES.

12 Q OKAY. SO I'D JUST LIKE TO START WITH THE
13 FIRST EXAMPLE. AND TO QUOTE YOUR WORDS FROM THAT --
14 EXCUSE ME. I ACTUALLY WANT TO LOOK AT -- WELL, LET
15 ME JUST ASK THIS QUESTION.

16 JOHN BEL EDWARDS WON THAT RACE, DIDN'T HE?

17 A HE DID.

18 Q SO ANY ADVERSE RACIAL APPEALS THAT YOU ARGUE
19 EXIST IN THESE ADS DID NOT PRECLUDE THE ELECTION OF
20 GOVERNOR EDWARDS?

21 A SO I WANT TO BE CAREFUL HERE, BECAUSE I
22 DON'T WANT TO SUGGEST THAT BECAUSE HE GOT ELECTED,
23 THE ADS DIDN'T AFFECT THE ELECTION. SO, FOR
24 INSTANCE, THE -- THE ADS COULD HAVE AFFECTED EITHER
25 HIS ELECTION OR COULD HAVE -- IN TERMS OF MAKING THE

03:37p

1 MARGIN DIFFERENT, OR IT COULD ALSO HAVE AFFECTED
2 DOWN-BALLOT RACES OR SOMETHING LIKE THAT --

3 THE REPORTER: I'M SORRY.

4 THE WITNESS: SORRY.

5 BY THE WITNESS:

6 A IT COULD HAVE AFFECTED DOWN-BALLOT RACES,
7 FOR INSTANCE, OR HIS ELECTION IN TERMS OF THE MARGIN.
8 SO EVEN IF HE GOT ELECTED, I DON'T WANT TO IMPLY HERE
9 THAT THE ELECTION WASN'T AFFECTED BY THESE ADS.

10 Q BUT MY QUESTION, DR. BURCH, IS WHETHER THOSE
11 ALLEGED RACIAL APPEALS PRECLUDED HIS ELECTION,
12 PREVENTED HIM FROM BEING ELECTED.

13 A NO.

14 Q SO I'D LIKE TO TURN TO THE FIRST OF THE NEXT
15 EXAMPLE ON PAGE 24. AND THIS IS -- YOU DESCRIBE
16 AGAIN ON THAT THIRD PARAGRAPH ON PAGE 24 THE, QUOTE,
17 SUPPORTERS OF EDWARDS RAN ADS TARGETING BLACK VOTERS,
18 ARGUING THAT RISPONE SUPPORTED DONALD TRUMP AND
19 CALLING TRUMP A RACIST. THE NEXT SENTENCE READS:
20 "STUDIES HAVE SHOWN THAT THIS TYPE OF EXPLICIT RACIAL
21 APPEAL CAN SERVE AS A COUNTERSTRATEGY TO NEUTRALIZE
22 APPEALS IN WAYS THAT GALVANIZE WHITE LIBERALS AND
23 BLACK VOTERS." DO YOU SEE THAT?

24 A I DO.

25 Q OKAY. SO WOULD GALVANIZING WHITE LIBERALS

03:39p

1 AND BLACK VOTERS BE A WAY TO INCREASE BLACK VOTERS'
2 ABILITY TO ELECT CANDIDATES OF CHOICE?

3 A NOT -- IT DEPENDS ON WHERE THE ADS ARE
4 TARGETED, SO IT MAY OR MAY NOT BE. IT JUST DEPENDS.

5 Q IT DEPENDS, OKAY.

6 AND IS IT FAIR TO SAY THAT IT WOULD BE --
7 BASED ON THE ANALYSIS THAT YOU'RE PROVIDING HERE,
8 THAT IT COULD BE IN DEMOCRATIC CANDIDATES' INTERESTS
9 TO CALL OUT ALLEGED RACIAL APPEALS BY REPUBLICAN
10 CANDIDATES AS RACIST?

11 A IT SAYS THAT IT CAN SERVE AS THE
12 COUNTERSTRATEGY THAT CAN DO THAT. BUT SOMETIMES IT
13 --

14 THE REPORTER: I'M SORRY. "SOMETIMES" --

15 THE WITNESS: SOMETIMES IT MAY NOT WORK.

16 BY MR. LEWIS:

17 Q BUT SOMETIMES IT MAY WORK?

18 A YES.

19 Q OKAY. NOW, MOVING ON TO THE SECOND EXAMPLE
20 IN THAT SAME PARAGRAPH, YOU SAY ALSO IN THE THIRD
21 PARAGRAPH OF YOUR REPORT THAT, QUOTE, RISPONE AND THE
22 LOUISIANA GOP SAID THAT EDWARDS, WHO DID NOT RUN THE
23 AD HIMSELF, WAS A RACIST TAKING PART IN THE FAMILY
24 TRADITION OF TAKING ADVANTAGE OF BLACK PEOPLE. YOU
25 GO ON TO THEN QUOTE THE AD.

03:40p

1 AND DO YOU SEE WHERE YOU SAY THAT THAT'S AN
2 EXAMPLE OF A STRATEGY TO, QUOTE -- FOR REPUBLICAN
3 CANDIDATES TO, QUOTE, DEMOBILIZE BLACK VOTERS BY,
4 QUOTE, PORTRAYING THEIR CHOSEN CANDIDATE OR PARTY AS
5 INSENSITIVE TO THE GROUP'S NEEDS? DO YOU SEE THAT?

6 A SO IN THE PRECEDING PARAGRAPH, YES. OR IS
7 IT SOMEWHERE ELSE THAT YOU WANT ME TO LOOK?

8 Q NO, THAT'S WHERE -- YEAH, FROM THE PRECEDING
9 PARAGRAPH. IS THAT RIGHT?

10 A YES.

11 Q SO THEN AM I UNDERSTANDING THIS CORRECTLY
12 THEN THAT THE WORD "RACIST" CAN ONLY BE USED IN A
13 CAMPAIGN AD WHEN IT SUPPORTS DEMOCRATIC CANDIDATES?

14 A I DON'T SEE WHERE I WRITE THAT.

15 Q BUT I MEAN, IS THAT THE -- IF YOU'RE SAYING
16 THAT IT'S AN IMPROPER RACIAL APPEAL IF REPUBLICANS
17 MAKE A CHARGE OF RACISM AND IT'S A COUNTERSTRATEGY IF
18 DEMOCRATIC CANDIDATES MAKE A CHARGE OF RACISM, THEN
19 ISN'T THAT -- DOESN'T THAT FOLLOW THAT IT'S
20 APPROPRIATE WHEN IT'S USED BY DEMOCRATS AND NOT WHEN
21 IT'S USED BY REPUBLICANS?

22 A CAN YOU --

23 **MS. WENGER:** OBJECTION. I THINK THIS BOTH
24 MISCHARACTERIZES THE WITNESS'S TESTIMONY AND ALSO IS
25 VEERING ON ASKED AND ANSWERED.

03:41p

1 **MR. LEWIS:** SHE HASN'T ANSWERED THE
2 QUESTION.

3 **THE COURT:** OVERRULED.

4 **MR. LEWIS:** THANK YOU.

5 **BY THE WITNESS:**

6 **A** CAN YOU SHOW ME WHERE I USE -- DESCRIBE THIS
7 AS IMPROPER?

8 **Q** WELL, IF YOU -- I DON'T KNOW THAT YOU SAY --
9 I DON'T KNOW THAT YOU USED THE WORD "IMPROPER," SO IF
10 THAT'S FINE, THEN WE CANNOT USE THE WORD "IMPROPER."

11 BUT IF -- BUT IS IT YOUR POSITION, THEN,
12 THAT IT IS -- THAT IT -- SO WHAT DOES IT MEAN TO
13 DEMOBILIZE BLACK VOTERS? LET'S START THERE.

14 **A** SO I SAID TWO THINGS. I SAID THAT RACIAL
15 APPEALS OPERATE DIFFERENTLY, SO THAT MEANS THAT THEY
16 HAVE DIFFERENT EFFECTS. BUT I DON'T BELIEVE I
17 CHARACTERIZE THOSE EFFECTS IN ANY OTHER WAY OTHER
18 THAN TO DESCRIBE WHAT THEY ARE, WHICH IS TO DECREASE
19 BLACK VOTERS. AND THAT'S IN -- ACCORDING TO THE
20 LITERATURE THERE.

21 **Q** OKAY. SO THEN IF REPUBLICAN CANDIDATES MAKE
22 CHARGES OF RACISM AGAINST BLACK-PREFERRED CANDIDATES
23 AND IF I'M READING PAGE 24 CORRECTLY, YOU'RE SAYING
24 THAT CAN LEAD TO DEMOBILIZATION OF BLACK VOTERS. IS
25 THAT RIGHT?

03:42p

1 A YES. THAT'S WHAT THE LITERATURE SHOWS.

2 Q I SEE. AND IF -- AND I THINK WE'VE ALREADY
3 DISCUSSED. IF DEMOCRATIC CANDIDATES CALL OUT OR MAKE
4 CHARGES OF RACISM AGAINST REPUBLICANS, THAT IT CAN
5 LEAD TO GALVANIZING OF WHITE LIBERALS AND BLACK
6 VOTERS. IS THAT RIGHT?

7 A SO -- HANG ON A SECOND. SO WHAT I SAY HERE
8 IS NOT NECESSARILY ABOUT PARTY. SO WHAT I SAY IN THE
9 FIRST PARAGRAPH IS THAT "SPECIFICALLY MESSAGES
10 DESIGNED TO PORTRAY THE CHOSEN CANDIDATE OR PARTY OF
11 BLACK VOTERS AS RACIST." SO I DON'T SAY "PARTY"
12 THERE. AND THEN AFTER I SAY "THIS TYPE OF EXPLICIT
13 RACIAL APPEAL CAN SERVE AS A COUNTERSTRATEGY TO
14 NEUTRALIZE RACIAL APPEALS IN WAYS THAT GALVANIZE
15 LIBERALS AND BLACK VOTERS."

16 AND SO IT'S, AGAIN, TALKING ABOUT RACIAL
17 APPEALS THAT CALL OUT RACISM, BUT IT'S NOT
18 NECESSARILY BY PARTY THAT I'M LISTING THERE IN TERMS
19 OF THE DEFINITION OF THE EFFECTS.

20 Q I'D LIKE TO MOVE ON TO YOUR ANALYSIS OF
21 SENATE FACTOR 7 VERY QUICKLY. AND I THINK -- IS IT
22 YOUR -- I BELIEVE YOU TESTIFIED ON DIRECT EXAMINATION
23 THAT BLACK -- THAT 25 PERCENT OF THE LOUISIANA
24 LEGISLATURE IS MADE UP OF BLACK MEMBERS. IS THAT
25 CORRECT?

03:44p

1 A I THINK THAT WAS TRUE AS OF WHEN I WROTE THE
2 PRELIMINARY REPORT. SO THAT MIGHT HAVE BEEN -- WHICH
3 I THINK I DID IN 2022. NOT ANALYZING THE ELECTION
4 THAT CAME AFTER.

5 Q I SEE. OKAY.

6 AND SO YOU -- SO WHAT PERCENTAGE OF BLACK
7 ELECTED OFFICIALS IN THE LEGISLATURE DO YOU BELIEVE
8 IS REQUIRED BY SENATE FACTOR 7?

9 A I DIDN'T ANALYZE THAT.

10 Q YOU DIDN'T ANALYZE THAT. OKAY.

11 BUT YOU WOULD AGREE THAT 25 PERCENT OF THE
12 LEGISLATIVE SEATS ARE DEFINITELY MORE THAN SAYING
13 THAT THERE WERE NO MINORITY-ELECTED OFFICIALS IN THE
14 LEGISLATURE. CORRECT?

15 A YES. 36 IS MORE THAN ZERO.

16 Q OKAY. AND THAT 36 IS NOT VERY FEW
17 MINORITY-ELECTED OFFICIALS, IS IT?

18 A THAT'S A QUALITATIVE JUDGMENT. I DON'T --

19 Q OKAY. AND SO WHAT PERCENTAGE OF THE
20 LOUISIANA LEGISLATURE -- I MEAN, ARE YOU ADVOCATING
21 IN THIS CASE THAT THIRTY -- THAT THE PERCENTAGE OF
22 THE LEGISLATURE THAT IS BLACK HAS TO EQUAL THE
23 POPULATION OF THE STATE THAT IS BLACK?

24 A I DON'T BELIEVE I MADE THAT STATEMENT. I'M
25 JUST SAYING THAT BLACK LOUISIANIANS ARE

03:46p

1 UNDERREPRESENTED RELATIVE TO THEIR SHARE OF THE
2 POPULATION.

3 Q OKAY. SO YOU BELIEVE THEN THAT THE -- WELL,
4 IF IT'S UNDERREPRESENTED, THEN WHAT WOULD BE ADEQUATE
5 REPRESENTATION IN YOUR MIND?

6 A SO MY DEFINITION OF UNDERREPRESENTED IS
7 STATISTICAL PARITY. SO I'M JUST MAKING A FACTUAL
8 CLAIM THAT STATISTICALLY THE PROPORTION IN THE STATE
9 IS GREATER THAN THE PROPORTION IN THE LEGISLATURE.

10 Q OKAY. NOW, YOU ALSO MENTIONED IN DIRECT
11 EXAMINATION YOU LOOKED AT THE PERCENTAGE OF MAYORS IN
12 LOUISIANA THAT WERE BLACK. IS THAT RIGHT?

13 A YES.

14 Q OKAY. BUT NOT ALL LOUISIANA CITIES ARE THE
15 SAME SIZE, ARE THEY?

16 A NO.

17 Q OKAY. SO, FOR EXAMPLE, BEING THE MAYOR OF
18 NEW ORLEANS IS A CONSIDERABLY MORE INFLUENTIAL ROLE
19 THAN BEING THE MAYOR OF A SMALL TOWN. WOULD YOU
20 AGREE?

21 A ACTUALLY, I DON'T KNOW THE ANSWER TO THAT.
22 SO IT -- BECAUSE IT KIND OF DEPENDS ON THINGS LIKE
23 WHAT THE -- HOW THE COUNTY GOVERNMENT IS SET UP. SO
24 IF, YOU KNOW, YOU HAVE A STRONG MAYOR MODEL, THEN
25 PERHAPS. BUT IF YOU HAVE LIKE A MORE STRONG CITY

03:47p

1 COUNCIL MODEL, THEN THE MAYOR CAN JUST BE A
2 FIGUREHEAD. SO IT KIND OF VARIES BY JURISDICTION
3 AMONG MORE THINGS THAN JUST POPULATION SIZE.

4 Q OKAY. BUT IF WE LOOK AT THE TWO LARGEST
5 CITIES IN LOUISIANA, DO YOU KNOW THE MAYOR PRESIDENT
6 OF THE CITY OF BATON ROUGE AND EAST BATON ROUGE
7 PARISHES?

8 A NO, I DON'T KNOW THEM.

9 Q DO YOU KNOW THAT PERSON'S RACIAL
10 IDENTIFICATION?

11 A IF I REMEMBER CORRECTLY -- I'M ACTUALLY NOT
12 SURE IF THIS HAS CHANGED SINCE THE TIME OF MY REPORT,
13 SO I DON'T WANT TO GUESS.

14 Q YOU DON'T REMEMBER?

15 A NO. I'M GOING TO SAY NO.

16 Q OKAY. WOULD IT SURPRISE YOU TO LEARN THAT
17 THE MAYOR-PRESIDENT OF BATON ROUGE IS SHARON WESTON
18 BROOME, A BLACK WOMAN?

19 A NO.

20 Q DO YOU KNOW WHO THE MAYOR OF THE CITY OF NEW
21 ORLEANS IS?

22 A YES. AGAIN, I'M NOT SURE IF THERE HAS BEEN
23 AN ELECTION SINCE THE LAST TIME I CHECKED. BUT IF I
24 REMEMBER CORRECTLY, THAT IS A BLACK WOMAN AS WELL.

25 Q MAYOR CANTRELL?

03:48p

1 A YES.

2 Q DOES THAT SOUND RIGHT? OKAY.

3 ALL RIGHT. TURNING TO FACTOR 8,
4 RESPONSIVENESS, I JUST HAVE A FEW VERY QUICK
5 QUESTIONS. FIRST, I BELIEVE YOU INDICATED IN YOUR
6 REPORT AND ON YOUR DEMONSTRATIVE THAT -- AND WE
7 CAN -- LET'S PUT IT UP. IT'S PAGE 26 OF THE REPORT,
8 WHICH IS PAGE 28 OF THE DOCUMENT TOWARD THE BOTTOM.
9 IF WE COULD ZOOM IN ON THAT LAST FULL PARAGRAPH, MR.
10 WILLIAMSON.

11 OKAY. AND DO YOU SEE THAT SECOND SENTENCE
12 THAT SAYS, QUOTE, FOR INSTANCE, ABOUT 70 PERCENT OF
13 BLACK RESPONDENTS TO THE LOUISIANA SURVEY AGREED
14 THAT, QUOTE, MOST ELECTED OFFICIALS IN LOUISIANA
15 DON'T CARE WHAT PEOPLE LIKE ME THINK, END QUOTE, A
16 FIGURE THAT WAS SIMILAR TO WHITE LOUISIANANS. DO YOU
17 SEE THAT?

18 A I DO.

19 Q SO SIMILAR PERCENTAGES OF WHITE AND BLACK
20 LOUISIANANS ARE EXPRESSING CONCERN HERE ABOUT
21 RESPONSIVENESS. IS THAT RIGHT?

22 A OH, YES.

23 Q AND THAT'S NOT TOO DISSIMILAR FROM THE REST
24 OF THE COUNTRY. RIGHT? PEOPLE OFTEN DON'T LIKE
25 THEIR REPRESENTATIVES. ISN'T THAT RIGHT?

03:50p

1 A THAT'S INTERESTING. MOST PEOPLE -- SO THE
2 WAY YOU ASK THAT QUESTION, LIKE MY POLITICAL SCIENCE
3 HEAD IS MAKING ME ANSWER MORE THAN YOU PROBABLY
4 THOUGHT, BUT -- SO YES, IT'S SIMILAR IN TERMS OF LIKE
5 THE FACT THAT MOST PEOPLE DON'T LIKE THE GOVERNMENT
6 AND HAVE PROBLEMS WITH THE GOVERNMENT. BUT ACTUALLY
7 MOST PEOPLE HATE CONGRESS BUT LIKE THEIR
8 REPRESENTATIVE. SO IT'S A REALLY INTERESTING DYNAMIC
9 WHEN YOU THINK ABOUT IT.

10 Q OKAY. AND THEN TURNING TO RESPONSIVENESS,
11 YOU KNOW, YOU CITED -- IT LOOKS LIKE YOU COUNTED UP
12 THE COMMENT CARDS, YOU REVIEWED THE LEGISLATIVE
13 HEARINGS FROM THE REDISTRICTING PROCESS IN 2022 IN
14 LOUISIANA. IS THAT RIGHT?

15 A I DID. I WATCHED ALL THAT VIDEO.

16 Q SO -- BUT YOU'D AGREE WITH ME THAT, YOU
17 KNOW, LOOKING AT THE -- I BELIEVE IT'S A HUNDRED AND
18 TWO PUBLIC COMMENTS AGAINST THE PLAN AND THE NUMBER
19 OF MAJORITY-MINORITY DISTRICTS IN THE PLAN. THAT'S
20 NOT A REPRESENTATIVE SAMPLE OF PUBLIC OPINION IN
21 LOUISIANA, IS IT?

22 A NO. THAT'S WHY I DO INCLUDE DATA THAT'S A
23 REPRESENTATIVE SAMPLE OF PUBLIC OPINION IN LOUISIANA.
24 SO AGAIN, LOOKING AT THE SURVEY DATA THAT I CITE IN
25 PAGE 27, AGAIN THAT -- TOP OF 27 -- "MOREOVER, A

03:51p

1 MAJORITY OF BLACK LOUISIANIANS BELIEVE THAT 'BLACK
2 PEOPLE ARE TREATED LESS FAIRLY THAN WHITE PEOPLE'
3 WHEN VOTING IN ELECTIONS." SO AGAIN, THAT IS BOTH
4 SURVEY DATA THAT TALKS ABOUT POLITICS AND ALSO ABOUT
5 VOTER SUPPRESSION AND ABOUT -- AS WELL AS THE
6 ROADSHOWS.

7 Q I UNDERSTAND. YOUR REPORT, HOWEVER, DOESN'T
8 CITE A SINGLE PARTICULAR PUBLIC POLICY, LIKE A PIECE
9 OF LEGISLATION BEFORE THE LEGISLATURE, I GUESS, OTHER
10 THAN THE REDISTRICTING BILL ITSELF, DOES IT?

11 A NO, OTHER THAN THE -- WELL, THAT'S KIND OF A
12 BIG ONE.

13 Q I GAVE YOU THE REDISTRICTING BILL.

14 A YES.

15 Q I WAS JUST ASKING IF THERE IS ANYTHING ELSE.
16 SO IT'S THE REDISTRICTING BILL?

17 A YES. THE REDISTRICTING BILLS ARE KIND OF,
18 YEAH, BIG ONES.

19 Q I UNDERSTAND. AND I SEE YOU HAVE A LOT OF
20 QUOTES IN HERE FROM SENATOR CASSIDY. HE'S A U.S.
21 SENATOR. RIGHT?

22 A YES.

23 Q AND THEN AS FAR AS PUBLIC COMMENT -- I GUESS
24 JUST THE LAST COUPLE OF QUESTIONS FOR YOU ON THAT.
25 WERE YOU AWARE THAT THERE WERE GROUPS INCLUDING THE

03:52p

1 ACLU AND ONE OF THE PLAINTIFFS IN THIS CASE, BVM,
2 THAT WERE -- THAT PARTICIPATED IN THE LEGISLATIVE
3 PROCESS LEADING TO THE REDISTRICTING BILLS AT ISSUE?

4 A YES, I DID SEE THEM. AND MOSTLY THEY -- AS
5 FAR AS I COULD TELL, THEY IDENTIFIED THEMSELVES WHEN
6 THEY SPOKE, SAYING THEY WERE THERE REPRESENTING X
7 GROUP.

8 Q SURE. BUT INNER SCRIPTS CAN OFTENTIMES
9 ENCOURAGE THEIR SUPPORTERS TO -- YOU KNOW, TO MAKE
10 PUBLIC COMMENTS OR SHOW UP AT MEETINGS IN LEGISLATION
11 IMPORTANT TO THE GROUP. IS THAT RIGHT?

12 A YES. AND I ACTUALLY SAW QUITE A BIT OF THAT
13 NOT JUST FROM THE GROUPS THAT YOU MENTIONED BUT, FOR
14 INSTANCE -- ONE OF THE THINGS THAT I THOUGHT WAS
15 REALLY INTERESTING WAS THAT A LOT OF LOCALITIES
16 DURING THE ROADSHOWS WOULD SHOW UP WITH -- DELEGATION
17 IS A STRONG WORD -- BUT LOTS OF OFFICIALS, LIKE THE
18 CHAMBER OF COMMERCE AND OTHER PLACES TO TALK ABOUT
19 THINGS LIKE COMMUNITIES OF INTEREST AND ISSUES SUCH
20 AS THAT. SO IT DEFINITELY HAPPENED THROUGHOUT THE
21 PROCESS. AND AGAIN, MOST OF THE TIME THEY WOULD
22 IDENTIFY THEMSELVES WHEN THEY WERE DOING THAT WORK.

23 Q SURE. SO I'D LIKE TO TURN TO THE LAST
24 FACTOR YOU ANALYZED, WHICH IS TENUOUSNESS. SO ON
25 PAGE 36 OF YOUR REPORT, WHICH IS PAGE 38 OF OUR -- OF

03:54p

1 YOUR -- OF THE EXHIBIT, YOU DISCUSS PRESIDENT
2 CORTEZ'S VIEWS ON CONTINUITY OF REPRESENTATION. AND
3 I JUST HAD A COUPLE OF QUESTIONS ON THAT.

4 FIRST, YOU KNOW, YOU HAVE THIS SORT OF BLOCK
5 QUOTED LANGUAGE AT THE VERY TOP OF THE PAGE FROM
6 PRESIDENT CORTEZ BEGINNING WITH THE THIRD TENET OR
7 PRINCIPLE. AND I JUST WANT TO MAKE SURE I
8 UNDERSTAND. YOU'RE SAYING THAT THAT BLOCK QUOTED
9 LANGUAGE SUPPORTS THE VIEW THAT YOU MAKE LATER ON IN
10 THE PAGE THAT, QUOTE, CONTINUITY OF REPRESENTATION IS
11 NOT ABOUT VOTERS, RATHER, IT IS ABOUT THE SELF-
12 INTEREST OF THE LEGISLATORS?

13 A HANG ON. LET ME FIND -- I DON'T -- NO. I'M
14 ACTUALLY TALKING ABOUT THE NEXT QUOTATION THERE IN
15 WHICH HE SAYS WHY HE'S TALKING ABOUT -- PRESIDENT
16 CORTEZ IS TALKING ABOUT WHY ADDITIONAL MAJORITY-
17 MINORITY DISTRICTS DO NOT GAIN TRACTION IN THE
18 SENATE. HE SAID, "THE OTHER PART, YOU KNOW, AS IN
19 THIS BUILDING, YOU GOT TO GET VOTES. THAT MAP SO
20 DESTROYED MANY OF THE DISTRICTS AND DIDN'T KEEP THAT
21 CONTINUITY OF REPRESENTATION THAT THERE WAS NOT A
22 REAL CHANCE OF GETTING THE 20 VOTES." AND THEN HE
23 GOES ON TO TALK ABOUT HOW "DRAWING NEW MAJORITY-
24 MINORITY DISTRICTS WAS A NON-STARTER BECAUSE IT WOULD
25 PUT CERTAIN INCUMBENTS IN JEOPARDY." AND AGAIN,

03:55p

1 QUOTE, AND THEN YOU GET INTO ANOTHER AREA OF PEOPLE
2 THAT YOU'VE NEVER MET BEFORE AND HAVE NEVER VOTED FOR
3 YOU. AND ALMOST IT WAS MORE THAN 50 PERCENT OF THE
4 PEOPLE IN THAT DISTRICT WOULD NEVER HAVE VOTED FOR
5 THE PERSON CURRENTLY HOLDING.

6 SO THOSE ARE THE KINDS OF THINGS THAT I'M
7 TALKING ABOUT WITH RESPECT TO THE SELF-INTEREST OF
8 THE LEGISLATORS.

9 Q OKAY. BUT DO YOU SEE ON THAT -- GOING BACK
10 TO THAT SECOND PARAGRAPH WHERE YOU -- IT BEGINS,
11 QUOTE, TO PRESIDENT CORTEZ, REDISTRICTING VIOLATES
12 THE CONTINUITY OF REPRESENTATION TO THE EXTENT THAT
13 PLANS, QUOTE, GRAB A GROUP OF CONSTITUENTS TO ELECT A
14 DIFFERENT PERSON. DO YOU SEE THAT?

15 A I DO.

16 Q OKAY. AND YOU LINK THAT TO THE PRIOR
17 SENTENCE YOU QUOTE FROM HIM IN THE BLOCK QUOTE WHERE
18 IT SAYS, QUOTE, IT MEANS THAT IF YOUR DISTRICT
19 ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO
20 HAVE A RIGHT TO REELECT YOU. RIGHT?

21 A YES. SO HERE IN THIS PARAGRAPH I'M TRYING
22 TO TALK ABOUT HOW HE DEFINES WHAT CONTINUITY OF
23 REPRESENTATION MEANS TO HIM.

24 Q NOW, YOU'D AGREE THAT WHEN CITING ANY
25 TRANSCRIPT, IT'S IMPORTANT TO INCLUDE THE APPROPRIATE

03:57p

1 CONTEXT OF SOMEONE'S REMARKS. RIGHT?

2 A YES. I TRIED REALLY HARD TO PUT IN WHOLE
3 SENTENCES, DESCRIBE THE CONTEXT BUT IN -- WELL, TO BE
4 HONEST, I WAS MORE WORRIED THAT I WOULD BE ACCUSED OF
5 PUTTING IN TOO MANY LONG BLOCK QUOTES IN ORDER TO
6 PROVIDE CONTEXT RATHER THAN EXCERPTING AND MOVING
7 THINGS ALONG.

8 Q OKAY. SO I'D LIKE TO JUST PULL UP NOW JX
9 21, JOINT EXHIBIT 21, WHICH HAS BEEN PREADMITTED.
10 AND I'LL REPRESENT TO YOU, DR. BURCH, THIS IS THE
11 TRANSCRIPT FROM THE HEARING THAT YOU'RE CITING IN
12 YOUR PIECE. AND IF WE COULD GO TO PAGE 7.

13 AND, DR. BURCH, DO YOU SEE THE TEXT FROM --
14 AND I'LL REPRESENT TO YOU THIS IS REMARKS FROM
15 PRESIDENT CORTEZ AT THAT FEBRUARY 2, 2022 SENATE
16 HEARING YOU REFERENCED IN THE FOOTNOTE IN YOUR
17 REPORT.

18 IF WE TURN TO LINE 9 -- AND I'LL READ IT TO
19 YOU. IT SAYS, QUOTE, THE THIRD TENET OR PRINCIPLE
20 WAS AS BEST POSSIBLE TO MAINTAIN THE CONTINUITY OF
21 REPRESENTATION. WHAT DO I MEAN BY THAT? IT MEANS
22 THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE DONE A
23 GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU.
24 CONVERSELY, YOU DON'T GET TO CHOOSE WHO YOUR
25 POPULATION IS, THEY CHOOSE YOU. IF YOU DIDN'T DO A

03:58p

1 GOOD JOB, THEY HAVE THE RIGHT TO UNELECT YOU. AND
2 THE PEOPLE WHO PEOPLE WHO KNOW YOUR JOB THE BEST FOR
3 THOSE WHO WERE IN YOUR DISTRICT.

4 DO YOU SEE THAT?

5 A SO I THINK THAT WHAT I PUT IN WAS TRUE TO
6 THE FACT THAT HIS DEFINITION OF CONTINUITY OF
7 REPRESENTATION IS BASICALLY ABOUT INCUMBENCY.

8 Q BUT YOU SAW THAT SUBSEQUENT TEXT WHEN YOU
9 WATCHED THE VIDEO. RIGHT?

10 A YEAH. SO I DON'T THINK THAT CONTRADICTS
11 WHAT I HAVE HERE IN TERMS OF SAYING THAT THIS IS
12 ABOUT INCUMBENCY.

13 Q YOU DIDN'T INCLUDE THOSE REMARKS IN YOUR
14 REPORT, DID YOU?

15 A YOU MEAN THE PART ABOUT "YOU DON'T GET TO
16 CHOOSE WHO YOUR POPULATION IS, THEY CHOOSE YOU"?

17 Q CORRECT.

18 A FROM THERE?

19 Q YES.

20 A NO.

21 Q NO, OKAY. I'D LIKE TO TURN VERY QUICKLY TO
22 A COMMENT THAT YOU MADE ON PAGE 32 OF YOUR REPORT.
23 SO IF WE COULD GO BACK TO PL 126 AND TURN TO PAGE 32.

24 AND SPECIFICALLY THE SECOND PARAGRAPH FROM
25 THE BOTTOM YOU STATE THAT, QUOTE, THE COMMITTEE --

04:00p

1 AND I BELIEVE THAT WAS THE SENATE COMMITTEE -- WAS
2 PRESENTED WITH EVIDENCE THAT STATISTICAL ANALYSES
3 SHOW THAT PLANS SUCH AS THAT PRESENTED IN SB 17 WOULD
4 RELIABLY PERFORM TO ALLOW BLACK LOUISIANANS TO ELECT
5 CANDIDATES OF THEIR CHOICE. DO YOU SEE THAT?

6 A I DO.

7 Q AND WERE YOU AWARE THAT SENATOR HEWITT ASKED
8 MORE THAN ONCE FOR A COPY OF THAT STATISTICAL
9 ANALYSIS?

10 A I DID SEE HER DO THAT.

11 Q YOU DID SEE HER DO THAT.

12 AND WERE YOU AWARE THAT THE ACLU DID NOT
13 PROVIDE THAT ANALYSIS TO SENATOR HEWITT?

14 A I DON'T KNOW.

15 Q YOU DON'T KNOW, OKAY.

16 AND YOU DIDN'T REFERENCE THAT THAT ANALYSIS
17 WAS REQUESTED AND MAY OR MAY NOT HAVE BEEN PROVIDED
18 IN YOUR REPORT, DO YOU?

19 A LET ME SEE. I THINK IT MUST -- IT MUST BE
20 THAT IT WAS DESCRIBED IN -- NO. I THINK I JUST
21 REFERENCED THE FACT THAT IT WAS DESCRIBED.

22 Q AND THEN FINALLY I JUST HAD JUST A COUPLE
23 VERY BRIEF WRAP-UP QUESTIONS.

24 YOU REFERENCE A SERIES OF ALTERNATE BILLS
25 THAT WERE PRESENTED TO THE LOUISIANA LEGISLATURE IN

04:01p

1 THAT FIRST EXTRAORDINARY SESSION IN 2022. IS THAT
2 RIGHT?

3 A YES.

4 Q OKAY. AND DO YOU KNOW IF ANY OF THE -- ANY
5 OF THOSE PLANS PROPOSED 14 OR MORE MAJORITY-BLACK
6 DISTRICTS FOR THE SENATE?

7 A I DON'T RECALL.

8 Q YOU DON'T RECALL, OKAY.

9 AND WERE YOU AWARE OF ANY OF THE PLANS --
10 ANY OF THOSE ALTERNATE PLANS THAT WOULD HAVE HAD 35
11 OR MORE MAJORITY-BLACK DISTRICTS IN THE HOUSE?

12 A I DON'T RECALL.

13 Q SO FINALLY, I JUST HAD ONE MORE QUESTION FOR
14 YOU, AND IT'S ON PAGE 40 OF YOUR REPORT. IF WE COULD
15 GO TO THAT QUICKLY. AND I JUST WANTED TO ASK YOU
16 ABOUT -- YOU MADE REFERENCE IN YOUR TESTIMONY IN
17 DIRECT EXAMINATION ABOUT A STATEMENT MADE BY SENATOR
18 HENRY ABOUT WANTING A DISTRICT A CERTAIN WAY SO HE,
19 QUOTE, REPRESENT HIS SISTER AND WAS STILL PAYING
20 STUDENT LOANS TO TULANE. DO YOU RECALL THAT?

21 A I DO.

22 Q OKAY. AND I BELIEVE YOU BLOCK QUOTE HIS
23 FULL COMMENTS IMMEDIATELY BELOW THAT TEXT. DO YOU
24 SEE THAT?

25 A YES. YES.

04:03p

1 Q OKAY. AND HE'S PRETTY CLEARLY REFERRING TO
2 WANTING TO REPRESENT TULANE AND LOYOLA. IS THAT
3 RIGHT?

4 A YES. AND -- YES. SO HE'S GOT SOME
5 DISCUSSION -- YES.

6 Q OKAY. SO NOT JUST HIS SISTER. RIGHT?

7 A WELL, HE ALSO TALKS ABOUT ONE SISTER, TWO
8 SISTERS, A BROTHER AND A FATHER AND A MOTHER. YEAH.
9 SO THERE IS A LOT -- THERE IS A LOT THERE.

10 Q AND THOSE ARE ALL PEOPLE THAT HAD
11 CONNECTIONS TO LOYOLA UNIVERSITY. RIGHT? FROM HIS
12 STATEMENT?

13 A YES.

14 Q OKAY.

15 MR. LEWIS: YOUR HONOR, I HAVE NO FURTHER
16 QUESTIONS. THANK YOU, DR. BURCH.

17 THE COURT: THANK YOU.

18 ANY REDIRECT?

19 MS. WENGER: JUST A LITTLE.

20 REDIRECT EXAMINATION

21 BY MS. WENGER:

22 Q NOW, DR. BURCH, MR. LEWIS SPOKE TO YOU ABOUT
23 FIGURE 1 AND TABLE 1 FROM PAGE 7 OF YOUR REPORT. IF
24 WE CAN PULL UP THOSE UP -- THAT PAGE UP.

25 DR. BURCH, IS THERE A REASON THAT YOU SHARED

04:04p

1 THESE DEPICTIONS TOGETHER?

2 A YES. SO AGAIN, GOING BACK TO FIGURE 1, WHEN
3 YOU LOOK AT LESS THAN HIGH SCHOOL AND EDUCATIONAL
4 ATTAINMENT BY RACE AMONG LOUISIANA ADULTS AGE 25 AND
5 OLDER, AGAIN, LOOKING AT BLACK LOUISIANIANS, THERE
6 ARE MORE OF THEM IN THAT LESS THAN HIGH SCHOOL
7 CATEGORY THAN THERE ARE IN THE LAST TWO -- THE TWO
8 BOTTOM CATEGORIES OF BACHELOR'S DEGREE AND HIGHER.
9 AND SO EVEN IF WHITE TURNOUT AND BLACK TURNOUT AT
10 THAT LESS THAN HIGH SCHOOL DIPLOMA LEVEL, BLACK
11 VOTERS ARE OUTVOTING WHITE PEOPLE THERE. THE
12 PROPORTION OF THE WHITE GROUP IN LOUISIANA THAT'S IN
13 THAT LESS THAN HIGH SCHOOL CATEGORY IS SO SMALL,
14 ESPECIALLY RELATIVE TO THE NUMBER WHO ARE IN THE
15 BACHELOR'S DEGREE OR HIGHER.

16 AND SO, AGAIN, THINKING ABOUT WHERE PEOPLE
17 ARE CONCENTRATED IN TURNOUT, THE NO HIGH SCHOOL
18 DIPLOMA, EVEN IF THERE IS MORE BLACK PEOPLE VOTING AT
19 HIGHER RATES IN THAT GROUP, THERE IS STILL -- IT'S
20 NOT ENOUGH TO OVERCOME THAT EDUCATIONAL DISPARITY
21 BETWEEN THE TWO GROUPS IN TERMS OF HOW PEOPLE WITH
22 BACHELOR'S DEGREES AND WHO HAVE GONE TO GRADUATE
23 SCHOOL ARE VOTING AMONG WHITE PEOPLE. SO IT'S JUST,
24 AGAIN, WHAT'S GOING ON ACROSS RACE AND THAT SHOULDN'T
25 -- ISN'T REALLY THE FOCUS.

04:06p

1 IT'S TWO THINGS. IT'S, ONE, THE EFFECT OF
2 EDUCATION ON TURNOUT. WE CAN SEE IT INCREASES IN
3 EACH RACIAL GROUP, SUCH THAT GENERALLY PEOPLE WITH
4 LOWER EDUCATIONAL ATTAINMENT ARE LESS LIKELY TO VOTE
5 THAN PEOPLE WITH HIGHER EDUCATIONAL ATTAINMENT.
6 AND COUPLED WITH FIGURE 1, WE CAN SEE THAT BLACK
7 PEOPLE ARE MORE LIKELY THAN WHITE PEOPLE TO BE IN
8 THAT LOW TURNOUT AND LOW EDUCATION GROUP.

9 Q THANK YOU, DR. BURCH.

10 MR. LEWIS ALSO MENTIONED YOUR USE OF BOTH
11 STATEWIDE DATA, ONE, AND DATA FROM THE YEAR OF 2019
12 SPECIFICALLY. I'D LIKE TO TURN TO THE BOTTOM OF PAGE
13 18 OF YOUR REPORT. LET'S TALK A LITTLE ABOUT YOUR
14 ANALYSIS OF HEALTH OUTCOMES IN LOUISIANA.

15 YOU MENTIONED CANCER ALLEY. IS THAT A
16 STATEWIDE REGION OR A SPECIFIC AREA WITHIN THE STATE?

17 A JUST A SPECIFIC AREA WITHIN THE STATE THAT
18 STRETCHES BETWEEN NEW ORLEANS AND BATON ROUGE.

19 Q AND DID YOU DISCUSS ANY OTHER HEALTH
20 PHENOMENA BEYOND THE YEAR OF 2019 RELEVANT TO HEALTH
21 OUTCOMES FOR BLACK LOUISIANANS?

22 A YES, I DO TALK ABOUT RACIAL DISPARITIES AND
23 ACCESS TO COVID-19 VACCINE SITES AS WELL, AND
24 DIFFICULTIES FOR BLACK AMERICANS TO ACCESS PRIMARY-
25 CARE PHYSICIANS AND DOCTORS BECAUSE OF RACIAL

04:07p

1 RESIDENTIAL SEGREGATION.

2 Q THANK YOU.

3 LET'S TALK A LITTLE BIT ABOUT YOUR
4 DISCUSSION AND WHAT MR. LEWIS DISCUSSED REGARDING
5 RACIAL CAMPAIGN APPEALS. DOES THE LITERATURE ON
6 RACIAL CAMPAIGN APPEALS OR RACIAL APPEALS GENERALLY
7 THAT YOU DISCUSSED ONLY LOOK AT THE OUTCOMES OF
8 ELECTIONS, OR IS IT ALSO ENGAGING WITH ANY ANALYSIS
9 OF THE EFFECT THAT THESE APPEALS HAVE ON INDIVIDUAL
10 VOTERS?

11 A YES. SO A LOT OF THESE ARTICLES, FOR
12 INSTANCE, WHAT THEY MIGHT DO IS ACTUALLY SHOW --
13 RANDOMLY ASSIGN A GROUP OF VOTERS IN AN EXPERIMENTAL
14 CONDITION TO SEE CERTAIN KINDS OF ADS AND THEN TEST
15 THEIR ATTITUDES AFTERWARDS TO SHOW THAT THEY STILL
16 HAVE AN EFFECT ON HOW VOTERS THINK AND WHETHER
17 THEY'RE PRIMED TO THINK ABOUT RACIAL ISSUES VERSUS
18 OTHER KINDS OF ISSUES.

19 Q ALL RIGHT. FINALLY, LET'S DISCUSS SOME OF
20 THE METRICS THAT YOU LOOKED AT. MR. LEWIS
21 DISCUSSED -- I BELIEVE THESE ARE MAINLY FROM PAGE
22 28 -- REGARDING COMMENT CARDS AND OTHER COMMENTARY
23 AROUND THESE OTHER BILLS THAT WERE SUBMITTED DURING
24 THE REDISTRICTING PROCESS THAT INCREASED
25 BLACK-MAJORITY DISTRICTS, BUT PERHAPS THE ISSUE IS

04:08p

1 THE NUMBER OF DISTRICTS THAT WERE ADDED IN RELATION
2 TO PLAINTIFFS' ILLUSTRATIVE MAPS HERE.

3 I'M JUST CURIOUS. FROM YOUR ANALYSIS OF THE
4 COMMENTS MADE OR COMMENT CARDS SUBMITTED, WERE
5 MEMBERS WHO WENT TO THE CAPITOL TO SPEAK CONSTITUENTS
6 FOCUSED ON THE EXACT NUMBER OF DISTRICTS OR DID THEY
7 SPEAK TO OTHER THEMES THAT MATTERED TO THEM?

8 A MOSTLY THEY WERE ABOUT OTHER THEMES AND
9 ASKING FOR MORE THAN WHAT THEY GOT, SO MORE THAN THE
10 CURRENT MAP. AND THEY WANTED TO BE REPRESENTED. SO
11 AGAIN, THERE ARE SOME PEOPLE WHO TALK ABOUT THE
12 ONE-THIRD NUMBER, BUT THEY ARE DEFINITELY NOT
13 SPECIFIC TO A -- SOMETHING LIKE "WE JUST WANT TWO."

14 Q THANK YOU, DR. BURCH.

15 MS. WENGER: NO FURTHER QUESTIONS.

16 THE COURT: ALL RIGHT. IT IS AFTER FOUR
17 TODAY. WHERE ARE WE IN TERMS OF THE CASE?

18 MS. KEENAN: SURE, YOUR HONOR. WOULD YOU
19 LIKE ME TO COME TO THE PODIUM?

20 THE COURT: YES, PLEASE. IT WOULD BE BETTER
21 FOR THE -- MAKE SURE WE HAVE A GOOD RECORD.

22 MS. KEENER: SO, YOUR HONOR, PLAINTIFFS
23 DON'T HAVE ANY ADDITIONAL WITNESSES TO CALL AT THIS
24 TIME. BUT BEFORE WE REST OUR CASE-IN-CHIEF, THERE
25 ARE A FEW FINAL MATTERS WE WANT TO ADDRESS WITH THE

04:10p

1 COURT. WE'RE HAPPY TO DO THAT NOW IF YOUR HONOR
2 WOULD LIKE.

3 THE COURT: GO AHEAD.

4 MS. KEENAN: SO FIRST, THERE ARE A HANDFUL
5 OF EXHIBITS THAT WE'RE HOPING TO ASK THE COURT TO
6 TAKE JUDICIAL NOTICE OF AND ADMIT. THERE ARE THREE
7 CATEGORIES THAT I CAN RUN THROUGH.

8 THE FIRST IS A HANDFUL OF DOCUMENTS:
9 PLAINTIFFS' EXHIBITS 164 THROUGH 180. THOSE ARE
10 SECRETARY OF STATE DOCUMENTS, PUBLIC GOVERNMENT
11 DOCUMENTS THAT WERE EITHER PRODUCED BY THE SECRETARY
12 OF STATE IN THIS LITIGATION OR PULLED FROM THE PUBLIC
13 SECRETARY OF STATE WEBSITE BY PLAINTIFFS.

14 THERE HAVE BEEN NO OBJECTIONS TO THE
15 AUTHENTICITY OF THESE DOCUMENTS, AND SO WE ASK YOUR
16 HONOR TO TAKE JUDICIAL NOTICE OF THE SECRETARY OF
17 STATE DOCUMENTS AND TO ADMIT THEM INTO EVIDENCE AT
18 THIS TIME.

19 THE COURT: DOES THE SECRETARY OF STATE OR
20 THE INTERVENORS HAVE ANY OBJECTION?

21 MR. STRACH: NO, YOUR HONOR.

22 THE COURT: OKAY. 164 THROUGH 180 ARE
23 ADMITTED WITHOUT OBJECTION.

24 MS. KEENAN: THE SECOND CATEGORY IS TWO
25 FILES: PLAINTIFFS' EXHIBIT 120 AND PLAINTIFFS'

04:10p

1 EXHIBIT 122. THESE ARE BLOCK EQUIVALENCY FILES THAT
2 ARE, AGAIN, PUBLIC GOVERNMENT DOCUMENTS ON THE
3 LOUISIANA LEGISLATURE'S WEBSITE. WE'D LIKE TO ASK
4 THE COURT TO TAKE JUDICIAL NOTICE OF THESE DOCUMENTS
5 AND TO ADMIT THEM AS WELL. AGAIN, THERE HAVE BEEN NO
6 OBJECTIONS TO THEIR AUTHENTICITY.

7 THE COURT: IS THERE ANY OBJECTION TO
8 PLAINTIFF 120 AND 122, THE BLOCK EQUIVALENCY DATA?

9 MR. LEWIS: NONE FROM THE LEGISLATIVE
10 INTERVENORS, YOUR HONOR.

11 THE COURT: ANY FROM THE DEFENDANT?

12 MR. STRACH: NOT FROM THE DEFENDANTS, YOUR
13 HONOR.

14 THE COURT: ADMITTED.

15 MS. KEENAN: FINALLY, YOUR HONOR, AS FOR THE
16 EXHIBITS, EXHIBITS -- THESE ARE PLAINTIFFS' EXHIBITS
17 181 THROUGH 183. THESE ARE AUDIO AND FILINGS FROM
18 THE *ROBINSON* CASE THAT YOUR HONOR IS FAMILIAR WITH.
19 THEY ARE STATEMENTS OR ADMISSIONS BY A PARTY OPPONENT
20 REGARDING THE TIMING THAT THE STATE OF LOUISIANA WILL
21 NEED REGARDING THE MAPS IN THIS CASE.

22 WE'RE HOPING THAT BECAUSE THESE ARE
23 COURT FILINGS -- THEY'RE SPECIFICALLY FILINGS AND
24 RECORDINGS DRAWN FROM THE FIFTH CIRCUIT'S WEBSITE,
25 THE SUPREME COURT'S DOCKET, INCLUDING THE STATE'S

04:12p

1 RESPONSE TO OUR MOTION TO STAY WITH THE SUPREME
2 COURT, AND A CERTIFIED TRANSCRIPT OF THE FIFTH
3 CIRCUIT ARGUMENT. THESE ARE ALL COURT FILINGS THAT
4 THE COURT CAN TAKE JUDICIAL NOTICE OF. AND WE'D ASK
5 THE COURT TO ADMIT THESE DOCUMENTS AS WELL.

6 MR. STRACH: YOUR HONOR, WE HAVE A RELEVANCE
7 OBJECTION TO THESE. AND IT'S BECAUSE THEY DEAL WITH
8 *ROBINSON*, A DIFFERENT CASE, DIFFERENT DISTRICT, SO WE
9 HAVE A RELEVANCE OBJECTION.

10 MS. KEENAN: YOUR HONOR, IF I MAY?

11 THE COURT: WHAT ARE YOU TRYING TO SHOW WITH
12 THESE?

13 MS. KEENAN: SURE. SO IT'S OUR
14 UNDERSTANDING -- AND IT'S I BELIEVE BEEN TALKED ABOUT
15 BOTH AT THE STATUS CONFERENCE AND AT THE TOP OF THIS
16 CASE --

17 THE COURT: THE STATUS CONFERENCE WAS IN A
18 DIFFERENT CASE. THIS IS A DIFFERENT CASE, BUT LET'S
19 GO AHEAD. WHAT ARE YOU TRYING TO SHOW?

20 MS. KEENAN: YES. JUST THAT THE TIMING THAT
21 THE STATE WILL NEED TO IMPLEMENT THESE MAPS IS A FACT
22 THAT WE DON'T THINK IS DISPUTED ACROSS THE CASES.
23 IT'S THE SAME PARTIES. WE UNDERSTAND THAT
24 REPRESENTATION TO APPLY TO BOTH. IF THAT'S NOT THE
25 CASE, THAT IS NOT OUR CURRENT UNDERSTANDING.

04:12p

1 SO THE RELEVANCE IS JUST THE
2 REPRESENTATION ABOUT THE TIMING THAT THE STATE WILL
3 NEED TO IMPLEMENT THE MAPS. AND WE DON'T UNDERSTAND
4 THAT TO BE DIFFERENT ACROSS THE TWO CASES.

5 THE COURT: IS THE TIMING THAT THE STATE
6 NEEDS TO IMPLEMENT MAPS -- I MEAN, IT'S -- IT IS A --
7 IT'S A LEGISLATIVE AND THEN SECRETARY OF STATE
8 PROCESS.

9 IS THE TIMING DIFFERENT, MR. STRACH?

10 MR. STRACH: IT COULD VERY WELL BE. BUT
11 THOSE REPRESENTATIONS WERE MADE SPECIFICALLY ABOUT
12 CONGRESSIONAL MAPS IN THE CONTEXT OF THAT PARTICULAR
13 CASE. THIS CASE IS MOVING AT A DIFFERENT PACE THAN
14 THAT ONE. WE DON'T KNOW WHEN THERE MIGHT BE AN
15 ORDER, WHEN THERE MIGHT HAVE TO BE A REMEDIAL
16 PROCESS. WE HAVE NO IDEA.

17 THE COURT: THIS IS THE REMEDIAL PROCESS.
18 THIS IS THE TRIAL ON THE MERITS. YOU MEAN IF THE
19 LEGISLATURE NEEDS TO RESPOND.

20 MR. STRACH: EXACTLY. WE HAVE NO IDEA, YOUR
21 HONOR, IF THE --

22 THE COURTROOM DEPUTY: WOULD YOU GET TO A
23 MICROPHONE, PLEASE?

24 MR. STRACH: YES. I'M SORRY.

25 THE COURT: SHARE YOUR MIC WITH MR. STRACH.

04:13p

1 **MR. STRACH:** JUDGE, WE JUST DON'T KNOW IF
2 IT'S GOING TO BE THE SAME OR NOT, BECAUSE WE'RE
3 DEALING WITH A LOT OF DIFFERENT TYPES OF DISTRICTS
4 HERE. THE LEGISLATURE IS ALREADY GOING TO BE DEALING
5 WITH THE CONGRESSIONAL MAP, AS THE COURT KNOWS. WE
6 DON'T KNOW WHAT THE TIMING OF A RULING HERE WILL BE.

7 SO WE -- THERE IS -- IT WOULD NOT BE
8 FAIR. IT WOULD BE PREJUDICIAL TO TRY TO IMPOSE A
9 TIMELINE GIVEN FOR CONGRESSIONAL DISTRICTS ON THE
10 LEGISLATIVE CASE. AND THAT'S WHY THE DOCUMENTS ARE
11 JUST NOT RELEVANT HERE.

12 **MS. KEENAN:** MAY I RESPOND BRIEFLY, YOUR
13 HONOR?

14 **THE COURT:** YES.

15 **MS. KEENAN:** I THINK THERE IS TWO STRANDS OF
16 ARGUMENTS HERE, THOUGH. IT SEEMS LIKE DEFENDANTS ARE
17 NOW SAYING THAT THEY MAY TRY TO SHOW THAT THE TIMING
18 IS DIFFERENT THAN WHAT WAS OFFERED THERE. BUT THAT
19 DOESN'T MEAN THAT THE TIMING ISN'T RELEVANT ACROSS
20 THE TWO CASES.

21 CERTAINLY THE STATE'S REPRESENTATIONS
22 ABOUT THE TIME NEEDED TO ADMINISTER ANY MAPS THAT
23 COME OUT OF THE REMEDIAL PROCESS IS AT LEAST RELEVANT
24 TO THESE PROCEEDINGS. AND IT DOESN'T SOUND LIKE
25 THERE ARE OBJECTIONS TO THE AUTHENTICITY OR THE FACT

04:14p

1 OF THOSE STATEMENTS BEING MADE. SO I THINK WE WOULD
2 STILL MOVE TO ADMIT THEM.

3 THE COURT: WHY IS IT RELEVANT? WHY IS THE
4 TIMING RELEVANT OTHER THAN -- I GET IT.

5 MS. KEENAN: YEAH.

6 THE COURT: HURRY UP, GOT TO GO, HURRY UP.
7 I GET IT. BUT --

8 MS. KEENAN: WELL, I THINK IT'S A LITTLE
9 MORE THAN JUST THAT, YOUR HONOR. I THINK THAT IT IS
10 IMPORTANT IN THESE CASES TO ESTABLISH A RECORD FOR
11 THE COURT REGARDING *PURCELL*, REGARDING THE TIMING
12 NEEDED TO SEEK REMEDIES TO EXPEDITE THIS CASE GOING
13 FORWARD. IT'S INCREDIBLY IMPORTANT FOR US TO CREATE
14 A RECORD ABOUT THE AMOUNT OF TIME THAT THE STATE
15 NEEDS TO IMPLEMENT ANY MAPS THAT ARE GOING TO ARISE
16 OUT OF THIS PROCEEDING.

17 THE COURT: THEY'RE GOING TO HAVE WITNESSES.
18 CAN'T YOU ASK THEM?

19 MS. KEENAN: SURE, YOUR HONOR, AS LONG AS
20 THEY CALL THE SECRETARY'S WITNESSES, WHICH ARE
21 CURRENTLY LISTED AS MAY CALLS. SO I THINK IF THEY
22 CALL THOSE WITNESSES, WE WILL BE ABLE TO TRY TO
23 ELICIT THAT TESTIMONY.

24 THE COURT: WELL, I KNOW THAT THE PRESIDENT
25 -- THE CURRENT PRESIDENT OF THE SENATE IS SITTING IN

04:15p

1 THE COURTROOM AND HE'S GOING TO BE CALLED -- SORRY,
2 NOT TODAY, PROBABLY TOMORROW. BUT THERE IS ONE OF
3 YOUR WITNESSES. ARE YOU GOING TO CALL THE SECRETARY
4 OF -- YOU HAVE A MAY CALL -- I'VE FORGOTTEN HER NAME.
5 SHERRI SOMETHING.

6 MR. STRACH: SHERRI HADSKEY.

7 THE COURT: HADSKEY, YES.

8 MR. STRACH: WE PROBABLY WON'T. BUT WE'RE
9 WAITING TO SEE HOW THE EVIDENCE PLAYS OUT, BUT WE
10 PROBABLY WON'T.

11 I THINK THAT THESE ISSUES WILL BECOME
12 RELEVANT IF THERE IS AN ORDER AND A REMEDIAL PROCESS.
13 AND THAT'S WHEN WE'LL ALL KNOW WHAT THE TIMING CAN
14 BE. RIGHT NOW WE'RE ALL SPEAKING INTO A VACUUM. SO
15 I DON'T SEE HOW IT CAN BE RELEVANT WHEN -- IF THERE
16 IS A REMEDIAL PROCESS AS IN THE CONGRESSIONAL CASE,
17 AGAIN, YOU'RE TALKING ABOUT 144 DISTRICTS HERE, MANY
18 OF WHICH COULD BE IMPACTED. YOU'RE TALKING ABOUT
19 DISTRICTS WHICH HAVE SPLIT PARISHES, ET CETERA, WHICH
20 IS NOT THE CASE IN THE CONGRESSIONAL CASE. YOU'RE
21 TALKING ABOUT A WHOLE DIFFERENT CAN OF WORMS WITH
22 LEGISLATIVE DISTRICTS. AND THE ONE PROCESS IS
23 COMPLETELY UNRELATED TO THE OTHER.

24 MS. KEENAN: MAY I RESPOND ONE MORE TIME,
25 YOUR HONOR, JUST BRIEFLY?

04:16p

1 THE COURT: UH-HUH. GO AHEAD. I'M SORRY.

2 MS. KEENAN: I THINK ESPECIALLY IN LIGHT OF
3 THE REPRESENTATION THAT SHERRI HADSKEY WILL LIKELY
4 NOT BE CALLED, THESE BECOME MORE IMPORTANT. THE
5 REASON FOR THAT IS THAT THESE ARE ARGUMENTS THAT WERE
6 LARGELY MADE BY THE SECRETARY OF STATE AND NOT BY THE
7 LEGISLATIVE INTERVENORS.

8 YOUR HONOR MAY BE AWARE THAT IN
9 PARTICULAR AT THE SUPREME COURT STAGE THE LEGISLATIVE
10 INTERVENORS WERE NOT A PARTY TO THAT. THIS IS SOLELY
11 THE REPRESENTATION OF THE SECRETARY OF STATE'S OFFICE
12 WHO NOW MAY NOT BE TESTIFYING HERE. SO WE THINK
13 THOSE REPRESENTATIONS ARE BOTH RELEVANT AND MAY NOT
14 COME IN THROUGH LIVE WITNESS TESTIMONY.

15 THE COURT: OKAY. WELL, WHAT'S HAPPENING
16 IS, IS THAT YOU'RE TRYING TO ANTICIPATE *PURCELL* AND
17 ESSENTIALLY COMMIT THE SECRETARY OF STATE TO A
18 POSITION THAT THEY'VE TAKEN IN A -- WE'LL CALL IT A
19 COMPANION CASE, FOR LACK OF A BETTER WORD. I'M GOING
20 TO TAKE IT UNDER ADVISEMENT. I THINK IT'S A REALLY
21 CLOSE CALL. I MEAN, YOU HAVE -- THE SECRETARY OF
22 STATE HAS -- THE PROCESS IS THE PROCESS. I
23 UNDERSTAND THAT IT'S DIFFERENT MAPS AND IT -- BUT THE
24 PROCESS IS THE PROCESS.

25 AND THE SECRETARY OF STATE HAS MADE

04:18p

1 REPRESENTATIONS IN MULTIPLE COURTS, THIS COURT, THE
2 COURT OF APPEAL, THE SUPREME COURT. AND, YOU KNOW,
3 YES, A PARTY ADMISSION IS A PARTY ADMISSION, BUT THE
4 PROBLEM IS YOU'RE NOT GOING TO CALL MS. HADSKEY, AND
5 SO -- I'M GOING TO TAKE IT UNDER ADVISEMENT.

6 ARE THERE ANY OTHER HOUSEKEEPING
7 MATTERS?

8 MS. KEENAN: YES, YOUR HONOR, JUST TWO.

9 FIRST, PLAINTIFFS DO RESERVE THE RIGHT
10 TO CALL REBUTTAL WITNESSES FOLLOWING THE DEFENDANTS'
11 CASE-IN-CHIEF, WITH THE EXCEPTION OF THE HANDFUL WHO
12 WE HAVE ALREADY STIPULATED WILL NOT BE RETURNING.

13 THE COURT: I MEAN, YOU'RE ENTITLED TO
14 REBUTTAL, SO -- EXCEPT THE TWO, WHICH WERE MR. COOPER
15 AND --

16 MS. KEENAN: AND DR. BURCH.

17 THE COURT: -- DR. BURCH.

18 MS. KEENAN: THAT'S RIGHT.

19 YOUR HONOR, FINALLY, YOUR HONOR MAY OR
20 MAY NOT HAVE SEEN THAT AT THE END OF THE LUNCH BREAK
21 AT 1:25 P.M. CENTRAL --

22 THE COURT: YOUR HONOR SAW IT.

23 MS. KEENAN: OKAY. PLAINTIFFS WOULD LIKE A
24 CHANCE TO RESPOND TO THAT MOTION ON THE RECORD. WE'D
25 PREFER TO DO SO IN WRITING AFTER THE CONCLUSION OF

04:18p

1 TRIAL. BUT IF YOUR HONOR WISHES TO RULE BEFORE THEN,
2 I AM PREPARED TO ADDRESS THE MOTION ORALLY ON THE
3 RECORD NOW, JUST AT YOUR HONOR'S PREFERENCE OF THE
4 TIMING.

5 THE COURT: LET'S HEAR FROM MR. STRACH.
6 REALLY THE ONLY ISSUE IS INTERLOCUTORY APPEAL. I
7 MEAN --

8 MR. STRACH: CORRECT. YOUR HONOR, WE DIDN'T
9 ASK FOR EXPEDITED TREATMENT. WE EXPECT IT WOULD JUST
10 BE DEALT WITH IN THE NORMAL COURSE, SO WE'D BE HAPPY
11 FOR THEM TO HAVE THE FULL TIME TO RESPOND --

12 THE COURT: I'D BE VERY HAPPY FOR THAT, TOO.

13 MR. STRACH: -- AND THE COURT TO RULE AT
14 YOUR CONVENIENCE.

15 THE COURT: I DIDN'T KNOW IF YOU WANTED TO
16 PUNT IT UP AS A 52(C) OR SOMETHING LIKE THAT.

17 MR. STRACH: WELL -- SO THAT'S WHERE I'M
18 GOING NEXT. SO WE WILL BE ASKING -- MAKING A MOTION
19 FOR JUDGMENT ON PARTIAL FINDINGS PURSUANT TO RULE
20 52(C). WE WERE JUST GOING TO DO IT ORALLY AND THEN
21 ASK THE COURT'S PLEASURE IN TERMS OF BRIEFING THAT
22 LATER. AGAIN, IT'S -- WE JUST WANT TO MAKE SURE WE
23 MAKE IT AT THE CLOSE OF THEIR EVIDENCE, WHETHER IT'S
24 TODAY OR TOMORROW, AND THEN WE COULD BRIEF IT.
25 HOWEVER, WE DON'T KNOW THERE IS A -- NEEDS TO BE A

04:19p

1 RUSH TO DECIDE IT.

2 THE COURT: I HAVEN'T HEARD YOUR 52(C).

3 I'LL RESERVE LISTENING TO YOUR 52(C) IN -- HOWEVER,

4 WITH RESPECT TO BRIEFING ON THE MOTION TO DISMISS,

5 YOU CAN HAVE THE REGULAR -- THE TIME FRAME THAT'S SET

6 FORTH IN THE LOCAL RULES. I GUESS IT'S 21 DAYS,

7 WHATEVER IT IS.

8 MS. KEENAN: THANK YOU, YOUR HONOR. THAT'S

9 ALL FROM PLAINTIFFS. WE'RE PREPARED TO REST OUR

10 CASE-IN-CHIEF.

11 THE COURT: ARE YOU RESTING YOUR CASE-IN-

12 CHIEF? AND I'M NOT PUTTING YOU IN A TRICK BAG. I'M

13 TAKING THIS 181 TO 183 UNDER ADVISEMENT. I MEAN, IF

14 I ADMIT THEM, I'M GOING TO ADMIT THEM EVEN IF YOU'VE

15 RESTED, SO DON'T FEEL LIKE YOU'RE IN A BOX.

16 MS. KEENAN: THANK YOU, YOUR HONOR. ONE

17 MOMENT TO CONFER WITH COUNSEL.

18 THE COURT: OKAY. OH, YOU MAY STEP DOWN. I

19 AM SO SORRY. NO, YOU JUST HAVE TO SIT THERE AND

20 WATCH THIS.

21 THE WITNESS: IT'S OKAY. I WAS BEING NOSY.

22 THE COURT: I AM SO SORRY.

23 MS. KEENAN: YOUR HONOR, THAT IS ALL FROM

24 THE PLAINTIFFS. WE'RE READY TO REST OUR CASE-IN-

25 CHIEF.

1 **THE COURT:** THE PLAINTIFFS ARE RESTING.

2 THE COURT WILL HEAR FROM THE DEFENDANTS

3 IN THE DEFENDANTS' CASE-IN-CHIEF IN THE MORNING.

4 I'LL HEAR YOUR 52(C) ARGUMENTS AT 9 A.M. SO IF YOU

5 WANT TO HAVE -- IF PRESIDENT CORTEZ IS YOUR LEAD-UP,

6 IF YOU WANT TO BE HERE ABOUT 9:30 -- I'D LIKE TO SAVE

7 YOU THE TROUBLE OF BEING HERE AT 9:00, UNLESS YOU

8 JUST WANT TO LISTEN TO THESE FINE PEOPLE TALK.

9 IS THERE ANYTHING ELSE THAT WE NEED TO

10 TAKE UP THIS AFTERNOON BEFORE WE RECESS FOR THE DAY?

11 **MR. STRACH:** NOT FROM US, YOUR HONOR.

12 **MS. KEENAN:** NOT FROM PLAINTIFFS, YOUR

13 HONOR.

14 **THE COURT:** OKAY. WE'LL SEE Y'ALL IN THE

15 MORNING AT 9:00.

16 **(WHEREUPON, THE PROCEEDINGS WERE ADJOURNED**

17 **UNTIL NOVEMBER 30, 2023 AT 9:00 A.M.)**

18 **C E R T I F I C A T E**

19 **I CERTIFY THAT THE FOREGOING IS A CORRECT**

20 **TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE**

21 **ABOVE-ENTITLED NUMBERED MATTER.**

22 **S:/NATALIE W. BREAU**

23 **NATALIE W. BREAU, RPR, CRR**

24 **OFFICIAL COURT REPORTER**

25