UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL	*	CIVIL ACTION
	*	
VERSUS	*	NO. 22-211-SDD
	*	
KYLE ARDOIN, ET AL	*	CONSOLIDATED WITH
	*	
	*	
EDWARD GALMON SR., ET AL	*	NO. 22-214-SDD
	*	
VERSUS	*	MAY 10, 2022
	*	
KYLE ARDOIN, ET AL	*	VOLUME 2 OF 5

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MOTION FOR PRELIMINARY INJUNCTION BEFORE
THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING COMPUTER-AIDED TRANSCRIPTION SOFTWARE

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(MAY 10, 2022)

(CALL TO THE ORDER OF COURT)

THE COURT: GOOD MORNING.

BE SEATED.

OKAY. WELCOME BACK TO DAY TWO. HOPEFULLY, WE WON'T HAVE A SITUATION OF FIRE AND ICE LIKE WE HAD YESTERDAY, AND I'M REFERRING TO THE TEMPERATURE IN THE COURTROOM.

OKAY. DO WE KNOW WHAT THE CLOCK -- HOW THE CLOCK REMAINS? DO Y'ALL WANT TO PUT THAT ON THE RECORD SO THAT WE ARE ALL ON THE SAME PAGE?

MS. KHANNA: YES, YOUR HONOR.

THE COURT: MS. KHANNA.

MS. KHANNA: YES. ABHA KHANNA FOR THE PLAINTIFFS.

THE COURT: GO AHEAD.

MS. KHANNA: WE'VE AGREED WITH THE DEFENDANTS THAT THE PLAINTIFFS HAVE TAKEN UP 190 MINUTES AND THE DEFENDANTS HAVE TAKEN UP 140 MINUTES.

THE COURT: PLAINTIFFS 190 AND DEFENDANTS 140?

MS. KHANNA: YES, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT. NEXT WITNESS.

MS. BRANNON: I WANT TO ENTER AN APPEARANCE BECAUSE I HAVEN'T ENTERED AN APPEARANCE YET. SARAH BRANNON FOR THE ROBINSON PLAINTIFFS. B-R-A-N-N-O-N.

AND PLAINTIFFS CALL DR. LISA HANDLEY.

10:32 **LISA R. HANDLEY, PH.D,**

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

MS. BRANNON: WE HAVE AGREED TO STIPULATE TO THE EXPERTISE OF THE WITNESSES. SO I WOULD LIKE TO ASK FOR A STIPULATION THAT DR. HANDLEY IS AN EXPERT IN -- AN EXPERT WITNESS IN REDISTRICTING WITH AN EMPHASIS ON RACIALLY POLARIZED VOTING.

IS THERE AN AGREEMENT?

THE COURT: IS THERE A STIPULATION?

MR. FARR: HELLO, YOUR HONOR.

TOM FARR FROM THE LAW FIRM OF NELSON MULLINS. I'M HERE REPRESENTING THE SECRETARY OF STATE.

AND WE HAVE NO OBJECTION TO THAT STIPULATION, YOUR HONOR.

THE COURT: THANK YOU, SIR.

MS. BRANNON: YOUR HONOR, MAY I APPROACH THE WITNESS?

THE COURT: YES.

AND THE COURT WILL ACCEPT DR. HANDLEY AND ALLOW OPINION TESTIMONY IN THE AREA OF REDISTRICTING WITH A SPECIALTY IN RACIALLY POLARIZED VOTING.

YOU MAY APPROACH.

MS. BRANNON: YOUR HONOR?

THE COURT: YES.

MS. BRANNON: I JUST REALIZED THAT I HAVE SOMEHOW CUT MY FOOT.

09:37 **THE COURT:** UH-OH. ARE YOU BLEEDING ALL OVER THE PLACE?

MS. BRANNON: I AM.

THE COURT: OKAY. WE ARE GOING TO TAKE --

MS. BRANNON: CAN WE TAKE A FIVE-MINUTE RECESS?

THE COURT: WE CAN. WE CAN TAKE A RECESS WHILE YOU CALL EMS. OKAY. WE WILL TAKE FIVE MINUTES. EVERYBODY JUST RELAX.

(WHEREUPON, THE COURT WAS IN RECESS.)

THE COURT: OKAY. BE SEATED.

OKAY. SO THAT BROKE THE ICE. ALL RIGHT. ON THE RECORD.

MS. BRANNON: I'M RECOVERED.

THE COURT: GOOD. AND IF YOU FEEL LIGHTHEADED FROM THE LOSS OF BLOOD, WE WILL TAKE ANOTHER RECESS. MAYBE SOMEBODY BROUGHT COOKIES.

MS. BRANNON: YEAH. I THINK I'M OKAY.

ALL RIGHT. SO WE ARE GOING TO RETURN. FOR THE RECORD, I HAVE GIVEN DR. HANDLEY A BINDER WITH A COPY OF HER EXPERT MATERIALS IN THIS CASE, AND WE ARE GOING TO WALK THROUGH ALL OF THOSE AND INTRODUCE THEM AS WE DISCUSS THEM.

THE COURT: OKAY. PROCEED.

DIRECT EXAMINATION

BY MS. BRANNON:

Q. DR. HANDLEY, DID YOU PREPARE A REPORT IN THIS CASE?

09:42 **A.** SEVERAL, YES.
Q. CAN YOU TURN TO THE FIRST PAGE OF YOUR BINDER.
A. (WITNESS COMPLIED.)
Q. IS THAT A COPY OF THE PRELIMINARY REPORT YOU PREPARED?
A. IT IS.
MS. BRANNON: FOR THE RECORD, DR. HANDLEY'S PRELIMINARY REPORT IS EXHIBIT PR-12.
THE COURT: RECORD DOCUMENT 41-3. RIGHT?
MS. BRANNON: YES.
THE COURT: OKAY.
BY MS. BRANNON:
Q. DR. HANDLEY, IS YOUR C.V. ATTACHED TO YOUR PRELIMINARY REPORT?
A. IT IS.
Q. IS THIS A COMPLETE AND ACCURATE SUMMARY OF YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE?
A. IT IS.
Q. DR. HANDLEY, WHAT DO YOU DO FOR A LIVING?
A. I AM A CONSULTANT AND A --
THE COURT: MA'AM, I THINK YOU MIGHT NEED TO ADJUST YOUR MIC. YES, RIGHT THERE, YOUR MIC. YES, JUST ADJUST IT.
THE WITNESS: JUST PUT IT CLOSER TO MY -- GOT IT.
THE COURT: NOW WE CAN HEAR BETTER.
GO AHEAD.
BY MS. BRANNON:

09:43 **Q.** I'LL REPEAT THE QUESTION. DR. HANDLEY, WHAT DO YOU DO FOR A LIVING?
A. I AM A CONSULTANT BOTH HERE IN THE UNITED STATES AND OVERSEAS. I AM ALSO A PART-TIME ACADEMIC IN THE U.K.
Q. CAN YOU PROVIDE US SOME EXAMPLES OF SOME OF YOUR CLIENTS FOR YOUR CONSULTING BUSINESS?
A. I HAVE WORKED, AS I MENTIONED, FOR THE U.N. I'VE WORKED FOR SCORES OF STATES' AND LOCAL JURISDICTIONS. I'VE WORKED FOR INDEPENDENT REDISTRICTING COMMISSIONS, FOR THE DEPARTMENT OF JUSTICE, FOR SEVERAL CIVIL RIGHTS ORGANIZATIONS, INCLUDING THE ACLU.
Q. CAN YOU BRIEFLY DESCRIBE SOME OF YOUR ACADEMIC WORK THAT YOU HAVE DONE ON THE TOPIC OF REDISTRICTING AND MINORITY VOTE DELUSION?
A. ALMOST ALL OF THE ARTICLES THAT YOU'LL SEE LISTED IN MY C.V. -- THAT INCLUDES BOOKS, ARTICLES FOR PEER-REVIEWED JOURNALS, LAW REVIEW ARTICLES, CHAPTERS IN BOOKS -- DEAL WITH MINORITY REPRESENTATION, VOTING REDISTRICTING WITH THE SUBJECTS OF THIS CASE.
Q. AND HAVE YOU TESTIFIED BEFORE AS AN EXPERT WITNESS?
A. I HAVE.
Q. APPROXIMATELY HOW MANY TIMES HAVE YOU PERFORMED A RACIAL-BLOC VOTING ANALYSIS AS AN EXPERT WITNESS?
A. AS AN EXPERT WITNESS? SCORES OF TIMES.
Q. AND HAVE YOU BEEN ACCEPTED AS AN EXPERT WITNESS BEFORE TO

09:45 TESTIFY ABOUT REDISTRICTING AND RACIALLY POLARIZED VOTING?
A. I HAVE.
Q. APPROXIMATELY HOW MANY TIMES?
A. SCORES.
Q. DR. HANDLEY, WHAT WERE YOU ASKED TO DO IN THIS CASE?
A. I WAS ASKED TO CONDUCT AN ANALYSIS OF VOTING PATTERNS BY RACE IN LOUISIANA AND TO EVALUATE PROPOSED DISTRICTS -- THAT IS, THE ENACTED PLAN AND SEVERAL ILLUSTRATIVE PLANS -- TO ASCERTAIN THE OPPORTUNITY FOR BLACK VOTERS TO ELECT THEIR CANDIDATES OF CHOICE IN THE PLANS.
Q. AND WERE YOU ASKED TO ANALYZE VOTING PATTERNS IN THE STATE OF LOUISIANA SPECIFICALLY?
A. YES. I ANALYZED VOTING PATTERNS STATEWIDE. I ANALYZED VOTING PATTERNS IN EXISTING CONGRESSIONAL DISTRICTS AND IN THE ENACTED CONGRESSIONAL DISTRICTS.
Q. CAN YOU PROVIDE US A GENERAL SUMMARY OF THE OPINIONS THAT YOU REACHED WITH RESPECT TO YOUR ANALYSIS AS TO WHETHER THERE'S RACIALLY POLARIZED VOTING IN LOUISIANA?
A. YES. THERE IS RACIALLY POLARIZED VOTING IN LOUISIANA. THERE IS QUITE STARK RACIALLY POLARIZED VOTING IN LOUISIANA.
Q. WHAT'S YOUR DEFINITION OF "RACIALLY POLARIZED VOTING"?
A. *THORNBURG V. GINGLES* TELLS US THAT VOTING IS POLARIZED IF BLACK VOTERS AND WHITE VOTERS VOTE DIFFERENTLY. IN OTHER WORDS, IF BLACK VOTERS VOTING ALONE WOULD ELECT DIFFERENT CANDIDATES THAN WHITE VOTERS VOTING ALONE, THEN THE CONTEST IS

09:46 RACIALLY POLARIZED.
Q. WHAT STATISTICAL TECHNIQUES DID YOU USE TO ANALYZE WHETHER VOTING IN LOUISIANA IS RACIALLY POLARIZED?
A. I USED THREE STANDARD TECHNIQUES: HOMOGENEOUS PRECINCT ANALYSIS, ECOLOGICAL REGRESSION, AND ECOLOGICAL INFERENCE. TECHNICALLY, I USED ACTUALLY FOUR BECAUSE THERE ARE TWO VARIANTS OF ECOLOGICAL INFERENCE.
Q. WE HEARD YESTERDAY SOME OF THE DETAILS ABOUT ECOLOGICAL INFERENCE. BUT CAN YOU PROVIDE A BRIEF SUMMARY OF HOMOGENEOUS PRECINCT ANALYSIS AND ECOLOGICAL REGRESSION?
A. THOSE ARE THE EASY ONES, YES. HOMOGENEOUS PRECINCT ANALYSIS SIMPLY COMPARES THE VOTING PATTERNS OF PRECINCTS THAT ARE OVERWHELMINGLY ONE RACE COMPARED TO PRECINCTS THAT ARE OVERWHELMINGLY ANOTHER RACE.
SO IN THIS CASE, YOU'RE COMPARING PRECINCTS THAT ARE OVERWHELMINGLY WHITE TO PRECINCTS THAT ARE OVERWHELMINGLY BLACK. IT'S NOT ACTUALLY A STATISTICAL TECHNIQUE. IT'S SIMPLY COMPARING THESE TWO SETS OF PRECINCTS. WE CALL IT AN ESTIMATE BECAUSE, OF COURSE, NOT ALL VOTERS LIVE IN HOMOGENEOUS PRECINCTS, AND THE VOTERS WHO LIVE IN HOMOGENEOUS PRECINCTS MIGHT VOTE DIFFERENTLY THAN THE VOTERS WHO LIVE IN MORE DIVERSE PRECINCTS.
Q. WHY DO YOU USE ALL THREE METHODS?
A. TWO OF THE METHODS HAVE BEEN AROUND FOR A VERY LONG TIME. WHEN *THORNBURG V. GINGLES* WAS DECIDED, HOMOGENEOUS PRECINCT

09:48 ANALYSIS AND ECOLOGICAL REGRESSION WERE USED BY THE PLAINTIFF'S EXPERTS, AND THE COURT APPROVED THOSE METHODS.

SINCE THEN, ECOLOGICAL INFERENCE WAS DEVELOPED BY A PROFESSOR AT HARVARD BY THE NAME OF GARY KING, AND COURTS HAVE ACCEPTED THAT.

NOW, THIS IS THREE DIFFERENT TECHNIQUES TO ARRIVE AT ESTIMATES. IF THE ESTIMATES ARE MORE OR LESS THE SAME, DESPITE USING THREE DIFFERENT TECHNIQUES, WE ARE CERTAIN THAT WE HAVE GRASPED WHAT THE VOTING PATTERNS ARE.

Q. HAVE COURTS ACCEPTED YOUR EXPERT TESTIMONY USING THESE DIFFERENT STATISTICAL METHODOLOGIES IN VOTING CASES BEFORE?

A. YES. NOW, AGAIN, ECOLOGICAL INFERENCE IS MORE COMMON. I'VE ONLY BEEN USING THAT FOR MAYBE 20 YEARS, BUT THE OTHERS FOR 40 YEARS. A LONG TIME.

Q. OKAY. LET'S LOOK AT YOUR ANALYSIS A LITTLE BIT MORE IN DETAIL.

MS. BRANNON: CAN WE SEE DEMONSTRATIVE EXHIBIT 1.2.

BY MS. BRANNON:

Q. DID YOU ANALYZE STATEWIDE ELECTIONS?

A. I DID ANALYZE STATEWIDE ELECTIONS.

Q. HOW MANY STATEWIDE ELECTIONS DID YOU ANALYZE?

A. FIFTEEN STATEWIDE ELECTIONS.

Q. ARE YOU FAMILIAR WITH THIS TABLE THAT'S DEMONSTRATIVE EXHIBIT 1.2?

A. YES. THESE ARE THE 15 CONTESTS THAT I ANALYZED.

09:49 1 **Q.** WHY DID YOU CHOOSE THESE ELECTIONS?
2 **A.** THESE ARE ALL RECENT ELECTIONS FROM 2015 ON, AND THEY ALL
3 INCLUDE BLACK CANDIDATES.
4 **Q.** LET'S WALK THROUGH YOUR ANALYSIS OF A STATEWIDE ELECTION.
5 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.3.
6 **BY MS. BRANNON:**
7 **Q.** DR. HANDLEY, DO YOU RECOGNIZE THIS SPREADSHEET?
8 **A.** I DO.
9 **Q.** IS THIS SPREADSHEET PART OF YOUR PRELIMINARY REPORT AS
10 APPENDIX A?
11 **A.** IT IS.
12 **Q.** CAN YOU EXPLAIN WHAT THIS SPREADSHEET SHOWS BY WALKING US
13 THROUGH THE PORTION THAT HAS BEEN HIGHLIGHTED?
14 **A.** YES. SO THIS IS A PARTICULAR CONTEST. IN THIS CASE IT'S
15 THE ATTORNEY GENERAL IN 2019, OCTOBER 2019. YOU CAN SEE THE
16 TWO CANDIDATES: IKE JACKSON AND JEFF LANDRY. YOU CAN SEE
17 THEIR PARTY. YOU CAN SEE THEIR RACE. AND THE NEXT COLUMN IS
18 THE ACTUAL VOTE THEY RECEIVED. BELOW THAT IS THE "BLACK
19 TURNOUT" AND THE "WHITE TURNOUT" FIGURES. AND THEN THE NEXT
20 SET OF FOUR COLUMNS ARE THE ESTIMATES DERIVED BY THE FOUR
21 DIFFERENT TECHNIQUES OF THE PERCENTAGE OF BLACK VOTERS WHO
22 VOTED FOR EACH OF THESE CANDIDATES.
23 SO, FOR EXAMPLE, WE SEE 90.6 IS THE "EI RXC"
24 ESTIMATE; 91.2 IS THE "EI 2X2"; 94 PERCENT IS THE "ER"; AND
25 87.7 IS THE "HOMOGENEOUS PRECINCT" ESTIMATE OF A PERCENTAGE OF

09:51 1 BLACK VOTERS WHO SUPPORTED IKE JACKSON.
2 THEN YOU SEE THE SAME INFORMATION FOR THE WHITE
3 VOTERS. SO BY "EI RXC," 9.4 PERCENT OF THE WHITE VOTERS
4 SUPPORTED IKE JACKSON; BY "EI 2X2" IT'S 10.1; BY "ER" IT'S 9.2;
5 AND BY "HP" IT'S 12.2. SO ALL OF THEM ARE QUITE COMPARABLE.
6 FOR EXAMPLE, WE ESTIMATE THAT THE PERCENTAGE OF BLACK
7 VOTERS WHO VOTED FOR JACKSON WAS SOMEWHERE BETWEEN 87.7 PERCENT
8 AND 94 PERCENT.
9 **THE COURT:** DR. HANDLEY, ONE SECOND.
10 **THE WITNESS:** YES.
11 **THE COURT:** SUZIE, WILL YOU HELP HER WITH HER MIC.
12 SEE IF MAYBE WE CAN ADJUST IT WHERE IT'S NOT -- SHE'S JUST
13 GOING TO ADJUST IT. IT'S FINICKY.
14 **THE WITNESS:** THE PROBLEM IS THAT I'M LEANING
15 FORWARD.
16 **THE COURT:** RIGHT. WHAT WE'LL DO IS SHE WILL JUST
17 SEE IF SHE CAN -- HERE WE HAVE THE -- MR. I.T. IS HERE TOO, SO
18 WE ARE WELL -- WE ARE OVER-PREPARED.
19 THANK YOU, BRANDON.
20 **THE WITNESS:** THIS IS GOING TO BE TOO FAR AWAY, I
21 BET. CAN YOU STILL HEAR? NO.
22 **THE COURT:** NO.
23 THAT'S BETTER.
24 **THE WITNESS:** OKAY. AND NOW IT'S NOT BLOCKING THIS?
25 **THE COURT:** YOU CAN CERTAINLY -- YES, YOU CAN

09:52 1 CERTAINLY ADJUST IT. I JUST THOUGHT WE WOULD MAYBE GIVE YOU
2 SOME ASSISTANCE.
3 OKAY. PLEASE CARRY ON. I'M SORRY I INTERRUPTED
4 YOU.
5 **BY MS. BRANNON:**
6 **Q.** DR. HANDLEY, WHAT ARE "CONFIDENCE INTERVALS"?
7 **A.** SO THE "EI RXC" ESTIMATES AND THEN IN THE COLUMN NEXT TO
8 THAT WE HAVE "CONFIDENCE INTERVALS." YOU CAN THINK OF THOSE AS
9 SORT OF THE MARGINS OF ERROR THAT YOU SEE IN A SURVEY; THAT WE
10 ARE 95 PERCENT CERTAIN THAT THE TRUE ESTIMATE -- THE ESTIMATE
11 BEING 90.6, THAT THE TRUE ESTIMATE IS SOMEWHERE BETWEEN 90.3
12 AND 90.9.
13 **Q.** AND WHY DO YOU INCLUDE CONFIDENCE INTERVALS ONLY FOR YOUR
14 "EI RXC" CALCULATION?
15 **A.** THOSE ARE THE ONLY CONFIDENCE INTERVALS THAT ARE GENERALLY
16 ACCEPTED BY EXPERTS IN MY AREA FOR THESE KINDS OF ESTIMATES.
17 **Q.** DOES THIS APPENDIX A ALSO PROVIDE INFORMATION ABOUT VOTER
18 TURNOUT?
19 **A.** IT DOES. THE ITALICIZED LINES IN THE ATTORNEY GENERAL
20 RACE, IT SAYS, "BLACK TURNOUT/BLACK BVAP." THAT'S THE
21 PERCENTAGE OF BLACK VOTING AGE POPULATION THAT ACTUALLY TURNED
22 OUT FOR THAT PARTICULAR OFFICE. AND THE SAME FOR WHITE
23 TURNOUT, OF WHITE VAP.
24 SO 35.2 PERCENT HAVE A BLACK VOTING AGE OF THE
25 ELIGIBLE "BLACK VOTING AGE" POPULATION TURNOUT TO VOTE AND 45.2

09:53 PERCENT FOR THE WHITES.
Q. WOULD YOU CHARACTERIZE THIS 2019 ATTORNEY GENERAL ELECTION AS A POLARIZED CONTEST?
A. I WOULD.
Q. WHY?
A. THE VAST MAJORITY OF BLACK VOTERS SUPPORTED JACKSON. IF THEY HAD VOTED ALONE, JACKSON WOULD HAVE WON OVERWHELMINGLY.
THE VAST MAJORITY OF WHITE VOTERS SUPPORTED LANDRY. AND IF THEY ALONE HAD VOTED, HE WOULD HAVE WON OVERWHELMINGLY. IN FACT, HE DID WIN.
Q. DOES THE RACE OF THE CANDIDATES NEED TO BE DIFFERENT TO DETERMINE IF THERE'S RACIALLY POLARIZED VOTING?
A. NO. THE POINT IS THAT BLACK AND WHITE VOTERS PREFER DIFFERENT CANDIDATES. NOW, IT SO HAPPENS IN THE CONTEST THAT I LOOKED AT, WITH AT LEAST ONE OR TWO EXCEPTIONS, THE BLACK CANDIDATE WAS THE BLACK-PREFERRED CANDIDATE; THAT IS, THE CANDIDATE PREFERRED BY BLACK VOTERS. BUT THERE ARE EXCEPTIONS TO THAT IN THE ELECTIONS THAT I LOOKED AT.
Q. DOES APPENDIX A SHOW THE SAME TYPE OF DATA FOR THE REST OF THE 14 STATEWIDE ELECTIONS THAT YOU ANALYZED?
A. YES. SO ALL 15 ARE IN THIS, AND I JUST DESCRIBED ONE. THEY ARE ALL READ THE SAME.
Q. WHAT, IF ANY, CONCLUSIONS DID YOU REACH ABOUT RACIALLY POLARIZED VOTING IN LOUISIANA IN STATEWIDE ELECTIONS BASED ON YOUR ANALYSIS OF THESE 15 ELECTIONS?

09:55 **A.** ALL 15 CONTESTS WERE POLARIZED. IN EVERY INSTANCE, BLACK VOTERS AND WHITE VOTERS WOULD HAVE ELECTED DIFFERENT CANDIDATES HAD THEY VOTED SEPARATELY.

Q. YOU'VE ALREADY EXPLAINED THAT YOU ALSO LOOKED AT VOTING PATTERNS IN CONGRESSIONAL ELECTIONS. WHY?

A. COURTS HAVE INDICATED THAT ENDOGENOUS ELECTIONS -- THAT IS, ELECTIONS FOR THE OFFICE AT ISSUE -- ARE MORE PROBATIVE THAN EXOGENOUS ELECTIONS.

NOW, IN THIS PARTICULAR CASE YOU ARE LOOKING AT PROPOSED PLANS, SO THERE WERE NO ELECTIONS UNDER IT. BUT CONGRESSIONAL ELECTIONS IN GENERAL WOULD STILL BE MORE PROBATIVE AND WOULD BE PARTICULARLY SO IN LOUISIANA WHERE THE DISTRICTS DIDN'T CHANGE THAT MUCH FROM THE ENACTED PLAN FROM THE CURRENT PLAN.

MS. BRANNON: CAN WE SEE DEMONSTRATIVE EXHIBIT 1.4.

BY MS. BRANNON:

Q. DO YOU RECOGNIZE THIS TABLE?

A. YES. THIS IS A LIST OF THE CONGRESSIONAL ELECTION CONTESTS THAT I LOOKED AT. AGAIN, THIS IS FROM 2016 TO THE MOST RECENT CONTEST, AND THEY WERE CONTESTS THAT INCLUDED BLACK CANDIDATES. THERE WERE NO CONTESTS IN DISTRICT 1 THAT INCLUDED BLACK CANDIDATES.

Q. AND IS THE ANALYSIS OF THESE CONGRESSIONAL DISTRICTS DESCRIBED IN YOUR REPORTS?

A. YES.

09:56 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.5.
BY MS. BRANNON:
Q. DR. HANDLEY, DO YOU RECOGNIZE THIS TABLE?
A. YES.
Q. WAS THERE A VERSION OF APPENDIX B ATTACHED TO YOUR PRELIMINARY REPORT?
A. YES.
Q. DID YOU MAKE ANY CORRECTIONS?
A. I UPDATED IT BY ADDING THREE ELECTIONS THAT OCCURRED IN 2021. THERE WERE TWO CONGRESSIONAL ELECTIONS IN DISTRICT 2 TO REPLACE CEDRIC RICHMOND, AND THERE WAS AN ELECTION IN DISTRICT 5. AND SO THIS HAS BEEN UPDATED TO INCLUDE THOSE ELECTIONS. I'VE ALSO CHANGED THE DATE OF THE ELECTIONS FROM OCTOBER TO THE CORRECT DATE, WHICH IS NOVEMBER, AND I HAD TO CORRECT ONE OF THE CONFIDENCE INTERVALS BECAUSE OF A TYPO.
Q. WAS REVISED APPENDIX B INCLUDED WITH YOUR REBUTTAL REPORT?
A. YES.
MS. BRANNON: FOR THE RECORD, DR. HANDLEY'S REBUTTAL REPORT IS EXHIBIT PR-87.
BY MS. BRANNON:
Q. DID ANY OF THESE CHANGES IMPACT ANY OF YOUR OPINIONS IN THIS CASE?
A. NO.
Q. IS THE DATA THAT'S REFLECTED IN REVISED APPENDIX B THAT'S ON THE SCREEN SIMILAR TO THE DATA THAT IS REFLECTED IN APPENDIX

09:57 A WE WERE JUST DISCUSSING?
A. IF BY "DATA" YOU MEAN PRECINCT INFORMATION THAT IS BOTH THE DEMOGRAPHIC INFORMATION AND THE ELECTION RETURNS, IT'S THE SAME. IF YOU MEAN READING THE CHARTS, IT'S READ THE SAME AS WELL.
Q. YES. READING THE CHARTS?
A. READING THE CHARTS.
Q. READING THE CHARTS IS THE SAME METHOD -- THIS CHART WOULD BE READ THE SAME AS APPENDIX A THAT WE HAVE WALKED THROUGH?
A. THAT'S CORRECT.
Q. OKAY. WHAT, IF ANY, CONCLUSIONS DID YOU REACH ABOUT VOTING PATTERNS IN CONGRESSIONAL ELECTIONS IN LOUISIANA BASED ON YOUR ANALYSIS?
A. THE ELECTIONS IN DISTRICTS 3, 4, 5 AND 6 WERE ALL QUITE POLARIZED. THE ELECTIONS IN DISTRICT 2, LESS SO. IN FACT, MOST OF THEM WERE NOT POLARIZED IN DISTRICT 2.
MS. BRANNON: CAN WE SEE DEMONSTRATIVE EXHIBIT 1.6.
BY MS. BRANNON:
Q. DR. HANDLEY, DID YOU CONDUCT ANY ANALYSIS OF THE VOTING PATTERNS IN THE NEWLY ENACTED CONGRESSIONAL MAP, WHICH I BELIEVE IS HB1?
A. I DID. NOW, OF COURSE, NO ELECTIONS HAVE ACTUALLY OCCURRED. SO THIS REFLECTS WHAT ARE CALLED RECOMPILED ELECTION RESULTS USING THE PRECINCTS THAT THE OLD ELECTIONS OCCURRED IN AND SORT OF RE-RUNNING THE ELECTIONS AS THEY WOULD HAVE

09:59 1 OCCURRED IF THEY WOULD HAVE OCCURRED IN THE ENACTED
2 CONGRESSIONAL DISTRICTS.
3 **Q.** DO YOU RECOGNIZE THE TABLES ON THIS DEMONSTRATIVE?
4 **A.** YES.
5 **Q.** IS THERE A VERSION OF APPENDIX C ATTACHED TO YOUR
6 PRELIMINARY REPORT?
7 **A.** YES.
8 **Q.** DID YOU MAKE ANY CHANGES?
9 **A.** YES. SO IT TURNS OUT THAT WE HAD A OLD VERSION OF WHAT'S
10 CALLED A BLOCK 2 DISTRICT EQUIVALENCY FILE FOR THE ENACTED
11 PLAN. AND WHEN WE DISCOVERED THAT IT WAS OLD AND WE NEEDED TO
12 FIX IT, I THEN IN A BURST OF CAUTION RE-RAN ALL OF THE ANALYSES
13 FOR THE ENACTED DISTRICTS USING THE NEW BLOCK 2 DISTRICT
14 EQUIVALENCY.
15 **Q.** DOES THIS DEMONSTRATIVE DEMONSTRATE YOUR ORIGINAL APPENDIX
16 C AND YOUR UPDATED APPENDIX C?
17 **A.** THAT'S CORRECT.
18 **Q.** DID YOUR NEW ANALYSIS OF CONGRESSIONAL DISTRICTS IN THE
19 ENACTED PLAN OF CONGRESSIONAL DISTRICT -- THIS IS CONGRESSIONAL
20 DISTRICT 2. CORRECT?
21 **A.** YES.
22 **Q.** DID ANY OF YOUR OPINIONS CHANGE?
23 **A.** NO. THE BLOCK EQUIVALENCY FILE WAS ONLY OFF BY ABOUT TWO
24 PERCENTAGE OF THE POPULATION. SO WE MOVED THE TWO PERCENTAGE
25 INTO THE CORRECT DISTRICTS AND IT CHANGED THE ESTIMATES BARELY,

10:01 1 MAYBE BY A PERCENTAGE POINT IF IT CHANGED THEM AT ALL. AS YOU
2 CAN SEE, VOTING IS STILL QUITE POLARIZED.
3 **MS. BRANNON:** AND FOR THE RECORD, THE UPDATED
4 APPENDICES ARE PROVIDED WITH PLAINTIFFS' EXHIBIT PR-92.
5 CAN WE SEE PX-1.7.
6 **BY MS. BRANNON:**
7 **Q.** DID YOU DO AN ANALYSIS OF THE ENACTED PLAN FOR
8 CONGRESSIONAL DISTRICTS OTHER THAN CONGRESSIONAL DISTRICT 2?
9 **A.** YES. I DID LOOK AT VOTING PATTERNS IN ALL OF THE ENACTED
10 DISTRICTS THAT OVERLAID ILLUSTRATIVE DISTRICT 5; THAT IS, THE
11 ADDITIONAL BLACK OPPORTUNITY DISTRICT OFFERED BY THE
12 ILLUSTRATIVE PLAN. AND AS YOU CAN SEE, IT OVERLAPS DISTRICTS
13 2, 3, 4, 5 AND 6.
14 **Q.** SO --
15 **A.** SO THOSE WERE THE -- THOSE WERE THE CONGRESSIONAL
16 DISTRICTS THAT I LOOKED AT. IT DOES NOT OVERLAP 1, SO I DID
17 NOT LOOK AT 1.
18 **Q.** AND YOU RECOGNIZE THIS MAP?
19 **A.** YES.
20 **Q.** AND IT SHOWS THE OVERLAY YOU WERE JUST DESCRIBING?
21 **A.** THAT'S CORRECT.
22 **Q.** OKAY. DID YOU MAKE ANY FURTHER CHANGES TO YOUR ANALYSIS
23 FOR THE OTHER CONGRESSIONAL DISTRICTS BESIDES CD2?
24 **A.** DO YOU MEAN BECAUSE OF THE BLOCK EQUIVALENT?
25 **Q.** YES.

10:02 1 **A.** I DID, YES.
2 **Q.** YES.
3 **A.** I RE-RAN ALL OF THE ANALYSES.
4 **Q.** AND THOSE ARE ALL INCLUDED IN THE CORRECTED MATERIALS
5 REPORT THAT WE FILED IN THIS CASE?
6 **A.** THAT'S CORRECT.
7 **Q.** WHICH, FOR THE RECORD, IS EXHIBIT PR-92.
8 DID ANY OF YOUR OPINIONS CHANGE AS A RESULT OF
9 REDOING THIS ANALYSIS FOR ALL FIVE OF THE CONGRESSIONAL
10 DISTRICTS YOU LOOKED AT?
11 **A.** NO. AS I SAID, THE CHANGES WERE MOSTLY LESS THAN A
12 PERCENTAGE POINT, AND VOTING IS STILL VERY POLARIZED IN THESE
13 CONGRESSIONAL DISTRICTS.
14 **MS. BRANNON:** WE CAN TAKE THIS ONE DOWN.
15 **BY MS. BRANNON:**
16 **Q.** WHEN CONDUCTING YOUR ANALYSIS OF THESE CONGRESSIONAL
17 DISTRICTS IN THE ENACTED PLAN, WHAT CONCLUSIONS DID YOU REACH?
18 **A.** VOTING WAS POLARIZED IN ALL OF THE DISTRICTS THAT I LOOKED
19 AT. THERE WAS SOME VARIATION IN THAT THERE WAS MORE WHITE
20 CROSSOVER VOTE IN ENACTED DISTRICT 2 THAN THERE WAS IN 3, 4, 5
21 AND 6, WHICH WERE QUITE STARKLY POLARIZED.
22 **Q.** WHAT DO YOU MEAN WHEN YOU SAY "WHITE CROSSOVER VOTING"?
23 **A.** I'M TALKING ABOUT WHITE VOTERS WHO ARE VOTING FOR THE
24 BLACK-PREFERRED CANDIDATE.
25 **Q.** LET'S TURN NOW TO YOUR ANALYSIS OF BLACK VOTERS'

10:03 OPPORTUNITIES TO ELECT CANDIDATES OF THEIR CHOICE IN THE ILLUSTRATIVE MAPS AND THE ENACTED CONGRESSIONAL MAP.

DID YOU EVALUATE THE OPPORTUNITY OF BLACK VOTERS TO ELECT THEIR CANDIDATE OF CHOICE IN THE ENACTED MAP?

A. I DID.

Q. AND WHAT METHODOLOGY DID YOU USE?

A. OF COURSE, NO ELECTIONS HAVE ACTUALLY OCCURRED IN EITHER THE ILLUSTRATIVE OR THE ENACTED PLAN, SO I USED -- I RELIED ON WHAT ARE CALLED RECOMPILED ELECTION RESULTS, LOOKING AT HOW PREVIOUS ELECTIONS WOULD HAVE FAIRED, HOW CANDIDATES OF CHOICE IN PREVIOUS ELECTIONS WOULD HAVE FAIRED UNDER THE PROPOSED DISTRICTS.

Q. HAVE YOU USED THIS METHOD OF RECOMPILING ELECTION RESULTS WHEN PROVIDING OTHER EXPERT OPINIONS THAT HAVE BEEN ACCEPTED BY COURTS BEFORE?

A. YES.

Q. WHY DO YOU THINK IT IS USEFUL TO PERFORM THIS EVALUATION?

A. THE ONLY WAY TO KNOW IF A PROPOSED PLAN WILL PROVIDE BLACK VOTERS WITH AN OPPORTUNITY TO ELECT THEIR CANDIDATES OF CHOICE, SINCE NO ELECTIONS HAVE OCCURRED, IS TO DO SOMETHING LIKE THIS: TO LOOK AT RECOMPILED ELECTION RESULTS, DETERMINE IF THE BLACK-PREFERRED CANDIDATES WOULD WIN AND HOW MANY ELECTIONS THEY WOULD WIN.

Q. DID YOU ALSO PERFORM THIS RECOMPILED ELECTION RESULTS ANALYSIS ON ILLUSTRATIVE MAP 2-A THAT WAS DRAWN BY PLAINTIFFS'

10:05 EXPERT, TONY FAIRFAX?
A. I DID.
MS. BRANNON: CAN WE SEE DEMONSTRATIVE EXHIBIT 1.8.
BY MS. BRANNON:
Q. DO YOU RECOGNIZE THESE TABLES?
A. YES.
Q. CAN YOU EXPLAIN THE INFORMATION PROVIDED ON THESE TABLES, STARTING WITH THE ENACTED PLAN ON THE RIGHT SIDE OF THE SCREEN?
A. YES. NOW, WHEN YOU ARE TRYING TO FIGURE OUT IF A DISTRICT IS GOING TO PROVIDE BLACK VOTERS WITH AN OPPORTUNITY TO ELECT, THE ELECTIONS THAT YOU WANT TO LOOK AT ARE ELECTIONS IN WHICH BLACK VOTERS AND WHITE VOTERS DISAGREED ON WHO THEY WOULD ELECT. AND THAT HAPPENS TO BE THE CASE IN ALL 15 ELECTIONS THAT I LOOKED AT.
SO HERE WHAT I DID WAS I DETERMINED HOW MANY OF THOSE 15 ELECTIONS WOULD THE BLACK-PREFERRED CANDIDATE EITHER WIN WITH THE MAJORITY OF THE VOTE OR WIN ENOUGH VOTES TO GO ON TO THE RUNOFF. SO THAT'S MY "EFFECTIVENESS SCORE ONE." IT'S JUST THE PERCENTAGE OF TIMES THE BLACK-PREFERRED CANDIDATE WOULD WIN OR ADVANCE TO THE RUNOFF.
THE SECOND COLUMN, THE "EFFECTIVENESS SCORE TWO," IS WHAT WOULD HAPPEN IF THEY MADE IT TO THE RUNOFF AND THERE WERE NOW JUST TWO CANDIDATES; WOULD THEY WIN THE RUNOFF? AND THIS IS THE PERCENTAGE OF TIMES THAT THEY WOULD WIN THE RUNOFF.
SO, FOR EXAMPLE, IN DISTRICT 2 THE BLACK-PREFERRED

10:06 CANDIDATE IN ALL 15 CONTESTS WOULD HAVE EITHER WON OR PROCEEDED TO THE RUNOFF. AND IN THE TWO-CANDIDATE CONTEST -- LET'S SAY THEY'VE GONE TO THE RUNOFF -- THEY WOULD HAVE WON IN 100 PERCENT OF THE TIME.

NOW, IN THE OTHER DISTRICTS IN THE ENACTED PLAN, ALTHOUGH THE BLACK-PREFERRED CANDIDATE IN SOME OF THESE DISTRICTS WOULD HAVE PROCEEDED TO THE RUNOFF IN ABOUT 25 PERCENT OF THESE ELECTIONS, NONE OF THEM WOULD HAVE ACTUALLY WON THE RUNOFF.

SO IN THE OTHER DISTRICTS, THE BLACK-PREFERRED CANDIDATE WOULD NOT HAVE ULTIMATELY PREVAILED IN ANY OF THE ELECTIONS.

Q. CAN YOU JUST BRIEFLY EXPLAIN TO THE COURT THE UNUSUALNESS OF LOUISIANA'S VOTING SYSTEM?

A. RIGHT. SO THIS IS A LITTLE DIFFERENT THAN HOW I USUALLY DO THIS BECAUSE YOU HAVE A SYSTEM THAT IS -- WELL, IT USED TO BE UNIQUE. I THINK MAYBE SOME OTHER STATES ARE ADOPTING IT. BUT YOU HAVE A PRIMARY SYSTEM THAT INCLUDES BOTH DEMOCRATS AND REPUBLICANS, AND THE ELECTION MIGHT ACTUALLY END THERE WITHOUT A GENERAL ELECTION; WHILE IN MOST STATES YOU HAVE -- YOU GO ON AND YOU HAVE A GENERAL ELECTION WITH TWO CANDIDATES: A DEMOCRAT AND A REPUBLICAN.

SOMETIMES HERE YOU GO ON AND YOU HAVE AN ELECTION WITH TWO REPUBLICANS, SO THAT MAKES IT A LITTLE BIT DIFFERENT. AND THAT'S WHY I -- THAT'S WHY YOU SEE THESE TWO COLUMNS.

10:08 1 **Q.** WOUND YOU CHARACTERIZE ANY OF THE CONGRESSIONAL DISTRICTS
2 IN THE ENACTED PLAN OTHER THAN CONGRESSIONAL DISTRICT 2 AS
3 OPPORTUNITY DISTRICTS?
4 **A.** I WOULD NOT.
5 **Q.** AND THEN CAN YOU JUST BRIEFLY EXPLAIN THE ANALYSIS THAT IS
6 REFLECTED IN TABLE 2 ON THE LEFT SIDE OF THE MAP ABOUT
7 ILLUSTRATIVE DISTRICT -- ILLUSTRATIVE MAP 2-A?
8 **A.** SO, AGAIN, I USED EXACTLY THE SAME METHODOLOGY, DID
9 EXACTLY THE SAME THING, BUT THIS TIME YOU CAN SEE THAT DISTRICT
10 2 ALSO 100 PERCENT OF THE TIME THE BLACK-PREFERRED CANDIDATE
11 WINS. BUT IN DISTRICT 5, 86.7 PERCENT OF THE CONTESTS PRODUCED
12 THE BLACK-PREFERRED CANDIDATE AS WINNING OR PROCEEDING TO THE
13 RUNOFF. AND THEN 77.8 PERCENT OF THE RUNOFFS THAT ARE
14 TWO-CANDIDATE CONTESTS, THE BLACK-PREFERRED CANDIDATE PREVAILS
15 IN DISTRICT 5.
16 **Q.** WOULD YOU CHARACTERIZE ANY OF THE CONGRESSIONAL DISTRICTS
17 IN ILLUSTRATIVE MAP 2-A AS OPPORTUNITY DISTRICTS?
18 **A.** YES. DISTRICTS 2 AND DISTRICTS -- AND DISTRICT 5 BOTH
19 PROVIDE BLACK VOTERS WITH AN OPPORTUNITY TO ELECT THEIR
20 CANDIDATES OF CHOICE. THE OTHER DISTRICTS -- 1, 3, 4 AND 6 --
21 DO NOT.
22 **Q.** IS THE INFORMATION IN TABLE 2 REFLECTED IN YOUR REPORTS IN
23 THIS CASE?
24 **A.** YES.
25 **Q.** WHAT CONCLUSIONS, IF ANY, DID YOU DRAW ABOUT THE ABILITY

10:09 1 OF BLACK VOTERS TO ELECT THEIR CANDIDATES OF CHOICE IN THIS
2 ILLUSTRATIVE PLAN VERSUS THE ENACTED PLAN?
3 **A.** THERE IS ONE BLACK OPPORTUNITY DISTRICT IN THE ENACTED
4 PLAN AND THERE ARE TWO IN THE ILLUSTRATIVE PLAN MARKED MAP 2-A.
5 **Q.** BRINGING TOGETHER YOUR RACIAL POLARIZATION ANALYSIS AND
6 YOUR EFFECTIVENESS ANALYSIS OF THE ENACTED PLAN AND
7 ILLUSTRATIVE MAPS, HOW DOES THE RACIAL BLOC VOTING IN LOUISIANA
8 AFFECT VOTERS' OPPORTUNITIES TO ELECT THEIR CANDIDATES OF
9 CHOICE?
10 **A.** BECAUSE VOTING IS RACIALLY POLARIZED, BLACK VOTERS CAN
11 ONLY ELECT THEIR CANDIDATES OF CHOICE IF A DISTRICT IS DRAWN
12 THAT GIVES THEM THIS OPPORTUNITY.
13 **MS. BRANNON:** PLAINTIFFS WOULD MOVE FOR ADMISSION OF
14 ALL OF DR. HANDLEY'S MATERIALS SUBMITTED IN THIS CASE, WHICH,
15 FOR THE RECORD, IS PR-12, PR-87, PR-91 AND PR-92.
16 **THE COURT:** ANY OBJECTION?
17 **MR. FARR:** NO OBJECTIONS, YOUR HONOR.
18 **THE COURT:** ADMITTED.
19 **BY MS. BRANNON:**
20 **Q.** DR. HANDLEY, DID YOU ALSO LOOK AT THE EXPERT REPORT OF
21 DEFENDANTS' EXPERT, DR. SOLANKY? I THINK I'M SAYING THAT
22 CORRECTLY. SOLANKY?
23 **MR. FARR:** THAT'S CORRECT.
24 **BY THE WITNESS:**
25 **A.** I DID.

10:11 1 **BY MS. BRANNON:**
2 **Q.** DO YOU THINK IT WAS APPROPRIATE FOR DR. SOLANKY TO OFFER
3 CONCLUSIONS ABOUT THE VOTING PATTERNS IN EAST BATON ROUGE FROM
4 THE ANALYSIS OF JUST ONE ELECTION?
5 **A.** CERTAINLY YOU WOULD LOOK AT A PATTERN OF VOTING OVER MORE
6 THAN ONE ELECTION. YOU WOULD LOOK AS AT MANY AS YOU COULD.
7 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE 1.10.
8 **BY MS. BRANNON:**
9 **Q.** AND DR. SOLANKY DID AN EVALUATION OF EAST BATON ROUGE
10 PARISH. CORRECT?
11 **A.** YES.
12 **Q.** DO YOU RECOGNIZE THIS MAP?
13 **A.** YES.
14 **Q.** DO YOU THINK IT WAS APPROPRIATE THAT DR. SOLANKY LOOKED
15 JUST AT EAST BATON ROUGE PARISH?
16 **A.** NO. FOR TWO REASONS: NO. 1, EAST BATON ROUGE PARISH IS
17 NOT LARGE ENOUGH TO BE ITS OWN CONGRESSIONAL DISTRICT. THE
18 POPULATION IS TOO SMALL. YOU HAVE TO ADD NEIGHBORING PARISHES
19 TO IT. AND AS HE POINTED OUT, THE VOTING PATTERNS IN
20 NEIGHBORING PARISHES IS DIFFERENT.
21 AND NO. 2, YOU CAN SEE FROM THIS MAP THAT IN ANY
22 CASE, EAST BATON ROUGE IS NOT WHOLLY CONTAINED WITHIN ANY
23 CONGRESSIONAL DISTRICTS, EITHER IN THE ENACTED OR THE
24 ILLUSTRATIVE PLANS. IT IS DIVIDED BETWEEN TWO DISTRICTS.
25 **Q.** WOULD IT BE POSSIBLE TO DRAW A CONGRESSIONAL DISTRICT JUST

10:12 1 WITH EAST BATON ROUGE PARISH?
2 **A.** NO. THE POPULATION IS TOO SMALL.
3 **Q.** SO EVEN IF DR. SOLANKY'S CONCLUSION WAS CORRECT, THAT THE
4 VOTING PATTERNS IN EAST BATON ROUGE -- ABOUT THE VOTING
5 PATTERNS IN EAST BATON ROUGE, DO YOU THINK THAT THAT ANALYSIS
6 IS RELEVANT TO QUESTIONS ABOUT PERFORMANCE IN AN ILLUSTRATIVE
7 DISTRICT 5?
8 **A.** NO. AGAIN, YOU HAVE TO ADD POPULATION. AS HE, HIMSELF,
9 POINTS OUT, THE POPULATION, THE VOTING PATTERNS IN THE PARISHES
10 NEIGHBORING EAST BATON ROUGE PARISH IS DIFFERENT.
11 **Q.** DID YOU ALSO LOOK AT THE REPORT OF DR. ALFORD?
12 **A.** I DID.
13 **Q.** DID DR. ALFORD OFFER ANY CRITICISM OF THE METHODOLOGY IN
14 YOUR REPORT?
15 **A.** NO.
16 **Q.** DR. ALFORD'S REPORT -- DR. ALFORD, IN HIS REPORT IN
17 ADDRESSING THE CAUSE OF VOTING PATTERNS IN LOUISIANA, DOES AN
18 EVALUATION AS TO WHETHER THERE IS RACIAL -- HOLD ON.
19 **MS. BRANNON:** EXCUSE ME, YOUR HONOR. CAN I START
20 AGAIN?
21 **BY MS. BRANNON:**
22 **Q.** DOES ANY EVALUATION OF WHETHER THERE IS ACTUAL RACIALLY
23 POLARIZED VOTING INVOLVE AN EVALUATION OF THE CAUSES OF THE
24 VOTING PATTERNS THAT HAVE BEEN ANALYZED?
25 **A.** NO. THE VOTING RIGHTS ACT -- I BELIEVE THE VOTING RIGHTS

10:14 1 ACT WAS SPECIFICALLY AMENDED TO FOCUS THE INQUIRY ON THE
2 ELECTORAL CONSEQUENCES OF DIFFERENT VOTING PATTERNS AND TO NOT
3 -- THE REASON FOR THOSE -- INTENT WAS SPECIFICALLY TAKEN OUT OF
4 THE EQUATION, THE INTENT OF THE LEGISLATORS AS WELL AS THE
5 INTENT OF THE VOTERS.
6 **Q.** DO YOU AGREE WITH DR. ALFORD'S SUGGESTION IN HIS REPORT
7 THAT THE FACT THAT BLACK VOTERS SUPPORT DEMOCRATS AND WHITE
8 VOTERS SUPPORT REPUBLICANS IN LOUISIANA MEANS THAT VOTING IS
9 NOT RACIALLY POLARIZED?
10 **A.** WHEN YOU DETERMINE IF VOTING IS RACIALLY POLARIZED, YOU DO
11 IT THE WAY THAT I HAVE DONE IT. THIS IS THE WAY THAT EXPERTS
12 HAVE DONE IT FOR OVER 50 YEARS. YOU LOOK AT THE VOTING
13 PATTERNS OF BLACKS AND WHITES AND YOU COMPARE TO SEE IF THEY
14 ARE VOTING FOR THE SAME CANDIDATES OR DIFFERENT CANDIDATES.
15 THIS IS HOW IT IS DONE. THIS IS HOW YOU DETERMINE IF VOTING IS
16 RACIALLY POLARIZED.
17 **MS. BRANNON:** NOTHING FURTHER, YOUR HONOR.
18 **THE COURT:** OKAY. CROSS.
19 **MR. FARR:** THANK YOU, YOUR HONOR.
20 CAN EVERYONE HEAR ME?
21 **THE COURT:** YES, SIR. DID YOU NEED TO -- DID YOU
22 NEED TO REMAIN SEATED? I CAN'T REMEMBER.
23 **CROSS-EXAMINATION**
24 **BY MR. FARR:**
25 **Q.** I WAS JUST GOING TO TELL DR. HANDLEY NICE TO MEET YOU, AND

10:15 THROUGH THE GRACIOUSNESS OF HER HONOR -- I'VE GOT A BACK CONDITION. SO SHE'S AGREED THAT I CAN EXAMINE YOU FROM COUNSEL TABLE, AND I'M GRATEFUL TO HER FOR DOING THAT. PLEASE LET ME KNOW IF YOU DON'T HEAR MY QUESTIONS, AND I'LL TRY TO REPHRASE THEM.

A. OKAY.

THE COURT: LET ME ASK THIS. WOULD IT BE HELPFUL -- YOU MAY BE SEATED, SIR. YOU MAY BE SEATED. WOULD IT BE HELPFUL TO BE ABLE TO MAKE EYE CONTACT? I MEAN, IS THERE SOMEBODY THAT I CAN MOVE AT EITHER COUNSEL TABLE -- MOVE OUT OF THE WAY, OR DOES IT MATTER?

MR. FARR: I CAN SEE DR. HANDLEY, IF SHE CAN SEE ME.

THE COURT: CAN YOU SEE HER? CAN YOU SEE?

THE WITNESS: YES. I DON'T HAVE MY GLASSES ON, BUT OTHER THAN THAT --

THE COURT: ALL RIGHT. WELL, THAT'S FINE THEN.

THE WITNESS: -- WE'RE FINE.

THE COURT: I JUST WANT TO MAKE SURE THAT YOU ALL COMMUNICATE WELL.

OKAY. GO AHEAD, SIR.

MR. FARR: THANK YOU SO MUCH, YOUR HONOR.

BY MR. FARR:

Q. DR. HANDLEY, WE HAVEN'T MET BEFORE, BUT I'VE REVIEWED SOME OF YOUR PRIOR TESTIMONY IN SOME CASES THAT INVOLVED OUR FIRM, AND IT'S AN HONOR TO MEET YOU HERE TODAY. AND I JUST HAVE A

10:16 FEW QUESTIONS FOR YOU.

THE COURT: AND STATE YOUR NAME FOR THE COURT REPORTER. I'M SORRY. YOU MAY HAVE ALREADY DONE THAT, BUT I MISSED IT.

MR. FARR: YES, MA'AM.

AGAIN, MY NAME IS TOM FARR.

THE COURT: THANK YOU, SIR.

GO AHEAD.

MR. FARR: AND I'M WITH THE LAW FIRM OF NELSON MULLINS.

THE COURT: YES, SIR.

MR. FARR: AND I'M HERE REPRESENTING THE SECRETARY OF STATE.

BY MR. FARR:

Q. SO, DR. HANDLEY, WHEN WERE YOU FIRST CONTACTED ABOUT LOUISIANA REDISTRICTING IN THIS CYCLE?

A. IT'S DIFFICULT TO SAY. I WAS WORKING WITH THE ACLU IN ANOTHER COUPLE OF STATES BEFORE WE STARTED TALKING ABOUT LOUISIANA.

Q. IT'S NOT A MEMORY TEST, DR. HANDLEY.

A. OH, OKAY. I'M SORRY. I DON'T REMEMBER EXACTLY WHEN. CERTAINLY LESS THAN A YEAR AGO.

Q. OKAY. WELL, LET'S SEE IF WE CAN CLARIFY THAT A LITTLE BIT WITH SOME QUESTIONS I'LL ASK.

DO YOU REMEMBER WHO CALLED YOU ABOUT WORKING ON

10:17 1 LOUISIANA REDISTRICTING?
2 **A.** NO.
3 **Q.** WHEN WERE YOU ACTUALLY ENGAGED TO WORK ON LOUISIANA
4 REDISTRICTING?
5 **A.** OH, THAT'S ALSO A TOUGH QUESTION BECAUSE I'M NOT EVEN SURE
6 THAT I HAVE A CONTRACT WITH THE ACLU WITH LOUISIANA, SO I
7 CAN'T ACTUALLY ANSWER THAT QUESTION.
8 **Q.** AND DO YOU KNOW WHO ENGAGED YOU?
9 **A.** NO.
10 **Q.** OKAY. YOU DON'T KNOW THE PERSON THAT ENGAGED YOU?
11 **A.** WELL, I SUPPOSE ULTIMATELY IT WOULD HAVE BEEN DALE HO, AND
12 I HAD CONVERSATIONS WITH HIM EARLIER. AND THIS IS THE HEAD OF
13 THE VOTING RIGHTS DIVISION -- THE VOTING SECTION OF THE ACLU.
14 **Q.** YES, MA'AM. I KNOW MR. HO AND I THINK VERY HIGHLY OF HIM,
15 SO THANK YOU FOR THAT ANSWER.
16 DID YOU DO ANY WORK ON LOUISIANA PRIOR TO THE
17 LOUISIANA LEGISLATIVE PROCESS?
18 **MS. BRANNON:** YOUR HONOR, I'M JUST GOING TO -- SHE
19 CAN ANSWER THAT QUESTION, BUT I WANT TO PUT AN OBJECTION ON THE
20 RECORD TO THE EXTENT THAT IT'S SEEKING WHAT WE WOULD CONSIDER
21 TO BE WORK PRODUCT LEADING UP TO LITIGATION. BUT ANYTHING NOT
22 LEADING UP TO LITIGATION, YOU CAN ANSWER.
23 **THE COURT:** OKAY. WELL, YOUR OBJECTION IS NOTED.
24 AND IT MAY BE A LITTLE PREMATURE, BUT YOU ARE ON NOTICE THAT
25 SHE THINKS YOU'RE GOING IN THE WRONG DIRECTION, SO THERE YOU

10:18 GO.

MR. FARR: YOUR HONOR, I'M NOT GOING TO ASK HER ABOUT WORK PRODUCT. I JUST WANT TO KNOW WHEN SHE STARTED WORKING ON THIS. AND IT'S RELEVANT TO SOME OTHER ISSUES IN THE CASE, SO...

THE COURT: OKAY. THERE'S NO OBJECTION TO YOUR CURRENT QUESTION, SO IF YOU WANT TO RESTATE IT.

MR. FARR: YES, MA'AM.

THE COURT: GO AHEAD.

MR. FARR: WELL, THANK YOU, YOUR HONOR.

BY MR. FARR:

Q. DR. HANDLEY, DO YOU RECALL WHEN YOU STARTED WORKING ON MATTERS RELATED TO LOUISIANA CONGRESSIONAL REDISTRICTING IN THIS CYCLE?

A. (NO ORAL RESPONSE.)

Q. LET ME TRY TO HELP A LITTLE BIT.

A. SORRY. I CAN'T REMEMBER.

Q. I UNDERSTAND.

DID YOU BEGIN -- YOU THINK YOU BEGAN WORKING BEFORE THE LEGISLATIVE PROCESS STARTED?

A. I HAVE NO IDEA. I DON'T KNOW WHEN THE LEGISLATIVE PROCESS STARTED.

Q. OKAY. I HEARD YOU MENTION SOMETHING. COULD IT HAVE BEEN THAT YOU WERE WORKING ON LOUISIANA REDISTRICTING SOME TIME WITHIN THE LAST YEAR?

10:20 1 **A.** YES.
2 **Q.** OKAY. AND YOU JUST DIDN'T START WHEN THE PLAN WAS
3 ENACTED?
4 **A.** THAT'S CORRECT.
5 **Q.** AND DID YOU GIVE ANY INPUT ON YOUR THEORIES AND
6 CALCULATIONS TO THE LEGISLATURE DURING THE LEGISLATIVE PROCESS?
7 **A.** DID I? THE LEGISLATURE NEVER CONTACTED ME OR ASKED ME TO
8 DO ANY WORK, NO.
9 **Q.** BUT YOU DIDN'T VOLUNTARILY GIVE ANY OF YOUR RESEARCH TO
10 THE LOUISIANA LEGISLATURE WHILE THEY WERE CONSIDERING
11 CONGRESSIONAL PLANS?
12 **A.** I, PERSONALLY?
13 **Q.** YES.
14 **A.** NO.
15 **Q.** DID YOU TALK TO ANYBODY WHO GAVE INFORMATION ABOUT YOUR
16 PLANS OR ANY ADVICE THAT YOU MAY HAVE TRANSMITTED? DID YOU
17 TALK TO ANYONE WHO MAY HAVE PROVIDED THAT INFORMATION TO THE
18 LOUISIANA LEGISLATURE?
19 **A.** POSSIBLY.
20 **Q.** DO YOU KNOW WHO THAT WOULD HAVE BEEN?
21 **A.** NO.
22 **Q.** AND DID YOU PERFORM YOUR POLARIZATION STUDIES THAT WE
23 TALKED ABOUT TODAY BEFORE THE PLAN WAS ENACTED?
24 **A.** IT DEPENDS ON WHAT YOU MEAN BY "ENACTED."
25 **Q.** WHY DON'T YOU --

10:21 **A.** SO MY UNDERSTANDING IS IT PASSED, BUT THEN IT WAS VOTED AND THEN IT -- THE VETO WAS OVERRIDDEN. I ANALYZED THE PLAN AFTER IT WAS PASSED BY THE LEGISLATURE.

Q. OKAY. AND YOUR REPORT'S GOT ANALYSIS OF STATEWIDE POLARIZATION RATES?

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

Q. YES, MA'AM.

IN READING YOUR REPORT, IT APPEARS THAT YOU HAVE -- YOU'VE DONE POLARIZATION STUDIES ON STATEWIDE ELECTIONS?

A. THAT'S CORRECT.

Q. DID YOU DO THOSE BEFORE THE CONGRESSIONAL PLAN WAS ENACTED?

A. I DON'T REMEMBER IN TIME. I'M NOT EXACTLY SURE WHAT YOU MEAN BY "ENACTED." I DID IT MOST LIKELY BEFORE THE VETO WAS OVERRIDDEN.

Q. OKAY. SO BEFORE THE INITIAL PLAN WAS OVERRIDDEN, YOU THINK SOME TIME BEFORE THEN YOU DID YOUR STATEWIDE POLARIZATION STUDIES?

A. I PROBABLY HAD STARTED THEM.

Q. OKAY. ALL RIGHT. THANKS.

NOW, I WANT TO ASK YOU SOME QUESTIONS ABOUT WHAT YOU MEAN BY "POLARIZATION." AND WE CAN GO TO YOUR REPORT IF THAT WILL HELP YOU, BUT WHEN I READ YOUR REPORT ON PAGE 1 --

MR. FARR: WHY DON'T WE PULL UP PR-12 ON THE SCREEN.

BY MR. FARR:

10:22 1 **Q.** ARE YOU THERE?
2 **A.** YES.
3 **Q.** OKAY. SO DURING YOUR TESTIMONY YOU SAID SEVERAL TIMES
4 THAT VOTING IN LOUISIANA IS RACIALLY POLARIZED. IS THAT A FAIR
5 RECITATION?
6 **A.** YES.
7 **Q.** AND THEN ON PAGE 1 OF YOUR REPORT YOU MAKE A STATEMENT
8 THAT "VOTING IN THE STATE OF LOUISIANA IS RACIALLY POLARIZED."
9 DO YOU SEE THAT?
10 **A.** YES.
11 **Q.** NOW, IF YOU TURN TO PAGE 8, IT LOOKS LIKE IT'S THE SECOND
12 FULL PARAGRAPH WHERE IT SAYS "CONGRESSIONAL ELECTIONS."
13 DO YOU SEE THAT? DO YOU SEE THAT PARAGRAPH?
14 **A.** YES, I DO.
15 **Q.** OKAY. AND IS IT FAIR TO SAY THAT YOU REPORT THAT
16 ELECTIONS IN THE 2011 VERSION OF CONGRESSIONAL DISTRICT 2 WERE
17 PROBABLY NOT RACIALLY POLARIZED?
18 **A.** ALTHOUGH THE STATEWIDE ELECTIONS WERE POLARIZED, THE
19 CONGRESSIONAL ELECTIONS -- I THINK IT WAS MOST OF THEM, IF NOT
20 ALL OF THEM -- WERE NOT POLARIZED.
21 **Q.** OKAY. SO THAT'S WHERE I WANT TO ASK YOU SOME QUESTIONS,
22 DR. HANDLEY. YOU'VE BEEN DOING THIS FOR A LONG TIME AND YOU
23 KNOW WAY MORE THAN I DO. BUT IS THERE A DIFFERENCE BETWEEN
24 LEGALLY SIGNIFICANT RACIALLY POLARIZED VOTING AND JUST SIMPLE
25 POLARIZED VOTING?

10:24 1 **A.** NOW, I'VE WRITTEN ON THIS. BUT I'M NOT A LAWYER, SO I
2 DON'T REALLY KNOW THAT YOU WANT ME TO ANSWER THIS.
3 **Q.** WELL, I'D LIKE YOU TO BECAUSE I THINK YOU'VE EXPLAINED
4 THAT BEFORE. IS THERE A DIFFERENCE BETWEEN SIGNIFICANT
5 RACIALLY POLARIZED VOTING AND SUBSTANTIAL RACIALLY POLARIZED
6 VOTING?
7 **MS. BRANNON:** I'M JUST GOING TO OBJECT. I'M GOING TO
8 OBJECT TO THE EXTENT THAT THAT CALLS FOR A LEGAL CONCLUSION.
9 **MR. FARR:** YOUR HONOR, I'M JUST ASKING HER FOR HER
10 OPINION AS AN EXPERT IN THE AREA OF RACIAL POLARIZATION, IF SHE
11 UNDERSTANDS THERE'S TWO DIFFERENT TYPES OF RACIAL POLARIZATION.
12 **THE COURT:** WELL, THE QUESTION ON THE FLOOR RIGHT NOW
13 IS: IS THERE A DIFFERENCE BETWEEN SIGNIFICANT RACIAL
14 POLARIZATION AND SUBSTANTIAL RACIAL POLARIZATION? YOU DID
15 REPHRASE YOUR QUESTION. YOU REMOVED THE WORD "LEGALLY
16 SUFFICIENT," SO I'M GOING TO OVERRULE THE OBJECTION.
17 SO THE QUESTION IS: IS THERE A DIFFERENCE
18 BETWEEN SIGNIFICANT RACIAL POLARIZATION AND SUBSTANTIAL RACIAL
19 POLARIZATION, IF YOU HAVE AN OPINION ON THAT?
20 **THE WITNESS:** BETWEEN SIGNIFICANT AND SUBSTANTIAL?
21 **THE COURT:** ISN'T THAT YOUR QUESTION, SIR?
22 **MR. FARR:** YES, MA'AM.
23 **THE COURT:** OKAY.
24 **THE WITNESS:** I CAN'T THINK OF ONE.
25 **MR. FARR:** OKAY. CAN WE PULL UP A DEPOSITION THAT

10:25 DR. HANDLEY GAVE IN THE *OHIO PHILIP RANDOLPH INSTITUTE* CASE ON DECEMBER 12, 2018.

BY MR. FARR:

Q. CAN YOU SEE THAT ON YOUR SCREEN, DR. HANDLEY?

A. I CAN.

Q. AND WERE YOU AN EXPERT WITNESS IN THAT CASE?

THE COURT: DO YOU NEED TO KNOW THE CASE AGAIN?

THE WITNESS: I THINK I KNOW WHICH CASE THIS IS.

BY MR. FARR:

Q. WELL, IT SAYS IT'S YOUR DEPOSITION ON THE FRONT PAGE. CORRECT?

A. YES. I BELIEVE THAT THIS IS MY DEPOSITION. AND I BELIEVE I KNOW WHAT CASE IT IS.

Q. YES. AND DO YOU REMEMBER BEING CROSS-EXAMINED BY MY LAW PARTNER, PHIL STRACH, IN THAT CASE?

A. I DO NOT.

MR. FARR: OKAY. WELL, LET'S TURN TO PAGE 104 OF THAT EXHIBIT.

BY MR. FARR:

Q. AND I'LL REPRESENT TO YOU, DR. HANDLEY, THAT THIS IS A SERIES OF QUESTIONS THAT MY PARTNER, PHIL STRACH, ASKED YOU IN THIS DEPOSITION. I'M GOING TO READ THE QUESTION AND I'D LIKE FOR YOU TO READ THE ANSWER. WOULD THAT BE ALL RIGHT?

THE COURT: GIVE US A LINE REFERENCE.

BY MR. FARR:

10:27 1 **Q.** I'M GOING TO START WITH LINE 21. ARE YOU READY?
2 **A.** YES.
3 **Q.** SO THE QUESTION IS:
4 "ALL RIGHT. THANK YOU.
5 "ARE YOU AWARE OF THE DIFFERENCE BETWEEN
6 STATISTICALLY SIGNIFICANT RACIALLY POLARIZED VOTING AND LEGALLY
7 SIGNIFICANT RACIALLY POLARIZED VOTING?"
8 AND YOUR ANSWER IS --
9 **MS. BRANNON:** YOUR HONOR, I'D LIKE TO OBJECT. I
10 THINK THIS IS IMPROPER IMPEACHMENT. I DON'T THINK HE'S LAID A
11 FOUNDATION FOR THE CITATIONS TO THE DEPOSITION QUESTIONS SO
12 FAR.
13 **THE COURT:** SIR, DO YOU WANT TO RESPOND? SHE SAYS --
14 DID YOU HEAR HER OBJECTION?
15 **MR. FARR:** I THINK I DID, YOUR HONOR, AND I DON'T
16 KNOW REALLY WHAT THE SUBSTANCE OF THE OBJECTION IS. I'M
17 IMPEACHING THE WITNESS ON A PREVIOUS DEFINITION THAT SHE GAVE
18 TO "SIGNIFICANT RACIAL POLARIZATION" VERSUS "SUBSTANTIAL RACIAL
19 POLARIZATION."
20 **THE COURT:** SHE'S CORRECT. IT'S IMPROPER FOUNDATION.
21 IT'S IMPROPER IMPEACHMENT. IT IS NOT A PRIOR INCONSISTENT
22 STATEMENT. THE QUESTIONS ARE DIFFERENT AND YOU MADE THEM
23 DIFFERENT. OBJECTION IS SUSTAINED.
24 **MR. FARR:** YOUR HONOR, MAY I TRY AGAIN?
25 **THE COURT:** YOU MAY, BUT TAKE THE DEPOSITION DOWN.

10:28 **BY MR. FARR:**
Q. DR. HANDLEY, DO YOU AGREE THAT "SUBSTANTIVELY SIGNIFICANT RACIAL POLARIZATION" MEANS THAT THE MINORITY AND THE WHITES ARE VOTING FOR DIFFERENT CANDIDATES?
A. YES. YES.
Q. DO YOU AGREE THAT IT WOULD RISE TO THE LEVEL OF LEGAL SIGNIFICANCE IF THE MINORITY-PREFERRED CANDIDATE USUALLY LOST?
MS. BRANNON: AGAIN, YOUR HONOR, I'M GOING TO OBJECT. THAT CALLS FOR A LEGAL CONCLUSION.
MR. FARR: I'M NOT ASKING FOR A LEGAL CONCLUSION. I'M ASKING FOR HER -- THE WAY SHE UNDERSTANDS "RACIAL POLARIZATION."
THE COURT: BUT THE QUESTION IS: IS IT LEGALLY SIGNIFICANT? THAT IS A LEGAL QUESTION. THAT IS A QUESTION OF A LEGAL OPINION. THE OBJECTION IS SUSTAINED.
MR. FARR: CAN I ASK THE QUESTION AGAIN, YOUR HONOR? I'LL TAKE THE WRONG "LEGAL" OUT.
THE COURT: AND YOU DID THAT. YOU DID THAT AND YOU'RE GOING TO REACH THE SAME RESULT: YOU'RE GOING TO HAVE IMPROPER IMPEACHMENT. YOU CAN TRY AGAIN. BUT IF THE WORD "LEGALLY" IS IN THE PRIOR QUESTION, IT IS -- YOU'RE NOT -- IT'S NOT A PRIOR INCONSISTENT STATEMENT.
MR. FARR: I'M SORRY, YOUR HONOR. I APOLOGIZE.
THE COURT: OKAY. NO WORRIES. GO AHEAD.
BY MR. FARR:

10:29 1 **Q.** SO MY QUESTION IS: WOULD POLARIZATION RISE TO THE LEVEL
2 OF SIGNIFICANT POLARIZATION IF THE MINORITY-PREFERRED CANDIDATE
3 USUALLY LOST?
4 **A.** POLARIZATION IS -- LET'S SEE. LET'S SEE HOW -- I SUPPOSE
5 YOU COULD SAY THAT ONE CONTEST BEING POLARIZED IS LESS
6 SIGNIFICANT THAN MORE CONTESTS BEING POLARIZED.
7 **Q.** IF THE WHITE CANDIDATES DID NOT VOTE IN SUFFICIENT NUMBERS
8 TO DEFEAT THE BLACK CANDIDATE -- PREFERRED CANDIDATE OF CHOICE,
9 WOULD YOU CONSIDER THAT TO BE SIGNIFICANT RACIAL POLARIZATION?
10 **A.** I THINK IT WOULD DEPEND ON THE CIRCUMSTANCES. SO IF YOU
11 HAD A DISTRICT THAT -- I CAN'T REALLY ANSWER THAT AS A
12 HYPOTHETICAL. COULD YOU GIVE ME --
13 **Q.** WELL, LET ME TRY AGAIN. EXPLAIN WHY YOU CONCLUDED THAT
14 VOTING IN THE STATE OF LOUISIANA WAS RACIALLY POLARIZED WHILE
15 ALSO SAYING THAT THE VOTING IN CONGRESSIONAL DISTRICT 2 WAS NOT
16 RACIALLY POLARIZED.
17 **A.** SO IN THE 15 CONTESTS THAT I LOOKED AT STATEWIDE, IN EVERY
18 CASE THE BLACK AND WHITE VOTERS WOULD HAVE ELECTED DIFFERENT
19 CANDIDATES.
20 IN CONGRESSIONAL DISTRICT 2, IN MANY CASES THE WHITE
21 VOTERS SUPPORTED THE INCUMBENT BLACK CANDIDATE, CEDRIC
22 RICHMOND.
23 **Q.** SO THE WHITE VOTERS IN CONGRESSIONAL DISTRICT 2 DID NOT
24 VOTE AS A BLOC TO DEFEAT THE BLACK VOTERS' PREFERRED CANDIDATE?
25 **A.** IN CONGRESSIONAL DISTRICT 2 WHEN CEDRIC RICHMOND WAS THE

10:31 1 CANDIDATE, THAT'S CORRECT.
2 **Q.** OKAY. AND WHITES ARE A MAJORITY IN CONGRESSIONAL DISTRICT
3 2?
4 **A.** I BEG YOUR PARDON?
5 **Q.** ARE WHITES THE MAJORITY IN CONGRESSIONAL DISTRICT 2?
6 **A.** THEY ARE NOT.
7 **Q.** OKAY. ARE THERE AREAS IN LOUISIANA WHERE THE LEVEL OF
8 POLARIZATION IS HIGHER OR LOWER?
9 **A.** THAT THE WHAT -- I'M SORRY. REPEAT THE QUESTION.
10 **Q.** YES, MA'AM.
11 YOU REPORTED ON STATEWIDE POLARIZATION RATES FOR
12 STATEWIDE ELECTIONS. IS THAT CORRECT?
13 **A.** YES.
14 **Q.** ARE THERE SOME AREAS OF THE STATE WHERE THE POLARIZATION
15 RATE IS HIGHER THAN IN OTHER AREAS OF THE STATE?
16 **A.** IT DEPENDS ON WHAT YOU MEAN BY "POLARIZATION RATES." YOU
17 MEAN THE NUMBER OF CONTESTS --
18 **Q.** NO.
19 **A.** -- THAT ARE POLARIZED? IS THAT WHAT YOU MEAN?
20 **Q.** I MEAN THE DIFFERENCE BETWEEN THE NUMBER OF WHITES AND
21 BLACKS WHO VOTE FOR THE BLACK-PREFERRED CANDIDATE OF CHOICE.
22 **A.** IT IS THE CASE THAT THERE IS MORE WHITE CROSSOVER VOTE IN
23 CONGRESSIONAL DISTRICT 2 THAN ANYWHERE ELSE THAT I LOOKED IN
24 THE STATE.
25 **Q.** AND COULD THERE BE OTHER AREAS OF THE STATE WHERE THE

10:33 CROSSOVER VOTE IS HIGHER THAN THE -- THAN THE AVERAGE?
A. NOT AT THE CONGRESSIONAL LEVEL OR STATEWIDE. THERE MAY BE POCKETS.
Q. OKAY. WHEN YOU DID YOUR STUDY ON RACIAL POLARIZATION, YOU DID NOT DO A PARISH-BY-PARISH STUDY ON POLARIZATION RATES?
A. THAT'S CORRECT.
Q. OKAY. I'LL MOVE ON TO ANOTHER SUBJECT NOW, DR. HANDLEY.
WHEN YOU TALK IN YOUR REPORT ABOUT VOTING AGE POPULATION FOR AFRICAN AMERICANS, ARE YOU REFERRING TO "ANY PART BLACK" VOTING AGE?
A. IT DEPENDS. I REPORT BOTH "ANY PART BLACK" AND THE DOJ DEFINITION OF "BLACK VOTING AGE POPULATION" IN MY REBUTTAL REPORTS AND IN THE SUPPLEMENTAL REPORT.
MR. FARR: OKAY. SO LET'S TURN TO PR-12.
BY THE WITNESS:
A. I'M SORRY. TO WHAT?
BY MR. FARR:
Q. I'M SORRY, MA'AM. YOUR INITIAL REPORT, WHICH I THINK IS LABELED PR-12.
A. OH, OKAY.
MR. FARR: AND COULD YOU TURN TO TABLE 3, WHICH IS ON PAGE 10.
BY MR. FARR:
Q. ARE YOU THERE?
A. I AM.

10:35 **Q.** AND YOU SEE ON FOOTNOTE 14, YOU SAY "BLACK VOTING AGE POPULATION HAS BEEN CALCULATED BY COUNTING ALL PERSONS WHO CHECK 'BLACK OR AFRICAN AMERICAN' ON THEIR CENSUS FORM." IS THAT CORRECT?

A. YES.

Q. AND IN MAKING THAT FOOTNOTE, WERE YOU REFERRING TO "ANY PART BLACK"?

A. YES.

Q. ALL RIGHT. THANK YOU.

AND USING THE CENSUS CATEGORY "ANY PART BLACK," WOULD THAT RESULT IN A HIGHER BLACK PERCENTAGE IN DISTRICTS YOU'RE LOOKING AT THAN IF YOU USE, SAY, SINGLE-RACE BLACK?

A. YES.

Q. NOW, I WANT TO MOVE TO SOME QUESTIONS ABOUT YOUR APPENDICES. AND I THINK JUST TO KIND OF REFRESH OR REVIEW A LITTLE BIT, APPENDIX A WAS YOUR STUDY OF STATEWIDE ELECTIONS. IS THAT CORRECT?

A. YES.

Q. APPENDIX B WAS YOUR STUDY OF THE PERCENTAGE OF BLACK AND WHITE VOTES FOR EACH CANDIDATE IN CONGRESSIONAL ELECTIONS FROM 2016 TO 2020?

A. ULTIMATELY, 2021.

Q. OKAY. THAT WAS IN YOUR REPORT YOU JUST GAVE US. IS THAT CORRECT?

A. YES.

10:36 1 **Q.** ALL RIGHT. FAIR ENOUGH.
2 AND THAT WAS UNDER THE PLAN THAT WAS ENACTED IN 2011?
3 **A.** THE CONGRESSIONAL ELECTIONS WERE, YES.
4 **Q.** OKAY. AND THEN APPENDIX C THROUGH G, YOU DO A
5 POLARIZATION STUDY ON ALL OF THE DISTRICTS IN THE PLAN THAT WAS
6 ENACTED IN 2022. IS THAT CORRECT?
7 **A.** ALMOST. I DIDN'T LOOK AT DISTRICT 1.
8 **Q.** OH, YOU DIDN'T LOOK AT CONGRESSIONAL DISTRICT 1?
9 **A.** THAT'S CORRECT.
10 **Q.** I WAS GOING TO ASK YOU, JUST OUT OF CURIOSITY, WHY DIDN'T
11 YOU LOOK AT THAT?
12 **A.** BECAUSE IT DOESN'T OVERLAP. IT SUPPLIES NO VOTERS TO
13 ILLUSTRATIVE DISTRICT 5.
14 **Q.** OKAY. AND YOU DIDN'T REPORT A SIMILAR ANALYSIS FOR MR.
15 FAIRFAX'S ILLUSTRATIVE PLANS, DID YOU?
16 **A.** I'M SORRY. REPEAT THAT.
17 **Q.** DID YOU DO A SIMILAR REPORT FOR THE ILLUSTRATIVE PLANS
18 THAT MR. FAIRFAX HAS PROPOSED IN THIS CASE?
19 **A.** A SIMILAR REPORT? I'M SORRY.
20 **Q.** YEAH. AS TO WHAT YOU DID FOR THE 2011 CONGRESSIONAL
21 DISTRICTS. DID YOU DO SOMETHING LIKE THAT FOR THE DISTRICTS IN
22 MR. FAIRFAX'S ILLUSTRATIVE PLANS?
23 **A.** NO.
24 **Q.** YOU DIDN'T REPORT THAT.
25 DID YOU EVER DO THAT AND NOT REPORT IT?

10:38 1 **A.** NO.
2 **Q.** OKAY. NOW, I WANT TO GO THROUGH SOME TERMS TO GET TO THE
3 QUESTION I WANT TO ASK YOU, DR. HANDLEY. IS IT FAIR TO SAY
4 THAT A MAJORITY-BLACK DISTRICT, AS THE U.S. SUPREME COURT HAS
5 DEFINED IT, MEANS A DISTRICT WHERE THE "BLACK VOTING AGE"
6 POPULATION IS AN ACTUAL MAJORITY?
7 **MS. BRANNON:** OBJECTION. AGAIN, YOUR HONOR, ISN'T
8 THAT A LEGAL CONCLUSION?
9 **THE COURT:** SIR?
10 **MR. FARR:** MAY I REPHRASE IT?
11 **THE COURT:** YOU MAY.
12 **BY MR. FARR:**
13 **Q.** DR. HANDLEY, HAVE YOU READ THE *BARTLETT* DECISION?
14 **A.** MANY YEARS AGO.
15 **Q.** DO YOU RECALL HOW THE COURT DEFINED "MAJORITY-BLACK
16 DISTRICT" IN THAT CASE?
17 **A.** I BELIEVE SO.
18 **Q.** AND HOW DID THEY DEFINE IT?
19 **A.** A MAJORITY-BLACK DISTRICT WOULD BE A BLACK DISTRICT IN
20 WHICH THE VOTING AGE POPULATION WAS MAJORITY BLACK AT LEAST 50
21 PERCENT PLUS ONE PERSON.
22 **Q.** OKAY. AND A CROSSOVER DISTRICT IS A -- IS WHAT?
23 **A.** A CROSSOVER DISTRICT? YOU'LL HAVE TO TELL ME.
24 **Q.** OKAY. IS IT FAIR TO SAY THAT A CROSSOVER DISTRICT IS A
25 DISTRICT WHERE THE BLACK POPULATION IS NOT IN THE MAJORITY BUT

10:39 1 THEY CAN ELECT THEIR PREFERRED CANDIDATE WITH THE HELP OF WHITE
2 CROSSOVER VOTERS?
3 **A.** I DON'T USE THAT TERM. I THINK IT MIGHT HAVE COME OUT OF
4 SOME RECENT CASE. IF YOU WANT TO DEFINE IT THAT WAY, YOU CAN.
5 **Q.** OKAY. WELL, ARE THERE DISTRICTS WHERE BLACK VOTERS ARE
6 ABLE TO ELECT THEIR CANDIDATE OF CHOICE EVEN THOUGH THEY ARE
7 NOT IN A MAJORITY?
8 **A.** YES.
9 **Q.** AND IN THOSE INSTANCES DO THEY -- IS THE CANDIDATE OF
10 CHOICE ELECTED BECAUSE THERE ARE WHITE VOTERS CROSSING OVER TO
11 HELP ELECT THE BLACK CANDIDATES PREFERRED -- THE BLACK MINORITY
12 GROUP'S PREFERRED CANDIDATE?
13 **A.** YES.
14 **Q.** ALL RIGHT. NOW, HAVE YOU WRITTEN ABOUT SOMETHING CALLED
15 AN EFFECTIVE DISTRICT?
16 **THE COURT:** I'M SORRY. I MISSED THAT. THE WHAT
17 DISTRICT?
18 **MR. FARR:** I'M SORRY, YOUR HONOR.
19 **BY MR. FARR:**
20 **Q.** HAVE YOU WRITTEN -- HAVE YOU WRITTEN OR DESCRIBED SOME
21 DISTRICTS AS BEING EFFECTIVE DISTRICTS?
22 **A.** YES.
23 **Q.** AND CAN AN EFFECTIVE DISTRICT BE A DISTRICT THAT HAS LESS
24 THAN 50 PERCENT "BLACK VOTING AGE" POPULATION?
25 **A.** YES.

10:40 1 **Q.** AND AN EFFECTIVE DISTRICT MEANS THAT THE DISTRICT PROVIDES
2 THE BLACK COMMUNITY WITH AN OPPORTUNITY TO ELECT THEIR
3 CANDIDATE OF CHOICE. IS THAT CORRECT?
4 **A.** YES.
5 **Q.** AND THAT'S -- SO EVEN WHERE THEY'RE NOT A MAJORITY OF THE
6 DISTRICT IT COULD BE?
7 **A.** IT COULD BE THE CASE, YES.
8 **Q.** NOW, IN OTHER CASES, DR. HANDLEY, HAVE YOU EVER DONE
9 SOMETHING CALLED A FUNCTIONAL ANALYSIS TO DETERMINE WHETHER A
10 DISTRICT COULD PROVIDE AFRICAN AMERICANS WITH THE OPPORTUNITY
11 TO ELECT THEIR CANDIDATE OF CHOICE WITH A BLACK PERCENT THAT'S
12 UNDER 50 PERCENT?
13 **A.** YES.
14 **Q.** AND DID YOU DO SUCH A STUDY IN THIS CASE?
15 **A.** I DID NOT.
16 **Q.** ALL RIGHT. I WANT TO TURN NOW TO SOME QUESTIONS ABOUT
17 YOUR REBUTTAL REPORT. AND PLEASE FEEL FREE, MA'AM, TO PULL
18 THAT UP IN FRONT OF YOU IF IT WOULD BE HELPFUL. I DON'T KNOW
19 THAT I'M GOING TO BE QUOTING ANY PAGES, BUT FEEL FREE TO
20 RESPOND TO THAT IF THAT HELPS YOUR TESTIMONY. ALL RIGHT?
21 **A.** YES.
22 **Q.** NOW, YOU ARE FAMILIAR WITH THE REPORT THAT DR. LEWIS
23 SUBMITTED FOR THE DEFENDANTS ANALYZING CROSSOVER VOTING IN THE
24 ILLUSTRATIVE PLANS?
25 **A.** I READ DR. LEWIS' REPORT.

10:42 1 **Q.** OKAY. AND JUST FOR THE RECORD, I BELIEVE THAT'S EXHIBIT
2 LEG-2 IS THE REPORT I'M REFERRING TO.
3 SO YOU HAD AN OPPORUNITY TO REVIEW DR. LEWIS' REPORT?
4 **A.** I READ DR. LEWIS' REPORT, YES.
5 **Q.** AND IN YOUR REBUTTAL REPORTS, CORRECT ME I'M WRONG, BUT AS
6 I UNDERSTAND IT, THE ONLY EXPERTS YOU PROVIDED REBUTTAL
7 TESTIMONY TO ARE DR. SOLANKY AND DR. ALFORD. IS THAT CORRECT?
8 **A.** YES.
9 **Q.** AND MORE SPECIFICALLY, YOU DID NOT SUBMIT A REPLY TO DR.
10 LEWIS' REPORT?
11 **A.** CORRECT.
12 **Q.** SO IF SOMEONE IN THIS CASE ASSERTED THAT DISTRICTS WITH A
13 "BLACK VOTING AGE" POPULATION BELOW 50 PERCENT WILL GIVE THE
14 BLACK COMMUNITY AN EQUAL OPPORTUNITY TO ELECT THEIR PREFERRED
15 CANDIDATES OF CHOICE, YOU HAVE NO BASIS TO DISAGREE WITH THAT
16 STATEMENT, DO YOU?
17 **A.** IF YOU MEAN DID DR. LEWIS CONVINCE ME OF THAT, I WOULD
18 HAVE TO DISAGREE WITH YOU. NO, HE DID NOT CONVINCE ME THAT A
19 DISTRICT WITH LESS THAN 50 PERCENT WAS NECESSARY -- WAS --
20 **Q.** BUT YOU, YOURSELF, HAVE NOT DONE A STUDY TO SEE IF A
21 DISTRICT WITH LESS THAN 50 PERCENT WOULD PROVIDE AN EQUAL
22 OPPORTUNITY TO ELECT THE BLACK-PREFERRED CANDIDATE. IS THAT
23 RIGHT?
24 **A.** IN THIS CASE, THAT'S CORRECT.
25 **Q.** SO YOU'VE TESTIFIED ABOUT MR. FAIRFAX'S ILLUSTRATIVE

10:43 PLANS. IS THAT RIGHT?
A. YES.
Q. HAVE YOU STUDIED THE PLANS DRAWN BY MR. COOPER?
A. NO.
Q. OKAY. I'LL SKIP THAT.
SO LET'S TURN -- I'VE JUST GOT A FEW MORE QUESTIONS, DR. HANDLEY, AND THEN I'LL BE DONE.
COULD YOU TURN BACK TO YOUR ORIGINAL REPORT, WHICH IS PR-12, AND I'D LIKE FOR YOU TO LOOK AT TABLE 1 ON PAGE 6.
ARE YOU THERE?
A. YES.
Q. AND YOU SELECTED THE STATEWIDE RACES THAT YOU WOULD STUDY IN YOUR REPORT, AND THOSE 15 RACES ARE LISTED THERE. IS THAT CORRECT?
A. THE 15 RACES LISTED THERE ARE THE CONTESTS THAT I ANALYZED, THAT'S CORRECT.
Q. OKAY. AND YOU DIDN'T INCLUDE GOVERNOR EDWARDS' ELECTION IN 2015 OR 2019. IS THAT A FAIR STATEMENT?
A. THAT'S CORRECT. THERE WERE NO BLACK CANDIDATES IN THOSE CONTESTS.
Q. BUT DO YOU THINK THAT GOVERNOR EDWARDS WAS THE PREFERRED BLACK CANDIDATE OF CHOICE FOR THE BLACK COMMUNITY?
A. YES. I SAW DR. ALFORD'S REPORT THAT PRODUCED DR. PALMER'S NUMBERS, SO YES.
Q. OKAY. AND THEN, ALSO, YOU DIDN'T INCLUDE IN ONE OF THE

10:45 RACES YOU STUDIED THE 2016 PRESIDENTIAL ELECTION INVOLVING SECRETARY CLINTON AND SENATOR CAIN. IS THAT CORRECT?

A. THAT'S CORRECT.

Q. PLEASE BEAR WITH ME, DR. HANDLEY. I'M TRYING TO FIND ONE OF YOUR CHARTS.

MR. FARR: OKAY. I THINK WE CAN LOOK AT TABLE 4 ON PAGE 11.

BY MR. FARR:

Q. ARE YOU THERE?

A. YES.

Q. AND SO, DR. HANDLEY, IN ORDER TO DETERMINE THE EFFECTIVENESS OF CONGRESSIONAL DISTRICTS IN THE ENACTED PLAN AND THEN I THINK MOVING OVER, YOU DID THE SAME THING ON PAGE 13 FOR THE ILLUSTRATIVE PLAN. IS THAT A FAIR STATEMENT?

A. YES.

Q. AND SO ALL YOU REPORTED IS WHO WON OR LOST THE ELECTION?

A. NO, NOT EXACTLY. THE PERCENTAGE OF CASES -- THE PERCENTAGE OF ELECTIONS IN REGARD TO THE FIRST COLUMN IN WHICH THE BLACK-PREFERRED CANDIDATE EITHER WON OUTRIGHT OR WOULD HAVE PROCEEDED TO A RUNOFF.

Q. OKAY. AND THEN WHAT WAS THE SECOND COLUMN?

A. THE PERCENTAGE OF TWO CANDIDATE CONTESTS IN WHICH THE BLACK-PREFERRED CANDIDATE WON.

Q. OKAY.

A. OBVIOUSLY WITH MORE THAN 50 PERCENT OF THE VOTE.

10:47 **Q.** AND YOU DIDN'T REPORT THE VOTE TOTALS OR THE MARGINS OF VICTORY IN ANY OF THOSE ELECTIONS. IS THAT A FAIR STATEMENT?
A. NO. IT'S NOT A -- IT'S NOT LISTED IN THESE TABLES, BUT IT'S CERTAINLY LISTED IN MY APPENDIX.
Q. OKAY. I'M SORRY. I MISSED THAT. I APOLOGIZE.
DID YOU REPORT THE RELATIVE FUNDRAISING BY THE CANDIDATES IN THE ELECTIONS THAT YOU SELECTED?
A. DID YOU SAY "FUNDRAISING"?
Q. YES.
A. NO.
Q. HAVE YOU EVER TALKED BEFORE ABOUT IT'S BETTER TO USE A MORE HIGHLY VISIBLE RACE TO CALCULATE RACIALLY POLARIZED VOTING THAN ONE THAT'S NOT VISIBLE?
A. I PROBABLY HAVE. I AGREE WITH THAT STATEMENT.
Q. OKAY. SO WHAT WOULD BE MORE VISIBLE TO JUDGE RACIALLY POLARIZED VOTING: THE GOVERNOR'S ELECTIONS OR THE SECRETARY OF STATE ELECTION?
A. I WOULD USE BOTH.
Q. EXCUSE ME?
A. I WOULD USE BOTH. IF THEY HAD A BLACK CANDIDATE, WHY WOULD I HAVE TO CHOOSE ONE OR THE OTHER?
Q. WOULD YOU HAVE AN OPINION ON WHICH ONE IS MORE VISIBLE TO THE VOTERS OF LOUISIANA?
A. I WOULD NOT, NOT IF ONE, FOR EXAMPLE, INCLUDED A BLACK CANDIDATE AND THE OTHER DID NOT.

10:48 **MR. FARR:** OKAY. THAT'S ALL, YOUR HONOR. THANK YOU.

THE COURT: ANY REDIRECT?

MS. BRANNON: YEAH, JUST SOME BRIEF REDIRECT, YOUR HONOR.

MS. BRANNON: FIRST, CAN WE CALL UP DEMONSTRATIVE EXHIBIT 1.11.

REDIRECT EXAMINATION

BY MS. BRANNON:

Q. DR. HANDLEY, ARE YOU FAMILIAR WITH THIS TABLE?

A. YES.

Q. DOES THIS SHOW THE VOTING AGE POPULATION FOR ALL PARTS BLACK AND THEN ALSO THE VOTING AGE POPULATION UNDER THE DOJ DEFINITION IN ILLUSTRATIVE DISTRICT 2?

A. YES.

Q. WAS YOUR ANALYSIS ANY DIFFERENT ABOUT THE EFFECTIVENESS OF ILLUSTRATIVE DISTRICT 2, DEPENDING ON WHAT DEFINITION YOU USE FOR THE BLACK POPULATION?

A. NO.

Q. WAS YOUR ANALYSIS ANY DIFFERENT ABOUT THE EFFECTIVENESS OF THE CONGRESSIONAL DISTRICTS ENACTED -- THE ENACTED MAP, DEPENDING ON WHAT DEFINITION OF "BLACK" IS USED?

A. NO.

Q. AND COUNSEL ASKED YOU ABOUT PERFORMING A FUNCTIONAL ANALYSIS. WHY DIDN'T YOU PERFORM A FUNCTIONAL ANALYSIS AT THIS TIME IN THIS CASE FOR YOUR REPORT?

10:50 1 **A.** I DID PERFORM A FUNCTIONAL ANALYSIS. A FUNCTIONAL
2 ANALYSIS IS SIMPLY LOOKING AT HOW BLACK-PREFERRED CANDIDATES
3 WOULD -- WHETHER THEY WOULD HAVE AN OPPORTUNITY -- WHETHER
4 BLACK VOTERS WOULD HAVE AN OPPORTUNITY TO ELECT CANDIDATES OF
5 CHOICE DEPENDING ON THE VOTING PATTERNS OF BLACKS AND WHITES AS
6 OPPOSED TO JUST THE VOTING AGE POPULATION. THAT'S WHAT THIS
7 IS, NOT THIS CHART. WHAT THE EFFECTIVENESS TABLES WERE.
8 **MS. BRANNON:** WE CAN TAKE THIS CHART DOWN.
9 **BY THE WITNESS:**
10 **A.** I'M SORRY?
11 **MS. BRANNON:** WE CAN TAKE THIS DOWN.
12 **BY MS. BRANNON:**
13 **Q.** AND DID YOU DO THAT FOR AN ANALYSIS OF THE ILLUSTRATIVE
14 PLAN?
15 **A.** I DID A FUNCTIONAL ANALYSIS OF BOTH THE -- OF SEVERAL
16 ILLUSTRATIVE PLANS, AS WELL AS THE ENACTED PLAN.
17 **Q.** CORRECT. AND WE'VE ALREADY DISCUSSED THAT; THAT
18 INFORMATION IS IN YOUR CHART -- IN YOUR REPORT. CORRECT?
19 **A.** YES.
20 **Q.** OKAY. AND AS PART OF THE -- YOUR ANALYSIS OF THE ENACTED
21 PLAN, DO ANY OF THE POPULATIONS IN THE ENACTED PLAN HAVE A
22 VOTING AGE POPULATION OVER 50 PERCENT BESIDES CONGRESSIONAL
23 DISTRICT 2?
24 **A.** IN THE ENACTED PLAN?
25 **Q.** YES, IN THE ENACTED PLAN.

10:51 1 **A.** NO.
2 **THE COURT:** UNDER EITHER DEFINITION OR WHICH
3 DEFINITION?
4 **MS. BRANNON:** UNDER EITHER DEFINITION.
5 **THE COURT:** OKAY. THANKS.
6 **THE WITNESS:** NO.
7 **BY MS. BRANNON:**
8 **Q.** DO ANY OF THE CONGRESSIONAL DISTRICTS IN THE ENACTED PLAN
9 PERFORM TO ALLOW BLACK VOTERS TO ELECT THEIR CANDIDATE OF
10 CHOICE BESIDES CONGRESSIONAL DISTRICT 2?
11 **A.** NO.
12 **MS. BRANNON:** CAN WE TURN BACK TO THE -- APPENDIX C,
13 APPENDIX C, REVISED APPENDIX C.
14 JUST BEAR WITH ME A MINUTE, YOUR HONOR.
15 IT IS ILLUSTRATIVE DISTRICT 1 POINT -- EXHIBIT
16 1.6.
17 **BY MS. BRANNON:**
18 **Q.** AND ACTUALLY, CAN YOU TURN TO REVISED APPENDIX C IN YOUR
19 REPORT, WHICH IS IN YOUR BINDER.
20 **MS. BRANNON:** AND WE CAN TAKE THIS DOWN.
21 AND FOR THE RECORD, THAT'S EXHIBIT PR-92.
22 **BY MS. BRANNON:**
23 **Q.** AND LOOKING AT APPENDIX C THAT'S IN THE REPORT, CAN YOU
24 JUST REFRESH OUR RECOLLECTION AS TO EXACTLY WHAT IS CONTAINED
25 IN THAT DOCUMENT?

10:53 1 **A.** YOU MEAN CORRECTED APPENDIX C?
2 **Q.** YES.
3 **A.** SO THIS IS THE STATEWIDE ELECTIONS RECOMPILED,
4 RECONFIGURED TO CONFORM WITH THE ENACTED DISTRICT BOUNDARIES,
5 AND IT'S A RACIAL-BLOC-VOTING ANALYSIS OF THE FIVE DISTRICTS
6 THAT WOULD CONTRIBUTE VOTERS TO THE ILLUSTRATIVE DISTRICT 2,
7 ILLUSTRATIVE -- ADDITIONAL OPPORTUNITY DISTRICT IN ILLUSTRATIVE
8 PLAN 2 OR PLAN 2-A.
9 **Q.** IS IT AN EVALUATION OF THE ENACTED PLAN?
10 **A.** YES.
11 **Q.** OKAY. CAN YOU GO THROUGH THAT, REVIEW THAT DOCUMENT.
12 **MS. BRANNON:** AND MAYBE WE CAN PULL IT UP ON THE
13 SCREEN, APPENDIX C FROM EXHIBIT R-92, PR-92. KEEP GOING AND
14 THEN KEEP GOING. THANK YOU. YEAH, APPENDIX C. THERE. THAT'S
15 THE RIGHT THING.
16 **BY MS. BRANNON:**
17 **Q.** THIS IS FROM YOUR REPORT. CORRECT?
18 **A.** YES.
19 **Q.** OKAY. CAN YOU EXPLAIN WHETHER ALL OF THESE ELECTIONS ARE
20 POLARIZED OR NOT IN YOUR ANALYSIS OF THE ENACTED PLAN?
21 **A.** THEY ARE ALL POLARIZED FOR ALL OF THE DISTRICTS, I
22 BELIEVE, INCLUDING DISTRICT 2. IF YOU COULD TURN THE --
23 THEY'RE ALL POLARIZED FOR ALL ENACTED DISTRICTS, INCLUDING
24 DISTRICT 2.
25 **Q.** AND WOULD A BVAP OF LESS THAN 50 PERCENT ALLOW BLACK

10:55 1 VOTERS TO ELECT THEIR CANDIDATE OF CHOICE IN CONGRESSIONAL
2 DISTRICT 2 IN THE ENACTED PLAN -- OR NOT THE ENACTED PLAN.
3 JUST BASED ON YOUR ANALYSIS, WOULD IT --
4 **MS. BRANNON:** LET ME REPHRASE THE QUESTION, YOUR
5 HONOR.
6 **BY MS. BRANNON:**
7 **Q.** WOULD A BVAP OF LESS THAN 50 PERCENT ALLOW BLACK VOTERS TO
8 ELECT THEIR CANDIDATE OF CHOICE IN CONGRESSIONAL DISTRICT 2?
9 **A.** I DON'T KNOW. THE DISTRICT WAS 58 PERCENT. NOW -- OH, IN
10 ENACTED DISTRICT 2? IT'S STILL 58 PERCENT. SO I CAN'T ANSWER
11 THAT FOR THAT. BUT IN THE ILLUSTRATIVE PLAN, IT'S 50 PERCENT
12 AND IT STILL ALLOWS THE BLACK VOTERS TO ELECT THEIR CANDIDATE
13 OF CHOICE.
14 **Q.** ALL RIGHT. DO YOU THINK A BVAP OF LESS THAN 50 PERCENT IN
15 CONGRESSIONAL DISTRICT 2 WOULD ALLOW BLACK VOTERS TO ELECT
16 THEIR CANDIDATE OF CHOICE?
17 **A.** IT'S POSSIBLE.
18 **Q.** OKAY. AND IN LOOKING AT THIS ANALYSIS --
19 **MS. BRANNON:** AND MAYBE CAN WE GO BACK TO APPENDIX B,
20 REVISED APPENDIX B, WHICH IS IN EXHIBIT 92 -- 91.
21 SORRY, YOUR HONOR.
22 NO. CAN WE GO TO EXHIBIT PR-87 AND THEN CAN WE
23 GO TO REVISED APPENDIX B AT THE END OF THIS DOCUMENT. IS IT
24 NOT THERE? MAYBE WE DON'T HAVE IT. THIS IS JUST -- THERE.
25 AND CAN WE GO DOWN TO LOOK AT THE NEXT PAGE.

10:57 1 **BY MS. BRANNON:**
2 **Q.** AND JUST LOOKING AT, FOR EXAMPLE, AT CONGRESSIONAL
3 DISTRICT 3, CAN YOU JUST BRIEFLY DESCRIBE THE WHITE CROSSOVER
4 VOTING THAT YOU FOUND WHEN LOOKING AT CONGRESSIONAL DISTRICT 3?
5 **A.** SO THE BLACK-PREFERRED CANDIDATE IN 2020 WAS BRYLAND
6 HARRIS. HE RECEIVED SOMEWHERE BETWEEN 64 AND 69 PERCENT OF THE
7 BLACK VOTE, AND HE RECEIVES SOMEWHERE IN THE NEIGHBORHOOD OF
8 1.726 PERCENT OF THE WHITE VOTE.
9 **Q.** SO THAT'S A LOW AMOUNT OF WHITE CROSSOVER VOTING?
10 **A.** THAT'S A VERY LOW AMOUNT OF WHITE CROSSOVER VOTE, YES.
11 **MS. BRANNON:** YOUR HONOR, I HAVE NO FURTHER
12 QUESTIONS.
13 **THE COURT:** DR. HANDLEY, YOU MAY STEP DOWN. THANK
14 YOU, MA'AM.
15 OKAY. WE'RE GOING TO STAY ON THE RECORD UNTIL
16 11:30. THE COURT HAS A PRETRIAL CONFERENCE AT 11:30, BUT LET'S
17 PLOW THROUGH. SO PLEASE CALL YOUR WITNESS. IF SOMEBODY NEEDS
18 TO USE THE RESTROOM, YOU CAN CERTAINLY -- YOU'RE NOT GOING TO
19 BOTHER ME, BUT LET'S PLOW THROUGH. HANG ON JUST A MINUTE.
20 ALL RIGHT, MA'AM.
21 **MS. OSAKI:** GOOD MORNING, YOUR HONOR.
22 I'D LIKE TO ALSO ENTER AN APPEARANCE. MY NAME
23 IS SAMANTHA OSAKI -- THAT'S O-S-A-K-I -- WITH THE AMERICAN
24 CIVIL LIBERTIES UNION FOR THE ROBINSON PLAINTIFFS.
25 THE ROBINSON PLAINTIFFS WILL NOW CALL DR.

10:59 DOROTHY NAIRNE.

DOROTHY NAIRNE, PH.D.,

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: GOOD MORNING, MA'AM.

YOU'LL NEED TO ADJUST THE MIC TO SUIT YOU SO THAT WE CAN HEAR YOU.

THE WITNESS: OKAY. GOOD MORNING.

THE COURT: GOOD MORNING.

THE WITNESS: GOOD MORNING. CAN YOU HEAR ME?

THE COURT: YES, MA'AM.

THE WITNESS: ALL RIGHT.

DIRECT EXAMINATION

BY MS. OSAKI:

Q. GOOD MORNING, DR. NAIRNE.

A. GOOD MORNING.

Q. TO START, COULD YOU PLEASE STATE YOUR NAME FOR THE COURT.

A. MY NAME IS DOROTHY NAIRNE.

Q. AND HOW DO YOU IDENTIFY RACIALLY, DR. NAIRNE?

A. I AM BLACK. I AM AFRICAN AMERICAN.

Q. WHAT TOWN AND PARISH DO YOU LIVE IN, DR. NAIRNE?

A. I LIVE IN NAPOLEONVILLE, ASSUMPTION PARISH.

Q. AND HOW LONG HAVE YOU LIVED AT YOUR CURRENT ADDRESS?

A. IT'S A FAMILY HOME THAT I HAVE VISITED ALL MY LIFE, AND I'VE BEEN THERE FULL-TIME SINCE 2017.

Q. AND BEFORE 2017 HOW LONG HAVE YOU AND YOUR FAMILY TRACED

11:00 YOUR ROOTS IN LOUISIANA?
A. FOR GENERATIONS. MY MOTHER'S MOTHER'S MOTHER'S MOTHERS AND FATHERS WERE ENSLAVED HERE IN LOUISIANA IN ASSUMPTION PARISH.
Q. COULD YOU PLEASE TELL US BRIEFLY ABOUT YOUR EDUCATION AND CAREER HISTORY, DR. NAIRNE?
A. I HAD THE BENEFIT OF GOING TO THE UNIVERSITY OF WISCONSIN -- GO BADGERS -- AND THEN I WENT TO -- I STUDIED JOURNALISM AND AFRICAN-AMERICAN STUDIES. THEN I LIVED IN ATLANTA AND WENT TO CLARK ATLANTA UNIVERSITY WHERE I HAVE A MASTER'S DEGREE IN AFRICAN-AMERICAN STUDIES AND A PH.D. IN INTERNATIONAL AFFAIRS AND ECONOMIC DEVELOPMENT.
Q. AND COULD YOU PLEASE DESCRIBE WHAT YOU CURRENTLY DO FOR A LIVING?
A. I HAVE A START-UP BUSINESS HERE IN LOUISIANA THAT IS FOCUSING ON GLASS RECYCLING AND TAKING THE GLASS, TURNING IT INTO SAND AND DOING STORMWATER MANAGEMENT AND MARDI GRAS BEADS SO THAT WE CAN CREATE JOBS FOR PEOPLE COMING OUT OF PRISON.
Q. THANK YOU, DR. NAIRNE.
DO YOU BELONG TO ANY CIVIC, NONPROFIT OR POLITICAL GROUPS?
A. I'M VERY ACTIVE WITH THE NAACP, WITH THE URBAN LEAGUE, WITH CLIMATE -- WOMEN FOR CLIMATE, AND ALSO WITH OTHER START-UP ORGANIZATIONS LIKE FUND 17, AND THERE'S ONE CALLED "FLIGHT AND TOGETHER LOUISIANA" AND "TOGETHER NEW ORLEANS."

11:01 **Q.** SO DO YOU CONSIDER YOURSELF TO BE ACTIVE IN YOUR COMMUNITY?
A. I AM VERY ACTIVE.
Q. DR. NAIRNE, COULD YOU PLEASE DESCRIBE THE ROLE THAT RACE HAS PLAYED IN YOUR FAMILY SINCE YOUR FAMILY HAS LIVED IN LOUISIANA?
A. SO, FIRST, MY GRANDPARENTS WERE ON -- WELL, THEY WERE SHARECROPPERS ON DIFFERENT PLANTATIONS IN ASSUMPTION PARISH. AND SO MY GRANDFATHER COULD READ, SO HE USED TO READ TO ALL OF THE OTHER SHARECROPPERS WHO COULDN'T READ AND ALSO HELPED THEM WITH THEIR MONEY.

SO MY GRANDMOTHER USED TO TELL STORIES ABOUT HOW ON THE PLANTATION THEY WOULD PAY WITH JITNEY. SO THEY WOULD TRY TO PAY PEOPLE DIFFERENT MONEY SO YOU COULD NEVER GET OFF THE PLANTATION. SO I'VE GOT THAT LONG BACKGROUND WHERE MY GRANDMOTHER ALWAYS WANTED TO GET OFF THE PLANTATION, AND MY MOTHER DID.

MY FAMILY -- HER FAMILY POURED INTO HER WHERE SHE WAS ABLE TO GO TO SCHOOL BEYOND THE SIXTH GRADE ALL THE WAY IN NEW ORLEANS, BECAUSE THERE WAS NO SCHOOL IN ASSUMPTION PARISH FOR BLACK CHILDREN. SO THEY HAD TO WALK FROM GRADES ONE TILL SIXTH, PROBABLY FIVE MILES EACH WAY. AND THE WHITE CHILDREN, WHO WERE IN A SCHOOL BUS -- ALL OF THESE PUBLIC SCHOOLS. SO MY MOTHER WOULD TELL GROSS STORIES OF BEING SPIT ON FROM THE SCHOOL BUS AND THEN HAVING TO GO ALL THE WAY TO NEW ORLEANS TO

11:03 GO TO SCHOOL BEYOND THE SIXTH GRADE.
Q. ARE YOU A REGISTERED VOTER, DR. NAIRNE?
A. I AM A REGISTERED VOTER.
Q. ARE YOU REGISTERED TO VOTE AT YOUR CURRENT ADDRESS?
A. YES, I AM.
Q. DO YOU REGULARLY VOTE IN CONGRESSIONAL ELECTIONS?
A. I VOTE, YES.
Q. DO YOU PLAN ON VOTING IN FUTURE CONGRESSIONAL ELECTIONS?
A. YES, I DO.
Q. THANK YOU.
I'D NEXT LIKE TO DISCUSS YOUR INVOLVEMENT WITH THIS CASE. WHAT MOTIVATED YOU TO BE A PLAINTIFF AND A WITNESS TODAY?
A. I GREW UP WITH THE NOTION THAT WHERE MUCH IS GIVEN, MORE IS EXPECTED. I HAVE BEEN COMPLETELY PRIVILEGED IN HAVING AN EDUCATION AND KNOWING PEOPLE IN ASSUMPTION PARISH IN NAPOLEONVILLE WHO HAVEN'T HAD THOSE OPPORTUNITIES. SO FOR ME, IT'S A MORAL IMPERATIVE TO GIVE AS MUCH AS I CAN FOR THE PEOPLE WHO LIVE AROUND ME WHO WANT JUSTICE, WHO WANT RACIAL EQUALITY AND WHO WANT OPPORTUNITIES.
Q. THANK YOU, DR. NAIRNE.
LET'S TALK A LITTLE BIT ABOUT YOUR CURRENT CONGRESSIONAL DISTRICT. DO YOU KNOW WHAT YOUR CURRENT CONGRESSIONAL DISTRICT IS?
A. I AM IN DISTRICT 6.

11:04 **Q.** AND WHO IS YOUR CURRENT REPRESENTATIVE?
A. GRAVES, GARRETT GRAVES.
Q. WHAT IS YOUR UNDERSTANDING OF YOUR CONGRESSMAN'S RACE?
A. HE IS A WHITE MAN.
Q. IN GENERAL, DO YOU FOLLOW YOUR CONGRESSMAN'S ACTIONS?
A. I FOLLOW HIM AND HAVE CONTACTED HIS OFFICE ON SEVERAL OCCASIONS.
Q. IN YOUR AFFIDAVIT YOU NOTE THAT YOU BELIEVE THAT YOUR CONGRESSMAN DOES NOT ADVOCATE FOR YOUR COMMUNITY'S NEEDS. WHAT DID YOU MEAN BY THAT?
A. I'M VERY ACTIVE, AS I'VE STATED, IN MY COMMUNITY AND ALSO PARTICIPATING WIDELY ON ZOOM OR FOR POLICY CONFERENCES, AND I HAVEN'T SEEN HIM AT ANY EVENTS, WHETHER FOR KING DAY, JUNETEENTH DAY, OR JUST TO DISCUSS THE PLIGHT OF THE BLACK COMMUNITY.
Q. HAVE YOU SEEN HIM CAMPAIGNING IN YOUR COMMUNITY?
A. NO. NO. NO. I HAVE NOT SEEN HIM CAMPAIGNING DURING THE SEVERAL ELECTIONS THAT I'VE BEEN AROUND FOR.
Q. THANK YOU, DR. NAIRNE.
I'D NOW LIKE TO DISCUSS THE ENACTED MAPS.
MS. OSAKI: MAY WE PLEASE PULL UP ENACTED -- THE ENACTED MAP UNDER HB1, WHICH HAS BEEN MOVED IN AS PLAINTIFFS' EXHIBIT PR-15 ON PAGE 48.
BY MS. OSAKI:
Q. DR. NAIRNE, ARE YOU FAMILIAR WITH THIS MAP?

11:05 **A.** YES, I AM.
Q. DO YOU KNOW WHICH DISTRICT YOU RESIDE IN UNDER THIS MAP?
A. IT'S STILL UNCLEAR. SO THERE WAS ONE ELECTION WHERE I WENT FROM SCHOOL TO SCHOOL TO SCHOOL LOOKING FOR, YOU KNOW, AM I VOTING? CAN I VOTE? WHERE AM I VOTING? AND THEY TURNED ME AWAY. SO I LEARNED THAT I WAS IN DISTRICT 6, AND I'M RIGHT THERE ON THE CUSP. SO SOME OF MY NEIGHBORS VOTE IN DISTRICT 2 AND SOME IN DISTRICT 6. SO IT'S CONFUSING, IT'S CHAOTIC AND AND IT DOESN'T HELP US TO ORGANIZE OR PLAN.
Q. WHAT DO YOU MEAN BY "ON THE CUSP"?
A. SO MY HOUSE IS LIKE LITERALLY WHERE MY NEIGHBORS ACROSS THE STREET ARE IN DISTRICT 2, SO THEY WERE ABLE TO VOTE BUT I WASN'T.
MS. OSAKI: MAY WE PLEASE ZOOM IN ON THAT AREA? IT'S ASSUMPTION PARISH IN CONGRESSIONAL DISTRICT 6. THANK YOU.
BY MS. OSAKI:
Q. DR. NAIRNE, BASED ON YOUR LIVED EXPERIENCES, LOOKING AT THIS MAP, WHAT IS YOUR IMPRESSION OF YOUR DISTRICT, CONGRESSIONAL DISTRICT 6?
A. SO AS SMALL AS ASSUMPTION PARISH IS, IT'S A BIG LAND MASS BUT SMALL COMMUNITY. WE'RE NOT ABLE TO ORGANIZE OR ABLE TO MOBILIZE OR ABLE TO VOICE OUR -- AND ORGANIZE OUR VOICE IN ASSUMPTION PARISH.
Q. AND COULD YOU DESCRIBE GEOGRAPHICALLY WHAT AREAS YOUR COMMUNITY IN ASSUMPTION PARISH WOULD BE LINKED WITH IN

11:06 CONGRESSIONAL DISTRICT 6 OF THIS ENACTED MAP?
A. SURE. SO A LOT OF THE WORK THAT I DO IS WITH PEOPLE WITHIN THE RIVER PARISHES: ST. JOHN, ST. JAMES, ST. CHARLES AND JEFFERSON AND ORLEANS PARISH. AND SO WHEN IT COMES TIME TO DISCUSS CANDIDATES AND VOTING, I'M SILENT. I HAVE NOTHING TO SAY BECAUSE THEY ARE IN ONE DISTRICT AND I'M IN ANOTHER.
Q. SO UNDER CONGRESSIONAL DISTRICT 6, YOU'RE THE -- CAN YOU DESCRIBE SOME OF THE PARISHES THAT YOU WOULD BE LINKED WITH HERE?
A. SO ST. MARY'S, IBERVILLE, I HAVE ABSOLUTELY NO ALLIANCE THERE, NO COMMUNITY MEMBERS THERE IN THOSE PARISHES.
Q. I'D LIKE TO TALK A LITTLE BIT MORE ABOUT THAT. BASED ON YOUR LIVED EXPERIENCES, HOW WOULD YOU DESCRIBE SOME OF THOSE COMMUNITIES THAT ARE INCLUDED ALONGSIDE YOURS HERE?
A. SO A LOT OF THE COMMUNITY WORK THAT I DO IS WITH THE RIVER PARISHES WHERE WE DO A LOT OF WORK AROUND ENVIRONMENTAL JUSTICE AND RACIAL JUSTICE AND LOOKING AT CANCER ALLEY AND LOOKING AT JUST WHAT'S HAPPENING WITH PEOPLE'S LIVED EXPERIENCES, AS WELL AS WITH HIV, WITH CRIME, AND WITH HOW WE IMPROVE EACH OTHER'S LIVES.
SO I DON'T WORK WITH PEOPLE WITHIN TERREBONNE OR THE OTHER PARISHES, SO I'M KIND OF A SORE THUMB STANDING OUT THERE BECAUSE WE WORK TOGETHER, BUT THEN WE DON'T VOTE TOGETHER.
Q. I SEE. SO IT SOUNDS LIKE YOU'RE SAYING YOU'RE NOT AS FAMILIAR WITH THESE -- THAT YOU'RE INCLUDED WITH?

11:07 1 **A.** YES.
2 **Q.** OKAY. NOW, UNDER THIS ENACTED PLAN AND BASED ON YOUR
3 LIVED EXPERIENCES AS A RESIDENT OF CONGRESSIONAL DISTRICT 6, DO
4 YOU BELIEVE YOUR INTERESTS WOULD BE FAIRLY REPRESENTED?
5 **A.** I DO NOT BELIEVE THAT MY INTERESTS ARE REPRESENTED.
6 **Q.** AND WHY IS THAT?
7 **A.** I FEEL LIKE I AM ALIENATED, THAT I DON'T HAVE ASSOCIATIONS
8 IN GROUPS THAT I WOULD WORK WITH. I WOULD HAVE TO START OVER
9 REALLY TO SEE WHO'S WHERE AND DOING WHAT, GIVEN THIS MAP THAT
10 I'M LOOKING AT RIGHT NOW.
11 **Q.** THANK YOU, DR. NAIRNE.
12 I'D NOW LIKE TO DISCUSS ONE OF PLAINTIFFS'
13 ILLUSTRATIVE MAPS.
14 **MS. OSAKI:** COULD WE PLEASE PULL UP ONE OF
15 PLAINTIFFS' ILLUSTRATIVE MAPS, WHICH HAS BEEN MOVED IN AS
16 PLAINTIFFS' EXHIBIT PR-15 ON PAGE 47.
17 **BY MS. OSAKI:**
18 **Q.** DR. NAIRNE, ARE YOU FAMILIAR WITH THIS MAP?
19 **A.** YES, I AM.
20 **Q.** UNDER THIS ILLUSTRATIVE MAP, ARE YOU AWARE OF WHAT
21 DISTRICT YOU LIVE IN?
22 **A.** I WOULD KNOW WHERE -- I KNOW WHERE I LIVE, BUT I WOULD
23 KNOW WHAT DISTRICT THAT I'M IN, SURE ENOUGH. ME AND ALL MY
24 NEIGHBORS WOULD BE IN DISTRICT 2, ACCORDING TO THIS MAP.
25 **MS. OSAKI:** MAY WE PLEASE ZOOM IN TO CONGRESSIONAL

11:09 DISTRICT 2 IN THIS ILLUSTRATIVE MAP. THANK YOU.

BY MS. OSAKI:

Q. DR. NAIRNE, GEOGRAPHICALLY WHAT AREAS WOULD YOU BE LINKED WITH IN THIS CONGRESSIONAL DISTRICT 2 OF THIS ILLUSTRATIVE MAP?

A. IN THIS MAP I WOULD BE WITH THE PEOPLE THAT I'M WORKING WITH CURRENTLY, ALONG WITH THE RIVER PARISHES, ALL THE WAY INTO ORLEANS AND JEFFERSON PARISHES. THIS MAP MAKES SENSE TO ME.

Q. DO YOU HAVE ANY PERSONAL CONNECTIONS WITH ANY OF THOSE OTHER PARISHES?

A. I HAVE PERSONAL CONNECTIONS: FAMILY, FRIENDS, COLLEAGUES IN ALL OF THIS -- IN THIS ENTIRE AREA.

Q. HOW WOULD YOU DESCRIBE COMMUNITIES IN THESE AREAS, THESE RIVER PARISH AREAS, BASED ON YOUR PERSONAL KNOWLEDGE?

A. WE HAVE A SHARED HISTORY. WE HAVE A SHARED CULTURAL HERITAGE, AND WE WORK TOGETHER TO MAKE IMPROVEMENTS ALONG THIS AREA WITH COMMUNITY DEVELOPMENT WHERE WE'RE DOING WORK AROUND CREATING JOBS FOR PEOPLE, OPPORTUNITIES FOR YOUNG PEOPLE AND TRYING TO IMPROVE OUR HEALTH.

Q. WHAT DID YOU MEAN BY THAT, "TRYING TO IMPROVE YOUR HEALTH"?

A. THIS AREA IS KNOWN AS CANCER ALLEY AND JUST -- SO I'VE WORKED SOMEWHAT WITH THE CANCER INDEX AND LOOKING AT JUST NEIGHBORS ACROSS THE STREET, NEXT TO ME, EVEN MY OWN MOTHER WHO HAD A TUMOR THE SIZE OF A SOCCER BALL IN HER BELLY. AND SO, YOU KNOW, JUST CANCER IS EVERYWHERE. AND, YOU KNOW, IF

11:10 1 IT'S IN MY OWN HOUSE, THEN IS IT IN ME TOO? SO IT REALLY
2 REQUIRES US TO DO QUITE A BIT OF WORK TOGETHER.
3 **Q.** SO YOU DESCRIBE SOME OF THE HEALTH INEQUITIES THAT ARE
4 SIMILAR ALONG THE RIVER PARISHES. WHAT ABOUT INDUSTRIES? ARE
5 THERE ANY INDUSTRIES THAT ARE SIMILAR ALONG THESE COMMUNITIES?
6 **A.** WELL, THE SUGARCANE INDUSTRY DEFINED THIS AREA AND THIS
7 REGION, BUT NOW THE SUGARCANE INDUSTRY IS MECHANIZED SO PEOPLE
8 DON'T HAVE THOSE JOBS ANYMORE. SO THERE'S A LOT OF NOT MUCH TO
9 DO GOING ON IN ASSUMPTION AND ST. JAMES, ST. JOHN AND ST.
10 CHARLES.
11 **Q.** NOW, UNDER THIS NEW -- UNDER THIS ILLUSTRATIVE PLAN AND
12 BASED ON YOUR LIVED EXPERIENCES, DO YOU BELIEVE THAT YOUR
13 COMMUNITY'S INTEREST WOULD BE FAIRLY REPRESENTED?
14 **A.** UNDER THIS MAP, YES.
15 **Q.** WHY IS THAT?
16 **A.** IT WOULD GIVES US A BASE SO THAT WE CAN MOBILIZE AND SO
17 THAT WE CAN ORGANIZE AND SO THAT WE HAVE ONE COLLECTIVE VOICE
18 AND SO THAT WE WOULD HAVE ACTION TOGETHER SO THAT WE CAN MOVE
19 FORWARD AND IMPROVE NOT JUST OUR COMMUNITIES AND OUR HOUSEHOLDS
20 BUT OUR ENTIRE STATE.
21 **Q.** BASED ON YOUR LIVED EXPERIENCES AS A LOUISIANIAN, DOES IT
22 MAKE SENSE CULTURALLY, SOCIOECONOMICALLY, HISTORICALLY OR
23 OTHERWISE FOR YOUR COMMUNITY TO FALL UNDER THIS ILLUSTRATIVE
24 MAP'S CONGRESSIONAL DISTRICT 2 ALONGSIDE THESE OTHER RIVER
25 PARISH COMMUNITIES?

11:11 1 **A.** TO ME IT MAKES COMPLETE SENSE THAT WE ARE IN THIS
2 DISTRICT.
3 **Q.** THANK YOU.
4 FINALLY, DR. NAIRNE, HOW WOULD YOU FEEL IF A MAP LIKE
5 THIS ILLUSTRATIVE PLAN -- THAT IS, A MAP THAT ENACTS A SECOND
6 MAJORITY-BLACK CONGRESSIONAL DISTRICT -- WERE TO BE ENACTED
7 INTO LAW?
8 **A.** I KNOW EXACTLY THE HOUSEHOLDS THAT I'M GOING TO KNOCK ON
9 THEIR DOORS, SHOULD THIS HAPPEN. THERE WERE A NUMBER OF PEOPLE
10 -- SO DURING THE CENSUS AND LEADING UP TO THE ELECTIONS FOR
11 2020, I WAS A BLOCK CAPTAIN FOR "TOGETHER LOUISIANA." SO THERE
12 WERE A COUPLE OF HOUSEHOLDS THAT I KNOCKED ON THEIR DOORS, AND
13 THEY WERE LIKE, "OH, GOOD. YOU MEAN CHANGE IS COMING FOR US?"
14 SO THEN WHEN THEY SEE THAT, AWE, CHANGE IS NOT REAL, THEIR
15 HOPES ARE DASHED, THEY FEEL LIKE, "WOW," YET AGAIN
16 DISAPPOINTED. "YOU LIED TO ME," SOME MAN SAID. SO IT'S JUST
17 LIKE, "NO, I DIDN'T LIE TO YOU. THIS PROCESS JUST TAKES A
18 WHILE."
19 SO I KNOW I WOULD GO TO HIS HOME. THIS IS SOMEBODY
20 I'VE KNOWN ALL MY LIFE. AND JUST TO SEE THAT, YOU KNOW, HE'S
21 WEATHERED AND WORN OUT, AND JUST TO HAVE HIM HAVE A LITTLE BIT
22 OF HOPE, WOW, WOULD THAT MAKE MY YEAR, MY DAY, MY HOUR. SO
23 THAT'S WHERE I WOULD GO AND SAY, "LOOK, CHANGE IS COMING, EVEN
24 HERE TO ASSUMPTION PARISH." SO WE'D HAVE SOME HAPPY PEOPLE WHO
25 WOULD HAVE HOPE AGAIN IN LOUISIANA.

11:13 1 **Q.** THANK YOU, DR. NAIRNE.
2 **MS. OSAKI:** NO FURTHER QUESTIONS, YOUR HONOR.
3 **THE COURT:** CROSS.
4 **CROSS-EXAMINATION**
5 **BY MR. WALE:**
6 **Q.** EXCUSE ME. HI, DR. NAIRNE. JEFFREY WALE. I'M AN
7 ATTORNEY FOR THE STATE. I'LL BE ASKING YOU A FEW QUESTIONS
8 TODAY.
9 DR. NAIRNE, YOU SAID YOU MOVED TO LOUISIANA IN 2017.
10 IS THAT CORRECT?
11 **A.** YES, IT IS.
12 **Q.** SO WHERE DID YOU LIVE BEFORE THAT?
13 **A.** WELL, I LIVED IN SOUTH AFRICA.
14 **Q.** AND SO WHERE DID YOU GROW UP? IS THAT WHERE YOU GREW UP,
15 IN SOUTH AFRICA?
16 **A.** NO. I GREW UP BETWEEN MILWAUKEE AND ALSO BETWEEN
17 LOUISIANA WHERE I WOULD COME EVERY SUMMER.
18 **Q.** SO YOU WOULD VISIT LOUISIANA IN THE SUMMER, BUT YOU DIDN'T
19 LIVE HERE FULL-TIME?
20 **A.** CORRECT.
21 **Q.** AND SO WHEN DID YOU REGISTER TO VOTE IN LOUISIANA?
22 **A.** I REGISTERED TO VOTE IN I THINK 2017.
23 **Q.** AND YOU ARE A REGISTERED DEMOCRAT. CORRECT?
24 **A.** YES.
25 **Q.** AND EARLIER YOU SAID SOMETHING ABOUT BEING CONFUSED ABOUT

11:13 1 WHERE TO VOTE. DID YOU FIND OUT WHERE YOU WERE SUPPOSED TO
2 VOTE?
3 **A.** I DID.
4 **Q.** OKAY. SO YOU'RE AWARE OF THE GEAUX VOTE APP THAT THE
5 SECRETARY OF STATE USES TO LET PEOPLE KNOW WHERE TO VOTE?
6 **A.** YES, I AM.
7 **Q.** OKAY. ALL RIGHT. AND YOU LIVE IN CONGRESSIONAL DISTRICT
8 6 CURRENTLY. CORRECT?
9 **A.** THAT'S CORRECT.
10 **Q.** AND YOUR CURRENT CONGRESSMAN IS CONGRESSMAN GARRETT
11 GRAVES?
12 **A.** YES.
13 **Q.** AND HE IS A REPUBLICAN. CORRECT?
14 **A.** YES.
15 **Q.** AND YOU TESTIFIED EARLIER IN YOUR DECLARATION THAT YOU'RE
16 A HIGHLY ENGAGED VOTER. SO YOU ATTENDED REDISTRICTING
17 WORKSHOPS AROUND THE STATE?
18 **A.** YES, I DID.
19 **Q.** AND YOU'VE WRITTEN LETTERS TO YOUR CONGRESSMAN, TO
20 CONGRESSMAN GRAVES. IS THAT CORRECT?
21 **A.** I WENT TO HIM REGARDING THE ENVIRONMENT, SO YES.
22 **Q.** OKAY. AND YOU'VE SPOKEN ABOUT YOUR ADVOCACY AND YOUR WORK
23 IN THE COMMUNITY. IRRESPECTIVE OF THE RESULTS OF THIS
24 LITIGATION, WILL YOU CONTINUE TO BE ENGAGED WITH ELECTED
25 OFFICIALS WHO REPRESENT YOU?

11:14 **A.** YES, I WILL.
Q. AND YOU WILL -- AND REGARDLESS OF WHAT THE MAP LOOKS LIKE -- THE CONGRESSIONAL MAP LOOKS LIKE NOW OR WILL LOOK LIKE, YOU WILL CONTINUE TO ADVOCATE FOR ISSUES YOU CARE DEEPLY ABOUT. CORRECT?
A. YES.
Q. IN PARAGRAPH 11 OF YOUR DECLARATION YOU STATED THAT YOU HAVE DONATED TO CONGRESSIONAL CANDIDATES. CAN YOU TELL ME WHICH CANDIDATES YOU'VE DONATED TO?
A. I'VE DONATED TO SEVERAL CANDIDATES $5 HERE, $10 HERE.
Q. ALL RIGHT. AND WHAT IS THE AFFILIATION OF THOSE CANDIDATES; THE POLITICAL AFFILIATION?
A. SOME ARE INDEPENDENT, A COUPLE OF GREEN PARTY AND A FEW DEMOCRATIC CANDIDATES.
Q. ALL RIGHT. AND DO YOU RECALL, HAVE YOU EVER DONATED TO THE DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE?
A. I'M NOT SURE. HELP ME UNDERSTAND IF I HAVE OR NOT.
Q. SURE. SURE.
MR. WALE: YOUR HONOR, IF I MAY, I'M GOING TO BE -- NEED TO USE THIS ELMO SYSTEM.
THE COURT: YOU CAN USE THE DOCUMENT CAMERA.
MR. WALE: THE DOCUMENT CAMERA.
THE COURT: SHE'LL TURN IT ON.
MR. WALE, TELL US WHAT YOU ARE GOING TO PUT UP THERE BEFORE YOU JUST THROW IT UP THERE. OKAY?

11:15 **MR. WALE:** OKAY. YES.

BY MR. WALE:

Q. DR. NAIRNE, I'M GOING TO SHOW YOU A DOCUMENT I PRINTED FROM THE OFFICIAL GOVERNMENT WEBSITE FROM THE FEC, FEDERAL ELECTIONS COMMISSION, IF I CAN.

MR. WALE: DO YOU WANT ME TO TURN IT ON AGAIN?

THE COURT: IT TAKES A MINUTE TO SWITCH OVER. JUST A SECOND -- OR MAYBE NOT.

MR. WALE: ALL RIGHT. LET ME TRY IT AGAIN. LET ME TRY AGAIN.

BY MR. WALE:

Q. DR. NAIRNE, DO YOU REMEMBER DONATING TO A GROUP CALLED "ACT BLUE"?

A. I THINK I DID DONATE TO THEM, YES.

Q. OKAY. SO YOU WOULD BELIEVE ME IF I SAID THAT YOU HAD DONATED TO "ACT BLUE" AND THAT CONTAINED AN EARMARK FOR THE DCCC, ALSO KNOWN AS THE "DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE"?

A. (NODDED HEAD.)

Q. OKAY. FANTASTIC. GOING BACK TO YOUR VOTER REGISTRATION, YOU SAID THAT YOU'RE AN ACTIVE -- YOU'RE A REGULAR VOTER. CORRECT?

A. YES.

Q. DO YOU EVER MISS AN ELECTION?

A. THERE'S SO MANY, BUT I TRY TO VOTE, ESPECIALLY LOCALLY.

11:17 1 **Q.** SO IT'S POSSIBLE THAT YOU HAVE MISSED A FEW ELECTIONS?
2 **A.** I'M PRETTY GOOD AT VOTING.
3 **MR. WALE:** OKAY. AND SO, AGAIN, WE STILL DON'T HAVE
4 A -- WE'RE STILL LACKING POWER TO THE DOCUMENT CAMERA.
5 **THE DEPUTY CLERK:** I'M TEXTING HIM.
6 **MR. WALE:** OKAY.
7 **BY MR. WALE:**
8 **Q.** AND I WAS GOING TO ASK YOU, DR. NAIRNE, IF YOU REMEMBER
9 VOTING IN THE DECEMBER 2018 ELECTION. THAT WAS FOR THE
10 LOUISIANA SECRETARY OF STATE. IT WAS AN ELECTION BETWEEN THE
11 SECRETARY OF STATE, KYLE ARDOIN, AND GWEN COLLINS-GREENUP.
12 **A.** I DON'T REMEMBER, HONESTLY.
13 **Q.** YOU DON'T RECALL VOTING IN THAT ELECTION?
14 **A.** NO. I DON'T RECALL NOT VOTING BECAUSE THAT WAS A
15 STATEWIDE ELECTION. CORRECT?
16 **Q.** CORRECT, THAT WOULD HAVE BEEN A STATEWIDE ELECTION.
17 **A.** YES. SO I WOULD NOT HAVE BEEN TURNED AWAY FROM VOTING
18 DURING THAT ELECTION.
19 **THE COURT:** JUST GIVE US A SECOND, MR. WALE. SHE IS
20 CONTACTING I.T. TO SEE IF THEY CAN TROUBLESHOOT IT FOR US.
21 DO YOU HAVE ANY OTHER QUESTIONS THAT YOU CAN GO
22 TO?
23 **MR. WALE:** NO, YOUR HONOR. I THINK THAT WAS THE
24 CONCLUSION.
25 **THE COURT:** WELL, LET'S JUST BE PATIENT AND SEE.

11:20 **MR. WALE:** SURE.

THE COURT: ALL RIGHT. HE WILL BE RIGHT UP.

MR. WALE: ALL RIGHT. IT LOOKS LIKE THERE IS A LIGHT.

BY MR. WALE:

Q. SO, DOCTOR -- EXCUSE ME, DR. NAIRNE. I'M GOING TO SHOW YOU A DOCUMENT FROM THE LOUISIANA SECRETARY OF STATE'S OFFICE. I'M GOING TO SEE IF WE CAN -- LET'S SEE -- ZOOM --

THE COURT: ALL RIGHT. WELL DONE, MS. MCKNIGHT. IF YOU QUIT YOUR DAY JOB, YOU KNOW WHAT YOU CAN DO.

MR. WALE: THANK YOU.

BY MR. WALE:

Q. SO, DR. NAIRNE, I REALIZE THE FIRST LINE OVER HERE IS A LITTLE BIT DIFFICULT TO READ IN SCRIPT, BUT CAN YOU READ THAT FOR US, PLEASE?

A. SURE. "AS SECRETARY OF STATE OF THE STATE OF LOUISIANA, I DO HEREBY CERTIFY THAT THE ANNEX HERETO IS TRUE AND CORRECT VOTER REGISTRATION INFORMATION FROM THE SECRETARY OF STATE'S DATABASE FOR DOROTHY EVELYN NAIRE." AND THAT'S ME.

Q. THANK YOU. THANK YOU SO MUCH.

A. UH-HUH.

Q. AND SO I'M GOING TO SHOW YOU ANOTHER PAGE IN HERE, AND CAN YOU TELL ME WHAT THE TOP TWO LINES SAY?

A. "DID NOT VOTE 2021."

Q. OH, I'M SORRY. AT THE VERY TOP OF THE PAGE.

11:21 1 **A.** OH, OKAY. "ASSUMPTION PARISH."
2 **Q.** AND EVEN FURTHER WHERE IT SAYS --
3 **A.** "LOUISIANA SECRETARY OF STATE VOTER ELECTION HISTORY
4 REPORT FOR PARISH: ASSUMPTION."
5 **Q.** OKAY. AND YOU SEE ABOUT ABOUT EIGHT ELECTION DATES THERE?
6 **A.** UH-HUH.
7 **Q.** AND DO YOU SEE HOW MANY WHERE IT SAYS YOU DID NOT VOTE?
8 **A.** I SEE.
9 **Q.** ALL RIGHT. AND HOW MANY ELECTIONS DID YOU NOT VOTE IN?
10 **A.** SO I VOTED IN ONE, TWO, THREE, FOUR, FIVE. I DID NOT VOTE
11 IN NOVEMBER 2021, JULY 2020. SO I DID NOT VOTE IN THREE
12 ELECTIONS.
13 **Q.** OKAY. AND THEN THE ELECTION I WAS ASKING YOU ABOUT IN --
14 I'M SORRY -- IN DECEMBER OF 2018, THAT WAS THE ELECTION THAT
15 WAS DISCUSSED EARLIER BY AN EARLIER EXPERT. IT WAS BETWEEN THE
16 SECRETARY OF -- IT WAS FOR SECRETARY OF STATE BETWEEN KYLE
17 ARDOIN AND GWEN COLLINS-GREENSUP. YOU DID NOT VOTE IN THAT
18 ELECTION. CORRECT?
19 **A.** WELL, I SEE NOW.
20 **Q.** YES. AND KYLE ARDOIN, WHO WON THAT ELECTION, IS THE
21 DEFENDANT IN THIS SUIT. CORRECT?
22 **A.** YES.
23 **Q.** SO YOU DID NOT PARTICIPATE IN THE ELECTION IN WHICH THE
24 DEFENDANT OF THIS SUIT WAS ELECTED?
25 **A.** OKAY.

11:22 **Q.** ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE. THANK YOU VERY MUCH.

THE COURT: ANY REDIRECT?

MS. OSAKA: NO REDIRECT, YOUR HONOR. THANK YOU.

THE COURT: OKAY. YOU MAY STEP DOWN. THANK YOU FOR YOUR HELP TODAY, MA'AM.

OKAY. WE ARE GOING TO BE IN RECESS UNTIL 1:30.

THE LAW CLERK: THE COURT IS NOW IN RECESS.

(WHEREUPON, THE COURT WAS IN RECESS.)

THE COURT: OKAY. BE SEATED.

GOOD AFTERNOON, EVERYONE.

WE ARE BACK ON THE RECORD.

I TELL YOU WHAT, WHILE YOU DO THAT, WHY DON'T WE JUST SAY WHO WE ARE CALLING AS OUR NEXT WITNESS. HE NEEDS TO PUT IT ON THE RECORD. GO AHEAD. PUT IT ON THE RECORD WHO YOUR NEXT WITNESS IS AND WHO YOU ARE, SIR.

MR. CHAKRABORTY: GOOD AFTERNOON, YOUR HONOR.

OUR NEXT WITNESS IS DR. TRACI BURCH.

AND MAKING MY FIRST APPEARANCE TODAY, I AM AMITAV CHAKRABORTY ON BEHALF OF THE ROBINSON PLAINTIFFS.

THE COURT: OKAY. THEN WE WILL WAIT ON THE ZOOM.

DR. BURCH, CAN YOU HEAR US? NOT YET. CAN YOU HEAR US? DR. BURCH, CAN YOU HEAR US? YOU NEED TO UN-MUTE YOURSELF I THINK, MA'AM.

THE WITNESS: CAN YOU HEAR ME NOW?

01:40 **THE COURT:** YES.
OKAY. YOUR WITNESS, SIR.
MR. CHAKRABORTY: THANK YOU, JUDGE.
THE COURT: WAIT. WE NEED TO SWEAR HER IN. I'M SORRY.

TRACI BURCH, PH.D.,

HAVING BEEN DULY SWORN, TESTIFIED VIA VIDEOCONFERENCE AS FOLLOWS:

THE COURT: NOW YOUR WITNESS.
MR. CHAKRABORTY: THANK YOU.

VOIR DIRE

BY MR. CHAKRABORTY:

Q. GOOD AFTERNOON.
A. GOOD AFTERNOON.
Q. CAN YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD.
A. DR. TRACI BURCH.
Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND, DR. BURCH?
A. I AM -- I FIRST COMPLETED MY UNDERGRADUATE WORK AT PRINCETON WHERE I MAJORED IN POLITICS AND GOT A CERTIFICATE IN AFRICAN-AMERICAN STUDIES, AND I FINISHED MY PH.D. AT HARVARD. IT WAS A CRIMINAL DEGREE PROGRAM IN GOVERNMENT AND SOCIAL POLICY.
Q. AND WHAT IS YOUR CURRENT OCCUPATION?
A. CURRENTLY, I AM ASSOCIATE PROFESSOR OF POLITICAL SCIENCE AT NORTHWESTERN, AS WELL AS A RESEARCH PROFESSOR AT THE

01:41 AMERICAN BAR FOUNDATION.
Q. AND HOW LONG HAVE YOU BEEN A PROFESSOR, DR. BURCH?
A. SINCE 2007.
Q. WHAT ARE YOUR PRINCIPAL AREAS OF RESEARCH?
A. SORRY. MY PRINCIPAL AREAS OF RESEARCH INCLUDE POLITICAL BEHAVIOR, POLITICAL PARTICIPATION, BARRIERS TO VOTING AND RACE AND ETHNIC POLITICS. AND I ALSO FOCUS ON THE WAYS THAT INTERACTION WITH THE GOVERNMENT CAN AFFECT ALL OF THOSE THINGS SUCH AS PARTICIPATION. AND I SPECIFICALLY HAVE FOCUSED ON HOW INTERACTIONS WITH THE CRIMINAL JUSTICE SYSTEM CAN AFFECT SPECIFIC AREAS.
Q. THANK YOU.
AND HAVE YOU BEEN PUBLISHED ON ANY OR ALL OF THESE SUBJECTS?
A. YES, I HAVE BEEN.
Q. HAVE YOU PREVIOUSLY SERVED AS AN EXPERT WITNESS?
A. YES. I HAVE TESTIFIED AT TRIAL IN FOUR CASES AND AT A DEPOSITION IN AN ADDITIONAL CASE.
Q. DID ANY OF THOSE CASES IN WHICH YOU TESTIFIED INVOLVE CLAIMS BROUGHT UNDER THE VOTING RIGHTS ACT?
A. YES.
Q. AND WAS YOUR TESTIMONY CREDITED OR ACCEPTED BY THE COURT IN EACH OF THOSE CASES IN WHICH YOU TESTIFIED?
A. YES.
MR. CHAKRABORTY: YOUR HONOR, PURSUANT TO FEDERAL

01:43 RULE OF EVIDENCE 702 AND THE STIPULATION BETWEEN THE PARTIES, THE ROBINSON PLAINTIFFS WOULD LIKE TO PROFFER DR. BURCH AS AN EXPERT IN POLITICAL BEHAVIOR, POLITICAL PARTICIPATION, AND BARRIERS TO VOTING.

THE COURT: ALL RIGHT. IS THERE ANY OBJECTION?

MS. MCKNIGHT: NO OBJECTION, YOUR HONOR.

THE COURT: OKAY. DR. BURCH WILL BE ACCEPTED AND MAY GIVE OPINION TESTIMONY IN THE AREAS OF POLITICAL BEHAVIOR, POLITICAL PARTICIPATION, AND BARRIERS TO VOTING. CORRECT?

MR. CHAKRABORTY: YES, YOUR HONOR.

THE COURT: OKAY. YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. CHAKRABORTY:

Q. DR. BURCH, DID YOU SUBMIT AN EXPERT REPORT AS PART OF YOUR WORK IN THIS CASE?

A. I DID.

AND COULD YOU EXCUSE ME FOR A MINUTE? I JUST NEED TO SHUT MY WINDOW.

SORRY. THANK YOU. YES, I DID.

Q. NO WORRIES AT ALL.

MR. CHAKRABORTY: I'D LIKE TO BRING UP ON THE SCREEN -- AND JUST LET US KNOW IF YOU ARE NOT ABLE TO SEE IT -- WHAT HAS BEEN PREMARKED AS PR-14.

THE COURT: I DON'T KNOW THAT YOU CAN SCREEN SHARE.

THE DEPUTY CLERK: YES. WE ARE SUPPOSED TO BE ABLE

01:44 TO.

THE COURT: YOU CAN. OKAY. I'M GOING TO LET YOU -- DISREGARD MY TECHNICAL INPUT.

BY MR. CHAKRABORTY:

Q. SORRY, DR. BURCH. JUST GIVE US ONE SECOND.

THE DEPUTY CLERK: IT SHOULD BE WORKING.

BY MR. CHAKRABORTY:

Q. DR. BURCH, ARE YOU ABLE TO SEE A REPORT ON YOUR SCREEN?

A. NOT YET.

THE DEPUTY CLERK: OKAY. LET'S SEE. LET ME CALL HIM REAL QUICK.

(OFF-RECORD DISCUSSION.)

THE COURT: OKAY. I.T. IS COMING. IS THERE ANY WAY THAT YOU CAN DO A LITTLE BIT WITH DR. BURCH UNTIL I.T. GETS HERE?

MR. CHAKRABORTY: I CAN GO THROUGH A COUPLE OF QUESTIONS, YOUR HONOR.

THE COURT: ALL RIGHT. GREAT. THANKS.

BY MR. CHAKRABORTY:

Q. DR. BURCH, JUST JUMPING BACK INTO IT FOR A BRIEF BIT BEFORE WE FIX THE TECHNICAL DIFFICULTIES, DID YOU SUBMIT AN EXPERT REPORT AS PART OF YOUR WORK IN THIS CASE?

A. I DID.

Q. I'LL SHOW YOU MOMENTARILY WHAT HAS BEEN PREMARKED AS PR-14, AND IT WILL BE YOUR EXPERT REPORT. WHAT DID YOU SET OUT

01:48 TO EVALUATE IN YOUR EXPERT REPORT?
A. SO IN MY EXPERT REPORT I WAS ASKED TO EVALUATE THE SENATE FACTORS RELEVANT TO THIS CASE IN LOUISIANA, PARTICULARLY SENATE FACTORS 5, 6, 7, 8 AND 9.
Q. THANK YOU.
AND WHAT MATERIALS DID YOU RELY ON TO REACH YOUR CONCLUSIONS ABOUT THOSE FACTORS?
A. A WIDE VARIETY OF MATERIALS, INCLUDING MY OWN ANALYSIS OF THE CENSUS DATA SUCH AS THE DATA FROM THE 2020 CENSUS AND THE AMERICAN COMMUNITY SURVEY, VARIOUS AGENCY REPORTS, THE SCHOLARLY LITERATURE, THE LEGISLATIVE RECORD, INCLUDING HEARINGS, VIDEO HEARINGS AND TESTIMONIES IN THE ROADSHOWS, OTHER DOCUMENTS SUCH AS AMENDMENTS AND BILLS THAT WERE SUBMITTED, VARIOUS NEWS REPORTS AND OTHER PUBLIC SPEECHES BY PUBLIC OFFICIALS.
Q. THANK YOU, DR. BURCH.
I'D JUST LIKE TO PAUSE THERE UNTIL WE FIX THE ISSUES.
THE COURT: DO YOU THINK SHE'S GOT A COPY OF HER REPORT THAT SHE COULD LOOK AT WHILE YOU EXAMINE HER? BECAUSE I HAVE HER REPORT HERE, I CAN FOLLOW ALONG.
MR. CHAKRABORTY: WE DO. AND I BELIEVE DR. BURCH DOES, BUT WE WERE GOING TO BRING UP A DEMONSTRATIVE.
THE COURT: OH. HERE HE COMES. HELP IS ON THE WAY, DR. BURCH. GIVE US A MINUTE.
MS. MCKNIGHT: COUNSEL AND YOUR HONOR, WE'RE GOING TO

01:52 LOG INTO ZOOM AT THE SAME TIME TO TRY TO AVOID DUPLICATION OR A DELAY LATER ON, JUST SO YOU KNOW.

THE COURT REPORTER: I HAVE NO IDEA WHAT YOU ARE SAYING.

MS. MCKNIGHT: WE ARE GOING TO TRY TO LOG INTO ZOOM AT THE SAME TIME TO AVOID A DELAY LATER ON. THANK YOU.

THE WITNESS: ALL RIGHT. I'VE GOT IT.

BY MR. CHAKRABORTY:

Q. THANK YOU FOR YOUR PATIENCE, DR. BURCH.

SO I'D LIKE TO JUMP BACK RIGHT INTO IT, AND I KNOW YOU WERE JUST TALKING A MINUTE AGO ABOUT THE SENATE FACTORS THAT YOU EXAMINED. ARE THOSE FACTORS DISPLAYED BEFORE YOU ON THE SCREEN?

A. YES, THEY ARE.

Q. AND JUST AS A REMINDER TO THE COURT AND EVERYBODY HERE, WHICH FACTORS WERE THOSE?

A. SO I REVIEWED SENATE FACTOR 5, THE EXTENT TO WHICH MEMBERS OF THE MINORITY GROUP ARE SUFFERING FROM THE EFFECT OF DISCRIMINATION IN AREAS SUCH AS SOCIOECONOMIC STATUS AND HEALTH THAT AFFECT PARTICIPATION; SENATE FACTOR 6, RACIAL APPEALS IN POLITICAL CAMPAIGNS; FACTOR 7, WHICH IS MINORITY-GROUP REPRESENTATION IN PUBLIC OFFICE; FACTOR 8, WHICH IS ABOUT WHETHER THERE'S A LACK OF RESPONSIVENESS OF ELECTED OFFICIALS TO THE PARTICULARIZED NEEDS TO THE GROUP; AND FACTOR 9, WHICH IS WHETHER THE STATE OF THE POLICY OR PRACTICE, IT WOULD

01:55 1 DICTATE THE REDISTRICTING MAP THAT'S PENDING.
2 **Q.** THANK YOU, DR. BURCH.
3 I'D LIKE TO START WITH SENATE FACTOR 5. WHICH
4 SPECIFIC AREAS OF DISPARITY DID YOU EVALUATE AS PART OF THIS
5 FACTOR?
6 **A.** I EXAMINED EDUCATION AND OTHER ASPECTS OF SOCIOECONOMIC
7 STATUS, SUCH AS EMPLOYMENT AND INCOME. I LOOKED AT HEALTH, I
8 LOOKED AT PRESIDENTS AND HOUSING, AND I ALSO EXAMINED THE
9 CRIMINAL JUSTICE SYSTEM.
10 **Q.** THANK YOU.
11 DR. BURCH, I'D LIKE TO BEGIN BY TALKING ABOUT
12 EDUCATION.
13 **MR. CHAKRABORTY:** MATTHEW, CAN YOU PLEASE TURN TO THE
14 NEXT SLIDE.
15 **BY MR. CHAKRABORTY:**
16 **Q.** DR. BURCH, WHAT DOES THIS SLIDE DISPLAY?
17 **A.** SO THIS SLIDE DISPLAYS A COUPLE OF THE CHARTS FROM MY
18 REPORT IN WHICH I AM DOCUMENTING CONTEMPORARY DISPARITIES IN
19 EDUCATION. AND ON THE LEFT, THIS SLIDES SHOWS THE DIFFERENCE
20 IN SCORES ON STANDARDIZED TESTS FOR LOUISIANIANS WHO ARE IN THE
21 EIGHTH GRADE OVER TIME AND FOR EACH MAP -- AND FOR EACH GRAPH
22 -- I'M SORRY -- THE TOP ONE IS FOR MATHEMATICS AND THE BOTTOM
23 ONE IS FOR READING. AND WHITE STUDENTS ARE AT THE TOP IN THE
24 RED DOTS, AND THE BLUE CROSSES ARE BLACK STUDENTS.
25 AND AS YOU CAN SEE HERE, THERE'S A PERSISTENT GAP

01:57 OVER TIME IN TERMS OF THE STUDENTS' SCORES ON THESE STANDARDIZED ACHIEVEMENT TESTS, AND THAT GAP IS PRETTY PERSISTENT AND CONSISTENT OVER TIME.

Q. AND WHAT'S DISPLAYED ON THE RIGHT HERE?

A. AND SO ON THE RIGHT, AS YOU CAN SEE HERE, THIS IS JUST PART OF ONE OF THE CHARTS THAT I HAVE THAT SHOWS EDUCATIONAL ATTAINMENT BY RACE FOR ADULTS AGE 25 AND OLDER. AND WHITE LOUISIANIANS ARE MUCH MORE LIKELY TO HAVE EARNED A BACHELOR'S DEGREE OR HIGHER THAN BLACK LOUISIANIANS.

Q. THANK YOU, DR. BURCH.

BASED ON THESE SELECTED EXAMPLES AND OTHERS CITED IN YOUR REPORT, WHAT WERE YOUR CONCLUSIONS ABOUT THE EXISTENCE AND EXTENT OF EDUCATIONAL DISPARITIES THAT EXIST IN LOUISIANA BETWEEN BLACK AND WHITE POPULATIONS?

A. YES. SO I CONCLUDED THAT THERE WERE STILL GREAT DISPARITIES IN EDUCATION AND EDUCATIONAL ATTAINMENT BETWEEN BLACK AND WHITE LOUISIANIANS, NOT JUST RELATED TO THESE FACTORS THAT I STATED HERE, BUT ALSO WITH RESPECT TO PERSISTENT SEGREGATION IN EDUCATION AS WELL. AND THOSE FACTORS -- THOSE DISPARITIES ARE DRIVEN BY BOTH HISTORICAL AND CONTEMPORARY DISCRIMINATION IN THE EDUCATIONAL SYSTEM.

Q. THANK YOU.

MR. CHAKRABORTY: NEXT SLIDE PLEASE, MATTHEW.

BY MR. CHAKRABORTY:

Q. DR. BURCH, WHAT DOES THIS SLIDE SHOW?

01:59 1 **A.** SO THIS SLIDE SHOWS MORE EVIDENCE OF DISPARITIES WITH
2 RESPECT TO SOCIOECONOMIC STATUS BETWEEN BLACK AND WHITE
3 LOUISIANIANS. AND CONSISTENT WITH THE PRIOR SET OF GRAPHS,
4 WHITE LOUISIANIANS ARE SHOWN HERE IN THE PINKISH RED, AND BLACK
5 LOUISIANIANS ARE SHOWN HERE IN THE TEAL. AND AS YOU CAN SEE ON
6 ALL OF THESE FACTORS, BLACK LOUISIANIANS ARE WORSE OFF THAN
7 WHITE LOUISIANIANS. UNEMPLOYMENT RATE -- THE UNEMPLOYMENT RATE
8 HAS NEARLY DOUBLED.
9 FOR BLACK LOUISIANIANS, FAMILY POVERTY IS NEARLY
10 THREE TIMES AS HIGH FOR BLACK LOUISIANIANS THAN FOR WHITE
11 LOUISIANIANS. WHITE HOUSEHOLDS -- LOUISIANA HOUSEHOLDS ON
12 AVERAGE, MEDIAN HOUSEHOLD INCOME IS TENS OF THOUSANDS OF
13 DOLLARS HIGHER THAN THAT FOR BLACK LOUISIANA HOUSEHOLDS.
14 AND THERE'S DEFINITELY A DISPARITY IN TERMS OF HAVING
15 ACCESS TO A VEHICLE. BLACK HOUSEHOLDS ARE MORE THAN FOUR TIMES
16 -- OR ABOUT FOUR TIMES AS LIKELY -- SORRY -- MORE THAN THREE
17 TIMES AS LIKELY -- ALMOST FOUR TIMES AS LIKELY TO LACK ACCESS
18 TO A VEHICLE THAN WHITE HOUSEHOLDS.
19 **Q.** AND SO, AGAIN, BASED ON THIS RESEARCH AND OTHERS CITED IN
20 YOUR REPORT, WHAT WERE YOUR CONCLUSIONS ABOUT SOCIOECONOMIC
21 DISPARITIES BETWEEN BLACK AND WHITE LOUISIANIANS?
22 **A.** AGAIN, I CONCLUDED THAT THERE ARE SIGNIFICANT
23 SOCIOECONOMIC DISPARITIES THAT PERSIST TODAY AND THAT THOSE
24 DISPARITIES ARE RELATED TO BOTH CONTEMPORARY AND HISTORICAL
25 DISCRIMINATION AGAINST BLACK LOUISIANIANS.

02:00 1 **Q.** THANK YOU.
2 **MR. CHAKRABORTY:** NEXT SLIDE, PLEASE.
3 **BY MR. CHAKRABORTY:**
4 **Q.** DR. BURCH, WHAT INFORMATION IS DISPLAYED ON THIS SLIDE?
5 **A.** SO THIS SLIDE SHOWS SOME OF THE INFORMATION THAT I WROTE
6 ABOUT WITH RESPECT TO DISPARITIES IN HOUSING.
7 **Q.** AND WHAT TYPES OF EXAMPLES OR DISPARITIES DID YOU EXAMINE
8 IN YOUR ANALYSIS OF THIS FACTOR OR OF THIS ISSUE?
9 **A.** SO, IN PARTICULAR, I LOOKED AT DISPARITIES IN RESIDENCES
10 AND WHERE PEOPLE LIVE, BECAUSE IT'S SO IMPORTANT TO POLITICS
11 AND POLITICAL PARTICIPATION. AND SO HERE YOU CAN SEE IN THE
12 MAP ON THE LEFT, I HAVE A HISTORICAL MAP THAT WAS USED BY THE
13 HOMEOWNERS LOAN CORPORATION SINCE THE 1930S AND 1940S IN
14 SEVERAL CITIES IN LOUISIANA THAT -- AND THIS MAP WAS USED TO
15 DETERMINE LENDING AND THE RISK OF LENDING. RED AREAS TYPICALLY
16 ARE THOSE THAT WERE HIGH RISK AND NOT SUITABLE FOR LENDING, AND
17 THOSE ALSO HAPPENED TO BE NEIGHBORHOODS WHERE BLACK PEOPLE
18 LIVED.
19 AND SO LOOKING AT THESE MAPS AND THESE AREAS OF
20 SEGREGATION AND -- AND HISTORICAL MAPS OF DISADVANTAGED
21 CONTINUES TO THE PRESENT DAY, AS YOU CAN SEE ON THE LEFT, WHERE
22 IT SHOWS THAT THERE ARE STILL METRO AREAS AND CITIES IN
23 LOUISIANA THAT ARE HIGHLY -- MARKED BY HIGH SEGREGATION BY
24 RACE. AND THAT INCLUDES NEW ORLEANS, THE NEW ORLEANS-METAIRIE
25 METRO AREA, BATON ROUGE, SHREVEPORT, LAFAYETTE AREA AND LAKE

02:02 1 CHARLES; AND THOSE CITIES AND OTHERS ARE HIGHLY SEGREGATED BY
2 RACE AS WELL.
3 **Q.** THANK YOU, DR. BURCH.
4 ARE THERE -- AND CAN GOVERNMENT POLICIES AFFECT -- I
5 KNOW YOU JUST TALKED ABOUT THE RED LINE UP HERE. BUT CAN
6 GOVERNMENT POLICIES AFFECT THE LEVEL AND PLACEMENT OF
7 SEGREGATION BETWEEN BLACK AND WHITE LOUISIANIANS IN HOUSING?
8 **A.** YES. EVEN CONTEMPORARY POLICIES OF JUST ZONING AND
9 DECISIONS ON WHERE AND HOW TO BUILD, ESPECIALLY -- I CITE AN
10 EXAMPLE IN MY REPORT OF DECISIONS ABOUT HOW TO REBUILD AFTER
11 KATRINA; THAT COUPLED WITH OTHER ISSUES, SUCH AS SEEING THE
12 PACE AT WHICH DISASTER RELIEF WAS GIVEN, IN EFFECT, THE ABILITY
13 OF BLACK PEOPLE TO REBUILD IN AREAS THAT HAVE BEEN HURT BY
14 NATURAL DISASTERS, FOR EXAMPLE. SO THESE AREAS -- SO HOUSING
15 ESPECIALLY CAN MATTER IN SEVERAL AREAS.
16 **Q.** THANK YOU.
17 **MR. CHAKRABORTY:** PLEASE TURN TO THE NEXT SLIDE,
18 PLEASE, MATTHEW.
19 **BY MR. CHAKRABORTY:**
20 **Q.** DR. BURCH, WHAT'S ON THIS SLIDE?
21 **A.** SO THESE -- THIS SLIDE DISCUSSES SEVERAL OF THE
22 DISPARITIES IN HEALTH THAT I TALKED ABOUT IN MY REPORT. IN
23 PARTICULAR, WE CAN SEE HERE IN THE LEFT CHART THAT MORTALITY
24 FOR BLACK LOUISIANIANS FROM DISEASES SUCH AS CANCER,
25 CARDIOVASCULAR DISEASE AND DIABETES IS HIGHER THAN THAT OF

02:04 THOSE MORTALITY RATES FOR WHITE LOUISIANIANS.

OVERALL, AS IN THE SECOND SLIDE, THE DISPARITIES IN HEALTH TRANSLATE INTO A DISPARITY IN LIFE EXPECTANCY. SO ON AVERAGE, WHITE LOUISIANIANS, WHITE LOUISIANA MEN ARE ABOUT -- EXPECTED TO LIVE ABOUT SEVEN YEARS LONGER THAN BLACK LOUISIANA MEN.

AND WITH RESPECT TO WOMEN, YOU SEE A SIMILIAR -- A LARGE GAP AS WELL. WHITE LOUISIANA WOMEN ARE EXPECTED TO LIVE ABOUT FIVE YEARS LONGER THAN BLACK LOUISIANA WOMEN.

INFANT AND CHILD MORTALITY FOR BLACK VERSUS WHITE LOUISIANA CHILDREN IS HIGHER AS WELL.

Q. AND CAN ENVIRONMENTAL FACTORS CONTRIBUTE TO RACIAL HEALTH DISPARITIES SUCH AS THESE?

A. YES. SO IN MY REPORT I TALK A LOT ABOUT BOTH THE FACT THAT NATURAL DISASTERS CAN HAVE DIFFERENTIAL EFFECTS AND HAVE HAD DIFFERENTIAL EFFECTS IN TERMS OF MORTALITY ON BLACK VERSUS WHITE LOUISIANIANS. AND I ALSO TALK ABOUT DISPARITY RELATED TO EXPOSURE TO POLLUTION, PARTICULARLY IN THE AREA OF LOUISIANA KNOWN AS CANCER ALLEY, WHICH IS BETWEEN BATON ROUGE AND NEW ORLEANS. AND RESEARCH HAS SHOWN THAT FOR BLACK RESIDENTS LIVING IN THOSE AREAS, THAT HIGHER EXPOSURE TO ENVIRONMENTAL POLLUTION AND THE LIKE IS RELATED TO HIGHER RATES OF COVID-19, ASTHMA AND CANCER.

Q. THANK YOU.

SO ON THIS TOPIC WOULD YOU SAY THAT BLACK

02:06 LOUISIANIANS HAVE WORSE HEALTH OUTCOMES OVERALL THAN WHITE LOUISIANIANS?

A. YES.

MR. CHAKRABORTY: NEXT SLIDE.

BY MR. CHAKRABORTY:

Q. DR. BURCH, WHAT DOES THIS SLIDE DISPLAY INFORMATION REGARDING?

A. SO THIS SLIDE DISCUSSES DISPARITIES WITH RESPECT TO THE CRIMINAL JUSTICE SYSTEM IN LOUISIANA. AND AS YOU CAN SEE FROM THE GRAPH ON THE LEFT, BLACK LOUISIANIANS REMEMBER ABOUT -- ABOUT A THIRD OF LOUISIANA'S OVERALL POPULATION BUT ARE OVERREPRESENTED AMONG PRISONS, PROBATION AND PAROLE POPULATIONS. IN FACT, BLACK REPRESENTATION IN LOUISIANA'S PRISON AND PAROLE POPULATION IS DOUBLE THAN REPRESENTATION IN THE OVERALL POPULATION.

Q. AND SO WHAT ARE YOUR CONCLUSIONS ABOUT THE KINDS OF DISPARITIES THAT EXIST BETWEEN BLACK AND WHITE LOUISIANIANS IN THE REALM OF CRIMINAL JUSTICE?

A. THAT THERE ARE DRAMATIC DISPARITIES IN INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM BETWEEN BLACK AND WHITE LOUISIANIANS, WITH BLACK LOUISIANIANS BEING MUCH WORSE OFF. AND THESE FACTORS, THESE DISPARITIES CAN'T BE EXPLAINED BY JUST CRIME RATES ALONE AND, IN FACT, ARE RELATED TO -- STUDIES HAVE SHOWN THAT THERE ARE BOTH HISTORICAL AND CONTEMPORARY DISCRIMINATION IN CRIMINAL JUSTICE FACED IN LOUISIANA.

02:07 1 **Q.** AND JUST TO CONFIRM -- I KNOW YOU JUST MENTIONED IT FOR
2 CRIMINAL JUSTICE THERE, BUT WOULD YOU SAY THAT ALL OF THE
3 DISPARITIES YOU'VE TALKED ABOUT TODAY -- YOU KNOW, EDUCATION,
4 HEALTH, SOCIOECONOMIC STATUS, AND CRIMINAL JUSTICE -- ALL ARE
5 TIED TO HISTORICAL TRENDS BUT ALSO ARE EXHIBITED CURRENTLY AND
6 ARE EXISTING DISPARITIES?
7 **A.** YES. SO FOR ALL OF THE DISPARITIES THAT I MENTIONED, THE
8 RESEARCH SHOWS THAT BOTH HISTORICAL DISCRIMINATION AS WELL AS
9 CONTEMPORARY DISCRIMINATION BY THE STATE AND OTHER FACTORS
10 CONTRIBUTES TO THOSE DISPARITIES.
11 **Q.** AND, FINALLY, LAST QUESTION ON THIS FACTOR, DR. BURCH.
12 ALL OF THESE DISPARITIES, HOW DO THEY AFFECT POLITICAL
13 PARTICIPATION OF BLACK LOUISIANIANS IN THE STATE?
14 **A.** SO IF -- AND I DISCUSS IT FOR EACH FACTOR SEPARATELY IN MY
15 REPORT. BUT OVERALL IF YOU THINK ABOUT THE FACT THAT POLITICAL
16 SCIENTISTS THINK ABOUT THE DECISION TO PARTICIPATE IN POLITICS,
17 IN EFFECT, A RATIONAL CHOICE, WE THINK THAT VOTERS WEIGH COSTS
18 AND BENEFITS. THESE DISPARITIES IN THESE FACTORS TEND TO MAKE
19 VOTING MUCH MORE COSTLY.
20 SO WITH RESPECT TO EDUCATION, FOR INSTANCE, IT'S MUCH
21 MORE DIFFICULT FOR SOMEONE TO FIGURE OUT HOW TO NAVIGATE
22 BUREAUCRACY AND THE LIKE IF THEY HAVE LOWER EDUCATIONAL
23 ATTAINMENT. IT'S DIFFICULT FOR PEOPLE TO GET TO A POLLING
24 PLACE IF THEY DON'T HAVE ACCESS TO A VEHICLE OR IN A HOUSEHOLD
25 THAT DOESN'T HAVE ACCESS.

02:09 THE CRIMINAL JUSTICE SYSTEM AFFECTS POLITICAL PARTICIPATION BECAUSE OF FELONY DISENFRANCHISEMENT LAWS. PEOPLE AREN'T ALLOWED TO VOTE IF THEY ARE SERVING A SENTENCE IN PRISON, FOR INSTANCE. AND SO ALL OF THESE FACTORS ARE BOTH -- ARE INTERRELATED BUT ALSO DEFINITELY HAVE AN EFFECT ON POLITICAL PARTICIPATION. AND THE LITERATURE SHOWS THAT QUITE CLEARLY.

Q. THANK YOU, DR. BURCH.

MR. CHAKRABORTY: I'D LIKE TO MOVE ON -- NEXT SLIDE, PLEASE, MATTHEW.

BY MR. CHAKRABORTY:

Q. I'D LIKE TO MOVE ON TO ASK YOU ABOUT YOUR ANALYSIS OF RACIAL APPEALS IN POLITICAL CAMPAIGNS. AND BEFORE WE ACTUALLY GET TO WHAT'S ON THIS SLIDE, WHAT IS A RACIAL APPEAL?

A. SO A RACIAL APPEAL IN A POLITICAL CAMPAIGN IS AN ASPECT OF EITHER A SPEECH OR A CAMPAIGN AD, FOR INSTANCE, THAT WOULD PRIME VOTERS TO THINK ABOUT RACIAL CONCERNS WHEN MAKING DECISIONS ABOUT CANDIDATES IN POLITICS. AND THOSE CAN BE EITHER IMPLICIT, WHICH MEANS THAT RACE ISN'T MENTIONED BUT YOU COULD SEE CODE WORDS OR BLACK EXEMPLARS, FOR EXAMPLE, THAT WOULD PRIME A -- STILL PRIME A VOTER TO THINK ABOUT RACE WHEN MAKING POLITICAL DECISIONS; OR THEY COULD BE EXPLICIT, WHICH MEANS THAT THEY REFER NOT SPECIFICALLY TO RACE OR RACIALLY.

Q. AND BASED ON YOUR EXPERIENCE AND REVIEW OF THE RELEVANT LITERATURE, ARE SUCH APPEALS EFFECTIVE AT -- OR DO THEY AFFECT

02:10 VOTER BEHAVIOR?
A. YES. RACIAL APPEALS, BOTH IMPLICIT AND EXPLICIT, HAVE BEEN SHOWN TO BOTH HEIGHTEN THE WAY THAT VOTERS PAY ATTENTION TO OR THINK ABOUT RACE AND CAN ALSO AFFECT HOW VOTERS THINK ABOUT CANDIDATES AND MAKE EVALUATIONS.
Q. DID YOU EXAMINE RACIAL APPEALS IN LOUISIANA?
A. YES. I LOOKED AT THE RECENT STATEWIDE CAMPAIGN AND SPECIFICALLY AT THE 2019 GUBERNATORIAL ELECTIONS.
Q. AND WHAT DID YOU CONCLUDE ABOUT THIS RACE?
A. I FOUND EVIDENCE OF SEVERAL OF -- SORRY. I'M GETTING FEEDBACK. I FOUND EVIDENCE OF SEVERAL CAMPAIGN ADS THAT -- AND STATEMENTS THAT COULD BE CHARACTERIZED AS RACIAL APPEALS.
Q. CAN YOU LEAD US THROUGH SOME OF THOSE EXAMPLES?
A. YES. SO A PROMINENT ONE -- I HAVE STILLS TAKEN HERE FROM A CAMPAIGN AD THAT WAS RUN BY THE EDDIE RISPONE FOR GOVERNOR CAMPAIGN, AND IN IT THERE ARE SEVERAL ASPECTS THAT CALIENDO AND MCLLWAIN SAY CHARACTERIZE RACIAL APPEALS.
SO, FOR INSTANCE, YOU HAVE THERE IN THE MIDDLE PICTURE MUGSHOTS OF BLACK -- (UNINTELLIGIBLE DUE TO TECHNICAL DIFFICULTIES) THAT ACTIVATE A PARTICULAR STEREOTYPE, SUCH AS BLACK CRIMINALITY. YOU HAVE IMAGES OF THE CANDIDATE WITH ALL WHITE CONSTITUENTS, AND ALSO YOU HAVE THE USE OF LANGUAGE SUCH AS "SANCTUARY CITY" AND "CRIME" THAT HAVE BEEN SHOWN IN PARTICULAR TO CRIME, RACIAL ATTITUDE AMONG VOTERS.
Q. THANK YOU, DR. BURCH.

02:12 WHAT WERE YOUR CONCLUSIONS ABOUT THE EXISTENCE OF RACIAL APPEALS AS THEY EXIST IN LOUISIANA?

A. BASED ON THE SEVERAL EXAMPLES THAT I FOUND FROM THAT VERY RECENT CAMPAIGN, THAT RACIAL APPEALS ARE -- THAT THERE ARE STILL RACIAL APPEALS THAT CHARACTERIZE LOUISIANA POLITICAL CAMPAIGNS.

Q. THANK YOU.

MR. CHAKRABORTY: NEXT SLIDE, MATTHEW.

BY MR. CHAKRABORTY:

Q. I'D LIKE TO ASK YOU ABOUT YOUR EXAMINATION OF SENATE FACTOR 7, WHICH IS THE EXTENT TO WHICH BLACK LOUISIANIANS HAVE BEEN ELECTED TO PUBLIC OFFICE. WHICH ELECTED OFFICES DID YOU EVALUATE IN REACHING YOUR CONCLUSIONS?

A. I EVALUATED SEVERAL OFFICES, AS WELL AS OFFICES AT THE STATE AND LOCAL LEVELS AS WELL.

Q. LET'S START AT THE FEDERAL LEVEL. WHAT DID YOU FIND WITH RESPECT TO FEDERAL POSITIONS AND BLACK REPRESENTATION IN THOSE?

A. AS SHOWN UP HERE, I FOUND THAT THERE HAVE BEEN -- SINCE RECONSTRUCTION, NO BLACK SENATORS AND ONLY FOUR BLACK LOUISIANIANS ELECTED TO CONGRESS AT THE FEDERAL LEVEL.

Q. AND WHAT ABOUT STATE AND MUNICIPAL POSITIONS?

A. SIMILARLY, THERE HAVE BEEN NO BLACK GOVERNORS OR LIEUTENANT GOVERNORS IN LOUISIANA. AND WITH RESPECT TO THE STATE LEGISLATURE CURRENTLY, ABOUT A QUARTER OF STATE LEGISLATIVE SEATS ARE HELD BY BLACK MEMBERS. LOUISIANA MAYORS

02:14 ARE LESS THAN A QUARTER OF ALL BLACK -- BLACK MAYORS ARE LESS THAN A QUARTER OF ALL LOUISIANA MAYORS. STATE COURT JUDGES ARE ABOUT 20.1 PERCENT OF ALL STATE COURT JUDGES. AND A QUARTER OF THE ELECTED BESE BOARD MEMBERS ARE BLACK AS WELL.

Q. THANK YOU.

WHAT WERE YOUR CONCLUSIONS FROM YOUR ANALYSIS OF THIS FACTOR OF THE EXTENT OF THE REPRESENTATION OF BLACK LOUISIANIANS IN PUBLIC OFFICE?

A. GIVEN THE FACT THAT BLACK LOUISIANIANS ARE ABOUT A THIRD OF THE POPULATION, AND IN EACH OF THOSE OFFICES IT'S LESS THAN -- NO -- OR NONE OF THE OFFICES THAT I EXAMINED DID BLACK -- REPRESENTATION OF BLACK LOUISIANIANS REACH A THIRD OF THAT -- THAT BODY OR THAT GROUP.

Q. THANK YOU.

MR. CHAKRABORTY: NEXT SLIDE, PLEASE.

BY MR. CHAKRABORTY:

Q. DR. BURCH, DID YOU LOOK AT THE RESPONSIVENESS OF ELECTED OFFICIALS TO THE NEEDS OF BLACK LOUISIANIANS?

A. I DID.

Q. AND WHICH SOURCES OF EVIDENCE DID YOU LOOK TO AS PART OF THAT ANALYSIS?

A. I LOOKED AT MY EXAMINATION OF -- THAT I CONDUCTED FOR SENATE FACTOR 5, AS WELL AS REALLY THE VOICES OF BLACK LOUISIANIANS THEMSELVES AS REPRESENTED IN THE ROADSHOWS.

Q. I KNOW WE ALREADY COVERED YOUR SENATE FACTOR 5 EVIDENCE.

02:15 1 WHAT DID YOU LEARN FROM THE LATTER ABOUT YOUR REVIEW OF THE
2 TESTIMONY FROM THESE ROADSHOWS?
3 **A.** CONSISTENTLY ACROSS DIFFERENT AREAS OF THE STATE, BLACK
4 LOUISIANIANS STOOD UP AT THESE ROADSHOWS AND DISCUSSED THEIR
5 CONCERNS ABOUT RACE AND REPRESENTATION IN THEIR STATE AND
6 TALKED ABOUT HOW THEY FELT ABOUT IT AND DISCRIMINATED AGAINST.
7 I HAVE SOME EXAMPLES HERE THAT ARE PULLED FROM MY
8 REPORT WHICH COMES FROM THE ROADSHOWS WHERE PEOPLE STOOD UP AND
9 TALKED ABOUT HOW THEY FELT AS THOUGH THEY WEREN'T -- THEY WERE
10 OVERLOOKED, THEY WEREN'T REPRESENTED FAIRLY, AND THEY WERE
11 CONCERNED ABOUT THE LACK OF REPRESENTATION AND CONCERN FOR
12 ISSUES THAT AFFECTED THEM AND POLICIES THAT WOULD HELP THEM
13 THROUGHOUT THE STATE.
14 **Q.** THANK YOU.
15 AND SO WHAT WERE YOUR CONCLUSIONS, BASED ON THESE
16 SOURCES THAT YOU REVIEWED, OF THE RESPONSIVENESS OF ELECTED
17 OFFICIALS TO THE NEEDS OF BLACK LOUISIANIANS?
18 **A.** THAT BASED ON THE POLICIES AND THE PERSISTENT GAPS THAT I
19 FOUND WITH RESPECT TO MY EXAMINATION OF SENATE FACTOR 5, AS
20 WELL AS BASED ON THE VOICES OF BLACK LOUISIANIANS THEMSELVES,
21 THAT BLACK LOUISIANIANS FELT AS THOUGH ELECTED OFFICIALS WERE
22 NOT BEING RESPONSIVE TO THEM.
23 **Q.** THANK YOU, DR. BURCH.
24 **MR. CHAKRABORTY:** NEXT SLIDE, MATTHEW.
25 **BY MR. CHAKRABORTY:**

02:17 1 **Q.** DR. BURCH, DID YOU LOOK AT SENATE FACTOR 9?
2 **A.** I DID.
3 **Q.** AND WHAT IS SENATE FACTOR 9?
4 **A.** SENATE FACTOR 9 EXAMINES WHETHER THE LEGISLATURE'S PROPER
5 JUSTIFICATION EXISTING FOR HB1 AND SB5 ARE TENUOUS.
6 **Q.** AND WHICH SOURCES OF EVIDENCE DID YOU EXAMINE IN ORDER TO
7 DRAW CONCLUSIONS ON THIS FACTOR?
8 **A.** I LOOKED AT THE LEGISLATIVE RECORD, THE HEARINGS, THE
9 FLOOR DEBATES, THE ROADSHOWS, THE BILLS AND AMENDMENTS
10 THEMSELVES, AND I ALSO EXAMINED SOME OTHER PUBLIC STATEMENTS BY
11 LEGISLATORS.
12 **Q.** AND HAVE YOU CONDUCTED THIS SORT OF ANALYSIS BEFORE THIS
13 REVIEW OF LEGISLATIVE RECORDS EITHER IN YOUR ACADEMIC WORK OR
14 IN OTHER CASES?
15 **A.** YES, BOTH.
16 **Q.** SO BASED ON YOUR REVIEW OF LEGISLATIVE STATEMENTS, WHAT
17 ARE YOUR CONCLUSIONS ABOUT THIS FACTOR?
18 **A.** SO I CONCLUDED THAT THERE WERE SEVERAL FACTORS THAT I LAID
19 OUT IN MY REPORT THAT WERE ADVANCED AND VARIOUS POINTS AS
20 IMPORTANT OR JUSTIFICATIONS THAT THE LEGISLATURE WAS
21 CONSIDERING WHEN DISCUSSING HB1 AND SB5. THOSE WOULD BE TO --
22 THAT MINIMIZING THE POPULATION DEVIATION ACROSS DISTRICTS,
23 ISSUES SUCH AS KEEPING PARISHES -- PARISHES AND PRECINCTS
24 TOGETHER AND SPLITTING FEWER -- NO -- NOT SPLITTING PRECINCTS
25 AND SPLITTING PARISHES COMPACTNESS.

02:18 THEY DID SAY AT FIRST THAT THEY WERE INTERESTED IN THESE TRADITIONAL LEGISLATIVE PRINCIPLES. HOWEVER, WHEN THEY WERE PRESENTED WITH MAPS THAT PERFORMED BETTER ON THOSE TRADITIONAL LEGISLATIVE PRINCIPLES THAT DID NOT HAVE -- THAT CONTAINED TWO MAJORITY-MINORITY DISTRICTS, THEY EITHER IN THE RECORD BACKED AWAY FROM SOME OF THOSE TRADITIONAL LEGISLATIVE PRINCIPLES OR SAID THAT THEY WERE LESSENED.

Q. THANK YOU.

CAN YOU -- I THINK YOU BRIEFLY TOUCHED ON IT. CAN YOU PROVIDE JUST ONE EXAMPLE OF SUCH A SHIFT IN JUSTIFICATION PERHAPS ON THE SLIDE?

A. YES. SO, FOR INSTANCE, WITH RESPECT TO THE POPULATION DEVIATION, HERE CHAIRMAN STEFANSKI IS ONE OF SEVERAL EXAMPLES THAT I LIST TALKING ABOUT MAKING THE POPULATIONS AS EQUAL AS POSSIBLE ACROSS THE DISTRICTS AND GETTING DOWN TO AS CLOSE TO THE NEAREST PERSON AS POSSIBLE TO THE IDEAL POPULATION OF THE DISTRICT. WHEN -- LATER IN THE PROCESS WHEN PRESENTED, I BELIEVE, BY -- IN AMENDMENT 88, AS WELL AS IN AMENDMENT 91, WITH MAPS THAT WERE ACTUALLY LOWER POPULATION DEVIATION BUT CONTAINED TWO MAJORITY-MINORITY DISTRICTS, FOR INSTANCE, THEN YOU SEE STATEMENTS BACKING AWAY FROM THOSE -- A COMMITMENT SAYING THAT, WELL, IT'S NOT -- YOU KNOW, YES, THIS MAP IS LOWER IN TERMS OF POPULATION DEVIATION, BUT THAT'S NOT THE -- YOU KNOW, THAT'S NOT AS IMPORTANT AS -- THAT'S NOT THE THING THAT IS -- THAT MATTERS, LIKE THIS DIFFERENCE ISN'T AS IMPORTANT.

02:20 1 **Q.** THANK YOU.
2 **MR. CHAKRABORTY:** CAN WE TAKE THE DEMONSTRATIVE DOWN
3 AND PUT UP WHAT HAS PREMARKED AS PR-89.
4 **BY MR. CHAKRABORTY:**
5 **Q.** DR. BURCH, I'D LIKE TO CLOSE BY ASKING YOU A COUPLE OF
6 QUESTIONS ABOUT YOUR SUPPLEMENTAL REPORT.
7 DO YOU RECOGNIZE THIS DOCUMENT?
8 **A.** YES.
9 **Q.** AND WHAT IS IT?
10 **A.** IT IS THE SUPPLEMENT REPORT THAT I SUBMITTED.
11 **Q.** WHAT DOES YOUR SUPPLEMENTAL REPORT EXAMINE?
12 **A.** I WAS ASKED TO EXAMINE THE RELATIONSHIP BETWEEN RACE
13 PARTISANSHIP.
14 **Q.** AND WHAT DID YOU REVIEW IN ORDER TO REACH YOUR CONCLUSIONS
15 ON THIS TOPIC?
16 **A.** THE SCHOLARLY LITERATURE, AS WELL AS SOME -- AND AS WELL
17 AS AN EXAMINATION OF REGISTRATION PATTERNS, PARTY REGISTRATION
18 BY RACE IN LOUISIANA.
19 **Q.** AND BASED ON YOUR REVIEW, DID YOU REACH ANY CONCLUSIONS
20 ABOUT THE HISTORICAL LINK BETWEEN RACE AND PARTY AND/OR THE
21 CONTEMPORARY RELATIONSHIP BETWEEN THE TWO?
22 **Q.** YES. SO THE LITERATURE ITSELF TENDS TO LOCATE THE LINK;
23 THAT THERE IS A LINK BETWEEN RACE, RACIAL ATTITUDES AND
24 PARTISANSHIP. AND THE CONTEMPORARY -- OR THE CURRENT
25 INSTANTIATION OF THAT STARTS WITH THE ALIGNMENT -- THE

02:22 1 REALIGNMENT OF PARTIES BEGINNING IN THE NEW DEAL AND
2 SOLIDIFYING IN THE 1960'S AS A RESULT OF CIVIL RIGHTS. AND
3 OVER TIME THAT REALIGNMENT, PARTICULARLY THE REALIGNMENT OF
4 WHITE SOUTHERNERS AWAY FROM THE DEMOCRATIC PARTY INTO THE
5 REPUBLICAN PARTY, IS A HALLMARK OF POLITICS BETWEEN THE CIVIL
6 RIGHTS ERA THROUGH 2000'S.
7 MOREOVER, I CAN SAY THAT THERE IS GROWING, STRONG
8 EVIDENCE IN THE LITERATURE THAT THAT RELATIONSHIP BETWEEN
9 PARTISANSHIP AND RACE AND RACIAL ATTITUDES IS GETTING STRONGER
10 AND HAVE BEEN GETTING STRONGER SINCE 2008. ANY PHENOMENA OR
11 THE DATA SHOWN AS WELL AS THE RESEARCH SHOWS THAT THE TRENDS
12 ARE HAPPENING IN LOUISIANA AS WELL.
13 **Q.** THANK YOU, DR. BURCH.
14 **MR. CHAKRABORTY:** YOUR HONOR, AT THIS TIME I'D LIKE
15 TO INTRODUCE PR-14 AND PR-89 INTO EVIDENCE. THEY ARE DR.
16 BURCH'S MAIN AND SUPPLEMENTAL EXPERT REPORTS.
17 **THE COURT:** ANY OBJECTION?
18 **MS. MCKNIGHT:** NO OBJECTION.
19 **THE COURT:** ADMITTED.
20 **MR. CHAKRABORTY:** NO FURTHER QUESTIONS, YOUR HONOR.
21 **THE COURT:** CROSS-EXAMINATION.
22 **MR. CHAKRABORTY:** THANK YOU, DR. BURCH.
23 **CROSS-EXAMINATION**
24 **BY MS. MCKNIGHT:**
25 **Q.** GOOD AFTERNOON, DR. BURCH.

02:23 I'M NOT SURE IF YOU CAN SEE ME?
A. YES, I CAN SEE YOU.
Q. I'M SORRY. THIS IS A BIT AWKWARD. IT'S AN HONOR TO MEET YOU. I'LL HAVE A FEW QUESTIONS FOR YOU THIS AFTERNOON. I'M SORRY I CAN'T LOOK YOU IN YOUR FACE.
A. I'M JUST GRATEFUL YOU GUYS WERE ABLE TO ACCOMMODATE ME.
Q. ABSOLUTELY. SO, DR. BURCH, I'D LIKE TO START WITH SOMETHING YOU'VE WRITTEN IN THE PAST, WHICH IS THAT "VOTERS IN A GIVEN RACIAL OR ETHNIC GROUP CANNOT BE ASSUMED TO SHARE POLICY PREFERENCES."
YOU WROTE THAT, DIDN'T YOU?
A. YOU'LL HAVE TO SHOW IT TO ME.
MS. MCKNIGHT: OKAY. LET'S BRING UP -- THIS WOULD BE BURCH 1, MR. WILLIAMSON.
BY MS. MCKNIGHT:
Q. DO YOU RECALL WRITING A BOOK TITLED *CREATING A NEW RACIAL ORDER*?
A. YES. I -- THAT WAS MY CO-AUTHORED BOOK.
Q. OKAY. AND THAT -- I THINK I'LL WAIT TO BRING UP THE COVER OF THE BOOK FOR YOU, DR. BURCH.
A. UH-HUH.
MS. MCKNIGHT: AND I THINK MR. WILLIAMSON JUST NEEDS TO SHARE HIS SCREEN.
THE COURT: MS. MCKNIGHT, CAN YOU GIVE ME THE QUOTE AGAIN. IT'S VOTERS --

02:25 **MS. MCKNIGHT:** SURE.

"VOTERS IN A GIVEN RACIAL OR ETHNIC GROUP CANNOT BE ASSUMED TO SHARE POLICY PREFERENCES."

THE COURT: THANK YOU.

MS. MCKNIGHT: HOLD ON ONE MOMENT, YOUR HONOR.

THE COURT: IT'S OKAY. WE'RE GOING TO BE PATIENT TODAY.

MS. MCKNIGHT: THANK YOU, YOUR HONOR.

BY MS. MCKNIGHT:

Q. DR. BURCH, WE HAVE BEFORE YOU AN ELECTRONIC VERSION OF YOUR BOOK TITLED *CREATING A NEW RACIAL ORDER*.

DO YOU SEE THAT?

A. I DO.

MS. MCKNIGHT: OKAY. AND IF WE CAN FLIP TO THE NEXT PAGE, HERE'S THE COPYRIGHT PAGE FOR THAT BOOK.

BY MS. MCKNIGHT:

Q. DOES THIS LOOK RIGHT TO YOU, DR. BURCH? COPYRIGHT 2012 BY PRINCETON UNIVERSITY PRESS?

A. YES.

Q. OKAY. AND NOW, DR. BURCH, THIS IS AN ELECTRONIC VERSION, SO YOU CAN SEE AT THE BOTTOM THERE ARE A NUMBER OF PAGES BECAUSE IT'S ELECTRONIC. BUT IF WE TURN TO THE NEXT PAGE, WE WILL FIND THE QUOTE -- THE PAGE WITH YOUR QUOTE ON IT. I'M NOT -- I'VE HIGHLIGHTED THE SECTION FOR YOU TO SEE. ARE YOU ABLE TO READ THAT, DR. BURCH?

02:26 1 **A.** YES.
2 **Q.** OKAY. SO, DR. BURCH, THANK YOU FOR YOUR PATIENCE. IN THE
3 HIGHLIGHTED SECTION, IT'S THREE LINES DOWN: "VOTERS IN A GIVEN
4 RACIAL OR ETHNIC GROUP CANNOT BE ASSUMED TO SHARE POLICY
5 PREFERENCES."
6 DO SEE THAT?
7 **A.** OH, WAIT. I'M SORRY. YOU WERE -- I'M SORRY. YOU PUT
8 SOMETHING OVER THE WHOLE QUOTE THAT -- IF YOU COULD JUST REMOVE
9 THAT BOTTOM LINE SO I CAN SEE IT.
10 **Q.** SURE.
11 **A.** OH, YES. THAT IS DEFINITELY WHAT I THOUGHT IT SAID.
12 **MS. MCKNIGHT:** OKAY. AND WE CAN TAKE THAT DOWN.
13 **BY MS. MCKNIGHT:**
14 **Q.** DOES THAT REFRESH YOUR RECOLLECTION THAT YOU'VE WRITTEN IN
15 THE PAST THAT "VOTERS IN A GIVEN RACIAL OR ETHNIC GROUP CANNOT
16 BE ASSUMED TO SHARE POLICY PREFERENCES"?
17 **A.** YES. I AGREE WITH THAT.
18 **Q.** OKAY. AND NOW YOUR REPORT IN THIS CASE DOES NOT EXAMINE
19 WHETHER A BLACK VOTER IN RURAL LOUISIANA WILL VOTE THE SAME WAY
20 AS A BLACK VOTER IN URBAN BATON ROUGE, FOR EXAMPLE. CORRECT?
21 **A.** NO. I EXAMINED RESEARCH THAT LOOKED AT VOTING PATTERNS BY
22 RACE.
23 **Q.** OKAY. AND YOUR REPORT DOES NOT EXAMINE WHITE CROSSOVER
24 VOTING; THAT IS, WHITE VOTERS WHO VOTE FOR THE CANDIDATES OF
25 CHOICE OF BLACK VOTERS. CORRECT?

02:28 1 **A.** NO. I'M LOOKING AT BOTH PARTY REGISTRATION AS WELL AS
2 OTHER PEOPLE'S RESEARCH INTO THOSE KINDS OF QUESTIONS.
3 **Q.** OKAY. NOW, TURNING TO YOUR REPORT, THIS IS PR-14 AT PAGE
4 25 THROUGH 28.
5 **MS. MCKNIGHT:** AND, MR. WILLIAMSON, WE CAN JUST GO TO
6 PAGE 25, THE HEADER OF THE SECTION. OH, PARDON ME. I THINK
7 YOU NEED TO GO TO PR-14, PAGE 25. UNFORTUNATELY, THE NUMBERS
8 ARE DIFFERENT. THERE YOU GO.
9 **BY MS. MCKNIGHT:**
10 **Q.** SO, DR. BURCH, I HEARD YOU TESTIFY ON DIRECT THAT YOU
11 BELIEVED THERE ARE STILL RACIAL APPEALS THAT CHARACTERIZE
12 ELECTIONS IN LOUISIANA. DID I HEAR YOU RIGHT?
13 **A.** YES.
14 **Q.** OKAY. SO IN REVIEWING THE SECTION "SENATE FACTOR 6:
15 RACIAL APPEALS IN CAMPAIGNS," OVER THE PAST 30 YEARS YOU
16 IDENTIFIED ONLY ONE CANDIDATE WHO MADE A RACIAL APPEAL IN AN
17 ELECTION. CORRECT? AND THAT CANDIDATE --
18 **A.** NO. COULD YOU SWITCH TO -- COULD YOU GO TO THE NEXT PAGE,
19 PLEASE.
20 **Q.** SURE.
21 **A.** SO I HAVE BOTH -- DURING THIS GUBERNATORIAL CAMPAIGN IN
22 THE MIDDLE, I AM TALKING ABOUT EDDIE RISPONE HERE. BUT ALSO IF
23 YOU GO TO THE NEXT PAGE, I ALSO HAVE HERE RACIAL APPEALS THAT
24 TARGETED -- THAT WERE RUN BY THE LOUISIANA REPUBLICAN PARTY AS
25 -- FOR INSTANCE, THE QUOTATION AT THE BOTTOM OF THAT PAGE,

02:30 IT'S ACTUALLY FROM THE PARTY, NOT FROM EDDIE RISPONE.
AND THEN ON THE NEXT PAGE IS ANOTHER RACIAL APPEAL THAT WAS MADE BY A DIFFERENT CANDIDATE.
Q. OKAY. LET'S TURN TO THE NEXT PAGE SO I CAN UNDERSTAND WHAT YOU MEANT BY THAT THIRD EXAMPLE.
A. UH-HUH.
Q. AND SO THE THIRD EXAMPLE WAS WHICH OTHER CANDIDATE, DR. BURCH?
A. SO HERE CONROD APPEL WAS TALKING ABOUT THAT -- MAKING THE APPEAL THAT AFRICAN AMERICANS SHOULD SUPPORT REPUBLICANS RATHER THAN DEMOCRATS BECAUSE OF ISSUES REGARDING RACIAL -- CONCERNS ABOUT RACIAL --
Q. OKAY. AND GOING BACK A PAGE, THOSE RACIAL APPEALS HAD TO DO WITH THE CANDIDATE FOR GOVERNOR RISPONE. IS THAT RIGHT?
A. I THINK THAT THE ONE FOR -- THE SECOND ONE WAS PROBABLY MORE GENERAL BUT PROBABLY REFERRED IN GENERAL TO SUPPORT OF BLACK PEOPLE FOR THE DEMOCRATIC PARTY.
Q. SO I JUST WANT TO MAKE SURE I UNDERSTAND, THOUGH. THE SECOND ONE HERE I'M SEEING REFERENCES TO CANDIDATE RISPONE HERE IN THE 2019 GUBERNATORIAL RACE. ARE YOU REFERRING TO SOMETHING ELSE?
A. NO. WHAT I'M SAYING HERE IS THAT IN THE RNC, THE LOUISIANA GOP QUOTATION IS WITH RESPECT TO JOHN BEL EDWARDS, BUT THE QUOTE ON THE NEXT PAGE IS MORE GENERAL.
Q. I SEE. AND SO ARE YOU AWARE OF WHETHER CANDIDATE RISPONE

02:32 1 WON OR LOST HIS ELECTION?
2 **A.** I BELIEVE HE LOST.
3 **Q.** AND DO YOU KNOW WHETHER THE LAST TWO ELECTIONS FOR
4 GOVERNOR, WHETHER THE CANDIDATE OF CHOICE FOR BLACK VOTERS WON?
5 **A.** YES. JOHN BEL EDWARDS DID WIN.
6 **Q.** NOW LET'S TURN TO ANOTHER SENATE FACTOR, SENATE FACTOR 9.
7 NOW, I UNDERSTAND THAT SENATE FACTOR 9, YOU STUDIED WHETHER THE
8 LEGISLATURE'S RATIONALE FOR DRAWING ITS CONGRESSIONAL PLAN WAS
9 SUPPORTED BY THE EVIDENCE OR IF IT WAS -- QUOTE/UNQUOTE --
10 "TENUOUS." IS THAT RIGHT?
11 **A.** IS THAT AN EXACT QUOTATION FROM SOMEWHERE?
12 **Q.** WELL, THE WORD "TENUOUS" IS A QUOTE FROM THE SENATE FACTOR
13 9. IS THAT RIGHT?
14 **A.** YES.
15 **Q.** OKAY. AND SO IN DOING YOUR WORK ON THIS REPORT FOR SENATE
16 FACTOR 9, YOU DEVELOPED AN OPINION THAT THE LEGISLATURE'S
17 RATIONALE FOR DRAWING ITS CONGRESSIONAL PLAN WAS TENUOUS.
18 CORRECT?
19 **A.** I DON'T KNOW IF I USED THOSE EXACT WORDS. CAN YOU SHOW ME
20 WHERE I SAID THAT EXACTLY?
21 **Q.** WELL, LET ME STEP BACK. IS IT YOUR POSITION THAT THEIR
22 RATIONALE WAS NOT TENUOUS?
23 **A.** MY POSITION IS THAT THE RATIONALE WAS NOT SUPPORTED BY
24 EVIDENCE OR THAT THEY WOULD BACK OFF CERTAIN RATIONALE, BUT I
25 DON'T BELIEVE I EVER SAID THAT IT WAS TENUOUS OR NOT.

02:34 1 **Q.** OKAY. WELL, I THINK -- I THINK IT MAY MAKE SENSE TO JUST
2 GET TO FACTOR 9 SO YOU CAN UNDERSTAND MY QUESTIONS. YOU'VE
3 WRITTEN A VERY THOROUGH REPORT. I JUST WANT TO MAKE SURE WE'RE
4 UNDERSTANDING EACH OTHER.
5 **MS. MCKNIGHT:** SO IF WE WOULD TURN TO PR-14, PAGE
6 P-32.
7 **BY MS. MCKNIGHT:**
8 **Q.** AND SO HERE YOU BEGIN YOUR SECTION ON SENATE FACTOR 9:
9 "TENUOUSNESS."
10 DO YOU SEE THAT?
11 **A.** I DO.
12 **Q.** OKAY. AND HERE YOU WRITE THAT THE SPONSORS AND ADVOCATES
13 OF TWO BILLS PROVIDED SEVERAL JUSTIFICATIONS, AND YOU GO ON
14 TO SHOW THAT YOU BELIEVE THAT THE PROFFERED JUSTIFICATIONS LACK
15 SUPPORT. IS THAT RIGHT?
16 **A.** EMPIRICAL SUPPORT? YES.
17 **Q.** OKAY. AND NOW IN PREPARING YOUR REPORT, YOU STUDIED THE
18 LEGISLATIVE RECORD RELATED TO REDISTRICTING THIS YEAR IN ORDER
19 TO DEVELOP YOUR CONCLUSIONS. RIGHT?
20 **A.** I DID.
21 **Q.** IN FACT, STUDYING LEGISLATIVE HISTORY IS PART OF YOUR
22 RESEARCH PRACTICE. YOU'VE IDENTIFIED IT IN ANOTHER PART OF
23 YOUR REPORT IN YOUR BACKGROUND. CORRECT?
24 **A.** YES.
25 **Q.** OKAY. AND LET ME STEP BACK. WHEN STUDYING A LEGISLATIVE

02:36 1 RECORD TO UNDERSTAND LEGISLATIVE INTENT, YOU DON'T WANT TO
2 CHERRY-PICK CERTAIN PIECES OF THE RECORD AND IGNORE LEGISLATIVE
3 PRIORITIES THAT HAVE BEEN REPEATEDLY STATED, BECAUSE YOU WANT
4 GET A FULL PICTURE OF THE RECORD.
5 WOULD YOU AGREE WITH THAT?
6 **A.** YES.
7 **Q.** AND YOUR REPORT QUOTES FROM THE LEGISLATIVE RECORD.
8 CORRECT?
9 **A.** YES.
10 **Q.** YOU REVIEWED THE STATE GOVERNMENT AFFAIRS COMMITTEE
11 HEARINGS. CORRECT?
12 **A.** YES.
13 **Q.** AND YOU REVIEWED THE FLOOR DEBATES. CORRECT?
14 **A.** I DID.
15 **Q.** AND DURING THE COMMITTEE HEARINGS AND FLOOR DEBATES, THE
16 LEGISLATURE REPEATEDLY DESCRIBED THE PLAN AS A CONTINUITY OF
17 REPRESENTATION PLAN. ISN'T THAT RIGHT?
18 **A.** NOT "REPEATEDLY." THAT ACTUALLY STARTED TO ENTER THE
19 RECORD AT THE END, AND I BELIEVE I DO HAVE QUOTATIONS TO THAT
20 EFFECT IN THE REPORT.
21 **Q.** OKAY. LET'S START WITH WHERE YOU HAVE A QUOTATION TO THAT
22 EFFECT IN THE REPORT, AND THEN WE'LL GET TO "REPEATEDLY." SO
23 COULD YOU IDENTIFY WHERE IN YOUR REPORT YOU HAVE THOSE
24 QUOTATIONS?
25 **A.** SO I'M GOING TO REFER -- I'M GOING TO -- I HAVE MY REPORT

02:37 1 HERE.
2 **Q.** GREAT.
3 **A.** SO I'M GOING TO FLIP THROUGH IT AND I'LL POINT YOU TO IT.
4 **Q.** TAKE YOUR TIME.
5 **A.** SO ON PAGE 39 I HAVE SOME INFORMATION TO THAT EFFECT.
6 **MS. MCKNIGHT:** MR. WILLIAMSON, WOULD YOU MIND TURNING
7 TO PAGE 39 SO WE CAN ALL FOLLOW ALONG.
8 **BY MS. MCKNIGHT:**
9 **Q.** IS THIS THE PAGE 39 YOU'RE REFERRING TO OR IS IT THE
10 EXHIBIT NUMBER BELOW?
11 **A.** IT'S THE -- YES. THIS IS PAGE 39, THAT'S CORRECT.
12 **Q.** GREAT. OKAY.
13 **A.** SO I WRITE HERE, DURING THE -- I BELIEVE IT'S THE FLOOR
14 DEBATE, WHICH MIGHT BE THE ONE -- WHICH I THINK MIGHT BE THE
15 FINAL PACKAGED ONE, OR CLOSE TO IT, WHERE REPRESENTATIVE MAGEE
16 WAS PRESENTING THE BILL THAT DAY. HE SAID THAT "THE PRIMARY
17 CRITERION FOR DRAWING THE CONGRESSIONAL DISTRICTS HAD BECOME"
18 -- QUOTE -- "TO HONOR THE TRADITIONAL BOUNDARIES AS BEST AS
19 POSSIBLE TO CREATE THIS MAP WE BELIEVE IS LEGAL." AND SO HE --
20 AND THEN LATER ON IN THAT MOMENT, HE SAID THAT "HB1 WAS
21 DESIGNED TO" -- QUOTE -- "MAINTAIN TRADITIONAL BOUNDARIES."
22 SO, YES. SO I DO TALK ABOUT THE FACT THAT THAT HAD
23 BECOME A PRIORITY BY ME CITING THAT.
24 **Q.** OKAY. SO YOU QUOTE -- YOU QUOTE REPRESENTATIVE MAGEE, BUT
25 WHERE DO YOU TALK ABOUT THAT AS BECOMING A PRIORITY?

02:39 1 **A.** SO ON PAGE 39 I SAID, "BY THE END OF THE PROCESS, THE
2 SUPPORTERS OF HB1 IN PARTICULAR HAD SHIFTED THEIR LEGISLATIVE
3 PRIORITIES. INSTEAD OF COMPACTNESS OR OTHER MEASURES,
4 REPRESENTATIVE MAGEE SAID THE PRIMARY CRITERION FOR DRAWING THE
5 CONGRESSIONAL DISTRICTS HAD BECOME" -- QUOTE -- "TO HONOR THE
6 TRADITIONAL BOUNDARIES AS BEST AS POSSIBLE TO CREATE THIS MAP
7 WE BELIEVE IS LEGAL. REPRESENTATIVE MAGEE SAID THE DRAFTERS OF
8 HB1 PRIORITIZED THE TRADITIONAL BOUNDARIES AFTER LOOKING AT ALL
9 THE OTHER CRITERIA THEY COULD HAVE USED."
10 **Q.** OKAY. AND DO YOU KNOW WHEN THE LEGISLATIVE REDISTRICTING
11 SESSION BEGAN IN LOUISIANA?
12 **A.** YOU MEAN WITH THE ROADSHOWS AND EVERYTHING ELSE?
13 **Q.** THE LEGISLATIVE REDISTRICTING SESSION.
14 **A.** I MEAN, SO THEY STARTED HOLDING ROADSHOWS AND HEARINGS
15 BACK IN 2021. BUT IF YOU MEAN SUCH AS WHEN THE FLOOR DEBATES
16 STARTED?
17 **Q.** CORRECT.
18 **A.** THAT WAS IN FEBRUARY OF '21.
19 **Q.** OKAY. WOULD YOU HAVE ANY REASON TO DISAGREE WITH ME IF I
20 TOLD YOU IT WAS FEBRUARY 2ND?
21 **A.** I ACCEPT THAT. THAT'S FINE.
22 **Q.** OKAY. SO JUST TO TIE THIS OFF, IS THIS THE ONLY PLACE
23 WHERE YOU REFERENCED TRADITIONAL BOUNDARIES ON PAGE 39 OF YOUR
24 REPORT?
25 **A.** LET ME SEE. THERE MAY BE SOME OTHER AREAS IN WHICH I TALK

02:41 ABOUT REFERENCES TO TRADITIONAL BOUNDARIES, BUT THAT'S THE ONE THAT COMES TO MIND.

Q. OKAY. NONE OTHERS COME TO YOUR MIND AT THIS MOMENT?

A. IN THE REPORT --

Q. YES.

A. -- AS FAR THAT BEING A PRIORITY? NO. AGAIN, THEY HAD -- IN EACH PLACE THEY STARTED OUT WITH A LIST OF PRIORITIES UP UNTIL THE END. NO. 1 WAS ALWAYS THE ENGAGEMENTS; THAT THEY WOULD ALSO TALK ABOUT COMMUNITIES OF INTEREST AND OTHER KINDS OF -- AND THE OTHER TRADITIONAL REDISTRICTING PRINCIPLES THAT I'VE TALKED ABOUT.

Q. OKAY.

A. AGAIN, THE PRIORITIES -- AS I SAID HERE, THE PRIORITIES BY THE END OF THE LEGISLATIVE SESSION SHIFTED TO WHEN THEY WERE THEN EMPHASIZING A PERIOD TO -- THE PRIMARY -- THE PRIMARY CRITERION WAS NOW HONORING TRADITIONAL BOUNDARIES.

Q. I SEE.

A. SO, AGAIN, THAT PRIORITY SHIFTED.

Q. I SEE. SO SINCE YOU'RE CONCERNED ABOUT THE END OF THE PROCESS, LET'S GO TO THE BEGINNING OF THE LEGISLATIVE SESSION ON REDISTRICTING AND BRING UP PR -- WELL, BEFORE I DO, LET ME SHARE WITH YOU: THE PARTIES HAVE STIPULATED TO TRANSCRIPTS OF CERTAIN HEARINGS AND COMMITTEE HEARINGS AND FLOOR SESSIONS. AND SO WHAT I'M ABOUT TO BRING UP FOR YOU IS AN EXHIBIT THAT IS A TRANSCRIPT THAT HAS BEEN PREPARED BY PLAINTIFFS OF THE

02:42 SPECIAL SESSION SGA COMMITTEE TRANSCRIPT DATED FEBRUARY 2, 2022.

MS. MCKNIGHT: WE ARE GOING TO PULL UP PR-52 AT PAGE 7.

BY MS. MCKNIGHT:

Q. AND NOW, DR. BURCH, I'M LOOKING AT LINES 9 THROUGH 16.

A. UH-HUH.

Q. AND I'LL OFFER FOR YOU THAT THE SPEAKER DURING THIS HEARING IS PRESIDENT OF THE SENATE, PAGE CORTEZ, AND HERE HE STATES:

"THE THIRD TENET OR PRINCIPLE WAS AS BEST POSSIBLE TO MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT DO I MEAN BY THAT? IT MEANS THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU. CONVERSELY, YOU DON'T GET TO CHOOSE WHO YOUR POPULATION IS, THEY CHOOSE YOU. IF YOU DIDN'T DO A GOOD JOB, THEY HAVE THE RIGHT TO UNELECT YOU."

DO YOU SEE THAT?

A. I DO.

Q. AND DOES THAT REFRESH YOUR RECOLLECTION ABOUT WHETHER THE LEGISLATURE IDENTIFIED CONTINUITY OF REPRESENTATION ON THE FIRST DAY OF THE LEGISLATIVE SESSION ON REDISTRICTING?

A. YES. I SAID I COULD RECALL THAT. BUT, AGAIN, AS YOU SEE HERE IN THE QUOTATION YOU CITED, IT'S NOT THE TOP PRIORITY, IT'S THE THIRD. SO AS I SAID BEFORE, THOSE PRIORITIES SHIFTED.

02:44 1 **Q.** I SEE.
2 **MS. MCKNIGHT:** WELL, LET'S GO DOWN TO LINES 23
3 THROUGH 25 ON THIS SAME PAGE.
4 **BY MS. MCKNIGHT:**
5 **Q.** SO THIS READS, BY PRESIDENT CORTEZ:
6 "SO THE NEXT PRINCIPLE THAT I TRIED TO ADHERE TO WAS
7 WITH SOMETHING YOU ALL HEARD ON THE ROADSHOW MANY TIMES CALLED
8 COMPACTNESS."
9 SO DOES THIS REFRESH YOUR RECOLLECTION ABOUT WHETHER
10 PRESIDENT CORTEZ AND THE LEGISLATURE DISCUSSED CONTINUITY OF
11 REPRESENTATION BEFORE THEY EVEN ADDRESSED COMPACTNESS ON THE
12 FIRST DAY OF THE LEGISLATIVE SESSION ON REDISTRICTING?
13 **A.** YES, THEY DID.
14 **Q.** OKAY. THANK YOU.
15 WE'RE GOING TO PULL UP ANOTHER EXHIBIT FOR YOU. THIS
16 EXHIBIT IS A TRANSCRIPT STIPULATED TO BY BOTH PARTIES TO THE
17 SPECIAL SESSION SGA COMMITTEE TRANSCRIPT DATED FEBRUARY 3,
18 2022. IT'S EXHIBIT PR-54 AT PAGE 4. AND HERE I'M STARTING AT
19 LINE 13 AND GOING DOWN INTO THE NEXT PAGE, LINE 1.
20 DR. BURCH, WE'LL HIGHLIGHT IT FOR YOU AND THEN LET US
21 KNOW IF YOU NEED US TO ZOOM IN AT ALL.
22 I'M GOING TO READ THE FIRST LINE AND THEN PARAPHRASE
23 THE REST. I WILL LEAVE THIS UP SO YOU CAN HAVE A CHANCE TO
24 REVIEW IT, BUT HERE I'LL REPRESENT TO YOU THAT THE SPEAKER IS
25 CHAIRWOMAN OF THE SENATE REDISTRICTING EFFORT, SENATOR HEWITT.

02:46 AND SHE SAID ON THE FLOOR OR IN THIS COMMITTEE AT THE TIME:
"WE'VE TALKED ABOUT CONTINUITY REPRESENTATION A LOT IN THESE HEARINGS, AND WE HEARD AGAIN AT THE ROADSHOW ONE OF THE KIND OF THE TALKING POINTS WAS ELECTED OFFICIALS SHOULD NOT CHOOSE THEIR VOTERS. VOTERS SHOULD CHOOSE THEIR ELECTED OFFICIALS. AND TO THAT AGAIN, I WOULD RESPOND BY SAYING I RESPECT THE VOTERS IN THIS STATE AND KNOW THAT THEY ARE IN THE BEST POSITION TO VOTE AN ELECTED OFFICIAL IN OR OUT OF OFFICE BASED ON THEIR PERFORMANCE."
DR. BURCH, DOES THIS REFRESH YOUR RECOLLECTION ABOUT WHETHER THE LEGISLATURE CONSIDERED THE NOTION OF CONTINUITY OF REPRESENTATION EARLY IN THE REDISTRICTING SESSION?
A. I NEVER SAID THEY DIDN'T CONSIDER IT EARLY. I SAID THAT IT WASN'T THE TOP PRIORITY. SO IF YOU LOOK AT THE -- AGAIN, YOU DIDN'T SHOW ME WHAT -- LIKE BEFORE, YOU DIDN'T SHOW ME WHAT CAME BEFORE THAT AND IN WHAT ORDER THEY TALKED ABOUT CONTINUITY OF REPRESENTATION. SO I DON'T REALLY KNOW IF THIS -- SO I CAN'T REALLY -- SO I DON'T REALLY KNOW IF I DISAGREE WITH WHAT I SAID BEFORE IN THE SENSE THAT THEY PRIORITIZED EVERYTHING EARLY ON AND THEN SHIFTED THEIR PRIORITIES LATER.
Q. I SEE. AND SO LET ME DO ONE MORE EXAMPLE, DR. BURCH, AND THEN WE CAN START MOVING ON.
MS. MCKNIGHT: IF WE COULD BRING UP PR-71.
BY MS. MCKNIGHT:
Q. DR. BURCH, THIS IS A SPECIAL SESSION SENATE FULL FLOOR

02:47 DEBATE DATED FEBRUARY 8, 2022. AND, AGAIN, THIS IS A SENATE FULL FLOOR DEBATE, AND I'M LOOKING AT LINE 16 THROUGH THE NEXT PAGE ON LINE 4. BUT WE CAN JUST START ON PAGE -- SORRY -- ON PAGE 88 AT LINE 16.

AND SO HERE -- I'LL JUST READ THE FIRST FEW LINES.

"THE NEXT PRINCIPLE, PRESERVE THE CORE OF THE PRIOR DISTRICTS TO ENSURE CONTINUITY OF REPRESENTATION. YOU KNOW, WE HEARD MANY TIMES ON THE ROADSHOW AND THE PRESIDENT SPOKE TO THIS A LITTLE BIT EARLIER ON THE BILL" -- AND THEN IT GOES ON TO REITERATE POINTS ABOUT VOTERS BEING ABLE TO VOTE IN OR OUT THEIR ELECTED OFFICIALS.

DO YOU SEE THAT, DR. BURCH?

A. I DO.

Q. OKAY. AND WOULD IT SURPRISE YOU TO KNOW THAT THE PHRASE "CONTINUITY" APPEARS MORE THAN 35 TIMES IN 13 DAYS OF TRANSCRIPTS IN THIS CASE?

A. NO.

Q. OKAY. SO IN REVIEWING THESE HEARING TRANSCRIPTS THAT ARE DATED FEBRUARY 2, FEBRUARY 3, FEBRUARY 8, AND THAT YOU ARE NOT SURPRISED THAT "CONTINUITY" WAS REFERENCED MORE THAN 35 TIMES IN 13 DAYS OF LEGISLATIVE TRANSCRIPTS, DOES THAT REFRESH YOUR RECOLLECTION ABOUT THE FACT THAT THE LEGISLATURE REPEATEDLY DESCRIBED THE PLAN AS A CONTINUITY OF REPRESENTATION PLAN?

A. AGAIN, IT'S NOT -- I NEVER SAID THAT I DIDN'T RECALL THAT THEY TALK ABOUT CONTINUITY OF REPRESENTATION. WHAT I SAID IS

02:49 THAT THAT PRIORITY SHIFTED ACROSS TIME. EVEN THOSE QUOTES -- THE LAST QUOTATION YOU SHOWED ME, IT BEGAN WITH "THE NEXT," AS IF THAT WASN'T THE FIRST THING THEY TALKED ABOUT. AND AS I SAID HERE, BY THE TIME WE GET TO THE END, THAT TRADITIONAL REDISTRICTING PRINCIPLES ASPECT WAS WHAT -- WHAT THEY ARRIVED ON IS THE LAST -- IS THE TOP PRIORITY. BUT THAT WAS ONLY AFTER ALL OF THE OTHER ONES, SUCH AS COMPACTNESS. AND EVEN EXAMPLES THAT I GAVE ON DIRECT, THE ABSOLUTE DEVIATION WAS AGAIN SUPPLANTED BY -- OR PLANS THAT HAD TWO MAJORITY-MINORITY DISTRICTS ACTUALLY PERFORMED BETTER ON THOSE METRICS.

SO I STAND BY WHAT I WROTE IN MY REPORT: THAT, AGAIN, THAT -- THOSE PRIORITIES SHIFTED, AND BY THE END, THAT HAD BECOME -- AS THOSE QUOTATIONS YOU SHOWED ME, THOSE WERE -- EARLY ON THEY WERE TALKING ABOUT OTHER PRINCIPLES BEFORE THEY ACTUALLY GOT TO CONTINUITY OF REPRESENTATION.

Q. I SEE. AND EVEN IF IT WAS A THIRD PRINCIPLE ON THE VERY FIRST DAY OF THE REDISTRICTING SESSION, YOU DID NOT EXAMINE CONTINUITY OF REPRESENTATION AND WHETHER THE LEGISLATURE FULFILLED THEIR GOAL OF CONTINUITY OF REPRESENTATION. CORRECT?

A. I LOOKED AT BOTH THE PLAN THAT WAS THERE AS WELL AS THE OLD PLAN. AND, OF COURSE, THE BOUNDARIES HAD TO CHANGE A LITTLE BIT. BUT AS FAR AS WHETHER THEY GOT AS CLOSE AS POSSIBLE TO THE OLD BOUNDARIES, NO, I DIDN'T LOOK AT THAT. AND I DON'T BELIEVE THERE WAS ANY DISCUSSION AS FAR AS WHETHER THAT WAS THE PLAN THAT, FOR INSTANCE, CHANGED -- LEAST CHANGED THE

02:51 1 BOUNDARIES OUT OF ALL OF THE PLANS THAT WERE AVAILABLE.
2 SO IT WASN'T -- SO IT'S NOT IN MY REPORT AS A
3 REFLECTION, AS A ISSUE IN THE SENSE THAT THEY DIDN'T REALLY
4 COMPARE BILLS BASED ON, YOU KNOW, WHETHER THAT WAS A STATEMENT
5 IN TERMS OF LIKE HOW CLOSELY THAT PLAN CAME THAN, SAY, A
6 DIFFERENT BILL THAT THEY MIGHT HAVE CONSIDERED.
7 **Q.** I SEE. SO I'LL REPRESENT TO YOU THAT WE HAVE EXPERTS IN
8 THIS CASE WHO HAVE SUBMITTED REPORTS THAT THE CORE-RETENTION
9 SCORE IN THIS PLAN HAS BEEN CALCULATED TO BE 96 PERCENT. I'LL
10 ALSO REPRESENT TO YOU THAT THAT IS A HIGHER SCORE THAN ANY OF
11 PLAINTIFFS' ILLUSTRATIVE PLANS.
12 MY QUESTION TO YOU RELATES TO THE SENATE FACTOR OF
13 TENUOUSNESS. I UNDERSTOOD FROM YOUR EARLIER TESTIMONY THAT YOU
14 WERE TRYING TO UNDERSTAND THE LEGISLATURE'S PRIORITIES IN
15 DRAWING ITS PLAN AND TRYING TO STUDY WHETHER THOSE PRIORITIES
16 PLAYED OUT IN THE ULTIMATE PLAN THAT WAS PASSED. I UNDERSTOOD
17 FROM YOUR TESTIMONY JUST NOW THAT YOU DID NO EXAMINATION OF
18 CONTINUITY OF REPRESENTATION IN YOUR REPORT. CORRECT?
19 **A.** RIGHT. THAT'S NOT -- THOSE FIGURES AREN'T IN THE RECORD.
20 **Q.** OKAY. AND YOU DID NOT CONCLUDE IN YOUR REPORT THAT THE
21 LEGISLATURE'S RATIONALE TO DRAW A CONTINUITY OF REPRESENTATION
22 PLAN WAS -- QUOTE/UNQUOTE -- "TENUOUS." RIGHT?
23 **A.** NO. I SAID THAT THOSE PLANS LACKED EMPIRICAL SUPPORT AND
24 THE REFERENCES THAT YOU JUST MADE AREN'T IN THE RECORD.
25 **Q.** OKAY. BUT YOU WOULD AGREE WITH ME THAT THE REFERENCES I

02:53 JUST MADE TO THE LEGISLATURE DESCRIBING CONTINUITY OF
REPRESENTATION AS A GOAL, THOSE ARE IN THE RECORD. CORRECT?
A. YES. IN THE WAY THAT I DESCRIBED.
Q. AND I'M GOING TO SHARE A FACT WITH YOU. TELL ME IF YOU
AGREE OR DISAGREE OR HAVE KNOWLEDGE ABOUT IT. THE PRIOR PLAN
DRAWN IN 2011 WAS PRE-CLEARED BY PRESIDENT OBAMA'S DEPARTMENT
OF JUSTICE. CORRECT?
A. THAT WAS IN THE RECORD.
Q. SO YOU WOULD AGREE WITH ME THAT THAT'S A FACT?
A. YES.
Q. NOW, IN THIS CASE YOU DID NOT STUDY WHETHER THE SO-CALLED
"TENUOUSNESS" WAS DUE TO POLITICAL AS OPPOSED TO RACIAL
CHOICES. CORRECT?
A. THE ONLY REFERENCES THAT I HAVE IN THIS SECTION WITH
RESPECT TO RACE ARE I DO HAVE A DISCUSSION ABOUT THE EXTENT TO
WHICH THERE WAS RESISTANCE TO DRAWING ON TWO MAJORITY-MINORITY
DISTRICTS; AND ALSO I REFERENCE RACE WHEN I TALK ABOUT
ASSERTIONS THAT THE SENATORS AND MEMBERS OF THE HOUSE MADE WITH
RESPECT TO WHAT THEY THOUGHT ABOUT MINORITY VOTING OR THE
PERFORMANCE OF MINORITY ISSUES.
Q. OKAY. SO I THINK YOU ANSWERED A DIFFERENT QUESTION AND SO
PARDON ME FOR REPEATING. I BELIEVE IT IS JUST A YES-OR-NO
QUESTION. YOU DID NOT STUDY WHETHER THE SO-CALLED
"TENUOUSNESS" THAT YOU FOUND WAS DUE TO POLITICAL AS OPPOSED TO
RACIAL CHOICES. CORRECT?

02:55 1 **A.** YES. I BELIEVE I TALKED ABOUT WAYS IN WHICH THEY WERE
2 DISCUSSING RACE.
3 **Q.** OKAY. WE'LL MOVE ON.
4 DR. BURCH, YOU BELIEVED THAT THE LEGISLATURE SHOULD
5 HAVE DRAWN MAPS IDENTIFYING BLACK VOTERS AS A COMMUNITY OF
6 INTEREST. CORRECT?
7 **A.** I BELIEVE WHAT I WROTE IS THAT BLACK VOTERS AND OTHER
8 PEOPLE THEMSELVES SAID THAT THEY CONSTITUTED A COMMUNITY OF
9 INTEREST.
10 **Q.** OKAY. IS IT YOUR POSITION THAT THE LEGISLATURE COULD USE
11 RACE AS A PROXY FOR A TRADITIONAL DISTRICTING CRITERION?
12 **A.** IT'S MY UNDERSTANDING THAT BASED ON THE NEED TO ENSURE
13 REPRESENTATION, THAT THE LEGISLATURE HAS TO CONSIDER RACE.
14 **Q.** OKAY. BUT YOU DON'T HAVE AN UNDERSTANDING ABOUT WHETHER
15 RACE CAN BE USED AS A PROXY FOR TRADITIONAL DISTRICTING
16 CRITERION?
17 **A.** I NEVER MADE THAT POINT. THE ONLY POINT THAT I'M MAKING
18 IS THAT ON THE RECORD THAT WAS BROUGHT UP ON THE RECORD. AND
19 ACTUALLY, I BELIEVE I HAVE SOME POINTS AT WHICH THE LEGISLATORS
20 AGREED. SO MY CONCERN THERE WAS REALLY JUST TO PUT ON THE
21 RECORD THAT THIS WAS DISCUSSED.
22 **Q.** OKAY. THANK YOU VERY MUCH, DR. BURCH. I HAVE NO FURTHER
23 QUESTIONS.
24 **THE COURT:** REDIRECT?
25 **MR. CHAKRABORTY:** YES, YOUR HONOR. BRIEFLY.

02:57

REDIRECT EXAMINATION

BY MR. CHAKRABORTY:

Q. DR. BURCH, JUST A COUPLE OF BRIEF QUESTIONS.

MR. CHAKRABORTY: CAN WE PULL UP PR-52, MATTHEW, AND CAN WE PLEASE TURN TO PAGE 7.

BY MR. CHAKRABORTY:

Q. DR. BURCH, THAT MIDDLE AREA THERE, "THE THIRD TENET OR PRINCIPLE," DO YOU RECOGNIZE THAT AS THE PORTION THAT MS. MCKNIGHT WAS REFERENCING EARLIER WITH YOU?

A. YES.

Q. GREAT. THANK YOU.

MR. CHAKRABORTY: CAN WE PLEASE TURN TO PAGE 5.

BY MR. CHAKRABORTY:

Q. AND DO YOU SEE, DR. BURCH, AT THE VERY TOP OF THIS PAGE WHERE IT READS "LET'S START WITH SENATE BILL 1 OFFERED BY PRESIDENT CORTEZ"?

A. I DO.

Q. AND THEN YOU SEE PRESIDENT CORTEZ, THE SENATE PRESIDENT, START HIS REMARKS THAT ULTIMATELY LEAD ONTO THE PORTIONS THAT MS. MCKNIGHT READ OUT TO YOU?

A. YES, I DO.

Q. AND DO YOU HAVE ANY REASON TO DOUBT THAT SENATE BILL 1 ACTUALLY DEALS WITH STATE LEGISLATIVE REDISTRICTING?

A. WELL, YES. NOT SB5.

Q. RIGHT. IT DOES NOT GO WITH CONGRESSIONAL REDISTRICTING,

02:59 SUCH AS HB1 AND SB5?
A. THAT'S RIGHT.
Q. AND DID ANYTHING YOU COVER, ANY OF THE EXAMPLES YOU COVERED WITH MS. KNIGHT, DID ANY OF THOSE CHANGE YOUR BASIC CONCLUSION ON SENATE FACTOR 9 THAT THE JUSTIFICATIONS PUT FORWARD BY THE LEGISLATORS WERE TENUOUS?
A. NO. NOTHING THAT I PUT FORWARD HERE CHANGES WHAT I WROTE.
Q. THANK YOU. NO FURTHER QUESTIONS.
THE COURT: OKAY. THANK YOU, DR. BURCH.
LET'S TAKE A 15-MINUTE RECESS.
THE LAW CLERK: ALL RISE.
COURT IS NOW IN RECESS.
(WHEREUPON, THE COURT WAS IN RECESS.)
THE COURT: BE SEATED.
NEXT WITNESS.
MR. HAWLEY: GOOD AFTERNOON, YOUR HONOR.
MAKING MY FIRST APPEARANCE, I'M JONATHAN HAWLEY. H-A-W-L-E-Y. I REPRESENT THE GALMON PLAINTIFFS. AND PLAINTIFFS NEXT CALL DR. ALLAN LICHTMAN, WHO WILL BE JOINING US VIA ZOOM.
MR. HAWLEY: GOOD AFTERNOON, DR. LICHTMAN.
THE WITNESS: GOOD AFTERNOON.
ALLAN J. LICHTMAN, PH.D.,
HAVING BEEN DULY SWORN, TESTIFIED VIA VIDEOCONFERENCE AS FOLLOWS:

03:24 **MR. HAWLEY:** AND CAN YOU HEAR ME OKAY, DR. LICHTMAN?

THE WITNESS: I HEAR YOU FINE. I'M A LITTLE DEAF, SO SPEAK SLOWLY AND CLEARLY.

MR. HAWLEY: I WILL DO THAT.

YOUR HONOR, THE GALMON PLAINTIFFS WISH TO TENDER DR. LICHTMAN AS AN EXPERT IN AMERICAN POLITICS, AMERICAN POLITICAL HISTORY, VOTING RIGHTS AND QUALITATIVE AND QUANTITATIVE SOCIAL SCIENCE ANALYSIS.

THE COURT: ANY OBJECTION?

MR. BRADEN: MY NAME IS MARK BRADEN, DEFENDANT INTERVENORS FOR THE LEGISLATURE.

AND WE HAVE NO OBJECTIONS.

THE COURT: DR. LICHTMAN WILL BE ACCEPTED BY THE COURT IN THE FIELDS OF AMERICAN POLITICS, AMERICAN POLITICAL HISTORY, VOTING RIGHTS AND QUALITATIVE AND QUANTITATIVE SOCIAL SCIENCES, AND DR. LICHTMAN MAY PROVIDE OPINION TESTIMONY IN THOSE FIELDS.

MR. HAWLEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION

BY MR. HAWLEY:

Q. DR. LICHTMAN, WOULD YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD.

A. ALLAN J. LICHTMAN. THAT'S A-L-L-A-N, J-PERIOD, L-I-C-H-T-M-A-N.

I'M GETTING AN ECHO.

03:26 **Q.** WE ARE OKAY ON OUR END, DR. LICHTMAN. CAN YOU HEAR ME?

THE COURT: MR. HAWLEY, WOULD YOU LIKE TO TURN THE PODIUM?

MR. HAWLEY: NO. AS LONG AS --

BY MR. HAWLEY:

Q. CAN YOU STILL HEAR ME OKAY, DR. LICHTMAN?

A. I HEAR YOU FINE NOW.

THE COURT: OKAY, DR. LICHTMAN.

THE WITNESS: I'M STILL GETTING AN ECHO. MAYBE IF I TURN MY COMPUTER --

THE COURT: TURN YOURS DOWN MAYBE.

THE WITNESS: -- VOLUME DOWN A LITTLE, THAT MIGHT HELP AND MAYBE I CAN STILL HEAR YOU. LET ME TRY.

ALL RIGHT. LET'S TRY IT NOW.

BY MR. HAWLEY:

Q. OKAY, DR. LICHTMAN. HOW ABOUT NOW?

A. MUCH BETTER.

Q. OKAY. THANK YOU.

DR. LICHTMAN, YOU'VE BEEN RETAINED AS AN EXPERT FOR THE GALMON PLAINTIFFS. IS THAT CORRECT?

A. YES.

Q. AND YOU PREPARED --

A. YES.

Q. THANK YOU.

AND YOU PREPARED A REPORT IN THIS CASE?

03:26 **A.** YES.

MR. HAWLEY: FOR THE RECORD, THAT IS EXHIBIT GX-03, WHICH IS RECORD DOCKET NO. 48.

BY MR. HAWLEY:

Q. DR. LICHTMAN, DO YOU HAVE A COPY OF YOUR INITIAL REPORT IN FRONT OF YOU NOW?

A. I DO.

Q. AND YOU ALSO PREPARED A REBUTTAL REPORT IN THIS CASE. CORRECT?

A. CORRECT.

MR. HAWLEY: AND FOR THE RECORD, THAT IS EXHIBIT GX-31, RECORD DOCUMENT 120-4.

BY MR. HAWLEY:

Q. DR. LICHTMAN, DO YOU HAVE A COPY OF YOUR REBUTTAL REPORT WITH YOU AS WELL?

A. YES.

Q. AND, DR. LICHTMAN, IS YOUR C.V. INCLUDED IN YOUR REPORT?

A. YES.

MR. HAWLEY: AND I'LL ALSO SAY FOR THE RECORD THAT IS PAGE 99 OF GX-3, AGAIN, RECORD DOCUMENT 48.

BY MR. HAWLEY:

Q. DR. LICHTMAN, IS YOUR C.V. A COMPLETE AND ACCURATE SUMMARY OF YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE?

A. YES.

Q. I'D LIKE TO ASK YOU JUST A FEW BRIEF QUESTIONS ABOUT THAT.

03:27 COULD YOU PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.
A. I GRADUATED IN 1967 WITH A B.A. FROM BRANDEIS UNIVERSITY IN HISTORY, BUT I HAD BEEN A SCIENCE MAJOR FOR THREE YEARS BEFORE TURNING TO HISTORY MY SENIOR YEAR, WHICH MAY EXPLAIN MY INTEREST IN SOCIAL SCIENCE AND QUANTITATIVE METHODOLOGY. I THEN GOT MY PH.D. FROM HARVARD UNIVERSITY IN 1973 WITH A SPECIALTY IN AMERICAN POLITICAL HISTORY AND QUANTITATIVE METHODS.
Q. WHERE ARE YOU CURRENTLY EMPLOYED?
A. I WAS EMPLOYED AT THE AMERICAN UNIVERSITY IN WASHINGTON, D.C.. AND I'M NOT SURE IF I'M PLEASED OR EMBARRASSED TO SAY, NEXT YEAR WILL BE MY 50TH YEAR OF SERVICE.
Q. AND I ASSUME THAT MEANS YOU'RE TENURED?
A. I HAVE BEEN TENURED SINCE ABOUT 1980. IN 2011 I WAS APPOINTED DISTINGUISHED PROFESSOR. THAT'S NOT SOMETHING I MADE UP. IT'S A UNIVERSITY RANK. IT'S A RANK ABOVE FULL PROFESSOR. THERE ARE ONLY A HANDFUL OF US OUT OF MANY HUNDREDS OF FACULTY MEMBERS AT THE UNIVERSITY.
Q. AND WHAT ARE YOUR PRINCIPAL AREAS OF RESEARCH?
A. I WOULD SAY AMERICAN POLITICS, AMERICAN POLITICAL HISTORY, VOTING RIGHTS, QUANTITATIVE METHODS, QUALITATIVE METHODS, POLITICAL PREDICTION.
Q. HAVE YOU PREVIOUSLY SERVED AS AN EXPERT WITNESS IN VOTING RIGHTS CASES?
A. PROBABLY CLOSE TO A HUNDRED. AND IF YOU COUNT CIVIL

03:29 RIGHTS CASES IN GENERAL, NORTH OF 110.
Q. AND DO THOSE INCLUDE REDISTRICTING CASES?
A. YES.
Q. HAVE YOU SERVED AS AN EXPERT IN REDISTRICTING CASES IN LOUISIANA?
A. YES.
Q. AND DOES THAT INCLUDE THE *TERREBONNE PARISH* LITIGATION?
A. YES.
Q. IN THAT CASE DID YOU UNDERTAKE A SENATE FACTORS ANALYSIS.
A. I DID.
Q. AND DID THE COURT IN THAT CASE CREDIT YOUR SENATE FACTORS ANALYSIS?
A. IT DID.
Q. AND HAVE OTHER COURTS PREVIOUSLY CREDITED AND RELIED ON YOUR ANALYSIS?
A. NOT EVERY TIME, OF COURSE, WHEN YOU'VE BEEN IN OVER 110 CASES, BUT MOST OF THE TIME, INCLUDING THE UNITED STATES SUPREME COURT IN ITS LANDMARK 2016 DECISION IN THE TEXAS CONGRESSIONAL REDISTRICTING CASE *LULAC VERSUS PERRY*. THE COURT RELIED ON MY WORK, MY ANALYSIS IN DOING SOMETHING QUITE UNUSUAL; AND THAT IS, IT INVALIDATED A DISTRICT, A CONGRESSIONAL DISTRICT, IN SOUTHWEST TEXAS BASED ON MY WORK, ON THE GROUNDS THAT IT DILUTED THE VOTES OF HISPANICS.
Q. DR. LICHTMAN, WHAT WERE YOU ASKED TO DO IN THIS CASE?
A. I WAS ASKED TO EXAMINE THE NINE SENATE FACTORS THAT RELATE

03:30 TO THE TOTALITY OF CIRCUMSTANCES IN THE STATE OF LOUISIANA FACING THE OPPORTUNITIES FOR AFRICAN-AMERICAN VOTERS TO PARTICIPATE FULLY IN THE POLITICAL PROCESS AND TO ELECT CANDIDATES OF THEIR CHOICE. AND I WAS ALSO ASKED TO RESPOND TO ANY MATERIAL PRESENTED BY DEFENDANTS.

Q. AND WHAT METHODOLOGY DID YOU EMPLOY AS PART OF THAT ANALYSIS?

A. I EMPLOYED STANDARD METHODOLOGIES IN MY FIELDS OF RESEARCH OVER ALL THESE MANY DECADES. I ANALYZE SOURCES LIKE SURVEYS, SCHOLARLY ARTICLES, BOOKS, JOURNALISTIC ARTICLES, GOVERNMENTAL REPORTS, DEMOGRAPHIC INFORMATION, ELECTIONS RETURNS AND SIMILAR DATA TO REACH MY CONCLUSIONS, AND I APPLIED QUANTITATIVE METHODS. IN THIS CASE MOSTLY FAIRLY SIMPLE QUANTITATIVE METHODS; FOR EXAMPLE, JUST LOOKING AT THE PERCENTAGE DIFFERENCES TO GAUGE RACIALLY POLARIZED VOTING IN LOUISIANA OR JUST LOOKING AT PERCENTAGE AND NUMERICAL DIFFERENCES TO GAUGE SOCIOECONOMIC DISPARITIES BETWEEN AFRICAN AMERICANS AND WHITES IN LOUISIANA.

AND THEN, OF COURSE, LIKE ANY HISTORIAN, I ANALYZED DOCUMENTARY MATERIALS. I'VE WRITTEN A BOOK ON HISTORICAL METHODOLOGIES.

Q. AND WHAT ARE YOUR OVERALL CONCLUSIONS?

A. MY OVERALL CONCLUSIONS ARE THAT ESSENTIALLY ALL OF THE NINE SENATE FACTORS APPLY IN THE STATE OF LOUISIANA CONTEMPORARILY TO IMPEDE THE OPPORTUNITIES FOR AFRICAN-AMERICAN

03:32 1 VOTERS TO PARTICIPATE FULLY IN THE POLITICAL PROCESS AND TO
2 ELECT CANDIDATES OF THEIR CHOICE. AND I ALSO FIND THAT THESE
3 ARE NOT ISOLATED FACTORS SEPARATED INTO WATERTIGHT
4 COMPARTMENTS, BUT THAT ONE FACTOR SYNERGISTICALLY INFLUENCES
5 THE OTHER TO EXPAND THE IMPEDIMENTS THAT I'VE DISCUSSED.
6 **Q.** DID YOU READ THE EXPERT REPORTS SUBMITTED BY THE
7 DEFENDANTS IN THESE CONSOLIDATED CASES?
8 **A.** I DID.
9 **Q.** AND DID ANYTHING IN THOSE REPORTS CHANGE YOUR CONCLUSIONS
10 ABOUT THE SENATE FACTORS IN LOUISIANA?
11 **A.** NOT ONLY DID NOTHING IN THOSE REPORTS CHANGE MY
12 CONCLUSIONS, THEY STRENGTHENED MY CONCLUSIONS. NONE OF THE
13 REPORTS DIRECTLY ADDRESSED THE SENATE FACTORS OR EVEN MENTION
14 MY REPORT BY NAME. NONE OF THE INFORMATION PRESENTED IN MY
15 REPORT WAS REFUTED BY ANY OF THE EXPERT REPORTS SUBMITTED ON
16 BEHALF OF DEFENDANTS.
17 TWO OF THE EXPERT REPORTS -- ONE BY DR. ALFORD AND
18 ONE BY MR. HEFNER AND ONE BY MISTER -- I HOPE I GET HIS NAME
19 RIGHT -- SOLANKY -- INDIRECTLY ADDRESSED SOME OF MY -- TWO OF
20 MY SENATE FACTORS, 2 AND 9. AND TO THE EXTENT THERE WAS
21 INFORMATION IN THOSE REPORTS, IT BOLSTERED WHAT I FOUND.
22 **Q.** DR. LICHTMAN, RATHER THAN GO THROUGH YOUR TWO REPORTS IN
23 DETAIL, I'D LIKE TO COVER JUST SOME OF THE KEY POINTS AND THE
24 KEY AREAS OF YOUR ANALYSIS AND CONCLUSIONS, AND WE'LL START
25 WITH SENATE FACTOR 1.

03:34 DOES THE STATE OF LOUISIANA HAVE A HISTORY OF VOTING DISCRIMINATION AGAINST ITS BLACK CITIZENS?

A. IT NOT ONLY HAS A HISTORY, IT HAS AN ONGOING HISTORY. AND THAT HISTORY RELATES NOT JUST TO DIRECT VOTER DISCRIMINATION -- FOR EXAMPLE, THE USE OF AT-LARGE ELECTIONS OR THE AVAILABILITY OF POLLING PLACES FOR AFRICAN AMERICANS -- BUT IT ALSO RELATES RIGHT UP TO THE PRESENT OF DISCRIMINATION IN THREE AREAS THAT SIGNIFICANTLY TOUCH UPON AND IMPACT VOTING; THAT IS, LAW ENFORCEMENT. DISCRIMINATION IN LAW ENFORCEMENT SIGNIFICANTLY IMPACTS VOTING, FOR A COUPLE OF REASONS. NO. 1, LOUISIANA HAS SOME PRETTY STRICT FELON DISENFRANCHISEMENT LAWS: YOU CAN'T VOTE WHILE YOU'RE INCARCERATED; YOU CAN'T VOTE FOR FIVE YEARS WHILE YOU'RE ON PAROLE OR PROBATION; AND THERE'S NO AUTOMATIC RESTORATION OF YOUR VOTING RIGHTS AFTER FIVE YEARS. YOU HAVE TO GO THROUGH A PROCESS.

SECONDLY, AS I POINT OUT IN MY REPORT, ONCE YOU'VE BEEN INCARCERATED, YOUR INTEGRATION INTO A FULLY FUNCTIONING MEMBER OF SOCIETY, INCLUDING A VOTING MEMBER AND POLITICAL PARTICIPATION, BECOMES ALL THAT MUCH MORE DIFFICULT.

THE SECOND AREA WOULD BE THE AREA OF EDUCATION. AND ALL THE SCHOLARLY RESEARCH INDICATES EDUCATION IS A PRIME DETERMINATE OF POLITICAL PARTICIPATION. AND, OF COURSE, LEVELS AND PROFICIENCY IN EDUCATION AFFECT ALMOST EVERYTHING IN THE COURSE OF THE LIFE CYCLE. A DEFICIENT EDUCATION IN PROFICIENCY, DEFICIENT EDUCATIONAL ATTAINMENT CONTRIBUTES TO

03:35 1 OTHER SOCIOECONOMIC FACTORS WHICH HAVE AN IMPACT ON VOTING.
2 FINALLY, THERE IS RACIAL SEGREGATION. AND THE
3 LITERATURE I CITE IN MY REPORT INDICATES THAT SEGREGATION
4 PERPETUATES CYCLES OF POVERTY. IT EXPANDS, IT MULTIPLIES
5 SOCIOECONOMIC DISPARITIES THAT HAVE A DIRECT IMPACT ON THE
6 ABILITY OF AFRICAN AMERICANS IN LOUISIANA TO PARTICIPATE IN THE
7 POLITICAL PROCESS AND TO ELECT CANDIDATES OF THEIR CHOICE.
8 **Q.** ON THE TOPIC OF DISCRIMINATORY VOTING PRACTICES, IN
9 PARTICULAR, YOU MENTIONED JUST NOW AT-LARGE JUDICIAL ELECTIONS
10 AND CLOSING OF POLLING PLACES. ARE THOSE EXAMPLES OF EFFORTS
11 THAT HAVE CONTINUED INTO THE PRESENT DAY?
12 **A.** THAT'S CORRECT. THOSE ARE EXAMPLES THAT CONTINUE INTO THE
13 21ST CENTURY AND WE CAN ALSO TALK ABOUT AS ACTUALLY DOING THE
14 CONTEXT OF ANOTHER FACTOR, WHAT I BELIEVE TO BE THE
15 DISCRIMINATORY REDISTRICTING PLAN ADOPTED IN POST-2010.
16 **Q.** LET'S MOVE ON TO SENATE FACTOR 2.
17 DR. LICHTMAN, DOES LOUISIANA HAVE RACIALLY POLARIZED
18 VOTING?
19 **A.** LOUISIANA, AS I DOCUMENT IN MY REPORT, HAS EXTREME
20 RACIALLY POLARIZED VOTING; THAT IS, AFRICAN AMERICANS VOTE
21 ALMOST UNANIMOUSLY FOR DEMOCRATIC CANDIDATES, AND REPUBLICANS
22 IN VERY SUBSTANTIAL PERCENTAGES BLOC VOTE AGAINST THOSE
23 CANDIDATES OF CHOICE OF AFRICAN-AMERICAN VOTERS. AND THIS
24 RACIAL DIVIDE BETWEEN BLACKS AND WHITES VOTING DEMOCRATIC AND
25 REPUBLICAN IS INEXTRICABLY TIED TO RACE. PARTY LABELS BY

03:37 1 THEMSELVES ARE MEANINGLESS. THEY ARE JUST LABELS. WHAT
2 MATTERS IS WHAT THOSE LABELS REPRESENT.
3 WE KNOW FOR THE 19TH CENTURY AND WELL INTO THE 20TH
4 CENTURY BLACKS IN THE SOUTH ARE VOTING REPUBLICAN, THE PARTY OF
5 LINCOLN, AND WHITES WERE VOTING DEMOCRATIC, THE PARTY OF
6 REDEMPTION. THAT CHANGED PARTICULARLY AFTER THE VOTING RIGHTS
7 ACT OF 1965. IT WASN'T AN IMMEDIATE PROCESS, BUT OVER TIME AND
8 CERTAINLY UP TO OUR OWN TIME, THE PARTY IMAGES AND
9 REPRESENTATIONS SHIFTED: DEMOCRATS CAME TO REPRESENT THE PARTY
10 OF CIVIL RIGHTS AND BLACK INTERESTS, AND REPUBLICANS THE
11 OPPOSITE. I DOCUMENT THIS CHANGE IN MANY WAYS IN MY REPORT.
12 FIRST OF ALL, I CITE SCHOLARLY LITERATURE ON WHAT
13 THEY CALL THE CO-JOINING OF RACE AND PARTY IN RECENT YEARS.
14 SECONDLY, I LOOK AT POLITICAL LEADERSHIP, AND I LOOK
15 AT TWO ADVOCACY GROUPS: THE NAACP, THE OLDEST BLACK ADVOCACY
16 GROUP IN THE COUNTRY, AND THE LEADERSHIP CONFERENCE ON CIVIL
17 AND HUMAN RIGHTS. AND THEY HAVE LEGISLATIVE SCORECARDS TO WHAT
18 EXTENT LEGISLATORS REPRESENT BLACK AND MINORITY INTERESTS. AND
19 THEY BOTH SHOW THE SAME THING: THAT THERE IS EXTREME
20 POLARIZATION BETWEEN THE POSITIONS TAKEN BY REPUBLICAN LEADERS
21 LEGISLATIVELY IN THE CONGRESS AND THE POSITIONS TAKEN BY
22 DEMOCRATIC LEADERS. IT'S EXTREME POLARIZATION, AS I DOCUMENT
23 IN MY REPORT, THAT MATCHES THE EXTREME POLARIZATION OF THE
24 VOTING OF -- VOTING OF BLACKS AND WHITES.
25 SECOND, A THIRD AREA I LOOK AT IS THE RANK AND FILE;

03:39 1 THAT IS, WHAT ARE THE ATTITUDES WITH RESPECT TO RACE OF
2 LOUISIANIANS WHO ARE REPUBLICANS AND DEMOCRATS. AND, AGAIN, I
3 FIND EXTREME POLARIZATION ON ISSUES SQUARELY RELATED TO RACE,
4 AND I DOCUMENT THIS IN TWO RESPECTED STUDIES: THE COOPERATIVE
5 CONGRESSIONAL ELECTION STUDY, A STANDARD SOURCE, AND HERE IN
6 LOUISIANA, THE REILLY CENTER STUDY. AND I ASK DIFFERENT
7 QUESTIONS, BUT THEY COME TO THE SAME ANSWER. AGAIN, IT'S THE
8 POLARIZATION REFLECTING THE POLARIZATION IN THE VOTE.
9 FINALLY -- AND THIS IS IMPORTANT -- I LOOK AT THE
10 ACTUAL RESULTS OF ELECTIONS. REPUBLICANS ARE QUITE DOMINANT IN
11 LOUISIANA, WINNING ALMOST ALL STATEWIDE ELECTIONS, WINNING
12 ESSENTIALLY ALL LEGISLATIVE ELECTIONS IN WHITE DISTRICTS. AND
13 WHAT IS CONSISTENT WITH MY FINDINGS IS THAT REPUBLICANS IN ALL
14 OF THESE AREAS HAVE NOT SPONSORED ANY WINNING BLACK REPUBLICAN
15 CANDIDATES. ALL OF THE STATEWIDE EXECUTIVE OFFICES ARE HELD BY
16 WHITES. BOTH U.S. SENATE OFFICES THAT ARE VOTED STATEWIDE ARE
17 HELD BY WHITES. WHITES WIN IN THE WHITE-MAJORITY DISTRICTS IN
18 THE STATE HOUSE OF REPRESENTATIVES AND IN THE STATE SENATE.
19 I EVEN DRILLED DOWN TO A MORE FINE-GRAIN LEVEL, THE
20 LEVEL OF MAYORAL ELECTIONS; THAT IS, I LOOKED AT MAYORAL
21 ELECTIONS IN MUNICIPALITIES OF 10,000 OR MORE IN LOUISIANA, AND
22 NO BLACKS ARE ELECTED IN ANY MAJORITY-WHITE MUNICIPALITY; ONLY
23 BLACKS ARE ELECTED IN MAJORITY-BLACK MUNICIPALITIES. AND THERE
24 ARE NO BLACK REPUBLICANS. SO I DOCUMENT THIS AT THE LEVEL OF
25 SCHOLARSHIP, AT THE LEADERSHIP LEVEL, AT THE RANK-AND-FILE

03:41 LEVEL, AT THE LEVEL OF THE ACTUAL RESULTS OF ELECTIONS.
Q. ULTIMATELY, DR. LICHTMAN, AS BETWEEN RACE AND PARTY, WHICH DO YOU CONSIDER TO BE THE DRIVING CAUSAL MECHANISM OF LOUISIANA'S POLARIZED VOTING?
A. THE DRIVING MECHANISM IS CLEARLY RACE, AS I EXPLAINED. PARTY BY ITSELF DOESN'T EXPLAIN ANYTHING. AS I SAID, AT ONE TIME RACIAL VOTING PATTERNS WERE REVERSED. IT IS BECAUSE OF WHAT THE PARTIES REPRESENT THAT I DOCUMENT IN SO MANY WAYS THAT'S DRIVING THE VOTING.
IN OTHER WORDS, BLACKS ARE VOTING DEMOCRATIC IN LOUISIANA; WHITES ARE VOTING REPUBLICAN. AND THIS IS NOT UNIQUE TO LOUISIANA, BY THE WAY. NOT IN SPITE OF RACE BUT BECAUSE OF RACE. RACE IS AT THE CENTER OF ALL OF THIS.
I ALSO CITE A SCHOLARSHIP BY DR. GRUMBACH, EXPLAINING HOW RACE IS AT THE CENTER OF REPUBLICAN POLITICAL STRATEGY THAT COMES DOWN TO THE --
Q. YOU MENTIONED THAT YOU READ THE REPORTS SUBMITTED BY DR. ALFORD IN THIS CASE. CORRECT?
A. CORRECT.
Q. DID ANYTHING IN DR. ALFORD'S REPORT CHANGE YOUR CONCLUSIONS ABOUT RACIALLY POLARIZED VOTING IN LOUISIANA?
A. NO. IT STRENGTHENED IT. LET ME EXPLAIN. ALL OF THE ANALYSES THAT DR. ALFORD PERFORMED SHOWED THE SAME THING MY REPORT SHOWED: EXTREME POLARIZATION BETWEEN AFRICAN AMERICANS AND WHITES IN TERMS OF BLACKS VOTING DEMOCRATIC; WHITES VOTING

03:43 1 REPUBLICAN IN VERY LARGE MAJORITIES.
2 NOW, DR. ALFORD STATES OR AT LEAST IMPLIES THAT THE
3 DRIVING FORCE IS PARTY, NOT RACE, BUT HE STOPS COLD THERE. HE
4 NEVER EXPLAINS OR ATTEMPTS TO JUSTIFY THAT CONCLUSION. HE
5 DOESN'T LOOK AT MY ANALYSIS HISTORY, DOESN'T LOOK AT MY
6 ANALYSIS OF LEADERS, DOESN'T LOOK AT MY ANALYSIS OF RANK AND
7 FILE, DOESN'T LOOK AT MY ANALYSIS OR ANY ANALYSIS IN THESE
8 AREAS OF THE ACTUAL RESULTS OF ELECTIONS.
9 IN FACT, WHAT'S INTERESTING AND TELLING IS DR. ALFORD
10 LOOKS AT, I BELIEVE, SOMETHING LIKE 28 REPUBLICAN CANDIDACIES
11 IN HIS ANALYSIS, AND NOT ONE OF THOSE REPUBLICAN CANDIDACIES
12 INVOLVED A BLACK CANDIDATE. DR. ALFORD ALSO IGNORES THAT PART
13 OF MY INITIAL REPORT THAT LOOKS AT WHETHER OR NOT RACE AND
14 INFLUENCE VOTING WHEN THE POLAR PARTY IS NOT AN ISSUE.
15 I LOOKED AT THE 2008 PRIMARY, DEMOCRATIC PRIMARY,
16 WHERE OVERWHELMINGLY BLACKS PARTICIPATE; AND THAT INVOLVED
17 BARACK OBAMA, THE AFRICAN AMERICAN, AGAINST HILLARY CLINTON,
18 THE WHITE CANDIDATE, AND A FEW OTHER MINOR CANDIDATES. AND
19 WHAT I FOUND WAS THAT AFRICAN AMERICANS VOTED 86 PERCENT FOR
20 OBAMA; ONLY 30 PERCENT OF WHITES VOTED FOR OBAMA. SO WITHIN
21 THE SAME PARTY IT WAS A SHARP RACIAL SPLIT.
22 I ALSO LOOKED AT THE SUBSEQUENT 2008 GENERAL
23 ELECTIONS AND FOUND THAT BLACK DEMOCRATS VOTED 98 PERCENT FOR
24 OBAMA, BUT WHITE DEMOCRATS ONLY VOTED 38 PERCENT FOR OBAMA. SO
25 WHEN THERE ISN'T THE CRITICALLY AND INEXTRICABLY INVOLVED

03:45 POLAR PARTY, YOU CAN SEE VOTERS RESPONDING ON RACE. AGAIN, DR. ALFORD DOES NOT CONSIDER THOSE RESULTS OR PRESENT ANY COMPARABLE RESULTS OF HIS OWN.

Q. MOVING TO SENATE FACTOR 3, DR. LICHTMAN, DOES LOUISIANA EMPLOY ANY VOTING PRACTICES THAT ENHANCE THE OPPORTUNITY FOR DISCRIMINATION?

A. IT DOES. IT EMPLOYES ONE OF THEM THAT'S EXPLICITLY LISTED UNDER SENATE FACTOR 3; AND THAT IS, THE USE OF THE MAJORITY-VOTE REQUIREMENT IN SUBSEQUENT RUNOFF ELECTIONS.

Q. WHAT AFFECT DOES THE MAJORITY-VOTE REQUIREMENT HAVE ON BLACK AND BLACK-PREFERRED CANDIDATES?

A. WHAT IT MEANS IS EVEN IF A BLACK CANDIDATE GETS A PLURALITY IN THE FIRST ROUND AS A RESULT OF A SPLIT AMONG MORE THAN ONE AMBITIOUS WHITE CANDIDATE, THAT DOES NOT ELECT THAT BLACK CANDIDATE BUT, RATHER, THAT BLACK CANDIDATE HAS TO FACE OFF ONE-ON-ONE AGAINST A WHITE CANDIDATE. AND CLEARLY IN -- STATEWIDE IN LOUISIANA WHERE WHITE VOTERS DOMINATE, IN THAT KIND OF CONTEST THE AFRICAN-AMERICAN CANDIDATE HAS LITTLE CHANCE OF WINNING. AND I GAVE THREE EXAMPLES OF THAT IN MY REPORT.

Q. WHAT ARE THOSE THREE RECENT EXAMPLES?

A. YEAH. WE HAVE THE 2015 ELECTION FOR LIEUTENANT GOVERNOR. THE BLACK CANDIDATE WON THE FIRST ROUND BY THREE PERCENTAGE POINTS, SO IT WAS CLOSE BUT NOT EYELASH, AND THE CANDIDATE LOST 55/45 IN THE RUNOFF.

03:47 1 WE HAD A 2017 ELECTION FOR TREASURER. A BLACK
2 CANDIDATE WON THE FIRST ROUND EVEN MORE DECISIVELY BY SEVEN
3 POINTS AND WAS DEFEATED EVEN MORE DECISIVELY IN THE RUNOFF
4 56/44.
5 FINALLY, WE HAVE THE 2018 SPECIAL ELECTION FOR
6 SECRETARY OF STATE. THE BLACK CANDIDATE DIDN'T WIN THE FIRST
7 ROUND BUT CAME REALLY CLOSE, CAME WITHIN 10,000 VOTES OR SO,
8 BUT GOT TROUNCED IN THE RUNOFF: 59 PERCENT TO 41 PERCENT.
9 **Q.** WHEN WAS THE MAJORITY-VOTE REQUIREMENT ADOPTED IN
10 LOUISIANA?
11 **A.** IT WAS FIRST ADOPTED IN 1975. AND THE MOST FAMOUS RUNOFF,
12 OF COURSE, WAS IN 1991 BETWEEN THE KU KLUX KLAN CANDIDATE,
13 DAVID DUKE, AND I THINK IT WAS EDWIN EDWARDS WHO WAS AGAINST
14 HIM.
15 **Q.** SO WAS THE MAJORITY-VOTE REQUIREMENT ADOPTED IN RESPONSE
16 TO THE U.S. SUPREME COURT'S *FOSTER* DECISION?
17 **A.** NO. IT WAS ADOPTED MORE THAN TWO DECADES BEFORE. AND, AS
18 I SAID, KIND OF A HIGHLIGHT RUNOFF ELECTION THAT GOT MAJOR
19 NATIONAL ATTENTION OCCURRED SEVERAL YEARS BEFORE THAT IN 1991.
20 **Q.** MOVING TO SENATE FACTOR 4, DR. LICHTMAN, WHAT ARE YOUR
21 FINDINGS ON CANDIDATE SLATING IN LOUISIANA'S CONGRESSIONAL
22 ELECTIONS?
23 **A.** WELL, I FOUND SOMETHING RATHER INTERESTING; THAT THE WAY
24 LOUISIANA SET UP ITS CONGRESSIONAL REDISTRICTING PLAN, IT KIND
25 OF MADE SLATING IRRELEVANT AND UNAVAILING FOR BLACK CANDIDATES;

03:48 THAT IS, IN DISTRICT 2, WHICH IS OVERWHELMING PACKED WITH BLACKS AND DEMOCRATS, SLATING IS IRRELEVANT. IT'S GOING TO ELECT A BLACK DEMOCRAT; WHEREAS, IN THE FIVE OTHER DISTRICTS THAT ARE OVERWHELMINGLY WHITE AND REPUBLICAN, SLATING IS EQUALLY IRRELEVANT BECAUSE A BLACK CANDIDATE HAS NO CHANCE, ESSENTIALLY, TO WIN IN DISTRICTS THAT ARE R PLUS 20 OR MORE, ACCORDING TO STANDARD POLITICAL ANALYSIS BY THE -- THAT'S THE PARTISAN VOTING INDEX THAT MEASURES PARTISAN STRENGTH OF THE DISTRICT. AND IT'S IN MY REPORT.

Q. NEXT IS SENATE FACTOR 5. DR. LICHTMAN, WHAT EFFECT DOES THE HISTORY OF DISCRIMINATION YOU DESCRIBED BEFORE HAVE ON BLACK LOUISIANIANS TODAY?

A. IT HAS PROFOUND EFFECTS ON BLACK LOUISIANIANS TODAY. I DOCUMENT IN MY REPORT THAT THERE ARE MAJOR TODAY SOCIOECONOMIC DISPARITIES BETWEEN AFRICAN AMERICANS AND WHITES IN LOUISIANA, AND THAT EXTENDS TO ALMOST EVERY AREA OF SIGNIFICANCE FOR PEOPLE'S LIVES AND FOR POLITICAL PARTICIPATION IN VOTING. IT EXTENDS TO INCOME, TO UNEMPLOYMENT, TO POVERTY, TO DEPENDENCE UPON WELFARE, TO HOMEOWNERSHIP, TO THE AVAILABILITY OF VEHICLES, THE AVAILABILITY OF BROADBAND INTERNET. IT EXTENDS TO EDUCATIONAL ATTAINMENT AND EDUCATIONAL PROFICIENCY, ALL OF THESE BETWEEN AFRICAN AMERICANS AND WHITES IN LOUISIANA IN THE PRESENT DAY, AND IT EXTENDS TO VARIOUS MEASURES OF HEALTH AS WELL.

Q. AND DO THESE INEQUITIES IMPACT BLACK POLITICAL

03:50 PARTICIPATION?
A. YES. AS I EXPLAINED IN MY REPORT, FIRST OF ALL, THEY -- AND THIS ISN'T THE ONLY ONE. BUT FIRST OF ALL -- AND THE MOST OBVIOUS -- IS THAT THEY IMPACT THE PARTICIPATION RATES OF BLACKS VERSUS WHITES IN TERMS OF TURNOUT. AND I PRESENT DATA IN MY REPORT SHOWING DIFFERENTIALS BETWEEN BLACK AND WHITE TURNOUT IN RECENT ELECTIONS IN LOUISIANA THAT COULD EXTEND INTO THE DOUBLE DIGITS, AND THAT HASN'T REALLY AMELIORATED ITSELF IN RECENT ELECTIONS. OTHER INFORMATION PRESENTED BY ONE OF THE EXPERTS FOR DEFENDANTS BOLSTERS THAT.
Q. ARE YOU REFERRING TO THE REPORT OF DR. SOLANKY AND HIS VOTER TURNOUT STATISTICS?
A. I AM. DR. SOLANKY PRESENTS TWO TABLES ON VOTER TURNOUT. I THINK THEY ARE TABLES 2 AND 4 IN HIS REPORT. ONE OF THE TABLES LOOKS AT STATEWIDE TURNOUT AND FINDS SUBSTANTIAL DISPARITIES, LIKE I DID, BETWEEN BLACKS AND WHITES IN THEIR TURNOUT RATES.
SIMILARLY, HE LOOKED AT EVERY CONGRESSIONAL DISTRICT, ALL SIX OF THEM, AND FOUND THAT INVARIABLY IN EVERY ONE OF THOSE SIX CONGRESSIONAL DISTRICTS, BLACK TURNOUT LAGGED WHITE TURNOUT SOMETIMES UP INTO THE DOUBLE DIGITS.
Q. IS REDUCED POLITICAL PARTICIPATION DEMONSTRATED IN OTHER WAYS?
A. YES. AS I EXPLAIN IN MY REPORTS, A LACK OF RESOURCES, A LACK OF EDUCATIONAL PROFICIENCY AND ATTAINMENT IMPEDES

03:52 PARTICIPATION IN OTHER WAYS. I GIVE TWO EXAMPLES. ONE IS LOBBYING A PUBLIC OFFICIAL. IT'S VERY IMPORTANT FOR PARTICIPATING IN THE POLITICAL PROCESS AND INFLUENCING THE OUTCOMES WHICH, AS WE'VE SEEN, ARE QUITE DIFFERENT WITH WHITES AND BLACKS IN LOUISIANA. AND I PRESENT SURVEY DATA SHOWING THAT WHITES ARE SUBSTANTIALLY MORE LIKELY IN LOUISIANA TO CONTACT PUBLIC OFFICIALS; AGAIN, A REFLECTION OF ALL OF THESE MANY SOCIOECONOMIC DIFFERENCES.

THE SECONDARY AREA IS POLITICAL CONTRIBUTIONS. NOT SURPRISINGLY, THE DISPARITY IN RESOURCES EVIDENT BETWEEN BLACKS AND WHITES IN LOUISIANA MANIFESTS ITSELF. AND, AGAIN, I PRESENT SURVEY DATA, RECENT SURVEY DATA, ON THIS THAT WHITES ARE FAR MORE LIKELY THAN BLACKS TO MAKE POLITICAL CONTRIBUTIONS. AND, OF COURSE, I DIDN'T ACTUALLY PRESENT TABLES ON THIS, BUT IT CERTAINLY MAKES SENSE THAT GROUPS THAT HAVE LOWER LEVELS OF EDUCATION, FEWER RESOURCES, MAKES IT MORE DIFFICULT TO FIND CANDIDATES TO RUN AND TO RUN POLITICAL CAMPAIGNS.

SO WHILE TURNOUT IS THE MOST OBVIOUS, THERE ARE OTHER VERY IMPORTANT WAYS IN WHICH THESE DISPARITIES REFLECTED DISCRIMINATION IMPACT THE ABILITY OF AFRICAN AMERICANS IN LOUISIANA TO PARTICIPATE FULLY IN THE POLITICAL PROCESS AND ELECT CANDIDATES OF THEIR CHOICE.

MR. HAWLEY: MR. MARTINSON, COULD WE PLEASE PULL UP PAGE 85 OF GX-3.

03:54 **BY THE WITNESS:**
A. WOW, I ACTUALLY SEE IT.
BY MR. HAWLEY:
Q. EXCELLENT. DR. LICHTMAN, DOES THIS TABLE LOOK FAMILIAR TO YOU?
A. IT DOES. IT'S RIGHT FROM THE APPENDIX OF MY REPORT.
Q. AND WHAT DOES IT SHOW?
A. IT SHOWS THAT IN CRITICAL AREAS, ACCORDING TO THE U.S. NEWS, STATE RANKINGS -- THESE ARE NOT AN OUTLIER FOR YOUR OTHER RANKING TO GET SIMILAR ANSWERS. IN CRITICAL AREAS ARE VERY IMPORTANT TO A GROUP THAT'S VULNERABLE LIKE AFRICAN AMERICANS AND HAS THE BURDEN OF VERY SIGNIFICANT SOCIOECONOMIC DISPARITIES. NOT ONLY ARE THEY FACING THESE PRESENT DAY DISPARITIES, BUT THEY ARE DEALING WITH A STATE THAT RANKS AT OR NEAR THE BOTTOM IN CRITICAL AREAS: 45TH IN HEALTH CARE; 48TH IN EDUCATION; 49TH IN ECONOMY; 50TH IN OPPORTUNITY; 48TH IN INFRASTRUCTURE; 50TH IN CRIME AND CORRECTIONS; 43RD IN FISCAL STABILITY; 50TH IN QUALITY OF LIFE; 50TH OVERALL. THIS SHOWS THE IMPEDIMENTS FACED BY AFRICAN AMERICANS IN LOUISIANA, AND IT ALSO DOCUMENTS THE PRESENT-DAY RAMIFICATIONS OF THE HISTORICAL AND ONGOING DISCRIMINATION IN LOUISIANA.
Q. THANK YOU.
MR. HAWLEY: AND, MR. MARTINSON, WE CAN PULL DOWN GX-3.
BY MR. HAWLEY:

03:55 1 **Q.** MOVING TO SENATE FACTOR 6, DR. LICHTMAN, HAVE LOUISIANA'S
2 POLITICAL CAMPAIGNS BEEN MARKED BY RACIAL APPEALS?
3 **A.** YES. THEY HAVE BEEN MARKED BY BOTH SUBTLE AND OVERT
4 RACIAL APPEAL. AND ALMOST ALL MY EXAMPLES EXCEPT FOR MAYBE ONE
5 ARE 21ST CENTURY EXAMPLES. I'M NOT GOING BACK TO THE OLD ERA
6 OF JIM CROW. THE OTHER ONE WAS FROM THE 1990'S. AND THESE
7 EXAMPLES GO ALL THE WAY UP TO 2022. AND THEY DON'T JUST
8 INVOLVE FRENCH CANDIDATES. THEY'RE TALKING ABOUT SOME OF THE
9 LEADING REPUBLICAN POLITICIANS IN THE STATE OF LOUISIANA:
10 DAVID VITTER, MIKE FOSTER, STEVE SCALISE, ONE OF THE MEMBERS OF
11 THE REPUBLICAN LEADERSHIP; U.S. REPRESENTATIVE MIKE JOHNSON;
12 U.S. SENATOR JOHN KENNEDY, AS WELL AS IMPORTANT REPUBLICAN
13 AFFILIATED ORGANIZATIONS IN THE STATE OF LOUISIANA.
14 **Q.** IS IT SAFE TO SAY, THEN, THAT RACIAL APPEALS HAVE BEEN
15 EMPLOYED BY WINNING CAMPAIGNS IN LOUISIANA?
16 **A.** ABSOLUTELY. DAVID VITTER EMPLOYED THIS IN 2010, AND HE
17 CERTAINLY HAD A WINNING CAMPAIGN. STEVE SCALISE HAS
18 CONSISTENTLY BEEN WINNING IN LOUISIANA. MIKE JOHNSON IS A
19 SITTING U.S. REPRESENTATIVE. JOHN KENNEDY IS A SITTING U.S.
20 SENATOR.
21 **Q.** MOVING NOW TO SENATE FACTOR 7, HAVE BLACK LOUISIANIANS
22 HISTORICALLY BEEN ELECTED TO PUBLIC OFFICE?
23 **A.** NOT HISTORICALLY AND --
24 **Q.** DR. LICHTMAN?
25 **A.** I'M SORRY. I LOST YOUR QUESTION THERE. SOMEHOW THE

03:58 TECHNOLOGY FAILED AND YOU BLACKED OUT.
Q. PERHAPS IT WAS ME AND NOT THE TECHNOLOGY, SO I'LL GO AHEAD AND ASK IT AGAIN.
HAVE BLACK LOUISIANIANS HISTORICALLY BEEN ELECTED TO PUBLIC OFFICE?
A. NOT HISTORICALLY, REALLY, SINCE RECONSTRUCTION AND NOT AT PRESENT.
Q. IS THERE A DISPARITY BETWEEN THE BLACK SHARE OF LOUISIANA'S POPULATION AND THEIR REPRESENTATION IN CONGRESS AND THE STATE LEGISLATURE?
A. YES. WHEN YOU LOOK AT THE VOTING REPRESENTATION OF BLACKS IN LOUISIANA, IT'S A LITTLE BIT NORTH OF 31 PERCENT, AND THERE'S A WIDE DISPARITY IN TERMS OF BLACK REPRESENTATION. NOW, I WANT TO BE CLEAR. I'M NOT MAKING A LEGAL CONCLUSION HERE. IN FACT, THROUGHOUT MY TESTIMONY IN THE REPORT, I'M NEVER MAKING LEGAL CONCLUSIONS. TO THE EXTENT I LOOK AT THINGS LIKE BRIEFS OR COURT DECISIONS, SO THE SUBSTANCE, NOT TO DRAW A LEGAL CONCLUSION.
SO I'M NOT LEGALLY SAYING AT ALL THAT ANY GROUP, INCLUDING AFRICAN AMERICANS, MUST HAVE PROPORTIONAL REPRESENTATION. I AM SIMPLY RESPONDING TO THE IMPACT OF THIS QUERY, WHICH IS TO CONSIDER THE EXTENT TO WHICH BLACK REPRESENTATIVES HAVE BEEN ELECTED TO PUBLIC OFFICE IN LOUISIANA. AND THERE IS A VAST DISCREPANCY BETWEEN BLACK VOTING AGE POPULATION AND BLACK REPRESENTATION.

03:59 NO BLACK IS ELECTED TO ANY STATEWIDE EXECUTIVE OFFICE IN THE STATE OF LOUISIANA. THAT'S ZERO PERCENTAGE. NO BLACK IS ELECTED STATEWIDE TO A U.S. SENATE POSITION. THAT IS A ZERO PERCENTAGE.

WHEN YOU LOOK AT THE STATE LEGISLATURE, BLACKS ARE UNDER-REPRESENTED BY SOMETHING LIKE FOUR TO NINE IN THE SENATE, AND HOUSE SEATS ARE ONLY BEING ELECTED IN MAJORITY-BLACK DISTRICTS, WHICH REALLY SHUTS OFF AND LIMITS THEIR ABILITY TO EXPAND THEIR REPRESENTATION. AND IN TERMS OF SUPREME COURT AND OTHER JUDICIAL POSITIONS IN LOUISIANA, BLACKS ARE ALSO SUBSTANTIALLY UNDER-REPRESENTED.

AND AS I MENTIONED -- AND SAME THING IN -- AS I MENTIONED PREVIOUSLY, THESE ARE NOT BLACK REPUBLICANS. DESPITE THE POLITICAL STRENGTH OF REPUBLICANS, THEY ARE NOT ELECTING BLACK REPUBLICANS.

Q. DR. LICHTMAN, HAVE ANY BLACK CANDIDATES BEEN ELECTED TO STATEWIDE OFFICE SINCE RECONSTRUCTION?

A. NOT THAT I AM AWARE OF.

Q. MOVING NOW TO SENATE --

A. I THINK THERE WERE FIVE DURING RECONSTRUCTION AND NONE SINCE.

Q. THANK YOU.

MOVING TO SENATE FACTOR 8, BASED ON YOUR ANALYSIS, HAS THE STATE OF LOUISIANA BEEN RESPONSIVE TO THE NEEDS OF ITS BLACK CITIZENS?

04:01 **A.** WELL, I LOOKED AT RESPONSIVENESS IN FIVE AREAS THAT ARE FUNDAMENTAL AND ESPECIALLY IMPORTANT TO A GROUP LIKE AFRICAN AMERICANS THAT ALREADY BEARS THE BURDEN OF SOCIOECONOMIC DISPARITIES IN THINGS LIKE INCOME, POVERTY, EDUCATION, HOMEOWNERSHIP. I ALSO LOOKED AT EDUCATION, I LOOKED AT HEALTH CARE, I LOOKED AT ECONOMIC OPPORTUNITY, AND I LOOKED AT ENVIRONMENTAL POLLUTION AND FOUND THAT IN ALL OF THOSE FIVE AREAS, THE STATE HAS NOT BEEN RESPONSIVE TO THE PARTICULARIZED NEEDS OF ITS AFRICAN-AMERICAN RESIDENTS.

Q. AND ARE THESE INEQUITIES IN SOME CASES CAUSED BY OFFICIAL GOVERNMENT POLICY?

A. ABSOLUTELY. AS I POINT OUT IN MANY OF THESE AREAS, ALL OF THESE ISSUES ARE PART AND PARCEL OF GOVERNMENT POLICIES, GOVERNMENT POLICY WITH REGARD TO POLLUTING INDUSTRIES IN HEAVILY BLACK AREAS OR THE LONG DELAY IN ADOPTING MEDICAID EXPANSION, SOMETHING CRITICAL TO THE HEALTH OF AFRICAN AMERICANS, AND SO MANY FAILURES IN THE CRIMINAL JUSTICE, JUST TO CITE A FEW EXAMPLES.

Q. DR. LICHTMAN, WOULD YOU CONSIDER THESE FINDINGS TO BE EITHER LIMITED OR SUBJECTIVE?

A. THEY'RE CERTAINLY NOT LIMITED. THESE ARE AREAS OF FUNDAMENTAL IMPORTANCE TO A VULNERABLE GROUP LIKE AFRICAN AMERICANS, AND THEY'RE THE KINDS OF THINGS SOCIAL SCIENTISTS WOULD LOOK AT. THE WELL-BEING AND LIFE CHANCES OF AFRICAN AMERICANS ARE FUNDAMENTALLY AFFECTED BY CRIMINAL JUSTICE,

04:03 HEALTH CARE, EDUCATION, ECONOMIC OPPORTUNITY, AND ALL THE PROBLEMS I DOCUMENT FOR HEALTH WITH ENVIRONMENTAL POLLUTION. AND THEY'RE NOT SUBJECTIVE; THAT IS, FOR EACH OF THESE FIVE AREAS, I PROVIDE SPECIFIC INFORMATION. I JUST DON'T THROW OUT OPINION.

AND IT IS RELEVANT, I THINK, THAT -- AS WITH THE REST OF MY REPORT, NO EXPERT FOR DEFENDANTS CHALLENGE ANY OF THE INFORMATION THAT I PROVIDED UNDER FACTOR 8 IN MY INITIAL REPORT.

Q. LASTLY, DR. LICHTMAN, SENATE FACTOR 9. CAN THE ABSENCE OF A SECOND BLACK-OPPORTUNITY CONGRESSIONAL DISTRICT BE JUSTIFIED BY CORE RETENTION?

A. CORE RETENTION IS A CRITERIA -- CRITERION OF CHOICE. IT'S NOT LEGALLY REQUIRED. IT'S NOT LIKE ONE-PERSON, ONE-VOTE FOR CONFORMITY WITH THE VOTING RIGHTS ACT.

AS A GENERAL MATTER, STATES CERTAINLY COULD ADOPT THAT AS ONE OF THEIR REDISTRICTING CRITERIA, BUT HERE'S THE PROBLEM. HERE IN LOUISIANA, BY ADOPTING THAT -- BECAUSE WE JUST HEARD AS KIND OF A FUNDAMENTAL CRITERION, REDISTRICTING THAT FREEZES IN THE EXISTING PACKING AND CRACKING UNDER THE PREVIOUS PLAN; THAT IS, THE PREVIOUS PLAN, AS I EXPLAINED AT LENGTH IN MY REPORT, PACKS AFRICAN AMERICANS INTO CONGRESSIONAL DISTRICT 2, FAR BEYOND WHAT IS NECESSARY FOR AFRICAN AMERICANS TO ELECT CONGRESS, PERSONS OF THEIR CHOICE, AND THEN CRACKS AFRICAN AMERICANS IN THE OVERWHELMINGLY WHITE REPUBLICAN

04:05 DISTRICT SO THEY HAVE NO CHANCE WHATSOEVER. NO MATTER HOW UNHAPPY THEY MIGHT BE WITH THEIR WHITE REPUBLICAN REPRESENTATIVES, THEY HAVE NO CHANCE TO VOTE THEM OUT OF OFFICE. THEY ARE FREEZING IN THE INEQUITIES THAT YOU HAD PREVIOUSLY ESTABLISHED.

IN FACT, IF CORE RETENTION WAS THE FUNDAMENTAL TALISMAN FOR REDISTRICTING AS OPPOSED TO OTHER REQUIREMENTS, THEN THERE NEVER WOULD HAVE BEEN A REMEDY FOR A DISCRIMINATORY REDISTRICTING PLAN. YOU WOULD JUST BE REPLICATING THAT PLAN OVER AND OVER AND OVER AGAIN LIKE YOU ARE DOING HERE.

Q. DR. LICHTMAN, ARE YOU AWARE THAT THE PREVIOUS 2011 CONGRESSIONAL PLAN WAS PRE-CLEARED BY THE U.S. DEPARTMENT OF JUSTICE?

A. ABSOLUTELY. BUT ALL THAT MEANS IS THAT THE PLAN WAS NOT RETROGRESSIVE; THAT IS, IT DID NOT GO TO ZERO AFRICAN AMERICAN OPPORTUNITY DISTRICTS, AS OBJECTION LETTERS IN THE JUSTICE DEPARTMENT MAKE IT CRYSTAL CLEAR ARE LETTERS NOT INTERPOSING AN OBJECTION. A PRE-CLEARANCE DOES NOT MEAN THAT A PLAN IS FREE OF VIOLATING THE VOTING RIGHTS ACT. IT SIMPLY MEANS THAT THE PLAN WAS NOT RETROGRESSIVE WITH RESPECT TO THE PREVIOUS PLAN.

Q. CAN THE CURRENT CONGRESSIONAL PLAN BE JUSTIFIED BY AN INTEREST IN COMPACTNESS?

A. ABSOLUTELY NOT. AS I POINT OUT IN MY ORIGINAL REPORT, BY FREEZING IN ESSENTIALLY THE SAME DISTRICT THAT YOU HAD IN THE POST-2010 REDISTRICTING PLAN, YOU ARE FREEZING IN PLACE A

04:07 DISTRICT THAT CANNOT BE JUSTIFIED ON THE TRADITIONAL GROUND OF COMPACTNESS.

IN FACT, THE DISTRICT IS HIGHLY NONCOMPACT, AS I EXPLAINED IN MY REPORT. IT REACHES OUT A LONG FINGER. IT IS -- HAS VARIOUS OBTRUSIONS THAT ARE NOT SMOOTH OR SYMMETRICAL. AND, IN FACT, IT CLOSELY REPRESENTS FROM WAY BACK WHEN ELBRIDGE GERRY -- SALAMANDER -- THAT BROUGHT ON THE TERM "GERRYMANDERING" IN THE FIRST PLACE.

SO THERE'S NOTHING ABOUT THIS DISTRICT THAT'S FROZEN IN PLACE THAT COULD BE JUSTIFIED BY CREATING A COMPACT DISTRICT. AND THAT'S NOT SURPRISING WHEN YOU ARE PACKING AFRICAN AMERICANS INTO A DISTRICT AND THEN CRACKING THEM ELSEWHERE. IT'S NOT SURPRISING THAT THE DISTRICT DOES NOT CONFORM WITH COMPACTNESS. YOU KNOW, YOU CONCEIVABLY IN ANOTHER STATE, IN OTHER CIRCUMSTANCES YOU COULD HAVE A COMPACT DISTRICT THAT PACKED THAT, BUT NOT HERE. THAT'S NOT WHAT WAS DONE AND THE PLAN CANNOT BE JUSTIFIED ON THAT BASIS.

Q. AND JUST TO CLARIFY, THE DISTRICT YOU'RE REFERRING TO THERE IS THE SECOND CONGRESSIONAL DISTRICT, THE MAP'S MAJORITY-BLACK CONGRESSIONAL DISTRICT?

A. THAT'S CORRECT. IT'S OVERWHELMINGLY BLACK, OVERWHELMINGLY DEMOCRATIC. IT'S THE PACKED DISTRICT. AND IN ALL THE OTHER DISTRICTS ARE THE --

Q. IS THE CURRENT BLACK VOTING AGE POPULATION OF THAT DISTRICT NEEDED FOR BLACK VOTERS THERE TO ELECT THEIR PREFERRED

04:08 CANDIDATES?
A. ABSOLUTELY NOT. IT'S WAY BEYOND WHAT IS NECESSARY FOR BLACKS TO ELECT CANDIDATES OF THEIR CHOICE. I THINK AN ANALYSIS THAT I PRESENTED IN MY REPORT SAID THE FOURTH HIGHEST BLACK POPULATION IN THE COUNTRY. AFRICAN AMERICANS WERE WINNING THAT DISTRICT BY AN AVERAGE OF 80 PERCENT OR MORE. NO CHANCE THAT AN AFRICAN-AMERICAN CANDIDATE OF CHOICE WOULD NOT WIN THAT DISTRICT.

AS I SAID, THE COOK POLITICAL REPORT IN TERMS OF THEIR PARTISAN VOTER INDEX THAT MEASURES PARTISAN STRENGTH HAS THAT DISTRICT ABOUT A D PLUS 25. THAT MEANS IT'S 25 PERCENT MORE -- 25 PERCENTAGE POINTS MORE THAN THE AVERAGE DEMOCRATIC VOTE IN THE LAST TWO PRESIDENTIAL ELECTIONS, BOTH OF WHICH WERE MAJORITY DEMOCRATIC.

AND SO -- AND IF YOU LOOK ALSO NATION-WIDE, AS I POINT OUT IN MY REPORT, BLACK CANDIDATES OF CHOICE ALMOST INVARIABLY WIN IN DISTRICTS THAT ARE EVEN BELOW 50 PERCENT, THAT ARE 40 TO 50 PERCENT. AND THE REASON IS FAIRLY SIMPLE: THAT IN THE 40 PERCENT RANGE, BLACKS DOMINATE THE DEMOCRATIC PRIMARY, GET TO NOMINATE A CANDIDATE OF THEIR CHOICE. THEY THEN VOTE OVERWHELMINGLY FOR THAT CANDIDATE IN THE GENERAL ELECTION. AND YOU DON'T NEED MUCH IN THE WAY OF WHITE CROSSOVER THEN FOR THAT CANDIDATE TO WIN IN A DISTRICT THAT'S WITHIN THE 40 PERCENT RANGE.

Q. DR. LICHTMAN, DID YOU REVIEW THE REPORT PREPARED BY MR.

04:10 1 HEFNER IN THIS CASE?
2 **A.** I DID.
3 **Q.** AND HOW DOES MR. HEFNER ATTEMPT TO ANALYZE COMMUNITIES OF
4 INTEREST?
5 **A.** YEAH. MR. HEFNER INDICATES IN HIS REPORT THAT HE CAN'T
6 GIVE US A HARD-AND-FAST OBJECTIVE SPECIFIC DEFINITION OF WHAT
7 CONSTITUTES A COMMUNITY OF INTEREST. IN FACT, HE SAYS TO A
8 GREAT EXTENT, UP TO THE PERCEPTIONS OF THE PEOPLE, THAT YOU ARE
9 LOOKING AT IN A GIVEN AREA, HE JUST TICKS OFF SOME GENERAL
10 BOXES LIKE POLITICS, ECONOMY, CULTURE, RESIDENCES, OCCUPATION.
11 THEN IN ORDER TO ANALYZE COMMUNITIES OF INTEREST IN THE
12 EXISTING PLAN, I PRESUME -- THOUGH HE DOESN'T ADDRESS MY REPORT
13 TO SAY THAT IT WASN'T TENUOUS BECAUSE OF RESPECTED COMMUNITIES
14 OF INTEREST, HE LOOKS AT FIVE BROAD REGIONS. HIS REGIONS ARE
15 MUCH TOO BROAD TO ANALYZE WHAT'S GOING ON WITHIN A
16 CONGRESSIONAL DISTRICT, WHICH, OF COURSE, CUTS ACROSS THESE
17 REGIONS.
18 IN ADDITION, IT'S NOT GOOD ENOUGH TO LOOK AT REGIONS
19 AS COMPARED TO ONE ANOTHER BECAUSE THEY ARE SO BIG: FIVE OF
20 THEM FOR THE WHOLE STATE. YOU'VE GOT TO LOOK WITHIN. THIS IS
21 THE STANDARD SOCIAL SCIENCE WITHIN DIFFERENCES AS COMPARED TO
22 BETWEEN DIFFERENCES.
23 SO I TOOK, FOR EXAMPLE, ONE OF HIS REGIONS ANCHORED
24 IN THE CITY OF NEW ORLEANS AND I LOOKED AT THE EXTENT TO WHICH
25 BLACKS AND WHITES IN THE CITY OF NEW ORLEANS, ACCORDING TO HIS

04:12 CRITERIA, BASICALLY CONSTITUTE A COMMUNITY OF INTEREST AND OF COURSE, THEY DON'T SHARE A COMMON HISTORY OF DISCRIMINATION. THEY DON'T SHARE A COMMON ANCESTRY. THEY DON'T SHARE COMMON POLITICS OR POLITICAL VALUES. THEY DON'T -- LET'S SEE. THEY DON'T HAVE THE SAME OCCUPATIONS.

AND I DRILLED FURTHER. I LOOKED AT DO THEY SHARE THE SAME RESIDENCE AND DO THEY GO TO THE SAME SCHOOLS BEYOND ALL OF THESE OTHER FACTORS? IN OTHER WORDS, TO WHAT EXTENT ARE THEY REALLY INTEGRATED WITHIN THE CITY OF NEW ORLEANS AS A COMMUNITY. AND I LOOKED AT MEASURES OF SEGREGATION AND FOUND THAT MEASURES OF SEGREGATION WERE QUITE EXTREME IN NEW ORLEANS. MORE THAN 60 PERCENT OF BLACKS WOULD HAVE TO RELOCATE TO CREATE INTEGRATION, AND THAT THERE WAS ALSO SIMILAR LACK OF INTEGRATION FROM THE SCHOOL.

SO WHEN YOU LOOK AT THE CITY OF NEW ORLEANS, AN ANCHOR IN ONE OF HIS FIVE REGIONS, WE SEE BLACKS AND WHITES HAVE VERY LITTLE IN COMMON TO CONSTITUTE WITHIN THAT REGION A COMMUNITY OF INTEREST.

Q. AND DID MR. HEFNER SHOW THAT BLACK AND WHITE LOUISIANIANS IN THE FIVE MAJORITY-WHITE DISTRICTS IN THE CONGRESSIONAL MAP SHARE COMMONALITIES?

A. NO. HIS ANALYSIS COULDN'T POSSIBLY SHOW THAT BECAUSE, AGAIN, IT'S BASED UPON THESE BROAD REGIONAL -- THESE REGIONAL AREAS WHICH CONGRESSIONAL DISTRICTS CUT ACROSS AND WHERE HE DOESN'T ANALYZE WITHIN AS OPPOSED TO BETWEEN.

04:14 1 SO I LOOKED AT THE COMMONALITY BETWEEN WHITES AND
2 BLACKS ACROSS LOUISIANA. AND, AGAIN, THEY DON'T HAVE COMMON
3 ANCESTRY; THEY DON'T HAVE COMMON POLITICS; THEY DON'T HAVE
4 COMMON EXPERIENCE IN HISTORY DISCRIMINATION; THEY DON'T HAVE
5 COMMONALITY IN TERMS OF THE FAILURE OF THE STATE TO MEET THEIR
6 PARTICULARIZED NEEDS. I ALSO LOOKED AT RESIDENTIAL AND SCHOOL
7 SEGREGATION ACROSS LOUISIANA AND FOUND THAT BLACKS AND WHITES
8 DON'T LIVE TOGETHER; THEY DON'T GO TO THE SAME SCHOOLS.
9 I ALSO LOOKED AT A VARIETY OF OTHER INDICATORS
10 HIGHLIGHTED BY MR. HEFNER. I FOUND THAT ACROSS LOUISIANA
11 BLACKS AND WHITES DON'T HAVE THE SAME FAMILY STRUCTURE; THEY
12 DON'T HAVE THE SAME LEVELS OF INCOME OF POVERTY OR DEPENDENCE
13 UPON WELFARE PROGRAMS OR UNEMPLOYMENT; THEY DON'T LIVE IN THE
14 SAME KINDS OF HOMES, WITH AFRICAN AMERICANS FAR MORE LIKELY TO
15 BE RENTERS THAN HOMEOWNERS; THEY DON'T HAVE THE SAME ACCESS TO
16 VEHICLES OR BROADBAND INTERNET; THEY DON'T HAVE THE SAME
17 EDUCATIONAL ATTAINMENT; THEY DON'T HAVE THE SAME EDUCATIONAL
18 PROFICIENCY; AND THEY DON'T WORK IN THE SAME JOBS OR
19 OCCUPATIONS.
20 SO THERE IS NO BASIS FOR -- DR. ALFORD DOESN'T
21 ANALYZE IT BY LOOKING DEEPER. THERE IS NO BASIS FOR CLAIMING
22 THAT IN THESE FIVE WHITE-REPUBLICAN-DOMINATED DISTRICTS THAT
23 THE AFRICAN AMERICANS IN THOSE DISTRICTS SHARE A COMMUNITY OF
24 INTEREST WITH WHITES.
25 **Q.** AT THE END OF THE DAY, DR. LICHTMAN, HOW MANY OF THE

04:15 1 SENATE FACTORS SUPPORT A FINDING OF VOTE DILUTION IN LOUISIANA?
2 **A.** ESSENTIALLY ALL OF THEM WHEN YOU LOOK AT THE WAY I
3 ANALYZED THE SLATING FACTOR. AND IT'S IMPORTANT TO UNDERSTAND
4 -- I THINK I ALLUDED TO EARLIER IN MY TESTIMONY THAT THESE
5 FACTORS DO NOT OPERATE IN ISOLATION. THEY ARE SUITED JUST --
6 THEY COMBINE TO IMPEDE THE OPPORTUNITIES FOR AFRICAN AMERICANS
7 TO PARTICIPATE IN THE POLITICAL PROCESS AND ELECT CANDIDATES OF
8 THEIR CHOICE.
9 SO HISTORICAL AND ONGOING DISCRIMINATION LEADS TO
10 SOCIOECONOMIC DISPARITIES, WHICH, IN TURN, LEAD TO IMPEDIMENTS
11 FOR AFRICAN AMERICANS TO PARTICIPATE IN THE POLITICAL PROCESS
12 AND ELECT CANDIDATES OF THEIR CHOICE; SOME TO THE MAJORITY-VOTE
13 RUNOFF REQUIREMENT CONTRIBUTES TO THAT. AND, IN TURN, THAT
14 CONTRIBUTES TO A LACK OF REPRESENTATION IN A GOVERNMENT
15 DOMINATED BY WHITES AT EVERY LEVEL IN LOUISIANA, WHICH, IN
16 TURN, LEADS TO THE FAILURE OF THE STATE TO MEET THE
17 PARTICULARIZED NEEDS OF AFRICAN AMERICANS AND, IN TURN, LEADS
18 TO THE ADOPTION OF A REDISTRICTING PLAN THAT FREEZES IN PLACE A
19 PLAN THAT PACKS AFRICAN AMERICANS INTO A NON-COMPACT DISTRICT
20 AND THEN CRACKS AFRICAN AMERICANS INTO OTHER DISTRICTS WHERE
21 THEY HAVE NO CHANCE TO ELECT CANDIDATES OF THEIR CHOICE.
22 STANDARD VOTE DILUTION, PACKING AND CRACKING. SO YOU CAN'T
23 JUST LOOK AT THESE FACTORS IN ISOLATION. YOU HAVE TO SEE HOW
24 THEY -- ONE IMPACTS ANOTHER.
25 **Q.** THANK YOU, DR. LICHTMAN.

04:17 **MR. HAWLEY:** YOUR HONOR, I'D LIKE TO MOVE EXHIBITS GX-3 AND GX-31 INTO EVIDENCE. THOSE ARE DR. LICHTMAN'S INITIAL REPORT AND HIS REBUTTAL EXPERT REPORT.

THE COURT: IS THERE ANY OBJECTION?

MR. BRADEN: NO OBJECTIONS, YOUR HONOR.

THE COURT: OKAY.

MR. HAWLEY: THANK YOU. NO FURTHER QUESTIONS AT THIS TIME.

THE COURT: THE EXHIBITS ARE ADMITTED.

CROSS-EXAMINATION, SIR?

CROSS-EXAMINATION

BY MR. BRADEN:

Q. MY NAME IS MARK BRADEN.

A. I LOST YOU. I DON'T KNOW WHAT HAPPENED.

Q. I'VE GOT YOU, BUT YOU --

THE COURT: WE STILL HAVE YOU. JUST A MOMENT.

THE WITNESS: I DON'T SEE YOU, FOR SOME REASON.

THE COURT: OUR CAMERA MAY BE -- JUST GIVE US A SECOND. THERE WE GO.

IS THAT BETTER?

THE WITNESS: MUCH BETTER. THANK YOU.

THE COURT: OKAY. SPELL YOU LAST NAME, COUNSEL.

MR. BRADEN: B-R-A-D-E-N.

THE COURT: THANK YOU, SIR.

MR. BRADEN: FIRST NAME IS MARK.

04:18 **THE COURT:** THANK YOU.

MR. BRADEN: THANK YOU.

AND I REPRESENT THE DEFENDANT INTERVENING LEGISLATIVE GROUP.

BY MR. BRADEN:

Q. DR. LICHTMAN, GOOD TO SEE YOU AGAIN.

A. GOOD TO SEE YOU AGAIN. ALWAYS A PLEASURE.

Q. THANK YOU.

I'M SORRY THAT YOU ARE NOT ABLE TO ATTEND IN PERSON. WE CERTAINLY WOULD HAVE ENJOYED YOUR TESTIMONY IN PERSON HERE RATHER THAN REMOTE.

A. THANK YOU.

Q. I WILL TRY NOT TO ASK TOO MUCH -- FILL UP TOO MUCH OF THE REST OF YOUR AFTERNOON, BUT I DO HAVE SOME SPECIFIC QUESTIONS. IF WE COULD GO TO YOUR REPORT AND PAGE 28 OF YOUR REPORT.

MR. BRADEN: IF WE COULD BRING THAT UP. THAT'S GX-3 OR 003. AND IF WE COULD GO TO PAGE 28.

BY THE WITNESS:

A. OKAY.

BY MR. BRADEN:

Q. I BELIEVE YOU JUST TESTIFIED TO THIS, BUT LET ME JUST SIMPLY CONFIRM. YOU TESTIFIED AS TO WHITE CROSSOVER VOTING EARLIER, I BELIEVE?

A. I TESTIFIED BOTH TO BLACK COHESION AND WHITE CROSSOVER VOTING, THAT'S CORRECT.

04:20 **Q.** OKAY. SO ON YOUR REPORT HERE YOU ARE PROJECTING IN SOME RACES WHITE CROSSOVER IN EXCESS OF 25 PERCENT, OF MORE THAN A QUARTER?

A. I'M NOT PROJECTING. THESE ARE THE EXIT POLL RESULTS SUBSEQUENT TO THE ELECTION. THEY ARE NOT A PROJECTION ON THESE ELECTIONS.

Q. OKAY. THAT'S CORRECT.

AND YOU HAVE A CHART SHOWING THIS TOO, I BELIEVE?

A. SURE.

Q. THIS WOULD BE CHART 1?

A. SURE. DO YOU WANT TO GO TO THAT?

Q. WE SHOULD ABSOLUTELY GO TO THAT.

MR. BRADEN: IF WE COULD BRING THAT UP.

BY THE WITNESS:

A. WHAT PAGE?

BY MR. BRADEN:

Q. I BELIEVE THAT IS 0068, CHART 1.

A. GOT IT.

Q. SO IT'S YOUR VIEW THAT THE RECORD SHOWS WHITE CROSSOVER VOTING RANGING FROM 20 PERCENT TO 26 PERCENT IN THE THREE ELECTIONS ON THE CHART?

A. THAT'S CORRECT.

Q. OKAY. AND YOU ALSO BELIEVE -- IF YOU GO TO PAGE 62 OF YOUR REPORT. AND I ALSO BELIEVE YOU JUST TESTIFIED TO THIS, BUT LET ME JUST SIMPLY CONFIRM IT -- THAT THE BLACK CANDIDATE

04:21 1 OF CHOICE CAN WIN IN A DISTRICT AS LOW AS 40 PERCENT MINORITY
2 POPULATION?
3 **A.** IN THE 40 PERCENT RANGE. YOU KNOW, MAYBE NOT QUITE AT 40,
4 BUT CERTAINLY IN -- BELOW 50 PERCENT, IN THE 40 PERCENT RANGE,
5 ABSOLUTELY. AND THE CROSSOVER AND COHESION NUMBERS BEAR THAT
6 OUT. SAY YOU HAD 45 PERCENT AFRICAN-AMERICAN VOTERS IN A
7 DISTRICT -- I CAN DO THE MATH FOR YOU AS SOON AS I GET ON MY --
8 **Q.** PLEASE DO.
9 **A.** YEAH. OKAY. SO WE GOT 45 PERCENT TIMES 95, THAT'S 42.75.
10 THEN WE CAN ROUND THAT OFF TO 43 TO MAKE IT EASY. OKAY. AND
11 THEN WE HAVE 55 PERCENT NONBLACK. AND BY THE WAY, THE NONBLACK
12 WOULD INCLUDE NOT JUST WHITES. YOU GOT TO UNDERSTAND THAT.
13 **Q.** UH-HUH.
14 **A.** IT WOULD ALSO INCLUDE HISPANICS AND OTHERS. BUT LET'S
15 JUST ASSUME IT'S JUST WHITES AND IT'S 25 PERCENT. SO THAT'S
16 13.75 AND ROUND IT OFF. TO MAKE IT SIMPLE, AN EVEN 13. THAT'S
17 56 PERCENT FOR THE BLACK CANDIDATE OF CHOICE.
18 **Q.** OKAY. SO IF I UNDERSTAND THOSE NUMBERS RIGHT, THERE WOULD
19 BE NO COMPELLING NEED FOR THE STATE OF LOUISIANA TO CREATE
20 DISTRICTS OF MORE THAN 50 PERCENT TO ELECT A BLACK CANDIDATE OF
21 CHOICE IN CONGRESSIONAL RACES?
22 **A.** WELL, YOU HAVE TO DO THE DISTRICT-SPECIFIC ANALYSIS. THIS
23 IS JUST GENERIC, BUT IF YOU COULD -- IN MY VIEW -- AND THIS IS
24 GENERIC. I HAVEN'T DONE THE DETAILED DISTRICT-SPECIFIC
25 ANALYSIS. BUT, FOR EXAMPLE, IN MY NORTH CAROLINA TESTIMONY IN

04:23 THE *COVINGTON* CASE WHERE THE COURT ACCEPTED IT, I POINTED OUT INDEED AFRICAN-AMERICAN CANDIDATES COULD WIN IN THE 40 PERCENT RANGE. AND THAT WAS A PARTICULARIZED ANALYSIS OF EACH DISTRICT. BUT I CERTAINLY WOULDN'T RULE OUT IF THE STATE COULD CREATE TWO DISTRICTS THAT ARE 45 PERCENT AFRICAN AMERICAN IN THEIR VOTING AGE POPULATION, GIVEN THAT THERE'S GOING TO BE HISPANICS AND OTHERS IN THAT DISTRICT WHO DO TEND TO VOTE DEMOCRATIC. AND, AGAIN, DEPENDING UPON THE DISTRICT'S SPECIFIC ANALYSIS, THAT COULD GIVE AFRICAN AMERICANS AN OPPORTUNITY TO ELECT CANDIDATES OF THEIR CHOICE. BUT, AGAIN, I'M SPEAKING GENERICALLY.

Q. THANK YOU.

DR. LICHTMAN, WHEN WERE YOU FIRST CONTACTED ABOUT WORKING ON LOUISIANA CONGRESSIONAL REDISTRICTING THIS CYCLE?

A. I REALLY DON'T REMEMBER. I'VE BEEN INVOLVED IN MAYBE TEN CASES IN THIS POST-20' --

Q. I CAN SYMPATHIZE.

A. SEVERAL MONTHS AGO, AT LEAST.

Q. OKAY. DO YOU KNOW IF YOU WERE WORKING ON THIS PRIOR TO THE LEGISLATIVE SESSION THAT RESULTED IN THE PASSAGE OF THE FIRST PLAN AND SECOND PLANS OR THE VETO OVERRIDE PLAN? DO YOU --

A. REFRESH ME. IS THIS FEBRUARY OF 2022?

Q. YEAH, FEBRUARY. WERE YOU WORKING IN FEBRUARY ON IT?

A. I'M SURE I WAS WORKING IN FEBRUARY.

04:25 **Q.** OKAY. AND DO YOU KNOW WHO CONTACTED YOU IN REGARDS TO THAT?
A. THE ALLIANCE ATTORNEYS.
Q. OKAY. AND DID YOU PLAY ANY ROLE OR PROVIDE ANY INFORMATION TO THE LEGISLATURE DURING THE PROCESS?
A. NO.
Q. OKAY. SO IS THIS A LITTLE LIKE DÉJÀ VU WITH YOU? WEREN'T YOU AN EXPERT WITNESS IN THE 1990'S ON LOUISIANA CONGRESSIONAL REDISTRICTING?
A. OH, MY GOD, THAT WAS -- I DON'T REMEMBER IT VERY WELL, BUT THAT WAS ONE OF THOSE SHORT BASES WHERE I WAS WORKING FOR THE UNITED STATES DEPARTMENT OF JUSTICE, AND I THINK IT WAS A VERY DIFFERENT -- I DON'T REMEMBER IT REALLY WELL. IT WAS 30 YEARS AGO.
Q. OH, OKAY.
A. I'M PRETTY MUCH SURE I WAS WORKING FOR JUSTICE, AND I DON'T THINK WE WERE PLAINTIFFS, BUT I DON'T REMEMBER.
THE COURT: OKAY. SHE WASN'T ABLE TO TAKE ANY OF THAT TESTIMONY.
DR. LICHTMAN, IS THERE A POSSIBILITY THAT YOU ARE INTERFERING MAYBE WITH YOUR MICROPHONE OR SOMETHING, BECAUSE WE -- THE COURT REPORTER -- NONE OF US COULD MAKE OUT ANY OF THAT, ANY OF YOUR LAST ANSWER.
THE WITNESS: OH, I DIDN'T DO ANYTHING. I CAN TURN IT DOWN MORE IF YOU WANT.

04:26 **THE COURT:** NO. I DON'T THINK IT'S --

THE WITNESS: I'M 75 AND TECHNOLOGICALLY CHALLENGED. DO YOU WANT ME TO REPEAT THAT TESTIMONY, YOUR HONOR?

THE COURT: YES, SIR. AND IT SEEMS BETTER, SO MAYBE THE VOLUME HELPED.

THE WITNESS: ALL RIGHT. LET ME TRY AGAIN.

THE COURT: IF YOU HAVE TROUBLE HEARING --

THE WITNESS: AND LET ME KNOW IF IT WORKS.

THE COURT: OKAY.

THE WITNESS: I'LL TRY TO REPLICATE IT.

THE COURT: IF YOU HAVE --

BY THE WITNESS:

A. SO AS I SAID, THAT WAS --

THE COURT: IF YOU HAVE --

BY THE WITNESS:

A. -- 30 YEARS AGO. I DON'T REMEMBER IT REAL WELL, BUT I DO REMEMBER I WAS HIRED, I BELIEVE, BY THE UNITED STATES DEPARTMENT OF JUSTICE TO DEFEND THEIR POLICIES, AND I DON'T BELIEVE THAT WE WERE PLAINTIFFS IN THAT CASE. WE MIGHT HAVE BEEN DEFENDANTS. YOU KNOW, LIKE THAT WHOLE ROUND OF POST --

BY MR. BRADEN:

Q. YOU DON'T --

A. DEFENDANTS HAD VERY LITTLE CHANCE.

Q. MIGHT YOU HAVE BEEN HIRED BY THE DEMOCRAT LEADERSHIP OF THE STATE: THE STATE, THE GOVERNOR, THE LEGISLATURE, THE

04:27 DEFENDANTS IN THE CASE?
A. ANYTHING IS POSSIBLE. I KNOW FOR SOME OF THOSE CASES I WAS HIRED BY JUSTICE.
Q. OKAY.
A. I DON'T REMEMBER, BECAUSE IT WAS 30 YEARS AGO, WHO I WAS HIRED BY IN THIS CASE.
Q. OKAY.
A. I KIND OF ASSUMED IT WAS JUSTICE, BUT I DON'T RECALL.
Q. I WOULD REPRESENT TO YOU AND TO THE COURT, MY UNDERSTANDING IS THAT YOU WERE AN EXPERT FOR THE DEFENDANTS, WHICH WAS THE STATE OF LOUISIANA. AT LEAST THAT'S THE WAY I --
A. I KNOW I REPRESENTED DEFENDANTS.
Q. YEAH.
A. I DON'T KNOW IF I WAS HIRED BY THE STATE OF LOUISIANA OR BY JUSTICE.
Q. OKAY.
A. BUT I WON'T ARGUE WITH YOU.
Q. YEAH.
A. BECAUSE I DON'T HAVE A RECOLLECTION.
Q. SO DO YOU --
A. SO WHATEVER YOU SAY, I'M NOT GOING TO DISPUTE IT.
Q. DO YOU REMEMBER THAT YOU WERE ARGUING ON BEHALF OF A PLAN, A 1990'S PLAN, THAT HAD SEVEN DISTRICTS OF WHICH TWO WERE BLACK AND FIVE WHITE MAJORITY?
A. I DON'T REMEMBER. I DON'T REMEMBER THAT DETAIL.

04:28 1 **Q.** OKAY.
2 **A.** BUT, AGAIN, IF YOU WANT TO REPRESENT THAT --
3 **Q.** OKAY.
4 **A.** -- I'M NOT GOING TO ARGUE, BUT I DON'T RECALL THE SPECIFIC
5 COMPOSITION. WHEN YOU SAY TWO ARE BLACK, DOES THAT MEAN
6 MAJORITY BLACK?
7 **Q.** YES.
8 **A.** OR 40 PERCENT BACK? I DON'T REMEMBER.
9 **Q.** YEAH, TWO BLACK MAJORITY. THERE WERE -- THERE WERE MORE
10 CONGRESSIONAL DISTRICTS IN LOUISIANA, ONE MORE IN THAT CYCLE.
11 SO AT THAT TIME MY UNDERSTANDING OF READING THE RECORD IS THAT
12 YOU WERE WORKING AS AN EXPERT FOR THE DEFENDANTS TRYING TO
13 DEFEND THE TWO BLACK DISTRICTS IN THE SEVEN-DISTRICT PLAN AND
14 THAT THE COURT HELD THAT THE PLAN WAS AN UNCONSTITUTIONAL
15 RACIAL GERRYMANDER. DOES THAT RING ANY BELLS WITH YOU?
16 **A.** NOT ALL OF IT, BUT DEFINITELY I KNOW WE LOST THAT CASE.
17 **Q.** YEAH.
18 **A.** LIKE ALL THOSE OTHER CASES, YEAH.
19 **Q.** YEAH.
20 **A.** THAT'S ALL I REMEMBER. I DON'T REMEMBER THE DETAILS OF
21 THE PLAN, BUT I DON'T DISPUTE YOU.
22 **Q.** YEAH. AND NOW YOU ARE WITH THE COURT HERE WITH THE
23 PLAINTIFFS WHO ARE ARGUING FOR TWO BLACK SEATS IN A SIX-MEMBER
24 DISTRICT PLAN. CORRECT?
25 **A.** I'VE NOT EXAMINED ANY PLANS PRESENTED BY PLAINTIFFS, BUT I

04:29 PRESUME THAT'S WHAT WE'RE DOING.
Q. OKAY. AND YOU DON'T REMEMBER WHETHER OR NOT THE COURT IN THE *HAYS* CASE VERSUS THE STATE OF LOUISIANA IN 1993 -- YOU DON'T REMEMBER WHETHER OR NOT THE COURT CREDITED YOUR TESTIMONY?
A. I'M SURE THEY DIDN'T, SINCE WE LOST THE CASE.
Q. YEAH.
A. NORMALLY WHEN YOU LOSE A CASE, THE COURT DOES NOT CREDIT YOUR TESTIMONY. BUT THAT'S ALL I REMEMBER THAT WE LOST.
Q. YEAH. IF WE COULD -- MAYBE I CAN -- MAYBE I CAN REFRESH YOUR RECOLLECTION.
MR. BRADEN: IF WE GO TO -- IF WE CAN BRING UP A COPY OF THE *HAYS VERSUS STATE OF LOUISIANA*. IT'S AT 839, F. SUPP 1188.
BY MR. BRADEN:
Q. I WISH I COULD HAND YOU A COPY OF IT, BUT I BELIEVE WE CAN BRING IT UP ON THE SCREEN. AND JUST REALLY QUICKLY, I BELIEVE THERE'S A FOOTNOTE 48 AT PAGE 1203. SO IF YOU COULD TAKE A MINUTE AND LOOK AT PARAGRAPH 48 -- OR FOOTNOTE 38 AND SEE WHETHER OR NOT THAT REFRESHES YOUR RECOLLECTION AS TO THE COURT'S VIEW ON YOUR TESTIMONY.
A. I DON'T SEE IT. I'M SORRY. I JUST SEE THE HEADING.
Q. OKAY. THERE'S A FOOTNOTE 48. I HAVE IT ON -- I BELIEVE IT'S PAGE --
MR. BRADEN: WERE YOU ABLE TO BRING UP THE PAGE?

04:31 IT'S 46 OF 50. I'M SORRY.
BY MR. BRADEN:
Q. I'M LOOKING AT THIS. I HAVE IT IN MY HAND AND IT DOESN'T DO YOU ANY GOOD. I PRINTED A COPY OUT HERE FOR YOU, BUT IT DOESN'T DO MUCH GOOD TO TRY TO HAND YOU A PRINTED COPY OVER ZOOM. THERE WE GO. THAT'S FOOTNOTE 48.
MR. BRADEN: AND COULD YOU JUST HIGHLIGHT IT FOR HIM AND BRING IT UP AND MAKE IT LARGER. HE HAS PROBABLY THE SAME EYESIGHT THAT I DO.
BY THE WITNESS:
A. NOW I CAN SEE IT.
BY MR. BRADEN:
Q. OKAY. GREAT. AND IT'S EASY TO PICK OUT. THERE'S A COUPLE OF REFERENCES TO YOU, WHICH I'LL GET IT ITALICIZED.
A. LET ME READ IT.
Q. YEP.
A. BECAUSE I DON'T REMEMBER IT.
Q. GREAT.
A. I'M SURE THIS WILL HELP REFRESH MY MEMORY, BUT I NEED A MINUTE OR TWO.
Q. OH, ABSOLUTELY.
A. I'M OLD AND SLOW.
Q. ABSOLUTELY.
A. GOT IT.
Q. OKAY.

04:32 **A.** IT DOESN'T REFRESH MY MEMORY PARTICULARLY, BUT I UNDERSTAND WHAT THEY'RE SAYING.

Q. OKAY.

A. SO YOU CAN ASK ME QUESTIONS ABOUT IT. IT'S PRETTY SELF-EXPLANATORY.

Q. AND THEN IT SHOULD BE I BELIEVE CLEAR THAT THE COURT REJECTED YOUR EXPERT TESTIMONY IN SUPPORT OF A PLAN WITH TWO BLACK SEATS. AM I CORRECT?

A. RIGHT. BUT THAT'S THE EXACT OPPOSITE OF WHAT HE HAVE HERE WHERE IT'S DEFENDANTS WHO HAVE PACKED BLACKS INTO A SINGLE DISTRICT FAR BEYOND WHAT WAS NECESSARY TO ELECT BLACK CANDIDATES OF CHOICE. SO I DON'T SEE HOW THIS CRITICISM -- AND I'M NOT DISPUTING WHAT THE COURT SAYS -- RELATES TO THE CURRENT SITUATION IN LOUISIANA.

THE COURT: COUNSEL, MR. HAWLEY IS ABOUT TO INTERNALLY COMBUST.

MR. HAWLEY: OH, SORRY, YOUR HONOR. MR. BRADEN, CAN I --

THE DEPUTY CLERK: COULD YOU GET TO THE MICROPHONE, PLEASE?

THE COURT: MR. HAWLEY, WE CAN'T HEAR YOU.

MR. HAWLEY: I'M SORRY. I WAS JUST ASKING MR. BRADEN FOR A COPY OF THE DEMONSTRATIVE THAT HE'S USING. THANK YOU, YOUR HONOR.

THE COURT: EMERGENCY AVERTED. YOU MAY CONTINUE.

04:33 1 **BY MR. BRADEN:**
2 **Q.** AND SO YOU DON'T REMEMBER THE HOLDING IN THIS CASE
3 REJECTING THE PLAN AS A RACIAL GERRYMANDER; IT HAD TWO BLACK
4 SEATS? YOU JUST DON'T HAVE ANY RECOLLECTION OF THAT?
5 **A.** I DO REMEMBER THE STATE LOST THE CASE. I DON'T REMEMBER
6 THE DETAILS OR THE FINDING, BUT IT PROBABLY WAS RACIAL
7 GERRYMANDERING.
8 **Q.** OKAY.
9 **A.** AND I THINK IT'S THE SAME CASE AS WHAT THE STATE IS DOING
10 NOW.
11 **Q.** IF YOU CAN'T REMEMBER, WE'LL JUST MOVE ON FROM THERE.
12 IN YOUR REPORT IN THIS CASE DO YOU PROVIDE ANY
13 GEOGRAPHIC ANALYSIS SHOWING WHETHER OR NOT THE BLACK POPULATION
14 HAS BECOME MORE COMPACT IN THE CASE OR GEOGRAPHICALLY
15 CONCENTRATED SINCE THE 1990'S? IS THE GEOGRAPHY --
16 **A.** I'VE NOT ANALYZED PLANS IN THIS CASE.
17 **Q.** OKAY. IT'S REALLY MORE OF A --
18 **A.** SO I CAN'T ANSWER THAT QUESTION ONE WAY OR THE OTHER. YOU
19 WOULD HAVE TO ASK THE PLAN DRAWERS.
20 **Q.** OKAY. I REALLY WASN'T ASKING YOU ABOUT THE PLANS. I WAS
21 ASKING YOU ABOUT THE DISPERSION OF THE BLACK POPULATION IN THE
22 STATE OF LOUISIANA. DO YOU HAVE ANY FAMILIARITY WITH THAT?
23 **A.** I DIDN'T LOOK AT THAT.
24 **Q.** OKAY. AND JUST LET ME USE MARYLAND AS AN EXAMPLE. AND SO
25 MAYBE THIS WILL ENABLE YOU TO ANSWER THE QUESTION AS TO WHETHER

04:35 THERE'S BEEN A CHANGE IN THAT. IN MARYLAND THE BLACK POPULATION IS ESSENTIALLY CONCENTRATED IN ONE OR TWO URBAN AREAS, DEPENDING ON HOW YOU DEFINE "URBAN AREAS": THE WASHINGTON-BALTIMORE CORRIDOR, AND THE REST OF THE STATE IS PREDOMINANTLY WHITE?

A. WASHINGTON --

Q. -- BALTIMORE.

A. IT'S NOT QUITE THE CORRIDOR BECAUSE YOU HAVE IN THE WASHINGTON SUBURBS TWO VERY LARGE COUNTIES: PRINCE GEORGE'S COUNTY AND MONTGOMERY COUNTY, WHICH ARE NOT NECESSARILY THE CORRIDOR. AND PRINCE GEORGE'S COUNTY IS VERY HEAVILY BLACK. AND WHILE MONTGOMERY COUNTY IS NOT MAJORITY BLACK, IT HAS A VERY SUBSTANTIAL BLACK POPULATION AS WELL. AND IT'S VERY BIG. IT'S GOT OVER A MILLION PERSONS IN LARGE GEOGRAPHIC. SO IT'S CERTAINLY NOT TRUE THAT IN MY HOME STATE THE AFRICAN-AMERICAN POPULATION IS VERY NARROWLY CONCENTRATED IN CONFINED GEOGRAPHICAL AREAS.

Q. SO YOU WOULDN'T -- YOU DON'T BELIEVE THAT A MAJORITY OF THE BLACK POPULATION IN MARYLAND LIVES IN WHAT WOULD BE CONSIDERED EITHER URBAN OR SUBURBAN AREAS?

A. YOU KNOW, MONTGOMERY COUNTY YOU CAN CALL URBAN. IT'S REALLY SUBURBAN. CERTAINLY THERE IS A CORRELATION BETWEEN GEOGRAPHIC AREA AND BLACK POPULATION, ABSOLUTELY. THERE CERTAINLY IS A DEGREE OF CONCENTRATION THERE THAT CAN AFFECT THE DRAWING OF DISTRICTS.

04:37 1 **Q.** AND SO --
2 **A.** BUT IT'S NOT JUST CONFINED TO A VERY NARROWLY
3 CIRCUMSCRIBED CITY.
4 **Q.** AND SO YOU DON'T -- I'M GOING TO WASTE YOUR TIME HERE FOR
5 JUST A SECOND. YOU DON'T UNDERSTAND OR NOT -- YOU DIDN'T OPINE
6 IN ANY WAY THAT LOUISIANA IS DIFFERENT THAN MANY OTHER STATES
7 IN THE SENSE THAT IT HAS LARGE URBAN BLACK POPULATIONS IN A
8 COUPLE OF LOCATIONS BUT VERY DISPERSED RURAL BLACK POPULATIONS
9 IN VIRTUALLY EVERY PARISH IN THE STATE?
10 **A.** I CAN'T ANSWER YOUR QUESTION BECAUSE, AS I TOLD YOU,
11 THAT'S BEYOND THE SCOPE OF MY REPORTS --
12 **Q.** BEYOND THE SCOPE.
13 **A.** -- OF MY EXPERTISE.
14 **Q.** SO DO YOU HAPPEN TO KNOW HOW MANY BLACK ELECTED OFFICIALS
15 THERE ARE IN THE STATE?
16 **A.** NOT FOR EVERY JURISDICTION. BUT I CAN TELL YOU THERE IS
17 NONE STATEWIDE, NONE IN THE U.S. SENATE, ONE IN CONGRESS AND
18 SOMETHING LIKE 34 MAYBE IN THE LEGISLATURE AND SOMETHING LIKE
19 SEVEN IN THE -- I FORGET HOW MANY, BUT OVER 20, CLOSE TO 30
20 MAYORAL SITUATIONS IN MUNICIPALITIES THAT ARE --
21 **THE COURT:** MR. BRADEN, I'M GOING TO ASK THAT YOU
22 SPEAK UP OR USE THE MICROPHONE. I'M HAVING TROUBLE HEARING
23 YOU, AND I KNOW DR. LICHTMAN HAS ALREADY SAID THAT HE IS A
24 LITTLE BIT -- A LITTLE BIT CHALLENGED IN TERMS OF HIS ABILITY
25 TO HEAR SO...

04:39 1 **MR. BRADEN:** MY APOLOGIES.
2 **THE COURT:** THAT'S MUCH BETTER. THANK YOU.
3 **MR. BRADEN:** YES.
4 **BY MR. BRADEN:**
5 **Q.** IN THE LAST TWO GUBERNATORIAL ELECTIONS IN LOUISIANA. DID
6 THE CANDIDATE OF CHOICE OF THE BLACK COMMUNITY WIN?
7 **A.** IN WHICH ELECTIONS?
8 **Q.** THE LAST TWO GUBERNATORIAL RACES.
9 **A.** THE MAYORAL RACES?
10 **Q.** THE LAST TWO RACES FOR GOVERNOR OF THE STATE OF LOUISIANA?
11 **A.** OH, YES. OF COURSE, JOHN BEL EDWARDS, YOU KNOW, ONE
12 SWALLOW DOES NOT MAKE A SPRING.
13 **Q.** YEAH.
14 **A.** AND IS NOT BLACK.
15 **Q.** OKAY. AND YOU TALKED ABOUT RACIAL -- FROM THE 1990'S, THE
16 RUNOFF RACE BETWEEN THE KLAN CANDIDATE AND EDWIN EDWARDS -- AND
17 I GUESS WE COULD COME UP WITH SOME COLORFUL DESCRIPTIONS OF
18 THAT RACE, BUT I WON'T GO THAT WAY. BUT MY UNDERSTANDING IS,
19 YOU TESTIFIED TO THAT IT SHOWED THE IMPACT OF SLATING. BUT
20 DIDN'T THE BLACK PREFERRED CANDIDATE WIN IN THAT RACE, TOO?
21 **A.** I DID NOT TESTIFY AT ALL ABOUT THAT RACE AS A EXAMPLE OF
22 SLATING. I SIMPLY SAID IN A DIFFERENT FACTOR, A FACTOR
23 RELATING TO A RUNOFF IN AT-LARGE ELECTIONS. AND IT WAS FACTOR
24 3, NOT FACTOR 4, BUT THAT WAS AN EXAMPLE OF A RUNOFF ELECTION
25 THAT CAUGHT NATION-WIDE ATTENTION. THAT WAS WELL BEFORE THE

04:40 *FOSTER* DECISION. I DIDN'T PUT IT IN THE CONTEXT OF SLATING AT ALL.

Q. OKAY. AND SO I HEARD YOU SAY THAT BLACK CANDIDATES DON'T WIN AT-LARGE ELECTIONS. DO YOU KNOW WHETHER THE MAYOR -- I DON'T THINK I CAN SEE IT. I DON'T THINK WE ARE IN EAST BATON ROUGE. I THINK WE ARE IN BATON ROUGE PARISH. I COULD BE WRONG ABOUT THAT. BUT MY UNDERSTANDING IS THAT THE MAYOR OF EAST BATON ROUGE IS BLACK. DO YOU KNOW THAT?

A. LET ME CHECK. I MIGHT HAVE THAT INFORMATION. I'M NOT SURE.

THE COURT: WE ARE IN EAST BATON ROUGE PARISH, AND THE MAYOR OF THE BATON ROUGE METROPOLITAN -- GREATER BATON ROUGE IS AFRICAN AMERICAN.

THE WITNESS: YOU'RE TALKING ABOUT THE MAYOR OF BATON ROUGE CITY?

BY MR. BRADEN:

Q. THE JUDGE GRACIOUSLY ANSWERED THE QUESTION FOR US.

THE COURT: NO, I DIDN'T ANSWER IT. I JUST WAS CORRECTING YOU THAT WE ARE NOT IN BATON ROUGE PARISH.

MR. BRADEN: OH.

THE COURT: THERE IS AN EAST BATON ROUGE PARISH AND THERE IS A WEST BATON ROUGE PARISH, AND THE MISSISSIPPI RIVER AND ONE BRIDGE CONNECTS THOSE.

MR. BRADEN: OKAY.

THE COURT: ACTUALLY, TWO BRIDGES CONNECT THOSE.

04:41 **BY MR. BRADEN:**
Q. YEAH. AND I UNDERSTOOD FROM YOU THAT THE MAYOR --
A. I CAN ANSWER.
Q. -- OF EAST BATON ROUGE WAS BLACK? IS THAT YOUR BELIEF?
A. YEAH. BATON ROUGE IS A BLACK CITY AND ELECTED A BLACK MAYOR, SO THAT'S EXACTLY MY POINT. BLACKS CAN WIN IN BLACK DISTRICTS IN JURISDICTIONS, AND THEY ARE GETTING SHUT OUT STATEWIDE IN WHITE JURISDICTIONS AND WHITE DISTRICTS.
Q. IT'S YOUR --
A. AND NONE OF THEM ARE -- NONE OF THE BLACKS ARE REPUBLICANS.
Q. OKAY. IS IT YOUR POSITION THAT IT'S A MAJORITY-BLACK PARISH?
A. I DIDN'T LOOK AT THE PARISH. I LOOKED AT THE CITY.
MR. BRADEN: OKAY. NO FURTHER QUESTIONS, YOUR HONOR.
THE COURT: OKAY. IS THERE ANY REDIRECT?
MR. HAWLEY: YES. BRIEFLY, YOUR HONOR. THANK YOU.

REDIRECT EXAMINATION

BY MR. HAWLEY:
Q. DR. LICHTMAN, JUST A FEW MOMENTS AGO MR. BRADEN ASKED YOU ABOUT SOME OF THE PARTICULARS OF YOUR EXPERT TESTIMONY IN THE *HAYS* CASE IN THE '90'S. DO YOU RECALL THAT?
A. I RECALL THE QUESTIONS, YEAH.
Q. YES.
A. AND IT DID HELP ME A BIT TO REFRESH ON *HAYS*, WHICH I

04:42 DIDN'T REMEMBER IN DETAIL.
Q. I WILL REPRESENT TO YOU, SINCE WE NO LONGER HAVE IT ON THE SCREEN, THAT THE COURT CHARACTERIZED THE DEFENDANTS' OBJECTIVE IN THAT CASE AS TO, QUOTE, PROVE THAT FACTORS OTHER THAN RACE COULD EXPLAIN DISTRICT 4.
MY QUESTION IS: IS THAT THE INQUIRY YOU WERE ASKED TO UNDERTAKE IN THIS CASE; TO EXPLAIN WHAT FACTORS EXPLAIN A CHALLENGED DISTRICT?
A. IF YOU CORRECTLY -- AND I DON'T REMEMBER, BUT I ASSUME YOU CORRECTLY CHARACTERIZED THAT. MY INQUIRY HERE IS QUITE DIFFERENT.
Q. AND WHAT IS YOUR INQUIRY HERE?
A. WELL, MY INQUIRY HERE IS TO LOOK AT THE SENATE FACTORS AND, WITH RESPECT TO THE TENUOUSNESS OF THE PLAN, TO DETERMINE WHETHER OR NOT THE FIVE WHITE-MAJORITY DISTRICTS ESTABLISH COMMUNITIES OF INTEREST BETWEEN BLACKS AND WHITES TO ASSESS THE RATIONALE OF MAINTAINING CONTINUITY OF DISTRICTS AND TO ASSESS THE RATIONALE WITH RESPECT TO THE TRADITIONAL REDISTRICTING REQUIREMENT OF COMPACTNESS. ALL THE OTHER SENATE FACTORS RELATED TO DIFFERENT MATTERS.
Q. AND ULTIMATELY THE SENATE FACTOR INQUIRY IS A SET OF CONSIDERATIONS THAT IS THE SAME NO MATTER WHAT THE PARTICULAR LEGAL CLAIM OR THE PARTICULAR DISTRICT AT ISSUE. IS THAT FAIR TO SAY?
A. I DON'T WANT TO GIVE YOU A LEGAL OPINION. I CAN SAY I

04:44 HAVE DONE THE SENATE FACTOR ANALYSES UNDER VERY DIFFERENT CASES AND SITUATIONS.

Q. THANK YOU, DR. LICHTMAN. NO FURTHER QUESTIONS. THANK YOU.

THE COURT: OKAY. THANK YOU, DR. LICHTMAN. WE ARE GOING TO LET YOU GO FOR THE AFTERNOON.

THE WITNESS: THANK YOU, YOUR HONOR.

THE COURT: THANK YOU, SIR.

OKAY. IT'S A QUARTER TO FIVE. HAVE WE GOT ANY OTHER WITNESSES THAT WE CAN GO UNTIL 5:30?

MR. RIZZUTO: YES, YOUR HONOR.

MY NAME IS RYAN RIZZUTO, AND I REPRESENT THE ROBINSON PLAINTIFFS IN TODAY'S CASE. THIS IS MY FIRST APPEARANCE BEFORE THE COURT.

THE COURT: AND YOUR LAST NAME? SPELL IT, SIR.

MR. RIZZUTO: R-I-Z-Z-U-T-O.

THE COURT: OKAY, MR. RIZZUTO. YOUR WITNESS.

MR. RIZZUTO: PLAINTIFFS CALL DR. R. BLAKESLEE GILPIN.

R. BLAKESLEE GILPIN, PH.D., HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

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

THE WITNESS: YES. MY NAME IS ROBERT BLAKESLEE GILPIN. IT'S THE STANDARD SPELLING OF ROBERT,

10:32 B-L-A-K-E-S-L-E-E, G-I-L-P-I-N.

THE COURT: GO AHEAD, COUNSEL.

VOIR DIRE

BY MR. RIZZUTO:

Q. GOOD AFTERNOON, DR. GILPIN.

COULD YOU PLEASE INTRODUCE YOURSELF TO THE COURT?

A. YES. MY NAME IS DR. ROBERT BLACKSLEE GILPIN. I AM AN ASSOCIATE PROFESSOR OF HISTORY AT TULANE UNIVERSITY AND THE DIRECTOR OF GRADUATE STUDIES IN THE HISTORY DEPARTMENT THERE.

Q. AND CAN YOU TELL US ABOUT YOUR EDUCATIONAL BACKGROUND?

A. YES. I RECEIVED MY B.A. AND M.A. SIMULTANEOUSLY FROM YALE UNIVERSITY IN 2001 IN AMERICAN HISTORY, AN M.PHIL FROM CAMBRIDGE UNIVERSITY IN 2002 IN BRITISH HISTORY, AND THEN AN M.PHIL AND PH.D. FROM YALE UNIVERSITY IN 2009 IN AMERICAN HISTORY.

Q. AND YOU MENTIONED THAT YOU WORK AT TULANE. COULD YOU SPEAK MORE TO YOUR ROLES THERE?

A. YES. SO I TEACH A VARIETY OF CLASSES ON AMERICAN HISTORY: U.S. HISTORY IN THE LAW, CIVIL WAR AND RECONSTRUCTION, SOUTHERN INTELLECTUAL AND CULTURAL HISTORY, AND MENTOR AND ADVISE UNDERGRADUATE AND GRADUATE STUDENTS.

Q. AND DO ANY OF THOSE COURSES YOU JUST MENTIONED COVER LOUISIANA'S HISTORY OF OFFICIAL DISCRIMINATION AGAINST BLACK VOTERS?

A. YES. ALL THE COURSES I JUST MENTIONED TOUCH DIRECTLY ON

04:46 THAT SUBJECT.
Q. HAVE YOU EVER WRITTEN ANYTHING THAT HAS COVERED THE HISTORY OF VOTER DISCRIMINATION IN LOUISIANA?
A. YES. I'VE WRITTEN CHAPTERS AND EDITED VOLUMES ABOUT THE RECONSTRUCTION PERIOD MOVING INTO THE 20TH CENTURY THAT DEAL DIRECTLY WITH THAT SUBJECT MATTER.
Q. PROFESSOR GILPIN, IS THIS YOUR FIRST TIME TESTIFYING AS AN EXPERT WITNESS IN A CASE?
A. IT IS INDEED.
MR. RIZZUTO: YOUR HONOR, WE WOULD TENDER PROFESSOR GILPIN AS AN EXPERT IN SOUTHERN HISTORY.
THE COURT: ANY OBJECTION?
MS. MCKNIGHT: YOUR HONOR, NO OBJECTION.
THE COURT: DR. GILPIN WILL BE PERMITTED TO GIVE OPINION TESTIMONY ON SOUTHERN HISTORY.
MR. RIZZUTO: YOUR HONOR, IF IT PLEASES THE COURT, MAY I APPROACH THE WITNESS --
THE COURT: YOU MAY.
MR. RIZZUTO: -- WITH WHAT HAS BEEN MARKED AS PR-13 AND 88?
THE COURT: YOU MAY.
DIRECT EXAMINATION
BY MR. RIZZUTO:
Q. NOW, PROFESSOR GILPIN, I JUST HANDED YOU WHAT'S BEEN MARKED AS PR-13 AND PR-88.

04:47 DO YOU RECOGNIZE THOSE?
A. YES, I DO.
Q. NOW, WHAT'S PR-13?
A. PR-13 IS THE MAIN REPORT I WAS ASKED TO PRODUCE FOR THIS CASE.
Q. AND PR-88?
A. IS THE SUPPLEMENTAL REPORT I WAS ASKED TO PRODUCE.
Q. LET'S START WITH YOUR FIRST REPORT, PR-13. CAN YOU SPEAK TO ITS PURPOSE?
A. THE PURPOSE OF THE REPORT WAS TO TALK ABOUT THE STATE OF LOUISIANA'S LONG HISTORY OF DISCRIMINATION AGAINST ITS BLACK CITIZENS AND SPECIFICALLY HOW THAT HISTORY FED INTO VOTER DISCRIMINATION, PARTICULARLY AFTER THE FRANCHISE WAS GRANTED IN THE LATE 1860'S.
Q. AND WHAT WAS THE SCOPE OF YOUR INQUIRY IN THAT REPORT?
A. SO MY REPORT BEGAN IN PRE-AMERICAN LOUISIANA, WHICH IS REALLY WHEN THE RACIAL CATEGORIES THAT ARE GOING TO LATER BE USED BY THE STATE OF LOUISIANA BOTH PRE-SUFFRAGE AND POST-SUFFRAGE WERE CREATED AND SORT OF HONED BY THE STATE AND WERE USED UP UNTIL THE PRESENT DAY.
Q. BROADLY SPEAKING, WHAT WERE YOUR CONCLUSIONS?
A. SO FROM THE VERY BEGINNING, THE STATE HAS BEEN QUITE SERIOUSLY INVESTED IN CATEGORIZING ITS CITIZENS BY RACE AND SPECIFICALLY TO USE THOSE CATEGORIES TO DISCRIMINATE AGAINST BLACK FREEDOMS AND AFTER THE 1860'S PARTICULARLY OR

04:49 1 SPECIFICALLY AGAINST THE RIGHT TO VOTE. SO THAT WAS REALLY THE
2 TARGET OF A HUGE NUMBER OF EFFORTS BY THE STATE OF LOUISIANA,
3 PARTICULARLY IN THE POST-1868 PERIOD.
4 **Q.** NOW, I'D LIKE TO START AT THE BEGINNING OF THAT HISTORY.
5 DR. GILPIN, CAN YOU SPEAK TO THE HISTORICAL ROOTS OF OFFICIAL
6 DISCRIMINATION IN LOUISIANA?
7 **A.** YES. SO AS I WAS JUST MENTIONING, THAT PROCESS REALLY
8 BEGAN WITH CATEGORIZING ITS CITIZENS, AND IT WAS A -- THERE WAS
9 A PERIOD OF FLUIDITY BEFORE THE STATE BECAME REALLY MUCH MORE
10 RIGID ABOUT DEFINING WHO WAS BLACK AND WHO WAS WHITE. AND
11 THERE WAS A MIDDLE CATEGORY THAT BASICALLY BEGAN TO BE ERASED
12 IN THE 1840'S AND '50'S WHEN THE STATE BECAME VERY CONCERNED
13 WITH THE INFLUX OF IMMIGRANTS THAT DIDN'T REALLY FIT ANY OF THE
14 CATEGORIES THAT THEY HAD. AND THAT WAS WHEN THE STATE OF
15 LOUISIANA CREATED A LOT OF THE METHODS AND TOOLS THAT THEY
16 WOULD LATER USE TO DISENFRANCHISE BLACK VOTERS. SO PROPERTY
17 REQUIREMENTS, POLL TAXES, AND THINGS LIKE THIS LITERACY TEST
18 WERE ACTUALLY DEVELOPED IN THE 1840'S AND '50'S AND THEN
19 REPURPOSED LATER ON. SO THAT'S REALLY THE ANTEBELLUM ROOTS OF
20 MODERN VOTER DISCRIMINATION IN THE STATE OF LOUISIANA.
21 **Q.** WHAT'S THE PURPOSE WITHIN YOUR REPORT OF LAYING OUT THIS
22 ANTEBELLUM HISTORY?
23 **A.** WELL, AS I WAS JUST MENTIONING, THE SORT OF CONNECTION
24 BETWEEN THESE THINGS IS OFTEN QUITE CONCRETE. SO LITERALLY THE
25 WHITE ELITES IN THE POSTBELLUM PERIOD SIMPLY JUST SORT OF WENT

04:50 BACK INTO THEIR OWN HISTORY TO FIND THESE TOOLS AND REPURPOSE THEM. BUT BASICALLY THAT THE FOUNDATION OF BOTH RACIAL CATEGORIZATION AND OF VOTER DISCRIMINATION ITSELF IS REALLY FIRMLY ESTABLISHED IN THE ANTEBELLUM PERIOD AND THEN CARRIED THROUGH VERY INTENTIONALLY IN THE POSTBELLUM PERIOD.

Q. NOW, MOVING FORWARD A BIT IN HISTORY TO AFTER THE CIVIL WAR, HOW DID OFFICIAL DISCRIMINATION AGAINST BLACK LOUISIANIANS EVOLVE AFTER THE CIVIL WAR?

A. SO IN THE FIRST CONSTITUTIONAL CONVENTION, WHICH ACTUALLY HAPPENS DURING THE MIDDLE OF THE CIVIL WAR, IS THE FIRST EFFORT BY WHITE LOUISIANIANS TO KIND OF REFASHION OLD LAWS AND MAINTAIN SOME OF THE RACIAL HIERARCHIES THAT THEY HAD ESTABLISHED IN THE ANTEBELLUM PERIOD. THE BLACK CODES THAT ARE WRITTEN IN 1865 ARE THE FIRST EXAMPLE OF THAT AND ARE REALLY QUITE EXPLICITLY UNDERSTOOD AS A WAY OF COBBLING TOGETHER AS MUCH OF SLAVERY'S RULES AS THEY COULD.

IT'S NOT UNTIL THE 1890'S THAT THOSE KIND OF TAKE A MUCH MORE EXPLICITLY POLITICAL FORM. AND THAT IS MOST NOTABLY WITH THE ADOPTION OF THE GRANDFATHER CLAUSE, WHICH IS CREATED BY WHITE LOUISIANIANS IN 1898 THAT ESTABLISHES A RULE WHERE BLACK VOTERS HAVE TO BE ABLE TO TRACE THEIR ANCESTRY OF EITHER A FATHER OR A GRANDFATHER. THEY HAD TO HAVE VOTED BEFORE JANUARY 1ST OF 1867, WHICH WAS AN ILLOGICAL IMPOSSIBILITY BECAUSE BLACKS IN LOUISIANA COULD NOT VOTE BEFORE THAT DATE. SO IT WAS AN INCREDIBLY EFFECTIVE WAY OF TAKING BLACK

04:52 LOUISIANIANS OUT OF POLITICS.
AT THE TIME OF THE GRANDFATHER CLAUSE, THEY REPRESENTED ABOUT 44 PERCENT OF THE ELECTORATE IN LOUISIANA, WHICH HAS NEVER BEEN REACHED EVER SINCE THEN. WITHIN TWO YEARS, THAT WAS BELOW ONE PERCENT BECAUSE OF THE EFFECTIVENESS OF THE GRANDFATHER CLAUSE. SO IT TOOK BLACK VOTERS FROM ABOUT 130,000 DOWN TO ABOUT 5,000 IN TWO -- JUST TWO YEARS.
Q. AND DID TACTICS LIKE THE GRANDFATHER CLAUSE AND THE OTHER TACTICS YOU MENTIONED CONTINUE INTO THE 20TH CENTURY?
A. YES. SO THE GRANDFATHER CLAUSE ITSELF WAS STRUCK DOWN BY THE SUPREME COURT IN 1915. BUT THE VARIETY OF TOOLS I MENTIONED THAT LOUISIANIANS HAD DEVELOPED IN THE 1840'S AND '50'S -- LITERACY TESTS, POLL TAXES, UNDERSTANDING CLAUSES, AND REALLY INVESTING A LOT MORE POWER IN WHITE REGISTRARS OF VOTERS -- WAS SOMETHING THAT WAS REALLY -- THE WEIGHT OF THE STATE WAS PUT BEHIND THAT -- SO TO THE DEGREE WHERE YOU COULD HAVE A WHITE REGISTRAR REJECT A BLACK VOTER IF THEY COULD NOT COUNT THE NUMBER OF JELLYBEANS IN A JAR THAT WAS AT THE POLLING STATION.
Q. NOW, MOVING A BIT FARTHER INTO THE 20TH CENTURY, HOW, IF AT ALL, DID VOTING-RELATED DISCRIMINATION IN LOUISIANA CHANGE AFTER THE VOTING RIGHTS ACT WAS PASSED IN 1965?
A. SO IT'S NOT SO MUCH THAT THE DISCRIMINATION CHANGED, ESPECIALLY IN TERMS OF MAGNITUDE OR THE DETERMINATION BY THE STATE OF LOUISIANA TO DISENFRANCHISE ITS BLACK VOTERS. WHAT

04:53 1 THE VOTING RIGHTS ACT REALLY DID WAS MAKE BOTH CITIZENS AND THE
2 STATE, THE FEDERAL GOVERNMENT, AWARE OF THESE ATTEMPTS TO
3 DISENFRANCHISE BLACK VOTERS. AND THIS IS PARTICULARLY THROUGH
4 THE PRECLEARANCE CLAUSE THAT MADE IT POSSIBLE FOR THE SORT OF
5 KIND OF DIZZYING EXTENT OF THESE EFFORTS WERE KIND OF BROUGHT
6 TO LIGHT. AND THEN, ALSO, IT GAVE A POSSIBILITY FOR THOSE
7 EFFORTS TO DISENFRANCHISE BLACK VOTERS TO ACTUALLY BE CONTESTED
8 IN COURT.
9 **Q.** CAN YOU SPEAK ABOUT ANY OF THESE SECTION 2 VIOLATIONS THAT
10 YOU NOTE IN YOUR REPORT?
11 **A.** YES. SO I THINK THE ONE THAT I FIND MOST COMPELLING IS
12 THE *CHISOM VERSUS ROEMER* CASE OF 1991 BECAUSE IT BEARS SUCH A
13 STRONG RESEMBLANCE TO THINGS THAT HAVE HAPPENED IN THE LAST
14 CALENDAR YEAR IN THE STATE OF LOUISIANA WITH THE WEST MONROE
15 BOARD OF ALDERMEN. SO THESE ARE THE EXACT SAME SCHEMES 30
16 YEARS APART.
17 THE FIRST ONE WE WERE MADE AWARE OF BECAUSE OF
18 PRECLEARANCE. THE SECOND ONE IS JUST THROUGH THE DOGGEDNESS
19 OF, I'M SURE, SOME OF THE PEOPLE IN THIS ROOM TO ACTUALLY BRING
20 THOSE KINDS OF THINGS TO LIGHT BECAUSE THE DETERMINATION OF THE
21 STATE HAS REMAINED BASICALLY UNALTERED. THE MECHANISM OF
22 MAKING US AWARE OF THEM HAS DRASTICALLY CHANGED AFTER 2013.
23 **Q.** NOW, TURNING TO YOUR SECOND REPORT, PR-88, WHAT WAS THE
24 PURPOSE OF THAT REPORT?
25 **A.** SO THAT REPORT IS -- THE PURPOSE WAS TO TALK ABOUT THE

04:55 HISTORY OF RACIAL CLASSIFICATION BY THE STATE OF LOUISIANA, AGAIN, STRETCHING BACK TO THE PRE-AMERICAN LOUISIANA, WHICH IS WHEN THESE RACIAL CATEGORIES STARTED TO BE SORT OF FORMULATED, BUT PARTICULARLY AFTER THE *TREADWAY* CASE OF 1910, WHICH IS WHEN THE STATE OF LOUISIANA ADOPTED THIS ONE-DROP RULE THAT IF ANYONE COULD BE PROVEN TO HAVE ANY BLACK ANCESTRY, THEY WERE GOING TO BE CONSIDERED BLACK BY THE STATE OF LOUISIANA.

Q. HOW LONG WAS THIS ONE-DROP RULE OR AN ANALOG IN PLACE IN LOUISIANA?

A. SO THAT REMAINED IN PLACE UNTIL 1970 WHEN IT WAS REPLACED BY THE ONE THIRTY-SECOND LAW THAT WAS VERY VIGOROUSLY CONTESTED IN THE 1970S, ACTUALLY, BY WHITE LOUISIANIANS OR PEOPLE WHO CONSIDERED THEMSELVES WHITE WHO SUED THE STATE TO TRY AND BE RECLASSIFIED. THAT LAW WAS CHANGED IN 1983 TO TRY TO LOWER THE STANDARD BY WHICH WHAT THE STATE WOULD ACCEPT; ALTHOUGH DURING THAT CASE, I THINK, QUITE INTERESTINGLY, THE STATE WAS CITING ANCESTRY GOING BACK TO MOBILE, ALABAMA, IN 1760 TO PROVE THAT THE CITIZEN IN QUESTION WAS BLACK, AT LEAST BY THE STANDARDS OF STATE.

SO, AGAIN, IT'S REALLY DEMONSTRATING HOW INVESTED THE STATE OF LOUISIANA IS IN THOSE CATEGORIES AND HOW THEY WERE USED QUITE EXPLICITLY THEN TO DISENFRANCHISE BLACK VOTERS.

Q. NOW, STEPPING BACK TO TALK ABOUT YOUR REPORT MORE GENERALLY, WHAT WAS YOUR ULTIMATE CONCLUSION IN YOUR SUPPLEMENTAL REPORT?

04:56 1 **A.** THAT -- MOST PARTICULARLY, THAT THESE CATEGORIES HAVE BEEN
2 USED OVER -- CERTAINLY OVER THE COURSE OF THE 20TH AND 21ST
3 CENTURIES TO DISENFRANCHISE BLACK VOTERS BUT OVERALL, THAT
4 THERE IS JUST SUCH A BASIC ABSURDITY TO RACIAL CATEGORIZATION
5 BECAUSE THERE IS NO REAL SCIENCE BEHIND IT. BUT THE STATE
6 REMAINS VERY INVESTED IN MAKING THOSE DISTINGUISHING CATEGORIES
7 SO THAT THEY THEN CAN BE USED IN CASES LIKE THIS.
8 **Q.** DID YOU FIND ANYTHING RELATED TO HOW THE HISTORY MAY
9 AFFECT THE WAYS THAT MULTIRACIAL LOUISIANIANS MIGHT IDENTIFY
10 TODAY?
11 **A.** YEAH. WELL, I THINK ONE OF THE THINGS THAT YOU HAVE TO
12 TAKE INTO CONSIDERATION IS WE'RE TALKING ABOUT OVER 300 YEARS
13 OF HISTORY AND THAT LOUISIANIANS OF ALL COLORS ARE KEENLY AWARE
14 OF THE CONSEQUENCES OF WHAT THEIR CATEGORY IS, BOTH IN TERMS OF
15 THEIR SELF-IDENTIFICATION AND HOW THE STATE IDENTIFIES THEM.
16 AND SO THERE'S JUST -- THERE IS AN ENORMOUS AMOUNT AT STAKE IN
17 TERMS OF WHAT THEY IDENTIFY AS AND WHAT THE STATE IDENTIFIES
18 THEM. AND THEY ARE VERY AWARE OF THAT, AND THAT SORT OF GUIDES
19 A LOT OF BEHAVIOR GOING FORWARD.
20 **Q.** AND JUST TO BE CLEAR, DOES THIS HISTORY TIE INTO THE
21 HISTORY YOU'VE DISCUSSED IN YOUR ORIGINAL REPORT?
22 **A.** YES. I MEAN, I THINK IT'S -- IT'S PRETTY MUCH -- IT'S A
23 REAL CORNERSTONE OF EVERYTHING THAT'S DISCUSSED IN THE FIRST
24 REPORT IS WHAT I'M DISCUSSING IN THE SECOND REPORT.
25 **Q.** NOW, DR. GILPIN, HOW WOULD YOU RESPOND TO THE CRITIQUE

04:58 1 THAT YOUR REPORTS DON'T INCLUDE ENOUGH EXAMPLES OF RACE AND
2 DISCRIMINATION?
3 **A.** WELL, I DISAGREE PRETTY FUNDAMENTALLY WITH THAT PREMISE,
4 MOST PARTICULARLY BECAUSE AFTER THE VOTING RIGHTS ACT WAS
5 RENEWED IN 1982, TO ME EVERYTHING THAT'S COME SINCE THEN -- AND
6 WE'RE TALKING ABOUT THE LAST FOUR DECADES I WOULD CALL RECENT
7 HISTORY. AND ALSO PARTICULARLY I WOULD CALL IT THAT BECAUSE OF
8 THE REMARKABLE CONSISTENCY WITH WHICH WHITE LOUISIANIANS HAVE
9 ATTEMPTED TO DISENFRANCHISE BLACK VOTERS. THIS IS NOT
10 SOMETHING THAT SORT OF STOPPED AT ANY GIVEN POINT BUT HAS
11 REALLY BEEN A THROUGH LINE IN THE ENTIRETY OF THE HISTORY OF
12 LOUISIANA, EVEN IF WE'RE TALKING ABOUT PRE-SUFFRAGE BUT
13 PARTICULARLY IF WE'RE TALKING ABOUT POST-1982. THE STATE HAS
14 JUST DISPLAYED A REMARKABLE DEGREE OF CONTINUITY, DOGGEDNESS,
15 DETERMINATION TO STOP BLACK PEOPLE FROM VOTING.
16 **Q.** COULD YOU PLEASE OUTLINE FOR THE COURT ONE OF THE EXAMPLES
17 OF RECENT DISCRIMINATION THAT YOU OUTLINED IN YOUR REPORT?
18 **A.** SURE. I MEAN, I MENTIONED A FEW MINUTES AGO THE WEST
19 MONROE BOARD OF ALDERMEN, WHICH I THINK IS PROBABLY THE MOST
20 FREQUENT SCHEME THAT'S BEEN USED BY LOUISIANA AND POLITICIANS
21 TO TRY AND DISENFRANCHISE BLACK VOTERS. THAT IS THE METHOD OF
22 AT-LARGE ELECTIONS IN THIS CASE IN WEST MONROE.
23 THE *HARDING VERSUS EDWARDS* CASE IS ALSO A VERY, VERY
24 RECENT EXAMPLE. WE'RE TALKING ABOUT IN THE LAST CALENDAR YEAR
25 A VARIETY OF SCHEMES; BASICALLY WHATEVER PEOPLE CAN COME UP

04:59 WITH IN ORDER TO DISENFRANCHISE BLACK VOTERS. LIKE IT'S ALL -- THAT'S ALWAYS THE GOAL. AND IT'S REALLY WHATEVER TOOLS ARE AT THEIR DISPOSAL TO DO THAT THEY WILL TRY TO UTILIZE.

Q. DR. GILPIN, IN YOUR VIEW, ARE OFFICIAL DISCRIMINATORY PRACTICES MADE BY -- MADE AGAINST BLACK VOTERS IN LOUISIANA A THING OF THE PAST?

A. I WOULD SAY THAT THEY ARE VERY MUCH THE DEFINING CHARACTERISTIC OF LOUISIANA POLITICS, PAST, PRESENT AND CERTAINLY, IT LOOKS LIKE, THE FUTURE.

Q. THANK YOU, DR. GILPIN.

MR. RIZZUTO: AT THIS TIME WE MOVE PR-13 AND PR-88 INTO EVIDENCE.

THE COURT: ANY OBJECTIONS?

MS. MCKNIGHT: NO OBJECTION, YOUR HONOR.

THE COURT: PR-13 AND PR-88 ARE ADMITTED.

MR. RIZZUTO: WE HAVE NO FURTHER QUESTIONS FOR DR. GILPIN.

THE COURT: ANY CROSS?

MS. MCKNIGHT: YES, MA'AM.

CROSS-EXAMINATION

BY MS. MCKNIGHT:

Q. GOOD AFTERNOON, DR. GILPIN.

I'M KATE MCKNIGHT WITH THE LEGISLATIVE INTERVENORS, AND I HAVE A FEW QUESTIONS FOR YOU THIS AFTERNOON.

PLEASURE TO MEET YOU.

05:00 1 **A.** OKAY.
2 **Q.** LET'S START WITH PR-13, YOUR REPORT IN THIS CASE. WE ARE
3 GOING TO START ON PAGE 39.
4 **MS. MCKNIGHT:** DOES HE NEED TO BE SWITCHED OR --
5 **THE DEPUTY CLERK:** I'M SORRY. YES.
6 **MS. MCKNIGHT:** THANK YOU.
7 **BY MS. MCKNIGHT:**
8 **Q.** SO, DR. GILPIN, YOU INCLUDE IN YOUR REPORT A SECTION
9 TITLED "VOTING RIGHTS IN LOUISIANA, 1982-2013."
10 DO YOU SEE THAT?
11 **A.** I DO.
12 **Q.** OKAY. AND IN THIS SECTION YOU STUDY CASE LAW DEVELOPMENTS
13 RELATED TO THE VOTING RIGHTS ACT. RIGHT?
14 **A.** YEAH. I THINK THAT'S ONE OF THE THINGS THAT ARE EXAMINED
15 IN THIS SECTION.
16 **Q.** OKAY. NOW, DURING THIS TIME PERIOD, FOLLOWING THE 1990
17 CENSUS, LOUISIANA TRIED TO COMPLY WITH THE VOTING RIGHTS ACT BY
18 DRAWING TWO MAJORITY-MINORITY CONGRESSIONAL DISTRICTS.
19 CORRECT?
20 **A.** I MEAN, I AM AWARE OF THIS. I AM NOT SURE IT'S DISCUSSED
21 AT ANY LENGTH IN THE REPORT.
22 **Q.** OKAY. AND LOUISIANA'S EFFORT TO DRAW A SECOND
23 CONGRESSIONAL DISTRICT AFTER THE 1990 CENSUS WAS STRUCK DOWN BY
24 COURTS AS A RACIAL GERRYMANDER. CORRECT?
25 **A.** AGAIN, I'M NOT SURE IF THAT'S IN THE SCOPE OF THIS REPORT.

05:02 I AM DIMLY AWARE OF THIS OTHERWISE.
Q. OKAY. SO A VOTING RIGHTS ACT CASE IN THE EARLY 1990'S WOULD NOT BE WITHIN THE SCOPE OF YOUR REPORT WHICH INCLUDES A SECTION TITLED "VOTING RIGHTS IN LOUISIANA, 1982-2013"?
A. NO. I MEAN, IT WOULD FALL UNDER THAT HEADING PERFECTLY COMFORTABLY, BUT IT MAY JUST NOT HAVE BEEN INCLUDED FOR WHATEVER REASON.
Q. AND WHAT MIGHT THAT REASON BE?
A. POSSIBLY THAT I OVERLOOKED IT, POSSIBLY THAT THE REPORT WAS GETTING QUITE LONG. I'M NOT ENTIRELY SURE.
Q. OKAY. SO I UNDERSTAND THAT IN YOUR REPORT YOU DO NOT ADDRESS LOUISIANA'S EFFORT TO COMPLY WITH THE VOTING RIGHTS ACT BY CREATING A SECOND MAJORITY-MINORITY DISTRICT FOLLOWING THE 1990 CENSUS. CORRECT?
A. I MEAN, IF YOU DIDN'T FIND IT, I'M NOT SURE THAT IT'S IN THERE.
Q. OKAY. AND, IN FACT, YOU DID NOT EVEN -- YOU CITE A LOT OF CASE LAW, BUT YOU DID NOT EVEN CITE ONE OF THE *HAYS* CASES, IN THE *HAYS* LINE OF CASES. CORRECT?
A. NO. I DON'T BELIEVE THAT I DID CITE ANY OF THE *HAYS* CASES.
Q. OKAY. THANK YOU.
LET'S MOVE ON TO PAGE 45 IN YOUR REPORT. DR. GILPIN, YOU NOTE TOWARD THE END OF THE FOURTH PARAGRAPH -- SO THE ONE THAT STARTS "THE HOTLY CONTESTED." YOU NOTE, QUOTE, "THE

05:04 CHANGES TO THE VRA IN THE WAKE OF *SHELBY COUNTY* MEANT THAT STATES WERE NO LONGER UNDER THE BURDEN OF PROVING THEIR LAWS TO BE NONDISCRIMINATORY."

DO YOU SEE THAT?

A. YES, I DO.

Q. OKAY. SO BEFORE *SHELBY COUNTY*, WHICH WAS A 2013 SUPREME COURT OPINION, LOUISIANA WAS UNDER A BURDEN OF PROVING ITS VOTING LAWS TO BE NONDISCRIMINATORY. CORRECT?

A. YEAH, THAT'S MY UNDERSTANDING OF SECTION 5 PRECLEARANCE.

Q. OKAY. AND 2011 -- SO BEFORE *SHELBY COUNTY*, LOUISIANA'S CONGRESSIONAL MAP WAS PRECLEARED. CORRECT?

A. I'M NOT SURE THAT I DISCUSS THAT IN THIS REPORT. I MEAN, I HEARD IT IN THE COURTROOM TODAY.

Q. OKAY. SO YOU UNDERSTAND THAT TO BE TRUE?

A. SURE.

Q. OKAY. THANK YOU. NO FURTHER QUESTIONS, DR. GILPIN.

THE COURT: ANY REDIRECT?

MR. RIZZUTO: NO REDIRECT, YOUR HONOR.

THE COURT: OKAY. THANK YOU.

DR. GILPIN, YOU MAY GO OR YOU ARE RELEASED.

NEXT WITNESS.

MR. SAVITT: GOOD AFTERNOON, YOUR HONOR.

MAKING MY FIRST APPEARANCE, I'M ADAM SAVITT -- THAT'S S-A-V-I-T-T -- ON BEHALF OF THE ROBINSON PLAINTIFFS, AND WE'D LIKE TO CALL ASHLEY SHELTON.

05:05

ASHLEY SHELTON,

HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

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

THE WITNESS: SURE. MY NAME IS ASHLEY SHELTON. A-S-H-L-E-Y, S-H-E-L-T-O-N.

DIRECT EXAMINATION

BY MR. SAVITT:

Q. GOOD AFTERNOON, MS. SHELTON.

A. GOOD AFTERNOON.

Q. THANK YOU.

MR. SAVITT: COULD WE PLEASE PULL UP PR EXHIBIT 11.

BY MR. SAVITT:

Q. AND DO YOU RECOGNIZE THIS DOCUMENT, MS. SHELTON?

A. I DO.

Q. AND WHAT IS IT?

A. IT IS MY DECLARATION.

Q. OKAY. THANK YOU VERY MUCH.

MR. SAVITT: WE CAN PUT THAT DOWN.

BY MR. SAVITT:

Q. MS. SHELTON, WHERE DO YOU LIVE?

A. IN BATON ROUGE.

Q. AND HOW LONG HAVE YOU LIVED IN BATON ROUGE?

A. MY WHOLE LIFE.

Q. OKAY. THANK YOU.

05:06 AND WHAT IS YOUR CURRENT JOB TITLE?
A. I AM THE PRESIDENT AND CEO OF THE POWER COALITION FOR EQUITY AND JUSTICE.
Q. AND WHAT DOES THE POWER COALITION DO?
A. WE ARE A CIVIC ENGAGEMENT ORGANIZATION. WE WORK WITH HISTORICALLY DISENFRANCHISED COMMUNITIES THROUGHOUT LOUISIANA, ENGAGING THEM IN HELPING CONNECT THEM BACK TO THEIR VOTE, THEIR VOICE AND THEIR POWER.
Q. THANK YOU.
AND WOULD YOU SAY THAT YOU FOCUS ON COMMUNITIES OF COLOR IN YOUR WORK WITH POWER COALITION?
A. YES.
Q. THANKS.
AND, MS. SHELTON, WHY ARE YOU HERE TODAY?
A. I AM HERE TODAY BECAUSE WE DID A TON OF WORK WORKING WITH COMMUNITIES ACROSS THE STATE OF LOUISIANA. YOU KNOW, I'VE PARTICIPATED IN REDISTRICTING LAST CYCLE, AND I PROBABLY COULD HAVE SHOT A CANNON THROUGH THE CAPITOL AND NOT HIT ONE PERSON.
AND, YOU KNOW, THIS PARTICULAR REDISTRICTING PROCESS, POWER COALITION ITSELF ENGAGED OVER 1,000 CITIZENS ACROSS THE STATE THAT PARTICIPATED IN THIS PROCESS FROM CENSUS ALL THE WAY TO THE ROADSHOWS AND THEN THE SPECIAL SESSION. AND SO I AM HERE TODAY TO REPRESENT THE FOLKS THAT CONSISTENTLY ASKED FOR A FAIR AND EQUITABLE REDISTRICTING PROCESS AND DID NOT RECEIVE THAT.

05:07 **Q.** THANK YOU, MS. SHELTON.
AND YOU MENTIONED THE POWER COALITION WORKS PREDOMINATELY WITH COMMUNITIES OF COLOR. AND BASED ON YOUR EXPERIENCE WORKING WITH POWER COALITION, DO BLACK VOTERS FACE DISCRIMINATION RELATED TO VOTING?
A. YES.
Q. AND COULD YOU DESCRIBE THAT DISCRIMINATION?
A. SURE. I MEAN, IT -- YOU KNOW, GOSH, SO FAR -- YOU KNOW, JUST IN OUR OWN EXPERIENCES, WE -- DURING COVID -- SO 70 PERCENT OF THE DEATHS FROM COVID EARLY ON WERE AFRICAN AMERICAN PEOPLE. SO DISPROPORTIONATELY BLACK PEOPLE WERE DYING FROM COVID, AND IN THAT -- YOU KNOW, IN THAT PROCESS OF, YOU KNOW, THE -- THEN -- NO, THE SECRETARY OF STATE THEN PUT INTO PLACE DURING THE PRIMARY SEVERAL REASONS THAT FOLKS COULD -- YOU KNOW, COULD HAVE REQUESTED AN ABSENTEE BALLOT, ESPECIALLY IF THEY HAD UNDERLYING CONDITIONS. BUT WHEN WE GOT TO THE GENERAL ELECTION, THEY DID NOT WANT THOSE REASONS TO STAND. AND SO WE ENDED UP HAVING TO ORGANIZE AND SUE THE SECRETARY OF STATE. AND THE GOVERNOR DID STAND WITH US, EVEN THOUGH WE HAD TO NAME HIM IN THAT LAWSUIT. THAT AT THE END OF THE DAY WITH SO MANY AFRICAN-AMERICAN FOLKS DYING EARLY ON IN THE -- IN COVID WITH THE CONTINUED -- THIS WAS BEFORE VACCINES, BEFORE WE UNDERSTOOD HOW IT WAS GOING TO CONTINUE TO GROW AND CHANGE. AND WE WERE ABLE TO ENSURE THAT BLACK VOTERS THAT -- WHO DISPROPORTIONATELY HAVE UNDERLYING CONDITIONS HAD ACCESS TO THEIR VOTE.

05:08 YOU KNOW, ALSO, THERE WAS AN EXAMPLE IN BAKER, WHICH -- SO BAKER IS RIGHT OUTSIDE OF -- IT'S ONE OF THE MANY UNINCORPORATED AREAS OF BATON ROUGE, OR RIGHT OUTSIDE. AND, YOU KNOW, DURING THE 2020 ELECTION, THERE WAS A WHITE MAN WHO SAT IN HIS CHAIR WITH A VERY LARGE GUN OUTSIDE OF A -- YOU KNOW, OUTSIDE OF A BLACK PRECINCT. HE WAS, YOU KNOW, 600 YARDS AWAY -- OR FEET AWAY, WHICH IS THE LAW. BUT CLEARLY SITTING THERE WITH A LARGE GUN IN PROXIMITY TO A BLACK PRECINCT, YOU KNOW, WAS ALARMING AND VERY SCARY. THE POLICE WERE CALLED, THE FBI, THE STATE TROOPERS. I MEAN, EVERYONE WAS THERE, BUT NO ONE, YOU KNOW, TOOK ACTION BECAUSE IT CLEARLY WAS, YOU KNOW, VOTER INTIMIDATION, BUT NOBODY TOOK ACTION ON THAT. AND SO BASICALLY MULTIPLE -- YOU KNOW, MULTIPLE -- YOU KNOW, POLICE GROUPS JUST KIND OF SAT AND WATCHED HIM, INSTEAD OF REMOVING HIM SO THAT BLACK VOTERS WOULD FEEL COMFORTABLE MAKING THEIR VOTE.

Q. THANK YOU.

AND WAS POWER COALITION AND ITS CONSTITUENTS PRESENT AT THAT BAKER EVENT?

A. YES, WE WERE THERE. I HAD TWO STAFF MEMBERS THERE AND SEVERAL MEMBERS OF THE COMMUNITY, AND WE HAD TO MOVE THEM BACK SO THAT THEY COULD BE IN A SAFE DISTANCE AS THE POLICE KIND OF WORKED OUT WHAT WAS GOING ON. BUT, AGAIN, YOU KNOW, HE WAS ABLE TO SIT THERE FOR A GOOD BIT OF THE DAY.

Q. AND SO IS IT FAIR TO SAY THAT YOU DIDN'T FEEL LIKE YOUR

05:10 1 NEEDS WERE ADEQUATELY RESPONDED TO BY LOUISIANA STATE
2 OFFICIALS?
3 **A.** THEY WERE NOT.
4 **Q.** THANK YOU.
5 IN YOUR EXPERIENCE, ARE THERE GREATER OBSTACLES FOR
6 THE BLACK VOTERS THAN FOR WHITE VOTERS?
7 **A.** YES.
8 **Q.** COULD YOU DESCRIBE SOME OF THEM?
9 **A.** SO IN -- YOU KNOW, IN LOUISIANA WE HAVE TRANSPORTATION
10 ISSUES. YOU KNOW, IF YOU -- YOU KNOW, LIKE EVEN NEW ORLEANS,
11 WHICH PROBABLY HAS OUR BEST TRANSIT SYSTEM IS STILL, YOU KNOW,
12 LACKING IN MANY WAYS. BATON ROUGE HAS A SYSTEM THAT IS NOT --
13 YOU KNOW, THAT WORKS BUT IS NOT MEETING THE NEEDS OF OUR ENTIRE
14 CITY. AND SHREVEPORT HAS EVEN LESS OF A TRANSIT SYSTEM THAN
15 THAT. AND THOSE ARE OUR THREE LARGEST METROS -- WITH
16 JEFFERSON. BUT, YOU KNOW, JEFFERSON HAS NONE EITHER.
17 AND SO THE IDEA THAT BLACK VOTERS HAVE TO -- YOU
18 KNOW, LIKE WE PROVIDE RIDES TO THE POLLS SO THAT WE CAN ENSURE
19 THAT BLACK VOTERS CAN ACTUALLY VOTE IN ELECTIONS BECAUSE,
20 AGAIN, YOU KNOW, BLACK VOTERS DISPROPORTIONATELY EXPERIENCE
21 POLL CLOSURES AND POLL CHANGES. THEY, ALSO, TOO -- WHENEVER
22 THEY HAVE A POLLING LOCATION, THEY ALSO EXPERIENCE THAT THEIR
23 POLLING LOCATIONS ALSO HAVE ISSUES WITH DISABILITY
24 ACCESSIBILITY. AND SO FOR US, THE ABILITY TO BE ABLE TO ENGAGE
25 BLACK VOTERS AND ENSURE BLACK AND BROWN VOTERS AND ENSURE THAT

05:11 1 THEY HAVE ACCESS TO, YOU KNOW, THEIR VOICE AND THEIR VOTE IS
2 REALLY CRITICAL FOR US.
3 AND, YOU KNOW, ONE OF THE THINGS I LOVE IS THAT IN
4 NEW ORLEANS WE GET TO WORK WITH A FUNERAL HOME THAT HAS A
5 FLEET OF VEHICLES THAT THEY DONATE TO THE PROCESS -- NOT THE
6 HURSTS. BUT, I MEAN, YOU KNOW, LIKE SO PEOPLE UNDERSTAND THE
7 IMPORTANCE OF BEING ABLE TO GET PEOPLE TO VOTE. AND IN THE
8 RURAL COMMUNITIES IT'S EVEN HARDER. BUT WE DO WORK WITH
9 PARTNERS AND CHURCHES ACROSS THE STATE TO MAKE SURE THAT PEOPLE
10 CAN ACCESS THEIR RIGHT TO VOTE.
11 **Q.** SO IS IT FAIR TO SAY THAT LACK OF ACCESS TO TRANSPORTATION
12 MAKES IT HARDER FOR BLACK LOUISIANIANS TO PARTICIPATE IN THE
13 POLITICAL PROCESS?
14 **A.** YES.
15 **Q.** AND, MS. SHELTON, DOES POWER COALITION WORK TO CONTACT
16 BLACK LOUISIANIANS ABOUT VOTING?
17 **A.** YES.
18 **Q.** COULD YOU DESCRIBE SOME OF POWER COALITION'S EFFORTS ON
19 THAT FRONT?
20 **A.** ABSOLUTELY. SO WE WORK -- WE BASICALLY BUILD WHAT WE CALL
21 A UNIVERSE; AND USUALLY FOR STATEWIDE ELECTIONS, ABOUT 500,000
22 PEOPLE. AND WE DO TEXT MESSAGE, PHONE BANKING, PHONE CALLS, AS
23 WELL AS CANVASING WHERE WE ARE DOOR KNOCKING AND TALKING TO
24 COMMUNITIES. WE ALSO DO, YOU KNOW, CANDIDATE SURVEYS AND
25 CANDIDATE FORMS.

05:12 1 **Q.** AND, MS. SHELTON, DO BLACK VOTERS NEED THIS EXTRA
2 OUTREACH, IN YOUR EXPERIENCE?
3 **A.** YES.
4 **Q.** AND WHY IS THAT?
5 **A.** ONE OF THE THINGS THAT WE FOUND IN OUR WORK IS THAT NOBODY
6 WAS TALKING TO BLACK VOTERS OR BROWN VOTERS OR INDIGENOUS OR
7 API AND THAT THE WORK THAT -- YOU KNOW, WE KNOW THAT OF OUR
8 UNIVERSE OF VOTERS THAT WE ARE REACHING, WHICH ARE, YOU KNOW,
9 HISTORICALLY DISENFRANCHISED COMMUNITIES, THAT WE CAN GET ABOUT
10 60 TO 65 PERCENT OF OUR UNIVERSE TO TURN OUT TO VOTE, WHICH
11 PROVES TO ME THAT NO ONE WAS TALKING TO THEM; NO ONE WAS
12 ADDRESSING THEM; NO ONE WAS INCLUDING THEM IN THE PROCESS.
13 AND, YOU KNOW, A LOT OF OUR WORK IS RECONNECTING PEOPLE TO
14 THEIR AGENCY AS A VOTER.
15 **Q.** THANK YOU.
16 AND IN YOUR EXPERIENCE WORKING WITH POWER COALITION,
17 ARE THERE TECHNOLOGY BARRIERS THAT MAKE IT DIFFICULT TO REACH
18 BLACK VOTERS?
19 **A.** YES. I MEAN, MANY FOLKS HAVE TALKED ABOUT IT, AND IT IS
20 NO SECRET THAT BROADBAND IS AN ISSUE THROUGHOUT OUR RURAL
21 COMMUNITIES. BUT IT'S ALSO AN ISSUE IN OUR URBAN COMMUNITIES.
22 YOU KNOW, WE WORK WITH A VOTER FILE; PHONE NUMBERS CHANGE, YOU
23 KNOW, CONSTANTLY; YOU KNOW, FOLKS ARE DEALING WITH HOUSING AND
24 SECURITY AND OTHER ISSUES. AND SO AGAIN, YOU KNOW, LIKE IT
25 CERTAINLY IS AN ISSUE OF ACCESS AND WHETHER OR NOT -- YOU KNOW,

05:13 WHETHER OR NOT THEY CAN AFFORD, YOU KNOW, A CELL PHONE, A HOUSE PHONE OR WHATEVER, SOME OF THOSE OTHER WAYS THAT WE WOULD TRY TO CONTACT THEM.

Q. THANK YOU, MS. SHELTON.

AND YOU MENTIONED THE IMPACT OF POLL CLOSURES ON THE COMMUNITIES YOU SERVE. ARE YOU AWARE OF POLL CLOSURES THAT RESULTED FROM A PRECINCT CONSOLIDATION?

A. YES.

Q. AND COULD YOU SPEAK TO THAT ISSUE?

A. SO, I MEAN, WE HAD ONE, YOU KNOW, INSTANCE, YOU KNOW, THAT KIND OF COMES CLEARLY TO MIND. IN NEW ORLEANS EAST, THEY WERE CLOSING AND CONSOLIDATING A POLLING LOCATION THAT WAS PREDOMINANTLY AFRICAN AMERICAN, AND IN THAT POLLING LOCATION -- YOU KNOW, WE TRIED TO WORK WITH THE SECRETARY OF STATE TO MAKE IT MAKE SENSE FOR THE VOTERS THAT WERE CHRONIC VOTERS, MANY OF THEM IN THAT AREA. AND WHAT ULTIMATELY -- YOU KNOW, THEIR ARGUMENT WAS: "WELL, WE'RE JUST MOVING IT A COUPLE OF MILES." BUT IN MOVING IT A COUPLE OF MILES MEANT THAT THE COMMUNITY WOULD HAVE TO, YOU KNOW, CROSS A DANGEROUS HIGHWAY.

AND SO, AGAIN, ON PAPER IT DOESN'T LOOK LIKE IT IS THIS BIG DEAL, BUT TO THOSE VOTERS THAT ARE TRYING TO ACCESS THEIR VOTE AND WHO USED TO WALK TO THE POLLS CAN NO LONGER DO THAT IN A SAFE WAY IF THEY'VE GOT TO CROSS A MAJOR INTERSTATE TO ACCESS THEIR VOTE.

Q. THANK YOU, MS. SHELTON.

05:15 I'D LIKE TO SHIFT GEARS. COULD YOU PLEASE PROVIDE A BRIEF OVERVIEW OF POWER COALITION'S ACTIVITIES RELATED TO THE 2020 REDISTRICTING PROCESS?

A. YES. WE STARTED OUR WORK DURING CENSUS, AND WE HAD -- WE WORKED ALL OVER THE STATE TO ENGAGE BLACK AND BROWN COMMUNITIES IN THE POWER OF CENSUS IN BEING COUNTED, TRYING TO, YOU KNOW, ADDRESS SOME OF THE FEAR AND FEAR MONGERING THAT WAS HAPPENING ABOUT WHAT DID IT MEAN TO TAKE THE CENSUS. AND, YOU KNOW, WHEN WE DID THAT WORK THROUGHOUT THE CENSUS PROCESS AND THEN SHIFTED GEARS, YOU KNOW, SHORTLY THEREAFTER TO START TEACHING PEOPLE WHAT REDISTRICTING WAS.

SO WE HELD REDISTRICTING ACADEMIES WHERE WE TAUGHT FOLKS THE LANGUAGE: CRACKING, PACKING, OTHER DEFINITIONS. AND THEN WE ALSO, YOU KNOW, WORKED WITH THEM TO ACTUALLY LEARN MAPTITUDE AND LEARN HOW TO DRAW THEIR OWN MAPS.

WE ALSO HAD THREE REDISTRICTING FELLOWS THAT ALSO DID TRAININGS ACROSS THE -- YOU KNOW, ACROSS THE STATE. I THINK THEY DID OVER 43 TRAININGS IN INDIVIDUAL, KIND OF SMALL CLUSTERS IN DIFFERENT PARTS OF THE STATE. AND I THINK MOST IMPORTANTLY WE SUPPORTED, YOU KNOW, PEOPLE TO PARTICIPATE IN THE ROADSHOWS. AND SO, I MEAN, AGAIN, THEY WERE AT -- YOU KNOW, ALMOST AT EVERY ROADSHOW, THERE WERE AT LEAST 100 PEOPLE THAT CAME AND TESTIFIED AT EACH STOP.

AND OVERWHELMINGLY, THE MAJORITY OF THE TESTIMONY AT EVERY SINGLE ROADSHOW, WHITE AND BLACK, OLD AND YOUNG, WAS THEY

05:16 1 WANTED FAIR AND EQUITABLE MAPS AND THEY WANTED A SECOND
2 MAJORITY-MINORITY DISTRICT. IT WAS CLEAR. IT WAS -- YOU KNOW,
3 IT WAS REAL THAT, YOU KNOW, PEOPLE SAID THIS ALL OVER THE STATE
4 OF LOUISIANA, AND THEY WERE IGNORED BY HOUSE GOVERNMENTAL
5 AFFAIRS AND SENATE GOVERNMENTAL AFFAIRS.
6 **Q.** THANK YOU, MS. SHELTON.
7 AND AS PART OF POWER COALITION'S EFFORTS, DID IT
8 SUBMIT DISTRICTING MAPS TO THE LEGISLATURE THAT CONTAINED MORE
9 THAN ONE MAJORITY-BLACK DISTRICT?
10 **A.** WE DID.
11 **Q.** AND WHY WAS IT IMPORTANT TO PROVIDE THOSE MAPS TO THE
12 LEGISLATURE?
13 **A.** IT WAS IMPORTANT FOR US TO PROVE THAT IT COULD BE DONE,
14 THAT -- YOU KNOW, AGAIN, WE LOST FIVE PERCENT IN WHITE
15 POPULATION. WE GAINED ALMOST THREE PERCENT IN BLACK AND OTHER,
16 YOU KNOW, POPULATION. AND SO FOR US, THIS WAS ABOUT HONORING
17 THE FACT THAT WE HAVE THE SECOND-LARGEST BLACK POPULATION IN
18 THE COUNTRY AND THAT ACTUALLY -- THAT IT COULD BE DRAWN IN MANY
19 DIFFERENT WAYS TO PROVE THAT IT WASN'T JUST AN IDEA OR
20 SOMETHING THAT, YOU KNOW, THAT I WANTED BUT THAT IT ACTUALLY
21 WAS SOMETHING THAT WAS POSSIBLE AND NECESSARY FOR FAIR AND
22 EQUITABLE MAPS IN LOUISIANA.
23 **Q.** THANK YOU, MS. SHELTON.
24 AND HOW DID LOUISIANA STATE OFFICIALS TREAT POWER
25 COALITION AND ITS CONSTITUENTS DURING THE ROADSHOWS AND THE

05:17 1 LEGISLATIVE SESSIONS?
2 **A.** WE WERE TREATED -- I MEAN, IT WAS UNFORTUNATE BECAUSE I
3 THINK FOR MANY OF THE ROADSHOWS YOU COULD SEE HOUSE AND
4 GOVERNMENTAL AFFAIRS AND SENATE GOVERNMENTAL AFFAIRS MEMBERS,
5 YOU KNOW, DOODLING, NOT LOOKING UP, AND PEOPLE ARE TELLING
6 THEIR STORY OF GENERATIONS OF VOTING RIGHTS WORK THAT THEIR
7 FAMILIES HAD DONE TO ENSURE THAT THEY HAD A RIGHT TO VOTE.
8 AND, YOU KNOW, FOLKS ARE LOOKING DOWN. YOU KNOW, THEY ARE NOT
9 PAYING ATTENTION.
10 AND THEN WE WENT TO THE CAPITOL AND WE ALSO -- YOU
11 KNOW, WE HAD OVER -- YOU KNOW, FOR THE OPENING OF THE
12 REDISTRICTING SESSION, THERE WERE OVER 250, YOU KNOW, PEOPLE OF
13 COLOR, WHITE ALLIES THAT SHOWED UP TO SAY: *WE ARE HERE. WE*
14 *ARE WATCHING YO*U. *AND WE'VE SAID WHAT WE WANTED AND WE ARE*
15 *GOING TO CONTINUE TO SAY WHAT WE WANT,* AND EVEN IN THE
16 LEGISLATIVE COMMITTEE ROOMS, LEGISLATORS WALKING AROUND, NOT
17 PAYING ATTENTION, BASICALLY WAITING TO SEE WHEN ALL THE
18 TESTIMONY WOULD BE DONE SO THAT THEY COULD VOTE. NOT ONE MAP
19 THAT INCLUDED A SECOND MAJORITY-MINORITY DISTRICT EVEN GOT OUT
20 OF COMMITTEE. THEY WOULDN'T EVEN ALLOW IT TO BE DISCUSSED ON
21 THE FLOOR.
22 **Q.** AND, MS. SHELTON, WERE THERE ANY OTHER INSTANCES IN WHICH
23 YOU FELT THAT YOU WERE NOT HEARD BY THE LEGISLATURE DURING
24 THOSE -- DURING THAT TIME?
25 **A.** YES. SO ON THE DAY WHEN THEY WERE OVERRIDING THE VETO, WE

05:18 1 WERE ALL AT THE CAPITOL. WE WERE -- YOU KNOW, THE HOUSE VOTED
2 BEFORE THE SENATE. YOU KNOW, THE HOUSE VOTE -- I MEAN, IT CAME
3 DOWN TO A COUPLE OF VOTES, RIGHT, AND AT THE END OF THE DAY, WE
4 DIDN'T -- YOU KNOW, THE VETO WAS OVERTURNED.
5 BASICALLY THEY KNEW IN THE HOUSE THAT IT WAS
6 OVERTURNED BECAUSE THEY HAD THE VOTES ON THE SENATE SIDE. AND
7 ONCE THAT HAPPENED, ONCE THE VOTE WAS MADE, THEY CHEERED. THEY
8 CELEBRATED. THE VOTE WAS ALONG RACIAL LINES, AND THEN YOU WALK
9 ACROSS THE HALLWAY TO THE SENATE CHAMBER AND IT IS LIKE A
10 FUNERAL. IT IS SOMBER. IT IS QUIET. THE BLACK SENATORS
11 TESTIFIED AND SAID, "WE KNOW WE CAN'T CHANGE YOUR MINDS, BUT
12 THIS IS THE HISTORICAL NATURE OF WHAT WE ARE TRYING TO DO
13 HERE." AND, AGAIN, THE VOTE -- OF COURSE, THE GOVERNOR'S VETO
14 WAS OVERTURNED.
15 **Q.** AND JUST FOR THE RECORD, WHO CHEERED?
16 **A.** THE CONSERVATIVE MEMBERS OF THE HOUSE AND MEMBERS OF THE
17 SENATE, BECAUSE THEY BOTH CAME TO BOTH SIDES.
18 **Q.** AND COULD YOU PLEASE DESCRIBE WHAT IF FELT LIKE TO YOU AND
19 POWER COALITION'S CONSTITUENTS WHEN THE LEGISLATURE OVERRODE
20 THE VETO?
21 **A.** I MEAN, I THINK IT WAS -- YOU KNOW, IT'S DEFLATING AND
22 IT'S ALSO -- YOU KNOW, AGAIN, LIKE A TRUE SIGN OF
23 DISENFRANCHISEMENT. I MEAN, SO HOW IS IT THAT THOUSANDS OF
24 PEOPLE PARTICIPATE AND THEY SAY SPECIFICALLY TWO VERY KEY
25 MESSAGES -- AND NOT MESSAGES THAT I GAVE THEM BUT MESSAGES THAT

05:20 WERE ON THEIR HEART -- THAT WERE MESSAGES THAT HAD -- YOU KNOW, AGAIN, LIKE FAMILIAL FIGHT FOR THEM AROUND HAVING THEIR VOICE AND THEIR VOTE. AND TO THEN, YOU KNOW, ONE, GET ENOUGH COMMUNITY OUTCRY FOR THE GOVERNOR TO VETO AND THEN TO HAVE THAT VETO OVERTURNED, IT JUST BASICALLY TELLS VOTERS THAT WE HAVE WORKED SO HARD TO GIVE AGENCY TO AS A VOTER AND REMIND THEM THAT THEIR VOTE AND THEIR VOICE ACTUALLY HAS POWER, IT JUST BASICALLY SAYS TO THEM IT'S POLITICS AS USUAL. IT DOESN'T MATTER. YOU KNOW, LIKE -- AND THEY DISENGAGE. AND SO IT MAKES OUR WORK DOUBLY HARD.

Q. AND FOLLOWING UP ON THAT, MS. SHELTON, HOW HAS THE LEGISLATURE'S ENACTED CONGRESSIONAL MAP IMPACTED POWER COALITION'S WORK?

A. SO FOR POWER COALITION, AGAIN, YOU KNOW, WE'VE GOT MIDTERMS COMING UP IN THE FALL. AND SO THIS CURRENT -- YOU KNOW, LIKE -- AND SO WE DO A LOT OF EDUCATION WORK WITH OUR COMMUNITIES, THE HISTORICALLY DISFRANCHISED COMMUNITIES IN LOUISIANA. AND IN THE PROCESS OF DOING THAT WORK, RIGHT, LIKE WE'VE GOT TO -- YOU KNOW, WE'VE GOT TO EDUCATE THEM ON LIKE WHAT DISTRICT DO THEY LIVE IN, WHAT CHANGES HAVE HAPPENED AND THEN ALSO TO ENGAGE THEM IN, YOU KNOW, THE PROCESS OF UNDERSTANDING, YOU KNOW, WHAT AND WHEN THEY'RE GOING TO VOTE.

AND I THINK SPECIFICALLY FOR POWER COALITION, AGAIN, YOU KNOW, WE ARE -- WE'RE DOING TOUCHES, RIGHT. YOU KNOW, LIKE LAST -- LAST YEAR WE DID OVER, I WANT TO SAY, OVER A MILLION

05:21 TOUCHES. AND WHEN YOU TALK ABOUT A MILLION TOUCHES, THAT MEANS THAT, YOU KNOW, WE'RE TOUCHING VOTERS AT LEAST THREE TIMES: SO PHONE CALL, DOOR KNOCK, YOU KNOW, A TEXT MESSAGE OR A WHOLE BUNCH OF OTHER THINGS. AND SO THE DIFFERENCE IS ME HAVING TO DOUBLE WORK BECAUSE I'M DEALING WITH DISENFRANCHISED VOTERS WHO FEEL LIKE *YOU TOLD ME THAT*, YOU KNOW, LIKE THAT IF WE ENGAGED AND WE PROVIDED OUR VOICE, THAT IT WOULD BE OKAY. AND SO THEY'RE DEFLATED AND DISCONNECTED.

AND SO, AGAIN, DOUBLE WORK, RIGHT, VERSUS WORKING WITH A POPULATION AND A GROUP OF VOTERS WHO DON'T FEEL DISENFRANCHISED, WHO FEEL LIKE THEY DO HAVE VOICE AND POWER AND THAT THEY ARE GOING TO BE ABLE TO ELECT CANDIDATES OF CHOICE. AND WE KNOW THAT BEING ABLE TO ELECT A CANDIDATE OF CHOICE DRIVES VOTER INTERESTS AND VOTER EXCITEMENT IN THESE PROCESSES. AND SO ON -- YOU KNOW, SO, AGAIN, AS THIS MAP THAT IS ENACTED, I'VE GOT BOTH A DISENFRANCHISED AND A DEFLATED GROUP OF PEOPLE WHO FEEL LIKE THE SYSTEM DOES NOT WORK.

Q. THANK YOU, MS. SHELTON.

AND SHIFTING GEARS, YOU SAID YOU'VE LIVED IN BATON ROUGE YOUR WHOLE LIFE?

A. YES.

Q. ARE THERE DIFFERENCES BETWEEN NORTH BATON ROUGE AND SOUTH BATON ROUGE?

A. YES.

Q. AND COULD YOU SPEAK TO THOSE DIFFERENCES?

05:22 1 **A.** YES. I THINK IT'S WELL-DOCUMENTED THAT BATON ROUGE IS A
2 TALE OF TWO CITIES. YOU KNOW, BASICALLY WE HAVE THE WORST AND
3 THE BEST QUALITY OF LIFE WITHIN A FEW SQUARE MILES OF EACH
4 OTHER, IN THAT, YOU KNOW, NORTH BATON ROUGE BEING PREDOMINANTLY
5 AFRICAN AMERICAN; SOUTH BATON ROUGE BEING PREDOMINANTLY WHITE
6 AND, YOU KNOW, THE INCOME BATCHING.
7 YOU KNOW, CERTAINLY THE NORTH BATON ROUGE COMMUNITY
8 IS POOR IN MODERATE INCOME, AND SOUTH BATON ROUGE IS SO MUCH
9 MORE A WEALTHY COMMUNITY. AND THEN, YOU KNOW, ALSO TOO
10 POLITICALLY. IT'S BEEN INTERESTING BECAUSE BASICALLY VOTERS IN
11 THE STATE OF LOUISIANA -- I MEAN, IN THE CITY OF BATON ROUGE,
12 THEY BASICALLY HAVE VOTED TO SECEDE FROM NORTH BATON ROUGE, IS
13 THE BEST WAY I COULD PUT IT. IT IS CURRENTLY IN COURT.
14 BUT I MEAN, IT GIVES YOU AN IDEA OF HOW POWERFUL THAT
15 DIFFERENCE IS OR THE DIVISION BETWEEN COMMUNITIES IN EAST BATON
16 ROUGE PARISH.
17 **Q.** THANK YOU.
18 AND YOU MENTIONED THAT NORTH BATON ROUGE WAS
19 PREDOMINANTLY PEOPLE OF COLOR. WOULD YOU SAY THAT NORTH BATON
20 ROUGE HAS -- OR THE PEOPLE OF NORTH BATON ROUGE HAVE COMMON
21 NEEDS THAT GO BEYOND RACE?
22 **A.** YES.
23 **Q.** AND COULD YOU SPEAK TO THOSE NEEDS?
24 **A.** I MEAN, I THINK THAT, YOU KNOW, WE'VE -- AGAIN, SECOND --
25 YOU KNOW, LIKE WE'RE THE SECOND POOREST STATE, BUT I THINK

05:24 AFTER SOME OF THE DATA WE SAW TODAY, MAYBE WE'VE BEAT MISSISSIPPI, UNFORTUNATELY, TO BE THE POOREST STATE.

YOU KNOW, IN NORTH BATON ROUGE WE HAVE HOUSING INSECURITY. WE'VE GOT FOOD INSECURITY. WE HAVE ABSOLUTELY, YOU KNOW, FOOD DESERTS, AS WELL AS -- YOU KNOW, JUST NOT -- NO OPPORTUNITIES FOR ECONOMIC -- YOU KNOW, ECONOMIC GROWTH, AND, YOU KNOW, AND -- YEAH.

Q. THANK YOU, MS. SHELTON.

SHIFTING GEARS AGAIN, THE DEFENDANTS ARGUE THAT POLITICAL PARTY RATHER THAN RACE IS RESPONSIBLE FOR VOTING PATTERNS IN LOUISIANA. IN YOUR EXPERIENCE AS PRESIDENT AND CEO OF POWER COALITION, DO YOU FIND THAT BLACK VOTERS VOTE FOR DEMOCRATS JUST BECAUSE THEY ARE DEMOCRATS?

A. NO. I THINK THAT THEY VOTE FOR -- I MEAN, I THINK THEY VOTE FOR WHO IS GOING TO CARE ABOUT THEIR SELF-INTERESTS. DOES THAT HAPPEN TO BE DEMOCRATS? MOST OF THE TIME, MORE THAN LIKELY. HOWEVER, I THINK IT IS ALSO TRUE THAT I DON'T THINK THAT BLACK COMMUNITIES ARE SERVED WELL BY EITHER SIDE.

Q. THANK YOU, MS. SHELTON.

AND JUST ONE MORE TOPIC. WHY IS IT IMPORTANT TO POWER COALITION'S CONSTITUENTS FOR THERE TO BE AN ADDITIONAL MAJORITY-BLACK DISTRICT?

A. BECAUSE, AGAIN, I MEAN, I THINK THAT ONE OF THE THINGS THAT WAS SO BEAUTIFUL WAS THAT WHEN WE STARTED THE REDISTRICTING JOURNEY AS AN ORGANIZATION AND TRYING TO ENGAGE

05:25 PEOPLE IN VERY DENSE CONTENT, LIKE IT'S NOT LIKE ANYTHING WE'VE BEEN TALKING ABOUT IS EASY TO UNDERSTAND AND MULTIPLE DEFINITIONS. AND SO TO BE ABLE TO ENGAGE THAT MANY PEOPLE IN THIS PROCESS, TO HAVE THEM SHOW UP AT THE CAPITOL EVERY DAY, TO HAVE THEM ENGAGED IN FEELING EMPOWERED AND LIKE THEY ARE -- THAT THIS WAS WHAT WAS RIGHT. I MEAN, THE WAY THAT -- AGAIN, THERE WERE SEVERAL DIFFERENT WAYS THAT WE -- THEY COULD HAVE GOTTEN A SECOND DISTRICT, AND THEN TO HAVE THE LEGISLATURE TELL THEM NO AT EVERY TURN FROM THE ROADSHOW TO THE REDISTRICTING SPECIAL SESSION TO THE VETO OVERRIDE.

AND SO THE POWER COALITION, YOU KNOW, THIS IS ABOUT VOICE AND POWER AND ABOUT, YOU KNOW, BLACK PEOPLE BEING ABLE TO HAVE -- TO BE ABLE TO ELECT CANDIDATES OF CHOICE. AND BY PACKING US ALL INTO ONE DISTRICT, YOU BASICALLY MINIMIZE THE ABILITY OF BLACK VOTERS TO ELECT CANDIDATES OF CHOICE.

Q. THANK YOU, MS. SHELTON.

MR. SAVITT: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: OKAY. I HAVE TWO, JUST BEFORE CROSS, IF YOU DON'T MIND, MA'AM.

ONE IS YOU MENTIONED THE PRECINCT CONSOLIDATION IN NEW ORLEANS EAST. YOU SAID IT MOVED A FEW MILES BUT ACROSS A DANGEROUS HIGHWAY. CAN YOU TELL ME WHAT HIGHWAY THAT WAS?

THE WITNESS: I'M PRETTY SURE -- IT'S I-10. I THINK IT'S STILL I-10, YES.

THE COURT: IT'S I-10?

05:26

THE WITNESS: YEAH.

THE COURT: OKAY. YOU SAID "HIGHWAY" AND I DIDN'T KNOW INTERSTATE, HIGHWAY.

THE WITNESS: YES.

THE COURT: OKAY. MY OTHER QUESTION WAS: YOU SAID THAT TWO MESSAGES CAME THROUGH IN THESE ROADSHOWS FROM THE VARIOUS PEOPLE THAT POWER COALITION ENCOURAGED TO PARTICIPATE IN THE POLITICAL PROCESS. YOU DIDN'T SAY WHAT THOSE TWO MESSAGES WERE.

THE WITNESS: OH, SORRY. THAT THEY WANTED A FAIR AND EQUITABLE REDISTRICTING PROCESS AND THAT THEY WANTED A SECOND MAJORITY-MINORITY DISTRICT TO HONOR THE CHANGE IN POPULATION AND THE SHIFT IN POPULATION.

THE COURT: OKAY. THANKS.

THAT MAY HAVE PROVOKED ADDITIONAL QUESTIONS, WHICH I'M CERTAINLY GOING TO ALLOW COUNSEL TO HAVE.

CROSS.

MR. WALE: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MR. WALE:

Q. HI, MS. SHELTON. MY NAME IS JEFFREY WALE. I'M AN ATTORNEY FOR THE STATE, AND I'LL BE ASKING YOU A FEW QUESTIONS THIS AFTERNOON.

A. HI.

Q. HI.

05:27 HOW LONG HAS POWER COALITION -- THE FULL NAME IS POWER COALITION FOR EQUITY AND JUSTICE. CORRECT?

A. YES.

Q. BUT Y'ALL JUST CALL IT POWER COALITION?

A. YEAH.

Q. IF I COULD REFER TO IT AS POWER COALITION.

A. UH-HUH.

Q. HOW LONG HAS POWER COALITION EXISTED IN THE STATE?

A. GOSH. SO -- I MEAN, SO SINCE ABOUT 2015.

Q. 2015. OKAY.

A. AND, I MEAN, I THINK THAT, YOU KNOW, THERE'S A LITTLE BIT OF GRAY BECAUSE WE DID SPIN OUT OF ANOTHER NONPROFIT ORGANIZATION ONTO OUR OWN. AND SO -- AND SO -- AND ALSO, TOO, WE ARE PHYSICALLY SPONSORED BY ANOTHER NONPROFIT. AND SO, AGAIN, YOU KNOW, PROBABLY WITHIN THE, YOU KNOW, SECRETARY OF STATE'S REGISTRY THAT DATE MIGHT BE DIFFERENT.

Q. WHO ARE THAT -- WHAT IS THAT NONPROFIT THAT Y'ALL SPLIT FROM?

A. IT'S CALLED ONE VOICE.

Q. ONE VOICE?

A. UH-HUH.

Q. AND WHAT'S THE NONPROFIT THAT YOU'RE FINANCIALLY SPONSORED BY?

A. PUBLIC ALLIES.

Q. PUBLIC ALLIES.

05:28 AND SO FROM THAT -- IS THAT THE SOLE SOURCE OF YOUR FUNDING OR DO YOU HAVE OTHER CONTRIBUTORS AND DONORS AND THINGS OF THAT NATURE?

A. NO. THAT IS -- SO THEY ARE JUST OUR PHYSICAL SPONSOR, AND WE RAISE OUR OWN MONEY THROUGH FOUNDATIONS' DONORS AND INDIVIDUALS.

Q. OKAY. DO YOU DISCLOSE OR PUBLICALLY RELEASE YOUR FOUNDATION'S DONORS?

A. IT IS RELEASED WITHIN PUBLIC ALLIES WITHIN THEIR 990. AND, I MEAN, THEY HAVE TO STILL REPORT OUR GRANTS AND OUR INFORMATION BECAUSE WE ARE A FISCALLY SPONSORED PROJECT.

Q. OKAY. AND I WAS ABLE TO LOOK AT YOUR WEBSITE, SO I KNOW YOU PARTNER WITH SEVERAL ORGANIZATIONS. WHAT ARE SOME OF THOSE ORGANIZATIONS THAT YOU PRIMARILY PARTNER WITH?

A. YES. SO POWER COALITION IS ANCHORED BY BASE BUILDING ORGANIZATIONS, BECAUSE IT IS OUR BELIEF THAT IN ORDER TO SERVE PEOPLE AND TO ADDRESS POLICY ADVOCACY ISSUES, YOU HAVE TO ACTUALLY WORK WITH DIRECTLY IMPACTED PEOPLE. SO VOICE OF THE EXPERIENCED HOLDS -- YOU KNOW, THEY ALL HAVE SPECIFIC CONTENT AREA EXPERTISE. SO VOTE WORKS AROUND CRIMINAL JUSTICE; THE LOUISIANA HOUSING ALLIANCE AROUND HOUSING. I'M TRYING TO THINK OF -- LET ME GO AROUND THE TABLE. VAYLA, THAT WORKS WITHIN THE VIETNAMESE COMMUNITY IN NEW ORLEANS EAST. AND SO, AGAIN, YOU KNOW, IT'S A BROAD SPECTRUM OF GROUPS THAT HAVE SPECIFIC-ISSUE-AREA CONTEXT EXPERTISE.

05:29 **Q.** AND DID I SEE THE LOUISIANA BUDGET PROJECT MENTIONED ON THAT WEBSITE AS WELL?

A. YES. YES. AND LOUISIANA PARTNERSHIP FOR CHILDREN AND FAMILIES AS WELL AS THE LOUISIANA POLICY INSTITUTE AND WOMEN WITH A VISION. SO, YES, THERE ARE SEVERAL -- SEVERAL DIFFERENT GROUPS.

AND THE BUDGET PROJECT, ALTHOUGH NOT A BASE-BUILDING GROUP, DOES PROVIDE FOUNDATIONAL EXPERTISE ON BUDGET AND FISCAL ISSUES THAT IMPACT POVERTY-STRICKEN COMMUNITIES ACROSS LOUISIANA.

Q. SO IN PARAGRAPH 15 OF YOUR DECLARATION THAT YOU MADE IN THIS CASE, YOU STATE THAT YOUR MEMBER ORGANIZATIONS ARE DIRECTLY IMPACTED BY VOTE DILUTION.

A. UH-HUH.

Q. AND SO MY QUESTION FOR YOU: ARE ORGANIZATIONS' VOTERS -- IN OTHER WORDS, DO ORGANIZATIONS HAVE THE RIGHT TO VOTE?

A. ORGANIZATIONS DO NOT HAVE THE RIGHT TO VOTE. I THINK WHAT WE ARE SPECIFICALLY TALKING ABOUT IS THAT THESE ORGANIZATIONS REPRESENT A BASE, WHICH MEANS THAT THEY HAVE A MEMBERSHIP.

AND SO, FOR EXAMPLE, VOTE HAS SEVERAL HUNDRED MEMBERS IN NEW ORLEANS. THEY HAVE ABOUT 100 MEMBERS HERE IN BATON ROUGE. THEY'VE GOT MEMBERS IN SHREVEPORT AND ALL OVER THE STATE. AND SO, AGAIN, IT'S NOT THE INDIVIDUAL ORGANIZATION. IT IS THE PEOPLE THAT THEY REPRESENT AND THE PEOPLE THAT THEY WORK WITH.

05:30 1 **Q.** SO YOU HAD TESTIFIED THAT YOU WERE ENGAGED IN THE
2 REDISTRICTING PROCESS AND POWER COALITION WAS ENGAGED IN THE
3 REDISTRICTING PROCESS IN THE MOST RECENT --
4 **A.** YES.
5 **Q.** -- LEGISLATIVE SESSION, REDISTRICTING SESSION. CORRECT?
6 **A.** CORRECT.
7 **Q.** AND SO AT THE ROADSHOWS AND AT THE CAPITOL, EVERY MEMBER
8 OF THE POWER COALITION WHO ATTENDED COULD TURN IN A CARD IN
9 SUPPORT OR IN OPPOSITION TO ANY BILL PROPOSED. CORRECT?
10 **A.** CORRECT.
11 **Q.** AND EVERYONE HAD THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT
12 AT THOSE EVENTS?
13 **A.** MOST OF THE TIME. I MEAN, THERE WERE A LOT OF PEOPLE SOME
14 DAYS. AND SO WE COULDN'T -- YOU KNOW, THEY HAD TO BREAK AND
15 WE COULDN'T GET TO EVERYBODY, ESPECIALLY ON THE FIRST DAY, BUT
16 FOR THE MOST PART.
17 **Q.** OKAY. AND DOES THE POWER COALITION TYPICALLY ENGAGE IN
18 THE LEGISLATIVE PROCESS?
19 **A.** WE DO.
20 **Q.** ON MANY DIFFERENT ISSUES?
21 **A.** YES.
22 **Q.** AND AS FAR AS LEGISLATIVE ACTIVITY, WOULD THAT INCLUDE
23 ENCOURAGING THE GOVERNOR TO VETO BILLS THAT YOU ARE IN
24 OPPOSITION TO?
25 **A.** YES. I MEAN, IT'S ADVOCACY. I MEAN, HE HAD THE POWER.

05:31 YOU KNOW, WE'RE THE POWER COALITION. AND SO WE LOOK FOR THE PATH THAT WILL GET PEOPLE WHAT THEY DESERVE AND WHAT THEY NEED.

Q. AND IN THE FUTURE YOU WOULD CONTINUE TO FIGHT FOR LAWS OR BILLS THAT YOU SUPPORT OR OPPOSE? YOU WOULD SUPPORT OR OPPOSE THAT AT THE LEGISLATURE. CORRECT?

A. RESTATE.

Q. SO IN THE FUTURE -- LET ME RESTATE THAT.

IF THIS ENACT -- IF THE ENACTED MAP GOES FORWARD, THE ENACTED MAP IS ALLOWED, YOU WILL CONTINUE TO FIGHT FOR ISSUES THAT THE POWER COALITION CARES ABOUT. CORRECT?

A. WE WILL. AND I THINK THE DIFFERENCE, THOUGH, THAT'S VERY IMPORTANT THAT I WANT TO CONTINUE TO MAKE IS THAT AM I WORKING TO, YOU KNOW, MOVE PEOPLE THAT ARE EXCITED AND FEEL LIKE THEY'RE LIVING IN A STATE THAT'S LISTENING TO THEM AND GIVING THEM EQUAL VOICE OR ARE THEY LIVING -- OR, YOU KNOW, ARE THEY ACTUALLY LIVING IN A STATE THAT DOES -- YOU KNOW, LIKE DOES NOT DO THAT?

AND SO IT'S, ONE, ABOUT MOVING DISENFRANCHISED FOLKS, WHICH IS THE WORK WE'VE DONE FOR YEARS. AND SO IT -- YOU KNOW, LIKE, IT UNDERMINES AND FORCES US TO HAVE TO DO THAT DOUBLE WORK BECAUSE WE'VE GOT TO RECONNECT PEOPLE TO THEIR AGENCY AS A VOTER.

Q. SO FOR THE PAST DECADE WE'VE HAD THE PREVIOUS CONGRESSIONAL MAP THAT ONLY HAD ONE MAJORITY-MINORITY DISTRICT. CORRECT?

05:32 1 **A.** CORRECT.
2 **Q.** AND POWER COALITION WAS ABLE TO ENCOURAGE INDIVIDUALS TO
3 REGISTER TO VOTE UNDER THAT MAP?
4 **A.** YES.
5 **Q.** ALL RIGHT. AND YOU ATTEMPTED -- AS YOU HAD STATED
6 EARLIER, YOU REACHED OUT AND DID TEXT MESSAGES, PHONE CALLS,
7 ENCOURAGING BOTH REGISTRATION AND TURNOUT. CORRECT?
8 **A.** UH-HUH.
9 **Q.** ALL RIGHT. AND YOU HAD SAID SOMETHING EARLIER ABOUT
10 CANDIDATES OF CHOICE. YOU SAID THE POWER COALITION MEMBERS DO
11 HAVE CANDIDATES OF CHOICE?
12 **A.** I MEAN, THE MEMBERS THAT LIVE IN DISTRICT 2.
13 **Q.** ALL RIGHT. IN DISTRICT 2 THEY DO?
14 **A.** I MEAN, IN THIS SENSE THAT -- YES. I MEAN, IT'S A
15 MAJORITY AFRICAN-AMERICAN DISTRICT IN CONGRESSIONAL DISTRICT 2.
16 BUT I CURRENTLY LIVE IN CONGRESSIONAL 6, AND I DO NOT ACTUALLY
17 HAVE THE OPPORTUNITY TO PICK A CANDIDATE OF CHOICE.
18 **Q.** SO YOU DON'T HAVE AN OPPORTUNITY TO ELECT A CANDIDATE OF
19 CHOICE IN DISTRICT 6. THAT'S YOUR TESTIMONY?
20 **A.** YES.
21 **Q.** ALL RIGHT. AND DOES YOUR CANDIDATE OF CHOICE, IS THAT
22 LIMITED TO ANY PARTICULAR POLITICAL PARTY? IS THAT -- CAN YOU
23 -- STATE IT ANOTHER WAY.
24 CAN YOUR CANDIDATE OF CHOICE BE A CONSERVATIVE
25 REPUBLICAN?

05:33 **A.** MY CANDIDATE OF -- ANYBODY THAT IS GOING TO CENTER THE ISSUES THAT I CARE ABOUT. I MEAN, I AM A BLACK MOTHER. I HAVE A BEAUTIFUL GOOFY 6'4" SON THAT'S 200 POUNDS. I MEAN, ANYBODY THAT'S GOING TO CARE ABOUT THOSE ISSUES. AND IF YOU LOOK AT GARRETT GRAVES, MY CURRENT CONGRESSMAN, IF YOU LOOK AT HIS RECORD, HIS VOTING RECORD DOES NOT VOTE FOR ANYTHING THAT I CARE ABOUT, INCLUDING THE FACT THAT THE INFRASTRUCTURE BILL THAT JUST PASSED, HE VOTED AGAINST THAT, AND OUR CITY IS -- I MEAN, OUR STATE IS CRUMBLING IN TERMS OF INFRASTRUCTURE. AND SO, AGAIN, EVEN WHEN IT MAKES SENSE, EVEN WHEN HE MADE AMENDMENTS TO THAT BILL, HE STILL VOTED AGAINST IT.

Q. BUT YOU WOULD SAY THAT A CANDIDATE OF CHOICE COULD BE CONSERVATIVE OR COULD BE REPUBLICAN?

A. YES.

Q. AND THEY COULD BE WHITE?

A. I MEAN, IT HAS NOT BEEN MY EXPERIENCE TO DATE. BUT I MEAN, I GUESS IT'S POSSIBLE.

Q. ALL RIGHT. AND I JUST HAVE ONE MORE QUESTION FOR YOU. ON DECEMBER 14TH YOU WROTE A LETTER TO THE LEGISLATURE STATING, "WE CONDUCTED AN ANALYSIS OF RECOMPILED ELECTION RESULTS AND DETERMINED THAT THE TWO PROPOSED MAJORITY-BLACK OPPORTUNITY DISTRICTS IN THE COALITION MAPS -- CD2 AND CD5 -- WOULD RELIABLY PERFORM TO PROVIDE AN OPPORTUNITY FOR A CANDIDATE PREFERRED BY BLACK VOTERS TO PREVAIL."

DO YOU RECALL THIS LETTER?

05:34 **A.** YES. I MEAN, I DON'T -- I MEAN, YEAH, IF YOU WANT TO PUT IT UP.

Q. YES, WE CAN IF YOU WOULD LIKE, WHICH IS LEGISLATIVE EXHIBIT 9, IF THAT HELPS AT ALL.

BUT MY QUESTION WAS, BASICALLY: THERE IS MENTIONED ANALYSIS IN THERE, WHICH IS ON PAGE 2 OF THE LETTER; THERE IS AN ANALYSIS MENTIONED.

A. UH-HUH.

Q. WHY WAS THIS ANALYSIS NEVER PROVIDED TO THE LEGISLATURE?

A. SO AS WE SAT IN COMMITTEE DAY AFTER DAY THROUGHOUT THE REDISTRICTING PROCESS, YOU KNOW, REPRESENTATIVE JOHN STEFANSKI, YOU KNOW, ASKED THAT QUESTION. AND I THINK THAT PART OF WHAT -- EVEN IN THAT SPACE -- YOU KNOW, LIKE I THINK IT IS -- THE WORK IS THERE, RIGHT. LIKE THE MAPS WERE DRAIN BY A NATIONALLY RECOGNIZED DEMOGRAPHER, WHOM THIS COURT HAS HAD THE OPPORTUNITY TO TALK TO. THE -- YOU KNOW, LIKE AT THE END OF THE DAY, LIKE WHY DO HAVE TO DO THE STATE'S WORK FOR THEM? I MEAN, AT THE END OF THE DAY, WE WERE ABLE TO SHOW WHAT WAS NECESSARY FOR THE RECORD AND WHAT WAS NECESSARY FOR THEM TO MAKE A DECISION ABOUT WHETHER OR NOT -- YOU KNOW, WHETHER OR NOT THESE SEVEN MAPS THAT MET ALL OF THE TRADITIONAL REDISTRICTING PRINCIPLES THAT SHOWED A SECOND MAJORITY-MINORITY DISTRICT, ALL OF THOSE THINGS WERE MET. AND SO --

Q. BUT YOU DIDN'T FEEL THE NEED TO SHOW THAT TO THE LEGISLATURE?

05:36 **A.** AGAIN, I MEAN, YOU KNOW, WE WORK WITH LOTS OF PARTNERS. AND SO I DON'T WANT TO -- YOU KNOW, I MEAN, IT WASN'T MY DECISION. BUT I DO THINK THAT AT THE END OF THE DAY I DO AGREE THAT IT'S NOT OUR JOB TO DO EVERY SINGLE PART OF -- I MEAN, LIKE WE'VE DONE EVERY SINGLE PART OF THIS PROCESS FOR THE STATE TO FIGHT FOR AFRICAN-AMERICAN COMMUNITIES TO HAVE VOICE AND THE IDEA THAT, LIKE, I'VE GOT TO ALSO GIVE YOU -- SHOW YOU MY MATH AND SHOW YOU MY HOMEWORK, EVEN THOUGH I DO IN THE SENSE THAT THERE WERE SEVEN MAPS SUBMITTED WITH THAT LETTER THAT SHOWED THAT IT'S POSSIBLE FOR AFRICAN AMERICAN -- FOR A SECOND MAJORITY-MINORITY DISTRICT TO HONOR THE GROWTH IN BLACK POPULATION, WHICH IS THE PURPOSE OF REDISTRICTING, WHICH IS TO HONOR CHANGES IN POPULATION.

Q. YOU SAID THE COURT HAD HEARD FROM THAT DEMOGRAPHER WHO DREW THAT FOR YOU. WHICH ONE WAS THAT?

A. WELL, I MEAN, ONE OF THE TWO THAT SPOKE. I MEAN, EITHER ONE OF THE TWO THAT SPOKE TODAY.

Q. OKAY.

A. I WANT TO SAY IT WAS TONY FAIRFAX, BUT ONE OF THE TWO THAT WERE HERE TODAY -- WELL, YESTERDAY.

Q. AND JUST SHORT -- JUST A COUPLE MORE REALLY QUICK QUESTIONS. HOW LONG HAVE YOU LIVED IN BATON ROUGE?

A. ALL MY LIFE. I'M 46, SO 46 YEARS.

Q. ALL YOUR LIFE?

A. YES.

05:37 1 **Q.** SO YOU WERE HERE WHEN KIP HOLDEN WAS ELECTED?
2 **A.** YES.
3 **Q.** AND SHARON BROOME WAS ELECTED, OBVIOUSLY?
4 **A.** YES.
5 **Q.** AND THEY WERE ELECTED PARISH-WIDE. CORRECT?
6 **A.** YES.
7 **Q.** AND WAS KIP HOLDEN ELECTED WHEN EAST BATON ROUGE PARISH
8 WAS MAJORITY WHITE?
9 **A.** I'M NOT SURE.
10 **Q.** OKAY. THANK YOU VERY MUCH. THAT'S ALL THE QUESTIONS I
11 HAVE. THANK YOU.
12 **A.** ALL RIGHT. THANK YOU.
13 **THE COURT:** ANY REDIRECT?
14 **MR. SAVITT:** NO REDIRECT.
15 **THE COURT:** ALL RIGHT. YOU ARE FREE TO GO. THANK
16 FOR YOUR HELP, MA'AM.
17 OKAY. WE WILL ADJOURN. IT'S ALMOST 5:40. WE
18 WILL RECONVENE AT 9:30. BUT BEFORE THAT, CAN YOU GIVE THE
19 COURT A SENSE ON WHEREABOUTS YOU ARE? IT'S LOOKING LIKE THAT
20 YOU ARE GOING TO MAKE -- BE ABLE TO CLOSE THIS THING OUT ON
21 FRIDAY? I HAVEN'T COUNTED HEADS. SO I DON'T HAVE A SENSE IN
22 MY MIND HOW MANY WITNESSES WE ARE INTO YOUR WITNESS LIST.
23 **MS. KHANNA:** I BELIEVE WE WILL BE FINE TO CLOSE OUT
24 ON FRIDAY, YOUR HONOR. TOMORROW THE PLAINTIFFS WILL HAVE, I
25 WOULD SAY, NO MORE THAN ONE TO TWO RELATIVELY SHORT WITNESSES,

05:38 AND I IMAGINE THAT THE DEFENDANTS WILL BE ABLE TO START PUTTING ON THEIR CASE IN CHIEF IN THE MORNING.

THE COURT: OKAY. GOOD. THE PLAN FOR TOMORROW IS WE WILL CONVENE AT 9:30. WE WILL BE ABLE TO CONVENE AT 9:30. WE WILL BREAK EARLY TOMORROW. THERE IS A COURT-WIDE FUNCTION THAT I REALLY NEED TO GO TO, BUT I WILL PLAY IT BY EAR. I CAN GO LATE. I MEAN MY GOAL WOULD BE TO BREAK AROUND 3:30, BUT IF WE ARE IN A SPOT WHERE WE NEED TO GO UNTIL 4:00 OR A LITTLE AFTER 4:00, WE CAN DO THAT. OKAY. BUT WE DO NEED TO PLAN TO BREAK A FEW MINUTES EARLY TOMORROW.

OKAY. REST WELL. SEE YOU IN THE MORNING AT 9:30.

(WHEREUPON, THIS MATTER WAS RECESSED UNTIL MAY 11, 2022, AT 9:30 A.M.)

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CERTIFICATE

I, SHANNON THOMPSON, CCR, OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA, CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT, TO THE BEST OF MY ABILITY AND UNDERSTANDING, FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

Shannon Thompson

SHANNON THOMPSON, CCR
OFFICIAL COURT REPORTER