

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA,
ROSE TORRES, LAURA MURPHY,
CRISTINA FLORES, JOSE ALCALA, TROY
HERNANDEZ, GABRIEL PEREZ, IVAN
MEDINA, ALFREDO CALIXTO, HISPANIC
LAWYERS ASSOCIATION OF ILLINOIS, and
PUERTO RICAN BAR ASSOCIATION OF
ILLINOIS

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K.
LINNABARY, WILLIAM M. MCGUFFAGE,
WILLIAM J. CADIGAN, KATHERINE S.
O'BRIEN, LAURA K. DONAHUE,
CASANDRA B. WATSON, and WILLIAM R.
HAINE, in their official capacities as members
of the Illinois State Board of Elections,
EMANUEL CHRISTOPHER WELCH, in his
official capacity as Speaker of the Illinois House
of Representatives, the OFFICE OF SPEAKER
OF THE ILLINOIS HOUSE OF
REPRESENTATIVES, DON HARMON, in his
official capacity as President of the Illinois
Senate, and the OFFICE OF THE PRESIDENT
OF THE ILLINOIS SENATE,

Defendants.

Case No. 1:21-cv-03139

Magistrate Judge Jantz

Three-Judge Panel

Pursuant to 28 U.S.C. § 2284(a)

**CONTRERAS PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' IN SUPPORT OF THEIR PROPOSED ALTERNATIVE REMEDIAL
PLAN AND STATEMENT IN SUPPORT**

TABLE OF CONTENTS

I. Introduction..... 1

II. Defendants Misconstrue the *Gingles* 1 Standard and Concede That Plaintiffs Establish the First Prong..... 3

III. Defendants’ Arguments Regarding *Gingles* 2 and 3—Racially Polarized Voting—Are Unavailing..... 7

 A. Defendants Misconstrue the *Gingles* Framework for Racially Polarized Voting... 7

 B. Defendants Concede *Gingles* Prong Two..... 9

 C. *Gingles* Prong Three – Plaintiffs Prove Legally Significant Majority Bloc Voting..... 9

 1. “Win Rate”..... 10

 2. White Voters Only 17

IV. The Totality of Circumstances Weighs in Plaintiffs’ Favor..... 18

 A. History of Voting Related Discrimination..... 19

 B. The extent to which voting in the elections of that State or political subdivision is racially polarized..... 19

 C. The exclusion of members of the minority group from candidate slating processes..... 20

 D. The extent to which minority group members bear the effects of past discrimination, which hinder their ability to participate effectively in the political process..... 20

 E. Racial Appeals..... 21

 F. The Extent to Which Latinos Have Been Elected..... 22

 G. The extent to which “elected officials are unresponsive to the particularized needs of the members of the minority group..... 23

 H. Whether the policy underlying the State’s or political subdivision’s use of the contested practice or structure is tenuous..... 24

V. Contreras Plaintiffs Prove Their Racial Gerrymandering Claims Regarding HD 21 and SD 11..... 25

VI. Contreras Plaintiffs’ Remedial Map is not a Racial Gerrymander and Cures Legal Defects..... 28

CONCLUSION..... 30

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Abrams v. Johnson</i> , 521 U.S. 74 (1997).....	29
<i>Barnett v. City of Chicago</i> , 141 F.3d 699 (7th Cir. 1998)	4, 5, 6
<i>Barnett v. City of Chicago</i> , 969 F. Supp. 1359 (N.D. Ill. 1997), <i>aff’d in part, vacated in part</i> , 141 F.3d 699 (7th Cir. 1998).....	4, 5, 6
<i>Benavidez v. City of Irving, Tex.</i> , 638 F. Supp. 2d 709 (N.D. Tex. 2009)	9
<i>Bone Shirt v. Hazeltine</i> , 336 F.Supp.2d 976 (D.D.D.2004).....	9
<i>Campos v. City of Houston</i> , 113 F.3d 544 (5th Cir.1997)	5
<i>Comm. for a Fair & Balanced Map v. Illinois State Bd. of Elections</i> , 835 F. Supp. 2d 563 (N.D. Ill. 2011).....	3, 8, 10, 15
<i>Cooper v. Harris</i> , 137 S. Ct. 1455 (2017).....	28
<i>Garza v. Cty. of Los Angeles, Cal.</i> , 756 F. Supp. 1298 (C.D. Cal. 1990), <i>aff’d</i> 918 F.2d 763 (9th Cir. 1990).....	9
<i>Georgia State Conf. of NAACP v. Fayette Cty. Bd. of Comm’rs</i> , 996 F. Supp. 2d 1353 (N.D. Ga. 2014).....	29
<i>Georgia v. Ashcroft</i> , 195 F.Supp.2d 25 (D.D.C. 2002), <i>vacated on other grounds</i> , 539 U.S. 461 (2003).....	9
<i>Gomez v. City of Watsonville</i> , 863 F.2d 1407 (9th Cir. 1988)	9
<i>Hall v. Louisiana</i> , 108 F. Supp. 3d 419 (M.D. La. 2015).....	9
<i>Johnson v. De Grandy</i> , 512 U.S 997 (1994).....	13

League of United Latin Am. Citizen v. Clements,
986 F.2d 728 (5th Cir. 1993)(en banc)21

Luna v. Cty. of Kern,
291 F. Supp. 3d 1088 (E.D. Cal. 2018).....9, 13

McNeil v. Springfield Park Dist.,
851 F.2d 937 (7th Cir. 1988)4, 5

Miller v. Johnson,
515 U.S. 900 (1995).....27

Montes v. City of Yakima,
40 F. Supp. 3d 1377 (E.D. Wash. 2014).....9

Negron v. City of Miami Beach,
113 F.3d 1563 (11th Cir.1997)5

Patino v. City of Pasadena,
677 F. App'x 950 (5th Cir. 2017)17

Rodriguez v. Pataki,
308 F.Supp.2d 346 (S.D.N.Y. 2004).....9

Romero v. City of Pomona,
883 F.2d 1418 (9th Cir.1989)5

Ruiz v. City of Santa Maria,
160 F.3d 543 (9th Cir. 1998)9

Shaw v. Hunt (Shaw II),
517 U.S. 899 (1996).....25

Thornburg v. Gingles,
478 U.S. 30 (1986)..... *passim*

United States v. Alamosa Cnty.,
306 F. Supp. 2d 1016 (D. Colo.9

United States v. Vill. of Port Chester,
704 F. Supp. 2d 411 (S.D.N.Y. 2010).....8

Wright v. Sumter Cnty. Bd. of Elections & Registration,
979 F.3d 1282 (11th Cir. 2020)21

Statutes

Voting Rights Act *passim*

Other Authorities

IL House Bill 2777.....24

IL Senate Bill 9272, 24

United States Senate Rep. 417 at 29, reprinted in 1982 U.S. Code Cong. Admin.
News at 207 7, 8, 20, 21

United States Constitution Fourteenth Amendment2, 25, 28

RETRIEVED FROM DEMOCRACYDOCKET.COM

Plaintiffs Julie Contreras, *et al.* (“Contreras Plaintiffs”), respectfully submit this reply in support of their proposed alternative remedial plan and statement in support. *See* Dkt. 139, Dkt. 135-1 through 135-23. Plaintiffs respond to Defendants’ arguments in favor of the legally flawed September Redistricting Plan and ask the Court to adopt the Contreras Alternative Proposed Remedial Plan.

I. Introduction

In their response to Contreras Plaintiffs’ remedial proposal and statement in support, Defendants demand that Latino voters accept a legislative redistricting plan that reduces Latino representation even though Latinos grew more than any other group in Illinois in the last decade. As Contreras Plaintiffs show in their statement in support of their remedial plan, Latinos eligible to vote have fewer districts in which they comprise the majority of eligible voters in the September Plan than they did in last decade’s plan. *See* Dkt. 139 at 1, 9.

Defendants also seek to relegate Latinos to reliance on state legislative leadership for representation. They claim in their Response to Plaintiffs’ Statements and Proposed Remedial Plans, based on their expert’s flawed analysis, that “minorities have been very successful in the last decade at electing their candidates of choice in Illinois.” *See* Dkt. 155 at 29.

Defendants’ claim that Latinos have a high rate of success in electing their candidate of choice relies upon their legally erroneous disregard of the fact that Latinos cannot win unless they are first appointed or are incumbents. Concomitantly, Defendants argue that Latinos do well enough in elections but neglect to mention the obvious truth: that Latino candidates succeed in the face of racially polarized voting only when Latino voters’ votes are not diluted or when Latino candidates themselves are appointed and/or are incumbents. Defendants stake the legality and fairness of their plan in the idea that Latinos should be successful only when Defendants say they

get to be successful—i.e., when state leaders appoint them. Defendants therefore seek to require that Latinos come hat in hand to Defendants and their political associates for handouts when they seek additional representation, rather than giving Latinos true opportunities to elect candidates of their choice.

Defendants also lump Latinos in with other minorities throughout their brief and the report of their expert, Dr. Allan Lichtman. Contreras Plaintiffs are individual Latino voters as well as two Latino state bar associations that seek to protect the voting rights of Latinos under federal statute. *See* Dkt. 98 at ¶¶ 11-26. In their proposed alternative remedial plan and statement in support, Contreras Plaintiffs detail legal defects in Defendants’ September Plan, passed as Senate Bill 927, including dilution of the voting strength of Latino voters in violation of section 2 of the federal Voting Rights Act and racial gerrymanders in its configuration of Senate District 11 and House District 21 in violation of the Fourteenth Amendment to the United States Constitution. *See* Dkt. 139.

This attitude regarding “minorities” is also exemplified in Defendants’ introduction when they state that “it is hard to imagine a map that would make everyone happy.” Dkt. 155 at 1-2. To Defendants, Latinos are not voters with rights. Rather, to Defendants, Latinos are but another interest group to be pacified.

In terms of their legal arguments, Defendants erroneously blend incorrect standards for the *Gingles* factors. Namely, their expert Dr. Lichtman blends issues when it is convenient, and separates them when they are not, such as treating minorities as a whole only when it works for his arguments. Additionally, Defendants misconstrue the standards of the senate factors and fail to provide non-racial reasons for their racial gerrymanders.

Because Defendants have no defense to the legal defects that their September Plan creates, adoption of Contreras Plaintiffs' Alternative Remedial Proposal would serve as a fully legal and fair map.

II. Defendants Misconstrue the *Gingles* 1 Standard and Concede That Plaintiffs Establish the First Prong.

Contrary to Defendants' argument, Contreras Plaintiffs do establish *Gingles* 1 by showing that Latinos are "sufficiently large and geographically compact to constitute a majority in" the areas of the districts that they challenge. *See* Dkt. 155 at 34-35. Contreras Plaintiffs' expert David R. Ely demonstrated that a plan could be drawn in which Latinos are sufficiently large and geographically compact to constitute a majority of the citizen voting age population in the areas of House Districts 3, 4, 21, 24, and 39, and in the areas of Senate Districts 2 and 11. *See* Dkt. 139 at 9-12; Dkt. 135-21 at 11, 53-54. Defendants offer no evidence that contradicts his report. In fact, Defendants agree with Mr. Ely's analysis, as evidenced in the data that Jonathan Maxson and Miles Sodowski supply in their declarations. *See* Dkt. 155-2 at 14-16 (showing Latino CVAP majorities in Contreras Plaintiffs' Proposed Plan's HD 3, 4, 21, 24, and 39); *see also* Dkt. 155-6 at 10-11 (showing Latino CVAP majorities in Contreras Plaintiffs' Proposed Plan's SD 2 and 11).

Defendants mistakenly use the phrase "majority-minority" and "majority-minority district" to refer to the districts that Plaintiffs must demonstrate to satisfy *Gingles* 1. *See* Dkt. 155 at 18, 34-35. However, that is not the standard under *Gingles* 1. Instead, the correct standard is whether Contreras Plaintiffs, who are Latino voters and who seek to protect against dilution of Latino voting strength, can show that they are large enough and compact enough to be a majority in a district. *See Comm. for a Fair & Balanced Map v. Illinois State Bd. of Elections*, 835 F. Supp. 2d 563, 580 (N.D. Ill. 2011) (Section 2 claim by Latinos required them to prove that "Latinos are a large enough group and geographically compact enough to be a majority in a single-member

district, or in more single-member districts than the redistricting plan created”) (citing *Thornburg v. Gingles*, 478 U.S. 30, 48–51 (1986)). Therefore, Contreras Plaintiffs’ section 2 claims should be judged on the basis of their ability to draw districts in which Latinos are the majority of eligible voters.

Instead, Defendants argue that Contreras Plaintiffs’ claims should fail because the districts they challenge, with the exception of HD 24, are all majority Latino voting age (not citizen voting age) districts in the SB 927 Plan. *See* Dkt. 155 at 25-26. A measure of Voting Age Population majority is insufficient to demonstrate that Latinos constitute the majority of eligible voters in a *Gingles* prong one district. *See id.* Contreras Plaintiffs concede that the Seventh Circuit has not decided this issue, but do not concede that VAP is the proper standard for Latino voters. *See* Dkt. 139 at 8-9. If the Court believes that Contreras Plaintiffs’ ability to establish *Gingles* 1 turns on this question, there is significant authority that indicates that CVAP is the proper standard for determining whether Latinos constitute the majority of the eligible voters in a prong one illustrative district.

In the Seventh Circuit opinion that does mention VAP as the standard, and to which the *Barnett* district court cited, the voters in question are Black voters. *See McNeil v. Springfield Park Dist.*, 851 F.2d 937, 944 (7th Cir. 1988) (“While blacks would comprise small total population majorities, with 50.4% in a single-member park district and 50.2% in a single-member school district, they would not comprise a majority of the voting age population in either single-member district”); *see also Barnett v. City of Chicago*, 969 F. Supp. 1359, 1409 (N.D. Ill. 1997), *aff’d in part, vacated in part*, 141 F.3d 699 (7th Cir. 1998) (“In *McNeil* the Seventh Circuit has ruled that voting age population (‘VAP’) is the relevant population standard for determining the first *Gingles* prong[...]. This standard has never been overturned by the Seventh Circuit”) (citing *McNeil*, 851

F.2d at 945). The *McNeil* court recognized that in determining which measure of Black population to use for *Gingles* 1, that “those ineligible to vote have not experienced a dilution of their vote.” *McNeil*, 851 F.2d at 945.

In *Barnett*, the Seventh Circuit did not have the proper population measure for *Gingles* 1 before it as an issue but did decide that “citizen voting-age population is the basis for determining equality of voting power that best comports with the policy of the [Voting Rights Act]” for Black voters and Latino voters. *Barnett v. City of Chicago*, 141 F.3d 699, 704 (7th Cir. 1998). The Seventh Circuit noted in reaching its holding that “more than 40 percent of the Latinos in Chicago are not U.S. citizens. *Id.* at 702. The Seventh Circuit went on to discuss how the representation picture changed for Black and Latino voters when measuring using VAP versus CVAP for determining “the benchmark for determining proportional equality of voting power,” noting that Latinos appeared to have a lower share of majority-Latino aldermanic districts in proportion to their share of voters in Chicago when measuring using VAP rather than using CVAP. *See id.* at 703-705. The authority upon which the Seventh Circuit based its decision to use the CVAP measure for proportionality were other circuits’ cases that used the CVAP measure for *Gingles* 1. *See id.* at 705 (citing *Negron v. City of Miami Beach*, 113 F.3d 1563, 1567–69 (11th Cir.1997); *Campos v. City of Houston*, 113 F.3d 544, 547–48 (5th Cir.1997); and *Romero v. City of Pomona*, 883 F.2d 1418, 1425–26 (9th Cir.1989)). The Seventh Circuit also observed that in cases in which it had decided that VAP was the standard for *Gingles* 1 (including *McNeil*) or proportionality, “noncitizens were not a significant part of the relevant population.” *See id.* at 705.

In this case, as in *Barnett*, there is a significant difference in the challenged districts in SB 927 when using VAP and CVAP. Even though Mr. Ely’s report shows this point as well, Contreras

Plaintiffs use Defendants’ figures below for the challenged districts in SB 927 to show the significant difference between VAP and CVAP.

Contreras-Challenged District	SB 927 Latino VAP	SB 927 Latino CVAP
House District 3	54.13%	47.40%
House District 4	52.65%	45.20%
House District 21	51.74%	42.70%
House District 24	48.50%	43.70%
House District 39	51.61%	45.60%
Senate District 2	53.39%	46.30%
Senate District 11	57.26%	47.70%

See 155-2 at 14-16 (House Data); Dkt. 155-6 at 10-11 (Senate Data).

Just as the “picture changes” in *Barnett* when using CVAP rather than VAP for Latinos, it significantly changes the picture here. See *Barnett*, 141 F.3d at 703-705. Both *Barnett* and *Gingles* were seeking a measurement of eligible voters—the former for purposes of measuring whether the number of districts in which Latinos have an opportunity to elect is proportional to their presence among eligible voters, and the latter for purposes of measuring potential voting strength in an illustrative prong one district. For Latinos especially, as *Barnett* recognized, citizenship must be taken in account in determining the size of the eligible voter population. See *id.* This court should find that CVAP is the appropriate measure for proving *Gingles* 1 as to Latino voters in the challenged districts.

Defendants also attack Plaintiffs’ *Gingles* 1 proof on the basis that Plaintiffs as a collective are barred from using American Community Survey data because of the evidence presented as part of Plaintiffs’ malapportionment merits cases. See Dkt. 155 at 35-36. Defendants’ claim involves the unfounded accusation that Plaintiffs based their malapportionment claims on the idea that “CVAP is unreliable.” See *id.* at 35. The brunt of this argument appears directed at McConchie Plaintiffs. See *id.* (citing McConchie Plaintiffs’ expert Dr. Chen). However, to the extent that Defendants apply this argument Contreras Plaintiffs’ challenge to Defendants’ remedial plans, it

is unavailing. Contreras Plaintiffs' malapportionment motion for summary judgment relied on the actual deviations in population of each district from the ideal district size, not on attacking ACS data. *See* Dkt. 65 at 7-8. Contreras Plaintiffs criticized the use of ACS data for measuring total population counts, especially in smaller areas, not the use of ACS data for characteristics such as citizen voting age population. *See id.* at 9. In fact, in their Statement of Undisputed Material Facts, Contreras Plaintiffs pointed to Census Bureau documentation saying that "the American Community Survey (ACS) was designed to provide estimates of the characteristics of the population, not to provide counts of the population in different geographic areas or population subgroups." *See* Dkt. 66 at ¶ 24 n.24.

III. Defendants' Arguments Regarding *Gingles* 2 and 3—Racially Polarized Voting—Are Unavailing.

A. Defendants Misconstrue the *Gingles* Framework for Racially Polarized Voting.

Defendants reframe the *Gingles* racial polarization inquiry in a manner that would limit voter protections under the federal Voting Rights Act to jurisdictions where whites comprise the majority of the electorate, insisting that the electoral choices of Latino voters must be overcome by white voters only. Dkt.155 at 21 and 32. In support, Defendants cite but ignore the Supreme Court's seminal interpretation of Section 2. The *Gingles* Court painstakingly draws on the extensive legislative history of Section 2, and concludes that the "right" question in a Section 2 analysis is whether "as a result of the challenged practice or structure plaintiffs do not have an equal opportunity to participate in the political processes and to elect candidates of their choice." *Gingles*, 478 U.S. at 44, *citing* S Rep., at 2, 15–16, 27-29, n. 118, 36 and USCCAN 1982 at 206.

This Contreras action was brought by Latino voters. Defendants' claim is that the structure of the new districting plans "operates to minimize or cancel out their ability to elect their preferred

candidates” because it “results in members of a protected group having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. *Gingles*, 278 U.S. at 63 (citing S.Rep., at 2, 27, 28, 29, n. 118, 36) (emphasis added). Therefore, in the context of this case, Plaintiffs’ burden is to show that bloc voting by the rest of the electorate is usually able to defeat candidates that Latinos cohesively support. *Gingles*, 478 U.S. at 48–49.

The *Gingles* court does refer, in its prong three discussion, to bloc voting by “white voters.” *Id.* at 56. This does not mean, however, in the context of a North Carolina challenge by Black voters, where non-Black voters are overwhelmingly white, that the Supreme Court adopted a rule dictating that the *Gingles* prongs are only operative where whites constitute the majority of the population. To the contrary, in its more prefatory overview of the evidentiary burden, the Supreme Court advised that “[s]tated succinctly, a bloc voting majority must usually be able to defeat candidates supported by a politically cohesive, geographically insular minority group. *Gingles*, 478 U. S. at 48-49.

Thus, numerous courts deciding challenges by Latino plaintiffs have reviewed and relied on expert analysis that presents voting disparities between Latino and non-Latino voters. *Comm. for a Fair & Balanced Map v. Illinois State Bd. of Elections*, 835 F. Supp. 2d 563, 588 (N.D. Ill. 2011) (“As correctly noted by Dr. Lichtman, proof of vote dilution requires two steps. The Committee must first show that Latinos and non-Latinos prefer different candidates, and second, that the non-Latino voting bloc is sufficiently strong to usually defeat the Latino candidate of choice.”); *see also United States v. Vill. of Port Chester*, 704 F. Supp. 2d 411, 443 (S.D.N.Y. 2010) (“In sum, it is clear to this Court that Hispanic voters and non-Hispanic voters in Port Chester prefer different candidates, and that non-Hispanic voters generally vote as a bloc to defeat

Hispanic-preferred candidates.”); *Ruiz v. City of Santa Maria*, 160 F.3d 543, 559 (9th Cir. 1998) (Appendix – racial polarization between Hispanics and non-Hispanics); *Benavidez v. City of Irving, Tex.*, 638 F. Supp. 2d 709, 725 (N.D. Tex. 2009) (polarization analysis of Hispanic and non-Hispanic vote); *Luna v. Cty. of Kern*, 291 F. Supp. 3d 1088, 1118-1121 (E.D. Cal. 2018) (racially polarized voting found as between Hispanics and non-Hispanics); *Garza v. Cty. of Los Angeles, Cal.*, 756 F. Supp. 1298, 1304 (C.D. Cal. 1990), *aff’d* 918 F.2d 763, 770 (9th Cir. 1990); *Gomez v. City of Watsonville*, 863 F.2d 1407, 1415 (9th Cir. 1988) (“The inquiry is essentially whether the minority group has expressed clear political preferences that are distinct from those of the majority.”); *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1407 (E.D. Wash. 2014) (The “non-Latino majority in Yakima routinely suffocates the voting preferences of the Latino minority.”)

B. Defendants Concede *Gingles* Prong Two.

Defendants concede that Latinos vote cohesively and that therefore have met their burden of proof on the second *Gingles* prong. Dkt. 155 at 28.

C. *Gingles* Prong Three – Plaintiffs Prove Legally Significant Majority Bloc Voting.

Defendants’ expert, Dr. Lichtman, noted that he performed his own polarization analysis¹ and was able to verify Dr. Grumbach’s results with only two exceptions.² Dkt. 155-1 at 42, 50,

¹ Dr. Lichtman performed an ecological regressions analysis, which he failed to produce in violation of Rule 26. In fact, Dr. Lichtman failed to produce any documents or data that he relied on in his report. He also travels a road against the weight of academic and judicial opinion in rejecting ecological inference in favor of ecological regression. Dkt. 155-1 at 44-45. See Ex. 1 Grumbach Rebuttal Report at 5. *But see Luna v. Cty. of Kern*, 291 F. Supp. 3d 1088, 1118 (E.D. Cal. 2018) (“Ecological inference (“EI”), developed by political scientist Gary King in 1997, seeks to overcome some of the shortcomings of ER, and is “similar to, but largely regarded as an improvement upon” the ER methodology endorsed in *Gingles*. *Hall v. Louisiana*, 108 F.Supp.3d 419, 433 n.15 (M.D. La. 2015)); *Bone Shirt v. Hazeltine*, 336 F.Supp.2d 976, 1003, (D.D.D.2004); *Rodriguez v. Pataki*, 308 F.Supp.2d 346, 387–88 (S.D.N.Y. 2004) (citing *Georgia v. Ashcroft*, 195 F.Supp.2d 25, 69 (D.D.C. 2002), *vacated on other grounds*, 539 U.S. 461 (2003)); *United States v. Alamosa Cty., Colo.*, 306 F. Supp. 2d 1016, 1023 (D. Colo. 2004) (noting use of King’s EI by experts Weber and Engstrom).

² Dr. Grumbach has corrected the two clerical coding errors pointed out by Dr. Lichtman. One error misidentified the Latino preferred candidate in 2020 HD 19 Democratic Primary election, which she lost. Second error was not as

128-29. Given that concession, the question before this court is not whether Plaintiffs' expert's analysis is accurate, but whether it demonstrates legally significant majority bloc voting.

Defendants argue that Plaintiffs cannot possibly meet the *Gingles* prong three requirement to show that non-Latino bloc voting usually defeats Latino electoral choices. Their argument rests on two factually and legally erroneous propositions: (1) that Plaintiffs' showing of racially polarized voting³ is defeated by a simple tally of elections won and lost by Latino-preferred candidates (Dkt. 155 at 29, 34); and (2) that Plaintiffs' expert failed to identify the elections that were "swayed by the white vote" alone. *Id.* at 33.

1. "Win Rate"

Defendants' entire fact-based opposition is heralded by the factually incorrect assertion that the Latino candidate of choice won 91% of the elections analyzed by Plaintiff's experts. *Id.* at 29.

However, the simple tally resulting in the 91% win rate was *not* an analysis of elections examined by Dr. Grumbach, which are the only elections that are offered by Contreras Plaintiffs, and are the only elections probative of the Contreras claims. Plaintiffs' expert, Dr. Grumbach analyzed *all* of the racially contested elections, endogenous and exogenous, that are located in the geographical area where the districts challenged by Contreras plaintiffs are located. Dkt. 135-19 at p. 2, 4. *Comm. for a Fair & Balanced Map v. Illinois State Bd. of Elections*, 835 F. Supp. 2d 563, 587-88 (N.D. Ill. 2011) (rejecting the exclusion of elections where the list of elections analyzed excluded portions of the challenged districts, excluded elections with "non-competitive"

consequential, as revealed a 33% Latino support rate for a successful Latino candidate in the 2020 Democratic Primary in HD 40 Ex. 1 Grumbach Rebuttal Report at 2-3.)

³ Dr. Grumbach corrected two coding errors in his initial work. In his initial report, he found that 13 of 19 endogenous elections were racially polarized. Upon making the corrections, he concludes that 15 of 19 elections were racially polarized. Ex. 1 Grumbach rebuttal report at 3.

Latino candidates, included only one legislative election and excluded congressional, state senate, and state representative elections.).

Dr. Lichtman, however, says that to arrive at the 91%, he analyzed “26 Hispanic v. non-Hispanic elections in 25% CVAP districts,” Dkt. 155-1 at 35. Alternatively, he says he arrived at the 91% figure by analyzing “23 probative elections analyzed by either Dr. Grumbach or Dr. Chen.” *Id.* at 71. A third analysis, finally using Dr. Grumbach’s analysis alone, which is appropriate, results in a different but equally inaccurate figure. *Id.* at p. 51, Table 5. In each of the tallies, Dr. Lichtman fails to mention how many of the Latino voter “wins,” were not aided by incumbency or occurred because the district is over 50% Latino CVAP.

As the tables below illustrate, when elections characterized by special circumstances explicitly named in *Gingles*, 478 U.S. at 54 (incumbency and elections taking place in a majority Latino district) are removed from the equation, ***Latino candidates of choice lost 70% of the elections analyzed by the Contreras expert.*** Thus, majority bloc voting “in the absence of special circumstances,” was able “usually to defeat the minority preferred candidate.” *Gingles*, 478 U.S. at 51.

Gingles’ common sense caution about discounting a win in a majority-minority district no doubt arises from the unremarkable conclusion that even in the presence of racially polarized voting, a “win” can occur if cohesively voting Latinos constitute the majority of the eligible voters. Such a victory where district composition does not give effect to the polarization therefore reveals nothing about the strength of majority bloc voting. Another “special circumstance” explicitly noted in *Gingles*, incumbency, is an advantage recognized as significant by scholarly consensus. Ex. 1 Grumbach Rebuttal Report p. 4. *See also*, Dkt. 139 at 18-20.

Dr. Grumbach analyzed 19 racially contested endogenous elections that geographically overlap the districts that Contreras Plaintiffs challenge. The resulting “win rates” by Latino-preferred candidates are as follows:

Endogenous elections Analyzed by Dr. Grumbach, Contreras Expert

District & Election	Candidate of Choice of Hispanic Voters	% of Hispanic Vote for Candidate	Hispanic Candidate of Choice wins?	Special Circumstances
HD 1 2018 DP	Ortiz	61%	Yes	Majority LCVAP district (59.4%)
HD 2 2012 DP	Morfin	61%	No	
HD 2 2016 DP	Acevedo	66%	No	
HD 2 2020 DP	Mah	61%	Yes	Incumbent
HD 4 2016 DP	Soto	95%	Yes	Incumbent
HD 4 2018 DP	Ramirez	67%	Yes	
HD 19 2020 DP	Bonin ⁴	42%	No	
HD 22 2012 DP	Madigan	82%	Yes	Incumbent
HD 22 2016 DP	Madigan	64%	Yes	Incumbent
HD 24 2016 GEN	Hernandez	98%	Yes	Incumbent; Majority LCVAP District (62.6%)
HD 39 2012 DP	T. Berrios	65%	Yes	incumbent
HD 39 2014 DP	T. Berrios	75%	No	
HD 40 2014 DP	Andrade	56%	Yes	Incumbent, appointed 2013

⁴ The Latino candidate of choice in this election is Vasquez-Bonin, not Lapointe who is in Dr. Lichtman’s table. A clerical error, which Dr. Grumbach has corrected, has resulted in a Latino support rate of 42%, making her the top choice of Latino voters. Ex. 1 Grumbach Rebuttal Report at 2. Dr. Lichtman notes the error at page 43 Table 3 of his report, and Dr. Grumbach has rectified it in his rebuttal. Dr. Lichtman’s ecological regression analysis, which Defendants have not produced, would have presumably identified Bonin, a losing candidate, as the choice of Latino voters.

HD 40 2016 DP	Andrade	71%	Yes	Incumbent, appointed 2013
HD 40 2020 DP	Andrade	73%	Yes	Incumbent, appointed 2013
SD 6 2014 GEN	Cullerton	79%	Yes	Incumbent
SD 11 2020 GEN	Villanueva	97%	Yes	Incumbent, appointed 2020, Majority LCVAP District (54.7%)
SD 12 2012 DP	Landek	57%	Yes	Incumbent
SD 20 2018 DP	Martinez	73%	Yes	Incumbent

The simple “win rate,” for Plaintiffs’ endogenous elections then is not 91% as claimed in Defendant’s Response, nor is it the 84% claimed in Dr. Lichtman’s report at p. 51 Table 5. Admittedly, the 15 wins of 19 elections does result in a deceptively large 78.9% “win rate.” However, only one of the wins, in HD4 in 2018, occurred without the benefit of a majority Latino electorate, or incumbency, or appointment. ***With no such advantage, the win rate becomes 20%*** (only one of 5 races not characterized by special circumstances). Ex. 1 Grumbach Rebuttal Report at 3. As set forth in Plaintiffs’ Remedial Statement, Dr. Lichtman’s simple tallies and Defendants accompanying argument completely ignore the explicit instruction from the Supreme Court and numerous other courts to take into consideration whether the victories occurred in majority-Latino districts, whether the prevailing candidates were incumbents, let alone appointed incumbents.⁵ See also *Gingles*, 478 U.S. at 57; *Johnson v. De Grandy*, 512 U.S. 997 at 1003–04. Absent special circumstances, bloc voting prevents the election of Latino-preferred candidates in the relevant endogenous jurisdictions. See *Luna v. Cty. of Kern*, 291 F. Supp. 3d 1088, 1129 (E.D. Cal. 2018)

⁵ See cases set forth in Dkt. 139 at 19-20.

(Where Latino candidates lost only two of the five endogenous elections, plaintiffs nonetheless demonstrated legally sufficient polarization because one of the elections took place in a majority-Latino district and should “therefore be disregarded,” and the other two Latino victories were by a candidate who consistently fared better with non-Latino voters than Latino voters and whose elections were not characterized by racially polarized voting.).

The probative exogenous elections, those racially contested elections that overlap the Contreras Plaintiffs’ challenged jurisdictions, are further evidence that absent special circumstances, bloc voting overcomes the electoral choices of Latino voters. Dr. Lichtman did not address these elections in his “win rate” claims.

Exogenous elections Analyzed by Dr. Grumbach, Contreras Expert

District & Election	Candidate of Choice of Hispanic Voters	% of Hispanic Vote for Candidate	Hispanic Candidate of Choice wins?	Special Circumstances
COMPTROLLER 2016 GEN	Mendoza	80.54	Yes	
ATTORNEY GENERAL 2018 DP	Quinn	33.2	No	
COMPTROLLER 2018 GEN	Mendoza	86.44	Yes	Incumbent
STATE'S ATTORNEY 2012 GEN	Alvarez	84.69	Yes	Incumbent
CLERK OF THE CIRCUIT COURT 2012 DP	Muñoz	57.99	No	
STATE'S ATTORNEY 2016 DP	Alvarez	63.72	No	
ASSESSOR 2018 DP	Berrios	53.95	No	
COUNTY COMMISSIONER D2 2018 DP	Aguirre	63.77	No	
COUNTY COMMISSIONER D8 2018 RP	Zarnecki	65.47	Yes	

COUNTY COMMISSIONER D8 2018 GEN	Arroyo Jr.	88.12	Yes	Incumbent
CLERK OF THE CIRCUIT COURT 2020 DP	Martinez	82.03	Yes	
CLERK OF THE CIRCUIT COURT 2020 GEN	Martinez	81.56	Yes	
MAYORAL 2015 GEN	Garcia	71.17	No	
MAYORAL 2015 RUN	Garcia	81.03	No	
MAYORAL 2019 GEN	Mendoza	32.32	No	
CD 4 2014 DP	Gutierrez	82.78	Yes	Incumbent; Majority LCVAP (53%)
CD 4 2018 GEN	Garcia	92.72	Yes	Majority LCVAP (53%)

Again, the “win rate” is nowhere near 91%. Latino candidates of choice won 9 of the 17 exogenous elections analyzed (52.9%). Five of the nine winners ran with the advantage of either running in a Latino majority district, or incumbency, or both. ***Thus, the true win rate in exogenous elections is 4 wins out of 12 races unaffected by special circumstances, or 25%.*** Ex. 1 Grumbach Rebuttal Report p. 3

All elections Analyzed by Dr. Grumbach, Contreras Expert⁶

<i>Elections</i>	<i>Total races Unaffected by Special Circumstances.</i>	<i>Latino Candidate of Choice Losses</i>	<i>Latino Candidate of Choice Wins</i>
Endogenous	5	4 (80%)	1(20%)
Exogenous	12	8 (66%)	4 (33)%
Total	17	12 (70%)	5(30%)

When the vast majority of racially contested elections in the relevant area are polarized, Dkt. 135-19 at 2, 16, 20, and when absent special circumstances, the Latino candidate of choice is

⁶ Ex. 1 Grumbach Rebuttal Report p. 3

usually defeated by the majority—“usually” meaning 70% of the time in this case—Plaintiffs have demonstrated legally sufficient majority bloc voting in compliance with *Gingles* prong three.

Dr. Lichtman proceeds to execute the same flawed analysis, but compounds his errors by inexplicably combining the races analyzed for the McConchie Plaintiffs, who have a separate lawsuit with a different set of challenged districts and therefore a different set of elections analyzed by their expert, Dr. Chen. Dkt. 155-1 at 72, table 10. The elections that Dr. Lichtman claims are probative but omitted by Dr. Grumbach for Contreras plaintiffs, *Id.* at 61, were either not racially contested or they did not geographically overlap the jurisdiction challenged by Contreras Plaintiffs, illustrating why it is completely inappropriate to combine the results for the two Plaintiff groups into one analysis. Ex. 1 Grumbach Rebuttal Report p. 3. And like the others, this tally of elections ignores incumbency and other circumstances explicitly named in *Gingles*, circumstances that “may explain minority electoral success in a polarized contest,” such that the victories do not necessarily negate a finding of legally significant bloc voting. *Thornburg v. Gingles*, 478 U.S. at 57. When special circumstances are taken into account, this grouping of elections also fails to negate a finding that absent special circumstances, majority bloc voting usually defeats the cohesive choice of Latino voters.⁷

Dr. Lichtman also presents a chart lauding “24 minority victories” in Districts where minorities comprise over **50%** of the CVAP. Dkt. 155-1 at 8-9, Table 1. Again, “minority victories” are not Latino victories, and Plaintiffs in this case contend the dilution of Latino vote, not the “minority vote.” Only 9 of the 24 minorities are Latino. Five of the nine were appointed,

⁷ Dr. Lichtman’s exercise in combining Dr. Chen’s and Dr. Grumbach’s analysis omits 3 of Dr. Grumbach’s elections, (HD 2 2012 P – Morfin loss, HD 19 2020P Bonnin loss, SD 6 2014 G Cullerton), and one election was listed twice (HD 77 2016P.) It is worth noting, however, that of the 20 “wins” Dr. Lichtman chose to include in Table 10, 17 were either incumbents or were held in districts where Latinos comprised a majority of eligible voters.

and thus ran as incumbents (Ramirez (2019), Andrade (2019), Hernandez (2019), Aquino (2016), Pacione-Zayas (2020, has not yet run for election)).⁸ Despite Dr. Lichtman’s assertion that “coalition building” is what expands minority electoral representation, such evidence cannot possibly demonstrate an even playing field for Latino candidates, and does not negate Contreras Plaintiff’s third prong evidence.⁹

2. White Voters Only

Defendants’ second broad attack on the Contreras Plaintiffs’ racially polarized voting analysis is based on the unfounded legal assertion that bloc voting must be shown to be confined to white bloc voting. Dkt. 155 at 33. In other words, Contreras Plaintiffs must demonstrate that not only is their vote dilution occurring because the districting plan submerges their cohesive vote in a district where they are a minority and where the rest of the electorate overrides their vote, but also that it is specifically and only white voters that are causing the dilution. Without evidence that Black voters and Asian voters support Latino candidates, Defendants nonetheless criticize Dr. Grumbach for his binary approach to the question – do Latino and non-Latino voters express statistically significant differences in their electoral choices.¹⁰

⁸ See also *Patino v. City of Pasadena*, 677 F. App’x 950, 954 (5th Cir. 2017) (Special circumstances, such as incumbency, prevented the defeat of Latino preferred candidates in two Anglo majority districts, and did not negate a conclusion of racially polarized voting.)

⁹ Defendants are not unfamiliar with the concept of special circumstances, as they cite “significant political problems,” to explain away a loss by the Latino candidate, Berrios. Dkt. 155 at 31. However, the legal doctrine of special circumstances, springing directly from the third *Gingles* prong, is not designed to explain voter motivation for defeating a Latino candidate, but to assist the court in examining Latino victories to see whether their occurrence means majority bloc voting has truly waned. The prong asks whether majority bloc voting “in the absence of special circumstances,” is able “usually to defeat the minority preferred candidate.” *Gingles*, 478 U.S. at 51.

¹⁰ Dr. Lichtman notes that Dr. Chen separates out white voters while Dr. Grumbach does not, and observes that “[h]owever, the evidence points to little divergence between these measures.” Dkt. 155-1 at 63, n.4.

Indeed, Defendant's Response relies on one particular election that perfectly demonstrates the effect of non-Latino voting that cancels out overwhelming Latino support.

"The 2015 Chicago Mayoral election is an example of a how reality differs from the outcome of elections on paper. That election pitted incumbent Mayor Rahm Emanuel against Jesus "Chuy" Garcia. Lichtman Report, at 172. Garcia was the Latino candidate of choice and was defeated by Emanuel who was the white candidate of choice. However, Emanuel was backed by 59.5% of non-Latino minorities. *Id.* at 84. ***The white majority did not defeat the Hispanic candidate of choice in that race, rather the candidate was defeated by a coalition of white and non-Latino minorities.***

Dkt. 155 at 30-31 (emphasis added).

Dr. Lichtman's analysis puts the Latino level of support for Garcia in that race at 71%, and his non-Latino support at only 24%. The choice of the Latino voters was defeated by non-Latino bloc voting. Again, Contreras Plaintiffs are Latino voters. *Gingles* prong three is meant to determine whether the districting plans cause dilution of Latino electoral choices when they are submerged in districts where the rest of the electorate votes as a bloc to overwhelm their choices. See discussion in Section III, *supra*.

IV. The Totality of Circumstances Weighs in Plaintiffs' Favor.

Defendants concede that Contreras Plaintiffs addressed each of the Senate Factors to argue that the totality of the circumstances demonstrates a dilutive effect on Latino voting strength. Dkt 155 at 42. Defendants even agree to, or concede, that two of the factors (history of candidate slating, election to public office) exist in Illinois, even as they deny Democratic Party involvement. Unfortunately for Defendants the Senate Factors focus on their dilutive effect on Latino voters,

and not on which particular parties use discriminatory mechanisms to dilute voting power. As demonstrated below, Defendants mischaracterize the application of each of these factors.¹¹

A. History of Voting Related Discrimination.

Dr. Lichtman argues that the history of voting-related discrimination cuts in Defendants' favor because Illinois ranks highly on Dr. Grumbach's state democracy index. Dkt. 155 at 43. Plaintiffs note that Dr. Lichtman does not address the history of voting-related discrimination cited in Plaintiffs' remedial brief (Dkt. 139 at 33) and that armed police officers have harassed voters in the heavily Hispanic town of Cicero as recently as 2016. Dkt. 135-20 at 36; Illinois Advisory Comm. to US Comm. on Civil Rights, *Civil Rights and Voting in Illinois*, 20 (2018), <https://www.usccr.gov/files/pubs/2018/IL-Voting-Rights.pdf>.

B. The extent to which voting in the elections of that State or political subdivision is racially polarized.

Defendants try to deflect the substantial evidence of racially polarized voting in this case by introducing a discussion of whether racially polarized voting requires comparisons white and non-white bloc voting. Defendants again conflate the numbers by comparing white and minority voters, rather than Latino and non-Latino voters as the analysis requires.

Plaintiffs' expert Dr. Grumbach found racially polarized voting in 31 of the 36 elections he analyzed. (15 of 19 Endogenous, 16 of 17 Exogenous). Ex. 1 Grumbach Rebuttal Report p. 3. Defendants concede that Latino voters vote cohesively, satisfying *Gingles* prong two. Dkt. 155 at 28. Plaintiffs' expert found that absent special circumstances, the Latino candidates of choice is

¹¹ Even though Defendants claim to give a thorough analysis of the totality of the circumstances, Defendants do not discuss Plaintiffs' evidence that Latino-majority districts are not proportional with the Latino population, as Plaintiffs showed in their Remedial Statement. *See* Contreras Rem. Statement, Dkt. 139, at 40-42.

usually defeated by non-Hispanic bloc voting (70% of the races, 12 of 17 total races unaffected by special circumstances), satisfying *Gingles* prong three. Ex. 1 Grumbach Rebuttal Report p. 3.

C. The exclusion of members of the minority group from candidate slating processes.

Here, again Defendants focus not on the dilutive effect of candidate slating processes that exclude minorities, but on which party has utilized the mechanism. Dkt 155 at 44. Again, the use of the mechanism, and its dilutive effect, are the focus of the inquiry for this Senate Factor. Defendants concede that this mechanism has existed and continues to exist, even as they disavow its use by Democrats. And even as they disavow the use of candidate slating to exclude minorities, only one of the eight statewide elected officials the Defendants list is a Latina; in City government, only one Latina is listed in Defendant's City government list, and Defendants fail to disaggregate the number of Latinos in the 50-person Chicago city council. Dkt. at 44-45. In sum, even the Defendant's calculations show the dilutive effects of a history of candidate slating in the state.

D. The extent to which minority group members bear the effects of past discrimination, which hinder their ability to participate effectively in the political process.

Senate Factor Five tells courts to consider “the extent to which [minorities] bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process.” S. Rep. 417 at 29. Defendants argue that Plaintiffs have not established factor five because they “do not tie current socio-economic disparities to past or current policies or practices of the state of Illinois[,]” (Dkt. 155-1 at 137) and because socioeconomic disparities between Blacks, Latinos and whites exist “almost anywhere in the United States[,]” and Plaintiffs have failed to provide Illinois-specific evidence. Dkt. 155 at 45. Defendants are incorrect. Plaintiffs do not need to provide evidence that disparities are worse in Illinois (S. Rep. 417 at 29 n. 114), they have provided such evidence (Dkt. 135-19 at 19), and

Plaintiffs need not show that Illinois state policies caused the disparities.¹² Rather, Plaintiffs need only show that (a) socioeconomic disparities exist and that (b) Latino political participation is depressed. S. Rep. 417 at 29 n. 114; *see also Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1308 (11th Cir. 2020)); *League of United Latin Am. Citizen v. Clements*, 986 F.2d 728, 750 (5th Cir. 1993)(en banc). Defendants concede that socioeconomic disparities exist in Illinois (Dkt. 155 at 45) and Plaintiffs have shown that Latino political participation is depressed relative to non-Latinos.¹³ *See* Dkt. 135-19 at 19. In Illinois, Latino voters are substantially less likely to be registered than non-Latinos and the registration rate for Illinois Latinos is below average among states. *Id.* Thus Plaintiffs have established that factor five cuts in their favor.

E. Racial Appeals.

One of the Senate Factors in analyzing the totality of the circumstances is the use of overt or subtle racial appeals in political campaigns. This factor captures the instinct of campaigns to race-bait to generate political support. Defendants concede that evidence of racial appeals exists in Illinois and describe even more examples of racial appeals. 155 at 46; 155-1 at 141-43. It is the *use of* racial appeals, not who generates them, that is important in analyzing this factor. As the Court noted in *Thornburg v. Gingles*, race-baiting has the effect of lessening the opportunity of Latino citizens to participate effectively in the political process and to elect a candidate of their

¹² Insofar as Dr. Lichtman suggests that Plaintiffs need “to tie current socio-economic disparities to past or current policies or practices of the state of Illinois [,]” (Dkt. 155-1 at 137) he is misstating the law. As the Senate Report notes, “[w]here [socio-economic disparities] are shown and where the level of [minority] participation in politics is depressed, plaintiffs need not prove any further causal nexus[.]” S. Rep. 417 at 29 n. 114.

¹³ As Defendants concede, 2019 1-year American Community Survey data also show that there are present socioeconomic disparities between Latino and non-Latino White people in Cook County, Illinois. *See* Ex. 4, Socioeconomic Tables, 2019 American Community Survey, Explore Census Data Tool, Census Bureau, created at <https://data.census.gov/cedsci/> (accessed November 30, 2021).

choice. *Gingles*, 478 U. S. at 40. Whether the Democratic or Republican candidates make use of racial appeals simply does not matter in the analysis.

The response of Defendants pointing the finger at Republicans for using racial appeals is curious, given that the Democratic Party is not a party in this litigation, and Defendants are parties in their official capacities as President of the Illinois Senate, the Office of the President of the Illinois Senate, Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives. The Defendants claim that “[Republican racial] appeals should not be held against the Democratic Defendants and their colleagues who voted for the September Plan,” implying partisanship should color whether this factor is salient. Dkt. 155 at 46. To be clear, the *Contreras* Plaintiffs seek to hold the Legislature accountable for developing maps that invite Republican race-baiting to serve their own party interests at the expense of Latinos in the contested districts. In sum, *who* makes the appeals does not matter. The effect of those appeals on Latinos does.

F. The Extent to Which Latinos Have Been Elected.

Defendants insist that the Senate factor examining “the extent to which members of the minority group have been elected to public office in the jurisdiction” weighs in their favor. Dkt. 155 at 46; Dkt. 155-1 at 28, Table 5. In support, Defendants’ offer Dr. Lichtman’s list of eight officials elected statewide, five of whom are minorities. *Id.* Only one of those eight state officials is Latina, Susana Mendoza. *Id.* Again, the *Contreras* Plaintiffs remind Defendants that the voting rights of *Latinos* are at stake in the *Contreras* suit, not minorities in general. Moreover, Susan Mendoza’s “election” says little about electoral opportunity for Latino voters. Mendoza ran unopposed in the 2016 Democratic primary, unopposed again in the 2016 general election, and unopposed in the 2018 Democratic primary. She won the 2018 election against her Republican

opponent in, as Dr. Lichtman says, a state where all groups “shared the same preferred Democratic candidates.” Dkt. 155-1 at 126.

What is illustrative of the lack of Latino electoral opportunity, is Dr. Lichtman’s Table 5 at p. 27, where he lists “Minority vs. White Statewide Election Results in Illinois Since 2008.” Again, Susana Mendoza is the only Hispanic officeholder. Primary and General Elections for Statewide office in Illinois are generally held every two years, except for the two U.S. Senators, who serve six-year terms. Therefore, there have been ten Senatorial primaries and general elections since 2008, and 14 primary and general elections in that time period covered by the table. One Hispanic candidate won.

Although they conceal the real numbers by aggregating Plaintiffs into one minority group, the Defendants’ numbers reveal a dearth of Latino elected officials. By the Defendant’s own calculations, there is only one Latino statewide elected official, and one City of Chicago elected official. Def’s. Resp. at 44-45 (Dkt. 155). The numbers are particularly telling, given the growth in the state’s and Chicago’s Latino population. Latinos comprise approximately 30% of the population in Chicago and 18.2% of the population in the State. U.S. Census, U.S. Census, Quick Facts Chicago, Illinois, <https://www.census.gov/quickfacts/chicagocityillinois>; U.S. Census, Illinois: 2020 Census, <https://www.census.gov/library/stories/state-by-state/illinois-population-change-between-census-decade.html>.

G. The extent to which “elected officials are unresponsive to the particularized needs of the members of the minority group.”

Defendants claim that “[the responsiveness factor] was not analyzed by any of Plaintiffs’ experts. This is false. Dr. Fernandez addresses the responsiveness of elected officials to the needs of the Latino community on pages 25 and 30 of her report, noting that elected officials have historically prioritized the needs of middle-class whites over Latinos and neglected Latino

students. Dkt. 135-20 at 25 and 30. Moreover, Plaintiffs remedial brief notes that elected officials have historically neglected the needs of the Latino community with respect to housing and gentrification issues. Dkt. 139 at 37-38.

H. Whether the policy underlying the State’s or political subdivision’s use of the contested practice or structure is tenuous.

Defendants assert that the policies undergirding the SB 927 plans are not tenuous because “the General Assembly amended earlier legislation to conform with the constitutional requirements for the apportionment of state legislative districts.” This argument ignores two key facts. First, remediating the malapportioned maps passed under House Bill 2777 was not the only policy underlying SB 927 as noted in its accompanying House and Senate resolutions. *See, generally*, Dkt. 135-6; Dkt. 135-7. Second, as their accompanying House and Senate resolutions indicate, many of the policies underlying House Bill 2777 also animated the SB 927 plans. *See* Dkt. 135-4; Dkt. 135-5 Dkt. 135-6; Dkt 135-7. Thus to the extent any carryover policies from House Bill 2777 are tenuous, the policies underlying SB 927 are also tenuous. And Defendants do not address Plaintiffs arguments showing that these carryover policies are tenuous. *Compare* Dkt. 139 at 39-40 *with* Dkt. 155 at 46-47.

Instead of responding to the Plaintiffs’ evidence of the reasons behind the legislative process that brought us to the September map and beyond, the Defendants simply reiterate that the September map is equipopulous and within required deviations. Defs. Resp. at 46-47 (Dkt. 155). This response fails to address the motivations of the Legislature which got us to this point. At the base of this redistricting process was the dilution of a large percentage of votes to advance a political outcome.” Dkt.117 at 35.

In their attempt to deflect from Plaintiffs’ exhaustive evidence that in the totality of circumstances Latino votes are diluted, Defendants conflate, aggregate, and combine numbers in

to show that overall, the State has not discriminated against minorities. Disaggregating Defendants' own data demonstrates that, in fact, under the totality of the circumstances the State's actions dilute Latino voting strength.

V. Contreras Plaintiffs Prove Their Racial Gerrymandering Claims Regarding HD 21 and SD 11.

Defendants' arguments against their racial gerrymander of House District 21 and Senate District 11 in SB 927 misconstrue the evidentiary standard for racial gerrymandering claims and ignore the evidence. A plaintiff bringing a racial gerrymandering claim under the Fourteenth Amendment has the burden to prove that race predominated "either through circumstantial evidence of a district's shape and demographics or through more direct evidence going to legislative purpose." *Shaw v. Hunt (Shaw II)*, 517 U.S. 899, 905 (1996) (internal citations and quotations omitted). Therefore, Contreras Plaintiffs need not present direct evidence, even though they do so in this case.

Contreras Plaintiffs' evidence shows that Defendants' mapdrawers were more than just "aware" of CVAP. *See* Dkt. 139 at 54-55. Evidence described in Contreras Plaintiffs' Remedial Statement shows that Jonathan Maxson, Defendants' lead mapdrawer for the House map, highlighted red and yellow districts to indicate which were above and below 50% LCVAP. *See* Dkt. 139 at 46-47. Other circumstantial evidence from the mapdrawers shows that they had CVAP broken down by ethnicity in a chart next to districts as they drew districts for the May maps and VAP data when drawing the September maps. *See* Dkt. 135-2 at 82:20-83:15; 150:9-20, Ex. 5 at 88:2-9, (Maxson Dep); Dkt. 135-15 at 77; 93:7-13; Ex. 3 78:1-79:6, (Sodowski Dep.).

Additionally, Defendants attempt to discount the circumstantial evidence of the reduction of Latino CVAP in HD 21 and the dismantling of a majority-Latino CVAP district in SD 11 by saying that the record is replete with non-racial reasons. *See* Dkt. 155 at 56-57. However, these

reasons lack credibility because of how late they were disclosed and because they are not supported by contemporaneous statements by legislators, staffers, or members of the public in hearings, resolutions, or elsewhere. In fact, Defendants produced no documents containing these new reasons mentioned in Legislators' Mah, Pacione-Zayas, or Villanueva declarations when Contreras Plaintiffs requested them in their Third Set of Requests for Production and Third Set of Interrogatories in relation to Defendants' denials that race predominated in the drawing of SD 11 and HD 21. *See* Ex. 2 Discovery Responses.

One example is the reason that Sen. Villanueva wanted more progressive Democrats from the Little Village area. *See* Dkt. 155-4 at ¶¶ 18-21. Neither this wish nor even the mention of "progressive Democrats," is found in the public testimony, including public testimony by Senator Villanueva. *See* Tr. for Senate Redistricting Subcommittee Hrg. Chicago South Region, March 25, 2021, 57:17-58:17, <https://www.ilga.gov/senate/committees/Redistricting/102Redistricting/SRED-SRCS/20210325/Transcript/Transcript%20for%20Redistricting%20Chicago%20South%20Subcommittee%20Hearing%20-%20March%2025,%202021.pdf>. The first mention of this evidence was by Mr. Sadowski in his deposition. *See* Dkt. 135-15 Sadowski Dep. 126:19-127:1. Mr. Sadowski, however, could not say how progressive Democrats were identified or measured. *See Id.* at 129:9-130:9. The next mention of this was in Sen. Villanueva's declaration filed with Defendants' response on November 24, 2021. *See* Dkt. 155-4. Defendants never disclosed Sen. Villanueva as a witness. Additionally, Sen. Villanueva's declaration also lacks specificity as to the persons with which she shared her wish that Little Village "be wholly located in one district." *See Id.* at ¶19. The terms "progressive" or "progressive Democrat" appear nowhere in the senate resolution accompanying the Senate Map for SB 927, including in the description of SB 12 in

which Sen. Villanueva resides. *See* Dkt. 135-6 at 38:23. In fact, that resolution defines Little Village more in racial terms rather than in terms of it being a progressive-leaning voting bloc. *Id.* at 38:1-3 (“The Little Village neighborhood is known for having the largest foreign-born Mexican population in Chicago.”).

Another example of a purportedly non-racial reason that does not explain away the odd shape of SD 11 is the cited evidence of Midway Airport and transportation-related hubs being located in a district. *See* Dkt. 155 at 56. As Contreras Plaintiffs’ Remedial Plan shows, these requests and community of interest goals could have been achieved without dismantling a Latino-majority CVAP senate district. *See* Ex. 3, Sodowski Dep. 155:19-156:24; Dkt. 135-21 at 53. Moreover, the communities of interest that Defendants now raise as a defense with inconsistencies and failure to explain the diminution of Latino voting strength do not save their September Plan. *See Miller v. Johnson*, 515 U.S. 900, 919 (1995) (“Nor can the State’s districting legislation be rescued by mere recitation of purported communities of interest”).

Defendants attempt to turn the circumstantial evidence of white incumbents’ districts being lowered to or kept at below 50% LCVAP into a partisan issue. *See* Dkt. 155 at 54. This argument is not based on Contreras Plaintiffs’ evidence or arguments, which do not introduce partisan issues or raise a partisan gerrymandering claim. Contreras Plaintiffs argued, and Defendants in fact show, how under either the September Plan or Contreras’ Remedial proposal, the incumbents of SD 11 and HD 21 are likely safe from Republican challenge. *See* Dkt. 139 at 53; *see also* Dkt. 155-2 at 11; Dkt. 155-6 at 8.

None of these after-the-fact justifications that are unsupported by the legislative record and previously undisclosed in discovery, despite discovery requests, can negate the inference raised by Contreras Plaintiffs’ direct and circumstantial evidence that Defendants lowered the Latino CVAP

of HD 21 and dismantled an existing LCVAP-majority district in SD 11 in the September Redistricting Plan. Therefore, the configurations of these districts in SB 927 are racial gerrymanders in violation of the Fourteenth Amendment.

VI. Contreras Plaintiffs' Remedial Map is not a Racial Gerrymander and Cures Legal Defects.

As an initial matter, Defendants' arguments seem to misread their own expert's data regarding Contreras Plaintiffs' Proposed Alternative Remedial Plan. Defendants state that "the Contreras plan creates one Latino majority CVAP Senate district and three Latino majority CVAP House districts in northwest Chicago by reconfiguring districts in the September Plan which are already majority-minority Latino based on VAP and CVAP." *See* Dkt. 155 at 61. However, the table underneath that paragraph shows that Contreras Plaintiffs' challenged districts in the northwest side of Chicago—HD 3, 4, and 39, and SD 2—are all below 50% Latino CVAP. *See Id.*, Figure 1. As explained in the section II above regarding *Gingles* 1, CVAP should be the standard in this case for drawing districts in which Latino voters have the opportunity to elect their candidate of choice.

Defendants ignore these clear remedies to section 2 of the Voting Rights Act violations in the northwest side and say that they are racial gerrymanders. However, as precedent indicates, preventing a section 2 violation in order to comply with federal law is not a racial gerrymander. *See Cooper v. Harris*, 137 S. Ct. 1455, 1470 (2017) (if a jurisdiction "has good reason to think that all the '*Gingles* preconditions' are met, then so too it has good reason to believe that § 2 requires drawing a majority-minority district"). The Maxson and Sodowski declarations that Defendants offer in support of their racial gerrymandering claim against the Contreras Remedial Proposal are flawed. *See* Dkt. 155-2; Dkt. 155-6. The declarants state that they believe that Plaintiffs' maps are

drawn with race as predominant factor and that they may cause incumbent to lose election. *See* Dkt 155-2 at ¶ 17; Dkt. 155-6 at ¶ 15. But Contreras Plaintiffs’ plan does not pair incumbents, even though remedying violations of the Constitution or section 2 does not require it. *See Abrams v. Johnson*, 521 U.S. 74, 84 (1997) (upholding remedial plan where district court subordinated protection of incumbents from contests with each other to other redistricting criteria because it was “inherently more political”); *Georgia State Conf. of NAACP v. Fayette Cty. Bd. of Comm'rs*, 996 F. Supp. 2d 1353, 1363 (N.D. Ga. 2014) (In remedial phase, “[t]he consideration of a traditional redistricting principle like incumbent protection is subordinate to the goal of remedying the §2 violation and the requirements of the Constitution.”).

The declarants also do not specify which districts contain such problems or which incumbents might lose. *See* Dkt. 155-2 at ¶ 17; Dkt. 155-6 at ¶ 15. Similarly, the declarations do not specify how or where districts may be drawn with race as predominant factor. *Id.*

As discussed above, the Declarations of Representative Theresa Mah, Senator Celina Villanueva, and Senator Cristina Pacione-Zayas that Defendants offer contain testimony about issues that were not raised anywhere in legislative record. As discussed above with Sen. Villanueva’s declaration, the issues regarding Little Village and progressive Democrats were not previously raised, much less “front and center,” as Defendants claim. *See* Dkt 155 at 66. Defendants’ response also shows how little evidence they have to show that this was an issue raised during the 2021 legislative sessions. For example, Defendants have to cite to 2021 testimony by MALDEF about Little Village. Dkt. 155 at 67. The only other evidence upon which Defendants rely for this point are Senator Villanueva’s and Rep. Mah’s late and improper declarations. *See* Dkt. 155 at 67. Sen. Pacione-Zayas’s declaration states that Plaintiffs’ proposed plans “will negatively impact Democrats and Latinos on the northwest side of Chicago, especially

the *McConchie* plaintiffs proposal.” *See* Dkt. 155-5 at ¶14. However, Sen. Pacione-Zayas does not specify how the Contreras Plaintiffs’ proposed remedial plan would harm Latino voters. *See* Dkt. 155-8.

Another traditional redistricting criteria that Defendants claim that Contreras Plaintiffs violate is “the General Assembly’s goal to maintain the core of 2011 districts as much as possible.” *See* Dkt. 155 at 68. However, Defendants appear not to have followed this goal with regard to Senate District 11 in their own map, and by their own admission in their resolution. The resolution regarding May 2021 version of SD 11, which was substantially similar to that in the September Plan, kept less than half of its 2011 core constituency. *See* Dkt. 135-5 at 30 (“Proposed Legislative District 11 retains 49% of its core constituency”). Defendants removed this language from the September Plan resolution, perhaps to hide the contradiction. *See* Dkt. 135-6 at 36.

Defendants’ arguments against Contreras Plaintiffs’ map are imprecise, incorrect, and ultimately do not remedy the legal defects, even considering the post hoc justifications that Defendants offer. Contreras Plaintiffs’ Plan offers the clearest way to remedy the legal defects in the September Redistricting Plans while adhering to the policy choices of the jurisdiction to the extent feasible.

CONCLUSION

For the foregoing reasons, Contreras Plaintiffs respectfully request that the Court enter the remedial plan proposed by Contreras Plaintiffs. *See* Dkt. 139; 135-21.

Dated: December 1, 2021

/s/ Julie Bauer

Julie A. Bauer (no. 6191271)
Nathan R. Gilbert (no. 6326946)
Winston & Strawn LLP
35 W. Wacker Dr.
Chicago, IL 60601
Tel: (312) 558-8907
Email: JBauer@winston.com
Email: NRGilbert@winston.com

/s/ Ernest Herrera

Griselda Vega Samuel (no. 6284538)
Francisco Fernandez del Castillo
(no. 6337137)
Mexican American Legal Defense and
Educational Fund
11 E. Adams St., Suite 700
Chicago, IL 60603
Telephone: (312) 427-0701
Facsimile: (312) 588-0782
Email: gvegasamuel@maldef.org
Email: ffernandez-delcastillo@maldef.org

Thomas A. Saenz (*pro hac vice*)
CA State Bar No. 24005046
Ernest Herrera (*pro hac vice*)
CA State Bar No. 335032
Denise Hulett
CA State Bar No. 121553
Mexican American Legal Defense and
Educational Fund
643 S. Spring St., 11th Fl.
Los Angeles, CA 90014
Telephone: (213) 629-2512
Email: tsaenz@maldef.org
Email: eherrera@maldef.org
Email: dhulett@MALDEF.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2021, a copy of the above Contreras Plaintiffs' Reply To Defendants Response To Plaintiffs' Proposed Alternative Remedial Plan And Statement In Support Pursuant To Federal Rule Of Civil Procedure 24 was filed electronically in compliance with Local Rule 5.9. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing.

/s/ Ernest Herrera
Attorney for Plaintiffs

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA, and
ROSE TORRES

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K. LINNABARY,
WILLIAM J. CADIGAN, LAURA K.
DONAHUE, WILLIAM R. HAINE, WILLIAM
M. MCGUFFAGE, KATHERINE S. O'BRIEN,
and CASANDRA B. WATSON in their official
capacities as members of the Illinois State Board
of Elections, DON HARMON, in his official
capacity as President of the Illinois Senate, and
THE OFFICE OF THE PRESIDENT OF THE
ILLINOIS SENATE, EMANUEL
CHRISTOPHER WELCH, in his official capacity
as Speaker of the Illinois House of
Representatives, and the OFFICE OF THE
SPEAKER OF THE ILLINOIS HOUSE OF
REPRESENTATIVES,

Defendants.

Case No. 1:21-cv-03139

Circuit Judge Michael B. Brennan
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

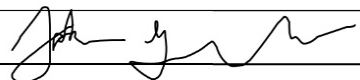
**DECLARATION OF DR. JACOB M. GRUMBACH IN SUPPORT OF CONTRERAS
PLAINTIFFS' REPLY TO DEFENDANTS RESPONSE TO PLAINTIFFS' PROPOSED
ALTERNATIVE REMEDIAL PLAN AND STATEMENT IN SUPPORT**

I, Dr. Jacob M. Grumbach, declare:

1. I am currently an Assistant Professor in the Department of Political Science at the University of Washington in Seattle, WA.

2. I was retained by Plaintiffs in this action to provide expert testimony assessing whether racially polarized voting between Latinos and non-Latinos exists in Illinois, identifying comparative Latino non-Latino rates of registration, and responding to expert testimony presented by Defendants in this action.
3. A copy of my rebuttal expert report is attached as Exhibit 1 to this declaration.
4. A complete list of my qualifications, including a list of all publications authored in the previous ten years, is included in my curriculum vitae, which is attached as Exhibit 2 to this declaration.
5. In the past four years, I have provided expert testimony to Plaintiffs in *Aguilar v. Yakima County*, No. 20-2-0018019, Superior Court of Washington. I provided testimony by report and deposition in that case, which was settled before trial.
6. I am being compensated by Plaintiffs for my time in preparing this report at the rate of \$350 per hour.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on November 30, 2021, in Seattle, WA.



Dr. Jacob M. Grumbach

November 30, 2021

Expert Report:
Rebuttal Report

Prepared by:

Jacob M. Grumbach
Assistant Professor of Political Science
University of Washington

RETRIEVED FROM DEMOCRACYDOCKET.COM

Summary

The Plaintiffs in *Contreras v. Illinois State Board of Elections* have asked me to write a rebuttal report. In this rebuttal report, I:

1. Correct minor statistical coding errors for two elections (HD19 P 2020 and HD40 P 2020). The corrected results suggest that these elections were racially polarized.
2. Discuss the selection of endogenous districts and the Latino candidate of choice win rate. I argue that the high rates of candidate incumbency and appointments make it difficult to draw conclusions about the ability of Latinos to achieve representation through voting in relevant districts.
3. Respond to additional claims in Dr. Lichtman's report, including about voter registration rates, ecological inference methods, and the measure of electoral democracy in a recent paper by Grumbach (2021).

Corrected Estimates for HD19 P 2020 and HD40 P 2020

This section presents updated ecological inference (EI) results for the 2020 HD19 Democratic primary and 2020 HD40 Democratic primary. In the initial report, my statistical code mistakenly included votes in the corresponding Republican primary along with the Democratic primary (the result of different election years and districts in Illinois featuring different formatting of spreadsheet rows and columns). After removing the Republican primary data, I reran the EI models for these elections.

Table B1: Results for 2020 HD19 Democratic Primary

District	Primary/General	Year	Candidate	Voter Ethnicity	% Support	95% CI (Low)	95% CI (High)
HD19	P	2020	Joe Duplechin	Latino	22.96	13.59	31.13
HD19	P	2020	Joe Duplechin	Non-Latino	19.63	17.01	22.83
HD19	P	2020	Lapointe	Latino	30.66	23.87	38.51
HD19	P	2020	Lapointe	Non-Latino	40.22	37.39	42.55
HD19	P	2020	Patti Vasquez	Latino	42.30	31.34	52.9
HD19	P	2020	Bonnin	Non-Latino	27.29	23.7	30.88

Table B1 shows the corrected results for the 2020 HD19 Democratic primary election. These results suggest that the election was racially polarized, because Latino voters' candidate of choice, Patti Vasquez Bonnin, received significantly greater support from Latino voters than from non-Latino voters. Vasquez Bonnin also received significantly greater support from Latino voters than did her opponents in this election. The corrected results also show non-Latino voters voted as a bloc against Vasquez Bonnin. Vasquez Bonnin lost this election.

Table B2: Results for 2020 HD40 Democratic Primary

District	Primary/General	Year	Candidate	Voter Ethnicity	% Support	95% CI (Low)	95% CI (High)
HD40	P	2020	Jaime M. Andrade, Jr.	Latino	72.70	67.45	79.04
HD40	P	2020	Jaime M. Andrade, Jr.	Non-Latino	61.09	57.83	63.75
HD40	P	2020	Syamala Krishnamsetty	Latino	27.30	20.96	32.55
HD40	P	2020	Syamala Krishnamsetty	Non-Latino	38.90	36.25	42.17

Table B2 shows the corrected EI results for the 2020 HD40 Democratic Primary. The corrected results suggest that this election was racially polarized, because Latino candidate of choice Jaime M. Andrade, Jr. received significantly greater support from Latino than non-Latino voters. Non-Latino voters did not engage in bloc voting, as a majority of non-Latino voters supported Andrade, Jr. Andrade, Jr. won this election.

In the initial report, I found that 13 of 19 endogenous elections were racially polarized. However, upon making these corrections, I conclude that 15 of 19 elections were racially polarized.

Sample of Elections

I analyzed 19 endogenous state legislative elections in my initial report. I analyzed all recent elections in districts that geographically overlap challenged districts in which at least one Latino candidate ran against at least one non-Latino candidate. Dr. Lichtman, by contrast, considers 23 elections. The difference in our samples arises for three reasons. First, Dr. Lichtman includes the HD40 2012 election between Deb Mell and Antoinette Puccio-Johnson. However, to the best of my knowledge, this election does not feature a Latino candidate. Second, Dr. Lichtman considers elections in districts that do not geographically overlap the challenged districts (SD20 and SD22).

Third, Dr. Lichtman excludes the districts HD19 and SD06, apparently because they have relatively lower concentrations of Latinos in the citizen voting age public (CVAP). I do not believe this is a valid reason for excluding these districts from analysis. In elections of their size, EI estimates are reliable even when concentrations of a particular racial/ethnic group are comparable to those of Latinos in HD19 (19.2%) and SD06 (7.7%). Dr. Lichtman quotes Duchin and Spencer (2021, 777), who write that EI and ecological regression are unreliable for “small subpopulations” (emphasis added)—but this has to do with a small absolute *number*, not relative *percent* of a population that is of a given racial/ethnic group. Furthermore, the overall district share of a racial group’s population is entirely compatible with the existence or non-existence of racially homogeneous precincts, which help increase the precision of EI estimates.

Candidate Win Rates

Dr. Lichtman concludes in his report that “Hispanic candidates of choice prevailed in 21 of the 23 elections for a win rate of 91%” (71). Putting aside the differences in our samples of elections (described in the previous section), most of these elections involve special circumstances: incumbency, appointments, and majority Latino districts. As I describe later, incumbent candidates are advantaged in elections. Majority Latino districts inherently reduce the capacity for non-Latino bloc voting to determine election outcomes. In my sample of 19 elections, only one (HD04 2018 Democratic primary) featured a win involving a non-incumbent Latino candidate or Latino candidate of choice (Delia C. Ramirez) in a non-majority Latino district. It is also worth noting that Table 4 of Dr. Lichtman’s report (“TABLE 4 MINORITY V. WHITE STATEWIDE ELECTION RESULTS IN ILLINOIS SINCE 2008”), only references one Latino candidate (Susana Mendoza), who was an incumbent at the time. Overall, my count is that only 1 of 5 endogenous elections without special circumstances, and 4 of 12 exogenous elections without special circumstances, resulted in electoral victories for the Latino candidate of choice.

In order to infer whether a group is able to achieve electoral representation, it is important to analyze elections in which the group’s candidate of choice is not an incumbent. One of the most heavily studied concepts in American political science is the idea of “incumbency advantage.” The overwhelming scholarly consensus is that incumbents are advantaged in elections compared to non-incumbents. This advantage stems from the name recognition and community relations that incumbents develop during their time in office, including through their constituent service (King 1991), media coverage (Ansolabehere, Snowberg, and Snyder 2006), and relationships with local businesses and other organizations (Ansolabehere, Snyder, and Stewart 2000). These sorts of advantages are sometimes enough to create a “scare off effect” such that quality candidates are less likely to run against incumbents (Hall and Snyder 2015). Thus, it is unwise to draw conclusions from win rates or tallies of elections that include incumbent and/or appointed candidates.

Furthermore, as I described in my initial report, out of 16 Latino representatives (10 in the State House and 6 in the State Senate), 9 were appointed to office in their first term. These appointments automatically give a given candidate an incumbency advantage in their first election, further reducing the amount of information that this candidate’s elections or officeholding conveys about the ability of Latinos in Illinois to achieve representation through voting.

Additional Topics

On the topic of political participation, Dr. Lichtman writes that “plaintiffs do not link socio-economic disparities or differences in turnout to discrimination by the state of Illinois, which has facilitated access to voting and registration, especially for low-income minorities” (154). However, in my initial report I provided 2020 estimates from the Census Current Population Survey (CPS) Voter Supplement showing that while 75.6% of eligible white individuals are registered to vote, only 52.4% of eligible Latinos are registered to vote. In terms

of the white-Latino registration gap, this makes Illinois 29th out of 35 states for which there is available 2020 CPS data on voter registration by race/ethnicity. In terms of its absolute rate of voter registration as a share of Latino CVAP, Illinois ranks 25th of 35 states for which there is available data.

In arguing that Latinos receive sufficient electoral representation in Illinois, Dr. Lichtman cites a recent working paper that I authored (Grumbach 2021). In this paper, I develop a measure of state level democratic performance for each of the 50 states, covering the years 2010-2018. According to my measure, the State Democracy Index, as well as the Cost of Voting Index (Li, Pomante, and Schraufnagel 2018), Illinois is indeed a relative leader among states. However, neither of these measures is focused on Latinos or racial/ethnic minority groups, and it would be unwise to draw conclusions about the electoral representation of Latinos in a given state from these measures. As I stated above, Illinois is a below-average state when it comes to the gap in voter registration between whites and Latinos; electoral representation issues facing a specific racial/ethnic minority group or electoral inequalities *between* racial groups are not accounted for in these measures.

At times, Dr. Lichtman's report could be read as arguing that EI and ecological regression are equally valid statistical methodologies in estimating individual level voting patterns from aggregate data. While ecological regression might have value as a supplement to EI, the scholarly consensus is that EI techniques are superior, as they reduce bias and increase precision of estimates by incorporating a method of "bounds" that exploits the fact that each precinct level probability is bounded between 0 and 1 (see, e.g., King, Tanner, and Rosen 2004; Greiner 2006).

References

- Ansola-behere, Stephen, Erik C. Snowberg, and James M. Snyder Jr. "Television and the incumbency advantage in US elections." *Legislative Studies Quarterly* 31, no. 4 (2006): 469-490.
- Ansola-behere, Stephen, James M. Snyder Jr, and Charles Stewart III. "Old voters, new voters, and the personal vote: Using redistricting to measure the incumbency advantage." *American Journal of Political Science* (2000): 17-34.
- Grumbach, Jacob M. "Laboratories of Democratic Backsliding." *Working Paper*, 2021.
Available from:
https://www.dropbox.com/s/c682q88keqycp6s/grumbach_laboratories_of_democratic_backsliding.pdf?raw=1
- Greiner, D. James. "Ecological inference in voting rights act disputes: Where are we now, and where do we want to be." *Jurimetrics* 47 (2006): 115.
- Hall, Andrew B., and James M. Snyder. "How much of the incumbency advantage is due to scare-off?." *Political Science Research and Methods* 3, no. 3 (2015): 493-514.

King, Gary. "Constituency service and incumbency advantage." *British Journal of Political Science* 21, no. 1 (1991): 119-128.

King, Gary, Martin A. Tanner, and Ori Rosen, eds. *Ecological inference: New methodological strategies*. Cambridge University Press, 2004.

Li, Quan, Michael J. Pomante, and Scot Schraufnagel. "Cost of voting in the American states." *Election Law Journal: Rules, Politics, and Policy* 17, no. 3 (2018): 234-247.

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA,
and ROSE TORRES,

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K.
LINNABARY, WILLIAM J. CADIGAN,
LAURA K. DONAHUE, WILLIAM R. HAINE,
WILLIAM M. MCGUFFAGE, KATHERINE S.
O'BRIEN, and CASANDRA B. WATSON in
their official capacities as members of the
Illinois State Board of Elections, DON
HARMON, in his official capacity as President
of the Illinois Senate, and THE OFFICE OF
THE PRESIDENT OF THE ILLINOIS
SENATE, EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of
the Illinois House of Representatives, and the
OFFICE OF THE SPEAKER OF THE
ILLINOIS HOUSE OF REPRESENTATIVES,

Defendants.

Case No. 1:21-CV-03139

Circuit Judge Michael B. Brennan
Chief Judge Jon E. DeGuilio
Judge Robert M. Dow, Jr.,
Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

**DEFENDANTS' OBJECTIONS AND RESPONSES TO
PLAINTIFFS' THIRD SET OF INTERROGATORIES**

PROPOUNDING PARTY: Julie Contreras, et al.

RESPONDING PARTY: Emanuel Christopher Welch, Office of the Speaker of the
Illinois House of Representatives, Don Harmon, Office of
the President of the Illinois Senate

SET NUMBER: Three (Nos. 1-10) ("Category 2")

PRELIMINARY STATEMENT

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendants Don Harmon, in his official capacity as President of the Illinois Senate, the Office of the President of the Illinois Senate, Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives (“Defendants”), by and through their counsel, hereby submit the following responses and objections to Plaintiffs’ Julie Contreras, Irvin Fuentes, Abraham Martinez, Irene Padilla, and Rose Torres (“Plaintiffs”) Third Set of Interrogatories dated October 19, 2021 (the “Interrogatories”).

The responses to these Interrogatories are prepared based on information known to the Defendants as of the date of these responses. Defendants reserve the right to make use of or introduce into evidence at the trial of this matter any information disclosed or developed through investigation or discovery subsequent to the date of these responses. Defendants reserve the right to correct, amend, or supplement these responses should it become aware of any inadvertent omission, error, or additional information that they may subsequently discover and determine to be relevant.

Defendants will make reasonable efforts to respond to every Interrogatory to the extent that it has not been objected to and to the extent that Defendants understand the Interrogatory. If Plaintiffs subsequently assert an interpretation of an Interrogatory which differs from that given to it by Defendants, then Defendants reserve the right to correct, amend or supplement their objections and responses, as necessary.

The fact that Defendants have responded to any specific Interrogatory does not indicate that information responsive to that Interrogatory actually exists or ever existed. Defendants may

provide information they believe may be responsive to a particular Interrogatory and reserve the right to assert subsequently that such information is not of the type called for by any particular Interrogatory.

Any responses Defendants provide to these Interrogatories are subject to the Parties' agreement to be bound by the terms of a negotiated stipulated protective order approved by the Court. Defendants hereby designate any responses to these Interrogatories as CONFIDENTIAL, and reserve the right to designate them as HIGHLY CONFIDENTIAL, under the terms of such protective order. Defendants reserve all of their rights and applicable objections with respect to their private, confidential, or other similarly protected materials.

In responding to the Interrogatories, Defendants do not concede that any of the information requested or provided is relevant, material, or admissible in evidence. Defendants reserve the right to challenge on evidentiary grounds any information provided in response to the Interrogatories.

GENERAL OBJECTIONS

The following General Objections are hereby incorporated by reference with the same force and effect as if fully set forth in the specific response and objections to each Interrogatory.

1. Defendants object to the Interrogatories to the extent they impose any requirement or discovery obligation other than or beyond that set forth in the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for the Northern District of Illinois, or any other applicable rules.
2. Defendants object to the Interrogatories to the extent they purport to call for production of information protected from disclosure by the attorney-client privilege, the work product doctrine, legislative privilege, the right to privacy, or any other legally-cognizable

privilege or immunity. Defendants hereby claim such privileges, immunities, and protections to the extent implicated by the Interrogatories. Defendants will exclude privileged and protected information when responding to the Interrogatories. Nothing contained in Defendants' responses are intended to be, or in any way shall be deemed to be, a waiver of any such applicable privilege, immunity, or protection. Any disclosure of such protected or privileged information is inadvertent and is not intended to waive those privileges, immunities, or protections or any other ground for objection to discovery or use of any such document.

3. Defendants object to the Interrogatories on the ground that they seek information of a confidential nature. Defendants reserve the right to redact any confidential information that is not relevant to the subject matter of this action or not reasonably calculated to lead to the discovery of admissible evidence.

4. Defendants object to the Interrogatories to the extent that they seek information or material that is not relevant to the claims pleaded in the currently operative First Amended Complaint or the defense of any party, is not reasonably calculated to lead to the discovery of admissible evidence, and/or would not be admissible at trial.

5. Defendants object to the Interrogatories to the extent that they are overly broad, unduly burdensome, or seek information not reasonably limited in time or scope.

6. Defendants object to the Interrogatories to the extent that they may be construed as calling for information and/or the identification of information subject to Defendants' or third parties' rights of privacy and/or confidentiality.

7. Defendants object to the Interrogatories to the extent they seek information not within their possession, custody, or control.

8. Defendants object to the Interrogatories to the extent that they call for, or can be

interpreted as calling for, legal conclusions.

9. Defendants object to the Interrogatories to the extent they are premature.

10. Defendants object to the Interrogatories as compound and to the extent they count as separate interrogatories pursuant to Federal Rules of Civil Procedure. Defendants reserve the right to object to further interrogatories from Plaintiffs in excess of the number provided for by Federal Rule of Civil Procedure 33(a)(1) or by the Court in any order.

11. Defendants object to the use of the term “redistricting” except as it refers to (i) redistricting of Illinois state Legislative and Representative Districts; and (ii) the redistricting process related to the amendment of Public Act 102-0010 that was passed by the General Assembly on August 31, 2021 as Senate Bill 927.

12. Defendants object to the extent that any Interrogatory does not relate to any claim or allegation in the currently operative First Amended Complaint or defense thereto, is being used to investigate and develop claims and allegations for Plaintiffs’ forthcoming Second Amended Complaint, and/or does not relate to any claim or allegation in Plaintiffs’ forthcoming Second Amended Complaint or any defense thereto.

13. Defendants also object to Interrogatories 6-10 as exceeding the limits on interrogatories set forth in the Court’s September 8, 2021 Order, which limited the Contreras Plaintiffs to propounding “up to one quarter” of their allotted Interrogatories in Category 2, or five total Interrogatories.

OBJECTIONS TO DEFINITIONS

Defendants object to each paragraph of the “Definitions” section to the extent the definitions purportedly set forth therein would: (a) expand the definition of a term beyond its ordinary use in the English language; (b) create an undue burden for Defendants when

propounding their responses and objections to the Interrogatories; and/or (c) impose obligations on Defendants that exceed, or are inconsistent with, the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of the Northern District of Illinois, or other applicable law.

1. Defendants object to the definition of “DOCUMENT” to the extent it calls for the production of any information subject to any privilege, including the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also objects to the extent it requires the production of unduly burdensome discovery or items that are not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense. Defendant further objects to the extent it seeks information outside of Defendants’ “control” as defined by the Federal Rules and relevant case law.

2. Defendants object to the definition of “DATASET” as overbroad, unduly burdensome, seeking information that is irrelevant to the subject matter at issue in this case, and not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense, including because it is not limited to certain years or types of information.

3. Defendants object to the defined term “S.B. 927 PLANS” as incorrect because Senate Bill 927 was passed by a majority of both chambers of the Illinois General Assembly on August 31, 2021.

RESPONSES AND SPECIFIC OBJECTIONS

INTERROGATORY NO. 1:

In paragraph 74 of your Answer (Dkt. 115) to Contreras Plaintiffs’ Second Amended Complaint (Dkt. 98) (“Answer to the Second Amended Complaint”), Legislative Defendants deny that in the Illinois Senate, the number of Latino opportunity districts decreased from three

in the General Assembly's 2011 redistricting plan ("Benchmark Plan") to two in the SB 927 Plan, and, in the Illinois House, the number of Latino opportunity districts decreased from five in the Benchmark Plan to four in the SB 927 Plan. Please identify, by district number, the Latino opportunity districts in the Benchmark Plans and the Latino opportunity districts in the SB 927 Plans.

RESPONSE TO INTERROGATORY NO. 1:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants' further object to this Interrogatory on the ground that the term "Latino opportunity district" is vague and undefined. Subject to and without waving the foregoing objections, Defendants state they will provide information as part of their expert disclosures.

INTERROGATORY NO. 2:

In paragraph 75 of your Answer to the Second Amended Complaint, Legislative Defendants deny that the Latino population of Illinois is sufficiently geographically compact to comprise the majority of citizen voting age persons in nine house districts and four senate districts. Please explain with specificity the basis for this denial.

RESPONSE TO INTERROGATORY NO. 2:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it

seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Subject to and without waiving the foregoing objections, Defendants state Plaintiffs' complaint does not allege alternative districts or data supporting paragraph 75. Subject to and without waving the foregoing objections, Defendants state they will provide information as part of their expert disclosures.

INTERROGATORY NO. 3:

In paragraph 83 of your Answer to the Second Amended Complaint, you deny that by moving Latinos into other districts and out of House District 21, SB 927 uses race as a predominant factor to allocate Latino voters into and out of House District 21. Please explain with specificity the basis for this denial.

RESPONSE TO INTERROGATORY NO. 3:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Defendants further object to this Interrogatory as overbroad.

Subject to and without waiving the foregoing objections, Defendants deny SB 927 used race as a predominant factor for House District 21.

INTERROGATORY NO. 4:

In paragraph 96 of your Answer to the Second Amended Complaint, you deny that by re-nesting the house districts that comprise Senator Landek's district and lowering the LCVAP

of House District 21, Legislative Defendants used race as a predominate factor to protect a White non-Latino incumbent Democrat. Please explain with specificity the basis for this denial.

RESPONSE TO INTERROGATORY NO. 4:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this Interrogatory as overbroad.

Subject to and without waiving the foregoing objections, Defendants deny SB 927 used race as a predominant factor for House District 21 and Senate District 11.

INTERROGATORY NO. 5:

In paragraph 97 of your Answer to the Second Amended Complaint, you deny that by moving Latinos into other districts and out of Senate District 11, SB 927 uses race as a predominant factor to allocate Latino voters into and out of Senate District 11. Please explain with specificity the basis for this denial.

RESPONSE TO INTERROGATORY NO. 5:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this Interrogatory as overbroad.

Subject to and without waiving the foregoing objections, Defendants deny SB 927 used race as a predominant factor for Senate District 11.

INTERROGATORY NO. 6:

In paragraph 71 of your Answer (Dkt. 115) to Contreras Plaintiffs' Second Amended Complaint (Dkt. 98) ("Answer to the Second Amended Complaint"), Legislative Defendants state that they are without sufficient information to form a belief about the truth of Plaintiffs' allegations that although the state's overall population decreased slightly, the number of Latinos in Illinois increased from 2,027,578 to 2,337,410, an increase of 309,832 persons, and that as a result, Latinos grew as a share of Illinois' total population, increasing from 15.8% of the total population in 2010 to 18.2% in 2020. You state that Defendants are without such information "due to the Census Bureau's differential privacy requirements and changes to the Census questions from 2010 to 2020." Please identify and explain with specificity the basis for your contention that Defendants are without such information "due to the Census Bureau's differential privacy requirements and changes to the Census questions from 2010 to 2020."

RESPONSE TO INTERROGATORY NO. 6:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants also object to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants further object to this Interrogatory as overbroad. Defendants further object to this Interrogatory because it exceeds the limit interrogatories set forth in the Court's September 8, 2021 Order, ECF No. 76, which limited the Contreras Plaintiffs to propounding "up to one

quarter” of their allotted Interrogatories in Category 2, or five total Interrogatories.

INTERROGATORY NO. 7:

Please identify by date, location, and parties with their respective titles in attendance, all meetings held between Illinois General Assembly elected officials and members of Speaker Emanuel Welch’s staff regarding the drawing of redistricting maps between March 1, 2021, and May 31, 2021.

RESPONSE TO INTERROGATORY NO. 7:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules’ prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants further object to this Interrogatory as overbroad, unduly burdensome, as well as irrelevant to any party’s claims or defenses to the extent it seeks information related to the June 2021 Map, which is no longer at issue.

Defendants also object to this Interrogatory to the extent it seeks information protected by legislative privilege, or any other privilege or protection. Defendants further object to this Interrogatory because it exceeds the limit interrogatories set forth in the Court’s September 8, 2021 Order, ECF No. 76, which limited the Contreras Plaintiffs to propounding “up to one quarter” of their allotted Interrogatories in Category 2, or five total Interrogatories.

INTERROGATORY NO. 8:

Please identify by date, location, and parties with their respective titles in attendance, all meetings held between Illinois General Assembly elected officials and members of President Don Harmon’s staff regarding the drawing of redistricting maps between March 1, 2021, and May 31, 2021.

RESPONSE TO INTERROGATORY NO. 8:

Defendants object to this Interrogatory on the ground that it is compound and therefore counts as multiple interrogatories for the purpose of the Federal Rules' prescribed interrogatory limits. *See* Fed. R. Civ. P. 33(a)(1). Defendants further object to this Interrogatory as overbroad, unduly burdensome, as well as irrelevant to any party's claims or defenses to the extent it seeks information related to the June 2021 Map which is no longer at issue.

Defendants also object to this Interrogatory to the extent it seeks information protected by legislative privilege or any other privilege or protection. Defendants further object to this Interrogatory because it exceeds the limit interrogatories set forth in the Court's September 8, 2021 Order, ECF No. 76, which limited the Contreras Plaintiffs to propounding "up to one quarter" of their allotted Interrogatories in Category 2, or five total Interrogatories.

INTERROGATORY NO. 9:

Please identify the person or persons who drew the June 2021 Plans.

RESPONSE TO INTERROGATORY NO. 9:

Defendants object to this Interrogatory as vague, and as irrelevant to any party's claims or defenses because it relates to the June 2021 Map which is no longer at issue. Defendants also object to this as it seeks information protected by legislative privilege. Defendants further object to this Interrogatory because it exceeds the limit interrogatories set forth in the Court's September 8, 2021 Order, ECF No. 76, which limited the Contreras Plaintiffs to propounding "up to one quarter" of their allotted Interrogatories in Category 2, or five total Interrogatories.

INTERROGATORY NO. 10:

Please identify the person or persons who drew the SB 927 Plans.

RESPONSE TO INTERROGATORY NO. 10:

Defendants object to this Interrogatory because it seeks information protected by legislative privileged, and to the extent it seeks information protected by other privileges or protections, including the attorney-client privilege and/or work product doctrine. Defendants also object to this Interrogatory as duplicative of Interrogatory No. 2 in the Second Set of Interrogatories from Plaintiffs. Defendants further object to this Interrogatory because it exceeds the limit interrogatories set forth in the Court's September 8, 2021 Order, ECF No. 76, which limited the Contreras Plaintiffs to propounding "up to one quarter" of their allotted Interrogatories in Category 2, or five total Interrogatories.

Subject to and without waiving the foregoing objections, Defendants disclose the following as the primary participants in the drawing of the SB 927 Plans, who have already been disclosed to the Contreras Plaintiffs in response to discovery issued in the *McConchie* action as primary participants in the drawing of the SB 927 Plans: Jon Maxson, Joseph Sadowski, Marissa Jackson-Donnell, Aaron Lowe, Allie McNamara, Darrin Reinhardt, Craig Willert, Magen Straz, Jake Butcher, Giovanni Randazzo, and Justin Cox. Defendants further respond that each incumbent member participated in the redistricting process for their respective district.

Dated: October 26, 2021

Michael J. Kasper
151 N. Franklin Street, Suite 2500
Chicago, IL 60606
(312) 704-3292
mjkasper@60@mac.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

Devon C. Bruce
Power Rogers, LLP
70 W. Madison St., Suite 5500
Chicago IL, 60606
(312) 236-9381
dbruce@powerrogers.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

Sean Berkowitz
Latham & Watkins LLP
330 N. Wabash, Suite 2800
Chicago, IL 60611
(312) 777-7016
sean.berkowitz@lw.com

Colleen C. Smith
Latham & Watkins LLP
12670 High Bluff Drive
San Diego, CA 92130
(858) 523-5400
colleen.smith@lw.com

Elizabeth H. Yandell
Latham & Watkins LLP
505 Montgomery St., Ste. 2000
San Francisco, CA 94111
elizabeth.yandell@lw.com

*Counsel for Defendants Harmon and Office of
the President*

Respectfully submitted,

/s/ Adam R. Vaught

Adam R. Vaught
Hinshaw & Culbertson LLP
151 North Franklin Street, Suite 2500
Chicago, IL 60606
(312) 704-3000
avaught@hinshawlaw.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

Heather Wier Vaught
Heather Wier Vaught, P.C.
106 W. Calendar Ave, #141
LaGrange, IL 60625
(815) 762-2629
heather@wiervaught.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,
ABRAHAM MARTINEZ, IRENE PADILLA, and
ROSE TORRES

Plaintiffs,

v.

Case No. 1:21-cv-3139

ILLINOIS STATE BOARD OF ELECTIONS,
CHARLES W. SCHOLZ, IAN K. LINNABARY,
WILLIAM J. CADIGAN, LAURA K. DONAHUE,
WILLIAM R. HAINE, WILLIAM M.
MCGUFFAGE, KATHERINE S. O'BRIEN, and
CASANDRA B. WATSON in their official
capacities as members of the Illinois State Board of
Elections, DON HARMON, in his official capacity
as President of the Illinois Senate, and THE OFFICE
OF THE PRESIDENT OF THE ILLINOIS
SENATE, EMANUEL CHRISTOPHER
WELCH, in his official capacity as Speaker of the
Illinois House of Representatives, and the OFFICE
OF THE SPEAKER OF THE ILLINOIS HOUSE
OF REPRESENTATIVES,

Defendants.

**DEFENDANTS' RESPONSES AND OBJECTIONS TO
PLAINTIFFS' THIRD SET OF REQUESTS FOR PRODUCTION**

PROPOUNDING PARTY: Julie Contreras, et al.

RESPONDING PARTY: Emanuel Christopher Welch, Office of the Speaker of the
Illinois House of Representatives, Don Harmon, Office of
the President of the Illinois Senate

SET NUMBER: Three (Nos. 1-18) ("Category 2")

PRELIMINARY STATEMENT

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendants Don Harmon, in his official capacity as President of the Illinois Senate, the Office of the President of the Illinois Senate, Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, and the Office of the Speaker of the Illinois House of Representatives (“Defendants”), by and through their counsel, hereby submit the following responses and objections to Plaintiffs Third Set of Requests for Production, dated October 19, 2021.

The responses set forth below are based upon a reasonable and diligent search of the information and documents presently in the possession of Defendants, and except for explicit acts stated herein, no incidental or implied admissions are intended. These responses are provided without prejudice to Defendants’ right to modify, amend or supplement these responses if additional facts or information come to its attention in the course of Defendants’ continuing investigation. This reservation, however, is not to be construed as an undertaking by Defendants of an affirmative duty to change or supplement these responses, except as otherwise required by law or the Federal Rules of Civil Procedure. The fact that Defendants have responded to one or more of the Requests is not intended and shall not be construed as a waiver of all or any part of any objection to any such Request. By making these responses, Defendants do not concede that the information sought is relevant or reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTIONS

1. Defendants object to the definitions and instructions set forth in the Requests on the grounds that those definitions and instructions call for a legal conclusion or purport to impose obligations on Defendants that exceed the obligations imposed upon a responding party under the Federal Rules of Civil Procedure and/or other applicable law.

2. Defendants further object to the Requests on the grounds that they seek information protected from disclosure by the attorney-client privilege, the work-product doctrine, legislative privilege, the common interest privilege, the protections afforded by Federal Rule of Civil Procedure 26(b)(4)(B) and/or any other applicable privilege, doctrine or protection.

3. Defendants further object to the Requests on the grounds that they are unduly burdensome, vague, ambiguous and/or incapable of reasonable ascertainment.

4. Defendants further object to the Requests on the grounds that they are overly broad, seek information not reasonably limited in time or scope and/or would require undue expense to answer.

5. Defendants further object to the Requests on the grounds that they seek information that is not relevant to the claims pleaded in the currently operative First Amended Complaint or the defense of any party, is not reasonably calculated to lead to the discovery of admissible evidence, and/or would not be admissible at trial.

6. Defendants further object to the Requests on the grounds that they assume facts not in evidence and/or facts that do not exist or are otherwise incorrect.

7. Defendants further object to the Requests on the grounds that they seek information which is equally available to Plaintiffs in the public domain or available from sources other than Defendants, or that is equally available to or already in the possession, custody or control of Plaintiffs or their attorneys and for which the burden on Plaintiffs to obtain the information is no greater than the burden on Defendants.

8. Defendants further object to the Requests on the grounds that they are cumulative and/or duplicative.

9. Defendants further object to the Requests on the grounds that they seek information and identification of facts not in the possession, custody or control of Defendants and/or in the possession, custody or control of non-parties.

10. Defendants further object to the Requests on the grounds that they seek the confidential information of third parties that Defendants is under an obligation to not disclose.

11. Defendants further object to the Requests on the grounds that they purport to require production of “all” documents under circumstances in which a subset of all documents would be sufficient to show the relevant information, on the grounds that such requests for production of “all” documents are overbroad, unduly burdensome, and not proportional to the needs of the case. Defendants cannot, and do not, represent that they will or can locate and produce “all” requested documents following a reasonable search for responsive documents in their possession, custody or control.

12. Defendants interpret each Request as intending to exclude from its scope correspondence between Defendants’ personnel or representatives and their counsel. If this interpretation is not correct, Defendants object to identifying and/or producing such correspondence on the grounds of the attorney-client privilege, attorney work product, and that such identification or production is not reasonably likely to lead to the discovery of admissible evidence and poses undue burden and expense.

13. Defendants further object to the Requests on the grounds that they seek confidential information. Such information, to the extent it is not privileged or otherwise objectionable, will be provided pursuant to protective order.

14. No response to these Requests by Defendants shall be deemed to constitute any agreement or concession that the subject matter thereof is relevant to this action, and any

information provided by Defendants shall be made without in any way waiving or intending to waive any objection thereto, including but not limited to relevance, privilege or admissibility.

15. Any response stating that Defendants will produce responsive documents does not indicate that such documents in fact exist but only that Defendants will produce—subject to and without waiving its other objections—such non-privileged, non-work product documents in their possession, custody, and/or control as may be located after a reasonable, good faith search, without undue burden, and in accordance with the response.

16. Defendants assume that any reference to “redistricting” refers to (i) redistricting of Illinois state Legislative and Representative Districts, and not federal Congressional redistricting; and (ii) the redistricting process related to the amendment of Public Act 102-0010 that was passed by the General Assembly on August 31, 2021 as Senate Bill 927.

17. Any response, objection, or production made in these responses relates only to the list districts identified in Plaintiffs’ Second Amended Complaint.

18. Each of the foregoing General Objections shall be deemed to apply to Defendants’ specific objections and responses set forth below, notwithstanding the fact that Defendants have responded to all or part of any Request.

OBJECTIONS TO DEFINITIONS

1. Defendants object to each paragraph of the “Definitions” section to the extent the definitions purportedly set forth therein would: (a) expand the definition of a term beyond its ordinary use in the English language; (b) create an undue burden for Defendants when propounding their responses and objections to the Interrogatories; and/or (c) impose obligations on Defendants that exceed, or are inconsistent with, the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of the Northern District of Illinois, or other applicable law.

2. Defendants object to the defined term “AGENT” as overbroad, vague, and ambiguous.

3. Defendants object to the definition of “BENCHMARK PLAN(S)” as vague and ambiguous. Defendants will construe this term to refer to Public Act 97-0006, the General Assembly Redistricting Act of 2011.

4. Defendants object to the definition of “DOCUMENT” to the extent it calls for the production of any information subject to any privilege, including the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also objects to the extent it requires the production of unduly burdensome discovery or items that are not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense. Defendant further objects to the extent it seeks information outside of Defendants’ “control” as defined by the Federal Rules and relevant case law.

5. Defendants object to the definition of “DATASET” as overbroad, unduly burdensome, seeking information that is irrelevant to the subject matter at issue in this case, and not reasonably calculated to lead to discovery of matter that is relevant to any party’s claim or defense, including because it is not limited to certain years or types of information.

6. Defendants object to the defined term “S.B. 927 PLANS” as incorrect because Senate Bill 927 was passed by a super-majority of both chambers of the Illinois General Assembly on August 31, 2021.

RESPONSES AND SPECIFIC OBJECTIONS

REQUEST NO. 1:

Produce all documents that relate to the districts that you identify as Latino opportunity districts in the Benchmark Plans and the Latino opportunity districts in the SB 927 Plans in your answer to Interrogatory no. 1 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants.

RESPONSE TO REQUEST NO. 1:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants' further object to this Interrogatory on the ground that the term "Latino opportunity district" is vague, ambiguous, and undefined.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 2:

Produce all documents relating to the basis, as you explain in your answer to Interrogatory no. 2 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants, for your denial in paragraph 75 of your Answer (Dkt. 115) to Contreras Plaintiffs' Second Amended Complaint (Dkt. 98) ("Answer to the Second Amended Complaint").

RESPONSE TO REQUEST NO. 2:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 3:

Produce all documents relating to the basis, as you explain in your answer to Interrogatory no. 3 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants, for your denial in paragraph 83 of your Answer to the Second Amended Complaint.

RESPONSE TO REQUEST NO. 3:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 4:

Produce all documents relating to the basis, as you explain in your answer to Interrogatory no. 4 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants, for your denial in paragraph 96 of your Answer to the Second Amended Complaint.

RESPONSE TO REQUEST NO. 4:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 5:

Produce all documents relating to the basis, as you explain in your answer to Interrogatory no. 5 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants, for your denial in paragraph 97 of your Answer to the Second Amended Complaint.

RESPONSE TO REQUEST NO. 5:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege

and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 6:

In paragraph 71 of your Answer (Dkt. 115) to Contreras Plaintiffs' Second Amended Complaint (Dkt. 98) ("Answer to the Second Amended Complaint"), Legislative Defendants state that they are without sufficient information to form a belief about the truth of Plaintiffs' allegations that although the state's overall population decreased slightly, the number of Latinos in Illinois increased from 2,027,578 to 2,337,410, an increase of 309,832 persons, and that as a result, Latinos grew as a share of Illinois' total population, increasing from 15.8% of the total population in 2010 to 18.2% in 2020. You state that Defendants are without such information "due to the Census Bureau's differential privacy requirements and changes to the Census questions from 2010 to 2020." Produce all documents relating to this contention regarding differential privacy and changes to the Census questions from 2010 to 2020.

RESPONSE TO REQUEST NO. 6:

Defendants object to this Request to the extent that it seeks material that is overbroad, is not reasonably limited in time or scope, is not relevant to the claim or defense of any party, and/or is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it seeks documents in the public domain equally accessible by Plaintiffs.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 7:

Produce all documents relating to meetings identified in response to Interrogatory no. 7 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants.

RESPONSE TO REQUEST NO. 7:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan, which has already been adjudicated and is no longer relevant. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

REQUEST NO. 8:

Produce all documents relating to meetings identified in response to Interrogatory no. 8 of Contreras Plaintiffs' Third Set of Interrogatories to Legislative Defendants.

RESPONSE TO REQUEST NO. 8:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan, which has already been adjudicated and is no longer relevant. Defendants further object to this Request to the extent it seeks information

protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

REQUEST NO. 9:

Produce all documents relating to any racially polarized voting analysis of Illinois elections that you, members or your staff, legislators, contractors, or agents undertook or reviewed prior to or during the creation of the June 2021 and SB 927 redistricting plans.

RESPONSE TO REQUEST NO. 9:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests, including Request Nos. 11 and 12, and those propounded in Plaintiffs' earlier sets of discovery.

Subject to and without waiving any foregoing objections, Defendants direct Plaintiffs to their response to Plaintiffs' Interrogatory No. 1, included in Plaintiffs' Second Set of Interrogatories.

REQUEST NO. 10:

Produce all documents and datasets relating to race or ethnicity and voting registration or turnout that you reviewed prior to or during the creation of the June 2021 and SB 927 redistricting plans.

RESPONSE TO REQUEST NO. 10:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 11:

Produce all documents relating to the results of any racially polarized voting analyses of elections in Illinois that you, members or your staff, legislators, contractors, or agents undertook or reviewed prior to or during the creation of the SB 927 and June 2021 redistricting plans.

RESPONSE TO REQUEST NO. 11:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests, including Request Nos. 9 and 12, and those propounded in Plaintiffs' earlier sets of discovery.

Subject to and without waiving any foregoing objections, Defendants direct Plaintiffs to their response to Request No. 9.

REQUEST NO. 12:

Produce all documents relating to the results of any racially polarized voting analysis of elections in Illinois that were conducted by Allen Lichtman from January 1, 2021, to the present.

RESPONSE TO REQUEST NO. 12:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law. Defendants also object to this Request to the extent it is duplicative of other Requests, including Request Nos. 9 and 11, and those propounded in Plaintiffs' earlier sets of discovery.

Subject to and without waiving any foregoing objections, Defendants direct Plaintiffs to their response to Request No. 9. Defendants will also produce documents responsive to Request No. 12 as part of Defendants' expert disclosures.

REQUEST NO. 13:

Produce all documents relating to communications about redistricting of House District 21 in the June 2021 redistricting plan and the SB 927 Plan between Rep. Michael Zalewski, or any member of his staff, and Speaker Welch, or any member of Speaker Welch's staff, from January 1, 2021, to the present.

RESPONSE TO REQUEST NO. 13:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 14:

Produce all documents relating to communications about redistricting of House District 21 in the June 2021 redistricting plan and the SB 927 Plan between Rep. Michael Zalewski, or any member of his staff, and President Harmon, or any member of President Harmon's staff, from January 1, 2021, to the present.

RESPONSE TO REQUEST NO. 14:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 15:

Produce all documents relating to communications about redistricting of Senate District 11 in the June 2021 redistricting plan and the SB 927 Plan between Senator Steven Landek, or any member of his staff, and Speaker Welch, or any member of Speaker Welch's staff, from January 1, 2021, to the present.

RESPONSE TO REQUEST NO. 15:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 16:

Produce all documents relating to communications about redistricting of Senate District 11 in the June 2021 redistricting plan and the SB 927 Plan between Senator Steven Landek, or any member of his staff, and President Harmon, or any member of President Harmon's staff, from January 1, 2021, to the present.

RESPONSE TO REQUEST NO. 16:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants have produced all relevant, non-privileged documents.

REQUEST NO. 17:

In paragraph 83 of your Answer to the Second Amended Complaint, you deny that by moving Latinos into other districts and out of House District 21, SB 927 uses race as a predominant factor to allocate Latino voters into and out of House District 21. Produce all documents related to the factors considered in creating the boundaries of HD 21 in the June 2021 redistricting plan and SB 927 Plan.

RESPONSE TO REQUEST NO. 17:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants respond that all responsive, non-privileged documents have already been produced. Defendants may also produce documents responsive to Request No. 12 as part of Defendants' expert disclosures.

REQUEST NO. 18:

In paragraph 96 of your Answer to the Second Amended Complaint, you deny that by re-nesting the house districts that comprise Senator Landek's district and lowering the LCVAP of House District 21, Legislative Defendants used race as a predominate factor to protect a White non-Latino incumbent Democrat. Produce all documents related to the factors considered in creating the boundaries of SD 11 in the June 2021 redistricting plan and SB 927 Plan.

RESPONSE TO REQUEST NO. 18:

Defendants object to this Request to the extent that it seeks material that is overbroad, not reasonably limited in time or scope, not relevant to the claim or defense of any party, and/or not reasonably calculated to lead to the discovery of admissible evidence, including because this Request relates to the June 2021 redistricting plan. Defendants further object to this Request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine, legislative privilege, or any other privilege or protection from disclosure provided by law.

Subject to and without waiving any foregoing objections, Defendants respond that all responsive, non-privileged documents have already been produced. Defendants may also produce documents responsive to Request No. 12 as part of Defendants' expert disclosures

Dated: October 26, 2021

Michael J. Kasper
151 N. Franklin Street
Suite 2500
Chicago, IL 60606
(312) 704-3292
mjkasper@60@mac.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

Devon C. Bruce
Power Rogers, LLP
70 W. Madison St., Suite 5500
Chicago IL, 60606
(312) 236-9381
dbruce@powerrogers.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

Sean Berkowitz
Latham & Watkins LLP
330 N. Wabash, Suite 2800
Chicago, IL 60611
(312) 777-7016
sean.berkowitz@lw.com

Colleen C. Smith
Latham & Watkins LLP
12670 High Bluff Drive
San Diego, CA 92130
(858) 523-5400
colleen.smith@lw.com

Elizabeth H. Yandell
Latham & Watkins LLP
505 Montgomery St., Ste. 2000
San Francisco, CA 94111
elizabeth.yandell@lw.com

*Counsel for Defendants Harmon and Office of
the President*

Respectfully submitted,
/s/ Adam R. Vaught

Adam R. Vaught
Hinshaw & Culbertson LLP
151 North Franklin Street, Suite 2500
Chicago, IL 60606
(312) 704-3000
avaught@hinshawlaw.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

Heather Wier Vaught
Heather Wier Vaught, P.C.
106 W. Calendar Ave, #141
LaGrange, IL 60625
(815) 762-2629
heather@wiervaught.com

*Counsel for Defendants Welch, Office of the
Speaker, Harmon, and Office of the President*

RETRIEVED FROM DEMOCRACYDOCKET.COM

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2021, I electronically served the above DEFENDANTS' RESPONSE TO PLAINTIFFS' THIRD SET OF REQUESTS TO PRODUCE to all counsel of record by electronic mail.

By: /s/Adam R. Vaught

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 3

RETRIEVED FROM DEMOCRACYDOCKET.COM

Atkinson Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,)
ABRAHAM MARTINEZ, IRENE PADILLA,)
ROSE TORRES, LAURA MURPHY,)
CRISTINA FLORES, JOSE ALCALA,)
TROY HERNANDEZ, GABRIEL PEREZ,)
IVAN MEDINA, ALFREDO CALIXTO,)
HISPANIC LAWYERS ASSOCIATION OF)
ILLINOIS and PUERTO RICAN BAR)
ASSOCIATION OF ILLINOIS,)

Plaintiffs,)

-vs-

No. 1:21-cv-3139

ILLINOIS STATE BOARD OF)
ELECTIONS, IAN K. LINNABARY,)
WILLIAM J. CADIGAN, LAURA K.)
DONAHUE, WILLIAM M. MCGUFFAGE,)
CATHERINE S. MCCRORY, RICK S.)
TERVEN, SR. And CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, and THE)
OFFICE OF THE PRESIDENT OF THE)
ILLINOIS SENATE, EMANUEL)
CHRISTOPHER WELCH, in his)
official capacity as Speaker of)
the Illinois House of)
Representatives, and THE OFFICE)
OF THE SPEAKER OF THE ILLINOIS)
HOUSE OF REPRESENTATIVES,)

Defendants.)

Atkinson Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EAST ST. LOUIS BRANCH NAACP,)
ILLINOIS STATE CONFERENCE OF THE)
NAACP, and UNITED CONGRESS OF)
COMMUNITY AND RELIGIOUS)
ORGANIZATIONS,)

Plaintiffs,)

-vs-

) No. 1:21-cv-05512

ILLINOIS STATE BOARD OF)
ELECTIONS, WILLIAM J. CADIGAN,)
LAURA K. DONAHUE, IAN K.)
LINNABARY, CATHERINE S. MCCRORY,)
WILLIAM M. MCGUFFAGE, RICK S.)
TERVEN, SR. And CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, THE OFFICE)
OF THE PRESIDENT OF THE ILLINOIS)
SENATE, EMANUEL CHRISTOPHER)
WELCH, in his official capacity)
as Speaker of the Illinois House)
of Representatives, and THE)
OFFICE OF THE SPEAKER OF THE)
ILLINOIS HOUSE OF)
REPRESENTATIVES,)

Defendants.)

Atkinson Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAN MCCONCHIE, in his official)
capacity as Minority Leader of)
the Illinois Senate and)
individually as a registered)
voter, JIM DURKIN, in his)
official capacity as Minority)
Leader of the Illinois House of)
Representatives and individually)
as a registered voter, JAMES)
RIVERA, ANNA DE LA TORRE, DOLORES)
DIAZ, FELIPE LUNA JR., SALVADOR)
TREMILLO, CHRISTOPHER ROMERO, the)
REPUBLICAN CAUCUS OF THE ILLINOIS)
SENATE, the REPUBLICAN CAUCUS OF)
THE ILLINOIS HOUSE OF)
REPRESENTATIVES, and the ILLINOIS)
REPUBLICAN PARTY,)

Plaintiffs,)

-vs-

No. 1:21-cv-03091

IAN K. LINNABARY, CASANDRA B.)
WATSON, WILLIAM J. CADIGAN, LAURA)
K. DONAHUE, CATHERINE S. MCCRORY,)
WILLIAM M. MCGUFFAGE, and RICK S.)
TERVEN, SR., in their official)
capacities as members of the)
Illinois State Board of)
Elections, EMANUEL CHRISTOPHER)
WELCH, in his official capacity)
as Speaker of the Illinois House)
of Representatives, the OFFICE OF)
THE SPEAKER OF THE ILLINOIS HOUSE)
OF REPRESENTATIVES, DON HARMON,)
in his official capacity as)
President of the Illinois Senate,)
and the OFFICE OF THE PRESIDENT)
OF THE ILLINOIS SENATE,)

Defendants.)

Atkinson Baker, a Veritext Company
www.depo.com

1 Deposition via videoconference of
2 JOSEPH SODOWSKI taken remotely before JUNE M.
3 FUNKHOUSER, CSR, RMR, and Notary Public, pursuant
4 to the Federal Rules of Civil Procedure for the
5 United States District Courts pertaining to the
6 taking of depositions, at 2:03 p.m. on the 4th day
7 of November, A.D., 2021.

8
9
10 There were present at the taking of
11 this deposition via videoconference the following
12 counsel:

13 MEXICAN AMERICAN LEGAL DEFENSE AND
14 EDUCATIONAL FUND by
15 MR. ERNEST HERRERA
16 643 South Spring Street
17 Suite 1100
18 Los Angeles, California 90014
19 (213) 629-2512
20 eherrera@maldef.org

21 -and-
22
23
24

Atkinson Baker, a Veritext Company
www.depo.com

1 Cont'd:

2 MEXICAN AMERICAN LEGAL DEFENSE AND
3 EDUCATIONAL FUND by
4 MS. GRISELDA VEGA SAMUEL
5 MR. FRANCISCO FERNANDEZ-DEL CASTILLO
6 11 East Adams Street
7 Suite 700
8 Chicago, Illinois 60603
9 (312) 427-0701
10 gvegasamuel@maldef.org
11 ffernandez-delcastillo@maldef.org

12 on behalf of the Plaintiffs Julie
13 Contreras, Irvin Fuentes, Abraham
14 Martinez, Irene Padilla, Rose Torres,
15 Laura Murphy, Cristina Flores, Jose
16 Alcala, Troy Hernandez, Gabriel Perez,
17 Ivan Medina, Alfredo Calixto, Hispanic
18 Lawyers Association of Illinois And
19 Puerto Rican Bar Association of
20 Illinois;

21 CHICAGO LAWYERS' COMMITTEE FOR CIVIL
22 RIGHTS by
23 MR. CLIFFORD HELM
24 100 North LaSalle Street
Suite 600
Chicago, Illinois 60602
(312) 630-9744
helm@clccrul.org

-and-

COOLEY LLP by
MR. MATTHEW KUTCHER
444 West Lake Street
Suite 1700
Chicago, Illinois 60606
(312) 881-6500
mkutcher@cooley.com

-and-

23

24

Atkinson Baker, a Veritext Company
www.depo.com

1 Cont'd:

2 COOLEY LLP by
3 MR. JOSEPH DRAYTON
4 55 Hudson Yards
5 New York, New York 10001
6 (212) 479-6000
7 jdrayton@cooley.com

8 -and-

9 COOLEY LLP by
10 MS. ELIZABETH WRIGHT
11 MR. ALEX ROBLEDO
12 500 Boylston Street
13 Suite 1400
14 Boston, Massachusetts 02116
15 (617) 937-2300
16 ewright@cooley.com
17 arobledo@cooley.com

18 on behalf of the Plaintiffs East
19 St. Louis Branch NAACP, Illinois State
20 Conference of the NAACP, and United
21 Congress of Community and Religious
22 Organizations;

23 LUETKEHANS, BRADY, GARNER & ARMSTRONG, LLC by
24 MR. PHILLIP A. LUETKEHANS
105 East Irving Park Road
Itasca, Illinois 60143
(630) 760-4601
pal@lbgalaw.com

-and-

MEZA LAW by
MR. RICARDO MEZA
161 North Clark Street
Suite 1600
Chicago, Illinois 60601
(312) 802-0336
rmeza@meza.law

-and-

24

Atkinson Baker, a Veritext Company
www.depo.com

1 Cont'd:

2 MAYER BROWN LLP by
3 MR. CHARLES E. HARRIS, II
4 71 South Wacker Drive
5 Chicago, Illinois 60606
6 (312) 782-0600
7 charris@mayerbrown.com

8 on behalf of the Plaintiffs Dan
9 McConchie, in his official capacity as
10 Minority Leader of the Illinois Senate
11 and individually as a registered
12 voter, Jim Durkin, in his official
13 capacity as Minority Leader of the
14 Illinois House of Representatives and
15 individually as a registered voter,
16 James Rivera, Anna De La Torre,
17 Dolores Diaz, Felipe Luna Jr.,
18 Salvador Tremillo, Christopher Romero,
19 the Republican Caucus of the Illinois
20 Senate, the Republican Caucus of the
21 Illinois House of Representatives, and
22 the Illinois Republican Party;

23 POWER ROGERS, LLP by
24 MR. DEVON C. BRUCE
70 West Madison Street
Suite 5500
Chicago, Illinois 60602
(312) 313-0202
dbruce@powerrogers.com

on behalf of the Defendants;

18
19
20
21
22
23
24

Atkinson Baker, a Veritext Company
www.depo.com

1 Cont'd:

2 LATHAM & WATKINS LLP by
3 MS. ELIZABETH H. YANDELL
4 505 Montgomery Street
5 Suite 2000
6 San Francisco, California 94111
7 (415) 391-0600
8 elizabeth.yandell@lw.com

9 on behalf of the Defendants Don
10 Harmon, in his official capacity as
11 President of the Illinois Senate, and
12 the Office of the President of the
13 Illinois Senate;

14 HINSHAW & CULBERTSON LLP by
15 MR. ADAM R. VAUGHT
16 151 North Franklin Street
17 Suite 2500
18 Chicago, Illinois 60606
19 (312) 704-3584
20 avaught@hinshawlaw.com

21 on behalf of the Defendants Emanuel
22 Christopher Welch, in his official
23 capacity as Speaker of the Illinois
24 House of Representatives, the
Office of the Speaker of the Illinois
House of Representatives, and the
Deponent;

HEATHER WIER VAUGHT, P.C. by
MS. HEATHER WIER VAUGHT
82 South LaGrange Road
LaGrange, Illinois 60525
(224) 603-2124
heather@wiervaught.com

on behalf of the Legislative Defendants;

ALSO PRESENT: Mr. Giovanni Randazzo, Chief Legal
Counsel to the Office of the Senate
President;
Mr. Michael Kasper;
Mr. Juan Vazquez, Paralegal, MALDEF.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

Witness:	Page
JOSEPH SODOWSKI	
Examination by Mr. Herrera	12
Examination by Ms. Wright	165
Examination by Mr. Luetkehans	183

EXHIBITS

	Page
EXHIBIT 38	36
Illinois Senate Redistricting Committee Senate 2021 Map	
EXHIBIT 39	84
E-mails with attachment, 3/15/21 to 3/18/21, Subject: Re: St. Clair Precinct Map Bates DemDefs-0001290, 0001285, 0001284	
EXHIBIT 40	121
Map	
EXHIBIT 41	151
Map	

PREVIOUSLY MARKED EXHIBITS

	Page
EXHIBIT 3	41
Illinois General Assembly Bill Status for HB2777	
EXHIBIT 9	95
Transcript of Joint Committee Redistricting Hearing, 5/25/21	
EXHIBIT 11	114
Senate Resolution No. 326	

Atkinson Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

PREVIOUSLY MARKED EXHIBITS (Cont'd)

EXHIBIT 19

E-mail from Kim Brace, 8/16/21,
Subject: Kim Brace shared
"ILRedis2020Updates" with you
Bates DemDefs-0001347

Page
93

EXHIBIT 20

Senate Resolution 3

109

RETRIEVED FROM DEMOCRACYDOCKET.COM

Atkinson Baker, a Veritext Company
www.depo.com

1 (Whereupon the witness was
2 duly sworn.)

3 MR. BRUCE: Devon Bruce on behalf of the
4 defendants.

5 MR. HERRERA: Ernest Herrera on behalf of
6 the Contreras plaintiffs.

7 MS. VEGA SAMUEL: Griselda Vega Samuel on
8 behalf of the Contreras plaintiffs.

9 MS. YANDELL: Elizabeth Yandell on behalf
10 of defendants President Harmon and the Office of
11 the President.

12 MR. FERNANDEZ-DEL CASTILLO: Francisco
13 Fernandez on behalf of the Contreras plaintiffs.

14 MR. HARRIS: Charles Harris on behalf of
15 the McConchie plaintiffs.

16 MR. LUETKEHANS: Phillip Luetkehans on
17 behalf of the McConchie plaintiffs.

18 MR. MEZA: Ricardo Meza, also on behalf
19 of the McConchie plaintiffs.

20 MS. VAUGHT: Heather Wier Vaught on
21 behalf of the Legislative Defendants.

22 MS. WRIGHT: Elizabeth Wright on behalf
23 of the NAACP plaintiffs, and with me from Cooley
24 LLP are my colleagues, Matt Kutcher and Alex

Atkinson Baker, a Veritext Company
www.depo.com

1 May 28th, 2021, were you able to view CVAP data
2 broken down by race and ethnicity alongside Senate
3 lines as you changed those lines in AutoBound?

4 MR. BRUCE: Objection; asked and answered
5 twice.

6 Go ahead, Miles. This will be the
7 last time.

8 MR. HERRERA: No, I didn't -- I asked a
9 totally different question, I'm clarifying, and you
10 keep making speaking foundation objections. So I'm
11 going to clarify with him to orient the witness
12 because you keep disrupting my questioning. So I'm
13 going to ask it again.

14 MR. BRUCE: I take umbrage to that. I
15 objected asked and answered. We can waste time and
16 go back and look at the record. I allowed him to
17 answer the question. Let's move on.

18 Madam Court Reporter, can we have the
19 last question back and, Miles, go ahead and answer
20 again.

21 (Whereupon the question was read
22 by the reporter as follows:
23 "Question: Now I'm going to go
24 back to before May 28th, 2021,

Atkinson Baker, a Veritext Company
www.depo.com

1 were you able to view CVAP data
2 broken down by race and
3 ethnicity alongside Senate
4 lines as you changed those
5 lines in AutoBound?")

6 THE WITNESS: Yes.

7 BY MR. HERRERA:

8 Q Okay. Now, I'm going to ask a similar
9 question but for a different time period. So
10 between the uploading of the census data and
11 August 31st, 2021, were you able to view CVAP data
12 as broken down by race and ethnicity alongside
13 Senate district lines as you moved them?

14 MR. BRUCE: Asked and answered.

15 Go ahead, Miles.

16 THE WITNESS: No.

17 BY MR. HERRERA:

18 Q Okay. For CVAP data as broken down by
19 race and ethnicity as viewable in AutoBound, was
20 that the same for laptops in both periods of time
21 we just discussed?

22 A Yes.

23 Q Okay. Now earlier you mentioned a
24 political spreadsheet, and I asked you about the

Atkinson Baker, a Veritext Company
www.depo.com

1 the form.

2 Go ahead.

3 THE WITNESS: No, I do not. I did not
4 write it.

5 BY MR. HERRERA:

6 Q Okay. Now I'm going to take this down
7 again and I'm going to come back to it, so I'm
8 going to come back to Exhibit 41 in a sec, but I'm
9 going to go back to the resolution real quick.

10 All right. And I'm showing you,
11 Mr. Sodowski, again, I'm showing you Senate
12 Resolution 3 and we're looking on page 35. And,
13 I'm sorry, let's look at page 36 of Senate
14 Resolution 3, Exhibit 20, and do you see -- so
15 let's start -- sorry. Let's start on page 35 and
16 go on to page 36, so lines 26 through line 2 of
17 page 36. So I'm going to read it into the record
18 just to be clear.

19 It says "Proposed District 11 is a
20 significant transportation center containing Midway
21 International Airport, I-55, and the CSX-Bedford
22 Park Rail Facility." Do you know what the Midway
23 International Airport is?

24 A Yes.

Atkinson Baker, a Veritext Company
www.depo.com

1 Q Okay. Do you know approximately where it
2 is in Illinois?

3 A Yes.

4 Q Okay. Do you know what the CSX-Bedford
5 Park Rail Facility is?

6 A No.

7 Q Okay. I'm going to go back to the map we
8 were just looking at, and this is Exhibit 41, note
9 that it has the same file name I was mentioning
10 earlier for counsel.

11 Okay. So my staff has labeled on this
12 map using Google Maps the CSX Railroad Company. Do
13 you see that represented on this map in Senate
14 District 11?

15 A Yes.

16 Q And which -- on which end of the Senate
17 District 11 is this located?

18 A The southern.

19 Q Okay. And do you see in this map where
20 Chicago Midway International Airport is located?

21 A Yes.

22 Q Okay. And is it located in the south end
23 of the Senate District 11?

24 A Yes.

Atkinson Baker, a Veritext Company
www.depo.com

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF K A N E)

3 The within and foregoing videoconference
4 deposition of the aforementioned witness was
5 reported remotely by JUNE M. FUNKHOUSER, CSR, RMR
6 and Notary Public, at the date and time
7 aforementioned.

8 There were present via videoconference
9 during the taking of the deposition the previously
10 named counsel.

11 The said witness was first duly sworn via
12 videoconference and was then examined upon oral
13 interrogatories; the questions and answers were
14 taken down in shorthand by the undersigned, acting
15 as stenographer and Notary Public; and the within
16 and foregoing is a true, accurate and complete
17 record of all of the questions asked of and answers
18 made by the aforementioned witness, at the time and
19 place hereinabove referred to.

20 The signature of the witness was not
21 waived, and the deposition was submitted, pursuant
22 to Rule 30(e) of the Rules of Civil Procedure for
23 the United States District Courts, to the deponent
24 per copy of the attached letter.

Atkinson Baker, a Veritext Company
www.depo.com

1 The undersigned is not interested in the
2 within case, nor of kin or counsel to any of the
3 parties.

4 Witness my official signature and seal as
5 Notary Public in and for Kane County, Illinois, on
6 the 5th day of November, A.D. 2021.

7

8 <%20091,Signature%>
9 JUNE M. FUNKHOUSER, CSR, RMR
10 Notary Public
11 License No. 084-003024
12 One North Franklin Street, Suite 3000
13 Chicago, Illinois 60606
14 Phone: (312) 442-9087

12

13

14

15

16

17

18

19

20

21

22

23

24

Exhibit 4

RETRIEVED FROM DEMOCRACYDOCKET.COM

Logical Record Number 0000028
 Geography ID 05000US17031
 Geography Name Cook County, Illinois

	B	D	H	I	B	D	H	I
	Black	Asian	WhiteNH	Hispanic	Black	Asian	WhiteNH	Hispanic
C15002B001	Total:				809334	279637	1691109	761888
C15002B002	Male:				349553	131233	818883	387969
C15002B003	Less than high school diploma				48744	10649	41975	126092
C15002B004	High school graduate (includes equivalency)				112920	14942	152351	127721
C15002B005	Some college or associate's degree				119153	20647	190626	81682
C15002B006	Bachelor's degree or higher				68736	84995	433931	52474
C15002B007	Female:				459781	148404	872226	373919
C15002B008	Less than high school diploma				54230	17704	46318	112913
C15002B009	High school graduate (includes equivalency)				115492	18325	174114	107397
C15002B010	Some college or associate's degree				175859	21020	195780	87103
C15002B011	Bachelor's degree or higher				114200	91355	456014	66506
	Total:				809334	279637	1691109	761888
	Less than high school diploma				102974	28353	88293	239005
	High school graduate (includes equivalency)				228412	33267	326465	235118
	Some college or associate's degree				295012	41667	386406	168785
	Bachelor's degree or higher				182936	176350	889945	118980

RETRIEVED FROM DEMOCRACYDOCKET.COM

Logical Record Number 0000028
 Geography ID 05000US17031
 Geography Name Cook County, Illinois

		B	D	H	I	B	D	H	I
		Black	Asian	WhiteNH	Hispanic	Black	Asian	WhiteNH	Hispanic
B25003B001	Occupied Housing Units	467579	133820	984150	359442	467579	133820	984150	359442
B25003B002	Owner Occupied	186200	74802	668789	180934	39.8%	55.9%	68.0%	50.3%
B25003B003	Renter Occupied	281379	59018	315361	178508	60.2%	44.1%	32.0%	49.7%

RETRIEVED FROM DEMOCRACYDOCKET.COM

Logical Record Number 0000028
Geography ID 05000US17031
Geography Name Cook County, Illinois

		B	D	H	I	
		Black	Asian	WhiteNH	Hispanic	Total
B19013B001	Median Household Income	\$ 39,149	\$ 81,503	\$ 84,545	\$ 53,942	\$ 64,660

RETRIEVED FROM DEMOCRACYDOCKET.COM

Logical Record Number 0000028
 Geography ID 05000US17031
 Geography Name Cook County, Illinois

	B	D	H	I	B	D	H	I	
	Black	Asian	WhiteNH	Hispanic	Black	Asian	WhiteNH	Hispanic	
B16005B001	Population 5 years and over	1140710	359877	2089816	1208930	1140710	359877	2089816	1208930
B16005B002	Native:	1092711	104903	1781028	740145	95.8%	29.1%	85.2%	61.2%
B16005B003	Speak only English	1067914	54115	1643869	213951	97.7%	51.6%	92.3%	28.9%
B16005B004	Speak another language:	24797	50788	137159	526194	2.3%	48.4%	7.7%	71.1%
B16005B005	Speak English "very well"	20648	44042	122972	452728	1.9%	42.0%	6.9%	61.2%
B16005B006	Speak English less than "very well"	4149	6746	14187	73466	0.4%	6.4%	0.8%	9.9%
B16005B007	Foreign born:	47999	254974	308788	468785	4.2%	70.9%	14.8%	38.8%
B16005B008	Speak only English	15897	28241	50478	18539	33.1%	11.1%	16.3%	4.0%
B16005B009	Speak another language:	32102	226733	258310	450246	66.9%	88.9%	83.7%	96.0%
B16005B010	Speak English "very well"	20717	118049	120771	140928	43.2%	46.3%	39.1%	30.1%
B16005B011	Speak English less than "very well"	11385	108684	137539	309318	23.7%	42.6%	44.5%	66.0%
	Total:	1140710	359877	2089816	1208930	100.0%	100.0%	100.0%	100.0%
	Speak only English	1083811	82356	1694347	232490	95.0%	22.9%	81.1%	19.2%
	Speak another language:	56899	277521	395469	976440	5.0%	77.1%	18.9%	80.8%
	Speak English "very well"	41365	162091	243743	593656	3.6%	45.0%	11.7%	49.1%
	Speak English less than "very well"	15534	115430	151726	382784	1.4%	32.1%	7.3%	31.7%

RETRIEVED FROM PROLOGIC E-FILED DOCUMENT

Logical Record Number 0000028
 Geography ID 05000US17031
 Geography Name Cook County, Illinois

	B Black	D Asian	H WhiteNH	I Hispanic	Total	B Black	D Asian	H WhiteNH	I Hispanic	Total
B17001001	1191249	372995	2158907	1302740	5112701	1191249	372995	2158907	1302740	5112701
B17001002	298160	45155	161618	218222	734470	25.0%	12.1%	7.5%	16.8%	14.4%

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 5

RETRIEVED FROM DEMOCRACYDOCKET.COM

Atkinson-Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES,)
ABRAHAM MARTINEZ, IRENE PADILLA,)
ROSE TORRES, LAURA MURPHY,)
CRISTINA FLORES, JOSE ALCALA,)
TROY HERNANDEZ, GABRIEL PEREZ,)
IVAN MEDINA, ALFREDO CALIXTO,)
HISPANIC LAWYERS ASSOCIATION OF)
ILLINOIS and PUERTO RICAN BAR)
ASSOCIATION OF ILLINOIS,)

Plaintiffs,)

-vs-)

No. 1:21-cv-3139

ILLINOIS STATE BOARD OF)
ELECTIONS, IAN K. LINNABARY,)
WILLIAM J. CADIGAN, LAURA K.)
DONAHUE, WILLIAM M. MCGUFFAGE,)
CATHERINE S. MCCRORY, RICK S.)
TERVEN, SR. and CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, and THE)
OFFICE OF THE PRESIDENT OF THE)
ILLINOIS SENATE, EMANUEL)
CHRISTOPHER WELCH, in his)
official capacity as Speaker of)
the Illinois House of)
Representatives, and THE OFFICE)
OF THE SPEAKER OF THE ILLINOIS)
HOUSE OF REPRESENTATIVES,)

Defendants.)

Atkinson-Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EAST ST. LOUIS BRANCH NAACP,)
ILLINOIS STATE CONFERENCE OF THE)
NAACP, and UNITED CONGRESS OF)
COMMUNITY AND RELIGIOUS)
ORGANIZATIONS,)

Plaintiffs,)

-vs-

No. 1:21-cv-05512

ILLINOIS STATE BOARD OF)
ELECTIONS, WILLIAM J. CADIGAN,)
LAURA K. DONAHUE, IAN K.)
LINNABARY, CATHERINE S. MCCRORY,)
WILLIAM M. MCGUFFAGE, RICK S.)
TERVEN, SR. and CASANDRA B.)
WATSON, in their official)
capacities as members of the)
Illinois State Board of)
Elections, DON HARMON, in his)
official capacity as President of)
the Illinois Senate, THE OFFICE)
OF THE PRESIDENT OF THE ILLINOIS)
SENATE, EMANUEL CHRISTOPHER)
WELCH, in his official capacity)
as Speaker of the Illinois House)
of Representatives, and THE)
OFFICE OF THE SPEAKER OF THE)
ILLINOIS HOUSE OF)
REPRESENTATIVES,)

Defendants.)

Atkinson-Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAN MCCONCHIE, in his official)
capacity as Minority Leader of)
the Illinois Senate and)
individually as a registered)
voter, JIM DURKIN, in his)
official capacity as Minority)
Leader of the Illinois House of)
Representatives and individually)
as a registered voter, JAMES)
RIVERA, ANNA DE LA TORRE, DOLORES)
DIAZ, FELIPE LUNA JR., SALVADOR)
TREMILLO, CHRISTOPHER ROMERO, the)
REPUBLICAN CAUCUS OF THE ILLINOIS)
SENATE, the REPUBLICAN CAUCUS OF)
THE ILLINOIS HOUSE OF)
REPRESENTATIVES, and the ILLINOIS)
REPUBLICAN PARTY,)

Plaintiffs,)

-vs-

No. 1:21-cv-03091

IAN K. LINNABARY, CASANDRA B.)
WATSON, WILLIAM J. CADIGAN, LAURA)
K. DONAHUE, CATHERINE S. MCCRORY,)
WILLIAM M. MCGUFFAGE, and RICK S.)
TERVEN, SR., in their official)
capacities as members of the)
Illinois State Board of)
Elections, EMANUEL CHRISTOPHER)
WELCH, in his official capacity)
as Speaker of the Illinois House)
of Representatives, the OFFICE OF)
THE SPEAKER OF THE ILLINOIS HOUSE)
OF REPRESENTATIVES, DON HARMON,)
in his official capacity as)
President of the Illinois Senate,)
and the OFFICE OF THE PRESIDENT)
OF THE ILLINOIS SENATE,)

Defendants.)

Atkinson-Baker, a Veritext Company
www.depo.com

1 Deposition via videoconference of JONATHAN
2 MAXSON taken before TRACY L. BLASZAK, CSR, CRR, and
3 Notary Public, pursuant to the Federal Rules of Civil
4 Procedure for the United States District Courts
5 pertaining to the taking of depositions, at 82 South
6 LaGrange Road, in the Village of LaGrange, Cook County,
7 Illinois at 10:08 a.m. on the 3rd day of November, A.D.,
8 2021.

9 There were present at the taking of this
10 deposition via videoconference the following counsel:

11 MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL
12 FUND by
13 MR. ERNEST HERRERA
14 643 South Spring Street
15 Suite 1100
16 Los Angeles, California 90014
17 (213) 629-2512
18 eherrera@maldef.org

19 -and-

20
21
22
23
24

Atkinson-Baker, a Veritext Company
www.depo.com

1 MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL
FUND by
2 MS. GRISELDA VEGA SAMUEL
MR. FRANCISCO FERNANDEZ DEL CASTILLO
3 11 East Adams Street
Suite 700
4 Chicago, Illinois 60603
(312) 427-0701
5 gvegasamuel@maldef.org
ffernandez-delcastillo@maldef.org

6
on behalf of the Plaintiffs Julie
7 Contreras, Irvin Fuentes, Abraham
Martinez, Irene Padilla, Rose Torres,
8 Laura Murphy, Cristina Flores, Jose
Alcala, Troy Hernandez, Gabriel Perez,
9 Ivan Medina, Alfredo Calixto, Hispanic
Lawyers Association of Illinois And Puerto
10 Rican Bar Association of Illinois;

11
LAWYERS' COMMITTEE FOR CIVIL RIGHTS
12 UNDER LAW by
MR. JON M. GREENBAUM
13 1500 K Street, N.W.
Suite 900
14 Washington, D.C. 20005
(202) 662-8600
15 jgreenbaum@lawyerscommittee.org

16 -and-

17 CHICAGO LAWYERS' COMMITTEE FOR CIVIL RIGHTS by
MS. AMI GANDHI
18 100 North LaSalle Street
Suite 600
19 Chicago, Illinois 60602
(312) 630-9744
20 agandhi@clccrul.org

21 -and-

22

23

24

Atkinson-Baker, a Veritext Company
www.depo.com

1 COOLEY LLP by
MR. MATTHEW KUTCHER
2 MS. CARLY E. GIBBONS
444 West Lake Street
3 Suite 1700
Chicago, Illinois 60606
4 (312) 881-6500
mkutcher@cooley.com
5 cgibbons@cooley.com

6 -and-

7 COOLEY LLP by
MR. JOSEPH DRAYTON
8 55 Hudson Yards
New York, New York 10001
9 (212) 479-6000
jdrayton@cooley.com

10 -and-

11 COOLEY LLP by
12 MS. ELIZABETH WRIGHT
500 Boylston Street
13 Suite 1400
Boston, Massachusetts 02116
14 (617) 937-2300
ewright@cooley.com

15 on behalf of the Plaintiffs East St. Louis
16 Branch NAACP, Illinois State Conference of
the NAACP, and United Congress of
17 Community and Religious Organizations;

18 LUETKEHANS, BRADY, GARNER & ARMSTRONG, LLC by
19 MR. PHILLIP A. LUETKEHANS
105 East Irving Park Road
20 Itasca, Illinois 60143
(630) 760-4601
21 pal@lbgalaw.com

22 -and-

23

24

Atkinson-Baker, a Veritext Company
www.depo.com

1 MEZA LAW by
MR. RICARDO MEZA
2 161 North Clark Street
Suite 1600
3 Chicago, Illinois 60601
(312) 802-0336
4 rmeza@meza.law

5 -and-

6 MAYER BROWN LLP by
MR. CHARLES E. HARRIS, II
7 71 South Wacker Drive
Chicago, Illinois 60606
8 (312) 782-0600
charris@mayerbrown.com

9
10 on behalf of the Plaintiffs Dan McConchie,
in his official capacity as Minority
11 Leader of the Illinois Senate and
individually as a registered voter, Jim
12 Durkin, in his official capacity as
Minority Leader of the Illinois House of
13 Representatives and individually as a
registered voter, James Rivera, Anna De La
14 Torre, Dolores Diaz, Felipe Luna Jr.,
Salvador Tremillo, Christopher Romero, the
15 Republican Caucus of the Illinois Senate,
the Republican Caucus of the Illinois
16 House of Representatives, and the Illinois
Republican Party;

17
18 POWER ROGERS, LLP by
MR. DEVON C. BRUCE
70 West Madison Street
19 Suite 5500
Chicago, Illinois 60602
20 (312) 313-0202
dbruce@powerrogers.com

21 on behalf of the Defendants;
22
23
24

Atkinson-Baker, a Veritext Company
www.depo.com

1 LATHAM & WATKINS LLP by
MS. ELIZABETH H. YANDELL
2 505 Montgomery Street
Suite 2000
3 San Francisco, California 94111
(415) 391-0600
4 elizabeth.yandell@lw.com

5 -and-

6 LATHAM & WATKINS LLP by
MS. COLLEEN C. SMITH
7 12670 High Bluff Drive
San Diego, California 92130
8 (415) 391-0600
colleen.smith@lw.com

9
10 on behalf of the Defendants Don Harmon, in
his official capacity as President of the
11 Illinois Senate, and the Office of the
President of the Illinois Senate;

12 HINSHAW & CULBERTSON LLP by
13 MR. ADAM R. VAUGHT
151 North Franklin Street
14 Suite 2500
Chicago, Illinois 60606
15 (312) 704-3584
avaught@hinshawlaw.com

16 on behalf of the Defendants Emanuel
17 Christopher Welch, in his official
capacity as Speaker of the Illinois House
18 of Representatives, and the Office of the
Speaker of the Illinois House of
19 Representatives;

20 HEATHER WIER VAUGHT, P.C. by
21 MS. HEATHER WIER VAUGHT
82 South LaGrange Road
22 LaGrange, Illinois 60525
(224) 603-2124
23 heather@wiervaught.com

24 on behalf of the Legislative Defendants;

Atkinson-Baker, a Veritext Company
www.depo.com

1 ALSO PRESENT: Mr. Michael Kasper;
2 Mr. Juan Vazquez
3 MALDEF;
4 Ms. Natalie Heim
5 Latham & Watkins LLP.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

RETRIEVED FROM DEMOCRACYDOCKET.COM

Atkinson-Baker, a Veritext Company
www.depo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

DEPOSITION OF
JONATHAN MAXSON

November 3, 2021

EXAMINATION BY:	PAGE
Mr. Ernest Herrera	13
Mr. Jon M. Greenbaum	199
Mr. Phillip A. Luetkehans	232

* * * * *

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1	Illinois House speaker redistricting page screen shot	23
Exhibit 2	E-mail from Maxson to Brace 8/11/21	25
Exhibit 3	IL General Assembly bill status for HB2777	27
Exhibit 4	Transcript of redistricting committee hearing held 4/20/11	30
Exhibit 5	E-mail from Basham to Basham 3/12/21	39
Exhibit 6	E-mail from Driscoll to Press 5/27/21	45
Exhibit 7	E-mail from Maxson to Brace 3/11/21	48
Exhibit 8	E-mail from Cox to Kasper 3/31/21	72
Exhibit 9	Audio transcription of joint committee redistricting hearing 5/25/21	106

Atkinson-Baker, a Veritext Company
www.depo.com

1	(continued)		
2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 10	House resolution 359	122
4	Exhibit 11	Senate resolution No. 326	132
5	Exhibit 12	E-mail from Brace to Sodowski 5/26/21	139
6	Exhibit 13	E-mail from Brace to Butcher 5/28/21	140
7			
8	Exhibit 14	IL General Assembly bill status for SB0927	143
9			
10	Exhibit 15	E-mail from Lichtman to Kasper 6/21/21	151
11	Exhibit 16	E-mail from Moy to Moy 8/23/21	153
12	Exhibit 17	E-mail from Maxson to Brace 6/25/21	160
13			
14	Exhibit 18	E-mail from Cox to Lichtman 7/8/21	162
15	Exhibit 19	E-mail from Brace to Maxson 8/16/21	165
16	Exhibit 20	Senate resolution 003	166
17	Exhibit 21	House resolution 443	168
18	Exhibit 22	Existing district demographics spreadsheet	172
19	Exhibit 23	SB927 matrix spreadsheet	173
20	Exhibit 24	IL House 9/2021 adopted map	182
21	Exhibit 25	IL HD 2011 House 23 2021 House 21 Google Maps all	184
22			
23	Exhibit 26	Existing district demographics spreadsheet	187
24			

Atkinson-Baker, a Veritext Company
www.depo.com

1 (continued)

2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 27	IL HD 2021 House 1-2-21 23 Cicero Google Maps all 110221	195
4			
5	Exhibit 28	IL HD 112 map	212
6	Exhibit 29	IL HD 114 map	218
7	Exhibit 30	IL HD 113 map	223

8

9

* * * * *

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

RETRIEVED FROM DEMOCRACYDOCKET.COM

Atkinson-Baker, a Veritext Company
www.depo.com

1 JONATHAN MAXSON,
2 called as a witness herein, having been first duly sworn
3 via videoconference, was examined upon oral
4 interrogatories and testified as follows:

5 EXAMINATION

6 by Mr. Herrera:

7 Q Good morning. My name is Ernest I. Herrera, and
8 I am an attorney at the Mexican American Legal Defense
9 and Educational Fund.

10 I represent the group of voters and
11 organizations known as the Contreras plaintiffs in this
12 litigation against members of the Illinois State Board
13 of Elections, Senate President Don Harmon and Speaker of
14 the House Emanuel Welch.

15 Can you please state your name.

16 A Jonathan, Jon Maxson.

17 Q And can you spell it for the record, please.

18 A M-A-X-S-O-N.

19 Q And have you known by any other names?

20 A No.

21 Q And are you represented by an attorney today?

22 A Yes.

23 Q Okay. And who is that attorney?

24 MR. VAUGHT: He's got a few.

Atkinson-Baker, a Veritext Company
www.depo.com

1 A I'm sorry, could you repeat that question.

2 Q Okay. So in AutoBound before May 28th, 2021,
3 you mentioned earlier that CVAP broken down by race and
4 ethnicity was available to you, right?

5 A Correct.

6 Q Okay. So how far down did CVAP broken down by
7 race and ethnicity, how far down in terms of geography
8 were those data available to you before May 28th, 2021?

9 A To the black level.

10 Q Now, returning to the election data, the four
11 elections you were mentioning, you said that it was
12 averaged down to the -- and it was available down at the
13 black level.

14 So as you're moving district lines or if you --
15 so how would you be able to view those percentages
16 for -- Let me strike that.

17 In AutoBound before May 28th, 2021, how were
18 you able to view those averages of election data that
19 you were mentioning?

20 A As a percentage reflecting the total Democratic
21 or Republican performance of the district.

22 Q So it would show up as Democrat versus
23 Republican in a certain geography?

24 MS. YANDELL: Objection.

Atkinson-Baker, a Veritext Company
www.depo.com

1 STATE OF ILLINOIS)
) ss:
2 COUNTY OF COOK)

3

4 The within and foregoing deposition of the
5 aforementioned witness was taken before TRACY L.
6 BLASZAK, CSR, CRR, and Notary Public, at the place, date
7 and time aforementioned.

8 There were present during the taking of the
9 deposition the previously named counsel.

10 The said witness was first duly sworn and was
11 then examined upon oral interrogatories; the questions
12 and answers were taken down in shorthand by the
13 undersigned, acting as stenographer and Notary Public;
14 and the within and foregoing is a true, accurate and
15 complete record of all of the questions asked of and
16 answers made by the aforementioned witness, at the time
17 and place hereinabove referred to.

18 The signature of the witness was not waived,
19 and the deposition was submitted, pursuant to
20 Rules 30(e) and 32(d) of the Rules of Civil Procedure
21 for the United States District Court, to the deponent
22 per copy of the attached letter.

23 The undersigned is not interested in the within
24 case, nor of kin or counsel to any of the parties.

Atkinson-Baker, a Veritext Company
www.depo.com

1 Witness my official signature and seal as
2 Notary Public in and for Cook County, Illinois, on this
3 4th day of November, A.D. 2021.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

<%20644,Signature%>
TRACY L. BLASZAK, CSR, CRR
CSR No. 084-002978
One North Franklin Street
Suite 3000
Chicago, Illinois 60606
Phone: (312) 442-9087

RETRIEVED FROM DEMOCRACYDOCKET.COM