Attachment 2

1 R O U G H D R A F T

2 IN THE UNITED STATES DISTRICT COURT

3 FOR THE MIDDLE DISTRICT OF LOUISIANA

4

5 DR. DOROTHY NAIRNE,
JARRETT LOFTON, REV.
6 CLEE EARNEST LOWE, DR.
ALICE WASHINGTON, AND
7 DR. ROSE THOMPSON, COMPLAINT FOR
BLACK VOTERS MATTER DECLARATORY
8 CAPACITY BUILDING JUDGMENT AND
INSTITUTE, and THE INJUNCTIVE
9 LOUISIANA STATE
CONFERENCE OF THE RELIEF
10 NAACP,
Plaintiff, STATUTORY CLAIMS ONLY
11 SINGLE-JUDGE DISTRICT
VERSUS
12 COURT
KYLE ARDOIN, in his
13 official capacity as
Secretary of State of
14 Louisiana
Defendant.
15

16 TRIAL PROCEEDINGS

17 Held on Tuesday, November 28, 2023

18 Before The

19 HONORABLE SHELLY DICK

20 Judge Presiding

21 Baton Rouge, Louisiana

22

23 REPORTED BY:CHERIE' E. WHITE

24 CCR (LA), CSR (TX), CSR (MS), RPR

25 CERTIFIED COURT REPORTER

1 APPEARANCES:

2

3 Representing the Plaintiffs:

4 MEGAN KEENAN

5 JOHN ADCOCK

6

7

8

9 Representing the Defendants:

10 ALYSSA RIGGINS

11 ROBERT CLARK

12 JOSEPHINE BAHN

13 MICHAEL de LEEUW

14 AMANDA GIGLIO

15 VICTORIA WENGER

16 STUART NAIFEH

17 SARA ROMANI

18

19 Representing the Legislative Intervenors, Clay

20 Schexnayder, in his Official Capacity as Speaker

21 of the Louisiana House of Representatives, and of

22 Patrick Page Cortez, in his Official Capacity as
23 President of the Louisiana Senate:
24
25

1 Representing the Defendant/Intervenor, State of
2 Louisiana, through Jeff Landry in his Official
3 Capacity as Attorney General:
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I N D E X

Plaintiffs' Witnesses: PAGE

DR. LISA HANDLEY

DR. CRAIG COLTEN

WILLIAM COOPER

DR. R. BLAKESLEE GILPIN

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1 P R O C E E D I N G S

2 THE BAILIFF:

3 All rise.

4 THE COURT:

5 I good morning. Be seated.

6 Plaintiffs may call their next witness.

7 MS. KEENAN:

8 Your Honor, can we do a half of

9 quick matters to discuss first, is that

10 okay.

11 THE COURT:

12 Yes. So it's just three items.

13 MS. KEENAN:

14 Your Honor, Megan Keenan for the

15 plaintiffs. First of the -- court noted

16 that several of the exhibits had nonpublic
17 personal identifying information. We did
18 upload those exhibits to jurors with the
19 redactions. Do you need us to list the
20 exhibits that were redacted for the record
21 or is it okay that we just --
22 THE COURT:
23 Did you supplement the ones that
24 were in there Suzie didn't know how to
25 handle that.

1 MS. KEENAN:
2 We replaced them to avoid the.
3 THE COURT:
4 The district, that's fine.
5 MS. KEENAN:
6 Okay. Second, also related to
7 jurors, I prepared for witnesses last now
8 we noticed a few errors. Jurors the --
9 the first is joint Exhibits 55 and joint
10 Exhibit 56, that's legislative record
11 material. The parties have agreed on were
12 /EUPB add vertical at the particular time
13 /HRAOE /#2K34EU9ed from junior or /SOS we

uploaded them that's joint 21 in-house bill 16 with the court's preadmission. The parties have both consented to those.

THE COURT:

There's no objection to the redirection?

MS. HOLT:

No objection, Your Honor.

THE COURT:

You should stand when you address the court.

MS. KEENAN:

The last one is plaintiff, it was just showing sort of in the Adobe cartoon like image. We have re-uploaded that into two parts, so it's now 163A and 163B in jurors.

THE COURT:

Thank you.

MS. KEENAN:

Thank you.

THE COURT:

Anything further?

12 MS. KEENAN:
13 Not from the plaintiff case.
14 THE COURT:
15 All right. Call your next witness,
16 please.
17 MS. KEENAN:
18 Your Honor, Sarah Brannon, ACLU for
19 the plaintiffs and we will call Dr. Lisa
20 Handily.
21 MS. LISA HANDLEY,
22 after having first been duly sworn by the
23 above-mentioned Court Reporter did testify as
24 follows:
25 MS. KEENAN:

1 Your Honor, I'm going to actually go
2 get my glasses.
3 THE COURT:
4 Okay.
5 THE CLERK:
6 And would you please state your name
7 and spell it for the record?
8 THE WITNESS:
9 Lisa Handley, H-A-N-D-L-E-Y.

10 MS. BRANNON:
11 Your Honor, may I approach the
12 witness with a binder which, for the
13 record, is Plaintiff's Exhibits PL 1
14 through 19?
15 THE COURT:
16 Is there any objection? They have
17 not been admitted, but I assume that they
18 are going to be admitted.
19 MS. BRANNON:
20 So, Your Honor, we don't have any
21 objection to Dr. Handley having this
22 binder. I would note that plaintiffs
23 Exhibits 16, 17, 18 and 19, are a sur
24 rebuttal report prepared by Dr. Handley
25 that was in response to Dr. Solansky

1 reports which Your Honor has excluded in
2 her ruling on plaintiff's motion in
3 limine.
4 THE COURT:
5 So we need to have 16 through 19.
6 MS. BRANNON:
7 Your Honor, we will 16 and 19, and I

8 assume topics today are going to cover
9 some of the same issues that were raised
10 by defendants related to the nature of Dr.
11 Handley's opinions and her report.
12 THE COURT:
13 So you said you were planning to --
14 MS. KEENAN:
15 We are planning to move to admit the
16 sur rebuttal which is PL 16 and 19.
17 THE COURT:
18 And you are going to admit it in
19 your case in chief?
20 MS. BRANNON:
21 We are.
22 THE COURT:
23 Let's just see where it go make your
24 objections as they arose. I'll allow you
25 to make your opinion to Dr. Handley and

1 give her opinion and testimony.
2 MS. BRANNON:
3 Thank you, Your Honor.
4 THE COURT:
5 Good morning, Dr. Handley.

6 BY MS. BRANNON:
7 Q. Dr. Handley, did you prepare a
8 report in the case?
9 A. I did.
10 Q. And can you turn to A in your binder
11 and can we see approximate Exhibit PL 1 on the
12 screen. Is this a copy of the report you
13 prepared?
14 A. It is.
15 Q. Can you turn to Tab 2 in your binder
16 and can we see Exhibit PL 2 on the screen. Do
17 you recognize this document?
18 A. Yes.
19 Q. Is this a complete and accurate
20 summary of your background and professional
21 experience?
22 A. Yes.
23 Q.
24 A. It might not include all my recent
25 court cases --

1 Q. Okay.
2 A. -- in the list.
3 Q. But within the last year, it's an

4 accurate and up to date representation of your
5 CV?
6 A. Yes.
7 Q. What do you do for a living,
8 Dr. Handley?
9 A. I am a political scientist by
10 training and I run a consulting firm that
11 primarily works for the UN and a USA funded NGO
12 call like this working to provide election
13 administration assistance to post-conflict and
14 transitional countries.
15 Q. Can you provide some examples of
16 some of your different clients?
17 A. As I just mentioned, the UN is a
18 primary client for that kind of work. If you
19 mean here in the United States, my clients
20 include the U.S. Department of Justice, a number
21 of civil rights organizations and a lot of
22 various states and local jurisdictions as well as
23 simply independent redistricting commissions.
24 Q. And can you describe some of the
25 academic work you've done in the -- on the topic

1 of redistricting and minority vote dissolution?

A. Well, if you look at my CV, almost every article that's listed there and there's a couple dozen at least deal with those subjects.

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

A. Hundreds.

Q. And have you been accepted as an expert before?

A. Yes.

Q. Have you been accepted as an expert in redistricting and racially polarized voting?

A. Yes.

Q. How many times?

A. Dozens.

Q. Okay. The plaintiffs move to admit Dr. Handley as an expert on redistricting and minority vote dissolution?

THE COURT:

Any cross on the tender?

/SKWRAO:

No, Your Honor.

THE COURT:

Okay. The court will accept Dr. Handley to give opinion testimony in

redistricting and am I not on --

/STPHAO:

It's redistricting and minority vote dissolution.

THE COURT:

And minority vote /TKEUS /HRAOUGZ. She was looking at me. I thought maybe my light wasn't on accept to give opinion in that field.

BY MS. KEENAN:

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

A. I was asked to conduct a racial block voting analysis in specific areas of the state as well as evaluate a set of illustrative districts and enacted districts in the Senate and house plans.

Q. And were you asked to evaluate the entire state?

A. No, just in the specific areas of interest.

Q. Can we see Table 9, page 2 from Dr. Handley's report PL 1. Do you recognize this table?

25 A. Yes.

1 Q. What does this table show?
2 A. This shows the areas of interest
3 that my analysis focused on. There were seven
4 areas of interest, three of them related to the
5 State Senate plan and five of them related to the
6 State House plan because area one was
7 encompassed. Both an extra State Senate and
8 extra State House district.
9 Q. Can you walk us through briefly what
10 geographies are included in your areas of
11 interest as reflected on this table?
12 A. You can see that area one northwest
13 Louisiana includes Bossier and Caddo Parish and
14 that includes an additional illustrative State
15 Senate district 38 and an additional illustrative
16 State House district one. And the second area is
17 Southeast Louisiana Jefferson and St. Charles
18 Parishes. That includes additional illustrative
19 State Senate district 19, area three, East
20 Central Louisiana includes four parishes,
21 Baton Rouge, West Baton Rouge, Iberville and
22 Pointe Coupee and that is additional illustrative

23 State Senate district 17, area four, Western
24 Louisiana is Desoto and I'm not going to say that
25 right.

1 THE COURT:
2 Natchitoches.
3 THE WITNESS:
4 And Red River Parishes that is State
5 House -- illustrative State House district
6 23, area five, Southwest Louisiana,
7 Calcasieu Parish, and that's illustrative
8 State House district 38, area six, South
9 Central Louisiana Ascension and Iberville
10 and that's State House district house 60
11 and /TPHAOEUBL /AOE, East Central
12 Louisiana that's area seven, Baton Rouge
13 and East Feliciana and that includes
14 actually two additional illustrative State
15 House districts, 68 and 69.
16 BY MS. BRANNON:
17 Q. And can you describe for us how you
18 selected these parishes in relation to the
19 illustrative districts you've just identified?
20 A. Yes. So the illustrative districts

21 were -- the additional illustrative districts
22 were located in those parishes so, for example,
23 State Senate district 38 in the illustrative plan
24 covered parts of Bossier and Caddo.
25 Q. Okay. All right. We can take this

1 down. Dr. Handley, now turning to your more of
2 your specific analysis, at a high -- let me
3 rephrase.
4 Dr. Handley, how would you define
5 cohesive voting?
6 A. Minority voters because of their
7 shared interests are cohesive when they
8 consistently support the same candidates.
9 Q. And at a high level, can you
10 summarize your opinions as to whether black
11 voters in Louisiana in your areas of interest
12 vote cohesive?
13 A. Yes, they certainly do vote
14 cohesively. Black voters are very cohesive in
15 the seven areas.
16 Q. At a high level, can you summarize
17 your opinion as to whether white voters typically
18 vote in a block to defeat the black candidate of

19 interest, black candidate of choice in your areas
20 of interest?
21 A. Yes. White voters do typically vote
22 as a block to defeat the black preferred
23 candidates.
24 Q. And, Dr. Handley, how would you
25 define racially polarized voting?

1 A. I define a contest as racially
2 polarized if the outcome would have been
3 different, if the black voters and white voters
4 voted separately.
5 Q. At a high level, can you summarize
6 your opinions with respect to whether there is
7 racially polarized voting in the areas of
8 Louisiana you examined?
9 A. Nearly every single contest that I
10 looked at was racially polarized.
11 Q. And at a high level, does this
12 racially polarized voting effect the ability of
13 black voters to elect the candidate of their
14 choice in the state legislature in the areas of
15 interest you analyzed?
16 A. Yes, it does. What it means is that

unless you draw a district that provides minorities with an opportunity to elect their candidates of choice they will not be able to.

Q. What statistical techniques did you use to evaluate whether voting in Louisiana in the areas of interest is racially polarized?

A. I used the three standard techniques they are called homogeneous ecological inference and, in fact, I used two types of ecological

inference.

Q. And why did you use all of these methods?

A. Although ecological inference is now considered most accurate, I used the other methods as a check in one part and on the other hand it's also easier to understand the other methods, so it's easier to explain those methods and the courts have traditionally used those methods and that's what I was trained on.

Q. So you have an opinion that the ecological inference is the best of the methods?

A. Over time they have gotten more sophisticated methods so they have improved over

15 time so yes, I think that's the most reliable, I
16 think that's basically what almost every expert I
17 can think of uses now.
18 Q. And so the ecological inference has
19 been accepted by courts?
20 A. Yes.
21 Q. What kind of data did you use in
22 order to conduct your statistical analysis?
23 A. The analysis is looking for patterns
24 across areas in this particular case, we are
25 looking at precincts and we need to know the

1 racial composition of those precincts and the
2 voting patterns of those precincts, so you need a
3 database that provides the racial composition of
4 the precincts and voting patterns of the
5 precincts, in other words, the election returns
6 by precinct and what I used for racial
7 composition here in Louisiana we had turn out by
8 race. So we had information about the race of
9 the people who were turning out in each precinct
10 as well as who they voted for and then you look
11 for patterns across these precincts do, for
12 example, does voting for a particular candidate

13 increase as say the percent black turn out of the
14 precincts increase.
15 Q. And what was the source of the data
16 that you compiled for your analysis in this case?
17 A. Well, there were different sources
18 depending on the data that I was using. The turn
19 out by race came from the secretary of state's
20 website, the election returns came from either
21 the secretary of state's website directly or
22 indirectly through open elections, the census
23 data came from the census website, the precinct
24 shape files came either directly from secretary
25 of state's website or indirectly through an

1 organization called "Vest", which is voting and
2 election science team.
3 Q. Did you compile this data yourself?
4 A. I did not.
5 Q. Who compiled the data?
6 A. I relied on the ACLU's analytics
7 department to compile the data --
8 Q. Did you --
9 A. -- and merge it.
10 Q. Did you verify the accuracy of the

11 data that was compiled by the ACLU analytics, but
12 then you then used for your analysis in this
13 case?
14 A. Yes, I did.
15 Q. At what geographic level did you
16 require the data to conduct your analysis?
17 A. The smallest level at which you
18 could do this, the election returns are available
19 at the precinct level, so this analysis is
20 typically done at the precinct level.
21 Q. Dr. Handley, is there early absentee
22 voting in Louisiana?
23 A. There is.
24 Q. And is the election data for early
25 and absentee voting publicly available?

1 A. It is at the parish level. It is
2 not available at the precinct level. You cannot
3 get early results at the precinct level only at
4 the parish level.
5 Q. So what's the source of that data?
6 A. The secretary of state.
7 Q. So the secretary of state does not
8 report the early absentee votes at the precinct

9 level?
10 A. That's correct. They do not -- they
11 do not take -- many states actually take it and
12 record it at the precinct level, that is not the
13 case in Louisiana.
14 Q. Was data from the early and absentee
15 voting including in the database you used for
16 conducting your E & I analysis in this case?
17 A. Yes. The early votes were allocated
18 down to the precinct level so that I could use
19 them in my analysis.
20 Q. Can we see page 6, footnote 18 in
21 Exhibit PL 1?
22 TRIAL TECH:
23 (Complied.)
24 BY MS. BRANNON:
25 Q. Dr. Handley, can you explain how

1 that allocation, how the method works refreshing
2 your recollection from this example you provided
3 in your report?
4 A. Yes. So at the parish level you
5 know how many votes each candidate received. You
6 also know you can look at the parish level

7 election day votes and the precinct election day
8 votes and you can determine how many votes each
9 candidate got from each precinct and you can use
10 that allocation to actually do the same thing
11 with the early votes. So if say Biden, President
12 Biden got 60 percent of his votes from this
13 particular election day, votes from this
14 particular candidate, then we allocate it up
15 60 percent of the early votes for Biden to that
16 precinct and did that across the board for all of
17 the candidates for all of the precincts.
18 Q. And why did you take this approach?
19 A. Well, in my experience, opinion,
20 that was the best approach to take. I didn't
21 want to ignore the early vote. There are too
22 many early votes. At least 25 to almost
23 50 percent of the votes were early votes so they
24 had to be allocated, and then the most logical
25 way to do that is to do it on the basis of

1 election day voting.
2 Q. So this is an approach that you
3 think political scientists would endorse?
4 A. I know political scientists would

5 endorse it.
6 Q. So can you tell us some other
7 political scientists that you know who use this
8 method?
9 A. Well, the Vest project that I
10 mentioned voting election science team which is
11 run by political scientists, Michael McDonald at
12 University of Florida, but a number of others use
13 precisely this method and so any political
14 scientist that uses that database and there are
15 quite a number of them actually are using votes
16 allocated in this way. This is how they did it
17 in Louisiana, this is how they do it in every
18 state for which they supply election results.
19 The political scientists have arrived at the
20 accept Dr. Maximum palmar, for example, doesn't
21 use Vest data, he used allocations method that I
22 used arriving at it separately.
23 Q. Okay. Do you know if any other
24 experts who provided reports or opinions in this
25 case, relied on your data?

1 A. I know that Dr. Louis and Dr. Alford
2 used my data. And raised no concerns about it.

Q. We can take this down. We are going to move on now to discuss the specifics of the elections that you analyzed in detail. Can we see Table 1 on page 6 and 7 of PL 1?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. Did you -- how many statewide elections did you analyze in the seven areas of interest?

A. 16 statewide elections.

Q. Does this reflect on the screen on page 6 and 7, contain an accurate list of the 16 elections that you looked at?

A. It does.

Q. Why did you choose these elections?

A. These are statewide elections that included black candidates and we know that the courts find these most primitive because even if black voters don't actually support the black candidate, they have the option to support a black candidate should they so wish to.

Q. And do you have an opinion whether

it is important to look at elections that include black candidates?

A. Yes. Again, I would want to know if -- you don't want to -- you want to be assured that black voters have an opportunity to elect not just white candidates of choice, but black candidates of choice and so you want to look at a contest that includes black candidates.

Q. Do these elections include any primary elections?

A. It's a complicated question. We call the -- typically, primaries are party specific Democrat primaries, Republican primaries here in Louisiana you have what's called a junk gel primaries some of these are junk gel primaries and some of them are the resulting runoffs.

Q. Can you explain when you say junk gel primary, exactly what that means?

A. That means that anybody wants to run for the office regardless of their political party affiliation runs in the primary.

Q. And how does the process work in Louisiana to move from the primary to the runoff?

A. So no candidate in primary gets a

1 percent of the vote. There's a runoff between
2 the top two voting candidates.
3 Q. And did you look at these elections
4 statewide?
5 A. These are statewide elections, but I
6 looked at the voting patterns only in the
7 specific areas that I just described in the
8 parishes or groups of parishes that made up my
9 areas of interest.
10 Q. Thank you: We can take this down.
11 Can we see Exhibit PL 3 which is Dr. Handley, at
12 table Tab C in your report, in your binder.
13 TRIAL TECH:
14 (Complied.)
15 BY MS.BRANNON:
16 Q. Do you recognize this spreadsheet?
17 A. I do.
18 Q. And can you explain what this
19 spreadsheet is?
20 A. This -- this relays the results of
21 my racial block voting analysis.
22 Q. And can you explain for what area of
23 interest this spreadsheet relates?

24 A. This particular one is area of
25 interest one Bossier and Caddo parishes.

1 Q. Okay. And can we highlight -- we
2 are going to walk through -- have you walk
3 through one example and explain an analysis that
4 you've done in this case. Can we highlight
5 November 2019, secretary of state election, which
6 I believe is on the second page?
7 TRIAL TECH:
8 (Complied.)
9 BY MS. BRANNON:
10 Q. Can you walk us through what this
11 table shows using that November 19th election as
12 an example?
13 A. Yes. So in the first column you see
14 the -- the date and the office as well as the
15 candidates. I identified the party of the
16 candidates and the race of the candidates. Then
17 you have four sets of estimates, for black voters
18 and the same four sets of estimates for white
19 voters as well as confidence in their votes so
20 the first column is what we talked about, the I R
21 times C. I think these are the most accurate and

22 they also have associated with them confidence
23 intervals that are deemed by political scientists
24 in this particular area of specialization as the
25 most accurate. So we have the EIR times C

1 estimate, then we have the confidence intervals
2 around that estimate, then we have the EI by two
3 estimate, the ER estimate and then the HP, which
4 is homogeneous precinct estimate, then we have
5 the same information for the white voters. So
6 for again, Collins green /AEU the EIR by C
7 estimate of the percentage of black voters that
8 supported her is 96.9, the EI two by two is 97.4,
9 the ER is 98.8 and the HP is 94.5. They are all
10 as you can see, very close.
11 Q. And why don't you include confidence
12 intervals for your EI two by two?
13 A. Those are generally not accepted by
14 political scientists in this area.
15 Q. And would you characterize this
16 November 2019 secretary of state's election, as a
17 polarized contest within the area of interest?
18 A. Yes. You can see that black voter
19 voted if you consider just black voters, they'd

20 have overwhelmingly elected Collins green up
21 while white voters would have elected Ardoin.
22 Q. Is it in your opinion, are white
23 voter -- or black voters voting cohesively in
24 this election?
25 A. In this particular election you have

1 over 95 percent of the black voters supporting a
2 particular candidate, that's very cohesive.
3 Q. And in your opinion, is it fair to
4 say that the white voters voted as a block
5 against the black for candidate in this election?
6 A. Yes.
7 Q. Did you do this same type analysis
8 for the other 16 elections in all the other areas
9 of interest that you looked at?
10 A. Yes. For all seven areas of
11 interest, I did this analysis for all 16
12 statewide contests.
13 Q. We can take this down. And those
14 other analysis are in your report in similar
15 tables that have been labeled appendix A 2
16 through A 7; is that correct?
17 A. That's correct. Appendix A includes

18 all of the areas of interest, the 16 contests
19 that I analyzed for all of the areas of interest.
20 Q. And for the record, those additional
21 appendixes for the other six areas, are exhibits
22 PL 4 through PL 9. Did you reach any conclusion
23 -- what, if any, conclusions did you reach about
24 racially polarized voting in Louisiana in these
25 seven areas of interest based on your analysis of

1 these 16 elections?
2 A. In most of the areas of interest,
3 all 16 contests were polarized. In two of the
4 areas, all but one was polarized, so essentially
5 very, very polarized voting in these seven areas
6 that I looked at.
7 Q. Can we see Table 3 on page 10 of the
8 P X -- of PL 1. Do you recognize this table?
9 TRIAL TECH:
10 (Complied.)
11 THE WITNESS:
12 Yes.
13 BY MS. BRANNON:
14 Q. Can you explain what information is
15 reflected on this table?

16 A. This just presents the averages
17 across the 16 contests for each of the areas.
18 Q. What, if anything, did you conclude
19 about the racially polarized voting in these
20 seven areas based on your analysis of the
21 statewide elections?
22 A. Well, you can see that in the
23 average percentage of black voters who supported
24 the black preferred candidate regardless of the
25 number of candidates was 82.7 when you limit it

1 to just two candidate contests of which that was
2 half of the 16 contests it goes up to
3 93.2 percent, so on average 93.2 percent of black
4 voters supported the same candidate in two
5 candidate contests, that's very cohesive in terms
6 of white voters. You can see that on average
7 only 12.2 percent of white voters supported the
8 black preferred candidates in the 16 contests as
9 a whole and it goes up to only 15.6 percent when
10 you are looking at the two candidate contests.
11 Q. Okay. We can take that down. Now,
12 I'd like to turn to -- talk a little bit about
13 the state legislative contests that you analyzed.

14 Did you also look at state legislative elections?
15 A. I did look at biracial state
16 legislative elections in the seven areas of
17 interest.
18 Q. Okay. Why did you look at those
19 state legislative election contests?
20 A. Because it's the office at issue.
21 These aren't actually districts at issue so we
22 wouldn't really call them endogenous elections,
23 but it is for the office at issue state
24 legislative and I just wanted to see if voting
25 was also quite polarized in state legislative

1 elections and it was.
2 Q. And how did you select the state
3 legislative districts that you looked at?
4 A. These were elections that included
5 black candidates, black candidates and white
6 candidates and where the district was wholly or
7 partially contained within the area of interest
8 in the parishes in the area of interest.
9 Q. Can we see page 11 of PX 1, PL one?
10 TRIAL TECH:
11 (Complied.)

12 BY MS. BRANNON:
13 Q. Dr. Handley, can you explain to us
14 what's in the two texts, two pieces of texts that
15 have been highlighted to refresh your
16 recollection about how many state legislative
17 districts you looked at?
18 A. So there were 11 state legislative
19 -- State elective elections that I looked at, ten
20 of which were polarized. There were ten State
21 House contests that I looked at and all of them
22 were polarized.
23 Q. So you looked at a total of 21 state
24 legislative elections?
25 A. That's correct.

1 Q. And what analysis did you use when
2 you were evaluating those elections?
3 A. I simply did a racial block voting
4 analysis.
5 Q. This is the same type of analysis
6 that we were just discussing --
7 A. (Nodded head affirmatively.)
8 Q. -- related to the statewide
9 elections you did in this case?

10 A. That's right. If you look at
11 appendix B which reports these, you'll see the
12 exact same format on the appendix and that as you
13 see the ER -- EIR times C, EI two by two, ER and
14 HP estimates as well as the confidence levels.
15 Q. And for the record, Dr. Handley, did
16 you attach these to your report as appendix B 1
17 and B 2?
18 A. I did.
19 Q. And for the record, appendix B 1 and
20 B 2 on plaintiff's Exhibit 10 and 11.
21 Did you form an opinion about the --
22 did you form an opinion, if any, about the racial
23 polarization of state legislative elections in --
24 A. Yes. Again, almost all of them were
25 racially polarized.

1 Q. At a high level, if at all, did this
2 -- how, if at all, did this racially polarized
3 voting in the 21 state legislative elections,
4 effect the ability of black voters to elect
5 candidates of their choice in state -- in the
6 state legislature in the area that you analyzed?
7 A. You can see that in almost all of

8 the contests were polarized in majority black
9 districts. The black preferred candidate
10 actually won while in the districts that were not
11 majority black in composition, the minority
12 preferred candidates almost always lost.
13 Q. So at a high level, did white voters
14 vote as a block to usually defeat the black
15 preferred candidate in the house and Senate
16 districts you analyzed where the population of
17 the district was not a black majority?
18 A. That's correct.
19 Q. Okay. Now, we are going to turn to
20 -- look at the -- some of the analysis that you
21 did of districts in the illustrative and enacted
22 maps. Did you calculate the opportunity of black
23 voters to elect their candidates of choice in the
24 areas of interest in the enacted map?
25 A. I did.

1 Q. Did you --
2 A. Not in all of the districts just in
3 the areas of interest in the districts that are
4 indicated in the tables.
5 Q. Yes. Can we call up Table 4 A on

6 page 14 of plaintiff's Exhibit 1.
7 TRIAL TECH:
8 (Complied.)
9 BY MS. BRANNON:
10 Q. And then, did you also evaluate the
11 opportunity of black voters to elect a candidate
12 of choice in the areas of interest in the
13 illustrative maps drawn by plaintiff's expert
14 Bill Cooper?
15 A. Again, yes. I looked at the
16 opportunity to elect the -- in terms of the
17 districts that you see in this table, so I looked
18 at illustrative districts 36, 38, 39, for
19 example, in State Senate cluster one and compared
20 it to enacted districts 36, 38 and 39.
21 Q. So this table reflects Senate
22 districts?
23 A. This table reflects the Senate
24 districts that I evaluated.
25 Q. And how did you go about determining

1 which districts to include from the illustrative
2 districts and from the enacted districts in this
3 analysis?

A. First, I identified the additional illustrative district that was offered, the illustrative -- the additional majority black illustrative district and then I looked at neighboring districts in that area and attempted to come up with a similar number of districts to compare. I left out of the analysis the same number of majority black districts in terms of both the illustrative and the enacted plan and focused just on the districts in the area in which the illustrative plan offered an additional district.

Q. Can we see Table 4 B which is on page 15?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. And is this the same table for the house?

A. It is.

Q. And were these districts selected in the same -- using the same method?

A. With the exception of the first

State house cluster one where there was -- there was a majority black district, it was taken away in the enacted plan and spread across three districts and then there was in the illustrative plan it was kept intact, so that's the only time in which you see a comparison of one district to three.

Q. And you described doing an analysis. Can you explain to us the details of the actual analysis that you conducted on all of these districts Table 4 A and 4 B?

A. Yes. I produced effectiveness scores and I did this on the basis of recompiled election results. A lot of times, redistrictors will want to look at the performance of a proposed district by looking at recompiled election results. That means that they are going to take past elections and conform those elections to the boundaries of the proposed district to see how particular candidates would do in the new district. You can only do that with statewide elections because you are not going to have enough overlap if you use say, for example, state legislative districts, you are

1 going to use statewide elections and you can see
2 how candidates perform in the proposed districts.
3 Now, it's a little complicated here
4 because of the junk gel primary system.
5 Ordinarily, you would forget just look at general
6 elections and I do co-produce an average
7 percentage vote for how your particular
8 candidates would do. Oh, this Republican would
9 get 75 percent of the vote across these
10 candidates, but here, I had so say I can't do
11 that because you have these runoff situations, so
12 instead what I did was I looked at the -- looking
13 at recompiled election results how often, what
14 percentage of those contests would the black
15 preferred candidate either win or make it to the
16 runoff. So this -- the effectiveness scores are
17 actually the percentage of contest in terms of
18 effecting the score one the percentage of
19 contests that the black preferred candidate would
20 win or make it to the runoff win out right or
21 make it to the runoff effectiveness score two
22 focuses on the two candidate where you would have
23 in the instance of a runoff and that looks at the
24 percentage of say, runoff contests, the black

25 preferred candidate would win in that particular

1 contest. It turns out that the runoff is the
2 barrier to being elected. Sometimes it's not so
3 hard to make it into the runoff, it's in the
4 runoff that you're excluded.
5 Q. Can we see a table on page 17 and
6 the maps on page 18 of PL 1? Is this table here
7 that's shown on the screen reflect the
8 effectiveliness and effectiveness two 64s that
9 you were just speaking about?
10 A. Yes. So you can see that, for
11 example, illustrative district 36 has an
12 effectiveness score 1 of 0 and an effectiveness
13 score 2 of 0, the same for the enacted district
14 36, 0 and 0 and so on.
15 Q. In this table, some of the districts
16 are in bold; is that correct?
17 A. Yes.
18 Q. And why is that?
19 A. Those are majority black voting age
20 population districts. So you can see that in the
21 enacted plan there's one in this particular
22 cluster and in the illustrative plan there are

23 two.

24 Q. Your Honor, I'm going to use the

25 demonstrative to walk through some of Lisa

1 Handley's maps in her report. That I need to set

2 up on the easel?

3 THE COURT:

4 Go ahead.

5 MS. BRANNON:

6 Just give me a minute.

7 THE WITNESS:

8 Is it possible to get some water?

9 THE COURT:

10 Yes.

11 MS. BRANNON:

12 Counsel, can you-all see it from

13 here?

14 THE WITNESS:

15 I need to know the actual --

16 MS. BRANNON:

17 Can you see that?

18 THE WITNESS:

19 Absolutely. Thank you.

20 THE COURT:

21 The record will reflect that there's
22 a demonstrative map on the easel and
23 defense counsel has indicated that they
24 are able to see the map. Is the witness
25 able to see the map?

1 THE WITNESS:
2 Yes, I am.
3 THE COURT:
4 Okay. Everyone's on the same page.
5 BY MS. BRANNON:
6 Q. For the record, this is a blow up of
7 plaintiff's Exhibit PL 04 from Bill Cooper's
8 report. And we are going to label it
9 demonstrative Exhibit 27. Dr. Handley, are you
10 familiar with what this blow up is showing?
11 A. Yes.
12 Q. Okay. And then you are also
13 familiar with the map that's shown on this screen
14 right now?
15 A. I am familiar with the two maps,
16 yes.
17 Q. Okay. Can you see where I'm
18 pointing?

19 A. I can.
20 Q. And the court reporter hear me is
21 this the /#15EU78 as the maps that are currently
22 shown on the screen?
23 A. That is the area, yes.
24 Q. Hold on one second. There's this
25 map on her screen. Hold on a second. I'm not --

1 I'm confused. Can you go back and show me
2 Table 17 and page 18?
3 TRIAL TECH:
4 It's on the screen now.
5 BY MS. BRANNON:
6 Q. Yeah. I'm talking about the
7 relationship between the map that's on the screen
8 that's from your report and the demonstrative.
9 You're aware -- did you understand my question?
10 A. I did.
11 Q. Okay.
12 A. Yes. Yes.
13 Q. Okay. So I should ask again was it
14 confusing?
15 THE COURT:
16 Well, I mean, you don't have much of

17 a record. Your record right now says you
18 point at something and you say does this
19 recollect that, so I don't know, maybe you
20 want to ask it again.
21 BY MS. BRANNON:
22 Q. Okay. This is the demonstrative
23 that's here is the state map, correct?
24 A. Yes.
25 Q. For the record, I am pointing to the

1 north east -- northwest of the state, correct?
2 A. Yes, that would be the northwest of
3 the state.
4 Q. All right. And for the record, what
5 we want to move into evidence is the maps from
6 Dr. Handley's report. This is just a
7 demonstrative to give a perspective of where
8 those maps are in the state. It is not intended
9 to be evidence. We are not going to admit this
10 document through Dr. Handley into the evidence
11 today?
12 THE COURT:
13 Okay.
14 BY MS. BRANNON:

15 Q. All right.
16 THE COURT:
17 Carry on.
18 BY MS. BRANNON:
19 Q. Okay. Dr. Handley, turning back to
20 your table, you explained to us how you
21 calculated the effectiveness scores, would you
22 characterize any of the State Senate districts
23 from enacted map in the area of cluster one as an
24 opportunity district?
25 A. Yes. District 39 in the enacted

1 plan is an effective district.
2 Q. And can you just explain to us what
3 that means?
4 A. It means that I believe that it will
5 provide black voters an opportunity to elect
6 their candidates of choice.
7 Q. And would you characterize any of
8 the state Senate districts from the illustrative
9 map in the area of Senate cluster one as
10 opportunity districts?
11 A. Yes. I would identify districts 38
12 and 39 as effective districts that is districts

that are likely to provide minority voters with an opportunity to elect their candidates of choice.

Q. Did you draw any conclusions about the ability of black voters to elect their candidates of choice in the illustrative map versus the enacted map in the area of Senate cluster one?

A. Yes. The illustrative district -- the illustrative districts -- the illustrative plan offers one additional effective black district in this particular area.

Q. Can we see the maps on page 20 and

the table on page 19 from PL 1?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. Do you recognize this -- these maps and this table?

A. I do.

Q. And the same -- we are going to go through the same exercise just to give context of where these are. I am pointing now to the area

11 of St. Charles parish; is that correct?
12 A. Yes.
13 Q. Is this area on the demonstrative
14 map the same area that is in your map that's
15 currently on the screen?
16 A. Yes.
17 Q. And this table reflects the same
18 analysis that we have just been discussing in
19 terms of effectiveness scores for the direct in
20 the illustrative and the enacted maps?
21 A. That's correct.
22 Q. Do you draw any conclusions about
23 the ability of black voters to elect their
24 candidate of choice in the illustrative plan
25 versus the enacted plan in the area of Senate

1 cluster two?
2 A. Yes. The additional majority black
3 district in this particular area is an effective
4 black district and therefore, the illustrative
5 plan offers one additional majority black
6 effective district in this area.
7 Q. Can we see page 22, table -- the
8 table on page 21?

9 TRIAL TECH:
10 (Complied.)
11 BY MS. BRANNON:
12 Q. Do you recognize these -- this table
13 and these maps?
14 A. I do.
15 Q. Okay. And I am now pointing for the
16 record, in the area of Baton Rouge?
17 A. Okay.
18 Q. And is this area of Baton Rouge the
19 same area that is reflected in the maps from your
20 report on this table?
21 A. Yes.
22 THE CLERK:
23 Ma'am, would you try and speak into
24 that microphone or that handheld because
25 I'm having trouble hearing the audio?

1 MS. BRANNON:
2 Is this better if I do it next time?
3 BY MS. BRANNON:
4 Q. And, Dr. Handley, the analysis that
5 is reflected on this table is the same analysis
6 that we have been discussing?

7 A. That's correct.
8 Q. Did you form an opinion about -- did
9 you draw any conclusions about the ability of
10 black voters to elect their candidate of choice
11 in the illustrative plan versus the enacted plan
12 in Senate cluster three?
13 A. Yes. In Senate cluster three, there
14 are two effective black districts in the enacted
15 plan and there are three in the illustrative
16 plan.
17 Q. Can we call up page 24 and page 23,
18 the table on page 23 in the map and on page 24.
19 TRIAL TECH:
20 (Complied.)
21 BY MS. BRANNON:
22 Q. And for the record, this is Exhibit
23 No. PL 048, which has been demonstrative that I'm
24 now through with it. And for the record, I've
25 just put up what we are labelling demonstrative

1 28 which is a blow up of PL 067, which is from
2 Dr. Cooper's report.
3 Dr. Handley, do you recognize this
4 document?

A. I do.
Q. And what is it?
A. That is a map of the State of Louisiana with the illustrative house plan put onto it.
Q. Okay. And for the record, I am pointing now to PL 07, which is demonstrative 28 in the area of Red River. In this -- is this the same where I'm pointing, is that the same area of this map that is shown in more detail on the blow ups from your report that are on the screen at the moment?
A. Yes.
Q. And the analysis that you conducted that's reflected in this table, is the same type of effectiveness analysis we have been discussing, correct?
A. Yes.
Q. Did you form an opinion about the ability of black voters to elect their candidate of choice in the illustrative plan versus the

enacted plan in-house cluster one?
A. Yes.

MS. BRANNON:

Okay. Can we see page 28 and 27 from plaintiff's Exhibit 1.

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. Dr. Handley, do you recognize this table and this map that's currently on the screen?

A. I do.

Q. Oh, actually, can we go back? Sorry. Can we do 26 and 25, page 26 and table on page 25 from plaintiff's Exhibit 1. Do you recognize these -- this table and these maps?

A. Yes.

Q. And for the record, I'm now pointing to PL 067 in the area of Lake Charles?

A. Yes.

Q. And is this area that's reflected here on this that I am pointing to, the same area that is shown in more detail in the map in PL 1 from your report?

A. Yes.

Q. And is the table here in-house cluster two, reflect the same analysis that we have been discussing?

A. Yes.

Q. Do you have an opinion about the ability of black voters to elect their candidate of choice in the illustrative plan versus the enacted plan in-house cluster two?

A. Yes. The enacted plan offers one minority opportunity district and the illustrative plan offers two black opportunity districts in this particular area.

Q. Okay. Now, can we see page 28 and -- the table on page 27 from PL 1. Do you recognize this table and this -- these maps?

TRIAL TECH:

(Complied.)

THE WITNESS:

I do.

BY MS. BRANNON:

Q. Okay. And I'm -- now for the record, I am now pointing at the demonstrative Exhibit 28 which is from plaintiff's Exhibit PL 67 in the area of Caddo and Bossier parish. Is this area that I'm pointing to the same area that

is reflected in more detail on the map from your report that's on the screen?

A. Yes.

Q. And is the analysis that's reflected in cluster -- the table about house cluster three that's on the screen, the same type of analysis we have been discussing?

A. Yes.

Q. Do you have an opinion as to the ability of black voters to elect their candidate of choice in the illustrative map versus the enacted map in-house cluster three?

A. Yes. My opinion is that the enacted plan offers three effective black districts and the illustrative plan offers four effective black districts in this particular area.

Q. Okay. Can we move now to page 30 and the table -- the maps on page 30 and the table on page 29 from plaintiff's Exhibit 1?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. Do you recognize the table and the

24 maps that are on the screen?

25 A. I do.

1 Q. And, for the record, we are almost

2 done. For the record, I am now pointing to PL 67

3 which is demonstrative 28 in the area of house

4 district 60 which is south of Baton Rouge; is

5 that correct?

6 A. Yes.

7 Q. And is that the same area of the

8 state that is shown in more detail on the map,

9 that is part of your report that's currently on

10 the screen?

11 A. Yes.

12 Q. And is the analysis that's reflected

13 in the table that's currently on the screen about

14 house cluster four, the same type of analysis we

15 have been discussing?

16 A. Yes.

17 Q. And do you have an opinion about the

18 ability of black voters to elect their candidates

19 of choice in-house cluster one in the

20 illustrative map versus the enacted map house

21 cluster four?

22 A. I do. In this particular area,
23 there is no enacted district that provides black
24 voters with an opportunity to elect. There is
25 one such district in the illustrative plan.

1 Q. Okay. Can we see the maps on
2 page 32 and the table on page 31 of plaintiff's
3 Exhibit 1.
4 TRIAL TECH:
5 (Complied.)
6 BY MS. BRANNON
7 Q. Do you recognize these?
8 A. Yes.
9 Q. And this is the same table and the
10 same kind of maps that we have been discussing,
11 correct?
12 A. That's correct.
13 Q. And for the -- for the record, I am
14 pointing to demonstrative Exhibit 28 which is PL
15 067 in this area which is in Baton Rouge; is that
16 correct?
17 A. Yes.
18 Q. And this area of Baton Rouge is the
19 same area that's shown in more detail in the

20 blown up map that is part of your report of PL 1?
21 A. Yes, it is.
22 Q. All right. And do you have an
23 opinion as to the effective -- do you have an
24 opinion as to the ability of black voter to elect
25 their candidate of choice in the illustrative map

1 versus the enacted map for house cluster five?
2 A. Yes. You can see that the enacted
3 plan offers five black opportunity districts and
4 the illustrative plan offers seven effective
5 black districts in the -- in this particular
6 area.
7 Q. Okay. We can pull this down now.
8 Did you conduct any additional functional
9 analysis effectiveness score analysis for other
10 districts in the enacted map?
11 A. I did. I looked at the calculated
12 effectiveness scores for all districts over
13 25 percent black in voting age population.
14 Q. And what did you find?
15 A. I found that there were with one
16 exception, no districts that were effective that
17 were under 50 percent with the exception of I

18 think it's house district 91. It's mentioned in
19 the footnote. There is one exception, but that
20 is the only exception. All of the effective
21 districts were at least 50 percent black in
22 voting age population and none of the districts
23 except the one, that was less than majority black
24 was an effective district.
25 Q. Okay. Bringing your racially

1 polarized analysis and your effectiveness
2 analysis of the enacted and illustrative maps
3 together, how does the racial block voting in
4 Louisiana effect black voters opportunities to
5 elect their candidates of choice in the legislate
6 -- in state legislative elections in the seven
7 areas of interest that you evaluated for this
8 case?
9 A. In the seven areas of interest that
10 I evaluated for this case, without exception a
11 majority black district is necessary to elect
12 black preferred candidates to the state
13 legislature.
14 Q. The plaintiffs would move for
15 admission of Dr. Handley's report, which is PL

16 report and then the related exhibits which are PL
17 2 through PL 11?
18 MS. RIGGINS:
19 No objection to the admission.
20 THE COURT:
21 Admitted. Can we pre-admit the
22 expert reports for those that we know are
23 going to testify so that we don't have to
24 have this labor us exercise.
25 MS. RIGGINS:

1 So, Your Honor, our agreement
2 notwithstanding my earlier objections
3 regarding Dr. Solanky and Dr. Handley's
4 reports at PL 17 through PL 19, that is
5 our agreement. We are unsure if two of
6 plaintiff's experts will be testifying.
7 They were on the may call witness, but for
8 those that testify, that's fine.
9 THE COURT:
10 At the beginning of the experts
11 testifying, let's get the reports admitted
12 so that we don't have to streamline things
13 a little bit so let's carry on admitting.

MS. BRANNON:

Okay. I just have a few more questions for Dr. Handley.

BY MS. BRANNON:

Q. Dr. Handley, we discussed earlier your methodologies for early and absentee votes, correct?

A. Yes.

Q. Do you have any concerns about this process potentially creating any bias in your EI analysis.

A. I do not.

Q. And why not?

A. Well, I did some analysis to -- to determine if this was the case. I did a couple of different things to determine if it was likely that bias was being introduced.

Q. So then I am going to call up plaintiff's Exhibit 16, which defendants have articulated an objection to. This is additional analysis that Dr. Handley did to verify the opinions that she has provided in her additional report. It does not speak to anything

12 specifically that Dr. Solanky has discussed or
13 talked about and plaintiff's think it's
14 appropriate for admission because it relates to
15 Dr. Handley's initial report and it's for the
16 benefit of the court to understand the specific
17 analysis that Dr. Handley did. So we would move
18 for admission. We are going to walk through it a
19 little bit, but we would move for admission of PL
20 17 through -- PL 16 through PL 19.
21 MS. RIGGINS:
22 And, Your Honor, if I may be
23 permitted to respond?
24 THE COURT:
25 Please.

1 MS. RIGGINS:
2 So PL 16, the first --
3 THE COURT:
4 Adjust your mic. You're very soft
5 spoken so speak up.
6 MS. RIGGINS:
7 I'm sorry, Your Honor. Is that
8 better?
9 THE COURT:

10 Yes.
11 MS. RIGGINS:
12 Is the first phrase in PL 16 starts
13 with Dr. Solanky contends PL 16 was
14 authored in response to work that Dr.
15 Solanky did that criticized Dr. Handley's
16 allocation method the entire report and
17 the appendices attached there to were done
18 in response to Dr. Solanky that has been
19 excluded. If plaintiffs want to testimony
20 to come in we think it's only fair that
21 Dr. Solanky be allowed to testify to this
22 as well.
23 THE COURT:
24 The court is not going to reconsider
25 it's motion in immaterially on

1 Dr. Solanky. The question on the table is
2 whether or not the allocation method that
3 Dr. Handley used to allocate the -- what
4 we will call the absentee or the early
5 votes that are collected at a parish wide
6 level, how did she -- what was the
7 methodology for allocating those to the

8 precinct level. She's given us that
9 testimony already. Now, the question is:
10 Was that methodology used biased. The
11 court will allow the question. The court
12 will defer ruling on the admission of the
13 reports until we are concluded with this.
14 But the court's going to allow that
15 question.
16 BY MS. BRANNON:
17 Q. Okay. Thank you, Your Honor. Can
18 we see PL 16?
19 TRIAL TECH:
20 (Complied.)
21 BY MS. BANNON:
22 Q. What's this document?
23 A. This is a supplemental report I
24 prepared.
25 Q. And what analysis is reflected in

1 this supplemental report?
2 A. I did several analyses, first, I
3 looked to see if casting an early or absentee
4 vote was related to the party -- the party of the
5 voters and determined that there was little

6 difference in whether you were a Republican or
7 Democrat as to whether you cast an early vote
8 with one exception and that is in 2020, and in
9 2020 you were more likely to vote early if you
10 were a Democrat than if you were a Republican.
11 Otherwise, most years was very comparable or
12 Republicans or slightly more like to -- to early
13 vote than Democrats except for 2022 where
14 Democrats were slightly more likely to early vote
15 than Republicans. But the only year that there
16 was a distinct difference was in 2020.
17 Q. Can we see PL 17?
18 TRIAL TECH:
19 (Complied.)
20 BY MS. BRANNON
21 Q. Are you familiar with this document?
22 A. Yes. That's the table I prepared on
23 which I just based the conclusion that I gave
24 you.
25 Q. Can we now see PL 19.

1 TRIAL TECH:
2 (Complied.)
3 BY MS. BRANNON:

Q. Dr. Handley, are you familiar with this document?

A. Yes.

Q. Can you explain what this document shows?

A. Yes. So we don't know at the precinct level how the early votes compared to the election day votes because we don't know who the candidates were that each of the precincts voted for, but we do do know that at the parish level, so these are scatter plots of the parishes each point is a parish and I essentially did a racial block voting analysis of the early votes for each of the candidates and of the election day votes for each of the candidates, so the top plot is a plot of the parishes early votes for in this particular instance, Gary chambers who ran for Senate in 2022 and the middle plot is looking at the proportion of election day votes by proportion of election day black turn out and you can see that both are equally polarized, so at that time there is essentially no difference

between the early votes, the degree of

2 polarization among the early voters and the
3 election day voters.
4 And then the last scatter plot
5 simply looks at the proportion of early votes to
6 the proportion of election day votes for chambers
7 to see if there was a difference.
8 Q. Did you evaluate any more elections
9 besides the November 2022 election?
10 A. Yes, I looked at several elections.
11 Q. Can we turn to the next page?
12 TRIAL TECH:
13 (Complied.)
14 BY MS. BRANNON:
15 Q. Was this one of the other elections
16 that you evaluated?
17 A. Yes.
18 Q. And then can we turn to the next
19 page?
20 TRIAL TECH:
21 (Complied.)
22 BY MS. BRANNON:
23 Q. And for the record, the last one was
24 November 20th -- the 2020 election, correct?
25 A. The one prior to the one showing on

the screen, yes, correct.

Q. And then the next one is this one of the elections that you evaluated in this method?

A. Yes.

Q. And for the record, this is November 19th?

A. Yes.

Q. And then if we turn to the next page?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. And for the record, is this one of the other elections that you evaluate indeed this method?

A. Yes.

Q. And for the record, this is October 2019?

A. Yes.

Q. And then can we turn to what I think is the last page?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

25 Q. And is this one of the other

1 elections that you evaluated in this method?
2 A. That's correct.
3 Q. And for the record, this is
4 December 2018?
5 A. Correct.
6 Q. Okay. So, Your Honor, we would move
7 for admission of the report. We could do just
8 the exhibits to reflect the analysis if we didn't
9 want to do the actual report which does mention
10 Dr. Solanky in the first sentence as a comprise?
11 THE COURT:
12 Does that solve your problem?
13 MS. BRANNON:
14 Your Honor, I wish it did, but it
15 doesn't. The analysis and appendices were
16 prepared in the rebuttal of that service
17 report and it's all in response to
18 Dr. Solanky's analysis which he first
19 raised as to whether this allocation was
20 biased in his expert report and those have
21 been excluded.
22 THE COURT:

23 You may address it the proper rule,
24 but go ahead.
25 MS. BRANNON:

1 Yeah. I think, Your Honor, the
2 substantive factual issue has been raised
3 in this case and as I stated before, I
4 think the report is an appropriate
5 supplement to Dr. Handley's original
6 opinion because it provides clarity to the
7 report. The analysis is reflective of Dr.
8 Handley's own opinions about work that she
9 did in this case from the initial -- you
10 know, when she first did her report
11 addressing an issue just to verify the
12 validity of the opinions that she's giving
13 and I think that is an appropriate
14 supplement for us to produce and to be
15 entered into evidence regardless of the
16 position of Dr. Solanky being excluded.
17 THE COURT:
18 Okay. The court is going to admit
19 Plaintiff's 16 through 19 and the reason
20 is that under 702 it is the moving

21 parties, the offering party of the experts
22 burden to show the reliability of the
23 opinion testimony and this goes directly
24 to reliability. That burden of proof is
25 being -- has -- is being made part of the

1 rule effective December the 1st, but the
2 case law would reflect that it's always
3 been the movements burden and so
4 therefore, in the interest of the court's
5 full understanding and the ability for the
6 court to make the analysis of the
7 reliability of the opinion testimony, the
8 court will allow it for completion of the
9 record or to make a complete record. So
10 PL -- Plaintiff's 16 through 19 are
11 admitted.
12 MS. BRANNON:
13 Thank you. Just a couple more
14 questions. Can we turn to Dr. Handley's
15 CV again at Exhibit PL 2.
16 TRIAL TECH:
17 (Complied.)
18 BY MS. BRANNON:

19 Q. That's at tab two of your binder and
20 can we go to I think it's the third page?
21 TRIAL TECH:
22 (Complied.)
23 BY MS. BRANNON:
24 Q. Yes. Dr. Handley, did you write an
25 article for the North Carolina law review?

1 A. I co-authored the article being
2 highlighted here, yes.
3 Q. Okay. Given the -- can you read the
4 title of that article into the record?
5 A. Drawing effective minority districts
6 a conceptual framework and some empirical
7 evidence.
8 Q. Given the title of that article,
9 does this article discuss ways to determine if
10 election districts are effective?
11 A. Yes, it does.
12 Q. And what approaches are discussed?
13 A. I discuss the approach I took here
14 in terms of recompiled election results. If you
15 actually have proposed districts you look at
16 recompiled election results and it also offers a

17 new way of looking at whether a district is
18 likely to be effected before actually drawing
19 districts. You would look at -- you would take
20 the information from the racial black voting
21 analysis and produce what's called a percent
22 needed to win percentage.
23 Q. Did you conduct a percent needed to
24 win analysis in this case?
25 A. I did not do so in this case. In

1 this case I had proposed districts to evaluate.
2 I had enacted districts as well as illustrative
3 districts. The boundaries were already drawn.
4 Q. And do you have an opinion of which
5 one of those analyses is the most available to
6 addressing racial -- racially polarized voting in
7 your opinion in this case?
8 A. The -- looking at recompiled
9 election results focuses in on the very specific
10 voters that will be included in the district. It
11 also takes into account, of course, turn out and
12 voting patterns because you are looking at
13 previous elections just as you would if you
14 calculated a percent needed to win. But this

15 focuses on just specifically the residents of the
16 proposed district.
17 Q. So it looks at the actual districts
18 that have been enacted and not hypothetical
19 districts?
20 A. Correct.
21 Q. Okay.
22 MS. BRANNON:
23 I have nothing further. Thank you,
24 Dr. Handley.
25 THE COURT:

1 Cross?
2 MS. BRANNON:
3 Oh, wait. Let me confer with them.
4 Yeah. I have nothing further.
5 THE COURT:
6 Cross?
7 EXAMINATION BY MS. RIGGINS:
8 Q. Good morning, Your Honor. Lisa
9 Riggins on behalf of the secretary of state. May
10 I have a minute with Ms. Brannon, please?
11 THE COURT:
12 You may.

13 MS. RIGGINS:
14 Your Honor, just to clarify the date
15 on the expert report which is plaintiff's
16 Exhibit PL 1, it is incorrect. That
17 report was produced on June 30th of 2023.
18 Isn't that correct, Dr. Handley?
19 THE WITNESS:
20 Yes.
21 THE COURT:
22 I note that fact. Glad you cleared
23 that up for the record.
24 MS. RIGGINS:
25 Yeah. Dr. Handley PL 1 which has

1 now been admitted was produced on
2 June 30th of 2003.
3 THE COURT:
4 2023?
5 MS. RIGGINS:
6 2023. Thank you.
7 THE COURT:
8 Thank you for your professionalism,
9 Ms. Riggins.
10 BY MS. RIGGINS:

11 Q. Good morning, Dr. Handley. It is
12 nice to see you again. How are you today?
13 A. I'm good. And yourself?
14 Q. I am fine. I finally managed to get
15 a hot cup of coffee. It took me a while this
16 morning. So, Dr. Handley, you conducted a
17 racially polarized voting analysis in this
18 matter; is that correct?
19 A. Yes.
20 Q. Okay. And would you agree with me,
21 Dr. Handley, that this racially polarized voting
22 analysis is needed to determine first, whether a
23 minority group is politically cohesive and
24 second, to determine if white voters are voting
25 as a block to defeat the candidates preferred by

1 those minority voters?
2 A. I would agree.
3 Q. And, Dr. Handley, if I refer to a
4 racially polarized analysis as an RVP analysis,
5 will you know what I mean?
6 A. I will.
7 Q. Thank you. So in order to conduct
8 your RVP analysis Dr. Handley, you needed an

9 aggregate level database; isn't that correct?
10 A. Yes. By aggregate, we mean that we
11 don't have individual level data. We are looking
12 at precinct level data in this case.
13 Q. Okay. Thank you, Dr. Handley. But
14 I believe you testified earlier that you sourced
15 this data from the secretary of state's website
16 open elections and the census; is that right?
17 A. I sourced -- that is the source of
18 it, yes.
19 Q. And some of this data that was used
20 in your report was also gathered for the current
21 congressional case pending in Louisiana, the
22 Robinson case for which you are also an expert,
23 isn't that right, Dr. Handley?
24 A. Yes.
25 Q. And you personally did not compile

1 all of this data?
2 A. I did not compile the precinct level
3 data.
4 Q. And who compiled that data, Dr.
5 Handley?
6 A. The personnel who work at it, the

7 ACLU Analytics department.
8 Q. And you were retained by the ACLU in
9 this case, is that right, Dr. Handley?
10 A. Yes.
11 Q. All right. And I would like to turn
12 to Table 1 in your report, which is plaintiff's
13 Exhibit 6, please. And do you still have your
14 white binder in front of you Dr. Handley?
15 A. I do.
16 Q. Is it okay if Dr. Handley uses that
17 binder?
18 MS. BRANNON:
19 Yes.
20 BY MS. RIGGINS:
21 Q. Save some trees. I think it's tab A
22 in your report, Dr. Handley?
23 A. Okay. We are also bringing it up on
24 the screen which is actually easier for me to
25 see. I have to put on my glasses, but --

1 Q. That's fine. I'm happy to do it
2 whatever way is easier for you.
3 THE COURT:
4 Adjust the microphone. There you

5 go. Bend it down a little bit.
6 BY MS. RIGGINS:
7 Q. Sorry. I'm short. Dr. Handley, can
8 you please turn to table one in your report, I
9 think it starts on page 6.
10 A. Yes.
11 Q. So these are the 16 statewide
12 election contests that you analyzed in this
13 report; isn't that right, Dr. Handley?
14 A. These are the 16 statewide, that's
15 correct.
16 Q. And these 16 statewide election
17 contests include a black candidate in each of
18 them, isn't that right?
19 A. At least one, that's correct.
20 Q. And so because the 2016 presidential
21 election did not include a black candidate you
22 did not analyze that election in this report,
23 Dr. Handley?
24 A. Correct.
25 Q. And so you likewise in this report,

1 did not examine the 2015 or the 2019
2 gubernatorial elections, did you?

3 A. Correct.
4 Q. But don't you understand,
5 Dr. Handley, that Governor Edwards received a
6 high level of support from the black community as
7 analyzed in your rebuttal report?
8 A. As reported -- I did not analyze it.
9 I used Dr. Offered's estimates and I would agree
10 that Edwards received a high percentage of the
11 black vote.
12 Q. Thank you, Dr. Handley.
13 Do you agree with me, Dr. Handley,
14 that the black preferred candidate is usually a
15 Democrat?
16 A. In Louisiana, yes.
17 Q. And would you also agree with me,
18 Dr. Handley, that sometimes a white candidate can
19 be the candidate of choice for the black
20 community?
21 A. Yes.
22 Q. And, in fact, Dr. Handley, haven't
23 you conducted racially polarized voting analyses
24 in other states where you examine elections with
25 white candidates only?

A. Yes. If there are not a sufficient number of contests that include black candidates. Here, of course, I had 16 so I did have a sufficient number, but in some states, for example, in Arkansas, you had maybe two candidates, black candidates who ran statewide over an entire decade, so I did look at contests that included only white candidates.

Q. Okay. But here in Louisiana you were able to find 16 biracial contests over a period of approximately seven years?

A. Yes.

Q. And, Dr. Handley, you -- the results of the statistical analysis that you performed, we looked at those earlier. Those are contained in exhibit -- I'm sorry, Appendix A to your report?

A. Correct.

Q. All right. And you also examined State house and State Senate elections in Appendix B it owe your original report; isn't that right?

A. Yes.

Q. But those state legislative elections that you examined in appendix B to your

report are not really endogenous elections, are they, Dr. Handley?

A. As I said, those are for the office at issue, but not for the actual districts at issue.

Q. Okay. And so therefore, they are not actually endogenous elections because they are not the election districts at issue in this case?

A. As I understand the word endogenous. I'm not sure that all courts would agree, but that's how I understand it.

Q. Thank you, Dr Handley?

A. And, Dr. Handley, would you agree with me that it's valuable for experts such as yourself to study endogenous elections when they are available.

A. Yes.

Q. And so in this report you don't examine any endogenous elections, do you?

A. Depending on your definition, I would say I looked at state legislative elections, but not for the districts at issue.

24 Q. But isn't your definition of an
25 endogenous election, Dr. Handley, that the

1 election is for the district at issue?
2 A. That -- that's my definition.
3 Again, I'm not really sure the court's came up
4 with the word and I'm not really sure what courts
5 would have to say about that.
6 Q. But studying the election district
7 at issue, that's your definition of an endogenous
8 election?
9 A. Yes.
10 Q. Could we please turn to Table 2
11 which is on page 9 of your report, please?
12 TRIAL TECH:
13 (Complied.)
14 BY MS. RIGGINS:
15 Q. I think it's also up on the screen
16 if that's easier for you, Dr. Handley.
17 These are the seven areas of
18 interest that you studied in your June 2023
19 report; isn't that right, Dr. Handley?
20 A. Yes.
21 Q. And you chose these districts

22 because they were based on areas where plaintiffs
23 illustrative maps added additional majority
24 minority districts; isn't that true?
25 A. Yes. I think you phrased that

1 incorrectly, but yes.
2 Q. So you did not examine the entire
3 State of Louisiana?
4 A. That's correct.
5 Q. And you did not study majority
6 minority districts outside of these seven areas
7 of interest?
8 A. That's correct.
9 Q. Can we please turn to Table 3
10 forest, from the next page?
11 TRIAL TECH:
12 (Complied.)
13 THE WITNESS:
14 I neglected to mention something. I
15 did not study or do any analysis other
16 than produce effectiveness scores. I did
17 calculate effectiveness scores. Sorry
18 about that.
19 BY MS. RIGGINS:

20 Q. I appreciate the clarity,
21 Dr. Handley. Thank you. And, Dr. Handley, do
22 you see that Table 3 is up on your screen?
23 A. Yes.
24 Q. And I believe that you discussed
25 this table earlier on direct; is that right?

1 A. Yes.
2 Q. Okay. And I'd like to look at the
3 second set of columns here,the two candidate
4 contests; is that right?
5 A. Yes.
6 Q. Can you see that okay. Area of
7 interest three, do you recall what area of
8 interest that is?
9 A. Off the top of my head, no. I
10 could certainly go back and look.
11 Q. Yes, of course.
12 MS. RIGGINS:
13 Could we maybe pull that up or put
14 those side by side?
15 TRIAL TECH:
16 (Complied.)
17 BY MS. RIGGINS:

18 Q. So, Dr. Handley. Do you see these
19 Table 2 and Table 3 up side by side on your
20 screen?
21 A. I do.
22 Q. Okay. So what area of interest is
23 area of interest three?
24 A. East central Louisiana, that
25 includes Baton Rouge, West Baton Rouge, Iberville

1 and point could you please pee.
2 Q. Great. Thank you. And what areas
3 of interest does area seven include?
4 A. Baton Rouge and East Feliciana.
5 Q. So Baton Rouge is examined in both
6 area three and area seven; is that right?
7 A. Correct.
8 Q. Okay. And so looking at the two,
9 candidate contests for area three in Table 3,
10 isn't the white vote for black preferred
11 candidate approximately 20 percent?
12 A. For area seven?
13 Q. For area three.
14 A. It's 19.6 to be exact.
15 Q. Okay. And it's 20.1 for area seven;

16 isn't that right?
17 A. Yes.
18 Q. Okay. Thank you, Forest. We can
19 take this down.
20 TRIAL TECH:
21 (Complied.)
22 MS. RIGGINS:
23 And Forest, can we pull up
24 plaintiff's Exhibit 3, please?
25 BY MS. RIGGINS:

1 Q. And if it's easier on paper,
2 Dr. Handley, whichever is easier for you. This
3 is appendix A-1 covering area of interest one
4 Bossier and Caddo Parish; isn't that right,
5 Dr. Handley?
6 A. Yes.
7 Q. And you would agree with me, Dr.
8 Handley, that appendix A-1 is not a district
9 specific analysis, is it?
10 A. It's a very area specific analysis.
11 It focuses on the area where the additional
12 illustrative district is drawn, an illustrative
13 district is drawn.

14 Q. So the answer to my question is yes,
15 this is not a district specific analysis?
16 A. It focuses on the two parishes in
17 which there is an illustrative, an additional
18 illustrative district.
19 Q. But appendix A-1 does not study
20 specific districts within Bossier and Caddo
21 Parish, does it?
22 A. No.
23 Q. Thank you. So there is some column
24 headers here that you and Ms. Brannon went
25 through earlier, EIR by CEI two by two and ER.

1 Do you see those?
2 A. Yes.
3 Q. And these are all statistical
4 estimates; is that right, Dr. Handley?
5 A. Yes.
6 Q. But the homogenous precinct
7 analysis, those are real election percentages
8 reported in the HP column?
9 A. Yes. Those are the percentages for
10 in -- in the first column for the precincts --
11 for all of the precincts that at least 90 percent

12 of the voters were black and in the white
13 section. It was for those precincts in which at
14 least 90 percent of the voters were white.
15 Q. Thank you, Dr. Handley. So setting
16 aside the HP column which I understand are
17 actually election percentages, the remainder of
18 the EI and ER analysis here in the appendix
19 reports, estimates for black and white voters in
20 Bossier and Caddo Parishes for the 16 statewide
21 election contest we discussed earlier; isn't that
22 right?
23 A. Yes.
24 Q. And the numbers in the EIR by C
25 column, are statistical estimates of a

1 percentage; isn't that right?
2 A. Yes.
3 Q. So I'd like to, if we could,
4 Dr. Handley, look at the 2020 November
5 presidential election. If we could, look under
6 the estimates in the far right section of columns
7 estimate for white voters. Would you agree with
8 me that the 22.6 number that is on the screen
9 here, represents the estimates of the percentage

10 of white voters who voted for president Biden
11 across all precincts in Caddo and Bossier
12 parishes?
13 A. Yes.
14 Q. And, Dr. Handley, you used R code
15 and several R code packages to produce the EI and
16 ER and HP analysis replicated here; isn't that
17 right?
18 A. Yes.
19 Q. Okay. Do you recall which R code
20 packages you used to produce this analysis?
21 A. Yes. Well, more or less, yes.
22 Q. And which packages were those?
23 A. EI pack and EI compare for the ER
24 estimates and HP estimates. Maybe -- maybe EI
25 pack for the ER estimates. I don't remember, but

1 I used both of those packages.
2 Q. Thank you, Dr. Handley. And I
3 believe you testified to this earlier, but the
4 data unit that you are using to conduct this
5 analysis is per precinct; isn't that right?
6 A. The unit of analysis or observation
7 is the R precincts.

8 Q. And so to produce this 22.6 number
9 that we just mentioned a few minutes ago, you
10 instructed your packages in R code to limit the
11 results in just the precincts in Bossier and
12 Caddo Parishes; isn't that right?
13 A. Yes.
14 Q. And so next to this 22.6 number,
15 there are two numbers reported here for
16 95 percent confidence interval; is that right?
17 A. Yes.
18 Q. All right. And what are those two
19 numbers, Dr. Handley?
20 A. So EIR times C is actually a
21 simulation process, and I believe I ran something
22 like 250,000 simulations and this range 17.2 to
23 30.5 indicates that 95 percent of my simulations
24 produced means within that range.
25 Q. So then -- I appreciate the

1 explanation, Dr. Handley. I was going to try to
2 do the inverse and ask you questions about that,
3 but your explanation is much better than mine.
4 But just to clarify, you said means within this
5 range, you mean that 95 percent of the results of

6 your simulations produced a mean between 17.2 and
7 30.5 in this specific example we are looking at?
8 A. Yes.
9 Q. And would you generally agree with
10 me, Dr. Handley, that the smaller the range of
11 the 95 percent confidence interval the better
12 idea you have as to the true number?
13 A. The less uncertainty attached to the
14 estimate.
15 Q. So the smaller the range, the more
16 certain you are about the estimate?
17 A. The less than certainty are I
18 suppose you could read it at, but a statistician
19 would say the wider the range the more
20 uncertainty.
21 Q. And you do not produce confidence
22 intervals for EI two by two or ecological
23 regression, do you, Dr. Handley?
24 A. Those have been rejected as by
25 experts.

1 Q. But your package would allow you to
2 produce those confidence intervals; isn't that
3 true, Dr. Handley?

4 A. No, not for EI compare, no.
5 Q. But what about for EI pack?
6 A. Yes.
7 Q. What is the estimate for EI two by
8 two reported here for white voters in Caddo and
9 Bossier parishes for president Biden and versus
10 president Harris in the November 2022 election?
11 A. The EI two by two did you ask?
12 Q. Yes, ma'am.
13 A. 9.8.
14 Q. All right. And what is it for ER?
15 A. 9.3.
16 Q. And both of these numbers are
17 outside of the 95 percent confidence interval you
18 reported for EIR by C; isn't that right?
19 A. Different statistical methods.
20 Q. So the answer to my question is yes?
21 A. They are outside the 17.2 to 30.5,
22 yes.
23 Q. And would you agree with me,
24 Dr. Handley, that these estimates being outside
25 of the confidence intervals, isn't necessarily

1 surprising because this analyzes the

November 2022 election?

A. In part, but it is also not surprising because these are different methods. They rely on different statistical assumptions and produce different statistical estimates.

Q. Sure. But in part, isn't it also because this analyzes the November 2022 election which produced problematic estimates due to the number of people voting early?

A. It is true that these estimates are more problematic.

Q. Dr. Handley, I don't want to be repetitive, but would you agree with the statement that the November 2020 election produced problematic estimates because of the number of people who early voted in Louisiana?

A. No, I would not disagree with that.

Q. You would not disagree with that statement?

A. That's correct.

Q. So let's look one election up, if we can, to the 2022 November Senate election.

I would also like to look at the estimates for white voters which are on the far

right side of your screen. Was Mr. Chambers the black candidate of choice in this race, Dr. Handley?

A. Yes.

Q. And what is the EIR by C estimate for Mr. Chambers for white voters in Bossier and Caddo Parishes? EIR by C, I'm sorry?

A. For Mr. Chambers did you say?

Q. Yes, ma'am?

A. Five, 5 percent.

Q. And what are your 95 percent confidence intervals for that EIR by C estimate?

A. 4.3 to 5.7.

Q. And what is the EI two by two estimate here?

A. 3.5.

Q. And what is the ER estimate?

A. 3.9.

Q. And again, both the EI two by two and the ER estimates are outside of the 95 percent confidence interval; isn't that right, Dr. Handley?

A. Yes. Sure. I should have waited. Sorry. Sorry about that.

25 Q. Dr. Handley, would you agree with me

1 that if you looked at different election contests
2 with different candidates than the ones listed in
3 appendix A-1, you would have gotten different
4 estimates?
5 A. The estimates are election specific.
6 Q. So the answer to my question is yes?
7 A. I wouldn't address it that way, but
8 I think I answered it different elections would
9 produce different estimates.
10 Q. Thank you, Dr. Handley. So I would
11 like to move on and talk a bit about
12 effectiveness scores unless Your Honor would like
13 to take the morning break?
14 THE COURT:
15 How much longer do you have?
16 MS. RIGGINS:
17 15 to 20 minutes, Your Honor.
18 THE COURT:
19 Let's take a 15-minute recess.
20 THE BAILIFF:
21 All rise. The court is in recess.
22 (A short recess was taken at 10:36 a.m.)

23 THE BAILIFF:

24 All rise. The court.

25 THE COURT:

1 Okay. Cross you may continue.

2 BY MS. RIGGINS:

3 Q. Thank you, Your Honor. Dr. Handley,

4 I'd like to shift gears a little bit and talk

5 about your effectiveness scores, but before I do

6 your kind counsel pointed out in a couple of

7 places it may have referred as the Biden election

8 as occurring in November 2020, that is an error

9 obviously on my part. Can we agree, Dr. Handley,

10 that Biden was elected in November 2022 not in

11 2020?

12 A. Yes.

13 Q. Can we look at -- thank you, Forest.

14 There's a comparison table here for State Senate

15 cluster three isn't that right?

16 A. Yes.

17 Q. And what areas of interest are

18 included in State Senate cluster three?

19 A. Area of interest, I think it's area

20 of interest three. Do you mean what parishes,

21 perhaps?
22 Q. Yes. I'm sorry. What parishes are
23 included in that, Dr. Handley?
24 A. East and west Baton Rouge, Iberville
25 and Point could you please pay.

1 Q. Thank you. And the scores here on
2 on the comparison table, these are specific to
3 the illustrative and enacted districts; isn't
4 that right, Dr. Handley?
5 A. Yes.
6 Q. And would you agree with me,
7 Dr. Handley, that if any of these districts are
8 split precincts, you would be required to perform
9 a census block desegregation in order to
10 calculate these effectiveness scores?
11 A. I would agree that you would have to
12 do that. I don't believe that there are any
13 split precincts, but --
14 Q. And so that gets to my next
15 question, Dr. Handley. You did not perform any
16 census block desegregation yourself in this case,
17 did you?
18 A. The precinct results were brought

19 down to the block level, but it would only impact
20 a precinct result if a precinct was split, but I
21 don't believe there are any split precincts.
22 There's certainly none in the enacted and maybe
23 one or two in the illustrative plan as a whole.
24 Q. Thank you, Dr. Handley?
25 A. I'm sorry. I don't know the

1 question. Can you --
2 Q. Sure. So you did not perform a
3 census block disaggravation yourself in this
4 case, did you?
5 A. A -- the election returns were
6 disaggregated down to the block.
7 Q. But did the ACLU data analytics team
8 perform that function for you?
9 A. Yes.
10 Q. Thank you. All right. And so there
11 are two types of effectiveness scores listed here
12 for the illustrative and enacted districts; isn't
13 that right, Dr. Handley?
14 A. Yes.
15 Q. Can you explain to me the difference
16 between the effectiveness score No. One and score

17 No. Two?
18 A. Yes. Score number one considers all
19 16 contests and indicates whether the black
20 preferred candidate would have one or made to the
21 runoff so that's the percentage of the 16
22 contests in which the black preferred candidate
23 won or made it to the runoff. The effectiveness
24 score two was only at the eight contests in which
25 there were two candidate to give you and

1 indication of what would happen if the minority
2 preferred candidate made it to the runoff would
3 they, in fact, win the runoff so it looks at at
4 only eight contests.
5 Q. Thank you, Dr. Handley. You did not
6 report effectiveness scores for illustrative or
7 enacted Senate District two in this cluster, did
8 you?
9 A. No. I might have calculated them.
10 It depends. Is it over 25 percent? Black in
11 voting age population.
12 Q. Well, I guess my question,
13 Dr. Handley is: In this table you don't report
14 effectiveness scores for Senate District two;

15 isn't that right?
16 A. Yes.
17 MS. RIGGINS:
18 Okay. And Forest, if we could, pull
19 up the map of this region on the next page
20 which is page 22, and while we do that,
21 I'm going to grab the pen I left on the
22 table.
23 TRIAL TECH:
24 (Complied.)
25 BY MS. RIGGINS:

1 Q. Dr. Handley, does the top map here,
2 depict the illustrative district contained or
3 districts, I'm sorry -- contained in State Senate
4 cluster three?
5 A. Yes. That's a -- that's a map of
6 those -- of that area, yes.
7 Q. Okay. And it's a map of the same
8 area for the enacted district on the bottom of
9 the page; is that right?
10 A. Yes.
11 Q. Okay. And there's a kind of
12 yellowish shading on some of these maps; is that

13 right?
14 A. Yes.
15 Q. And does that represent shading for
16 districts that are majority black districts that
17 you analyzed?
18 A. Yes.
19 Q. All right. And so an enacted
20 district 17 on the map at the bottom of the page
21 that is not shaded, correct, Dr. Handley?
22 A. That's correct.
23 Q. So enacted district 17 is not a
24 majority minority district, is it?
25 A. It is not.

1 Q. Okay. But it is shaded above in the
2 illustrative districts?
3 A. Because it's a majority minority,
4 yes.
5 Q. Thank you. Senate district two is
6 shown on both of these maps; isn't that right,
7 Dr. Handley?
8 A. Yes.
9 Q. And it's not shaded in either map?
10 A. It was not included in the clusters

you pointed out, right, so I only shaded the districts that were included in the cluster, I believe.

Q. Right. So you did not include Senate district two in this cluster?

A. Correct.

Q. Okay. Even though portions of Senate district two are in the parishes covered by Senate district three?

A. That's correct.

Q. Okay. And is Senate district two a majority minority district in the enacted district map depicted in the bottom map below?

A. So those are both majority minority districts, both you know, in the illustrative and

the enacted plan district two is majority black.

Q. Thank you, Dr. Handley. And what is the level of black voting age population in the enacted plan as shown on your map here for Senate district two?

A. I -- I'm having a little trouble. I think it says 57.75.

MS. RIGGINS:

Forest, could we Zoom in on that placard, is that possible?

TRIAL TECH:

(Complied.)

THE WITNESS:

Try putting on my glasses, but I think just the wrong distance that neither set is going to work.

BY MS. RIGGINS:

Q. Is that better for you, Dr. Handley?

A. It is.

Q. So what is the level of BVAP for Senate district two shown here?

A. 57.75.

MS. RIGGINS:

Thank you. And Forest, can we Zoom in on the same placard for Senate district

two in the illustrative plan, please?

TRIAL TECH:

(Complied.)

BY MS. RIGGINS:

Q. What is the level of BVAP for Senate district two in the illustrative plan here,

7 Dr. Handley?
8 A. 51.73 percent.
9 Q. Thank you. And do you see in --
10 this is helpful, Forest, to leave it Zoomed in,
11 please.
12 Do you see that district 14 and
13 district 17 in the enacted plan border each other
14 here?
15 A. 14 and 17 border each other, yes.
16 Q. Okay. And the yellow portion of 17
17 indicates that that's a majority minority
18 district here, right?
19 A. 17.
20 Q. Is it a majority black district?
21 A. Yes.
22 MS. RIGGINS:
23 Thank you. Forest, and can we do
24 the same Zoom in for the enacted map
25 below, please?

1 TRIAL TECH:
2 (Complied.)
3 BY MS. RIGGINS:
4 Q. And so in the enacted map there's

still a portion of Senate district two that borders in between Senate district 17 and 14. Do you see that, Dr. Handley?

A. Say that again.

Q. So there is -- do you see Senate district two in gray on the screen, Dr. Handley?

A. Yes.

Q. And do you see how it comes north and is on the border between both Senate districts 14 and 17?

A. Yes.

Q. Okay. And you did not analyze Senate district two in your effectiveness scores, right?

A. I did. Not in the table, but I did. You recall that I looked at the effectiveness scores of all of the districts that were over 25, but it's not included in the table.

Q. So that's an interesting point, Dr. Handley.

MS. RIGGINS:

Can we turn to footnote 18 on page 16 of your report? Thank you,

Forest.

BY MS. RIGGINS:

Q. Do you see here in footnote 18 that it states that you examined the house and Senate districts with BVAPs between 35 and 49.9 percent, Dr. Handley?

A. I do.

Q. Okay. And so I believe you testified earlier that you examined the House and Senate districts with BVAPs between two -- at 25 percent or higher?

A. That's correct.

Q. Okay. So where are -- where is the analysis for the districts between 25 and 35 percent?

A. On a piece of paper on my computer.

Q. So it's not -- does this refresh your recollection, Dr. Handley, that you actually only studied the House and Senate districts between 35 and 49.9 percent BVAP?

A. That's incorrect.

Q. Fine. So if you studied them, Dr. Handley, did you report them anywhere in this

report?

A. I did not.

Q. Thank you. And because Senate district two was majority minority, it does not fall within the 35 to 49.9 percent range referenced in this footnote?

A. That's correct. But of course, I did do an effectiveness analysis of it.

Q. That is not reported in this report?

A. Correct.

Q. Dr. Handley, I believe that Senate district two was one of the election -- there was some election contests that you examined for this district; is that right?

A. Can you point it to me?

Q. Absolutely.

A. I can't do that off the top of my head.

Q. Sure. So it's in appendix B in your report which is plaintiff's Exhibit 1. I'd like to look at the first election contest there. Do you have it there in front of you, Dr. Handley?

A. Yes, I do. But even better I have it in front of me on the screen.

Q. Yes. Perfect. Thank you. Is the

first election that you analyzed in appendix B, on the October 2015 election for State Senate district two?

A. That's correct.

Q. Okay. And did you determine, Dr. Handley, that this October 2015 election for State Senate district two was not polarized?

A. Correct.

MS. RIGGINS:

And so, Dr. Handley -- Forest, you can take PL 10 down.

TRIAL TECH:

(Complied.)

MS. RIGGINS:

Can we return to the chart of the illustrative and enacted districts that we were looking at before on page 21?

TRIAL TECH:

(Complied.)

BY MS. RIGGINS:

Q. Thank you. Dr. Handley, do you see that on the screen in front of you?

A. Yes.

24 Q. So these scores are for the
25 illustrative and enacted districts as drawn,

1 correct, Dr. Handley?
2 A. Yes.
3 Q. So you did not do any analysis in
4 this report to determine the level of BVAP needed
5 at which a district would become effective in
6 providing a real particular opportunity for black
7 voters to elect their candidate of choice?
8 A. Can you repeat the question?
9 Q. Sure. In this report, you did not
10 no analysis to determine the BVAP level at which
11 a district would become effective in providing
12 you realistic opportunity for black voter to
13 elect their candidate of choice?
14 A. I looked at all of the illustrative
15 and enacted districts over 25 percent and
16 determined only districts over 50 percent would
17 elect with the one exception that is noted in the
18 footnote.
19 Q. Sure. And those results were only
20 reported for the districts over 35 percent and
21 lower than 49.9 percent unless they were included

22 in these tables; isn't that right, Dr. Handley?
23 A. I didn't report them on for 35 to
24 49.9. Either I merely said they are more
25 effective.

1 Q. Okay. And you did not anywhere in
2 this report, determine any specific level of
3 black voting age population for which a district
4 would become effective; isn't that right,
5 Dr. Handley?
6 A. Become effective.
7 Q. I'll rephrase the question?
8 A. Okay. Try that.
9 Q. So you would agree with me,
10 Dr. Handley, that you looked at the illustrative
11 districts as drawn; is that correct?
12 A. Yes.
13 Q. And you examined the effectiveness
14 scores with the level of BVAP that was in the
15 districts as drawn?
16 A. Correct.
17 Q. And you did no other analysis to
18 determine if any of the illustrative BVAPs would
19 be effective at a different level of BVAP, did

you?

A. I looked only at the districts as drawn.

Q. So the answer to my question is that you did not do any analysis to determine a different level of BVAP needed?

A. Different than other than what was drawn.

Q. Correct.

A. I believe that's correct, if I understand your question, yes.

Q. And, Dr. Handley, haven't you found in some jurisdictions that sometimes a majority black district is not necessary to elect a black preferred candidate?

A. Yes.

Q. And, Dr. Handley, did you co-author an article that was published in 2019 that discussed the increased ability of black preferred candidates to win districts that were between 40 and 50 percent black?

/STPHAO.

Your Honor, we are just going to

18 object. We think questions about that are
19 outside the scope of the direct.
20 THE COURT:
21 The 2019 article?
22 /STPHAO.
23 Yes, the 2019 article.
24 THE COURT:
25 Your question about the 2019 article

1 is what Ms. Riggins?
2 MS. RIGGINS:
3 I asked Dr. Handley if she
4 co-authored this article that examined the
5 ability of black preferred candidates to
6 win in districts that were between 40 and
7 50 percent black so less than majority
8 minority.
9 THE COURT:
10 I'm going to overrule the question,
11 the whole question and Dr. Handley's
12 entire opinion is racial polarized voting
13 so this is contrary to the courts
14 understanding of racial polarized voting.
15 MS. RIGGINS:

16 Thank, you Your Honor. Forest, can
17 we please pull up this article so that Dr.
18 Handley can identify it. It's secretary
19 of state 36.
20 TRIAL TECH:
21 (Complied.)
22 BY MS. RIGGINS:
23 Q. Dr. Handley, do you see it on the
24 screen in front of you?
25 A. I do.

1 Q. Okay. And is this an article that
2 you co-authored in 2019?
3 A. It was published in 2019. I think
4 we wrote it years before that, but.
5 Q. Oh, I apologize. Is this an article
6 that you published with several co-authors in
7 2019?
8 A. Yes.
9 Q. Thank you. All right. And
10 Dr. Handley, do you recall if Louisiana was one
11 of the states that you and your co-authors looked
12 at in drafting this article?
13 A. Yes. We grouped the south together

14 and Louisiana was one of the states included in
15 the south.
16 Q. Thank you. And in this article,
17 didn't you and your colleagues find that white
18 Democrats are more likely to vote for a black
19 Democrat than a white Republican?
20 A. I don't remember that across the
21 board, but can you point to what you're referring
22 to.
23 MS. RIGGINS:
24 Sure. Can we please go to page 280
25 of this article?

1 TRIAL TECH:
2 (Complied.)
3 BY MS. RIGGINS:
4 Q. And this is sort of one of the
5 paragraphs so I apologize, Dr. Handley. We are
6 looking towards -- there we go -- the middle of
7 the paragraph do you see a sentence that starts
8 the increase in political polarization suggests
9 that comma?
10 A. I do.
11 Q. Okay. And does this refresh your

12 recollection that when you look at the sentence
13 you and your co-authors concluded that white
14 Democrats are more likely to vote for an
15 African-American or latino Democrat than a white
16 Republican?
17 A. Yes. It offers this as a reason
18 possibly for the increase in the number of
19 districts that were less than majority minority
20 in composition for electing minority preferred
21 candidates.
22 Q. And this was because of increased
23 political polarization; is that right,
24 Dr. Handley?
25 A. Yes.

1 Q. And didn't you and your co-authors
2 also find that so long as Republicans did not
3 constitute a majority of voters in a district,
4 but in general a minority candidate had a better
5 opportunity to get elect indeed a 40 to
6 50 percent BVAP district?
7 A. Well, you would look at that in each
8 specific location, but in general, that's what we
9 found, yes.

10 Q. Thank you. And, Dr. Handley, didn't
11 you determine that enacted house district 91 in
12 this case was effective with a BVAP of 41.7?
13 A. I don't remember the BVAP, but you
14 can point it out to me. I'm willing to believe
15 that you know what it is.
16 Q. Sure?
17 A. But I did say that there was a
18 district that was -- it's majority minority it's
19 not a majority white district it's a majority
20 minority district and it is BVAP.
21 Q. Sure. Dr. Handley, I don't want you
22 to guess for us. Could we please return to
23 plaintiff's Exhibit 1 on page 16 and we are
24 looking at footnote 18 again. All right.
25 Dr. Handley, does this refresh your recollection

1 that you concluded that the proposed State house
2 district 91 in the enacted state house plan in
3 the illustrative plan was effective with a BVAP
4 of 40.7?
5 A. Yes.
6 Q. Thank you. So, Dr. Handley, we
7 briefly discussed earlier and you discussed on

8 direct early voting as it pertains to the 2020
9 election.
10 MS. RIGGINS:
11 So I'd like to look at footnote 8 on
12 page 6 of your report, if we could,
13 please.
14 TRIAL TECH:
15 (Complied.)
16 BY MS. RIGGINS:
17 Q. And I believe you explained this
18 earlier. Is this footnote an example of how you
19 allocated early votes to precincts in this
20 report, Dr. Handley?
21 A. Yes.
22 Q. And you followed this allocation
23 method for every area of interest that you
24 studied and every election that you analyzed in
25 this report; isn't that right, Dr. Handley?

1 A. Yes.
2 Q. Okay. And, Dr. Handley, do I
3 understand from your deposition testimony that
4 you acknowledge that your allocation method in
5 some instances resulted in candidates being

6 allocated more votes than those cast in the
7 precinct?
8 A. More votes than turn out I think is
9 what you mean.
10 Q. Yes, Dr. Handley. You acknowledge
11 that your allocation method at the precinct level
12 sometimes results in a candidate being allocated
13 more votes than the total number of votes cast in
14 that precinct?
15 A. No. That's incorrect. It was turn
16 out.
17 Q. Then I apologize, Dr. Handley. So
18 you acknowledge that your allocation method
19 resulted in candidates being allocated more votes
20 than the total number of voter turn out in that
21 precinct?
22 A. That's correct.
23 Q. And, Dr. Handley, do you recall if
24 you knew about this over allocation before your
25 expert report was produced in this case in June

1 of 2023?
2 A. Yes. I recall. I do know that this
3 was happening, yes.

Q. Okay. And you did not report that anywhere in your June 2023 report, did you?

A. No. I supplied the database.

Q. And the database shows that in certain precincts certain candidates were allocated more votes than the voter turn out; is that right?

A. Correct.

Q. And, Dr. Handley, I think that you testified on direct earlier that you examined whether this would cause any potential bias in your analysis; isn't that right?

A. Correct.

Q. And you conducted this analysis in part in response to expert reports prepared by Dr. Solanky; isn't that right?

A. Yes.

Q. And, Dr. Handley, I would like to look at plaintiff's Exhibit 17 briefly.

TRIAL TECH:

(Complied.)

BY MS. RIGGINS:

Q. Do you recognize this appendix

that's been marked as plaintiff's Exhibit 17?

A. Yes.

Q. And did you prepare this appendix, Dr. Handley?

A. Yes.

Q. And was this appendix submitted with your sur rebuttal report in September of 2023?

A. It was submitted with the report. I don't know that it was called a surrender rebuttal report, but this is appendix two in my reports.

MS. RIGGINS:

Sure. Forest, could we please call up plaintiff's Exhibit 16?

TRIAL TECH:

(Complied.)

BY MS. RIGGINS:

Q. I'm sorry, Dr. Handley. I misquoted you. It's a supplemental rebuttal report was appendix A appendix?

A. Yes.

MS. RIGGINS:

And could we flip to the last page in this document, Forest?

TRIAL TECH:

(Complied.)

BY MS. RIGGINS:

Q. Oh, I'm sorry. It has the appendices still attached to it. Could you look at page 3 of the document then? Page 4? What date did you execute this supplemental rebuttal report, Dr. Handley?

A. September 29th, 2023.

Q. Okay. And that was after you had had Dr. Solanky's expert reports for over a month; is that right?

A. I don't know when I got his reports.

Q. But you authored this after you had both of Dr. Solanky's expert reports submitted in this case?

A. Certainly, after one of them. I -- I don't even remember how many he submitted.

Q. Sure. Dr. Handley, do you recall that this expert report was submitted after your deposition in this case?

A. It was.

MS. RIGGINS:

All right. And so back to

25 plaintiff's Exhibit 17, please, Forest.

1 TRIAL TECH:
2 (Complied.)
3 BY MS. RIGGINS:
4 Q. All right. So, Dr. Handley, you
5 prepared this table and it reports early vote
6 totals for the 16 statewide election contests; is
7 that right?
8 A. No. No, not exactly.
9 Q. All right. Let's look through just
10 one example then. So for the November 2022
11 election, do you see that on the first page?
12 A. Yes. Let me explain what I mean.
13 Q. Sure.
14 A. This is for the actual election
15 date, not for the 16 elections that I looked at
16 unless the 16 elections all occurred on different
17 election dates. So it is probably less than 16.
18 Q. I thank you for that clarification,
19 Dr. Handley. I apologize for my immaterial
20 precise question. So does appendix A generally
21 then report the percentage of early voters that
22 voted on election day or for that election

23 contest that you studied?
24 A. For the election day, not for the
25 election contest.

1 Q. Okay. And so you looked at the U.
2 S. Senate election that occurred on the election
3 day for November 2022; is that right?
4 A. So this looks at the election as a
5 whole. I analyzed the Senate election.
6 Q. Thank you. That's what I was trying
7 to get at. And what is the percentage of people
8 who voted early in the November 2022 election
9 total?
10 A. 26.8 percent.
11 Q. Okay. And, Dr. Handley, looking at
12 plaintiff's Exhibit 17 as a whole, do you ever
13 see a total percent of early voters lower than
14 20 percent? And if you would like to ask
15 Mr. Forest to flip through this exhibit for you,
16 please let me know?
17 A. He will have to flip through it for
18 me to look at that.
19 Q. Please let me know when you've had
20 sufficient time to review the first page?

21 A. I've had sufficient time.
22 Q. Thanks. Okay.
23 A. I've had sufficient time. I've had
24 sufficient time.
25 Q. All right. So, Dr. Handley, do you

1 ever see here in appendix A a total percent of
2 early voters lower than 20 percent for the total?
3 A. No. There are a couple at 20.6 or
4 7, but nothing below 20 percent.
5 Q. Okay. And what is the percent of
6 early vote for the November 2019 election?
7 A. 33.2 percent.
8 Q. Okay. And so that's approximately a
9 third of the voters for that November 2019
10 election; is that right?
11 A. Correct.
12 MS. RIGGINS:
13 And, Your Honor, if I may have a
14 minute just to consult with my co-counsel
15 I may be done, but I want to make sure.
16 THE COURT:
17 Go ahead.
18 BY MS. RIGGINS:

19 Q. Dr. Handley, as my co-counsel has
20 reminded me, I neglected to ask you a question on
21 my outline. Dr. Handley, do you recall our
22 discussion earlier today about endogenous
23 elections?
24 A. Yes.
25 Q. And do you understand that elections

1 have been held in Louisiana under the enacted
2 plans in this October and November?
3 A. Yes.
4 MS. RIGGINS:
5 And, Your Honor, at this time, we
6 would like to conclude our examination of
7 Dr. Handley. We would however,
8 Your Honor, for the record, like to note
9 that we believe plaintiff's counsel opened
10 the door by asking Dr. Handley to opine on
11 how other experts treat her allocation
12 method and the level of bias. We raised
13 these objections earlier, but we think,
14 Your Honor, that you know, plaintiff's
15 counsel has opened the door to allow
16 Dr. Handley to or I'm sorry, Dr. Solanky

17 to testify about this, the reports that
18 were excluded go to Dr. Handley's bias in
19 her allocation method. We would
20 respectfully request, Your Honor, that you
21 reconsider your ruling and allow
22 Dr. Solanky to testify at least in the
23 limited capacity as to the potential bias
24 and reliability caused by Dr. Handley's
25 allocation method.

1 THE COURT:
2 You want to respond?
3 MS. BRANNON:
4 Your Honor, I think your opinion on
5 this matter squarely addressed that
6 question of whether Dr. Solanky's opinions
7 about bias in Dr. Handley'S allocation
8 method was reliable or not reliable and I
9 think Your Honor has already ruled and
10 found that Dr. Solanky's opinions on that
11 topic are not reliable and that is the
12 basis for why you excluded his testimony
13 initially.
14 THE COURT:

15 Okay. The court is not persuaded
16 that by asking Dr. Handley about the
17 reliability or bias of her calculations
18 and analysis opens the door. Even if it
19 does open the door, it hadn't -- it
20 doesn't there by convert Dr. Solanky's
21 opinion testimony to reliable or well
22 grounded in facts and data which was the
23 court's basis for excluding Dr. Solanky,
24 so the open the door argument while novel
25 and yeah, novel, it's not -- it's not

1 persuasive. It doesn't there by convert
2 Dr. Solanky's opinions to that of reliable
3 opinions that are required by 702 so your
4 motion is denied.
5 /SKWRAO.
6 Thank you, Your Honor. We
7 appreciate your consideration.
8 THE COURT:
9 Redirect, please?
10 MS. BRANNON:
11 Yes, Your Honor.
12 EXAMINATION BY MS. BRANNON:

13 Q. Dr. Handley, defense counsel just
14 asked you about elections in October of 2023 and
15 November of 2023. Prior to that date, were there
16 any endogenous elections available for you to
17 analyze in your report in this case on the
18 enacted maps that this case is about?
19 A. No.
20 Q. Okay. Have you looked at just
21 briefly the elections that were held in October
22 of 2023 and November of 2023?
23 A. I have looked at the results. I
24 have not done a racial polarization analysis.
25 Q. And as we established for the record

1 your report in this case, initial report was put
2 into evidence in June of 2023 well in advance of
3 those elections?
4 A. Correct.
5 Q. Of those elections that took place
6 in October of 2023, how many contested elections
7 were there in the enacted districts that you have
8 analyzed in your report?
9 A. Off the top of my head, like half of
10 the enacted districts did not have elections.

There were no contested elections. But I don't -- but you asked me about the enacted districts in my report.

Q. In your report, if you know. If you don't know --

A. I don't know. All I can tell you is about 50 percent of the districts overall were not contested.

Q. And if there's not a contested election, you couldn't do an endogenous evaluation -- an endogenous RPV analysis any way correct?

A. If there's no election I can't analyze it, that would be correct.

Q. Okay. In your opinion, counsel was

asking you about area -- area of interest three and area of interest seven. In your opinion, is it fair to say that the white voters as a block voted against the black preferred candidate in the elections you evaluated in area three?

A. Yes.

Q. Is it fair to say that in your opinion white voters voted as a block against the

9 black preferred candidate in the elections that
10 you analyzed in area seven?
11 A. Yes.
12 Q. You acknowledge that the EI analysis
13 that you conducted for the presidential election
14 for 2020 was problematic, but do you have an
15 opinion as to whether that analysis was useful to
16 your overall racially -- racial polarization work
17 in this case?
18 A. Well, I looked at all contests that
19 it was possible to look at. I merely suggested
20 that this one was less probative than others
21 simply because 45 percent of the votes were cast
22 early and had to be allocated.
23 Q. Did it have any probative value to
24 your racial Polar vacation analysis?
25 A. Yes. Or I would have included it.

1 Q. And was it valuable to you in
2 reaching your opinions in this case that there's
3 polarized voting in the areas of interest you
4 looked at in Louisiana?
5 A. Yes.
6 Q. Okay. Counsel asked you about the

7 data that was allocated by the ACLU analytics
8 team including the work they did to disaggregate
9 the census data down to the block level for the
10 data that was used -- used in your effectiveness
11 scores. Did you review the work of the ACLU
12 analytics team?
13 A. Yes.
14 Q. And did you verify the accuracy of
15 that work?
16 A. Yes.
17 Q. And you feel confident in relying on
18 the work that they did?
19 A. Yes.
20 MS. BRANNON:
21 Can we call up secretary of State's
22 Exhibit 36?
23 TRIAL TECH:
24 (Complied.)
25 MS. BRANNON:

1 And can we turn to Table 2?
2 TRIAL TECH:
3 (Complied.)
4 BY MS. BRANNON:

Q. I'm sorry. This is a table from the report that defense counsel -- that defense counsel asked you about, correct?

A. Yes.

Q. Does this table reflect any specific Louisiana data?

A. This aggregates the southern states I think the 11 states of the confederacy, I don't remember off the top of my head. It included Louisiana it doesn't differentiate Louisiana from the other states this is a compilation of all of the southern states.

Q. Do you know the specific Louisiana data from the 2015 elections that contributed to this table?

A. I do because I did a special representation it's called a threshold representation. I know how many majority black districts and how -- elected black candidates and I know where the black representatives came from. And I can tell you in 2015, Louisiana contributed

0 to the number of black candidates being elected from non majority black districts at the house

level, at the U.S. house level and 0 at the Senate level and one district at the state house level.

MS. BRANNON:

Can we turn to Table 3, which I believe is on the next page of S O S 36?

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. Is this another table from your report?

A. It is.

Q. Does this table compare performance in different elections in state and house legislative elections around the country looking at how black candidates are performing in different ranges of the BVAP population?

A. It is looking at the number of districts in that range that elected black candidates to office.

Q. And are the -- some of the ranges that are listed in this table, BVAP from 40 to 45 and then BVAPs from 45 to 50?

A. Yes.
Q. Are you aware of any district in the -- enacted map in Louisiana in the Senate that has a BVAP between 40 and 50 percent?
A. In the enacted plan, no. There are none.
Q. Are you aware of any district in the enacted plan in the house that has a BVAP between 40 and 50 percent?
A. There might be one.
Q. Are there any -- if there's one is there any more than to the best of your recollection?
A. To the best of my recollection, no.
MS. BRANNON:
Can we go back to your in areas of interest for -- which is Table 2, can we go back to Table 2 in plaintiff's Exhibit PL 1?
TRIAL TECH:
(Complied.)
BY MS. BRANNON:
Q. Can you just refresh for the court what parishes were evaluated in area three?
A. Baton Rouge, west Baton Rouge,

Iberville and Pointe Coupee.

Q. So does that mean you did a racially polarized voting analysis of all of those parishes as part of the analysis you did for area three?

A. Correct.

Q. And so you would have looked at voting behavior in all four of those parishes?

A. Correct.

MS. BRANNON:

And then can we also turn to page 22 of Dr. Handley's report which is a picture of Senate cluster three. That's the illustrative. Can we look at the enacted? There we go.

TRIAL TECH:

(Complied.)

BY MS. BRANNON:

Q. So you did a racially polarized voting analysis of all the voting patterns in a number of the parishes that are reflected on this map?

A. Correct.

24 Q. And that would have included some of
25 the analysis of the voting patterns in CD 2?

1 A. In -- I'm sorry.
2 Q. CD 2, which is on this map as being
3 part of the west Baton Rouge and Iberville and
4 Baton Rouge CD 2?
5 A. State Senate district two.
6 Q. Oh, sorry. Sorry. SD 2, State
7 Senate district 2?
8 A. Yes.
9 Q. To clarify I was asking about state
10 Senate district two which is on this map.
11 And you were asked a few more
12 questions about the allocation methodology that
13 you used. If we go back maybe it's easier to
14 just go back to plaintiff's Exhibit 19.
15 TRIAL TECH:
16 (Complied.)
17 BY MS. BRANNON:
18 Q. These reports, this scatter plot
19 that's shown in Exhibit 19, demonstrates that the
20 -- there was similarity in the polarization of
21 voting early and on election day in the elections

22 that you looked at, correct?
23 A. Yes.
24 MS. BRANNON:
25 Let me just confer with my team.

1 BY MS. BRANNON: Just one final question, Dr.
2 Handley. You were asked some about the fact that
3 the allocation method in some precincts leads to
4 an over or under count of votes. Does that
5 effect the validity of your opinions about the
6 polarization.
7 A. No.
8 Q. And can you explain why?
9 A. Several reasons. First of all, I
10 used portions when I did my analysis. I didn't
11 actually use votes, I used the proportioned vote
12 the and the proportion of black and white turn
13 out when I did the analysis. But also because
14 there -- I don't believe there was any bias
15 introduced by over and under votes.
16 MS. BRANNON:
17 Okay. Nothing further. Thank you
18 very much, Dr. Handley.
19 THE COURT:

Okay. You may step down. Thank you, ma'am. All right. We will be in recess until 1:00 p.m.

THE BAILIFF:

All rise. The court's in recess.

(A lunch recess was taken at 11:48 a.m)

THE BAILIFF:

All rise.

THE COURT:

Good afternoon, be seated. Next witness.

MS. KEENAN:

Your Honor, plaintiffs call Dr. Craig Colten.

CRAIG COLTEN,

after having first been duly sworn by the above-mentioned Court Reporter did testify as follows: Suzie

THE BAILIFF:

Would you please state your name and spell it for the record?

THE WITNESS:

My name a Craig Colten, C-R-A-I-G,

C-O-L-T-E-N.

MS. KEENAN:

Your Honor, before we get started I'd like to hand Dr. Colten a binder with several exhibits marked in this case. May I approach?

THE COURT:

You may.

/SKWRAO

Counsel, you have another book.

/STPHAO.

Yes. And, Your Honor, just to state during Dr. Handley's ***expectation, would you like us to produce the exhibits at the outset or after tender him as an expert.

THE COURT:

If there's no objection go ahead and offer them. Might waive if you are going to cross on the tender, Mr. Clark.

/SKWRAO.

Your Honor, I am not going to cross on the expertise. I have no objection to the admission of the report.

16 THE COURT:

17 Or his CV?

18 /SKWRAO.

19 No, ma'am.

20 THE COURT:

21 Okay. Go ahead and move the

22 admission.

23 /STPHAO.

24 Your Honor, we will move for the

25 admission of Plaintiff's 129, 130, 131 and

1 132.

2 THE COURT:

3 The exhibits are admitted.

4 EXAMINATION BY MS. KEENAN:

5 Q. So, Dr. Colten, I'd like to start by

6 asking you a few questions about your

7 qualifications as an expert. Could you turn to

8 Tab 1 of the binder you have in front of you?

9 A. Yes.

10 Q. And what is the document in Tab 1?

11 A. It's my curriculum vitae.

12 Q. Let the record reflect that

13 curriculum vitae is plaintiff's Exhibit 130.

14 Dr. Colten, could you tell us what positions you
15 currently hold?
16 A. My main position is professor
17 emeritus which basically is I'm retired from the
18 Louisiana State University from geography and
19 anthropology. I also hold a position of senior
20 advisor to the water institute of the gulf here
21 in Baton Rouge.
22 Q. And prior to your retirement, how
23 long where are you a professor?
24 A. I was an active full-time professor
25 for 21 years here in Baton Rouge and four years

1 in Texas.
2 Q. Were you tendered prior to your
3 retirement?
4 A. Yes, I was.
5 Q. And at your retirement, did you hold
6 any specific title at LSU?
7 A. Yes. I hold the Carl /SAL professor
8 of geography.
9 Q. And what's that?
10 A. It's an honor area title awarded to
11 people who have distinguished themselves in the

12 course of their career.
13 Q. Could you tell me about your
14 educational background?
15 A. Certainly. I received my bachelor
16 of arts degree here at LSU in 1974, my master of
17 arts at Baton Rouge at LSU in 1978, and my PhD
18 from Syracuse University in 1984.
19 Q. And what subject was each of your
20 degrees in?
21 A. Each degree was in geography.
22 Q. Have the courses you've taught as a
23 professor specialized in any area?
24 A. Yes. They have all been -- well,
25 most of them have been in geography.

1 Q. All right. And do you view
2 geography through any specific lens in your work
3 as a professor and reserver?
4 A. Yeah. My training was in historical
5 geography. I continue to pursue that in my
6 research and my teaching.
7 Q. How would you define historical
8 geography?
9 A. A very shorthand way of saying it is

we study past geographies what are the processes and movements of people and things that create a place in the past, we go back and try to reconstruct that. What -- how a place evolves over time and historic, for example, tend to organize things chronologically historical first a place and space nor organize things, so that's a principal framework of what we do.

Q. Have you taught any courses on historical geography?

A. Yes. I've taught both undergraduate and a graduate course in historical geography.

Q. And what kind of things do you cover in your course on historical geography?

A. My -- my undergraduate courses is typically organized into three major sections,

the first being a review of the majority figures in the field, their contributions in terms of concepts and theories. A second phase looks and methods and sources to go to constructing past geographies. I have taught students how to do that and then the third, is where you are a case studies where experts in the field have actually

8 done this. We try to critique their ideas, point
9 out really the favorable excellent examples of
10 peopling doing historical geography.
11 Q. Have you also supervised
12 dissertations related to historical geography?
13 A. Yes. I've supervised a number of
14 dissertations in several and historical
15 geography.
16 Q. Apart from your role as professor,
17 have you held any other affiliations or roles in
18 the field of historical geography?
19 A. In my first job after my PhD, was I
20 -- was recruited to be a historical geography
21 with the state of Illinois.
22 Q. How long were you within that
23 position?
24 A. I was with the department of US
25 ***Geological Survey with the state nearly a

1 decade a few months shy of a decade.
2 Q. And you mentioned role. Role with
3 the water institute of the gulf. Can you tell me
4 a little bit about your role there?
5 A. Yes, I was brought on in a half time

6 position more or less. I retained my position at
7 LSU, but also worked more or less as a director
8 of human dimensions. They are a basic applied
9 research organization here in Baton Rouge and my
10 job was to implement the work of the physical
11 scientists looking at issues related to coastal
12 land loss and hydrology and to try to introduce
13 how people fit into that picture, how -- how
14 humans and society should be factored into the
15 research they were doing and how it might expand
16 their understanding.
17 Q. When you talk about the human
18 dimension, could you tell us a little bit about
19 whether you've ever studied historical
20 communities in your field of historical geography
21 and how that works?
22 A. Certainly, yeah. From -- from my
23 dissertation, research, I've looked very careful
24 at communities. My dissertation looked at how
25 communities and groups of people migrate from the

1 eastern satisfy board to the state of Ohio and
2 how they used religious institutions to kind of
3 recreate a common communities, communities that

4 were familiar to them on this frontier setting in
5 the time in the early 19th century. When I came
6 here to Baton Rouge, I started doing a series of
7 studies on environmental justice for the
8 department of -- of minerals management service
9 which is part of the department of the interior,
10 so we looked at community formation as expressed
11 through racial communities and low income
12 communities all my workover the last 10 or
13 12 years has looked at topics such and social
14 memory and community resilience to understand how
15 communities are able to survive and recover and
16 rebound from disastrous environmental events.
17 Q. So you started to talk a little bit
18 about your work outside of T J, have you
19 published any peer-reviewed books or articles?
20 A. Quite a number, yes.
21 Q. Approximately how many peer-reviewed
22 books have you published?
23 A. I've I've been author co-author for
24 I think six.
25 Q. And what about articles, how many

1 peer-reviewed articles have you published?

A. Articles and book chapters number about a 100.

Q. Okay. Are any of those books or articles listed in your CV?

A. My CV list is a selected group of them, but some of them are, yes.

Q. Okay. Have those research in /PURBLZ efforts focused on any particular subject matter?

A. For of the -- of the early part of my career, I was studying mainly environmental issues particularly as if relates to hazardous waste and social and environmental impacts of hazardous waste disposal. More recently my work has tended to look at human environment interactions particularly as it relates to dealing with -- with hazardous events such as Hurricane Zetas and floods and those kinds of things and how community helps people to rebound from those sort of events.

Q. And how do those focused events relate to your historical field of geography?

A. They all -- all my work has a historical depth to it. I don't start just with

the present and try to explain what's going on now. I look at -- I -- each -- each study may start at a different time in the past, but there's a historical depth in the basic purpose to show how things change over time or how things are different or were different in the past than they are today. But always connecting to the present to show that there is continuity that the past is connected to the present.

Q. How many pouch Louisiana specifically?

A. Well, not really counting the term papers. I did graduate school, I began work on Louisiana topics specifically in about '96, '97, and have done that to the present.

Q. Have you published any of those peer-reviewed articles or books you mentioned on the topic of historical geography of Louisiana specifically?

A. Yes, I have, quite a number.

Q. And could you give us new examples?

A. The -- the book I did in 19 -- or that came out in 2005 unnatural in respect to /HRUS very much it was historical geography of

25 environmental change in New Orleans. My most

1 recent book, "State of Disaster", is an example.
2 Another book, "Perils in place", is another
3 example of that contracted by the Corps of
4 Engineers and another book, "Southern Waters",
5 includes Louisiana, but it really looks at the
6 broader region of the south.
7 Q. What about any textbooks have you
8 ever authored or co-edited any textbooks related
9 to historical geography in Louisiana?
10 A. I co-authored a textbook
11 specifically about the geography of Louisiana
12 yes.
13 Q. Okay. Have you received any
14 academic awards or professional honors for your
15 work?
16 A. Yes, I have.
17 Q. Could you give us any examples of
18 those?
19 A. My university awarded me an what
20 they call a rain maker award a few years ago. I
21 received a couple of national book awards for the
22 book I mentioned earlier unnatural met respect to

23 lis from -- one from the principal geography
24 organization in the country, American Association
25 of Geographer as well as another organization,

1 and then recently, I was -- I received the
2 Gilbert white public service honor for the
3 American Association of Geographies.
4 Q. And what is that that honor that you
5 mentioned?
6 A. That one is it's awarded to very
7 selective process where nominations go forward to
8 a committee within the association and they
9 select various honoraries for different awards in
10 the course of a year, so it's once a year this
11 award is given out if there's a recipient.
12 Q. And what about the rain maker award
13 you mentioned from LSU could you explain that?
14 A. Again, that's a process. There's a
15 process of selection that goes on within the
16 university administration that seeks to recognize
17 people in different areas of expertise for their
18 contributions in terms of bringing in funded
19 research grants that come in through the
20 university and then publishing the findings from

21 that research.

22 Q. Dr. Colten, could you explain in

23 general terms the methodology that you've

24 employed to analyze the historical geography of

25 Louisiana?

1 A. Certainly. And this goes beyond

2 Louisiana. The first step is really defining a

3 reasonable research question that gives you the

4 basis for the work that follows. Once the

5 research question is developed, you begin to

6 investigate where primary and secondary sources

7 are what the literature says about the topic,

8 where the gaps are in the literature what the

9 unanswered questions are that you might seek to

10 answer and you assemble credible authoritative

11 resources literature and other primary sources.

12 You analyze that typically in an conductive

13 fashion you can't do lab experiments in

14 historical geography and then you produce a

15 written report whether it be a book or article or

16 articles.

17 Q. And is that kept with the approach

18 you took in developing your report in this case?

19 A. Yes, it is.
20 Q. Is that approach consistent with the
21 generally accepted standards in the field of
22 historical geography?
23 A. Yes, I believe it is.
24 Q. Dr. Colten, have you ever testified
25 in court before as an expert in a redistricting

1 case?
2 A. No.
3 Q. Have you offered expert reports or
4 opinions in other cases?
5 A. Yes, I have.
6 Q. About how many times?
7 A. I've been deposed in the
8 neighborhood of 25 times. I think court
9 testimony and other cases a handful of times,
10 three, four maybe.
11 Q. And have you offered reports in
12 cases where you didn't testify or were deposed?
13 A. Yes, quite a number.
14 Q. In what field were you qualified as
15 an expert in those cases?
16 A. As far as I recall, that was a

17 historical geography.

18 Q. And when was the first time you were

19 deposed as an expert in historical geography?

20 A. I believe that was '93. I can --

21 yes. 1993.

22 Q. And what's the most recent time

23 you've offered expert testimony as a historical

24 geography prior to today?

25 A. Last year.

1 Q. Was your expert testimony accepted

2 by the court in each of those cases to the best

3 of your recollection?

4 A. Yes.

5 Q. And are you aware of any instance in

6 which your testimony or opinion as an historical

7 geographer has been included by a court?

8 A. No. I'm not.

9 MS. KEENAN:

10 Your Honor, at this point, the

11 plaintiffs offer Dr. Colten as an expert

12 in the historical geography of Louisiana.

13 /SKWRAO.

14 As we stated, Your Honor, no

15 objection.
16 THE COURT:
17 Okay. Dr. Colten will be accepted
18 by the court to give opinion testimony in
19 the historical geography of Louisiana.
20 You may proceed.
21 BY MS. KEENAN:
22 Q. Dr. Colten, could you turn to tab***
23 of the binder in front of you which is
24 plaintiff's Exhibit 129?
25 A. Yes.

1 Q. What is this document?
2 A. This is my preliminary expert report
3 submitted last year.
4 Q. And what was your assignment in
5 preparing this initial report?
6 A. I was asked to assemble quantitative
7 and qualitative information to try to map out and
8 understand the location of communities of
9 interest within several specific sections of the
10 state.
11 Q. And would you please before we get
12 into that report, would you please turn to Tab 3,

13 which is plaintiff's Exhibit 131?
14 A. Yes.
15 Q. What is that document?
16 A. That is a supplement to my initial
17 expert report.
18 Q. And what was your assignment in
19 preparing this report?
20 A. This was supplemental. I was asked
21 to review the legislative Senate and House
22 districts and compare the boundaries of those
23 districts in terms of their geographic
24 correspondence to historical communities of
25 interest.

1 Q. Okay. Now, before we get too much
2 farther into your opinions, could you clarify how
3 you are using the term communities of interest as
4 you used it in your reports. I'm not asking for
5 any sort of legal definition.
6 A. When I was asked to participate in
7 this case, I turned first to a number of
8 geographers who had done work on redistricting
9 and specifically the topic of communities of
10 interest. And I found their definition

11 corresponded with that of a broader groups, but I
12 typically look at a community of interest as a
13 group of people with comparable, similar social
14 cultural, economic political interests within a
15 given territory.
16 Q. And how do you identify communities
17 with shared cultural histories or interests?
18 A. I'm sorry.
19 Q. How do you identify communities that
20 have shared cultural histories or interest?
21 A. Thank you. One of the basic ways of
22 doing this is I investigate first, the long-term
23 process of settling how these people have come --
24 how people have document be in a given place,
25 what is the continuity of their presence in that

1 place, have there been interactions with other
2 groups, have they sustained group identity over
3 time and remain an a coherent group with shared
4 interests.
5 Q. Where in the state did you try to
6 identify those historical communities?
7 A. I'm sorry. What was it?
8 Q. I'm sorry. Where in the state did

9 you try to identify those shared communities?
10 A. In the -- the initial report there
11 is a map that can help us see that, but it was
12 basically the upper Red River Parishes which is
13 basically from Natchitoches or excuse me, from
14 Alexandria northward to the northwest corner.
15 The state I was asked to look at Acadiana which
16 is a large triangular area that radiates from
17 Avoyelles to the north which is more central
18 Louisiana down to the map of the Sabine river in
19 the southwest down into lower Lafourche Parish
20 and parts of the lower Mississippi River. I was
21 also asked to look at the river parishes meaning,
22 the Mississippi River parishes and I -- I chose
23 to look at those parishes mostly on the Westbank
24 from Pointe Coupee Parish down to Jefferson
25 Jefferson Parish although, some of those parishes

1 straddled the river.
2 Q. Are you referring to the map that
3 you included in your report at page 4 of
4 plaintiff's Exhibit 129?
5 A. Yes, I am.
6 Q. Would you recognize a copy of that

7 map if we showed it on the screen?
8 A. Yes.
9 Q. Okay. We are going to call up
10 plaintiff's demonstrative 26 which is just an
11 enlarged copy of the map included on page 4 of
12 that report of Dr. Colten.
13 MR. FARR:
14 Your Honor, I just want to state I
15 have no objection to this exhibit, but I
16 may have an objection to other
17 demonstrative exhibits we just received
18 this morning.
19 THE COURT:
20 Okay.
21 /SKWRAO.
22 This exhibit is actually in the
23 report unlike the others we are going to
24 be looking at.
25 THE COURT:

1 All right.
2 BY MS. KEENAN:
3 Q. So could you talk us through which
4 area you described is on the demonstrative you

5 see in front of you?
6 A. Yes. The -- what I have labeled
7 here and with the more or less stippled pattern
8 is the upper Red River region which includes
9 Caddo and Bossier DeSoto and Red River
10 Natchitoches and Rapides Parishes, Caddo Parishes
11 which is a grate toe that's the Red River
12 Parishes. Now, we are going to go to Acadiana
13 which starting in the center of the state at
14 Avoyelles moving to the southwest Evangeline Jeff
15 Davis, Calcasieu, Cameron, Vermillion, Acadia,
16 St. Landry, Pointe Coupee, Iberville, St. Martin,
17 Iberia, Assumption, St. James, St. John the
18 Baptist, St. Charles, Lafourche and Terrebonne.
19 Q. And what about the river parishes,
20 where are they on this map?
21 A. I included this in the assignment
22 Pointe Coupee, West Baton Rouge, Iberville
23 Ascension, Assumption, St. James, St. John the
24 Baptist and St. Charles.
25 Q. How does identifying communities

1 based on the shared culture communities that you
2 just talked about, differ from identifying

3 communities based on political boundaries like
4 you see here?
5 A. Parish boundaries are typically
6 assigned by government bodies, communities of
7 interest are more genetic, they are more
8 evolutionary. They arise based on long-term
9 patterns of where people live and where they came
10 from and how they go about pursuing livelihoods
11 and practicing their lives.
12 Q. So I want to walk through each of
13 the areas you just discussed in a little more on
14 detail starting from north to south. Let the
15 record reflect that I'm now showing the witness
16 plaintiff's one which is the demonstrative map of
17 Shreveport and Bossier Parishes?
18 THE COURT:
19 Is in your objection.
20 MR. FARR:
21 Can I state my objection,
22 Your Honor?
23 THE COURT:
24 Please.
25 MR. FARR:

Yes, Your Honor. Dr. Colten's report in this case, originally the report was 25 pages long. This morning we got 17 pages of a demonstrative exhibits one of which I've already agreed can come into evidence because it is in the expert report. These other maps were not included in the expert report. We have no idea when they were made, we have no idea who made them. It is impossible having received these maps today for defense to have an adequate opportunity to study them to be able to cross examine Dr. Colten on them to defer whether or not there's additional information on these maps that is not included in his report and Your Honor, I have to confess you probably have a better handle on this than I do, but I always get confused between demonstrative active and real exhibits, but whatever demonstrative exhibit is this, crosses the line this is 16, 17 maps that railroad delivered today that we have never seen before cross the -- the line from a demonstrative exhibit to an

amendment to a report this is essentially giving Dr. Colten to enhance and amend his report without the defense having a chance to study this information to be able to effectively cross examine him. /STPHAO.

May I explain, Your Honor?

THE COURT:

You may respond.

MS. KEENAN:

One point of clarification, just for the record, these were not sent this morning. They were sent last night, so it's agreeing: So it's not just not like we sent them today. /SOEBGD though Your Honor, none of these are intended to be offered in evidence. We are not the -- these are maps taken in the shape files that were introduced in this case. All we are going to show if I can make an offer of proof which the demonstrate exhibits which we won't be offering into evidence.

THE COURT:

24 Okay. The court will view them as
25 illustrative aids. ***they will not be

1 entered into evidence, the court will not
2 be entered into evidence 23. You use
3 illustrative for the assistance of this
4 court, you recognize that the court of
5 appeal will have no access to this so I
6 don't know what are your record's going to
7 be. If -- if as defense counsel has
8 indicated we cross into an area that is
9 not covering Dr. Colten's report which I
10 have read and I have on my iPad then I'll
11 rely on you to make an objection at which
12 point the court will rule on the
13 objection, but as in all cases, the expert
14 witnesses or the opinion witnesses will be
15 limited to those opinions stated in their
16 reports.
17 /STPHAO.
18 Of course, Your Honor.
19 MR. FARR:
20 Your Honor, thank you for that
21 ruling, Your Honor. I do want to correct

22 a statement I made. I'm told we received
23 these last night. The reason why I
24 thought it was this morning is because I
25 was asleep when we received these maps.

1 THE COURT:
2 They were received at 6:00 p.m.
3 MR. FARR:
4 Thank you. Your ruling, I
5 understand it. But I have to say that
6 these maps could have been produced
7 earlier if they were going to be used as
8 demonstrative exhibits. And I have to say
9 it's quite difficult for me to look at
10 these maps now and try to figure out what,
11 if anything, is on these maps that's in
12 his report because as you know this is not
13 easy stuff looking at these maps there's a
14 lot of stuff you can throw onto a map that
15 may not be obvious to you when you have
16 just a few minutes to look at it, so I
17 appreciate your ruling, Your Honor. We
18 accept it, but I do want to make that
19 objection.

20 THE COURT:

21 I understand and it's Mr. Far.

22 /SKWRAO.

23 Yes, sir. I'm sorry.

24 THE COURT:

25 Do you need to stay seated, there

1 was permission asked for one of the

2 lawyers to remain seated.

3 MR. FARR:

4 Yes, sir. I'm the one that's got a

5 few medical problems.

6 THE COURT:

7 You may remain seated.

8 MR. FARR:

9 I like to stand when I'm addressing

10 the court if -- if you'll let me sit while

11 asking questions I will be grateful to

12 you.

13 THE COURT:

14 I will be more than happy to oblige.

15 Carry on.

16 THE ATTORNEY:

17 Q. So let the record reflect, that I'm

18 showing the plaintiff demonstrative one. It's
19 just a map of the Shreveport and Bossier Parish.
20 The -- the -- is this a parish that you analyzed
21 in I /-PT when you /TRAOURP trying to show that
22 there were communities that shared cultural
23 histories?
24 A. Yes, I did.
25 Q. And can you walk through the

1 historical communities that you identified in the
2 Shreveport and Bossier Parishes?
3 A. Yes. Northwest Louisiana, which
4 includes Bossier and Caddo Parish, was originally
5 indigenous lands and in the 1830s and major log
6 jam on the river was broken by Captain Sheave and
7 this area became the destination for Anglo
8 settlers who had not been in this part of the
9 state in any large numbers so we began to have
10 this migration and settlement of Anglo planters
11 who came in seeking fortunes raising cotton using
12 slave labor for the work on the plantations.
13 This work was carried out largely on the flood
14 plane in the area closest to the river relatively
15 flat land. Bulk scale plantation occurred so you

16 had in Shreveport and Bossier there on the river
17 actually a majority of African-Americans came to
18 be assembled in the plantations along this --
19 this part of the river with a lesser number of --
20 of Anglos for the most part. Shreveport became
21 an important port exporting cotton down river and
22 you begin to have within the city distinct
23 neighborhoods growing and evolving. In the early
24 20th century, the traditional agricultural
25 committees was really disrupted with the

1 discovery of oil in Caddo Parish and we began to
2 see a rash of new migrants coming into the state,
3 the growth of Shreveport itself. We also began
4 to see -- well, I'm sorry. Let me step back. In
5 the wake of the civil war, there was
6 ***emancipation and the enslaved people were
7 released and we begin to see a confidentiality of
8 racial violence, Caddo became known as bloody
9 Caddo because of a large number of murders by
10 whites against blacks. We began to see the
11 evolution of Jim you laws even with emancipation
12 the blacks for a time period during
13 reconstruction, those rights were gradually

14 restricted and removed. Shreveport also became
15 the low can you tell us for any formally enslaved
16 workers moving to the city moving to town and you
17 began to have a considerable number of blacks
18 living in town with this memory of enslavement
19 they tended to live in compact neighbors because
20 very segregation policies and their poverty and
21 just being recently freed so you have very
22 disaggregated neighborhoods. Within Shreveport
23 as a 20th century rolled in -- in Shreveport,
24 well, Caddo and Bossier both had incredibly high
25 numbers of lynches. There was racial tension and

1 overt racial violence with the discovery of oil
2 there was a rash of small scale black farm owners
3 in the oil producing areas dubbed oil city who
4 turned to white lawyers for guidance a how to
5 manage their new found wealth and in many cases
6 they were basically robbed of their -- of their
7 potential wealth by unethical attorneys. So you
8 have this historical pattern of racial violence,
9 racial deception racial discrimination that was
10 also carried out in terms of educational
11 situations. Poorer, poorer educational

12 facilities for African-Americans, the red lining
13 was evident in Shreveport and areas of
14 opportunity for residential movement of blacks
15 was very limited to areas where they could secure
16 funding or buy properties out right. So this was
17 -- these series of events led to the development
18 of distinct communities that were self identified
19 and that then continued into the 19 -- late '60s
20 early '70s with desegregation. There were bitter
21 protests against integration of schools in the
22 Caddo, Bossier areas. We had going on before
23 then and after then white -- flight whites moving
24 to the suburbs leaving Caddo Parish heading to
25 Bossier Parish, so you'd this very, very racial

1 likewise pattern of residents. It wasn't
2 necessarily a matter of explicit choice, but it
3 was a matter of defacto choice. There were no
4 other choices of where they lived. And so this
5 created a great deal of this further enhanced
6 community identity within the black community and
7 it's based on their shared history as much as
8 their skin color.
9 Q. So I'm going to show you plaintiff's

10 Exhibit 2, which is just a demonstrative map of
11 the same area of the state, but with an overlap
12 of the illustrative Exhibit 38.
13 Could you tell us how illustrative
14 district 38 -- I'm sorry, to correct the record,
15 illustrative Senate district 38 correlate to the
16 that you just discussed here or discussed in your
17 report?
18 A. Certainly, if you look at the area
19 where the roads converge where the small word
20 Shreveport is just slightly and borrow the left
21 of the city, this is the downtown core of the
22 city and just immediately to the west, that was
23 all what people call the counter public
24 neighborhood. The areas where black businesses
25 and black churches and black residents first set

1 up their -- their their neighborhood in
2 Shreveport. So this was a core. But by the --
3 by -- during the post war period, many began
4 moving out towards the neighborhood that's
5 labeled there as Caddo Heights and that was
6 further west towards the airport that you have a
7 green area with a big X on those to the west of

8 the district. So these were areas that presented
9 continuity in terms of the community members from
10 the old core as they moved further outward. So
11 this contains a shared community of interest.
12 Q. And just to confirm for the record,
13 are each of the communities that you just
14 discussed in the neighborhoods located within the
15 boundary of the Senate district 38 as you see it
16 in this map of the illustrative district?
17 A. Yes. The old core public
18 neighborhood as well as the areas where the large
19 import is and Caddo Heights word, those are areas
20 within that district that I was discussing.
21 Q. Okay. Let the record reflect that
22 I'm now showing the witness plaintiff's
23 demonstrative three. This is again, the same
24 area, but with an overlay of illustrative house
25 districts and I'm going to focus on HD 1 and 2?

1 THE COURT:
2 One moment.
3 BY MS. KEENAN:
4 Q. Could you tell us how --
5 THE COURT:

He's got an objection.

/SKWRAO.

May the court please make an

***objection. Thank you, Your Honor.

THE COURT:

Sustain the objection. I know we are using the words illustrative maps, but try to use the word illustrative aids. They are terms of art, but have distinct meaning and maybe that will help keep the record straight.

MS. KEENAN:

Thank you, Your Honor. These are maps of plaintiff's illustrative aids, so I'll try to make that --

THE COURT:

Right. My appreciation is that demonstrative evidence is committed and it makes part of the record in a jury trial you would send your demonstratives back

with the jury. Illustrative are not part of the record.

/STPHAO.

4 Okay. Sure. So illustrative A is
5 the term you would like me to use?
6 THE COURT:
7 I'm sorry. It's going to be redid
8 you know can't to illustrative maps, but I
9 would like to make it more clear for the
10 record.
11 /STPHAO.
12 That's okay. This is just to make
13 it clear. This is the third illustrative
14 map that we are using and it's the same
15 map of the area with illustrative house
16 districts 1 and 2.
17 THE ATTORNEY:
18 Q. Could you tell us how illustrative
19 house districts 1 and 2 correlate to the
20 historical geography and the communities you just
21 discussed here and in your report?
22 A. Is this illustrative --
23 Q. Yes, this is illustrative?
24 A. -- districts?
25 Q. These are the illustrative house

1 districts 1 and 2, yes.

A. This shows the -- again, starting where -- in district one where you see the word Shreveport, the small Shreveport where the roads converge, you see the -- just to the west of the word Shreveport was the old counter public neighborhood, the old core African-American neighborhood, and this includes one of the first extensions of African-Americans outward from that -- that core district to the west. And district two contains much of the continuation of that to the south and the west towards the airport and down towards Caddo Heights.

Q. And just to confirm that core counter public space that you were just talking about, is that within the boundaries of house district 1 as you see it on this screen?

A. Yes.

Q. Okay. I want to move onto the next area of the state. And so this time I'm going to show the website an illustrate us aid that we have titled just for our purposes of the tech. Plaintiff's D-4. This shows Desoto Red River, Natchitoches and some of the surrounding parishes. Dr. Colten, are these areas that you

studied in your report and tried to identify historically, communities within?

A. Yes, they are.

Q. Okay. And can you tell us how -- can you tell us about the historical communities that you identified in this area of the state?

A. In many respects along the river, there was a continuation of the flood plain and again, in the 1830s after the clearing of the -- the log jam, this area attracted Anglo settlers, but to the south at Natchitoches, Natchitoches was perhaps, the first permanent settlement in Louisiana settled in 1714 by the French. This was an area that developed a very distinctive and close knit community: French language, French newspapers, legal documents in French continued into the 1860s at least. So this was an area that was really set apart from that waive of Anglos that came in much later in the 1830s. And -- and Natchitoches was an -- an area that also had plantation agriculture. It was earlier than the cotton boom and we see there was some rice there was some Indigo and other crops. A little cotton early on and just to the south of the

25 Natchitoches, there was an area that was settled

1 by emancipated mixed race people who became known
2 as Creoles of color. Who lived in plantations
3 they were slave owners, they were planters. They
4 had economic and relationships with people and
5 with the white community in the area, so this was
6 a -- not that this was a -- you know, a Panicum,
7 but they didn't have voting rights, but they were
8 a group that had greater means and greater
9 influence in the locality. They persisted as a
10 very separate distinct community from Natchez in
11 part because of their racial composition. So
12 this was a historical feature not necessarily
13 just one race and this community still exists,
14 it's been there. Have been movies made about it
15 and it's now been recognized as a national
16 historic district and so these -- the areas along
17 the river were engaged in plantation agriculture
18 as you move outward from the river up into areas,
19 for example, around ***hall submit or inland in
20 Natchitoches Parish and towards Mansfield and
21 DeSoto Parish, you get into an area that was
22 primarily forested, but was being worked by small

23 scale farmers what we call yeoman farmers. They
24 may have been planting cotton, they may have had
25 a slave or two, but they were not planters in the

1 large scale that the cotton be on the river were,
2 but this was very different also integrated into
3 the local economy and these parishes that had a
4 mix of upland and wetland areas saw that as an
5 advantage and it was something that was
6 characteristic of the region and those people had
7 a shared interest as well.
8 Q. So I'm now going to show the witness
9 an illustrative aid that we have marked for the
10 tech as D-5. This is the map, of course, of the
11 same area, but it has an overlay of illustrative
12 and house district 23. Could you talk a little
13 bit about how illustrative house district 23
14 correlates to the historical geography and the
15 communities that you've just discussed here and
16 in your report?
17 A. Yes. The -- if we start in the --
18 in the Desoto Red River area, you see that this
19 area, the -- the district contains both the
20 upland and the lowland areas. If you look the

21 flood plain basically runs from the river, the
22 Red River, the blue squiggly line to the eastern
23 edge of DeSoto Parish. That's basically the
24 flood plain and the flood plain was basically in
25 Red River, but DeSoto Parish touched that so you

1 had within this you did a cross section from east
2 to west say, from contain river to Martin you
3 have the uplands you have the flood plain and you
4 have the uplands again, the forested area. So
5 this was a balance of those territories. As you
6 look further down into Natchitoches Parish,
7 again, you see within Natchitoches Parish you see
8 both uplands and flood plain area and the most
9 distinctive feature here is that Natchitoches the
10 -- many of the resident much of the city of
11 Natchitoches is within one single district.
12 Q. We will talk a little bit more about
13 Natchitoches in just a minute. Before we get
14 there, I'm go to show you another illustrative
15 aid. This is D-8. Oh, no. We will get to
16 Natchitoches now. Let's cue up D-8. This is an
17 illustrative aid that Zooms in on the city of
18 Natchitoches, but with the same overlay of

19 illustrative house district 23 that you were just
20 talking about with the court. You were talking
21 about how the city of Natchitoches was treated in
22 HB 23. Could you explain a little bit further?
23 A. Yeah. This map shows much greater
24 detail than the last one and certainly the one
25 that we worked with previously on the DRA site,

1 but this shows that what's important to note here
2 is that where you have a fairly dense street grid
3 pattern in Natchitoches, that is basically the
4 populated and residential commercial area of city
5 almost all of that is within the city of
6 Natchitoches and that area to the north central
7 part of Natchitoches which is in district 22, is
8 largely unpopulated and the area within the city
9 limits of Natchitoches that dark section that
10 radiates to the south into 25, that's largely
11 rural area as well. So this keeps -- 23 keeps
12 Natchitoches basically together within one
13 effective municipality.
14 Q. Okay. I'm now going to show you
15 what's been marked as D-6. This is an
16 illustrative aid of the Desoto Red River in

17 Natchitoches Parish as we were just discussing,
18 but this time with an overlay of enacted house
19 districts 5, 7 and 25.
20 Could you talk a little bit about
21 how the enacted house districts in this area
22 correlate to the historical geography and
23 communities you discussed here and in your
24 report?
25 A. Yes. This really separates the

1 Desoto from its connection with the river and the
2 flood plain and Red River to the east. So this
3 -- between districts 5 and 7. This really
4 creates a start boundary between those two
5 parishes that in many respects had a comparable
6 sort of history. One thing I forgot to mention
7 on this. These two parishes were particularly
8 noteworthy in terms of post reconstruction
9 violence against black communities to the black
10 communities both in rural and urban areas had a
11 strong sense of identity and this separates those
12 communities that had that similar historical
13 past. And we see, Natchitoches is really the
14 city is basically taken out from Natchitoches

15 Parish and put into grant -- into district 22
16 which is mainly in Grant Parish.
17 Q. I'm going to show you another
18 illustrative aid that Zooms back in on
19 Natchitoches, this is plaintiff's D-9. And
20 again, this is that same zoom on the city of
21 Natchitoches with an overlay of 28 and enacted 22
22 and enacted HD 25 which you were just talking
23 about.
24 Could you talk a little bit more
25 about how these districts treat the community you

1 discuss in Natchitoches?
2 A. Yes. You can see that the northwest
3 section of Natchitoches is in district 25 and the
4 bulk of the city is in district 22. But this
5 really carves up the city of Natchitoches. And
6 and actually there's a section of it that's --
7 that's put into district 13 as well. But it's --
8 it just carves up the city and it places it in
9 two separate districts.
10 Q. So now, I want to talk about the
11 next area you examined in your report. Let the
12 record reflect that I'm now showing the witness

13 D-10. This is an illustrative aid of the
14 overlapping Acadiana and river parish area that
15 he identified in his report in the map on page 4
16 of plaintiff's Exhibit 129.
17 Looking at this illustrative aid,
18 could you tell us a little bit about the
19 historical communities you identified within this
20 area of the state?
21 A. Well, let's start with Acadiana.
22 The Acadians were recruited by the Spanish in the
23 -- in the 1760s to come to Louisiana because in
24 part, they were devoted catholics and had a great
25 resentment to the British who had compiled them

1 and driven them out of what the British called
2 Nova Scotia. They came and settled in areas
3 south of Baton Rouge along the river near the
4 town of St. Gabriel which is element dead center
5 in this map and they settled along the river.
6 They remained there for some time, but they were
7 small scale farmers. They weren't large
8 plantation owners. They didn't engage in large
9 scale rice or even later in sugar planting which
10 didn't really begin eventually in 1790s. Over

11 time, and some of them also moved into areas in
12 St. Martin Parish near the town of St.
13 Martinville. Others found their way down the
14 river into Lafourche Parish so this -- these were
15 kind of the core areas of initial Acadia
16 settlement in St. Gabriel in Lafourche Parish and
17 in St. Martin Parish along Bayou Teche. With the
18 arrival of Anglo planters in the 19th century,
19 many Acadians were bought out. They moved some
20 of them into the Atchafalaya Basin in Iberville,
21 Assumption, Iberia, St. Martin, St. Landry and
22 then some moved even further west into the
23 prairies, which is a very, very different
24 environmental setting that later became a
25 principal area for rice production in the area of

1 Crowley ain't reign those communities and further
2 west particularly as midwestern farmers were
3 approved to come in and practice large scale
4 agriculture. So you have Acadians spread
5 throughout this area from Avoyelles and Pointe
6 Coupee all the way down river to St. Charles.
7 Those funding the Mississippi declined in
8 population over time, but other parts of the

9 state, particularly St. Martinville, they really
10 grew in number. The Acadians were very, very
11 ***/EUPB far population in the early days of
12 their settlement in the state they retained the
13 French language and Catholicism unlike neighbors
14 to the north. They were small scale farmers not
15 -- most of them big scale, some of them did
16 practice large scale agriculture, but for the
17 most part, they retained their identity and even
18 when their identify was challenged in the 1960s
19 it was kind of revival of ***day judge identity
20 and efforts to revive the French language in the
21 schools in Louisiana and they retained this group
22 of sense of identity. Another group within that
23 Acadia that territory are a group of what we call
24 Creoles of color. They were Africa-Americans
25 some of ***Mullates who were sent by French

1 landowner along the river to manage their
2 livestock in the prior part of the parish. A lot
3 of this took place around the city around the
4 region of St. Landry and further west St. Landry
5 Parish and city of Opelousas, so this was another
6 group that worked on the plantations, lived on

7 the ranches of the Spanish and French added
8 diversity to this region, but they also retained
9 a very, very powerful sense of identity and even
10 today they still practice trail rides, harking
11 back to their traditional practices from previous
12 generations as rancher and they are still very
13 much an identifiable population in -- within
14 Acadiana, but they are not Cajuns.
15 Q. Now, you talked about the population
16 that you described in Acadiana on this map.
17 Could you take a look in the binder in front of
18 you on -- at the map on page 4?
19 A. Yeah.
20 Q. Is it fair to say that the area
21 depicted in this illustrative aid includes some
22 of the area that's also shaded as river parishes
23 in the map on page 4 of your report?
24 A. Yes, it does.
25 Q. And could you explain the historical

1 geography in the river parishes as you identified
2 it in your report in this area of the state?
3 A. Yes. This -- this area from Pointe
4 Coupee Parish down river to Jefferson Parish was

5 again, an area flood plain agriculture settled
6 initially by the French who employed many
7 enslaved laborers to do the back breaking work.
8 It also contained back swamp areas, but it was
9 here you had in many cases a majority
10 African-Americans working on these plantations
11 even after the end of the civil war after
12 emancipation the sugar producing districts of the
13 state were very different than areas that
14 produced cotton. They really demanded highly
15 skilled labor to run the sugar mills to many of
16 the Africa-Americans were sought at and paid
17 better than they might have been having other
18 opportunities and they remained on these
19 plantations. Also many in some cases, landowners
20 gave some slaves little slivers of land that
21 maybe all through these small narrow linear
22 villages that in many ways became adjacent to
23 petrochemical plants so in this area you had a
24 history of slavery, you had a history of slave
25 insurrection, and -- and then all the other

1 discrimination that goes along with a minority
2 community in this part of the world over time and

3 then the ultimate burden of -- of exposure to
4 industrial emissions and so this was an area
5 where again, that history of insurrection has
6 been captured in the spirit of these communities
7 now and there's a selection for the slave
8 insurrection. This -- this was of the birth
9 places the environmental justice movement in the
10 country basically formed within the
11 African-American community because of their
12 inordinate exposure to pollution and noise and
13 other things.
14 Q. And now, I'm going to show the
15 witness what's been marked for the tech as D-11.
16 This is an illustrative aid of that same area we
17 just saw with an overlay of illustrative seven
18 districts and particularly, I'd like to focus on
19 2 and 17 consistent with how these illustrative
20 house districts 2 and 17 correlate to the
21 historical geography and communities that you
22 discussed here and in your report?
23 A. Yeah. 17 reflects one thing that I
24 didn't mention and that's that West Feliciana and
25 east -- and East Feliciana and Baton Rouge are

basically parishes with more of an Anglo tradition, a cotton economy, but the 17 for the most part stays on the West Bank of the river and includes people who are growing sugar cane from Pointe Coupee all the way down into Iberville as well as communities that were in the back swamp areas places like gross at the time, Maringouin, and so this -- this -- this keeps one strong community together for the most part. District 2 likewise, well, district 2 in contrast I should say stradles the river. It encompasses both sides of the river because at point moving downstream from Plaquemine you really have comparable populations on both sides of the river a similar economic history, similar settle history, similar communities of interest on both sides of the river all the way down to and beyond St. Charles.

Q. And just to confirm when you say a similar economic history and what you identified in illustrative aid two here, can you describe at what history is?

A. It was a history of sugar cane plantations since about 17 -- or since about 1800 with enslaved labor as I mentioned before.

Q. Okay. Let's move onto the next area of the state that you examined. Let the record reflect, I'm showing the witness what's been marked for the tech as D-12. This is an illustrative aid of Baton Rouge and the surrounding area.

Dr. Colten, is this one of the areas that you examined in your -- your reports?

A. Yes, it is.

Q. And could you tell us about the historical communities that you identified in this area of the state?

A. Well, Baton Rouge even though it has a French name, was largely an Anglo settlement for many years it was part of British west Florida or Spanish west Florida and then part of the British territory home in this -- in this part of the world. And the British called it Richmond. There wasn't that many French who lived in Baton Rouge. There was a small number, but it's more of a protestant city than areas to the west. It had -- it became a destination for freed slaves after the end of the civil war by

24 which time it had already become the state
25 capital, so it was growing it was a fairly small

1 city even in 1900, but it was growing and it
2 tended to grow first to the north, the what's
3 labeled here as the Baton Rouge refinery what's
4 now the ExxonMobil refinery and that was built in
5 the early 20th century and it attracted largely a
6 white working class population who lived in the
7 mill gate community just outside. So you have an
8 extension of white population to the north, you
9 had a white population extending to the south and
10 west towards LSU and out directly to the west and
11 within the core of the city there was a fairly --
12 there was fairly small areas. An area that is
13 called here it's another somebody of the bottom
14 it's an area on south of downtown Baton Rouge.
15 It was primarily the of a African-American
16 residential district afternoon. And then the
17 city graduates was inching its way eastward along
18 Florida and Government Streets. Florida is the
19 US 190 labeled as U.S. 190 on this map. In the
20 1940s, the first major bridge was completed
21 across the Mississippi River and extended to the

22 south and east what's labeled here as Airline
23 Highway. And with that highway, additional
24 neighborhoods were constructed in the '60s and
25 '70s pushing the city further eastward. It was

1 also at this time period that in the '60s and
2 '70s, we begin to get integration. We begin to
3 get a strong push Baton Rouge east white flight.
4 There's an old sub burns moving further out and
5 east, and it was during this phase of development
6 that we see a lot of the mill workers near the
7 ExxonMobil moving further out and much of that
8 area near the mills became an Africa-American
9 neighborhood, so this is a process of
10 neighborhood turn over that was going on. And we
11 had a series of new subdivisions that were
12 platted and approved by the city and the parish
13 that enabled the city to add new residential
14 neighborhoods and each new neighborhood was more
15 or less constituted more or less an arc a semi
16 circle of development that one was built another
17 to the east of that -- another to the east of
18 that and so the city was growing eastward out
19 towards the Amite river and out towards Denham

20 Springs and then toward the south and east
21 towards New Orleans.
22 Q. Okay. I'm going to show you another
23 illustrative aid this is D-13. Again, a map of
24 the same area, but this time with an overlay of
25 the illustrative house districts. I'm going to

1 read into the record some of the house districts
2 that are shown in this illustrative aid. It
3 includes illustrative house districts 29, 67, 61,
4 68, 69, 70, 65, 101, and a couple in the
5 surrounding area. Dr. Colten, could you tell us
6 how these illustrative house districts correlate
7 to the historical geography and communities you
8 discussed here in and in your report.
9 A. Let me start with 67 which is the
10 one closest to the river. It includes the area
11 immediately adjacent to the Baton Rouge refinery
12 which was originally working class whites. But
13 by the 1980s, 1990s, it was becoming an
14 Africa-American neighborhood. We also see at the
15 far southern end of this district 77 going there
16 which was an area that was initially intended for
17 a whole group of apartment complexes, were built

18 there that were completed during the big oil bust
19 and the developers found that they needed -- that
20 they were able to fill them by renting them to
21 African-Americans so you had both these areas
22 near the refinery and around guard year were area
23 where African-Americans left the city and moved
24 out to more suburban locations. District 61 also
25 represents another phase, a very early phase of

1 movement out from the city, schools, commercial
2 districts built at comparable times so you had
3 sort of historical geography the chronology here.
4 Is -- this is an area that was added more or less
5 at one time 68 represents the push of the city
6 out towards Airline Highway 69 another arc beyond
7 that 101 another arc beyond that and then 65 is
8 more of a linear movement outwards towards
9 central city that was established to have a
10 separate school district, so this really quite
11 convincingly mimics that addition of these
12 different additions over time.
13 Q. So a couple of follow-up questions.
14 At one point I believe you said district 77, were
15 you referring to district 67 here on the aid?

16 A. I started -- if I said 77, I
17 apologize. I meant 67 which was the first one I
18 discussed. It includes the refinery and guard
19 year.
20 Q. Okay. Thank you. And you've talked
21 a little bit about sort of the way that these
22 arcs formed at the same time, I believe was the
23 thing you just said. I'd like you to explain a
24 little bit from the historical geography
25 perspective about how the communities within

1 these arcs relate to each other based on what you
2 talked about in your report?
3 A. Yes. Many of these people that were
4 moving to these sub -- subareas bought homes,
5 raised their families there and spent the bulk of
6 their life there. While they were there, the
7 city responded, the parish responds with building
8 schools in those areas people built churches so
9 you developed communities within these
10 territories. And and that's a fairly consistent
11 pattern you see in these neighborhoods as they
12 extended eastward.
13 Q. Okay. I'm know going to show you

14 another illustrative aid marked for the tech as
15 D-14. This is the same area again, but in this
16 case*** the house districts, it overlays the
17 enacted house districts just for the record, the
18 record some of those include 29, 67, 61, 68, 69,
19 70, 101, 65 as well as the surrounding area.
20 Dr. Colten, can you tell us how the
21 enacted house districts that you see in this area
22 correlate to the historical geography and the
23 communities that you've discussed here and in
24 your report?
25 A. I think the -- let's talk about 29.

1 Much of it follows the river on the west side of
2 the river, but it also leaps across the river and
3 includes the areas to the east of the Baton Rouge
4 refinery shown here. The area west of the river
5 was in a different administrative unit, a
6 different parish. There was a very different
7 population one of the marks of distinction was
8 that the bars stayed open later because there was
9 more of a catholic influence which was more
10 tolerant of later night drinking on the east
11 side. Baton Rouge was more of a Baptist city and

12 so these really the two -- the areas on the east
13 and West Bank of district 29 were really quite
14 different in terms of their composition both
15 historically and recently.
16 The 67 includes ***Gardere??? Guard
17 /KWRER, but also includes some largely white
18 areas the south side of Baton Rouge. 70, 68, 69
19 are more or less radial -- more or less a radial
20 line extending out from the center of the city
21 south to the east straddling old barriers like
22 Airline Highway as does 61. 61 stradles Airline
23 Highway which once it was open it really -- we
24 saw a real acceleration of development on the
25 east side. So it -- these districts really don't

1 comport or don't mesh particularly well with the
2 historical geography of the growth of
3 Baton Rouge.
4 Q. Okay. And I'd like to move onto the
5 last area of the state that you examined. Let
6 the record reflect that I'm showing the witness
7 what's been marked for the tech as D-15. This is
8 an illustrative aid of Jefferson and Orleans
9 Parishes as well as some other surrounding area.

10 Is this one of the areas that you studied in your
11 reports?
12 A. Yes, it is.
13 Q. Okay. And can you tell us about the
14 historical communities that you identified in
15 this area of the state?
16 A. Now, I touched on some of them
17 earlier, but this is -- most of the area from
18 Destrehan down river through Algiers, on both
19 sides of the river at least initially in the
20 French old was settled boy, French planters, the
21 Eastbank really developed ahead of the Westbank
22 for those of you not from Louisiana, the area
23 south of the river is the Westbank and the area
24 to the north of the river is the Eastbank. So as
25 -- as New Orleans grew up river, much of the area

1 that's labeled garden district uptown, much of
2 that area was settled by Anglos and we began to
3 see the disappearance of the old traditional
4 sugar cane plantations with African-American
5 labor that doesn't mean African-Americans
6 disappear or wealthy Creoles disappear, but that
7 was ***characterized more on the Anglo settlement

8 on the Westbank. Agriculture persisted a bit
9 longer as it did up river, but by the 1940s, we
10 began to see a wholesale transformation of
11 Jefferson Parish on the Eastbank. New Orleans
12 was growing, and by 1950 was beginning to push
13 into Metairie, later ultimately into Kenner after
14 Hurricane Zeta Betsy in this '65, there was an
15 acceleration of this desegregation prompted even
16 more rapid white flight from New Orleans to
17 Metairie and Kenner. On the -- on the Westbank
18 on the south side of the river, we see a series
19 of highly segregated residential communities that
20 were being built in Gretna and Marrero and
21 Westwego and in particular neighborhoods that
22 were designated for people of different color, so
23 it was a highly deliberate segregation of
24 populations that replaced agriculture, but these
25 were residential areas for working class people

1 working in the new mills, the ship building
2 facilities and on the docks on the Harvey Canal
3 and other places upon the Westbank, so this was
4 very much a working class laboring population on
5 this side so very different of the population in

6 uptown and garden district in New Orleans
7 immediately across the river.
8 Q. And you talked a little bit about
9 this. Sorry, go back by the microphone. You
10 talked a little bit about this earlier when we
11 were looking at a different map that captured
12 part of these parishes as well, but upstream from
13 New Orleans and Jefferson Parish, could you talk
14 a little bit about the shared experience of
15 residents in I think Destrehan is a city you
16 mentioned closer to the St. Charles side of the
17 line?
18 A. It was upstream in some of the sugar
19 planting areas that for many years even the
20 Spanish had been concerned with slave
21 insurrection. The slave population out numbered
22 the white population and the Spanish period into
23 the early US period after Louisiana parish in
24 1803, but it was -- and here it was here the
25 first often the largest slave insurrection

1 occurred in 1807. Slaves marked downstream to
2 New Orleans and they were repulsed brutally and
3 viciously and as they approached Kenner, so this

4 slave insurrection again, is now celebrated as an
5 act of die /TPAOEUPBS in these areas you also see
6 just back from the river large green areas which
7 enable you to see these marsh areas and swamp
8 areas, these were areas that were -- were
9 destinations for escaped slave which is an
10 fundamental part of slave existence in this area.
11 So they escaped and established what they called
12 maroon colonies in the back swamps so these are
13 things that added to this group identity as did
14 segregation and housing as a whole host of other
15 such as poor quality housing schools and the
16 like.
17 Q. So I'm now going to show the witness
18 another illustrative aid marked for the tech as
19 D-16. This is an illustrative aid about the same
20 area we just discussed with an overlay of the
21 illustrative Senate districts and in particular
22 I'd like to focus on illustrative district 19.
23 Can you tell us how illustrative Senate district
24 19 correlates to the historical geography and the
25 communities that you discussed here and in your

1 report?

A. By by extending over both sides of the river for a large portion above -- above well above Harahan, it includes people who were resident in the area or had ancestors who were resident in the area during the period of enslavement. These areas have experienced exposure to industrial pollution, they are part of the group that celebrate the anniversary of the slave insurrection so there's a real strong sense of community within these areas in that area above Harahan where it stradles the river. As you move further downstream, across from Harahan down, down to the bottom or to the south of the river where Waggaman is, these areas that area is more of a working class community, neighborhoods of labor classes become more and more African-American over time, so these areas also have a strong sense of identity and the extension far down to the south includes some of these areas that were exposed to flooding before the post Hurricane Betsy ***perk levees were put in so these areas on the back swamp side of these communities have seen they have been exposed to flooding in more recent years and that's another

1 part of their social memory of existence in this
2 area.
3 Q. And finally, I'd like to show the
4 witness what's been marked for the tech as D-17.
5 This is an illustrative aid of the same area, but
6 this time with an overlay of the enacted Senate
7 districts in the area. But to focus this time on
8 enacted Senate district 5.
9 Could you tell us how that district
10 correlate to the historical geography and
11 communities of interest that you've just
12 discussed here and in your report?
13 A. Well, the the extension of district
14 5 to the West Bank of the river will inures the
15 historical geography of this settle history the
16 cultural history of this region by including
17 neighborhoods in Jefferson Parish and Orleans
18 Parish. It tends to disrespect the judicial or
19 jurisdictional lines that were placed, different
20 cities, different parishes even.
21 Q. And what about that community in
22 Jefferson Parish that you were just discussing
23 that appears in in enacted SD 5, how does it
24 compare to the surrounding Jefferson Parish

25 communities in enacted Senate district 8?

1 A. Repeat the question please.
2 Q. Sure. So the part of Jefferson
3 Parish that appears in enacted SD 5 how does it
4 compare to the surrounding territory in Jefferson
5 Parish that's placed in enacted Senate district
6 8?
7 A. The -- the -- well, Senate district
8 or district 8 loses a big chunk of its -- its
9 territory with that extension of five moving into
10 it and -- and then that causes discontinuity.
11 THE ATTORNEY:
12 Okay. Thank you. I have no further
13 questions for Dr. Colten at this time.
14 Your Honor, I did want to put one more
15 thing into the record about the
16 illustrative aid just to make sure it's
17 clear. All of these illustrative aids
18 were produced from shape files and
19 materials from Mr. Cooper's back up files
20 that were produced to the defendants. I
21 just wanted to make sure I had put the
22 origin of these illustrative aids into the

23 record. Thank you, Your Honor.
24 THE COURT:
25 Cross?

1 MR. FARR:
2 May I proceed, Your Honor?
3 THE COURT:
4 You may.
5 MR. FARR:
6 Thank you, Your Honor.
7 EXAMINATION BY MR. FARR:
8 Q. Dr. Colten, can you see the
9 attorney?
10 A. I can barely see. I can see, but I
11 would ask you to speak up, if you could, please.
12 Q. I will. Can you hear me now?
13 A. Barely.
14 Q. Can you hear me now?
15 A. I can hear you, but a little extra
16 volume wouldn't hurt.
17 Q. Okay. How's that?
18 A. Better.
19 Q. First, I'm going to ask you some
20 questions about this -- these illustrative maps.

21 When did you first see the maps that have been
22 described as illustrative maps today?
23 A. The illustrative maps I saw over a
24 year ago.
25 Q. Okay. So you had access to these

1 maps over a year ago, but you did not include
2 them in your report?
3 A. The illustrative maps I had access
4 to for over a year, the illustrative aids I did
5 not.
6 Q. Okay. And counsel said there was a
7 shape file. Was that your shape file or was it
8 someone else's shape file?
9 A. I believe she said it was
10 Mr. Cooper's.
11 Q. Okay. And you've never talked to
12 Mr. Cooper, have you?
13 A. We exchanged some pleasantries in
14 the hall this afternoon or earlier today.
15 MR. FARR:
16 All right. Now, I want to ask you
17 about demonstrative Exhibit 14, if we
18 could put that up on the screen.

19 TRIAL TECH:

20 (Complied.)

21 BY MR. FARR:

22 Q. And I seem to recall that your

23 counsel said this was a map of the illustrative

24 districts in the Baton Rouge area?

25 MS. KEENAN:

1 Objection, Your Honor.

2 Mischaracterizes the testimony. This is

3 the enacted districts just to avoid

4 confusion.

5 MR. FARR:

6 Which ones were these?

7 MS. KEENAN:

8 The ones you have on the screen,

9 these reflect the enacted districts. I

10 can tell from the district 29 the one in

11 the series immediately before that's

12 showing on the screen right now, this is

13 the illustrative districts just for

14 clarity.

15 MR. FARR:

16 Okay. So what we have on the map

17 now is Mr. Cooper's map.
18 MS. KEENAN:
19 This is the illustrative aid that
20 includes the illustrative districts that
21 were in Mr. Cooper's map. I'm sorry for
22 the terminology. I just want to be clear.
23 MR. FARR:
24 Okay. Thank you very much.
25 BY MR. FARR:

1 Q. Now, Dr. Colten, you testified about
2 the communities of interest that were related to
3 these illustrative districts.
4 Is this the only way that you could
5 draw this -- this area of Baton Rouge to respect
6 the communities of interest that you talked about
7 because could those districts be configured in
8 different ways and still respect the communities
9 of interest that you've identified?
10 A. I suspect so. I mean, it was
11 probably an infinite number of ways you can draw
12 the boundaries.
13 Q. Okay. And your report doesn't look
14 into the impact of race and in drawing districts

did?

A. I'm sorry.

Q. You didn't talk about race in your report?

A. I'm sorry. Did you say I didn't or I did.

Q. Did not?

A. I did mention race.

Q. You did not -- you mentioned race?

A. I mentioned race.

Q. Okay. Did you look at

how race may have effected how the lines were drawn in Mr. Cooper's illustrative districts?

MS. KEENAN:

Objection, Your Honor, to the extent he's asking the witness about Mr. Cooper's intent. Your Honor has already excluded testimony that goes to the intent of Mr. Cooper and drawing his maps and we ask that this witness not be called to offer opinion testimony about that same improper inference.

MR. FARR:

13 Well, Your Honor. He's testifying
14 about communities of interest that he
15 thinks went into the location of these
16 lines and I'm trying to inquire as to
17 whether he looked at other things that may
18 account for the location of the lines.
19 THE COURT:
20 Other things other than communities
21 of interest, I guess, I'm not -- I'm
22 having difficulty with the -- with your
23 question.
24 MR. FARR:
25 Well, my -- the point I'm trying to

1 make, Your Honor, is that he didn't study
2 whether or not these -- he's admitted that
3 these districts are not the perfect and
4 only way to respect the community's of
5 interest in Baton Rouge and I'm asking him
6 if he looked at any other factors that
7 could have effected the way the lines were
8 drawn including the impact of race. I
9 don't see why that's not a fair question.
10 MS. KEENAN:

I don't think that was the question that was asked.

THE COURT:

I didn't understand. I didn't understand that that was the question. I'm going to overrule the objection and I'm going to ask that you rephrase your question that was not the question that I understood.

MR. FARR:

All right. Thank you, Your Honor.

BY MR. FARR:

Q. In your report, Dr. Colten, in this area of the state in Baton Rouge, you did not make a study on whether or not race could have

impacted the location of the lines in Mr. Cooper's illustrative districts?

MS. KEENAN:

Objection. I think this is in addition to the objection I previously raised. It's outside the scope of the witness's testimony. He was never asked about what things Mr. Cooper may have

9 considered in drawing the maps only
10 objectively how his field of study
11 correlates to the illustrative and enacted
12 districts at issue in this case. He was
13 never asked about Mr. Cooper's intent or
14 attempts in drawing his maps.
15 THE COURT:
16 I'm going to sustain the objection
17 asking Dr. Colten to give essentially
18 opinion testimony on whether race --
19 essentially what you are trying to get at
20 is whether race predominanted in
21 Mr. Cooper's maps and that's an
22 inappropriate question for this particular
23 witness.
24 MR. FARR:
25 All right. Your Honor, thank you.

1 THE WITNESS:
2 Your Honor, if I may clarify
3 something.
4 THE COURT:
5 No, you may not. One lawyer one
6 witness.

BY MR. FARR:

Q. Dr. Colten, you've never testified in court before about communities of interest?

A. That's correct.

Q. And you agree that there are countless ways to define communities of interest?

A. There are many, many ways to define communities of interest.

Q. I'm sorry.

A. And I -- there are many ways to define communities of interest and I tried to explain how I define those.

Q. Well, you can have your counsel ask you that question. I just want you to -- I think you've admitted there's many ways you can define communities of interest, in fact, in your deposition you said there's countless ways to define communities of interest, did you not?

A. I don't recall exactly.

Q. Okay. Do you agree today, that there are countless ways to define communities of interest?

A. Yes, but I used one.

MR. FARR:

All right. Can we turn to Exhibit 129, page 4, please?

TRIAL TECH:

(Complied.)

MR. FARR:

And could you expand the map?

TRIAL TECH:

(Complied.)

BY MR. FARR:

Q. So, Dr. Colten, I think you've testified about this map. Is it fair to say that the shaded areas on this map were the areas that you focused on in your report?

A. I'm sorry.

Q. The areas that are shaded in this map are the areas you focused on in your report?

A. Yes.

Q. Those are the regions you looked at?

A. Those are the sections that I say I looked at, yes.

Q. And the areas that are in white, you did not look at those areas for communities of

interest?

A. I did do a review of them at some early stage, but not for communities of interest.

Q. Okay. And you didn't include anything on the report about the communities of interest in the areas of this map that are shaded white?

A. Other than East Baton Rouge Parish.

Q. Okay. So you did not assess the historical community interests for the entire State of Louisiana?

A. That's correct.

Q. All right. Now, Dr. Colten I think we agree there's 39 Senate districts in the Senate plan; is that correct?

A. 39 Senate districts yes, I agree with that.

Q. And in your report, you only criticize two of the enacted Senate districts; is that right?

A. I'd have to go back and look. I don't remember that number.

MR. FARR:

Can we pull up Dr. Colten's deposition, please, page 38.

TRIAL TECH:

(Complied.)

BY MR. FARR:

Q. Okay. Could you look at the question beginning on line 10 and the way you answered that question and does that refresh your memory about whether you had only criticized two of the enacted Senate districts?

A. What was the question -- what was the question in reference to? It was to one of my reports.

Q. I'm asking you in your report you only criticize two -- two of the enacted Senate districts?

A. In the supplemental I mention two, I comment on one, two, three, four in the rebuttal, so I've looked -- I commented explicitly on more than two.

Q. All right. Well, let's turn to your deposition page 38 line 10. I'm going to read the question. You can read the answer. Okay. So in the Senate plan it's my understanding that there are 39 -- 30 to 39 Senate districts in

Louisiana, and is it fair to say that you criticized two of those districts. Could you read your answer, please?

A. Of those I looked at yes, I didn't look at all of them and you asked if fair to say let's see. You --

Q. That's fine, Dr. Colten?

A. You asked if I criticized two of those, not only two of those as you asked me just now.

Q. Okay. But in your deposition you said in your report you only criticized two Senate districts.

MS. KEENAN:

Objection. That mischaracterizes the witness's testimony. He answered the question, but he never said he criticized only two in the deposition. You can see on the screen.

THE COURT:

The word "only" is not contained in that deposition. I'll sustain the objection. I get your point.

24 BY MR. FARR:

25 Q. Okay. Dr. Colten, in -- in your

1 study in had your report, you only criticize 7 of

2 the 105 enacted house districts; is that correct?

3 A. I don't recall right off the top of

4 my head. I'm sorry.

5 MR. FARR:

6 Okay. Can we turn to his deposition

7 again, page 46?

8 TRIAL TECH:

9 (Complied.)

10 MR. FARR:

11 Can we turn to page 45, please?

12 TRIAL TECH:

13 (Complied.)

14 BY MR. FARR:

15 Q. Right. Dr. Colten, I'm going to

16 start asking questions on page 45 and 46 and I'd

17 like you to give the answer that you gave in your

18 deposition. So on page 45, line 21, I asked am I

19 correct there's 105 house districts in Louisiana

20 legislature?

21 A. I responded, I don't do -- I hadn't

22 looked at that full list here today and I don't
23 recall right off the top of my head so I don't
24 know the number.
25 Q. All right. No problem. I have to

1 look -- look at -- look it up myself all the
2 time, but however many there are, you only
3 criticized six enacted districts; is that fair to
4 say your answer?
5 A. Of those I looked at, at which were
6 within the limited districts, those limited
7 regions.
8 Q. Okay. You only looked at six of
9 them; is that correct?
10 A. I respond, I think there's one, two,
11 three, four, five, six, seven I looked at more.
12 Q. But you only commented on seven?
13 A. That's correct.
14 Q. Okay. Now, the sections or regions
15 that you chose to study in your report, were
16 chosen by you in consultation with counsel for
17 the plaintiffs; is that correct?
18 A. Where are you quoting from?
19 Q. Well, I just am asking you; is that

20 correct? I'll go to your deposition if you don't
21 remember?
22 A. Would you repeat the question. I'm
23 sorry. I'm having a hard time hearing you.
24 Q. All right. The sections you chose
25 to study in your report, were chosen by you in

1 consultation with counsel for the plaintiffs?
2 THE COURT:
3 It's more of a statement than a
4 question. I think he's asking is that
5 correct.
6 THE WITNESS:
7 If he's asking if that's correct,
8 that's correct.
9 Q. Okay. And the sections you decided
10 to study encompassed the district in Mr. Cooper's
11 illustrative map; is that correct?
12 A. I'm sorry.
13 Q. The sections you decided to study
14 encompass the districts in Mr. Cooper's
15 illustrative map?
16 A. Well, they included districts in the
17 illustrative maps.

18 Q. Okay. And isn't it correct that you
19 looked at the communities within the regions
20 identified by plaintiff's counsel?
21 A. Yes.
22 Q. And would you also agree that an
23 expert can define regions different ways
24 depending on his purpose?
25 A. Yes. And I responded to that at the

1 request of counsel for what areas to study.
2 Q. Right. But I just -- yesterday you
3 can define regions that an -- an expert wants to
4 study depending upon the purpose; is that a yes
5 or no?
6 A. There are many ways to define
7 regions. I chose to fall within the guidance of
8 counsel and so there are many ways to do that.
9 MR. FARR:
10 Okay. Could you turn to
11 Dr. Colten's deposition page 32.
12 TRIAL TECH:
13 (Complied.)
14 BY MR. FARR:
15 Q. So I'm going to read the question,

16 Dr. Colten, and I want you to answer what you
17 answered in your deposition so in other words,
18 people can define communities of interest in
19 different ways.
20 MS. KEENAN:
21 Your Honor, I'm going to object at
22 this point. I'm not sure if this reading
23 from the deposition is intended at
24 impeachment, but to the -- if it is the
25 question that Mr. Farr is inferring, is

1 not the question he asked Mr. Colten and
2 so I'm impeachment.
3 MR. FARR:
4 Then yes, I'm asking this as
5 background question.
6 THE COURT:
7 Is it the same question that you
8 asked the witness if not the impeachment
9 is really been a bit of a tore tore and
10 border or improper. Is it the same
11 question that you asked the question?
12 MR. FARR:
13 It will be the same yes, Your Honor,

when we go to the next page.

THE COURT:

All right. I'll overrule the objection.

BY MR. FARR:

Q. Now, in other words, people can define communities of interest in different ways, is that your answer?

A. I respond in community interest in the regions we are talking about are very different.

MR. FARR:

Okay. Can people define regions.

Go to the next page, please.

TRIAL TECH:

(Complied.)

BY MR. FARR:

Q. In different ways than you've done in this expert report.

MS. KEENAN:

I'm going to object again, Your Honor. If you look at the answer that Dr. Colten provided, it's not

12 consistent with anything he said here
13 today because it's an improper impeachment
14 of the witness.
15 THE COURT:
16 It's been asked and answered. He
17 conceded in approximate probably the third
18 or fourth answer to your questions,
19 Mr. Farr, that there are different --
20 different defines for communities of
21 interest. Ask your next question, please?
22 MR. FARR:
23 Okay. But, Your Honor, we are
24 getting to the next question, if you let
25 me.

1 THE COURT:
2 Ask your next question.
3 MR. FARR:
4 Okay. Can I go back to the -- the
5 previous page, please?
6 TRIAL TECH:
7 (Complied.)
8 MS. KEENAN:
9 Your Honor, I don't think he can

10 just read from the previous page, it's not
11 a question that he's asked the witness.
12 That's not how impeachment works.
13 MR. FARR:
14 Okay. I'll start over.
15 THE COURT:
16 Okay. The objection is sustained.
17 Impeachment is ask him the question, if he
18 denies the question consistent with his
19 deposition then you can confront him with
20 his deposition.
21 MR. FARR:
22 Thank you, Your Honor.
23 BY MR. FARR:
24 Q. Would you agree, Dr. Colten, that an
25 expert can define regions in different ways

1 depending upon their purpose?
2 MS. KEENAN:
3 Your Honor, I'm going to object
4 asked and answered.
5 MR. FARR:
6 He did not answer that question,
7 Your Honor.

8 THE WITNESS:
9 I'm sorry. Are you reading from the
10 deposition again?
11 MR. FARR:
12 No. I'm asking the question again.
13 THE COURT:
14 I'm sorry. I have to rule on the
15 objection. The objection is overruled.
16 Ask your question again.
17 BY MR. FARR:
18 Q. Dr. Colten, would you agree that an
19 expert can define regions in different ways
20 depending on their purpose?
21 A. Yes. And I chose to follow the
22 guidance of counsel as I was assigned to study.
23 Q. Do you agree that you could define
24 the regions differently if you had a different
25 purpose?

1 A. As I've said yes, but I chose to
2 follow the guidance, the assignment that I was
3 given.
4 Q. Okay. Now, I think you said before,
5 Dr. Colten, that you never talked to Mr. Cooper?

A. I'm sorry.
Q. Before today, you've never talked with Mr. Cooper?
A. That's correct.
Q. And I think you you said today, you've never drawn a congressional or redistricting map?
A. That's correct.
Q. And it's true that you've never used a software program that Mr. Cooper used to draw his illustrative plans?
MS. KEENAN:
Objection. Your Honor, we are outside the scope of direct. Again, he was never tendered as an expert in any of these areas and did not testify about drawing maps for the purposes of this case.
THE COURT:
He's not a cart graph unless you

have some reason for the relevance of that question, it's denied.
MS. KEENAN:

Well, Your Honor, he's giving explanations for why Mr. Cooper drew this map and I believe I'm entitled to ask him some background on what knowledge he has of how Mr. Cooper drew this map and what was -- was available to him.

MR. FARR:

May I respond, Your Honor.

THE COURT:

You may.

MR. FARR:

He's not done that. He's not offered any testimony about what Mr. Cooper was doing as an expert in historical geography. He's talked about communities that exist in the State of Louisiana and the states he looked at and about how those correlate to the various issues in this case. He has never talked about MR. Cooper's intent or moves.

THE COURT:

Sustained.

BY MR. FARR:

Q. You've no personal knowledge of the reasons why Mr. Cooper drew his map?
A. I'm sorry.
Q. You do not have any personal knowledge of the reasons why Mr. Cooper drew his map?
A. Only what I could infer from reading his report.
Q. You made an attempt to determine whether the enacted plan better satisfies the communities of interest that you've identified in some areas of the state than Mr. Cooper's plan?
A. That was not an objective of mine.
Q. And you were not asked to identify the communities of interest in the state before you agreed on the regions of plaintiff's counsel?
A. I'm sorry.
Q. You were not asked to define what you thought were the communities of interest in the entire State of Louisiana before you agreed on the regions that you would study with plaintiff's counsel?
A. That's correct.
MR. FARR:

No further questions, Your Honor.

THE COURT:

You tender? I'm sorry, sir. What did you say? You tender the witness?

MR. FARR:

Yes, ma'am.

THE COURT:

Any redirect?

MS. KEENAN:

No further questions, Your Honor.

THE COURT:

You may step down, sir. Okay. This is a good time for a short break. We will be in recess until 3:00 o'clock.

THE BAILIFF:

All rise. Court is in recess.

(A short recess was taken at 2:41 p.m.)

THE BAILIFF:

All rise.

THE COURT:

Okay. Be seated. Call your next witness.

John John.

Your Honor, next, the plaintiffs

25 call Dr. Blakeslee Gulpin.

1 [!WITNESSNAME],
2 after having first been duly sworn by the
3 above-mentioned Court Reporter did testify as
4 follows:
5 THE CLERK:
6 Would you please state your name and
7 spell it for the record?
8 THE WITNESS:
9 It's Robert Blakeslee Gilpin. You
10 want me to spell the whole thing?
11 R-O-B-E-R-T, B-L-A-K-E-S-L-E-E,
12 G-I-L-P-I-N.
13 EXAMINATION BY MS. THOMAS:
14 Q. Judge, before we start I'd like --
15 if there's no objection, I'd just like too
16 speaker his report and CV for the record?
17 THE CLERK:
18 Could you state your name for the
19 record?
20 MR. ADCOCK:
21 I'm sorry. It's John Adcock on
22 behalf of the plaintiffs. I'd like to

23 move into the record what is Dr. Gilpin's
24 report and CV.
25 /SKWRAO.

1 No objection, Your Honor, and no
2 objection to Dr. Gilpin's qualifications.
3 THE COURT:
4 Okay. Plaintiff's Exhibit 124 is
5 admitted.
6 BY MR. ADCOCK:
7 Q. I'm going to skip over your
8 qualifications what you do for a living, Doctor.
9 We are going to go right to the heart of the
10 matter. Now, you wrote a report in this case,
11 correct?
12 A. I did.
13 Q. And what were you asked to do in
14 that report?
15 A. I was asked to look at the history
16 of racial discrimination particularly as it
17 related to voter disenfranchise in the State of
18 Louisiana.
19 Q. And what sources did you use, did
20 you reference in drafting that report?

21 A. I used a pretty wide variety of
22 sources from primary historical documents to
23 historians writing about this long history of
24 racial discrimination and voter disfranchise as
25 well as court cases and court decisions.

1 Q. Now, is that consistent with
2 generally how historians, the kind of sources
3 historians would look at in analyzing this kind
4 of data?
5 A. Yep. Totally in keeping with that.
6 Q. Now, what were your basic
7 conclusions in your report?
8 A. I -- again, I think it's hard for
9 any historian who studied the history of
10 Louisiana to come away with any other impression
11 than it is an overwhelming history of
12 discrimination against black people, once blacks
13 gained citizenship after the civil war against
14 black citizens and also the sort of overwhelming
15 and deliberate efforts to prevent them from
16 participating in the political process.
17 Q. Now, on without going too far back,
18 how did this discrimination against black voters

19 manifest itself after the civil war in Louisiana?
20 A. Well, most immediately after the
21 civil war, Louisiana law makers began to do what
22 many states in the former confederacy did was to
23 write black codes which were basically designed
24 to put black citizens back into a state of quasi
25 slavery, but following that especially following

1 the package of the 14th and 15th amendments,
2 there was a pretty long period of quite explicit
3 political terror and violence remained directly
4 at black voters in order to prevent them from
5 participating in the political process and that
6 lasted approximately 20 years, 20 to 30 years.
7 Q. 20 to 30 years up until when we are
8 talking?
9 A. The late 1890s is when that period
10 of violence changed pretty dramatically and
11 switched over to a much more formal and legal
12 mechanism to prevent blacks from voting.
13 Q. Now, what was the story of voter
14 registration for black folks in Louisiana post
15 civil war up to 1900?
16 A. Well, Louisiana is actually one the

17 most celebrated states during reconstruction for
18 achieving such incredible heights of black voter
19 registration, so the peculiar of that
20 registration was actually in 1898 when it reached
21 45 percent of the black population which is
22 pretty unprecedented in other regions in the
23 south and that was really more than anything else
24 as a signal to white Louisiana is they had to
25 come up with new ways as move agriculture cannon

1 in a polling place and murder and terrorism to
2 something legally that was going to prevent
3 blacks from participating in the voting process.
4 Q. And so what are you referring to
5 these kind of?
6 A. So the most dispersed tack tack that
7 was struck upon was this thing called the
8 grandfather clause which was in -- in keeping
9 many of the themes that would come up over the
10 next century or more fairly ingenious ways to
11 legally prevent blacks from voting in this case,
12 the grandfather case was if your grandmother had
13 not been a voter in Louisiana, you could not be a
14 voter in Louisiana. That was a logically

15 possibility for black voters because their
16 grandmothers had been enslaved and so this was a
17 way to obliterate black voters in Louisiana to,
18 so 45 went to 5 percent or under 5 percent in two
19 years and down to 1 percent by 1900, so we are
20 talking about just absolutely evacuation of black
21 voters from the polls in the State of Louisiana.
22 Q. Was the grandfather clause the only
23 kind of electric mechanism in your view to
24 restrict the ability of registration of blacks to
25 vote around that time?

1 A. As soon as -- as soon as method
2 began to fail, white Louisianians would come up
3 with a replacement and many historians have
4 written about this sort of, it's almost like
5 whackable. Once the grandfather clause was
6 granted illegal. Then it would be screams by
7 white Louisiana by blacks registering to vote
8 literacy became very common property requirements
9 these are on the heels of grandfather clause.
10 They are all a manner of strategies used by white
11 Louisianians to prohibit blacks from voting.
12 Q. And could you explain to the court

13 what a poll tax is?
14 A. That's simply requiring a citizen to
15 pay money when they are trying to register to
16 vote.
17 Q. And when generally was a poll tax
18 used in Louisiana, if any?
19 A. Oh, at election time.
20 Q. No. I know, but what years are we
21 talking about?
22 A. What period. We are talking about
23 basically, basically beginning in 1900, that is a
24 scheme that began to be used.
25 Q. Got you. And you write in your

1 report about the kind of jelly bean test. Can
2 you explain what that is?
3 A. Yeah. I mean, that's a phrase
4 that's used to sort of refer to all of the
5 different schemes that were struck upon by white
6 Louisianians basically in the post 1898 period,
7 so they could be reduced and sometimes were used
8 as simple as having a jar of jelly beans next to
9 the white registrar of voter and they'd ask the
10 perspective black voter whether they could tell

11 them how many jelly beans were in the jar and
12 obviously, this was a task that most likely had
13 no answer and certainly could not be
14 independently verified, but it was a way to
15 prevent blacks from registering to vote.
16 Q. And these were tests usually used
17 against black folk understand not white folks, is
18 that what we are talking about?
19 A. Yes,, very selective and obviously
20 discriminatory.
21 Q. Got you. Can you tell the court
22 what an all white primary is and when it was in
23 effect if you know?
24 A. So the all white primary was first
25 used in the '40s and this was sort of as civil

1 rights agitation began to sort of become a part
2 of American life and the all white primaries were
3 just again another scheme used especially in the
4 electoral situations to prevent blacks from
5 advancing black preferred candidates or
6 candidates of color.
7 Q. And what about -- can you explain
8 what a single shot voting is?

9 A. Single shot voting is used in multi
10 member elections where before there were an
11 single shot laws, minority citizens would try to
12 sort of aggregate their votes behind a single
13 candidate and instead, they were told to vote.
14 They had to vote for every candidate being run in
15 the election which meant that black candidates or
16 black preferred candidates were never being
17 elected that was the -- the and the means was ant
18 single shot voting.
19 Q. So let me understand this. So
20 you've got maybe four candidates for three
21 positions on the parish council in Union Parish?
22 A. Yep.
23 Q. And people want to use one vote and
24 not use their other two votes?
25 A. Yes.

1 Q. And they made that illegal, correct?
2 A. Exactly. So if you did vote for
3 just a single candidate, your vote would not be
4 -- it would be invalidated in that election.
5 Q. Got you.
6 A. And why would that

7 disproportionately prevent black folks from
8 obtaining office.
9 A. Well, this was a sort of I would
10 call it a means of resistance of trying to elect
11 candidates of their preference. The law was
12 written in order to make sure that that was not
13 possible.
14 Q. Uh-huh (affirmatively). Now, you
15 said that black voters were about 5 percent of
16 the electric vote in Louisiana in 1948. When the
17 Voting Rights Act was passed, what percentage of
18 the electric vote were they in 1965, do you know?
19 A. I'm not sure. I think it's in my
20 report, but I don't recall off the top of my
21 head.
22 Q. If I said 31 percent, does that
23 sound about right?
24 A. Yeah, that sounds accurate.
25 Q. In your opinion, what are the

1 important aspects the voting right acts and how
2 it relates to the narrative of discrimination
3 voting in Louisiana?
4 A. Well, the Voting Rights Act quite

5 simply is a reaffirmation of promises made much
6 earlier in American history to preserve all
7 citizens equal opportunity to participate in the
8 democratic process. One of the sort of core
9 active properties of the voters rights act is to
10 alert people when that is not proceeding as it
11 should and by it should, the goal of Voting
12 Rights Act the goal of American democracy is many
13 of our citizens to participate as possible so
14 when there are efforts such as the ones we have
15 talked about in the last couple of minutes to
16 make sure that certain people were not able to
17 vote, those are things that are violating not
18 only the principles of American democracy, but
19 specifically the tenants of the Voting Rights
20 Act. So I mean, I often compare it to a check
21 engine light on democracy which is that it's
22 alerting people at least preclearance as it
23 existed when the Voting Rights Act was written to
24 something that's going -- onto something that's
25 amiss with that practice of democracy.

1 Q. And the preclearance retirement.
2 I'm sure the court knows that's where you have to

3 submit a voting change to the Department of
4 Justice, is that what you are referring to?
5 A. Yes.
6 Q. Okay. Now, what Voting Rights Act
7 violations do you speak is of in your report post
8 1965 in terms of objection letters or anything
9 like that?
10 A. Well, there are so many of them,
11 it's hard to single out just a single type even.
12 But I would say that the basic patterns that were
13 in place before the Voting Rights Act was passed
14 are very much present after it is in -- enforced.
15 Which is mainly at large voting, packing and
16 cracking of districts, basically all manner of
17 devices when one fails another one is put in
18 place to try and prevent especially black
19 Louisianians from participating in -- in the
20 Democrat process.
21 Q. Thank you. You also thought it was
22 important in your report to spend quite a bit of
23 time on Major Vidrine the case there. Can you
24 explain why that's significant to the court?
25 A. It's probably the most significant

case in the history of Louisiana that demonstrates the importance of preclearance. Because Louisiana voters would likely never have been made aware of the offenses and violations of the Voting Rights Act were it not for preclearance. What that case revealed it was a redistricting case I mean, pardon my language here, but the man in charge of redistricting said we -- we already have a knicker mayor we don't need any more knicker big shots so it was quite explicitly concocted as a scheme to prevent blacks from voting. And the -- the resulting redistricting after the violation was discovered was the first black member of Congress elected in the State of Louisiana since 1870, so that if you want to sort of understand the progress that the VRA represented to this state Treen, is probably the most glaring example of that progress, but also of the sort of doing resistance to the changes that the VRA was proposing.

Q. When you said the man in charge of redistricting this was around 1981, was that in the state legislature?

A. Yes, that was in the state legislature.

Q. Okay. Now, I want to move on more into the present day.

What are -- can you give the court an overview here, what are recent examples of discrimination with regard to voting in Louisiana that comes to mind?

A. I mean, at large, voting is ringing a huge problem post '82 so we are just talking post Treen. Most recently voter requirements closing the polling places, in many ways, post 2013 is a very different landscape because preclearance is no longer a part of this at least of what we can know. But the practices that are still in place and are most closely resemble the things that were taking place before 2013 so the same schemes to prevent black Louisianians's from voting are being attempted over and over again.

Q. That's what I was going to ask you. So just overall why is history important?

A. Oh, I see.

Q. In terms of understanding, but how does it relate to present day practices?

A. Yeah. I mean, I think that there's

24 obviously many famous sayings of those that
25 ignore history tend to repeat it, but I think the

1 more specific reason why we look at things like
2 the long tree of racial discrimination and voter
3 /TK*PL in the State of Louisiana is to see what
4 were the patterns, what were the practices that
5 people were using, are those ends as in is the
6 goal of disenfranchising black voters still out
7 there without the check engine light of
8 preclearance without being made aware of this
9 through this mechanism, does it mean that our
10 engine is running fine. I would say that the
11 evidence is quite to the contrary that Louisiana
12 it still has an engine that is occasionally
13 malfunctioning and the purpose of that is to try
14 to remedy it and extend the privilege of voting
15 to as many of our citizens as we can.
16 MR. ADCOCK:
17 That's all I have for now, judge.
18 THE COURT:
19 Cross.
20 /SKWRAO.
21 Thank you, Your Honor.

22 CROSS-EXAMINATION BY FARR:

23 Q. Hi, Dr. Gilpin, how are you?

24 A. How are you?

25 Q. Good to see you in person. Sorry I

1 couldn't do your deposition in person. I much

2 prefer being with you here today. In your

3 report, and I think you just testified about the

4 Treen case?

5 A. Uh-huh (affirmatively).

6 Q. Does your report have any other

7 examples of court decisions where acts of the

8 legislature have been found to be discriminatory

9 since 1982?

10 A. I can't think of any.

11 Q. Okay. And as far as the legislature

12 is concerned, the legislature has not used

13 multimember districts since 1982?

14 A. As far as I'm aware, that sounds

15 accurate.

16 Q. Okay. So as far as legislative

17 districts, the legislature is not guilty of using

18 unusually large districts?

19 A. I don't believe so.

20 Q. And because they don't have
21 multimember districts, there's no ant single shot
22 law that's applied to elections for legislature?
23 A. No, I don't believe so.
24 Q. And does the Democrat party or the
25 Republican party in Louisiana have what's known

1 as candidate slating that essentially makes it
2 impossible for an African-American to receive a
3 nomination for their party for legislative race?
4 A. This is definitely not an area that
5 I'm an expert in so I can't comment to that.
6 THE ATTORNEY:
7 Okay. All right. Can we turn to
8 secretary of state Exhibit 35.
9 TRIAL TECH:
10 (Complied.)
11 THE COURT:
12 Is it already in evidence?
13 /SKWRAO.
14 It is, ma'am.
15 THE COURT:
16 Okay. Go ahead.
17 /SKWRAO.

18 I couldn't remember. Has it been
19 admitted? Okay. Thanks.
20 THE ATTORNEY:
21 Q. All right. Dr. Gilpin, are you
22 familiar with secretary of state Exhibit 35?
23 A. Yes, I am.
24 Q. And you cite that in your report?
25 A. I do.

1 Q. And is it fair to say that this is a
2 report by a majority of the commissioners who
3 serve on the Louisiana advisory committee on
4 civil rights?
5 A. That was my understanding, yes.
6 Q. So it's not a unanimous opinion,
7 right?
8 A. I think we went over this in
9 deposition, I'm not total -- I'm not sure.
10 Q. Okay. In your report, did you
11 identify any decisions where a court has found
12 discrimination in the location of polling places?
13 A. I don't believe so.
14 Q. And have you -- in your report, did
15 you cite any cases where a court has found that

16 Louisiana's laws in early voting discriminate
17 against black voters?
18 A. I don't believe so.
19 Q. And did you report, cite any cases
20 polling the legislature guilty of discrimination
21 on largely related to the voting accessibility?
22 A. Well, I think the Delta when you are
23 getting to the legislature, what it didn't do as
24 much as what it did do.
25 Q. Okay. Well, that's a fair point,

1 but my question is: Are there any court
2 decisions hold an act of a legislature as being
3 discriminatory on voting accessibility issues?
4 A. I don't believe so.
5 Q. And is there ever been a decision by
6 --
7 THE REPORTER:
8 I'm sorry. I didn't get his answer.
9 THE WITNESS:
10 I don't believe so.
11 THE ATTORNEY:
12 Q. Has there ever been a decision by
13 the court finding that the voter law has been

14 discriminatory?

15 A. I don't believe so.

16 Q. Has there ever been a decision by a

17 court finding since 1982, I won't /TKEUS /#350U9

18 your history which is compelling of things in the

19 past, but since 1982, has any court made a

20 decision that Louisiana's registration laws

21 discriminate against blacks?

22 A. After 19 -- you are drawing a firm

23 line in '82?

24 Q. Yes, sir.

25 A. I don't believe so.

1 Q. In your report, Dr. Gilpin, you

2 testified about Louisiana acts 636; do you

3 remember that?

4 A. Uh-huh (affirmatively).

5 Q. Could you tell the court what that

6 act was all about?

7 A. I remember it, but I don't remember

8 exactly what it was.

9 Q. Let me see if I can refresh your

10 memory.

11 A. Okay.

12 Q. Did that law allow those who had not
13 incarcerated for the previous five years to
14 regain their right to vote regardless of their
15 provision of parole status?
16 A. Yes. Yes. That's correct.
17 Q. And would you agree that that law
18 disproportionately benefited black voters because
19 the incarceration rates in Louisiana?
20 A. That was the intended benefit, yeah.
21 THE ATTORNEY:
22 No further questions, Your Honor.
23 THE COURT:
24 Any redirect?
25 MR. ADCOCK:

1 Just a few, judge.
2 BY MR. ADCOCK:
3 Q. Now, counsel asked you whether you
4 discuss any cases in your report that find
5 discrimination in certain scenarios. Do you
6 remember that?
7 A. Yes, I do.
8 Q. Now, when -- you are forming a
9 narrative about what happened in history, do

10 historians only look at court cases?
11 A. No. And I mean, I think that's one
12 of the main problems with the lines that are
13 being drawn here not only in regards to time, but
14 also in regards to what entity is involved with
15 what offense. One, I think the more glaring
16 lessons from the history of Louisiana is not just
17 that the legislature has not been found guilty of
18 doing something, but that it has not been found
19 guilty of doing something positive or doing
20 something to remedy these situations. The
21 evidence in my report I think is overwhelming to
22 anyone of how persistent and dogged the efforts
23 of this disenfranchised voting hack that is not
24 consistent from '82, it is something consistent
25 up to present day the question for the

1 legislature is why they aren't doing things to
2 out law these practices no matter where they
3 arise if it's in Bossier City city council or if
4 it's in a school district on the Westbank, it
5 doesn't matter where we are talking about. It's
6 the fact that these practices persist is really a
7 sort of horrible thing that the VRA is really

8 designed to alert Louisianians to not in a
9 punitive context that's what the check engine
10 light is for, it's your engine you got to repair
11 it. If you don't, your democracy is going to
12 fall apart.
13 MR. ADCOCK: All right. No more
14 questions, judge.
15 THE COURT:
16 Okay. You may step down,
17 Dr. Gilpin. You have another witness?
18 Next witness.
19 MR. ADCOCK:
20 Do we have a problem? Do we have a
21 witness?
22 Her her.
23 No we have a witness, she's in the
24 bathroom.
25 THE COURT:

1 Call your next witness, please.
2 MR. ADCOCK:
3 I just wanted to address two
4 evidentiary things really quick. We have
5 a the witness here if I can do that really

6 quick judge I apologize.
7 THE COURT:
8 What are they?
9 /STPHAO.
10 I entered in the report PX 124. I
11 want to also enter in PX 125 which is
12 Dr. Gilpin's CV. It is in part in the,
13 but that's the objection.
14 /SKWRAO.
15 No objection, Your Honor.
16 THE COURT:
17 All right. 125 is admitted.
18 /STPHAO.
19 And if I -- Your Honor, I'm sorry
20 about this, but I think that I know that
21 opposing counsel stipulated that the
22 experts qualifications, I don't know if I
23 tendered him as an expert in Louisiana
24 history.
25 THE COURT:

1 You did not.
2 /STPHAO.
3 Okay. I'd like to tender him now

4 based on the testimony and the evidence in
5 the record and his report and the
6 stipulation.
7 THE COURT:
8 Mr. Farr?
9 MR. FARR:
10 We agree.
11 THE COURT:
12 If your opposing counsel wasn't so
13 professional, you would have had a problem
14 MR. ADCOCK:
15 Thank you, judge.
16 THE COURT:
17 Dr. Gilpin is a recognized expert in
18 Louisiana history and the court recognizes
19 him as such as well.
20 MS. THOMAS:
21 Hello, Your Honor. Alora Thomas for
22 the plaintiffs and we will be calling
23 Mr. Bill Cooper.
24 [!WITNESSNAME],
25 WITNESS ADDRESS, ^ WITNESS CITY, LOUISIANA

1 WITNESS ZIP, after having first been duly sworn

by the above-mentioned Court Reporter did testify as follows:

/STPHAO.

Your Honor, may I approach the witness I have a couple binders for him

THE COURT:

As long as the opposing counsel has seen them, yes.

MS. THOMAS:

Yes. I gave them to opposing counsel.

/SKWRAO.

Yes, Your Honor, we have a copy.

MS. THOMAS:

And I have a copy for the court if the court is interested.

THE COURT:

Well, if you are going to refer to his reports and maps, I have them.

MS. THOMAS:

We will be referring to his reports and maps. I know that the witness likes to have paper copies. There are also a number of exhibits attached to his reports

which are in the binders we will be using the screen also, but --

THE COURT:

I mean, give them -- certainly give them to Mr. Cooper to assist him in his opinion testimony and obviously, I don't have a binder as fat as yours so maybe I don't have everything, but I've got his reports and the maps that are attached to his reports.

MS. THOMAS:

Thank you, Your Honor. So at the outset with the practice of today, we would like to move in Exhibit 20 through 88 which are Mr. Cooper's corrected report and the attached exhibits there to.

/SKWRAO.

No objection, Your Honor.

THE COURT:

Plaintiffs Exhibits 20 through 88 are admitted.

MS. THOMAS:

And then in addition to those 89 through 115, which are Mr. Cooper's

25 rebuttal reports and exhibits there to.

1 THE COURT:
2 Is there any objection?
3 /SKWRAO.
4 No objection, Your Honor.
5 THE COURT:
6 Admitted.
7 MS. THOMAS:
8 Thank you, Your Honor.
9 EXAMINATION BY MS. THOMAS:
10 Q. Good afternoon, Mr. Cooper. Could
11 you please introduce yourself to the court?
12 A. Good afternoon. My name is William
13 S. Cooper.
14 Q. And what is your profession?
15 A. I provide consulting services
16 relating to GIS mapping and analysis of census
17 data to various organizations around the country.
18 The bulk of my work is actually related to
19 redistricting, but I do some other smaller
20 projects mainly for non-profits here and there.
21 I occasionally also work for local governments
22 with respect to redistricting.

23 Q. And can you briefly describe your
24 educational background?
25 A. I have a B A in economics from

1 Davison College in North Carolina.
2 Q. And can you -- sorry. Please strike
3 that.
4 Have you testified as an expert
5 witness in the past?
6 A. Yes. I believe I have testified in
7 about 55 cases at trial and roughly the same --
8 in the same number, 55 or so, by way of
9 deposition or declaration and probably 95 percent
10 of all those cases have related to redistricting
11 and the vast majority of those another 95 percent
12 of the 95 percent have been Section 2 cases.
13 Q. And have any of your cases involved
14 state redistricting plans?
15 A. Yes. I've testified I believe in
16 nine cases or seven cases at trial involving
17 state redistricting and another two by way of
18 deposition or declaration.
19 Q. And have any of your cases involved
20 Louisiana?

21 A. Yes. Not state level redistricting
22 other than the congressional redistricting. I
23 testified in -- I believe it was May of 2022, in
24 Baton Rouge on the congressional plan. The other
25 times I've testified in federal court in

1 Louisiana have related to local election plans,
2 once for I think the first case that I testified
3 at federal court here in Baton Rouge involved the
4 city of St. Francisville in West Feliciana
5 Parish. I also testified in a lawsuit involving
6 the 30 second judicial district in Terrebonne
7 Parish in 2017 I believe, also in federal court
8 here in Baton Rouge. In other instances, I've
9 provided declarations and or depositions going
10 back into the early '90s on Section 5 matters as
11 well as a Section 2 case or so. Those -- that
12 testimony has always been deposition not by --
13 not at trial.
14 Q. And have any of the cases you've
15 worked on in Louisiana happened outside of the
16 voting context?
17 A. That is true. I have testified in
18 federal court as recently as August on a school

19 desegregation case in St. Martin Parish. That
20 was actually the third time I've testified in
21 that case and I believe it's now been resolved.
22 I testified in that case in 2021 and again in
23 2022 at trial. That's the only other school
24 desegregation case in Louisiana that I testified
25 in. I have provided a declaration in another

1 one.
2 Q. And what areas of the state has your
3 work involved?
4 A. Well, frankly, I've been involved in
5 almost every region of the state. In the early
6 '90s, in the Section 5 matters, I testified in or
7 rather was involved in casing and visited the
8 parishes of West Carroll, East Carroll, Madison,
9 Tensas and then a little bit later in the early
10 '90s, I testified in cases involving Iberville,
11 Pointe Coupee and a couple of other parishes. I
12 think in both instances I was deposed by the
13 former attorney general Buddy Caldwell in Monroe,
14 Louisiana. I have mentioned St. Francisville
15 which of course, was trial testimony. I provided
16 assistance on a Section 5 letter to the DOJ that

17 was put together by attorneys at the southern
18 regional office of the OCLU in the early 2010s
19 involving the city of Lake Charles. And those
20 would have been -- oh, and I was also involved in
21 Bossier Parish and actually testified that was
22 the Bossier Parish school board case that went to
23 supreme court and I did testify in that case, but
24 that was at the U.S. district court in
25 Washington, D.C. around 1994, so --

1 Q. And you testified earlier that you
2 have testified in Section 2 cases, correct?
3 A. Yes.
4 Q. And what is the nature of your
5 testimony in Section 2 cases in the past?
6 A. It's almost always related to I
7 think always related to testifying with respect
8 to the /SKWRAOUFTS one inquiry preventing an
9 illustrative plan and I've always been recognized
10 or by the court as an expert in redistricting in
11 demographics because I always include
12 demographics with my declarations including not
13 just basic census demographics, but also
14 socioeconomic statistics that relate to

15 Section 5.
16 Q. And since the start of this most
17 current redistricting cycle in 2020, how many
18 cases have you served as an expert witness?
19 A. Eight. I think in my declaration
20 I've listed seven, but since my declaration and
21 even rebuttal declaration was filed in August, I
22 have testified in another one in Galveston
23 county, Texas in the early part of August also.
24 Q. And does one of those cases include
25 the Alabama case known as Merrell V medical began

1 that recently went to supreme court?
2 A. Yes. That was a case I testified in
3 in January of 2022.
4 Q. And are you aware of the outcome of
5 the case?
6 A. Yes. The plaintiffs prevailed in
7 that case. That case also went to the supreme
8 court and my work in that case was reviewed and
9 cited favorably by the supreme court.
10 THE COURT:
11 By the chief justice.
12 THE WITNESS:

13 Exactly.

14 MS. THOMAS:

15 Thank you, Your Honor.

16 BY MS. THOMAS:

17 Q. So if we could briefly take a look

18 at exhibit Plaintiff Exhibit 21, which I believe

19 is your CV?

20 A. Yes.

21 Q. And Do you have a copy in front of

22 you?

23 A. Yes.

24 Q. And this is a true and accurate

25 representation of your CV?

1 A. Yes. As it relates to the date of

2 May 31, 2023.

3 Q. Have there been changes since that

4 date?

5 A. Well, yes. I -- I did testify in

6 federal court as I mentioned in Galveston county.

7 In fact, the judge in the Galveston county case

8 led off the quote from me in his opinion that's

9 probably never happened before and probably never

10 will again, and as I mentioned the St. Martin

11 parish school board case was also a case that
12 transpired in I think July of 2023, and I file
13 declarations in our cases. I don't know whether
14 I can speak to those or not, but I filed a
15 declaration in a DeSoto Parish redistricting case
16 and I have not been deposed in that case, but
17 that's another Louisiana locality I've been
18 involved in in recent six.
19 MS. THOMAS:
20 If we could turn to page 7 of
21 Plaintiff Exhibit 21 and then if we could
22 highlight the section called Louisiana and
23 it should be on your screen now,
24 Mr. Cooper.
25 TRIAL TECH:

1 (Complied.)
2 BY MS. THOMAS:
3 Q. Is this an example of some of your
4 work in Louisiana?
5 A. Yes. Those are the five cases where
6 I've actually testified at trial.
7 Q. Thank you. At this time,
8 plaintiff's would like to tender Mr. Cooper as an

9 expert in demographics and redistricting and
10 census data?
11 THE COURT:
12 Any objection?
13 /SKWRAO.
14 No objection, Your Honor.
15 THE COURT:
16 No cross on the tender?
17 /SKWRAO.
18 No, Your Honor.
19 THE COURT:
20 All right. Mr. Cooper will be
21 accepted to give testimony in demographics
22 census data and redistricting.
23 BY MS. THOMAS:
24 Q. Mr. Cooper, when were you retained
25 by plaintiffs?

1 A. Well, I was initially retained as
2 part of a multi state letter of engagement from
3 the ACLU in the early winter, January, maybe of
4 2020 right before the pandemic broke out.
5 Q. And when did you actually begin
6 working on this case?

7 A. Specifically working with 2020
8 census data in late February of 2022.
9 Q. And what were you asked to do when
10 you were began your work?
11 A. I was asked to investigate the
12 January one inquiry whether or not it would be
13 possible to create one or more additional House
14 or Senate seats in the Louisiana legislature
15 above and beyond those districts that would have
16 been in the final enacted plan.
17 Q. And how did you approach answering
18 this question?
19 A. I obtained the census data from the
20 census bureau's website the PL 9471 file I also
21 purchased and utilized a data file that is
22 produced by the caliber corporation the makers of
23 Mapitude for redistricting which is a software I
24 use and then obtained what I thought was the
25 enacted version of the state house and state

1 Senate plan in early March of 2022 subsequent to
2 that I learned that I actually only had a
3 committee plan and so I did have to make some
4 adjustments to my declaration further down the

road to take into account that a little miss cue. So I was basically relying on data from the -- from the legislature and data from the census bureau and the cap per corporations Mapitude for redistricting software and I also apart from that all that sort of related to 2020 census I looked at social you economic data based on the 2015, 2019 American community survey that I had obtained in December of 2021.

Q. So just pausing on the socioeconomic data, did you end up using the socioeconomic data that you purchased -- that you collected?

A. Yes. I used that socioeconomic data to gain a better understanding a little more insight into some of the localities where I was considering whether or not it might be possible to draw an additional majority, minority district.

Q. And in what format did you have the socioeconomic data?

A. Well, it was originally downloaded

from the census bureau website for the American community survey. I was in a comma format. I

3 took that and uploaded it into Microsoft access
4 and then produced a series of charts and tables
5 comparing contrasting the socioeconomic status of
6 African-Americans and Latinos and non Hispanic
7 whites at the parish and municipal level and
8 place level not incorporated places across the
9 state, so I basically did all the parishes and
10 all the municipalities all the places that were
11 black as memory serves I believe we did look at
12 East Carroll Parish in my previous appearance in
13 this court in the congressional plan and that was
14 the same set of charts that I would be relying
15 upon in this case.
16 Q. And did you turn over this data to
17 the defense expert when you submitted your
18 reports?
19 A. Yes.
20 MS. THOMAS:
21 Okay. If we could pull up Plaintiff
22 Exhibit 20 and I'd like to go to page 23,
23 paragraph 51.
24 TRIAL TECH:
25 (Complied.)

BY MS. THOMAS:

Q. Did you also identify this data in your report?

A. Yes. You can still down load all of that information at that link. I understand that maybe some websites government related websites may not allow you to download that due to blockage, but you can -- you can get it off your cell phone probably.

MS. THOMAS:

If we could pull up now what has been marked plaintiff's Exhibit 163.

TRIAL TECH:

(Complied.)

MS. THOMAS:

And if we could just scroll through the first couple of pages.

TRIAL TECH:

(Complied.)

BY MS. THOMAS:

Q. This is part of what is a very long exhibit of over 4,000 pages which we have broken into two to be uploaded into the court system and previously exchanged with counsel. Is this a depiction of the socioeconomic data that you had?

A. Yes. It's each municipality or each parish any way would have about 64 pages of charts and tables some of the municipalities due to popular begin issues may not have all of the data issued, but for the most part, these should run 50 to 60 pages one set of charts and the corresponding table reflected in the charts.

THE COURT:

Counsel, I'm sorry. What was the exhibit number was it 164?

MS. THOMAS:

Is 163, Your Honor.

THE COURT:

163, thank you.

BY MS. THOMAS:

Q. And so the record is clear, if you click so the link in your report you would be taken to the site with this information, correct?

A. With that information except instead of having one big file several thousand pages you go click on the parish and get the number and get the report for that parish or that municipality without having a thousand page to go through

24 although, I think you could probably just do it
25 by find and search on doe bee and get to it as

1 well.
2 MS. THOMAS:
3 At this point, plaintiff's would
4 like to move in 163. I know defense
5 counsel in the past had an objection.
6 THE COURT:
7 Counsel?
8 /SKWRAO.
9 I thought we already moved it in as
10 part of all the other exhibits, so no
11 objection.
12 MS. THOMAS:
13 Just so the record is clear, this is
14 not an exhibit to his report this is the
15 data that he used.
16 THE COURT:
17 What she moved previously was
18 Plaintiff's 20 through 88 and 89 through
19 115 and this is like she said, not an
20 exhibit to his report.
21 /SKWRAO.

22 I apologize, Your Honor. I thought
23 this was one of the exemplars it is an
24 exhibit to his report. No objection.
25 THE COURT:

1 Okay. P 163 is admitted.
2 Suzie.
3 Exhibits 163 A and B, is that right?
4 MS. THOMAS:
5 Yes, Your Honor. We would like to
6 move into 163 A and B which is how it's
7 been uploaded to the court's system.
8 THE COURT:
9 So ordered.
10 BY MS. THOMAS:
11 Q. Now, going back to the work that you
12 consulted as part of your work in this case, did
13 you look at any prior legislative plans in
14 Louisiana?
15 A. I did look at to a certain extent.
16 I looked at the 2011 bench mark plan and of
17 course, the prior plans being the enacted plans
18 so I certainly looked at the enacted plans as of
19 the 2020 redistricting cycle. I did have access

20 to earlier congressional plans, but I don't
21 recall actually looking at state legislative
22 plans that predated the 2011 benchmark plan.
23 Q. And after you looked at this data,
24 did you come to a conclusion about the original
25 question you were asked about jingles one?

1 A. Yes. Unquestionably an additional
2 majority black districts can be created in
3 Louisiana at least three new Senate districts and
4 at least six new house districts there would be,
5 you know, various ways they could be constructed.
6 Just simply an illustrative plan it is not
7 submitted as an a proposed remedial plan.
8 Q. And did you record your opinion in a
9 report?
10 A. Yes.
11 MS. THOMAS:
12 If we could pull up Plaintiff
13 Exhibit 20.
14 TRIAL TECH:
15 (Complied.)
16 BY MS. THOMAS:
17 Q. And you have it before you also

18 Mr. Cooper. Is this a true and accurate copy of
19 your report?
20 A. Yes.
21 Q. Did you file any previous versions
22 of this report?
23 A. Yes. I filed a version of this
24 report in 2022 which had the Ron us lines for the
25 enrolled house and enrolled Senate a most

1 unfortunate oversight on my part. The
2 differences are really quite minor and the
3 defendants spent an un Godly amount of time
4 comparing and contrasting the actual plan with
5 2022. I don't understand their point there, but
6 in any event yes, this is the update that is the
7 final report and it incorporates the actual 2023
8 House and Senate plans.
9 Q. And did you file a final corrected
10 version in September of this year?
11 A. Yes. I made it to correct one
12 figure that mistakenly I left in from my earlier
13 report because I did make some minor changes to
14 the illustrative plan in '23 versus the
15 illustrative plan I presented in 2022.

16 Q. And you've appended exhibits to
17 Plaintiff Exhibit 20. What was the purpose of
18 these exhibits?
19 A. The exhibits just show the maps in
20 more detail or additional demographic
21 information. There are also a number of
22 automated reports from the Mapitude software that
23 would include plan metrics such as compactness
24 municipal politicals identification of which
25 counties are -- or which districts are in which

1 parishes, so those are those are listed in my
2 declaration by the exhibit number in my -- in my
3 declaration so it won't actually deliver you to
4 the right tab on the exhibit book. I used an
5 alphabetical alignment of exhibits so my
6 alphabetical alignment of exhibits goes from A to
7 -- A to Z and maybe beyond.
8 Q. Did you also submit a rebuttal
9 report in this case?
10 A. Yes, I did. There were a number of
11 misstatements, miss accuracies, astonishing flaws
12 in the reports filed by the three experts in this
13 -- in this the litigation so I did file a

14 rebuttal.

15 Q. Now, by three experts you mean you

16 looked at three of the defense experts; is that

17 correct?

18 A. Yes.

19 Q. And do you recall which expert

20 reports you?

21 A. Yes.

22 Q. Reviewed?

23 A. Yes. Dr. Murray, Mr. Trendy and

24 Dr. Johnson.

25 Q. Did you review the reports of any

1 other defense experts?

2 A. I don't think so.

3 MS. THOMAS:

4 And if we could pull up Plaintiff

5 Exhibit 89.

6 TRIAL TECH:

7 (Complied.)

8 BY MS. THOMAS:

9 Q. And if I do could take a look at the

10 exhibit that you have before you, 89 it should be

11 in your second binder.

A. Oh.
Q. In Volume II.
A. Okay. I am now at Exhibit 89.
Q. Is this a true and accurate copy of your rebuttal report?
A. Yes.
Q. You also appended exhibits to your rebuttal report. What were those exhibits?
A. Again, many of the exhibits attached to my rebuttal report mirror the same exhibits that I -- that I had with my initial report, but examined some of the issues raised by the defendants's experts so I have got a more extensive report on measures of compactness for

the adopted enrolled plans as well as for the illustrative plans instead of just looking at two or three compactness scores I looked at all 12 that are available from Mapitude for redistricting. I looked at splits of municipalities, some of that was discussed by the experts splits of planning districts, splits of -- of metropolitan fiscal areas so you know, it's basically an extension of my initial report with

10 more detail directly contradicting some of the
11 misstatements and inaccuracies in the -- the
12 experts for the defendants. There's one section
13 here that's like it's a hundred pages of -- of a
14 split report responding to a misunderstanding or
15 misstatement of fact from Dr. Murray, and also I
16 think may address something that doctor Johnson
17 questioned which is the extent to which census
18 block roads are split in the illustrative plans
19 and I actually fewer census block groups are
20 split in the illustrative plans than in the
21 enacted plans.
22 Q. And after reviewing all the
23 materials in your rebuttal report, did any of
24 your initial conclusions change?
25 A. Absolutely not.

1 Q. Your Honor, I can move onto my next
2 section or we could take a break I know we are
3 nearing the end of the day?
4 THE COURT:
5 How much direct exam do you have?
6 MS. THOMAS:
7 At least an hour maybe 90 minutes.

THE COURT:

Okay. We will take a break for the day. We had agreed on a nine to four schedule so everybody to get some suitable rest for commencing the following day so we will be in recess until 9:00 a.m. Thank you, I'm sorry to hold you over, but -- that's the way it is.

THE BAILIFF:

All rise. The court is in recess.

(The trial was concluded at 3:59 p.m. until tomorrow.)

REPORTER'S PAGE

I, CHERIE' E. WHITE, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(B)

of the Louisiana Code of Civil Procedure, before whom this sworn testimony was taken, do hereby state on the record;

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CHERIE' E. WHITE, CCR (LA NO. 96002)
CSR (TX NO 10720)
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REPORTER'S CERTIFICATE

This certification is valid only for a

transcript accompanied by my original signature and original seal on this page.

I, CHERIE' E. WHITE, Certified Court Reporter, in and for the State of Louisiana, do hereby certify that this trial as hereinbefore set forth in the foregoing ___ pages; that this testimony was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that I am not related to counsel or the parties herein, nor am I otherwise interested in the outcome of this matter.

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