Attachment 5

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL	*	CIVIL ACTION
	*	
VERSUS	*	NO. 3:22-178-SDD
	*	
KYLE ARDOIN, ET AL	*	DECEMBER 1, 2023

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DAY 5
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
BY: MEGAN C. KEENAN, ESQ.
SARAH E. BRANNON, ESQ.
DAYTON CAMPBELL-HARRIS, ESQ.
915 15TH STREET, NW
WASHINGTON, DC 20005

NAACP LEGAL DEFENSE & EDUCATION FUND, INCORPORATED
BY: VICTORIA WENGER, ESQ.
SARA ROHANI, ESQ.
STUART C. NAIFEH, ESQ.
40 RECTOR STREET, FIFTH FLOOR
NEW YORK, NEW YORK 10006

COZEN O'CONNOR
BY: JOSEPHINE M. BAHN, ESQ.
1200 19TH STREET, NW
THIRD FLOOR
WASHINGTON, DC 20036

COZEN O'CONNOR
BY: ROBERT S. CLARK, ESQ.
ONE LIBERTY PLACE
1650 MARKET STREET, SUITE 2800
PHILADELPHIA, PENNSYLVANIA 19103

COZEN O'CONNOR
BY: AMANDA GIGLIO, ESQ.
3 WORLD TRADE CENTER
55TH FLOOR
NEW YORK, NEW YORK 10007

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION, VOTING RIGHTS PROJECT
BY: GARRETT MUSCATEL
125 BROAD STREET, 18TH FLOOR
NEW YORK, NEW YORK 10004

ELECTION LAW CLINIC
HARVARD LAW SCHOOL
BY: T. ALORA THOMAS, ESQ.
6 EVERETT STREET, SUITE 4105
CAMBRIDGE, MASSACHUSETTS 02138

ADCOCK LAW, LLC
BY: JOHN N. ADCOCK, ESQ.
3110 CANAL STREET
NEW ORLEANS, LOUISIANA 70119

FOR THE DEFENDANT, KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE:

NELSON MULLINS RILEY & SCARBOROUGH, LLP
BY: PHILLIP J. STRACH, ESQ.
THOMAS A. FARR, ESQ.
CASSIE A. HOLT, ESQ.
ALYSSA M. RIGGINS, ESQ.
4140 PARKLAKE AVENUE, STE. 200
RALEIGH, NORTH CAROLINA 27612

SHOWS, CALI & WALSH, LLP
BY: JOHN C. CONINE, JR., ESQ.
JOHN C. WALSH, ESQ.
628 ST. LOUIS STREET
BATON ROUGE, LOUISIANA 70802

FOR THE intervenor, CLAY SCHEXNAYDER AND PATRICK PAGE CORTEZ:

BAKER & HOSTETLER, LLP
BY: KATE MCKNIGHT, ESQ.
ROBERT J. TUCKER, ESQ.
PATRICK LEWIS, ESQ.
200 CIVIC CENTER DRIVE, STE. 1200
COLUMBUS, OHIO 43215

BAKER & HOSTETLER, LLP
BY: MICHAEL W. MENGIS, ESQ.
811 MAIN STREET, SUITE 1100
HOUSTON, TEXAS 77002

FOR THE INTERVENOR, THE STATE OF LOUISIANA BY AND THROUGH ATTORNEY GENERAL JEFF LANDRY:

HOLTZMAN VOGEL JOSEFIAK TORCHINSKY, PLLC
BY: BRENNAN BOWEN, ESQ.
2575 EAST CAMELBACK RD., STE. 860
PHOENIX, ARIZONA 85016

HOLTZMAN VOGEL JOSEFIAK TORCHINSKY, PLLC
BY: PHILLIP M. GORDON, ESQ.
15404 JOHN MARSHALL HIGHWAY
HAYMARKET, VIRGINIA 20169

LOUISIANA DEPARTMENT OF JUSTICE
BY: ANGELIQUE D. FREEL, ESQ.
JEFFREY M. WALE, ESQ.
AMANDA M. LAGROUE, ESQ.
1885 N. THIRD STREET
BATON ROUGE, LOUISIANA 70804

OFFICIAL COURT REPORTER:

TERI B. NORTON, FCRR, RMR, RDR
UNITED STATES DISTRICT COURT
501 E. COURT STREET, STE. 2.500
JACKSON, MISSISSIPPI 39201
TERI_NORTON@MSSD.USCOURTS.GOV
(601)608-4186

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING COMPUTER-AIDED TRANSCRIPTION SOFTWARE

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9:00AM

THE COURT: I THINK MR. TRENDE CAN TAKE THE STAND. I THINK WE ARE ON CROSS-EXAMINATION. YOU ARE STILL UNDER OATH, SIR.

THE WITNESS: YES, YOUR HONOR.

THE COURT: MS. THOMAS, MAKE AN APPEARANCE FOR THE NEW COURT REPORTER, PLEASE.

MS. THOMAS: ALORA THOMAS FOR THE HARVARD ELECTION LAW CLINIC. GOOD MORNING, MR. TRENDE. NICE TO SEE YOU AGAIN. I'M SURE THE NEXT TIME I SEE YOU, YOU WILL BE DR. TRENDE.

THE WITNESS: GOOD TO SEE YOU, TOO.

SEAN TRENDE,

HAVING PREVIOUSLY BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

CROSS-EXAMINATION

BY MS. THOMAS:

Q. SO GOING OVER SOME OF THE THINGS THAT YOU DISCUSSED IN YOUR DIRECT, YOU HAVE TWO ALGORITHMS THAT YOU USED IN YOUR EXPERT REPORT; IS THAT CORRECT?

A. THAT IS CORRECT.

Q. AND THE FIRST WEIGHTS THE BLACK VOTING AGE POPULATION? IF I SAY BVAP, WILL YOU UNDERSTAND WHAT I MEAN?

A. YES, I'LL UNDERSTAND THAT. AND YES, THAT'S RIGHT, IT WEIGHTS THAT.

Q. AND THE SECOND ALGORITHM WEIGHTS PRECINCT SIZE; IS THAT CORRECT?

A. THAT IS CORRECT.

9:01AM

Q. AND NEITHER OF THESE ALGORITHMS CREATE WHOLE MAPS; IS THAT CORRECT?

A. THAT'S RIGHT. THEY ARE DESIGNED TO IDENTIFY CLUSTERS OF BLACK RESIDENTS OF VOTING AGE THAT WOULD BE 50 PERCENT PLUS ONE OF THE BVAP IN THE DISTRICT THAT -- THE ILLUSTRATIVE DISTRICT THAT MR. COOPER DREW.

Q. AND YOU DID NOT USE EITHER OF THESE EXACT ALGORITHMS IN YOUR DISSERTATION; IS THAT CORRECT?

A. THAT IS CORRECT. IT'S THE CONCEPTIONS OF COMPACTNESS THAT I WAS FAMILIARIZED WITH.

Q. AND THESE ALGORITHMS ARE BASED ON MOMENT OF INERTIA; IS THAT CORRECT?

A. THAT IS CORRECT.

Q. AND YOU DID NOT USE MOMENT OF INERTIA IN YOUR DISSERTATION; IS THAT CORRECT?

A. THAT'S CORRECT. I USED IT IN MY RESEARCH FOR IT, I CAME ACROSS IT, BUT I DIDN'T USE THAT IN THE DISSERTATION ITSELF.

Q. AND FOCUSING ON YOUR DISSERTATION FOR A MINUTE, NONE OF THE CHAPTERS IN YOUR DISSERTATION HAD BEEN PUBLISHED IN A PEER-REVIEWED ARTICLE -- PEER-REVIEWED JOURNAL?

A. THAT IS RIGHT.

Q. AND YOU ONLY HAVE ONE PEER-REVIEWED ARTICLE; IS THAT CORRECT?

A. THAT IS CORRECT.

Q. AND YOUR PEER-REVIEWED ARTICLE DID NOT DISCUSS EITHER OF

9:02AM THE ALGORITHMS YOU ARE USING IN THIS CASE?
A. RIGHT.
Q. AND YOU DID NOT USE MOMENT OF INERTIA IN YOUR PEER-REVIEWED ARTICLE?
A. CORRECT.
Q. AND YOUR ONE PEER-REVIEWED ARTICLE DID NOT DISCUSS COMPACTNESS; IS THAT CORRECT?
A. CORRECT.
Q. AND IT'S YOUR UNDERSTANDING THAT YOU ARE CRITIQUING A *GINGLES* I EXPERT, MR. COOPER; IS THAT CORRECT?
A. I'M CRITIQUING MR. COOPER, THAT'S RIGHT.
Q. AND DO YOU UNDERSTAND THAT MR. COOPER IS A *GINGLES* I EXPERT IN THIS CASE?
A. I DON'T KNOW WHAT HIS PROFFER WAS, BUT I WON'T DISPUTE YOU ON THAT.
Q. AND WOULD YOU AGREE THAT A *GINGLES* I EXPERT MUST DRAW A *GINGLES* I COMPLIANT MAP?
A. YES.
Q. IN MR. COOPER'S WORK, HE USED REOCK AND POLSBY-POPPER, ALONG WITH OTHER MEASURES TO ESTABLISH THE COMPACTNESS OF HIS DISTRICTS; IS THAT CORRECT?
A. THAT'S RIGHT.
Q. AND YOU DID NOT ANALYZE MR. COOPER'S REOCK SCORES; IS THAT CORRECT?
A. THAT'S RIGHT. I HAVE NO REASON TO DISPUTE HIM ON THE

9:04AM

DISTRICT COMPACTNESS.

Q. AND YOU DID NOT ANALYZE MR. COOPER'S SCORE ON POLSBY-POPPER?

A. THAT'S RIGHT.

Q. AND YOU DON'T HAVE A BASIS TO CONCLUDE THAT MR. COOPER'S DISTRICTS ARE NONCOMPACT?

A. THAT'S RIGHT. I DON'T ANALYZE THE DISTRICT COMPACTNESS.

Q. AND YOU ALSO DID NOT RUN A COMPACTNESS ANALYSIS ON THE ENACTED MAP; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND YOU WOULDN'T BE SURPRISED IF MR. COOPER'S ILLUSTRATIVE MAPS EITHER MET OR BEAT THE ENACTED MAP ON COMPACTNESS MEASURES?

A. IT WOULDN'T SURPRISE ME EITHER WAY. NO, THAT IS CORRECT.

Q. NOW, WHAT YOU DID DO IN THIS CASE IS YOU USED THE MOMENT OF INERTIA METHOD WE'VE BEEN DISCUSSING. COULD THE MOMENT OF INERTIA METHOD GIVE A NUMERIC VALUE?

A. YES.

Q. AND COULD YOU USE THAT NUMERIC VALUE TO COMPARE DIFFERENT DISTRICTS?

A. I SUPPOSE YOU COULD. IT'S TOUGH TO DO A DIRECT COMPARISON BECAUSE WHAT THE MOMENT OF INERTIA VALUE IS IS THE AVERAGE SQUARE -- AVERAGE DISTANCE FROM THE CENTROID. SO COMPARING ACROSS DISTRICTS IS A LITTLE TRICKY, BUT REMEMBER, HERE I'M ONLY USING IT TO HELP IDENTIFY THE MOST COMPACT GROUPING OF

9:05AM BLACK RESIDENTS OF VOTING AGE IN THE DISTRICT THAT CAN BE 50 PERCENT PLUS ONE. SO IT'S TRYING TO FIND THE BEST GROUPING FOR MR. COOPER IN ANALYZING THAT.

Q. BUT YOU DID NOT RELAY THE NUMERIC VALUE FOR YOUR MOMENT OF INERTIA IN YOUR REPORT, CORRECT?

A. THAT'S RIGHT.

Q. INSTEAD OF RELAYING A NUMERIC VALUE, YOU USED A VISUAL DEPICTION; IS THAT CORRECT?

A. THAT'S RIGHT. I FOLLOWED THE SUPREME COURT APPROACH IN RACIAL GERRYMANDERING CASES AND IN SOME OF THESE SECTION 2 CASES, OR TRIED TO FOLLOW IT, AT LEAST, AND AN ULTIMATE VISUAL ANALYSIS OF THE COMPACTNESS, BECAUSE THIS IS AN AREA, AS JUSTICE O'CONNOR WROTE, WHERE APPEARANCES DO MATTER.

Q. AND IN ORDER TO MAKE THE VISUAL COMPARISON, SOMEONE WOULD HAVE TO MAKE A JUDGMENT CALL BASED ON THE VISUALS; IS THAT CORRECT?

A. THAT'S RIGHT. THE FINDER OF FACT MAKES THE ULTIMATE CONCLUSION AND JUDGMENT CALL ON THIS.

Q. AND I THINK YOU TESTIFIED YESTERDAY AND AGAIN IN YOUR TESTIMONY JUST NOW THAT THE MOMENT OF INERTIA, YOU ARE USING IT TO FIND THE MOST COMPACT POPULATION; IS THAT RIGHT?

A. THAT'S RIGHT.

Q. AND I THINK YOU TESTIFIED IN THAT -- EARLIER AND AT YOUR DEPOSITION THAT THE ARTICLES THAT YOU CITE FOR THE MOMENT OF INERTIA DO NOT USE THE MOST COMPACT CONCEPT IN THE EXACT WAY

9:07AM

THAT YOU DO; IS THAT RIGHT?

A. THAT IS RIGHT. THEY PROVIDE THE CONCEPT OF COMPACTNESS, AND THEN THEY APPLY IT TO THE DRAWING OF FULL DISTRICTS. I'M JUST TAKING THE CONCEPT OF COMPACTNESS AND APPLYING IT TO A DIFFERENT SCENARIO.

Q. *GINGLES* I DOES NOT REQUIRE THAT A DISTRICT BE DRAWN AROUND THE MOST COMPACT POPULATION; DOES IT?

A. OH, NO, NO. I'M JUST SAYING WITHIN THE ILLUSTRATIVE DISTRICT THAT MR. COOPER DREW, WHAT'S THE MOST COMPACT POPULATION SOMEONE COULD POINT TO TO ARGUE THAT THE MINORITY POPULATION IN THE DISTRICT IS COMPACT? THAT'S ALL THE MOMENT OF INERTIA IS BEING USED FOR IS TO FIND THE BEST CASE SCENARIO FOR PLAINTIFFS.

Q. AND YOU WOULD AGREE THAT YOU BASE YOUR FINDINGS OF COMPACTNESS ON YOUR OPINION OF WHAT A REASONABLE DEFINITION OF THE TERM WOULD BE?

A. COULD YOU REPEAT THAT? I'M SORRY.

Q. YOU WOULD AGREE THAT YOU BASE YOUR FINDINGS OF COMPACTNESS ON YOUR OPINION OF WHAT A REASONABLE DEFINITION OF COMPACTNESS WOULD BE?

A. RIGHT, RIGHT. THE REPORT HAS MY ANALYSIS OF WHY I THINK IT'S NOT COMPACT, BUT IT'S ULTIMATELY SOMETHING -- IT'S A FINE LINE TO WALK IN THAT REPORT BETWEEN NOT INVADING THE PROVINCE OF THE FACT-FINDER AND YET GIVING SOME TYPE OF ANALYSIS ON COMPACTNESS.

9:08AM

Q. AND YOUR DEFINITION OF COMPACTNESS IS ONE THAT THE FACT-FINDER MIGHT ULTIMATELY DISAGREE WITH. YOU WOULD --

A. OH --

Q. -- AGREE WITH THAT?

A. I'M SORRY. I DIDN'T MEAN TO TALK OVER YOU. A HUNDRED PERCENT.

Q. NOW, I THINK YOU TESTIFIED YESTERDAY AND IN YOUR DEPOSITION THAT YOU HAVE BEEN INVOLVED IN DRAWING MAPS IN THE PAST; IS THAT CORRECT?

A. THAT'S RIGHT.

Q. AND WHEN YOU'VE DRAWN MAPS, YOU'VE USED TRADITIONAL REDISTRICTING CRITERIA; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND BASED ON YOUR EXPERIENCE, *GINGLES* I EXPERTS, WHEN THEY ARE DRAWING MAPS, USE TRADITIONAL REDISTRICTING CRITERIA; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. STATES OFTEN HAVE A LIST OF TRADITIONAL REDISTRICTING CRITERIA THAT THEY PRIORITIZE IN THEIR MAP DRAWING; IS THAT CORRECT?

A. YES.

Q. AND LOUISIANA HAS A LIST OF TRADITIONAL REDISTRICTING CRITERIA THAT IT PRIORITIZES?

A. YES.

Q. AND MR. COOPER USED TRADITIONAL REDISTRICTING CRITERIA IN

9:10AM

DESIGNING HIS MAP; IS THAT CORRECT?

A. THAT'S MY UNDERSTANDING.

Q. AND YOU WOULD AGREE THAT IN DRAWING MAPS, TRADE-OFFS ARE SIMPLY INEVITABLE BETWEEN TRADITIONAL REDISTRICTING CRITERIA, RIGHT?

A. YES.

Q. YOU DIDN'T CONSIDER ANY TRADITIONAL REDISTRICTING CRITERIA IN ANSWERING THIS QUESTION OTHER THAN COMPACTNESS?

A. NO, BECAUSE TYPICALLY THE VOTING RIGHTS ACT STANDS FIRST IN TERMS OF PRINCIPLES AND WOULD OVERRIDE STATE CONCLUSIONS ABOUT TRADITIONAL REDISTRICTING PRINCIPLES. SO IF IT'S TRUE THAT IT'S POPULATION COMPACTNESS THAT MATTERS, THAT WOULD BE ONE OF THE PRIME CONSIDERATIONS. THAT'S WHY I DID IT THE WAY I DID.

Q. AND AT YOUR DEPOSITION, YOU DID NOT KNOW WHAT EFFECT INCORPORATING TRADITIONAL REDISTRICTING CRITERIA WOULD HAVE HAD IN YOUR ANALYSIS IF YOU WOULD HAVE INCLUDED IT?

A. THAT'S RIGHT.

Q. IN YOUR DIRECT WE WENT THROUGH ENACTED DISTRICT 29. DO YOU RECALL THAT?

A. YES.

Q. OKAY. IF WE COULD GET ON THE SCREEN THE SECRETARY OF STATE'S EXHIBIT 3, WHICH I BELIEVE IS MR. TRENDE'S REPORT.

YES. WE ARE NOW LOOKING AT DISTRICT 29 FROM YOUR REPORT. IT'S FOUND ON PAGE 8, AND THIS IS FIGURE 38. DO YOU RECALL

9:11AM THIS?
A. YES.
Q. OKAY. SO I'M JUST GOING TO ASK YOU A FEW QUESTIONS. YOU DON'T KNOW WHETHER THE COMMUNITIES ON EITHER SIDE OF THE RIVERBANK ARE CONSIDERED SEPARATE COMMUNITIES OF INTEREST?
A. THAT'S RIGHT. I DON'T OFFER COMMUNITIES OF INTEREST ANALYSIS.
Q. OKAY. IF WE COULD LOOK AT FIGURE 96 ON PAGE 132 OF THE SAME EXHIBIT. THERE'S ANOTHER RIVERBANK IN THE NEW ORLEANS AREA. DO YOU KNOW ANYTHING ABOUT THE TWO COMMUNITIES ON EITHER SIDE OF THE RIVERBANK?
A. NO.
Q. DO YOU KNOW ANYTHING ABOUT WHAT ROLE COMMUNITIES MAY HAVE PLAYED IN THE DRAWING OF THIS DISTRICT?
A. NO.
Q. WE'VE LOOKED AT SOME OF THE -- SORRY, STRIKE THAT. I BELIEVE IN YOUR DIRECT EXAMINATION WE LOOKED AT -- AND WE LOOKED AT JUST NOW DISTRICT 29 IN THE ENACTED MAP. DID YOU DO AN EXHAUSTIVE REVIEW OF THE ENACTED MAP'S MAJORITY BLACK DISTRICTS?
A. NO.
Q. AND AT YOUR DEPOSITION YOU STATED YOU DID NOT KNOW WHETHER ANY OF THE DISTRICTS IN THE ENACTED MAP WERE VOTING RIGHTS ACT COMPLIANT, CORRECT?
A. THAT'S RIGHT. THEY MAY ALL NOT BE.

9:13AM

Q. AND YOU TESTIFIED AT YOUR DEPOSITION THAT YOU HAD TURNED OVER YOUR CODE TO THE PLAINTIFFS; IS THAT CORRECT?

A. YES.

Q. AND IF WE RAN YOUR CODE, WE COULD REPLICATE YOUR ANALYSIS?

A. THAT'S RIGHT. YOU WOULD HAVE TO CHANGE SOME OF THE DISTRICT NUMBERS, I THINK, TO BRING UP DIFFERENT DISTRICTS, BUT YEAH, YOU COULD RUN THE CODE ON ANY DISTRICT ON ANY MAP YOU WANTED TO.

Q. AND IN YOUR DEPOSITION, WE SPOKE ABOUT DISTRICT 62 IN THE ENACTED MAP, CORRECT?

A. I HAVE NO REASON TO DISPUTE YOU ON THAT. WE TALKED ABOUT A LOT OF DISTRICTS.

Q. DO YOU NEED ME TO REFRESH YOUR RECOLLECTION?

A. I TRUST YOU.

Q. OKAY. AND AT YOUR DEPOSITION, YOU AGREED THAT DISTRICT 62 OF THE ENACTED MAP CLEARLY FAILS YOUR EYEBALL TEST; IS THAT RIGHT?

A. YEAH, DISTRICT 62 IS A -- IT WOULD BE A REMEDIAL, NOT AN ILLUSTRATIVE DISTRICT, BUT I REMEMBER LOOKING AT IT AND THINKING, NO, THAT IS NOT A COMPACT BLACK POPULATION.

Q. JUST SO THE RECORD IS CLEAR, WE LOOKED AT DISTRICT 62 IN THE ENACTED MAP, CORRECT?

A. RIGHT.

Q. AND AT YOUR DEPOSITION YOU SAID THAT YOU WOULD NOT DEFEND DISTRICT 62 AS A VOTING RIGHTS ACT DISTRICT. DO YOU RECALL

9:14AM THAT?
A. THAT'S RIGHT.
Q. SO GOING BACK TO TRADITIONAL REDISTRICTING CRITERIA, ONE SUCH CRITERIA IS ONE-PERSON, ONE-VOTE, ALSO KNOWN AS EQUAL POPULATION. ARE YOU FAMILIAR WITH THAT?
A. YES.
Q. AND DISTRICTS MUST COMPLY WITH ONE-PERSON, ONE-VOTE, BECAUSE IT'S A CONSTITUTIONAL REQUIREMENT, CORRECT?
A. ABSOLUTELY.
Q. YOUR ALGORITHM DOES NOT ACCOUNT FOR EQUAL POPULATION OR ONE-PERSON, ONE-VOTE; IS THAT CORRECT?
A. WELL, NO, BUT WE ARE TAKING THE DISTRICTS THAT MR. COOPER DREW, WHICH WOULD ALREADY BE ONE-PERSON, ONE-VOTE COMPLIANT, AND JUST LOOKING TO SEE IF THERE IS A -- IF THEY DO ILLUSTRATE THE EXISTENCE OF A COMPACT BLACK POPULATION SUFFICIENT TO BE 50 PERCENT PLUS ONE OF THE BVAP. SO BECAUSE THE DISTRICTS ARE ALREADY DRAWN, ONE-PERSON, ONE-VOTE COMPLIANT, IT DOESN'T HAVE TO BE CODED IN.
Q. THE ALGORITHM STOPS ONCE IT REACHES 50 PERCENT PLUS ONE OF BLACK POPULATION BUT DOES NOT REQUIRE FILLING OUT A FULL POPULATION OF A DISTRICT; IS THAT CORRECT?
A. WELL, THAT'S RIGHT, BUT THE DISTRICT IS ALREADY DRAWN. IT'S LOOKING WITHIN THE DISTRICT HOW DO YOU BEST GET TO 50 PERCENT PLUS ONE? WHAT IS THAT DISTRICT REALLY ILLUSTRATING?

9:16AM

Q. AND YOU TESTIFIED THAT YOUR SECOND ALGORITHM WAS SIMILAR TO THE CHEN AND RODDEN METHOD. DO YOU RECALL THAT?

A. THAT'S CORRECT.

Q. AND YOU CLAIM THAT THIS METHOD WAS FROM A PAPER THAT THEY WROTE 10 YEARS AGO IN 2013. DO YOU RECALL THAT?

A. THAT'S RIGHT.

Q. UNLIKE YOUR ALGORITHM, THE CHEN AND RODDEN METHOD USED THE CENTROID OF A PRECINCT, AND YOUR METHOD USED THE CENTROID OF A POPULATION. DO YOU RECALL THAT?

A. YES.

Q. AS A RESULT, THE CHEN AND RODDEN METHOD DRAWS ACTUAL DISTRICTS WHERE YOUR METHOD DOES NOT DRAW DISTRICTS IN AND OF ITSELF?

A. WELL, THAT'S RIGHT. AGAIN, I'M TAKING THE CONCEPTION OF COMPACTNESS AND APPLYING IT TO A DIFFERENT SCENARIO, JUST AS THEY TAKE THE IDEA OF COMPACTNESS AND APPLY IT TO THE DRAWING OF SIMULATED MAPS.

Q. AND IN CREATING THEIR DISTRICT, CHEN AND RODDEN'S GOAL WAS TO DESIGN A REDISTRICTING ALGORITHM THAT USES ONLY TRADITIONAL GEOGRAPHIC CRITERIA OF THE KIND FAVORED BY REFORM ADVOCATES. DO YOU RECALL THAT?

A. THAT IS RIGHT. ONE OF THOSE CRITERIA IS COMPACTNESS, AND IT IS THAT CONCEPTION OF COMPACTNESS THAT I'M TAKING AND APPLYING TO A DIFFERENT SET OF FACTS.

Q. NOT ONLY DOES THE CHEN AND RODDEN METHOD DRAW DISTRICTS,

9:17AM

BUT IT ENSURES THAT THESE DISTRICTS MEET THE EQUAL POPULATION REQUIREMENT. DO YOU RECALL THAT?

A. YES.

Q. AND AS WE HAVE DISCUSSED, YOUR METHOD DOES NOT DO THAT?

A. THAT'S RIGHT.

Q. AND CHEN AND RODDEN ALSO SOUGHT TO GUARANTEE CONTIGUITY. DO YOU RECALL THAT?

A. YES.

Q. AND AS WE SAW YESTERDAY, YOUR ALGORITHM CAN CREATE NONCONTIGUOUS PLACES; DO YOU RECALL THAT?

A. WELL, THE 50 PERCENT PLUS ONE GROUPING OF BLACK RESIDENTS WILL BE CONTIGUOUS. WHAT IS LEFT OVER DOESN'T HAVE TO BE. BUT, AGAIN, THE DISTRICT IS ALREADY DRAWN. WE ARE JUST LOOKING WITHIN THAT DISTRICT WHAT IS THE MOST COMPACT POPULATION.

Q. BUT AS WE SAW YESTERDAY, THERE CAN BE NONCONTIGUOUS SPACES WITHIN YOUR ALGORITHM?

A. WITHIN THE MOST COMPACT POPULATION THAT'S 50 PERCENT PLUS ONE OF THE DISTRICT, YES, BUT THE DISTRICT IS ALREADY DRAWN, AND IT'S CONTIGUOUS.

Q. AND CHEN AND RODDEN HAD SPECIFIC STEPS IN THEIR ALGORITHM TO ENSURE EQUAL POPULATION AND CONTIGUITY. DO YOU RECALL THAT?

A. THAT IS RIGHT. FOR DRAWING THE FULL DISTRICT, THEY ABSOLUTELY DO USE THOSE.

Q. AND YOU DID NOT USE THOSE STEPS IN YOUR ALGORITHM, CORRECT?

9:19AM

A. THAT'S RIGHT, BECAUSE I'M NOT DRAWING DISTRICTS.

Q. I WOULD LIKE TO TURN TO YOUR PRIOR WORK AS AN EXPERT WITNESS OR AS AN EXPERT IN GENERAL. SOME OF THESE THINGS WILL BE EXPERT WITNESSES AND NOT. BUT YOU HAVE SERVED AS AN EXPERT WITNESS IN SECTION 2 VOTE DILUTION CASES IN THE PAST; IS THAT CORRECT?

A. THAT'S RIGHT.

Q. AND THE MOST PROMINENT MEASURES OF DISTRICT COMPACTNESS THAT YOU'RE AWARE OF ARE REOCK AND POLSBY-POPPER; IS THAT CORRECT?

A. ABSOLUTELY.

Q. AND YOU HAVE RUN THE REOCK MEASURE IN YOUR EXPERT REDISTRICTING WORK BEFORE, HAVEN'T YOU?

A. OH, YES.

Q. AND YOU HAVE RUN THE POLSBY-POPPER COMPACTNESS MEASURE IN YOUR EXPERT REDISTRICTING WORK BEFORE?

A. THAT'S RIGHT.

Q. AND I BELIEVE YESTERDAY YOU TESTIFIED TO YOUR WORK IN VIRGINIA. DO YOU RECALL THAT?

A. YES.

Q. AND IN VIRGINIA, YOU USED REOCK AND POLSBY-POPPER?

A. YEAH, VIRGINIA HAS A SPECIFIC CONSTITUTIONAL REQUIREMENT THAT THE DISTRICTS WOULD BE COMPACT, AND I ABSOLUTELY AGREE THAT IF YOU ARE LOOKING AT THE COMPACTNESS OF THE DISTRICT, REOCK AND POLSBY-POPPER ARE THE PROPER TOOLS, BUT THAT IS

9:20AM DISTINCT FROM POPULATION COMPACTNESS.
Q. AND YOU WERE AWARE IN VIRGINIA THAT THE VOTING RIGHTS ACT MIGHT BE TRIGGERED, GIVEN VIRGINIA'S POPULATION WHEN YOU WERE DRAWING YOUR MAPS?
A. THAT'S RIGHT.
Q. AND I BELIEVE YOU TESTIFIED YESTERDAY THAT YOU DIDN'T DO MOMENT OF INERTIA IN VIRGINIA BECAUSE YOU DIDN'T HAVE TIME TO DO THAT. IS THAT RIGHT?
A. WELL, WE DIDN'T DO ANY *GINGLES* ANALYSIS IN VIRGINIA BECAUSE WE DIDN'T HAVE TIME. AND AS I THINK ABOUT IT, THAT VIRGINIA WORK WAS DONE BEFORE I WOULD HAVE BECOME AWARE OF THE MOMENT OF INERTIA ANALYSIS, BUT IT WOULDN'T HAVE MATTERED BECAUSE WE DIDN'T DO A *GINGLES* STEP I, II OR III ANALYSIS.
Q. IN ADDITION TO VIRGINIA, YOU SERVED AS AN EXPERT IN ARIZONA; IS THAT CORRECT?
A. THAT'S RIGHT.
Q. AND IN ARIZONA, SECTION 2 COMPLIANCE WAS AT ISSUE; IS THAT CORRECT?
A. THAT'S RIGHT.
Q. AND IN ARIZONA, YOU USED REOCK AND POLSBY-POPPER?
A. YEAH, WE WERE LOOKING AT DISTRICT COMPACTNESS THERE.
Q. YOU DID NOT USE MOMENT OF INERTIA IN ARIZONA?
A. CORRECT.
Q. AT THE TIME OF YOUR DEPOSITION, YOU TESTIFIED THAT YOU HAD NOT USED MOMENT OF INERTIA NOT ONLY IN THESE TWO CASES THAT

9:21AM

WE'VE DISCUSSED WHERE YOU WERE AN OUTSIDE CONSULTING EXPERT BUT IN YOUR THREE SECTION 2 CASES WHERE YOU WERE RETAINED AS A TESTIFYING EXPERT. DO YOU RECALL THAT?

A. OH, THAT'S RIGHT.

Q. AND ONE OF THOSE CASES YOU DISCUSSED YESTERDAY WAS MICHIGAN. DO YOU RECALL THAT?

A. THAT'S RIGHT. WE WERE ON THE PLAINTIFF'S SIDE IN MICHIGAN.

Q. AND THAT WAS A SECTION 2 CASE WHERE YOU WERE A *GINGLES* EXPERT FOR THE PLAINTIFFS?

A. THAT'S RIGHT. AND IF YOU LOOK AT THE DISTRICTS IN MICHIGAN, JUST BECAUSE OF THE GEOGRAPHY OF MICHIGAN, THE BLACK POPULATION IN THOSE DISTRICTS PRETTY MUCH HAS TO BE COMPACT. BUT NO ONE CONTESTED POPULATION COMPACTNESS THERE, TO MY KNOWLEDGE.

Q. AND YOU RAN REOCK AND POLSBY-POPPER IN MICHIGAN, CORRECT?

A. THAT'S RIGHT. IT WAS A -- IT WAS A SECTION 2 CASE, BUT IT WAS ALSO A 14TH AMENDMENT CASE, AND SO THE SHAPE OF THE DISTRICTS IS HIGHLY RELEVANT, IN MY EXPERIENCE, FOR 14TH AMENDMENT CLAIMS.

Q. YOU WERE RETAINED AS AN EXPERT IN THE CONGRESSIONAL CASES IN LOUISIANA KNOWN AS *GALMON* AND *ROBINSON*, CORRECT?

A. THAT'S RIGHT.

Q. AND YOU SUBMITTED A REPORT TO THE PLAINTIFFS IN THAT CASE, CORRECT?

9:23AM

A. THAT'S RIGHT.

Q. AND IN THAT REPORT, YOU USED REOCK AND POLSBY-POPPER?

A. YES, BECAUSE IN THAT CASE, PART OF THE TESTIMONY OR REPORT WAS THAT RACE PREDOMINATED IN THE DRAWING OF THAT REMEDIAL DISTRICT, AND WE WANTED TO COMPARE THE DISTRICT SHAPE TO DISTRICT SHAPES IN OTHER 14TH AMENDMENT CASES. THAT WASN'T FOR PURPOSES OF A SECTION 2 ANALYSIS.

Q. YOU DID NOT RUN MOMENT OF INERTIA IN THE LOUISIANA CONGRESSIONAL CASES, CORRECT?

A. NO, THAT WAS A REMEDIAL MAP, NOT AN ILLUSTRATIVE MAP, TO MY UNDERSTANDING.

Q. FROM YOUR SECTION 2 WORK, YOU ARE NOT AWARE OF ANY CASE WHERE THE MOMENT OF INERTIA HAS BEEN RUN IN *GINGLES* I?

A. WELL, THAT'S RIGHT, BUT I'M NOT AWARE OF THE POPULATION -- POPULATION DISTRICT COMPACTNESS DISTINCTION BEING DRAWN EITHER. I AGREE, FOR DISTRICT COMPACTNESS, YOU USE REOCK AND POLSBY-POPPER, BUT I'M NOT AWARE OF ANY OTHER METRIC FOR MEASURING POPULATION COMPACTNESS, AND AS FAR AS I KNOW, NONE HAS BEEN SUGGESTED.

Q. AND FROM YOUR SECTION 2 WORK, YOU ARE AWARE OF OTHER CASES WHERE REOCK AND POLSBY-POPPER HAVE BEEN USED IN A *GINGLES* I ANALYSIS, CORRECT?

A. RIGHT. AGAIN, TO MY EXPERIENCE, MOST OF THESE CASES HAVE FOCUSED ON DISTRICT COMPACTNESS. IT'S A DIFFERENT THEORY THAN WHAT DEFENDANTS ARE CLAIMING HERE. IF THE DEFENSE THEORY IS

9:24AM WRONG, THEN IT'S WRONG, BUT IF IT'S RIGHT, THEN YOU HAVE TO LOOK AT POPULATION COMPACTNESS. I DON'T KNOW HOW ELSE YOU DO IT, AND I'M NOT AWARE OF ANY SUGGESTION BEING MADE OF HOW ELSE TO DO IT.

Q. AND AT YOUR DEPOSITION, YOU STATED THAT THE MOMENT OF INERTIA IS ONE OF THE OLDEST METHODS FOR ANALYZING COMPACTNESS OF A POPULATION, YET IT STILL HAS NOT MADE AN APPEARANCE IN ANY *GINGLES* I CASE OF WHICH YOU ARE AWARE?

A. WELL, THAT'S RIGHT.

Q. AND AT YOUR DEPOSITION, YOU ALSO SAID THAT THE LEGAL THEORY BEING PROPOUNDED HERE ISN'T ONE THAT HAS BEEN EXPLORED, RIGHT?

A. AS FAR AS I KNOW, IT'S A DIFFERENT INTERPRETATION OF HOW YOU MEASURE COMPACTNESS THAN I'VE ENCOUNTERED IN THE PAST. IF IT IS RIGHT, THIS IS HOW YOU DO IT. IF IT'S NOT, WELL, THEN YOU WOULD USE A REOCK AND POLSBY-POPPER FOR A DISTRICT COMPACTNESS.

Q. AND I BELIEVE IN YOUR REBUTTAL REPORT, YOU STATED THAT THE TECHNOLOGY IS FAIRLY NEW TO DO MOMENT OF INERTIA AT THIS LEVEL; IS THAT RIGHT?

A. THAT'S RIGHT. SO IF YOU GO BACK TO THOSE EARLY ALGORITHMS IN THE '60S, THEY ARE TYPICALLY USING EITHER THEORETICAL OR USING VERY SMALL NUMBER OF PRECINCTS. IT WASN'T UNTIL THE LATE '90S THAT COMPUTATIONAL POWER WAS STRONG ENOUGH TO RUN REDISTRICTING SIMULATIONS ON WHOLE DISTRICTS. SO IF YOU WANTED

9:26AM

TO DO THIS ON A DISTRICT IN THE '80S OR '90S, YOU JUST COULDN'T HAVE DONE IT. PROBABLY COULD HAVE DONE IT IN THE 00S, AUGHTS, WHATEVER THEY ARE CALLED, BUT YOU WOULD HAVE HAD TO HAVE ACCESS TO PROBABLY A SUPER COMMUTER TO DO IT. IT'S JUST IN THE LAST DECADE -- JUST TO PUT IT INTO PERSPECTIVE, I HAVE A PRETTY STATE-OF-THE-ART ALIENWARE COMPUTER, AND IT TAKES ABOUT HALF AN HOUR TO ANALYZE ONE OF THE SENATE DISTRICTS. SO IT'S JUST BECOME PRACTICABLE IN THE LAST COUPLE OF DECADES.

Q. AT YOUR DEPOSITION, YOU TESTIFIED THAT EXPERTS HAD ACCESS TO COMPUTERS THAT COULD EFFICIENTLY CALCULATE THE MOMENT OF INERTIA IN THE WAYS IN WHICH WE ARE DISCUSSING IN THE LAST 20 YEARS. DO YOU RECALL THAT?

A. THAT'S RIGHT. SO IF YOU WERE AN EXPERT WHO HAD ACCESS TO, SAY, A UNIVERSITY SUPER COMPUTER, YOU PROBABLY COULD HAVE DONE THE MOMENT OF INERTIA APPROACH, BUT AGAIN, FOR MUCH OF THE VOTING RIGHTS ACT EXISTENCE, THAT TECHNOLOGY JUST DIDN'T EXIST.

Q. OKAY. DO YOU RECALL THAT I ASKED YOU AT YOUR DEPOSITION HOW RECENTLY THIS ANALYSIS COULD BE DONE, AND YOU -- AND I ASKED YOU SPECIFICALLY IF IT WAS THE LAST TEN YEARS, AND YOU ANSWERED NO, IT WOULD BE THE LAST 20 YEARS?

A. YEAH.

Q. OKAY. SO I WOULD LIKE TO GO TO YOUR PRIOR WORK AS AN EXPERT. I BELIEVE YOU AND MR. STRACH SPOKE ABOUT THE ONE INSTANCE IN WHICH YOU WERE EXCLUDED. DO YOU RECALL THAT?

A. YES.

9:28AM

Q. DO YOU RECALL WHETHER COURTS HAVE FOUND YOUR OPINION UNPERSUASIVE?

A. OH, I KNOW AT TIMES THEY HAVE.

Q. DID YOU RENDER OPINION IN MARYLAND ON COMPACTNESS?

A. THE MARYLAND GERRYMANDERING CASE?

Q. YES, SIR.

A. YES.

Q. OKAY. AND DO YOU KNOW WHETHER THE MARYLAND SUPREME COURT AFFORDED ANY WEIGHT TO YOUR COMPACTNESS OPINION?

A. OH, THAT WAS THE -- YEAH, THAT WAS DISTRICT COMPACTNESS IN THE STATE LEGISLATIVE CASE, AND THEY DID NOT. IT WAS THE CONGRESSIONAL CASE THAT THE JUDGE DID.

Q. AND YOU WOULDN'T BE SURPRISED IF THE MARYLAND SUPREME COURT FOUND YOUR NUMBER CRUNCHING HAD THE APPEARANCE OF RIGOR BUT CONTRIBUTED LITTLE?

A. I WOULD NOT BE SURPRISED.

Q. AND YOU WOULD NOT BE SURPRISED THAT THE MARYLAND SUPREME COURT FOUND YOUR ANALYSIS OF A SUPERFICIAL QUALITY?

A. I WOULD NOT BE SURPRISED.

Q. AND YOU WOULD NOT BE SURPRISED IF THE MARYLAND SUPREME COURT FOUND YOUR ANALYSIS NOT INSTRUCTIVE ON THE ISSUES BEFORE THE COURT?

A. CORRECT.

Q. HAVE YOU ALSO RECENTLY GIVEN TESTIMONY IN A CASE BEFORE THE U.S. DISTRICT COURT IN SOUTH CAROLINA?

9:29AM

A. THAT'S RIGHT.

Q. DO YOU KNOW WHETHER THAT COURT FOUND YOUR WORK PERSUASIVE?

A. THEY DID NOT. THAT'S THE CASE THAT'S UNDER APPEAL TO THE SUPREME COURT RIGHT NOW.

MS. THOMAS: LET ME JUST CONFER WITH MY CO-COUNSEL FOR A MINUTE. I CAN TENDER THE WITNESS.

THE COURT: ANY REDIRECT?

MR. STRACH: NO REDIRECT, YOUR HONOR.

THE COURT: YOU MAY STEP DOWN, SIR. NEXT WITNESS.

MR. LEWIS: SORRY, YOUR HONOR. WE ARE JUST CHANGING SEATS. YOUR HONOR, PATRICK LEWIS FOR THE LEGISLATIVE DEFENDANTS. THE DEFENDANTS CALL DR. DOUGLAS JOHNSON TO THE STAND.

(OATH ADMINISTERED.)

THE CLERK: IF YOU WOULD, SIR, PLEASE STATE YOUR NAME AND SPELL IT FOR THE RECORD.

THE WITNESS: DOUGLAS JOHNSON, D-O-U-G-L-A-S, J-O-H-N-S-O-N.

MR. LEWIS: YOUR HONOR, MAY I APPROACH THE WITNESS WITH A BINDER CONTAINING HIS TWO REPORTS AND CV?

THE COURT: YOU MAY.

DR. DOUGLAS JOHNSON,

HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. LEWIS:

9:31AM

Q. OKAY. GOOD MORNING, DR. JOHNSON.
A. GOOD MORNING.
Q. DR. JOHNSON, I WOULD LIKE TO CALL UP THE DEFENSE EXHIBIT 57 -- OR EXCUSE ME, 59. IF YOU WILL PLEASE TURN TO THE TAB IN YOUR BINDER. IS THIS YOUR RESUMÉ, DR. JOHNSON?
A. YES.
Q. OKAY. AND CAN YOU DESCRIBE FOR THE COURT YOUR EDUCATIONAL BACKGROUND?
A. I HAVE A BACHELOR'S IN GOVERNMENT FROM CLAREMONT MCKENNA COLLEGE. AT CLAREMONT, GOVERNMENT IS WHAT THEY CALL POLITICAL SCIENCE. I HAVE A MASTER'S, AN M.B.A. FROM THE UC LOS ANGELES ANDERSON SCHOOL OF BUSINESS, AND A PH.D. IN POLITICAL SCIENCE FROM THE CLAREMONT GRADUATE UNIVERSITY.
Q. OKAY. AND DID YOU STUDY REDISTRICTING ISSUES IN YOUR ACADEMIC WORK?
A. YES, BOTH MY UNDERGRADUATE SENIOR THESIS AND MY PH.D. DISSERTATION WERE SPECIFICALLY ON REDISTRICTING, AND I WROTE MANY OTHER PAPERS AS WELL.
Q. AND DO YOU HAVE ANY -- I SEE IN YOUR RESUMÉ A REFERENCE TO BEING A FELLOW AT THE ROSE INSTITUTE FOR STATE AND LOCAL GOVERNMENT AT CLAREMONT MCKENNA COLLEGE. CAN YOU EXPLAIN WHAT THAT IS?
A. YES, IT IS A RESEARCH INSTITUTE. WE ACTUALLY JUST CELEBRATED OUR 50-YEAR ANNIVERSARY AT CMC THAT WAS FOUNDED TO FOCUS ON STATE AND LOCAL ISSUES, IN PARTICULAR REDISTRICTING

9:33AM AND DEMOGRAPHICS, AND HAS DONE EXTENSIVE RESEARCH AND ORGANIZED CONFERENCES AND THINGS LIKE THAT SINCE THE '70S ON THIS TOPIC.

Q. ALL RIGHT. AND DR. JOHNSON, WHERE ARE YOU CURRENTLY EMPLOYED?

A. I AM PRESIDENT OF MY OWN FIRM, NATIONAL DEMOGRAPHICS CORPORATION.

Q. OKAY. AND HOW LONG HAVE YOU BEEN EMPLOYED BY NATIONAL DEMOGRAPHICS CORPORATION?

A. I ACTUALLY STARTED -- THE COMPANY WAS STARTED BY TWO OF MY PROFESSORS, SO I STARTED AS AN UNDERGRAD BACK IN THE '80S, LATE '80S, WORKED FOR THEM IN THE 1991 REDISTRICTING CYCLE, AND THEN LEFT AND WENT OFF AND DID OTHER THINGS, AND THEN CAME BACK IN 2001, STARTED WORKING FOR THEM, AND THEN I TOOK OVER THE COMPANY IN 2006. SO I STARTED IN THE 1991 REDISTRICTING CYCLE, CAME BACK AND HAVE BEEN THERE CONTINUOUSLY SINCE 2001.

Q. AND WHAT BUSINESSES IS NATIONAL DEMOGRAPHICS CORPORATION ENGAGED IN?

A. WE DO DISTRICTING AND REDISTRICTING WORK ESSENTIALLY FULL-TIME.

Q. SO HOW LONG WOULD YOU SAY YOU HAVE WORKED PROFESSIONALLY IN THE REDISTRICTING FIELD?

A. WELL, IN REDISTRICTING, WE TEND TO THINK IN CYCLES, THE 1991 CYCLE, 2001 CYCLE, 2011, 2021. SO SINCE THE 1991 CYCLE, WITH A MID-DECADE BREAK IN THE '90S.

Q. OKAY. AND HAVE YOU PUBLISHED ON REDISTRICTING?

9:34AM

A. YES.
Q. OKAY. AND ARE SOME OF YOUR PUBLICATIONS LISTED ON YOUR CV?
A. YES, INDEED.
Q. AND HAVE YOU PUBLISHED ON ISSUES OF VOTING RIGHTS?
A. IN THE CONTEXT OF DEMOGRAPHICS AND REDISTRICTING, YES.
Q. AND HAVE YOU SPOKEN AT PROFESSIONAL CONFERENCES ON REDISTRICTING?
A. YES, MANY TIMES.
Q. CAN YOU GIVE ME A FEW EXAMPLES OF CONFERENCES YOU SPOKE AT?
A. AT A NUMBER OF NATIONAL CONFERENCES OF STATE LEGISLATURE, GENERAL MEETINGS AND SPECIFIC SEMINAR SESSIONS AT NCSL ORGANIZED ON REDISTRICTING, FOR THE ARIZONA LEAGUE OF CITIES AND TOWNS, FOR THE CALIFORNIA LEAGUE OF CITIES. I'M ACTUALLY SPEAKING NEXT WEEK AT THE CALIFORNIA ASSOCIATION OF CITY CLERKS, A NEW LAW CONFERENCE. I'VE SPOKEN TO THE CALIFORNIA SCHOOL BOARD ASSOCIATION, MANY, MANY DIFFERENT ORGANIZATIONS WHOSE JURISDICTIONS HAVE TO GO THROUGH DISTRICTING AND REDISTRICTING ISSUES.
Q. AND HAVE YOU PREPARED, IN THE COURSE OF YOUR PROFESSIONAL WORK, DISTRICTING PLANS TO BE ADOPTED BY REDISTRICTING AUTHORITIES?
A. YES.
Q. APPROXIMATELY HOW MANY HAVE YOU PREPARED?

9:36AM

A. I THINK WE ARE NOW AT RIGHT AROUND 500 PROJECTS THAT I'VE EITHER OVERSEEN OR DIRECTLY RUN, AND I'VE DRAWN IN THE COURSE OF THAT THOUSANDS OF MAPS.

Q. ALL RIGHT. AND DO YOU USE ANY COMPUTER SOFTWARE IN YOUR REDISTRICTING WORK?

A. YES.

Q. OKAY. AND WHAT IS THAT SOFTWARE?

A. PRIMARILY MAPTITUDE FOR REDISTRICTING.

Q. AND HOW MUCH EXPERIENCE DO YOU HAVE WORKING WITH MAPTITUDE?

A. I'VE WORKED WITH IT ALMOST EVERY SINGLE DAY FOR THE LAST 22 YEARS, PLUS BACK IN -- WITH EARLIER VERSIONS OF A SIMILAR SOFTWARE BACK IN 1991.

Q. OKAY. AND DR. JOHNSON, HAVE YOU SERVED AS AN EXPERT WITNESS IN REDISTRICTING LITIGATION?

A. YES.

Q. IN APPROXIMATELY HOW MANY CASES?

A. OH, AROUND A DOZEN OR SO.

Q. OKAY. AND HAVE YOU EVER BEEN EXCLUDED AS A WITNESS?

A. NO.

Q. AND HAVE YOU HAD A CASE WHERE YOU'VE HAD A PORTION OF YOUR -- OF AN EXPERT REPORT YOU DRAFTED EXCLUDED?

A. YES.

Q. OKAY. AND CAN YOU TELL THE COURT JUST A LITTLE BIT ABOUT THAT?

9:37AM

A. SURE. IN *COMMON CAUSE V. LEWIS* IN NORTH CAROLINA, I HAD SEVEN -- I THINK IT WAS SEVEN TOPICS THAT I WROTE ABOUT. IN ONE OF THEM, WHEN I DID THE PROGRAMMING TO DO THE CALCULATIONS, I PROGRAMMED IT WRONG, AND THAT WAS NOT SHARED WITH ME UNTIL I WAS SITTING HERE IN THIS CHAIR, AND IT WAS BROUGHT UP IN THE COURT. IT WASN'T MENTIONED AHEAD OF TIME. OBVIOUSLY, I WOULD HAVE FIXED IT HAD SOMEONE MENTIONED IT AHEAD OF TIME. BUT THAT PIECE WAS EXCLUDED.

THERE WAS A MOTION TO EXCLUDE MY WHOLE REPORT BECAUSE I HAD ERRED, AND THE COURT RULED AGAINST THAT MOTION SAYING THAT THE ONLY PROBLEM WAS WITH THAT ONE SECTION.

Q. OKAY. ALL RIGHT. AND HAVE ANY OF YOUR CASES INVOLVED -- ANY OF YOUR PRIOR CASES INVOLVED THE VOTING RIGHTS ACT?

A. YES.

Q. AND I BELIEVE SOME OF YOUR CASES ALSO INVOLVED THE CALIFORNIA VOTING RIGHTS ACT; IS THAT RIGHT?

A. YES.

Q. OKAY.

MR. LEWIS: YOUR HONOR, AT THIS TIME, WE WOULD MOVE THE ADMISSION OF DR. JOHNSON AS AN EXPERT IN THE FIELDS OF POLITICAL SCIENCE, POLITICAL GEOGRAPHY, REDISTRICTING, AND THE MAPTITUDE SOFTWARE.

THE COURT: ANY OBJECTIONS?

MS. KEENAN: WE DON'T HAVE ANY OBJECTIONS TO THE QUALIFICATIONS AS HE HAS JUST DESCRIBED THEM.

9:38AM

THE COURT: POLITICAL SCIENCE, REDISTRICTING, POLITICAL SCIENCE GEOGRAPHY? IS THAT IT?

MR. LEWIS: POLITICAL GEOGRAPHY, YOUR HONOR.

THE COURT: POLITICAL GEOGRAPHY. AND THE MAPTITUDE SOFTWARE. DR. JOHNSON WILL BE PERMITTED TO GIVE OPINION TESTIMONY IN THOSE FIELDS.

MR. LEWIS: THANK YOU, YOUR HONOR.

THE COURT: I SHOULD SAY IN THOSE SUBJECTS. I'M NOT SURE. YOU KNOW, SOME OF THEM ARE FIELDS. SOME OF THEM ARE SUBJECTS. THERE YOU GO.

MR. LEWIS: THANK YOU, YOUR HONOR.

BY MR. LEWIS:

Q. I WOULD LIKE NOW TO TURN TO --

MR. LEWIS: I GUESS JUST AS A HOUSEKEEPING MATTER, AT THIS POINT, YOUR HONOR, WE HAVE A STIPULATION -- BY STIPULATION OF COUNSEL, WE WOULD LIKE TO MOVE THE ADMISSION OF THE TWO EXPERT REPORTS HE HAS WRITTEN, LDTX51, LDTX58, AND THEN THE CV, WHICH IS LDTX 59.

MS. KEENAN: YOUR HONOR, MAY I BE HEARD ABOUT THE TREATMENT OF THE REPORT BRIEFLY?

THE COURT: YOU MAY.

MS. KEENAN: SO AS WE'VE STATED, WE ARE NOT OBJECTING TO DR. JOHNSON'S QUALIFICATIONS AS DESCRIBED HERE, BUT AFTER THE PARTIES REACHED THEIR STIPULATIONS ABOUT ADMITTING ALL OF THE REPORTS, THIS COURT DID ISSUE A RULING ON PLAINTIFFS'

9:39AM *DAUBERT* MOTION THAT EXCLUDED SIGNIFICANT PORTIONS OF DR. JOHNSON'S TESTIMONY AND OPINIONS. BECAUSE WE UNDERSTAND THAT YOUR HONOR KNOWS WHICH PARTS OF THE OPINIONS THAT THE COURT HAS EXCLUDED, PLAINTIFFS WOULD BE CONTENT WITH A LIMITING INSTRUCTION THAT THE OPINIONS CONTAINED WITHIN THE REPORT CAN BE ADMITTED TO THE EXTENT THAT THEY ARE CONSISTENT WITH YOUR COURT'S ORDER, EXCLUDING CERTAIN TESTIMONY AND OPINIONS, BUT WE WANT TO MAKE SURE WE PRESERVE OUR OBJECTION TO THE EXCLUDED OPINIONS FOR THE RECORD.

THE COURT: MR. LEWIS?

MR. LEWIS: YOUR HONOR, I THINK AS WE GO THROUGH THE DIRECT EXAMINATION OF THIS WITNESS, A FEW COMMENTS. I THINK, FIRST OF ALL, WE DO UNDERSTAND THE COURT'S RULING. I THINK WE WOULD WANT TO -- TO THE EXTENT THAT THERE ARE QUESTIONS THAT HE IS NOT ALLOWED TO TESTIFY TO, WE WOULD WANT THE REPORT TO SERVE AS A PROFFER UNDER RULE 103. AND OTHERWISE, I THINK THE LIMITING INSTRUCTION IS FINE.

AS TO, FOR EXAMPLE, THE QUESTION ABOUT THE SUBJECTIVE BELIEFS OR INTENTS OF MR. COOPER, WE WOULD SEEK RECONSIDERATION OF THE COURT'S EXCLUSION OF DR. JOHNSON'S ANALYSIS AND THE CHANGES BETWEEN MR. COOPER'S 2022 AND 2023 ILLUSTRATIVE PLANS. I DON'T KNOW IF IT'S APPROPRIATE TO ARGUE THAT NOW OR WHEN IT COMES UP IN THIS QUESTIONING, AS PLAINTIFFS HAVE ELICITED ON DIRECT EXAMINATION TESTIMONY FROM MR. COOPER ABOUT THE NATURE, EXTENT AND REASONING, PURPORTED REASONING FOR THOSE CHANGES.

9:41AM SO THEY HAVE PLACED THE RELEVANCE OF THOSE CHANGES INTO QUESTION.

I BELIEVE THERE IS ALSO -- AND FINALLY, YOUR HONOR, I KNOW THERE WAS A PORTION OF DR. JOHNSON'S REPORT CONCERNING THE ERROR IN THE MAP, THE ORIGINAL ENACTED MAP THAT MR. COOPER ANALYZED, BUT IN LIGHT OF MR. COOPER'S ADMISSION ON THE STAND, I THINK WE WOULD JUST PROFFER HIS REPORT, PROFFER THOSE OPINIONS FOR THE REPORT BUT NOT QUESTION HIM.

THE COURT: GO AHEAD AND RESPOND.

MS. KEENAN: SO, YOUR HONOR, WE DON'T HAVE ANY OBJECTION TO THE PROFFER MECHANISM THAT WE DISCUSSED AT THE PRETRIAL CONFERENCE. WE UNDERSTAND THAT THEY HAVE THE RIGHT TO PRESERVE THAT FOR APPEAL. SO AS LONG AS WE ARE ADMITTING THE REPORTING WITH THE LIMITING INSTRUCTION WE HAVE DESCRIBED ABOUT THE OPINIONS YOU'VE EXCLUDED. BUT AS FOR THE MOTION FOR RECONSIDERATION, I GUESS -- DOES YOUR HONOR INTEND TO PERMIT ARGUMENT ON THAT, OR SHOULD I RESPOND TO THAT ISSUE?

THE COURT: NO, THE MOTION FOR RECONSIDERATION IS DENIED. WITH RESPECT TO THE PROFFER, I MEAN, THIS, QUOTE, LIMITING INSTRUCTION WOULD MAKE SOME SENSE IF THIS WAS A JURY, BUT IT DOESN'T MAKE A WHOLE LOT OF SENSE TO ME. I'M SUPPOSED TO GIVE MYSELF A LIMITING INSTRUCTION, OR I'M SUPPOSED TO GIVE THE COURT OF APPEAL A LIMITING INSTRUCTION? I'M THINKING THE COURT OF APPEAL IS NOT GOING TO TAKE TOO KINDLY TO ME GIVING THEM A LIMITING INSTRUCTION. SO I DON'T KNOW HOW MECHANICALLY

9:42AM YOU WANT TO WORK THIS OUT.

MS. KEENAN: SURE, YOUR HONOR. I GUESS IT'S JUST THAT WE DON'T THINK WE NEED TO MOVE TO EXCLUDE EACH INDIVIDUAL PARAGRAPH OF THE REPORT THAT CONTAINS AN OPINION THAT YOU HAVE EXCLUDED. WE CAN, IF YOUR HONOR WOULD LIKE, BUT WE THOUGHT IT MIGHT BE EASIER TO CONSTRUCTIVELY ADMIT THE PORTIONS OF THE REPORT THAT ARE CONSISTENT WITH YOUR HONOR'S OPINION AND NOT TO ADMIT THE PORTIONS THAT ARE INCONSISTENT. THAT'S THE OPTION --

THE COURT: I THINK THE BEST WAY TO DO THIS, FRANKLY, FOR THE RECORD -- I'M JUST TRYING TO THINK ABOUT IF I'M LOOKING AT A COLD RECORD, WHAT WOULD MAKE SENSE TO ME. THE MOTION IN LIMINE IS -- YOUR MOTION FOR RECONSIDERATION IS DENIED, SO THE MOTION IN LIMINE IS WHAT IT IS, AND THE RULING ON THE MOTION IN LIMINE IS WHAT IT IS.

I WILL ADMIT THE REPORTS. HOWEVER, WHAT I WANT YOU TO DO IS TAKE OUT THOSE PORTIONS OF THE REPORT THAT ARE AFFECTED BY THE MOTION IN LIMINE, THAT WOULD BE EXCLUDED BY THE MOTION IN LIMINE, AND EXCISE THOSE AND PRODUCE THEM AS A SEPARATE PROFFER. AND THAT WAY THE COURT -- YOU ARE DOING THE WORK FOR THE COURT OF APPEAL, AND SOMEBODY LATER DOESN'T HAVE TO TRY TO FIGURE OUT, WELL, WHAT -- YOU KNOW, WHAT IS WHAT. I THINK YOU NEED TO SEPARATE OUT YOUR PROFFER.

MR. LEWIS: OKAY. YOUR HONOR, WE ARE HAPPY TO DO THAT. OBVIOUSLY --

THE COURT: I KNOW YOU ARE NOT PREPARED TO DO THAT

9:43AM NOW. I'M GOING TO LET YOU DO IT.

MR. LEWIS: I APPRECIATE THAT, YOUR HONOR. AND I THINK THAT HOPEFULLY THE DIRECT EXAMINATION OF THIS WITNESS WILL AID THE COURT IN ASSESSING AND CERTAINLY WILL AID THE PARTIES IN ASSESSING EXACTLY WHAT IN THE REPORT WOULD BE SUBJECT TO EXCISEMENT.

AS YOUR HONOR HAS INDICATED, I THINK THE TWO PIECES ABOUT THE COMPARISON BETWEEN THE ILLUSTRATIVE PLANS AND -- THAT IS FAIRLY OBVIOUS. THERE'S A VERY DEFINED PARAGRAPH RANGE. I THINK THE FIRST TOPIC REGARDING, YOU KNOW, OPINIONS OF MOTIVE OR INTENT, I THINK THAT IS GOING TO BE A FUNCTION OF POSSIBLY SPECIFIC PARAGRAPHS OR SPECIFIC PHRASES, WORDS OR SENTENCES --

THE COURT: I MEAN, I THINK WITH RESPECT TO THE SUBJECTIVE INTENT TESTIMONY OR PROPOSED TESTIMONY, YOU ARE GOING TO NEED TO PRESERVE THAT BY OBJECTION, AND I WILL RULE ON THE OBJECTIONS AS THEY COME, BECAUSE THIS IS DYNAMIC. I DON'T KNOW HOW THIS EVIDENCE IS GOING TO DEVELOP. I MEAN, THERE MAY BE SOME OF IT THAT YOU ARE SUCCESSFUL WITH. I DON'T KNOW. SO LET'S JUST GO FROM THERE.

BUT AS TO THE ADMISSION OF THE EXHIBITS, 79, WHICH IS THE CV, IS ADMITTED. 51 AND 58 WILL BE ADMITTED WITH REDACTIONS, AND THEN YOU CAN MAKE A PROFFER OF WHATEVER IS REDACTED.

MR. LEWIS: THANK YOU, YOUR HONOR.

THE COURT: OKAY.

THE CLERK: 59.

9:45AM

THE COURT: OH, 51 AND 59? I'M SORRY.

THE CLERK: 51 AND 58 WITH THE REDACTIONS, AND 59 WAS THE CV.

THE COURT: OH, I THOUGHT IT WAS 79. I'M SORRY. OKAY. SO WHERE I SAID -- I WROTE DOWN 79 BOTH TIMES.

OKAY. 59 IS ADMITTED. 51 AND 58 WILL BE ADMITTED WITH REDACTIONS AND SUBJECT TO DEFENSE COUNSEL'S PERMISSION TO SUBSTITUTE OR TO FILE NEW RECORDS OR NEW EXHIBITS AS A PROFFER.

MR. LEWIS: THANK YOU, YOUR HONOR. SO IF WE CAN NOW DISPLAY DEFENDANT'S EXHIBIT 51.

BY MR. LEWIS:

Q. AND DR. JOHNSON, CAN YOU IDENTIFY THIS DOCUMENT FOR THE RECORD?

A. YES. THIS IS MY INITIAL REPORT.

Q. ALL RIGHT. THANK YOU. AND SO I WOULD LIKE TO START, I THINK -- AND WE WILL SKIP AROUND A LITTLE BIT IN THIS REPORT, AND MY APOLOGIES IN ADVANCE FOR THAT, BUT YOU OFFER IN THIS REPORT OPINIONS ON A NUMBER OF TOPICS, AND I WOULD LIKE TO START WITH SOME ANALYSIS YOU PERFORMED ON SOME GENERAL POPULATION DEMOGRAPHICS IN LOUISIANA.

DID YOU REVIEW MR. COOPER'S CLAIMS ABOUT CHANGES IN BLACK POPULATION IN LOUISIANA FROM 2000 TO PRESENT?

A. YES.

Q. OKAY. AND DID YOU REVIEW MR. COOPER'S CLAIMS ABOUT CHANGES IN THE NUMBER OF MAJORITY BLACK DISTRICTS IN THE

9:46AM LOUISIANA HOUSE AND SENATE FROM 2000 TO PRESENT?

A. YES.

Q. OKAY. I WOULD LIKE TO TURN TO PAGE 11 OF THIS REPORT, LDTX51. AND IF WE COULD HIGHLIGHT FIGURE 5 APPEARING ON THAT PAGE. DR. JOHNSON, CAN YOU WALK US THROUGH THIS FIGURE? WHAT IS THIS SHOWING US?

A. SURE. THIS IS A SUMMARY OF INFORMATION MR. COOPER HAD IN HIS REPORT LOOKING AT THREE DIFFERENT VARIABLES, EACH LISTED ON THE LEFT-HAND SIDE OF THE CHART: THE BLACK PERCENTAGE OF VOTING AGE POPULATION, THE PERCENTAGE OF HOUSE DISTRICTS THAT ARE MAJORITY BLACK, AND THE PERCENTAGE OF SENATE DISTRICTS THAT ARE MAJORITY BLACK. AND THEN YOU CAN SEE THAT THE MIDDLE COLUMN IS THE 2000 DATA FOR EACH OF THOSE CATEGORIES, AND THEN THE RIGHT-HAND COLUMN IS THE 2020/2022 PERCENTAGES, SO LOOKING AT THE 2020 CENSUS DATA AND THE 2022 MAP.

Q. ALL RIGHT. AND JUST FOR THE CLARITY OF THE RECORD, WHEN YOU DESCRIBE BLACK PERCENTAGE OF VOTING AGE POPULATION, WHAT METHOD OF -- LIKE, WHAT VERSION OF BLACK VOTING AGE POPULATION ARE YOU USING?

A. AS DID MR. COOPER, I'M USING ANY PART BLACK, SO IT'S BLACK AP VAP, ANY PART BLACK VOTING AGE POPULATION.

Q. AND SO YOU HAVE A PERCENTAGE INCREASE IN THIS RIGHT-HAND COLUMN FOR THE PERCENTAGE BLACK VOTING AGE POPULATION. WHAT IS THAT -- WHAT IS THAT VALUE AND WHAT IS IT TELLING US?

WE WILL START WITH ONE QUESTION. WHAT IS THE INCREASE IN

9:48AM BLACK VOTING AGE POPULATION FROM 2000 TO 2020?
A. SO 2020, THE BLACK VAP PERCENTAGE HAD INCREASED TO 31.25 PERCENT, WHICH WAS A 1.3 PERCENT INCREASE FROM ITS 2000 VALUE.
Q. OKAY. AND IF WE LOOK AT THE PERCENTAGE OF MAJORITY OF BLACK DISTRICTS IN THE LOUISIANA HOUSE, HOW HAS THAT NUMBER CHANGED FROM 2000 TO 2022?
A. IN 2000, THERE WERE 26 MAJORITY BLACK HOUSE SEATS. AND IN THE 2022 MAP, THERE ARE 29, WHICH IS A 2.8 PERCENT INCREASE. I DID NOTE MR. COOPER HAS OBJECTED THAT RATHER THAN THE MAP IN PLACE IN 2000, HE MEANT THE 2001 MAP, IN WHICH CASE THE 26 WOULD BECOME 27. THE INCREASE IN THAT CASE WOULD BE 1.9 PERCENT RATHER THAN 2.8 PERCENT.
Q. ALL RIGHT. AND THEN JUST FOR THAT BOTTOM ROW, HOW HAVE THE PERCENTAGE OF MAJORITY BLACK SEATS IN THE SENATE CHANGED FROM 2000 TO 2022?
A. IT HAS INCREASED FROM -- THERE WERE 10 MAJORITY BLACK SENATE SEATS IN 2000, AND THERE ARE 11 IN THE ENACTED MAP. SO THAT'S A 2.6 PERCENT INCREASE.
Q. OKAY. AND DR. JOHNSON, WHAT CONCLUSION DO YOU DRAW FROM THIS ANALYSIS?
A. THE NUMBER OF MAJORITY BLACK HOUSE AND SENATE SEATS HAS INCREASED FROM 2000 AND FROM 2021 TO 2022 BY SIGNIFICANTLY MORE THAN THE INCREASE IN BLACK POPULATION. THE NUMBER OF SENATE SEATS HAS GROWN TWICE AS FAST AS THE BLACK PERCENTAGE OF THE STATE'S POPULATION.

9:50AM

AND DEPENDING ON WHETHER WE ARE TALKING ABOUT THE 2000 OR THE 2021 MAP AS THE STARTING POINT, THE MAJORITY BLACK PERCENTAGE OF HOUSE SEATS HAS EITHER GROWN 50 PERCENT FASTER OR TWICE AS FAST AS THE BLACK PERCENTAGE OF VOTING AGE POPULATION HAS INCREASED.

Q. ALL RIGHT. WE CAN -- SO I WOULD LIKE -- SO I WOULD LIKE NOW TO TURN TO YOUR EVALUATION OF MR. COOPER'S 2023 ILLUSTRATIVE PLAN IN THIS CASE.

DR. JOHNSON, WHEN YOU BEGAN YOUR EVALUATION OF MR. COOPER'S ILLUSTRATIVE PLANS, WHAT CRITERIA DID YOU DECIDE TO USE IN YOUR EVALUATION?

A. I WAS EVALUATING THE CRITERIA THAT MR. COOPER CITED IN HIS REPORT, SO MY GOAL WAS TO LOOK AT HIS STATED REASONS FOR WHERE LINES WERE DRAWN, WHERE THEY SHOWED UP IN HIS MAP, AND TO REVIEW WHETHER THOSE ACTUALLY EXPLAINED WHERE THOSE LINES WERE DRAWN, IF HIS WORDS MATCHED HIS MAP.

Q. AND DID YOU ALSO EVALUATE THE DATA PRODUCED BY MR. COOPER IN CONNECTION WITH HIS REPORTS AS PART OF THAT EVALUATION?

A. YES.

Q. AND WHAT ARE SOME OF THE CRITERIA THAT YOU UTILIZED WHEN EVALUATING MR. COOPER'S ILLUSTRATIVE PLANS?

A. SO MR. COOPER TALKED ABOUT BOTH THE JOINT RULE -- LOUISIANA JOINT RULE LIST OF CRITERIA AND TRADITIONAL REDISTRICTING PRINCIPLES. AS HE SPELLED THEM OUT, THEY'RE FOLLOWING VTD'S, EQUAL POPULATION OBVIOUSLY BEING CONTIGUOUS,

9:52AM

BEING COMPACT, AND THEN LOOKING AT COMMUNITIES OF INTEREST, WHICH SOMETIMES HE REFERRED TO GENERALLY AND SOMETIMES HE CALLED OUT PARISHES AND CITY BORDERS AND THINGS LIKE THAT AS SPECIFIC COMMUNITIES. AND THEN HE ALSO MENTIONED HIS KIND OF SUPER COMMUNITIES THAT WERE MUCH LARGER REGIONAL AREAS.

Q. OKAY. AND I BELIEVE WHEN YOU REFER TO SUPER REGIONS, ARE THOSE, FOR EXAMPLE, SOME OF THE CULTURAL REGIONS THAT HE REFERENCED?

A. EXACTLY. HE HAD PLANNING AREAS, HE HAD THE CENSUS DEFINED, MSAS, OR METROPOLITAN STATISTICAL AREAS, AND HE HAD WHAT HE CALLED HIS KEY REGIONS OR KEY CULTURAL REGIONS, EACH OF WHICH WAS A MAP OF EITHER THE WHOLE STATE OR MOST OF THE STATE BROKEN UP INTO LARGE REGIONAL PIECES.

Q. OKAY. AND DID MR. COOPER'S REPORT INDICATE THAT RACE WAS A CONSIDERATION IN THE CONSTRUCTION OF HIS PLAN?

MS. KEENAN: OBJECTION TO RACE AS A CONSIDERATION TO THE EXTENT THAT FOCUSES ON HIS INTENT.

THE COURT: GIVE ME YOUR SPECIFIC QUESTION AGAIN, BECAUSE I'M NOT SURE THAT -- I WANT TO HEAR THE QUESTION AGAIN.

MR. LEWIS: SURE.

BY MR. LEWIS:

Q. DR. JOHNSON, WAS RACE IDENTIFIED BY MR. COOPER AS A CONSIDERATION IN THE CONSTRUCTION OF HIS ILLUSTRATIVE PLAN?

MS. KEENAN: I'LL WITHDRAW THE OBJECTION. I MISHEARD IT. THANK YOU.

9:54AM

A. YES.

BY MR. LEWIS:

Q. OKAY. AND WAS COMPACT -- DISTRICT COMPACTNESS A CRITERION IDENTIFIED BY MR. COOPER?

A. YES.

COURT REPORTER: COULD YOU SPEAK UP A LITTLE BIT?

BY MR. LEWIS:

Q. I HAVE TO REPEAT THE QUESTION. WAS COMPACTNESS A MEASURE OR, EXCUSE ME, A CRITERION THAT MR. COOPER IDENTIFIED?

A. YES.

Q. NOW, DR. JOHNSON, SPEAKING METHODOLOGICALLY, WHEN YOU ARE EVALUATING A PLAN'S COMPLIANCE WITH CRITERIA, HOW DO YOU GO ABOUT PERFORMING THAT ANALYSIS?

A. WELL, EACH OF THESE CRITERIA ARE SOMETHING YOU CAN SEE ON A MAP. SO COMPACTNESS, YOU CAN MEASURE IT. COMMUNITIES OF INTEREST, YOU IDENTIFY THE BOUNDARIES OF THAT COMMUNITY OF INTEREST. CONTIGUITY, OBVIOUSLY, YOU LOOK AT THE MAP AND SEE IT. SO YOU CAN LOOK AT THE MAP AND SAY, DOES THIS -- DOES EACH DISTRICT OR THE DISTRICT THAT WE ARE LOOKING AT IN PARTICULAR AT A GIVEN TIME FOLLOW THOSE ELEMENTS OF THE MAP: IS IT COMPACT, IS IT FOLLOWING THE BOUNDARY OF A COMMUNITY OF INTEREST, IS IT FOLLOWING A PARISH BOUNDARY? IT IS A PRETTY STRAIGHTFORWARD WAY OF LOOKING AT THE MAP AND LOOKING AT THE WORDS TO SEE IF THEY MATCH.

Q. AND IS IT -- IS IT IMPORTANT, WHEN DRAWING A MAP, FOR THE

9:55AM MAP-MAKER TO DOCUMENT THE BASES FOR SPECIFIC LINE DRAWING DECISIONS?

A. YES.

Q. AND WHY IS THAT A GOOD PRACTICE?

A. REDISTRICTING MAPS OFTEN END UP IN COURT, AND YOU WANT TO HAVE YOUR METHOD AND YOUR RATIONALE ON THE RECORD. SOME COURTS HAVE REJECTED KIND OF POST -- I NEVER GET MY LATIN TERMS RIGHT, BUT POST FACTO EXPLANATIONS THAT WERE NOT PUT IN THE RECORD AND EXPLAINED AT THE TIME THE MAP WAS DRAWN AND DISCUSSED.

Q. SO, FOR EXAMPLE, IN YOUR OWN REDISTRICTING PRACTICE, DR. JOHNSON, DO YOU GO ABOUT PROVIDING A RECORD OF THE BASES FOR DECISIONS AT THE TIME MAPS ARE DRAWN?

A. YES.

Q. OKAY. NOW, DR. JOHNSON, AS PART OF YOUR EVALUATION OF A REDISTRICTING PLAN, DO YOU JUST REVIEW THE MAPS, OR DO YOU REVIEW THE DATA ASSOCIATED WITH THE MAPS TOO?

A. BOTH.

Q. OKAY. NOW, WHEN YOU EVALUATED MR. COOPER'S 2023 ILLUSTRATIVE PLANS, WHAT DID YOU EVALUATE?

A. WELL, OBVIOUSLY HE GAVE US THE MAP FILES, SO I BROUGHT THOSE INTO MY MAPTITUDE MAPPING SYSTEM. AND THEN I LOOKED AT HIS DATA AND ALSO HAD MY OWN DATA IN MAPTITUDE FROM THE STATE'S DATABASE. SO I WAS LOOKING AT BOTH THE ACTUAL DISTRICT LINES, THE DEMOGRAPHIC DATA THAT MATCH UP WITH THOSE LINES, AND THEN, OF COURSE, IN THE MAPPING SOFTWARE WE HAVE ALL KINDS OF LAYERS

9:57AM

WE CAN LAY ON THERE. SO WE HAVE PARISHES, CITY LINES, CENSUS DESIGNATED PLACE LINES, RIVERS, ALL KINDS OF GEOGRAPHY AND POLITICAL BOUNDARIES.

Q. AND IS THAT DATA ON THE POLITICAL BOUNDARIES AND SO FORTH, WHERE DOES THAT DATA COME FROM?

A. IT COMES SOME OF IT FROM THE STATE AND SOME OF IT FROM THE CENSUS BUREAU.

Q. ALL RIGHT. NOW, DR. JOHNSON, BEFORE WE GET TOO MUCH FURTHER, I WOULD LIKE TO HAVE YOU KIND OF EXPLAIN THE BASICS OF HOW ALL OF THIS DATA WE HAVE BEEN TALKING ABOUT IS USED IN MAPTITUDE. SO IF WE COULD TURN TO PAGE 9 OF YOUR REPORT, AND THEN ZOOM IN TO FIGURE 4.

ALL RIGHT. DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS FIGURE? WHAT IS IT SHOWING US?

A. SO THIS IS THE MAPTITUDE MAPPING SOFTWARE, AND THIS IS WHAT IT LOOKS LIKE WHEN YOU ARE WORKING ON A PLAN IN THE SOFTWARE. AND SO AT DIFFERENT PIECES OF THE SCREEN, OBVIOUSLY THERE IS A LOT OF INFORMATION GOING ON. OBVIOUSLY YOU HAVE YOUR MAP, AND YOU CAN SEE THE MAP OF LOUISIANA IN THIS CASE. IN THIS CASE, EACH DISTRICT IS SHADED IN. IT IS POSSIBLE, AS OTHER FIGURES IN MY REPORT SHOW, TO COLOR THINGS IN BASED ON DIFFERENT FACTORS. IN THIS CASE, THE DISTRICTS THEMSELVES ARE SHADED.

OVER WHERE THERE IS THE YELLOW 1, YOU CAN SEE THE LIST OF ALL OF THOSE DIFFERENT LAYERS. SO YOU CAN SEE, YOU KNOW, FIRST

9:58AM IS THE SENATE MAP. THAT'S THE MAP WE ARE LOOKING AT. AND THEN WHERE THERE'S A RED X, THOSE LAYERS ARE NOT SHOWN. AND WHERE THERE'S A GREEN CHECK, THOSE LAYERS ARE SHOWN. SO YOU CAN SEE IN THIS MAP I JUST HAVE THE DISTRICTS AND THE PARISH LINES ON. BUT AVAILABLE TO BE CLICKED AND TURNED ON ARE ALL OF THESE OTHER LAYERS, FROM TRIBAL RESERVATIONS TO CENSUS PLACES TO OTHER MAP -- YOU CAN SEE AT THE BOTTOM IN THE LIST THAT THE HOUSE MAP IS THERE, SO IT CAN BE OVERLAID. SO YOU HAVE ALL OF THOSE GEOGRAPHIC LAYERS AVAILABLE.

THEN UP IN THE AREA LABELED 2 IS THE DATA. SO THOSE ARE SHOWING -- THAT BOX IS SHOWING THE DISTRICT NUMBER, THE TOTAL POPULATION, THE DEVIATION FROM THE IDEAL, AND THEN ALL THE VARIOUS DEMOGRAPHIC VARIABLES THAT ARE AVAILABLE IN THE DATASET.

ONE OF THE THINGS MAPTITUDE DOES THAT'S SO HANDY IS, IN THE TOP BOX LABELED 2 ARE THE TOTALS FOR THE DISTRICTS WE ARE LOOKING AT. IF I WANT TO LOOK AT CHANGING A DISTRICT, AS I CLICK ON EACH CENSUS BLOCK TO POTENTIALLY MOVE THAT, BLOCK 3 WILL POP UP AND SHOW ME THE CHANGE. AND SO IT WILL GIVE BOTH THE -- IN BOX 2, I SEE THE CURRENT POPULATION AND ALL THE ETHNIC PERCENTAGES. IN BOX 3, AS I CLICK ON EACH BLOCK, IT WILL INSTANTLY SHOW ME HOW THE DYNAMICS OR THE DEMOGRAPHICS OF THAT DISTRICT CHANGE AS I CLICK BLOCK BY BLOCK, AND I CAN DECIDE IF THAT'S MAKING -- ACHIEVING THE GOAL I WANT OR IF IT'S NOT.

10:00AM

Q. AND, DR. JOHNSON, IS IT POSSIBLE FOR YOU TO ASSIGN -- WHEN YOU ARE DRAWING A MAP WITH MAPTITUDE, TO ASSIGN TERRITORY TO A DISTRICT BY, FOR EXAMPLE, PRECINCT INSTEAD OF BY CENSUS BLOCK?

A. YES, THE SOFTWARE IS VERY GOOD. IN THE BOTTOM LEFT, YOU CAN SEE THE LITTLE BOX WHERE IT SAYS TARGET AND SOURCE AND SELECTION LAYER. THAT'S HOW YOU CONTROL WHAT LAYER YOU ARE PICKING AT. YOU CAN SEE THE SELECTION LAYER. IT SAYS BLOCK. THAT COULD ALSO BE VOTING DISTRICT. IT COULD EVEN BE A WHOLE CITY OR PARISH. THE SOFTWARE IS VERY, VERY FLEXIBLE TO EASILY SWITCH BACK AND FORTH BETWEEN THEM.

Q. OKAY. ALL RIGHT. SO, FOR EXAMPLE, IF YOU WERE TO BE ASSIGNING TERRITORY TO A DISTRICT BY PRECINCT, WOULD THAT SCREEN NUMBER 3, THAT DATA VIEW SCREEN, ALSO SHOW YOU PROPOSED CHANGES BY PRECINCT?

A. YES, EXACTLY. WHATEVER AREA YOU CHOOSE, BE IT A BLOCK, BLOCK GROUP OR PRECINCT OR WHATEVER, THE SOFTWARE WILL PICK THAT AREA AND SHOW YOU THE CHANGES.

Q. OKAY. AND DR. JOHNSON, IS IT POSSIBLE TO LOAD ELECTION DATA INTO MAPTITUDE?

A. YES, IT'S POSSIBLE AND VERY COMMON.

Q. AND ARE THERE -- IS IT POSSIBLE TO LOAD SOCIO-ECONOMIC DATA INTO MAPTITUDE?

A. YES. FOR THE REDISTRICTING SOFTWARE TO WORK RIGHT, YOU HAVE TO -- ALL THE DATA HAS TO BE THE SAME AT THE BLOCK AND THE VTD AND THE TRACT LEVEL SO THAT AS YOU SWITCH FROM LAYER TO

10:02AM LAYER, THE SOFTWARE CAN KEEP UP WITH YOU AND KNOW WHICH DATA TO SHOW. SO YOU HAVE TO BREAK THE DATA DOWN, AND SOCIO-ECONOMIC DATA USUALLY COMES AT THE BLOCK OR THE TRACT LEVEL, BUT THERE ARE VERY COMMONLY USED AND WIDELY ACCEPTED METHODS FOR BREAKING THAT DOWN BY BLOCK, AND THEN YOU AGGREGATE IT BACK UP TO VTD AND ALL THE HIGHER LEVELS OF GEOGRAPHY.

Q. AND IS THERE A GENERALLY ACCEPTED WAY THAT ONE CAN USE SOCIO-ECONOMIC DATA TO DRAW MAPS?

A. YES. IT'S VERY COMMONLY USED, AND YOU PUT IT IN THE DATABASE SO THAT AS YOU DRAW YOUR LINES, YOU CAN TELL WHAT THE IMPACT IS.

I'M WORKING IN A JURISDICTION NOW WHERE RENTERS IS A BIG ISSUE. SO WE HAVE THE RENTER DATA BROKEN DOWN INTO THE MAPPING SOFTWARE, AND AS WE CHANGE EACH LINE, WE CAN INSTANTLY KNOW WHAT PERCENTAGE OF EACH DISTRICT'S RESIDENTS ARE RENTERS, FOR EXAMPLE. SO YOU CAN DO THAT FOR INCOME LEVELS, ANY OF THE SOCIO-ECONOMIC DATA THAT YOU HAVE AVAILABLE.

THE COURT: LET ME JUST MAKE SURE I UNDERSTAND. SO THE SOCIO-ECONOMIC DATA IS COLLECTED BY BLOCK, BUT THEN YOU AGGREGATE IT UP TO THE VTD. DID I HEAR THAT RIGHT?

A. IT'S THE SECOND STEP. THERE'S A FIRST STEP -- IT'S ACTUALLY COLLECTED AT WHAT THEY CALL THE BLOCK GROUP -- THE TERM IS CONFUSING -- OR AT THE TRACT LEVEL. BUT TO MAKE IT WORK IN THE SOFTWARE, WE BREAK IT DOWN INTO BLOCK AND THEN BRING IT BACK UP. YOU HAVE TO GET IT DOWN TO THE SMALLEST UNIT

10:03AM OF GEOGRAPHY IN ORDER FOR THE SOFTWARE TO PROPERLY USE IT AS YOU COME BACK UP.

THE COURT: OKAY. GOT IT.

BY MR. LEWIS:

Q. AND DR. JOHNSON, MAYBE JUST TO MAKE SURE WE MAKE A CLEAN RECORD ABOUT THAT, CAN YOU EXPLAIN THE DIFFERENCE BETWEEN A BLOCK AND A BLOCK GROUP?

A. SURE. A BLOCK IS THE SMALLEST UNIT OF CENSUS GEOGRAPHY, SO IN A CITY, IT IS GOING TO BE A CITY BLOCK. THAT'S THE TERM. WHEN YOU GET OUTSIDE OF THE CITY OR IF YOU GET INTO AREAS WHERE THERE ARE CUL-DE-SACS AND HILLS, IT GETS A LITTLE -- THEY GET A LITTLE MORE ODD-SHAPED AND STRANGE-LOOKING. BUT THAT'S THE BASIC UNIT OF GEOGRAPHY. IT'S THE SMALLEST UNIT OF GEOGRAPHY WHERE THE CENSUS RELEASES POPULATION DATA.

THE NEXT LEVEL UP IS BLOCK GROUP. USUALLY IT'S ANYWHERE FROM 2 TO MAYBE 10 OR SO CENSUS BLOCKS, SO IT'S STILL A PRETTY SMALL AREA. IT COULD BE TWO CITY BLOCKS OR TEN CITY BLOCKS. AND IT'S REALLY KIND OF AN INTERMEDIATE STEP. IT DOESN'T SERVE A LOT OF PURPOSE OTHER THAN AS A DATA-GATHERING MEASURE.

THE NEXT LEVEL UP IS TRACTS, AND THOSE WERE DEFINED LONG AGO AS VERY, VERY ROUGH NEIGHBORHOODS. THEY TEND TO BE ANYWHERE FROM 2,000 TO 4,000 PEOPLE, ALTHOUGH THERE IS A LOT OF VARIATION IN THAT. AND THE CENSUS BUREAU TRIES TO KEEP THOSE FAIRLY CONSISTENT OVER TIME SO THAT RESEARCHERS CAN HAVE A STEADY DATA SOURCE. SO BLOCKS AND BLOCK GROUPS MAY CHANGE A

10:05AM LOT AS DEVELOPMENT HAPPENS. SOMETIMES TRACTS CHANGE, BUT THEY TRY NOT TO.

AND THEN THE NEXT LEVEL UP FROM TRACTS IS COUNTIES, WHICH IS OBVIOUSLY A CLEAR LEVEL. ON THE SIDE PATH, THAT IS KIND OF -- THE CENSUS BUREAU HAS A LITTLE TREE OF DATA THEY SHOW. THAT'S THEIR STANDARD TREE IS BLOCK, BLOCK GROUP, TRACT, COUNTY, STATE.

ON KIND OF A BRANCH OFF FROM THAT TREE ARE VTDS, WHICH THE CENSUS BUREAU CALCULATES BECAUSE THE STATES ASK THEM TO. SO THE STATES SUBMIT THEIR PRECINCT LINES, AND THEN THE CENSUS BUREAU THEN ADDS UP ALL OF THE CENSUS BLOCKS IN THAT PRECINCT AND GIVES YOU THE VTD DATA. SO IT IS USUALLY SOMEWHERE BETWEEN A BLOCK GROUP AND A TRACT, BUT IT'S A BRANCH, NOT IN THE SAME TREE.

Q. ALL RIGHT. AND THANK YOU FOR THAT, DR. JOHNSON.

NOW, WHAT ADVANTAGES DOES INCLUDING SOCIO-ECONOMIC DATA IN YOUR MAPTITUDE SOFTWARE OFFER A REDISTRICTING PROFESSIONAL?

A. WELL, IF -- WE ARE TRYING TO DRAW MAPS TO KEEP TOGETHER A GIVEN COMMUNITY, AND THAT COMMUNITY IS DEFINED BASED ON THE SOCIO-ECONOMIC FACTOR. THEN THE DATA TELLS US IF WE ARE SUCCEEDING WITH THAT GOAL OR NOT. AND IF WE DON'T HAVE THE DATA IN THE SYSTEM, THEN IT'S KIND OF AN EYEBALL SWING AND A MISS, HOPE AND A PRAYER APPROACH. SO WE PUT THE DATA IN SO THAT -- AS I MENTIONED, THE ONE JURISDICTION, THEY ARE VERY INTERESTED IN ARE WE KEEPING THE RENTERS TOGETHER IN A

10:07AM

DISTRICT. WELL, AS I DRAW THE LINES, I CAN SEE RIGHT FROM THE NUMBERS WE ARE KEEPING THE RENTERS TOGETHER.

YOU CAN SEE ON THE SCREEN, YOU KNOW, OBVIOUSLY IN A VOTING RIGHTS SITUATION, WE ARE LOOKING AT THE PROTECTED CLASS IN QUESTION. WHERE ARE THOSE NUMBERS SHIFTING? IF WE ARE LOOKING AT INCOME LEVELS -- THE ONE I DEAL WITH A LOT IN CALIFORNIA IS LANGUAGE SPOKEN AT HOME. DO THEY SPEAK SPANISH AT HOME? WELL, LET'S KEEP THAT COMMUNITY TOGETHER. OR ARE THEY LIMITED ENGLISH SPEAKERS? SO ALL OF THOSE DIFFERENT FACTORS CAN ALL BE DONE.

IF YOU HAVE THE DATA IN YOUR SYSTEM, YOU CAN SEE THE IMPACT OF EVERY CHANGE ON THAT COMMUNITY, AND ARE YOU KEEPING IT TOGETHER OR ARE YOU BREAKING IT UP? IF YOU DON'T HAVE THE DATA IN THE SYSTEM, YOU ARE JUST KIND OF WINGING IT.

Q. AND DR. JOHNSON, I WILL REPRESENT TO YOU THAT MR. COOPER TESTIFIED THAT HE RELIED ON PARISH OR CITY LEVEL CENSUS ACS DATA. DO YOU RECALL THAT?

A. YES.

Q. AND IS THAT COMMON IN MODERN REDISTRICTING PRACTICE?

A. NO.

Q. WHY NOT?

A. IT REALLY DOESN'T DO YOU ANY GOOD UNLESS YOU ARE DEALING WITH A REALLY SMALL PARISH OR A REALLY SMALL CITY, BECAUSE, FOR EXAMPLE, IF YOU ARE IN EAST BATON ROUGE, KNOWING THE AVERAGE HOUSEHOLD INCOME OF THE PARISH AS A WHOLE DOESN'T TELL YOU

10:08AM ANYTHING ABOUT WHERE TO DRAW THE LINES OF THE, YOU KNOW, HOWEVER MANY DISTRICTS YOU ARE DRAWING IN THAT PARISH. WHAT YOU NEED TO KNOW IS WHERE THE COMMUNITY THAT YOU ARE LOOKING AT, WHATEVER SOCIO-ECONOMIC DEFINED COMMUNITY YOU ARE LOOKING AT, IS WITHIN THE PARISH.

AND SO, YOU KNOW, IT'S AS IF YOU ARE LOOKING AT THE STATE OF LOUISIANA. IF I KNOW THE INCOME LEVEL OF THE STATE OF LOUISIANA, THAT TELLS ME NOTHING ABOUT THE INCOME LEVEL OF AN INDIVIDUAL PARISH. SAME THING IN A CITY OR WITHIN A PARISH. THE INCOME LEVEL OF THE PARISH AS A WHOLE TELLS ME NOTHING ABOUT WHERE PEOPLE -- OR HOW MUCH MONEY PEOPLE IN EACH INDIVIDUAL SECTION OF THE PARISH EARN.

Q. AND SO IS MR. COOPER'S METHOD A REASONABLE ONE TO FOLLOW IF ONE WAS TO USE SOCIO-ECONOMIC DATA WHEN CONSTRUCTING A PLAN?

A. NO.

Q. I WOULD LIKE NOW TO TURN TO MR. COOPER'S MULTI-PARISH CULTURAL REGIONS. SO I WOULD LIKE TO TURN TO PAGE 13 OF YOUR REPORT, AND SPECIFICALLY HIGHLIGHTING PARAGRAPHS 33 AND 34. SO IT APPEARS YOU HAVE SOME QUESTIONS OR SOME CONCERNS ABOUT THE METHODOLOGY MR. COOPER EMPLOYED WHEN DEFINING HIS MULTI-PARISH CULTURAL REGIONS. CAN YOU DISCUSS SOME OF THOSE CONCERNS?

A. YES. MY FATHER-IN-LAW IS A FORMER LSU PROFESSOR, AND AT THE -- WITH THE STUDENTS, WE WOULD NEVER ACCEPT WIKIPEDIA AS A RELIABLE SOURCE FOR ANY OFFICIAL DATA OR BASIS OF ANY ACTION. YOU JUST DON'T DO IT. ANYONE CAN WRITE ANYTHING IN WIKIPEDIA,

10:10AM AND IT'S NOT A RELIABLE SOURCE.

SIMILARLY, HE HAD A KEY REGION DEFINED BY THE REGION'S CHARACTERISTICS IN 1812, YOU KNOW, OVER 200 YEARS AGO. YOU KNOW, THAT'S 50 YEARS BEFORE THE CIVIL WAR. IT JUST DOESN'T MAKE ANY SENSE OR HAVE ANY RELEVANCE TO TODAY. IF THERE WERE FACTORS BACK THEN THAT ARE INFLUENCING LIFE IN THOSE AREAS TODAY, LOOK AT THE FACTORS TODAY.

SO WHEN YOU ARE LOOKING AT A KEY REGION, TO HIS CREDIT, ACADIANA, AS HE NOTES, IS A LEGISLATIVE CAUCUS. THEY HAVE SHARED ISSUES THAT THEY WORK ON. THAT'S THE KIND OF THING WE ARE LOOKING FOR WHEN WE ARE TRYING TO DEFINE A COMMUNITY OF INTEREST THAT'S RELEVANT TO REDISTRICTING TODAY. WIKIPEDIA, WHAT WAS HAPPENING IN THE AREA IN 1812, NO, THOSE ARE NOT SOURCES THAT I WOULD EVER RELY ON TO DEFINE MY COMMUNITIES.

Q. ALL RIGHT. SO IF WE TURN, THEN, TO THE NEXT SECTION OF THIS REPORT, BEGINNING ON THE SAME PAGE, I WOULD LIKE TO TURN TO YOUR ANALYSIS OF HOW THE KEY REGIONS IN MR. COOPER'S PLANS WERE TREATED. DID YOU ASSESS WHETHER MR. COOPER ADHERED TO HIS VARIOUS KEY REGIONS IN THE ILLUSTRATIVE PLANS?

A. I DID ASSESS THAT, YES.

Q. OKAY. AND DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY FROM WEDNESDAY?

A. YES.

Q. OKAY. AND AGAIN, I WILL REPRESENT TO YOU DURING THAT TESTIMONY ON WEDNESDAY, PAGES 41 AND 42 OF THE TRANSCRIPT,

10:12AM MR. COOPER DESCRIBED, QUOTE, CULTURAL REGIONS, END QUOTE, AND REPORTED THAT HE WAS, QUOTE, LOOKING AT THE REGIONS AND TRIED TO KEEP THEM TOGETHER AS CLOSE AS POSSIBLE, END QUOTE. WHAT DID YOU UNDERSTAND THAT CLAIM TO MEAN?

A. SO KEEPING A COMMUNITY OF INTEREST TOGETHER IS A VERY COMMON PRACTICE. IT IS OFTEN LEGALLY REQUIRED WHEN DRAWING DISTRICTS. AND WHAT THAT MEANS IS THAT WHEN A DISTRICT GETS CLOSE TO THE COMMUNITY BORDER, THE DISTRICT BOUNDARY FOLLOWS THE COMMUNITY BORDER. YOU DON'T CROSS IT AND SPLIT THE DISTRICT AMONGST MULTIPLE COMMUNITIES OF INTEREST BECAUSE THEN YOU ARE BREAKING UP THAT COMMUNITY BETWEEN THE DIFFERENT DISTRICTS.

SO HIS CLAIM IS A COMMON STATEMENT MADE THAT WHEN YOU DO THAT, YOU ARE KEEPING THE DISTRICTS SO THAT THEIR BOUNDARIES FOLLOW THE COMMUNITY OF INTEREST BOUNDARY.

Q. OKAY. AND WHAT DID YOU CONCLUDE ABOUT WHETHER MR. COOPER ADHERED TO HIS KEY REGIONS?

A. HE DID NOT.

Q. AND I WOULD LIKE TO TURN TO PAGE 14 OF YOUR REPORT, AND I WILL KIND OF GO THROUGH A FEW OF THESE, AND I WOULD LIKE TO START HERE ON PARAGRAPH 38 AT THE BOTTOM OF THE PAGE HERE. AND WHAT DO YOU REPORT HERE ABOUT MR. COOPER'S ILLUSTRATIVE SENATE PLAN?

A. THAT IT SPLITS THE PLANNING DISTRICT REGIONS BY HAVING ANYWHERE FROM THREE TO SEVEN HOUSE DISTRICTS CROSS THAT

10:14AM BOUNDARY. SO IT'S NOT FOLLOWING THAT BOUNDARY. IT'S NOT EVEN CLOSE TO FOLLOWING THE PLANNING DISTRICT BOUNDARIES AS COMMUNITIES OF INTEREST.

Q. AND JUST TO MAKE SURE THAT I'M NOT LEADING YOU ASTRAY, DR. JOHNSON, WE ARE TALKING ABOUT REGIONS THAT I BELIEVE YOU ANALYZED. HOW MANY DIFFERENT TYPES OF CULTURAL REGIONS DID YOU ANALYZE?

A. I FOCUSED ON TWO SETS, THE PLANNING DISTRICTS AND THE KEY CULTURAL REGIONS. I ALSO LOOKED AT THE MSAS AS WELL. MSAS DON'T COVER THE ENTIRE STATE, SO IT'S A LITTLE BIT OF A DIFFERENT COMPARISON, BUT I DID LOOK AT THOSE. BUT PRIMARILY ON THE PLANNING DISTRICTS AND THE KEY CULTURAL REGIONS.

Q. OKAY. SO, FOR EXAMPLE, IF WE THEN LOOK AT -- OKAY. SO IF WE THEN LOOK AT PARAGRAPH 39, WHICH LOOKS AT, I BELIEVE, THE ILLUSTRATIVE, HOW MANY -- SENATE MAP -- EXCUSE ME. HOW MANY TIMES DOES MR. COOPER DIVIDE PLANNING DISTRICTS IN THE ILLUSTRATIVE SENATE PLAN?

A. HE HAS ONE THAT HE DIVIDES AND CROSSES A BOUNDARY WITH ONLY TWO DISTRICTS. I SAY ONLY. YOU MIGHT HAVE TO DO TWO, BUT GENERALLY YOU HAVE TO DO ONE FOR POPULATION BALANCING. SO ONE IS NOT TOO BAD. IT KIND OF FOLLOWS THE PLANNING DISTRICT BOUNDARY. BUT EVERY OTHER PLANNING DISTRICT IS CROSSED ANYWHERE FROM THREE TO AS MANY AS EIGHT TIMES, SO HE IS CLEARLY NOT USING PLANNING DISTRICTS AS A GUIDING CONSIDERATION IN DRAWING THE LINES.

10:16AM

MS. KEENAN: OBJECTION, YOUR HONOR. THAT SAYS WHAT HE WAS USING AS A CONSIDERATION TO DRAW THE LINES. THAT DOES GO TO MR. COOPER'S INTENT.

THE COURT: WELL, IT'S A SUMMARY. I'M GOING TO OVERRULE THE OBJECTION. I MEAN, IT KIND OF STATES WHAT I THINK THAT HE IS SHOWING THAT THE DATA -- OR THAT HIS DATA SHOWS. OVERRULED.

BY MR. LEWIS:

Q. AND DR. JOHNSON, JUST TO BE VERY CLEAR, YOU ARE NOT OFFERING TESTIMONY TODAY ABOUT YOUR -- ABOUT WHAT WAS SUBJECTIVELY IN MR. COOPER'S HEAD; IS THAT RIGHT?

A. CORRECT.

Q. ALL RIGHT. AND SO I JUST WANT TO MAKE SURE -- I MAY NOT HAVE ASKED THAT QUESTION INITIALLY AND INTENDED TO, BUT WHEN YOU ARE LOOKING AT THESE PLANNING DISTRICTS, HOW MANY TIMES DO YOU HAVE TO DIVIDE THEM IN ORDER TO ACHIEVE POPULATION EQUALITY?

A. HOPEFULLY THE NUMBERS WOULD BALANCE OUT AND YOU WOULDN'T HAVE TO CROSS THE BORDER AT ALL. OFTEN THAT DOESN'T WORK OUT, BECAUSE THE POPULATION REQUIREMENTS ARE PRETTY STRICT. SO YOU MAY HAVE TO CROSS A LINE ONCE IF THE NUMBER OF PEOPLE IN THE COMMUNITY DOESN'T ALMOST PERFECTLY MATCH UP WITH A MULTIPLE OF DISTRICTS. SOMETIMES WE WILL GET STUCK, AND IN ORDER TO BALANCE THE POPULATIONS OF THE COMMUNITY NEXT TO YOU AND THE COMMUNITY ON THE OTHER SIDE OF YOU, YOU MAY HAVE TO CROSS A

10:17AM 1 BORDER TWICE, ONCE TO LET POPULATION OUT OF THE AREA, FOR
2 EXAMPLE, TO THE EAST, AND ONCE TO SPILL OVER EXTRA POPULATION
3 TO THE WEST. BUT FOR POPULATION BALANCING REASONS, YOU SHOULD
4 NEVER HAVE TO CROSS A BOUNDARY MORE THAN TWICE.
5 Q. ALL RIGHT. AND I WOULD LIKE TO NOW TURN TO PARAGRAPH 42.
6 AND THIS, I BELIEVE, IS WHERE YOU ADDRESS MR. COOPER'S KEY
7 REGIONS. IS THAT RIGHT?
8 A. YES.
9 Q. OKAY. AND DID YOU CALCULATE THE NUMBER OF TIMES THAT, FOR
10 POPULATION BALANCE, A KEY REGION WOULD HAVE TO BE DIVIDED?
11 A. YES.
12 Q. AND HOW MANY TIMES IS THAT?
13 A. ACTUALLY, IF WE GO TO -- 42 IS JUST WHAT WE WERE JUST
14 TALKING ABOUT. 43, 44 ARE THE SPECIFICS, REGION BY REGION.
15 BUT YES, THERE -- IN 43, IT TALKS ABOUT AN UNNAMED REGION THAT
16 DIDN'T HAVE A TITLE IN HIS MAP. IT IS CROSSED ONLY ONCE. BUT
17 THEN WE GET TWICE INTO TWO REGIONS, THREE TIMES, FIVE TIMES,
18 AND ACADIANA IS ACTUALLY CROSSED SEVEN TIMES IN THE HOUSE MAP.
19 AND THEN IN THE SENATE MAP, SIMILAR RESULTS, THREE, FOUR, FIVE
20 OR EVEN EIGHT TIMES THAT BOUNDARY IS BEING CROSSED BY
21 DISTRICTS.
22 Q. OKAY. AND DO THOSE DISTRICT BOUNDARIES REFLECT ADHERENCE
23 TO THE KEY CULTURAL REGIONS IN THE CONSTRUCTION OF THE 2023
24 ILLUSTRATIVE MAPS?
25 A. NO. UNLESS YOU -- UNLESS A DISTRICT HAS TO CROSS THE LINE

10:19AM

FOR POPULATION BALANCING, YOU ARE NOT LETTING THAT COMMUNITY BOUNDARY CONTROL YOUR DISTRICTING WHEN YOU CROSS IT.

Q. AND SIMILARLY, IF WE TURN TO PARAGRAPH 46 OF YOUR REPORT, DR. JOHNSON, DO YOU PERFORM A SIMILAR ANALYSIS OF THE METROPOLITAN STATISTICAL AREAS THAT MR. COOPER CONSIDERED?

A. YES.

Q. AND CAN YOU WALK THE COURT THROUGH THAT ANALYSIS?

A. YES. AS IT -- WHEN YOU GET IN THE MIDDLE OF THE PARAGRAPH THERE, IT TALKS ABOUT THE -- THERE'S ONE MSA THAT THE SENATE MAP IS PRETTY GOOD ON. IT JUST CROSSES TWICE. ARGUABLY THAT WOULD BE REQUIRED FOR POPULATION BALANCING. BUT THE OTHER EIGHT MSAS ARE CROSSED, AGAIN, THREE, FOUR, FIVE, EVEN SIX TIMES BY THE SENATE DISTRICTS. AS THE SENATE DISTRICTS CROSS THESE LINES, THEY ARE CLEARLY NOT USING THE COMMUNITY OF INTEREST AS A DEFINITION THAT SHOULD GUIDE WHERE THE BOUNDARIES GO.

AND ON THE HOUSE SIDE, YOU ARE SEEING THE SAME THING, MSA BOUNDARIES BEING CROSSED EIGHT TIMES, SEVEN TIMES. THESE KINDS OF NUMBERS ARE SHOWING THAT THE COMMUNITY AS DEFINED IN THE MAP IS NOT CONTROLLING WHERE THE LINES ARE DRAWN.

Q. I WOULD LIKE TO RETURN BRIEFLY TO -- YOU HAVE A FIGURE, FIGURE 4 ON PAGE 14. IF WE COULD TURN BACK TO THAT. THIS FIGURE APPEARS TO DEPICT ILLUSTRATIVE HOUSE DISTRICTS 55 AND 54 IN LAFOURCHE AND JEFFERSON PARISHES; IS THAT RIGHT?

A. I THINK IT IS ACTUALLY 84. IT'S A LITTLE HARD TO READ ON

10:21AM THERE, BUT 54 AND 84.

Q. I MAY HAVE MISSPOKEN. THAT IS MY MISTAKE. WHAT IS THAT FIGURE SHOWING US?

A. SO THE PURPLE AREA, HOUSE DISTRICT 54, IS ON THE LEFT, AND THEN THE YELLOW LINE IS THE PARISH BOUNDARY. SO YOU CAN SEE 84 IS COMING IN JEFFERSON. BUT 54, DOWN AT THE SHORELINE, HAS A PENINSULA THAT STICKS OVER, THAT CROSSES THE PARISH LINE AND CROSSES -- THIS IS ACTUALLY SOME OF THE REGIONAL LINES THAT MR. COOPER SHOWED IN HIS MAP WHEN HE TRIED TO DEFINE THESE BIG REGIONS. AND 54 IS JUST CROSSING RIGHT THROUGH THEM IN ORDER TO PICK UP THAT PENINSULA.

Q. OKAY. APPROXIMATELY HOW MANY PEOPLE LIVE IN THE PENINSULA?

A. JUST OVER A THOUSAND. IT IS 1005.

Q. ALL RIGHT. WE CAN TAKE THAT DOWN.

SO DR. JOHNSON, JUST TAKING A STEP BACK, BASED ON WHAT WE HAVE TALKED ABOUT IN TERMS OF THESE PLANNING DISTRICTS, CULTURAL REGIONS, WHAT CONCLUSIONS DID YOU DRAW ABOUT MR. COOPER'S ADHERENCE TO THESE REGIONAL BOUNDARIES?

A. THE VARIOUS DEFINITIONS OF REGIONS, WHETHER THEY BE PLANNING, KEY CULTURAL OR MSA, ARE NOT LINES THAT THE ILLUSTRATIVE DISTRICT LINES FOLLOW. SO THESE COMMUNITY LINES ARE NOT CONTROLS THAT ARE GUIDING THE DRAWING OF THOSE LINES.

Q. AND COULD A MAP-MAKER HAVE REDUCED THE NUMBER OF DIVISIONS OF THESE REGIONS?

10:23AM

A. CERTAINLY. IF A MAP-MAKER WAS ACTUALLY TRYING TO KEEP A COMMUNITY TOGETHER, YOU DRAW DISTRICTS TO THE REGIONAL OR COMMUNITY BOUNDARY AND STOP. AND ONE WOULD KEEP THOSE DISTRICTS IN THAT COMMUNITY IN ORDER TO AVOID EXCESSIVE DIVISION OF THE COMMUNITY AMONGST THE MAP.

Q. ALL RIGHT. DR. JOHNSON, I WOULD NOW LIKE TO SWITCH GEARS AND TO TAKE YOU THROUGH YOUR ANALYSIS OF THE DIFFERENT 2023 ILLUSTRATIVE MAJORITY BLACK DISTRICTS THAT MR. COOPER CONSTRUCTED. SO I WOULD LIKE TO PULL UP FIGURE 16 APPEARING ON PAGE 27 OF YOUR REPORT.

OKAY. AND DR. JOHNSON, I BELIEVE THIS IS A FIGURE DEPICTING ILLUSTRATIVE SENATE DISTRICTS 38 AND 39. DOES THAT LOOK RIGHT?

A. YES.

Q. OKAY. AND CAN YOU ORIENT -- AND THIS IS IN THE SHREVEPORT AREA; IS THAT RIGHT?

A. YES.

Q. AND DR. JOHNSON, CAN YOU ORIENT US TO THE FIGURE? EXPLAIN THE COLORS AND THE LINES ON THIS PAGE.

A. HAPPY TO, YES.

Q. ALL RIGHT.

A. SO I MENTIONED BEFORE THE MAPTITUDE SCREEN THAT WE LOOKED AT WHERE EACH INDIVIDUAL DISTRICT WAS COLORED IN. IN THIS CASE, THE BLUE DASHED LINES ARE THE DISTRICT LINES FOR THE ILLUSTRATIVE SENATE MAP. AND THE COLORS THAT WE ARE SEEING ARE

10:25AM THOSE CENSUS BLOCKS. SO THIS IS A -- WE HAVE A FAIRLY DENSELY POPULATED AREA IN SHREVEPORT. PRETTY CONSISTENTLY EACH CITY BLOCK IS ITS OWN CENSUS BLOCK.

THE COLORING THAT YOU ARE SEEING HERE, YOU CAN SEE THE CODING ON THE LEFT, THE PURPLE AREAS ARE 25 PERCENT BLACK VAP, ANY PART BLACK VAP OR LOWER. THE DARKER BLUE AND LIGHTER BLUE ARE 25 TO 50 PERCENT. AND THEN THE AREAS THAT ARE GREEN, YELLOW OR RED ARE MAJORITY BLACK. THEY ARE 50 TO 65, 65 TO 75, OR 75 TO 100 PERCENT OF THE VOTING AGE POPULATION IS BLACK. SO YOU CAN SEE THROUGH THE CENTER OF THIS AREA, GOING NORTH/SOUTH, CERTAINLY OVERWHELMINGLY 75 PERCENT OR HIGHER OF THE VOTING AGE POPULATION IS ANY PART BLACK.

THE OTHER LINES SHOWN ON HERE, UP IN THE TOP RIGHT, YOU CAN SEE KIND OF THE DASHED -- THE THICK DASHED LINES. THOSE ARE THE PARISH BOUNDARIES SHOWN IN BROWN IN THE TOP RIGHT. THEN WE HAVE THE FREEWAYS IN ORANGE SHOWN THERE. AND IT DIDN'T TRANSLATE VERY WELL TO PDF. ON THE COMPUTER SCREEN IT SHOWS VERY WELL, BUT THERE ARE THE THIN RED LINES THAT DON'T REALLY COME THROUGH ON THIS THAT ARE THE CENSUS PLACE OR CITY BOUNDARIES. YOU CAN SEE THE DIFFERENT CENSUS PLACE NAMES, RIGHT IN THE MIDDLE OF SHREVEPORT AND UP IN THE TOP RIGHT, BUT -- I THINK IT'S PRONOUNCED BOSSIER. DON'T HOLD ME TO ANY OF MY PRONUNCIATION OF NAMES DOWN HERE. I'M VERY BAD OF THAT. MY FATHER-IN-LAW WOULD BE ASHAMED. BUT TO THE BEST I CAN, BOSSIER PARISH UP IN THE TOP RIGHT.

10:27AM

Q. AND WHAT STANDS OUT AT YOU ABOUT THE BOUNDARY LINE ON THIS IMAGE RUNNING BETWEEN ILLUSTRATIVE SENATE DISTRICT 38 AND ILLUSTRATIVE SENATE DISTRICT 39?

A. IT DEFINITELY CURVES IN LINES IN ODD WAYS. YOU KNOW, IT'S NOT FOLLOWING THE FREEWAY, EXCEPT FOR A VERY SHORT PERIOD. RIGHT IN THE MIDDLE, NEXT TO SHREVEPORT, YOU CAN SEE WHERE THE FREEWAY LINE IS. IN THAT LITTLE STRETCH IT FOLLOWS THE FREEWAY.

YOU KNOW, I CAN SEE AN ARGUMENT THAT FOLLOWING THE BOUNDARY OF THE AIRPORT COULD BE A CONSIDERATION. BUT OTHER THAN THAT, THE LINES KIND OF ZIG AND ZAG IN VERY ODD WAYS THAT DON'T FOLLOW COMPACTNESS, THAT DON'T FOLLOW CITY BOUNDARIES, THAT DON'T FOLLOW SOCIO-ECONOMIC BOUNDARIES, THAT DON'T FOLLOW KEY REGIONS. ALL THE CRITERIA THAT MR. COOPER LISTED, THE LINE ISN'T FOLLOWING. SOME OF IT MIGHT BE BECAUSE OF ODD-SHAPED VTDS, BUT STILL, WE ARE PICKING AND CHOOSING VTDS NOT BASED ON TRADITIONAL CRITERIA. WE ARE JUST WEAVING AROUND AND GOING LEFT AND RIGHT FOR REASONS THAT ARE NOT EXPLAINED BY ANY OF THE CRITERIA THAT MR. COOPER OFFERED AS EXPLANATIONS.

Q. OKAY. AND IS FOLLOWING A PARISH BOUNDARY, I THINK YOU SAID MAJOR ROADWAYS AND NEIGHBORHOODS, ARE THOSE TRADITIONAL CRITERIA?

A. YES.

Q. AND SO DOES THIS BOUNDARY APPEAR TO RESPECT A NONRACIAL REDISTRICTING CRITERION THAT MR. COOPER SAYS IN HIS REPORT THAT

10:29AM HE FOLLOWED?
A. NO.
Q. AND YOU KNOW, WE HAVE -- I THINK IN THE MIDDLE OF THIS FIGURE, YOU CAN SEE THESE SORT OF JAGGED LINES. ABOUT HOW MANY PEOPLE RESIDE IN THE AREA BOUNDED IN THOSE JAGGED LINES?
A. THIS IS VERY DENSELY POPULATED AREAS, OBVIOUSLY BEING IN SHREVEPORT, SO WE ARE TALKING THOUSANDS OF PEOPLE IN EACH OF THESE ZIGS AND ZAGS.
Q. AND WHAT IS THE RANGE OF BLACK VOTING AGE POPULATION IN THE AREA OF THESE ZIGS AND ZAGS?
A. ALL THROUGH THE MIDDLE, IT IS OVERWHELMINGLY RED, WHICH MEANS 75 TO A 100 PERCENT OF THE VOTING AGE POPULATION IS AT LEAST PART BLACK.
Q. AND I KNOW IT'S REPORTED IN A HUNDRED PLACES, BUT ARE YOU AWARE OF THE BLACK VOTING AGE POPULATION IN ILLUSTRATIVE SENATE DISTRICTS 38 AND 39?
A. YES, THEY BOTH END UP 50-PERCENT MAJORITY BLACK.
Q. MAYBE A LITTLE -- MAYBE A LITTLE ABOVE?
A. OH, YEAH, SORRY, NOT PRECISELY 50 PERCENT, BUT JUST OVER 50 PERCENT.
Q. OKAY. AND SO DO YOU SEE ANY TRADITIONAL CRITERIA -- I THINK YOU'VE ALREADY ANSWERED THAT, BUT IN THE ABSENCE OF TRADITIONAL CRITERIA, WHAT EXPLANATION MIGHT THERE BE FOR A DISTRICT CONFIGURATION LIKE THIS ONE?
A. WELL, JUST GOING BY MR. COOPER'S OWN WORDS, HE TALKS

10:30AM

ABOUT -- HE USED TRADITIONAL CRITERIA AND RACE. AND IF THE LINES DON'T REFLECT ANY TRADITIONAL CRITERIA, THEN BY HIS OWN WORDS, HE IS FOLLOWING RACE.

Q. AND JUST LOOKING AT THE DATA, DOES THE LINE -- COULD THE LINE BE CONSISTENT WITH FOLLOWING RACE?

A. YES. IF YOU ARE TRYING TO GET THE TWO NUMBERS TO BALANCE OUT JUST RIGHT, THAT TAKES -- WHETHER YOU ARE DOING IT BECAUSE YOU HAVE TO UNDER COURT ORDER OR WHATEVER REASON, OR BECAUSE YOU HAVE YOUR OWN GOAL, YOU ARE GOING TO BALANCE OUT THE DIFFERENT SHADING AREAS, YOU KNOW, THE DIFFERENT CONCENTRATIONS. AND YOU CAN SEE HERE -- YOU KNOW, I DIDN'T MENTION IT, BUT OVER ON THE EAST SIDE, YOU CAN SEE THE THICK BLUE DASHED LINE AROUND THE PURPLE AREA. THAT IS ANOTHER DISTRICT COMING IN AND TAKING THAT AREA AWAY FROM DISTRICT 38. SO YOU ARE GOING TO OFTEN END UP WITH STRANGE SHAPED LINES IF YOU ARE TRYING TO GET JUST TO A CERTAIN RACIAL PERCENTAGE IN YOUR DISTRICTS.

Q. SURE. AND NOW, DR. JOHNSON, I WOULD LIKE TO TURN TO IBERVILLE PARISH, NOT FAR FROM HERE. SO IF WE COULD TURN TO FIGURE 17 ON PAGE 28. AND WHAT ARE WE LOOKING AT HERE, DR. JOHNSON? CAN YOU ORIENT US TO THIS FIGURE?

A. SO IT'S NOT A CRYSTAL CLEAR MAP. MY APOLOGIES FOR THAT. BUT WHAT WE ARE LOOKING AT IS SENATE DISTRICT 17. AGAIN, THE BLUE DASHED LINES IN THE TOP LEFT ARE THE BOUNDARIES OF 2023 ILLUSTRATIVE MAP, SENATE DISTRICT 17. THEN --

10:32AM

THE COURT: 17 OR 19?

THE WITNESS: 17.

THE COURT: OKAY.

A. THEN, AGAIN, THE THICK BROWN HASH MARKS ARE THE PARISH BOUNDARIES. AND THE COLOR CODING, THERE ARE PURPLES, GREENS AND REDS, ARE THE SAME AS THEY WERE IN THE LAST MAP. THE PURPLES ARE 25 PERCENT BLACK OR LOWER. THE GREENS, YELLOWS AND REDS ARE MAJORITY BLACK. SO WE HAVE GOT THE SENATE DISTRICT 17 IN THE ILLUSTRATIVE MAP, SENATE DISTRICT 17 IN THE TOP LEFT FOLLOWING THE BLUE DASHED LINES.

THE ENACTED SENATE DISTRICT 17 ALSO INCLUDED THE KIND OF RED-TINTED AREA GOING ALL THE WAY DOWN TO THE PARISH LINE. SO THERE'S A RED LINE THAT RUNS OVER THE PARISH LINE AT THE SOUTH END OF THE PARISH, AND THEN OVER BY THE RIVER IN THE TOP RIGHT, YOU CAN SEE THE RED LINE OUTLINING THE RED SHADED AREA.

SO THE ENACTED MAP TOOK EVERYTHING THAT IS IN THE ILLUSTRATIVE 17 IN THE TOP LEFT AND KEPT GOING ALL THE WAY TO THE PARISH BOUNDARY, USING -- FOLLOWING THE PARISH BOUNDARY AS THE DISTRICT BOUNDARY, THE STANDARD CRITERIA LISTED IN THE STATE'S JOINT RULE AND THE TRADITIONAL REDISTRICTING PRINCIPLE.

THE ILLUSTRATIVE MAP REMOVED ALL OF THAT RED SHADED AREA FROM SENATE DISTRICT 17. AND AS YOU CAN SEE, IT IS MOSTLY BLUE AND PURPLE, SO IT IS MOSTLY WHITE. IT TOOK THE MOSTLY WHITE AREA OUT AND STOPPED THE BOUNDARY AT THE BLUE DASHES, KIND OF IN THE MIDDLE OF NOWHERE, AND THAT BOUNDARY IS NOT FOLLOWING

10:34AM ANY TRADITIONAL REDISTRICTING PRINCIPLE. IT DOESN'T FOLLOW THE PARISH, IT DOESN'T FOLLOW A MAJOR ROAD, IT DOESN'T FOLLOW A COMMUNITY LINE, IT DOESN'T FOLLOW A KEY CULTURAL REGION. IT JUST IS DRAWN OUT IN THE MIDDLE OF NOWHERE. AND THE RESULT IS THAT YOU TOOK OUT THESE HEAVILY WHITE AREAS AND IT INCREASED THE BLACK PERCENTAGE OF ILLUSTRATIVE SENATE DISTRICT 17.

BY MR. LEWIS:

Q. AND AGAIN, RECOGNIZING WE HAVE THIS NUMBER IN A HUNDRED PLACES, BUT DO YOU KNOW THE BVAP OF ILLUSTRATIVE SENATE DISTRICT 17?

A. AGAIN, IT IS OVER 50 PERCENT BLACK.

Q. AND SO DO YOU SEE ANY -- JUST BASED ON THE LINES, DO YOU SEE ANY NONRACIAL REDISTRICTING CRITERION THAT COULD EXPLAIN THIS CONFIGURATION?

A. NO.

Q. AND COULD A RACIAL CONSIDERATION EXPLAIN THIS CONFIGURATION?

A. IT COULD.

Q. AND WHAT CONSIDERATION WOULD THAT BE?

A. IF ONE'S GOAL WAS TO INCREASE SENATE DISTRICT 17 TO BE OVER 50 PERCENT BLACK, CUTTING OUT THIS AREA, ESSENTIALLY NOT GOING TO THE PARISH BOUNDARY, TO THE TRADITIONAL REDISTRICTING BOUNDARY, AND INSTEAD STOPPING THE LINE IN THE MIDDLE OF NOWHERE, WOULD HELP ACHIEVE THAT RACIAL TARGET.

Q. ALL RIGHT. AND SO FINALLY, DR. JOHNSON, WE GET TO -- WE

10:36AM COME TO ILLUSTRATIVE SENATE DISTRICT 19 IN JEFFERSON PARISH. I WOULD LIKE TO TURN TO FIGURE 18 ON PAGE 29.

SO IT LOOKS LIKE, DR. JOHNSON, IT LOOKS LIKE YOU HAVE A MAP OF THE DISTRICT AND THEN AN INSET. AND MAYBE IT'S BEST TO START WITH THE FULL MAP, AND THEN WE CAN GET TO THE INSET. BUT CAN YOU WALK THE COURT THROUGH WHAT YOU ARE SHOWING IN THIS MAP?

A. SURE. VERY SIMILAR TO THE EARLIER MAPS, WE ARE LOOKING AT THE BLUE LINES BEING THE ILLUSTRATIVE SENATE DISTRICT 19 BOUNDARY. WE HAVE GOT THE THICK BROWN DASHES BEING THE PARISH BOUNDARY. YOU CAN REALLY SEE THEM BEST OVER ON THE RIGHT-HAND SIDE OF THE MAP, AND THEN THROUGH THE KIND OF LEFT MIDDLE OF THE MAP, YOU CAN SEE THE PARISH BOUNDARIES COMING DOWN.

THERE IS ALSO -- THE BLUE HATCHING AT THE TOP IS WATER, AND YOU CAN SEE THE RIVER ALSO IN THE BLUE HATCHING GOING THROUGH THE LEFT OR RIGHT, THROUGH THE MIDDLE OF THE MAP.

AND THEN WE'VE GOT THE SAME COLOR SHADING, SO CITY BLOCKS BY CITY BLOCKS, AND WE'RE IN THE HEAVILY POPULATED AREA. WE HAVE GOT THE PURPLE BEING 25 PERCENT OR LESS, THE BLUE BEING LESS THAN 50 PERCENT BLACK, AND THEN THE GREENS, YELLOWS AND REDS BEING MAJORITY BLACK. AND REALLY AT A GLANCE, YOU CAN SEE THERE ARE SOME EDGE COMMUNITIES, BUT THE MAP IS VERY HEAVILY EITHER PURPLE OR RED. IT IS EITHER LESS THAN 25 PERCENT BLACK OR OVER 75 PERCENT BLACK. ONLY AMONG THE EDGES WHERE THE TWO COLORS MEET ARE THERE MORE BLENDED NEIGHBORHOODS.

10:38AM

Q. SO JUST TO HIGHLIGHT JUST A FEW AREAS ON THIS MAP, SO MOVING TO THE FAR WEST, I DON'T THINK EITHER ONE OF US ARE GOING TO PRONOUNCE THESE CORRECTLY, BUT IS IT BOOT (PRONOUNCING), B-O-U-T-T-E?

THE COURT: BOUTTE.

THE WITNESS: BOUTTE.

BY MR. LEWIS:

Q. BOUTTE. OKAY.

A. SO BOUTTE IS A COMMUNITY THAT'S JUST OUTSIDE THE BOUNDARY OVER THERE ON THE WEST SIDE.

BY MR. LEWIS:

Q. AND THEN MOVING NORTH, IT LOOKS LIKE KENNER AND RIVER RIDGE. WHAT IS GOING ON THERE?

A. OH, YES. SO THIS IS WHERE THE -- THE ARROWS KIND OF HIGHLIGHT NOTABLE AREAS, AS I LOOK AT THIS MAP, WHERE THE BOUNDARY LINE IS -- IT STARTS IN THE TOP LEFT ON THE LAKE, IF THAT MAKES SENSE, AND THEN IT STARTS TO COME DOWN ALONG THE PARISH LINE. YOU CAN SEE THE THICK BROWN DASHED LINE THERE, BUT INSTEAD OF FOLLOWING THE PARISH, IT ZIGS IN, AND IT'S NOT FOLLOWING A FREEWAY, IT'S NOT FOLLOWING A COMMUNITY BOUNDARY. IT ZIGS IN TO GET A PART OF KENNER. AND THEN IT CROSSES A FREEWAY, COMES DOWN. THE WHITE AREAS HAVE NO PEOPLE IN THEM. THEY ARE OPEN SPACE. SO IT COMES DOWN THROUGH OPEN SPACE AND THEN AGAIN ZIGS TO THE EAST TO PICK UP A RED, 75-PERCENT BLACK OR MORE COMMUNITY FROM OUT OF AN OTHERWISE PURPLE AREA.

10:39AM

MS. KEENAN: OBJECTION, YOUR HONOR. MAY I EXPLAIN?

THE COURT: YOU MAY.

MS. KEENAN: AGAIN, IT'S ABOUT PRECISION OF LANGUAGE HERE. HE CAN TALK ABOUT THE WAY THAT THE DISTRICT IS SHAPED AND WHAT TERRITORY IT DOES PICK UP, BUT WHAT HE IS TESTIFYING RIGHT NOW IS THAT A DISTRICT ZIGS OR ZAGS IN A CERTAIN WAY TO PICK UP A SPECIFIC COMMUNITY, AND THAT'S GOING TO THE INTENT OF MR. COOPER, NOT JUST TO WHAT THE MAPS ACTUALLY SHOW ON THE SCREEN. IT IS JUST THE PRECISION HERE.

THE COURT: MR. LEWIS?

MR. LEWIS: YOUR HONOR, HE IS DESCRIBING -- I THINK -- I AM INTERPRETING HIS LANGUAGE AS THE LANGUAGE OF THE FACT THAT THE LINE COMES OVER. HE'S NOT SAYING MR. COOPER DREW THIS CONFIGURATION FOR THIS PURPOSE. HE IS DESCRIBING THE EFFECT.

THE COURT: WELL, IT SOUNDS TO ME LIKE THAT IT IS FOR THIS PURPOSE, SO I WOULD SUSTAIN THE OBJECTION. YOU CAN ASK IT A DIFFERENT WAY, AND MAYBE DR. JOHNSON WILL ANSWER IT USING DIFFERENT TERMINOLOGY.

MR. LEWIS: YES, YOUR HONOR.

BY MR. LEWIS:

Q. SO, DR. JOHNSON, YOU WERE TALKING ABOUT RIVER RIDGE. WHAT IS THE EFFECT OF THE -- YOU DESCRIBED THIS DISTRICT BOUNDARY COMING IN FROM THE PARISH BORDER AND SURROUNDING RIVER RIDGE. WHAT IS THE EFFECT OF THAT LINE BEING DRAWN IN THAT LOCATION?

10:41AM A. SURE. AS IT COMES SOUTH ALONG THE PARISH, THE LINE THEN MOVES TO THE EAST, AND IT PICKS UP THE AREA OF KENNER. IT IS NO LONGER FOLLOWING THE PARISH BOUNDARY, IT'S NOT FOLLOWING THE FREEWAY BOUNDARY, IT'S NOT FOLLOWING A COMMUNITY, A CITY OR OTHER COMMUNITY OF INTEREST BOUNDARY. IT KIND OF JUST ZIGS AND ZAGS THROUGH THE NEIGHBORHOODS. IN SO DOING IT, IT ENCOMPASSES A MAJORITY BLACK AREA IN KENNER. IT THEN -- THE BOUNDARY LINE THEN MOVES SOUTH THROUGH THE WHITE -- WHITE MEANS THERE'S NO POPULATION IN THAT AREA -- THROUGH THAT OPEN AREA, AND THE LINE THEN MOVES TO THE EAST AND AROUND THE RIVER RIDGE AREA. AS IT GOES EAST, IT TAKES IN THE RED 75-PERCENT BLACK AREA, WITH THE EFFECT OF TAKING THAT AREA INTO THE ILLUSTRATIVE SENATE DISTRICT 19, AND LEAVING OUTSIDE OF THE DISTRICT THE PURPLE 25 PERCENT OR LESS AREA THAT GEOGRAPHICALLY SURROUNDS RIVER RIDGE OR THE PART OF RIVER RIDGE IT IS PICKING UP.

IT THEN MOVES SOUTH AND GETS TO THE RIVER AND THEN FOLLOWS THE RIVER AND THE PARISH BOUNDARY, WHICH IS THE RIVER IN THAT SECTION, FOR A CONSIDERABLE WAY, AND THAT IS FOLLOWING A TRADITIONAL PRINCIPLE, OBVIOUSLY. THE RIVER IS A BIG GEOGRAPHIC FEATURE, AND IT'S VERY CLEAR TO RESIDENTS WHERE THAT IS, AND THAT'S AN EASILY UNDERSTOOD BOUNDARY, WHICH IS A TRADITIONAL PRINCIPLE. BUT THEN AS IT GETS TO ITS EASTERN EDGE, THE BLUE DASHES, WHICH ARE THE BOUNDARY OF SENATE DISTRICT 17, TURN SOUTH. THEY DON'T CONTINUE ON JUST THAT SHORT DISTANCE TO CONTINUE FOLLOWING THE RIVER AND THE PARISH.

10:42AM THEY STOP, AND THE LINE MOVES SOUTH. YOU CAN SEE IT, AND THIS PART IS THE PART THAT IS IN THE INSET MAP IN A LITTLE MORE DETAIL TO THE RIGHT.

WE ARE GOING THROUGH -- DOWN TO WOODMERE. SO AS IT GOES DOWN TO WOODMERE, IT HAS VARIOUS BUMPS AND INLETS THAT IT TAKES IN AND LEAVES OUT AS -- I DON'T KNOW IF YOU CALL IT THE CLUB OR THE FOOT, I DON'T KNOW HOW TO DESCRIBE THAT, THE SOUTHEASTERN KIND OF CLUB OF ILLUSTRATIVE SENATE DISTRICT 19. IT GETS DOWN TO THE OPEN SPACE, BUT THEN IT COMES BACK UP. AND AS YOU CAN SEE ON BOTH THE MAPS, THE INSET AND THE BIG MAP, IT THEN CARVES AROUND A POPULATION AREA, IT CARVES AROUND ESTELLE, LEAVING THE PURPLE AREA OUT OF SENATE DISTRICT 19, KIND OF ISOLATING THAT AGAINST THE WHITE UNPOPULATED AREA AND COMES AROUND TO MARRERO, I HOPE I SAID THAT RIGHT, AND GOING OVER TO AVONDALE AND THOSE AREAS UNTIL IT GETS BACK OVER AND AGAIN CROSSES, BRIEFLY FOLLOWS, A PARISH BOUNDARY AS IT MOVES UP TO THE NORTHWEST, AND THEN AGAIN LEAVES THE PARISH BOUNDARY, NOT FOLLOWING A TRADITIONAL PRINCIPLE, AND HEADS WEST AND THEN ZIGS AND ZAGS AROUND -- FROM BOUTTE BACK TO THE LAKE.

SO IT'S AN ALMOST SERPENTINE DISTRICT AS IT KIND OF SOMETIMES FOLLOWS THE PARISH BOUNDARY, SOMETIMES FOLLOWS THE RIVER BUT MOST OF THE TIME DOES NOT.

Q. AND WHEN YOU ARE DESCRIBING PURPLE AREAS, DR. JOHNSON, JUST TO MAKE SURE I'M CLEAR, IS THAT A REFERENCE TO REGIONS THAT HAVE 25 PERCENT OR LESS BLACK VOTING AGE POPULATION?

10:44AM

A. EXACTLY. THERE'S, YOU KNOW -- THERE'S A STRONG CORRELATION BETWEEN WHERE THE LINES ENDED UP AND THE -- INCLUDING THE 75 PERCENT AND HIGHER BLACK VAP AREAS AND EXCLUDING THE 25 PERCENT AND LESS AREAS, WHETHER INTENTIONALLY OR NOT.

Q. OKAY. AND DR. JOHNSON, DOES THE -- TAKEN AS A WHOLE, DOES THE DISTRICT BOUNDARY FOR ILLUSTRATIVE SENATE DISTRICT 19 APPEAR TO RESPECT NONRACIAL REDISTRICTING CRITERIA THAT MR. COOPER SAYS THAT HE FOLLOWED?

A. ONLY IN VERY LIMITED SMALL SECTIONS OF IT. THE OVERWHELMING MAJORITY OF THE BOUNDARY DOES NOT.

Q. OKAY. AND IS THERE A RACIAL REDISTRICTING CRITERION THAT COULD EXPLAIN THIS PARTICULAR CONFIGURATION?

A. YES.

Q. AND WHAT WOULD THAT CRITERIA BE?

A. THE END RESULT IS THAT IT'S A MAJORITY BLACK SENATE DISTRICT.

Q. OKAY. NOW, YOU MENTIONED THAT YOU REVIEWED MR. COOPER'S TRIAL TESTIMONY FROM WEDNESDAY. IS THAT RIGHT?

A. YES.

Q. AND DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY ABOUT THESE THREE DISTRICTS?

A. YES.

Q. DID THAT TESTIMONY CHANGE ANY OF YOUR OPINIONS?

A. NO.

10:46AM

Q. WHY NOT?

A. HE STATED THAT IT -- HE FOLLOWED TRADITIONAL REDISTRICTING CRITERIA AND RACE. AND WHEN I LOOK AT THESE LINES, THEY ARE NOT FOLLOWING TRADITIONAL REDISTRICTING PRINCIPLES, SO THAT LEAVES, JUST IN HIS OWN WORDS, RACE.

MR. LEWIS: YOUR HONOR, JUST AS A TIME KEEPING, I KNOW WE ARE PAST 10:30.

THE COURT: YOU ARE MOVING ON TO HOUSE DISTRICTS NOW?

MR. LEWIS: YES.

THE COURT: THIS IS A GOOD TIME TO TAKE A BREAK. I WAS GOING TO SUGGEST THAT WE TAKE A BREAK AT THAT POINT.

MR. LEWIS: YES, YOUR HONOR.

THE COURT: FIFTEEN MINUTES.

(RECESS TAKEN AT 10:46 A.M. UNTIL 11:02 A.M.)

THE COURT: DR. JOHNSON, WOULD YOU TAKE THE STAND AGAIN, PLEASE? MR. LEWIS, YOU MAY CONTINUE.

BY MR. LEWIS:

Q. THANK YOU, DR. JOHNSON. I WOULD LIKE TO NOW TURN TO YOUR REVIEW OF MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS. AND THE FIRST TWO I WOULD LIKE TO LOOK AT ARE ILLUSTRATIVE HOUSE DISTRICTS 1 AND 2 IN SHREVEPORT. IF WE COULD TURN TO FIGURE 19 ON PAGE 3.

SO DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS FIGURE? WHAT ARE WE SEEING HERE?

A. WE ARE LOOKING AT ROUGHLY THE SAME AREA WE WERE LOOKING AT

11:03AM IN THE SENATE MAP OF THE SHREVEPORT AREA. ONE CHANGE IS THE PARISH BOUNDARIES ARE NOW THE BLACK DASHED LINES RATHER THAN THE THICK BROWN DASHED LINES. AND IN THIS CASE, THE RED LINES ARE A LITTLE THICKER, SO THEY ARE A LITTLE EASIER TO SEE THE CITY AND CENSUS PLACE BOUNDARIES. BUT YOU CAN SEE THE FREEWAY RUNNING THROUGH THE MIDDLE AND THE RIVER STARTING AND THE TOP AND COMING OFF THE EAST SIDE. SO IT IS ROUGHLY THE SAME AREA. IN THIS CASE, THE PURPLE-BLUE LINES ARE THE ILLUSTRATIVE HOUSE MAP.

Q. I SEE. OKAY. AND THE COLOR SHADING FOR CENSUS BLOCKS, THAT'S THE SAME SCALE OF BLACK VOTING AGE POPULATION WE'VE BEEN USING?

A. CORRECT.

Q. SO WHAT DID YOU FIND NOTEWORTHY ABOUT THE CONFIGURATION OF -- LET'S START WITH ILLUSTRATIVE HOUSE DISTRICT 1. WHAT DID YOU FIND NOTEWORTHY ABOUT THE CONFIGURATION OF THIS DISTRICT BOUNDARY?

A. WELL, YOU CAN SEE THE PARISH BOUNDARY AT THE TOP PART OF THE MAP, AGAIN, THE BLACK DASHED LINE. DISTRICT 1 GOES RIGHT ACROSS THAT. SO IT'S NOT FOLLOWING THE PARISH BOUNDARY. IN ADDITION, YOU CAN SEE THE RIVER COMING DOWN, THE BLUE HATCHING ON THE WHITE AREA. DISTRICT 1 GOES RIGHT ACROSS THAT. SO IT'S NOT FOLLOWING THE PARISH BOUNDARY, IT'S NOT FOLLOWING THE RIVER, IT'S NOT FOLLOWING MAJOR ROADS.

YOU CAN SEE ALONG THE TOP THERE IT IS CLOSE TO BUT ALSO

11:04AM NOT FOLLOWING THE CITY OR CENSUS PLACE BOUNDARIES. SO IT'S JUST TAKING BOTH SIDES OF THE RIVER, NOT FOLLOWING ANY TRADITIONAL BOUNDARY -- ACTUALLY, I SHOULD SAY BOTH SIDES OF THE RIVER, BOTH SIDES OF THE PARISH BOUNDARY, NOT FOLLOWING ANY TRADITIONAL REDISTRICTING PRINCIPLE.

Q. OKAY. AND DO YOU HAPPEN -- WELL, I MEAN -- OKAY. AND IF WE THEN TURN TO -- AND DOES IT KEEP BOSSIER CITY WHOLE?

A. NO, IT DOES NOT.

Q. AND IF WE TURN TO ILLUSTRATIVE HOUSE DISTRICT 2 TO ITS SOUTH, WHAT IS NOTEWORTHY TO YOU ABOUT THIS BOUNDARY LINE?

A. AGAIN, WE ARE GETTING ZIGS AND ZAGS. WHAT IS RATHER TELLING IS IT HAS AN ODD-SHAPED WESTERN BOUNDARY, BUT IT IS FAIRLY WIDE AS YOU GO FROM THE WEST END OVER TO THE FREEWAY, RIGHT ALONG WHERE THE 02 LABEL IS, AND THEN IT GETS REALLY NARROW. AND IT'S GETTING NARROW TO NOT GO NORTH INTO ONE, AND IT IS GETTING NARROW IN A WAY THAT AVOIDS GOING INTO THE PURPLE OR VERY LOW BLACK PERCENTAGE AREA TO THE SOUTH SHOWN IN DISTRICT 6. SO IT GETS A NARROW NECK THROUGH THAT AREA AS IT MOVES FROM WEST TO EAST, AND THEN IT WINDS BACK OUT AS YOU GET MORE REDS, MORE GREENS. AND AGAIN, IT CROSSES THE PARISH LINE, IT CROSSES THE RIVER. AND THEY DON'T SHOW THE WHOLE THING OUT TO THE EAST, BUT IT REALLY IS SPLITTING. YOU CAN SEE ONE NECK JUST ABOVE WHERE IT SAYS 09. ONE NECK OF IT IS GOING THAT WAY, AND THEN ONE NECK GOING DOWN TO THE RIGHT THERE. SO IT SPLITS AND GOES OFF IN TWO BRANCHES.

11:06AM SO AGAIN, IT'S A VERY UNUSUAL GEOGRAPHIC SHAPE THAT DOES NOT FOLLOW A PARISH BOUNDARY, DOES NOT FOLLOW THE RIVER, DOES NOT FOLLOW A FREEWAY, DOES NOT FOLLOW A CITY BOUNDARY. IT DOESN'T SEEM TO FOLLOW ANY TRADITIONAL REDISTRICTING PRINCIPLE.

Q. OKAY. AND DOES IT APPEAR TO RESPECT ANY COMMUNITIES DEFINED BY, FOR EXAMPLE, SHARED SOCIO-ECONOMIC FACTORS OR ANYTHING LIKE THAT?

A. NO. AGAIN, WE ARE LOOKING WITHIN A CITY, SO THERE'S -- IT'S NOT FOLLOWING ANY SOCIO-ECONOMIC FACTORS THAT I SEE ON THE MAP, AND MR. COOPER SAID HE DID NOT HAVE SOCIO-ECONOMIC DATA WITHIN THE CITY. HE ONLY HAD THE CITY TOTALS. AND SO IF ALL YOU HAVE IS THE CITY TOTALS, THERE IS NO WAY TO FOLLOW THE SOCIO-ECONOMIC LINES WHEN YOU ARE DRAWING WITHIN THE CITY.

Q. SO, DR. JOHNSON, IS THERE A RACIAL REDISTRICTING CRITERIA THAT COULD EXPLAIN THE CONFIGURATION OF DISTRICTS 1 AND 2?

A. YES. IT DOES END UP WITHIN BOTH RESULTING AT MAJORITY BLACK.

Q. OKAY. ALL RIGHT. AND I WOULD LIKE TO NOW MOVE SOUTH FROM HERE TO LOOK AT MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICT 23 CENTERED IN NATCHITOCHES PARISH. SO IF WE COULD GO TO FIGURE 20 ON PAGE 31. AND DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS FIGURE? WHAT ARE WE LOOKING AT?

A. SIMILAR LAYOUT OF LAYERS. WE HAVE GOT OUR COLOR-CODED CENSUS BLOCKS AT THE BOTTOM THAT ARE THE SAME SHADING OF PURPLE TO RED THAT WE'VE BEEN LOOKING AT ALL THE MAPS. YOU CAN SEE

11:08AM THE BLUE HATCH ON WHITE THAT ARE THE LAKES AND RIVERS ON THE MAP.

THE RED LINES HERE ARE THANKFULLY EASIER TO SEE THAN THAT FIRST MAP AROUND THE CITIES AND CENSUS DESIGNATED PLACES. AND THEN OVER ON THE RIGHT-HAND SIDE, YOU CAN SEE THE BLACK DASHED LINES OF THE PARISH BOUNDARIES AS WELL.

BUT WE ARE LOOKING PRIMARILY AT DISTRICT 23 AS IT COMES INTO NATCHITOCHES AND THEN A LITTLE BIT OF 22 AS IT SENDS A FINGER DOWN INTO NATCHITOCHES, PULLING OUT THAT NORTHEASTERN CORNER OF THE CITY AND KIND OF SENDING DISTRICT 23 AROUND IT TO GET UP TO THE PORTION OF CLARENCE THAT DISTRICT 22 AND 23 SPLIT.

Q. SO IF WE LOOK AT THE PORTION OF CLARENCE THAT'S IN HD 23, WHAT IS THE BLACK VOTING AGE POPULATION RANGE IN THAT AREA?

A. IT'S GOT THE -- RIGHT WHERE THE C-L-A-R IN CLARENCE IS, IT'S GOT A LITTLE LIGHT BLUE, BUT THEN ABOVE WHERE THE TITLE IS, IT'S THE RED, THE 75 PERCENT BLACK OR HIGHER.

Q. OKAY. AND THE PORTION OF NATCHITOCHES THAT IS ASSIGNED INTO HD 22, WHAT IS THE RACIAL MAKEUP OF THAT REGION?

A. IT'S PURPLE AND BLUE, SO LESS THAN 50 PERCENT BLACK, AND THE PURPLE AREAS ARE LESS THAN 25 PERCENT BLACK.

Q. OKAY. AND DO YOU HAPPEN TO KNOW THE BVAP OF ILLUSTRATIVE HOUSE DISTRICT 23?

A. IT IS MAJORITY BLACK.

Q. IS IT FAIRLY CLOSE TO THE 50 PERCENT LINE OR HIGHER?

11:10AM

A. YES.
Q. WHICH ONE?
A. PARDON?
Q. I ASKED A BAD QUESTION, DR. JOHNSON. IS IT CLOSE TO THE 50 PERCENT LINE?
A. YES.
Q. OKAY. AND DR. JOHNSON, DOES THE BOUNDARY OF HOUSE DISTRICT -- ILLUSTRATIVE HOUSE DISTRICT 23 APPEAR TO FOLLOW A NONRACIAL REDISTRICTING CRITERION THAT MR. COOPER REPRESENTED THAT HE FOLLOWED?
A. NO.
Q. ALL RIGHT. SO MAJOR ROADS?
A. YES. THERE'S A LITTLE BIT -- IT'S WEIRD. IT FOLLOWS THE RIVER ON THE NORTH SIDE OF 23, BETWEEN 22 AND 23, KIND OF WHERE 22, 23 AND 13 ALL COME TOGETHER OVER BY ST. MAURICE. IT DOES FOLLOW THE RIVER. BUT THEN TO THAT AREA, YOU ARE JUST TALKING ABOUT IT ZIGS OFF THE RIVER TO COME IN AND TAKE OUT A CHUNK OF NATCHITOCHES, NOT FOLLOWING A MAJOR ROAD, NOT FOLLOWING A WATER FEATURE, NOT FOLLOWING -- ACTUALLY DELIBERATELY OR OTHERWISE CROSSING RIGHT OVER THE CITY BOUNDARY TO TAKE OUT THAT CHUNK OF THE CITY AND FORCE 23 AROUND IT, WHICH BOTH DIVIDE THE COMMUNITY AND MAKES 23 LESS COMPACT.
Q. OKAY. AND DR. JOHNSON, IS THERE A RACIAL REDISTRICTING CRITERIA THAT COULD EXPLAIN THIS CONFIGURATION?
A. YES.

11:12AM

Q. AND WHAT IS THAT?

A. THE -- CAREFULLY OR COINCIDENTALLY, THE CARVING OUT OF THAT VERY LOW BLACK AREA OF NATCHITOCHES FROM DISTRICT 23 HELPS MAKE DISTRICT 23 MAJORITY BLACK.

Q. OKAY. ALL RIGHT. SO DR. JOHNSON, JUST CONTINUING SOUTH TO THE LAKE CHARLES AREA, I WOULD NOW LIKE TO TURN TO YOUR ANALYSIS OF ILLUSTRATIVE HOUSE DISTRICT NUMBERS 38 AND 34. SO IF WE COULD TURN TO FIGURE 21 ON PAGE 32. WE HAVE A FAIR NUMBER OF DISTRICTS ON THE SCREEN, DR. JOHNSON. CAN YOU ORIENT THE COURT TO WHAT WE HAVE SHOWN HERE?

A. YES. SO THE GEOGRAPHY IS THE SAME. WE HAVE GOT OUR CENSUS BLOCKS WITH THE SAME BLACK COLOR CODING TO THEM AS BEFORE, WITH THE PURPLES BEING LOW AND REDS BEING HIGH. WE HAVE THE SAME PURPLE -- THICK PURPLE LINES ARE THE ILLUSTRATIVE MAP BOUNDARIES, AND THE RED LINES ARE THE CITY AND CENSUS PLACE LINES. AND THEN YOU CAN SEE THE FREEWAYS AND THE VARIOUS WATER FEATURES ALSO ON THE MAP.

THIS IS A DENSE AREA, LOTS OF POPULATION, SO WE ARE GETTING A LOT OF DISTRICTS, BUT THE MAIN FOCUS OF MY ANALYSIS IS 34 AND 38 AND THE IMPACT THAT 36 HAS ON 34.

Q. OKAY. AND SO LET'S START WITH -- WHY DON'T WE START WITH ILLUSTRATIVE DISTRICT 38. NOW, ARE THERE ANY FEATURES OF THIS DISTRICT'S CONFIGURATION THAT STAND OUT TO YOU?

A. YES. IN THE TOP OF THE MAP, BY WHERE IT SAYS MOSS BLUFF, IT IS COMING DOWN, IT IS ACTUALLY FOLLOWING A WATER FEATURE AS

11:14AM IT GOES AROUND THERE. IT IS FOLLOWING A RIVER MAINLY. BUT THEN WHEN IT GETS OVER TO WESTLAKE, IT LEAVES THE RIVER, IT STOPS FOLLOWING THE RIVER, AND IT CUTS RIGHT THROUGH WESTLAKE. SO IT IS CARVING OUT THE SOUTHEASTERN PORTION OF WESTLAKE, GOING AROUND, GETTING KIND OF THE BIG OPEN AREA THERE THAT IS PURPLE, BUT WHEN CENSUS BLOCKS ARE THAT BIG, IT TENDS TO INDICATE THEY ARE RELATIVELY LOW POPULATION USUALLY.

AND THEN IT GETS INTO THE MORE CITY TYPE CITY BLOCK BY CITY BLOCK SOUTHERN PORTION OF WESTLAKE WHERE YOU CAN SEE THE DENSE CONCENTRATION OF YELLOW AND RED AREAS. SO AS THE LINE, THE PURPLE LINE GOES AROUND THROUGH THE CITY, IT HAS THE IMPACT OF OR THE EFFECT OF BRINGING IN THAT SOUTH WESTLAKE NEIGHBORHOOD INTO DISTRICT 38 AND SPLITTING THE CITY.

AND THEN IT COMES DOWN AND KIND OF WEAVES AROUND THE WATER FEATURE AGAIN BEFORE GETTING TO THE DISTRICT 34 AND DISTRICT 38 BOUNDARY, WHICH DOESN'T FOLLOW A FREEWAY, DOESN'T FOLLOW A CITY OR OTHER CLEAR COMMUNITY BOUNDARY.

AGAIN, WE ARE WITHIN A PARISH AND WITHIN A CITY THERE, SO IF YOU ONLY HAVE CITY LEVEL SOCIO-ECONOMIC DATA, THAT CAN'T BE -- THAT DOESN'T GIVE YOU ANY INFORMATION THAT COULD BE FOLLOWED WITHIN THE CITY AS YOUR BOUNDARY LINE. SO IT COMES ALONG AND CARVES THROUGH THE CITY, NOT FOLLOWING ANY TRADITIONAL REDISTRICTING PRINCIPLE.

Q. AND WHEN YOU TALKED ABOUT THAT SOUTHERN PORTION OF WESTLAKE THAT WAS ASSIGNED -- THAT WAS SPLIT FROM THE REST OF

11:16AM THE CITY AND ASSIGNED INTO ILLUSTRATIVE HOUSE DISTRICT 38, WHAT WAS THE RACIAL COMPOSITION OF THAT PIECE?

A. IT'S A MAJORITY BLACK. THE CITY BLOCKS ARE ALL YELLOW AND RED, SO IT IS INDICATING 65 PERCENT OR HIGHER.

Q. OKAY. ALL RIGHT. AND SO TURNING TO ILLUSTRATIVE HOUSE DISTRICT 34 TO THE SOUTH OF ILLUSTRATIVE HOUSE DISTRICT 38, WHAT FEATURES OF THIS DISTRICT CONFIGURATION STOOD OUT TO YOU?

A. WELL, IT HAS THE SAME CONCERN THAT I MENTIONED ABOUT DISTRICT 38 IN TERMS OF ITS NORTHERN BOUNDARY, WHERE IT BORDERS WITH 38. AND THEN ON -- IT'S HARD TO DESCRIBE THE SOUTHERN AND SOUTHWESTERN BOUNDARIES OF 34. IT'S A LOT OF FINGERS. YOU KNOW, IT DOES GO WEST FOLLOWING THE FREEWAY, I WILL GIVE CREDIT FOR THAT, TO THE RIVER AND FOLLOWS THE RIVER ON THE WEST EDGE OR STOPS AT THE RIVER ON THE WEST EDGE, BUT THAT'S AN ODD FINGER STICKING OUT.

THEN I MENTIONED I LOOKED AT 36 AS IT IMPACTS 34. 36 COMES INTO LAKE CHARLES, THAT KIND OF WRAPAROUND EFFECT THAT THEY HAVE GOING ON THERE. IT'S NOT FOLLOWING A CITY BOUNDARY, IT'S NOT FOLLOWING A COMMUNITY BOUNDARY. BUT 34 THEN HAS THE ODD FINGER DOWN TO THE LEFT. IT'S PURPLE, SO I DON'T KNOW WHAT THE REASON FOR THAT IS, AND THERE'S NO VISIBLE REASON ON THE MAP THERE.

THEN 36 AGAIN KIND OF HAS TEETH COMING UP INTO 34, PULLING OUT THE -- IN ONE CASE FOLLOWING THE CITY BOUNDARY AND THE EASTERN OF THE TWO TEETH, BUT ON THE WESTERN TOOTH, IT'S

11:18AM CUTTING RIGHT IN THE CITY, PICKING UP AN AREA THAT IS PURPLE, SO 25 PERCENT BLACK OR LESS. AND THEN THE AREAS THAT ARE 35 PERCENT, WHAT IS IT, 25 -- EVEN 25 TO 50 PERCENT END UP IN 34, WHILE THE 25 PERCENT AND BELOW END UP IN 36. AND THEN IT KEEPS CARVING AROUND AND AGAIN PICKS UP THE -- KIND OF GOES AROUND THE PURPLE AREA AND PICKS UP THE BLUE AREA AS IT OF CRISS-CROSSES AND ZIG ZAGS ACROSS THE CITY BOUNDARY.

Q. AND AGAIN, DR. JOHNSON, IS THERE A NONRACIAL REDISTRICTING CRITERIA THAT EXPLAINS THIS DISTRICT CONFIGURATION FOR YOU?

A. THERE'S NO TRADITIONAL REDISTRICTING PRINCIPLE THAT EXPLAINS THIS CONFIGURATION.

Q. AND DO YOU KNOW THE BVAP OF ILLUSTRATIVE HOUSE DISTRICTS 34 AND 38?

A. THEY ARE MAJORITY BLACK.

Q. ARE THEY CLOSE TO THE 50 PERCENT LINE?

A. 38 IS RIGHT AT, JUST BARELY OVER 50 PERCENT. 34 IS HIGHER.

Q. ALL RIGHT. AND SO COULD THERE BE A RACIAL REDISTRICTING CRITERIA THAT WOULD EXPLAIN THIS CONFIGURATION?

A. YOU KNOW, CAREFULLY OR COINCIDENTALLY, WHATEVER THE REASON IS, 38 GETS JUST ENOUGH OF THE BLACK POPULATION ALONG THE BORDER WITH 34 TO END UP JUST BARELY OVER 50 PERCENT.

Q. OKAY. FINALLY, DR. JOHNSON, I WOULD LIKE TO TURN TO MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS CENTERED IN THE BATON ROUGE AREA. SO IF WE COULD TURN TO FIGURE 22 ON PAGE 34.

11:20AM

OKAY. ALL RIGHT. SO NOW, DR. JOHNSON, IT LOOKS LIKE YOU'VE ADDED SOME PERCENTAGES TO YOUR LABELS FOR THE DIFFERENT ILLUSTRATIVE HOUSE DISTRICTS. CAN YOU IDENTIFY WHAT THAT PERCENTAGE IS BENEATH EACH?

A. YES, SO THE BLACK ON BLUE, OR BLACK ON TEAL -- I'M NOT SURE HOW TO DESCRIBE THAT -- LABELS, IT GIVES THE DISTRICT NUMBER FIRST AND THEN THE BLACK -- ANY PART BLACK VAP PERCENTAGE FOR EACH DISTRICT THAT'S LABELED ON THIS MAP.

Q. OKAY. ALL RIGHT. I SAW A REFERENCE IN YOUR REPORT, DR. JOHNSON, FOR THIS FIGURE. I BELIEVE YOU DESCRIBED SOME OF THESE DISTRICTS AS A PINWHEEL. CAN YOU EXPLAIN WHAT YOU MEAN BY A PINWHEEL?

A. YES. SO, OF COURSE, THE PINWHEEL IS THE KID'S TOY ON A STICK. YOU HAVE THE LITTLE SPINNER WITH IT THAT HAS THE DIFFERENT LEAVES OR PETALS COMING OFF THE PINWHEEL. SIMILARLY -- ACTUALLY, JUST UP THE ROAD HERE, RIGHT NEXT TO THE LITTLE FREEWAY SYMBOL THERE THAT YOU SEE, THE DISTRICTS ALL COME TOGETHER. SO YOU CAN SEE WHERE 29, 63, 65, 69, 68, 61 AND 67 ALL KIND OF MEET AT ONE POINT. AND THEN EACH ONE IS A PETAL COMING OFF OF THAT CENTRAL SPINNER POINT.

SO WE ARE COMBINING THE CORE AREA RIGHT AROUND THE PINPOINT AND THEN TAKING EACH OF THESE DISTRICTS OUT INTO -- THROUGH THE COMMUNITY AND OUT INTO THE OUTER REACHES OF EAST BATON ROUGE AND WEST BATON ROUGE PARISH.

Q. NOW, IN PARAGRAPH 76, I BELIEVE, OF YOUR REPORT, YOU ALSO

11:22AM

DISCUSS CENTRAL, LOUISIANA, JUST EAST OF EAST BATON ROUGE. AND HOW DOES THE ILLUSTRATIVE PLAN TREAT CENTRAL?

A. JUST UNDER 30,000 RESIDENTS OF CENTRAL ARE DIVIDED AMONG THREE DIFFERENT DISTRICTS.

Q. OKAY. NOW, YOU REPORT THE BLACK VOTING AGE POPULATIONS OF SEVERAL DISTRICTS IN THIS AREA. AND HOW MANY OF THOSE DISTRICTS ARE MAJORITY-MINORITY?

A. THE EIGHT THAT ARE LABELED IN THE MAP ARE ALL MAJORITY-MINORITY.

Q. AND HOW MANY OF THOSE ARE JUST BARELY OVER 50 PERCENT?

A. ESSENTIALLY HALF OF THEM. WE HAVE 50.2, 50.2, 50.8, AND 51.6.

Q. JUST FOR THE RECORD, WHICH DISTRICT NUMBERS WERE YOU IDENTIFYING THERE?

A. OH, THANK YOU. 61, 69, 101 AND 67.

Q. AND DR. JOHNSON, I KNOW WE WERE FOCUSING ON THE ILLUSTRATIVE DISTRICTS HERE. DO THESE DISTRICT BOUNDARIES APPEAR TO RESPECT NONRACIAL REDISTRICTING CRITERIA?

A. NO. SIMILAR TO THE EARLIER DISCUSSION ABOUT THE BIG REGIONS, THESE -- WHAT THE PINWHEEL DOES IS IT ACTUALLY CUTS THROUGH COMMUNITIES. SO YOU ARE TAKING THE CENTRAL CORE OF THE CITY AND TAKING EACH OF THESE DISTRICTS, HAVING A PIECE OF THAT CORE ALL THE WAY OUT. AS YOU LOOK AT THE COLOR CODING, YOU CAN REALLY SEE THE RED KIND OF CENTRAL PORTION OF THE PARISH, AND THEN AS YOU GET FARTHER OUT, YOU ARE GETTING INTO BLUES AND

11:24AM THEN ULTIMATELY PURPLE AREAS WHERE THE BLACK PERCENTAGE IS BELOW 25 PERCENT.

SO EACH OF THESE DISTRICTS IS STARTING IN THE 75 PERCENT CORE AND THEN STRETCHING OUT AND BLENDING PIECES OF THE COMMUNITIES AS YOU GO OUT FROM THE RED TO THE PURPLE PORTIONS OF THE PARISH.

Q. AND ARE THERE TRADITIONAL CRITERIA THAT MR. COOPER IDENTIFIED THAT EXPLAIN THESE BOUNDARIES?

A. NO.

Q. OKAY. AND IS THERE A RACIAL REDISTRICTING CRITERIA THAT COULD EXPLAIN THE CONFIGURATION OF THE DISTRICTS IN THIS AREA?

A. YES. THE END RESULT IS THAT YOU HAVE A NUMBER OF DISTRICTS THAT JUST ALMOST PERFECTLY BALANCE THE PURPLE AND GREEN AREAS WITH THE RED AREAS, WITH THE END RESULT BEING THEY ARE JUST BARELY OVER 50-PERCENT BLACK.

Q. OKAY. AND I DO WANT TO CLEAN UP ONE POINT FROM TESTIMONY WE HEARD EARLIER THIS WEEK. DR. JOHNSON, YOU REVIEWED MR. COOPER'S DIRECT EXAMINATION ON WEDNESDAY; IS THAT RIGHT?

A. YES.

Q. AND I WILL REPRESENT TO YOU ON PAGE 76 OF THE NOVEMBER 29TH TRANSCRIPT, THAT MR. COOPER TESTIFIED THAT, QUOTE, CURRENTLY THERE ARE 12 DISTRICTS IN THE HOUSE PLAN THAT CONVERGE ON EAST BATON ROUGE PARISH IN WHOLE OR IN PART, AND I HAVE REDUCED THAT NUMBER TO 8 IN THE ILLUSTRATIVE PLAN, END QUOTE. DID THAT ASSERTION SURPRISE YOU?

11:25AM

A. YES.

Q. OKAY. I WOULD LIKE TO DISPLAY THE DEMONSTRATIVE EXHIBIT THAT WE HAVE FOR YOU, AND I WILL REPRESENT THAT THIS WAS PRODUCED TO PLAINTIFFS' COUNSEL YESTERDAY PER OUR AGREEMENT.

OKAY. NOW, DR. JOHNSON, CAN YOU EXPLAIN HOW THIS DEMONSTRATIVE WAS CREATED?

A. YES. SO IN THE MAPTITUDE SOFTWARE, THE RED AREA IN THE MIDDLE IS EAST BATON ROUGE PARISH. SO I'VE HIGHLIGHTED THE PARISH IN RED. AND THEN THE BLACK LINES ARE THE ILLUSTRATIVE -- THE 2023 ILLUSTRATIVE HOUSE MAP. YOU CAN SEE THE DISTRICT NUMBERS ON THEM. AND THE BLUE AROUND THE OUTSIDE ARE DISTRICTS THAT ARE PARTIALLY IN AND PARTIALLY OUT OF EAST BATON ROUGE PARISH. SO 62, 71, 29 ON THE OUTSIDE ARE ALL PARTIALLY IN THE PARISH AND PARTIALLY OUT.

Q. OKAY. AND JUST TO BE VERY CLEAR, DR. JOHNSON, THE DISTRICT NUMBERING COMES FROM MR. COOPER'S 2023 ILLUSTRATIVE HOUSE PLAN; IS THAT RIGHT?

A. YES.

Q. OKAY. AND DR. JOHNSON, HOW MANY OF MR. COOPER'S 2023 ILLUSTRATIVE HOUSE DISTRICTS ARE, QUOTE, IN WHOLE OR IN PART LOCATED IN EAST BATON ROUGE PARISH?

A. TWELVE.

Q. OKAY. CAN YOU IDENTIFY THOSE FOR THE RECORD?

A. SURE. 29, 62, 71 ARE ALL PARTIALLY IN AND PARTIALLY OUT, AND THEN GOING FROM NORTH TO SOUTH, 63, 65, 101, 69, 61, 68,

11:27AM 1 70, 67, AND 66 ARE ALL IN THE PARISH.
2 Q. OKAY. WE CAN TAKE THAT DOWN. THANK YOU.
3 DR. JOHNSON, I BELIEVE YOU -- DID YOU REVIEW MR. COOPER'S
4 TRIAL TESTIMONY ABOUT THESE SIX ILLUSTRATIVE MAJORITY-MINORITY
5 DISTRICTS IN THE HOUSE?
6 A. I'M SORRY. ABOUT THE WHAT?
7 Q. DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY ABOUT THESE
8 SIX ILLUSTRATIVE MMDS IN THE HOUSE THAT WE HAVE TALKED ABOUT?
9 A. YES.
10 Q. AND DID HIS TESTIMONY CHANGE ANY OF YOUR OPINIONS?
11 A. NO.
12 Q. ALL RIGHT. NOW, STEPPING BACK FROM THE -- FROM YOUR
13 DISTRICT-BY-DISTRICT EVALUATION OF MR. COOPER'S ILLUSTRATIVE
14 HOUSE DISTRICTS, I WOULD LIKE TO TALK ABOUT YOUR ANALYSIS OF
15 THOSE PLANS MORE -- MORE BROADLY. COULD WE START ON PARAGRAPH
16 82 ON PAGE 36. TURN TO THAT.
17 ALL RIGHT. AND YOU DISCUSS YOUR POINT ABOUT WHERE A
18 PORTION OF THE BLACK VOTING AGE POPULATION THAT WAS MOVED FROM
19 THE ENACTED PLANS TO CREATE THE NEW ILLUSTRATIVE
20 MAJORITY-MINORITY DISTRICTS. CAN YOU EXPLAIN THIS ANALYSIS?
21 A. SO WHEN WE ARE TALKING ABOUT DISTRICTS THAT ARE MAJORITY
22 BLACK, OBVIOUSLY THERE ARE VARIATIONS IN HOW MUCH OVER
23 50 PERCENT EACH DISTRICT CAN BE. AND SO IN ORDER TO GET A
24 DISTRICT THAT, IN THE ENACTED MAP, IS NOT MAJORITY BLACK UP TO
25 MAJORITY STATUS, YOU CAN EITHER FIND BLACK POPULATION THAT IS

11:29AM IN OTHER DISTRICTS THAT ARE NOT MAJORITY AND ADD THEM IN OR YOU CAN TAKE A MAJORITY BLACK DISTRICT AND REDUCE ITS PERCENTAGE, SO BRING IT DOWN FROM, SAY, 57 PERCENT TO 50.2 PERCENT, OR SOMETHING LIKE THAT, IN ORDER TO FREE UP BLACK POPULATION THAT YOU THEN ADD TO YOUR NEW DISTRICT IN AN EFFORT TO MAKE IT MAJORITY BLACK.

Q. OKAY. AND WHAT DO YOU -- WHAT DO YOU CONCLUDE ABOUT THAT -- THE NATURE OF THAT REASSIGNMENT OF BLACK VOTING AGE POPULATION IN MR. COOPER'S ILLUSTRATIVE HOUSE PLAN?

A. MUCH OF THE BLACK POPULATION THAT'S ADDED TO CERTAIN DISTRICTS TO BRING THEM UP TO BE MAJORITY BLACK COMES FROM EXISTING MAJORITY BLACK DISTRICTS. SO IT MAKES THOSE MAJORITY BLACK SEATS IN THE ENACTED MAP LESS -- LESS BLACK VAP OR LOWER BLACK VAP PERCENTAGES.

Q. OKAY. AND IF WE CAN TURN TO THE NEXT PAGE, PAGE 37 IN PARAGRAPH 83. SO I WANT TO FOCUS ON THE MIDDLE OF THAT PARAGRAPH, AND JUST A FEW QUICK QUESTIONS. THE FIRST IS HOW MANY MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE HOUSE PLAN ARE UNDER 53-PERCENT BLACK VOTING AGE POPULATION?

A. ELEVEN.

Q. OKAY. AND IS THAT MORE OR LESS THAN WHAT WAS UNDER THE ENACTED PLAN?

A. THAT'S EIGHT MORE. THERE ARE ONLY THREE SUCH BORDERLINE DISTRICTS, BORDERLINE HOUSE DISTRICTS IN THE ENACTED MAP.

Q. AND TURNING TO THE ILLUSTRATIVE SENATE PLAN, HOW MANY OF

11:31AM THE MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE SENATE PLAN ARE UNDER 53 PERCENT BVAP?

A. IT'S A HUGE PERCENTAGE OF THEM. 11 OF THE 16 MAJORITY BLACK VAP DISTRICTS ARE JUST BARELY MAJORITY BLACK. THEY ARE BETWEEN 50 AND 53 PERCENT BLACK.

Q. DR. JOHNSON, IN YOUR EXPERIENCE, IS IT LIKELY TO GET SO MANY DISTRICTS JUST OVER THE 50 PERCENT LINE BUT NONE JUST UNDER BY CHANCE?

A. IT IS EXTREMELY UNLIKELY.

Q. SO I WOULD LIKE TO TURN NOW TO YOUR SURREBUTTAL REPORT, LDTX058, AND SPECIFICALLY LOOK AT THE FIGURE APPEARING ON THE TOP OF PAGE 9. AND THIS IS ONE -- I BELIEVE THIS IS ONE OF THE ILLUSTRATIVE HOUSE DISTRICTS, BUT DO YOU REPORT IN YOUR REPORT THE BLACK VOTING AGE POPULATION OF ILLUSTRATIVE DISTRICT 69?

A. YES. IN PARAGRAPH 33, I MENTION THAT IT IS 50.2 PERCENT ANY PART BLACK VAP.

Q. AND IN YOUR EXPERIENCE, IS THAT A VERY PRECISE BVAP NUMBER TO ARRIVE AT?

A. YES. IT'S ABOUT AS CLOSE TO 50 PERCENT PLUS ONE AS ONE CAN GET WHEN YOU ARE USING AGGREGATED CENSUS BLOCK DATA.

Q. OKAY. AND WITHOUT READING, YOU KNOW, GOING THROUGH THE ENTIRE DATA, IS THERE A NONRACIAL EXPLANATION FOR THE LINES IN THIS DISTRICT?

A. THE WEST SIDE, PROBABLY. THAT STRAIGHT DIAGONAL LINE MAKES SENSE AND COULD BE JUSTIFIED AS A TRADITIONAL

11:34AM

REDISTRICTING PRINCIPLE, BUT THE KIND OF EASTERN ARM, THE WAY IT ZIGS OUT AT THE NORTH PART IN THE RED AND YELLOW AREA AND THEN JUST ABOVE THE HIGHWAY RATHER THAN FOLLOWING THE HIGHWAY, IT IS PICKING UP THE GREEN AND YELLOW AREAS THAT ARE MAJORITY BLACK, AND THEN IT GOES DOWN AND KIND OF ZIGS OVER AGAIN.

SO THE WAY -- WE CALL IT KIND OF A STAIR STEP AS THAT EASTERN LINE IS DRAWN. JUST IN ONE PART IT IS FOLLOWING THE CITY BORDER, BUT OTHERWISE, IT DOESN'T SEEM TO FOLLOW ANY TRADITIONAL REDISTRICTING PRINCIPLE.

Q. COULD THERE BE A RACIAL CRITERIA THAT COULD EXPLAIN THIS CONFIGURATION?

A. YES. CAREFULLY OR COINCIDENTALLY, IT ENDS UP JUST BARELY MAJORITY BLACK.

Q. WE CAN TAKE THAT DOWN. I WOULD LIKE TO NOW TURN TO SOME CONCERNS THAT YOU'VE RAISED IN YOUR INITIAL REPORTS. WE ARE GOING TO GO BACK TO LDTX51, YOUR INITIAL REPORT, AND DISPLAY PARAGRAPH 84 BETWEEN PAGES 37 AND 38.

AND I BELIEVE, DR. JOHNSON -- THERE WE GO -- THAT YOU PROVIDE HERE SOME CONCERNS ABOUT THE SPECIFIC BVAP LEVELS THAT ARE EMPLOYED IN MANY OF MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS. I BELIEVE THE FIRST IS DIFFERENTIAL PRIVACY. DO YOU SEE THAT?

A. YES.

Q. CAN YOU EXPLAIN TO THE COURT WHAT DIFFERENTIAL PRIVACY IS?

A. SO DIFFERENTIAL PRIVACY IS NEW THIS REDISTRICTING CYCLE.

11:36AM FOR THE 2020 CENSUS, THE CENSUS BUREAU WAS WORRIED THAT DATA MINING FIRMS WERE GETTING GOOD ENOUGH THAT THEY COULD GO INTO THE CENSUS BLOCK LEVEL DATA AND FIGURE OUT WHAT AN INDIVIDUAL HAD ANSWERED IN TERMS OF THEIR AGE AND ETHNICITY, AND SO THEY WERE WORRIED THAT WE ARE LOSING THE PRIVACY OF THE CENSUS RESPONSES.

SO THE BUREAU'S APPROACH TO FIXING THAT PROBLEM WAS TO ADD -- REALLY TO ADD ERROR, TO ADD WHAT THEY CALL NOISE INTO THE DATA SO THAT IN EACH CENSUS BLOCK, THE NUMBERS WOULD BE CHANGED A LITTLE BIT IN A WAY THAT WOULD, AS THEY SAY, BLUR THE CENSUS DATA AND MAKE IT HARD FOR THOSE DATA MINERS TO FIGURE OUT INDIVIDUAL CENSUS RESPONDENTS AND TO PROTECT THE PEOPLE WHO ANSWERED THE CENSUS, THEIR PRIVACY. A GOOD GOAL, BUT THE END RESULT IS THAT CENSUS DATA HAS NEVER BEEN PERFECT, EVER. IT IS IMPOSSIBLE TO HAVE A PERFECT CENSUS, BUT NOW WE HAVE AN INTENTIONAL STEP OF INTENTIONALLY BLURRING THE DATA AND MAKING THE DATA LESS PRECISE.

MS. KEENAN: OBJECTION, YOUR HONOR, TO THE RELEVANCE OF THE INTENTIONAL STEP TAKEN BY THE CENSUS BUREAU. HE HAS JUST TESTIFIED THAT CENSUS DATA IS ALWAYS IMPERFECT. I'M NOT SURE WHY IT MATTERS THAT THERE WAS AN INTENTIONAL STEP VERSUS AN UNINTENTIONAL STEP ABOUT THE BLURRING.

THE COURT: THE COURT WILL NOT CONSIDER THE TERM "INTENTIONAL," BUT I WANT TO UNDERSTAND HOW THIS DIFFERENTIAL PRIVACY RESULTS IN, IF IT IS YOUR OPINION THAT IT DOES, THAT IT

11:37AM RESULTS IN A BLURRING OF THE DATA. I WANT YOU TO EXPLAIN THAT.
A. IT'S ACTUALLY ON PURPOSE, AND PERHAPS NEW IS A BETTER WORD THAN INTENTIONAL. IT'S A NEW WAY. SO ESSENTIALLY WHERE WE USED TO KNOW THAT THE DATA IN EACH BLOCK WAS THE ACTUAL COUNT OF PEOPLE THAT THE CENSUS BUREAU COUNTED AND ASSIGNED TO A BLOCK, NOW THE BUREAU WILL CHANGE THOSE NUMBERS A LITTLE BIT IN ORDER TO KIND OF DISRUPT THE ALGORITHMS THAT THE DATA MINERS USE TO TRY TO IDENTIFY THE DATA. AND SO THEY TRY, AS YOU GET TO EACH LEVEL, TO MAKE, LIKE, EACH CENSUS TRACT RIGHT AND EACH COUNTY RIGHT, BUT THE BLOCKS AND THE SMALLER UNITS OF GEOGRAPHY THE BUREAU JUST ADMITS WILL BE OFF.

THE COURT: BY PLUS OR MINUS WHAT?

A. THAT'S A GOOD QUESTION. WE DON'T KNOW. AND SO THE BUREAU HAS NOT YET RELEASED THOSE NUMBERS. THEY DO -- THEY'VE HAD A LOT OF CALLS. THIS WAS OBVIOUSLY A VERY MUCH DISCUSSED PROCESS LEADING UP TO THE CENSUS, AND SO THEY DO THESE NATIONAL CALLS FOR NTSL AND OTHER ORGANIZATIONS THAT I'M ON, AND THEY'VE SAID AT THE CONGRESSIONAL LEVEL, IT'S PROBABLY ABOUT A ONE-PERCENT ERROR. YOUR TOTAL POPULATION NUMBERS ARE GOING TO BE OFF OR SHOULD BE WITHIN ONE PERCENT. AS THE UNITS OF GEOGRAPHY GET SMALLER, SO AT THE LEGISLATIVE DISTRICT LEVEL, THAT ERROR IS GOING TO BE BIGGER. AND AS YOU GET DOWN TO THE COUNTY OR PARISH AND CITY LEVEL, THEY WILL GET BIGGER.

MS. KEENAN: OBJECTION, YOUR HONOR, TO LACK OF FOUNDATION. HE'S NOT EXPLAINED WHAT THE SOURCE OF THIS

11:39AM TESTIMONY IS ABOUT THE DIFFERENT LEVELS AND THE INCREASE TO NOT JUST SMALLER UNITS, BUT HE'S NOW LISTING SPECIFIC TYPES OF DISTRICTS. HE'S NOT TESTIFIED THAT THE CENSUS BUREAU HAS STATED ANYTHING ABOUT DISTRICT LEVELS OTHER THAN CONGRESS.

THE COURT: WELL, I GUESS I WOULD SUSTAIN THAT OBJECTION TO MY QUESTION.

MS. KEENAN: I'M SORRY, YOUR HONOR.

THE COURT: WHY DON'T YOU ASK THE QUESTION AND SEE IF YOU CAN DO A BETTER JOB.

(GROUP LAUGHTER)

MR. LEWIS: ALL RIGHT.

BY MR. LEWIS:

Q. SO DR. JOHNSON, IF YOU -- TO TRY TO CUT THROUGH THIS A LITTLE BIT, DR. JOHNSON, ARE YOU --

THE COURT: I'VE RENDERED HIM SPEECHLESS.

BY MR. LEWIS:

Q. IS DIFFERENTIAL PRIVACY A MATTER THAT HAS AFFECTED YOUR WORK AS A REDISTRICTING PROFESSIONAL?

A. YES. IT IS A BIG CONCERN, IN PARTICULAR BECAUSE, AS I MENTIONED, I'VE DONE AROUND 500 OF THESE PROJECTS. I HAVEN'T DONE 500 STATE PROJECTS OR CONGRESSIONAL PROJECTS. 99 PERCENT OF MY WORK IS SCHOOL DISTRICTS, CITIES, YOU KNOW, COMMUNITY COLLEGE DISTRICTS, THESE SMALL GEOGRAPHIC -- RELATIVELY SMALL GEOGRAPHIC AREAS.

SO WHERE WE HAVE A ONE PERCENT ESTIMATED ERROR AT THE

11:40AM CONGRESSIONAL LEVEL, AND THAT'S JUST KIND OF A BALLPARK TERM AND THE CENSUS BUREAU HAS NOT GIVEN ANY SPECIFICS ABOUT WHAT THE ERROR IS, I WILL NOTE AT THE BOTTOM OF PAGE 38 I HAVE A FOOTNOTE THAT LINKS TO THE CENSUS BUREAU'S FULL DISCUSSION OF DIFFERENTIAL PRIVACY AND BACKGROUND INFORMATION, BUT THAT'S WHERE THEY TALK ABOUT THE ERROR GETS BIGGER AS YOU GET INTO SMALLER GEOGRAPHY. THAT IS TRUE OF ALL CENSUS DATA, BUT PARTICULARLY TRUE OF DIFFERENTIAL PRIVACY.

SO A ONE-PERCENT ERROR AT THE CONGRESSIONAL LEVEL COULD BE A TEN-PERCENT ERROR IN A SCHOOL DISTRICT, WHICH WOULD THEN MAKE OUR SCHOOL DISTRICT DISTRICTS OUT OF THE POPULATION RANGE AND ILLEGAL.

MS. KEENAN: YOUR HONOR, OBJECTION, THESE NUMBERS ARE NOT -- HE JUST SAID THE CENSUS BUREAU HASN'T ACTUALLY GIVEN A NUMBER, AND NOW HE IS TESTIFYING TO SPECIFIC PERCENTAGES THAT A MARGIN OF ERROR MIGHT BE IN A SMALLER PLAN. THERE IS NO FOUNDATION FOR THAT.

THE COURT: DO YOU WANT TO RESPOND?

MR. LEWIS: YOUR HONOR, HE WAS OFFERING -- I BELIEVE HE WAS OFFERING THE TEN PERCENT AS A HYPOTHETICAL, AND I BELIEVE PLAINTIFFS' COUNSEL CAN INQUIRE OF THE WITNESS ON CROSS-EXAMINATION IF --

THE COURT: THE COURT WILL CONSIDER IT AS A HYPOTHETICAL BASED ON HIS EXPERIENCE IN DRAWING MAPS THAT INVOLVE SMALLER GEOGRAPHIC AREAS.

11:42AM

BY MR. LEWIS:

Q. AND DR. JOHNSON, JUST -- HAVE YOU REVIEWED -- HAVE YOU RELIED UPON INFORMATION PROVIDED BY THE U.S. CENSUS BUREAU TO INFORM YOUR KNOWLEDGE OF DIFFERENTIAL PRIVACY?

A. YES, I'VE BEEN ON MANY WEBINARS, READ MANY REPORTS AND RAISED MANY QUESTIONS WITH THE BUREAU STAFF ABOUT THIS ISSUE.

Q. OKAY. AND YOU'VE CITED -- I BELIEVE YOU'VE MENTIONED AND YOU'VE CITED INFORMATION FROM THE CENSUS BUREAU IN THE FOOTNOTE ACCOMPANYING PAGE 38 OF YOUR REPORT, CORRECT?

A. YES.

Q. AND THE CENSUS BUREAU -- HAS THE CENSUS BUREAU PROVIDED THE ESTIMATE OF ERROR AT THE CONGRESSIONAL LEVEL?

A. THEY GAVE THE BALLPARK FIGURE OF ABOUT 1 PERCENT, BUT THEY HAVE NOT RELEASED THE PRECISE FIGURES.

Q. OKAY. NOW, HOW CAN DIFFERENTIAL PRIVACY POTENTIALLY IMPACT AN EFFORT TO DRAW A DISTRICT TO A SPECIFIC RACIAL PERCENTAGE?

A. SO IF THE CENSUS BUREAU -- I'M SORRY. IF THE CENSUS DATA SAYS THAT A DISTRICT IS 50.2 PERCENT BLACK, IT MAY OR MAY NOT BE OVER 50 PERCENT. WE HAVE THIS MARGIN OF ERROR THAT WE KNOW IS -- BECAUSE LEGISLATIVE DISTRICTS ARE SMALLER THAN CONGRESSIONAL DISTRICTS, THE BUREAU HAS BEEN CLEAR, LEGISLATIVE DISTRICTS WILL HAVE A LARGER ERROR THAN A CONGRESSIONAL DISTRICT. BUT WE KNOW THAT THERE'S SOME ERROR. WE DON'T KNOW HOW MUCH. SO THE CLOSER YOU GET TO THAT 50-PERCENT POINT, THE

11:43AM MORE LIKELY THAT AN ERROR, BE IT A HALF PERCENT, A ONE PERCENT OR WHATEVER NUMBER THAT IS, THAT THAT ERROR WOULD MEAN THE DISTRICT THAT LOOKS LIKE IT IS MAJORITY BLACK ISN'T.

Q. SO YOU GO ON, DR. JOHNSON, TO DESCRIBE SOMETHING CALLED A SENSITIVITY ANALYSIS IN PARAGRAPHS 85 AND 90 OF YOUR REPORT. JUST GENERALLY SPEAKING, WHAT IS THE SENSITIVITY ANALYSIS?

A. SO A SENSITIVITY ANALYSIS IS A STANDARD PRACTICE IN SOCIOLOGY, IN FINANCE AND ECONOMICS WHERE YOU TAKE AN ASSUMPTION AND SAY, OKAY, WE HAVE ASSUMED FOR OUR MODEL OR ALGORITHM, OR WHATEVER WE ARE DOING, A CERTAIN NUMBER. IN THIS CASE, REDISTRICTING, SO IT WOULD BE THE CENSUS POPULATION COUNTS. A BANK MIGHT SAY WE EXPECT THE INTEREST RATE TO BE THIS IN A YEAR. AND THEN YOU TEST. WELL, IF OUR NUMBER IS OFF, HOW MUCH DOES THAT IMPACT US? SO IF YOU ARE A BANK, YOU'RE LIKE, WELL, IF THE INTEREST RATE ACTUALLY IS HIGHER THAN WE THOUGHT IT WAS GOING TO BE, HOW DOES THAT IMPACT OUR PROFITS? IF THE NUMBER IS LOWER THAN WHAT WE EXPECT IT WOULD BE, HOW IS THAT GOING TO IMPACT OUR PROFITS? AND YOU SEE WHAT THE RISK IS AND THE DANGER EITHER WAY.

SAME WAY HERE. A SENSITIVITY ANALYSIS WOULD LOOK AND SAY, OKAY, SAY THERE'S A ONE-PERCENT ERROR, JUST TO PICK A NUMBER, A HYPOTHETICAL NUMBER. IF THE 50 PERCENT IS ACTUALLY 49 PERCENT, OR IF THE ACTUAL -- I'M SORRY, IF THE BLACK VOTING AGE POPULATION IS ACTUALLY ONE PERCENT LOWER, HOW MANY DISTRICTS DO WE LOSE? AND ON THE FLIP SIDE, IF THE BLACK VOTING AGE

11:45AM

POPULATION IS ONE PERCENT HIGHER, HOW MANY MORE DISTRICTS WOULD WE GAIN THAT WOULD BE MAJORITY BLACK?

SO THAT'S THE SENSITIVITY ANALYSIS, ACKNOWLEDGING THAT THERE'S AN ERROR AND LOOKING AT THE RISK TO THE OVERALL POLICY GOAL OR THE OVERALL END RESULT THAT THAT ERROR COULD GENERATE.

IN THE CASE OF A BANK, IT'S WHAT IMPACT WOULD THERE BE IN THE PROFITS. IN THE CASE OF THIS EXERCISE WE'VE BEEN LOOKING AT, WHAT'S THE IMPACT ON THE NUMBER OF MAJORITY BLACK DISTRICTS?

Q. SO, DR. JOHNSON, I WOULD JUST LIKE TO TURN TO FIGURE 28, WHICH I BELIEVE PROVIDES SOME INFORMATION ABOUT THE 2023 ILLUSTRATIVE SENATE MAPS. IF WE COULD TURN TO THAT ON PAGE 42. DR. JOHNSON, WHAT DOES FIGURE 28 SHOW US?

A. SO THIS IS A CHART OF THE ENACTED AND ILLUSTRATIVE SENATE DISTRICTS. THE PURPLE -- EACH PURPLE BAR REPRESENTS AN ENACTED MAP SENATE DISTRICT. EACH GREEN BAR REPRESENTS AN ILLUSTRATIVE 2023 MAP SENATE DISTRICT. AND THE HEIGHT OF EACH BAR INDICATES THE BLACK VOTING AGE PERCENTAGE OF THAT DISTRICT. SO ON THE FAR LEFT, DISTRICT 15 IN THE ENACTED MAP IS A LITTLE OVER 70-PERCENT BLACK. DISTRICT 15 IN THE ILLUSTRATIVE MAP IS AROUND 55-PERCENT BLACK.

AND THEN WE GO LEFT TO RIGHT. IT'S ARRANGED IN ORDER OF THE ENACTED MAP'S BLACK VOTING AGE POPULATION. SO 15 IS THE HIGHEST IN THE ENACTED MAP. 13 ON THE FAR RIGHT IS THE LOWEST ON THE ENACTED MAP.

11:47AM

Q. AND SO -- AND THEN IF WE TURN TO FIGURE 29, WHICH MAY ILLUSTRATE THIS A LITTLE BETTER, BUT IF WE FLIP TO 29, WHAT DOES THIS SHOW US ON THE SAME PAGE?

A. SO I HAVE ZOOMED IN ESSENTIALLY ON JUST THE MAJORITY BLACK SENATE DISTRICTS IN THE ILLUSTRATIVE MAP AND THEIR CORRESPONDING ENACTED MAP PERCENTAGES. SO YOU CAN SEE THE 50 PERCENT LINE THERE AT 50 PERCENT GOING ACROSS. YOU CAN SEE THERE ARE TWO PURPLE BARS, THE ENACTED MAPS THAT ARE JUST BARELY ABOVE 50 PERCENT, AND THERE ARE, AS I MENTIONED BEFORE, A LOT OF ILLUSTRATIVE SENATE MAP -- ILLUSTRATIVE SENATE MAP DISTRICTS THAT ARE JUST BARELY OVER 50 PERCENT.

Q. AND SO FROM A SENSITIVITY ANALYSIS PERSPECTIVE, LET ME JUST ASK, ARE THERE ILLUSTRATIVE SENATE DISTRICT PLANS HERE THAT ARE JUST -- THAT ARE JUST BELOW 50 PERCENT?

A. NO.

Q. OKAY. AND SO IF WE ARE OFF BY -- IF THE TRUE BVAP NUMBER IS OFF BY JUST A LITTLE BIT, WHAT IMPACT WOULD THAT HAVE ON THE NUMBER OF MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE SENATE PLAN?

MS. KEENAN: OBJECTION, YOUR HONOR. MAY I EXPLAIN?

THE COURT: YES.

MS. KEENAN: HE'S NOT ACTUALLY DONE ANY EFFECTIVENESS OR SENSITIVITY ANALYSIS EITHER, SO TO ASK HIM WHAT EFFECT IT WOULD HAVE ON THE DISTRICT IS IMPROPER AT THIS POINT BASED ON THE FOUNDATION THEY HAVE LAID.

11:49AM

THE COURT: WHERE IS THE SENSITIVITY OR EFFECTIVENESS ANALYSIS, OTHER THAN THE ORANGE LINE RUNNING ACROSS THAT PAGE?

MR. LEWIS: EFFECTIVELY, YOUR HONOR, THAT'S THE POINT THAT HE IS TRYING TO MAKE. HE IS TRYING TO MAKE THE POINT THAT IF THERE -- I DON'T WANT TO TESTIFY FOR THE WITNESS, BUT THIS IS ESSENTIALLY THE POINT THAT HE IS MAKING.

THE COURT: I'M GOING TO SUSTAIN THE OBJECTION IN TERMS THAT IT CALLS FOR HIM TO CHARACTERIZE THIS AS SOME SORT OF A SENSITIVITY ANALYSIS. IT IS PLOTTED OUT -- I'M REFERRING TO FIGURE 29 FOR THE RECORD. IT'S PLOTTED OUT THE ILLUSTRATIVE MAPS OR THE ILLUSTRATIVE DISTRICTS COMPARED TO THE ENACTED DISTRICTS, AND IT JUST IS A CHART SHOWING WHICH OF THOSE ARE ABOVE OR BELOW 50-PERCENT BVAP. I MEAN, THERE'S NO NUMBER CRUNCHING THAT LED TO THAT 50 PERCENT LINE. I CAN DRAW THAT LINE. SO I WOULD SUSTAIN THE OBJECTION. YOU CAN REPHRASE.

MR. LEWIS: ALL RIGHT.

BY MR. LEWIS:

Q. SO, DR. JOHNSON, JUST FROM A -- WHAT SENSITIVITY ANALYSIS HAVE YOU PERFORMED IN TERMS OF THE ILLUSTRATIVE SENATE? WHAT HAVE YOU DONE?

A. SO USING THE DATA THAT'S SHOWN IN THIS CHART, IF YOU LOOK AT PARAGRAPH 93 RIGHT BEFORE IT, IT SHOWS THE RESULTS OF THE SENSITIVITY ANALYSIS WHERE I RAN THE NUMBERS FOR IF THE SENSITIVITY ANALYSIS WAS 3 PERCENT EITHER WAY. LOOKING AT 3 PERCENT ERROR BELOW AND 3 PERCENT ERROR ABOVE, HOW MANY

11:50AM DISTRICTS WOULD FLIP? AND THE 50-PERCENT NUMBER I USED BECAUSE THAT'S MR. COOPER'S NUMBER.

THE WHOLE FOCUS OF MR. COOPER'S MAPPING APPROACH HAS BEEN TO LOOK AT THE NUMBER OF DISTRICTS THAT ARE 50 PERCENT. SO I PERFORMED THE SENSITIVITY ANALYSIS LOOKING AROUND THAT 50 PERCENT LINE, AND THE ILLUSTRATIVE -- IF THE SENSITIVITY MEASURE IS 3 PERCENT, ONLY 5 DISTRICTS IN THE ILLUSTRATIVE SENATE MAP WOULD BE MAJORITY BLACK, AND THUS FROM THE NUMBERS THAT WE HAVE SEEN FOR MR. COOPER, MAJORITY BLACK AND LIKELY TO ELECT COMPARED TO 10 DISTRICTS IN THE ENACTED MAP.

AND ON THE FLIP SIDE, THERE ARE NO DISTRICTS THAT ARE JUST BELOW THE 50 PERCENT LINE AS DRAWN, IN EITHER THE ENACTED OR THE ILLUSTRATIVE MAP. SO A 3-PERCENT ERROR THE OTHER WAY WHEN I RAN THOSE NUMBERS WOULD NOT ADD ANY MAJORITY BLACK DISTRICTS.

Q. AND DO YOU PERFORM A SIMILAR ANALYSIS IN THE STATE HOUSE?

A. YES. I WENT THROUGH THE SAME PROCESS AND SAME COUNTING OF HOW MANY DISTRICTS WOULD NO LONGER BE MAJORITY IF THE DATA ARE OFF BY 3 PERCENT.

Q. OKAY. AND IS THAT SENSITIVITY ANALYSIS IN THE HOUSE INCLUDED IN YOUR REPORT, INCLUDING AROUND PARAGRAPHS 85 THROUGH 90?

A. YES.

Q. OKAY. WE CAN TAKE THAT DOWN. I JUST HAVE A FEW WRAP-UP QUESTIONS FOR YOU, DR. JOHNSON.

WE'VE SPENT A LOT OF TIME EXAMINING, BOTH AT THE DISTRICT

11:53AM AND PLAN LEVEL, MR. COOPER'S ILLUSTRATIVE MAJORITY-MINORITY DISTRICTS AND THE DATA THAT WERE USED. WHAT CONCLUSIONS DO YOU DRAW FROM THE DISTRICT BOUNDARIES AND THE UNDERLYING DATA ABOUT THE CONFIGURATION OF THOSE MAJORITY-MINORITY DISTRICTS RELATIVE TO TRADITIONAL REDISTRICTING CRITERIA?

A. AS WE'VE WALKED THROUGH IN DETAIL FOR EACH ONE OF THEM, THE DISTRICTS WE HAVE BEEN LOOKING AT ARE NOT DRAWN BASED ON TRADITIONAL REDISTRICTING CRITERIA.

Q. OKAY. DOES ANY EXPLANATION GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE UP WITH HOW THE LINES ARE DRAWN?

A. SO IN HIS REPORT, HE REPEATEDLY CITES THAT HE LOOKS -- WELL, IN HIS TESTIMONY, I GUESS, HE CONSISTENTLY CITES THAT HE LOOKED AT TRADITIONAL REDISTRICTING PRINCIPLES AND RACE. SO IF THE TRADITIONAL REDISTRICTING PRINCIPLES DON'T DICTATE WHERE THE LINES ARE, THE ONLY EXPLANATION IS RACE, USING HIS OWN WORDS.

Q. OKAY. AND DR. JOHNSON, BASED ON THIS DATA OFFERED, DO YOU HAVE AN OPINION ON THE PREDOMINANT FACTOR EXPLAINING THE BOUNDARIES OF THE ILLUSTRATIVE DISTRICTS IN MR. COOPER'S ILLUSTRATIVE PLANS?

MS. KEENAN: OBJECTION, YOUR HONOR, THE PREDOMINANT FACTOR OPINION IS EXACTLY THE ONE THIS COURT EXCLUDED.

THE COURT: I THINK IT IS A QUESTION TOO FAR. YOU MAY RESPOND.

11:54AM

MR. LEWIS: YOUR HONOR, WE ARE NOT TRYING TO GET AT HIS SUBJECTIVE INTENT. WE ARE ASKING FOR THE FACTOR THAT BEST EXPLAINS THE DATA. THAT IS SOMETHING THAT IS WITHIN THE PURVIEW OF A POLITICAL SCIENTIST. WE ARE NOT ASKING FOR SUBJECTIVE INTENT.

THE COURT: I MEAN, HE HAS BASICALLY SAID IT ABOUT, I DON'T KNOW, 15 TIMES. I'M GOING TO SUSTAIN THE OBJECTION.

MR. LEWIS: OKAY. THEN AT THIS POINT, I HAVE NO FURTHER QUESTIONS, YOUR HONOR. WE WOULD TENDER THE WITNESS SUBJECT TO, OF COURSE, THE PROFFER OF THE EXCLUDED PORTIONS OF DR. JOHNSON'S REPORT.

THE COURT: OKAY. AND THAT BRINGS UP A QUESTION BEFORE WE TAKE OUR NOON BREAK. GIVEN THE TESTIMONY, YOU HAVE A RIGHT TO A PROFFER, AND I'M NOT SUGGESTING OTHERWISE, BUT I WOULD ASK THAT YOU MAYBE CONFER AND THINK ABOUT WHETHER YOU EVEN NEED THAT 2022-23 COMPARISON PROFFER INFORMATION. IF YOU DO, GREAT. I'M JUST TRYING TO SAVE YOU THE HEADACHE OF KIND OF PARSING THROUGH THIS EXPERT REPORT FOR MAKING THE REDACTIONS FOR WHAT IS COMING IN IN YOUR CASE-IN-CHIEF AND WHAT IS COMING IN IN YOUR PROFFER. JUST GIVE IT SOME THOUGHT.

MR. LEWIS: YOUR HONOR, WE APPRECIATE THAT. I THINK WE DO BELIEVE THAT PARTICULARLY GIVEN THAT MR. COOPER -- PLAINTIFFS ELICITED QUITE A BIT OF TESTIMONY FROM MR. COOPER ABOUT THE NATURE, EXTENT AND BASES OF THOSE CHANGES. WE DO BELIEVE THERE IS RELEVANCE, SO I THINK WE CAN --

11:56AM **THE COURT:** YEAH, I DON'T DOUBT THAT THERE MIGHT BE RELEVANCE ON THE PROFFER. IT IS JUST A QUESTION OF PROOF. YOU ARE ENTITLED TO DO YOUR PROFFER. SO I WOULD ASK THAT BEFORE WE CLOSE THE CASE, WHETHER THAT IS TODAY OR MONDAY, THAT YOU GET WITH YOUR CO-COUNSEL AND FIGURE OUT WHAT PARTS OF THE REPORT ARE COMING IN AS SUBSTANTIVE EVIDENCE AND WHAT PARTS OF THE REPORT ARE GOING TO COMPRISE YOUR PROFFER.

MR. LEWIS: OKAY. YOUR HONOR, WE ARE HAPPY TO INVITE CO-COUNSEL. I THINK YOU WERE MEANING PLAINTIFF'S COUNSEL?

THE COURT: THAT'S WHAT I MEAN, OPPOSING COUNSEL.

MR. LEWIS: YES, YOUR HONOR, WE WILL MEET AND CONFER. HOPEFULLY IT WILL BE -- I THINK WITH RESPECT TO THE 2022 AND 2023, IT WILL BE VERY EASY. IT IS A NICE SELF-CONTAINED SECTION.

THE COURT: IT IS. OKAY.

MR. LEWIS: I THINK THE PREDOMINANT INTENT WILL BE A LITTLE MORE WORDSMITHING, BUT WE WILL COMPLY WITH THE COURT'S DIRECTIVE.

THE COURT: OKAY. ALL RIGHT. WE WILL BE IN RECESS UNTIL 1:15.

(RECESS TAKEN AT 11:57 A.M. UNTIL 1:17 P.M.)

THE COURT: PLEASE RETAKE THE STAND. OKAY. IT'S THE PLAINTIFFS' CROSS. YOU MAY PROCEED.

MS. KEENAN: THANK YOU.

1:17PM

CROSS-EXAMINATION

BY MS. KEENAN:

Q. GOOD AFTERNOON, DR. JOHNSON. MY NAME IS MEGAN KEENAN FOR THE ACLU, REPRESENTING THE PLAINTIFFS IN THIS CASE. I WANT TO START WHERE I BELIEVE YOU STARTED WITH YOUR DIRECT EXAMINATION WITH POPULATION CHANGE. DO YOU RECALL TALKING ABOUT THAT EARLIER TODAY?

A. IN THE STATE AS A WHOLE?

Q. YES.

A. YES.

MS. KEENAN: CAN THE TECH PLEASE PULL UP WHAT IS MARKED AS LDTX51, PAGE 11, SPECIFICALLY?

BY MS. KEENAN:

Q. OKAY. AND YOU SEE ON THE SCREEN THAT FIGURE 5 THAT YOU TALKED ABOUT IN YOUR DIRECT EXAMINATION, RIGHT?

A. YES.

Q. YOU TESTIFIED ABOUT THE RATE AT WHICH THE NUMBER OF BLACK MAJORITY SEATS INCREASED IN THE HOUSE AND THE SENATE, RIGHT?

A. YES.

Q. AND THIS TABLE SHOWS THE INCREASE IN THE PERCENTAGE OF TOTAL MAJORITY BLACK DISTRICTS FROM 2000 TO 2020?

A. YES.

Q. YOU DIDN'T ANALYZE WHETHER THE PERCENTAGE OF SEATS ALLOCATED TO MAJORITY BLACK DISTRICTS WERE PROPORTIONAL TO THE BVAP OF LOUISIANA IN EITHER YEAR?

1:18PM

A. ARE YOU ASKING A QUESTION?

Q. YES. DID YOU DO THAT?

A. OH, NO, I DID NOT.

Q. THIS FIGURE ALSO DOESN'T SHOW ANYTHING ABOUT LOUISIANA'S DECLINING WHITE POPULATION, DOES IT?

A. NO.

Q. AND SO THIS TABLE DOESN'T OFFER ANY ANALYSIS ABOUT HOW THE DECLINING WHITE POPULATION IN LOUISIANA WOULD AFFECT THE APPROPRIATE NUMBER OF MAJORITY BLACK DISTRICTS IN THE STATE, DOES IT?

A. I DON'T KNOW HOW YOU WOULD SHOW THAT.

Q. OKAY. SO THAT'S A NO?

A. CORRECT, IT DOESN'T SHOW THAT.

Q. OKAY. YOU ALSO TALKED A BIT ABOUT SOCIO-ECONOMIC DATA IN YOUR DIRECT EXAMINATION. DO YOU RECALL THAT?

A. YES.

Q. YOU REVIEWED MR. COOPER'S REBUTTAL REPORT IN THIS CASE, DIDN'T YOU?

A. YES.

Q. YOU ACTUALLY PREPARED A SURREBUTTAL REPORT RESPONDING TO THAT REPORT, RIGHT?

A. YES.

MS. KEENAN: COULD THE TECH PLEASE PULL UP PLAINTIFFS EXHIBIT 89, AND TURN TO PAGE 12, PLEASE. I'M SORRY. IT'S PLAINTIFFS 89. AND COULD WE TURN TO PAGE 12, PLEASE.

1:19PM

BY MS. KEENAN:

Q. DO YOU RECALL WHETHER YOU READ PARAGRAPHS 47 AND 48 OF MR. COOPER'S REBUTTAL REPORT?

A. YES.

Q. AND YOU WOULD AGREE THAT IT SAYS, STARTING IN PARAGRAPH 47, QUOTE, I HAVE PREPARED A SET OF MAP EXHIBITS WHICH DEMONSTRATE THAT THE ADDITIONAL MAJORITY BLACK DISTRICTS IN THE ILLUSTRATIVE PLAN GENERALLY KEEP TOGETHER LOW AND MODERATE INCOME NEIGHBORHOODS, INDEPENDENT OF RACE. DO YOU SEE WHERE IT SAYS THAT?

A. YES, AFTER HE DREW THE MAPS, HE DID DO THAT.

Q. RIGHT. HAVE YOU REVIEWED PLAINTIFFS EXHIBITS 107 THROUGH 115 WHICH SHOW THE MAP EXHIBITS DISCUSSED IN PARAGRAPH 47?

A. I GLANCED AT THEM.

Q. OKAY. AND LIKE YOU SAID EARLIER, YOU PREPARED A SURREBUTTAL REPORT RESPONDING TO MR. COOPER'S REBUTTAL REPORT, RIGHT?

A. YES.

Q. IN THAT SURREBUTTAL REPORT, YOU DIDN'T INCLUDE ANY OPINIONS ABOUT WHETHER THOSE EXHIBITS TO MR. COOPER'S REBUTTAL REPORT SHOW THAT HIS MAJORITY BLACK ILLUSTRATIVE DISTRICTS GENERALLY KEEP TOGETHER LOW INCOME NEIGHBORHOODS, DID YOU?

A. I DID NOT LOOK INTO WHETHER AFTER-THE-FACT ANALYSES RETROACTIVELY EXPLAINED A CORRELATION THAT HE WASN'T LOOKING AT AT THE TIME HE DREW THE MAPS.

1:20PM

Q. SO YOU DON'T KNOW WHETHER THE DISTRICTS THAT WERE DRAWN COMPLY WITH THE DATA THAT IS IN THOSE EXHIBITS; IS THAT RIGHT?

A. IF I HAD FOUND A FACTUAL ERROR IN THEM, I WOULD HAVE HIGHLIGHTED THAT, AND I DID NOT.

Q. OKAY. NOW, YOU TOLD US TODAY THAT THE ILLUSTRATIVE DISTRICTS WERE INCONSISTENT WITH ALL OF THE TRADITIONAL REDISTRICTING FACTORS THAT MR. COOPER TESTIFIED TO IN HIS REPORT WITH THE EXCEPTION OF RACE. DID I GET THAT RIGHT?

A. I WOULD -- YOU ARE TRYING TO ENCOMPASS ALL OF MY EARLIER DIRECT TESTIMONY IN ONE SUMMARY. I'M NOT SURE IT'S A COMPLETELY FULL ONE-SENTENCE SUMMARY.

Q. SURE. I CAN BE MORE SPECIFIC. GIVE ME ONE MOMENT.

I WROTE DOWN WHAT MR. LEWIS ASKED YOU IN ONE OF HIS WRAP-UP QUESTIONS. SPECIFICALLY, HE ASKED, "DOES ANY EXPLANATION GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE UP WITH HOW THE DISTRICTS WERE DRAWN?" DO YOU RECALL THAT QUESTION?

A. YES.

Q. AND YOU SAID NO, RIGHT?

A. CORRECT.

Q. OKAY. I WANT TO TALK A BIT ABOUT THAT. I'M SHOWING THE WITNESS HIS REPORT MARKED LDTX51. IF WE COULD TURN TO PAGE 26. SO YOU RECOGNIZE THIS AS THE SECTION OF YOUR REPORT YOU DISCUSSED WHERE YOU TALK ABOUT SPECIFIC ILLUSTRATIVE DISTRICTS IN MR. COOPER'S MAP, RIGHT?

1:22PM

A. ARE YOU TALKING ABOUT THE TOP FIGURE OR THE PARAGRAPHS BELOW?

Q. STARTING AT THE TITLE THAT SAYS, "CORRELATION OF RACE AND THE ILLUSTRATIVE PLAN DISTRICT LINES." THIS IS THE TOP OF THE SECTION IN YOUR REPORT WHERE YOU DISCUSS THE SPECIFIC ILLUSTRATIVE DISTRICTS. RIGHT?

A. YES.

Q. OKAY. NOW, IN DISCUSSING THE ILLUSTRATIVE DISTRICTS, YOUR REPORT DOESN'T EXPLAIN HOW YOU RULED OUT THE OTHER TRADITIONAL REDISTRICTING FACTORS WITH RESPECT TO EACH DISTRICT, DOES IT?

A. IT DOES. I LOOKED AT THE MAPS AND COMPARED THEM TO THE TRADITIONAL PRINCIPLES THAT HE HAD LISTED. THE NICE THING ABOUT MAPS AND COMMUNITY BOUNDARIES IS THERE IS NO ALGORITHM. IT'S A MAP. YOU JUST LOOK AT IT.

Q. OKAY. SO I WANT TO BREAK THAT DOWN A LITTLE BIT. IN PARAGRAPH 69, TO START, YOU STATE THAT MR. COOPER DREW HIS NEW MAJORITY BLACK SD 38, QUOTE, WITHOUT ANY REFERENCE TO COMPACTNESS, MAJOR ROADS, COMMUNITIES, NEIGHBORHOODS, CLEAR VISIBLE FEATURES, OR ANY OTHER REDISTRICTING PRINCIPLE. AM I READING THAT QUOTE CORRECTLY?

A. YES.

Q. OKAY. AND YOU ARE OFFERING THE OPINION, AS I UNDERSTAND IT, THAT JUST LOOKING AT EACH OF THOSE DISTRICTS AND THE FIGURES YOU PROVIDED, YOU CAN TELL THAT THE DISTRICT WAS DRAWN, QUOTE, WITHOUT ANY REFERENCE, CLOSE QUOTE, TO TRADITIONAL

1:23PM

REDISTRICTING FACTORS; IS THAT RIGHT?

A. WELL, IT IS ACTUALLY MR. COOPER WHO IS GIVING THE FACTORS THAT HE USED TO DRAW THE MAPS, AND THEN I'M REVIEWING THOSE. AND HE DIDN'T PROVIDE ANY OF THESE FACTORS THAT EXPLAIN WHY THAT LINE IS DRAWN THERE.

Q. RIGHT. SO YOU ARE OFFERING THE OPINION THAT BY JUST LOOKING AT THE DISTRICTS AS YOU'VE SHOWN THEM IN YOUR REPORT, YOU CAN TELL THAT THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE TO THE FACTORS MR. COOPER IDENTIFIED IN HIS REPORT. IS THAT YOUR OPINION?

MR. LEWIS: OBJECTION, YOUR HONOR, MISCHARACTERIZES THE WITNESS'S TESTIMONY.

THE COURT: ACTUALLY, IT IS NOT. HE SAID THAT THESE AREN'T -- THAT THE NICE THING ABOUT MAPS IS THAT THEY ARE MAPS AND THAT YOU DON'T HAVE TO DO ANY ANALOGUES ON THEM, YOU JUST LOOK AT THEM. SO IT REALLY DOESN'T. YOUR OBJECTION IS OVERRULED. IF YOU NEEDED TO REPHRASE OR RESTATE THE QUESTION, IF THAT HAS CAUSED YOU TO FORGET IT, I WOULD UNDERSTAND.

A. IF YOU COULD RESTATE IT, PLEASE.

BY MS. KEENAN:

Q. SURE. SO JUST TO BE CLEAR, YOU ARE OFFERING THE OPINION THAT JUST BY LOOKING AT EACH DISTRICT, LIKE YOU SAID, YOU COULD TELL THAT THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE TO THE OTHER TRADITIONAL REDISTRICTING FACTORS THAT MR. COOPER SPECIFIED IN HIS REPORT?

1:24PM

A. NO, THE REFERENCE IS BOTH ON THE MAP AND IN MR. COOPER'S REPORT. SO MR. COOPER DID NOT PROVIDE ANY REFERENCE TO THESE FACTORS THAT STAND UP WHEN YOU LOOK AT THE MAP.

Q. RIGHT. SO YOU ARE SAYING HE DIDN'T MAKE ANY REFERENCE IN HIS MAPS TO THE FACTORS THAT HE IDENTIFIED IN HIS REPORT. I JUST WANT TO MAKE SURE I'M UNDERSTANDING YOUR CRITICISM CORRECTLY BEFORE I ASK YOU SOME MORE QUESTIONS ABOUT IT.

A. OKAY. SO MR. COOPER GAVE HIS STATEMENTS IN HIS REPORT FOR WHY HE DREW THE LINES WHERE THEY WERE, AND HE LISTED THE FACTORS AND THE THINGS THAT HE CONSIDERED. YOU CAN LOOK AND SEE DO THE FACTORS THAT HE LISTS EXPLAIN WHERE THE LINES ARE. HE CITED HIS KEY CULTURAL REGIONS, THE PLANNING AREAS, THE VTDS, AND NONE OF THOSE FACTORS THAT HE CITED WOULD EXPLAIN WHY THE LINE BETWEEN 38 AND 39 IS DRAWN WHERE IT IS.

Q. OKAY. SO I WANT TO WALK THROUGH SOME OF THOSE FACTORS AND HOW YOU CONSIDERED THEM IN TRYING TO RULE THEM OUT. LET'S STICK WITH MAJORITY BLACK SD 38, WHICH IS STILL ON THE SCREEN IN PARAGRAPH 69 OF YOUR REPORT. YOU SAID THAT THIS DISTRICT WAS DRAWN WITHOUT ANY REFERENCE TO COMMUNITIES. IS THAT RIGHT?

A. YES.

Q. YOU WERE NOT TENDERED AS AN EXPERT ON COMMUNITIES OF INTEREST IN THIS CASE. DO YOU AGREE?

A. YES.

Q. AND YOUR REPORT DOESN'T IDENTIFY ANY EXAMPLES OF COMMUNITIES OF INTEREST IN LOUISIANA, DOES IT?

1:26PM

A. I'M JUST RESPONDING TO MR. COOPER, SO THERE'S EXTENSIVE DISCUSSION OF COMMUNITIES IN MY REPORT BECAUSE I'M DISCUSSING MR. COOPER'S IDENTIFIED COMMUNITIES.

Q. SURE. SO YOU TALK ABOUT SOME OF THE THINGS IN MR. COOPER'S REPORT, BUT YOU DON'T IDENTIFY ANY ADDITIONAL OR CONTRARY COMMUNITIES OF INTEREST IN YOUR REPORT, RIGHT?

A. I DON'T GO BEYOND WHAT MR. COOPER DID, NO.

Q. OKAY. YOU TOLD US THAT YOU REVIEWED MR. COOPER'S TESTIMONY FROM THE TRIAL THIS WEEK. DID YOU REVIEW ANYBODY ELSE'S TESTIMONY FROM THE TRIAL THIS WEEK?

A. NO.

Q. OKAY. SO YOUR REPORT DOESN'T ADDRESS THE COMMUNITIES OF INTEREST SPECIFIC REPORT OF DR. CRAIG COLTEN, DOES IT?

A. NO.

Q. YOU DIDN'T REVIEW THAT REPORT, DID YOU?

A. NO.

Q. AND YOU DIDN'T REVIEW MR. COLTEN'S TESTIMONY HERE AT THIS TRIAL, RIGHT?

A. NO.

Q. SO YOU'RE NOT AWARE OF WHETHER THAT REPORT OR THAT TESTIMONY WOULD CHANGE YOUR OPINION ABOUT WHETHER THE ILLUSTRATIVE MAP IS CONSISTENT WITH COMMUNITIES OF INTEREST IN LOUISIANA, ARE YOU?

A. AGAIN, I'M FOCUSING ON WHAT MR. COOPER CITED AS WHY HE DREW THE LINES, AND HE HIMSELF SAID THAT THAT REPORT ONLY HAD A

1:27PM

VERY TINY IMPACT ON THE REVISIONS TO THE ILLUSTRATIVE MAP.

Q. I'M NOT ASKING YOU ABOUT WHAT MR. COOPER WAS TRYING TO DO OR HOW HE DREW THE MAP, JUST ABOUT WHETHER YOU ARE AWARE WHETHER HIS MAPS WERE ULTIMATELY CONSISTENT WITH THE COMMUNITIES OF INTEREST REFLECTED IN DR. COLTEN'S OPINIONS. AND YOU ARE NOT AWARE OF THAT, ARE YOU?

A. I DID NOT REVIEW MR. COLTEN'S OPINIONS, SO I DON'T HAVE AN OPINION ON THAT.

Q. OKAY. SO YOUR REPORT DOESN'T RULE OUT THAT ANY OF THE DISTRICT LINES CAPTURE ANY OF THE COMMUNITIES DISCUSSED IN DR. COLTEN'S REPORT, DOES IT?

A. NO, BECAUSE DR. COLTEN DIDN'T DRAW THE MAP.

Q. YOUR REPORT ALSO DOESN'T COMPARE THE ILLUSTRATIVE MAP'S TREATMENT OF COMMUNITIES OF INTEREST TO THE ENACTED MAP'S TREATMENT OF COMMUNITIES OF INTEREST, DOES IT?

A. CORRECT.

Q. OKAY. I WANT TO MOVE ON TO COMPACTNESS. YOU ALSO OFFER THE OPINION HERE IN PARAGRAPH 69, "THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE TO COMPACTNESS." AM I READING THAT CORRECTLY?

A. YES.

Q. BUT YOUR REPORT DOESN'T COMPARE THE ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO THE ENACTED MAP'S COMPACTNESS SCORES, DOES IT?

A. WELL, JUST IN TERMS OF -- WELL, I'M WANDERING INTO IN

1:29PM LIMINE TERRITORY.
Q. I'M SORRY. I'M TALKING SPECIFICALLY ABOUT COMPACTNESS SCORES HERE TO START, AND YOUR REPORT DOESN'T COMPARE THE ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO THE ENACTED MAP'S COMPACTNESS SCORES, RIGHT?
A. OH, TO THE ENACTED MAP, CORRECT.
Q. AGAIN, YOU ARE JUST VISUALLY INSPECTING THE MAPS, LIKE YOU TALKED ABOUT EARLIER, WHEN IT COMES TO COMPACTNESS, RIGHT?
A. NO, I'M LOOKING AT WHAT MR. COOPER CITED AS THE REASONS WHY HE DREW THE LINES FOR THAT DISTRICT AND DOES COMPACTNESS EXPLAIN WHY THAT LINE WOULD END UP WHERE IT DID.
Q. RIGHT, BUT I WANT TO TALK ABOUT HOW YOU DETERMINED WHETHER COMPACTNESS WOULD COMPLY WITH MR. COOPER'S RATIONALE. WHAT YOU DID WAS YOU LOOKED AT THE PICTURES OF THE MAPS, RIGHT?
A. YES.
Q. OKAY.
A. I MEAN, I ALSO REVIEWED THE NUMBERS BUT DID SO ONLY BASED ON HOW IT LOOKS, AS DR. POLSBY OR POPPER CALLED IT, THE INTRAOCULAR TEST.
Q. SURE. BUT YOU SAID YOU LOOKED AT THE NUMBERS. JUST TO BE PERFECTLY CLEAR, YOUR REPORT DOES NOT INCLUDE ANY OF THOSE NUMBERS COMPARING THE ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO THOSE IN THE ENACTED MAP, CORRECT?
A. CORRECT.
Q. YOU ALSO SAY IN PARAGRAPH 69 AGAIN THAT THE MAP WAS

1:30PM

DRAWN -- OR, I'M SORRY, MAJORITY BLACK SD 38 WAS DRAWN WITHOUT ANY REFERENCE TO MAJOR ROADS. DID I READ THAT CORRECTLY?

A. YES.

Q. I'M NOW SHOWING THE WITNESS PAGE 27 OF THE SAME REPORT, LDTX51. THIS IS A PICTURE OF ILLUSTRATIVE SENATE DISTRICT 38 IN FIGURE 16 OF YOUR REPORT, RIGHT?

A. YES.

Q. THIS IS IMMEDIATELY BELOW THE PARAGRAPH WE JUST DISCUSSED ABOUT ILLUSTRATIVE SENATE DISTRICT 38?

A. YES.

Q. OKAY. AND THIS IS THE SAME FIGURE YOU DISCUSSED IN YOUR DIRECT EXAMINATION, RIGHT?

A. YES.

Q. I WANT YOU TO TAKE A LOOK AT THIS PICTURE. YOU WOULD AGREE THAT THIS PICTURE OF SENATE DISTRICT 38 IN FIGURE 16 DOES DEPICT LINES THAT FOLLOW MULTIPLE MAJOR ROADS, RIGHT?

A. A TINY FRACTION OF IT DOES, YES.

Q. LET'S WALK THROUGH A COUPLE OF THEM. YOU WOULD AGREE THAT SOME OF THE BORDERS IN THIS MAP, SPECIFICALLY IN THE BOTTOM LEFT CORNER OF THIS IMAGE, TRACK INTERSTATE 220. WOULD YOU AGREE WITH THAT?

A. FOR A SHORT SEGMENT, YES.

Q. AND YOU WOULD AGREE THAT SOME OF THE BORDERS IN THIS MAP TRACK I-20, LIKE RIGHT IN THE CENTER OF FIGURE 16 IN YOUR REPORT, RIGHT?

1:31PM

A. A VERY BRIEF SEGMENT, YES.
Q. YOU WOULD AGREE SOME OF THE BORDERS TRACK OTHER ROADS, LIKE THE BORDER IN THE TOP RIGHT CORNER OF FIGURE 16 OF YOUR REPORT, THE STRAIGHT DIAGONAL ONE PROCEEDING INTO THE BORDER?
A. THE ONE RIGHT BY BUT NOT QUITE BY THE PARISH LINE?
Q. YES.
A. YES, IT DOES FOLLOW THE STREET RATHER THAN FOLLOWING THE PARISH LINE.
Q. AND YOU WOULD AGREE THAT ANOTHER BORDER TRACKS THE BOUNDARIES AT THE SHREVEPORT REGIONAL AIRPORT LIKE YOU TALKED ABOUT IN YOUR REPORT -- OR SORRY, LIKE YOU TALKED ABOUT EARLIER TODAY?
A. YES.
Q. NOW, YOU STATED REPEATEDLY IN YOUR DIRECT THAT THE FIGURES IN YOUR REPORT SHOW HOW THE ILLUSTRATIVE DISTRICTS DO NOT FOLLOW ANY OF THE TRADITIONAL REDISTRICTING CRITERIA THAT MR. COOPER MENTIONED IN HIS REPORT, RIGHT?
A. YES.
Q. I NOTICED THAT YOUR REPORT DOESN'T CITE JOINT RULE 21, BUT YOU ARE FAMILIAR WITH THAT RULE, RIGHT?
A. YES.
Q. OKAY. AND YOU KNOW THAT'S THE LOUISIANA LEGISLATURE'S SPECIFIC CRITERIA THAT NEED TO BE CONSIDERED WHEN DRAWING MAPS IN THE STATE?
A. YES.

1:32PM

Q. YOU ARE AWARE THAT ONE OF THOSE CRITERIA IS KEEPING PRECINCTS AS REPRESENTATIVES' VOTING DISTRICTS OR VTDS WHOLE, RIGHT?

A. YES.

Q. YOU ACKNOWLEDGED ON DIRECT THAT MR. COOPER LOOKED AT THE JOINT RULE, RIGHT?

A. YES.

Q. THAT HE LOOKED AT THE TRADITIONAL FACTORS IDENTIFIED IN THAT JOINT RULE, RIGHT?

A. YES.

Q. AND THAT ONE OF THOSE TRADITIONAL REDISTRICTING FACTORS WAS FOLLOWING VTD LINES?

A. YES.

Q. SPECIFICALLY NOT SPLITTING VTD LINES, RIGHT?

A. YES, I GUESS -- THE VTDS ARE IN THE JOINT RULE. THEY ARE A LITTLE SEPARATE FROM TRADITIONAL FACTORS, BUT MORE OR LESS IT IS THE SAME THING.

Q. SURE. SO WE CAN BE SPECIFIC, UNDER LOUISIANA'S JOINT RULE SPECIFYING THE REDISTRICTING CRITERIA THAT MAP DRAWERS NEED TO USE, MR. COOPER SAID THAT HE COMPLIED WITH THE REQUIREMENT TO FOLLOW THE VTD LINES, RIGHT?

A. I BELIEVE HE SAID TO THE EXTENT PRACTICABLE.

Q. RIGHT. WOULD YOU AGREE THAT PRECINCT LINES OR VTD LINES CAN SOMETIMES SPLIT MUNICIPALITIES?

A. WELL, I DON'T KNOW IN LOUISIANA IF THEY CROSS MUNICIPALITY

1:34PM BOUNDARIES, BUT CERTAINLY THERE ARE MANY PRECINCTS OR VTDS IN A BIG CITY LIKE SHREVEPORT.

Q. SURE. AND THERE ARE PRECINCT LINES THAT CAN SPLIT MAJOR ROADS, FOR EXAMPLE?

A. YES.

Q. WERE YOU HERE WHEN MR. TRENDE TESTIFIED EARLIER TODAY?

A. JUST FOR THE CROSS AT THE VERY END.

Q. OKAY. DID YOU HAPPEN TO HEAR HIM STATE THAT TRADE-OFFS BETWEEN TRADITIONAL REDISTRICTING CRITERIA ARE SIMPLY INEVITABLE?

A. I WASN'T PAYING THAT CLOSE OF ATTENTION, TO BE HONEST.

Q. WOULD YOU AGREE WITH THAT STATEMENT, THAT TRADE-OFFS BETWEEN TRADITIONAL REDISTRICTING CRITERIA ARE INEVITABLE WHEN YOU'RE DRAWING MAPS?

A. MOST OF THE TIME, YES.

Q. DID YOU TAKE PRECINCT OR VTD LINES INTO ACCOUNT IN CRITIQUING MR. COOPER'S MAPS?

A. NOT AT THE TIME I WROTE THE ORIGINAL REPORT. OBVIOUSLY IN MY DIRECT, I WAS REFERRING TO THEM.

Q. SURE. I WANT TO BE CLEAR ABOUT WHAT YOU REVIEWED AT THE TIME YOU PREPARED YOUR REPORT. TO REVIEW MR. COOPER'S MAPS IN MAPTITUDE, YOU USED A GIS SOFTWARE PACKAGE CALLED MAPTITUDE FOR REDISTRICTING DEVELOPED BY THE CALIPER CORPORATION, RIGHT?

A. YES.

Q. THE PL94171 DATA WAS IN THAT MAPTITUDE DATABASE, RIGHT?

1:35PM

A. YES.
Q. AND THE PRECINCT INFORMATION WAS CONTAINED WITHIN THE PL94171 DATASET, RIGHT?
A. YES.
Q. THE SOFTWARE THAT YOU USED MERGES THE DEMOGRAPHIC DATA FROM THE PL94171 FILES TO MATCH UP WITH THE RELEVANT DECENNIAL CENSUS GEOGRAPHY, RIGHT?
A. IT CAN.
Q. SO YOU HAD THE ABILITY TO LOOK AT THOSE PRECINCT OR VTD LINES AS A LAYER IN MAPTITUDE WHEN YOU WERE REVIEWING MR. COOPER'S MAPS, RIGHT?
A. YES.
Q. YOU TESTIFIED ON DIRECT THAT THESE LAYERS CAN BE CLICKED ON AND OFF TO SHOW DIFFERENT FACETS OF THE DATASET, RIGHT?
A. YES.
Q. OKAY. YOU ALSO TOLD US ON DIRECT THAT YOU DID NOT JUST LOOK AT MR. COOPER'S MAPS. YOU ALSO REVIEWED THE DATA ASSOCIATED WITH THOSE MAPS TOO, RIGHT?
A. YES.
Q. USING THE MAPTITUDE SOFTWARE, YOU WOULD ALSO AGREE IT IS POSSIBLE TO DRAW MAPS AT THE PRECINCT OR VTD LEVEL, RIGHT?
A. SURE.
Q. AND YOU WOULD AGREE THAT'S WHAT MR. COOPER SAID THAT HE DID IN DRAWING THE MAPS IN THIS CASE, RIGHT?
A. TO THE EXTENT PRACTICABLE.

1:36PM

Q. RIGHT. NOW, THIS FIGURE IN FRONT OF US, YOU TESTIFIED THAT IT DIVIDES UP THE AREA IN CENSUS BLOCKS, RIGHT?

A. THE MAP IS SHOWING THE ETHNIC DATA BY BLOCK.

Q. RIGHT. HAVE YOU LOOKED AT THIS FIGURE WITH THE PRECINCT DATA LOADED ONTO IT?

A. NO, BUT THE PRECINCTS ARE GOING TO BE GROUPINGS OF BLOCKS, SO I CAN TELL WHAT THE PRECINCT SHADING IS GOING TO LOOK LIKE BY LOOKING AT THE BLOCKS.

Q. SURE. WELL, LET'S TAKE A LOOK. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 39, WHICH DEPICTS THE SAME AREA DEPICTED IN FIGURE 16 OF HIS REPORT BUT WITH AN OVERLAY OF THE PRECINCT LINES THAT WE JUST TALKED ABOUT.

DO YOU HAVE ANY REASON TO DISPUTE THAT THIS IS AN ILLUSTRATIVE AID SHOWING THE PRECINCT LINES ON THE SAME AREA WE JUST DISCUSSED IN YOUR REPORT?

A. I DON'T KNOW EITHER WAY.

Q. OKAY. DO YOU SEE THE 2021 CALIPER STAMP AT THE BOTTOM CENTER OF THIS ILLUSTRATIVE AID?

A. YES.

Q. THAT'S THE SAME SOFTWARE THAT YOU USED TO CREATE THE FIGURES IN YOUR REPORT, RIGHT?

A. YES.

Q. OKAY. WOULD YOU AGREE THAT MANY OF THE PLACES WHERE MR. COOPER'S LINES DIVERGE FROM THE MAJOR ROADS YOU JUST TALKED ABOUT ACTUALLY TRACK PRECINCT BOUNDARIES?

1:37PM

A. I MEAN, ALL THE LINES TRACK PRECINCT BOUNDARIES.

Q. I WANT TO TAKE A LOOK SPECIFICALLY AT THE MAJOR ROADS AND WHERE THE LINES DIVERGE FROM THOSE ROADS. SO LET'S LOOK AT THE BOTTOM CORNER, TRACKING THE SAME BOTTOM CORNER OF FIGURE 16 IN YOUR REPORT. YOU SEE THAT WHERE THE LINE DIVERGES FROM I-220, LIKE WE TALKED ABOUT, THE LINE IS FOLLOWING THAT PRECINCT HIGHLIGHTED IN BLUE, RIGHT?

A. NOT IN THE PART TO THE RIGHT.

Q. I'M SORRY. I'M JUST TALKING ABOUT WHERE THE LINE DIVERGES FROM 220 IN THE BOTTOM LEFT CORNER. AND YOU CAN SEE THAT WHEN IT BREAKS OFF OF 220, IT IS FOLLOWING A PRECINCT LINE EXACTLY AND THEN REJOINING I-220 ON THE OTHER SIDE OF THAT PRECINCT LINE. DO YOU SEE THAT IN THE CORNER?

A. IN THAT LITTLE PIECE OF IT, YES, BUT OVER ON THE RIGHT, NO.

Q. NOW, I WANT TO ZOOM BACK OUT FOR A MOMENT AND LOOK AT WHERE THE LINES DIVERGE FROM I-20. THIS IS DIRECTLY ABOVE THE NUMBER 38 IN BOTH FIGURES, SO THIS ALSO TRACKS FIGURE 16 IN YOUR REPORT. YOU WOULD AGREE THAT BOTH PLACES THAT THE LINE DIVERGES FROM THE MAJOR ROAD HERE, SPECIFICALLY ABOVE THE NUMBER 38, IT IS FOLLOWING A PRECINCT LINE, RIGHT?

A. NOT IN BOTH.

Q. OKAY. LET'S TALK ABOUT THAT, THEN. NO, NO, CAN YOU PLEASE ZOOM BACK INTO THE SAME SPOT? ABOVE 38, YOU CAN SEE THAT -- CAN I DRAW ON IT? I'M NOT SURE IF I CAN DRAW ON IT.

1:39PM

THE COURT: YOU CAN. WELL, I DON'T KNOW IF YOU CAN'T --

MS. KEENAN: THAT'S OKAY. NO WORRIES. I CAN EXPLAIN IT ORALLY BECAUSE IT'S NOT GOING TO BE IN EVIDENCE.

THE COURT: I THINK HE CAN ACTIVATE IT. I KNOW THE WITNESS CAN DRAW, BUT SINCE YOU ARE USING YOUR COMPUTER, I'M JUST NOT A HUNDRED PERCENT SURE. JAVI, DO YOU KNOW?

THE CLERK: SHE SHOULD BE ABLE TO DRAW ON THERE.

MS. KEENAN: IS THERE A MOUSE?

THE CLERK: NO, IT IS TOUCH SCREEN.

MS. KEENAN: I THINK IT'S OKAY. I DON'T NEED TO DRAW ON IT. I CAN ASK THE QUESTIONS WITHOUT DRAWING.

THE COURT: OKAY.

BY MS. KEENAN:

Q. SO YOU CAN FIRST LOOK AT THE LINE HIGHLIGHTED HERE. YOU WOULD AGREE THAT THERE, WHERE THE LINE DIVERGES FROM I-20, IT IS FOLLOWING A PRECINCT LINE, YES?

A. YES, THERE IT IS.

Q. OKAY. THE SAME IS TRUE ON THE LEFT SIDE OF THE IMAGE YOU SEE HERE, AND ALSO ON FIGURE 16, YOU WOULD AGREE THAT THERE'S A PORTION THAT BREAKS OFF FROM I-20 WHERE THE BLUE PRECINCT LINE IS, AND THEN IT FOLLOWS THE YELLOW PRECINCT LINE. AGAIN, IT IS FOLLOWING THE PRECINCT LINE EXACTLY, RIGHT?

A. BUT IN THAT CASE, THE PRECINCT DOES NOT CROSS THE FREEWAY. IF HE HAD FOLLOWED THE FREEWAY -- HE COULD USE PRECINCTS AND

1:40PM

FOLLOWED THE FREEWAY THERE. HE JUST CHOSE NOT TO.

Q. YOU WOULD AGREE, THOUGH, THAT IN THE FIRST LINE THAT WE TALKED ABOUT, HE WOULD ACTUALLY HAVE TO SPLIT TWO PRECINCTS IN ORDER TO FOLLOW THE MAJOR ROAD, RIGHT?

A. YES.

MS. KEENAN: CAN WE ZOOM BACK OUT AND REMOVE THE HIGHLIGHTS?

BY MS. KEENAN:

Q. DURING YOUR DIRECT TESTIMONY, YOU TALKED ABOUT HOW THE LINES CURVE AND WIND IN VERY ODD WAYS THAT DON'T FOLLOW THE CRITERIA THAT MR. COOPER LISTED. DO YOU RECALL TESTIFYING TO THAT?

A. CERTAINLY SOMETHING TO THAT EFFECT, YES.

Q. DO YOU AGREE -- I'M SORRY. I'M NOT SURE WHY THAT RED IS ON THE SCREEN. YOU CAN IGNORE IT.

A. NO, I UNDERSTAND. YOUR LINES FINALLY SHOWED UP.

THE COURT: YOU CAN CLEAR IT. THERE YOU GO.

MS. KEENAN: CAN WE PUT THE IMAGE BACK ON THE SCREEN? THANK YOU.

BY MS. KEENAN:

Q. EACH OF THE LINES THAT MR. COOPER DRAWS FOLLOWS A PRECINCT LINE, YES?

A. AND IT CURVES AND SHIFTS IN ODD WAYS, PICKING PRECINCTS THIS AND THAT IN ODD WAYS.

Q. BUT CAN YOU SEE ANY LINE IN THIS ILLUSTRATIVE AID OF

1:41PM

SENATE DISTRICT 38 WHERE THE LINES DO NOT TRACK A PRECINCT LINE?

A. NO.

Q. OKAY. NONE OF THE IMAGES IN YOUR REPORT SHOW PRECINCT BOUNDARIES APART FROM THE CENSUS BLOCK BOUNDARIES UNDERNEATH THEM, RIGHT?

A. CORRECT.

Q. OKAY. AND YOU RECALL TESTIFYING THAT THE DISTRICT LINES WEREN'T CONSISTENT WITH ANY, QUOTE, VISIBLE REASON ON THE MAPS IN YOUR REPORT, RIGHT?

A. CORRECT.

Q. BUT LOOKING AT THE FIGURES IN YOUR REPORT, YOU WOULD NOT BE ABLE TO SEE WHETHER MR. COOPER WAS COMPLYING WITH THE JOINT RULE 21 REQUIREMENT OF FOLLOWING VTD LINES, WOULD YOU?

A. NO, BUT THERE ARE MANY WAYS TO COMPLY WITH THAT. HE COULD HAVE CHOSEN PRECINCTS THAT WERE MORE COMPACT THAT FOLLOWED MAJOR FEATURES AND FOLLOWED CITY BOUNDARIES.

Q. I'M NOT ASKING ABOUT THE OTHER WAYS HE COULD COMPLY WITH THAT SAME FACTOR, BUT YOU WOULD AGREE THAT IN THE AREAS WHERE YOU TALK ABOUT HOW A DISTRICT LINE ZIGS AND ZAGS, YOU CANNOT RULE OUT THAT MR. COOPER WAS SIMPLY FOLLOWING A PRECINCT LINE BASED ON THE FIGURES IN YOUR REPORT, RIGHT?

A. I CAN'T RULE OUT THAT HE WAS SIMPLY FOLLOWING IT.

Q. YOU CANNOT RULE OUT THAT MR. COOPER WAS TRACKING THE BORDERS OF A PRECINCT LINE EXACTLY WHEN HE WAS ZIGGING AND

1:43PM ZAGGING IN THE FIGURES IN YOUR MAPS?
A. CORRECT. I HAVE NO REASON TO THINK HE WASN'T FOLLOWING PRECINCT LINES.
Q. OKAY. SO I WANT TO RETURN TO THE WRAP-UP QUESTION THAT MR. LEWIS ASKED YOU EARLIER. HE SAYS, "DOES ANY EXPLANATION GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE UP WITH HOW THE DISTRICTS ARE DRAWN?" DO YOU RECALL THAT QUESTION?
A. YES.
Q. AND YOU SAID NO. CORRECT?
A. CORRECT.
Q. BUT YOU WOULD AGREE THAT MR. COOPER'S LINES ARE CONSISTENTLY DRAWN TO REFLECT THE VTD LINES THAT JOINT RULE 21 REQUIRES, RIGHT?
A. I HAVEN'T GONE THROUGH TO SEE WHY HE INCLUDED THE PHRASE "TO THE EXTENT PRACTICABLE." I HAVEN'T LOOKED FOR WHAT PRECINCTS HE SPLIT, IF ANY, BUT HIS TENDENCY CERTAINLY IS TO FOLLOW VTDS.
Q. I WANT TO TALK ABOUT THAT "TO THE EXTENT PRACTICABLE" PHRASE QUICKLY BEFORE WE MOVE ON. YOU HAVE REVIEWED JOINT RULE 21, HAVEN'T YOU?
A. YES.
MS. KEENAN: I BELIEVE IT IS JOINT EXHIBIT 56. CAN WE PULL THAT UP? I'M GOING FROM MEMORY. OH, THERE WE GO. COULD WE TAKE A LOOK AT SECTION G OF JOINT RULE NUMBER 21.

1:44PM

BY MS. KEENAN:

Q. I'M JUST GOING TO START READING AT SECTION G1 HERE. IT SAYS, "TO THE EXTENT PRACTICABLE, EACH DISTRICT WITHIN A REDISTRICTING PLAN SUBMITTED FOR CONSIDERATION SHALL CONTAIN WHOLE ELECTION PRECINCTS AS THOSE ARE REPRESENTED AT VOTING DISTRICTS VTDS." DID I READ THAT CORRECTLY?

A. YES.

Q. OKAY. IS IT -- DO YOU HAVE ANY REASON TO BELIEVE THAT THE PHRASE "TO THE EXTENT PRACTICABLE" DIDN'T COME DIRECTLY FROM JOINT RULE 21?

A. NO.

Q. OKAY. I WANT TO TURN BACK TO LDTX51, PAGE 29 THIS TIME. NOW, YOU ALSO TALKED ABOUT THIS FIGURE IN YOUR DIRECT, RIGHT?

A. YES.

Q. YOU WOULD AGREE THIS FIGURE ALSO DOESN'T SHOW PRECINCT LINES, DOES IT?

A. NO, IT DOES NOT.

Q. OKAY. SPECIFICALLY YOU CRITICIZE MR. COOPER HERE FOR DRAWING THE DISTRICT LINE ACROSS THE MISSISSIPPI RIVER IN THE LEFT SIDE OF THIS IMAGE INSTEAD OF CONTINUING TO FOLLOW THE RIVER. DO YOU RECALL THAT?

A. YES, ON THE LEFT SIDE, HE CROSSES IT. ON THE RIGHT SIDE, HE TURNS AWAY FROM IT.

Q. BECAUSE YOU DIDN'T REVIEW DR. COLTEN'S OPINIONS, YOU DON'T KNOW WHETHER HIS DISCUSSION OF COMMUNITIES OF INTEREST WOULD

1:45PM

CHANGE YOUR OPINIONS ABOUT WHETHER CROSSING THE RIVER HERE COMPLIED WITH TRADITIONAL REDISTRICTING FACTORS, RIGHT?

A. I DO KNOW THAT.

Q. YOU TESTIFIED EARLIER THAT YOU HAD NOT REVIEWED DR. COLTEN'S OPINIONS, RIGHT?

A. CORRECT.

Q. AND YOU'VE TALKED ABOUT HOW COMMUNITIES OF INTEREST ARE A TRADITIONAL REDISTRICTING FACTOR, RIGHT?

A. CORRECT.

Q. SO YOU WOULD AGREE IF THERE IS A COMMUNITY OF INTEREST ON EITHER SIDE OF THE RIVER THAT IS SHARED, IT COULD REFLECT A TRADITIONAL REDISTRICTING FACTOR TO KEEP THE DISTRICT AROUND THE ENTIRE COMMUNITY OF INTEREST STRADDLING THE RIVER, RIGHT?

A. MY OPINION IS THAT THE LINE DID NOT FOLLOW ANY OF THE TRADITIONAL REDISTRICTING CRITERIA CITED BY MR. COOPER. I DIDN'T REVIEW ANYTHING THAT MR. COOPER DIDN'T REVIEW.

MS. KEENAN: YOUR HONOR, I WOULD MOVE TO STRIKE THAT ANSWER AS NONRESPONSIVE.

THE COURT: WELL, THE RECORD IS THE RECORD. SO IT'S NONRESPONSIVE. ASK YOUR QUESTION AGAIN, BUT WE ARE NOT GOING TO STRIKE ANYTHING OUT OF THE RECORD.

MS. KEENAN: OKAY.

BY MS. KEENAN:

Q. I WILL REPEAT THE QUESTION, THEN. YOU WOULD AGREE THAT IT IS CONSISTENT -- IT COULD BE CONSISTENT WITH TRADITIONAL

1:47PM

REDISTRICTING PRINCIPLES TO DRAW A DISTRICT ON BOTH SIDES OF A RIVER IN ORDER TO CAPTURE A COMMUNITY OF INTEREST THAT IS SHARED ACROSS THAT RIVER, RIGHT?

A. I WOULD SAY THAT IS OUTSIDE THE SCOPE OF MY REPORT, BUT IF YOU WOULD LIKE ME TO OPINE ON THINGS OUTSIDE THE SCOPE OF MY REPORT, I'M HAPPY TO.

Q. WE CAN MOVE ON FROM THAT QUESTION. THAT IS FINE.

YOU HAVE REVIEWED THE ENACTED SENATE MAP, HAVEN'T YOU?

A. I HAVE LOOKED AT IT.

Q. RIGHT. YOU TALKED ABOUT EARLIER HOW YOU LOOKED AT THAT IN PARTICULAR TO COMPARE THE SHAPES AND THE CONFIGURATION OF THE DISTRICTS, RIGHT, WITH THE ILLUSTRATIVE MAPS?

MR. LEWIS: OBJECTION. MISSTATES THE WITNESS'S TESTIMONY ON DIRECT.

MS. KEENAN: I'M SORRY. THAT WAS ON CROSS, YOUR HONOR, BUT I CAN REPHRASE IT.

THE COURT: REPHRASE.

BY MS. KEENAN:

Q. EARLIER ON CROSS-EXAMINATION, YOU TESTIFIED THAT THE ONLY WAY YOU LOOKED AT THE ENACTED MAP AND THE ILLUSTRATIVE MAP WAS WITH REGARD TO THE SHAPES OF THOSE TWO DISTRICTS TO DETERMINE COMPACTNESS. YOU SAID THAT WAS THE ONLY WAY YOU REVIEWED COMPACTNESS ACROSS THE TWO MAPS, RIGHT?

A. NO, THAT'S NOT WHAT I SAID.

Q. WOULD YOU AGREE THAT YOU LOOKED AT BOTH MAPS AND

1:48PM

CONSIDERED THE COMPACTNESS OF THE ENACTED AND THE ILLUSTRATIVE MAPS?

A. NO, MY EARLIER TESTIMONY -- WHY I MENTIONED THAT IT WAS GETTING IN THE IN LIMINE REALM IS I LOOKED AT THE FIRST ILLUSTRATIVE MAP AND THE SECOND ILLUSTRATIVE MAP.

Q. SO IS IT YOUR TESTIMONY THAT YOU'VE NEVER EVEN LOOKED AT THE ENACTED MAP?

A. NO, THAT'S NOT MY TESTIMONY.

Q. OKAY. SO YOU DID REVIEW THE ENACTED SENATE MAP THEN, RIGHT?

A. AS I JUST SAID A MINUTE AGO, YES.

Q. AND YOU LOOKED AT THE SHAPES OF THOSE DISTRICTS?

A. BRIEFLY.

Q. OKAY. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 31, WHICH DEPICTS ENACTED SENATE DISTRICT 5 WITH RACIAL SHADING. I WOULD LIKE TO PUT THESE TWO SIDE BY SIDE ACTUALLY WITH THE FIGURE WE WERE JUST LOOKING AT. THAT WAS LDTX51, PAGE 29.

MS. KEENAN: AND IF WE COULD ZOOM IN ON THE FIGURE AGAIN, THAT WOULD BE GREAT, STEPHEN. THANK YOU SO MUCH.

BY MS. KEENAN:

Q. YOU CAN SEE FROM THE TWO IMAGES ON THE SCREEN THAT THIS IMAGE OF THE ENACTED MAP AND THE ILLUSTRATIVE MAP SHOW ROUGHLY THE SAME TERRITORY IN THE STATE, RIGHT?

MR. LEWIS: OBJECTION, YOUR HONOR. THIS GOES BEYOND THE SCOPE OF DIRECT EXAMINATION. IT GOES BEYOND THE SCOPE OF

1:49PM

THE WITNESS' REPORT. THE WITNESS DID NOT ANALYZE THE DISTRICT LINES OF THE ENACTED PLAN.

MS. KEENAN: MAY I EXPLAIN, YOUR HONOR?

THE COURT: YOU MAY RESPOND.

MS. KEENAN: IN DISCUSSING THE COMPACTNESS OF A DISTRICT OR THE SHAPE OF A DISTRICT AND WHETHER IT WAS DRAWN IN A WAY THAT'S CONSISTENT WITH TRADITIONAL REDISTRICTING PRINCIPLES, IT MAKES SENSE TO CONSIDER WHETHER THE ENACTED MAP MADE SOME OF THE SAME TYPES OF DECISIONS THAT MR. JOHNSON IS CRITIQUING IN HIS REPORT HERE. IT GOES TO WHETHER MR. COOPER'S MAPS ARE REASONABLY CONFIGURED, WHETHER THEY COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES. AND IF I CAN MAKE A PROFFER OF WHAT THIS WILL SHOW.

THE COURT: MR. LEWIS?

MR. LEWIS: AGAIN, YOUR HONOR, MR. COOPER DREW HIS PLAN. DR. JOHNSON EVALUATED MR. COOPER'S PLAN. GETTING INTO AN ANALYSIS OF THE ENACTED PLAN, IT GOES BEYOND THE SCOPE OF THE WITNESS' TESTIMONY. IT IS BEYOND THE SCOPE OF DIRECT, BEYOND THE SCOPE OF THE REPORT.

MS. KEENAN: MAY I RESPOND?

THE COURT: YOU MAY.

MS. KEENAN: I THINK IT GOES TO THE WEIGHT OF HIS OPINION, WHETHER SOMETHING THAT MR. COOPER DID THAT HE CRITICIZED IS SOMETHING THAT THE ENACTED MAP ALSO DID, SPECIFICALLY, CROSSING THE MISSISSIPPI RIVER IN THIS EXACT AREA

1:50PM

OF THE STATE.

THE COURT: YEAH, IT REALLY IS ALMOST IN THE WAY OF, FOR LACK OF A BETTER WORD, IMPEACHMENT. I'M GOING TO OVERRULE THE OBJECTION.

BY MS. KEENAN:

Q. SO JUST TO CONFIRM, YOU CAN SEE FROM THE TWO IMAGES ON YOUR SCREEN ROUGHLY THE SAME TERRITORY OF THE STATE WITH THE ENACTED MAP ON THE LEFT-HAND SIDE AND THE ILLUSTRATIVE MAP ON THE RIGHT-HAND SIDE. WOULD YOU AGREE WITH THAT?

A. I'M TRYING TO GET MY BEARINGS BETWEEN THE TWO MAPS. I MEAN, I CAN SEE THE MIDDLE CURVE OF THE RIVER COMPARES, BUT THEY ARE VERY DIFFERENT SCALE MAPS.

Q. SURE. WELL, YOU DON'T NEED TO WORRY ABOUT THE SCALE FOR THE QUESTIONS I'M GOING TO ASK YOU. YOU WOULD AGREE THIS IS THE MISSISSIPPI RIVER THAT YOU ARE LOOKING AT?

A. OH, SURE.

Q. AND THAT THIS IS ROUGHLY ORLEANS PARISH AND JEFFERSON PARISH, ALONG WITH THE SURROUNDING AREA? YES?

A. PIECES OF THEM, YES.

Q. OKAY. I WANT YOU TO LOOK AT ENACTED SD 5, JUST TO REFRESH YOUR RECOLLECTION OF THE SHAPE OF THAT DISTRICT. WOULD YOU AGREE THAT THE PORTION OF SD 5 THAT TOUCHES THE RIVER USES THE MISSISSIPPI RIVER AS A BORDER IN PART?

A. IN PART, YES.

Q. AND YOU WOULD AGREE THAT THE OTHER PART OF SD 5 REACHES

1:51PM

ACROSS THE RIVER. WOULD YOU AGREE WITH THAT?

A. YES.

Q. YOU WOULD ALSO AGREE THAT IN EFFECT, IT CAPTURED A BLACK POPULATION IN JEFFERSON PARISH IN DOING SO?

A. ARE YOU TALKING ABOUT THE RED AREA AT THE BOTTOM OF SD 5?

Q. I AM.

A. OKAY. YES, THAT IS BROUGHT INTO 5.

Q. OKAY. I WOULD NOW LIKE TO TALK ABOUT LDTX51, PAGE 14. WE CAN REMOVE THE SIDE BY SIDE. THIS IS FIGURE 7 WHICH YOU TALKED ABOUT ON DIRECT AS WELL, RIGHT?

A. YES.

Q. HERE YOU CALLED ATTENTION TO WHAT YOU CALLED A PENINSULA OR A FINGER EXTENDING FROM DISTRICT 54 IN THIS FIGURE, RIGHT?

A. YES.

Q. ARE YOU AWARE THAT THE CROSSING FROM LAFOURCHE PARISH INTO JEFFERSON PARISH THAT YOU CALLED A FINGER ACTUALLY CAPTURES AN ISLAND?

A. I ACTUALLY -- WELL, I THOUGHT IT WAS A PENINSULA. I GUESS THE BRIDGE IS CONNECTING TO THE ISLAND.

Q. THAT'S BECAUSE THIS MAP DOESN'T SHOW WATERWAYS IN THE STATE, DOES IT?

A. NO.

Q. ARE YOU AWARE THAT THE ONLY WAY TO GET TO THAT ISLAND FROM JEFFERSON PARISH IS ACTUALLY BY LAND THROUGH LAFOURCHE PARISH?

A. SURE.

1:53PM

Q. OKAY. YOU TALKED ABOUT HOW THE MAP DOESN'T -- HOW MR. COOPER'S DISTRICTS DON'T COMPLY WITH VISIBLE FEATURES IN YOUR MAPS. WOULD YOU AGREE THIS IS AN EXAMPLE WHERE SEEING A WATER FEATURE MIGHT BE HELPFUL IN DETERMINING WHETHER MR. COOPER'S MAPS WERE CONSISTENT WITH VISIBLE FEATURES ON YOUR MAP?

A. NO. I MEAN, WHEN I DESCRIBED IT, I MENTIONED IT ON THE SHORELINE. I THINK EVERYONE KNOWS THAT WE ARE DOWN AT THE GULF HERE.

Q. OKAY. SO YOU DON'T THINK IT WOULD BE HELPFUL TO INCLUDE THE WATERWAYS AND THE IMAGES IN YOUR REPORT?

A. NOT FOR ME.

Q. OKAY. NEXT I WANT TO TALK ABOUT THE LAKE CHARLES/CALCASIEU AREA THAT YOU DISCUSSED EARLIER TODAY. YOU TALKED ABOUT THE ILLUSTRATIVE MAP'S TREATMENT OF THE LAKE CHARLES AREA IN CALCASIEU. THAT INCLUDES HD 34. DO YOU RECALL THAT TESTIMONY?

A. GENERALLY, YES.

Q. AGAIN, ARE YOU AWARE OF HOW THE ENACTED AND THE ILLUSTRATIVE PLANS TREAT THE CALCASIEU PARISH AREA WITH RESPECT TO DRAWING DISTRICT LINES?

A. AGAIN, I DID NOT SPEND MUCH TIME ON THE ENACTED MAP. I LOOKED AT IT, BUT I DID NOT LOOK AT IT IN DETAIL. MY REPORT, YOU KNOW, IS ALL ABOUT THE ILLUSTRATIVE MAPS.

Q. WOULD IT SURPRISE YOU TO LEARN THAT MR. COOPER REDUCED THE NUMBER OF PARISH SPLITS IN CALCASIEU PARISH FROM THE ENACTED

1:54PM

MAP?

A. OFF THE TOP OF MY HEAD, I DON'T REMEMBER THE COUNTS OF SPLITS IN ANY GIVEN PARISH, BUT I WOULD NOTE THE IMAGE ON THE SCREEN RIGHT NOW HIGHLIGHTS THAT IT IS IMPORTANT TO UNDERSTAND WHY A PARISH IS SPLIT. THERE ARE SOME VERY UNDERSTANDABLE REASONS TO SPLIT IT. SO REDUCING THE NUMBER OF SPLITS, IT SOUNDS NICE, BUT IT REALLY IS WHAT IS THE IMPACT OF REDUCING THE SPLITS. IF YOU WERE TO REDUCE THE SPLIT THAT WE ARE LOOKING AT NOW, JEFFERSON, YOU WOULD ACTUALLY BE CUTTING OFF THAT ISLAND, AS YOU SAID.

Q. I KNOW YOU ARE SAYING THAT REDUCING THE NUMBER OF PARISH SPLITS SOUNDS NICE, BUT YOU WOULD ALSO AGREE IT IS A TRADITIONAL REDISTRICTING FACTOR, RIGHT?

A. IT IS ONE OF THE CONSIDERATIONS, BUT AS THIS MAP SHOWS, THERE ARE OTHER CONSIDERATIONS THAT CAN JUSTIFY A SPLIT.

Q. OF COURSE. THOSE ARE THE TYPES OF TRADE-OFFS THAT WE TALKED ABOUT EARLIER, RIGHT?

A. YES.

Q. BUT KEEPING DISTRICTS WITHIN PARISH BOUNDARIES IS ONE OF THE TRADITIONAL REDISTRICTING FACTORS, YES?

A. YES.

Q. OKAY. ON DIRECT EXAMINATION YOU ALSO TESTIFIED ABOUT AN ILLUSTRATIVE AID IN THE BATON ROUGE AREA. DO YOU RECALL THAT?

A. YES.

Q. OKAY. I'M GOING TO SHOW THE WITNESS THAT ILLUSTRATIVE AID

1:56PM

WHICH OUR TECH HAS LABELED AS I4. THIS IS THE FIGURE YOU TALKED ABOUT DURING YOUR DIRECT EXAMINATION. IS THAT RIGHT?

A. YES.

Q. OKAY. I WANT TO BE CLEAR ABOUT WHAT IT SHOWS CURRENTLY BEFORE I MOVE ON WITH MY TESTIMONY. SO LIKE YOU SAID, THIS INCLUDES ANY ILLUSTRATIVE DISTRICT THAT TOUCHES EAST BATON ROUGE PARISH, RIGHT?

A. WELL, THAT INCLUDES A PIECE OF EAST BATON ROUGE PARISH, YES.

Q. SURE. THE ILLUSTRATIVE DISTRICT BORDERS ARE IN BLACK HERE. YES?

A. YES.

Q. AND THE PORTIONS OF THE DISTRICT WITHIN EAST BATON ROUGE ARE SHADED IN RED?

A. CORRECT.

Q. AND THE PORTIONS OF THE DISTRICTS THAT ARE NOT IN EAST BATON ROUGE PARISH ARE SHADED IN BLUE, RIGHT?

A. YES.

Q. SO FIRST I WANT TO TALK ABOUT MR. COOPER'S TESTIMONY. YOU TOLD US YOU REVIEWED THE TRANSCRIPT OF HIS TESTIMONY ABOUT THIS AREA OF THE STATE, RIGHT?

A. YES.

Q. IN THAT TRANSCRIPT YOU SAW THAT DEFENSE COUNSEL DIDN'T ASK HIM ANY QUESTIONS ABOUT THIS STATEMENT, RIGHT?

A. I DON'T RECALL.

1:56PM

Q. YOU DON'T KNOW WHETHER MR. COOPER HAPPENED TO MISSPEAK ABOUT THE NUMBERS IN THIS AREA?

A. I DIDN'T SEE ANY CORRECTION TO IT.

Q. WOULD YOU AGREE IT IS NOT UNCOMMON TO MAKE A MISTAKE IN RECITING NUMBERS WHEN YOU ARE TESTIFYING AND TO ACCIDENTALLY FAIL TO CORRECT THEM?

A. GOOD LORD, THAT'S A GENERAL QUESTION.

Q. I CAN BE MORE SPECIFIC.

A. OKAY.

Q. FOR EXAMPLE, YOU TESTIFIED EARLIER TODAY THAT 11 OF 16 SENATE MAJORITY-MINORITY DISTRICTS ARE BETWEEN 50 AND 53 PERCENT BVAP. DO YOU REMEMBER THAT?

A. I DON'T REMEMBER THE SPECIFIC WORDING, BUT THAT WAS READING FROM MY REPORT, I BELIEVE.

Q. WOULD YOU AGREE THERE ARE ACTUALLY ONLY 14 TOTAL SENATE MAJORITY-MINORITY DISTRICTS?

A. I WAS LOOKING AT ALL OF THIS DISTRICT BY DISTRICT, SO I DON'T HAVE THE TOTAL COUNTS OFF THE TOP OF MY HEAD, BUT IT IS IN MY CHART HERE.

Q. SURE. IT IS POSSIBLE YOU MADE A MISTAKE, RIGHT?

A. YEAH. IN THE ILLUSTRATIVE MAP, THERE ARE 14.

Q. RIGHT. YOU WOULD AGREE THAT MISTAKE DIDN'T AFFECT ANYTHING ELSE YOU TESTIFIED ABOUT ON YOUR DIRECT EXAMINATION, RIGHT?

A. CORRECT.

1:58PM

Q. YOU DON'T OFFER ANY CONCLUSIONS ABOUT THE NUMBER OF DISTRICTS IN THE BATON ROUGE AREA IN YOUR REPORTS, RIGHT?

A. NO.

Q. BUT JUST LIKE WITH THE OTHER DISTRICTS YOU TALKED ABOUT TODAY, YOU DO OFFER CRITIQUES ABOUT WHETHER THE DISTRICTS IN THIS AREA COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES, RIGHT?

A. YES.

Q. AND AGAIN, ON -- IN YOUR REPORT, YOU STATE THAT THESE DISTRICTS WERE DRAWN WITHOUT REGARD TO THOSE PRINCIPLES, INCLUDING CITY BORDERS. DO YOU RECALL THAT?

A. AS SPECIFIED BY MR. COOPER IN HIS REPORT.

Q. NO, BUT I WANT TO BE CLEAR. YOU CONCLUDED THAT MR. COOPER'S DISTRICTS WERE DRAWN WITHOUT REGARD TO CITY BORDERS, RIGHT?

A. AS FAR AS HIS EXPLANATION OF WHY HE DREW THE LINES WHERE THEY WERE, HIS CLAIM THAT HE FOLLOWED CITY BORDERS DID NOT MATCH UP WITH HIS MAP.

Q. BEFORE WE GET INTO CITY BORDERS, I WANT TO SHOW YOU AN ILLUSTRATIVE AID ON THIS ILLUSTRATIVE AID 35, WHICH IS A MOCKUP OF DR. JOHNSON'S OWN ILLUSTRATIVE AID WE WERE JUST TALKING ABOUT THAT ADDS AN OVERLAY DISPLAYING THE PRECINCTS IN GREEN DOTTED LINES --

(AUDIO DISRUPTION.)

THE COURT: WE ARE GOING TO TAKE A RECESS.

1:59PM **(RECESS TAKEN AT 1:59 P.M. UNTIL 2:04 P.M.).**

THE COURT: OKAY. IT REPAIRED ITSELF BEFORE IT EVEN GOT HERE. I THINK WE HAVE A POLTERGEIST.

MS. KEENAN: CAN I PROCEED, YOUR HONOR?

THE COURT: OH, YES, PLEASE. PLEASE PROCEED. I THOUGHT YOU WERE ALREADY UP THERE.

MS. KEENAN: BEFORE WE PULL THAT SAME THING BACK UP, I'M GOING TO ASK YOU TO SHOW ANOTHER EXHIBIT, JUST A QUESTION I FORGOT TO ASK ABOUT EARLIER. COULD THE TECH PLEASE PULL UP EXHIBIT 20 -- IT'S PLAINTIFF'S EXHIBIT 20, I'M SORRY, PAGE 42.

BY MS. KEENAN:

Q. OKAY. DR. JOHNSON, DO YOU RECOGNIZE THIS AGAIN AS THAT SAME ORLEANS/JEFFERSON PARISH AREA WE TALKED ABOUT A MOMENT AGO?

A. YES.

Q. ON YOUR DIRECT, DO YOU RECALL TALKING ABOUT HOW THE BOTTOM OF THE ILLUSTRATIVE DISTRICT HAS A CLUB-LIKE SHAPE REACHING DOWN INTO JEFFERSON PARISH?

A. YES.

Q. ARE YOU AWARE OF HOW THIS IMAGE SHOWS THE ENACTED AND THE ILLUSTRATIVE BORDERS?

A. IF I'VE SEEN THIS BEFORE, I DON'T RECALL IT.

Q. OKAY. I CAN REPRESENT TO YOU THAT THE RED LINE SHOWN ON YOUR SCREEN IS THE ILLUSTRATIVE DISTRICT. DO YOU RECOGNIZE THAT CONFIGURATION BASED ON WHAT YOU'VE TALKED ABOUT IN YOUR

2:05PM

REPORT?

A. YES.

Q. SURE. AND THE SHADED DISTRICTS THAT ARE NUMBERED ARE THE ENACTED DISTRICT. DOES THAT LOOK FAMILIAR WITH THE ENACTED SENATE DISTRICT 5 THAT WE JUST TALKED ABOUT A MOMENT AGO?

A. YES.

Q. CAN YOU TAKE A LOOK AT ENACTED DISTRICT 7 SHADED IN PEACH ON THE JEFFERSON PARISH SIDE OF THE RIVER?

A. YES.

Q. YOU WOULD AGREE IT INCLUDES THE SAME BORDERS AT THAT BOTTOM PART OF THE DISTRICT THAT YOU CALLED A CLUB, RIGHT?

A. WELL, IT'S MUCH WIDER. RIGHT WHERE THE 7 IS, IN THAT PART OF THE CLUB, IT DOESN'T HAVE THE NARROW HANDLE, ALTHOUGH IT DOES GO DOWN TO THE BOTTOM END OF IT, SIMILARLY.

Q. YOU WOULD AGREE THAT THE BOTTOM OF THAT DISTRICT IS THE SAME BORDERS, RIGHT?

A. YES, THERE IS VERY LITTLE PEOPLE DOWN AT THE BOTTOM. THE MAIN PART IS THE HANDLE THROUGH THE -- AROUND WHERE THE 7 IS.

Q. I WANT TO GO BACK TO THE BATON ROUGE AREA THAT WE WERE JUST TALKING ABOUT, STARTING WITH ILLUSTRATIVE AID 35, WHERE WE LEFT OFF BEFORE THE TECH ISSUE. OKAY. SO I WILL REPRESENT -- AGAIN, THIS IS A MOCKUP OF THE DEMONSTRATIVE AID THAT YOU TESTIFIED ABOUT ON DIRECT THAT ADDS AN OVERLAY DISPLAYING THE PRECINCTS IN GREEN DOTTED LINES. BASED ON WHERE THOSE BLACK BORDERS THAT YOU TOLD US ABOUT OF THE ILLUSTRATIVE DISTRICTS

2:07PM

AND THE GREEN DOTTED LINES OVERLAP, CAN YOU IDENTIFY ANY LINE IN THIS ILLUSTRATIVE AID OF THE BATON ROUGE AREA THAT DOES NOT TRACK A PRECINCT LINE?

A. JUST A QUICK REVIEW. I DON'T SEE ANY.

Q. DO YOU RECALL TALKING ABOUT THE CITY OF CENTRAL IN YOUR REPORT?

A. YES.

Q. YOU TALKED ABOUT HOW THE ILLUSTRATIVE MAP SPLITS THE CITY OF CENTRAL, AND YOU REPRESENTED THAT THE ENACTED MAP KEEPS CENTRAL WHOLE. DO YOU RECALL THAT?

A. YES.

Q. I'M NOW SHOWING THE WITNESS ILLUSTRATIVE AID 36, WHICH IS DR. JOHNSON'S -- AGAIN, A MOCKUP OF DR. JOHNSON'S ILLUSTRATIVE AID, BOTH AN OVERLAY OF THE CITY OF CENTRAL IN WHITE BORDERS, AS WELL AS AN OVERLAY OF THE ENACTED MAP IN YELLOW BORDERS. DR. JOHNSON, AGAIN, YOU RECOGNIZE THAT 2021 CALIPER STAMP AT THE BOTTOM OF THIS IMAGE?

A. YES.

Q. YOU SEE THAT THE KEY IS SIMILAR TO THE ONES THAT YOU USE IN THE FIGURES IN YOUR OWN REPORT, RIGHT?

A. YES.

Q. OKAY. AND SO YOU CAN SEE THAT THE CITY LIMITS OF CENTRAL ARE REPRESENTED IN WHITE BASED ON THE KEY?

A. OKAY.

Q. AND THAT THE ENACTED HOUSE DISTRICT BORDERS ARE

2:08PM

REPRESENTED IN YELLOW, RIGHT?

A. THAT'S WHAT IT SAYS, YES.

Q. WOULD YOU AGREE, THEN, THAT THE ENACTED HOUSE DISTRICT 65 DOES SPLIT THE CITY OF CENTRAL?

A. ARE YOU REFERRING TO THE WHITE SLIVER AT THE VERY -- THE LITTLE SLIVER AT THE VERY TOP?

Q. I AM.

A. IT DOES APPEAR THAT. NOW, WHEN LINES CORRESPOND IN THE GIS SYSTEM AS CLOSELY AS THOSE DO, THAT'S PROBABLY JUST A PROJECTION ERROR. IT PROBABLY MEANS THAT THE TWO LINES ARE NOT DRAWN SIMILARLY AND THAT THEY COULD VERY WELL CORRELATE WHEN THEY ARE THAT CLOSE TOGETHER, BECAUSE I'M NOT AWARE OF THE ENACTED SPLITTING OFF FROM VTDS EITHER. I WOULD BE SURPRISED IF A SLIVER LIKE THAT IS A VTD.

Q. YOU WOULD AGREE AGAIN, THOUGH, THAT VTDS AND MUNICIPALITY LINES DON'T ALWAYS TRACK EACH OTHER, RIGHT?

A. IT DEPENDS ON THE STATE. I DON'T KNOW WHAT THE RULE IS IN LOUISIANA.

Q. OKAY. CAN WE GO TO LDTX51 ON PAGE 34. THIS IS FIGURE 22 OF YOUR REPORT SHOWING THE SAME AREA.

A. YES.

Q. DO YOU SEE THE CITY OF CENTRAL WHERE THOSE PURPLE LINES CONVERGE ON THE RIGHT SIDE OF THE IMAGE?

A. YES.

MS. KEENAN: AND COULD THE TECH ZOOM TO SHOW THE RED

2:09PM LINE AT THE TOP?

BY MS. KEENAN:

Q. DO YOU SEE THAT RED LINE IN THE FIGURE IN YOUR OWN REPORT?

A. YES.

Q. YOU WOULD AGREE THAT'S WHAT YOU USE TO SHOW THE CITY LIMITS OF CENTRAL, RIGHT?

A. CORRECT.

Q. AND WOULD YOU AGREE THAT THE CITY LIMITS IN THAT LINE MATCH THE ONES IN THE ILLUSTRATIVE MAP THAT WE JUST SHOWED -- OR THE ILLUSTRATIVE AID THAT WE JUST SHOWED?

A. YES.

Q. OKAY. DID YOU ALSO REVIEW THE EXHIBITS TO MR. COOPER'S REPORT?

A. THERE WERE A LOT OF THEM, SO, YES, I HAD THEM, AND I LOOKED AT SOME OF THEM IN DETAIL AND SOME OF THEM JUST VERY, VERY BRIEFLY.

MS. KEENAN: COULD THE TECH PULL UP PLAINTIFFS EXHIBIT 44.

BY MS. KEENAN:

Q. YOU RECOGNIZE THIS AS AN ANALYSIS OF SPLITS OF CERTAIN CENSUS PLACES?

A. YES.

Q. OKAY. COULD WE GO TO PAGE 2? DO YOU SEE THAT ABOUT IN THE MIDDLE OF THE PAGE NEXT TO DISTRICT 64 AND DISTRICT 65, CENTRAL IS LISTED TWICE?

2:10PM

A. YES.
Q. AND IF WE COULD ZOOM BACK OUT, YOU WOULD AGREE THIS IS THE SPLIT FOR THE LA ENROLLED HOUSE, OR THE ENACTED MAP IN THIS CASE, RIGHT?
A. YES.
Q. SO YOU WOULD AGREE THAT THESE SPLITS ALSO SHOW THAT THE ENACTED MAP SPLITS THE CITY OF CENTRAL, CONTRARY TO WHAT YOU SAID IN YOUR REPORT; IS THAT RIGHT?
A. YES, IT LOOKS LIKE I MISSED THAT ABOUT THREE-QUARTERS OF ONE PERCENT OF THE CITY'S POPULATION WERE NOT INCLUDED IN THE DISTRICT.
Q. YOU WOULD AGREE IT SPLITS THE CITY OF CENTRAL, JUST TO BE CLEAR?
A. JUST A TINY BIT.
Q. I WANT TO GO BACK TO ILLUSTRATIVE AID 36.
A. I ACTUALLY GAVE THE NUMBER RIGHT THERE, 99.16 PERCENT OF THE CITY WAS KEPT INTACT.
Q. SURE. BUT IT DIDN'T FOLLOW THE CITY LINE, RIGHT?
A. CORRECT.
Q. YOU MENTIONED CENTRAL IN YOUR REPORT, BUT DID YOU TAKE A LOOK AT HOW THE ENACTED -- HOW THE ILLUSTRATIVE MAPS TREAT ANY OF THE OTHER NEARBY CITIES?
A. I DID LOOK AT THEM AS THEY WERE IN THE MAP AS AN OVERLAY. I DID NOT GO INTO DETAIL OR COMMENT ON THEM, OTHER THAN TO COMMENT THAT I DO NOT SEE THE ILLUSTRATIVE MAP FOLLOWING THE

2:12PM

CITY BOUNDARIES IN ANY SIGNIFICANT EXTENT.

Q. SURE. YOU SPECIFICALLY MENTION THE CITY OF BAKER IN ADDITION TO THE CITY OF CENTRAL IN YOUR REPORT. DO YOU RECALL THAT? IT'S PARAGRAPH 76 OF YOUR REPORT.

A. YES, I DON'T REMEMBER WORD FOR WORD OF IT, BUT I CAN FLIP TO THAT.

Q. SURE.

MS. KEENAN: THIS IS PAGE 33, STEPHEN.

A. YES.

BY MS. KEENAN:

Q. SO YOU SEE THE IMAGE IN BOTH CENTRAL AND BAKER HERE?

A. YES.

Q. DID YOU CHECK HOW THE ILLUSTRATIVE MAP TREATS THE CITY OF BAKER OR ANY OF THE OTHER NEARBY CITIES TO CENTRAL?

A. NO, BECAUSE THAT WASN'T WHAT I WAS DISCUSSING HERE.

Q. OKAY. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 37. THIS IS THE SAME AID WE WERE JUST DISCUSSING BUT WITH THE ADDITION OF THE CITY LIMITS IN THE NEARBY CITIES OF BAKER AND MERRYDALE, ALSO IN WHITE BORDERS.

DR. JOHNSON, AS YOU CAN SEE HERE, THE ILLUSTRATIVE MAP BORDERS REMAIN IN BLACK, AND THE ENACTED MAP BORDERS REMAIN IN YELLOW. DOES THAT COMPORT WITH YOUR UNDERSTANDING OF WHAT IS ON THE SCREEN HERE?

A. YES.

Q. YOU CAN SEE, BASED ON THIS ILLUSTRATIVE AID, THAT THIS IS

2:13PM AN AREA WHERE THERE'S A TRADE-OFF MADE IN THE TWO MAPS, RIGHT?
A. I'M NOT SURE WHAT YOU MEAN BY TRADE-OFF.
Q. SURE. SO THE ILLUSTRATIVE MAP -- I'M SORRY. THE ENACTED MAP KEEPS MOST OF CENTRAL WHOLE, RIGHT?
A. YES.
Q. BUT IT SPLITS BAKER AND MERRYDALE RIGHT DOWN THE MIDDLE?
A. IT SPLITS THEM. I DON'T KNOW THE PERCENTAGES, BUT YES.
Q. SURE. IN CONTRAST, THE ILLUSTRATIVE MAP SPLITS CENTRAL, LIKE YOU TALKED ABOUT IN YOUR REPORT, RIGHT?
A. YES.
Q. BUT IT APPEARS TO KEEP BAKER AND MERRYDALE WHOLE OR AT LEAST NEARLY WHOLE, RIGHT?
A. IT'S HARD TO TELL FROM THIS BECAUSE THE BLACK LINES DISAPPEAR UNDER THE YELLOW LINES.
Q. I CAN PUT UP A SIDE-BY-SIDE OF THIS WITH THE INITIAL OF I4.
MS. KEENAN: STEPHEN, COULD YOU PUT THEM NEXT TO EACH OTHER? AND COULD YOU ZOOM IN ON THIS PLACE WHERE THOSE THREE LINES DIVERGE ABOVE 65, AS WELL AS THE EAST BATON ROUGE BORDERS, SO WE CAN SEE THE SAME TERRITORY. I'M SORRY. IT'S A BIT HIGHER THAN THAT. STARTING AT THE TOP. THERE YOU GO. EXACTLY. THANK YOU.
BY MS. KEENAN:
Q. CAN YOU SEE THE TWO SETS OF LINES NOW?
A. YES.

2:15PM

Q. AND WOULD YOU AGREE THAT THE ENACTED MAP KEEPS BAKER AND MERRYDALE LARGELY WHOLE?

A. YES.

Q. OH, SORRY. I WITHDRAW THE QUESTION BECAUSE I MISSTATED. IT'S THE ILLUSTRATIVE MAP THAT KEEPS BAKER AND MERRYDALE LARGELY WHOLE, RIGHT, DR. JOHNSON?

A. I WAS WITH YOU. YES.

Q. THANK YOU. SORRY FOR THE CONFUSION.

ARE YOU AWARE OF THE POPULATION OF ANY OF THESE THREE CITIES?

A. I KNOW THE POPULATION COUNT OF CENTRAL IS JUST BELOW 30,000, AND MY REPORT MENTIONS THE POPULATION DENSITY, I THINK, OF THE OTHERS.

Q. THAT'S RIGHT. AND YOU MENTIONED THE POPULATION OF CENTRAL TO SHOW THAT IT WAS SMALL ENOUGH TO BE DRAWN INTO A SINGLE HOUSE DISTRICT, RIGHT?

A. YES.

Q. ARE YOU ALSO AWARE OF THE BVAP OF ANY OF THESE THREE CITIES?

A. NO.

Q. OKAY. I'M NOW SHOWING THE WITNESS ILLUSTRATIVE AID 38, AGAIN, SAME AID BUT WITH THE ADDITION OF THE POPULATION AND BVAP OF EACH CITY. SO YOU WOULD AGREE THAT THE POPULATION OF CENTRAL COMPORTS WITH THE NUMBER IN YOUR REPORT THAT IS 29,565 PEOPLE IN CENTRAL, RIGHT?

2:16PM

A. YES.
Q. DO YOU AGREE THAT'S SMALL ENOUGH TO BE DRAWN INTO A SINGLE HOUSE DISTRICT, LIKE YOU SAID?
A. YES.
Q. THIS AID SHOWS THAT MERRYDALE AND BAKER BOTH HAVE SMALLER POPULATIONS, RIGHT?
A. YES.
Q. ALSO SMALL ENOUGH TO BE DRAWN INTO A SINGLE HOUSE DISTRICT, RIGHT?
A. YES.
Q. DO YOU HAVE ANY REASON TO DISPUTE THAT THE BVAP OF CENTRAL IS 10.94 PERCENT?
A. I DON'T KNOW WHAT IT IS.
Q. OKAY. DO YOU HAVE ANY REASON TO DISPUTE THAT THE BVAP OF BAKER IS 80.80 PERCENT?
A. I DON'T KNOW WHAT IT IS.
Q. AND DO YOU HAVE ANY REASON TO DISPUTE THE BVAP OF MERRYDALE IS 94.73 PERCENT?
A. I DO NOT KNOW WHAT IT IS.
Q. ALTHOUGH YOU DON'T KNOW WHAT IT IS RIGHT NOW, YOU WOULD AGREE THAT YOU HAD THAT INFORMATION AVAILABLE TO YOU WHEN YOU WERE REVIEWING MR. COOPER'S MAPS, RIGHT?
A. YES. IT'S IN THE LAYER. I COULD HAVE PULLED IT AND SEEN WHAT IT WAS.
Q. WHEN YOU TALKED ABOUT THE CITY OF CENTRAL, YOU PULLED SOME

2:17PM

OF THAT INFORMATION, INCLUDING THE POPULATION OF CENTRAL, RIGHT?

A. I THINK THAT WAS WHAT I PULLED WAS THE POPULATION OF CENTRAL.

Q. YOU'VE TALKED ABOUT HOW YOU'VE DRAWN MAPS IN THE REDISTRICTING CONTEXT, RIGHT?

A. YES.

Q. EARLIER I THINK YOU TESTIFIED YOU HAD DRAWN THOUSANDS?

A. YES.

Q. YOU'VE TESTIFIED PREVIOUSLY THAT WHEN YOU HAVE TO CHOOSE BETWEEN DIVIDING ONE OF TWO COMMUNITIES OF INTEREST IN YOUR OWN MAPS, YOU TRY TO MAKE SURE THAT THE ONE YOU ARE DIVIDING IS NOT ONE OF THE ONES THAT IS HEAVILY MADE UP OF A PROTECTED CLASS. DO YOU RECALL THAT TESTIMONY?

A. IS THAT FROM THE DEPOSITION?

Q. IT IS.

A. I DON'T RECALL SPECIFICALLY SAYING, BUT IT DOES SOUND FAMILIAR.

MS. KEENAN: I CAN REFRESH THE WITNESS' RECOLLECTION. COULD THE TECH PLEASE PULL UP PAGE 198 OF HIS DEPOSITION.

BY MS. KEENAN:

Q. COULD YOU TAKE A LOOK AT LINES 10 THROUGH 25 OF THIS DEPOSITION. YOU CAN JUST READ IT TO YOURSELF. LET ME KNOW WHENEVER YOU ARE DONE, PLEASE.

A. (WITNESS COMPLIES.) SURE. I'M DONE.

2:18PM

Q. I WILL ASK THE QUESTION AGAIN. CAN YOU TAKE DOWN THE DEPOSITION, PLEASE. WHEN YOU HAVE TO CHOOSE BETWEEN DIVIDING ONE OF TWO COMMUNITIES OF INTEREST IN YOUR OWN MAPS, YOU TESTIFIED THAT YOU TRY TO MAKE SURE THAT THE ONE YOU ARE DIVIDING IS NOT ONE OF THE ONES THAT IS HEAVILY MADE UP OF A PROTECTED CLASS, RIGHT?

A. IN GENERAL, YES. THE ISSUE CHANGES IF BOTH DISTRICTS DIVIDING IT ARE MAJORITY PROTECTED CLASS. THAT IS A DIFFERENT SITUATION. BUT IN GENERAL, YES.

Q. AND BEFORE WE MOVE ON TO BATON ROUGE, YOUR REPORT OFFERED THE OPINION THAT EACH DISTRICT IS DRAWN WITHOUT REGARD TO MAJOR ROADS IN BATON ROUGE AS WELL. DO YOU RECALL THAT?

A. YES.

Q. OKAY. THE ILLUSTRATIVE AID YOU TALKED ABOUT IN COURT TODAY DOESN'T SHOW MAJOR ROADS, DOES IT, THE ONE WITH THE DISTRICTS OF -- THAT TOUCH ON EAST BATON ROUGE?

A. THE ONE WITH THE PARISH COLORED RED?

Q. YES.

A. NO, THAT WAS JUST COUNTING HOW MANY DISTRICTS ARE IN THE PARISH.

Q. RIGHT. BUT YOUR REPORT DOES SHOW THE MAJOR ROADS IN BATON ROUGE, RIGHT?

A. YES.

Q. SO YOU WOULD RECOGNIZE THE MAJOR ROADS IN THE CITY OF BATON ROUGE IF YOU SAW THEM?

2:19PM

A. CERTAINLY THE FREEWAYS AND HIGHWAYS, THINGS LIKE THAT.

MS. KEENAN: COULD THE TECH PLEASE PULL UP ILLUSTRATIVE AID 12.

BY MS. KEENAN:

Q. DO YOU RECOGNIZE THESE AS THE MAJOR STREETS IN BATON ROUGE? SPECIFICALLY, YOU RECOGNIZE THE HIGHWAYS AND FREEWAYS?

A. YES.

Q. OKAY. ARE YOU FAMILIAR WITH AIRLINE HIGHWAY?

A. I DON'T KNOW THE INDIVIDUAL NAMES.

Q. ARE YOU FAMILIAR WITH THE ROAD MARKED U.S. 61, U.S. 190, RIGHT HERE IN THE CENTER OF THIS ILLUSTRATIVE AID?

A. I CAN SEE IT, YES.

MS. KEENAN: CAN THE TECH PULL UP ILLUSTRATIVE AID 113 NEXT.

BY MS. KEENAN:

Q. THIS IS A DEPICTION OF THE ILLUSTRATIVE DISTRICTS IN BATON ROUGE THAT YOU CRITICIZED, RIGHT?

A. YES, IT'S SHIFTED A LITTLE BIT SOUTH OF WHAT I WAS SHOWING, BUT YES.

Q. AND ALTHOUGH YOU'VE TESTIFIED THAT THE LINES AREN'T CONSISTENT WITH MAJOR ROADS, YOU CAN SEE THAT THE MAJOR BORDER BETWEEN ILLUSTRATIVE HOUSE DISTRICT 68 AND 69 IS AIRLINE HIGHWAY, RIGHT?

A. THAT ONE BORDER, YES.

Q. THE ONE BORDER BETWEEN THE TWO ILLUSTRATIVE MAJORITY BLACK

2:20PM DISTRICTS, YES.

A. BUT THERE ARE MORE THAN TWO MAJORITY BLACK DISTRICTS HERE.

Q. DO YOU AGREE THAT ILLUSTRATIVE HD 68 IS A MAJORITY BLACK DISTRICT?

A. YES.

Q. YOU WOULD AGREE THAT ILLUSTRATIVE HOUSE DISTRICT 69 IS A MAJORITY BLACK DISTRICT?

A. JUST BARELY.

Q. AND DO YOU AGREE THAT THE BORDER BETWEEN THOSE TWO DISTRICTS IS AIRLINE HIGHWAY?

A. YES.

Q. I KNOW WE TALKED A LITTLE BIT ABOUT THIS, BUT YOU DIDN'T REVIEW DR. COLTEN'S OPINIONS ABOUT THIS AREA OF THE STATE EITHER?

A. CORRECT.

Q. SO AGAIN, YOU DON'T KNOW WHETHER HIS OPINIONS WOULD IMPACT YOUR TESTIMONY ABOUT WHETHER THESE DISTRICTS ARE CONSISTENT WITH COMMUNITIES OF INTEREST IN THE CITY?

A. WITH HIS VIEW OF COMMUNITIES OF INTEREST?

Q. YES. CORRECT. YOU CAN TAKE THE DEMONSTRATIVE DOWN. THANK YOU.

YOU TALKED A LITTLE BIT ABOUT THE CONCEPT OF DIFFERENTIAL PRIVACY EARLIER TODAY. DO YOU REMEMBER THAT?

A. YES.

Q. OKAY. ON DIRECT EXAMINATION, YOU SAID, AND I'M QUOTING

2:22PM

FROM YOUR TESTIMONY, "WE USED TO KNOW THAT THE DATA IN EACH BLOCK WAS THE ACTUAL COUNT OF PEOPLE THAT THE CENSUS BUREAU COUNTED." RIGHT?

A. YES.

Q. AND IT'S YOUR UNDERSTANDING THAT THE NEW PROCEDURE THE CENSUS BUREAU INTRODUCED THIS YEAR DISRUPTED THAT ACTUAL COUNT OF PEOPLE THAT YOU USED TO HAVE INFORMATION ABOUT. IS THAT RIGHT?

A. IT ADDS NOISE OR CHANGES THE DATA, YES.

Q. IT'S NOT YOUR OPINION, THOUGH, THAT THE CONCEPT OF DIFFERENTIAL PRIVACY IS NEW FOR THE CENSUS BUREAU, IS IT?

A. THE POLICY IS NEW. I DON'T KNOW WHAT YOU MEAN BY THE CONCEPT.

Q. SURE. ARE YOU AWARE THAT THE CENSUS BUREAU HAD IMPLEMENTED A DATA SWAPPING PROCESS TO PROTECT PRIVACY SINCE 1990?

A. OH, YEAH, BUT THAT IS COMPLETELY DIFFERENT THAN DIFFERENTIAL PRIVACY.

Q. THE REASON IT IS DIFFERENT IS THAT UNDER -- ONE REASON IT IS DIFFERENT, AS YOU EXPLAINED, IS THAT YOU MAY HAVE KNOWN THE ACTUAL COUNT OF PEOPLE BEING SWAPPED, RIGHT, UNDER THE DATA SWAPPING MACHINE?

A. IT'S NOT REALLY AN ACCURATE DESCRIPTION OF IT.

Q. YOU WOULD AGREE, THOUGH, THAT THE DIFFERENCE, ONE DIFFERENCE BETWEEN THE DATA SWAPPING AND THE NEW DISCLOSURE

2:23PM AVOIDANCE PROCESS IS THAT IT AFFECTS THE ACTUAL COUNT OF PEOPLE THAT SHOW UP IN THE CENSUS BLOCKS?

A. THE DIFFERENTIAL PRIVACY DOES SO, YES.

Q. WHEN YOU SAY DIFFERENTIAL PRIVACY, YOU WOULD AGREE THAT'S THE SAME AS THE DISCLOSURE AVOIDANCE PROCESS THAT THE CENSUS BUREAU HAS DISCUSSED, JUST TO BE PRECISE?

A. WELL, DISCLOSURE AVOIDANCE IS THE BIG TENT. DATA SWAPPING WAS AN OLD PIECE OF IT. DIFFERENTIAL PRIVACY IS THE NEW APPROACH TO IT.

Q. OKAY. SO LET'S MAKE SURE WE ARE USING THE SAME TERMS THEN. YOU WOULD DESCRIBE DISCLOSURE AVOIDANCE AS THE UMBRELLA TERM, RIGHT, OF THOSE TWO CONCEPTS WE JUST TALKED ABOUT?

A. I GUESS SO, YES.

Q. AND YOU WOULD SAY THAT DATA SWAPPING AND DIFFERENTIAL PRIVACY ARE TWO DIFFERENT WAYS OF GETTING AT DISCLOSURE AVOIDANCE BY THE CENSUS BUREAU?

A. TWO RADICALLY DIFFERENT WAYS.

Q. BUT YOU WOULD AGREE THAT EVEN UNDER DATA SWAPPING, PRIOR TO THE INTRODUCTION OF DIFFERENTIAL PRIVACY, YOU DID NOT KNOW THE EXACT RACIAL COMPOSITION OF EACH BLOCK, EVEN IF YOU KNOW THE ACTUAL COUNT OF PEOPLE?

A. DATA SWAPPING IS RARE. IT DOESN'T HAPPEN IN EVERY BLOCK. IT ONLY HAPPENS IN CERTAIN CIRCUMSTANCES WHERE THERE ARE CERTAIN CONCERNS. AND SO IN THOSE FEW BLOCKS, YOU ARE CORRECT, THEY MIGHT CHANGE THE NUMBER. DIFFERENTIAL PRIVACY HAPPENS IN

2:24PM

EVERY BLOCK. IT CHANGES EVERY NUMBER.

Q. WE WILL TALK MORE ABOUT DIFFERENTIAL PRIVACY IN A MINUTE. I WANT TO FOCUS ON DATA SWAPPING FIRST. EVEN THOUGH IT DOESN'T HAPPEN IN EVERY BLOCK, YOU WOULD AGREE THAT THE SWAPPING IS RANDOMIZED, RIGHT?

A. NO.

Q. ARE YOU ALWAYS ABLE TO DISCERN WHICH BLOCKS HAVE BEEN CHANGED?

A. TO A DEGREE. IT'S BEEN A LONG TIME SINCE I'VE TALKED ABOUT DATA SWAPPING, BUT IT WOULD ONLY HAPPEN WHEN THERE WAS LIKE A -- LIKE A SINGLE PERSON KIND OF FACTOR. THAT IS PROBABLY TOO SPECIFIC. IT WOULD PROBABLY ONLY HAPPEN WHEN THERE WERE SO FEW PEOPLE IN A GIVEN GROUP THAT THEY COULD BE EXPOSED -- THAT THEIR DATA COULD BE EXPOSED, ESSENTIALLY WHEN THERE'S ONLY ONE NATIVE AMERICAN IN A BLOCK. THEY ARE NOT GOING TO GIVE THE DATA FOR THE NATIVE AMERICAN IN THAT BLOCK. SO IT WAS PRETTY RARE. SO IT WOULD TEND TO HAPPEN IN THOSE FEW SITUATIONS.

Q. BUT YOU WOULD AGREE THAT IN BLOCKS WHERE THE DATA HAD BEEN SWAPPED, YOU WOULDN'T KNOW THE EXACT RACIAL COMPOSITION OF EACH BLOCK AS IT WAS SHOWN IN THE CENSUS DATA, RIGHT?

A. IN THOSE FEW BLOCKS, IT WOULD BE OFF BY ONE PERSON.

Q. SO EVEN BEFORE THIS CYCLE, YOU WOULD AGREE THAT THERE WERE SOME INACCURACIES IN THE CENSUS BUREAU DATA ABOUT THE EXACT RACIAL COMPOSITION OF CERTAIN DISTRICTS?

2:26PM

A. IN DATA SWAPPING YOU ARE TALKING ABOUT THOUSANDS OF A PERCENT OF A DISTRICT. I MEAN, THE NUMBERS ARE TINY. I DON'T KNOW -- I CAN'T TELL YOU THE EXACT PERCENTAGE IT WOULD SHIFT, BUT I WOULD BE STUNNED IF IT WOULD CHANGE A .01 PERCENTAGE OF A DISTRICT'S DEMOGRAPHICS. I MEAN, THE CENSUS ISN'T ACCURATE. THAT'S A MUCH BIGGER FACTOR THAN DATA SWAPPING WAS.

Q. I WANT TO GET TO THAT IN JUST A MINUTE. FIRST I WANT TO TALK ABOUT THE DIFFERENTIAL PRIVACY AS YOU ARE DESCRIBING IT. THIS IS WHAT YOU ARE CALLING THE NEW PROCEDURE THAT THE CENSUS BUREAU HAS PUT INTO PLACE THAT INVOLVES BLURRING OR ADDING NOISE TO THE DISTRICTS, RIGHT, JUST SO WE AGREE ON TERMS?

A. YES.

Q. YOU REFERENCED A BALLPARK OF A ONE-PERCENT MARGIN OF ERROR IN CONGRESSIONAL PLANS AS THE CENSUS BUREAU HAS DISCUSSED?

A. YES.

Q. YOU WOULD AGREE THEY HAVEN'T GIVEN ANY PRECISE FIGURE ABOUT THE MARGIN OF ERROR THAT THIS DIFFERENTIAL PRIVACY PROCESS INTRODUCES?

A. CORRECT.

Q. AND THEY HAVE NOT EXPLAINED THE MARGIN OF ERROR IN STATE LEGISLATIVE REDISTRICTING PLANS AT ALL, RIGHT?

A. WELL, THEY HAVE SAID THAT IT'S BIGGER -- AS THE GEOGRAPHY GETS SMALLER, THE ERROR GETS BIGGER. SO WE KNOW WHATEVER IT WAS AT THE CONGRESSIONAL LEVEL, THE LEGISLATIVE LEVEL IS GOING TO BE BIGGER, THE PARISH LEVEL IS GOING TO BE BIGGER, THE CITY

2:27PM AND TRACT LEVELS ARE GOING TO BE EVEN BIGGER.
Q. BUT AGAIN, NO PRECISE FIGURE, RIGHT?
A. CORRECT.
Q. AND YOU ARE NOT TESTIFYING THAT YOU KNOW THE MARGIN OF ERROR THAT WOULD BE INTRODUCED HERE BY THIS DIFFERENTIAL PRIVACY PROCESS?
A. I WISH I COULD, BUT NOBODY OUTSIDE OF THE CENSUS BUREAU CAN. AND THEY GO TO JAIL IF THEY SAY.
Q. AND FOR THAT REASON, YOU DIDN'T CONDUCT ANY ANALYSIS TO PROVIDE AN ACTUAL RATHER THAN A HYPOTHETICAL MARGIN OF ERROR IN THE STATE LEGISLATIVE REDISTRICTING PLANS, RIGHT?
A. THAT WOULD BE IMPOSSIBLE.
Q. LIKE YOU JUST TOLD US, CENSUS DATA IS ALWAYS IMPERFECT, EVEN PRIOR TO THE INTRODUCTION OF THE DIFFERENTIAL PRIVACY PROCESS, RIGHT?
A. YES.
Q. SOME OF THE OTHER MARGINS OF ERROR IN CENSUS DATA INCLUDE PROBLEMS THAT RESULT FROM UNDERCOUNTING. ARE YOU FAMILIAR WITH THAT PROCESS?
A. AND OVERCOUNTING, CERTAINLY.
Q. YOU WOULD AGREE THAT THE MARGIN OF ERROR CREATED BY UNDERCOUNTING CAN BE FOR LARGER THAN ONE PERCENT, RIGHT?
A. YES.
Q. ARE YOU AWARE THAT PAST CENSUS RESULTS HAVE BEEN ESTIMATED TO UNDERSTATE THE ACTUAL BLACK POPULATION, FOR EXAMPLE, BY MORE

2:28PM THAN 7 PERCENT?
A. I DON'T RECALL SEEING A SPECIFIC STUDY SAYING THAT.
Q. YOU WOULDN'T DISPUTE THAT, THOUGH, RIGHT?
A. OFF THE TOP OF MY HEAD, I DON'T KNOW.
Q. DESPITE THESE MARGINS OF ERROR AND THE CENSUS DATA IN GENERAL, YOU RELY ON CENSUS DATA IN DRAWING YOUR MAPS, RIGHT?
A. BY LAW WE DO.
Q. RIGHT. YOU ARE NOT AWARE OF ANY COURT THAT HAS REJECTED A *GINGLES* I EXPERT'S RELIANCE UPON CENSUS DATA IN A SECTION 2 CASE, ARE YOU?
A. YOU MEAN THEY REJECTED THE USE OF CENSUS DATA?
Q. I'M SAYING THAT'S NEVER HAPPENED, RIGHT? THE USE OF CENSUS DATA IS COMMON IN REDISTRICTING, ESPECIALLY IN SECTION 2 CASES?
A. OH, OF COURSE. IT'S THE BEST AVAILABLE DATA.
Q. RIGHT. I NOW WANT TO TALK ABOUT SENSITIVITY OR EFFECTIVENESS. DO YOU REMEMBER DISCUSSING THAT ON YOUR DIRECT?
A. THE SENSITIVITY ANALYSIS? YES.
Q. OKAY. WHEN YOU ARE DRAWING MAJORITY-MINORITY DISTRICTS IN YOUR OWN WORK, YOU AGREE IT IS IMPORTANT TO CONSIDER WHETHER THAT DISTRICT IS AFFECTED, RIGHT?
A. IN MY OWN WORK, YES.
Q. THAT'S BECAUSE WHEN YOU ARE TRYING TO EMPOWER A REGION THAT'S HISTORICALLY BEEN UNDERREPRESENTED, YOU WANT TO BE SURE THE DISTRICT YOU'VE DRAWN IS ACTUALLY CAPABLE OF EMPOWERING

2:29PM THEM, RIGHT?
A. THAT'S PROBABLY A FAIR DESCRIPTION OF IT. IT CERTAINLY CAPTURES THE IDEA.
Q. OKAY. JUST TO MAKE SURE THE RECORD IS CLEAR, I'M GOING TO SHOW THE WITNESS PAGE 259 OF HIS DEPOSITION. THIS IS JUST REFRESHING HIS RECOLLECTION, NOT AN ATTEMPT AT IMPEACHMENT.
A. I JUST PHRASED MY OWN QUOTE.
Q. WOULD YOU MIND READING LINES 4 TO 7 HERE?
A. IF WE'RE TRYING TO --
Q. I'M SORRY. JUST TO YOURSELF.
A. I'M SORRY.
Q. HAVE YOU READ IT?
A. YES.
Q. OKAY. I WILL TAKE IT DOWN. I JUST WANT TO REASK THE QUESTION AGAIN TO MAKE SURE WE ARE ON THE SAME PAGE. "THE REASON EFFECTIVENESS IS IMPORTANT TO YOU IS BECAUSE WHEN YOU ARE TRYING TO EMPOWER A REGION THAT HAS HISTORICALLY BEEN UNDERREPRESENTED, YOU WANT TO BE SURE THAT THE DISTRICT YOU HAVE DRAWN IS ACTUALLY CAPABLE OF EMPOWERING THEM," RIGHT?
A. YES.
Q. NOW, YOUR REPORT STATES -- CAN WE PULL UP LDTX51 AT PAGE 41. I'M LOOKING AT PAGE -- PARAGRAPH 93. YOUR REPORT STATES, "THE ENACTED MAP PERFORMS MUCH BETTER IN A SENSITIVITY/ROBUSTNESS TEST." DID I READ THAT CORRECTLY?
A. YES.

2:31PM

Q. I WANT TO TALK ABOUT WHAT YOU MEAN WHEN YOU SAY YOU CONDUCTED A SENSITIVITY OR EFFECTIVENESS TEST. YOU DID NOT ATTEMPT TO CALCULATE THE EFFECTIVENESS LEVEL OF ANY DISTRICT, CORRECT?

MR. LEWIS: OBJECTION. IT MISCHARACTERIZES THE WITNESS'S REPORT. HE DIDN'T SAY HE CONDUCTED AN EFFECTIVENESS TEST.

MS. KEENAN: MAY I RESPOND, YOUR HONOR?

THE COURT: YOU MAY.

MS. KEENAN: HE SPECIFICALLY SAID THAT IN HIS DIRECT TESTIMONY. I OBJECTED AND I WAS TOLD THAT I COULD EXPLORE IT ON CROSS-EXAMINATION.

THE COURT: OVERRULED.

BY MS. KEENAN:

Q. YOU DID NOT ATTEMPT TO CALCULATE THE EFFECTIVENESS LEVEL OF ANY DISTRICT?

A. CORRECT. I DID A, AS I WROTE HERE, SENSITIVITY/ROBUSTNESS TEST, NOT AN EFFECTIVENESS TEST.

Q. RIGHT. SO IN CONDUCTING WHAT YOU ARE CALLING A SENSITIVITY OR ROBUSTNESS TEST, YOU DISCUSS A HYPOTHETICAL CASE WHERE THE EFFECTIVENESS LEVEL OF EVERY DISTRICT MIGHT BE 53 PERCENT AP BLACK VAP, RIGHT?

A. YES, I'M SHIFTING FROM -- WELL, I'M SAYING A SENSITIVITY RANGE AROUND MR. COOPER'S DISTRICTS THAT HE PROVIDED AS EFFECTIVE. SO I'M ACCEPTING HIS EFFECTIVENESS TESTING AND THEN

2:32PM DOING A SENSITIVITY/ROBUSTNESS TESTING AROUND THAT.
Q. I WANT TO BREAK THAT DOWN. MR. COOPER'S REPORT TALKS ABOUT THE BVAP OF EACH OF HIS DISTRICTS, RIGHT?
A. YES.
Q. SO THAT'S WHAT YOU ARE DRAWING FROM MR. COOPER'S REPORT IS THE BLACK VOTING AGE POPULATION PERCENTAGE OF EACH DISTRICT?
A. AND HIS STATEMENT THAT THEY ARE EFFECTIVE.
Q. RIGHT. HE HAS STATED THAT THEY ARE EFFECTIVE. HE DID NOT PROVIDE THE 53 PERCENT NUMBER THAT YOU SUPPLY IN YOUR REPORT, RIGHT?
A. CORRECT. THAT'S THE SENSITIVITY/ROBUSTNESS TEST.
Q. THAT NUMBER IS A HYPOTHETICAL THAT YOU CAME UP WITH AND INCLUDED IN YOUR REPORT, RIGHT?
A. CORRECT.
Q. SAME WITH THE 45 PERCENT NUMBER. THAT NUMBER DID NOT COME FROM MR. COOPER, RIGHT?
A. WHICH 45 PERCENT NUMBER?
Q. THAT'S IN PARAGRAPH 89 OF YOUR REPORT, FIRST SENTENCE THERE IN PARAGRAPH 89.
A. OH, CORRECT. THAT'S ALSO A HYPOTHETICAL.
Q. RIGHT. SO AGAIN, THIS IS A HYPOTHETICAL NUMBER THAT YOU INSERTED IN THE REPORT, NOT ANYTHING THAT MR. COOPER SAID HIS DISTRICTS COMPLIED OR DIDN'T COMPLY WITH?
A. CORRECT. I'M JUST USING WORDS TO ILLUSTRATE WHAT CAN BE DONE VISUALLY ON THOSE CHARTS. YOU CAN USE WHATEVER

2:33PM HYPOTHETICAL NUMBER YOU WISH AND JUST LOOK AT THE CHART TO SEE HOW MANY DISTRICTS WOULD FALL ABOVE OR BELOW THOSE HYPOTHETICAL LINES.

Q. AND THAT SORT OF HYPOTHETICAL LINE DRAWING, THAT'S THE EXTENT OF THE EFFECTIVENESS OR SENSITIVITY ANALYSIS THAT YOU PURPORT TO CONDUCT IN YOUR REPORT, RIGHT?

A. YES, THAT'S ALL THAT IT INVOLVES.

Q. YOU HAVEN'T TRIED TO REACH ANY CONCLUSION ABOUT THE ACTUAL EFFECTIVENESS LEVEL REQUIRED TO ELECT A BLACK CANDIDATE OF CHOICE IN ANY ILLUSTRATIVE DISTRICT IN MR. COOPER'S MAP, RIGHT?

A. CORRECT. I AM ACCEPTING HIS ASSERTION THAT THEY MEET THE EFFECTIVE NUMBERS.

Q. WHEN YOU SAY YOU ARE ACCEPTING HIS ASSERTION, DO YOU RECALL REVIEWING MR. COOPER'S TESTIMONY ABOUT THE EFFECTIVENESS OF HIS DISTRICTS, HIS TRIAL TESTIMONY, TO BE CLEAR?

A. YES.

Q. DO YOU RECALL THAT HE TALKED ABOUT RECEIVING INPUT FROM COUNSEL ABOUT THE REPORT OF DR. LISA HANDLEY?

A. YES.

Q. YOU HAVE NOT REVIEWED THE REPORT OF DR. LISA HANDLEY?

A. CORRECT.

Q. YOU HAVE NOT REVIEWED HER TRIAL TESTIMONY?

A. CORRECT.

Q. YOU DON'T KNOW WHETHER DIFFERENTIAL PRIVACY OR ANY OF THE OTHER SENSITIVITY ISSUES YOU HAVE DISCUSSED IN THIS REPORT

2:34PM WOULD HAVE ANY EFFECT ON DR. HANDLEY'S OPINIONS, DO YOU?

MR. LEWIS: OBJECTION, YOUR HONOR, THIS IS PART OF THE CHANGES BETWEEN THE 2022 AND 2023 ILLUSTRATIVE PLANS. THAT'S WHERE DR. HANDLEY'S INPUT CAME UP. THAT WAS STRICKEN FROM HIS REPORT, AND THEREFORE IT IS BEYOND THE SCOPE OF DIRECT. AGAIN, WE'VE BEEN --

THE COURT: RESPOND TO THAT.

MS. KEENAN: MR. COOPER TALKED ABOUT HOW HE DREW HIS ILLUSTRATIVE PLANS IN PART TO ACCOUNT FOR THE EFFECTIVENESS OF DISTRICTS AS PROVIDED BY INPUT FROM COUNSEL ABOUT DR. LISA HANDLEY. THIS IS THE SAME THING THAT DR. JOHNSON JUST TESTIFIED HE DOES WHEN HE DRAWS ILLUSTRATIVE DISTRICTS, THAT HE TRIES TO ACCOUNT FOR EFFECTIVENESS THAT IS IMPORTANT TO MAKE SURE YOU ARE ACTUALLY EMPOWERING THE COMMUNITY --

THE COURT: BUT YOU MOVED TO EXCLUDE THE COMPARISON BETWEEN '22 AND '23.

MS. KEENAN: I AM NOT TRYING TO COMPARE BETWEEN '22 AND '23, JUST TO TALK ABOUT THAT MR. COOPER ACCOUNTED FOR THE EFFECTIVENESS OF THE DISTRICTS WHEN HE DREW THE ILLUSTRATIVE PLANS AT ISSUE, THE 2023 PLANS, NOT THE 2022 PLANS WHICH WERE STRICKEN.

THE COURT: RIGHT, BUT HE ACCOUNTED FOR EFFECTIVENESS AFTER CONSULTING WITH YOU, WHO CONSULTED WITH DR. HANDLEY. AM I NOT REMEMBERING THAT RIGHT? I DON'T SAY YOU, BUT YOUR TRIAL TEAM OR YOUR REPRESENTATION TEAM CONSULTED WITH DR. HANDLEY,

2:36PM

GAVE MR. COOPER SOME ADDITIONAL INFORMATION, AND THEN HE TESTED -- OR THEN HE MADE SOME, HIS WORDS, MINOR ALTERATIONS TO BE MORE EFFECTIVE.

MS. KEENAN: YES, I THINK THAT IS ALL RIGHT.

THE COURT: WELL, THAT'S A COMPARISON BETWEEN 2022 AND 2023.

MS. KEENAN: CAN I TRY TO CLARIFY ONE MORE THING AND SEE IF I CAN REPHRASE -- CAN I ASK YOUR HONOR ONE MORE THING BEFORE I TRY TO REPHRASE THE QUESTION TO MAKE SURE I'M COMPLYING WITH YOUR --

THE COURT: WELL, YOU CAN ASK ME SOMETHING. I'M GOING TO SUSTAIN THE OBJECTION. WHAT IS YOUR QUESTION?

MS. KEENAN: SURE. SO OUR UNDERSTANDING IS THAT THE 2023 ILLUSTRATIVE MAP IS THE ONE THAT IS RELEVANT, THE ONE THAT WE HAVE ALL BEEN DISCUSSING THROUGHOUT THE TRIAL AT THIS POINT. THAT'S THE ONE WE ARE FOCUSING ON. AND THE EFFECTIVENESS SCORES ARE ONE OF THE THINGS HE CONSIDERED WHEN DRAWING THOSE DISTRICTS. SO I'M NOT ASKING ABOUT THE 2022 MAPS AT ALL, JUST ABOUT THE EFFECTIVENESS SCORE AND HOW IT IMPACTED THE DISTRICTS THAT WE ARE ALL CONSIDERING HERE TODAY.

THE COURT: OKAY. MR. LEWIS?

MR. LEWIS: YOUR HONOR, I THINK OUR RESPONSE TO THAT IS THAT THERE IS NOTHING IN MR. COOPER'S -- MR. COOPER'S REPORT DOES NOT REPORT ANALYSIS FROM HANDLEY OR ANY OTHER SOURCE ABOUT EFFECTIVENESS. THAT COMES FROM HANDLEY, WHO DR. JOHNSON DIDN'T

2:37PM

RESPOND TO. AND TO THE EXTENT THAT THERE IS ANYTHING IN MR. COOPER'S REPORT OR TESTIMONY THAT TALKS ABOUT DISTRICT EFFECTIVENESS, IT COMES FROM THE CHANGES BETWEEN 2022 AND 2023, WHICH AGAIN IS OUTSIDE THE SCOPE BECAUSE THAT PORTION OF DR. JOHNSON'S REPORT WAS STRICKEN.

MS. KEENAN: MAY I RESPOND TO THAT BRIEFLY?

THE COURT: YES.

MS. KEENAN: DR. JOHNSON IS PROVIDING A SENSITIVITY ANALYSIS THAT TALKS ABOUT THE EFFECTIVENESS OF VARIOUS DISTRICTS. THAT'S A WHOLE SECTION IN HIS REPORT THAT HE TESTIFIED ABOUT HERE TODAY. THERE IS A COMPETING EXPERT IN THIS CASE WHO HAS TALKED ABOUT THE EFFECTIVENESS OF DISTRICTS IN SOME DETAIL, AND I'M JUST TRYING TO EXPLORE THE INTERACTION BETWEEN HIS CONCLUSIONS AND HER CONCLUSIONS. I CAN MOVE ON FROM WHETHER HE CONSIDERED DR. HANDLEY'S TESTIMONY HIMSELF AND JUST ASK THE QUESTION ABOUT HOW HIS CONCLUSIONS RELATE TO HERS.

THE COURT: OKAY. WELL, I'VE SUSTAINED THE OBJECTION. WE ARE GOING TO GO QUESTION BY QUESTION. ASK YOUR NEXT QUESTION AND WE WILL SEE WHAT MR. LEWIS DOES.

BY MS. KEENAN:

Q. YOU WOULD AGREE THAT THE DIFFERENTIAL PRIVACY CONCEPT THAT YOU HAVE DISCUSSED DOESN'T HAVE ANY EFFECT ON ELECTION RETURNS DATA, DOES IT?

A. CORRECT.

Q. THAT'S BECAUSE IT IS LIMITED TO THE CENSUS BUREAU'S DATA,

2:38PM AND THAT'S THE SET OF DATA THAT IT AFFECTS?
A. YES.
Q. AND SO IF YOU WERE TO CONDUCT AN ANALYSIS THAT INSTEAD FOCUSED ON ELECTION RETURNS, THE DIFFERENTIAL PRIVACY DISCUSSION IN YOUR REPORT WOULD HAVE NO BEARING ON THAT ANALYSIS, RIGHT?
A. IF I HAD DATA ON THE ETHNICITY OF THE VOTERS AND WASN'T USING CENSUS DATA AS MY DENOMINATOR.
MS. KEENAN: CAN I HAVE A BRIEF MOMENT TO CONFER WITH COUNSEL? I THINK I MAY BE FINISHED.
THE COURT: YES.
MS. KEENAN: THAT'S ALL FOR PLAINTIFFS. I PASS THE WITNESS.
THE COURT: REDIRECT, SIR?

REDIRECT EXAMINATION

BY MR. LEWIS:
Q. DR. JOHNSON, GOOD AFTERNOON. ARE VOTER TABULATION DISTRICTS JUST A LARGER BUILDING BLOCK IN A CENSUS BLOCK?
A. CORRECT. THEY ARE NOT A TRADITIONAL REDISTRICTING PRINCIPLE. THEY ARE A TECHNICAL TOOL USED TO BUILD THE MAPS INTO DISTRICTS THAT COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES. THEY ARE A BUILDING BLOCK USED TO BUILD DISTRICTS INTO TRADITIONAL REDISTRICTING -- I'M SORRY -- USED TO BUILD DISTRICTS THAT COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES. DID I MANGLE THAT ENOUGH? SORRY.

2:41PM

Q. DR. JOHNSON, WOULD IT HAVE BEEN POSSIBLE TO FOLLOW VTD BOUNDARIES WITHOUT ALL THE ZIGS AND THE ZAGS THAT WE SAW IN ALL OF THE ILLUSTRATIVE PLAN BOUNDARIES WE LOOKED AT?

A. YES. I MEAN, THE ENACTED MAP FOLLOWS VTDS AS WELL, THAT MR. COOPER'S POSITION IS THAT THAT DOESN'T COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES.

MS. KEENAN: OBJECTION TO WHAT HE JUST CHARACTERIZED AS MR. COOPER'S TESTIMONY ABOUT WHETHER THE ENACTED MAPS COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES. THAT MISCHARACTERIZES MR. COOPER'S TESTIMONY.

THE COURT: THE RECORD WILL SPEAK FOR ITSELF. GO AHEAD. HE HAS ALREADY ANSWERED IT. NEXT QUESTION.

BY MR. LEWIS:

Q. DR. JOHNSON, ARE ANY OF THE ITEMS DISCUSSED DURING YOUR CROSS-EXAMINATION ABOUT BOUNDARY LINES GIVEN AS REASONS FOR THE DISTRICT BOUNDARIES IN MR. COOPER'S REPORT?

A. SORRY. COULD YOU REPEAT THAT?

Q. SURE. SURE. SO WE TALKED ABOUT -- I WILL WITHDRAW THAT QUESTION AND I WILL ASK A DIFFERENT ONE. FOR EXAMPLE, MS. KEENAN ASKED YOU ON CROSS-EXAMINATION ABOUT A TRADE-OFF BETWEEN SPLITTING CENTRAL TO KEEP MERRYDALE AND BAKER WHOLE. DO YOU RECALL THAT?

A. YES.

Q. DOES MR. COOPER REFERENCE THAT TRADE-OFF AS A REASON FOR HIS DISTRICT CONFIGURATION IN HIS REPORT?

2:43PM

A. NO.

Q. DOES HE REFERENCE IT IN THE BACK-UP TO HIS REPORT?

A. NO.

Q. OKAY. DOES MR. COOPER DISCUSS THE DECISION TO KEEP -- TO DRAW A BORDER BETWEEN ILLUSTRATIVE HOUSE DISTRICT 68 AND 69 TO FOLLOW THE AIRLINE ROAD?

A. NO.

MR. LEWIS: YOUR HONOR, WE HAVE NO FURTHER QUESTIONS.

THE COURT: OKAY. YOU MAY STEP DOWN, SIR. THANK YOU. SO WHERE ARE WE IN TERMS OF THESE PROCEEDINGS? HOW MANY WITNESSES ARE LEFT?

MR. TUCKER: YOUR HONOR, WE HAVE THREE ADDITIONAL EXPERT WITNESSES STILL TO CALL AND ONE ADDITIONAL FACT WITNESS TO CALL.

THE COURT: IS THERE ANYTHING THAT WE CAN ACCOMPLISH BETWEEN NOW AND 4:00?

MR. TUCKER: YOUR HONOR, I'M GOING TO DEFER TO MY CO-COUNSEL WHO ARE HANDLING THOSE OTHER EXPERTS ON HOW THEY PLAN ON PROCEEDING FOR THE REST OF THE DAY. WE HAVE WITNESSES HERE. I JUST WANT TO TURN IT OVER TO THEM TO FIGURE OUT WHAT WE ARE DOING.

MR. LEWIS: YOUR HONOR, I KNOW THE NEXT WITNESS UP --

MR. FARR: YOUR HONOR, I HAVE THE NEXT WITNESS. MAY I CONSULT WITH HIM FIRST?

THE COURT: YES, TAKE A MINUTE. SO ARE YOU GOING TO

2:45PM CALL YOUR NEXT WITNESS, MR. FARR?

MR. FARR: I WAS GOING TO ASK YOU, YOUR HONOR, ARE YOU GOING TO HAVE A HARD STOP AT 4:00?

THE COURT: YES.

MR. FARR: WE CAN'T GET DONE BY 4:00.

THE COURT: WELL, GET WHAT YOU CAN DONE.

MR. FARR: WE ARE WILLING TO START IF THAT'S WHAT YOU PREFER.

THE COURT: YEAH, I WANT YOU TO GET SOMETHING DONE.

MR. FARR: WE NOW CALL MICHAEL BARBER.

THE COURT: JUST A MINUTE, SIR, HE IS GOING TO SWEAR YOU IN.

(OATH ADMINISTERED.)

THE CLERK: STATE YOUR NAME FOR THE RECORD.

MR. FARR: CAN YOU HEAR ME, DR. BARBER?

THE COURT: HE'S GOING TO STATE HIS NAME AND SPELL IT FOR THE RECORD, AND THEN YOU CAN DO YOUR DIRECT.

THE WITNESS: MICHAEL BARBER. M-I-C-H-A-E-L, B-A-R-B-E-R.

THE COURT: ALL RIGHT, MR. FARR.

DR. MICHAEL BARBER,

HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. FARR:

Q. MAY I CALL YOU DR. BARBER?

2:47PM

A. YOU MAY.

Q. DR. BARBER, HAVE YOU PREPARED TWO EXPERT REPORTS IN THIS CASE?

A. YES, I HAVE.

MR. FARR: YOUR HONOR, MAY I APPROACH THE BENCH AND GIVE DR. BARBER HIS EXPERT REPORTS?

THE COURT: THE WITNESS STAND? YES, YOU MAY.

BY MR. FARR:

Q. OKAY, DR. BARBER. DO YOU HAVE A NOTEBOOK WITH YOUR TWO EXPERT REPORTS IN THIS CASE?

A. YES, I DO.

Q. IS YOUR FIRST OPENING EXPERT REPORT MARKED SECRETARY OF STATE EXHIBIT 1?

A. YES.

Q. IS YOUR REBUTTAL REPORT MARKED SECRETARY OF STATE EXHIBIT 4?

A. YES.

MR. FARR: YOUR HONOR, WE MOVE FOR THE INTRODUCTION INTO EVIDENCE OF SECRETARY OF STATE EXHIBITS 1 AND 4.

MR. NAIFEH: YOUR HONOR, WE WOULD REQUEST THAT THE DECISION ON ADMITTING THE EXPERT REPORTS BE DEFERRED UNTIL THE TENDER. WE WILL HAVE SOME CROSS ON THE TENDER, AND WE THINK IT MAY CHANGE EXACTLY WHICH PORTIONS OF THE REPORT COME IN.

MR. FARR: EXCUSE ME, SIR. COULD YOU REPEAT THAT?

MR. NAIFEH: WE WILL HAVE SOME CROSS ON THE TENDER,

2:48PM AND WE WOULD LIKE TO RESERVE ADMISSION OF THE REPORT UNTIL WE CAN ESTABLISH EXACTLY WHAT HE IS QUALIFIED TO TESTIFY ABOUT, AND THAT MAY IMPACT WHAT WE WOULD THINK SHOULD COME IN FROM THE REPORT.

MR. FARR: I THOUGHT YOU STIPULATED THAT THE REPORT WOULD COME INTO EVIDENCE IF HE APPEARED TO TESTIFY. ISN'T THERE A STIPULATION ON THAT?

MR. NAIFEH: THERE IS A STIPULATION THAT IF HE APPEARS TO TESTIFY AS AN EXPERT, THE REPORT WILL COME IN. WE HAVE QUESTIONS ABOUT WHAT EXACTLY HE IS QUALIFIED TO TESTIFY ABOUT, AND WE WOULD LIKE TO ESTABLISH WHAT THAT IS.

THE COURT: IN OTHER WORDS, MOVE THE REPORT IN AFTER YOU HAVE QUALIFIED HIM. SO I'M GOING TO SUSTAIN THE OBJECTION AT THIS POINT. YOU CAN RE-MOVE THE REPORT -- YOU CAN ASK FOR THE REPORTS TO BE ADMITTED AFTER YOU HAVE EXAMINED HIM ON HIS QUALIFICATIONS AND THEY HAVE CROSSED ON HIS QUALIFICATIONS.

MR. FARR: ALL RIGHT. THANK YOU, YOUR HONOR.

BY MR. FARR:

Q. DR. BARBER, WHO RETAINED YOU TO BE AN EXPERT IN THIS CASE?

A. THE SECRETARY OF STATE.

Q. WERE YOU ASKED TO RENDER ANY LEGAL OPINIONS?

A. NO.

Q. I'M GOING TO ASK YOU TO EXPLAIN YOUR EXPERTISE THAT QUALIFIES YOU TO OFFER THE OPINIONS THAT YOU HAVE IN YOUR EXPERT REPORTS. TURNING TO SECRETARY OF STATE EXHIBIT 1, IS

2:49PM YOUR CURRICULUM VITAE ATTACHED TO THE END OF YOUR ORIGINAL REPORT?

A. YES, IT IS.

Q. COULD YOU TELL US ABOUT YOUR EDUCATIONAL BACKGROUND.

A. I HAVE A BACHELOR'S DEGREE FROM BRIGHAM YOUNG UNIVERSITY AND A MASTER'S AND PH.D. IN POLITICAL SCIENCE FROM PRINCETON UNIVERSITY.

Q. AND WHAT WERE YOUR AREAS OF CONCENTRATION FOR YOUR POST GRADUATE DEGREES?

A. MY AREAS OF CONCENTRATION WERE BROADLY IN AMERICAN POLITICS AND THE USE OF QUANTITATIVE METHODS.

Q. CAN YOU TELL US ABOUT YOUR PROFESSIONAL EXPERIENCE?

A. YES. I'M AN ASSOCIATE PROFESSOR WITH TENURE AT BRIGHAM YOUNG UNIVERSITY IN THE POLITICAL SCIENCE DEPARTMENT. I'M ALSO THE DIRECTOR OF THE CENTER FOR THE STUDY OF ELECTIONS AND DEMOCRACY, WHICH IS ALSO LOCATED AT BYU.

Q. WHAT CLASSES DO YOU TEACH AT BYU?

A. I TEACH A CLASS ON THE LEGISLATIVE PROCESS, AND I ALSO TEACH A CLASS ON THE USE OF QUANTITATIVE METHODS FOR THE STUDY OF SOCIAL SCIENCE. AND THEN I ALSO TEACH A SEMINAR FOR THE STUDY OF -- THE TOPIC OF THE CLASS IS THE STUDY OF REPRESENTATION IN AMERICA.

Q. ARE YOU A TENURED PROFESSOR?

A. YES.

Q. HAVE YOU WRITTEN ANY PEER-REVIEWED ARTICLES?

2:51PM

A. YES, I HAVE.
Q. HOW MANY?
A. I BELIEVE AT THE MOMENT 25 TO 26 HAVE BEEN PUBLISHED IN PEER-REVIEWED JOURNALS.
Q. ARE THOSE LISTED IN YOUR CV?
A. YES, THEY ARE.
Q. WHAT ARE SOME OF THE SUBJECTS ON WHICH YOU HAVE WRITTEN THAT RELATE TO THE MATTERS THAT YOU ARE TESTIFYING ABOUT IN THIS CASE?
A. SO I PUBLISHED BROADLY ON THE CONCEPT OF REPRESENTATION AND ACCOUNTABILITY IN AMERICAN POLITICS. I HAVE PUBLISHED AND STUDIED THE QUESTION OF VOTER BEHAVIOR AND VOTER PREFERENCES, HOW THAT RELATES TO QUESTIONS OF PARTISANSHIP AND RACE, SO THOSE ARE ALL TOPICS THAT I'VE PUBLISHED ON THAT ARE RELEVANT TO THE DISCUSSION TODAY.
Q. OKAY. HAVE YOU EVER TESTIFIED AS AN EXPERT WITNESS?
A. YES, I HAVE.
Q. ARE THOSE CASES LISTED IN YOUR CV?
A. YES, THEY ARE.
Q. AND HOW MANY OF THOSE CASES INVOLVE CHALLENGES TO REDISTRICTING PLANS?
A. I BELIEVE SOMEWHERE BETWEEN 6 AND 8 OF THOSE.
Q. HOW MANY OF THOSE CASES INVOLVED CLAIMS INVOLVING SECTION 2 OF THE VOTING RIGHTS ACT?
A. TWO. I'VE BEEN AN EXPERT WITNESS IN THE CASE IN GEORGIA

2:52PM

REGARDING THE PUBLIC SERVICE COMMISSION, AND I'M INVOLVED CURRENTLY IN AN ONGOING LAWSUIT IN THE CITY OF COLORADO SPRINGS.

Q. ALL RIGHT. DR. BARBER, WHEN I TALK ABOUT SIMULATED MAPS, DO YOU KNOW WHAT I'M REFERRING TO?

A. YES.

Q. WHAT ARE SIMULATED MAPS?

A. SO THAT'S A TERM THAT REFERS BROADLY TO A PROCESS OR CONCEPT OF USING A COMPUTER TO DRAW A LARGE SET OF MAPS IN A PARTICULAR JURISDICTION. SO IT COULD BE DONE AT A STATE LEVEL, COUNTY LEVEL, COULD BE DONE FOR A CITY COUNCIL.

THERE ARE DIFFERENT WAYS OR DIFFERENT PROCESSES THAT HAVE BEEN USED, BUT GENERALLY IT'S THE USE OF SOME SORT OF COMPUTER ALGORITHM, THE USE OF DATA ABOUT THE POPULATION AND THE DISTRIBUTION OF THE POPULATION WITHIN THAT JURISDICTION, AND THAT INFORMATION IS THEN USED BY THE COMPUTER TO DRAW A VERY LARGE SET OF MAPS USING THAT PARTICULAR ALGORITHM.

Q. HAVE YOU PREPARED OR ANALYZED SIMULATED MAPS IN ANY OF THE CASES IN WHICH YOU HAVE BEEN INVOLVED?

A. YES, I HAVE.

Q. CAN YOU TELL THE COURT WHAT CASES THOSE ARE?

A. SURE. SO I HAVE USED SIMULATED MAPS FOR A REDISTRICTING CASE IN THE STATE OF NEW YORK, IN THE CITY OF BUFFALO, NEW YORK, ALSO IN THE STATE OF PENNSYLVANIA, AND AS WELL IN THE STATE OF NORTH CAROLINA.

2:54PM

Q. AND HAVE YOU PREPARED SIMULATED REPORTS IN THIS CASE?

A. SIMULATED MAPS?

Q. SIMULATED MAPS, YES.

A. YES, I HAVE.

MR. FARR: YOUR HONOR, WE WOULD LIKE TO TENDER DR. BARBER AS AN EXPERT IN POLITICAL SCIENCE, AMERICAN POLITICS, VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS.

THE COURT: YOU WILL HAVE TO GIVE THAT TO ME AGAIN. POLITICAL SCIENCE --

MR. FARR: I'M SORRY, YOUR HONOR.

THE COURT: GO AHEAD. TELL ME THE FOUR AREAS AGAIN, PLEASE.

MR. FARR: YES, MA'AM. POLITICAL SCIENCE, AMERICAN POLITICS, VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS.

THE COURT: CROSS ON THE TENDER?

CROSS-EXAMINATION ON TENDER

BY MR. NAIFEH:

Q. GOOD AFTERNOON, DR. BARBER.

MR. NAIFEH: STEPHEN, COULD WE PULL UP SOS101.

BY MR. NAIFEH:

Q. DR. BARBER, THIS IS YOUR REPORT IN FRONT OF YOU ON THE SCREEN. AND I DON'T HAVE A SCREEN, BUT I'M GUESSING IT'S UP.

A. YES, I SEE IT.

Q. IN TURNING TO PAGE 5 OF YOUR REPORT, THIS IS THE SUMMARY OF YOUR CONCLUSIONS, CORRECT?

2:55PM

A. IT IS, YES.
Q. AND THEN ON PAGE 6, LOOKING AT THE LAST BULLET IN THE SUMMARY OF CONCLUSIONS, CAN YOU READ THAT?
A. DO YOU WANT ME TO READ IT OUT LOUD?
Q. YES, PLEASE.
A. "TO CREATE THESE ADDITIONAL MAJORITY BVAP DISTRICTS, IT IS CLEAR THAT IN THE ILLUSTRATIVE MAPS VARIOUS DECISIONS ABOUT WHERE TO PLACE THE DISTRICT BOUNDARIES WERE MADE WITH RACE AS THE PREDOMINANT FACTOR. THIS IS THE CASE BECAUSE THESE DECISIONS ARE NOT WELL EXPLAINED BY ADHERENCE TO OTHER TRADITIONAL REDISTRICTING CRITERIA."
Q. I KNOW WE WILL GET THERE, BUT IN THIS BULLET ARE YOU DESCRIBING THE OPINIONS YOU OFFER IN THE SECTIONS OF YOUR REPORT THAT YOU CALL REGIONAL ANALYSIS?
A. ARE YOU ASKING IF THIS BULLET POINT REFERS --
Q. TO THE REGIONAL ANALYSIS OR TO THE CONCLUSIONS DRAWN IN THE REGIONAL ANALYSIS?
A. I BELIEVE THIS BULLET POINT REFERS MORE BROADLY TO THE ENTIRETY OF THE REPORT COLLECTIVELY.
Q. OKAY. AND I WOULD LIKE TO ASK JUST ABOUT THE REGIONAL ANALYSIS. YOU HAVE A SECTION IN YOUR REPORT, TWO SECTIONS, I BELIEVE, CALLED REGIONAL ANALYSIS IN YOUR REPORT, CORRECT?
A. YES.
Q. AND NOTHING IN YOUR REGIONAL ANALYSIS IS DERIVED FROM THE SIMULATIONS, CORRECT?

2:56PM

A. IN THIS FIRST REPORT, I BELIEVE IT IS THE CASE THAT THE REGIONAL ANALYSES ARE SEPARATE FROM THE SIMULATION ANALYSIS.

Q. AND THE CONCLUSIONS DO NOT DERIVE FROM THE SIMULATIONS?

A. I THINK THE REPORT STATES THAT THE CONCLUSIONS ARE DRAWN BY CONNECTING THE RESULTS OF THE SIMULATIONS TO THE ANALYSIS IN THE REGIONAL -- THE SECTION OF THE REPORT THAT TALKS ABOUT REGIONAL ANALYSES. I THINK THAT THE TWO PORTIONS SPEAK TO ONE ANOTHER.

Q. OKAY.

MR. NAIFEH: STEPHEN, CAN WE PULL UP DR. BARBER'S DEPOSITION AT PAGE 159, AND LOOKING AT LINES 5 TO 12.

BY MR. NAIFEH:

Q. CAN YOU READ THAT, THOSE LINES?

A. THE ANSWER, THE QUESTION, OR BOTH?

Q. THE QUESTION IS, "DOES ANYTHING IN THE SECTION ON REGIONAL ANALYSIS, THESE TWO SECTIONS, DERIVE FROM THE SIMULATIONS YOU RAN?"

THE ANSWER IS, "NOTHING IN THESE SECTIONS IS DERIVED FROM THE SIMULATIONS. THERE ARE NO MAPS IN THIS SECTION FROM THE SIMULATIONS OR REFERENCE TO THE METRICS THAT WERE DISCUSSED EARLIER FROM THE SIMULATIONS." DID I READ THAT CORRECTLY?

A. YES, YOU DID.

Q. OKAY. AND THIS SECTION ON THE REGIONAL ANALYSIS IS NOT BASED ON ANY OTHER STATISTICAL ANALYSIS APART FROM THE SIMULATIONS THAT YOU PERFORMED, CORRECT?

2:58PM

A. ARE YOU ASKING IF THERE ARE NO STATISTICAL ANALYSES IN THE REGIONAL SECTION OF THE REPORT?

Q. I'M ASKING IF YOU DID ANY STATISTICAL ANALYSIS TO SUPPORT THE CONCLUSIONS YOU DRAW IN THE REGIONAL ANALYSIS SECTIONS OF YOUR REPORT.

A. I DO THINK THAT THERE ARE -- I DON'T KNOW IF YOU WOULD CALL THEM STATISTICAL ANALYSES. THERE IS QUANTITIVE ANALYSES --

Q. YOU ARE REFERRING TO THINGS LIKE THE COMPACTNESS SCORES AND THINGS LIKE THAT?

A. THAT, IN ADDITION TO COMPUTATION OF THE BVAP SCORES, CORE RETENTION SCORES, THOSE TYPES OF COMPUTATIONS.

MR. NAIFEH: YOUR HONOR, WE WOULD MOVE TO EXCLUDE ANY OPINION TESTIMONY FROM DR. BARBER CONCERNING WHETHER PARTICULAR LINE DRAWING DECISIONS IN MR. COOPER'S MAPS ARE WELL EXPLAINED BY ADHERENCE TO TRADITIONAL REDISTRICTING PRINCIPLES. FOR THE RECORD, THOSE ARE SECTION 8, STARTING AT PAGE 30, AND SECTION 12 STARTING AT PAGE 68 ARE THE TWO SECTIONS THAT HE CALLS REGIONAL ANALYSIS.

AND THE REGIONAL ANALYSIS IS NOT BASED ON THE SIMULATIONS, WHICH HE HAS ESTABLISHED HIS EXPERTISE IN. IT'S BASED ON HIS REVIEW OF MAPS AND DATA FROM MR. COOPER'S REPORT AND WHETHER HE BELIEVES MR. COOPER DREW LINES BASED ON RACE OR BASED ON OTHER TRADITIONAL REDISTRICTING PRINCIPLES.

AND AS YOUR HONOR SAID WITH RESPECT TO DR. JOHNSON IN THE

3:00PM

RULING ON THE MOTION IN LIMINE, THE DEFENDANTS HAVEN'T TENDERED DR. BARBER AS -- THAT HE HAS A SPECIALTY DISCIPLINE OR EXPERTISE IN DISCERNING A PERSON'S SUBJECTIVE INTENT AND DECISION-MAKING, SO WE ARE ASKING THAT HE NOT BE PERMITTED TO TESTIFY REGARDING MR. COOPER'S SUBJECTIVE INTENT IN DRAWING ANY LINES IN THE ILLUSTRATIVE PLANS.

THE COURT: I WOULD SUSTAIN ANY OBJECTIONS THAT YOU MAKE TO SUBJECTIVE INTENT THAT DR. BARBER ATTEMPTS TO TESTIFY TO, BUT HOW DOES THAT -- HOW DOES THAT DISQUALIFY HIM FROM THE ENTIRE SECTION ON HIS REGIONAL ANALYSIS?

MR. NAIFEH: IT'S NOT THE ENTIRE SECTION THAT WE WOULD SEEK TO EXCLUDE, JUST THE PORTIONS OF IT THAT CONCERN MR. COOPER'S SUBJECTIVE INTENT.

THE COURT: MR. FARR, DO YOU WANT TO ADDRESS THAT?

MR. FARR: YOUR HONOR, IT'S NOT OUR INTENTION TO HAVE DR. BARBER TESTIFY TO MR. COOPER'S SUBJECTIVE INTENT, BUT WE DO INTEND TO ASK HIM TO EVALUATE AS A POLITICAL SCIENTIST WHETHER OR NOT BASED UPON HIS UNDERSTANDING OF THE TERM "PREDOMINANT FACTOR," WHETHER RACE IS THE PREDOMINANT FACTOR AS A POLITICAL SCIENTIST IN DRAWING SOME OF THESE DISTRICTS.

HE IS NOT TALKING ABOUT MR. COOPER'S SUBJECTIVE INTENT. HE IS LOOKING AT THE MAPS, HE IS LOOKING AT THE SIMULATIONS, AND HE IS DRAWING CONCLUSIONS AS A POLITICAL SCIENTIST AS TO WHAT BEST EXPLAINS THE MAPS. IT HAS NOTHING TO DO WITH MR. COOPER'S SUBJECTIVE INTENT.

3:01PM

THE COURT: THEN YOU NEED TO LAY A -- YOU NEED TO QUALIFY HIM OR GIVE ME SOME REASON TO UNDERSTAND THAT PREDOMINANCE IN MAP-DRAWING IS SOME PARTICULAR FIELD OR SUBJECT MATTER THAT'S A DISCERNIBLE SUBJECT MATTER WITHIN POLITICAL SCIENCE. MAYBE IT'S JUST THE COURT'S LACK OF UNDERSTANDING OF THE SCOPE OF THE FIELD OF POLITICAL SCIENCE, BUT I DON'T KNOW. IS THERE A CLASS ON PREDOMINANCE IN MAP DRAWING?

MR. FARR: YOUR HONOR, THE REPORTS LIKE THE ONE MR. COOPER IS SUBMITTING ARE REGULARLY SUBMITTED IN CASES INVOLVING RACIAL GERRYMANDERS, THE *BETHUNE-HILL* CASE BEING AN EXAMPLE, THE CASE IN SOUTH CAROLINA BEING AN EXAMPLE THAT WE'LL TALK ABOUT LATER WHERE SIMULATED MAPS WERE USED TO ATTEMPT TO ESTABLISH THAT RACE WAS THE PREDOMINANT EXPLANATION.

AGAIN, WE ARE NOT QUESTIONING MR. COOPER'S SUBJECTIVE INTENT. WE ARE NOT QUESTIONING HIS GOOD FAITH. WE ARE TRYING TO SAY THAT WHEN YOU DO A FORENSIC EXAMINATION OF THESE MAPS, THAT THEY CANNOT BE EXPLAINED FOR ANY OTHER REASON OTHER THAN RACE. AND YES, I THINK THAT IS PART OF THE REALM OF DR. COOPER'S EXPERTISE.

THE COURT: DR. BARBER.

MR. FARR: EXCUSE ME, DR. BARBER'S EXPERTISE. AND I THINK, AGAIN, IT IS THE TYPE OF EVIDENCE THAT'S BEEN RECOGNIZED AND SUBMITTED BY OTHER COURTS IN OTHER SIMILAR CASES.

THE COURT: DO YOU WANT TO RESPOND?

MR. NAIFEH: YOUR HONOR, WHETHER RACE PREDOMINATES IN

3:03PM AN ENACTED MAP OR IN AN ILLUSTRATIVE MAP, IF IT'S EVEN A RELEVANT CONCEPT, THERE IS A LEGAL CONCLUSION THAT HE IS NOT QUALIFIED TO RENDER. AND AS YOUR HONOR HAS ALREADY EXPLAINED IN THE RULING ON THE MOTION IN LIMINE, THAT IS A QUESTION FOR YOU AS THE FACT-FINDER AND NOT FOR -- AND YOU HAVE ALREADY EXCLUDED OTHER EXPERTS FROM TESTIFYING ABOUT RACIAL PREDOMINANCE, AT LEAST AS FAR AS A LEGAL CONCLUSION. HE CAN TESTIFY ABOUT WHAT TRADITIONAL REDISTRICTING PRINCIPLES THE MAP DOES OR DOES NOT COMPLY WITH, BUT GOING THE NEXT STEP AND RENDERING AN OPINION ABOUT WHETHER THAT MEANS RACE PREDOMINATES IS NOT SOMETHING I BELIEVE HE HAS BEEN QUALIFIED TO TESTIFY ABOUT.

MR. FARR: MAY I RESPOND, YOUR HONOR?

THE COURT: YES.

MR. FARR: YOUR HONOR, WE HAD A SCHEDULING ORDER IN THIS CASE, AND THERE WERE DEADLINES FOR *DAUBERT* MOTIONS. THERE WAS NO *DAUBERT* MOTION FILED ON DR. BARBER. THERE WAS ONE FILED ON DR. JOHNSON. THE ISSUES WERE BRIEFED, AND THE DEFENSE HAD NOTICE OF THE ARGUMENTS THE PLAINTIFFS WERE GOING TO MAKE.

THIS IS THE FIRST WE'VE HEARD ABOUT PLAINTIFFS' CONTENTION THAT DR. BARBER IS NOT QUALIFIED TO GIVE THE OPINIONS THAT ARE STATED IN THIS REPORT, WHICH THEY HAVE STIPULATED COULD COME INTO EVIDENCE.

SO I WOULD JUST SAY, YOUR HONOR, THAT THIS IS CAUSING SUBSTANTIAL PREJUDICE TO US TO ALLOW THEM TO GET AROUND THE

3:04PM DEADLINE YOU SET FOR THE FILING OF *DAUBERT* MOTIONS, SO WE WOULD HAVE HAD AMPLE TIME TO BE ABLE TO BRIEF THIS ISSUE.

THE COURT: A *DAUBERT* MOTION IS NOT THE ONLY METHOD BY WHICH YOU CAN CHALLENGE AN EXPERT'S -- THE SCOPE OF THEIR EXPERTISE. I MEAN, THERE'S NO LAW THAT THE COURT KNOWS OF THAT SAYS THAT FAILURE TO FILE A *DAUBERT* SOMEHOW WAIVES YOUR ABILITY TO CROSS AN EXPERT, A PROPOSED EXPERT ON THE NATURE AND EXTENT OF THE FIELD OF TENDER, AND THAT'S WHAT'S BEING DONE HERE. THE FIELD OF TENDER HAS BEEN CROSS-EXAMINED, AND THEY ARE SEEKING TO EXCLUDE EXPERT TESTIMONY, OPINION TESTIMONY, IN THAT PARTICULAR FIELD, NAMELY THE SUBJECT OF RACE PREDOMINANCE.

YOUR *DAUBERT* ARGUMENT MISSES THE MARK, AND THE STIPULATION WAS THAT OF THOSE EXPERTS THAT TESTIFY, THEIR REPORTS WOULD COME IN. SO IF HE DOESN'T TESTIFY, HIS REPORT DOESN'T COME IN, OR AT LEAST THOSE AREAS OF HIS REPORT DOESN'T COME IN.

NOW, THE BEST I CAN DO FOR YOU IS WE CAN RECESS UNTIL MONDAY MORNING, BUT I THINK THERE'S A STRONG ARGUMENT HERE THAT WHILE HE CAN CERTAINLY TESTIFY TO WHAT ARE THE TRADITIONAL REDISTRICTING FACTORS, A LOT LIKE DR. JOHNSON DID, TO DRAW THE ULTIMATE CONCLUSION, WHICH IS DID RACE PREDOMINATE, THAT'S A QUESTION OF FACT FOR ME.

MR. FARR: YOUR HONOR, I THINK IT IS A QUESTION OF LAW FOR YOU.

THE COURT: WELL --

MR. FARR: IT'S NOT A QUESTION --

3:06PM

THE COURT: -- IT'S NOT A QUESTION FOR HIM.

MR. FARR: POLITICAL SCIENTISTS REGULARLY LOOK AT MAPS LIKE THIS AND DRAW CONCLUSIONS ABOUT WHETHER POLITICS WAS THE PREDOMINANT MOTIVE. WE HAVE HAD YEARS OF LITIGATION OVER EXPERT REPORTS AND SIMULATED MAPS WITH EXPERTS TESTIFYING THAT A MAP WAS AN ILLEGAL POLITICAL GERRYMANDER. THIS SAME PRINCIPLE APPLIES TO CASES WHERE THERE'S A RACIAL GERRYMANDER.

NOW, THE POINT OF THIS CASE, YOUR HONOR, IS THAT FOR THE PLAINTIFFS TO PREVAIL, THEY HAVE TO PROVE THAT THEY ARE OFFERING A LEGAL REMEDY. THAT IS PART OF THE BURDEN OF PROOF FOR A SECTION 2 LAWSUIT. MR. COOPER'S MAPS, WE BELIEVE, ARE RACIAL GERRYMANDERS IN THE WAY THEY WERE DRAWN, AND ALSO BECAUSE THEY ILLEGALLY MAXIMIZED THE NUMBER OF MAJORITY BLACK DISTRICTS ABOVE PROPORTIONALITY. SO WE BELIEVE THAT THIS COURT COULD NOT ORDER THE STATE TO ADOPT THIS MAP AND THAT THIS MAP DOES NOT REPRESENT AN EXAMPLE OF A LEGAL REMEDY THAT THE PLAINTIFFS HAVE TO OFFER TO PROVE THEIR CASE.

THIS IS WELL WITHIN DR. BARBER'S EXPERTISE. HE HAS HAD GREAT EXPERIENCE INVOLVING SIMULATED MAPS WHERE QUESTIONS OF INTENT WERE INVOLVED IN THE CASES IN WHICH HE HAS TESTIFIED. AND THE EXPERT WITNESSES WERE NOT ALLOWED TO GIVE LEGAL CONCLUSIONS. THAT IS STRICTLY UP TO YOU.

HE'S NOT QUALIFIED TO SAY WHAT MR. COOPER WAS THINKING. WE ARE NOT CHALLENGING WHAT MR. COOPER WAS THINKING. WHAT WE ARE SAYING IS, HE IS A POLITICAL SCIENTIST. HE CAN DO A

3:07PM

FORENSIC EXAMINATION ON THESE MAPS, WHICH HE HAS DONE IN HIS REPORT, AND THEN HE CAN DRAW A CONCLUSION BASED ON HIS UNDERSTANDING OF WHAT THE WORD "PREDOMINANT" MEANS, WHICH WE WILL GO INTO. HE WILL EXPLAIN WHAT HE MEANS BY PREDOMINANT, AND THAT THIS IS SOMETHING REGULARLY DONE BY POLITICAL SCIENTISTS IN CASES LIKE THIS. IT'S BEEN DONE OVER AND OVER AND OVER AGAIN, YOUR HONOR. AND DR. BARBER IS WELL QUALIFIED TO DO THAT BECAUSE HE HAS BEEN INVOLVED IN CASES WHERE THIS VERY ISSUE HAS BEEN LITIGATED.

THE COURT: OKAY. THE TENDER IS IN POLITICAL SCIENCE, AMERICAN POLITICS, VOTING BEHAVIOR AND PATTERNS AND SIMULATED MAPS. WHAT OF THOSE AREAS OF TENDER ARE YOU OBJECTING TO?

MR. NAIFEH: WE ARE OBJECTING TO ANYTHING THAT GOES BEYOND THOSE AREAS OF TENDER, AND WE THINK THAT SOME PORTIONS OF THE REPORT GO BEYOND THOSE AREAS OF TENDER.

THE COURT: OKAY. WELL, THEN, ARE YOU AGREEING, OR ARE YOU WILLING TO STIPULATE THAT HE MAY GIVE OPINION TESTIMONY IN THE FIELDS OF POLITICAL SCIENCE, AMERICAN POLITICS, VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS?

MR. NAIFEH: YES, YOUR HONOR.

THE COURT: THEN HE WILL BE ACCEPTED TO GIVE OPINION TESTIMONY IN THAT FIELD, AND YOU MAY MAKE OBJECTIONS TO ANYTHING THAT YOU THINK IS OBJECTIONABLE. WE WILL DEAL WITH IT ON A QUESTION-BY-QUESTION BASIS. THE EXHIBIT -- OFFER YOUR

3:09PM EXHIBITS AGAIN, MR. FARR, PLEASE.

MR. FARR: THANK YOU VERY MUCH, YOUR HONOR. IT WOULD BE SECRETARY OF STATE EXHIBIT 1 AND SECRETARY OF STATE EXHIBIT 4 WE MOVE TO BE INTRODUCED INTO EVIDENCE.

THE COURT: ADMITTED.

MR. FARR: MAY I CONTINUE, YOUR HONOR?

THE COURT: YES.

DIRECT EXAMINATION (CONTINUING)

BY MR. FARR:

Q. ALL RIGHT. DR. BARBER, I JUST WANT TO REPEAT A FEW THINGS. YOU ARE NOT INTENDING TO GIVE A LEGAL OPINION IN THIS CASE; IS THAT CORRECT?

A. THAT IS CORRECT.

Q. AND ARE YOU INTENDING TO TESTIFY ABOUT WHAT MR. COOPER WAS THINKING WHEN HE DREW HIS MAPS?

A. NO, I AM NOT.

Q. ALL RIGHT. YOU'VE HEARD THIS WORD "PREDOMINANT" THROWN AROUND. I RECALL THAT MR. COOPER USED THE WORD "PREDOMINANT," BUT I DON'T RECALL ANYONE EVER DEFINING WHAT THAT MEANT. SO I WANT YOU, AS A POLITICAL SCIENTIST, TO DEFINE TO THE COURT WHAT YOU MEAN AS A POLITICAL SCIENTIST, WHAT DOES PREDOMINANT MEAN?

A. SO IN MY VIEW, WHEN SOME FACTOR IN A HOST OF FACTORS PREDOMINATES, WHAT WE ARE LOOKING AT IS THAT IN ORDER TO ACHIEVE A PARTICULAR OBJECTIVE OR TO ACCOMPLISH SOME OBJECTIVE WITH REGARDS TO THAT FACTOR, THAT IF IT IS THE CASE THAT THAT

3:10PM

FACTOR CAME IN CONFLICT WITH OTHER FACTORS, THAT THOSE OTHER FACTORS WOULD GIVE WAY OR TO SOME DEGREE BE SUBORDINATED IN ORDER TO ACCOMPLISH THE PREDOMINANT FACTOR IN QUESTION.

MR. NAIFEH: YOUR HONOR, I WANT TO OBJECT NOT TO THE ANSWER BUT TO ANY FURTHER TESTIMONY ABOUT -- IN THAT AREA OF THE ANSWER BECAUSE THAT DEFINITION OF PREDOMINANCE IS ABOUT THE SUBJECTIVE INTENT OF THE MAP-DRAWER.

MR. FARR: YOUR HONOR, I COMPLETELY DISAGREE WITH IT. WE ARE NOT TALKING ABOUT THE INTENT. YOU KNOW, MR. COOPER MAY BE ABSOLUTELY GENUINE, AND I DON'T HAVE ANY DOUBT THAT HE IS GENUINE IN HIS BELIEF THAT HE DID NOT USE RACE AS A PREDOMINANT FACTOR, BUT THAT DOESN'T MEAN HE IS RIGHT. THAT IS UP TO YOU TO DECIDE.

IN MAKING THAT DECISION, YOU ARE ENTITLED TO HEAR OTHER EVIDENCE NOT ABOUT MR. COOPER'S SUBJECTIVE INTENT BUT A FORENSIC EXAMINATION OF A MAP BY A PERSON WHO IS HIGHLY QUALIFIED TO LOOK AT A MAP AND TO GIVE YOU HIS OPINION AS A POLITICAL SCIENTIST AS TO WHAT FACTOR WAS THE DRIVING FORCE BEHIND THE MAP.

THE COURT: IT'S A PRETTY THIN LINE, WHAT FACTOR WAS THE DRIVING FORCE BEHIND THE MAP. I'M GOING TO GIVE YOU SOME LATITUDE, BUT IT REALLY DOES -- IT'S A HORSE BY A DIFFERENT COLOR OR A HORSE BY A DIFFERENT NAME, BUT IT DOESN'T MAKE IT A ZEBRA. I MEAN, IT IS STILL A HORSE, AND YOU ARE STILL ASKING -- AT ITS BASE, IT IS A QUESTION OF WHAT WAS THE

3:12PM

SUBJECTIVE INTENT, WHICH MEANS THAT -- WELL, I'M GOING TO OVERRULE THE OBJECTION, BUT I THINK THAT IT'S REALLY ON A LINE.

MR. FARR: THANK YOU, YOUR HONOR. MAY I CONTINUE?

THE COURT: YOU MAY.

BY MR. FARR:

Q. SO BASED UPON YOUR DEFINITION OF PREDOMINANT, DID YOU REACH ANY CONCLUSIONS ABOUT MR. COOPER'S MAPS?

A. YES.

Q. WHAT WERE THEY?

MR. NAIFEH: OBJECTION, YOUR HONOR. HE IS ASKING HIM, BASED ON HIS DEFINITION OF PREDOMINANCE, TO OFFER A CONCLUSION, AND HIS DEFINITION OF PREDOMINANCE WAS SPECIFICALLY ABOUT WHAT FACTORS WERE PUT INTO PLAY IN -- THE LANGUAGE HE JUST STATED IN HIS PRIOR ANSWER WAS IN ORDER TO ACHIEVE A PARTICULAR OBJECTIVE. THAT IS -- THAT'S THE SUBJECTIVE INTENT OF THE MAP-DRAWER ABOUT WHAT THEY DID IN ORDER TO ACHIEVE AN OBJECTIVE, AND THAT'S WHAT HE IS ABOUT TO ELICIT AN ANSWER --

THE COURT: OBJECTION IS SUSTAINED. YOU ARE ASKING HIM FOR THE ULTIMATE CONCLUSION OF WHAT WAS THE PREDOMINANT FACTOR IN MR. COOPER'S MIND. OBJECTION IS SUSTAINED.

MR. FARR: JUST TO ESTABLISH THE RECORD, YOUR HONOR, MAY I BE HEARD AGAIN?

THE COURT: NO. YOU MAY ASK ANOTHER QUESTION.

MR. FARR: MAY I ASK DR. COOPER TO ANSWER THE QUESTION TO MAKE A PROFFER OF PROOF FOR THE RECORD?

3:13PM

THE COURT: WHEN THE COURT IS OFF THE BENCH, YOU CAN MAKE A PROFFER. AND HIS NAME IS DR. BARBER.

MR. FARR: I'M SORRY, MA'AM. IT IS 3:15, AND I'M A LITTLE WORN OUT. SO I APOLOGIZE.

THE COURT: YOU CAN MAKE A PROFFER AT THE APPROPRIATE TIME, BUT NOT WHILE WE ARE ON THE RECORD IN THIS PROCEEDING WHILE I'M SITTING HERE, BECAUSE I DON'T NEED TO BE HERE FOR YOUR PROFFER.

MR. FARR: WILL I BE ABLE TO MAKE THAT PROFFER WITH THE COURT REPORTER?

THE COURT: YES. YES, YOU WILL.

MR. FARR: THANK YOU.

BY MR. FARR:

Q. NOW, DR. BARBER, YOU STATED THAT YOU HAVE MADE SIMULATED MAPS IN OTHER CASES. CAN YOU TELL US THE SPECIFICS OF HOW A SIMULATED MAP COMES ABOUT AND WHAT IS AN ALGORITHM?

A. SURE. SO THE BASIC IDEA OF HOW SIMULATED MAPS WORK IS YOU HAVE AN ALGORITHM THAT IS DESIGNED TO DRAW A LARGE NUMBER OF MAPS IN A PARTICULAR JURISDICTION, AND IN THIS CASE WE ARE TALKING ABOUT THE STATE OF LOUISIANA.

THE ALGORITHM IS PROVIDED WITH A NUMBER OF PIECES OF DATA THAT ALLOW IT TO DRAW THE MAPS. INITIALLY, THAT BEGINS BY GIVING THE COMPUTER A PIECE OF -- A LARGE DATASET THAT CONTAINS THE INFORMATION ABOUT THE NUMBER OF VOTERS THAT LIVE IN THE STATE AND THE GEOGRAPHIC LOCATION OF THOSE VOTERS, SO HOW THEY

3:14PM ARE DISTRIBUTED ACROSS THE STATE.

BEYOND THAT, YOU THEN WOULD INSTRUCT THE ALGORITHM TO TAKE THAT INFORMATION AND DRAW A PARTICULAR NUMBER OF DISTRICTS. AND SO IN THIS CASE WE ARE DEALING WITH 39 DISTRICTS IN THE SENATE AND 105 DISTRICTS IN THE HOUSE. IN ORDER TO DRAW THOSE DISTRICTS, YOU THEN INSTRUCT THE ALGORITHM TO TAKE INTO ACCOUNT VARIOUS FACTORS OR COMPONENTS, AND SO THOSE ARE WHAT ARE OFTEN REFERRED TO AS THE TRADITIONAL REDISTRICTING CRITERIA, THINGS LIKE EQUAL POPULATION, GEOGRAPHIC CONTIGUITY, FACTORS LIKE THAT.

Q. WHAT IS MEANT BY THE TERM "CONSTRAINT"?

A. SO CONSTRAINT IS ANOTHER WORD FOR THESE FACTORS THAT YOU PROVIDE TO THE ALGORITHM. SO BY CONSTRAINT, I MEAN WE FORCE THE ALGORITHM TO DRAW 39 DISTRICTS OR WE FORCE THE DISTRICTS TO HAVE ROUGHLY EQUAL POPULATION. SO WE CONSTRAIN THE ALGORITHM TO MEET THESE CRITERIA THAT WE ARE PROVIDED WITH.

Q. HOW DID YOU DECIDE WHICH CONSTRAINTS TO IMPLEMENT IN THE ALGORITHM THAT YOU USED IN THIS CASE?

A. SO THE GUIDING DOCUMENT FOR THE PARTICULAR CONSTRAINTS THAT I PROVIDED THE ALGORITHM ARE THE JOINT -- THE CONSTRAINTS OUTLINED IN THE JOINT RULE 21.

MR. FARR: YOUR HONOR, I THINK FOR THE RECORD, THAT IS EXHIBIT JX53.

THE COURT: HE IS ASKING YOU TO CLARIFY YOUR QUESTION. I DON'T THINK HE UNDERSTOOD YOUR QUESTION. CLARIFY

3:16PM

YOUR QUESTION. HE SAID -- IS THAT WHAT YOU WERE DOING?

THE WITNESS: I'M SORRY. THAT WAS MY ANSWER.

THE COURT: OH, I'M SORRY. I MISUNDERSTOOD YOU.

THE WITNESS: MY APOLOGIES.

THE COURT: JOINT RULE 21.

BY MR. FARR:

Q. SIR, JUST TO MAKE SURE WE HAVE A COMPLETE ANSWER, COULD YOU AGAIN STATE ALL THE CONSTRAINTS THAT YOU USED IN FORMING THE ALGORITHM THAT YOU USED IN THIS CASE?

A. SURE. SO THE ALGORITHM IS PROGRAMMED TO CONSTRUCT THE APPROPRIATE NUMBER OF DISTRICTS FOR THE SENATE AND HOUSE. IT'S INSTRUCTED TO, FOR EACH OF THOSE DISTRICTS, TO HAVE ROUGHLY EQUAL POPULATION, TO BE GEOGRAPHICALLY CONTIGUOUS. I FURTHER INSTRUCT THE ALGORITHM TO PRIORITIZE DISTRICTS, DRAWING DISTRICTS THAT HAVE MINIMAL OR MINIMIZE THE NUMBER OF PARISH AND MUNICIPAL DIVISIONS. AND THEN BEYOND THAT, I INSTRUCT THE ALGORITHM TO MAKE THE DISTRICTS ROUGHLY GEOGRAPHICALLY COMPACT AND TO THEN ALSO TRY TO MINIMIZE DEVIATIONS FROM THE PREVIOUS DECADE'S PLAN.

Q. WAS PARTISANSHIP ONE OF THE CONSTRAINTS THAT YOU USED?

A. NO, THE COMPUTER HAS NO INFORMATION ABOUT THE PARTISANSHIP OF VOTERS IN THE STATE.

Q. WHAT ABOUT RACE? WAS THAT A CONSTRAINT THAT YOU USED?

A. NO. SO THE COMPUTER DOES NOT HAVE ANY INFORMATION ABOUT THE RACIAL COMPOSITION OF THE VOTERS IN THE STATE.

3:18PM

Q. WHY WAS THAT IMPORTANT?

A. SO THAT'S KIND OF THE KEY TO WHAT THESE ALGORITHMS ARE DESIGNED TO DO IS YOU INSTRUCT THE ALGORITHM TO DRAW A LARGE SET OF MAPS USING THE CRITERIA THAT WE HAVE JUST DISCUSSED. BUT IN SHIELDING THE ALGORITHM FROM INFORMATION ABOUT RACE, WE THEN KNOW THAT AT THE END OF THE PROCESS, WE HAVE A LARGE SET OF MAPS THAT ARE DRAWN WITHOUT ANY REGARD TO RACE. WE KNOW THAT THE ALGORITHM HAS NOT CONSIDERED RACE IN THE DRAWING OF THE DISTRICTS.

AT THAT POINT, WE ARE THEN ABLE TO COMPARE THAT LARGE SET OF SIMULATED MAPS TO A MAP IN QUESTION WHERE THERE IS A QUESTION AS TO WHETHER RACE OR THE DEGREE TO WHICH RACE WAS USED IN DRAWING THAT MAP.

Q. OKAY. AND HOW WOULD THAT WORK IN THIS CASE?

A. SO IN THIS CASE, WE DRAW A LARGE SET OF MAPS USING THE ALGORITHM, AT WHICH POINT WE CAN THEN COMPARE THAT SET OF MAPS TO, IN THIS CASE, THE ILLUSTRATIVE MAPS THAT WERE DRAWN. WE CAN THEN COMPARE THEM ON A NUMBER OF METRICS, ONE OF THOSE METRICS BEING THE RACIAL COMPOSITION OF THE ILLUSTRATIVE MAPS COMPARED TO THE RACIAL COMPOSITION OF THE MAPS DRAWN BY THE COMPUTER ALGORITHM.

Q. NOW, DR. BARBER, ARE YOU FAMILIAR WITH THE ALABAMA CASE, *MERRILL V. MILLIGAN*?

A. YES.

Q. AND ARE YOU AWARE THAT SIMULATED MAPS WERE USED IN THAT

3:19PM

CASE?

A. YES.

Q. IS YOUR USE OF SIMULATED MAPS IN THIS CASE THE SAME AS WHAT -- AS HOW THE STATE USED SIMULATED MAPS IN THE ALABAMA CASE?

A. NO, IT'S A DIFFERENT UNDERTAKING HERE. MY UNDERSTANDING IN THE *MILLIGAN* CASE IS THAT THE MAPS WERE USED TO ARGUE THAT THE STATE'S MAP DID NOT HAVE A DISCRIMINATORY EFFECT, AND THAT'S NOT WHAT WE ARE DOING HERE. HERE WE ARE DRAWING THE MAPS TO USE AS A COMPARISON SET AGAINST THE ILLUSTRATIVE MAP AND IDENTIFY DIFFERENCES THAT EXIST BETWEEN A MAP THAT WAS POTENTIALLY DRAWN WITH RACE AS A CONSIDERATION AND A LARGE SET OF MAPS WHERE WE KNOW WITH CERTAINTY THAT RACE WAS NOT A CONSIDERATION.

MR. NAIFEH: OBJECT, YOUR HONOR, TO ANY FURTHER QUESTIONS ABOUT LEGAL -- ASKING FOR LEGAL CONCLUSIONS. HE JUST TESTIFIED TO HIS UNDERSTANDING OF WHAT MAPS WERE USED FOR IN THE *MILLIGAN* CASE AND HOW THE COURT TREATED THEM.

THE COURT: THAT WILL BE SUSTAINED. YOU CAN ARGUE, MR. FARR, AND I'M SURE YOU WILL AND I'M SURE YOU ARE ABLE TO, THAT THERE'S SOME DISTINCTION HERE, BUT TO ASK HIM TO DRAW A DISTINCTION BETWEEN WHAT YOU HAVE ASKED HIM TO DO AND WHAT AN EXPERT IN ANOTHER CASE DID, I MEAN --

MR. FARR: I'M SORRY, YOUR HONOR. I WON'T ASK THAT QUESTION AGAIN.

3:21PM

THE COURT: ALL RIGHT. MOVE ON.

MR. FARR: THANK YOU.

BY MR. FARR:

Q. NOW, LET'S TURN TO THE RESULTS OF YOUR SIMULATION, DR. BARBER. HOW MANY SIMULATED MAPS DID YOU PRODUCE?

A. I PRODUCED 100,000 SIMULATED MAPS IN THE HOUSE AND 100,000 SIMULATED MAPS IN THE SENATE.

Q. WHY DID YOU PRODUCE SO MANY MAPS?

A. SO THE PARTICULAR NUMBER IS NOT AS CRITICAL AS THE FACT THAT IT'S A LARGE SET OF MAPS THAT ARE REPRESENTATIVE OF THE UNIVERSE OF POTENTIAL MAPS THAT COULD BE DRAWN. GIVEN THE SIZE OF THE STATE, THE NUMBER OF DISTRICTS THAT WE ARE TALKING ABOUT AND THE NUMBER OF PRECINCTS THAT COMPOSE THOSE DISTRICTS, THERE ARE LITERALLY BILLIONS OF POTENTIAL MAPS THAT COULD BE DRAWN.

SO WHAT IS GOOD ABOUT THESE ALGORITHMS IS THAT THEY ARE CAPABLE OF DRAWING A LARGE SAMPLE OF MAPS THAT ARE THEN REPRESENTATIVE OF THAT UNIVERSE OF POTENTIAL MAPS, IN MUCH THE SAME WAY THAT WHEN WE DO SURVEY RESEARCH, WE DON'T TALK TO EVERY PERSON IN THE COUNTRY. WE TAKE A SAMPLE OF THE POPULATION TO TALK ABOUT BROADER TRENDS ACROSS THE COUNTRY.

Q. SO AFTER YOU DREW THE HUNDRED THOUSAND MAPS -- YOU DID A HUNDRED THOUSAND MAPS FOR BOTH THE SENATE AND THE HOUSE; IS THAT CORRECT?

A. YES, THAT IS CORRECT.

Q. OKAY. WHAT DID YOU DO WITH THOSE MAPS AFTER YOU HAD

3:22PM

GENERATED A HUNDRED THOUSAND MAPS? HOW DID YOU ANALYZE THEM?

A. ONCE WE HAVE THE SET OF MAPS, THEN WE CAN COMPUTE VARIOUS STATISTICS ABOUT THOSE MAPS AND COMPARE THOSE STATISTICS TO EITHER THE ENACTED MAP OR THE ILLUSTRATIVE MAP.

SO IN THIS CASE, I COMPUTED THE BLACK VOTING AGE POPULATION IN EACH OF THE DISTRICTS IN EACH OF THE SIMULATED MAPS AND THEN CAN COMPARE THAT TO THE BVAP IN THE ENACTED MAP OR THE ILLUSTRATIVE MAP.

Q. WHAT WAS THE MAIN TAKEAWAY THAT YOU HAD, DR. BARBER, AFTER YOU DID THAT COMPARISON?

A. THE MAIN TAKEAWAY IS THAT IN USING THE REDISTRICTING CRITERIA THAT WE JUST DISCUSSED FROM JOINT RULE 21, THE SIMULATED MAPS PRODUCED FAR FEWER MAJORITY BVAP DISTRICTS THAN THE ILLUSTRATIVE MAP.

MR. NAIFEH: YOUR HONOR, I'M GOING TO OBJECT HERE ON RELEVANCE GROUNDS. HE IS ATTEMPTING TO ESTABLISH THAT HIS SIMULATIONS CREATED SOME KIND OF REPRESENTATIVE SAMPLE OF DISTRICTS THAT DID NOT CONSIDER RACE. THE SUPREME COURT RECENTLY REJECTED DEFENDANT'S ARGUMENTS THAT AN ILLUSTRATIVE PLAN MUST BE ASSESSED AGAINST A RACE-NEUTRAL BENCHMARK, AND THAT WAS RECENTLY REINFORCED BY THE FIFTH CIRCUIT IN THE *ROBINSON* CASE, AND SO THIS WHOLE TOPIC OF SIMULATIONS PRODUCING A RACIAL NEUTRAL BENCHMARK PROVIDES NO RELEVANT INFORMATION TO THE RESOLUTION OF THIS CASE.

MR. FARR: YOUR HONOR, I THINK IT IS VERY RELEVANT TO

3:24PM COMPARE -- YOU SAID WE CAN PUT ON EVIDENCE RELATED TO THE FACTS OF THE MAPS, AND IT'S RELEVANT IN YOU MAKING YOUR DECISION ABOUT WHETHER RACE WAS THE PREDOMINANT FACTOR.

THE COURT: BUT NOW WE COME RIGHT BACK TO SUBJECTIVE INTENT, AND HE IS CORRECT, THE U.S. SUPREME COURT IN *MILLIGAN* SAID THAT A BENCHMARK OF RACE-NEUTRAL MAPS WAS NOT SUITABLE FOR A SECTION 2 INQUIRY.

MR. FARR: THAT WAS NOT THE PURPOSE OF THE MAPS IN *MILLIGAN*, YOUR HONOR. THAT'S WHY I ASKED THAT QUESTION. THE SIMULATED MAPS IN *MILLIGAN* WERE OFFERED TO PROVE THAT IF THE PLAINTIFFS DID NOT PROPOSE A REMEDIAL MAP THAT WAS ONE OF THE SIMULATIONS, THAT MEANT THAT THEIR MAP WAS ILLEGAL. WE ARE NOT OFFERING IT FOR THAT REASON. WE ARE OFFERING THE SIMULATED MAPS SO YOU CAN MAKE A COMPARISON AND EVALUATE THE EVIDENCE TO DECIDE WHETHER OR NOT RACE WAS THE PREDOMINANT MOTIVE, WHICH IS WITHIN THE PROVINCE OF THE COURT.

THAT'S EXACTLY WHY I WANTED TO MAKE THE POINT THAT THESE SIMULATED MAPS ARE NOT BEING OFFERED FOR THE SAME REASON AS THEY WERE IN THE ALABAMA CASE. I ALSO THINK THAT A LOT OF WHAT PLAINTIFFS' COUNSEL IS DOING HE CAN BRING UP ON CROSS-EXAMINATION.

MR. NAIFEH: YOUR HONOR, MAY I RESPOND?

THE COURT: YOU MAY.

MR. NAIFEH: IN *MILLIGAN*, THE ARGUMENT THAT DEFENDANTS PRESENTED WAS THAT BECAUSE THE ILLUSTRATIVE MAPS DID

3:25PM NOT COME OUT OF A SIMULATION, THAT WAS AN INDICATION THAT RACE WAS THE PREDOMINANT FACTOR IN THE CREATION OF THOSE MAPS, AND THE STATE ARGUED THAT THAT MEANT THE PLAINTIFFS HAD NOT SATISFIED *GINGLES* I. THAT'S THE SAME ARGUMENT THEY ARE PRESENTING HERE. I MEAN, THAT'S ESSENTIALLY THE SAME REASON THEY ARE OFFERING THIS EVIDENCE IS TO PROVE THAT RACE PREDOMINATED IN THE ILLUSTRATIVE MAPS, WHICH SOMEHOW RENDERS THEM IMPROPER AS EVIDENCE OF, YOU KNOW, UNDER *GINGLES* I IN THIS CASE.

THE COURT: WELL, I DON'T KNOW THAT *GINGLES* I IS HIS ANGLE.

MR. FARR: EXCUSE ME?

THE COURT: I SAID I'M NOT CERTAIN THAT *GINGLES* I IS YOUR ANGLE.

MR. FARR: IT'S NOT, YOUR HONOR. IT'S NOT OUR ANGLE.

THE COURT: IT'S THE 14TH AMENDMENT.

MR. FARR: WHAT'S THAT?

THE COURT: IT'S THE 14TH AMENDMENT.

MR. NAIFEH: I THINK, AS I UNDERSTAND -- WHETHER IT'S *GINGLES* I OR IT'S THE 14TH AMENDMENT, THE ARGUMENT IS THAT BECAUSE THE MAP PURPORTEDLY VIOLATES THE 14TH AMENDMENT, IT CANNOT BE OFFERED TO PROVE A SECTION 2 VIOLATION. THAT WAS THE SAME ARGUMENT THE STATE MADE IN THE ALABAMA CASE THAT THE SUPREME COURT REJECTED.

THE COURT: OKAY. THE COURT IS GOING -- WE ARE GOING

3:26PM TO BREAK FOR THE WEEKEND AND COME BACK AT 9:00 ON MONDAY MORNING SO THAT THE COURT CAN LOOK AT THE ISSUE. IT WOULD HAVE BEEN MOST HELPFUL HAD YOU TEED THIS UP IN A MOTION IN LIMINE. WE ARE GOING TO BE AT RECESS UNTIL 9 A.M. MONDAY MORNING.

(TRIAL RECESSED UNTIL 9:00 A.M., MONDAY, DECEMBER 3, 2023)

3:26PM

CERTIFICATE OF COURT REPORTER

I, TERI B. NORTON, RMR, FCRR, RDR, OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, APPOINTED PURSUANT TO THE PROVISIONS OF TITLE 28, UNITED STATES CODE, SECTION 753, DO HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT OF THE PROCEEDINGS REPORTED BY ME USING THE STENOTYPE REPORTING METHOD IN CONJUNCTION WITH COMPUTER-AIDED TRANSCRIPTION, AND THAT SAME IS A TRUE AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND UNDERSTANDING.

I FURTHER CERTIFY THAT THE TRANSCRIPT FEES AND FORMAT COMPLY WITH THOSE PRESCRIBED BY THE COURT AND THE JUDICIAL CONFERENCE OF THE UNITED STATES.

S/ TERI B. NORTON
TERI B. NORTON, RMR, FCRR, RDR
OFFICIAL COURT REPORTER