No. 23-_____

In the United States Court of Appeals for the Fifth Circuit

IN RE JEFF LANDRY,
IN HIS OFFICIAL CAPACITY AS THE LOUISIANA ATTORNEY GENERAL, ET AL.

APPENDIX TO PETITION FOR A WRIT OF MANDAMAS

On Petition for a Writ of Mandamus from the
United States District Court
for the Middle District of Louisiana
No. 3:22-cv-00211 (Hon. Shelly D. Dick)

JEFF LANDRY
Louisiana Attorney General
ELIZABETH B. MURRILL
Solicitor General
SHAE MCPHEE
Deputy Solicitor General
MORGAN BRUNGARD
Assistant Solicitor General
ANGELIQUE DUHON FREEL
CAREY TOM JONES
JEFFREY M. WALE
Assistant Attorneys General

JASON B. TORCHINSKY
PHILLIP M. GORDON
EDWARD M. WENGER
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
15405 John Marshall Highway
Haymarket, VA 20169

OFFICE OF THE ATTORNEY
GENERAL
LOUISIANA DEPARTMENT
OF JUSTICE
P.O. Box 94005
Baton Rouge, LA 70804
murrille@ag.louisiana.gov

Attorneys for the State of Louisiana

JOHN C. WALSH
SHOWS, CALI & WALSH, L.L.P.
P.O. Box 4046
Baton Rouge, LA 70821
john@scwllp.com

PHILLIP J. STRACH
THOMAS A. FARR
ALYSSA M. RIGGINS
NELSON MULLINS RILEY &
SCARBOROUGH, LLP
Raleigh, NC 27603
phillip.strach@nelsonmullins.com

Counsel for R. Kyle Ardoin, in his official capacity as Secretary of State of Louisiana

TABLE OF CONTENTS

Joint Motion for Status Conference (Doc. 240)..... App.001

Defendants' Memo in Response to Plaintiffs' Joint
Motion for Status Conference (Doc. 243)..... App.009

Exhibits to Defendants' Memo in Response to Plaintiffs' Joint
Motion for Status Conference (Doc. 245)..... App.029

Minute Entry re Scheduling Conference (Doc. 246)..... App.044

Order re Preliminary Hearing (Doc. 250)..... App.045

Defendants' Joint Notice of Proposed
Pre-Hearing Schedule (Doc. 255)..... App.046

Plaintiffs' Proposed Pre-Hearing Schedule (Doc. 256)..... App.071

Emergency Motion to Cancel Hearing on Remedy
and Enter Scheduling Order (Doc. 260)..... App.077

Memo in Opposition to Motion to Cancel
Remedy Hearing (Doc. 263)..... App.097

Plaintiffs' Joint Opposition to Motion to Cancel
Remedy Hearing (Doc. 264)..... App.100

Ruling (Doc. 267)..... App.107

Order (Doc. 268)..... App.109

Order (Doc. 275)..... App.112

Transcript for PI hearing 05.10.22 (Doc. 213) App.114

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, EDGAR CAGE, DOROTHY NAIRNE, EDWIN RENE SOULE, ALICE WASHINGTON, CLEE EARNEST LOWE, DAVANTE LEWIS, MARTHA DAVIS, AMBROSE SIMS, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ("NAACP") LOUISIANA STATE CONFERENCE, AND POWER COALITION FOR EQUITY AND JUSTICE, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00211-SDD-RLB
EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00214-SDD-RLB

JOINT MOTION FOR STATUS CONFERENCE

NOW INTO COURT, come Plaintiffs Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, NAACP Louisiana State Conference, and Power Coalition for Equity and Justice (the "Robinson Plaintiffs"), and Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard (the "Galmon Plaintiffs") to request that this Court set a status conference as soon as is practicable to discuss the resumption of this action following the June 26, 2023 Order of the Supreme Court. *See* Summary Dispositions, *Ardoin* v. *Robinson*, No. 21-1596 (June 26, 2023). Under FRCP Rule 16(a), a court may order attorneys to appear for a conference for the purpose of, among other things, "expediting disposition of the action" and "establishing early and continuing control so that the case will not be protracted."

On June 6, 2022, and following a five-day hearing in early May 2022, this Court granted the Plaintiffs' Motion for Preliminary Injunction. *Robinson* v. *Ardoin*, 605 F. Supp. 3d 759 (M.D. La.). The Court determined that Louisiana's congressional redistricting map diluted the votes of Black voters in violation of Section 2 of the Voting Rights Act of 1965, and it preliminarily enjoined Defendants from conducting any congressional elections using that map. *Id.* at 766-67. The Court established a deadline of June 20, 2022 for the Louisiana Legislature to enact a map compliant with the Court's decision and stated that it would enact a remedial plan if the Legislature failed to do so. *Id.*

Defendants moved in the Fifth Circuit on June 9, 2022 for a stay pending appeal. The Fifth Circuit initially entered an administrative stay of this Court's injunction and, on June 12, 2022, issued a 33-page opinion denying Defendants' motion for a stay and

vacating the administrative stay, while also ordering expedited briefing for a merits panel. *See Robinson* v. *Ardoin*, 37 F.4th 208 (5th Cir. 2022).

Although the Governor proclaimed an Extraordinary Legislative Session on June 7, 2022 to allow for the passage of a new congressional map, the Louisiana Legislature failed to timely enact a redistricting plan compliant with this Court's directive. On June 17, 2022, the Court required that the parties submit briefing and proposed remedial maps and scheduled an evidentiary hearing to be held on June 29, 2022 in order to evaluate the proposed maps and facilitate the adoption of a remedial map. ECF No. 206. The same day, Defendants filed an emergency application for a stay and petition for writ pending certiorari with the United States Supreme Court, which was granted on June 28 pending decision by the Supreme Court in *Allen* v. *Milligan*, 599 U.S. __ (2023). The grant of certiorari by the Supreme Court paused proceedings in the Fifth Circuit and in this Court. ECF No. 227.

On June 8, 2023, the Supreme Court issued its decision in *Allen* v. *Milligan*. 599 U.S. __ (2023). The Supreme Court upheld the judgment of the three-judge panel in that case that the Alabama congressional redistricting plan at issue likely violated Section 2 of the Voting Rights Act and reaffirmed the standards that it first adopted in *Thornburg* v. *Gingles* and that this Court applied to the present case. *Id.*

The Supreme Court subsequently issued an Order on June 26, 2023 dismissing the writ of certiorari before judgment as improvidently granted, vacating the stay, and allowing the matter to proceed "in the ordinary course and in advance of the 2024 congressional elections in Louisiana." Summary Dispositions, *Ardoin* v. *Robinson*, No. 21-1596 (June

26, 2023). The dismissal of certiorari and lifting of the Supreme Court's stay allows this Court to resume its proceedings regarding the remedial maps.

Accordingly, the Robinson and Galmon Plaintiffs respectfully request that the Court schedule a status conference at its earliest convenience in order to establish a timeline for resuming the process for establishing the remedial maps, including but not limited to (i) entering a schedule for supplemental briefing and remedial maps; and (ii) setting forth a date for an evidentiary hearing to resume consideration of the maps.

Date: June 27, 2023

Respectfully submitted,

By: */s/John Adcock*

John Adcock
Adcock Law LLC
L.A. Bar No. 30372
3110 Canal Street
New Orleans, LA 70119
Tel: (504) 233-3125
jnadcock@gmail.com

Leah Aden (admitted *pro hac vice*)
Stuart Naifeh (admitted *pro hac vice*)
Victoria Wenger (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund, Inc.
40 Rector Street, 5th Floor
New York, NY 10006
Tel: (212) 965-2200
laden@naacplef.org
snaifeh@naacpldf.org
vwenger@naacpldf.org

R. Jared Evans
LA. Bar No. 34537
I. Sara Rohani (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund, Inc.
700 14th Street N.W. Ste. 600
Washington, DC 20005
Tel: (202) 682-1300
jevans@naacpldf.org
srohani@naacpldf.org

Nora Ahmed (admitted *pro hac vice*)
LA. Bar No. 33382
ACLU Foundation of Louisiana
1340 Poydras St, Ste. 2160
New Orleans, LA 70112
Tel: (504) 522-0628
nahmed@laaclu.org
msnider@laaclu.org

Tracie L. Washington
LA. Bar No. 25925
Louisiana Justice Institute
Suite 132
3157 Gentilly Blvd
New Orleans LA, 70122
Tel: (504) 872-9134
tracie.washington.esq@gmail.com

Robert A. Atkins (admitted *pro hac vice*)
Yahonnes Cleary (admitted *pro hac vice*)
Jonathan H. Hurwitz (admitted *pro hac vice*)
Amitav Chakraborty (admitted *pro hac vice*)
Adam P. Savitt (admitted *pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue Of The Americas, New York, NY 10019
Tel.: (212) 373-3000
Fax: (212) 757-3990
ratkins@paulweiss.com
ycleary@paulweiss.com
jhurwitz@paulweiss.com
achakraborty@paulweiss.com
asavitt@paulweiss.com

T. Alora Thomas (admitted *pro hac vice*)
Sophia Lin Lakin (admitted *pro hac vice*)
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
athomas@aclu.org
slakin@aclu.org
sosaki@aclu.org

Sarah Brannon (admitted *pro hac vice*)
American Civil Liberties Union Foundation
915 15th St., NW
Washington, DC 20005
sbrannon@aclu.org

Counsel for Robinson Plaintiffs

J. E. Cullens, Jr.
Andrée Matherne Cullens
S. Layne Lee
WALTERS, PAPILLION, THOMAS, CULLENS, LLC
12345 Perkins Road, Bldg. One
Baton Rouge, LA 70810
(225) 236-3636

/s/ Abha Khanna
Abha Khanna (admitted *pro hac vice*)
Jonathan P. Hawley (admitted *pro hac vice*)
ELIAS LAW GROUP LLP
1700 Seventh Ave. Suite 2100
Seattle, Washington 98101
(206) 656-0177
akhanna@elias.law

Lalitha D. Madduri (admitted *pro hac vice*)
Jacob D. Shelly (admitted *pro hac vice*)
ELIAS LAW GROUP LLP
250 Massachusetts Ave, NW Suite 400
Washington, D.C. 20001
(202) 968-4490

Counsel for Galmon Plaintiffs

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, EDGAR CAGE, DOROTHY NAIRNE, EDWIN RENE SOULE, ALICE WASHINGTON, CLEE EARNEST LOWE, DAVANTE LEWIS, MARTHA DAVIS, AMBROSE SIMS, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ("NAACP") LOUISIANA STATE CONFERENCE, AND POWER COALITION FOR EQUITY AND JUSTICE, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00211-SDD-RLB
EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00214-SDD-RLB

ORDER

Considering the *Motion for Status Conference* filed by Plaintiffs in the above-captioned case;

IT IS HEREBY ORDERED that the motion is GRANTED and a telephonic status conference be set for _____, 2023, at _____.

Signed in Baton Rouge, Louisiana, this ____ day of _____, 2023.

_____
Chief Judge Shelly D. Dick

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

DEFENDANTS' MEMORANDUM IN RESPONSE TO PLAINTIFFS' JOINT MOTION FOR STATUS CONFERENCE AND JOINT NOTICE REGARDING STATUS CONFERENCE

Plaintiffs' Joint Motion for Status Conference, Doc. 240, asked the Court to hold a status conference "to establish a timeline for resuming the process for establishing the remedial maps, including but not limited to (i) entering a schedule for supplemental briefing and remedial maps; and (ii) setting forth a date for an evidentiary hearing to resume consideration of the maps." Doc. 240. This morning, Plaintiffs filed a joint notice regarding status conference asking the Court to restart preliminary injunction proceedings. Doc. 242 at 3 (asking the Court to accept "weeks" of new briefing, new maps, and a new evidentiary hearing). Defendants and Intervenors (collectively, "Defendants") oppose such a "remedial phase" and oppose restarting the preliminary

injunction proceedings because it would only inject unnecessary delay into this matter. Defendants further oppose the imposition of a new congressional districting plan on the basis of a preliminary injunction when there is time for a trial on the merits before the 2024 elections. The Court should set this matter for trial on the merits as soon as possible.

While counsel for the defense side of this case will be prepared to more fully explain Defendants' position during the July 12, 2023, telephone status conference, Doc. 241, this memorandum is intended to provide background they believe will be helpful to the Court.

1. As Defendants recently detailed to the Fifth Circuit, this Court should conduct a trial on the merits and reach a final judgment promptly to allow this case to be resolved before the November 2024 elections. *See* Appellants' July 6, 2023 Ltr., *Robinson v. Ardoin*, No. 22-30333, Doc. 246. This Court's June 6, 2022, preliminary injunction and remedial schedule, *see* Docs. 173, 206, sought to impose a remedy in advance of the November 2022 congressional elections. Those elections have passed, and Plaintiffs no longer need a preliminary injunction and temporary remedy based on a limited record when the next elections to be conducted under the enjoined congressional plan are nearly 16 months away (rather than four months away, as they were when this case was stayed in 2022).

There is sufficient time for a trial on the merits before the end of 2023,[1] with a reasonable pre-trial schedule for fact discovery and additional expert discovery, if the Court acts now to schedule that trial. Plaintiffs cannot argue otherwise. In the related case of *Nairne v. Ardoin* involving Louisiana's legislative plans, the plaintiffs and their counsel—including many of the

[1] Indeed, it is possible that a trial as late as January or February 2024 will provide sufficient time for resolution prior to congressional elections in November 2024, but Defendants appreciate the Court's point in *Nairne v. Ardoin* that it wants to work to avoid potential timing issues and try these matters as soon as possible.

same counsel here—urged this Court to set an expedited trial schedule "to allow for potential relief of a special election in November 2024." Case No. 22-cv-00178, Doc. 89 at 3. Setting aside whether a special election is available to Plaintiffs in the *Nairne* matter (it is not), there *is* a scheduled election for Louisiana's congressional districts on November 5, 2024. The *Nairne* plaintiffs initially advocated for a trial in January 2024, showing they believed it is feasible to hold a trial on the merits 10 months in advance of the November 2024 elections.

The imposition of a preliminary remedial plan now, rather than trying this case before the end of 2023, would be problematic and counterproductive for multiple reasons. First, the Court would impose dramatic mandatory injunctive relief on a preliminary basis (imposing a judicially created congressional district plan on the state) despite a significant change in circumstances since the Court entered its order in June 2022: we now have 16 months before the next election rather than the four months between when this case was stayed and the November 2022 congressional elections.

Second, if the Court were to implement a preliminary remedial plan based on the preliminary injunction and accede to Plaintiffs' wishes to restart the preliminary injunction phase and not try this case before the end of 2023, there likely will not be sufficient time to reach a final judgment and conduct *another* remedial phase in advance of the November 2024 congressional elections. That approach would mark a significant duplication of effort and ensuing waste of resources by both counsel and the Court let alone a sharp departure from this Court's recently expressed wishes in *Nairne* to proceed promptly in order to avoid potential *Purcell* issues. *Purcell v. Gonzalez*, 549 U.S. 1 (2006).

Third, Plaintiffs' proposal risks exposing voters to as many as three different congressional plans in three elections (the 2022 elections under the enacted plan, the 2024 elections under a

preliminary remedial plan, and the 2026 elections under potentially yet a third plan), which would work a "needlessly chaotic and disruptive effect upon the electoral process." *Benisek v. Lamone*, 138 S. Ct. 1942, 1945 (2018) (citing *Fishman v. Schaffer*, 429 U.S. 1325, 1330 (1976)).

Fourth, the status quo here is the challenged plan which was used in the November 2022 election and which governs congressional representation in Louisiana today. "The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). The Supreme Court "has repeatedly held that the basis for injunctive relief in the federal courts has always been irreparable injury and the inadequacy of legal remedies." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982). Here, adequate legal remedies exist for Plaintiffs: they can try the case to conclusion and establish their claim that this status quo should be altered prior to the November 2024 election.

Plaintiffs' reliance on *Canal Auth. of State of Fla. v. Callaway* for the position that a preliminary injunction remedial plan is necessary in this case, some 16 months prior to the next election, ignores that case's rule. Pls' J. Notice at 5; 489 F.2d 567 (5th Cir. 1974). In *Canal Authority of Florida*, the Fifth Circuit applied a rule of necessity that cannot be satisfied here where there is no need for a status quo-altering remedial injunction pending trial because there is sufficient time to try this case before the next election. *Id.* at 576.

Finally, such an approach would be inconsistent with the Supreme Court's directive that "the matter proceed before the Court of Appeals for the Fifth Circuit for review in the ordinary course and in advance of the 2024 congressional elections in Louisiana." Summary Dispositions, *Ardoin v. Robinson*, No. 21-1596 (June 26, 2023). The ordinary course in this scenario—nearly 16 months prior to the next election—is to try the case, not to languish in a preliminary-injunction

phase that is simultaneously moot (the November 2022 elections are past) and unripe (the November 2024 election is not yet an imminent emergency).

2. This Court need not wait to schedule a trial on the merits while the Fifth Circuit considers Defendants' appeal of the preliminary injunction order. While this Court does not have jurisdiction over matters on appeal, it does have jurisdiction over the merits of this action. *Farmhand, Inc. v. Anel Eng'g Indus., Inc.*, 693 F.2d 1140, 1145–46 (5th Cir. 1982) ("Generally, when an appeal is noticed the district court is divested of jurisdiction; the matter is transferred immediately to the appellate court. The rule, however, is not absolute. The district court maintains jurisdiction as to matters not involved in the appeal, *such as the merits of an action when appeal from a preliminary injunction is taken*, or in aid of the appeal, as by making clerical corrections.") (emphasis added).

3. In order to try this case on the merits before the end of 2023 while also allowing sufficient time for additional expert and fact discovery, Defendants request that the Court schedule this matter for trial on November 27, 2023.[2] This date is currently reserved for the *Nairne* trial, *see Nairne* Doc. 97, but trying this case should take priority over trying *Nairne* for a number of reasons.

First, the next elections to be conducted under the congressional plan challenged in this action will occur in November 2024, well before any elections that could be impacted by the *Nairne* litigation. The *Nairne* plaintiffs were unsuccessful in their attempt to seek relief for the

[2] Defendants maintain their previous arguments that trying any case in November 2023 will be exceedingly difficult for elected officials in light of the upcoming Gubernatorial Primary and General Elections. *See* Doc. 92 at 2–5. Defendants' proposal is based on the Court's prior direction in *Nairne* regarding its availability for trial in the fall of 2023. But to be clear, Defendants would oppose trying both *Nairne* and *Robinson* in November 2023—preparing for and participating in two trials during the election period would be untenable for the Secretary of State, Attorney General, and their staff who have statutory obligations to administer the election and advise election officials throughout every stage of the election process.

2023 elections, *see Nairne* Doc. 96, and the plaintiffs' insistence on an expedited trial date in that case is based on the legally erroneous contention that they could seek special elections in November 2024. *See Nairne* Doc. 92 (explaining that Supreme Court precedent "effectively foreclose[s]" such a remedy). This Court should prioritize trying this action for elections that must occur in November 2024 over an action where the next elections that could be impacted will not occur for four years.

Second, this action is more amenable to an expedited discovery schedule and trial in November than *Nairne*. The congressional plan challenged here contains just six districts, and Plaintiffs seek the creation of just one additional majority-Black district. The *Nairne* plaintiffs, in contrast, challenge two different redistricting plans containing 144 districts, and seek numerous additional majority-Black districts across the state.

Third, and importantly, elections will occur under the districts challenged in *Nairne* in October and November 2023, offering this Court the most probative election data for its analysis. It is imperative that the parties have an opportunity to obtain and analyze the final election results <u>in those districts</u> before trial. *See Nairne* Doc. 92 at 5.[3] As the United States Supreme Court has intimated, a trial should be held after there is evidence of how the challenged law operates in an actual election as opposed to hypothetical, expert witness driven speculation that could later turn out to be incorrect. *Purcell*, 549 U.S. at 5 ("Allowing the election to proceed without enjoining the statutory provisions at issue will provide the courts with a better record on which to judge their constitutionality [and] the Court wisely takes action that will enhance the likelihood that [the legal

[3] Moving the *Nairne* trial to January 2024 or later is also necessary in light of the *Nairne* plaintiffs' position that 2023 election results could not be admitted at a November 27, 2023, trial because there would be insufficient time for those results to be finalized and analyzed. *See* Jun. 29, 2023 Email from Plaintiffs' Counsel at 6, attached as Exhibit A.

issues] will be resolved correctly on the basis of historical facts rather than speculation.") (Stevens, J., concurring). While the record in this action needs to be more fully developed, that can occur more quickly than in a case where dozens of districts are at issue and where the most probative elections for a Section 2 analysis—endogenous elections—will be held in the weeks prior to trial.

Defendants respectfully ask the Court to reject Plaintiffs' request to proceed with a remedial process and to instead schedule this matter for trial on the merits for November 27, 2023.

Respectfully submitted,

/s/ Michael W. Mengis
Michael W. Mengis, LA Bar No. 17994
BAKERHOSTETLER LLP
811 Main Street, Suite 1100
Houston, Texas 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
Email: mmengis@bakerlaw.com

E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com

Patrick T. Lewis*
BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com
* *Admitted pro hac vice*

/s/ Erika Dackin Prouty
Erika Dackin Prouty*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouty@bakerlaw.com

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

/s/ John C. Walsh
John C. Walsh (Louisiana Bar Roll No. 24903)
john@scwllp.com
SHOWS, CALI & WALSH, L.L.P.
P.O. Box 4046
Baton Rouge, LA 70821
Telephone: (225) 346-1461
Facsimile: (225) 346-5561

*/s/ Phillip J. Strach** (Lead Counsel)
phillip.strach@nelsonmullins.com
Thomas A. Farr*
tom.farr@nelsonmullins.com
John E. Branch, III*
john.branch@nelsonmullins.com
Alyssa M. Riggins*
alyssa.riggins@nelsonmullins.com
Cassie A. Holt*
cassie.holt@nelsonmullins.com
NELSON MULLINS RILEY & SCARBOROUGH LLP
301 Hillsborough Street, Suite 1400
Raleigh, NC 27603
Telephone: (919) 329-3800
Facsimile: (919) 329-3799
* *Admitted pro hac vice*

Counsel for Defendant R. KYLE ARDOIN, in his official capacity as Secretary of State of Louisiana

Jeff Landry
Louisiana Attorney General

/s/ Carey Tom Jones
Elizabeth B. Murrill (LSBA No. 20685)
Solicitor General
Shae McPhee (LSBA No. 38565)
Angelique Duhon Freel (LSBA No. 28561)
Carey Tom Jones (LSBA No. 07474)
Amanda M. LaGroue (LSBA No. 35509)
Jeffrey M. Wale (LSBA No. 36070)
OFFICE OF THE ATTORNEY GENERAL
LOUISIANA DEPARTMENT OF JUSTICE
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6000 phone
(225) 326-6098 fax
murrille@ag.louisiana.gov
mcphees@ag.louisiana.gov
freela@ag.louisiana.gov
jonescar@ag.louisiana.gov
lagrouea@ag.louisiana.gov
walej@ag.louisiana.gov

Jason B. Torchinsky (DC Bar No 976033)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
2300 N Street, NW
Suite 643A
Washington, DC 20037
Tel: 202-737-8808
Email: jtorchinsky@holtzmanvogel.com

Phillip M. Gordon (DC Bar No. 1531277)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
15405 John Marshall Hwy.
Haymarket, VA 20169
Telephone: (540) 341-8808
Facsimile: (540) 341-8809
Email: pgordon@holtzmanvogel.com
**admitted pro hac vice*

CERTIFICATE OF SERVICE

I certify that on July 12, 2023, this document was filed electronically on the Court's electronic case filing system. Notice of the filing will be served on all counsel of record through the Court's system. Copies of the filing are available on the Court's system.

/s/ Erika Dackin Prouty
Erika Dackin Prouty (admitted pro hac vice)
BAKERHOSTETLER LLP

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

Prouty, Erika Dackin

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Thursday, June 29, 2023 2:31 PM
To: McKnight, Katherine L.; Phil Gordon; Thomas-Lundborg, Alora; Stanko, Andrew; Knehans, Dakota; Margulis, David; Dayle Chung; Dayton Campbell-Harris; McDonald, Hallie; Jared Evans; Erickson, Jessica; External - John Adcock; Bahn, Josephine M.; Luis Manuel Rico Román; Megan Keenan; mdeleeuw@cozen.com; Engle-Hardy, Noelle; Nora Ahmed; rsoloman@cozen.com; Ron Wilson; Greenwood, Ruth; Ruth Greenwood; Sara Rohani; Stuart Naifeh; Victoria Wenger; Greenwood, Ruth
Cc: Giglio, Amanda; Prouty, Erika Dackin; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W.; Sauceda, Carol; Braden, E. Mark; Raile, Richard; Lewis, Patrick T.; Jason Torchinsky; Andrew Pardue
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Sorry to not get back to you sooner. You should go ahead and submit your filing. We are not going to come to an agreement and we plan to submit our own filing shortly.

We appreciate the Defendants proposed adjustments to the schedule in this matter. But we still think the 6 weeks that Defendants are now requesting to prepare their expert reports is too long and unnecessary. And therefore, we think we will need to take this issue up with the Magistrate today.

As to the election data, assumed we were discussing election data as opposed to just election results – it is my understanding that just the election results have very little relevancy in this matter. Additionally, Plaintiffs have considered Defendants' proposal that the parties be allowed to supplemental expert reports with data from the October 14, 2023 and Nov. 18, 2023 elections. Plaintiffs opposed this request. This would be weeks, if not well over a month, after the close of expert discovery, which under the Defendants proposed schedule would be Sept. 29, 2023. And in the case of the Nov. 18, 2023 election, less than ten days before trial. Plaintiffs do not think it is feasible in this time period for the data to be made available, analyzed and appropriately disclosed to opposing counsel before trial. Furthermore, this additional data is not necessary. There is other recent election data available currently to all parties. This is also something we should discuss with the Magistrate.

thanks
Sarah

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Thursday, June 29, 2023 2:05 PM
To: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota

EXHIBIT A

<dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>; WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

We are conferring now and should be able to get back to you shortly.

From: McKnight, Katherine L. <kmcknight@bakerlaw.com>
Sent: Thursday, June 29, 2023 1:50 PM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>; WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky

<jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Counsel,

We write to follow up regarding our e-mail this morning about a proposed schedule in the Nairne matter. We have not yet heard from you and appreciate that coordination takes time but believe it would be helpful to the Court to have a proposal before the conference this afternoon. We intend to file the attached by 1:30pm Central to put forward Defendants' proposal for the Court's consideration. We have included Plaintiffs' June 27 proposed dates in this filing so that the Court can have both proposals before it. However, if you prefer that we remove Plaintiffs' June 27 proposed dates or edit them in any way to reflect an updated proposal we are happy to do so.

Could you please let us know what you prefer? If we do not hear from you, we will plan to file this as is.

Thanks very much,

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: McKnight, Katherine L.
Sent: Thursday, June 29, 2023 10:14 AM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue

<apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Counsel,

Thank you for your time yesterday afternoon. Following are updates on Defendants' positions on two items.

First: Proposed Schedule. We heard your concerns about timing and have adjusted dates in the following proposal to address concerns raised by Plaintiffs (see column titled Defendants' Meet and Confer Proposal). This adjusted proposal allows more time to conduct expert depositions than the original scheduling order and also ensures the same amount of time to depose fact witnesses (3 weeks). This also builds in time in October between the end of expert discovery and pre-trial deadlines. We made the following adjustments:

1. Moved Defendants' expert disclosure and reports a week earlier, respectively.
2. Delayed the exchange of witness lists by a few days so it post-dates the exchange of Defendants' expert reports and limited it to "Fact Witnesses." We added an additional date for Expert Witness lists due on the same date as the final expert witness reports are exchanged; an Expert Witness List may not be necessary but we wanted to accommodate what we understood to be your interest in exhibit list exchanges prior to the time for depositions.
3. Matched Plaintiffs' proposals for the last three dates leading up to trial.
4. Combined the due date for expert-related motions with the due date for Daubert motions.

Please let us know your position on this proposal so we can determine whether further narrowing is possible and to prepare for this afternoon's conference with the Court.

Event	Before Stay	Time Between Events in First Scheduling Order	Plaintiffs' 6/27 Proposal	Defendant Propo
Plaintiffs' Expert Reports	7/22/2022		6/30/2023	6/3
Defendants Expert Disclosures	9/2/2022	6 weeks after P reports	7/6/2023	8/1
Defendants Expert Reports	9/9/2022	7 weeks after P reports	7/21/2023	8/1
Exchange Fact Witness Lists	No date set		8/10/2023	8/1
Plaintiffs' Rebuttal Expert Disclosures	No date set		7/25/2023	8/2
Plaintiffs' Rebuttal Expert Reports	9/23/2022	2 weeks after D reports	8/4/2023	9/
Defendants' Sur-Rebuttal Expert Disclosure	No date set		8/8/2023	9/
Fact discovery close and file related motions	10/17/2022		8/31/2023	8/3
Defendants' Sur-Rebuttal Expert Reports	10/7/2022	2 weeks after P reports	8/11/2023	9/1
Exchange Expert Witness Lists	No date set			
Expert discovery close	10/21/2022	2 weeks after surrebuttals	9/22/2023	9/2
Dispositive & Daubert & Expert-related motions	10/28/2022	1 week later	9/29/2023	10/
File pre-trial order	No date set		10/20/2023	10/2
Proposed findings of fact & conclusions of law	12/12/2022	5 weeks prior to trial	10/27/2023	10/2
Pre-trial conference	12/19/2022	4 weeks prior to trial	11/2/2023	10/3
Trial briefs	12/23/2022	3 weeks prior to trial	11/13/2023	11/
Trial scheduled to begin	1/17/2023		11/27/2023	11/2

Second: Rebuttal and sur-rebuttal expert disclosures. We can agree to including these dates under the same parameters as defined in the original scheduling order (Dkt. 66). Specifically:

> "Second, the parties discussed at length their positions on the appropriateness, timing, and scope of rebuttal experts. (R. Doc. 52 at 4, 5, 7).Ultimately, the parties agreed that Plaintiffs would be able to "introduce[e] new experts at the rebuttal stage" but only "to rebut expert testimony" offered by Defendant and Intervenors "on topics not covered by Plaintiffs' initial slate of experts." (R. Doc. 52 at 7). Defendant and Intervenors can then offer sur-rebuttal expert reports, but any surrebuttal by Defendant and Intervenors would be limited to those experts first identified by Plaintiffs "at the rebuttal stage." (R. Doc. 52 at 5, 7). Therefore, the Court has included an additional deadline for Defendant and Intervenors to provide sur-rebuttal expert reports."

We look forward to Plaintiffs' position on election data. To be clear, we view the issue of election data (and whether data can be available for expert analysis in a timely manner) as distinct from election results (identification of which candidate won or lost a specific election). We trust this is in alignment with Plaintiffs' understanding based on a comment by Sarah during our call but please let us know if not.

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: McKnight, Katherine L.
Sent: Wednesday, June 28, 2023 1:42 PM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis,

Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Counsel,

We look forward to our meet and confer later today. For now, we wanted to offer the following proposal which aligns with the amount of time afforded the parties in the original scheduling order. We can agree to Plaintiffs' proposed dates related to fact discovery but view the original time between events related to expert discovery as necessary in this case.

In addition to the proposed schedule, we would like discuss the following during our meet and confer:

1. **Fall 2023 Election Data**: we expect that Parties may want to make use of election data from October 14 and November 18 elections and we would like to protect the Parties' right to do so to the extent possible given the tight timeframe.

2. **Supplemental Interrogatories**: we understand your proposal for condensing response deadlines for supplemental interrogatories to 14 days and can agree to this shift as long as it applies to all parties.

3. **Written Discovery Responses by Parties**: the Secretary of State and the Attorney General have outstanding written discovery requests that they served on Plaintiffs last year. At the time the case was stayed, Plaintiffs had 3 days remaining to respond to the SOS written discovery and 11 days to respond to the AG written discovery. We propose that Plaintiffs serve responses to these written discovery requests within 3 and 11 days of tomorrow's Status Conference: Monday, July 3, 2023 (adding a day for next business day), for response to SOS written discovery and Monday, July 11, 2023, for response to AG written discovery.

Event	Before Stay	Time Between Events in First Scheduling Order	Plaintiffs' 6/27 Proposal	Defendants' 6/28 Proposal	Time Betwee Defendants' 6/
ert Reports	7/22/2022		6/30/2023	6/30/2023	
ness Lists	No date set		8/10/2023	8/10/2023	21 days before d
pert Disclosures	9/2/2022	6 weeks after P reports	7/6/2023	8/11/2023	6 weeks after P r
pert Reports	9/9/2022	7 weeks after P reports	7/21/2023	8/18/2023	7 weeks after P r
uttal Expert Disclosures	No date set		7/25/2023	8/22/2023	
close and file related motions	10/17/2022		8/31/2023	8/31/2023	
uttal Expert Reports	9/23/2022	2 weeks after D reports	8/4/2023	9/1/2023	2 weeks after D r
ur-Rebuttal Expert Disclosure	No date set		8/8/2023	9/5/2023	
ur-Rebuttal Expert Reports	10/7/2022	2 weeks after P reports	8/11/2023	9/15/2023	2 weeks after P r
ry close and file related motions	10/21/2022	2 weeks after surrebuttals	9/22/2023	9/29/2023	2 weeks after su
Daubert motions	10/28/2022	1 week later	9/29/2023	10/6/2023	1 week later
rder	No date set		10/20/2023	10/20/2023	
ings of fact & conclusions of law	12/12/2022	5 weeks prior to trial	10/27/2023	10/23/2023	5 weeks prior to
rence	12/19/2022	4 weeks prior to trial	11/2/2023	10/30/2023	4 weeks prior to
	12/23/2022	3 weeks prior to trial	11/13/2023	11/6/2023	3 weeks prior to
d to begin	1/17/2023		11/27/2023	11/27/2023	

We look forward to discussing.

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: McKnight, Katherine L.
Sent: Wednesday, June 28, 2023 9:04 AM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Sarah,

Thank you for your e-mail. Counsel for Defendants will be available to meet and confer this afternoon between 2pm and 4pm (Central)/3pm and 5pm (Eastern) and will look to circulate a proposal before we talk.

Would you pick a time in that window that works for your team and circulate a dial in?

Thanks,

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Tuesday, June 27, 2023 12:08 PM
To: Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; McKnight, Katherine L. <kmcknight@bakerlaw.com>; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

[External Email: Use caution when clicking on links or opening attachments.]
Counsel,

As you are aware, we have a scheduling conference in this matter set now for Thursday, June 29, 2023 at 3:00 pm CT before Magistrate Judge Scott D. Johnson. In anticipation of that conference and to facilitate productive conversations about the schedule in this case, we have drafted a proposed schedule, which is attached here. And we request to meet and confer with you all to discuss our proposal before the conference with Magistrate Judge Johnson. Plaintiffs' counsel can be available on Weds, June 28th for a meet and confer. Please let us know what time would work best for you all.

Thank-you,
Sarah

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Tuesday, June 20, 2023 11:57 AM
To: Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>; WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178

Sorry for the oversight. We will make sure to include these individuals in all future correspondence.

Sarah

From: Phil Gordon <pgordon@HoltzmanVogel.com>
Sent: Tuesday, June 20, 2023 11:32 AM
To: Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Sarah Brannon <sbrannon@aclu.org>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>;

WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Nairne, et al. v. Ardoin, et al., No. 22-cv-178

Counsel,

Good morning.

It has come to my attention that there has been correspondence from Plaintiffs in the above captioned matter that omits a number of counsel for the State. Please add me, Jason Torchinsky, and Andrew Pardue to all future correspondence regarding this matter.

Thank you,

Phil Gordon

Phil Gordon
Partner
Haymarket,VA

o 540.341.8808

email bio in

Holtzman V

DC • VA • FL • AZ holtzmanvogel.com

PRIVILEGED AND CONFIDENTIAL
This communication and any accompanying documents are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon this communication is strictly prohibited. Moreover, any such disclosure shall not compromise or waive the attorney-client, accountant-client, or other privileges as to this communication or otherwise. If you have received this communication in error, please contact me at the above email address. Thank you.

DISCLAIMER
Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Holtzman Vogel Baran Torchinsky & Josefiak PLLC would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

This email is intended only for the use of the party to which it is addressed and may contain information that is privileged, confidential, or protected by law. If you are not the intended recipient you are hereby notified that any dissemination, copying or distribution of this email or its contents is strictly prohibited. If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.

Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a

complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

EXHIBIT LIST TO DE 243,
DEFENDANTS' MEMORANDUM IN RESPONSE TO
PLAINTIFFS' JOINT MOTION FOR STATUS CONFERENCE
AND JOINT NOTICE REGARDING STATUS CONFERENCE

Exhibit	***Description***
Exhibit A	Email from Plaintiffs' Counsel dated June 29, 2023

Respectfully submitted,

/s/ Michael W. Mengis
Michael W. Mengis, LA Bar No. 17994
BAKERHOSTETLER LLP
811 Main Street, Suite 1100
Houston, Texas 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
Email: mmengis@bakerlaw.com

E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com

Patrick T. Lewis*
BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com
* *Admitted pro hac vice*

/s/ Erika Dackin Prouty
Erika Dackin Prouty*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouty@bakerlaw.com

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

/s/ John C. Walsh
John C. Walsh (Louisiana Bar Roll No. 24903)
john@scwllp.com
SHOWS, CALI & WALSH, L.L.P.
P.O. Box 4046
Baton Rouge, LA 70821
Telephone: (225) 346-1461
Facsimile: (225) 346-5561

*/s/ Phillip J. Strach** (Lead Counsel)
phillip.strach@nelsonmullins.com
Thomas A. Farr*
tom.farr@nelsonmullins.com
John E. Branch, III*
john.branch@nelsonmullins.com
Alyssa M. Riggins*
alyssa.riggins@nelsonmullins.com
Cassie A. Holt*
cassie.holt@nelsonmullins.com
NELSON MULLINS RILEY & SCARBOROUGH LLP
301 Hillsborough Street, Suite 1400
Raleigh, NC 27603
Telephone: (919) 329-3800
Facsimile: (919) 329-3799
* *Admitted pro hac vice*

Counsel for Defendant R. KYLE ARDOIN, in his official capacity as Secretary of State of Louisiana

Jeff Landry
Louisiana Attorney General

/s/ Carey Tom Jones
Elizabeth B. Murrill (LSBA No. 20685)
Solicitor General
Shae McPhee (LSBA No. 38565)
Angelique Duhon Freel (LSBA No. 28561)
Carey Tom Jones (LSBA No. 07474)
Amanda M. LaGroue (LSBA No. 35509)
Jeffrey M. Wale (LSBA No. 36070)
OFFICE OF THE ATTORNEY GENERAL
LOUISIANA DEPARTMENT OF JUSTICE
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6000 phone
(225) 326-6098 fax
murrille@ag.louisiana.gov
mcphees@ag.louisiana.gov
freela@ag.louisiana.gov
jonescar@ag.louisiana.gov
lagrouea@ag.louisiana.gov
walej@ag.louisiana.gov

Jason B. Torchinsky (DC Bar No 976033)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
2300 N Street, NW
Suite 643A
Washington, DC 20037
Tel: 202-737-8808
Email: jtorchinsky@holtzmanvogel.com

Phillip M. Gordon (DC Bar No. 1531277)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
15405 John Marshall Hwy.
Haymarket, VA 20169
Telephone: (540) 341-8808
Facsimile: (540) 341-8809
Email: pgordon@holtzmanvogel.com
**admitted pro hac vice*

CERTIFICATE OF SERVICE

I certify that on July 12, 2023, this document was filed electronically on the Court's electronic case filing system. Notice of the filing will be served on all counsel of record through the Court's system. Copies of the filing are available on the Court's system.

/s/ Michael W. Mengis
Michael W. Mengis
BAKERHOSTETLER LLP

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

Prouty, Erika Dackin

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Thursday, June 29, 2023 2:31 PM
To: McKnight, Katherine L.; Phil Gordon; Thomas-Lundborg, Alora; Stanko, Andrew; Knehans, Dakota; Margulis, David; Dayle Chung; Dayton Campbell-Harris; McDonald, Hallie; Jared Evans; Erickson, Jessica; External - John Adcock; Bahn, Josephine M.; Luis Manuel Rico Román; Megan Keenan; mdeleeuw@cozen.com; Engle-Hardy, Noelle; Nora Ahmed; rsoloman@cozen.com; Ron Wilson; Greenwood, Ruth; Ruth Greenwood; Sara Rohani; Stuart Naifeh; Victoria Wenger; Greenwood, Ruth
Cc: Giglio, Amanda; Prouty, Erika Dackin; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W.; Sauceda, Carol; Braden, E. Mark; Raile, Richard; Lewis, Patrick T.; Jason Torchinsky; Andrew Pardue
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Sorry to not get back to you sooner. You should go ahead and submit your filing. We are not going to come to an agreement and we plan to submit our own filing shortly.

We appreciate the Defendants proposed adjustments to the schedule in this matter. But we still think the 6 weeks that Defendants are now requesting to prepare their expert reports is too long and unnecessary. And therefore, we think we will need to take this issue up with the Magistrate today.

As to the election data, assumed we were discussing election data as opposed to just election results – it is my understanding that just the election results have very little relevancy in this matter. Additionally, Plaintiffs have considered Defendants' proposal that the parties be allowed to supplemental expert reports with data from the October 14, 2023 and Nov. 18, 2023 elections. Plaintiffs opposed this request. This would be weeks, if not well over a month, after the close of expert discovery, which under the Defendants proposed schedule would be Sept. 29, 2023. And in the case of the Nov. 18, 2023 election, less than ten days before trial. Plaintiffs do not think it is feasible in this time period for the data to be made available, analyzed and appropriately disclosed to opposing counsel before trial. Furthermore, this additional data is not necessary. There is other recent election data available currently to all parties. This is also something we should discuss with the Magistrate.

thanks
Sarah

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Thursday, June 29, 2023 2:05 PM
To: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota

EXHIBIT A

<dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>; WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

We are conferring now and should be able to get back to you shortly.

From: McKnight, Katherine L. <kmcknight@bakerlaw.com>
Sent: Thursday, June 29, 2023 1:50 PM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>; WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky

<jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Counsel,

We write to follow up regarding our e-mail this morning about a proposed schedule in the Nairne matter. We have not yet heard from you and appreciate that coordination takes time but believe it would be helpful to the Court to have a proposal before the conference this afternoon. We intend to file the attached by 1:30pm Central to put forward Defendants' proposal for the Court's consideration. We have included Plaintiffs' June 27 proposed dates in this filing so that the Court can have both proposals before it. However, if you prefer that we remove Plaintiffs' June 27 proposed dates or edit them in any way to reflect an updated proposal we are happy to do so.

Could you please let us know what you prefer? If we do not hear from you, we will plan to file this as is.

Thanks very much,

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: McKnight, Katherine L.
Sent: Thursday, June 29, 2023 10:14 AM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue

<apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Counsel,

Thank you for your time yesterday afternoon. Following are updates on Defendants' positions on two items.

First: Proposed Schedule. We heard your concerns about timing and have adjusted dates in the following proposal to address concerns raised by Plaintiffs (see column titled Defendants' Meet and Confer Proposal). This adjusted proposal allows more time to conduct expert depositions than the original scheduling order and also ensures the same amount of time to depose fact witnesses (3 weeks). This also builds in time in October between the end of expert discovery and pre-trial deadlines. We made the following adjustments:

1. Moved Defendants' expert disclosure and reports a week earlier, respectively.
2. Delayed the exchange of witness lists by a few days so it post-dates the exchange of Defendants' expert reports and limited it to "Fact Witnesses." We added an additional date for Expert Witness lists due on the same date as the final expert witness reports are exchanged; an Expert Witness List may not be necessary but we wanted to accommodate what we understood to be your interest in exhibit list exchanges prior to the time for depositions.
3. Matched Plaintiffs' proposals for the last three dates leading up to trial.
4. Combined the due date for expert-related motions with the due date for Daubert motions.

Please let us know your position on this proposal so we can determine whether further narrowing is possible and to prepare for this afternoon's conference with the Court.

Event	Before Stay	Time Between Events in First Scheduling Order	Plaintiffs' 6/27 Proposal	Defendant Propo
Plaintiffs' Expert Reports	7/22/2022		6/30/2023	6/3
Defendants Expert Disclosures	9/2/2022	6 weeks after P reports	7/6/2023	8/1
Defendants Expert Reports	9/9/2022	7 weeks after P reports	7/21/2023	8/1
Exchange Fact Witness Lists	No date set		8/10/2023	8/1
Plaintiffs' Rebuttal Expert Disclosures	No date set		7/25/2023	8/2
Plaintiffs' Rebuttal Expert Reports	9/23/2022	2 weeks after D reports	8/4/2023	9/
Defendants' Sur-Rebuttal Expert Disclosure	No date set		8/8/2023	9/
Fact discovery close and file related motions	10/17/2022		8/31/2023	8/3
Defendants' Sur-Rebuttal Expert Reports	10/7/2022	2 weeks after P reports	8/11/2023	9/1
Exchange Expert Witness Lists	No date set			
Expert discovery close	10/21/2022	2 weeks after surrebuttals	9/22/2023	9/2
Dispositive & Daubert & Expert-related motions	10/28/2022	1 week later	9/29/2023	10/
File pre-trial order	No date set		10/20/2023	10/2
Proposed findings of fact & conclusions of law	12/12/2022	5 weeks prior to trial	10/27/2023	10/2
Pre-trial conference	12/19/2022	4 weeks prior to trial	11/2/2023	10/3
Trial briefs	12/23/2022	3 weeks prior to trial	11/13/2023	11/
Trial scheduled to begin	1/17/2023		11/27/2023	11/2

Second: Rebuttal and sur-rebuttal expert disclosures. We can agree to including these dates under the same parameters as defined in the original scheduling order (Dkt. 66). Specifically:

> "Second, the parties discussed at length their positions on the appropriateness, timing, and scope of rebuttal experts. (R. Doc. 52 at 4, 5, 7).Ultimately, the parties agreed that Plaintiffs would be able to "introduce[e] new experts at the rebuttal stage" but only "to rebut expert testimony" offered by Defendant and Intervenors "on topics not covered by Plaintiffs' initial slate of experts." (R. Doc. 52 at 7). Defendant and Intervenors can then offer sur-rebuttal expert reports, but any surrebuttal by Defendant and Intervenors would be limited to those experts first identified by Plaintiffs "at the rebuttal stage." (R. Doc. 52 at 5, 7). Therefore, the Court has included an additional deadline for Defendant and Intervenors to provide sur-rebuttal expert reports."

We look forward to Plaintiffs' position on election data. To be clear, we view the issue of election data (and whether data can be available for expert analysis in a timely manner) as distinct from election results (identification of which candidate won or lost a specific election). We trust this is in alignment with Plaintiffs' understanding based on a comment by Sarah during our call but please let us know if not.

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: McKnight, Katherine L.
Sent: Wednesday, June 28, 2023 1:42 PM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis,

Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Counsel,

We look forward to our meet and confer later today. For now, we wanted to offer the following proposal which aligns with the amount of time afforded the parties in the original scheduling order. We can agree to Plaintiffs' proposed dates related to fact discovery but view the original time between events related to expert discovery as necessary in this case.

In addition to the proposed schedule, we would like discuss the following during our meet and confer:

1. **Fall 2023 Election Data**: we expect that Parties may want to make use of election data from October 14 and November 18 elections and we would like to protect the Parties' right to do so to the extent possible given the tight timeframe.

2. **Supplemental Interrogatories**: we understand your proposal for condensing response deadlines for supplemental interrogatories to 14 days and can agree to this shift as long as it applies to all parties.

3. **Written Discovery Responses by Parties**: the Secretary of State and the Attorney General have outstanding written discovery requests that they served on Plaintiffs last year. At the time the case was stayed, Plaintiffs had 3 days remaining to respond to the SOS written discovery and 11 days to respond to the AG written discovery. We propose that Plaintiffs serve responses to these written discovery requests within 3 and 11 days of tomorrow's Status Conference: Monday, July 3, 2023 (adding a day for next business day), for response to SOS written discovery and Monday, July 11, 2023, for response to AG written discovery.

Event	Before Stay	Time Between Events in First Scheduling Order	Plaintiffs' 6/27 Proposal	Defendants' 6/28 Proposal	Time Betwee Defendants' 6/
ert Reports	7/22/2022		6/30/2023	6/30/2023	
ness Lists	No date set		8/10/2023	8/10/2023	21 days before d
pert Disclosures	9/2/2022	6 weeks after P reports	7/6/2023	8/11/2023	6 weeks after P r
pert Reports	9/9/2022	7 weeks after P reports	7/21/2023	8/18/2023	7 weeks after P r
uttal Expert Disclosures	No date set		7/25/2023	8/22/2023	
close and file related motions	10/17/2022		8/31/2023	8/31/2023	
uttal Expert Reports	9/23/2022	2 weeks after D reports	8/4/2023	9/1/2023	2 weeks after D r
ur-Rebuttal Expert Disclosure	No date set		8/8/2023	9/5/2023	
ur-Rebuttal Expert Reports	10/7/2022	2 weeks after P reports	8/11/2023	9/15/2023	2 weeks after P r
ry close and file related motions	10/21/2022	2 weeks after surrebuttals	9/22/2023	9/29/2023	2 weeks after su
Daubert motions	10/28/2022	1 week later	9/29/2023	10/6/2023	1 week later
rder	No date set		10/20/2023	10/20/2023	
ings of fact & conclusions of law	12/12/2022	5 weeks prior to trial	10/27/2023	10/23/2023	5 weeks prior to
rence	12/19/2022	4 weeks prior to trial	11/2/2023	10/30/2023	4 weeks prior to
	12/23/2022	3 weeks prior to trial	11/13/2023	11/6/2023	3 weeks prior to
d to begin	1/17/2023		11/27/2023	11/27/2023	

We look forward to discussing.

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: McKnight, Katherine L.
Sent: Wednesday, June 28, 2023 9:04 AM
To: Sarah Brannon <sbrannon@aclu.org>; Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: RE: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

Sarah,

Thank you for your e-mail. Counsel for Defendants will be available to meet and confer this afternoon between 2pm and 4pm (Central)/3pm and 5pm (Eastern) and will look to circulate a proposal before we talk.

Would you pick a time in that window that works for your team and circulate a dial in?

Thanks,

Kate

Katherine L. McKnight
Partner

BakerHostetler
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com
bakerlaw.com

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Tuesday, June 27, 2023 12:08 PM
To: Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov; alyssa.riggins@nelsonmullins.com; McKnight, Katherine L. <kmcknight@bakerlaw.com>; JonesCar@ag.louisiana.gov; phil.strach@nelsonmullins.com; tom.farr@nelsonmullins.com; cassie.holt@nelsonmullins.com; BoutteM@ag.louisiana.gov; JamesM@ag.louisiana.gov; MurrillE@ag.louisiana.gov; BarbalichL@ag.louisiana.gov; WilliamsM@ag.louisiana.gov; john@scwllp.com; FreelA@ag.louisiana.gov; kimk@scwllp.com; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178 - Proposed Pre-Trial Schedule

[External Email: Use caution when clicking on links or opening attachments.]
Counsel,

As you are aware, we have a scheduling conference in this matter set now for Thursday, June 29, 2023 at 3:00 pm CT before Magistrate Judge Scott D. Johnson. In anticipation of that conference and to facilitate productive conversations about the schedule in this case, we have drafted a proposed schedule, which is attached here. And we request to meet and confer with you all to discuss our proposal before the conference with Magistrate Judge Johnson. Plaintiffs' counsel can be available on Weds, June 28th for a meet and confer. Please let us know what time would work best for you all.

Thank-you,
Sarah

From: Sarah Brannon <sbrannon@aclu.org>
Sent: Tuesday, June 20, 2023 11:57 AM
To: Phil Gordon <pgordon@HoltzmanVogel.com>; Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>; WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Re: Nairne, et al. v. Ardoin, et al., No. 22-cv-178

Sorry for the oversight. We will make sure to include these individuals in all future correspondence.

Sarah

From: Phil Gordon <pgordon@HoltzmanVogel.com>
Sent: Tuesday, June 20, 2023 11:32 AM
To: Thomas-Lundborg, Alora <tthomaslundborg@law.harvard.edu>; Stanko, Andrew <astanko@cozen.com>; Knehans, Dakota <dknehans@cozen.com>; Margulis, David <dmargulis@cozen.com>; Dayle Chung <dchung@naacpldf.org>; Dayton Campbell-Harris <DCampbell-Harris@aclu.org>; McDonald, Hallie <hmcdonald@cozen.com>; Jared Evans <jevans@naacpldf.org>; Erickson, Jessica <jerickson@cozen.com>; External - John Adcock <jnadcock@gmail.com>; Bahn, Josephine M. <jbahn@cozen.com>; Luis Manuel Rico Román <LRoman@aclu.org>; Megan Keenan <MKeenan@aclu.org>; mdeleeuw@cozen.com <mdeleeuw@cozen.com>; Engle-Hardy, Noelle <nengle-hardy@cozen.com>; Nora Ahmed <Nahmed@laaclu.org>; rsoloman@cozen.com <rsoloman@cozen.com>; Ron Wilson <cabral2@aol.com>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Ruth Greenwood <greenwood@law.harvard.edu>; Sara Rohani <srohani@naacpldf.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Victoria Wenger <vwenger@naacpldf.org>; Greenwood, Ruth <rgreenwood@law.harvard.edu>; Sarah Brannon <sbrannon@aclu.org>
Cc: Giglio, Amanda <agiglio@cozen.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; WaleJ@ag.louisiana.gov <WaleJ@ag.louisiana.gov>; alyssa.riggins@nelsonmullins.com <alyssa.riggins@nelsonmullins.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; JonesCar@ag.louisiana.gov <JonesCar@ag.louisiana.gov>; phil.strach@nelsonmullins.com <phil.strach@nelsonmullins.com>; tom.farr@nelsonmullins.com <tom.farr@nelsonmullins.com>; cassie.holt@nelsonmullins.com <cassie.holt@nelsonmullins.com>; BoutteM@ag.louisiana.gov <BoutteM@ag.louisiana.gov>; JamesM@ag.louisiana.gov <JamesM@ag.louisiana.gov>; MurrillE@ag.louisiana.gov <MurrillE@ag.louisiana.gov>; BarbalichL@ag.louisiana.gov <BarbalichL@ag.louisiana.gov>;

WilliamsM@ag.louisiana.gov <WilliamsM@ag.louisiana.gov>; john@scwllp.com <john@scwllp.com>; FreelA@ag.louisiana.gov <FreelA@ag.louisiana.gov>; kimk@scwllp.com <kimk@scwllp.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; Sauceda, Carol <csauceda@bakerlaw.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jason Torchinsky <jtorchinsky@HoltzmanVogel.com>; Andrew Pardue <apardue@HoltzmanVogel.com>
Subject: Nairne, et al. v. Ardoin, et al., No. 22-cv-178

Counsel,

Good morning.

It has come to my attention that there has been correspondence from Plaintiffs in the above captioned matter that omits a number of counsel for the State. Please add me, Jason Torchinsky, and Andrew Pardue to all future correspondence regarding this matter.

Thank you,

Phil Gordon

Phil Gordon
Partner
Haymarket,VA

o 540.341.8808

email bio in

Holtzman V

DC • VA • FL • AZ holtzmanvogel.com

PRIVILEGED AND CONFIDENTIAL
This communication and any accompanying documents are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon this communication is strictly prohibited. Moreover, any such disclosure shall not compromise or waive the attorney-client, accountant-client, or other privileges as to this communication or otherwise. If you have received this communication in error, please contact me at the above email address. Thank you.

DISCLAIMER
Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Holtzman Vogel Baran Torchinsky & Josefiak PLLC would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

This email is intended only for the use of the party to which it is addressed and may contain information that is privileged, confidential, or protected by law. If you are not the intended recipient you are hereby notified that any dissemination, copying or distribution of this email or its contents is strictly prohibited. If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.

Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a

complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
JULY 12, 2023
CHIEF DISTRICT JUDGE SHELLY D. DICK

PRESS ROBINSON, ET AL — CIVIL ACTION

VERSUS

KYLE ARDOIN, ET AL — NO. 22-211-SDD-SDJ

CONSOLIDATED WITH

EDWARD GALMON, SR., ET AL — CIVIL ACTION

VERSUS

KYLE ARDOIN, ET AL — NO. 22-214-SDD-SDJ

This matter came on this day for a *Telephone Status Conference*.

PRESENT: Sarah E. Brannon, Esq.
Counsel for Robinson Plaintiffs

Lalitha D. Madduri, Esq.
Counsel for Galmon Plaintiffs

Katherine L. McKnight, Esq.
Counsel for Defendants

The parties discussed potential deadlines for proceedings for either the remedy phase of the preliminary injunction or trial on the merits.

The Court takes this matter under advisement and will issue a scheduling order next week.

* * * * *

C: CV 36; T: 30 mins

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL	CIVIL ACTION
VERSUS	NO. 22-211-SDD-SDJ
KYLE ARDOIN, ET AL	

CONSOLIDATED WITH

EDWARD GALMON, SR., ET AL	CIVIL ACTION
VERSUS	NO. 22-214-SDD-SDJ
KYLE ARDOIN, ET AL	

ORDER

The Court held a telephone status conference on July 12, 2023.

The parties filed Notices of their respective positions regarding the continuation of these proceedings following the stay lifted by the United States Supreme Court.

The Court ORDERS that the preliminary injunction hearing stayed by the United States Supreme Court, and which stay has been lifted, be and is hereby reset to October 3-5, 2023, at 9:00 a.m. in Courtroom Three.

The parties shall meet and confer and jointly submit a proposed pre-hearing scheduling order on or before Friday July 21, 2023.

Signed in Baton Rouge, Louisiana, on July 17, 2023.

Shelly D. Dick

CHIEF JUDGE SHELLY D. DICK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

DEFENDANTS' JOINT NOTICE OF PROPOSED PRE-HEARING SCHEDULE

This notice is filed in response to the Court's Order of July 17, 2023, Doc. 250, which "reset" the remedial preliminary injunction hearing in this case for October 3-5, 2023, and sets forth Defendants' proposed "pre-hearing scheduling order."[1] Defendants appreciate that the Court's Order contemplated this schedule being submitted "jointly" with Plaintiffs. Regrettably, this filing is not joint as the parties could not agree on basic principles about the upcoming hearing.

[1] Defendants opposed Plaintiffs' request to resume the remedial phase of the preliminary injunction proceedings, *see* Docs. 240 & 242, and instead urged the Court to schedule a trial on the merits before the end of 2023. *See* Doc. 243. This submission of a proposed schedule is made subject to, and without waiver of, Defendants' opposition to the resumption of remedial preliminary injunction proceedings.

Put more bluntly, Plaintiffs are attempting a bait-and-switch. During the July 12, 2023, status conference concerning the remedial phase of the preliminary injunction proceedings, Defendants expressed considerable concern about the length of time it would take to prepare for a completely restarted remedial proceeding with new proposed remedial plans. Defendants argued that the Court should instead proceed to a trial on the merits. During the conference, Plaintiffs represented to the Court that they would stand on the proposed remedial plan they jointly submitted on June 22, 2022, and that this case could proceed quickly to a preliminary remedial hearing. By making that representation, Plaintiffs set the bait. The Court granted Plaintiffs' request to resume the remedial proceedings rather than proceed to a trial, over Defendants' objections, and scheduled the hearing for October 3, 2023.

Then came the switch. Plaintiffs have now walked back their representations and seek a schedule that allows them nearly two months to develop and submit *new* remedial plans and that further deprives Defendants of an adequate opportunity to analyze and respond to those plans. For the reasons set forth in this Notice, the Court should hold Plaintiffs to their word, prohibit Plaintiffs from offering new remedial plans, and adopt Defendants' July 21, 2023, modified proposed schedule.

1. On July 12, 2023, this Court held a telephone status conference, *see* Doc. 250, in response to Plaintiffs' motion requesting the Court resume the process of establishing a remedial plan that had been stayed by the Supreme Court of the United States in June 2022. *See* Doc. 227. After that conference, this Court ordered "that the preliminary injunction hearing stayed by the United States Supreme Court, and which stay has been lifted, be and is hereby reset to October 3-5, 2023." *See* Doc. 250. The court also ordered the parties to "meet and confer and jointly submit a proposed pre-hearing scheduling order on or before Friday July 21, 2023." *Id.*

The parties met and conferred on Thursday, July 20, 2023. In advance of that meeting, counsel for Defendants sent a proposed schedule to counsel for Plaintiffs on July 19, 2023. *See* Exhibit A at 5, 07/21/2023 Email Correspondence from Counsel for Legislative Intervenors. Defendants designed their proposal around their understanding of the Court's direction to the parties, and on Plaintiffs' representations to the Court, that the remedial phase would proceed based on the proposed remedial plan that Plaintiffs jointly submitted on June 22, 2022, *see* Joint Notice of Proposed Remedial Plan and Memorandum in Support, Doc. 225, pursuant to the Court's June 17, 2022, order. *See* Doc 206.

Defendants' proposal was designed to allow both Plaintiffs and Defendants to obtain and submit additional evidence (expert and factual) concerning the proposed plan, as well as a supplemental prehearing brief. *See* Ex. A at 5. The timing of Defendants' proposal is also reasonable—it contemplates Plaintiffs' supplemental reports to be provided over five weeks after their request to the Court to resume the remedial proceedings, *see* Doc. 240, and provides Defendants' experts with five weeks to respond. The subsequent deadlines for completing depositions, submitting supplemental briefing, and exchanging exhibits and witness lists were proposed based on the understanding that the parties would "pick up where they left off" in June 2022 and would *supplement* the existing record on the existing proposed plan, not wipe the slate clean and restart the remedial phase from scratch. Counsel for Defendants made this clear to Plaintiffs' counsel, stating that under Defendants' proposal, "Plaintiffs' supplemental reports will not be permitted to include any new remedial plans, per Plaintiffs' counsel's representations to the Court during last week's status conference." *See* Ex. A at 5.

2. But Plaintiffs have refused to honor their representations to the Court of continuing with their existing joint proposed remedial plan, and have instead proposed a schedule that allows

them to submit new proposed plan(s). *See* Ex. A at 2–4. During the parties' July 20, 2023, conference, counsel for Plaintiffs asserted the right to submit new plans and claimed their prior contrary representations were expressly conditioned on this Court scheduling a hearing sooner than October, though defense counsel recalls no such caveat being made. The parties further discussed other aspects of each other's proposed schedules, including but not limited to the timing of disclosure of fact and expert lists and the amount of time Defendants would have to respond to Plaintiffs' expert submissions. (Plaintiffs had proposed giving Defendants just two weeks to respond to Plaintiffs' expert reports, which Plaintiffs had at least seven weeks—measuring from the date Plaintiffs filed their motion on June 27, 2023—to prepare, *see* Ex. A at 3–4).

In an attempt to reach a compromise, Defendants sent Plaintiffs the following modified proposed schedule on the morning of July 21, 2023:

Defendants' July 21, 2023 Modified Proposed Schedule	
Date	**Deadline**
Friday, August 4, 2023	Plaintiffs' Supplemental Expert Reports Due
Friday, ~~August 11, 2023~~ August 18, 2023	Exchange Fact ~~& Expert~~ Witness Lists
Friday, September 8, 2023	Defendants' Supplemental Expert Reports Due
Tuesday, September 12, 2023	Exchange Supplemental Fact Witness Lists
~~Friday, September 15, 2023~~ Tuesday, September 19, 2023	Deadline for Fact and Expert Depositions
~~Friday, September 22, 2023~~ Monday, September 25, 2023	Supplemental Memorandum in Support and Memorandum in Opposition of Proposed Remedial Plan Due
Friday, September 29, 2023	Exchange Final Witness Lists and Copies of Exhibits
Tuesday, October 3 to Thursday, October 5, 2023	Preliminary Injunction Hearing on Remedy

See Exhibit B at 2, 07/21/2023 Email Correspondence from Counsel for Legislative Intervenors.

While Plaintiffs also sent a modified proposed schedule, their proposal still allows Plaintiffs to submit new remedial plans. Importantly, however, Plaintiffs' counsel's clarified[2] that

[2] Plaintiffs also noted that they removed initial briefing in support of or in opposition to plans. *See* Ex. A at 2.

Plaintiffs "intend to submit no more than a single joint remedial plan." Plaintiffs' proposed modified schedule is as follows:

Plaintiffs' July 21, 2023 Modified Proposed Schedule	
Event	**Plaintiffs' Amended Dates**
Deadline for the submission of any proposed plans and supporting expert reports	August 11, 2023
Deadline for parties to exchange fact and expert witness lists	August 11, 2023
Deadline for expert reports in response to any proposed plans	September 5, 2023
Deadline for supplemental witness disclosures	September 8, 2023
Deadline for fact and expert depositions	September 19, 2023
Deadline for prehearing briefs	September 26, 2023
Deadline to exchange copies of exhibits and final witness list	September 29, 2023
Remedial hearing	October 3 to October 5, 2023

See Ex. A at 2–3.[3]

Because the parties were unable to resolve their fundamental disagreement on Plaintiffs' ability to submit a new remedial plan(s), they could not reach an agreement on a joint proposed pre-hearing schedule to file with the Court. *See* Ex. A at 2.

3. The Court should adopt Defendants' July 21, 2023, modified proposed schedule and reject Plaintiffs' attempt to start the remedial phase over from scratch. There is no reason to allow Plaintiffs to submit a new proposed remedial plan[4] when they urged the Court—over

[3] For clarity, this chart omits two columns from the one presented in Plaintiffs' email. The first removed column was the original schedule, and the second was a column Plaintiffs added for "Defendants' Proposed Deadline," because Defendants' modified proposed schedule did not contemplate the same events as Plaintiffs' proposal—among other differences, Defendants' proposal did not include deadlines "for the submission of any proposed plans and supporting expert reports" and required only the exchange of fact witness lists on August 18, 2023, and September 12, 2023.

[4] During the parties' meet and confer, the most Plaintiffs could offer as the reason for new plans was that "a lot has occurred" since they submitted their joint proposed remedial plan in June 2022.

Defendants' objections—to resume this process and to proceed rapidly based on their existing proposed remedial plan. Plaintiffs submitted that plan over a year ago, supported it with expert reports and briefing, and were ready to proceed to a hearing less than 24 hours before the Supreme Court stayed this action. *See* Doc. 225. Defendants responded (in the extremely compressed five calendar days the Court permitted) with their own evidentiary submission and briefing opposing Plaintiffs' proposed plan.

If Plaintiffs are held to their joint proposed remedial plan, as they represented they would stick to on July 12, 2023, and which is most consistent with the Court's July 17, 2023, Order "resetting" the previous preliminary injunction hearing, then both parties and their experts can be working now to supplement the record on that plan. In fact, Defendants have been preparing based on Plaintiffs' representations and the Court's direction that this case would be proceeding on Plaintiffs' existing joint proposed plan. But, as counsel for Defendants made clear during the July 12, 2023, status conference, if Plaintiffs submit new plan(s), Defendants and their experts would be required to re-do their analyses, which is a significant and time-consuming undertaking. What is more, even under Plaintiffs' modified proposal, Defendants would lose valuable time over the next three weeks while they wait for Plaintiffs' new submission on August 11, 2023, which is still over six weeks after Plaintiffs asked this Court to resume the remedial phase proceedings and time they could have—and likely have been—working on new submissions. Plaintiffs have offered no explanation for their need for this length of time to submit a new plan.

But Plaintiffs did not specify what had "occurred" that required them to scrap the remedial plan they asked the Court to impose on Louisiana just last year. To the extent Plaintiffs seek to offer analyses of 2022 election results, those analyses can be conducted of Plaintiffs' prior joint proposed plan, and cannot serve as the basis for a new plan.

While Plaintiffs' modified proposal allowed Defendants more time to respond than the two weeks in their initial proposal, Plaintiffs would still only provide Defendants and their experts just 25 calendar days (including Labor Day weekend)[5] to re-do those analyses and responses at the same time that Defendants, and potentially several of the same experts, will be working to meet the Court's deadlines in *Nairne, et al. v. Ardoin*. *See* Case No. 3:22-cv-00178, Doc. 100 (setting August 21, 2023 as the deadline for "Defendant/Intervenors' Sur-Rebuttal Expert Reports," September 1, 2023 as the deadline for "Completing Fact Discovery and Related Motions," September 29, 2023 as the deadline for "Completing Expert Discovery," etc.). There is simply no need to allow Plaintiffs to start over, or to deprive Defendants of a meaningful opportunity to respond and fully develop the record on a proposed plan, as Plaintiffs' proposed schedule demands.

4. Defendants' proposal is designed to allow the parties to focus their time and resources on supplementing the record on Plaintiffs' joint proposed plan. To be clear, Defendants' supplementation may include new fact and expert witnesses who were not offered during the very expedited remedial phase proceedings that had been scheduled in 2022 before the Supreme Court stay, which only afforded Defendants five days to analyze and respond to Plaintiffs' proposed remedial plan and prevented Defendants from submitting an appropriate expert and factual record. But Defendants' proposal grants Plaintiffs that same latitude. This type of supplementation would focus on Plaintiffs' joint proposed plan, and will allow the Court to evaluate a proposed preliminary remedy in this case based on an appropriately robust record given the enormity of the relief Plaintiffs seek.

[5] Defendants strongly object to the introduction of any new remedial plans by Plaintiffs at this stay. Without waiving that objection, if the Court is inclined to allow any new plans, then Defendants request a schedule that allows Defendants and their experts at least 28 days to analyze and respond to those plans.

Defendants respectfully ask the Court to reject Plaintiffs' proposed schedule and to adopt the July 21, 2023, modified proposed schedule set forth by Defendants above. A proposed order is enclosed herewith.

Respectfully submitted,

/s/ Michael W. Mengis
Michael W. Mengis, LA Bar No. 17994
BAKERHOSTETLER LLP
811 Main Street, Suite 1100
Houston, Texas 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
Email: mmengis@bakerlaw.com

E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com

Patrick T. Lewis*
BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com
* *Admitted pro hac vice*

/s/ Erika Dackin Prouty
Erika Dackin Prouty*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouty@bakerlaw.com

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

/s/ John C. Walsh
John C. Walsh (Louisiana Bar Roll No. 24903)
john@scwllp.com
SHOWS, CALI & WALSH, L.L.P.
P.O. Box 4046
Baton Rouge, LA 70821
Telephone: (225) 346-1461
Facsimile: (225) 346-5561

/s/ Phillip J. Strach* (Lead Counsel)
phillip.strach@nelsonmullins.com
Thomas A. Farr*
tom.farr@nelsonmullins.com
John E. Branch, III*
john.branch@nelsonmullins.com
Alyssa M. Riggins*
alyssa.riggins@nelsonmullins.com
Cassie A. Holt*
cassie.holt@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
301 Hillsborough Street, Suite 1400
Raleigh, NC 27603
Telephone: (919) 329-3800
Facsimile: (919) 329-3799
* *Admitted pro hac vice*

Counsel for Defendant R. KYLE ARDOIN, in his official capacity as Secretary of State of Louisiana

Jeff Landry
Louisiana Attorney General

/s/ Carey Tom Jones
Elizabeth B. Murrill (LSBA No. 20685)
Solicitor General
Shae McPhee (LSBA No. 38565)
Angelique Duhon Freel (LSBA No. 28561)
Carey Tom Jones (LSBA No. 07474)
Amanda M. LaGroue (LSBA No. 35509)
Jeffrey M. Wale (LSBA No. 36070)
OFFICE OF THE ATTORNEY GENERAL
LOUISIANA DEPARTMENT OF JUSTICE
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6000 phone
(225) 326-6098 fax
murrille@ag.louisiana.gov
mcphees@ag.louisiana.gov
freela@ag.louisiana.gov
jonescar@ag.louisiana.gov
lagrouea@ag.louisiana.gov
walej@ag.louisiana.gov

Jason B. Torchinsky (DC Bar No 976033)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
2300 N Street, NW
Suite 643A
Washington, DC 20037
Tel: 202-737-8808
Email: jtorchinsky@holtzmanvogel.com

Phillip M. Gordon (DC Bar No. 1531277)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK, PLLC
15405 John Marshall Hwy.
Haymarket, VA 20169
Telephone: (540) 341-8808
Facsimile: (540) 341-8809
Email: pgordon@holtzmanvogel.com
**admitted pro hac vice*

CERTIFICATE OF SERVICE

I certify that on July 21, 2023, this document was filed electronically on the Court's electronic case filing system. Notice of the filing will be served on all counsel of record through the Court's system. Copies of the filing are available on the Court's system.

/s/ Erika Dackin Prouty
Erika Dackin Prouty (admitted pro hac vice)
BAKERHOSTETLER LLP

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

[PROPOSED] SCHEDULING ORDER FOR PRELIMINARY INJUNCTION HEARING

The Court, upon consideration of the proposed schedules for the forthcoming October 3-5, 2023, preliminary-injunction hearing submitted by the parties in accordance with the Court's order of July 17, 2023 (ECF No. 250), hereby adopts the following pre-hearing schedule to govern the preliminary-injunction hearing reset for October 3-5, 2023:

Date	**Deadline**
Friday, August 4, 2023	Plaintiffs' Supplemental Expert Reports/Disclosures Due
Friday, August 18, 2023	Parties to Exchange Fact Witness Lists
Friday, September 8, 2023	Defendants' Supplemental Expert Reports/Disclosures Due
Tuesday, September 12, 2023	Exchange Supplemental Fact Witness Lists
Tuesday, September 19, 2023	Deadline for Fact and Expert Depositions
Monday, September 25, 2023	Supplemental Memorandum in Support and Memorandum in Opposition of Proposed Remedial Plan Due
Friday, September 29, 2023	Parties to Exchange Final Witness Lists and Copies of Exhibits

The parties may not submit new proposed remedial plans. The Court will consider the plan submitted on June 22, 2022, in accordance with its Order of June 17, 2022 (ECF No. 206).

IT IS SO ORDERED.

_____
UNITED STATES DISTRICT JUDGE

Exhibit A

From: Lewis, Patrick T.
To: Lali Madduri; Prouty, Erika Dackin; McKnight, Katherine L.; Phil Strach; Murrill, Elizabeth; Alyssa Riggins; Freel, Angelique; Jones, Carey; Cassie Holt; Jason Torchinsky; Wale, Jeffrey M.; John Branch; Mengis, Michael W.; McPhee, Shae; Tom Farr; Braden, E. Mark; Dallin Holt; john@scwllp.com; Raile, Richard
Cc: Abha Khanna; Jacob Shelly; Jonathan Hawley; Alison (Qizhou) Ge; J. Cullens; S. Layne Lee; Andrée M. Cullens; Savitt, Adam P; Amitav Chakraborty; Jonathan Hurwitz; Leah Aden; Sarah Brannon; Stuart Naifeh; Alora Thomas; Victoria Wenger; Nora Ahmed; Sara Rohani; Sophia LIn Lakin; Jared Evans; John Adcock; tracie.washington.esq@gmail.com; Megan Keenan
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule
Date: Friday, July 21, 2023 2:31:57 PM
Attachments: image001.png
image002.png
image003.png

Dear Counsel,

Thanks for your email. We appreciate your effort below to address some of the concerns we raised about Plaintiffs' proposed schedule. However, we continue to have a foundational disagreement over Plaintiffs' claimed right to restart the remedial phase of this case with a new plan submission, which was inconsistent with the representations Plaintiffs made to the Court on July 12, 2023, that they would stand on their 2022 remedial plan submission. Your schedule below is entirely designed around a new plan submission, and our schedule is entirely designed around additional evidence concerning Plaintiffs' existing remedial plan submission.

Because of this fundamental disagreement about approach, we will not be able to consent to your proposed schedule. Procedurally, we believe the appropriate next step is to submit our proposed schedules separately, as our differences are not of the type that lend themselves to inclusion in a joint filing. We believe that providing the Court a "joint submission" that consists of different schedules (and explanations for the schedules) would elevate form over substance.

Finally, we ask that Plaintiffs refrain from presenting the Court with the chart below as the summary of the parties' differences. While I understand why you presented the dates in that manner to us for negotiation purposes, if presented to the Court, the chart could inaccurately suggest that Defendants proposed a schedule that included a "submission of new plans" when Defendants did not.

Please let us know if you have any further questions.

Sincerely,

pl

Patrick Lewis
Partner

BakerHostetler
Key Tower
127 Public Square | Suite 2000
Cleveland, OH 44114-1214
T +1.216.861.7096

plewis@bakerlaw.com
bakerlaw.com

From: Lali Madduri <lmadduri@elias.law>
Sent: Friday, July 21, 2023 11:33 AM
To: Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Counsel,

See below for an amended proposed schedule. Plaintiffs' updated schedule incorporates changes that reflect the points Defendants raised during yesterday's meet and confer. We've also removed initial briefing in support of in opposition to plans. Plaintiffs can also represent that we intend to submit no more than a single joint remedial plan.

Event	Defendants' Proposed Deadline	Plaintiffs' Proposed Deadline	Plaintiffs' Amended Dates
Deadline for the submission of any proposed plans and supporting expert reports	August 4, 2023	August 15, 2023	August 11, 2023
Deadline for parties to exchange fact and	August 11, 2023	September 1, 2023	August 11, 2023

expert witness lists			
Deadline for expert reports in response to any proposed plans	September 8, 2023	August 29, 2023	September 5, 2023
Deadline for supplemental witness disclosures			September 8, 2023
Deadline for fact and expert depositions	September 15, 2023	September 19, 2023	September 19, 2023
Deadline for prehearing briefs	September 22, 2023	September 26, 2023	September 26, 2023
Deadline to exchange copies of exhibits and final witness list	September 29, 2023	September 26, 2023	September 29, 2023
Remedial hearing	October 3 to October 5, 2023	October 3 to October 5, 2023	October 3 to October 5, 2023

Lali Madduri
Counsel
Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Lali Madduri
Sent: Thursday, July 20, 2023 12:50 PM
To: Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Counsel,

See below for Plaintiffs' proposed schedule. Looking forward to discussing this afternoon.

Event	Defendants' Proposed Deadline	Plaintiffs' Proposed Deadline
Deadline for the submission of plaintiffs' proposed map, supporting memoranda, and expert reports	Friday, August 4, 2023	Tuesday, August 15, 2023
Deadline for defendants' responses to plaintiffs' proposed map and expert	Friday, September 8, 2023	Tuesday, August 29, 2023

reports		
Deadline for parties to exchange fact and expert witness lists	Friday, August 11, 2023	Friday, September 1, 2023
Deadline for fact and expert depositions	Friday, September 15, 2023	Tuesday, September 19, 2023
Deadline for supplemental memoranda in support of or in opposition to the proposed remedial maps	Friday, September 22, 2023	Tuesday, September 26, 2023
Deadline to exchange final witness lists and copies of exhibits	Friday, September 29, 2023	Tuesday, September 26, 2023
Remedial hearing	Tuesday, October 3 to Thursday, October 5, 2023	Tuesday, October 3 to Thursday, October 5, 2023

Lali Madduri
Counsel
Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Lali Madduri
Sent: Wednesday, July 19, 2023 5:37 PM
To: Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Thanks, Erika. We'll send a Teams link for 4-5 tomorrow.

Lali Madduri
Counsel
Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Prouty, Erika Dackin <eprouty@bakerlaw.com>
Sent: Wednesday, July 19, 2023 4:02 PM
To: Lali Madduri <lmadduri@elias.law>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Dear Counsel,

On behalf of the Defendant/Intervenors, we are available tomorrow between 3:30pm to 5pm ET tomorrow to meet and confer to discuss a proposed pre-hearing schedule.

In preparation for that meet and confer, below is Defendant/Intervenors' proposal for the pre-hearing schedule. To be clear, Plaintiffs' supplemental expert reports will not be permitted to include any new remedial plans, per Plaintiffs' counsel's representations to the Court during last week's status conference.

Date	Deadline
Friday, August 4, 2023	Plaintiffs' Supplemental Expert Reports Due
Friday, August 11, 2023	Exchange Fact & Expert Witness Lists
Friday, September 8, 2023	Defendants' Supplemental Expert Reports Due
Friday, September 15, 2023	Deadline for Fact and Expert Depositions
Friday, September 22, 2023	Supplemental Memorandum in Support and Memorandum in Opposition of Proposed Remedial Plan Due
Friday, September 29, 2023	Exchange Final Witness Lists and Copies of Exhibits
Tuesday, October 3 to Thursday, October 5, 2023	Preliminary Injunction Hearing on Remedy

Sincerely,

Erika Prouty
Associate

BakerHostetler
200 Civic Center Drive | Suite 1200
Columbus, OH 43215-4138
T +1.614.462.4710

eprouty@bakerlaw.com
bakerlaw.com

From: Lali Madduri <lmadduri@elias.law>
Sent: Tuesday, July 18, 2023 5:16 PM
To: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

[External Email: Use caution when clicking on links or opening attachments.]

Counsel,

I am writing on behalf of the Galmon and Robinson Plaintiffs. Per yesterday's Court order, are defense counsel available on Thursday 7/20 between 3 and 5pm ET to meet and confer regarding a pre-hearing schedule?

Thanks,
Lali

Lali Madduri
Counsel

Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

This email is intended only for the use of the party to which it is addressed and may contain information that is privileged, confidential, or protected by law. If you are not the intended recipient you are hereby notified that any dissemination, copying or distribution of this email or its contents is strictly prohibited. If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.

Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

Exhibit B

From: Lewis, Patrick T.
To: Lali Madduri; Prouty, Erika Dackin; McKnight, Katherine L.; Phil Strach; Murrill, Elizabeth; Alyssa Riggins; Freel, Angelique; Jones, Carey; Cassie Holt; Jason Torchinsky; Wale, Jeffrey M.; John Branch; Mengis, Michael W.; McPhee, Shae; Tom Farr; Braden, E. Mark; Dallin Holt; john@scwllp.com; Raile, Richard
Cc: Abha Khanna; Jacob Shelly; Jonathan Hawley; Alison (Qizhou) Ge; J. Cullens; S. Layne Lee; Andrée M. Cullens; Savitt, Adam P; Amitav Chakraborty; Jonathan Hurwitz; Leah Aden; Sarah Brannon; Stuart Naifeh; Alora Thomas; Victoria Wenger; Nora Ahmed; Sara Rohani; Sophia LIn Lakin; Jared Evans; John Adcock; tracie.washington.esq@gmail.com; Megan Keenan
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule
Date: Friday, July 21, 2023 11:14:21 AM
Attachments: image001.png
image002.png
image003.png

Counsel,

Thank you for your time yesterday to discuss a proposed pre-hearing schedule. As Defendant/Intervenors have explained, we oppose any attempts by Plaintiffs to offer a new remedial plan at this stage and cannot agree to a schedule that allows Plaintiffs to submit new maps and that provides Defendant/Intervenors with just two weeks to respond to brand new maps and analyses.

We have modified our proposal below to reflect Plaintiffs' concern with the timing of identification of witnesses and adjusted the deposition and briefing deadlines to reflect supplementation of fact witness lists:

Date	Deadline
Friday, August 4, 2023	Plaintiffs' Supplemental Expert Reports Due
Friday, ~~August 11, 2023~~ August 18, 2023	Exchange Fact ~~& Expert~~ Witness Lists
Friday, September 8, 2023	Defendants' Supplemental Expert Reports Due
Tuesday, September 12, 2023	Exchange Supplemental Fact Witness Lists
~~Friday, September 15, 2023~~ Tuesday, September 19, 2023	Deadline for Fact and Expert Depositions
~~Friday, September 22, 2023~~ Monday, September 25, 2023	Supplemental Memorandum in Support and Memorandum in Opposition of Proposed Remedial Plan Due
Friday, September 29, 2023	Exchange Final Witness Lists and Copies of Exhibits
Tuesday, October 3 to Thursday, October 5, 2023	Preliminary Injunction Hearing on Remedy

Please let us know by 2:00 pm ET if Plaintiffs if Plaintiffs agree to this proposed schedule. If Plaintiffs do not agree, we will file a separate notice with the Court setting forth Defendant/Intervenors' proposal.

Sincerely,

pl

Patrick Lewis
Partner

BakerHostetler
Key Tower
127 Public Square | Suite 2000
Cleveland, OH 44114-1214
T +1.216.861.7096

plewis@bakerlaw.com
bakerlaw.com

From: Lali Madduri <lmadduri@elias.law>
Sent: Thursday, July 20, 2023 12:50 PM
To: Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins

<alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Counsel,

See below for Plaintiffs' proposed schedule. Looking forward to discussing this afternoon.

Event	Defendants' Proposed Deadline	Plaintiffs' Proposed Deadline
Deadline for the submission of plaintiffs' proposed map, supporting memoranda, and expert reports	Friday, August 4, 2023	Tuesday, August 15, 2023
Deadline for defendants' responses to plaintiffs' proposed map and expert reports	Friday, September 8, 2023	Tuesday, August 29, 2023
Deadline for parties to exchange fact and expert witness lists	Friday, August 11, 2023	Friday, September 1, 2023
Deadline for fact and expert depositions	Friday, September 15, 2023	Tuesday, September 19, 2023
Deadline for supplemental memoranda in support of or in opposition to the proposed remedial maps	Friday, September 22, 2023	Tuesday, September 26, 2023
Deadline to exchange final witness lists and copies of exhibits	Friday, September 29, 2023	Tuesday, September 26, 2023
Remedial hearing	Tuesday, October 3 to Thursday, October 5, 2023	Tuesday, October 3 to Thursday, October 5, 2023

Lali Madduri
Counsel
Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Lali Madduri
Sent: Wednesday, July 19, 2023 5:37 PM
To: Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Thanks, Erika. We'll send a Teams link for 4-5 tomorrow.

Lali Madduri
Counsel
Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Prouty, Erika Dackin <eprouty@bakerlaw.com>

Sent: Wednesday, July 19, 2023 4:02 PM
To: Lali Madduri <lmadduri@elias.law>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: RE: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

Dear Counsel,

On behalf of the Defendant/Intervenors, we are available tomorrow between 3:30pm to 5pm ET tomorrow to meet and confer to discuss a proposed pre-hearing schedule.

In preparation for that meet and confer, below is Defendant/Intervenors' proposal for the pre-hearing schedule. To be clear, Plaintiffs' supplemental expert reports will not be permitted to include any new remedial plans, per Plaintiffs' counsel's representations to the Court during last week's status conference.

Date	Deadline
Friday, August 4, 2023	Plaintiffs' Supplemental Expert Reports Due
Friday, August 11, 2023	Exchange Fact & Expert Witness Lists
Friday, September 8, 2023	Defendants' Supplemental Expert Reports Due
Friday, September 15, 2023	Deadline for Fact and Expert Depositions
Friday, September 22, 2023	Supplemental Memorandum in Support and Memorandum in Opposition of Proposed Remedial Plan Due
Friday, September 29, 2023	Exchange Final Witness Lists and Copies of Exhibits
Tuesday, October 3 to Thursday, October 5, 2023	Preliminary Injunction Hearing on Remedy

Sincerely,

Erika Prouty
Associate

BakerHostetler
200 Civic Center Drive | Suite 1200
Columbus, OH 43215-4138
T +1.614.462.4710

eprouty@bakerlaw.com
bakerlaw.com

From: Lali Madduri <lmadduri@elias.law>
Sent: Tuesday, July 18, 2023 5:16 PM
To: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Murrill, Elizabeth <MurrillE@ag.louisiana.gov>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Freel, Angelique <FreelA@ag.louisiana.gov>; Lewis, Patrick T. <plewis@bakerlaw.com>; Jones, Carey <JonesCar@ag.louisiana.gov>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jason Torchinsky <jtorchinsky@holtzmanvogel.com>; Wale, Jeffrey M. <WaleJ@ag.louisiana.gov>; John Branch <john.branch@nelsonmullins.com>; Mengis, Michael W. <mmengis@bakerlaw.com>; McPhee, Shae <McPheeS@ag.louisiana.gov>; Tom Farr <tom.farr@nelsonmullins.com>; Braden, E. Mark <MBraden@bakerlaw.com>; Dallin Holt <dholt@holtzmanvogel.com>; john@scwllp.com; Raile, Richard <rraile@bakerlaw.com>
Cc: Abha Khanna <akhanna@elias.law>; Jacob Shelly <jshelly@elias.law>; Jonathan Hawley <jhawley@elias.law>; Alison (Qizhou) Ge <age@elias.law>; J. Cullens <cullens@lawbr.net>; S. Layne Lee <laynelee@lawbr.net>; Andrée M. Cullens <acullens@lawbr.net>; Savitt, Adam P <asavitt@paulweiss.com>; Amitav Chakraborty <achakraborty@paulweiss.com>; Jonathan Hurwitz <jhurwitz@paulweiss.com>; Leah Aden <laden@naacpldf.org>; Sarah Brannon <sbrannon@aclu.org>; Stuart Naifeh <snaifeh@naacpldf.org>; Alora Thomas <athomas@aclu.org>; Victoria Wenger <vwenger@naacpldf.org>; Nora Ahmed <Nahmed@laaclu.org>; Sara Rohani <SRohani@naacpldf.org>; Sophia LIn Lakin <slakin@aclu.org>; Jared Evans <jevans@naacpldf.org>; John Adcock <jnadcock@gmail.com>; tracie.washington.esq@gmail.com; Megan Keenan <MKeenan@aclu.org>
Subject: Robinson v. Ardoin / Galmon v. Ardoin -- Meet and Confer re Pre-Hearing Schedule

[External Email: Use caution when clicking on links or opening attachments.]

Counsel,

I am writing on behalf of the Galmon and Robinson Plaintiffs. Per yesterday's Court order, are defense counsel available on Thursday 7/20 between 3 and 5pm ET to meet and confer regarding a pre-hearing schedule?

Thanks,
Lali

Lali Madduri
Counsel
Elias Law Group LLP
202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

This email is intended only for the use of the party to which it is addressed and may contain information that is privileged, confidential, or protected by law. If you are not the intended recipient you are hereby notified that any dissemination, copying or distribution of this email or its contents is strictly prohibited. If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.

Any tax advice in this email is for information purposes only. The content

of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, EDGAR CAGE, DOROTHY NAIRNE, EDWIN RENE SOULE, ALICE WASHINGTON, CLEE EARNEST LOWE, DAVANTE LEWIS, MARTHA DAVIS, AMBROSE SIMS, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ("NAACP") LOUISIANA STATE CONFERENCE, AND POWER COALITION FOR EQUITY AND JUSTICE, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00211-SDD-RLB
EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00214-SDD-RLB

ROBINSON AND _GALMON_ PLAINTIFFS' PROPOSED PREHEARING SCHEDULE

On July 17, 2023, the Court set a hearing on a remedy under the preliminary injunction entered on June 6, 2022, and ordered that the parties meet and confer and submit a proposed pre-hearing scheduling order. Between July 19 and 21, 2023, the parties exchanged initial proposed schedules, met-and-conferred, and exchanged revised proposals. The parties have not been able to reach consensus on the case schedule. The Plaintiffs propose the following schedule for prehearing discovery, briefing, and exchange of witness and exhibit lists.

Event	Plaintiffs' Proposed Deadline	Time from Order Setting Hearing Dates
Submission of proposed plans and expert reports in support	8/11/2023	25 days
Exchange of fact and expert witness disclosures	8/11/2023	25 days
Submission of responsive expert reports	9/5/2023	50 days
Exchange of supplemental witness disclosures	9/8/2023	53 days
Deadline for fact and expert depositions	9/19/2023	64 days
Prehearing briefs	9/26/2023	71 days
Final witness and exhibits lists	9/29/2023	74 days
Remedial hearing	10/3/2023-10/5/2023	78 days

Plaintiffs' proposed schedule allows for any party, including the Defendant or Defendant-Intervenors, to submit a new or amended map along with supporting expert evidence. Consistent with the Court's 2022 remedial orders, the *Robinson* and *Galmon* Plaintiffs intend to jointly submit at most one map. Providing Plaintiffs the opportunity to propose a new map will provide for a more robust remedial process by allowing Plaintiffs to incorporate new election data and

accommodate concerns raised by Defendants in opposition to the initial remedial map Plaintiffs proposed in 2022. Plaintiffs' proposal also allows Defendants a new opportunity to submit a proposed map, consistent with the Court's approach to the remedial proceedings initiated last year.[1]

By contrast, Defendants decline to even contemplate a schedule that accommodates the submission of a new proposed map, despite the two and a half months between the Court's order and the hearing. Defendants have offered no reason as to why the parties should be precluded from offering a new proposed map that takes account of the most recent election data and better addresses concerns raised during last year's remedial proceedings.[2] Under the Court's schedule, there is ample time for the parties to consider new proposed maps; indeed, the two and a half months between the Court's setting of the remedial hearing (July 17) and the hearing itself (October 3) is almost two months more than provided during the initial remedial proceedings last year.

Although Plaintiffs believe the Court's schedule allows for sufficient time for the consideration of new maps, should the Court order that no new maps may be proposed, Plaintiffs respectfully request that the Court also decline to permit additional expert briefing from any party on the original maps. Plaintiffs and Defendants have already submitted expert reports in support of and in opposition to the map Plaintiffs proposed during the June 2022 remedial proceedings, and—with the exception of one deposition of Defendant's expert, which was interrupted by the issuance of the stay from the U.S. Supreme Court—expert depositions are complete. Under this

[1] Any schedule the Court adopts that allows for new maps should require all parties—including Defendants, if they choose to do so—to produce their proposed maps and any supporting expert reports by the same deadline—under Plaintiffs' proposed schedule, by August 11, 2023.

[2] Defendants claim that Plaintiffs stated an intention not to alter the remedial map they submitted in June 2022, but Plaintiffs intended only to state that should no further map submissions be permitted, a remedial hearing could be set within a couple of weeks of the status conference on July 12, 2023. The Court has now set the remedial hearing for nearly 2.5 months from today, providing ample time to consider more up-to-date maps.

alternative proposal, Plaintiffs and Defendants would meet and confer to reschedule the pending expert deposition, schedule an exchange of fact witness lists and depositions of fact witnesses, and set a deadline for pre-hearing briefs.

Date: July 21, 2023

Respectfully submitted,

By: /s/Abha Khanna
Abha Khanna
Jonathan P. Hawley
ELIAS LAW GROUP LLP
1700 Seventh Ave. Suite 2100
Seattle, Washington 98101
(206) 656-0177
akhanna@elias.law
jhawley@elias.law

Lalitha D. Madduri
Jacob D. Shelly
ELIAS LAW GROUP LLP
250 Massachusetts Ave, NW Suite 400
Washington, D.C. 20001
(202) 968-4490
lmadduri@elias.law
jshelly@elias.law

J. E. Cullens, Jr.
Andrée Matherne Cullens
S. Layne Lee
WALTERS, THOMAS, CULLENS, LLC
12345 Perkins Road, Bldg. One
Baton Rouge, LA 70810
(225) 236-3636

Counsel for Galmon Plaintiffs

By: */s/ John Adcock*
John Adcock
Adcock Law LLC
3110 Canal Street
New Orleans, LA 70119
Tel: (504) 233-3125
jnadcock@gmail.com

Stuart Naifeh (admitted *pro hac vice*)
Leah Aden (admitted *pro hac vice*)
Victoria Wenger (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund, Inc.
40 Rector Street, 5th Floor
New York, NY 10006
Tel: (212) 965-2200
laden@naacplef.org
snaifeh@naacpldf.org
vwenger@naacpldf.org

Jonathan H. Hurwitz
Robert A. Atkins
Yahonnes Cleary
Amitav Chakraborty
Adam P. Savitt
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue Of The Americas, New York, NY 10019
Tel.: (212) 373-3000
Fax: (212) 757-3990
jhurwitz@paulweiss.com
ratkins@paulweiss.com
ycleary@paulweiss.com
achakraborty@paulweiss.com
asavitt@paulweiss.com

Counsel for Robinson Plaintiffs
(Continued on next page)

Sarah Brannon
American Civil Liberties Union Foundation
915 15th St., NW
Washington, DC 20005
sbrannon@aclu.org

R. Jared Evans
I. Sara Rohani (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund, Inc.
700 14th Street N.W. Ste. 600
Washington, DC 20005
Tel: (202) 682-1300
jevans@naacpldf.org
srohani@naacpldf.org

Tracie L. Washington
Louisiana Justice Institute
Suite 132
3157 Gentilly Blvd
New Orleans LA, 70122
Tel: (504) 872-9134
tracie.washington.esq@gmail.com

Sophia Lin Lakin
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
slakin@aclu.org

T. Alora Thomas-Lundborg
Election Law Clinic
Harvard Law School
6 Everett Street, Ste. 4105
Cambridge, MA 02138
(617) 495-5202
tthomaslundborg@law.harvard.edu

Nora Ahmed
ACLU Foundation of Louisiana
1340 Poydras St, Ste. 2160
New Orleans, LA 70112
Tel: (504) 522-0628
nahmed@laaclu.org
msnider@laaclu.org

Counsel for Robinson Plaintiffs

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

EMERGENCY MOTION TO CANCEL HEARING ON REMEDY AND TO ENTER A SCHEDULING ORDER FOR TRIAL

Attorney General Jeff Landry, on behalf of the State of Louisiana, Secretary of State Kyle Ardoin, Clay Schexnayder, Speaker of the Louisiana House of Representatives, and Patrick Page Cortez, President of the Louisiana Senate, each in their respective official capacities (collectively "Defendants") seek an Emergency Motion to Reset Deadlines and Request that this Matter be Set for Trial (hereinafter, "Emergency Motion").

1.

The Court should immediately cancel the currently scheduled remedial proceeding set for October 3rd and set this matter for a trial on the merits with sufficient time for any appeals to be resolved prior to the 2024 congressional elections.

2.

The following are all causing extreme prejudice to Defendants: (1) the delay of over a month and counting for a schedule prior to the remedial hearing on Plaintiffs' motion for preliminary injunction to be set (as well as Plaintiffs' inaction absent a schedule); (2) the failure to set a date or scheduling order for a prompt trial on the merits; and (3) the lack of jurisdiction to commence a remedial proceeding. Defendants require a prompt decision given the impending remedial proceeding.

3.

Defendants sought consent from Plaintiffs for the relief sought herein. Plaintiffs oppose such relief.

4.

Defendants also contemporaneously filed a motion to expedite the decision on this motion, seeking a ruling by September 8, 2023.

5.

Therefore, for the reasons more fully explained in Defendants' memorandum in support, Defendants respectfully request the Court cancel the remedial proceeding currently scheduled for October 3-5 and set this matter for trial on the merits to be conducted with sufficient time for any appeals prior to the 2024 congressional elections.

Dated: August 25, 2023

/s/ *John C. Walsh*
John C. Walsh, LA Bar Roll No. 24903
SHOWS, CALL & WALSH, L.L.P
Batton Rouge, LA 70821
Ph: (225) 383-1461
Fax: (225) 346-5561

/s/ Phillip J. Strach
Phillip J. Strach*
phillip.strach@nelsonmullins.com
Lead Counsel for Secretary Ardoin
Thomas A. Farr*
tom.farr@nelsonmullins.com
John E. Branch, III*

john@scwllp.com

john.branch@nelsonmullins.com
Alyssa M. Riggins*
alyssa.riggins@nelsonmullins.com
Cassie A. Holt*
cassie.holt@nelsonmullins.com
NELSON MULLINS RILEY & SCARBOROUGH LLP
4140 Parklake Avenue, Suite 200
Raleigh, NC 27612
Ph: (919) 329-3800

* admitted *pro hac vice*

Counsel for Defendant R. Kyle Ardoin, in his official capacity as Secretary of State of Louisiana

/s/ Michael W. Mengis
Michael W. Mengis, LA Bar No. 17994
BAKERHOSTETLER LLP
811 Main Street, Suite 1100
Houston, Texas 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
Email: mmengis@bakerlaw.com

E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com
Patrick T. Lewis*
BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com

* *Admitted pro hac vice*

/s/ Erika Dackin Prouty
Erika Dackin Prouty*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouty@bakerlaw.com

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

Jeff Landry
Louisiana Attorney General

/s/Angelique Duhon Freel
Elizabeth B. Murrill (LSBA No. 20685)
Shae McPhee (LSBA No. 38565)
Morgan Brungard (CO Bar No. 50265)*
Angelique Duhon Freel (LSBA No. 28561)
Carey Tom Jones (LSBA No. 07474)
Jeffrey M. Wale (LSBA No. 36070)
Office of the Attorney General
Louisiana Department of Justice
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6000 phone
(225) 326-6098 fax
murrille@ag.louisiana.gov
freela@ag.louisiana.gov
walej@ag.louisiana.gov
jonescar@ag.louisiana.gov
mcphees@ag.louisiana.gov
brungardm@ag.louisiana.gov

Counsel for Defendant, State of Louisiana

Jason B. Torchinsky (DC 976033)*
Phillip M. Gordon (DC 1531277)*
Holtzman Vogel Baran
Torchinsky & Josefiak, PLLC
15405 John Marshall Highway
Haymarket, VA 20169
(540) 341-8808 phone
(540) 341-8809 fax
jtorchinsky@holtzmanvogel.com
pgordon@holtzmanvogel.com
*admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that, on this 25th day of August 2023, the foregoing has been filed with the Clerk via the CM/ECF system that has sent a Notice of Electronic filing to all counsel of record.

/s/ Jeffrey M. Wale
Jeffrey M. Wale

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR EMERGENCY MOTION TO CANCEL HEARING ON REMEDY AND TO ENTER A SCHEDULING ORDER FOR TRIAL

Attorney General Jeff Landry, on behalf of the State of Louisiana, Secretary of State Kyle Ardoin, Clay Schexnayder, Speaker of the Louisiana House of Representatives, and Patrick Page Cortez, President of the Louisiana Senate, each in their respective official capacities (collectively "Defendants") present this Memorandum in Support of their Motion to Cancel Hearing on Remedy and to Enter a Scheduling Order for a Trial on the Merits. Due to the fast-approaching hearing, a response by Plaintiffs is respectfully requested by Wednesday, August 30th, and a decision is

respectfully requested by Friday, September 8th. A companion motion for expedited review will be filed shortly after the instant motion.

RELEVANT BACKGROUND

On July 17, 2023, the Court ordered "that the preliminary injunction hearing stayed by the United States Supreme Court, and which stay has been lifted, be and is hereby reset to October 3-5, 2023, at 9:00 a.m." (ECF No. 250). The Court further directed that "[t]he parties shall meet and confer and jointly submit a proposed pre-hearing scheduling order on or before Friday July 21, 2023." *Id*. The parties met and conferred in good faith and were unable to reach complete agreement with respect to a schedule to govern the remedial proceeding. Therefore, the Plaintiffs and the Defendants each filed their own proposed scheduling orders. *See* (ECF Nos. 255 & 256). Meanwhile, on August 22, 2023, the United States Court of Appeals for the Fifth Circuit set Defendants' appeal of the underlying preliminary injunction order for oral argument on October 6, 2023, *Robinson v. Ardoin*, No. 22-30333 (5th Cir.), the day after the conclusion of the scheduled remedial proceeding.

As of the time of this filing, the Court has yet to issue a scheduling order in this matter despite the proposed schedules being submitted over 35 days ago. Many of the proposed deadlines in Plaintiffs' and Defendants' schedules have now passed.[1] Plaintiffs, for their part, have not sought to press their proposed schedule on the remedy phase and have not yet produced any expert reports or disclosures, or any proposed remedial plans, even though their own proffered deadlines have passed. (ECF No. 255 at 5). Given the significant delay on an already expected schedule,

[1] Plaintiffs' proposed schedule had August 11th as the date the parties would submit "any proposed plans" and as the deadline to exchange witness lists. (ECF No. 255 at 5). Defendants, jointly, proposed August 4th as the deadline for Plaintiffs' supplemental expert reports and disclosures and August 18th as the date to exchange fact and witness lists. (ECF No. 255-2 at 1).

there is simply no longer sufficient time to conduct a remedial hearing on a timeframe sufficient to sure the quality of presentations of counsel and the Court's decision.

The 2022 November Elections have come and gone, which means the premise for the Plaintiffs' twin preliminary injunction motions no longer exists. More to the point, any urgency that there be a remedy *now*, before a trial on the merits, is also gone. The 2024 General Election, however, is on the horizon, which, at roughly fourteen months away, means that the Court has enough time to try this case to a final judgment—if it acts *now* to set a date for trial. This window will close very soon if the Court declines to do so. And declining to do so would transgress the Supreme Court's mandate that this case is to proceed "for review in the ordinary course and in advance of the 2024 congressional elections in Louisiana." *Ardoin v. Robinson*, 143 S. Ct. 2654 (2023). For the reasons that follow, the Court should cancel the upcoming October remedial proceeding and schedule a trial on the merits so that the litigants, and more importantly the people of Louisiana, can have a final resolution of this continuing litigation.

ARGUMENT

While the Defendants appreciate the Court's efforts to move this case to a speedy resolution, the Defendants' rights to a fair and full hearing no longer permit the proceedings to move along the present path. The prejudice that the impending October 3rd remedial proceeding has to the Defendants' rights cannot be gainsaid. For more than forty years, the Supreme Court has recognized that "where a federal district court has granted a preliminary injunction, the parties generally will have had the benefit neither of a full opportunity to present their cases nor of a final judicial decision based on the actual merits of the controversy." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 396 (1981). This is true by virtue of the preliminary injunction mechanism (which necessitates expedited, yet *temporary*, resolution, given the specter of a rapidly impending

irreparable injury), and it is aggravated by the nature of Voting Rights Act litigation (which cannot be resolved without tremendously detailed, and time-consuming, preparation and presentation of expert testimony). Defendants have *never* been given the opportunity to make their case in defense of the enacted maps fully, and denying them the opportunity to do so now, given the ability for them to do so before the 2024 November Elections, would imperil the Defendants' rights and call into question the fundamental fairness of this litigation.

The Defendants are aware that much needs to be accomplished between now and the 2024 November Elections to avoid another round of, among other things, *Purcell* fights and expedited motions practice before this Court. Circumventing a repeat of the chaos leading up to the 2022 November Elections has motivated the Defendants to submit this request on an emergency basis. The gravity of this litigation, the implications of the challenged congressional maps for the 2024 election and Defendants' rights, as well as simple procedural fairness and federalism concerns, should compel the Court to swiftly decide this motion in Defendants' favor.

I. There is now insufficient time to conduct a remedial proceeding by October 3rd, and allowing it to proceed would result in a waste of judicial resources.

The Court's remedial proceeding cannot practically occur as scheduled because none of the lead-up events can occur as *any* of the parties envisioned. With fewer than 6 weeks before a three-day hearing, there still is not a scheduling order, and no order embracing all necessary events can be practically achieved.

The parties each submitted their proposed schedules on July 21st, over a month ago, and no scheduling order has been issued by the Court. In the meantime, many of the parties proposed deadlines have already come and gone without a scheduling order. Moreover, Plaintiffs have not

adhered to the case deadlines they themselves proposed.[2] Thus, nothing has happened in this remedial matter since the Supreme Court's order vacated its stay. Defendants have yet to see any disclosures or revised plan(s) from Plaintiffs. Defendants can hardly to begin to mount a cogent defense when they are, at present, completely in the dark as to what plans Plaintiffs will even be proffering and what expert opinions they intend to support them. There is now not enough time for the necessary disclosures and expert reports in advance of the hearing, and if the Court were to conduct it anyway, it would sacrifice the quality of presentations and, by consequence, the quality of any future ruling..

Conversely, the 2024 General Election is roughly fourteen months away. This is *just* enough time to hold a trial on the merits and to allow the appellate process to run its course in advance of those elections. In the expedited, chaotic world of redistricting litigation, the amount of time that the Court has to allow *both* sides to fully and fairly litigate their positions is a luxury that does not often arise, and it should not be squandered.

The Plaintiffs themselves recognize that more robust litigation, certainly beyond the proceedings that occurred during the 2022 preliminary injunction proceedings, is needed. That is why they asked the Court for leeway to engage in "a more robust remedial process by allowing [them] to incorporate new election data[3] and accommodate concerns raised by Defendants in opposition to the initial remedial map Plaintiffs proposed in 2022." (ECF No. 256, at 2-3.) In other words, the Plaintiffs recognize that more work needs to be done to account for the truncated preliminary-injunction proceedings. For its part, the Supreme Court has long recognized that

[2] One would assume that, given their desire for a swift remedy, Plaintiffs would be acting of their own volition absent an order from this Court to ensure, for their part, that any remedial proceeding occurs along their preferred timeline. They are not.

[3] The existence of new election data that Plaintiffs themselves wish to rely upon simply underscores the incomplete factual record exists in this case without a trial on the merits.

redistricting litigation is an especially fact-intensive endeavor. *See Allen v. Milligan*, 143 S. Ct. 1487, 1503 (2023) All of these issues point to the inescapable conclusion that a remedial hearing should be cancelled and a trial set. Yet another rushed proceeding is simply not in the interest of the parties or of substantial justice.

The Defendants would be remiss if they also did not point out that the Plaintiffs' proposed scheduling order, if entered near the time it was filed, would exacerbate tremendously all of the issues the Defendants have identified in this motion. The Plaintiffs have insisted on (1) barreling past a decision on the merits of their claims to the remedial phase, (2) submitting brand-new remedial maps and expert reports, but (3) not providing those materials in time for the Defendants to properly assess and respond to them. These concerns are now further exacerbated by the fact that the parties generally, and the Defendants specifically, have lost *a month* of time to prepare for the remedial hearing that is scheduled less than 6 weeks from now because no scheduling order has been entered and Plaintiffs have sat on their hands instead of voluntarily complying with their proposed deadlines. Any scenario short of cancelling the hearing and setting this matter for trial will result in the abridgement of Defendants' rights and a violation of basic principles of federalism. In no uncertain terms, the Court should prevent this outcome.

The United States Court of Appeals for the Fifth Circuit has set Defendants' appeal of the underlying preliminary injunction order for oral argument on October 6, 2023, *Robinson v. Ardoin*, No. 22-30333 (5th Cir.). That is the day after the conclusion of the scheduled remedial proceeding, which is currently set for October 3-5, 2023. The Fifth Circuit's scheduling of oral argument on October 6 is yet another reason for this Court to cancel the remedial proceedings. The timing of oral argument—just nine days after the conclusion of supplemental briefing the Fifth Circuit requested—suggests the Fifth Circuit is prepared to rule quickly on the merits of the preliminary

injunction. That forthcoming ruling could have any number of different impacts on this matter, including a reversal which would negate the need for any remedial phase on the preliminary injunction. This Court should instead focus resources on the ultimate merits questions in this case and set this matter for a trial sufficiently in advance of next year's elections. By proceeding forward with a remedy phase on a preliminary injunction order that is currently on appeal, and with a decision from the Fifth Circuit seemingly forthcoming, this Court risks a complete waste of judicial resources at both levels.

II. Forgoing resolution of the merits via a final trial is fundamentally unfair to Defendants and is disrespectful to basic principles of federalism.

Declining to resolve the merits of the Plaintiffs' Section 2 claims by way of a full trial would inflict further constitutional injury on the Defendants. Defendants have not yet had the opportunity to fully and fairly litigate the merits of its enacted maps, given the remarkably expedited preliminary injunction proceedings that occurred back in late Spring 2022. This alone raises basic fairness concerns if the Court moves past the merits and onto considerations of a remedy.

To be certain, it is error to "improperly equate[] 'likelihood of success' with 'success,'" and it is an even more erroneous error to "ignore[] the significant procedural differences between preliminary and permanent injunctions." *Camenisch*, 451 U.S. at 394. "The purpose of a preliminary injunction is merely to preserve the relative positions of the parties *until a trial on the merits can be held*." *Id.* at 395 (emphasis added). "Given this limited purpose, and given the haste that is often necessary if those positions are to be preserved, a preliminary injunction is customarily granted on the basis of procedures that are less formal and evidence that is less complete than in a trial on the merits." *Id*. Indeed, "[a] party . . . is not required to prove his case in full at a

preliminary-injunction hearing, . . . and the findings of fact and conclusions of law made by a court granting a preliminary injunction are not binding at trial on the merits." *Id*.

In other words, the merits of this case have not yet been fully and fairly resolved. By treating them as if they had been (i.e., by skipping past a final trial on the merits and moving on to considerations of a remedy), the Court is at risk of prejudicing a State with nearly 3.5 million voters[4] preparing to cast ballots during a 2024 General Election cycle that is likely to see record-level voter turnout. And this is no idle concern. For more than a century, the Supreme Court has held that every defendant must be afforded "an opportunity to present" its defense *and then* to have a "question" *actually* "decided" against it. *Fayerweather v. Ritch*, 195 U.S. 276, 299 (1904).

Neither has occurred here. The Defendants were prevented from fulsomely defending their case by virtue of the expedited preliminary-injunction proceedings, and the resulting preliminary-injunction opinion from the Court did not fully resolve—and as a matter of law, could not have fully resolved—the merits of the Plaintiffs Section 2 claims. Given the limited purpose of a preliminary injunction ("merely to preserve the relative position of the parties until a trial on the merits can be held") they are often considered "on the basis of procedures that are less formal and evidence that is less complete than in a trial on the merits." *Camenisch*, 451 U.S. at 395. "[A]t the preliminary injunction stage, the court is called upon to assess the *probability* of the plaintiff's ultimate success on the merits" and "[t]he foundation for that assessment will be more or less secure" depending upon multiple factors, including the pace at which the preliminary proceedings were decided. *Sole v. Wyner*, 551 U.S. 74, 84-85 (2007) (emphasis added). Simply put, deciding that a claim is "likely to succeed" is not the same as "actually litigat[ing] and resolv[ing]" a claim.

[4] Louisiana has a voting age population estimate of 3,564,038. Federal Register, Estimates of the Voting Age Population for 2020, https://www.federalregister.gov/documents/2021/05/06/2021-09422/estimates-of-the-voting-age-population-for-2020 (last accessed August 24, 2023).

Taylor v. Sturgell, 553 U.S. 880, 892 (2008). And providing a remedy for a claim that has not yet been "actually litigated and resolved" amounts to a violation of the basic rights of litigants. *Id*.

There is, moreover, the changing legal landscape in the wake of *Allen v. Milligan* and *Students for Fair Admission v. University of North Carolina*, both of which the Supreme Court issued while this case was held in abeyance. In the former, the Supreme Court addressed Section 2 of the Voting Rights Act for the first time in fourteen years, and it clarified how the *Gingles* preconditions apply. Relevant to this case, the Supreme Court elucidated "how traditional districting criteria limit[] any tendency of the VRA to compel proportionality," *id*. at 1509, which means that the district court's reliance (in part) on a proportionality as a legitimate goal is no longer tenable and must be revisited. *See Robinson v. Ardoin*, 605 F. Supp. 3d 759, 851 (M.D. La. 2022). *Milligan* also emphasized the centrality of communities of interest in the Section 2 analysis, which has featured prominently at every stage of this case. *See* 143 S. Ct. at 1505. And Justice Kavanaugh's concurring opinion in *Milligan* stressed that it is the compactness of the minority community—not solely the compactness of the proposed districts—that must be evaluated. *Id.* at 1518 (Kavanaugh, J., concurring).

The latter case, in turn, changed fundamentally the way in which States may consider race when taking state action. The *Students for Fair Admissions* Court underscored that as race-based legislative acts reach their intended ends, they become obsolete and less likely to survive Equal Protection scrutiny. This principle followed the Court's decision in *Shelby County v. Holder*, which struck as unconstitutional a different Voting Rights Act provision because "[o]ur country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions." 570 U.S. 529, 557 (2013).

Simply put, the merits of this case (particularly given the changing legal landscape) remain live. So long as they do, there can be no remedy imposed.

III. The Court has no jurisdiction to proceed with a remedial hearing stemming from a preliminary injunction that is now moot.

Mootness typically arises if an Article III-required injury-in-fact ceases. But it also arises if time has rendered a court unable to *remedy* a purported injury. Injunctive relief, moreover, is necessarily and solely prospective. What matters is that the Plaintiffs are no longer "likely to suffer irreparable harm in the absence of preliminary relief." *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008). It follows inexorably that the Court has no power to hold a hearing about a remedial injunction if the event purporting requiring the injunction has come and gone. The Plaintiffs filed motions seeking injunctive relief based on their argument that conducting the *2022* November Elections under the auspices of Louisiana's enacted congressional map would inflict an irreparable injury upon them unless the Court granted their requested relief *before* the 2022 November Elections. The 2022 congressional elections, however, were held nine months ago. Because the Court can no longer provide a remedy related to the 2022 November Elections, it has no power to "reset" a previously stayed *remedial* hearing. (ECF No. 250.) Instead, the only option available to the Court is to set a trial date to fully and fairly resolve the merits of their claims.

CONCLUSION

There is no legally defensible reason to allow the now-moot preliminary-injunction order to control final resolution of the Plaintiffs' claims on the merits. The Court no longer has jurisdiction to issue the relief sought by the Plaintiffs in their preliminary-injunction motions. The truncated timeline under which those motions were adjudicated prejudiced the Defendants' rights, and it would prejudice them further if the Court were to transmogrify its preliminary-injunction "likelihood of success on the merits" conclusion into a final resolution of the Plaintiffs' Section 2

claims. Finally, the over month long delay (and counting) in setting a schedule and inaction by the Plaintiffs has further prejudiced Defendants such that it is simply not possible to have a remedial hearing.

For all these reasons, the Court should vacate its preliminary-injunction hearing and set a date for a final trial in this matter.

Respectfully submitted this the 25th day of August, 2023.

/s/ *John C. Walsh*
John C. Walsh, LA Bar Roll No. 24903
SHOWS, CALL & WALSH, L.L.P
Batton Rouge, LA 70821
Ph: (225) 383-1461
Fax: (225) 346-5561
john@scwllp.com

/s/ *Phillip J. Strach*
Phillip J. Strach*
phillip.strach@nelsonmullins.com
Lead Counsel for Secretary Ardoin
Thomas A. Farr*
tom.farr@nelsonmullins.com
John E. Branch, III*
john.branch@nelsonmullins.com
Alyssa M. Riggins*
alyssa.riggins@nelsonmullins.com
Cassie A. Holt*
cassie.holt@nelsonmullins.com
NELSON MULLINS RILEY & SCARBOROUGH LLP
4140 Parklake Avenue, Suite 200
Raleigh, NC 27612
Ph: (919) 329-3800

* admitted *pro hac vice*

Counsel for Defendant R. Kyle Ardoin, in his official capacity as Secretary of State of Louisiana

/s/ *Michael W. Mengis*
Michael W. Mengis, LA Bar No. 17994
BAKERHOSTETLER LLP
811 Main Street, Suite 1100
Houston, Texas 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
Email: mmengis@bakerlaw.com

E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com

/s/ *Erika Dackin Prouty*
Erika Dackin Prouty*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouty@bakerlaw.com

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

Patrick T. Lewis*
BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com

* *Admitted pro hac vice*

Jeff Landry
Louisiana Attorney General

Jason B. Torchinsky (DC 976033)*
Phillip M. Gordon (DC 1531277)*
Holtzman Vogel Baran
Torchinsky & Josefiak, PLLC
15405 John Marshall Highway
Haymarket, VA 20169
(540) 341-8808 phone
(540) 341-8809 fax
jtorchinsky@holtzmanvogel.com
pgordon@holtzmanvogel.com
*admitted pro hac vice

/s/Angelique Duhon Freel
Elizabeth B. Murrill (LSBA No. 20685)
Shae McPhee (LSBA No. 38565)
Morgan Brungard (CO Bar No. 50265)*
Angelique Duhon Freel (LSBA No. 28561)
Carey Tom Jones (LSBA No. 07474)
Jeffrey M. Wale (LSBA No. 36070)
Office of the Attorney General
Louisiana Department of Justice
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6000 phone
(225) 326-6098 fax
murrille@ag.louisiana.gov
freela@ag.louisiana.gov
walej@ag.louisiana.gov
jonescar@ag.louisiana.gov
mcphees@ag.louisiana.gov
brungardm@ag.louisiana.gov

Counsel for Defendant, State of Louisiana

CERTIFICATE OF SERVICE

I hereby certify that, on this 25th day of August 2023, the foregoing has been filed with the Clerk via the CM/ECF system that has sent a Notice of Electronic filing to all counsel of record.

/s/ Jeffrey M. Wale
Jeffrey M. Wale

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., *Plaintiffs,* v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Civil Action No. 3:22-cv-00211-SDD-SDJ Chief Judge Shelly D. Dick Magistrate Judge Scott D. Johnson
EDWARD GALMON, SR., et al., *Plaintiffs,* v. R. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant.*	Consolidated with Civil Action No. 3:22-cv-00214-SDD-SDJ

ORDER

Before the Court is Defendants' Emergency Motion to Cancel Hearing on Remedy and to Enter a Scheduling Order for Trial. After considering the motion, the Court is of the opinion it should be GRANTED.

IT IS THEREFORE ORDERED that the preliminary injunction hearing currently scheduled to begin on October 3, 2023 is hereby cancelled and a scheduling order setting trial is forthcoming.

Baton Rouge, Louisiana, this ____ day of _____, 2023.

_____
Honorable Judge Shelly D. Dick
UNITED STATES DISTRICT JUDGE
Middle District of Louisiana

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al., Plaintiffs, Defendant Case No.: 3:22-CV-00211-SDD-RLB

v.

KYLE ARDOIN, IN HIS OFFICIAL CAPACITY

AS LOUISIANA SECRETARY OF STATE,

EDWARD GALMON, SR., et al., Plaintiffs, Defendant Case No.: 3:22-CV-00214-BAJ-RLB

v.

KYLE ARDOIN, IN HIS OFFICIAL CAPACITY

AS LOUISIANA SECRETARY OF STATE

LOUISIANA LEGISLATIVE BLACK CAUCUS OPPOSITION DEFENDANT STATE OFFICIALS' EMERGENCY MOTION TO CANCEL REMEDY HEARING

With all due respect to the Attorney General (and candidate for governor) whose name is so prominently displayed in the motion at issue and the memorandum in support of same; Defendants lay a trap for Plaintiffs with this motion.

It may be technically true that if the issues stay perfectly squared up and all parties proceed with deliberate speed the permanent injunction might barely have enough time to be prosecuted to final judgment before the 2024 elections. The problem is that neither deliberate speed nor the issues being squared up are likely events without the existence of a remedy fixed by the Court.

Plaintiffs have established the right to have a remedy in place while the case proceeds. That ruling has been appealed but the 5th Circuit Court of Appeal denied three emergency stay motions due to a lack of strong showing that the appeal had a likelihood of success and has

expedited the appeal of the preliminary injunction to the point that the appeal may be decided before a decision on the remedy.

The Court allowed the Louisiana legislature an opportunity to cure the Voter Rights Act violation and the legislature declined to do so. There will be another legislative session in 2024 before the 2024 elections and intervenor Louisiana Legislative Black Caucus believes that when faced with a loss in the 5th Circuit on the preliminary injunction the legislature will follow the Alabama model. It has been widely reported that after the United States Supreme Court[1] affirmed the determination that the plaintiffs in Alabama established that the plaintiffs would probably prevail in a case remarkably like this one, Alabama then adopted a new congressional district map on July 21, S.B. 5, called "the Livingston Plan." The "Livingston Plan" did not create a second majority minority district and the case remains in litigation.[2] There would be little time in the present case to address a new map adopted by the Louisiana legislature in the 2024 session, making it very possible that the Louisiana 2024 congressional elections would be held using a new, but still illegal map.

If this Court goes forward as scheduled with the hearing on the remedial plan the remedial plan would establish the congressional districts until the Court modifies the order. This protects the rights of the Plaintiffs and avoids the trap.

Respectfully submitted,

Stephen M. Irving
STEPHEN M. IRVING #07170 T.A.
P.O. Box 2108
Baton Rouge, Louisiana 70821
18541 Bayridge Court

[1] Allen v. Millican 599 U. S. ____ (6/8/2023)
[2] Singleton v. Allen Case 2:21-cv-01530 (N.D. Ala.)

Baton Rouge, Louisiana 70817
225-762-2688
Fax 225-752-2663
Steve@steveirvingllc.com
ERNEST L. JOHNSON #07290
3313 Government St.
Baton Rouge, Louisiana 70806
(225) 413-3219
Ernestjohnson@lacapfund.com

CERTIFICATE OF SERVICE

I do certify that on this 38th day of August 2023, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

Stephen M. Irving
STEPHEN M. IRVING #07170 T.A.
P.O. Box 2108
Baton Rouge, Louisiana 70821
18541 Bayridge Court
Baton Rouge, Louisiana 70817
225-762-2688
Fax 225-752-2663
Steve@steveirvingllc.com

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, EDGAR CAGE, DOROTHY NAIRNE, EDWIN RENE SOULE, ALICE WASHINGTON, CLEE EARNEST LOWE, DAVANTE LEWIS, MARTHA DAVIS, AMBROSE SIMS, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ("NAACP") LOUISIANA STATE CONFERENCE, AND POWER COALITION FOR EQUITY AND JUSTICE, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:22-cv-00211-SDD-RLB
EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:22-cv-00214-SDD-RLB

PLAINTIFFS' JOINT OPPOSITION TO DEFENDANTS' MOTION TO CANCEL HEARING ON REMEDY AND ENTER A SCHEDULING ORDER FOR TRIAL

NOW INTO COURT come Plaintiffs Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard (the "Galmon Plaintiffs") and Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, NAACP Louisiana State Conference, and Power

Coalition (the "Robinson Plaintiffs"), to oppose Defendants' emergency motion to cancel the remedial hearing and schedule trial. The motion reprises several meritless arguments that have already been rejected. These efforts do not warrant an unsolicited motion or emergency briefing, let alone cancelling the scheduled remedial hearing. Defendants' motion should be denied, and the remedial hearing should proceed as scheduled.[1]

In 2022, Louisiana's enacted congressional map wrongfully diluted the votes of Black Louisianians in violation of Section 2 of the Voting Rights Act. *See Robinson v. Ardoin*, 605 F. Supp. 3d 759, 766 (M.D. La. 2022) (identifying likely violation). To prevent this injustice from repeating in 2024, the urgent priority now is to ensure that a lawful backstop is in place while this case proceeds to final judgment and through any subsequent appeals. The appropriate process to accomplish that, as the Court has already recognized, is to continue expeditiously to a remedial hearing and the adoption of an interim map that satisfies Section 2's commands. *See* Order, ECF No. 250 (resetting preliminary injunction hearing).

Defendants, again, seek to derail this process. Their strategy has consistently been to slow-walk this case, only to later announce that the time for entering relief has run out. *Cf.* Pls.' Joint Opp'n to State Intervs.' Mot. for Ext. of Time at 1, ECF No. 218 (noting Defendants' gambit); *Galmon* Pls.' Resp. to Leg. Intervs.' Mot. for Ext. of Time at 5, ECF No. 192 (same). Defendants should not be permitted to pursue this strategy again. As Defendants acknowledge, additional delays could jeopardize any entry of relief in time for

[1] While Plaintiffs maintain that Defendants' Motion for Expedited Consideration, ECF No. 261, attempts to manufacture an emergency where none exists, Plaintiffs are willing to accommodate Defendants' request for speedy briefing by filing this opposition in advance of their proposed deadline. *See id.* ¶ 4 (requesting Plaintiffs' response by Wednesday, August 30).

the 2024 elections. *See* Defs.' Mem. of Law in support of Emergency Mot. ("Mem.") 5, ECF No. 260-1 (asserting there "is *just* enough time to hold a trial on the merits and to allow the appellate process to run its course in advance of" the 2024 elections). That would be unjust, and the way to prevent it is to adopt a provisional remedial map soon—exactly as this Court is on track to do, with the benefit of the hearing scheduled for October.[2]

Defendants erroneously argue, again, that recent Supreme Court caselaw requires a reevaluation of Plaintiffs' liability-phase evidence. *See* Mem. 9–10 (citing *Allen v. Milligan*, 143 S. Ct. 1487 (2023), and *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 143 S. Ct. 2141 (2023) (*SFFA*)). It does not. *Allen* affirmed a preliminary injunction that closely parallels the one at issue here, and *SFFA* had nothing to do with redistricting. *See* Pls.' Joint Notice Re: Status Conf. at 3–4, ECF No. 242. Notably, the Fifth Circuit recently rejected Defendants' request to remand their appeal for further consideration in light of *Allen* and *SFFA*, and the court of appeals is instead proceeding with argument on October 6, 2023—conveniently timed *after* the remedial hearing scheduled here. *See* Order, *Robinson v. Ardoin*, No. 22-30333 (5th Cir. Aug. 22, 2023).

Defendants also argue, again, that the preliminary injunction is somehow moot. *See* Mem. 10. It is not. *See* Pls.' Joint Notice Re: Status Conf. at 4–5 (explaining the Court enjoined Defendants from conducting *any* congressional election under the enacted map). And they complain, again, that completing the preliminary injunction process would be "unfair," and maybe even unconstitutional. Mem. 7–8. Again, wrong. *See* Pls.' Joint Notice

[2] Additionally, there is currently no obstacle to proceeding towards a trial simultaneously with the remedial process or after a provisional remedy is in place. But Defendants have failed to take even the first step toward initiating merits discovery by requesting a discovery conference pursuant to Federal Rule of Civil Procedure 26(f).

Re: Status Conf. at 5–6 (explaining that "while the Court can also move towards a final judgment in this case, there is no basis to reverse the relative positions of the parties achieved through the preliminary injunction or skip over the remedial process necessary to effectuate that injunction"). The Court has already decided that a remedial hearing is appropriate, and repetitive motions for reconsideration—in style or substance—are inappropriate. *Cf.* Pls.' Joint Opp'n to State Intervs.' Mot for Extension of Time at 1–2, (recognizing another instance where Defendants' request for delay mirrored a request denied by the Court 12 days prior).[3]

The only pending question for this Court's resolution, then, is what, if any, additional process is necessary in advance of the October hearing. When the Supreme Court stayed proceedings in this case on June 28, 2022, the parties were on the literal eve of the remedial hearing. Accordingly, the preparation necessary for that hearing had essentially finished: inclined parties had submitted proposed remedial maps and memoranda in support; opposing parties had responded; witnesses and exhibits had been disclosed; expert reports had been served; and Defendants had deposed each of the two experts that Plaintiffs' intended to call at the hearing. *See* Scheduling Order, ECF No. 206.[4] "'[R]esetting' the previous preliminary injunction hearing," as Defendants have urged,

[3] Also inappropriate is Defendants' pattern of seeking to usurp this Court's case management authority. *See* Mem. 2 (castigating Court for failing to issue scheduling order); Mot. for Expedited Consideration at 2 (seeking to impose deadline for Court to rule on motion to cancel remedial hearing); Emergency Mot. of Leg. Interv. Defs.-Appellants for Stay Pending Appeal at 1, *Robinson v. Ardoin*, No. 20-303333 (5th Cir. June 9, 2023) (castigating this Court for "t[aking] no action for 24 days" after preliminary injunction hearing); *id.* at 18–19 (similar). It is the parties' responsibility to conform to the Court's judgment about the appropriate schedule, not vice versa.

[4] The deposition of a Defendants' expert was interrupted by the Supreme Court's stay. Plaintiffs are willing to continue to the remedial hearing without completing this deposition.

Defs.' Joint Notice of Proposed Pre-Hearing Schedule at 6—where all that remains is live testimony and argument before the Court—would eliminate any purported prejudice to Defendants and permit the Court to quite literally pick up where this case left off in June 2022.

Defendants' motion should be denied.

Date: August 28, 2023

Respectfully submitted,

By: */s/Abha Khanna*

Abha Khanna (*admitted pro hac vice*)
ELIAS LAW GROUP LLP
1700 Seventh Ave. Suite 2100
Seattle, Washington 98101
(206) 656-0177
akhanna@elias.law

Qizhou Ge (*pro hac vice application forthcoming*)
Jacob D. Shelly (*admitted pro hac vice*)
ELIAS LAW GROUP LLP
250 Massachusetts Ave, NW Suite 400
Washington, D.C. 20001
(202) 968-4490
age@elias.law
jshelly@elias.law

J. E. Cullens, Jr.
Andrée Matherne Cullens
S. Layne Lee
WALTERS, THOMAS, CULLENS, LLC
12345 Perkins Road, Bldg. One
Baton Rouge, LA 70810
(225) 236-3636

Counsel for Galmon Plaintiffs

By: /s/Jonathan H. Hurwitz

Leah Aden (admitted *pro hac vice*)
Stuart Naifeh (admitted *pro hac vice*)
Victoria Wenger (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund, Inc.
40 Rector Street, 5th Floor
New York, NY 10006
Tel: (212) 965-2200
laden@naacplef.org
snaifeh@naacpldf.org
vwenger@naacpldf.org

R. Jared Evans
I. Sara Rohani (admitted *pro hac vice*)
NAACP Legal Defense and Educational Fund, Inc.
700 14th Street N.W. Ste. 600
Washington, DC 20005
Tel: (202) 682-1300
jevans@naacpldf.org
srohani@naacpldf.org

Nora Ahmed
ACLU Foundation of Louisiana
1340 Poydras St, Ste. 2160
New Orleans, LA 70112
Tel: (504) 522-0628
nahmed@laaclu.org

Tracie L. Washington
Louisiana Justice Institute
Suite 132
3157 Gentilly Blvd
New Orleans LA, 70122
Tel: (504) 872-9134
tracie.washington.esq@gmail.com

Jonathan H. Hurwitz (admitted *pro hac vice*)
Robert A. Atkins (admitted *pro hac vice*)
Yahonnes Cleary (admitted *pro hac vice*)
Amitav Chakraborty (admitted *pro hac vice*)
Adam P. Savitt (admitted *pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue Of The Americas, New York, NY 10019
Tel.: (212) 373-3000
Fax: (212) 757-3990
jhurwitz@paulweiss.com
ratkins@paulweiss.com
ycleary@paulweiss.com
achakraborty@paulweiss.com
asavitt@paulweiss.com

John Adcock
Adcock Law LLC
3110 Canal Street
New Orleans, LA 70119
Tel: (504) 233-3125
jnadcock@gmail.com

Sophia Lin Lakin
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
slakin@aclu.org

Sarah Brannon
American Civil Liberties Union Foundation
915 15th St., NW
Washington, DC 20005
sbrannon@aclu.org

T. Alora Thomas-Lundborg
Election Law Clinic
Harvard Law School
6 Everett Street, Ste. 4105
Cambridge, MA 02138
(617) 495-5202
tthomaslundborg@law.harvard.edu

Counsel for Robinson Plaintiffs

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, *et al*

versus

KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana

CIVIL ACTION

22-211-SDD-SDJ

consolidated with

EDWARD GALMON, SR., *et al*

versus

KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana

CIVIL ACTION

22-214-SDD-SDJ

RULING

This matter is before the Court on a *Motion to Cancel Hearing on Remedy and to Enter a Scheduling Order for Trial*[1] filed by Defendant, Louisiana Secretary of State Kyle Ardoin, and the Intervenor Defendants, Senate President Page Cortez, Speaker Clay Schexnayder, and Attorney General Jeff Landry. The *Galmon* and *Robinson* Plaintiffs filed a joint *Opposition*,[2] and the Louisiana Legislative Black Caucus separately opposed[3] the *Motion*. For the reasons that follow, the *Motion* is DENIED.

This case has been extensively litigated. The parties have conducted expansive discovery, presented testimony from twenty-one witnesses, introduced hundreds of exhibits into evidence throughout a five-day preliminary injunction hearing, and filed hundreds of pages of

[1] Rec. Doc. No. 260.
[2] Rec. Doc. No. 264.
[3] Rec. Doc. No. 263.

pre- and post-hearing briefing—all of which culminated in this Court's 152-page *Ruling* on liability.[4] On the eve of the remedial hearing, this matter was stayed by the United States Supreme Court.[5] The preparation necessary for the remedial hearing was essentially complete. The parties were ordered to submit proposed remedial maps. The Defendants elected not to prepare any remedial maps. The Plaintiffs disclosed proposed remedial maps; witnesses and exhibits were disclosed; expert reports were disclosed; and Defendants deposed Plaintiffs' identified experts.[6] The only remaining issue is the selection of a congressional district map—a limited inquiry—which has been the subject of disclosure and discovery in the run up to the June 29, 2022 remedy hearing that was stayed on the eve of trial.

The Court finds that based on the remaining issue before it, there is adequate time to update the discovery needed in advance of the hearing to take place October 3–5, 2023. The parties were previously ordered[7] to confer and jointly submit a proposed pre-hearing scheduling order in advance of the October 3, 2023 hearing date but have failed to reach an agreement. Accordingly, the Court will refer this matter to the Magistrate Judge on an expedited basis for the entry of a scheduling order.

ACCORDINGLY, **IT IS HEREBY ORDERED** that Defendants' *Motion to Cancel Hearing on Remedy and to Enter a Scheduling Order for Trial*[8] is DENIED. The matter is hereby referred to the Magistrate Judge for an expedited entry of a Scheduling Order.

Signed in Baton Rouge, Louisiana this 29th day of August, 2023.

CHIEF JUDGE SHELLY D. DICK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

[4] Rec. Doc. No. 173.
[5] Rec. Doc. No. 227.
[6] *See* Rec. Doc. No. 206.
[7] Rec. Doc. No. 250.
[8] Rec. Doc. No. 260.

LAMD Using ZoomGov as a Participant

On Laptop: Join a meeting (use Chrome or IE)

Navigate to room URL: **https://zoomgov.com/my/____**

sdd20 – Hon. Shelly D. Dick
baj20 – Hon. Brian A. Jackson
jwd20 – Hon. John W. deGravelles
rlb20 – Hon. Richard L. Bourgeois, Jr.
ewd20 – Hon. Erin Wilder-Doomes
sdj20 – Hon. Scott D. Johnson

Launching...

Opt. 1 Download full client if computer permissions allow.
Allows Gallery video layout

Please click **Open Zoom Meetings** if you see the system dialog.

If nothing prompts from browser, click here to launch the meeting, or download & run Zoom.

Please enter your name to join the meeting

Enter Your Full Name, and click Join

Your Name

Your Name

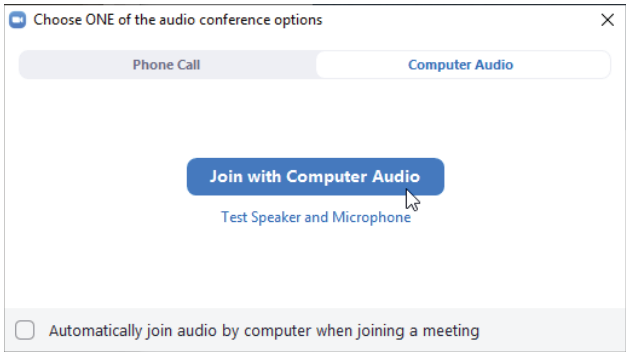
Join

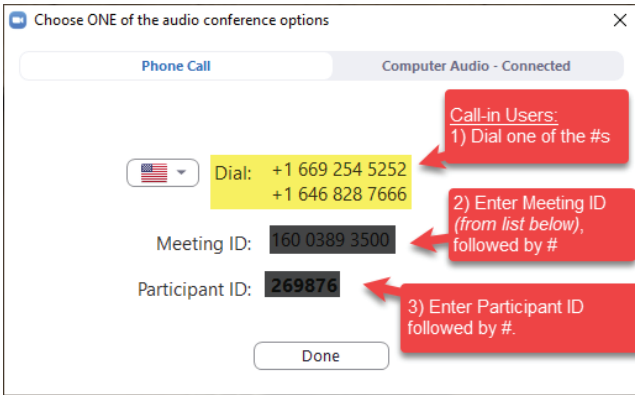
Participant ID 493428 Conference ID 591 238 4075

This message will appear, wait for the Host to Admit you to the room.

Please wait, the meeting host will let you in soon.

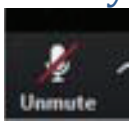
OPTION 1: **Join with Computer Audio** (for best audio quality use a headset)
OPTION 2: **Join by Phone Call**





Meeting ID	Judge
160-0389-3634	SDD – Chief Judge Shelly D. Dick
160-0389-3692	BAJ – Judge Brian A. Jackson
160-0389-3568	JWD – Judge John W. deGravelles
160-0389-3602	RLB – Magistrate Richard L. Bourgeois
160-0389-3584	EWD – Magistrate Erin Wilder-Doomes
160-0389-3592	SDJ – Magistrate Scott D. Johnson
160-0389-3500	LAMD Court (for testing)

Mute your Microphone when not speaking



On iPhone, iPad or Android:

In advance, Download the ***ZOOM Cloud Meetings*** app from *Apple App Store* or *Google Play Store*.

- You will be sent a meeting URL to connect to the Zoom Call, when clicking the URL on iPhone or Android device it should automatically open in the Zoom App.

Judge Meeting Room Links:

Navigate to the URL provided: https://zoomgov.com/my/sdj20 *(Magistrate Scott D. Johnson)* -

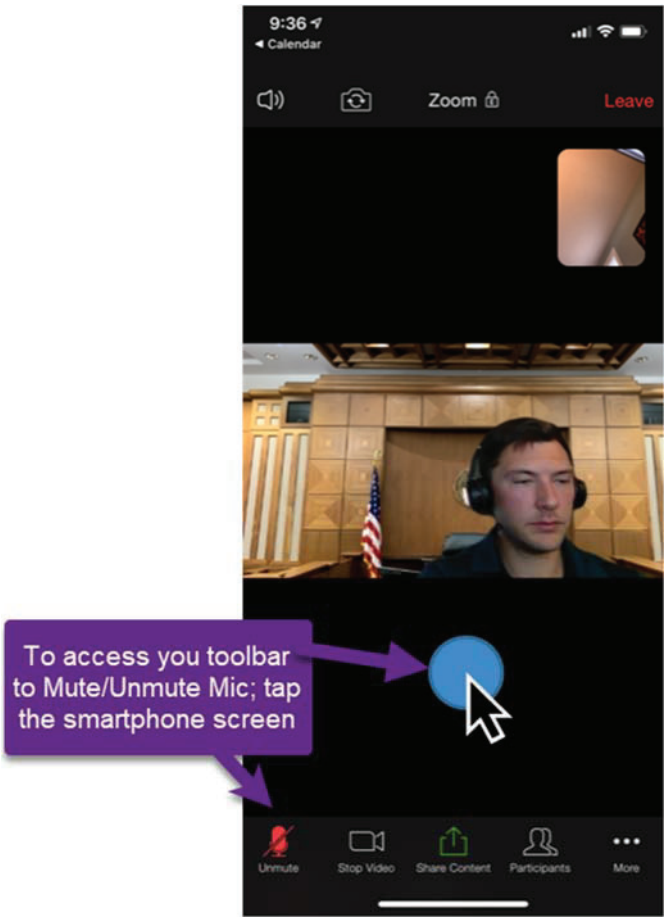
Click "**Join with Video**" or "**Join without Video**"

- Click "**Call using Internet Audio**"

You should now be connected to the Zoom call.
If the meeting URL didn't work, use the following instructions:

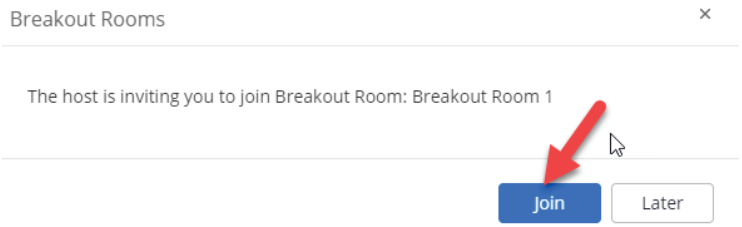
Open ***ZOOM Cloud Meetings*** app on iPhone or Android

- Click **Join a Meeting**
- Enter the **Meeting ID: 160-0389-3592 (SDJ)**
- Click "**Join with Video**" or "**Join without Video**"
- Click "**Call using Internet Audio**"

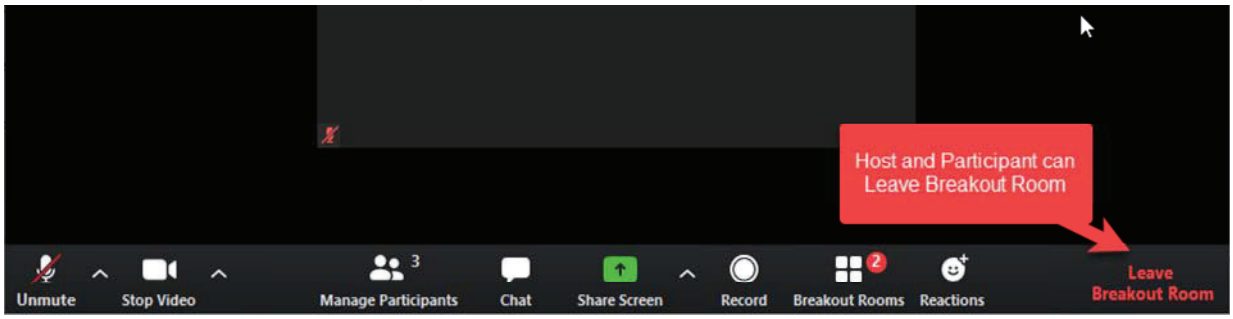


Breakout Room

When being invited to a Breakout Room, click the **Join** button on the pop-up.



To return back to the Main Session, click "Leave Breakout Room."



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL.	**CIVIL ACTION**
VERSUS	**No. 22-211-SDD-SDJ**
KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana	
and	
EDWARD GALMON, SR., ET AL.	**CIVIL ACTION**
VERSUS	**No. 22-214-SDD-SDJ**
KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana	

ORDER

On August 29, 2023, Chief Judge Dick issued an Order denying Defendant's Motion to Cancel Hearing on Remedy and referring the matter of a pre-hearing scheduling order to Magistrate Judge Johnson. (R. Doc. 267). After hearing from the parties at two status conferences (R. Docs. 271, 272), the Court ordered that the parties submit proposed pre-hearing plans addressing (1) timing of the hearing, (2) whether Plaintiffs would submit a revised remedial map, (3) whether the parties would introduce new expert witnesses, and (4) discovery and briefing schedules. (R. Doc. 272). The Parties submitted separate proposals on September 6, 2023. (R. Doc. 273, Defendant; R. Doc. 274, Plaintiffs).

The parties' proposals both contemplate the remedial hearing's remaining on its scheduled date beginning October 3, 2023. Plaintiffs have decided to forego the opportunity to submit a new remedial plan. And the parties' proposed discovery and briefing dates are the same; however, the

content of the discovery is not agreed. Namely, Defendant's proposal contemplates *only* Defendant submitting expert reports—both supplemental and new;[1] Plaintiffs' proposal allows for both supplemental and new expert reports from *all* parties. The Court has not contemplated and sees no reason for allowing only one party to submit supplemental and new expert witnesses. Indeed, both parties should have equal opportunity to present updated discovery before the hearing. Accordingly,

IT IS ORDERED that the following pre-hearing deadlines are set:

Parties Serve Fact Witness Disclosures	September 14, 2023
Parties Serve Expert Reports (Supplemental and New)	September 15, 2023
Parties Disclose Rebuttal Expert Witnesses	September 18, 2023
Parties Serve Rebuttal Expert Reports	September 28, 2023
Parties File Witnesses and Exhibit Lists	September 29, 2023
Parties File Pre-Hearing Briefs (limit 30 pages per side)	September 29, 2023
Remedial Hearing	October 3-5, 2023[2]

Signed in Baton Rouge, Louisiana, on September 7, 2023.

SCOTT D. JOHNSON
UNITED STATES MAGISTRATE JUDGE

[1] As briefly discussed in the minute entry R. Doc. 271, whether the parties are entitled to new expert witnesses or restricted to supplementing the experts put forth for the original hearing in June 2022 has been a contested issue. At the status conference on September 1, 2023, the Court expressed its inclination to issue a schedule allowing for new experts. (R. Doc. 272).
[2] Date and details set in R. Doc. 250.

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

* * * * * * * * * * * * * * * *

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

APPEARANCES:

FOR THE ROBINSON PLAINTIFFS:

NAACP LEGAL DEFENSE FUND AND EDUCATIONAL FUND, INC.
BY: STUART NAIFEH, ESQ.
KATHRYN SADASIVAN, ESQ.
VICTORIA WENGER, ESQ.
SARA ROHANI, ESQ.
40 RECTOR STREET, FIFTH FLOOR
NEW YORK, NEW YORK 10006

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

AMERICAN CIVIL LIBERTIES UNION FOUNDATION VOTING RIGHTS PROJECT
BY: SARAH E. BRANNON, ESQ.
SAMANTHA OSAKI, ESQ.
915 15TH STREET N.W.
WASHINGTON, D.C. 20005

	PAUL, WEISS, RIFKIND, WHARTON & GARRISON, LLP BY: AMITAV CHAKRABORTY, ESQ. RYAN RIZZUTO, ESQ. ADAM SAVITT, ESQ. 1285 AVENUE OF THE AMERICAS NEW YORK, NEW YORK 10019
FOR THE GALMON PLAINTIFFS:	WALTERS, PAPILLION, THOMAS, CULLENS, LLC BY: DARREL J. PAPILLION, ESQ. 12345 PERKINS ROAD, BUILDING ONE BATON ROUGE, LOUISIANA 70810
	ELIAS LAW GROUP, LLP BY: ABHA KHANNA, ESQ. 1700 SEVENTH AVE., SUITE 2100 SEATTLE, WASHINGTON 98101
	ELIAS LAW GROUP, LLP BY: JACOB D. SHELLY, ESQ. OLIVIA N. SEDWICK, ESQ. LALITHA D. MADDURI, ESQ. 10 G STREET N.E., SUITE 600 WASHINGTON, D.C. 20002
FOR KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE	SHOWS, CALI & WALSH, LLP BY: JOHN C. WALSH, ESQ. 628 ST. LOUIS STREET BATON ROUGE, LOUISIANA 70821
	NELSON MULLINS RILEY AND SCARBOROUGH, LLC BY: PHILLIP STRACH, ESQ. THOMAS A. FARR, ESQ. 4140 PARKLAKE AVENUE, SUITE 200 RALEIGH, NORTH CAROLINA 27612
FOR THE LOUISIANA LEGISLATIVE BLACK CAUCUS:	STEPHEN M. IRVING, LLC BY: STEPHEN M. IRVING, ESQ. 111 FLOUNDERS DRIVE, SUITE 700 BATON ROUGE, LOUISIANA 70810
	JOHNSON LAW FIRM BY: ERNEST L. JOHNSON, ESQ. 3313 GOVERNMENT STREET BATON ROUGE, LOUISIANA 70806

	ARTHUR THOMAS & ASSOCIATES BY: ARTHUR R. THOMAS, ESQ. 3313 GOVERNMENT STREET BATON ROUGE, LOUISIANA 70806
FOR LEGISLATIVE INTERVENORS CLAY SCHEXNAYDER AND PATRICK CORTEZ:	BAKERHOSTETLER, LLP BY: PATRICK T. LEWIS, ESQ. 127 PUBLIC SQUARE, SUITE 2000 CLEVELAND, OHIO 44114
	BAKERHOSTETLER, LLP BY: E. MARK BRADEN, ESQ. KATHERINE L. MCKNIGHT, ESQ. 1050 CONNECTICUT AVENUE, N.W., SUITE 1100 WASHINGTON, D.C. 20036
INTERVENOR DEFENDANT, STATE OF LOUISIANA:	LOUISIANA'S OFFICE OF THE ATTORNEY GENERAL BY: JEFFREY M. WALE, ESQ. ANGELIQUE D. FREEL, ESQ. CAREY TOM JONES, ESQ. 1885 NORTH THIRD STREET BATON ROUGE, LOUISIANA 70802
	HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK, PLLC BY: PHILLIP M. GORDON, ESQ. 15405 JOHN MARSHALL HIGHWAY HAYMARKET, VIRGINIA 20169
OFFICIAL COURT REPORTER:	SHANNON L. THOMPSON, CCR UNITED STATES COURTHOUSE 777 FLORIDA STREET BATON ROUGE, LOUISIANA 70801 SHANNON_THOMPSON@LAMD.USCOURTS.GOV (225)389-3567

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING COMPUTER-AIDED TRANSCRIPTION SOFTWARE

INDEX

PLAINTIFFS' WITNESSES:	PAGE
LISA R. HANDLEY, PH.D.	
DIRECT EXAMINATION BY MS. BRANNON	7
CROSS-EXAMINATION BY MR. FARR	30
REDIRECT EXAMINATION BY MS. BRANNON	54
DOROTHY NAIRNE, PH.D.	
DIRECT EXAMINATION BY MS. OSAKI	60
CROSS-EXAMINATION BY MR. WALE	71
TRACI BURCH, PH.D. (VIA VIDEOCONFERENCE)	
VOIR DIRE BY MR. CHAKRABORTY	79
DIRECT EXAMINATION BY MR. CHAKRABORTY	81
CROSS-EXAMINATION BY MS. MCKNIGHT	101
REDIRECT EXAMINATION BY MR. CHAKRABORTY	121
ALLAN J. LICHTMAN, PH.D. (VIA VIDEOCONFERENCE)	
DIRECT EXAMINATION BY MR. HAWLEY	123
CROSS-EXAMINATION BY MR. BRADEN	154
REDIRECT EXAMINATION BY HAWLEY	171
R. BLAKESLEE GILPIN, PH.D.	
VOIR DIRE BY MR. RIZZUTO	173
DIRECT EXAMINATION BY MR. RIZZUTO	175
CROSS-EXAMINATION BY MS. MCKNIGHT	184
ASHLEY SHELTON	
DIRECT EXAMINATION BY SAVITT	188
CROSS-EXAMINATION BY MR. WALE	205

(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 1 **LISA R. HANDLEY, PH.D,**
2 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**
3 **MS. BRANNON:** WE HAVE AGREED TO STIPULATE TO THE
4 EXPERTISE OF THE WITNESSES. SO I WOULD LIKE TO ASK FOR A
5 STIPULATION THAT DR. HANDLEY IS AN EXPERT IN -- AN EXPERT
6 WITNESS IN REDISTRICTING WITH AN EMPHASIS ON RACIALLY POLARIZED
7 VOTING.
8 IS THERE AN AGREEMENT?
9 **THE COURT:** IS THERE A STIPULATION?
10 **MR. FARR:** HELLO, YOUR HONOR.
11 TOM FARR FROM THE LAW FIRM OF NELSON MULLINS.
12 I'M HERE REPRESENTING THE SECRETARY OF STATE.
13 AND WE HAVE NO OBJECTION TO THAT STIPULATION,
14 YOUR HONOR.
15 **THE COURT:** THANK YOU, SIR.
16 **MS. BRANNON:** YOUR HONOR, MAY I APPROACH THE WITNESS?
17 **THE COURT:** YES.
18 AND THE COURT WILL ACCEPT DR. HANDLEY AND ALLOW
19 OPINION TESTIMONY IN THE AREA OF REDISTRICTING WITH A SPECIALTY
20 IN RACIALLY POLARIZED VOTING.
21 YOU MAY APPROACH.
22 **MS. BRANNON:** YOUR HONOR?
23 **THE COURT:** YES.
24 **MS. BRANNON:** I JUST REALIZED THAT I HAVE SOMEHOW CUT
25 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 1 **A.** SEVERAL, YES.
2 **Q.** CAN YOU TURN TO THE FIRST PAGE OF YOUR BINDER.
3 **A.** (WITNESS COMPLIED.)
4 **Q.** IS THAT A COPY OF THE PRELIMINARY REPORT YOU PREPARED?
5 **A.** IT IS.
6 **MS. BRANNON:** FOR THE RECORD, DR. HANDLEY'S
7 PRELIMINARY REPORT IS EXHIBIT PR-12.
8 **THE COURT:** RECORD DOCUMENT 41-3. RIGHT?
9 **MS. BRANNON:** YES.
10 **THE COURT:** OKAY.
11 **BY MS. BRANNON:**
12 **Q.** DR. HANDLEY, IS YOUR C.V. ATTACHED TO YOUR PRELIMINARY
13 REPORT?
14 **A.** IT IS.
15 **Q.** IS THIS A COMPLETE AND ACCURATE SUMMARY OF YOUR BACKGROUND
16 AND PROFESSIONAL EXPERIENCE?
17 **A.** IT IS.
18 **Q.** DR. HANDLEY, WHAT DO YOU DO FOR A LIVING?
19 **A.** I AM A CONSULTANT AND A --
20 **THE COURT:** MA'AM, I THINK YOU MIGHT NEED TO ADJUST
21 YOUR MIC. YES, RIGHT THERE, YOUR MIC. YES, JUST ADJUST IT.
22 **THE WITNESS:** JUST PUT IT CLOSER TO MY -- GOT IT.
23 **THE COURT:** NOW WE CAN HEAR BETTER.
24 GO AHEAD.
25 **BY MS. BRANNON:**

09:43 1 **Q.** I'LL REPEAT THE QUESTION. DR. HANDLEY, WHAT DO YOU DO FOR
2 A LIVING?
3 **A.** I AM A CONSULTANT BOTH HERE IN THE UNITED STATES AND
4 OVERSEAS. I AM ALSO A PART-TIME ACADEMIC IN THE U.K.
5 **Q.** CAN YOU PROVIDE US SOME EXAMPLES OF SOME OF YOUR CLIENTS
6 FOR YOUR CONSULTING BUSINESS?
7 **A.** I HAVE WORKED, AS I MENTIONED, FOR THE U.N. I'VE WORKED
8 FOR SCORES OF STATES' AND LOCAL JURISDICTIONS. I'VE WORKED FOR
9 INDEPENDENT REDISTRICTING COMMISSIONS, FOR THE DEPARTMENT OF
10 JUSTICE, FOR SEVERAL CIVIL RIGHTS ORGANIZATIONS, INCLUDING THE
11 ACLU.
12 **Q.** CAN YOU BRIEFLY DESCRIBE SOME OF YOUR ACADEMIC WORK THAT
13 YOU HAVE DONE ON THE TOPIC OF REDISTRICTING AND MINORITY VOTE
14 DELUSION?
15 **A.** ALMOST ALL OF THE ARTICLES THAT YOU'LL SEE LISTED IN MY
16 C.V. -- THAT INCLUDES BOOKS, ARTICLES FOR PEER-REVIEWED
17 JOURNALS, LAW REVIEW ARTICLES, CHAPTERS IN BOOKS -- DEAL WITH
18 MINORITY REPRESENTATION, VOTING REDISTRICTING WITH THE SUBJECTS
19 OF THIS CASE.
20 **Q.** AND HAVE YOU TESTIFIED BEFORE AS AN EXPERT WITNESS?
21 **A.** I HAVE.
22 **Q.** APPROXIMATELY HOW MANY TIMES HAVE YOU PERFORMED A
23 RACIAL-BLOC VOTING ANALYSIS AS AN EXPERT WITNESS?
24 **A.** AS AN EXPERT WITNESS? SCORES OF TIMES.
25 **Q.** AND HAVE YOU BEEN ACCEPTED AS AN EXPERT WITNESS BEFORE TO

09:45 1 TESTIFY ABOUT REDISTRICTING AND RACIALLY POLARIZED VOTING?
2 **A.** I HAVE.
3 **Q.** APPROXIMATELY HOW MANY TIMES?
4 **A.** SCORES.
5 **Q.** DR. HANDLEY, WHAT WERE YOU ASKED TO DO IN THIS CASE?
6 **A.** I WAS ASKED TO CONDUCT AN ANALYSIS OF VOTING PATTERNS BY
7 RACE IN LOUISIANA AND TO EVALUATE PROPOSED DISTRICTS -- THAT
8 IS, THE ENACTED PLAN AND SEVERAL ILLUSTRATIVE PLANS -- TO
9 ASCERTAIN THE OPPORTUNITY FOR BLACK VOTERS TO ELECT THEIR
10 CANDIDATES OF CHOICE IN THE PLANS.
11 **Q.** AND WERE YOU ASKED TO ANALYZE VOTING PATTERNS IN THE STATE
12 OF LOUISIANA SPECIFICALLY?
13 **A.** YES. I ANALYZED VOTING PATTERNS STATEWIDE. I ANALYZED
14 VOTING PATTERNS IN EXISTING CONGRESSIONAL DISTRICTS AND IN THE
15 ENACTED CONGRESSIONAL DISTRICTS.
16 **Q.** CAN YOU PROVIDE US A GENERAL SUMMARY OF THE OPINIONS THAT
17 YOU REACHED WITH RESPECT TO YOUR ANALYSIS AS TO WHETHER THERE'S
18 RACIALLY POLARIZED VOTING IN LOUISIANA?
19 **A.** YES. THERE IS RACIALLY POLARIZED VOTING IN LOUISIANA.
20 THERE IS QUITE STARK RACIALLY POLARIZED VOTING IN LOUISIANA.
21 **Q.** WHAT'S YOUR DEFINITION OF "RACIALLY POLARIZED VOTING"?
22 **A.** *THORNBURG V. GINGLES* TELLS US THAT VOTING IS POLARIZED IF
23 BLACK VOTERS AND WHITE VOTERS VOTE DIFFERENTLY. IN OTHER
24 WORDS, IF BLACK VOTERS VOTING ALONE WOULD ELECT DIFFERENT
25 CANDIDATES THAN WHITE VOTERS VOTING ALONE, THEN THE CONTEST IS

09:46 1 RACIALLY POLARIZED.
2 **Q.** WHAT STATISTICAL TECHNIQUES DID YOU USE TO ANALYZE WHETHER
3 VOTING IN LOUISIANA IS RACIALLY POLARIZED?
4 **A.** I USED THREE STANDARD TECHNIQUES: HOMOGENEOUS PRECINCT
5 ANALYSIS, ECOLOGICAL REGRESSION, AND ECOLOGICAL INFERENCE.
6 TECHNICALLY, I USED ACTUALLY FOUR BECAUSE THERE ARE TWO
7 VARIANTS OF ECOLOGICAL INFERENCE.
8 **Q.** WE HEARD YESTERDAY SOME OF THE DETAILS ABOUT ECOLOGICAL
9 INFERENCE. BUT CAN YOU PROVIDE A BRIEF SUMMARY OF HOMOGENEOUS
10 PRECINCT ANALYSIS AND ECOLOGICAL REGRESSION?
11 **A.** THOSE ARE THE EASY ONES, YES. HOMOGENEOUS PRECINCT
12 ANALYSIS SIMPLY COMPARES THE VOTING PATTERNS OF PRECINCTS THAT
13 ARE OVERWHELMINGLY ONE RACE COMPARED TO PRECINCTS THAT ARE
14 OVERWHELMINGLY ANOTHER RACE.
15 SO IN THIS CASE, YOU'RE COMPARING PRECINCTS THAT ARE
16 OVERWHELMINGLY WHITE TO PRECINCTS THAT ARE OVERWHELMINGLY
17 BLACK. IT'S NOT ACTUALLY A STATISTICAL TECHNIQUE. IT'S SIMPLY
18 COMPARING THESE TWO SETS OF PRECINCTS. WE CALL IT AN ESTIMATE
19 BECAUSE, OF COURSE, NOT ALL VOTERS LIVE IN HOMOGENEOUS
20 PRECINCTS, AND THE VOTERS WHO LIVE IN HOMOGENEOUS PRECINCTS
21 MIGHT VOTE DIFFERENTLY THAN THE VOTERS WHO LIVE IN MORE DIVERSE
22 PRECINCTS.
23 **Q.** WHY DO YOU USE ALL THREE METHODS?
24 **A.** TWO OF THE METHODS HAVE BEEN AROUND FOR A VERY LONG TIME.
25 WHEN *THORNBURG V. GINGLES* WAS DECIDED, HOMOGENEOUS PRECINCT

09:48 1 ANALYSIS AND ECOLOGICAL REGRESSION WERE USED BY THE PLAINTIFF'S
2 EXPERTS, AND THE COURT APPROVED THOSE METHODS.
3 SINCE THEN, ECOLOGICAL INFERENCE WAS DEVELOPED BY A
4 PROFESSOR AT HARVARD BY THE NAME OF GARY KING, AND COURTS HAVE
5 ACCEPTED THAT.
6 NOW, THIS IS THREE DIFFERENT TECHNIQUES TO ARRIVE AT
7 ESTIMATES. IF THE ESTIMATES ARE MORE OR LESS THE SAME, DESPITE
8 USING THREE DIFFERENT TECHNIQUES, WE ARE CERTAIN THAT WE HAVE
9 GRASPED WHAT THE VOTING PATTERNS ARE.
10 **Q.** HAVE COURTS ACCEPTED YOUR EXPERT TESTIMONY USING THESE
11 DIFFERENT STATISTICAL METHODOLOGIES IN VOTING CASES BEFORE?
12 **A.** YES. NOW, AGAIN, ECOLOGICAL INFERENCE IS MORE COMMON.
13 I'VE ONLY BEEN USING THAT FOR MAYBE 20 YEARS, BUT THE OTHERS
14 FOR 40 YEARS. A LONG TIME.
15 **Q.** OKAY. LET'S LOOK AT YOUR ANALYSIS A LITTLE BIT MORE IN
16 DETAIL.
17 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.2.
18 **BY MS. BRANNON:**
19 **Q.** DID YOU ANALYZE STATEWIDE ELECTIONS?
20 **A.** I DID ANALYZE STATEWIDE ELECTIONS.
21 **Q.** HOW MANY STATEWIDE ELECTIONS DID YOU ANALYZE?
22 **A.** FIFTEEN STATEWIDE ELECTIONS.
23 **Q.** ARE YOU FAMILIAR WITH THIS TABLE THAT'S DEMONSTRATIVE
24 EXHIBIT 1.2?
25 **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 CERTAINLY ADJUST IT. I JUST THOUGHT WE WOULD MAYBE GIVE YOU SOME ASSISTANCE.

OKAY. PLEASE CARRY ON. I'M SORRY I INTERRUPTED YOU.

BY MS. BRANNON:

Q. DR. HANDLEY, WHAT ARE "CONFIDENCE INTERVALS"?

A. SO THE "EI RXC" ESTIMATES AND THEN IN THE COLUMN NEXT TO THAT WE HAVE "CONFIDENCE INTERVALS." YOU CAN THINK OF THOSE AS SORT OF THE MARGINS OF ERROR THAT YOU SEE IN A SURVEY; THAT WE ARE 95 PERCENT CERTAIN THAT THE TRUE ESTIMATE -- THE ESTIMATE BEING 90.6, THAT THE TRUE ESTIMATE IS SOMEWHERE BETWEEN 90.3 AND 90.9.

Q. AND WHY DO YOU INCLUDE CONFIDENCE INTERVALS ONLY FOR YOUR "EI RXC" CALCULATION?

A. THOSE ARE THE ONLY CONFIDENCE INTERVALS THAT ARE GENERALLY ACCEPTED BY EXPERTS IN MY AREA FOR THESE KINDS OF ESTIMATES.

Q. DOES THIS APPENDIX A ALSO PROVIDE INFORMATION ABOUT VOTER TURNOUT?

A. IT DOES. THE ITALICIZED LINES IN THE ATTORNEY GENERAL RACE, IT SAYS, "BLACK TURNOUT/BLACK BVAP." THAT'S THE PERCENTAGE OF BLACK VOTING AGE POPULATION THAT ACTUALLY TURNED OUT FOR THAT PARTICULAR OFFICE. AND THE SAME FOR WHITE TURNOUT, OF WHITE VAP.

SO 35.2 PERCENT HAVE A BLACK VOTING AGE OF THE ELIGIBLE "BLACK VOTING AGE" POPULATION TURNOUT TO VOTE AND 45.2

09:53 1 PERCENT FOR THE WHITES.
2 **Q.** WOULD YOU CHARACTERIZE THIS 2019 ATTORNEY GENERAL ELECTION
3 AS A POLARIZED CONTEST?
4 **A.** I WOULD.
5 **Q.** WHY?
6 **A.** THE VAST MAJORITY OF BLACK VOTERS SUPPORTED JACKSON. IF
7 THEY HAD VOTED ALONE, JACKSON WOULD HAVE WON OVERWHELMINGLY.
8 THE VAST MAJORITY OF WHITE VOTERS SUPPORTED LANDRY.
9 AND IF THEY ALONE HAD VOTED, HE WOULD HAVE WON OVERWHELMINGLY.
10 IN FACT, HE DID WIN.
11 **Q.** DOES THE RACE OF THE CANDIDATES NEED TO BE DIFFERENT TO
12 DETERMINE IF THERE'S RACIALLY POLARIZED VOTING?
13 **A.** NO. THE POINT IS THAT BLACK AND WHITE VOTERS PREFER
14 DIFFERENT CANDIDATES. NOW, IT SO HAPPENS IN THE CONTEST THAT I
15 LOOKED AT, WITH AT LEAST ONE OR TWO EXCEPTIONS, THE BLACK
16 CANDIDATE WAS THE BLACK-PREFERRED CANDIDATE; THAT IS, THE
17 CANDIDATE PREFERRED BY BLACK VOTERS. BUT THERE ARE EXCEPTIONS
18 TO THAT IN THE ELECTIONS THAT I LOOKED AT.
19 **Q.** DOES APPENDIX A SHOW THE SAME TYPE OF DATA FOR THE REST OF
20 THE 14 STATEWIDE ELECTIONS THAT YOU ANALYZED?
21 **A.** YES. SO ALL 15 ARE IN THIS, AND I JUST DESCRIBED ONE.
22 THEY ARE ALL READ THE SAME.
23 **Q.** WHAT, IF ANY, CONCLUSIONS DID YOU REACH ABOUT RACIALLY
24 POLARIZED VOTING IN LOUISIANA IN STATEWIDE ELECTIONS BASED ON
25 YOUR ANALYSIS OF THESE 15 ELECTIONS?

09:55 1 **A.** ALL 15 CONTESTS WERE POLARIZED. IN EVERY INSTANCE, BLACK
2 VOTERS AND WHITE VOTERS WOULD HAVE ELECTED DIFFERENT CANDIDATES
3 HAD THEY VOTED SEPARATELY.
4 **Q.** YOU'VE ALREADY EXPLAINED THAT YOU ALSO LOOKED AT VOTING
5 PATTERNS IN CONGRESSIONAL ELECTIONS. WHY?
6 **A.** COURTS HAVE INDICATED THAT ENDOGENOUS ELECTIONS -- THAT
7 IS, ELECTIONS FOR THE OFFICE AT ISSUE -- ARE MORE PROBATIVE
8 THAN EXOGENOUS ELECTIONS.
9 NOW, IN THIS PARTICULAR CASE YOU ARE LOOKING AT
10 PROPOSED PLANS, SO THERE WERE NO ELECTIONS UNDER IT. BUT
11 CONGRESSIONAL ELECTIONS IN GENERAL WOULD STILL BE MORE
12 PROBATIVE AND WOULD BE PARTICULARLY SO IN LOUISIANA WHERE THE
13 DISTRICTS DIDN'T CHANGE THAT MUCH FROM THE ENACTED PLAN FROM
14 THE CURRENT PLAN.
15 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.4.
16 **BY MS. BRANNON:**
17 **Q.** DO YOU RECOGNIZE THIS TABLE?
18 **A.** YES. THIS IS A LIST OF THE CONGRESSIONAL ELECTION
19 CONTESTS THAT I LOOKED AT. AGAIN, THIS IS FROM 2016 TO THE
20 MOST RECENT CONTEST, AND THEY WERE CONTESTS THAT INCLUDED BLACK
21 CANDIDATES. THERE WERE NO CONTESTS IN DISTRICT 1 THAT
22 INCLUDED BLACK CANDIDATES.
23 **Q.** AND IS THE ANALYSIS OF THESE CONGRESSIONAL DISTRICTS
24 DESCRIBED IN YOUR REPORTS?
25 **A.** YES.

09:56 1 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.5.
2 **BY MS. BRANNON:**
3 **Q.** DR. HANDLEY, DO YOU RECOGNIZE THIS TABLE?
4 **A.** YES.
5 **Q.** WAS THERE A VERSION OF APPENDIX B ATTACHED TO YOUR
6 PRELIMINARY REPORT?
7 **A.** YES.
8 **Q.** DID YOU MAKE ANY CORRECTIONS?
9 **A.** I UPDATED IT BY ADDING THREE ELECTIONS THAT OCCURRED IN
10 2021. THERE WERE TWO CONGRESSIONAL ELECTIONS IN DISTRICT 2 TO
11 REPLACE CEDRIC RICHMOND, AND THERE WAS AN ELECTION IN DISTRICT
12 5. AND SO THIS HAS BEEN UPDATED TO INCLUDE THOSE ELECTIONS.
13 I'VE ALSO CHANGED THE DATE OF THE ELECTIONS FROM OCTOBER TO THE
14 CORRECT DATE, WHICH IS NOVEMBER, AND I HAD TO CORRECT ONE OF
15 THE CONFIDENCE INTERVALS BECAUSE OF A TYPO.
16 **Q.** WAS REVISED APPENDIX B INCLUDED WITH YOUR REBUTTAL REPORT?
17 **A.** YES.
18 **MS. BRANNON:** FOR THE RECORD, DR. HANDLEY'S REBUTTAL
19 REPORT IS EXHIBIT PR-87.
20 **BY MS. BRANNON:**
21 **Q.** DID ANY OF THESE CHANGES IMPACT ANY OF YOUR OPINIONS IN
22 THIS CASE?
23 **A.** NO.
24 **Q.** IS THE DATA THAT'S REFLECTED IN REVISED APPENDIX B THAT'S
25 ON THE SCREEN SIMILAR TO THE DATA THAT IS REFLECTED IN APPENDIX

09:57 1 A WE WERE JUST DISCUSSING?
2 **A.** IF BY "DATA" YOU MEAN PRECINCT INFORMATION THAT IS BOTH
3 THE DEMOGRAPHIC INFORMATION AND THE ELECTION RETURNS, IT'S THE
4 SAME. IF YOU MEAN READING THE CHARTS, IT'S READ THE SAME AS
5 WELL.
6 **Q.** YES. READING THE CHARTS?
7 **A.** READING THE CHARTS.
8 **Q.** READING THE CHARTS IS THE SAME METHOD -- THIS CHART WOULD
9 BE READ THE SAME AS APPENDIX A THAT WE HAVE WALKED THROUGH?
10 **A.** THAT'S CORRECT.
11 **Q.** OKAY. WHAT, IF ANY, CONCLUSIONS DID YOU REACH ABOUT
12 VOTING PATTERNS IN CONGRESSIONAL ELECTIONS IN LOUISIANA BASED
13 ON YOUR ANALYSIS?
14 **A.** THE ELECTIONS IN DISTRICTS 3, 4, 5 AND 6 WERE ALL QUITE
15 POLARIZED. THE ELECTIONS IN DISTRICT 2, LESS SO. IN FACT,
16 MOST OF THEM WERE NOT POLARIZED IN DISTRICT 2.
17 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.6.
18 **BY MS. BRANNON:**
19 **Q.** DR. HANDLEY, DID YOU CONDUCT ANY ANALYSIS OF THE VOTING
20 PATTERNS IN THE NEWLY ENACTED CONGRESSIONAL MAP, WHICH I
21 BELIEVE IS HB1?
22 **A.** I DID. NOW, OF COURSE, NO ELECTIONS HAVE ACTUALLY
23 OCCURRED. SO THIS REFLECTS WHAT ARE CALLED RECOMPILED ELECTION
24 RESULTS USING THE PRECINCTS THAT THE OLD ELECTIONS OCCURRED IN
25 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 1 OPPORTUNITIES TO ELECT CANDIDATES OF THEIR CHOICE IN THE
2 ILLUSTRATIVE MAPS AND THE ENACTED CONGRESSIONAL MAP.
3 DID YOU EVALUATE THE OPPORTUNITY OF BLACK VOTERS TO
4 ELECT THEIR CANDIDATE OF CHOICE IN THE ENACTED MAP?
5 **A.** I DID.
6 **Q.** AND WHAT METHODOLOGY DID YOU USE?
7 **A.** OF COURSE, NO ELECTIONS HAVE ACTUALLY OCCURRED IN EITHER
8 THE ILLUSTRATIVE OR THE ENACTED PLAN, SO I USED -- I RELIED ON
9 WHAT ARE CALLED RECOMPILED ELECTION RESULTS, LOOKING AT HOW
10 PREVIOUS ELECTIONS WOULD HAVE FAIRED, HOW CANDIDATES OF CHOICE
11 IN PREVIOUS ELECTIONS WOULD HAVE FAIRED UNDER THE PROPOSED
12 DISTRICTS.
13 **Q.** HAVE YOU USED THIS METHOD OF RECOMPILING ELECTION RESULTS
14 WHEN PROVIDING OTHER EXPERT OPINIONS THAT HAVE BEEN ACCEPTED BY
15 COURTS BEFORE?
16 **A.** YES.
17 **Q.** WHY DO YOU THINK IT IS USEFUL TO PERFORM THIS EVALUATION?
18 **A.** THE ONLY WAY TO KNOW IF A PROPOSED PLAN WILL PROVIDE BLACK
19 VOTERS WITH AN OPPORTUNITY TO ELECT THEIR CANDIDATES OF CHOICE,
20 SINCE NO ELECTIONS HAVE OCCURRED, IS TO DO SOMETHING LIKE THIS:
21 TO LOOK AT RECOMPILED ELECTION RESULTS, DETERMINE IF THE
22 BLACK-PREFERRED CANDIDATES WOULD WIN AND HOW MANY ELECTIONS
23 THEY WOULD WIN.
24 **Q.** DID YOU ALSO PERFORM THIS RECOMPILED ELECTION RESULTS
25 ANALYSIS ON ILLUSTRATIVE MAP 2-A THAT WAS DRAWN BY PLAINTIFFS'

10:05 1 EXPERT, TONY FAIRFAX?
2 **A.** I DID.
3 **MS. BRANNON:** CAN WE SEE DEMONSTRATIVE EXHIBIT 1.8.
4 **BY MS. BRANNON:**
5 **Q.** DO YOU RECOGNIZE THESE TABLES?
6 **A.** YES.
7 **Q.** CAN YOU EXPLAIN THE INFORMATION PROVIDED ON THESE TABLES,
8 STARTING WITH THE ENACTED PLAN ON THE RIGHT SIDE OF THE SCREEN?
9 **A.** YES. NOW, WHEN YOU ARE TRYING TO FIGURE OUT IF A DISTRICT
10 IS GOING TO PROVIDE BLACK VOTERS WITH AN OPPORTUNITY TO ELECT,
11 THE ELECTIONS THAT YOU WANT TO LOOK AT ARE ELECTIONS IN WHICH
12 BLACK VOTERS AND WHITE VOTERS DISAGREED ON WHO THEY WOULD
13 ELECT. AND THAT HAPPENS TO BE THE CASE IN ALL 15 ELECTIONS
14 THAT I LOOKED AT.
15 SO HERE WHAT I DID WAS I DETERMINED HOW MANY OF THOSE
16 15 ELECTIONS WOULD THE BLACK-PREFERRED CANDIDATE EITHER WIN
17 WITH THE MAJORITY OF THE VOTE OR WIN ENOUGH VOTES TO GO ON TO
18 THE RUNOFF. SO THAT'S MY "EFFECTIVENESS SCORE ONE." IT'S JUST
19 THE PERCENTAGE OF TIMES THE BLACK-PREFERRED CANDIDATE WOULD WIN
20 OR ADVANCE TO THE RUNOFF.
21 THE SECOND COLUMN, THE "EFFECTIVENESS SCORE TWO," IS
22 WHAT WOULD HAPPEN IF THEY MADE IT TO THE RUNOFF AND THERE WERE
23 NOW JUST TWO CANDIDATES; WOULD THEY WIN THE RUNOFF? AND THIS
24 IS THE PERCENTAGE OF TIMES THAT THEY WOULD WIN THE RUNOFF.
25 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.** WOULD 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 1 THROUGH THE GRACIOUSNESS OF HER HONOR -- I'VE GOT A BACK
2 CONDITION. SO SHE'S AGREED THAT I CAN EXAMINE YOU FROM COUNSEL
3 TABLE, AND I'M GRATEFUL TO HER FOR DOING THAT. PLEASE LET ME
4 KNOW IF YOU DON'T HEAR MY QUESTIONS, AND I'LL TRY TO REPHRASE
5 THEM.
6 **A.** OKAY.
7 **THE COURT:** LET ME ASK THIS. WOULD IT BE HELPFUL --
8 YOU MAY BE SEATED, SIR. YOU MAY BE SEATED.
9 WOULD IT BE HELPFUL TO BE ABLE TO MAKE EYE
10 CONTACT? I MEAN, IS THERE SOMEBODY THAT I CAN MOVE AT EITHER
11 COUNSEL TABLE -- MOVE OUT OF THE WAY, OR DOES IT MATTER?
12 **MR. FARR:** I CAN SEE DR. HANDLEY, IF SHE CAN SEE ME.
13 **THE COURT:** CAN YOU SEE HER? CAN YOU SEE?
14 **THE WITNESS:** YES. I DON'T HAVE MY GLASSES ON, BUT
15 OTHER THAN THAT --
16 **THE COURT:** ALL RIGHT. WELL, THAT'S FINE THEN.
17 **THE WITNESS:** -- WE'RE FINE.
18 **THE COURT:** I JUST WANT TO MAKE SURE THAT YOU ALL
19 COMMUNICATE WELL.
20 OKAY. GO AHEAD, SIR.
21 **MR. FARR:** THANK YOU SO MUCH, YOUR HONOR.
22 **BY MR. FARR:**
23 **Q.** DR. HANDLEY, WE HAVEN'T MET BEFORE, BUT I'VE REVIEWED SOME
24 OF YOUR PRIOR TESTIMONY IN SOME CASES THAT INVOLVED OUR FIRM,
25 AND IT'S AN HONOR TO MEET YOU HERE TODAY. AND I JUST HAVE A

10:16 1 FEW QUESTIONS FOR YOU.
2 **THE COURT:** AND STATE YOUR NAME FOR THE COURT
3 REPORTER. I'M SORRY. YOU MAY HAVE ALREADY DONE THAT, BUT I
4 MISSED IT.
5 **MR. FARR:** YES, MA'AM.
6 AGAIN, MY NAME IS TOM FARR.
7 **THE COURT:** THANK YOU, SIR.
8 GO AHEAD.
9 **MR. FARR:** AND I'M WITH THE LAW FIRM OF NELSON
10 MULLINS.
11 **THE COURT:** YES, SIR.
12 **MR. FARR:** AND I'M HERE REPRESENTING THE SECRETARY OF
13 STATE.
14 **BY MR. FARR:**
15 **Q.** SO, DR. HANDLEY, WHEN WERE YOU FIRST CONTACTED ABOUT
16 LOUISIANA REDISTRICTING IN THIS CYCLE?
17 **A.** IT'S DIFFICULT TO SAY. I WAS WORKING WITH THE ACLU IN
18 ANOTHER COUPLE OF STATES BEFORE WE STARTED TALKING ABOUT
19 LOUISIANA.
20 **Q.** IT'S NOT A MEMORY TEST, DR. HANDLEY.
21 **A.** OH, OKAY. I'M SORRY. I DON'T REMEMBER EXACTLY WHEN.
22 CERTAINLY LESS THAN A YEAR AGO.
23 **Q.** OKAY. WELL, LET'S SEE IF WE CAN CLARIFY THAT A LITTLE BIT
24 WITH SOME QUESTIONS I'LL ASK.
25 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 1 GO.
2 **MR. FARR:** YOUR HONOR, I'M NOT GOING TO ASK HER ABOUT
3 WORK PRODUCT. I JUST WANT TO KNOW WHEN SHE STARTED WORKING ON
4 THIS. AND IT'S RELEVANT TO SOME OTHER ISSUES IN THE CASE,
5 SO...
6 **THE COURT:** OKAY. THERE'S NO OBJECTION TO YOUR
7 CURRENT QUESTION, SO IF YOU WANT TO RESTATE IT.
8 **MR. FARR:** YES, MA'AM.
9 **THE COURT:** GO AHEAD.
10 **MR. FARR:** WELL, THANK YOU, YOUR HONOR.
11 **BY MR. FARR:**
12 **Q.** DR. HANDLEY, DO YOU RECALL WHEN YOU STARTED WORKING ON
13 MATTERS RELATED TO LOUISIANA CONGRESSIONAL REDISTRICTING IN
14 THIS CYCLE?
15 **A.** (NO ORAL RESPONSE.)
16 **Q.** LET ME TRY TO HELP A LITTLE BIT.
17 **A.** SORRY. I CAN'T REMEMBER.
18 **Q.** I UNDERSTAND.
19 DID YOU BEGIN -- YOU THINK YOU BEGAN WORKING BEFORE
20 THE LEGISLATIVE PROCESS STARTED?
21 **A.** I HAVE NO IDEA. I DON'T KNOW WHEN THE LEGISLATIVE PROCESS
22 STARTED.
23 **Q.** OKAY. I HEARD YOU MENTION SOMETHING. COULD IT HAVE BEEN
24 THAT YOU WERE WORKING ON LOUISIANA REDISTRICTING SOME TIME
25 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 1 **A.** SO MY UNDERSTANDING IS IT PASSED, BUT THEN IT WAS VOTED
2 AND THEN IT -- THE VETO WAS OVERRIDDEN. I ANALYZED THE PLAN
3 AFTER IT WAS PASSED BY THE LEGISLATURE.
4 **Q.** OKAY. AND YOUR REPORT'S GOT ANALYSIS OF STATEWIDE
5 POLARIZATION RATES?
6 **A.** I'M SORRY. COULD YOU REPEAT THAT?
7 **Q.** YES, MA'AM.
8 IN READING YOUR REPORT, IT APPEARS THAT YOU HAVE --
9 YOU'VE DONE POLARIZATION STUDIES ON STATEWIDE ELECTIONS?
10 **A.** THAT'S CORRECT.
11 **Q.** DID YOU DO THOSE BEFORE THE CONGRESSIONAL PLAN WAS
12 ENACTED?
13 **A.** I DON'T REMEMBER IN TIME. I'M NOT EXACTLY SURE WHAT YOU
14 MEAN BY "ENACTED." I DID IT MOST LIKELY BEFORE THE VETO WAS
15 OVERRIDDEN.
16 **Q.** OKAY. SO BEFORE THE INITIAL PLAN WAS OVERRIDDEN, YOU
17 THINK SOME TIME BEFORE THEN YOU DID YOUR STATEWIDE POLARIZATION
18 STUDIES?
19 **A.** I PROBABLY HAD STARTED THEM.
20 **Q.** OKAY. ALL RIGHT. THANKS.
21 NOW, I WANT TO ASK YOU SOME QUESTIONS ABOUT WHAT YOU
22 MEAN BY "POLARIZATION." AND WE CAN GO TO YOUR REPORT IF THAT
23 WILL HELP YOU, BUT WHEN I READ YOUR REPORT ON PAGE 1 --
24 **MR. FARR:** WHY DON'T WE PULL UP PR-12 ON THE SCREEN.
25 **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 1 **BY MR. FARR:**
2 **Q.** DR. HANDLEY, DO YOU AGREE THAT "SUBSTANTIVELY SIGNIFICANT
3 RACIAL POLARIZATION" MEANS THAT THE MINORITY AND THE WHITES ARE
4 VOTING FOR DIFFERENT CANDIDATES?
5 **A.** YES. YES.
6 **Q.** DO YOU AGREE THAT IT WOULD RISE TO THE LEVEL OF LEGAL
7 SIGNIFICANCE IF THE MINORITY-PREFERRED CANDIDATE USUALLY LOST?
8 **MS. BRANNON:** AGAIN, YOUR HONOR, I'M GOING TO OBJECT.
9 THAT CALLS FOR A LEGAL CONCLUSION.
10 **MR. FARR:** I'M NOT ASKING FOR A LEGAL CONCLUSION.
11 I'M ASKING FOR HER -- THE WAY SHE UNDERSTANDS "RACIAL
12 POLARIZATION."
13 **THE COURT:** BUT THE QUESTION IS: IS IT LEGALLY
14 SIGNIFICANT? THAT IS A LEGAL QUESTION. THAT IS A QUESTION OF
15 A LEGAL OPINION. THE OBJECTION IS SUSTAINED.
16 **MR. FARR:** CAN I ASK THE QUESTION AGAIN, YOUR HONOR?
17 I'LL TAKE THE WRONG "LEGAL" OUT.
18 **THE COURT:** AND YOU DID THAT. YOU DID THAT AND
19 YOU'RE GOING TO REACH THE SAME RESULT: YOU'RE GOING TO HAVE
20 IMPROPER IMPEACHMENT. YOU CAN TRY AGAIN. BUT IF THE WORD
21 "LEGALLY" IS IN THE PRIOR QUESTION, IT IS -- YOU'RE NOT -- IT'S
22 NOT A PRIOR INCONSISTENT STATEMENT.
23 **MR. FARR:** I'M SORRY, YOUR HONOR. I APOLOGIZE.
24 **THE COURT:** OKAY. NO WORRIES. GO AHEAD.
25 **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 1 CROSSOVER VOTE IS HIGHER THAN THE -- THAN THE AVERAGE?
2 **A.** NOT AT THE CONGRESSIONAL LEVEL OR STATEWIDE. THERE MAY BE
3 POCKETS.
4 **Q.** OKAY. WHEN YOU DID YOUR STUDY ON RACIAL POLARIZATION, YOU
5 DID NOT DO A PARISH-BY-PARISH STUDY ON POLARIZATION RATES?
6 **A.** THAT'S CORRECT.
7 **Q.** OKAY. I'LL MOVE ON TO ANOTHER SUBJECT NOW, DR. HANDLEY.
8 WHEN YOU TALK IN YOUR REPORT ABOUT VOTING AGE
9 POPULATION FOR AFRICAN AMERICANS, ARE YOU REFERRING TO "ANY
10 PART BLACK" VOTING AGE?
11 **A.** IT DEPENDS. I REPORT BOTH "ANY PART BLACK" AND THE DOJ
12 DEFINITION OF "BLACK VOTING AGE POPULATION" IN MY REBUTTAL
13 REPORTS AND IN THE SUPPLEMENTAL REPORT.
14 **MR. FARR:** OKAY. SO LET'S TURN TO PR-12.
15 **BY THE WITNESS:**
16 **A.** I'M SORRY. TO WHAT?
17 **BY MR. FARR:**
18 **Q.** I'M SORRY, MA'AM. YOUR INITIAL REPORT, WHICH I THINK IS
19 LABELED PR-12.
20 **A.** OH, OKAY.
21 **MR. FARR:** AND COULD YOU TURN TO TABLE 3, WHICH IS ON
22 PAGE 10.
23 **BY MR. FARR:**
24 **Q.** ARE YOU THERE?
25 **A.** I AM.

10:35 1 **Q.** AND YOU SEE ON FOOTNOTE 14, YOU SAY "BLACK VOTING AGE
2 POPULATION HAS BEEN CALCULATED BY COUNTING ALL PERSONS WHO
3 CHECK 'BLACK OR AFRICAN AMERICAN' ON THEIR CENSUS FORM."
4 IS THAT CORRECT?
5 **A.** YES.
6 **Q.** AND IN MAKING THAT FOOTNOTE, WERE YOU REFERRING TO "ANY
7 PART BLACK"?
8 **A.** YES.
9 **Q.** ALL RIGHT. THANK YOU.
10 AND USING THE CENSUS CATEGORY "ANY PART BLACK," WOULD
11 THAT RESULT IN A HIGHER BLACK PERCENTAGE IN DISTRICTS YOU'RE
12 LOOKING AT THAN IF YOU USE, SAY, SINGLE-RACE BLACK?
13 **A.** YES.
14 **Q.** NOW, I WANT TO MOVE TO SOME QUESTIONS ABOUT YOUR
15 APPENDICES. AND I THINK JUST TO KIND OF REFRESH OR REVIEW A
16 LITTLE BIT, APPENDIX A WAS YOUR STUDY OF STATEWIDE ELECTIONS.
17 IS THAT CORRECT?
18 **A.** YES.
19 **Q.** APPENDIX B WAS YOUR STUDY OF THE PERCENTAGE OF BLACK AND
20 WHITE VOTES FOR EACH CANDIDATE IN CONGRESSIONAL ELECTIONS FROM
21 2016 TO 2020?
22 **A.** ULTIMATELY, 2021.
23 **Q.** OKAY. THAT WAS IN YOUR REPORT YOU JUST GAVE US. IS THAT
24 CORRECT?
25 **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 1 RACES YOU STUDIED THE 2016 PRESIDENTIAL ELECTION INVOLVING
2 SECRETARY CLINTON AND SENATOR CAIN. IS THAT CORRECT?
3 **A.** THAT'S CORRECT.
4 **Q.** PLEASE BEAR WITH ME, DR. HANDLEY. I'M TRYING TO FIND ONE
5 OF YOUR CHARTS.
6 **MR. FARR:** OKAY. I THINK WE CAN LOOK AT TABLE 4 ON
7 PAGE 11.
8 **BY MR. FARR:**
9 **Q.** ARE YOU THERE?
10 **A.** YES.
11 **Q.** AND SO, DR. HANDLEY, IN ORDER TO DETERMINE THE
12 EFFECTIVENESS OF CONGRESSIONAL DISTRICTS IN THE ENACTED PLAN
13 AND THEN I THINK MOVING OVER, YOU DID THE SAME THING ON PAGE 13
14 FOR THE ILLUSTRATIVE PLAN. IS THAT A FAIR STATEMENT?
15 **A.** YES.
16 **Q.** AND SO ALL YOU REPORTED IS WHO WON OR LOST THE ELECTION?
17 **A.** NO, NOT EXACTLY. THE PERCENTAGE OF CASES -- THE
18 PERCENTAGE OF ELECTIONS IN REGARD TO THE FIRST COLUMN IN WHICH
19 THE BLACK-PREFERRED CANDIDATE EITHER WON OUTRIGHT OR WOULD HAVE
20 PROCEEDED TO A RUNOFF.
21 **Q.** OKAY. AND THEN WHAT WAS THE SECOND COLUMN?
22 **A.** THE PERCENTAGE OF TWO CANDIDATE CONTESTS IN WHICH THE
23 BLACK-PREFERRED CANDIDATE WON.
24 **Q.** OKAY.
25 **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 1 DOROTHY NAIRNE.
2 **DOROTHY NAIRNE, PH.D.,**
3 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**
4 **THE COURT:** GOOD MORNING, MA'AM.
5 YOU'LL NEED TO ADJUST THE MIC TO SUIT YOU SO
6 THAT WE CAN HEAR YOU.
7 **THE WITNESS:** OKAY. GOOD MORNING.
8 **THE COURT:** GOOD MORNING.
9 **THE WITNESS:** GOOD MORNING. CAN YOU HEAR ME?
10 **THE COURT:** YES, MA'AM.
11 **THE WITNESS:** ALL RIGHT.
12 **DIRECT EXAMINATION**
13 **BY MS. OSAKI:**
14 **Q.** GOOD MORNING, DR. NAIRNE.
15 **A.** GOOD MORNING.
16 **Q.** TO START, COULD YOU PLEASE STATE YOUR NAME FOR THE COURT.
17 **A.** MY NAME IS DOROTHY NAIRNE.
18 **Q.** AND HOW DO YOU IDENTIFY RACIALLY, DR. NAIRNE?
19 **A.** I AM BLACK. I AM AFRICAN AMERICAN.
20 **Q.** WHAT TOWN AND PARISH DO YOU LIVE IN, DR. NAIRNE?
21 **A.** I LIVE IN NAPOLEONVILLE, ASSUMPTION PARISH.
22 **Q.** AND HOW LONG HAVE YOU LIVED AT YOUR CURRENT ADDRESS?
23 **A.** IT'S A FAMILY HOME THAT I HAVE VISITED ALL MY LIFE, AND
24 I'VE BEEN THERE FULL-TIME SINCE 2017.
25 **Q.** AND BEFORE 2017 HOW LONG HAVE YOU AND YOUR FAMILY TRACED

11:00 1 YOUR ROOTS IN LOUISIANA?
2 **A.** FOR GENERATIONS. MY MOTHER'S MOTHER'S MOTHER'S MOTHERS
3 AND FATHERS WERE ENSLAVED HERE IN LOUISIANA IN ASSUMPTION
4 PARISH.
5 **Q.** COULD YOU PLEASE TELL US BRIEFLY ABOUT YOUR EDUCATION AND
6 CAREER HISTORY, DR. NAIRNE?
7 **A.** I HAD THE BENEFIT OF GOING TO THE UNIVERSITY OF
8 WISCONSIN -- GO BADGERS -- AND THEN I WENT TO -- I STUDIED
9 JOURNALISM AND AFRICAN-AMERICAN STUDIES. THEN I LIVED IN
10 ATLANTA AND WENT TO CLARK ATLANTA UNIVERSITY WHERE I HAVE A
11 MASTER'S DEGREE IN AFRICAN-AMERICAN STUDIES AND A PH.D. IN
12 INTERNATIONAL AFFAIRS AND ECONOMIC DEVELOPMENT.
13 **Q.** AND COULD YOU PLEASE DESCRIBE WHAT YOU CURRENTLY DO FOR A
14 LIVING?
15 **A.** I HAVE A START-UP BUSINESS HERE IN LOUISIANA THAT IS
16 FOCUSING ON GLASS RECYCLING AND TAKING THE GLASS, TURNING IT
17 INTO SAND AND DOING STORMWATER MANAGEMENT AND MARDI GRAS BEADS
18 SO THAT WE CAN CREATE JOBS FOR PEOPLE COMING OUT OF PRISON.
19 **Q.** THANK YOU, DR. NAIRNE.
20 DO YOU BELONG TO ANY CIVIC, NONPROFIT OR POLITICAL
21 GROUPS?
22 **A.** I'M VERY ACTIVE WITH THE NAACP, WITH THE URBAN LEAGUE,
23 WITH CLIMATE -- WOMEN FOR CLIMATE, AND ALSO WITH OTHER START-UP
24 ORGANIZATIONS LIKE FUND 17, AND THERE'S ONE CALLED "FLIGHT AND
25 TOGETHER LOUISIANA" AND "TOGETHER NEW ORLEANS."

11:01 1 **Q.** SO DO YOU CONSIDER YOURSELF TO BE ACTIVE IN YOUR
2 COMMUNITY?
3 **A.** I AM VERY ACTIVE.
4 **Q.** DR. NAIRNE, COULD YOU PLEASE DESCRIBE THE ROLE THAT RACE
5 HAS PLAYED IN YOUR FAMILY SINCE YOUR FAMILY HAS LIVED IN
6 LOUISIANA?
7 **A.** SO, FIRST, MY GRANDPARENTS WERE ON -- WELL, THEY WERE
8 SHARECROPPERS ON DIFFERENT PLANTATIONS IN ASSUMPTION PARISH.
9 AND SO MY GRANDFATHER COULD READ, SO HE USED TO READ TO ALL OF
10 THE OTHER SHARECROPPERS WHO COULDN'T READ AND ALSO HELPED THEM
11 WITH THEIR MONEY.
12 SO MY GRANDMOTHER USED TO TELL STORIES ABOUT HOW ON
13 THE PLANTATION THEY WOULD PAY WITH JITNEY. SO THEY WOULD TRY
14 TO PAY PEOPLE DIFFERENT MONEY SO YOU COULD NEVER GET OFF THE
15 PLANTATION. SO I'VE GOT THAT LONG BACKGROUND WHERE MY
16 GRANDMOTHER ALWAYS WANTED TO GET OFF THE PLANTATION, AND MY
17 MOTHER DID.
18 MY FAMILY -- HER FAMILY POURED INTO HER WHERE SHE WAS
19 ABLE TO GO TO SCHOOL BEYOND THE SIXTH GRADE ALL THE WAY IN NEW
20 ORLEANS, BECAUSE THERE WAS NO SCHOOL IN ASSUMPTION PARISH FOR
21 BLACK CHILDREN. SO THEY HAD TO WALK FROM GRADES ONE TILL
22 SIXTH, PROBABLY FIVE MILES EACH WAY. AND THE WHITE CHILDREN,
23 WHO WERE IN A SCHOOL BUS -- ALL OF THESE PUBLIC SCHOOLS.
24 SO MY MOTHER WOULD TELL GROSS STORIES OF BEING SPIT ON FROM THE
25 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 1 **Q.** AND WHO IS YOUR CURRENT REPRESENTATIVE?
2 **A.** GRAVES, GARRETT GRAVES.
3 **Q.** WHAT IS YOUR UNDERSTANDING OF YOUR CONGRESSMAN'S RACE?
4 **A.** HE IS A WHITE MAN.
5 **Q.** IN GENERAL, DO YOU FOLLOW YOUR CONGRESSMAN'S ACTIONS?
6 **A.** I FOLLOW HIM AND HAVE CONTACTED HIS OFFICE ON SEVERAL
7 OCCASIONS.
8 **Q.** IN YOUR AFFIDAVIT YOU NOTE THAT YOU BELIEVE THAT YOUR
9 CONGRESSMAN DOES NOT ADVOCATE FOR YOUR COMMUNITY'S NEEDS. WHAT
10 DID YOU MEAN BY THAT?
11 **A.** I'M VERY ACTIVE, AS I'VE STATED, IN MY COMMUNITY AND ALSO
12 PARTICIPATING WIDELY ON ZOOM OR FOR POLICY CONFERENCES, AND I
13 HAVEN'T SEEN HIM AT ANY EVENTS, WHETHER FOR KING DAY,
14 JUNETEENTH DAY, OR JUST TO DISCUSS THE PLIGHT OF THE BLACK
15 COMMUNITY.
16 **Q.** HAVE YOU SEEN HIM CAMPAIGNING IN YOUR COMMUNITY?
17 **A.** NO. NO. NO. I HAVE NOT SEEN HIM CAMPAIGNING DURING THE
18 SEVERAL ELECTIONS THAT I'VE BEEN AROUND FOR.
19 **Q.** THANK YOU, DR. NAIRNE.
20 I'D NOW LIKE TO DISCUSS THE ENACTED MAPS.
21 **MS. OSAKI:** MAY WE PLEASE PULL UP ENACTED -- THE
22 ENACTED MAP UNDER HB1, WHICH HAS BEEN MOVED IN AS PLAINTIFFS'
23 EXHIBIT PR-15 ON PAGE 48.
24 **BY MS. OSAKI:**
25 **Q.** DR. NAIRNE, ARE YOU FAMILIAR WITH THIS MAP?

11:05 1 **A.** YES, I AM.
2 **Q.** DO YOU KNOW WHICH DISTRICT YOU RESIDE IN UNDER THIS MAP?
3 **A.** IT'S STILL UNCLEAR. SO THERE WAS ONE ELECTION WHERE I
4 WENT FROM SCHOOL TO SCHOOL TO SCHOOL LOOKING FOR, YOU KNOW, AM
5 I VOTING? CAN I VOTE? WHERE AM I VOTING? AND THEY TURNED ME
6 AWAY. SO I LEARNED THAT I WAS IN DISTRICT 6, AND I'M RIGHT
7 THERE ON THE CUSP. SO SOME OF MY NEIGHBORS VOTE IN DISTRICT 2
8 AND SOME IN DISTRICT 6. SO IT'S CONFUSING, IT'S CHAOTIC AND
9 AND IT DOESN'T HELP US TO ORGANIZE OR PLAN.
10 **Q.** WHAT DO YOU MEAN BY "ON THE CUSP"?
11 **A.** SO MY HOUSE IS LIKE LITERALLY WHERE MY NEIGHBORS ACROSS
12 THE STREET ARE IN DISTRICT 2, SO THEY WERE ABLE TO VOTE BUT I
13 WASN'T.
14 **MS. OSAKI:** MAY WE PLEASE ZOOM IN ON THAT AREA? IT'S
15 ASSUMPTION PARISH IN CONGRESSIONAL DISTRICT 6. THANK YOU.
16 **BY MS. OSAKI:**
17 **Q.** DR. NAIRNE, BASED ON YOUR LIVED EXPERIENCES, LOOKING AT
18 THIS MAP, WHAT IS YOUR IMPRESSION OF YOUR DISTRICT,
19 CONGRESSIONAL DISTRICT 6?
20 **A.** SO AS SMALL AS ASSUMPTION PARISH IS, IT'S A BIG LAND MASS
21 BUT SMALL COMMUNITY. WE'RE NOT ABLE TO ORGANIZE OR ABLE TO
22 MOBILIZE OR ABLE TO VOICE OUR -- AND ORGANIZE OUR VOICE IN
23 ASSUMPTION PARISH.
24 **Q.** AND COULD YOU DESCRIBE GEOGRAPHICALLY WHAT AREAS YOUR
25 COMMUNITY IN ASSUMPTION PARISH WOULD BE LINKED WITH IN

11:06 1 CONGRESSIONAL DISTRICT 6 OF THIS ENACTED MAP?
2 **A.** SURE. SO A LOT OF THE WORK THAT I DO IS WITH PEOPLE
3 WITHIN THE RIVER PARISHES: ST. JOHN, ST. JAMES, ST. CHARLES
4 AND JEFFERSON AND ORLEANS PARISH. AND SO WHEN IT COMES TIME TO
5 DISCUSS CANDIDATES AND VOTING, I'M SILENT. I HAVE NOTHING TO
6 SAY BECAUSE THEY ARE IN ONE DISTRICT AND I'M IN ANOTHER.
7 **Q.** SO UNDER CONGRESSIONAL DISTRICT 6, YOU'RE THE -- CAN YOU
8 DESCRIBE SOME OF THE PARISHES THAT YOU WOULD BE LINKED WITH
9 HERE?
10 **A.** SO ST. MARY'S, IBERVILLE, I HAVE ABSOLUTELY NO ALLIANCE
11 THERE, NO COMMUNITY MEMBERS THERE IN THOSE PARISHES.
12 **Q.** I'D LIKE TO TALK A LITTLE BIT MORE ABOUT THAT. BASED ON
13 YOUR LIVED EXPERIENCES, HOW WOULD YOU DESCRIBE SOME OF THOSE
14 COMMUNITIES THAT ARE INCLUDED ALONGSIDE YOURS HERE?
15 **A.** SO A LOT OF THE COMMUNITY WORK THAT I DO IS WITH THE RIVER
16 PARISHES WHERE WE DO A LOT OF WORK AROUND ENVIRONMENTAL JUSTICE
17 AND RACIAL JUSTICE AND LOOKING AT CANCER ALLEY AND LOOKING AT
18 JUST WHAT'S HAPPENING WITH PEOPLE'S LIVED EXPERIENCES, AS WELL
19 AS WITH HIV, WITH CRIME, AND WITH HOW WE IMPROVE EACH OTHER'S
20 LIVES.
21 SO I DON'T WORK WITH PEOPLE WITHIN TERREBONNE OR THE
22 OTHER PARISHES, SO I'M KIND OF A SORE THUMB STANDING OUT THERE
23 BECAUSE WE WORK TOGETHER, BUT THEN WE DON'T VOTE TOGETHER.
24 **Q.** I SEE. SO IT SOUNDS LIKE YOU'RE SAYING YOU'RE NOT AS
25 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 1 DISTRICT 2 IN THIS ILLUSTRATIVE MAP. THANK YOU.
2 **BY MS. OSAKI:**
3 **Q.** DR. NAIRNE, GEOGRAPHICALLY WHAT AREAS WOULD YOU BE LINKED
4 WITH IN THIS CONGRESSIONAL DISTRICT 2 OF THIS ILLUSTRATIVE MAP?
5 **A.** IN THIS MAP I WOULD BE WITH THE PEOPLE THAT I'M WORKING
6 WITH CURRENTLY, ALONG WITH THE RIVER PARISHES, ALL THE WAY INTO
7 ORLEANS AND JEFFERSON PARISHES. THIS MAP MAKES SENSE TO ME.
8 **Q.** DO YOU HAVE ANY PERSONAL CONNECTIONS WITH ANY OF THOSE
9 OTHER PARISHES?
10 **A.** I HAVE PERSONAL CONNECTIONS: FAMILY, FRIENDS, COLLEAGUES
11 IN ALL OF THIS -- IN THIS ENTIRE AREA.
12 **Q.** HOW WOULD YOU DESCRIBE COMMUNITIES IN THESE AREAS, THESE
13 RIVER PARISH AREAS, BASED ON YOUR PERSONAL KNOWLEDGE?
14 **A.** WE HAVE A SHARED HISTORY. WE HAVE A SHARED CULTURAL
15 HERITAGE, AND WE WORK TOGETHER TO MAKE IMPROVEMENTS ALONG THIS
16 AREA WITH COMMUNITY DEVELOPMENT WHERE WE'RE DOING WORK AROUND
17 CREATING JOBS FOR PEOPLE, OPPORTUNITIES FOR YOUNG PEOPLE AND
18 TRYING TO IMPROVE OUR HEALTH.
19 **Q.** WHAT DID YOU MEAN BY THAT, "TRYING TO IMPROVE YOUR
20 HEALTH"?
21 **A.** THIS AREA IS KNOWN AS CANCER ALLEY AND JUST -- SO I'VE
22 WORKED SOMEWHAT WITH THE CANCER INDEX AND LOOKING AT JUST
23 NEIGHBORS ACROSS THE STREET, NEXT TO ME, EVEN MY OWN MOTHER
24 WHO HAD A TUMOR THE SIZE OF A SOCCER BALL IN HER BELLY. AND
25 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 1 **A.** YES, I WILL.
2 **Q.** AND YOU WILL -- AND REGARDLESS OF WHAT THE MAP LOOKS LIKE
3 -- THE CONGRESSIONAL MAP LOOKS LIKE NOW OR WILL LOOK LIKE, YOU
4 WILL CONTINUE TO ADVOCATE FOR ISSUES YOU CARE DEEPLY ABOUT.
5 CORRECT?
6 **A.** YES.
7 **Q.** IN PARAGRAPH 11 OF YOUR DECLARATION YOU STATED THAT YOU
8 HAVE DONATED TO CONGRESSIONAL CANDIDATES. CAN YOU TELL ME
9 WHICH CANDIDATES YOU'VE DONATED TO?
10 **A.** I'VE DONATED TO SEVERAL CANDIDATES $5 HERE, $10 HERE.
11 **Q.** ALL RIGHT. AND WHAT IS THE AFFILIATION OF THOSE
12 CANDIDATES; THE POLITICAL AFFILIATION?
13 **A.** SOME ARE INDEPENDENT, A COUPLE OF GREEN PARTY AND A FEW
14 DEMOCRATIC CANDIDATES.
15 **Q.** ALL RIGHT. AND DO YOU RECALL, HAVE YOU EVER DONATED TO
16 THE DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE?
17 **A.** I'M NOT SURE. HELP ME UNDERSTAND IF I HAVE OR NOT.
18 **Q.** SURE. SURE.
19 **MR. WALE:** YOUR HONOR, IF I MAY, I'M GOING TO BE --
20 NEED TO USE THIS ELMO SYSTEM.
21 **THE COURT:** YOU CAN USE THE DOCUMENT CAMERA.
22 **MR. WALE:** THE DOCUMENT CAMERA.
23 **THE COURT:** SHE'LL TURN IT ON.
24 MR. WALE, TELL US WHAT YOU ARE GOING TO PUT UP
25 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 1 **MR. WALE:** SURE.
2 **THE COURT:** ALL RIGHT. HE WILL BE RIGHT UP.
3 **MR. WALE:** ALL RIGHT. IT LOOKS LIKE THERE IS A
4 LIGHT.
5 **BY MR. WALE:**
6 **Q.** SO, DOCTOR -- EXCUSE ME, DR. NAIRNE. I'M GOING TO SHOW
7 YOU A DOCUMENT FROM THE LOUISIANA SECRETARY OF STATE'S OFFICE.
8 I'M GOING TO SEE IF WE CAN -- LET'S SEE -- ZOOM --
9 **THE COURT:** ALL RIGHT. WELL DONE, MS. MCKNIGHT. IF
10 YOU QUIT YOUR DAY JOB, YOU KNOW WHAT YOU CAN DO.
11 **MR. WALE:** THANK YOU.
12 **BY MR. WALE:**
13 **Q.** SO, DR. NAIRNE, I REALIZE THE FIRST LINE OVER HERE IS A
14 LITTLE BIT DIFFICULT TO READ IN SCRIPT, BUT CAN YOU READ THAT
15 FOR US, PLEASE?
16 **A.** SURE. "AS SECRETARY OF STATE OF THE STATE OF LOUISIANA, I
17 DO HEREBY CERTIFY THAT THE ANNEX HERETO IS TRUE AND CORRECT
18 VOTER REGISTRATION INFORMATION FROM THE SECRETARY OF STATE'S
19 DATABASE FOR DOROTHY EVELYN NAIRE." AND THAT'S ME.
20 **Q.** THANK YOU. THANK YOU SO MUCH.
21 **A.** UH-HUH.
22 **Q.** AND SO I'M GOING TO SHOW YOU ANOTHER PAGE IN HERE, AND CAN
23 YOU TELL ME WHAT THE TOP TWO LINES SAY?
24 **A.** "DID NOT VOTE 2021."
25 **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 1 **Q.** ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE. THANK YOU
2 VERY MUCH.
3 **THE COURT:** ANY REDIRECT?
4 **MS. OSAKA:** NO REDIRECT, YOUR HONOR. THANK YOU.
5 **THE COURT:** OKAY. YOU MAY STEP DOWN. THANK YOU FOR
6 YOUR HELP TODAY, MA'AM.
7 OKAY. WE ARE GOING TO BE IN RECESS UNTIL 1:30.
8 **THE LAW CLERK:** THE COURT IS NOW IN RECESS.
9 **(WHEREUPON, THE COURT WAS IN RECESS.)**
10 **THE COURT:** OKAY. BE SEATED.
11 GOOD AFTERNOON, EVERYONE.
12 WE ARE BACK ON THE RECORD.
13 I TELL YOU WHAT, WHILE YOU DO THAT, WHY DON'T WE
14 JUST SAY WHO WE ARE CALLING AS OUR NEXT WITNESS. HE NEEDS TO
15 PUT IT ON THE RECORD. GO AHEAD. PUT IT ON THE RECORD WHO YOUR
16 NEXT WITNESS IS AND WHO YOU ARE, SIR.
17 **MR. CHAKRABORTY:** GOOD AFTERNOON, YOUR HONOR.
18 OUR NEXT WITNESS IS DR. TRACI BURCH.
19 AND MAKING MY FIRST APPEARANCE TODAY, I AM
20 AMITAV CHAKRABORTY ON BEHALF OF THE ROBINSON PLAINTIFFS.
21 **THE COURT:** OKAY. THEN WE WILL WAIT ON THE ZOOM.
22 DR. BURCH, CAN YOU HEAR US? NOT YET. CAN YOU
23 HEAR US? DR. BURCH, CAN YOU HEAR US? YOU NEED TO UN-MUTE
24 YOURSELF I THINK, MA'AM.
25 **THE WITNESS:** CAN YOU HEAR ME NOW?

01:40 1 **THE COURT:** YES.
2 OKAY. YOUR WITNESS, SIR.
3 **MR. CHAKRABORTY:** THANK YOU, JUDGE.
4 **THE COURT:** WAIT. WE NEED TO SWEAR HER IN. I'M
5 SORRY.
6 **TRACI BURCH, PH.D.,**
7 **HAVING BEEN DULY SWORN, TESTIFIED VIA VIDEOCONFERENCE AS**
8 **FOLLOWS:**
9 **THE COURT:** NOW YOUR WITNESS.
10 **MR. CHAKRABORTY:** THANK YOU.
11 **VOIR DIRE**
12 **BY MR. CHAKRABORTY:**
13 **Q.** GOOD AFTERNOON.
14 **A.** GOOD AFTERNOON.
15 **Q.** CAN YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD.
16 **A.** DR. TRACI BURCH.
17 **Q.** AND WHAT IS YOUR EDUCATIONAL BACKGROUND, DR. BURCH?
18 **A.** I AM -- I FIRST COMPLETED MY UNDERGRADUATE WORK AT
19 PRINCETON WHERE I MAJORED IN POLITICS AND GOT A CERTIFICATE IN
20 AFRICAN-AMERICAN STUDIES, AND I FINISHED MY PH.D. AT HARVARD.
21 IT WAS A CRIMINAL DEGREE PROGRAM IN GOVERNMENT AND SOCIAL
22 POLICY.
23 **Q.** AND WHAT IS YOUR CURRENT OCCUPATION?
24 **A.** CURRENTLY, I AM ASSOCIATE PROFESSOR OF POLITICAL SCIENCE
25 AT NORTHWESTERN, AS WELL AS A RESEARCH PROFESSOR AT THE

01:41 1 AMERICAN BAR FOUNDATION.
2 **Q.** AND HOW LONG HAVE YOU BEEN A PROFESSOR, DR. BURCH?
3 **A.** SINCE 2007.
4 **Q.** WHAT ARE YOUR PRINCIPAL AREAS OF RESEARCH?
5 **A.** SORRY. MY PRINCIPAL AREAS OF RESEARCH INCLUDE POLITICAL
6 BEHAVIOR, POLITICAL PARTICIPATION, BARRIERS TO VOTING AND RACE
7 AND ETHNIC POLITICS. AND I ALSO FOCUS ON THE WAYS THAT
8 INTERACTION WITH THE GOVERNMENT CAN AFFECT ALL OF THOSE THINGS
9 SUCH AS PARTICIPATION. AND I SPECIFICALLY HAVE FOCUSED ON HOW
10 INTERACTIONS WITH THE CRIMINAL JUSTICE SYSTEM CAN AFFECT
11 SPECIFIC AREAS.
12 **Q.** THANK YOU.
13 AND HAVE YOU BEEN PUBLISHED ON ANY OR ALL OF THESE
14 SUBJECTS?
15 **A.** YES, I HAVE BEEN.
16 **Q.** HAVE YOU PREVIOUSLY SERVED AS AN EXPERT WITNESS?
17 **A.** YES. I HAVE TESTIFIED AT TRIAL IN FOUR CASES AND AT A
18 DEPOSITION IN AN ADDITIONAL CASE.
19 **Q.** DID ANY OF THOSE CASES IN WHICH YOU TESTIFIED INVOLVE
20 CLAIMS BROUGHT UNDER THE VOTING RIGHTS ACT?
21 **A.** YES.
22 **Q.** AND WAS YOUR TESTIMONY CREDITED OR ACCEPTED BY THE COURT
23 IN EACH OF THOSE CASES IN WHICH YOU TESTIFIED?
24 **A.** YES.
25 **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 1 TO EVALUATE IN YOUR EXPERT REPORT?
2 **A.** SO IN MY EXPERT REPORT I WAS ASKED TO EVALUATE THE SENATE
3 FACTORS RELEVANT TO THIS CASE IN LOUISIANA, PARTICULARLY SENATE
4 FACTORS 5, 6, 7, 8 AND 9.
5 **Q.** THANK YOU.
6 AND WHAT MATERIALS DID YOU RELY ON TO REACH YOUR
7 CONCLUSIONS ABOUT THOSE FACTORS?
8 **A.** A WIDE VARIETY OF MATERIALS, INCLUDING MY OWN ANALYSIS OF
9 THE CENSUS DATA SUCH AS THE DATA FROM THE 2020 CENSUS AND THE
10 AMERICAN COMMUNITY SURVEY, VARIOUS AGENCY REPORTS, THE
11 SCHOLARLY LITERATURE, THE LEGISLATIVE RECORD, INCLUDING
12 HEARINGS, VIDEO HEARINGS AND TESTIMONIES IN THE ROADSHOWS,
13 OTHER DOCUMENTS SUCH AS AMENDMENTS AND BILLS THAT WERE
14 SUBMITTED, VARIOUS NEWS REPORTS AND OTHER PUBLIC SPEECHES BY
15 PUBLIC OFFICIALS.
16 **Q.** THANK YOU, DR. BURCH.
17 I'D JUST LIKE TO PAUSE THERE UNTIL WE FIX THE ISSUES.
18 **THE COURT:** DO YOU THINK SHE'S GOT A COPY OF HER
19 REPORT THAT SHE COULD LOOK AT WHILE YOU EXAMINE HER? BECAUSE I
20 HAVE HER REPORT HERE, I CAN FOLLOW ALONG.
21 **MR. CHAKRABORTY:** WE DO. AND I BELIEVE DR. BURCH
22 DOES, BUT WE WERE GOING TO BRING UP A DEMONSTRATIVE.
23 **THE COURT:** OH. HERE HE COMES. HELP IS ON THE WAY,
24 DR. BURCH. GIVE US A MINUTE.
25 **MS. MCKNIGHT:** COUNSEL AND YOUR HONOR, WE'RE GOING TO

01:52 1 LOG INTO ZOOM AT THE SAME TIME TO TRY TO AVOID DUPLICATION OR A
2 DELAY LATER ON, JUST SO YOU KNOW.
3 **THE COURT REPORTER:** I HAVE NO IDEA WHAT YOU ARE
4 SAYING.
5 **MS. MCKNIGHT:** WE ARE GOING TO TRY TO LOG INTO ZOOM
6 AT THE SAME TIME TO AVOID A DELAY LATER ON. THANK YOU.
7 **THE WITNESS:** ALL RIGHT. I'VE GOT IT.
8 **BY MR. CHAKRABORTY:**
9 **Q.** THANK YOU FOR YOUR PATIENCE, DR. BURCH.
10 SO I'D LIKE TO JUMP BACK RIGHT INTO IT, AND I KNOW
11 YOU WERE JUST TALKING A MINUTE AGO ABOUT THE SENATE FACTORS
12 THAT YOU EXAMINED. ARE THOSE FACTORS DISPLAYED BEFORE YOU ON
13 THE SCREEN?
14 **A.** YES, THEY ARE.
15 **Q.** AND JUST AS A REMINDER TO THE COURT AND EVERYBODY HERE,
16 WHICH FACTORS WERE THOSE?
17 **A.** SO I REVIEWED SENATE FACTOR 5, THE EXTENT TO WHICH MEMBERS
18 OF THE MINORITY GROUP ARE SUFFERING FROM THE EFFECT OF
19 DISCRIMINATION IN AREAS SUCH AS SOCIOECONOMIC STATUS AND HEALTH
20 THAT AFFECT PARTICIPATION; SENATE FACTOR 6, RACIAL APPEALS IN
21 POLITICAL CAMPAIGNS; FACTOR 7, WHICH IS MINORITY-GROUP
22 REPRESENTATION IN PUBLIC OFFICE; FACTOR 8, WHICH IS ABOUT
23 WHETHER THERE'S A LACK OF RESPONSIVENESS OF ELECTED OFFICIALS
24 TO THE PARTICULARIZED NEEDS TO THE GROUP; AND FACTOR 9, WHICH
25 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 1 OVER TIME IN TERMS OF THE STUDENTS' SCORES ON THESE
2 STANDARDIZED ACHIEVEMENT TESTS, AND THAT GAP IS PRETTY
3 PERSISTENT AND CONSISTENT OVER TIME.
4 **Q.** AND WHAT'S DISPLAYED ON THE RIGHT HERE?
5 **A.** AND SO ON THE RIGHT, AS YOU CAN SEE HERE, THIS IS JUST
6 PART OF ONE OF THE CHARTS THAT I HAVE THAT SHOWS EDUCATIONAL
7 ATTAINMENT BY RACE FOR ADULTS AGE 25 AND OLDER. AND WHITE
8 LOUISIANIANS ARE MUCH MORE LIKELY TO HAVE EARNED A BACHELOR'S
9 DEGREE OR HIGHER THAN BLACK LOUISIANIANS.
10 **Q.** THANK YOU, DR. BURCH.
11 BASED ON THESE SELECTED EXAMPLES AND OTHERS CITED IN
12 YOUR REPORT, WHAT WERE YOUR CONCLUSIONS ABOUT THE EXISTENCE AND
13 EXTENT OF EDUCATIONAL DISPARITIES THAT EXIST IN LOUISIANA
14 BETWEEN BLACK AND WHITE POPULATIONS?
15 **A.** YES. SO I CONCLUDED THAT THERE WERE STILL GREAT
16 DISPARITIES IN EDUCATION AND EDUCATIONAL ATTAINMENT BETWEEN
17 BLACK AND WHITE LOUISIANIANS, NOT JUST RELATED TO THESE FACTORS
18 THAT I STATED HERE, BUT ALSO WITH RESPECT TO PERSISTENT
19 SEGREGATION IN EDUCATION AS WELL. AND THOSE FACTORS -- THOSE
20 DISPARITIES ARE DRIVEN BY BOTH HISTORICAL AND CONTEMPORARY
21 DISCRIMINATION IN THE EDUCATIONAL SYSTEM.
22 **Q.** THANK YOU.
23 **MR. CHAKRABORTY:** NEXT SLIDE PLEASE, MATTHEW.
24 **BY MR. CHAKRABORTY:**
25 **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 1 LOUISIANIANS HAVE WORSE HEALTH OUTCOMES OVERALL THAN WHITE
2 LOUISIANIANS?
3 **A.** YES.
4 **MR. CHAKRABORTY:** NEXT SLIDE.
5 **BY MR. CHAKRABORTY:**
6 **Q.** DR. BURCH, WHAT DOES THIS SLIDE DISPLAY INFORMATION
7 REGARDING?
8 **A.** SO THIS SLIDE DISCUSSES DISPARITIES WITH RESPECT TO THE
9 CRIMINAL JUSTICE SYSTEM IN LOUISIANA. AND AS YOU CAN SEE FROM
10 THE GRAPH ON THE LEFT, BLACK LOUISIANIANS REMEMBER ABOUT --
11 ABOUT A THIRD OF LOUISIANA'S OVERALL POPULATION BUT ARE
12 OVERREPRESENTED AMONG PRISONS, PROBATION AND PAROLE
13 POPULATIONS. IN FACT, BLACK REPRESENTATION IN LOUISIANA'S
14 PRISON AND PAROLE POPULATION IS DOUBLE THAN REPRESENTATION IN
15 THE OVERALL POPULATION.
16 **Q.** AND SO WHAT ARE YOUR CONCLUSIONS ABOUT THE KINDS OF
17 DISPARITIES THAT EXIST BETWEEN BLACK AND WHITE LOUISIANIANS IN
18 THE REALM OF CRIMINAL JUSTICE?
19 **A.** THAT THERE ARE DRAMATIC DISPARITIES IN INVOLVEMENT WITH
20 THE CRIMINAL JUSTICE SYSTEM BETWEEN BLACK AND WHITE
21 LOUISIANIANS, WITH BLACK LOUISIANIANS BEING MUCH WORSE OFF.
22 AND THESE FACTORS, THESE DISPARITIES CAN'T BE EXPLAINED BY JUST
23 CRIME RATES ALONE AND, IN FACT, ARE RELATED TO -- STUDIES HAVE
24 SHOWN THAT THERE ARE BOTH HISTORICAL AND CONTEMPORARY
25 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 1 VOTER BEHAVIOR?
2 **A.** YES. RACIAL APPEALS, BOTH IMPLICIT AND EXPLICIT, HAVE
3 BEEN SHOWN TO BOTH HEIGHTEN THE WAY THAT VOTERS PAY ATTENTION
4 TO OR THINK ABOUT RACE AND CAN ALSO AFFECT HOW VOTERS THINK
5 ABOUT CANDIDATES AND MAKE EVALUATIONS.
6 **Q.** DID YOU EXAMINE RACIAL APPEALS IN LOUISIANA?
7 **A.** YES. I LOOKED AT THE RECENT STATEWIDE CAMPAIGN AND
8 SPECIFICALLY AT THE 2019 GUBERNATORIAL ELECTIONS.
9 **Q.** AND WHAT DID YOU CONCLUDE ABOUT THIS RACE?
10 **A.** I FOUND EVIDENCE OF SEVERAL OF -- SORRY. I'M GETTING
11 FEEDBACK. I FOUND EVIDENCE OF SEVERAL CAMPAIGN ADS THAT --
12 AND STATEMENTS THAT COULD BE CHARACTERIZED AS RACIAL APPEALS.
13 **Q.** CAN YOU LEAD US THROUGH SOME OF THOSE EXAMPLES?
14 **A.** YES. SO A PROMINENT ONE -- I HAVE STILLS TAKEN HERE FROM
15 A CAMPAIGN AD THAT WAS RUN BY THE EDDIE RISPONE FOR GOVERNOR
16 CAMPAIGN, AND IN IT THERE ARE SEVERAL ASPECTS THAT CALIENDO AND
17 MCLLWAIN SAY CHARACTERIZE RACIAL APPEALS.
18 SO, FOR INSTANCE, YOU HAVE THERE IN THE MIDDLE
19 PICTURE MUGSHOTS OF BLACK -- (UNINTELLIGIBLE DUE TO TECHNICAL
20 DIFFICULTIES) THAT ACTIVATE A PARTICULAR STEREOTYPE, SUCH AS
21 BLACK CRIMINALITY. YOU HAVE IMAGES OF THE CANDIDATE WITH ALL
22 WHITE CONSTITUENTS, AND ALSO YOU HAVE THE USE OF LANGUAGE SUCH
23 AS "SANCTUARY CITY" AND "CRIME" THAT HAVE BEEN SHOWN IN
24 PARTICULAR TO CRIME, RACIAL ATTITUDE AMONG VOTERS.
25 **Q.** THANK YOU, DR. BURCH.

02:12 1 WHAT WERE YOUR CONCLUSIONS ABOUT THE EXISTENCE OF
2 RACIAL APPEALS AS THEY EXIST IN LOUISIANA?
3 **A.** BASED ON THE SEVERAL EXAMPLES THAT I FOUND FROM THAT VERY
4 RECENT CAMPAIGN, THAT RACIAL APPEALS ARE -- THAT THERE ARE
5 STILL RACIAL APPEALS THAT CHARACTERIZE LOUISIANA POLITICAL
6 CAMPAIGNS.
7 **Q.** THANK YOU.
8 **MR. CHAKRABORTY:** NEXT SLIDE, MATTHEW.
9 **BY MR. CHAKRABORTY:**
10 **Q.** I'D LIKE TO ASK YOU ABOUT YOUR EXAMINATION OF SENATE
11 FACTOR 7, WHICH IS THE EXTENT TO WHICH BLACK LOUISIANIANS HAVE
12 BEEN ELECTED TO PUBLIC OFFICE. WHICH ELECTED OFFICES DID YOU
13 EVALUATE IN REACHING YOUR CONCLUSIONS?
14 **A.** I EVALUATED SEVERAL OFFICES, AS WELL AS OFFICES AT THE
15 STATE AND LOCAL LEVELS AS WELL.
16 **Q.** LET'S START AT THE FEDERAL LEVEL. WHAT DID YOU FIND WITH
17 RESPECT TO FEDERAL POSITIONS AND BLACK REPRESENTATION IN THOSE?
18 **A.** AS SHOWN UP HERE, I FOUND THAT THERE HAVE BEEN -- SINCE
19 RECONSTRUCTION, NO BLACK SENATORS AND ONLY FOUR BLACK
20 LOUISIANIANS ELECTED TO CONGRESS AT THE FEDERAL LEVEL.
21 **Q.** AND WHAT ABOUT STATE AND MUNICIPAL POSITIONS?
22 **A.** SIMILARLY, THERE HAVE BEEN NO BLACK GOVERNORS OR
23 LIEUTENANT GOVERNORS IN LOUISIANA. AND WITH RESPECT TO THE
24 STATE LEGISLATURE CURRENTLY, ABOUT A QUARTER OF STATE
25 LEGISLATIVE SEATS ARE HELD BY BLACK MEMBERS. LOUISIANA MAYORS

02:14 1 ARE LESS THAN A QUARTER OF ALL BLACK -- BLACK MAYORS ARE LESS
2 THAN A QUARTER OF ALL LOUISIANA MAYORS. STATE COURT JUDGES ARE
3 ABOUT 20.1 PERCENT OF ALL STATE COURT JUDGES. AND A QUARTER OF
4 THE ELECTED BESE BOARD MEMBERS ARE BLACK AS WELL.
5 **Q.** THANK YOU.
6 WHAT WERE YOUR CONCLUSIONS FROM YOUR ANALYSIS OF THIS
7 FACTOR OF THE EXTENT OF THE REPRESENTATION OF BLACK
8 LOUISIANIANS IN PUBLIC OFFICE?
9 **A.** GIVEN THE FACT THAT BLACK LOUISIANIANS ARE ABOUT A THIRD
10 OF THE POPULATION, AND IN EACH OF THOSE OFFICES IT'S LESS THAN
11 -- NO -- OR NONE OF THE OFFICES THAT I EXAMINED DID BLACK --
12 REPRESENTATION OF BLACK LOUISIANIANS REACH A THIRD OF THAT --
13 THAT BODY OR THAT GROUP.
14 **Q.** THANK YOU.
15 **MR. CHAKRABORTY:** NEXT SLIDE, PLEASE.
16 **BY MR. CHAKRABORTY:**
17 **Q.** DR. BURCH, DID YOU LOOK AT THE RESPONSIVENESS OF ELECTED
18 OFFICIALS TO THE NEEDS OF BLACK LOUISIANIANS?
19 **A.** I DID.
20 **Q.** AND WHICH SOURCES OF EVIDENCE DID YOU LOOK TO AS PART OF
21 THAT ANALYSIS?
22 **A.** I LOOKED AT MY EXAMINATION OF -- THAT I CONDUCTED FOR
23 SENATE FACTOR 5, AS WELL AS REALLY THE VOICES OF BLACK
24 LOUISIANIANS THEMSELVES AS REPRESENTED IN THE ROADSHOWS.
25 **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 1 SPECIAL SESSION SGA COMMITTEE TRANSCRIPT DATED FEBRUARY 2,
2 2022.
3 **MS. MCKNIGHT:** WE ARE GOING TO PULL UP PR-52 AT PAGE
4 7.
5 **BY MS. MCKNIGHT:**
6 **Q.** AND NOW, DR. BURCH, I'M LOOKING AT LINES 9 THROUGH 16.
7 **A.** UH-HUH.
8 **Q.** AND I'LL OFFER FOR YOU THAT THE SPEAKER DURING THIS
9 HEARING IS PRESIDENT OF THE SENATE, PAGE CORTEZ, AND HERE HE
10 STATES:
11 "THE THIRD TENET OR PRINCIPLE WAS AS BEST POSSIBLE TO
12 MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT DO I MEAN BY
13 THAT? IT MEANS THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE
14 DONE A GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU.
15 CONVERSELY, YOU DON'T GET TO CHOOSE WHO YOUR POPULATION IS,
16 THEY CHOOSE YOU. IF YOU DIDN'T DO A GOOD JOB, THEY HAVE THE
17 RIGHT TO UNELECT YOU."
18 DO YOU SEE THAT?
19 **A.** I DO.
20 **Q.** AND DOES THAT REFRESH YOUR RECOLLECTION ABOUT WHETHER THE
21 LEGISLATURE IDENTIFIED CONTINUITY OF REPRESENTATION ON THE
22 FIRST DAY OF THE LEGISLATIVE SESSION ON REDISTRICTING?
23 **A.** YES. I SAID I COULD RECALL THAT. BUT, AGAIN, AS YOU SEE
24 HERE IN THE QUOTATION YOU CITED, IT'S NOT THE TOP PRIORITY,
25 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 1 DEBATE DATED FEBRUARY 8, 2022. AND, AGAIN, THIS IS A SENATE
2 FULL FLOOR DEBATE, AND I'M LOOKING AT LINE 16 THROUGH THE NEXT
3 PAGE ON LINE 4. BUT WE CAN JUST START ON PAGE -- SORRY -- ON
4 PAGE 88 AT LINE 16.
5 AND SO HERE -- I'LL JUST READ THE FIRST FEW LINES.
6 "THE NEXT PRINCIPLE, PRESERVE THE CORE OF THE PRIOR
7 DISTRICTS TO ENSURE CONTINUITY OF REPRESENTATION. YOU KNOW, WE
8 HEARD MANY TIMES ON THE ROADSHOW AND THE PRESIDENT SPOKE TO
9 THIS A LITTLE BIT EARLIER ON THE BILL" -- AND THEN IT GOES ON
10 TO REITERATE POINTS ABOUT VOTERS BEING ABLE TO VOTE IN OR OUT
11 THEIR ELECTED OFFICIALS.
12 DO YOU SEE THAT, DR. BURCH?
13 **A.** I DO.
14 **Q.** OKAY. AND WOULD IT SURPRISE YOU TO KNOW THAT THE PHRASE
15 "CONTINUITY" APPEARS MORE THAN 35 TIMES IN 13 DAYS OF
16 TRANSCRIPTS IN THIS CASE?
17 **A.** NO.
18 **Q.** OKAY. SO IN REVIEWING THESE HEARING TRANSCRIPTS THAT ARE
19 DATED FEBRUARY 2, FEBRUARY 3, FEBRUARY 8, AND THAT YOU ARE NOT
20 SURPRISED THAT "CONTINUITY" WAS REFERENCED MORE THAN 35 TIMES
21 IN 13 DAYS OF LEGISLATIVE TRANSCRIPTS, DOES THAT REFRESH YOUR
22 RECOLLECTION ABOUT THE FACT THAT THE LEGISLATURE REPEATEDLY
23 DESCRIBED THE PLAN AS A CONTINUITY OF REPRESENTATION PLAN?
24 **A.** AGAIN, IT'S NOT -- I NEVER SAID THAT I DIDN'T RECALL THAT
25 THEY TALK ABOUT CONTINUITY OF REPRESENTATION. WHAT I SAID IS

02:49 1 THAT THAT PRIORITY SHIFTED ACROSS TIME. EVEN THOSE QUOTES --
2 THE LAST QUOTATION YOU SHOWED ME, IT BEGAN WITH "THE NEXT," AS
3 IF THAT WASN'T THE FIRST THING THEY TALKED ABOUT. AND AS I
4 SAID HERE, BY THE TIME WE GET TO THE END, THAT TRADITIONAL
5 REDISTRICTING PRINCIPLES ASPECT WAS WHAT -- WHAT THEY ARRIVED
6 ON IS THE LAST -- IS THE TOP PRIORITY. BUT THAT WAS ONLY AFTER
7 ALL OF THE OTHER ONES, SUCH AS COMPACTNESS. AND EVEN EXAMPLES
8 THAT I GAVE ON DIRECT, THE ABSOLUTE DEVIATION WAS AGAIN
9 SUPPLANTED BY -- OR PLANS THAT HAD TWO MAJORITY-MINORITY
10 DISTRICTS ACTUALLY PERFORMED BETTER ON THOSE METRICS.
11 SO I STAND BY WHAT I WROTE IN MY REPORT: THAT,
12 AGAIN, THAT -- THOSE PRIORITIES SHIFTED, AND BY THE END, THAT
13 HAD BECOME -- AS THOSE QUOTATIONS YOU SHOWED ME, THOSE WERE --
14 EARLY ON THEY WERE TALKING ABOUT OTHER PRINCIPLES BEFORE THEY
15 ACTUALLY GOT TO CONTINUITY OF REPRESENTATION.
16 **Q.** I SEE. AND EVEN IF IT WAS A THIRD PRINCIPLE ON THE VERY
17 FIRST DAY OF THE REDISTRICTING SESSION, YOU DID NOT EXAMINE
18 CONTINUITY OF REPRESENTATION AND WHETHER THE LEGISLATURE
19 FULFILLED THEIR GOAL OF CONTINUITY OF REPRESENTATION. CORRECT?
20 **A.** I LOOKED AT BOTH THE PLAN THAT WAS THERE AS WELL AS THE
21 OLD PLAN. AND, OF COURSE, THE BOUNDARIES HAD TO CHANGE A
22 LITTLE BIT. BUT AS FAR AS WHETHER THEY GOT AS CLOSE AS
23 POSSIBLE TO THE OLD BOUNDARIES, NO, I DIDN'T LOOK AT THAT. AND
24 I DON'T BELIEVE THERE WAS ANY DISCUSSION AS FAR AS WHETHER THAT
25 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 1 JUST MADE TO THE LEGISLATURE DESCRIBING CONTINUITY OF
2 REPRESENTATION AS A GOAL, THOSE ARE IN THE RECORD. CORRECT?
3 **A.** YES. IN THE WAY THAT I DESCRIBED.
4 **Q.** AND I'M GOING TO SHARE A FACT WITH YOU. TELL ME IF YOU
5 AGREE OR DISAGREE OR HAVE KNOWLEDGE ABOUT IT. THE PRIOR PLAN
6 DRAWN IN 2011 WAS PRE-CLEARED BY PRESIDENT OBAMA'S DEPARTMENT
7 OF JUSTICE. CORRECT?
8 **A.** THAT WAS IN THE RECORD.
9 **Q.** SO YOU WOULD AGREE WITH ME THAT THAT'S A FACT?
10 **A.** YES.
11 **Q.** NOW, IN THIS CASE YOU DID NOT STUDY WHETHER THE SO-CALLED
12 "TENUOUSNESS" WAS DUE TO POLITICAL AS OPPOSED TO RACIAL
13 CHOICES. CORRECT?
14 **A.** THE ONLY REFERENCES THAT I HAVE IN THIS SECTION WITH
15 RESPECT TO RACE ARE I DO HAVE A DISCUSSION ABOUT THE EXTENT TO
16 WHICH THERE WAS RESISTANCE TO DRAWING ON TWO MAJORITY-MINORITY
17 DISTRICTS; AND ALSO I REFERENCE RACE WHEN I TALK ABOUT
18 ASSERTIONS THAT THE SENATORS AND MEMBERS OF THE HOUSE MADE WITH
19 RESPECT TO WHAT THEY THOUGHT ABOUT MINORITY VOTING OR THE
20 PERFORMANCE OF MINORITY ISSUES.
21 **Q.** OKAY. SO I THINK YOU ANSWERED A DIFFERENT QUESTION AND SO
22 PARDON ME FOR REPEATING. I BELIEVE IT IS JUST A YES-OR-NO
23 QUESTION. YOU DID NOT STUDY WHETHER THE SO-CALLED
24 "TENUOUSNESS" THAT YOU FOUND WAS DUE TO POLITICAL AS OPPOSED TO
25 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 1 **REDIRECT EXAMINATION**
2 **BY MR. CHAKRABORTY:**
3 **Q.** DR. BURCH, JUST A COUPLE OF BRIEF QUESTIONS.
4 **MR. CHAKRABORTY:** CAN WE PULL UP PR-52, MATTHEW, AND
5 CAN WE PLEASE TURN TO PAGE 7.
6 **BY MR. CHAKRABORTY:**
7 **Q.** DR. BURCH, THAT MIDDLE AREA THERE, "THE THIRD TENET OR
8 PRINCIPLE," DO YOU RECOGNIZE THAT AS THE PORTION THAT MS.
9 MCKNIGHT WAS REFERENCING EARLIER WITH YOU?
10 **A.** YES.
11 **Q.** GREAT. THANK YOU.
12 **MR. CHAKRABORTY:** CAN WE PLEASE TURN TO PAGE 5.
13 **BY MR. CHAKRABORTY:**
14 **Q.** AND DO YOU SEE, DR. BURCH, AT THE VERY TOP OF THIS PAGE
15 WHERE IT READS "LET'S START WITH SENATE BILL 1 OFFERED BY
16 PRESIDENT CORTEZ"?
17 **A.** I DO.
18 **Q.** AND THEN YOU SEE PRESIDENT CORTEZ, THE SENATE PRESIDENT,
19 START HIS REMARKS THAT ULTIMATELY LEAD ONTO THE PORTIONS THAT
20 MS. MCKNIGHT READ OUT TO YOU?
21 **A.** YES, I DO.
22 **Q.** AND DO YOU HAVE ANY REASON TO DOUBT THAT SENATE BILL 1
23 ACTUALLY DEALS WITH STATE LEGISLATIVE REDISTRICTING?
24 **A.** WELL, YES. NOT SB5.
25 **Q.** RIGHT. IT DOES NOT GO WITH CONGRESSIONAL REDISTRICTING,

02:59 1 SUCH AS HB1 AND SB5?
2 **A.** THAT'S RIGHT.
3 **Q.** AND DID ANYTHING YOU COVER, ANY OF THE EXAMPLES YOU
4 COVERED WITH MS. KNIGHT, DID ANY OF THOSE CHANGE YOUR BASIC
5 CONCLUSION ON SENATE FACTOR 9 THAT THE JUSTIFICATIONS PUT
6 FORWARD BY THE LEGISLATORS WERE TENUOUS?
7 **A.** NO. NOTHING THAT I PUT FORWARD HERE CHANGES WHAT I WROTE.
8 **Q.** THANK YOU. NO FURTHER QUESTIONS.
9 **THE COURT:** OKAY. THANK YOU, DR. BURCH.
10 LET'S TAKE A 15-MINUTE RECESS.
11 **THE LAW CLERK:** ALL RISE.
12 COURT IS NOW IN RECESS.
13 **(WHEREUPON, THE COURT WAS IN RECESS.)**
14 **THE COURT:** BE SEATED.
15 NEXT WITNESS.
16 **MR. HAWLEY:** GOOD AFTERNOON, YOUR HONOR.
17 MAKING MY FIRST APPEARANCE, I'M JONATHAN HAWLEY.
18 H-A-W-L-E-Y. I REPRESENT THE GALMON PLAINTIFFS. AND
19 PLAINTIFFS NEXT CALL DR. ALLAN LICHTMAN, WHO WILL BE JOINING US
20 VIA ZOOM.
21 **MR. HAWLEY:** GOOD AFTERNOON, DR. LICHTMAN.
22 **THE WITNESS:** GOOD AFTERNOON.
23 **ALLAN J. LICHTMAN, PH.D.,**
24 **HAVING BEEN DULY SWORN, TESTIFIED VIA VIDEOCONFERENCE AS**
25 **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 1 **Q.** WE ARE OKAY ON OUR END, DR. LICHTMAN. CAN YOU HEAR ME?
2 **THE COURT:** MR. HAWLEY, WOULD YOU LIKE TO TURN THE
3 PODIUM?
4 **MR. HAWLEY:** NO. AS LONG AS --
5 **BY MR. HAWLEY:**
6 **Q.** CAN YOU STILL HEAR ME OKAY, DR. LICHTMAN?
7 **A.** I HEAR YOU FINE NOW.
8 **THE COURT:** OKAY, DR. LICHTMAN.
9 **THE WITNESS:** I'M STILL GETTING AN ECHO. MAYBE IF I
10 TURN MY COMPUTER --
11 **THE COURT:** TURN YOURS DOWN MAYBE.
12 **THE WITNESS:** -- VOLUME DOWN A LITTLE, THAT MIGHT
13 HELP AND MAYBE I CAN STILL HEAR YOU. LET ME TRY.
14 ALL RIGHT. LET'S TRY IT NOW.
15 **BY MR. HAWLEY:**
16 **Q.** OKAY, DR. LICHTMAN. HOW ABOUT NOW?
17 **A.** MUCH BETTER.
18 **Q.** OKAY. THANK YOU.
19 DR. LICHTMAN, YOU'VE BEEN RETAINED AS AN EXPERT FOR
20 THE GALMON PLAINTIFFS. IS THAT CORRECT?
21 **A.** YES.
22 **Q.** AND YOU PREPARED --
23 **A.** YES.
24 **Q.** THANK YOU.
25 AND YOU PREPARED A REPORT IN THIS CASE?

03:26 1 **A.** YES.
2 **MR. HAWLEY:** FOR THE RECORD, THAT IS EXHIBIT GX-03,
3 WHICH IS RECORD DOCKET NO. 48.
4 **BY MR. HAWLEY:**
5 **Q.** DR. LICHTMAN, DO YOU HAVE A COPY OF YOUR INITIAL REPORT IN
6 FRONT OF YOU NOW?
7 **A.** I DO.
8 **Q.** AND YOU ALSO PREPARED A REBUTTAL REPORT IN THIS CASE.
9 CORRECT?
10 **A.** CORRECT.
11 **MR. HAWLEY:** AND FOR THE RECORD, THAT IS EXHIBIT
12 GX-31, RECORD DOCUMENT 120-4.
13 **BY MR. HAWLEY:**
14 **Q.** DR. LICHTMAN, DO YOU HAVE A COPY OF YOUR REBUTTAL REPORT
15 WITH YOU AS WELL?
16 **A.** YES.
17 **Q.** AND, DR. LICHTMAN, IS YOUR C.V. INCLUDED IN YOUR REPORT?
18 **A.** YES.
19 **MR. HAWLEY:** AND I'LL ALSO SAY FOR THE RECORD THAT IS
20 PAGE 99 OF GX-3, AGAIN, RECORD DOCUMENT 48.
21 **BY MR. HAWLEY:**
22 **Q.** DR. LICHTMAN, IS YOUR C.V. A COMPLETE AND ACCURATE SUMMARY
23 OF YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE?
24 **A.** YES.
25 **Q.** I'D LIKE TO ASK YOU JUST A FEW BRIEF QUESTIONS ABOUT THAT.

03:27 1 COULD YOU PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.
2 **A.** I GRADUATED IN 1967 WITH A B.A. FROM BRANDEIS UNIVERSITY
3 IN HISTORY, BUT I HAD BEEN A SCIENCE MAJOR FOR THREE YEARS
4 BEFORE TURNING TO HISTORY MY SENIOR YEAR, WHICH MAY EXPLAIN MY
5 INTEREST IN SOCIAL SCIENCE AND QUANTITATIVE METHODOLOGY. I
6 THEN GOT MY PH.D. FROM HARVARD UNIVERSITY IN 1973 WITH A
7 SPECIALTY IN AMERICAN POLITICAL HISTORY AND QUANTITATIVE
8 METHODS.
9 **Q.** WHERE ARE YOU CURRENTLY EMPLOYED?
10 **A.** I WAS EMPLOYED AT THE AMERICAN UNIVERSITY IN WASHINGTON,
11 D.C.. AND I'M NOT SURE IF I'M PLEASED OR EMBARRASSED TO SAY,
12 NEXT YEAR WILL BE MY 50TH YEAR OF SERVICE.
13 **Q.** AND I ASSUME THAT MEANS YOU'RE TENURED?
14 **A.** I HAVE BEEN TENURED SINCE ABOUT 1980. IN 2011 I WAS
15 APPOINTED DISTINGUISHED PROFESSOR. THAT'S NOT SOMETHING I MADE
16 UP. IT'S A UNIVERSITY RANK. IT'S A RANK ABOVE FULL PROFESSOR.
17 THERE ARE ONLY A HANDFUL OF US OUT OF MANY HUNDREDS OF FACULTY
18 MEMBERS AT THE UNIVERSITY.
19 **Q.** AND WHAT ARE YOUR PRINCIPAL AREAS OF RESEARCH?
20 **A.** I WOULD SAY AMERICAN POLITICS, AMERICAN POLITICAL HISTORY,
21 VOTING RIGHTS, QUANTITATIVE METHODS, QUALITATIVE METHODS,
22 POLITICAL PREDICTION.
23 **Q.** HAVE YOU PREVIOUSLY SERVED AS AN EXPERT WITNESS IN VOTING
24 RIGHTS CASES?
25 **A.** PROBABLY CLOSE TO A HUNDRED. AND IF YOU COUNT CIVIL

03:29 1 RIGHTS CASES IN GENERAL, NORTH OF 110.
2 **Q.** AND DO THOSE INCLUDE REDISTRICTING CASES?
3 **A.** YES.
4 **Q.** HAVE YOU SERVED AS AN EXPERT IN REDISTRICTING CASES IN
5 LOUISIANA?
6 **A.** YES.
7 **Q.** AND DOES THAT INCLUDE THE *TERREBONNE PARISH* LITIGATION?
8 **A.** YES.
9 **Q.** IN THAT CASE DID YOU UNDERTAKE A SENATE FACTORS ANALYSIS.
10 **A.** I DID.
11 **Q.** AND DID THE COURT IN THAT CASE CREDIT YOUR SENATE FACTORS
12 ANALYSIS?
13 **A.** IT DID.
14 **Q.** AND HAVE OTHER COURTS PREVIOUSLY CREDITED AND RELIED ON
15 YOUR ANALYSIS?
16 **A.** NOT EVERY TIME, OF COURSE, WHEN YOU'VE BEEN IN OVER 110
17 CASES, BUT MOST OF THE TIME, INCLUDING THE UNITED STATES
18 SUPREME COURT IN ITS LANDMARK 2016 DECISION IN THE TEXAS
19 CONGRESSIONAL REDISTRICTING CASE *LULAC VERSUS PERRY*. THE COURT
20 RELIED ON MY WORK, MY ANALYSIS IN DOING SOMETHING QUITE
21 UNUSUAL; AND THAT IS, IT INVALIDATED A DISTRICT, A
22 CONGRESSIONAL DISTRICT, IN SOUTHWEST TEXAS BASED ON MY WORK, ON
23 THE GROUNDS THAT IT DILUTED THE VOTES OF HISPANICS.
24 **Q.** DR. LICHTMAN, WHAT WERE YOU ASKED TO DO IN THIS CASE?
25 **A.** I WAS ASKED TO EXAMINE THE NINE SENATE FACTORS THAT RELATE

03:30 1 TO THE TOTALITY OF CIRCUMSTANCES IN THE STATE OF LOUISIANA
2 FACING THE OPPORTUNITIES FOR AFRICAN-AMERICAN VOTERS TO
3 PARTICIPATE FULLY IN THE POLITICAL PROCESS AND TO ELECT
4 CANDIDATES OF THEIR CHOICE. AND I WAS ALSO ASKED TO RESPOND TO
5 ANY MATERIAL PRESENTED BY DEFENDANTS.
6 **Q.** AND WHAT METHODOLOGY DID YOU EMPLOY AS PART OF THAT
7 ANALYSIS?
8 **A.** I EMPLOYED STANDARD METHODOLOGIES IN MY FIELDS OF RESEARCH
9 OVER ALL THESE MANY DECADES. I ANALYZE SOURCES LIKE SURVEYS,
10 SCHOLARLY ARTICLES, BOOKS, JOURNALISTIC ARTICLES, GOVERNMENTAL
11 REPORTS, DEMOGRAPHIC INFORMATION, ELECTIONS RETURNS AND SIMILAR
12 DATA TO REACH MY CONCLUSIONS, AND I APPLIED QUANTITATIVE
13 METHODS. IN THIS CASE MOSTLY FAIRLY SIMPLE QUANTITATIVE
14 METHODS; FOR EXAMPLE, JUST LOOKING AT THE PERCENTAGE
15 DIFFERENCES TO GAUGE RACIALLY POLARIZED VOTING IN LOUISIANA OR
16 JUST LOOKING AT PERCENTAGE AND NUMERICAL DIFFERENCES TO GAUGE
17 SOCIOECONOMIC DISPARITIES BETWEEN AFRICAN AMERICANS AND WHITES
18 IN LOUISIANA.
19 AND THEN, OF COURSE, LIKE ANY HISTORIAN, I ANALYZED
20 DOCUMENTARY MATERIALS. I'VE WRITTEN A BOOK ON HISTORICAL
21 METHODOLOGIES.
22 **Q.** AND WHAT ARE YOUR OVERALL CONCLUSIONS?
23 **A.** MY OVERALL CONCLUSIONS ARE THAT ESSENTIALLY ALL OF THE
24 NINE SENATE FACTORS APPLY IN THE STATE OF LOUISIANA
25 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 1 DOES THE STATE OF LOUISIANA HAVE A HISTORY OF VOTING
2 DISCRIMINATION AGAINST ITS BLACK CITIZENS?
3 **A.** IT NOT ONLY HAS A HISTORY, IT HAS AN ONGOING HISTORY. AND
4 THAT HISTORY RELATES NOT JUST TO DIRECT VOTER DISCRIMINATION --
5 FOR EXAMPLE, THE USE OF AT-LARGE ELECTIONS OR THE AVAILABILITY
6 OF POLLING PLACES FOR AFRICAN AMERICANS -- BUT IT ALSO RELATES
7 RIGHT UP TO THE PRESENT OF DISCRIMINATION IN THREE AREAS THAT
8 SIGNIFICANTLY TOUCH UPON AND IMPACT VOTING; THAT IS, LAW
9 ENFORCEMENT. DISCRIMINATION IN LAW ENFORCEMENT SIGNIFICANTLY
10 IMPACTS VOTING, FOR A COUPLE OF REASONS. NO. 1, LOUISIANA HAS
11 SOME PRETTY STRICT FELON DISENFRANCHISEMENT LAWS: YOU CAN'T
12 VOTE WHILE YOU'RE INCARCERATED; YOU CAN'T VOTE FOR FIVE YEARS
13 WHILE YOU'RE ON PAROLE OR PROBATION; AND THERE'S NO AUTOMATIC
14 RESTORATION OF YOUR VOTING RIGHTS AFTER FIVE YEARS. YOU HAVE
15 TO GO THROUGH A PROCESS.
16 SECONDLY, AS I POINT OUT IN MY REPORT, ONCE YOU'VE
17 BEEN INCARCERATED, YOUR INTEGRATION INTO A FULLY FUNCTIONING
18 MEMBER OF SOCIETY, INCLUDING A VOTING MEMBER AND POLITICAL
19 PARTICIPATION, BECOMES ALL THAT MUCH MORE DIFFICULT.
20 THE SECOND AREA WOULD BE THE AREA OF EDUCATION. AND
21 ALL THE SCHOLARLY RESEARCH INDICATES EDUCATION IS A PRIME
22 DETERMINATE OF POLITICAL PARTICIPATION. AND, OF COURSE, LEVELS
23 AND PROFICIENCY IN EDUCATION AFFECT ALMOST EVERYTHING IN THE
24 COURSE OF THE LIFE CYCLE. A DEFICIENT EDUCATION IN
25 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 1 LEVEL, AT THE LEVEL OF THE ACTUAL RESULTS OF ELECTIONS.
2 **Q.** ULTIMATELY, DR. LICHTMAN, AS BETWEEN RACE AND PARTY, WHICH
3 DO YOU CONSIDER TO BE THE DRIVING CAUSAL MECHANISM OF
4 LOUISIANA'S POLARIZED VOTING?
5 **A.** THE DRIVING MECHANISM IS CLEARLY RACE, AS I EXPLAINED.
6 PARTY BY ITSELF DOESN'T EXPLAIN ANYTHING. AS I SAID, AT ONE
7 TIME RACIAL VOTING PATTERNS WERE REVERSED. IT IS BECAUSE OF
8 WHAT THE PARTIES REPRESENT THAT I DOCUMENT IN SO MANY WAYS
9 THAT'S DRIVING THE VOTING.
10 IN OTHER WORDS, BLACKS ARE VOTING DEMOCRATIC IN
11 LOUISIANA; WHITES ARE VOTING REPUBLICAN. AND THIS IS NOT
12 UNIQUE TO LOUISIANA, BY THE WAY. NOT IN SPITE OF RACE BUT
13 BECAUSE OF RACE. RACE IS AT THE CENTER OF ALL OF THIS.
14 I ALSO CITE A SCHOLARSHIP BY DR. GRUMBACH, EXPLAINING
15 HOW RACE IS AT THE CENTER OF REPUBLICAN POLITICAL STRATEGY THAT
16 COMES DOWN TO THE --
17 **Q.** YOU MENTIONED THAT YOU READ THE REPORTS SUBMITTED BY DR.
18 ALFORD IN THIS CASE. CORRECT?
19 **A.** CORRECT.
20 **Q.** DID ANYTHING IN DR. ALFORD'S REPORT CHANGE YOUR
21 CONCLUSIONS ABOUT RACIALLY POLARIZED VOTING IN LOUISIANA?
22 **A.** NO. IT STRENGTHENED IT. LET ME EXPLAIN. ALL OF THE
23 ANALYSES THAT DR. ALFORD PERFORMED SHOWED THE SAME THING MY
24 REPORT SHOWED: EXTREME POLARIZATION BETWEEN AFRICAN AMERICANS
25 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 1 POLAR PARTY, YOU CAN SEE VOTERS RESPONDING ON RACE. AGAIN, DR.
2 ALFORD DOES NOT CONSIDER THOSE RESULTS OR PRESENT ANY
3 COMPARABLE RESULTS OF HIS OWN.
4 **Q.** MOVING TO SENATE FACTOR 3, DR. LICHTMAN, DOES LOUISIANA
5 EMPLOY ANY VOTING PRACTICES THAT ENHANCE THE OPPORTUNITY FOR
6 DISCRIMINATION?
7 **A.** IT DOES. IT EMPLOYES ONE OF THEM THAT'S EXPLICITLY
8 LISTED UNDER SENATE FACTOR 3; AND THAT IS, THE USE OF THE
9 MAJORITY-VOTE REQUIREMENT IN SUBSEQUENT RUNOFF ELECTIONS.
10 **Q.** WHAT AFFECT DOES THE MAJORITY-VOTE REQUIREMENT HAVE ON
11 BLACK AND BLACK-PREFERRED CANDIDATES?
12 **A.** WHAT IT MEANS IS EVEN IF A BLACK CANDIDATE GETS A
13 PLURALITY IN THE FIRST ROUND AS A RESULT OF A SPLIT AMONG MORE
14 THAN ONE AMBITIOUS WHITE CANDIDATE, THAT DOES NOT ELECT THAT
15 BLACK CANDIDATE BUT, RATHER, THAT BLACK CANDIDATE HAS TO FACE
16 OFF ONE-ON-ONE AGAINST A WHITE CANDIDATE. AND CLEARLY IN --
17 STATEWIDE IN LOUISIANA WHERE WHITE VOTERS DOMINATE, IN THAT
18 KIND OF CONTEST THE AFRICAN-AMERICAN CANDIDATE HAS LITTLE
19 CHANCE OF WINNING. AND I GAVE THREE EXAMPLES OF THAT IN MY
20 REPORT.
21 **Q.** WHAT ARE THOSE THREE RECENT EXAMPLES?
22 **A.** YEAH. WE HAVE THE 2015 ELECTION FOR LIEUTENANT GOVERNOR.
23 THE BLACK CANDIDATE WON THE FIRST ROUND BY THREE PERCENTAGE
24 POINTS, SO IT WAS CLOSE BUT NOT EYELASH, AND THE CANDIDATE LOST
25 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 1 PARTICIPATION?
2 **A.** YES. AS I EXPLAINED IN MY REPORT, FIRST OF ALL, THEY --
3 AND THIS ISN'T THE ONLY ONE. BUT FIRST OF ALL -- AND THE MOST
4 OBVIOUS -- IS THAT THEY IMPACT THE PARTICIPATION RATES OF
5 BLACKS VERSUS WHITES IN TERMS OF TURNOUT. AND I PRESENT DATA
6 IN MY REPORT SHOWING DIFFERENTIALS BETWEEN BLACK AND WHITE
7 TURNOUT IN RECENT ELECTIONS IN LOUISIANA THAT COULD EXTEND INTO
8 THE DOUBLE DIGITS, AND THAT HASN'T REALLY AMELIORATED ITSELF IN
9 RECENT ELECTIONS. OTHER INFORMATION PRESENTED BY ONE OF THE
10 EXPERTS FOR DEFENDANTS BOLSTERS THAT.
11 **Q.** ARE YOU REFERRING TO THE REPORT OF DR. SOLANKY AND HIS
12 VOTER TURNOUT STATISTICS?
13 **A.** I AM. DR. SOLANKY PRESENTS TWO TABLES ON VOTER TURNOUT.
14 I THINK THEY ARE TABLES 2 AND 4 IN HIS REPORT. ONE OF THE
15 TABLES LOOKS AT STATEWIDE TURNOUT AND FINDS SUBSTANTIAL
16 DISPARITIES, LIKE I DID, BETWEEN BLACKS AND WHITES IN THEIR
17 TURNOUT RATES.
18 SIMILARLY, HE LOOKED AT EVERY CONGRESSIONAL DISTRICT,
19 ALL SIX OF THEM, AND FOUND THAT INVARIABLY IN EVERY ONE OF
20 THOSE SIX CONGRESSIONAL DISTRICTS, BLACK TURNOUT LAGGED WHITE
21 TURNOUT SOMETIMES UP INTO THE DOUBLE DIGITS.
22 **Q.** IS REDUCED POLITICAL PARTICIPATION DEMONSTRATED IN OTHER
23 WAYS?
24 **A.** YES. AS I EXPLAIN IN MY REPORTS, A LACK OF RESOURCES, A
25 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 1 **BY THE WITNESS:**
2 **A.** WOW, I ACTUALLY SEE IT.
3 **BY MR. HAWLEY:**
4 **Q.** EXCELLENT. DR. LICHTMAN, DOES THIS TABLE LOOK FAMILIAR TO
5 YOU?
6 **A.** IT DOES. IT'S RIGHT FROM THE APPENDIX OF MY REPORT.
7 **Q.** AND WHAT DOES IT SHOW?
8 **A.** IT SHOWS THAT IN CRITICAL AREAS, ACCORDING TO THE U.S.
9 NEWS, STATE RANKINGS -- THESE ARE NOT AN OUTLIER FOR YOUR OTHER
10 RANKING TO GET SIMILAR ANSWERS. IN CRITICAL AREAS ARE VERY
11 IMPORTANT TO A GROUP THAT'S VULNERABLE LIKE AFRICAN AMERICANS
12 AND HAS THE BURDEN OF VERY SIGNIFICANT SOCIOECONOMIC
13 DISPARITIES. NOT ONLY ARE THEY FACING THESE PRESENT DAY
14 DISPARITIES, BUT THEY ARE DEALING WITH A STATE THAT RANKS AT OR
15 NEAR THE BOTTOM IN CRITICAL AREAS: 45TH IN HEALTH CARE; 48TH
16 IN EDUCATION; 49TH IN ECONOMY; 50TH IN OPPORTUNITY; 48TH IN
17 INFRASTRUCTURE; 50TH IN CRIME AND CORRECTIONS; 43RD IN FISCAL
18 STABILITY; 50TH IN QUALITY OF LIFE; 50TH OVERALL. THIS SHOWS
19 THE IMPEDIMENTS FACED BY AFRICAN AMERICANS IN LOUISIANA, AND IT
20 ALSO DOCUMENTS THE PRESENT-DAY RAMIFICATIONS OF THE HISTORICAL
21 AND ONGOING DISCRIMINATION IN LOUISIANA.
22 **Q.** THANK YOU.
23 **MR. HAWLEY:** AND, MR. MARTINSON, WE CAN PULL DOWN
24 GX-3.
25 **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 1 TECHNOLOGY FAILED AND YOU BLACKED OUT.
2 **Q.** PERHAPS IT WAS ME AND NOT THE TECHNOLOGY, SO I'LL GO AHEAD
3 AND ASK IT AGAIN.
4 HAVE BLACK LOUISIANIANS HISTORICALLY BEEN ELECTED TO
5 PUBLIC OFFICE?
6 **A.** NOT HISTORICALLY, REALLY, SINCE RECONSTRUCTION AND NOT AT
7 PRESENT.
8 **Q.** IS THERE A DISPARITY BETWEEN THE BLACK SHARE OF
9 LOUISIANA'S POPULATION AND THEIR REPRESENTATION IN CONGRESS AND
10 THE STATE LEGISLATURE?
11 **A.** YES. WHEN YOU LOOK AT THE VOTING REPRESENTATION OF BLACKS
12 IN LOUISIANA, IT'S A LITTLE BIT NORTH OF 31 PERCENT, AND
13 THERE'S A WIDE DISPARITY IN TERMS OF BLACK REPRESENTATION.
14 NOW, I WANT TO BE CLEAR. I'M NOT MAKING A LEGAL CONCLUSION
15 HERE. IN FACT, THROUGHOUT MY TESTIMONY IN THE REPORT, I'M
16 NEVER MAKING LEGAL CONCLUSIONS. TO THE EXTENT I LOOK AT THINGS
17 LIKE BRIEFS OR COURT DECISIONS, SO THE SUBSTANCE, NOT TO DRAW A
18 LEGAL CONCLUSION.
19 SO I'M NOT LEGALLY SAYING AT ALL THAT ANY GROUP,
20 INCLUDING AFRICAN AMERICANS, MUST HAVE PROPORTIONAL
21 REPRESENTATION. I AM SIMPLY RESPONDING TO THE IMPACT OF THIS
22 QUERY, WHICH IS TO CONSIDER THE EXTENT TO WHICH BLACK
23 REPRESENTATIVES HAVE BEEN ELECTED TO PUBLIC OFFICE IN
24 LOUISIANA. AND THERE IS A VAST DISCREPANCY BETWEEN BLACK
25 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 1 **A.** WELL, I LOOKED AT RESPONSIVENESS IN FIVE AREAS THAT ARE
2 FUNDAMENTAL AND ESPECIALLY IMPORTANT TO A GROUP LIKE AFRICAN
3 AMERICANS THAT ALREADY BEARS THE BURDEN OF SOCIOECONOMIC
4 DISPARITIES IN THINGS LIKE INCOME, POVERTY, EDUCATION,
5 HOMEOWNERSHIP. I ALSO LOOKED AT EDUCATION, I LOOKED AT HEALTH
6 CARE, I LOOKED AT ECONOMIC OPPORTUNITY, AND I LOOKED AT
7 ENVIRONMENTAL POLLUTION AND FOUND THAT IN ALL OF THOSE FIVE
8 AREAS, THE STATE HAS NOT BEEN RESPONSIVE TO THE PARTICULARIZED
9 NEEDS OF ITS AFRICAN-AMERICAN RESIDENTS.
10 **Q.** AND ARE THESE INEQUITIES IN SOME CASES CAUSED BY OFFICIAL
11 GOVERNMENT POLICY?
12 **A.** ABSOLUTELY. AS I POINT OUT IN MANY OF THESE AREAS, ALL OF
13 THESE ISSUES ARE PART AND PARCEL OF GOVERNMENT POLICIES,
14 GOVERNMENT POLICY WITH REGARD TO POLLUTING INDUSTRIES IN
15 HEAVILY BLACK AREAS OR THE LONG DELAY IN ADOPTING MEDICAID
16 EXPANSION, SOMETHING CRITICAL TO THE HEALTH OF AFRICAN
17 AMERICANS, AND SO MANY FAILURES IN THE CRIMINAL JUSTICE, JUST
18 TO CITE A FEW EXAMPLES.
19 **Q.** DR. LICHTMAN, WOULD YOU CONSIDER THESE FINDINGS TO BE
20 EITHER LIMITED OR SUBJECTIVE?
21 **A.** THEY'RE CERTAINLY NOT LIMITED. THESE ARE AREAS OF
22 FUNDAMENTAL IMPORTANCE TO A VULNERABLE GROUP LIKE AFRICAN
23 AMERICANS, AND THEY'RE THE KINDS OF THINGS SOCIAL SCIENTISTS
24 WOULD LOOK AT. THE WELL-BEING AND LIFE CHANCES OF AFRICAN
25 AMERICANS ARE FUNDAMENTALLY AFFECTED BY CRIMINAL JUSTICE,

04:03 1 HEALTH CARE, EDUCATION, ECONOMIC OPPORTUNITY, AND ALL THE
2 PROBLEMS I DOCUMENT FOR HEALTH WITH ENVIRONMENTAL POLLUTION.
3 AND THEY'RE NOT SUBJECTIVE; THAT IS, FOR EACH OF THESE FIVE
4 AREAS, I PROVIDE SPECIFIC INFORMATION. I JUST DON'T THROW OUT
5 OPINION.
6 AND IT IS RELEVANT, I THINK, THAT -- AS WITH THE REST
7 OF MY REPORT, NO EXPERT FOR DEFENDANTS CHALLENGE ANY OF THE
8 INFORMATION THAT I PROVIDED UNDER FACTOR 8 IN MY INITIAL
9 REPORT.
10 **Q.** LASTLY, DR. LICHTMAN, SENATE FACTOR 9. CAN THE ABSENCE
11 OF A SECOND BLACK-OPPORTUNITY CONGRESSIONAL DISTRICT BE
12 JUSTIFIED BY CORE RETENTION?
13 **A.** CORE RETENTION IS A CRITERIA -- CRITERION OF CHOICE. IT'S
14 NOT LEGALLY REQUIRED. IT'S NOT LIKE ONE-PERSON, ONE-VOTE FOR
15 CONFORMITY WITH THE VOTING RIGHTS ACT.
16 AS A GENERAL MATTER, STATES CERTAINLY COULD ADOPT
17 THAT AS ONE OF THEIR REDISTRICTING CRITERIA, BUT HERE'S THE
18 PROBLEM. HERE IN LOUISIANA, BY ADOPTING THAT -- BECAUSE WE
19 JUST HEARD AS KIND OF A FUNDAMENTAL CRITERION, REDISTRICTING
20 THAT FREEZES IN THE EXISTING PACKING AND CRACKING UNDER THE
21 PREVIOUS PLAN; THAT IS, THE PREVIOUS PLAN, AS I EXPLAINED AT
22 LENGTH IN MY REPORT, PACKS AFRICAN AMERICANS INTO CONGRESSIONAL
23 DISTRICT 2, FAR BEYOND WHAT IS NECESSARY FOR AFRICAN AMERICANS
24 TO ELECT CONGRESS, PERSONS OF THEIR CHOICE, AND THEN CRACKS
25 AFRICAN AMERICANS IN THE OVERWHELMINGLY WHITE REPUBLICAN

04:05 1 DISTRICT SO THEY HAVE NO CHANCE WHATSOEVER. NO MATTER HOW
2 UNHAPPY THEY MIGHT BE WITH THEIR WHITE REPUBLICAN
3 REPRESENTATIVES, THEY HAVE NO CHANCE TO VOTE THEM OUT OF
4 OFFICE. THEY ARE FREEZING IN THE INEQUITIES THAT YOU HAD
5 PREVIOUSLY ESTABLISHED.
6 IN FACT, IF CORE RETENTION WAS THE FUNDAMENTAL
7 TALISMAN FOR REDISTRICTING AS OPPOSED TO OTHER REQUIREMENTS,
8 THEN THERE NEVER WOULD HAVE BEEN A REMEDY FOR A DISCRIMINATORY
9 REDISTRICTING PLAN. YOU WOULD JUST BE REPLICATING THAT PLAN
10 OVER AND OVER AND OVER AGAIN LIKE YOU ARE DOING HERE.
11 **Q.** DR. LICHTMAN, ARE YOU AWARE THAT THE PREVIOUS 2011
12 CONGRESSIONAL PLAN WAS PRE-CLEARED BY THE U.S. DEPARTMENT OF
13 JUSTICE?
14 **A.** ABSOLUTELY. BUT ALL THAT MEANS IS THAT THE PLAN WAS NOT
15 RETROGRESSIVE; THAT IS, IT DID NOT GO TO ZERO AFRICAN AMERICAN
16 OPPORTUNITY DISTRICTS, AS OBJECTION LETTERS IN THE JUSTICE
17 DEPARTMENT MAKE IT CRYSTAL CLEAR ARE LETTERS NOT INTERPOSING AN
18 OBJECTION. A PRE-CLEARANCE DOES NOT MEAN THAT A PLAN IS FREE
19 OF VIOLATING THE VOTING RIGHTS ACT. IT SIMPLY MEANS THAT THE
20 PLAN WAS NOT RETROGRESSIVE WITH RESPECT TO THE PREVIOUS PLAN.
21 **Q.** CAN THE CURRENT CONGRESSIONAL PLAN BE JUSTIFIED BY AN
22 INTEREST IN COMPACTNESS?
23 **A.** ABSOLUTELY NOT. AS I POINT OUT IN MY ORIGINAL REPORT, BY
24 FREEZING IN ESSENTIALLY THE SAME DISTRICT THAT YOU HAD IN THE
25 POST-2010 REDISTRICTING PLAN, YOU ARE FREEZING IN PLACE A

04:07 1 DISTRICT THAT CANNOT BE JUSTIFIED ON THE TRADITIONAL GROUND OF
2 COMPACTNESS.
3 IN FACT, THE DISTRICT IS HIGHLY NONCOMPACT, AS I
4 EXPLAINED IN MY REPORT. IT REACHES OUT A LONG FINGER. IT IS
5 -- HAS VARIOUS OBTRUSIONS THAT ARE NOT SMOOTH OR SYMMETRICAL.
6 AND, IN FACT, IT CLOSELY REPRESENTS FROM WAY BACK WHEN ELBRIDGE
7 GERRY -- SALAMANDER -- THAT BROUGHT ON THE TERM
8 "GERRYMANDERING" IN THE FIRST PLACE.
9 SO THERE'S NOTHING ABOUT THIS DISTRICT THAT'S FROZEN
10 IN PLACE THAT COULD BE JUSTIFIED BY CREATING A COMPACT
11 DISTRICT. AND THAT'S NOT SURPRISING WHEN YOU ARE PACKING
12 AFRICAN AMERICANS INTO A DISTRICT AND THEN CRACKING THEM
13 ELSEWHERE. IT'S NOT SURPRISING THAT THE DISTRICT DOES NOT
14 CONFORM WITH COMPACTNESS. YOU KNOW, YOU CONCEIVABLY IN ANOTHER
15 STATE, IN OTHER CIRCUMSTANCES YOU COULD HAVE A COMPACT DISTRICT
16 THAT PACKED THAT, BUT NOT HERE. THAT'S NOT WHAT WAS DONE AND
17 THE PLAN CANNOT BE JUSTIFIED ON THAT BASIS.
18 **Q.** AND JUST TO CLARIFY, THE DISTRICT YOU'RE REFERRING TO
19 THERE IS THE SECOND CONGRESSIONAL DISTRICT, THE MAP'S
20 MAJORITY-BLACK CONGRESSIONAL DISTRICT?
21 **A.** THAT'S CORRECT. IT'S OVERWHELMINGLY BLACK, OVERWHELMINGLY
22 DEMOCRATIC. IT'S THE PACKED DISTRICT. AND IN ALL THE OTHER
23 DISTRICTS ARE THE --
24 **Q.** IS THE CURRENT BLACK VOTING AGE POPULATION OF THAT
25 DISTRICT NEEDED FOR BLACK VOTERS THERE TO ELECT THEIR PREFERRED

04:08 1 CANDIDATES?
2 **A.** ABSOLUTELY NOT. IT'S WAY BEYOND WHAT IS NECESSARY FOR
3 BLACKS TO ELECT CANDIDATES OF THEIR CHOICE. I THINK AN
4 ANALYSIS THAT I PRESENTED IN MY REPORT SAID THE FOURTH HIGHEST
5 BLACK POPULATION IN THE COUNTRY. AFRICAN AMERICANS WERE
6 WINNING THAT DISTRICT BY AN AVERAGE OF 80 PERCENT OR MORE. NO
7 CHANCE THAT AN AFRICAN-AMERICAN CANDIDATE OF CHOICE WOULD NOT
8 WIN THAT DISTRICT.
9 AS I SAID, THE COOK POLITICAL REPORT IN TERMS OF
10 THEIR PARTISAN VOTER INDEX THAT MEASURES PARTISAN STRENGTH HAS
11 THAT DISTRICT ABOUT A D PLUS 25. THAT MEANS IT'S 25 PERCENT
12 MORE -- 25 PERCENTAGE POINTS MORE THAN THE AVERAGE DEMOCRATIC
13 VOTE IN THE LAST TWO PRESIDENTIAL ELECTIONS, BOTH OF WHICH WERE
14 MAJORITY DEMOCRATIC.
15 AND SO -- AND IF YOU LOOK ALSO NATION-WIDE, AS I
16 POINT OUT IN MY REPORT, BLACK CANDIDATES OF CHOICE ALMOST
17 INVARIABLY WIN IN DISTRICTS THAT ARE EVEN BELOW 50 PERCENT,
18 THAT ARE 40 TO 50 PERCENT. AND THE REASON IS FAIRLY SIMPLE:
19 THAT IN THE 40 PERCENT RANGE, BLACKS DOMINATE THE DEMOCRATIC
20 PRIMARY, GET TO NOMINATE A CANDIDATE OF THEIR CHOICE. THEY
21 THEN VOTE OVERWHELMINGLY FOR THAT CANDIDATE IN THE GENERAL
22 ELECTION. AND YOU DON'T NEED MUCH IN THE WAY OF WHITE
23 CROSSOVER THEN FOR THAT CANDIDATE TO WIN IN A DISTRICT THAT'S
24 WITHIN THE 40 PERCENT RANGE.
25 **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 1 CRITERIA, BASICALLY CONSTITUTE A COMMUNITY OF INTEREST AND OF
2 COURSE, THEY DON'T SHARE A COMMON HISTORY OF DISCRIMINATION.
3 THEY DON'T SHARE A COMMON ANCESTRY. THEY DON'T SHARE COMMON
4 POLITICS OR POLITICAL VALUES. THEY DON'T -- LET'S SEE. THEY
5 DON'T HAVE THE SAME OCCUPATIONS.
6 AND I DRILLED FURTHER. I LOOKED AT DO THEY SHARE THE
7 SAME RESIDENCE AND DO THEY GO TO THE SAME SCHOOLS BEYOND ALL OF
8 THESE OTHER FACTORS? IN OTHER WORDS, TO WHAT EXTENT ARE THEY
9 REALLY INTEGRATED WITHIN THE CITY OF NEW ORLEANS AS A
10 COMMUNITY. AND I LOOKED AT MEASURES OF SEGREGATION AND FOUND
11 THAT MEASURES OF SEGREGATION WERE QUITE EXTREME IN NEW ORLEANS.
12 MORE THAN 60 PERCENT OF BLACKS WOULD HAVE TO RELOCATE TO CREATE
13 INTEGRATION, AND THAT THERE WAS ALSO SIMILAR LACK OF
14 INTEGRATION FROM THE SCHOOL.
15 SO WHEN YOU LOOK AT THE CITY OF NEW ORLEANS, AN
16 ANCHOR IN ONE OF HIS FIVE REGIONS, WE SEE BLACKS AND WHITES
17 HAVE VERY LITTLE IN COMMON TO CONSTITUTE WITHIN THAT REGION A
18 COMMUNITY OF INTEREST.
19 **Q.** AND DID MR. HEFNER SHOW THAT BLACK AND WHITE LOUISIANIANS
20 IN THE FIVE MAJORITY-WHITE DISTRICTS IN THE CONGRESSIONAL MAP
21 SHARE COMMONALITIES?
22 **A.** NO. HIS ANALYSIS COULDN'T POSSIBLY SHOW THAT BECAUSE,
23 AGAIN, IT'S BASED UPON THESE BROAD REGIONAL -- THESE REGIONAL
24 AREAS WHICH CONGRESSIONAL DISTRICTS CUT ACROSS AND WHERE HE
25 DOESN'T ANALYZE WITHIN AS OPPOSED TO BETWEEN.

04:14 SO I LOOKED AT THE COMMONALITY BETWEEN WHITES AND BLACKS ACROSS LOUISIANA. AND, AGAIN, THEY DON'T HAVE COMMON ANCESTRY; THEY DON'T HAVE COMMON POLITICS; THEY DON'T HAVE COMMON EXPERIENCE IN HISTORY DISCRIMINATION; THEY DON'T HAVE COMMONALITY IN TERMS OF THE FAILURE OF THE STATE TO MEET THEIR PARTICULARIZED NEEDS. I ALSO LOOKED AT RESIDENTIAL AND SCHOOL SEGREGATION ACROSS LOUISIANA AND FOUND THAT BLACKS AND WHITES DON'T LIVE TOGETHER; THEY DON'T GO TO THE SAME SCHOOLS.

I ALSO LOOKED AT A VARIETY OF OTHER INDICATORS HIGHLIGHTED BY MR. HEFNER. I FOUND THAT ACROSS LOUISIANA BLACKS AND WHITES DON'T HAVE THE SAME FAMILY STRUCTURE; THEY DON'T HAVE THE SAME LEVELS OF INCOME OF POVERTY OR DEPENDENCE UPON WELFARE PROGRAMS OR UNEMPLOYMENT; THEY DON'T LIVE IN THE SAME KINDS OF HOMES, WITH AFRICAN AMERICANS FAR MORE LIKELY TO BE RENTERS THAN HOMEOWNERS; THEY DON'T HAVE THE SAME ACCESS TO VEHICLES OR BROADBAND INTERNET; THEY DON'T HAVE THE SAME EDUCATIONAL ATTAINMENT; THEY DON'T HAVE THE SAME EDUCATIONAL PROFICIENCY; AND THEY DON'T WORK IN THE SAME JOBS OR OCCUPATIONS.

SO THERE IS NO BASIS FOR -- DR. ALFORD DOESN'T ANALYZE IT BY LOOKING DEEPER. THERE IS NO BASIS FOR CLAIMING THAT IN THESE FIVE WHITE-REPUBLICAN-DOMINATED DISTRICTS THAT THE AFRICAN AMERICANS IN THOSE DISTRICTS SHARE A COMMUNITY OF INTEREST WITH WHITES.

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 1 **MR. HAWLEY:** YOUR HONOR, I'D LIKE TO MOVE EXHIBITS
2 GX-3 AND GX-31 INTO EVIDENCE. THOSE ARE DR. LICHTMAN'S INITIAL
3 REPORT AND HIS REBUTTAL EXPERT REPORT.
4 **THE COURT:** IS THERE ANY OBJECTION?
5 **MR. BRADEN:** NO OBJECTIONS, YOUR HONOR.
6 **THE COURT:** OKAY.
7 **MR. HAWLEY:** THANK YOU. NO FURTHER QUESTIONS AT THIS
8 TIME.
9 **THE COURT:** THE EXHIBITS ARE ADMITTED.
10 CROSS-EXAMINATION, SIR?
11 **CROSS-EXAMINATION**
12 **BY MR. BRADEN:**
13 **Q.** MY NAME IS MARK BRADEN.
14 **A.** I LOST YOU. I DON'T KNOW WHAT HAPPENED.
15 **Q.** I'VE GOT YOU, BUT YOU --
16 **THE COURT:** WE STILL HAVE YOU. JUST A MOMENT.
17 **THE WITNESS:** I DON'T SEE YOU, FOR SOME REASON.
18 **THE COURT:** OUR CAMERA MAY BE -- JUST GIVE US A
19 SECOND. THERE WE GO.
20 IS THAT BETTER?
21 **THE WITNESS:** MUCH BETTER. THANK YOU.
22 **THE COURT:** OKAY. SPELL YOU LAST NAME, COUNSEL.
23 **MR. BRADEN:** B-R-A-D-E-N.
24 **THE COURT:** THANK YOU, SIR.
25 **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 1 **Q.** OKAY. SO ON YOUR REPORT HERE YOU ARE PROJECTING IN SOME
2 RACES WHITE CROSSOVER IN EXCESS OF 25 PERCENT, OF MORE THAN A
3 QUARTER?
4 **A.** I'M NOT PROJECTING. THESE ARE THE EXIT POLL RESULTS
5 SUBSEQUENT TO THE ELECTION. THEY ARE NOT A PROJECTION ON THESE
6 ELECTIONS.
7 **Q.** OKAY. THAT'S CORRECT.
8 AND YOU HAVE A CHART SHOWING THIS TOO, I BELIEVE?
9 **A.** SURE.
10 **Q.** THIS WOULD BE CHART 1?
11 **A.** SURE. DO YOU WANT TO GO TO THAT?
12 **Q.** WE SHOULD ABSOLUTELY GO TO THAT.
13 **MR. BRADEN:** IF WE COULD BRING THAT UP.
14 **BY THE WITNESS:**
15 **A.** WHAT PAGE?
16 **BY MR. BRADEN:**
17 **Q.** I BELIEVE THAT IS 0068, CHART 1.
18 **A.** GOT IT.
19 **Q.** SO IT'S YOUR VIEW THAT THE RECORD SHOWS WHITE CROSSOVER
20 VOTING RANGING FROM 20 PERCENT TO 26 PERCENT IN THE THREE
21 ELECTIONS ON THE CHART?
22 **A.** THAT'S CORRECT.
23 **Q.** OKAY. AND YOU ALSO BELIEVE -- IF YOU GO TO PAGE 62 OF
24 YOUR REPORT. AND I ALSO BELIEVE YOU JUST TESTIFIED TO THIS,
25 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 1 THE *COVINGTON* CASE WHERE THE COURT ACCEPTED IT, I POINTED OUT
2 INDEED AFRICAN-AMERICAN CANDIDATES COULD WIN IN THE 40 PERCENT
3 RANGE. AND THAT WAS A PARTICULARIZED ANALYSIS OF EACH
4 DISTRICT. BUT I CERTAINLY WOULDN'T RULE OUT IF THE STATE COULD
5 CREATE TWO DISTRICTS THAT ARE 45 PERCENT AFRICAN AMERICAN IN
6 THEIR VOTING AGE POPULATION, GIVEN THAT THERE'S GOING TO BE
7 HISPANICS AND OTHERS IN THAT DISTRICT WHO DO TEND TO VOTE
8 DEMOCRATIC. AND, AGAIN, DEPENDING UPON THE DISTRICT'S SPECIFIC
9 ANALYSIS, THAT COULD GIVE AFRICAN AMERICANS AN OPPORTUNITY TO
10 ELECT CANDIDATES OF THEIR CHOICE. BUT, AGAIN, I'M SPEAKING
11 GENERICALLY.
12 **Q.** THANK YOU.
13 DR. LICHTMAN, WHEN WERE YOU FIRST CONTACTED ABOUT
14 WORKING ON LOUISIANA CONGRESSIONAL REDISTRICTING THIS CYCLE?
15 **A.** I REALLY DON'T REMEMBER. I'VE BEEN INVOLVED IN MAYBE TEN
16 CASES IN THIS POST-20' --
17 **Q.** I CAN SYMPATHIZE.
18 **A.** SEVERAL MONTHS AGO, AT LEAST.
19 **Q.** OKAY. DO YOU KNOW IF YOU WERE WORKING ON THIS PRIOR TO
20 THE LEGISLATIVE SESSION THAT RESULTED IN THE PASSAGE OF THE
21 FIRST PLAN AND SECOND PLANS OR THE VETO OVERRIDE PLAN? DO YOU
22 --
23 **A.** REFRESH ME. IS THIS FEBRUARY OF 2022?
24 **Q.** YEAH, FEBRUARY. WERE YOU WORKING IN FEBRUARY ON IT?
25 **A.** I'M SURE I WAS WORKING IN FEBRUARY.

04:25 1 **Q.** OKAY. AND DO YOU KNOW WHO CONTACTED YOU IN REGARDS TO
2 THAT?
3 **A.** THE ALLIANCE ATTORNEYS.
4 **Q.** OKAY. AND DID YOU PLAY ANY ROLE OR PROVIDE ANY
5 INFORMATION TO THE LEGISLATURE DURING THE PROCESS?
6 **A.** NO.
7 **Q.** OKAY. SO IS THIS A LITTLE LIKE DÉJÀ VU WITH YOU? WEREN'T
8 YOU AN EXPERT WITNESS IN THE 1990'S ON LOUISIANA CONGRESSIONAL
9 REDISTRICTING?
10 **A.** OH, MY GOD, THAT WAS -- I DON'T REMEMBER IT VERY WELL, BUT
11 THAT WAS ONE OF THOSE SHORT BASES WHERE I WAS WORKING FOR THE
12 UNITED STATES DEPARTMENT OF JUSTICE, AND I THINK IT WAS A VERY
13 DIFFERENT -- I DON'T REMEMBER IT REALLY WELL. IT WAS 30 YEARS
14 AGO.
15 **Q.** OH, OKAY.
16 **A.** I'M PRETTY MUCH SURE I WAS WORKING FOR JUSTICE, AND I
17 DON'T THINK WE WERE PLAINTIFFS, BUT I DON'T REMEMBER.
18 **THE COURT:** OKAY. SHE WASN'T ABLE TO TAKE ANY OF
19 THAT TESTIMONY.
20 DR. LICHTMAN, IS THERE A POSSIBILITY THAT YOU
21 ARE INTERFERING MAYBE WITH YOUR MICROPHONE OR SOMETHING,
22 BECAUSE WE -- THE COURT REPORTER -- NONE OF US COULD MAKE OUT
23 ANY OF THAT, ANY OF YOUR LAST ANSWER.
24 **THE WITNESS:** OH, I DIDN'T DO ANYTHING. I CAN TURN
25 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 1 DEFENDANTS IN THE CASE?
2 **A.** ANYTHING IS POSSIBLE. I KNOW FOR SOME OF THOSE CASES I
3 WAS HIRED BY JUSTICE.
4 **Q.** OKAY.
5 **A.** I DON'T REMEMBER, BECAUSE IT WAS 30 YEARS AGO, WHO I WAS
6 HIRED BY IN THIS CASE.
7 **Q.** OKAY.
8 **A.** I KIND OF ASSUMED IT WAS JUSTICE, BUT I DON'T RECALL.
9 **Q.** I WOULD REPRESENT TO YOU AND TO THE COURT, MY
10 UNDERSTANDING IS THAT YOU WERE AN EXPERT FOR THE DEFENDANTS,
11 WHICH WAS THE STATE OF LOUISIANA. AT LEAST THAT'S THE WAY I --
12 **A.** I KNOW I REPRESENTED DEFENDANTS.
13 **Q.** YEAH.
14 **A.** I DON'T KNOW IF I WAS HIRED BY THE STATE OF LOUISIANA OR
15 BY JUSTICE.
16 **Q.** OKAY.
17 **A.** BUT I WON'T ARGUE WITH YOU.
18 **Q.** YEAH.
19 **A.** BECAUSE I DON'T HAVE A RECOLLECTION.
20 **Q.** SO DO YOU --
21 **A.** SO WHATEVER YOU SAY, I'M NOT GOING TO DISPUTE IT.
22 **Q.** DO YOU REMEMBER THAT YOU WERE ARGUING ON BEHALF OF A PLAN,
23 A 1990'S PLAN, THAT HAD SEVEN DISTRICTS OF WHICH TWO WERE BLACK
24 AND FIVE WHITE MAJORITY?
25 **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 1 PRESUME THAT'S WHAT WE'RE DOING.
2 **Q.** OKAY. AND YOU DON'T REMEMBER WHETHER OR NOT THE COURT IN
3 THE *HAYS* CASE VERSUS THE STATE OF LOUISIANA IN 1993 -- YOU
4 DON'T REMEMBER WHETHER OR NOT THE COURT CREDITED YOUR
5 TESTIMONY?
6 **A.** I'M SURE THEY DIDN'T, SINCE WE LOST THE CASE.
7 **Q.** YEAH.
8 **A.** NORMALLY WHEN YOU LOSE A CASE, THE COURT DOES NOT CREDIT
9 YOUR TESTIMONY. BUT THAT'S ALL I REMEMBER THAT WE LOST.
10 **Q.** YEAH. IF WE COULD -- MAYBE I CAN -- MAYBE I CAN REFRESH
11 YOUR RECOLLECTION.
12 **MR. BRADEN:** IF WE GO TO -- IF WE CAN BRING UP A COPY
13 OF THE *HAYS VERSUS STATE OF LOUISIANA*. IT'S AT 839, F. SUPP
14 1188.
15 **BY MR. BRADEN:**
16 **Q.** I WISH I COULD HAND YOU A COPY OF IT, BUT I BELIEVE WE CAN
17 BRING IT UP ON THE SCREEN. AND JUST REALLY QUICKLY, I BELIEVE
18 THERE'S A FOOTNOTE 48 AT PAGE 1203. SO IF YOU COULD TAKE A
19 MINUTE AND LOOK AT PARAGRAPH 48 -- OR FOOTNOTE 38 AND SEE
20 WHETHER OR NOT THAT REFRESHES YOUR RECOLLECTION AS TO THE
21 COURT'S VIEW ON YOUR TESTIMONY.
22 **A.** I DON'T SEE IT. I'M SORRY. I JUST SEE THE HEADING.
23 **Q.** OKAY. THERE'S A FOOTNOTE 48. I HAVE IT ON -- I BELIEVE
24 IT'S PAGE --
25 **MR. BRADEN:** WERE YOU ABLE TO BRING UP THE PAGE?

04:31 1 IT'S 46 OF 50. I'M SORRY.
2 **BY MR. BRADEN:**
3 **Q.** I'M LOOKING AT THIS. I HAVE IT IN MY HAND AND IT DOESN'T
4 DO YOU ANY GOOD. I PRINTED A COPY OUT HERE FOR YOU, BUT IT
5 DOESN'T DO MUCH GOOD TO TRY TO HAND YOU A PRINTED COPY OVER
6 ZOOM. THERE WE GO. THAT'S FOOTNOTE 48.
7 **MR. BRADEN:** AND COULD YOU JUST HIGHLIGHT IT FOR HIM
8 AND BRING IT UP AND MAKE IT LARGER. HE HAS PROBABLY THE SAME
9 EYESIGHT THAT I DO.
10 **BY THE WITNESS:**
11 **A.** NOW I CAN SEE IT.
12 **BY MR. BRADEN:**
13 **Q.** OKAY. GREAT. AND IT'S EASY TO PICK OUT. THERE'S A
14 COUPLE OF REFERENCES TO YOU, WHICH I'LL GET IT ITALICIZED.
15 **A.** LET ME READ IT.
16 **Q.** YEP.
17 **A.** BECAUSE I DON'T REMEMBER IT.
18 **Q.** GREAT.
19 **A.** I'M SURE THIS WILL HELP REFRESH MY MEMORY, BUT I NEED A
20 MINUTE OR TWO.
21 **Q.** OH, ABSOLUTELY.
22 **A.** I'M OLD AND SLOW.
23 **Q.** ABSOLUTELY.
24 **A.** GOT IT.
25 **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 1 THERE'S BEEN A CHANGE IN THAT. IN MARYLAND THE BLACK
2 POPULATION IS ESSENTIALLY CONCENTRATED IN ONE OR TWO URBAN
3 AREAS, DEPENDING ON HOW YOU DEFINE "URBAN AREAS": THE
4 WASHINGTON-BALTIMORE CORRIDOR, AND THE REST OF THE STATE IS
5 PREDOMINANTLY WHITE?
6 **A.** WASHINGTON --
7 **Q.** -- BALTIMORE.
8 **A.** IT'S NOT QUITE THE CORRIDOR BECAUSE YOU HAVE IN THE
9 WASHINGTON SUBURBS TWO VERY LARGE COUNTIES: PRINCE GEORGE'S
10 COUNTY AND MONTGOMERY COUNTY, WHICH ARE NOT NECESSARILY THE
11 CORRIDOR. AND PRINCE GEORGE'S COUNTY IS VERY HEAVILY BLACK.
12 AND WHILE MONTGOMERY COUNTY IS NOT MAJORITY BLACK, IT HAS A
13 VERY SUBSTANTIAL BLACK POPULATION AS WELL. AND IT'S VERY BIG.
14 IT'S GOT OVER A MILLION PERSONS IN LARGE GEOGRAPHIC. SO IT'S
15 CERTAINLY NOT TRUE THAT IN MY HOME STATE THE AFRICAN-AMERICAN
16 POPULATION IS VERY NARROWLY CONCENTRATED IN CONFINED
17 GEOGRAPHICAL AREAS.
18 **Q.** SO YOU WOULDN'T -- YOU DON'T BELIEVE THAT A MAJORITY OF
19 THE BLACK POPULATION IN MARYLAND LIVES IN WHAT WOULD BE
20 CONSIDERED EITHER URBAN OR SUBURBAN AREAS?
21 **A.** YOU KNOW, MONTGOMERY COUNTY YOU CAN CALL URBAN. IT'S
22 REALLY SUBURBAN. CERTAINLY THERE IS A CORRELATION BETWEEN
23 GEOGRAPHIC AREA AND BLACK POPULATION, ABSOLUTELY. THERE
24 CERTAINLY IS A DEGREE OF CONCENTRATION THERE THAT CAN AFFECT
25 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 1 *FOSTER* DECISION. I DIDN'T PUT IT IN THE CONTEXT OF SLATING AT
2 ALL.
3 **Q.** OKAY. AND SO I HEARD YOU SAY THAT BLACK CANDIDATES DON'T
4 WIN AT-LARGE ELECTIONS. DO YOU KNOW WHETHER THE MAYOR -- I
5 DON'T THINK I CAN SEE IT. I DON'T THINK WE ARE IN EAST BATON
6 ROUGE. I THINK WE ARE IN BATON ROUGE PARISH. I COULD BE WRONG
7 ABOUT THAT. BUT MY UNDERSTANDING IS THAT THE MAYOR OF EAST
8 BATON ROUGE IS BLACK. DO YOU KNOW THAT?
9 **A.** LET ME CHECK. I MIGHT HAVE THAT INFORMATION. I'M NOT
10 SURE.
11 **THE COURT:** WE ARE IN EAST BATON ROUGE PARISH, AND
12 THE MAYOR OF THE BATON ROUGE METROPOLITAN -- GREATER BATON
13 ROUGE IS AFRICAN AMERICAN.
14 **THE WITNESS:** YOU'RE TALKING ABOUT THE MAYOR OF BATON
15 ROUGE CITY?
16 **BY MR. BRADEN:**
17 **Q.** THE JUDGE GRACIOUSLY ANSWERED THE QUESTION FOR US.
18 **THE COURT:** NO, I DIDN'T ANSWER IT. I JUST WAS
19 CORRECTING YOU THAT WE ARE NOT IN BATON ROUGE PARISH.
20 **MR. BRADEN:** OH.
21 **THE COURT:** THERE IS AN EAST BATON ROUGE PARISH AND
22 THERE IS A WEST BATON ROUGE PARISH, AND THE MISSISSIPPI RIVER
23 AND ONE BRIDGE CONNECTS THOSE.
24 **MR. BRADEN:** OKAY.
25 **THE COURT:** ACTUALLY, TWO BRIDGES CONNECT THOSE.

04:41 1 **BY MR. BRADEN:**
2 **Q.** YEAH. AND I UNDERSTOOD FROM YOU THAT THE MAYOR --
3 **A.** I CAN ANSWER.
4 **Q.** -- OF EAST BATON ROUGE WAS BLACK? IS THAT YOUR BELIEF?
5 **A.** YEAH. BATON ROUGE IS A BLACK CITY AND ELECTED A BLACK
6 MAYOR, SO THAT'S EXACTLY MY POINT. BLACKS CAN WIN IN BLACK
7 DISTRICTS IN JURISDICTIONS, AND THEY ARE GETTING SHUT OUT
8 STATEWIDE IN WHITE JURISDICTIONS AND WHITE DISTRICTS.
9 **Q.** IT'S YOUR --
10 **A.** AND NONE OF THEM ARE -- NONE OF THE BLACKS ARE
11 REPUBLICANS.
12 **Q.** OKAY. IS IT YOUR POSITION THAT IT'S A MAJORITY-BLACK
13 PARISH?
14 **A.** I DIDN'T LOOK AT THE PARISH. I LOOKED AT THE CITY.
15 **MR. BRADEN:** OKAY. NO FURTHER QUESTIONS, YOUR HONOR.
16 **THE COURT:** OKAY. IS THERE ANY REDIRECT?
17 **MR. HAWLEY:** YES. BRIEFLY, YOUR HONOR. THANK YOU.
18 **REDIRECT EXAMINATION**
19 **BY MR. HAWLEY:**
20 **Q.** DR. LICHTMAN, JUST A FEW MOMENTS AGO MR. BRADEN ASKED YOU
21 ABOUT SOME OF THE PARTICULARS OF YOUR EXPERT TESTIMONY IN THE
22 *HAYS* CASE IN THE '90'S. DO YOU RECALL THAT?
23 **A.** I RECALL THE QUESTIONS, YEAH.
24 **Q.** YES.
25 **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 1 B-L-A-K-E-S-L-E-E, G-I-L-P-I-N.
2 **THE COURT:** GO AHEAD, COUNSEL.
3 **VOIR DIRE**
4 **BY MR. RIZZUTO:**
5 **Q.** GOOD AFTERNOON, DR. GILPIN.
6 COULD YOU PLEASE INTRODUCE YOURSELF TO THE COURT?
7 **A.** YES. MY NAME IS DR. ROBERT BLACKSLEE GILPIN. I AM AN
8 ASSOCIATE PROFESSOR OF HISTORY AT TULANE UNIVERSITY AND THE
9 DIRECTOR OF GRADUATE STUDIES IN THE HISTORY DEPARTMENT THERE.
10 **Q.** AND CAN YOU TELL US ABOUT YOUR EDUCATIONAL BACKGROUND?
11 **A.** YES. I RECEIVED MY B.A. AND M.A. SIMULTANEOUSLY FROM YALE
12 UNIVERSITY IN 2001 IN AMERICAN HISTORY, AN M.PHIL FROM
13 CAMBRIDGE UNIVERSITY IN 2002 IN BRITISH HISTORY, AND THEN AN
14 M.PHIL AND PH.D. FROM YALE UNIVERSITY IN 2009 IN AMERICAN
15 HISTORY.
16 **Q.** AND YOU MENTIONED THAT YOU WORK AT TULANE. COULD YOU
17 SPEAK MORE TO YOUR ROLES THERE?
18 **A.** YES. SO I TEACH A VARIETY OF CLASSES ON AMERICAN HISTORY:
19 U.S. HISTORY IN THE LAW, CIVIL WAR AND RECONSTRUCTION, SOUTHERN
20 INTELLECTUAL AND CULTURAL HISTORY, AND MENTOR AND ADVISE
21 UNDERGRADUATE AND GRADUATE STUDENTS.
22 **Q.** AND DO ANY OF THOSE COURSES YOU JUST MENTIONED COVER
23 LOUISIANA'S HISTORY OF OFFICIAL DISCRIMINATION AGAINST BLACK
24 VOTERS?
25 **A.** YES. ALL THE COURSES I JUST MENTIONED TOUCH DIRECTLY ON

04:46 1 THAT SUBJECT.
2 **Q.** HAVE YOU EVER WRITTEN ANYTHING THAT HAS COVERED THE
3 HISTORY OF VOTER DISCRIMINATION IN LOUISIANA?
4 **A.** YES. I'VE WRITTEN CHAPTERS AND EDITED VOLUMES ABOUT THE
5 RECONSTRUCTION PERIOD MOVING INTO THE 20TH CENTURY THAT DEAL
6 DIRECTLY WITH THAT SUBJECT MATTER.
7 **Q.** PROFESSOR GILPIN, IS THIS YOUR FIRST TIME TESTIFYING AS AN
8 EXPERT WITNESS IN A CASE?
9 **A.** IT IS INDEED.
10 **MR. RIZZUTO:** YOUR HONOR, WE WOULD TENDER PROFESSOR
11 GILPIN AS AN EXPERT IN SOUTHERN HISTORY.
12 **THE COURT:** ANY OBJECTION?
13 **MS. MCKNIGHT:** YOUR HONOR, NO OBJECTION.
14 **THE COURT:** DR. GILPIN WILL BE PERMITTED TO GIVE
15 OPINION TESTIMONY ON SOUTHERN HISTORY.
16 **MR. RIZZUTO:** YOUR HONOR, IF IT PLEASES THE COURT,
17 MAY I APPROACH THE WITNESS --
18 **THE COURT:** YOU MAY.
19 **MR. RIZZUTO:** -- WITH WHAT HAS BEEN MARKED AS PR-13
20 AND 88?
21 **THE COURT:** YOU MAY.
22 **DIRECT EXAMINATION**
23 **BY MR. RIZZUTO:**
24 **Q.** NOW, PROFESSOR GILPIN, I JUST HANDED YOU WHAT'S BEEN
25 MARKED AS PR-13 AND PR-88.

04:47 1 DO YOU RECOGNIZE THOSE?
2 **A.** YES, I DO.
3 **Q.** NOW, WHAT'S PR-13?
4 **A.** PR-13 IS THE MAIN REPORT I WAS ASKED TO PRODUCE FOR THIS
5 CASE.
6 **Q.** AND PR-88?
7 **A.** IS THE SUPPLEMENTAL REPORT I WAS ASKED TO PRODUCE.
8 **Q.** LET'S START WITH YOUR FIRST REPORT, PR-13. CAN YOU SPEAK
9 TO ITS PURPOSE?
10 **A.** THE PURPOSE OF THE REPORT WAS TO TALK ABOUT THE STATE OF
11 LOUISIANA'S LONG HISTORY OF DISCRIMINATION AGAINST ITS BLACK
12 CITIZENS AND SPECIFICALLY HOW THAT HISTORY FED INTO VOTER
13 DISCRIMINATION, PARTICULARLY AFTER THE FRANCHISE WAS GRANTED IN
14 THE LATE 1860'S.
15 **Q.** AND WHAT WAS THE SCOPE OF YOUR INQUIRY IN THAT REPORT?
16 **A.** SO MY REPORT BEGAN IN PRE-AMERICAN LOUISIANA, WHICH IS
17 REALLY WHEN THE RACIAL CATEGORIES THAT ARE GOING TO LATER BE
18 USED BY THE STATE OF LOUISIANA BOTH PRE-SUFFRAGE AND
19 POST-SUFFRAGE WERE CREATED AND SORT OF HONED BY THE STATE AND
20 WERE USED UP UNTIL THE PRESENT DAY.
21 **Q.** BROADLY SPEAKING, WHAT WERE YOUR CONCLUSIONS?
22 **A.** SO FROM THE VERY BEGINNING, THE STATE HAS BEEN QUITE
23 SERIOUSLY INVESTED IN CATEGORIZING ITS CITIZENS BY RACE AND
24 SPECIFICALLY TO USE THOSE CATEGORIES TO DISCRIMINATE AGAINST
25 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 1 BACK INTO THEIR OWN HISTORY TO FIND THESE TOOLS AND REPURPOSE
2 THEM. BUT BASICALLY THAT THE FOUNDATION OF BOTH RACIAL
3 CATEGORIZATION AND OF VOTER DISCRIMINATION ITSELF IS REALLY
4 FIRMLY ESTABLISHED IN THE ANTEBELLUM PERIOD AND THEN CARRIED
5 THROUGH VERY INTENTIONALLY IN THE POSTBELLUM PERIOD.
6 **Q.** NOW, MOVING FORWARD A BIT IN HISTORY TO AFTER THE CIVIL
7 WAR, HOW DID OFFICIAL DISCRIMINATION AGAINST BLACK LOUISIANIANS
8 EVOLVE AFTER THE CIVIL WAR?
9 **A.** SO IN THE FIRST CONSTITUTIONAL CONVENTION, WHICH ACTUALLY
10 HAPPENS DURING THE MIDDLE OF THE CIVIL WAR, IS THE FIRST EFFORT
11 BY WHITE LOUISIANIANS TO KIND OF REFASHION OLD LAWS AND
12 MAINTAIN SOME OF THE RACIAL HIERARCHIES THAT THEY HAD
13 ESTABLISHED IN THE ANTEBELLUM PERIOD. THE BLACK CODES THAT ARE
14 WRITTEN IN 1865 ARE THE FIRST EXAMPLE OF THAT AND ARE REALLY
15 QUITE EXPLICITLY UNDERSTOOD AS A WAY OF COBBLING TOGETHER AS
16 MUCH OF SLAVERY'S RULES AS THEY COULD.
17 IT'S NOT UNTIL THE 1890'S THAT THOSE KIND OF TAKE A
18 MUCH MORE EXPLICITLY POLITICAL FORM. AND THAT IS MOST NOTABLY
19 WITH THE ADOPTION OF THE GRANDFATHER CLAUSE, WHICH IS CREATED
20 BY WHITE LOUISIANIANS IN 1898 THAT ESTABLISHES A RULE WHERE
21 BLACK VOTERS HAVE TO BE ABLE TO TRACE THEIR ANCESTRY OF EITHER
22 A FATHER OR A GRANDFATHER. THEY HAD TO HAVE VOTED BEFORE
23 JANUARY 1ST OF 1867, WHICH WAS AN ILLOGICAL IMPOSSIBILITY
24 BECAUSE BLACKS IN LOUISIANA COULD NOT VOTE BEFORE THAT DATE.
25 SO IT WAS AN INCREDIBLY EFFECTIVE WAY OF TAKING BLACK

04:52 1 LOUISIANIANS OUT OF POLITICS.
2 AT THE TIME OF THE GRANDFATHER CLAUSE, THEY
3 REPRESENTED ABOUT 44 PERCENT OF THE ELECTORATE IN LOUISIANA,
4 WHICH HAS NEVER BEEN REACHED EVER SINCE THEN. WITHIN TWO
5 YEARS, THAT WAS BELOW ONE PERCENT BECAUSE OF THE EFFECTIVENESS
6 OF THE GRANDFATHER CLAUSE. SO IT TOOK BLACK VOTERS FROM ABOUT
7 130,000 DOWN TO ABOUT 5,000 IN TWO -- JUST TWO YEARS.
8 **Q.** AND DID TACTICS LIKE THE GRANDFATHER CLAUSE AND THE OTHER
9 TACTICS YOU MENTIONED CONTINUE INTO THE 20TH CENTURY?
10 **A.** YES. SO THE GRANDFATHER CLAUSE ITSELF WAS STRUCK DOWN BY
11 THE SUPREME COURT IN 1915. BUT THE VARIETY OF TOOLS I
12 MENTIONED THAT LOUISIANIANS HAD DEVELOPED IN THE 1840'S AND
13 '50'S -- LITERACY TESTS, POLL TAXES, UNDERSTANDING CLAUSES, AND
14 REALLY INVESTING A LOT MORE POWER IN WHITE REGISTRARS OF
15 VOTERS -- WAS SOMETHING THAT WAS REALLY -- THE WEIGHT OF THE
16 STATE WAS PUT BEHIND THAT -- SO TO THE DEGREE WHERE YOU COULD
17 HAVE A WHITE REGISTRAR REJECT A BLACK VOTER IF THEY COULD NOT
18 COUNT THE NUMBER OF JELLYBEANS IN A JAR THAT WAS AT THE POLLING
19 STATION.
20 **Q.** NOW, MOVING A BIT FARTHER INTO THE 20TH CENTURY, HOW, IF
21 AT ALL, DID VOTING-RELATED DISCRIMINATION IN LOUISIANA CHANGE
22 AFTER THE VOTING RIGHTS ACT WAS PASSED IN 1965?
23 **A.** SO IT'S NOT SO MUCH THAT THE DISCRIMINATION CHANGED,
24 ESPECIALLY IN TERMS OF MAGNITUDE OR THE DETERMINATION BY THE
25 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 1 WITH IN ORDER TO DISENFRANCHISE BLACK VOTERS. LIKE IT'S ALL --
2 THAT'S ALWAYS THE GOAL. AND IT'S REALLY WHATEVER TOOLS ARE AT
3 THEIR DISPOSAL TO DO THAT THEY WILL TRY TO UTILIZE.
4 **Q.** DR. GILPIN, IN YOUR VIEW, ARE OFFICIAL DISCRIMINATORY
5 PRACTICES MADE BY -- MADE AGAINST BLACK VOTERS IN LOUISIANA A
6 THING OF THE PAST?
7 **A.** I WOULD SAY THAT THEY ARE VERY MUCH THE DEFINING
8 CHARACTERISTIC OF LOUISIANA POLITICS, PAST, PRESENT AND
9 CERTAINLY, IT LOOKS LIKE, THE FUTURE.
10 **Q.** THANK YOU, DR. GILPIN.
11 **MR. RIZZUTO:** AT THIS TIME WE MOVE PR-13 AND PR-88
12 INTO EVIDENCE.
13 **THE COURT:** ANY OBJECTIONS?
14 **MS. MCKNIGHT:** NO OBJECTION, YOUR HONOR.
15 **THE COURT:** PR-13 AND PR-88 ARE ADMITTED.
16 **MR. RIZZUTO:** WE HAVE NO FURTHER QUESTIONS FOR DR.
17 GILPIN.
18 **THE COURT:** ANY CROSS?
19 **MS. MCKNIGHT:** YES, MA'AM.
20 **CROSS-EXAMINATION**
21 **BY MS. MCKNIGHT:**
22 **Q.** GOOD AFTERNOON, DR. GILPIN.
23 I'M KATE MCKNIGHT WITH THE LEGISLATIVE INTERVENORS,
24 AND I HAVE A FEW QUESTIONS FOR YOU THIS AFTERNOON.
25 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 1 I AM DIMLY AWARE OF THIS OTHERWISE.
2 **Q.** OKAY. SO A VOTING RIGHTS ACT CASE IN THE EARLY 1990'S
3 WOULD NOT BE WITHIN THE SCOPE OF YOUR REPORT WHICH INCLUDES A
4 SECTION TITLED "VOTING RIGHTS IN LOUISIANA, 1982-2013"?
5 **A.** NO. I MEAN, IT WOULD FALL UNDER THAT HEADING PERFECTLY
6 COMFORTABLY, BUT IT MAY JUST NOT HAVE BEEN INCLUDED FOR
7 WHATEVER REASON.
8 **Q.** AND WHAT MIGHT THAT REASON BE?
9 **A.** POSSIBLY THAT I OVERLOOKED IT, POSSIBLY THAT THE REPORT
10 WAS GETTING QUITE LONG. I'M NOT ENTIRELY SURE.
11 **Q.** OKAY. SO I UNDERSTAND THAT IN YOUR REPORT YOU DO NOT
12 ADDRESS LOUISIANA'S EFFORT TO COMPLY WITH THE VOTING RIGHTS ACT
13 BY CREATING A SECOND MAJORITY-MINORITY DISTRICT FOLLOWING THE
14 1990 CENSUS. CORRECT?
15 **A.** I MEAN, IF YOU DIDN'T FIND IT, I'M NOT SURE THAT IT'S IN
16 THERE.
17 **Q.** OKAY. AND, IN FACT, YOU DID NOT EVEN -- YOU CITE A LOT OF
18 CASE LAW, BUT YOU DID NOT EVEN CITE ONE OF THE *HAYS* CASES, IN
19 THE *HAYS* LINE OF CASES. CORRECT?
20 **A.** NO. I DON'T BELIEVE THAT I DID CITE ANY OF THE *HAYS*
21 CASES.
22 **Q.** OKAY. THANK YOU.
23 LET'S MOVE ON TO PAGE 45 IN YOUR REPORT. DR. GILPIN,
24 YOU NOTE TOWARD THE END OF THE FOURTH PARAGRAPH -- SO THE ONE
25 THAT STARTS "THE HOTLY CONTESTED." YOU NOTE, QUOTE, "THE

05:04 1 CHANGES TO THE VRA IN THE WAKE OF *SHELBY COUNTY* MEANT THAT
2 STATES WERE NO LONGER UNDER THE BURDEN OF PROVING THEIR LAWS TO
3 BE NONDISCRIMINATORY."
4 DO YOU SEE THAT?
5 **A.** YES, I DO.
6 **Q.** OKAY. SO BEFORE *SHELBY COUNTY*, WHICH WAS A 2013 SUPREME
7 COURT OPINION, LOUISIANA WAS UNDER A BURDEN OF PROVING ITS
8 VOTING LAWS TO BE NONDISCRIMINATORY. CORRECT?
9 **A.** YEAH, THAT'S MY UNDERSTANDING OF SECTION 5 PRECLEARANCE.
10 **Q.** OKAY. AND 2011 -- SO BEFORE *SHELBY COUNTY*, LOUISIANA'S
11 CONGRESSIONAL MAP WAS PRECLEARED. CORRECT?
12 **A.** I'M NOT SURE THAT I DISCUSS THAT IN THIS REPORT. I MEAN,
13 I HEARD IT IN THE COURTROOM TODAY.
14 **Q.** OKAY. SO YOU UNDERSTAND THAT TO BE TRUE?
15 **A.** SURE.
16 **Q.** OKAY. THANK YOU. NO FURTHER QUESTIONS, DR. GILPIN.
17 **THE COURT:** ANY REDIRECT?
18 **MR. RIZZUTO:** NO REDIRECT, YOUR HONOR.
19 **THE COURT:** OKAY. THANK YOU.
20 DR. GILPIN, YOU MAY GO OR YOU ARE RELEASED.
21 NEXT WITNESS.
22 **MR. SAVITT:** GOOD AFTERNOON, YOUR HONOR.
23 MAKING MY FIRST APPEARANCE, I'M ADAM SAVITT --
24 THAT'S S-A-V-I-T-T -- ON BEHALF OF THE ROBINSON PLAINTIFFS,
25 AND WE'D LIKE TO CALL ASHLEY SHELTON.

05:05 1 **ASHLEY SHELTON,**
2 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**
3 **THE DEPUTY CLERK:** WOULD YOU PLEASE STATE YOUR NAME
4 AND SPELL IT FOR THE RECORD, PLEASE.
5 **THE WITNESS:** SURE. MY NAME IS ASHLEY SHELTON.
6 A-S-H-L-E-Y, S-H-E-L-T-O-N.
7 **DIRECT EXAMINATION**
8 **BY MR. SAVITT:**
9 **Q.** GOOD AFTERNOON, MS. SHELTON.
10 **A.** GOOD AFTERNOON.
11 **Q.** THANK YOU.
12 **MR. SAVITT:** COULD WE PLEASE PULL UP PR EXHIBIT 11.
13 **BY MR. SAVITT:**
14 **Q.** AND DO YOU RECOGNIZE THIS DOCUMENT, MS. SHELTON?
15 **A.** I DO.
16 **Q.** AND WHAT IS IT?
17 **A.** IT IS MY DECLARATION.
18 **Q.** OKAY. THANK YOU VERY MUCH.
19 **MR. SAVITT:** WE CAN PUT THAT DOWN.
20 **BY MR. SAVITT:**
21 **Q.** MS. SHELTON, WHERE DO YOU LIVE?
22 **A.** IN BATON ROUGE.
23 **Q.** AND HOW LONG HAVE YOU LIVED IN BATON ROUGE?
24 **A.** MY WHOLE LIFE.
25 **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 1 **Q.** THANK YOU, MS. SHELTON.
2 AND YOU MENTIONED THE POWER COALITION WORKS
3 PREDOMINATELY WITH COMMUNITIES OF COLOR. AND BASED ON YOUR
4 EXPERIENCE WORKING WITH POWER COALITION, DO BLACK VOTERS FACE
5 DISCRIMINATION RELATED TO VOTING?
6 **A.** YES.
7 **Q.** AND COULD YOU DESCRIBE THAT DISCRIMINATION?
8 **A.** SURE. I MEAN, IT -- YOU KNOW, GOSH, SO FAR -- YOU KNOW,
9 JUST IN OUR OWN EXPERIENCES, WE -- DURING COVID -- SO 70
10 PERCENT OF THE DEATHS FROM COVID EARLY ON WERE AFRICAN AMERICAN
11 PEOPLE. SO DISPROPORTIONATELY BLACK PEOPLE WERE DYING FROM
12 COVID, AND IN THAT -- YOU KNOW, IN THAT PROCESS OF, YOU KNOW,
13 THE -- THEN -- NO, THE SECRETARY OF STATE THEN PUT INTO PLACE
14 DURING THE PRIMARY SEVERAL REASONS THAT FOLKS COULD -- YOU
15 KNOW, COULD HAVE REQUESTED AN ABSENTEE BALLOT, ESPECIALLY IF
16 THEY HAD UNDERLYING CONDITIONS. BUT WHEN WE GOT TO THE GENERAL
17 ELECTION, THEY DID NOT WANT THOSE REASONS TO STAND. AND SO WE
18 ENDED UP HAVING TO ORGANIZE AND SUE THE SECRETARY OF STATE.
19 AND THE GOVERNOR DID STAND WITH US, EVEN THOUGH WE HAD TO NAME
20 HIM IN THAT LAWSUIT. THAT AT THE END OF THE DAY WITH SO MANY
21 AFRICAN-AMERICAN FOLKS DYING EARLY ON IN THE -- IN COVID WITH
22 THE CONTINUED -- THIS WAS BEFORE VACCINES, BEFORE WE UNDERSTOOD
23 HOW IT WAS GOING TO CONTINUE TO GROW AND CHANGE. AND WE WERE
24 ABLE TO ENSURE THAT BLACK VOTERS THAT -- WHO DISPROPORTIONATELY
25 HAVE UNDERLYING CONDITIONS HAD ACCESS TO THEIR VOTE.

05:08 1 YOU KNOW, ALSO, THERE WAS AN EXAMPLE IN BAKER, WHICH
2 -- SO BAKER IS RIGHT OUTSIDE OF -- IT'S ONE OF THE MANY
3 UNINCORPORATED AREAS OF BATON ROUGE, OR RIGHT OUTSIDE. AND,
4 YOU KNOW, DURING THE 2020 ELECTION, THERE WAS A WHITE MAN WHO
5 SAT IN HIS CHAIR WITH A VERY LARGE GUN OUTSIDE OF A -- YOU
6 KNOW, OUTSIDE OF A BLACK PRECINCT. HE WAS, YOU KNOW, 600
7 YARDS AWAY -- OR FEET AWAY, WHICH IS THE LAW. BUT CLEARLY
8 SITTING THERE WITH A LARGE GUN IN PROXIMITY TO A BLACK
9 PRECINCT, YOU KNOW, WAS ALARMING AND VERY SCARY. THE POLICE
10 WERE CALLED, THE FBI, THE STATE TROOPERS. I MEAN, EVERYONE WAS
11 THERE, BUT NO ONE, YOU KNOW, TOOK ACTION BECAUSE IT CLEARLY
12 WAS, YOU KNOW, VOTER INTIMIDATION, BUT NOBODY TOOK ACTION ON
13 THAT. AND SO BASICALLY MULTIPLE -- YOU KNOW, MULTIPLE -- YOU
14 KNOW, POLICE GROUPS JUST KIND OF SAT AND WATCHED HIM, INSTEAD
15 OF REMOVING HIM SO THAT BLACK VOTERS WOULD FEEL COMFORTABLE
16 MAKING THEIR VOTE.
17 **Q.** THANK YOU.
18 AND WAS POWER COALITION AND ITS CONSTITUENTS PRESENT
19 AT THAT BAKER EVENT?
20 **A.** YES, WE WERE THERE. I HAD TWO STAFF MEMBERS THERE AND
21 SEVERAL MEMBERS OF THE COMMUNITY, AND WE HAD TO MOVE THEM BACK
22 SO THAT THEY COULD BE IN A SAFE DISTANCE AS THE POLICE KIND OF
23 WORKED OUT WHAT WAS GOING ON. BUT, AGAIN, YOU KNOW, HE WAS
24 ABLE TO SIT THERE FOR A GOOD BIT OF THE DAY.
25 **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 1 WHETHER OR NOT THEY CAN AFFORD, YOU KNOW, A CELL PHONE, A HOUSE
2 PHONE OR WHATEVER, SOME OF THOSE OTHER WAYS THAT WE WOULD TRY
3 TO CONTACT THEM.
4 **Q.** THANK YOU, MS. SHELTON.
5 AND YOU MENTIONED THE IMPACT OF POLL CLOSURES ON THE
6 COMMUNITIES YOU SERVE. ARE YOU AWARE OF POLL CLOSURES THAT
7 RESULTED FROM A PRECINCT CONSOLIDATION?
8 **A.** YES.
9 **Q.** AND COULD YOU SPEAK TO THAT ISSUE?
10 **A.** SO, I MEAN, WE HAD ONE, YOU KNOW, INSTANCE, YOU KNOW, THAT
11 KIND OF COMES CLEARLY TO MIND. IN NEW ORLEANS EAST, THEY WERE
12 CLOSING AND CONSOLIDATING A POLLING LOCATION THAT WAS
13 PREDOMINANTLY AFRICAN AMERICAN, AND IN THAT POLLING LOCATION --
14 YOU KNOW, WE TRIED TO WORK WITH THE SECRETARY OF STATE TO MAKE
15 IT MAKE SENSE FOR THE VOTERS THAT WERE CHRONIC VOTERS, MANY OF
16 THEM IN THAT AREA. AND WHAT ULTIMATELY -- YOU KNOW, THEIR
17 ARGUMENT WAS: "WELL, WE'RE JUST MOVING IT A COUPLE OF MILES."
18 BUT IN MOVING IT A COUPLE OF MILES MEANT THAT THE COMMUNITY
19 WOULD HAVE TO, YOU KNOW, CROSS A DANGEROUS HIGHWAY.
20 AND SO, AGAIN, ON PAPER IT DOESN'T LOOK LIKE IT IS
21 THIS BIG DEAL, BUT TO THOSE VOTERS THAT ARE TRYING TO ACCESS
22 THEIR VOTE AND WHO USED TO WALK TO THE POLLS CAN NO LONGER DO
23 THAT IN A SAFE WAY IF THEY'VE GOT TO CROSS A MAJOR INTERSTATE
24 TO ACCESS THEIR VOTE.
25 **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 1 WERE ON THEIR HEART -- THAT WERE MESSAGES THAT HAD -- YOU KNOW,
2 AGAIN, LIKE FAMILIAL FIGHT FOR THEM AROUND HAVING THEIR VOICE
3 AND THEIR VOTE. AND TO THEN, YOU KNOW, ONE, GET ENOUGH
4 COMMUNITY OUTCRY FOR THE GOVERNOR TO VETO AND THEN TO HAVE THAT
5 VETO OVERTURNED, IT JUST BASICALLY TELLS VOTERS THAT WE HAVE
6 WORKED SO HARD TO GIVE AGENCY TO AS A VOTER AND REMIND THEM
7 THAT THEIR VOTE AND THEIR VOICE ACTUALLY HAS POWER, IT JUST
8 BASICALLY SAYS TO THEM IT'S POLITICS AS USUAL. IT DOESN'T
9 MATTER. YOU KNOW, LIKE -- AND THEY DISENGAGE. AND SO IT MAKES
10 OUR WORK DOUBLY HARD.
11 **Q.** AND FOLLOWING UP ON THAT, MS. SHELTON, HOW HAS THE
12 LEGISLATURE'S ENACTED CONGRESSIONAL MAP IMPACTED POWER
13 COALITION'S WORK?
14 **A.** SO FOR POWER COALITION, AGAIN, YOU KNOW, WE'VE GOT
15 MIDTERMS COMING UP IN THE FALL. AND SO THIS CURRENT -- YOU
16 KNOW, LIKE -- AND SO WE DO A LOT OF EDUCATION WORK WITH OUR
17 COMMUNITIES, THE HISTORICALLY DISFRANCHISED COMMUNITIES IN
18 LOUISIANA. AND IN THE PROCESS OF DOING THAT WORK, RIGHT, LIKE
19 WE'VE GOT TO -- YOU KNOW, WE'VE GOT TO EDUCATE THEM ON LIKE
20 WHAT DISTRICT DO THEY LIVE IN, WHAT CHANGES HAVE HAPPENED AND
21 THEN ALSO TO ENGAGE THEM IN, YOU KNOW, THE PROCESS OF
22 UNDERSTANDING, YOU KNOW, WHAT AND WHEN THEY'RE GOING TO VOTE.
23 AND I THINK SPECIFICALLY FOR POWER COALITION, AGAIN,
24 YOU KNOW, WE ARE -- WE'RE DOING TOUCHES, RIGHT. YOU KNOW, LIKE
25 LAST -- LAST YEAR WE DID OVER, I WANT TO SAY, OVER A MILLION

05:21 1 TOUCHES. AND WHEN YOU TALK ABOUT A MILLION TOUCHES, THAT MEANS
2 THAT, YOU KNOW, WE'RE TOUCHING VOTERS AT LEAST THREE TIMES: SO
3 PHONE CALL, DOOR KNOCK, YOU KNOW, A TEXT MESSAGE OR A WHOLE
4 BUNCH OF OTHER THINGS. AND SO THE DIFFERENCE IS ME HAVING TO
5 DOUBLE WORK BECAUSE I'M DEALING WITH DISENFRANCHISED VOTERS WHO
6 FEEL LIKE *YOU TOLD ME THAT*, YOU KNOW, LIKE THAT IF WE ENGAGED
7 AND WE PROVIDED OUR VOICE, THAT IT WOULD BE OKAY. AND SO
8 THEY'RE DEFLATED AND DISCONNECTED.
9 AND SO, AGAIN, DOUBLE WORK, RIGHT, VERSUS WORKING
10 WITH A POPULATION AND A GROUP OF VOTERS WHO DON'T FEEL
11 DISENFRANCHISED, WHO FEEL LIKE THEY DO HAVE VOICE AND POWER AND
12 THAT THEY ARE GOING TO BE ABLE TO ELECT CANDIDATES OF CHOICE.
13 AND WE KNOW THAT BEING ABLE TO ELECT A CANDIDATE OF CHOICE
14 DRIVES VOTER INTERESTS AND VOTER EXCITEMENT IN THESE PROCESSES.
15 AND SO ON -- YOU KNOW, SO, AGAIN, AS THIS MAP THAT IS ENACTED,
16 I'VE GOT BOTH A DISENFRANCHISED AND A DEFLATED GROUP OF PEOPLE
17 WHO FEEL LIKE THE SYSTEM DOES NOT WORK.
18 **Q.** THANK YOU, MS. SHELTON.
19 AND SHIFTING GEARS, YOU SAID YOU'VE LIVED IN BATON
20 ROUGE YOUR WHOLE LIFE?
21 **A.** YES.
22 **Q.** ARE THERE DIFFERENCES BETWEEN NORTH BATON ROUGE AND SOUTH
23 BATON ROUGE?
24 **A.** YES.
25 **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 1 **Q.** AND DID I SEE THE LOUISIANA BUDGET PROJECT MENTIONED ON
2 THAT WEBSITE AS WELL?
3 **A.** YES. YES. AND LOUISIANA PARTNERSHIP FOR CHILDREN AND
4 FAMILIES AS WELL AS THE LOUISIANA POLICY INSTITUTE AND WOMEN
5 WITH A VISION. SO, YES, THERE ARE SEVERAL -- SEVERAL DIFFERENT
6 GROUPS.
7 AND THE BUDGET PROJECT, ALTHOUGH NOT A BASE-BUILDING
8 GROUP, DOES PROVIDE FOUNDATIONAL EXPERTISE ON BUDGET AND FISCAL
9 ISSUES THAT IMPACT POVERTY-STRICKEN COMMUNITIES ACROSS
10 LOUISIANA.
11 **Q.** SO IN PARAGRAPH 15 OF YOUR DECLARATION THAT YOU MADE IN
12 THIS CASE, YOU STATE THAT YOUR MEMBER ORGANIZATIONS ARE
13 DIRECTLY IMPACTED BY VOTE DILUTION.
14 **A.** UH-HUH.
15 **Q.** AND SO MY QUESTION FOR YOU: ARE ORGANIZATIONS' VOTERS --
16 IN OTHER WORDS, DO ORGANIZATIONS HAVE THE RIGHT TO VOTE?
17 **A.** ORGANIZATIONS DO NOT HAVE THE RIGHT TO VOTE. I THINK WHAT
18 WE ARE SPECIFICALLY TALKING ABOUT IS THAT THESE ORGANIZATIONS
19 REPRESENT A BASE, WHICH MEANS THAT THEY HAVE A MEMBERSHIP.
20 AND SO, FOR EXAMPLE, VOTE HAS SEVERAL HUNDRED MEMBERS
21 IN NEW ORLEANS. THEY HAVE ABOUT 100 MEMBERS HERE IN BATON
22 ROUGE. THEY'VE GOT MEMBERS IN SHREVEPORT AND ALL OVER THE
23 STATE. AND SO, AGAIN, IT'S NOT THE INDIVIDUAL ORGANIZATION.
24 IT IS THE PEOPLE THAT THEY REPRESENT AND THE PEOPLE THAT THEY
25 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 1 **A.** MY CANDIDATE OF -- ANYBODY THAT IS GOING TO CENTER THE
2 ISSUES THAT I CARE ABOUT. I MEAN, I AM A BLACK MOTHER. I HAVE
3 A BEAUTIFUL GOOFY 6'4" SON THAT'S 200 POUNDS. I MEAN, ANYBODY
4 THAT'S GOING TO CARE ABOUT THOSE ISSUES. AND IF YOU LOOK AT
5 GARRETT GRAVES, MY CURRENT CONGRESSMAN, IF YOU LOOK AT HIS
6 RECORD, HIS VOTING RECORD DOES NOT VOTE FOR ANYTHING THAT I
7 CARE ABOUT, INCLUDING THE FACT THAT THE INFRASTRUCTURE BILL
8 THAT JUST PASSED, HE VOTED AGAINST THAT, AND OUR CITY IS -- I
9 MEAN, OUR STATE IS CRUMBLING IN TERMS OF INFRASTRUCTURE. AND
10 SO, AGAIN, EVEN WHEN IT MAKES SENSE, EVEN WHEN HE MADE
11 AMENDMENTS TO THAT BILL, HE STILL VOTED AGAINST IT.
12 **Q.** BUT YOU WOULD SAY THAT A CANDIDATE OF CHOICE COULD BE
13 CONSERVATIVE OR COULD BE REPUBLICAN?
14 **A.** YES.
15 **Q.** AND THEY COULD BE WHITE?
16 **A.** I MEAN, IT HAS NOT BEEN MY EXPERIENCE TO DATE. BUT I
17 MEAN, I GUESS IT'S POSSIBLE.
18 **Q.** ALL RIGHT. AND I JUST HAVE ONE MORE QUESTION FOR YOU. ON
19 DECEMBER 14TH YOU WROTE A LETTER TO THE LEGISLATURE STATING,
20 "WE CONDUCTED AN ANALYSIS OF RECOMPILED ELECTION RESULTS AND
21 DETERMINED THAT THE TWO PROPOSED MAJORITY-BLACK OPPORTUNITY
22 DISTRICTS IN THE COALITION MAPS -- CD2 AND CD5 -- WOULD
23 RELIABLY PERFORM TO PROVIDE AN OPPORTUNITY FOR A CANDIDATE
24 PREFERRED BY BLACK VOTERS TO PREVAIL."
25 DO YOU RECALL THIS LETTER?

05:34 1 **A.** YES. I MEAN, I DON'T -- I MEAN, YEAH, IF YOU WANT TO PUT
2 IT UP.
3 **Q.** YES, WE CAN IF YOU WOULD LIKE, WHICH IS LEGISLATIVE
4 EXHIBIT 9, IF THAT HELPS AT ALL.
5 BUT MY QUESTION WAS, BASICALLY: THERE IS MENTIONED
6 ANALYSIS IN THERE, WHICH IS ON PAGE 2 OF THE LETTER; THERE IS
7 AN ANALYSIS MENTIONED.
8 **A.** UH-HUH.
9 **Q.** WHY WAS THIS ANALYSIS NEVER PROVIDED TO THE LEGISLATURE?
10 **A.** SO AS WE SAT IN COMMITTEE DAY AFTER DAY THROUGHOUT THE
11 REDISTRICTING PROCESS, YOU KNOW, REPRESENTATIVE JOHN STEFANSKI,
12 YOU KNOW, ASKED THAT QUESTION. AND I THINK THAT PART OF WHAT
13 -- EVEN IN THAT SPACE -- YOU KNOW, LIKE I THINK IT IS -- THE
14 WORK IS THERE, RIGHT. LIKE THE MAPS WERE DRAIN BY A NATIONALLY
15 RECOGNIZED DEMOGRAPHER, WHOM THIS COURT HAS HAD THE OPPORTUNITY
16 TO TALK TO. THE -- YOU KNOW, LIKE AT THE END OF THE DAY, LIKE
17 WHY DO HAVE TO DO THE STATE'S WORK FOR THEM? I MEAN, AT THE
18 END OF THE DAY, WE WERE ABLE TO SHOW WHAT WAS NECESSARY FOR THE
19 RECORD AND WHAT WAS NECESSARY FOR THEM TO MAKE A DECISION ABOUT
20 WHETHER OR NOT -- YOU KNOW, WHETHER OR NOT THESE SEVEN MAPS
21 THAT MET ALL OF THE TRADITIONAL REDISTRICTING PRINCIPLES THAT
22 SHOWED A SECOND MAJORITY-MINORITY DISTRICT, ALL OF THOSE THINGS
23 WERE MET. AND SO --
24 **Q.** BUT YOU DIDN'T FEEL THE NEED TO SHOW THAT TO THE
25 LEGISLATURE?

05:36 1 **A.** AGAIN, I MEAN, YOU KNOW, WE WORK WITH LOTS OF PARTNERS.
2 AND SO I DON'T WANT TO -- YOU KNOW, I MEAN, IT WASN'T MY
3 DECISION. BUT I DO THINK THAT AT THE END OF THE DAY I DO AGREE
4 THAT IT'S NOT OUR JOB TO DO EVERY SINGLE PART OF -- I MEAN,
5 LIKE WE'VE DONE EVERY SINGLE PART OF THIS PROCESS FOR THE STATE
6 TO FIGHT FOR AFRICAN-AMERICAN COMMUNITIES TO HAVE VOICE AND THE
7 IDEA THAT, LIKE, I'VE GOT TO ALSO GIVE YOU -- SHOW YOU MY MATH
8 AND SHOW YOU MY HOMEWORK, EVEN THOUGH I DO IN THE SENSE THAT
9 THERE WERE SEVEN MAPS SUBMITTED WITH THAT LETTER THAT SHOWED
10 THAT IT'S POSSIBLE FOR AFRICAN AMERICAN -- FOR A SECOND
11 MAJORITY-MINORITY DISTRICT TO HONOR THE GROWTH IN BLACK
12 POPULATION, WHICH IS THE PURPOSE OF REDISTRICTING, WHICH IS TO
13 HONOR CHANGES IN POPULATION.
14 **Q.** YOU SAID THE COURT HAD HEARD FROM THAT DEMOGRAPHER WHO
15 DREW THAT FOR YOU. WHICH ONE WAS THAT?
16 **A.** WELL, I MEAN, ONE OF THE TWO THAT SPOKE. I MEAN, EITHER
17 ONE OF THE TWO THAT SPOKE TODAY.
18 **Q.** OKAY.
19 **A.** I WANT TO SAY IT WAS TONY FAIRFAX, BUT ONE OF THE TWO THAT
20 WERE HERE TODAY -- WELL, YESTERDAY.
21 **Q.** AND JUST SHORT -- JUST A COUPLE MORE REALLY QUICK
22 QUESTIONS. HOW LONG HAVE YOU LIVED IN BATON ROUGE?
23 **A.** ALL MY LIFE. I'M 46, SO 46 YEARS.
24 **Q.** ALL YOUR LIFE?
25 **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.)

* * *

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