

**FILED**

October 17, 2025

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

BY: Diego Cesena  
DEPUTY

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4	<b>LEAGUE OF UNITED LATIN</b>	§	<b>3:21-CV-00259-DCG-JES-JVB</b>
5	<b>AMERICAN CITIZENS, ET AL</b>	§	
6		§	
7	<b>V.</b>	§	<b>9:00 A.M. TO 12:58 P.M.</b>
8		§	
9	<b>GREG ABBOTT, IN HIS</b>	§	
10	<b>OFFICIAL CAPACITY AS</b>	§	
11	<b>GOVERNOR OF THE STATE OF</b>	§	
12	<b>TEXAS, ET AL</b>	§	<b>OCTOBER 7, 2025</b>

**PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE DAVID C. GUADERRAMA,  
HONORABLE JERRY E. SMITH  
AND HONORABLE JEFFREY V. BROWN  
DAY 6 (MORNING SESSION) OF 9 DAYS**

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**DAY 6  
(INJUNCTION HEARING)**

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**ADAM KINCAID**

Direct Examination By Mr. Kercher	33
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**PROCEEDINGS**

**(Call to order of the Court.)**

JUDGE GUADERRAMA: Good morning, everyone.

Please be seated.

09:00:50

MR. McCAFFITY: Good morning, Your Honor.

JUDGE GUADERRAMA: Good morning.

09:01:01

MR. McCAFFITY: Sean McCaffity on behalf of the plaintiffs the Mexican American Legislative Caucus as well. I need to make a motion to exclude or try to preclude Mr. Kincaid's testimony before he takes the stand. You guys skedaddled off the bench yesterday before I was able to make the motion. And, frankly, I needed to finish looking at some of the exhibits that were recently produced before we made this motion.

09:01:13

The motion to exclude is based on Rule 26 for a couple of reasons. One, the State has not provided until literally yesterday or Sunday night on the Dropbox, which wasn't -- we weren't told these were on the Dropbox until Monday, that there was going to be information produced by Mr. Kincaid for use with his testimony. As a result, we don't think they have complied with Rule 26's requirement to disclose, reasonably and promptly, supplemental information in support of their defenses as required by Rule 26.

09:01:32

09:01:47

In addition, they didn't make any pretrial disclosures

1 about Mr. Kincaid until the Monday before trial that he  
2 will testify. But before that, he was not on any other  
3 disclosures. He was not on their initial disclosures. He  
4 was not on their supplemental disclosures.

09:02:02 5 And they contested our ability to take his deposition,  
6 requiring us to go to D.C. to get a subpoena to take his  
7 deposition in the underlying lawsuit, in which they  
8 asserted the legislative privilege.

09:02:16 9 So for them to argue that they had some -- no duty to  
10 disclose any evidence of what he was going to testify  
11 about, a summary of his testimony, or documents to be used  
12 with him, which they clearly had before this, we believe  
13 is a violation of Rule 26, which warrants automatic  
14 exclusion under Rule 37.

09:02:32 15 In addition, based on the cross-examination of the  
16 experts of the plaintiffs over the last two days, it is  
17 clear that what they are going to do is use Mr. Kincaid  
18 not just as a fact witness but as an expert witness or a  
19 quasi-expert witness. Rule 26 requires experts that do  
09:02:47 20 not issue reports to still provide a summary of their  
21 opinions, the bases therefore, and the facts supporting  
22 those opinions, even if it's in summary form. That has  
23 not been done at all. He has not been designated as an  
24 expert at all.

09:03:02 25 And to the extent any testimony that he offers

09:03:17

1 ventures into specialized knowledge that is beyond the  
2 experience of a common layperson, which technically I  
3 think everything he will testify about today is beyond the  
4 ordinary layperson, it qualifies as expert testimony under  
5 Rule 702 and should have been reported.

09:03:37

6 In addition, there were specific issues raised by  
7 Mr. Kercher with respect to Mr. Barreto's and Ms. Duchin's  
8 testimony related to the ability to link partisan data  
9 beyond the census block level. I'm sure you all recall  
10 those questions, because Mr. Kercher continually made a  
11 big deal about, well, you could do that if you had the  
12 information. And both Dr. Barreto and Dr. Duchin said you  
13 can't really do that. You can't disaggregate it. And  
14 Mr. Kercher said, well, you could if you had partisan  
15 information.

09:03:53

16 The problem is that particular type of questioning is  
17 a setup for an impeachment or a rebuttal opinion to our  
18 experts' opinions regarding the propriety of the  
19 partisanship versus racial shading of these maps. And  
20 under Federal Rule 26(a)(2)(D), the time to disclose  
21 rebuttal testimony, evidence used to rebut evidence on the  
22 subject matter identified by our expert, was within 30  
23 days after our party's disclosure.

09:04:08

09:04:26

24 No disclosure was ever made that Mr. Kincaid was going  
25 to testify concerning the algorithms, the methodology, and

1 the partisan granularity that he was using in order to  
2 rebut our experts' opinions that the racial shading is the  
3 only way to acceptably review these gerrymandered maps.

4 As a result, there is no disclosure to the plaintiffs.

09:04:45

5 There has been a lot of talk in several instances by the  
6 State about trial by ambush by some of our experts for  
7 disclosing -- not disclosing literally ancillary incumbent  
8 information that's not relevant.

9 This goes to the core of Texas's map drawing efforts.

09:05:01

10 This was the individual that apparently drew the maps.  
11 They have refused throughout this litigation, four years,  
12 to disclose his data, his algorithms, his methodology.  
13 When he was asked under oath in his deposition in the 2021  
14 trial setting, he invoked the legislative privilege. And  
15 the deposition testimony that was played in this court did  
16 not explain any of the information which I'm sure he is  
17 about to explain to you.

09:05:16

18 As a result, we think it is completely improper for  
19 this Court to allow him to testify beyond other than the  
20 fact that he drew the map.

09:05:27

21 In addition, we think that the fact that if they now  
22 put him on the stand to describe those methodologies, it  
23 is a complete waiver of the attorney-client privilege and  
24 the legislative privilege related to the issue of how the  
25 Texas legislature understood the maps to comply with the

09:05:44

1 Voting Rights Act.

2 And because they have not produced and have continued  
3 to this date to refuse to produce any information  
4 justifying their position that Texas complied with the  
09:05:57 5 Voting Rights Act, either it's a waiver and that  
6 information must be disclosed to us so that we can  
7 actually test whether or not that is true or you should  
8 invoke an adverse inference that it is in fact not  
9 compliant with the VRA or some other law as to why they  
09:06:12 10 are hiding that information.

11 We think this -- the way Texas has handled -- it's not  
12 this trial team but the State of Texas during the  
13 redistricting process and this litigation to date is  
14 ultimately a subversion of justice for the Texas voters  
09:06:27 15 because they are not allowing Texans to understand how  
16 their maps are drawn until literally today, the day  
17 Mr. Kincaid takes the stand.

18 JUDGE GUADERRAMA: Thank you.

19 Mr. Kercher.

09:06:51 20 MR. KERCHER: The Court has already heard some  
21 argument about Mr. Kincaid because when the plaintiffs  
22 learned -- when we supplied our witness list in accordance  
23 with this Court's scheduling order, and on a date that all  
24 of the parties agreed to, that was September the 29th, the  
09:07:09 25 same date we learned about the plaintiffs' witnesses, they

1 asked the Court to depose Mr. Kincaid.

09:07:26

2 The facts regarding the plaintiffs' knowledge of  
3 Mr. Kincaid and his involvement in this case have not  
4 materially changed since then, as I pointed out when we  
5 talked about our motion to quash.

09:07:43

6 The preliminary injunction motion filed by  
7 Mr. McCaffity on behalf of his clients, MALC, also jointly  
8 with the Brooks plaintiffs and the LULAC plaintiffs,  
9 mentioned Mr. Kincaid no fewer than 11 times. And the  
10 Court has heard over and over again portions of committee  
11 hearings and floor debates from both chambers of the Texas  
12 Legislature wherein Mr. Kincaid's name was used.

09:08:00

13 I know that the plaintiffs were frustrated by the  
14 setting that -- the date of the setting of this hearing.  
15 They hoped to have it sooner. When we were talking about  
16 when we were going to set this hearing, they said they  
17 could be ready in 48 hours. They said they could be ready  
18 in 48 hours knowing that Mr. Kincaid's name was all  
19 through the legislative record.

09:08:14

20 When the Court then set this hearing for 30 days after  
21 the status conference, the plaintiffs had time to try and  
22 depose Mr. Kincaid if they wanted to. And indeed, when  
23 they saw that he was on our witness list, they did try to  
24 depose him.

09:08:28

25 Now, having heard the way that other trial witnesses,

1 including half of one of State's witnesses, as well as all  
2 of their own witnesses, have talked about Mr. Kincaid,  
3 they don't want the Court to get the information they  
4 sought to get in a deposition just a week ago.

09:08:46

5 Regarding disclosure of Mr. Kincaid. Mr. Kincaid, it  
6 was -- I have, candidly, not gone back and looked at our  
7 disclosures. I mean, if counsel says that Mr. Kincaid's  
8 name is not on our disclosures from three years ago, I  
9 will take him at his word.

09:09:03

10 And it is true that years ago we joined several other  
11 parties, including Mr. Kincaid's counsel, in seeking to  
12 quash his deposition out in D.C. and we lost. And  
13 plaintiffs deposed Mr. Kincaid in his individual capacity  
14 and in his 30(b)(6) capacity on behalf of the company for  
15 which he works, NKRT, for 14 consecutive hours in a day.

09:09:20

16 It is true that in some places the State asserted the  
17 legislative privilege there. In some cases, plaintiffs'  
18 counsel challenged those assertions. In some cases, most  
19 of those cases that were challenged I think the State  
20 wound up winning. I think during part of that process the  
21 State withdrew some of its objections, the parties came to  
22 understandings on some of those. But, importantly, both  
23 parties designated page and line numbers for -- from  
24 Mr. Kincaid's depositions, both of them, that were played  
25 at trial.

09:09:40

09:09:57

1 The Court will recall it has already heard something  
2 like three hours of Adam Kincaid's testimony in the trial  
3 of this matter.

09:10:08

4 The idea that plaintiffs did not know that he was  
5 involved in '21 or did not know that he was involved in  
6 '25 is belied by the record. The idea that they could not  
7 have gotten information about Mr. Kincaid prior to this  
8 hearing is belied by the fact that they had 30 days to do  
9 so and did nothing. The idea that he came as a surprise  
10 on our witness list I find surprising.

09:10:27

11 Let me turn now to the exhibits that we have disclosed  
12 to the plaintiffs. As the Court knows, the parties worked  
13 pretty well together on exhibits. It's not to say that we  
14 haven't had objections or disagreements, but the Court  
15 remembers we had something like 6,000 joint exhibits  
16 during trial. And although we have taken a little bit  
17 different approach in the PI, we had an understanding, an  
18 express understanding with plaintiffs' counsel, and we  
19 have done this reciprocally so far, that there will be  
20 rolling inclusion of exhibits because of the relatively  
21 fast-paced nature of this hearing. Plaintiffs have added  
22 exhibits to their own. We have added exhibits.  
23 Ordinarily, the rule has been something like 24 hours'  
24 advance notice, which we provided.

09:11:00

09:11:15

25 The exhibits have largely been marked as exhibits for

1 ease of reference during trial or during the hearing. We  
2 will refer to them as demonstratives. These are  
3 demonstratives that show the work that Mr. Kincaid did.  
4 They are -- they really fall into two categories. All of  
09:11:33 5 them are maps. And it is, as the Court knows, difficult  
6 to talk about maps without maps in front of you.

7 One kind of map shows a series of districts as between  
8 the 2021 plan and the 2025 plan but you can see the  
9 different shape and it has the Polsby-Popper number there.  
09:11:50 10 I think Mr. Kincaid will testify that he is not a  
11 calculator. He didn't sit down with a protractor and  
12 calculate the Polsby-Popper number, but that the  
13 Polsby-Popper number on these demonstratives indicates his  
14 understanding of the compactness. Not that he is an  
09:12:03 15 expert, but that compactness as a map drawer mattered to  
16 him as he drew the map and this was his understanding.

17 The other kind of demonstrative shows some partisan  
18 shading. We have heard all kinds of information from  
19 plaintiffs about what it looks like when we see these maps  
09:12:19 20 with racial shading.

21 Mr. Kincaid, I expect, if the Court allows him to  
22 testify, will say that he did not use racial shading, but  
23 that he instead was breaking his maps down based on  
24 partisanship. That will come as no surprise to the Court  
09:12:32 25 as that is what State defendants have argued in trial

1 about the 2021 maps and have been arguing throughout this  
2 hearing for the 2025 maps. Those things will, I think,  
3 aid the Court in understanding Mr. Kincaid's testimony.

09:12:49

4 Plaintiffs argue that he cannot testify either about  
5 those demonstratives or about the factual work that he did  
6 as the map drawer without us making him an expert. That's  
7 not true. We're not going to ask Mr. Kincaid what his  
8 opinion is. We are going to ask Mr. Kincaid why he did  
9 what he did, not because that should be inferred to

09:13:11

10 questions of whether other map drawers should do that but  
11 because the intent behind the drawing of the lines is  
12 central -- is a central issue in this case. And he can  
13 testify to that as a matter of fact, as a matter of what  
14 his understanding was about the maps, what his

09:13:27

15 understanding was, what his priorities were as he drew the  
16 maps.

09:13:40

17 I think he will testify that he has experience drawing  
18 maps and he has software that he uses and, indeed, that he  
19 has experience using certain kinds of data in order to  
20 draw the maps.

21 He is not going to offer an opinion about whether that  
22 is acceptable in academia. He is not going to offer an  
23 opinion about any of that. Instead, he is going to be  
24 offering factual testimony about how he drew the map.

09:13:56

25 Over and over again plaintiffs have complained in this

1 case that they don't -- that the Court does not understand  
2 how the map was drawn and have encouraged the Court to  
3 draw an adverse inference from that lack of understanding.  
4 We don't know, they say. We don't know.

09:14:16

5 Mr. McCaffity just acknowledged that Adam Kincaid drew  
6 the map. They have known that because that has been the  
7 legislative record since the legislative record closed.  
8 Even if they argue, well, it was unclear because Todd  
9 Hunter said he didn't know whether Kincaid drew the map,  
10 and Phil King said he thought Kincaid might have drawn the  
11 map or it was common knowledge, they certainly were on  
12 notice that Adam Kincaid's name as map drawer, and  
13 particularly because they had deposed him for 14  
14 consecutive hours in 2023, that Adam Kincaid was going to  
15 be involved in this case potentially as the map drawer.

09:14:48

16 For those reasons, this is not a surprise. The  
17 plaintiffs could have deposed him had they wanted to and  
18 indeed sought to do so. And that, I think, is a crucial  
19 piece. Why is it that only a week ago the plaintiffs said  
20 we need to know what Adam Kincaid knows, and now their  
21 position is the Court should not know what Adam Kincaid  
22 knows?

09:15:05

23 There has been no failure to disclose Mr. Kincaid as  
24 an expert because we are not calling him as an expert. It  
25 is impossible to talk to a map drawer about what he does

09:15:22

1 without talking to him about how he does it. That doesn't  
2 mean we are eliciting expert opinion testimony. It just  
3 means we're talking to him about what he did. And  
4 plaintiffs will be free to cross-examine him -- the Court  
09:15:37 5 has seen the expert and experienced plaintiffs' counsel  
6 and their ability to cross-examine witnesses -- about  
7 whether Adam Kincaid knew what he was doing, about whether  
8 or not the Court should believe Adam Kincaid when he talks  
9 to the Court about the facts of how he drew the map. None  
09:15:54 10 of those things should preclude Mr. Kincaid from  
11 testifying.

12 Finally, I'll touch on the legislative privilege.  
13 Yes, it's true that we asserted the legislative privilege  
14 in some places during his testimony at his deposition; but  
09:16:05 15 it is also the case, first of all, that despite  
16 invocations of that legislative privilege and despite  
17 sustaining some of those legislative privilege objections,  
18 plaintiffs were able to play several hours of his  
19 testimony at trial. That alone indicates that the  
09:16:20 20 assertion of the legislative privilege does not preclude  
21 him from taking the stand.

22 Furthermore, I read none of this Court's  
23 jurisprudence, nor the Fifth Circuit's jurisprudence,  
24 concerning the legislative privilege to rule that just  
09:16:33 25 because legislative privilege has been asserted that a

09:16:49

1 witness can't -- is not subject to, for example,  
2 testimony, to deposition. Just because a legislator may  
3 assert the legislative privilege doesn't mean that that  
4 legislator has nothing to testify about in a deposition  
5 and is not subject thereto.

09:17:00

6 The same is true for others who might be subject to  
7 the legislative privilege because they have been brought  
8 into the legislative process. The reality is that  
9 Mr. Kincaid has non-legislatively privileged information  
10 that he can talk about.

09:17:15

11 And by way of example -- and I will not quote from the  
12 deposition unless we can confer further with the parties,  
13 because Mr. Kincaid's depositions are sealed. And I don't  
14 recall what agreements may be in place about the unsealing  
15 of them.

09:17:30

16 But, for example, we are going to talk to Mr. Kincaid,  
17 if allowed to, about the use of the data that he -- of the  
18 use of partisan data when he draws maps. There are places  
19 in Mr. Kincaid's deposition, particularly in his  
20 individual deposition, at page 180, lines 2 through 21,  
21 and page 211, 17 through 212, 11, where he talks about the  
22 use of various kinds of data that he uses to disaggregate  
23 partisan data down to the block level.

09:17:49

24 None of this is new to plaintiffs. Their feigning of  
25 surprise when they have spoken to their experts about the

1 idea that partisan data could be used at the block level  
2 is difficult to understand in light of the fact that  
3 Mr. Kincaid testified to this at length, much of it  
4 without objection to the legislative privilege, during his  
09:18:04 5 deposition in 2023.

6 For those reasons, the plaintiffs' motion to exclude  
7 Mr. Kincaid's testimony and the demonstratives on which --  
8 which we believe will help the Court in understanding  
9 Mr. Kincaid's testimony should be denied.

09:18:20 10 JUDGE GUADERRAMA: Mr. Kercher, do you think the  
11 rule is limited to opinion? Only if someone gives an  
12 opinion that is what causes them to be an expert? I'll  
13 just read you the rule.

14 MR. KERCHER: Sure.

09:18:35 15 JUDGE GUADERRAMA: May testify in the form of an  
16 opinion or otherwise.

17 MR. KERCHER: So if I could answer with a  
18 hypothetical.

19 JUDGE GUADERRAMA: Sure.

09:18:43 20 MR. KERCHER: Imagine that there is a question  
21 about -- there is a car wreck case, and there is a  
22 question -- and someone sues the mechanic, says the  
23 mechanic messed up my brakes.

24 You could call the mechanic to testify without  
09:18:56 25 establishing the mechanic as being an expert and say, sir,

1 can you -- here is a diagram of the front brake pads.  
2 Please describe for the Court what work you did on those  
3 brake pads.

09:19:11

4 And then plaintiffs' counsel would be able to  
5 cross-examine. Well, do you know what a brake pad is?  
6 Have you ever done that before? Why would you move the  
7 brake pad in that way? I have got an expert who said  
8 that's not even a brake pad.

09:19:24

9 All of the mechanic -- even though a mechanic -- there  
10 is good case law that mechanics can be designated as  
11 experts under the right circumstances because they do have  
12 specialized knowledge, training, and experience. But just  
13 because they have that experience doesn't mean the nature  
14 of their testimony is necessarily expert under Rule 702.

09:19:39

15 In the same way, Mr. Kincaid is going to talk about  
16 the work that he did to draw a map. Now, look, do I think  
17 that he could probably be designated as an expert and  
18 testify in a redistricting trial about the way to draw  
19 maps? I do. But he is not here to do that. He is here  
20 as a fact witness to talk about how one -- how he draws  
21 maps, not how one might draw maps.

09:19:53

22 Another example might be if there is a case about the  
23 management of a business and you have an accountant who  
24 actually handled the books for the business. You could  
25 have that -- the accountant say, here, this is how I

09:20:12

09:20:27

1 handled my Excel spreadsheets. Here is how I added the  
2 numbers and subtracted them. Here is why I did those  
3 things, because it's my understanding that that's the way  
4 you do those things. You could separately -- and that  
5 person would be testifying purely to factual matters.

6 And then separately you could designate an expert that  
7 says, yes, that is how you should do it. Those things are  
8 different.

09:20:39

9 We're not asking Mr. Kincaid to talk about how one  
10 should draw maps. We are not asking his opinion about how  
11 others drew maps. We are asking him about the factual  
12 mechanics used when he drew the maps he drew.

09:20:59

13 JUDGE GUADERRAMA: I want to look on federal  
14 evidence, some things that could be experts, testimony  
15 concerning the rules and regulations relating to IOLTA  
16 accounts. Testimony about that, the First Circuit thought  
17 that was expert testimony.

09:21:16

18 So that line that you are trying to draw between a  
19 fact witness and an expert witness is a lot thinner than  
20 you might be suggesting.

09:21:30

21 MR. KERCHER: I'm not sure that what I'm saying  
22 is different from that because I'm not saying that  
23 testimony about how to run an IOLTA account cannot be  
24 expert testimony. It's different to say that that kind of  
25 testimony could be expert testimony. On that, I agree.

09:21:49

1 Particularly if one is saying this is the way you should  
2 run an IOLTA account. I think that probably does require  
3 expertise to provide that "should" testimony. But that's  
4 different from saying this is how I did run the IOLTA  
5 account.

09:22:01

6 So, for example, in a case where you have got somebody  
7 who is running an IOLTA account and the accusation is that  
8 person didn't have the necessary expertise to handle an  
9 IOLTA account. Are they then precluded? That person has  
10 never run an IOLTA account before. They are not an  
11 accountant. They have no financial training whatsoever.

09:22:17

12 That person is not then precluded from testifying I  
13 did in fact run the IOLTA account this way. That's  
14 fundamentally different from saying this is how the IOLTA  
15 account should be run. So that's the distinction that I'm  
16 making, is the factual mechanics of how it did happen.

09:22:31

17 And if I ask -- if I mess up and I ask a question that  
18 appears to elicit expert testimony from Mr. Kincaid or if  
19 Mr. Kincaid says, yes, absolutely, you should draw a map  
20 this way or you should not draw a map that way, as opposed  
21 to testifying this is how I drew the map and this is why I  
22 did that based on my understanding, that's not expertise.

09:22:49

23 And the Court, particularly since we have not one, not  
24 two, but three federal judges in the PI context, is more  
25 than capable of giving that kind of testimony the

1 appropriate weight. These arguments, at the end of the  
2 day, go to the weight rather than to the admissibility of  
3 Mr. Kincaid's testimony.

09:23:08 4 MR. McCAFFITY: I don't agree with anything  
5 Mr. Kercher just said, as you might expect.

6 JUDGE GUADERRAMA: He probably doesn't agree with  
7 anything you say either.

8 MR. McCAFFITY: I know.

09:23:19 9 I think this is not an issue -- we're not raising this  
10 issue because we didn't know Adam Kincaid existed in the  
11 universe. That's not the issue.

12 The issue is that throughout Texas's redistricting  
13 process, the State of Texas has obfuscated and tried to  
14 avoid disclosing anything about Adam Kincaid. And when he  
09:23:37 15 has been pinned down, they invoked privilege, either  
16 attorney-client or legislative privilege.

17 And they did not disclose him as a witness in their  
18 disclosures at any point until the 29th of this month but  
19 before the trial started. I guess it was September,  
09:23:52 20 actually.

21 And so we didn't -- while we knew he existed, we did  
22 not know he was going to come to trial to provide evidence  
23 in support of the defendants' defenses in this PI hearing  
24 because they never supplemented their disclosures to say  
09:24:05 25 here is evidence in support of our defenses and

1 Mr. Kincaid will testify about the following.

09:24:19

2 So it's not a question of do we know he existed and  
3 could we have taken his deposition. It's a question of  
4 did we know they were going to use him to support their  
5 defenses and what is the basis for that defense in his  
6 information.

7 JUDGE SMITH: Well, was September 29th the  
8 disclosure date or not? I'm --

09:24:29

9 MR. McCAFFITY: It was the witness and exhibit  
10 deadline. That's right.

11 JUDGE SMITH: They complied with that, the State  
12 did?

09:24:36

13 MR. McCAFFITY: They told us they will call him.  
14 That's the first time he appeared as a witness for the  
15 State --

16 JUDGE SMITH: But you had agreed to that date?

09:24:46

17 MR. McCAFFITY: We agreed the witness and exhibit  
18 list should be exchanged by then, yes. I don't think that  
19 necessarily is an agreement that their obligation to  
20 reasonably and seasonably supplement their disclosures for  
21 evidence supporting their defenses is somehow waived until  
22 the witness list deadline.

09:24:59

23 Particularly in relation to the fact that under  
24 Federal 26(a) (2) (D), his testimony is going to  
25 specifically rebut opinion testimony offered by

1 Drs. Barreto and Duchin and they should have disclosed him  
2 after -- as part of their rebuttal experts after our  
3 experts initially reported and they didn't do that.

4 They haven't done anything with respect to  
09:25:14 5 Mr. Kincaid. It has been radio silence with what he will  
6 or will not testify about, the data he used, and anything  
7 that is used, other than to say our lawyers looked at it  
8 and that's privileged, until today.

9 That is a subversion of justice. That is using the  
09:25:29 10 sword of the privilege as a shield or -- you know the  
11 saying.

12 In addition, I don't think Mr. Kercher has accurately  
13 described what -- Mr. Kincaid as only a fact witness. He  
14 is going to be using specialized knowledge that is beyond  
09:25:47 15 the knowledge of a common person and a layperson to assist  
16 the trier of fact understand how he drew the maps, which  
17 necessarily means he is going to be putting his opinions  
18 about how the maps should be drawn for his purposes, for  
19 partisan purposes, into the record, which they will then  
09:26:05 20 use to support their argument that there was no racial  
21 intent.

22 That is like a treating physician, where the treating  
23 physician makes opinions and determinations during the  
24 course of the treatment and then treats. And, yeah, the  
09:26:21 25 treating physician can testify as a treating -- as a

1 doctor, like, I gave him ibuprofen or I gave him Tylenol  
2 or I did X surgery. But he is also an expert or she is  
3 also an expert because they provide testimony based on  
4 their specialized knowledge about why they did those  
09:26:38 5 things. And reaching those conclusions, that is  
6 ultimately opinion testimony, which is required to be  
7 disclosed under the Federal rules; and they haven't done  
8 it.

9 And there is no way, as Mr. Kercher has already  
09:26:53 10 explained, candidly, that he could be called as an expert  
11 because it is specialized knowledge. There is no way to  
12 separate those things. Once he starts testifying about  
13 how he drew the map, he is necessarily incorporating  
14 opinions about partisanship, his belief in how it was or  
09:27:11 15 wasn't partisanship, and how the map -- those boundaries  
16 were drawn based on partisanship into this record.

17 And none of that has been disclosed ever to us, to the  
18 senators on the Senate floor, to the House members on the  
19 House floor, to the senators in the committee hearings, to  
09:27:29 20 the House members of the committee meetings who asked time  
21 and time again and they refused to answer it.

22 Instead they said, well, I'm not sure. You'll have to  
23 ask Adam Kincaid. Oh, we're not going to let you subpoena  
24 Adam Kincaid. Oh, we're not going to list him on the  
09:27:43 25 disclosures. You've found out who Adam Kincaid is, you've

1 got to go to D.C. to subpoena him. Okay. You went to  
2 subpoena him. We're going to invoke legislative privilege  
3 and exclude a bunch of his testimony for this Court to  
4 hear.

09:27:52

5 That is not justice or truth seeking. That can't be  
6 the way we allow our deliberative democracy to work. The  
7 rule of law means something. And in this case --

8 JUDGE SMITH: All right. Now you are giving a  
9 press conference. Those belong outside on the plaza.

09:28:11

10 MR. McCAFFITY: I apologize, Your Honor. I  
11 apologize. I don't mean to do that, but it upsets me  
12 because we are going to find out apparently today,  
13 according -- if the State has their way, exactly the type  
14 of data and algorithms and methodology we have been asking  
15 for and all the Democrats have been asking for for  
16 literally years.

09:28:27

17 And I'll give you two examples about how -- that I  
18 think show how difficult it is to separate this from fact  
19 versus expert disclosure that should have been made.

09:28:43

20 They produced to us, just the other day in this  
21 rolling production, Exhibits 1340 through 1360, something  
22 like that. Some of those we were disclosed -- this is  
23 1530. Some of these exhibits, this is one of them, we  
24 were told last night were prepared by Mr. Kincaid. I

09:29:04

25 don't know when they were prepared. I guess we'll find

1 out. I don't know when they were -- how they were  
2 prepared. I guess we'll find out.

09:29:17

3 But in order to create that, he is going to have to  
4 explain to you how he did it, why he did it and, in doing  
5 so, incorporate his opinions as to why it is proper to be  
6 used in redistricting, even if they are implied. We don't  
7 know that information.

8 Show the other one, Chad.

09:29:32

9 And this one, you heard Mr. Kercher talk about the  
10 Polsby-Popper. We found out last night in an email from  
11 State's counsel that these were prepared by the OAG at the  
12 discretion of Mr. Kincaid or the instruction of  
13 Mr. Kincaid. When? Last night when we got them? Sunday?  
14 Saturday? I mean, maybe.

09:29:50

15 But if they were prepared a long time ago or in the  
16 courts leading up to this, why are they not turning this  
17 over under Rule 26? It's evidence that they were using  
18 for their defense.

09:30:04

19 Ultimately, we have to object because we believe we  
20 have to preserve the record that this is not expert  
21 testimony that should be properly before the Court and  
22 this witness has not been properly disclosed under  
23 Rule 26 -- under Rule 26 and that allowing Mr. Kincaid to  
24 testify works a substantial injustice to the plaintiffs in  
25 this system.

09:30:23

1 MR. KERCHER: I don't want to go back and forth  
2 forever and ever, but a couple of follow-up things.

3 First of all, when we're talking about -- it's  
4 important, I think, to draw distinctions. First of all,  
5 it is not appropriate to treat the legislative process as  
6 an extension of this litigation. The Court has perhaps  
7 heard State defendants over the course of trial in this  
8 hearing argue that that is itself -- to borrow a phrase  
9 from my friend -- a subversion of justice.

10 The legislative process, though, is separate. And so  
11 in saying that they wanted information that they did not  
12 get or were disappointed not to get during the legislative  
13 process does not mean that that information has not been  
14 or should not be made available in the -- in the  
15 litigation process.

16 As I say, the plaintiffs had the opportunity to go  
17 after and get what testimony they want from Mr. Kincaid  
18 for some time and chose not to do that. Perhaps hoping  
19 that he wouldn't show up to trial -- or show up to the  
20 hearing because he didn't -- he was not here in person in  
21 trial.

22 It is also, I think, important to draw the distinction  
23 between the trial and the previous litigation in this  
24 matter, which was about the 2021 maps. That was a  
25 different draw than the 2025 map.

1 And when they talk about updating our disclosures in  
2 support of our defenses, we have not answered the  
3 supplemental complaints in this case. That hasn't  
4 happened yet because we haven't had time to do it. The  
09:32:00 5 supplemental complaints in this case only concern 2025.  
6 We have not updated our disclosures. I have checked.  
7 That's true.

8 None of the parties have updated their disclosures.  
9 In fact, three witnesses the Court -- from whom the Court  
09:32:14 10 has already heard, Ana Juarez, Daniel Uribe, and Shemaiah  
11 Stokes, were previously undisclosed witnesses. You heard  
12 Mr. Dunn say at the pretrial conference that we are ready  
13 to go. And this is a preliminary injunction hearing. And  
14 we don't do all the same kinds of disclosures that we  
09:32:34 15 ordinarily do before we have a hearing.

16 We have pushed back on that. And I think, by and  
17 large, the parties have been able to find some common  
18 ground and been able to work some of this stuff out. I  
19 understand why they are drawing a hard line at  
09:32:46 20 Mr. Kincaid. His testimony is certainly important. But  
21 the importance of that testimony weighs against precluding  
22 it, particularly in the context of a PI hearing presided  
23 over by three federal judges.

24 JUDGE GUADERRAMA: So there is only one way to do  
09:33:01 25 it and that's to hear the evidence and then we'll make a

1 call. Normally -- because this train wreck happens all  
2 the time at trials. Normally there is only one judge.  
3 That judge makes the call, and he is given great deference  
4 on appeal for evidentiary purposes.

09:33:15 5 We have three judges here which changes, you know, the  
6 calculus. You know, some of us may not agree whether it's  
7 factual or opinion and whether it's admissible or not. So  
8 we might just be moving through it a little bit slower,  
9 but there is only one way to do it and that's to move  
09:33:32 10 forward. We'll hear the evidence, and we will make the  
11 call at the time when you make an objection.

12 MR. KERCHER: Understood, Your Honor.

13 State defendants call Adam Kincaid.

14 JUDGE GUADERRAMA: Yes, sir.

09:33:40 15 MR. McCAFFITY: Your Honor, while Mr. Kincaid is  
16 coming in, can -- just so we don't have to object to every  
17 question, can we treat my motion as a basis or request for  
18 a continuing objection to Mr. Kincaid's testimony? I  
19 think that's what you were basically indicating with  
09:33:54 20 respect to your deferring on the ruling.

21 JUDGE GUADERRAMA: I think I would rather have  
22 your objection each time because there might be some  
23 things that are just factual; and you yourself may think  
24 it's just factual, not worth objecting to.

09:34:05 25 MR. McCAFFITY: Agreed. Fine. I understand.

1 JUDGE GUADERRAMA: When you think it crosses --  
2 and it's a thin line. And people disagree on where that  
3 is. And so you just make it, and we'll make the call. We  
4 may have to huddle up, but we'll make the call.

09:34:17 5 MR. McCAFFITY: Thank you, Your Honor.

6 JUDGE BROWN: I think we're effectively carrying  
7 your motion to exclude with the case.

8 MR. McCAFFITY: I understand. I just wanted to  
9 make sure so if I was going to jump up a bunch and object  
10 or not.

11 JUDGE BROWN: If it turns out to be too much,  
12 maybe we will give you a running objection.

13 MR. McCAFFITY: Yeah. I understand.

14 JUDGE BROWN: We'll see how it goes.

09:34:35 15 JUDGE GUADERRAMA: Right.

16 MR. McCAFFITY: I understand. Thank you.

17 JUDGE GUADERRAMA: Is Mr. Kincaid here?

18 MR. KERCHER: He is. Mr. Wassdorf has gone to  
19 get him.

09:34:45 20 JUDGE GUADERRAMA: Oh, I see.

21 MR. KERCHER: While we wait, Your Honor, I once  
22 again compliment the courthouse security who have been  
23 excellent and have made a complicated process very smooth  
24 and very secure. So thank you.

09:35:05 25 JUDGE GUADERRAMA: Mr. Kincaid, right up here,

1 please.

2 THE WITNESS: This one here?

3 JUDGE GUADERRAMA: Yes, sir. You'll be sitting  
4 in this chair. If you'd raise your right hand, sir, to  
09:35:24 5 receive the oath.

6 Do you solemnly swear or affirm the testimony that you  
7 will in this proceeding will be the truth, the whole  
8 truth, and nothing but the truth so help you God?

9 THE WITNESS: Yes.

09:35:29 10 JUDGE GUADERRAMA: Thank, you sir. Have a seat  
11 in that chair. Roll into the microphone.

12 And whenever you are ready, Mr. Kercher.

13 **ADAM KINCAID,**

14 having been first duly sworn, testified as follows:

09:35:36 15 **DIRECT EXAMINATION**

16 BY MR. KERCHER:

17 **Q.** Good morning, sir.

18 **A.** Good morning.

19 **Q.** We have heard your name a lot over the last six weeks  
09:35:42 20 or so in this courtroom. Could you please introduce  
21 yourself to the Court?

22 **A.** My name is Adam Kincaid. My name is -- my last name  
23 is K-i-n-c-a-i-d. People seem to have a hard time with  
24 that, so...

09:35:54 25 **Q.** Mr. Kincaid, did you draw all or most of the Texas

1 2025 enacted congressional map?

2 **A.** I drew most of it, yes.

3 **Q.** We're going to get into that in some detail today.

4 But before we do that, I want for the Court to get to know  
5 you a little bit.

09:36:10

6 Whereabouts do you live? Don't give your address,  
7 please.

8 **A.** I live in northern Virginia.

9 **Q.** Have you ever been to Texas before?

09:36:17

10 **A.** I have.

11 **Q.** Tell us about that.

12 **A.** I lived here for three years in junior high school in  
13 San Angelo, Texas. So I earned my Eagle Scout out here  
14 and -- yeah, I loved it. I loved West Texas. But my  
15 dad's work called us to Florida. So we moved to Florida.

09:36:31

16 **Q.** I understand you have got some work to do with Scouts  
17 this weekend. So we're supposed to move your testimony  
18 along, as I understand it.

19 **A.** I've got 20 kids to take on a campout this weekend,  
20 yeah.

09:36:43

21 **Q.** Mr. Kincaid, what is your educational background?

22 **A.** Sure. So I earned my bachelor's degree in history and  
23 religion at Florida State University.

24 I moved on from there to the University of Georgia and  
25 got a master's in public administration, with a

09:36:54

1 specialization in public policy.

2 And then I spent one semester at the College of  
3 William & Mary for law school before quitting that and  
4 coming back up to D.C.

09:37:05 5 **Q.** That may make you the smartest person in the room.

6 So you talked about getting your master's degree in  
7 Georgia. When did you finish that up? What year?

8 **A.** 2006.

9 **Q.** What do you do for a living now?

09:37:19 10 **A.** I run the National Republican Redistricting Trust.

11 **Q.** And without getting into specifics for specific  
12 clients, what kinds of work do you do? If I call it NRRT  
13 for short, it's kind of a mouthful, you'll understand what  
14 I'm talking about?

09:37:32 15 **A.** We call it NRRT. So you can call it NRRT if you want  
16 to.

17 **Q.** That's much worse.

18 Without getting into specifics that you might have to  
19 handle confidentially for clients, what kind of work do  
09:37:44 20 you do for NRRT?

21 **A.** Generally, our work is to support Republican  
22 redistricting efforts across the country. That will vary  
23 from state to state. Some states, they don't need  
24 anything. Some states they might need map drawing support  
09:37:59 25 or data or litigation support. It just depends from state

1 to state.

2 **Q.** You are using -- forgive me -- you are using some  
3 corporate speak that I always have to fully understand.  
4 When you say "support," and for example when you say "map  
5 drawing support," what does map drawing support mean?

09:38:12

6 **A.** Sure. There are some states where they have people  
7 who do their redistricting for them. They have mapping  
8 staff or they have expert consultants who can do it, and  
9 they don't really need somebody to come in and draw their  
10 maps, right?

09:38:25

11 And then there is other states where they don't have  
12 that sort of -- that expertise. And so they may ask us or  
13 ask us to put them in touch with somebody who can do that  
14 for them.

09:38:36

15 So a lot of times we're a clearinghouse, you know,  
16 just trying to help connect Republicans in the states with  
17 other Republican lawyers and map drawers across the  
18 country.

19 **Q.** Do you yourself ever draw maps?

09:38:49

20 **A.** Yes.

21 **Q.** How often would you say you draw maps? Is it just  
22 sort of, you know, once every decennium? How frequently  
23 are you drawing maps?

24 **A.** I mean, I -- we do a lot of different things in NRRT.

09:39:01

25 But when it's quiet, I'll sit down and I'll look at a map

1 and see what I can do in different places. So it's pretty  
2 regularly that part of my job is to look at maps and see  
3 what is possible or what would have been possible, yeah,  
4 across the entire country.

09:39:15 5 **Q.** Is map drawing kind of a hobby for you?

6 **A.** It wasn't until I started doing this in 2011 and then  
7 it became a hobby pretty quickly and somehow I turned that  
8 into a career.

9 **Q.** You mentioned some other kinds of support that NRRT  
09:39:31 10 provides, and one of those was litigation. What were some  
11 of the others?

12 **A.** Yeah. So we do a lot of data work. So we gather and  
13 process election results across the entire country and put  
14 those into a format that's usable for redistricting  
09:39:47 15 software. We do litigation support in the sense that, you  
16 know, we'll, you know, help lawyers connect with expert  
17 witnesses, connect expert witnesses with lawyers, all that  
18 sort of stuff. Some states, they need outside counsel,  
19 and so we'll refer them to outside counsel to help them  
09:40:03 20 defend their maps.

21 **Q.** You talked a little bit about data support. Are you  
22 involved in any of the data support work done by NRRT?

23 **A.** Yes.

24 **Q.** Is any of the work -- is any of the data support work  
09:40:18 25 that NRRT does proprietary?

1 **A.** Yes.

2 **Q.** And without asking about proprietary stuff -- look, I  
3 don't want to hide the ball. I want to be able to talk.  
4 I want you to be able give the plaintiffs information they  
5 need while I'm getting the information that I need.

09:40:34

6 What about what NRRT does with data support is  
7 proprietary so we sort of know what the line is?

8 **A.** Sure. Well, we kind of got into this a little bit  
9 during my deposition two years ago where we talked about  
10 the election results that we gathered and how we process  
11 that. But we use a Python-based algorithm to take all the  
12 data that we have collected and distribute it out among  
13 census blocks.

09:40:49

14 **Q.** You are using a lot of computer words. You kind of  
15 sound like my son. When you say Python-based, Python is a  
16 programming language; is that right?

09:41:06

17 **A.** Yes, that's right.

18 **Q.** And an algorithm, you're talking about here, around  
19 here we call algorithms robots. Is it a computer program?

09:41:21

20 **A.** It's more of a script. So it's a series of  
21 instructions that we have custom to every single state  
22 because every state has different election results or, you  
23 know, voter file content. And so we have to have a  
24 different script for every single state.

09:41:32

25 **Q.** Okay. So I'm not going to ask you anything about that

1 code, the script, or your Python programming.

2 Have you ever drawn a redistricting map for a state or  
3 a local jurisdiction?

4 **A.** Yes.

09:41:44

5 **Q.** How long have you been doing the kind of work that you  
6 just described as doing for NRRT?

7 **A.** We started NRRT in 2017, but I was doing redistricting  
8 work before that.

09:42:01

9 **Q.** Does NRRT -- I mean, it's got the word "Republican" in  
10 it. Does it exclusively work with Republicans?

11 **A.** NRRT does, yes.

12 **Q.** Have you ever worked with non-Republican clients when  
13 you were not within NRRT?

14 **A.** No.

09:42:17

15 **Q.** Have you ever worked for an employer that did not have  
16 the word "Republican" in it?

17 **A.** Well, we have a 501(c) (4) and a 501(c) (3) that do not  
18 have the word "Republican" in it. But ever since I

09:42:31

19 started working-- I can give you the list of the  
20 organizations I have worked for if that's helpful, but  
21 every single one has had Republican in its name.

22 **Q.** If you can do that briefly, yes, sir.

23 **A.** So I started at the Georgia Republican Party. So I  
24 graduated on a Saturday and started work on a Monday at

09:42:43

25 the Georgia GOP.

1 From there I went and spent four years at the  
2 Republican Governors Association.

3 After that I went to the National Republican  
4 Congressional Committee.

09:42:54 5 Then I spent a few years at the Republican National  
6 Committee before founding the National Republican  
7 Redistricting Trust.

8 **Q.** That reminds me of the Monty Python sketch about the  
9 People's Front of Judea and the Judean People's Front.

09:43:09 10 When you draw maps for state and local jurisdictions,  
11 are you always drawing those maps in the anticipation that  
12 they will be adopted or considered for adoption?

13 **A.** No. Not always, no.

09:43:24 14 **Q.** Is there a difference between the map drawing you do  
15 for actual consideration by a jurisdiction and the sort of  
16 hobby sketching that you described earlier?

17 **A.** Yeah. I mean -- yes. When I am just kind of looking  
18 at what is possible in a state, I'm not constrained the  
19 same way I would be if I'm drawing maps specifically for a  
09:43:38 20 jurisdiction or for -- you know, for any jurisdiction.

21 **Q.** I'm going to talk to you now a little bit about how  
22 you draw maps.

23 **A.** Sure.

09:43:54 24 **Q.** And I want to -- I want to tell you that I'm not going  
25 to ask you any questions about how other people should

1 draw maps --

2 **A.** Okay.

3 **Q.** -- or about your opinions about the right way or the  
4 wrong way or how other people do it. I'm just asking you  
5 about mechanically how you draw your maps. Clear?

09:44:03

6 **A.** Yep.

7 **Q.** All right. Do you use software to draw maps or you do  
8 it by hand?

9 **A.** Software.

09:44:11

10 **Q.** What kind of software do you use?

11 **A.** We use Esri for Redistricting.

12 **Q.** Can you tell spell that?

13 **A.** E-s-r-i.

14 **Q.** And what is Esri? Is that like a -- when I use

09:44:24

15 Microsoft Word, I have to go get a license in order to be  
16 able to use the program.

17 Does Esri work the same way?

18 **A.** Yeah. You get a license or some sort of a contract  
19 and you can use their platform, yes.

09:44:35

20 **Q.** When you say "platform," does that mean like there is  
21 an icon on your desktop that you click on like Microsoft  
22 Word? How does that work? How do you access it?

23 **A.** It's a web-based platform.

24 **Q.** You are using another word there. "Web-based," does

09:44:49

25 that mean you have got to get on the internet and that's

1 how you get it?

2 **A.** Yes. That's right.

3 **Q.** Ms. Wells here is one of our two fantastic court  
4 reporters. She is very good at her job, and she has been  
5 so patient with me I can't even tell you. You are eager  
6 to answer the questions, and I appreciate that. Let me  
7 finish and then give her a chance and then you can answer.

09:44:59

8 Okay?

9 **A.** Sure.

09:45:07

10 **Q.** Does Esri when you use it come preloaded with any  
11 data?

12 **A.** Esri the software comes preloaded with the census  
13 geography. So that's one thing you get from them when you  
14 sign on. They also provide the demographic data from the  
15 Census Bureau. And anything else you have to add in  
16 yourself.

09:45:31

17 **Q.** The Court has heard a lot of these terms; but so the  
18 record is clear, when you say "census geography," do you  
19 mean boundary line information from the Census Bureau or  
20 what?

09:45:45

21 **A.** That's correct.

22 **Q.** And when you say "demographic data," what -- if you  
23 know, what is the source of that demographic data?

24 **A.** The United States Census.

09:45:54

25 **Q.** If -- we have seen census data in this hearing and at

1 trial earlier this year that has racial data.

2 **A.** Sure.

3 **Q.** Is the census data that comes preloaded in Esri, your  
4 redistricting software, your map drawing software, is  
5 there racial data in there?

09:46:08

6 **A.** Yes.

7 **Q.** To your knowledge -- well, let me ask you this: Have  
8 you ever tried to get rid of the racial data that comes  
9 preloaded?

09:46:17

10 **A.** There is a way to get rid of it, but it makes it very  
11 impractical for what we use. Because we do redistricting  
12 across 50 states, right? And so sometimes you are  
13 analyzing maps. Sometimes you are drawing maps. And so,  
14 no, we don't take it away from the entire platform.

09:46:32

15 That's just not what you can do, no.

16 **Q.** Have you ever used any other kind of map drawing  
17 software?

18 **A.** Yes.

19 **Q.** Have other kinds of map drawing software you have used  
20 come with preloaded data?

09:46:48

21 **A.** Yes.

22 **Q.** Can you tell the Court whether or not those other  
23 kinds of map drawing software that come with preloaded  
24 data sometimes come with preloaded racial data from the  
25 Census Bureau?

09:46:59

1 **A.** I have used Maptitude before; and it also came with  
2 the census demographic data, yes. Demographic data.

3 **Q.** Let's talk about when you sit down to use Esri. You  
4 boot up. Do you need a special computer to use it?

09:47:13

5 **A.** No.

6 **Q.** You can run it on your laptop; is that right?

7 **A.** Yeah.

8 **Q.** Any computer that has access to the internet?

9 **A.** That's right.

09:47:18

10 **Q.** Okay. So you boot up your laptop, and you open up  
11 Esri in your web browser; is that right?

12 **A.** That's right.

13 **Q.** Can you give the Court a sense of what you see when  
14 you boot it up? I imagine that there is some kind of -- I  
15 mean, I don't know. Is it like Google Maps? What does it  
16 look like when you open it up?

09:47:30

17 **A.** Yeah. So once you log in to the software, what you  
18 see is a drop-down where you would choose the state that  
19 you want to work with to redistrict.

09:47:45

20 So with the Esri platform, you have -- you can get a  
21 contract for as small as one county if you wanted to, but  
22 we have it for, obviously, the entire country.

23 And so what we do is you have a drop-down of every  
24 single state. You can choose the state. You open that  
25 up. And then you have a map of that state that you can

09:48:02

1 then work with.

2 At the bottom of the screen you have something that  
3 kind of looks like a spreadsheet; and it will have the  
4 district numbers on one side and then any other criteria  
5 or attributes that you have selected to work with in the  
6 plan will be in columns next to that, next to those  
7 district numbers.

09:48:15

8 **Q.** When you open up Esri and you are looking at this  
9 screen that you have just described, can you immediately  
10 see racial data?

09:48:33

11 **A.** No.

12 **Q.** Can you help the Court understand whether you can ever  
13 see racial data on this screen? How that happens?

14 **A.** Sure. So you -- what Esri has at the top left corner  
15 is a -- it says it's a demographics tab. You click on  
16 that. But the demographics tab is really -- it really is  
17 attributes. And so what it is, it will have all of the  
18 census data that's provided by the bureau, as well as any  
19 other things that you have added in as well.

09:48:46

20 So you can select or not select, you know, whatever  
21 datasets you are looking to work with. And so all of our  
22 election data that we have loaded into the platform is  
23 also available in that drop-down.

09:49:01

24 **Q.** I'm not going to ask you about whether you have any  
25 opinions about how other people draw maps, what is the

09:49:18

1 best way, what is appropriate.

2 I just want to know when you draw a map on Esri, do  
3 you have racial data visible?

4 **A.** I do not.

09:49:29 5 **Q.** Can you tell the Court your reason why you make that  
6 choice?

7 **A.** A couple of reasons. First off, when I'm drawing  
8 maps, I am working with Republican groups trying to draw  
9 Republican maps to benefit Republican candidates. And  
09:49:48 10 when I'm doing that, I want to use election results that  
11 show me how Republicans and Democrats vote in specific  
12 elections.

13 More philosophically, I just think it's -- I don't  
14 think it's constitutional to draw maps based off of race.

09:50:03 15 **Q.** We have talked a little bit about Esri and the data  
16 that comes preloaded and what you see when you boot up the  
17 software.

18 Is it possible to put other kinds of data into Esri to  
19 help you with your map drawing?

09:50:19 20 **A.** Yes.

21 **Q.** What kinds of data do you use? Not generally, not  
22 what other people use, not what is the best do you think.  
23 What kind of data do you upload into Esri when you draw a  
24 map?

09:50:31 25 **A.** The current datasets that we have loaded into our

1 platform are every governor's race, senate race,  
2 presidential race, and attorney general race since 2016  
3 for a specific state. And those are the election results  
4 that we have in the system.

09:50:52

5 **Q.** Where do you get that data?

6 **A.** So we gather the election results from the individual  
7 states. So for Texas we get it from Texas Legislative  
8 Service. They make them public. So we gather those  
9 there.

09:51:03

10 **Q.** Why not just use the preloaded census data?

11 **A.** It would not be helpful in drawing maps for partisan  
12 performance, and I don't think it's right to use race when  
13 drawing maps.

09:51:32

14 **Q.** You talked about the census data that come preloaded  
15 in Esri.

16 **A.** Uh-huh.

17 **Q.** Based on your use of Esri, are partisan data available  
18 at the block level from the census?

19 **A.** No.

09:51:40

20 **Q.** Have you ever used partisan data at the block level?

21 **A.** All the time.

22 **Q.** I'm going to ask this question. I'm afraid that the  
23 answer is going to be more technical than I understand.

24 First, where do you get partisan data at the block

09:52:01

25 level?

1 **A.** We produce it internally.

2 **Q.** We have heard testimony from other folks about  
3 combining different kinds of data to help understand maps.  
4 Can you help the Court understand what you mean when you  
5 say you internally produce block level partisan data?

09:52:14

6 MR. FOX: Objection, Your Honor. Calls for  
7 expert testimony.

8 JUDGE GUADERRAMA: I'm sorry. What?

9 MR. FOX: Calls for expert testimony.

09:52:25

10 MR. KERCHER: We are asking him how he does it,  
11 Your Honor, not whether it's the right way.

12 JUDGE GUADERRAMA: So we've decided we'll hear  
13 it, and then we'll decide.

14 MR. FOX: I understand, Your Honor. I'm just  
15 objecting for the record.

09:52:34

16 JUDGE GUADERRAMA: Yes, sir. Thank you. I  
17 appreciate that, Mr. Fox.

18 BY MR. KERCHER:

19 **Q.** So, Mr. Kincaid, the question is not why -- not  
20 opinions about it, not whether other people do it the  
21 wrong way and you do it the best way.

09:52:42

22 As a practical mechanical process, how do you get  
23 block level partisan data?

24 **A.** This will take a couple of minutes, so be patient with  
25 me. Okay?

09:52:55

1 Q. We've got to proceed in question and answer. So if I  
2 put up my hand, that means let me ask a question.

3 A. So the way that we produce census election data at the  
4 block level is we will -- so we'll just start -- let's do  
5 Texas.

09:53:06

6 So for Texas, Texas has some of the best election data  
7 and geographic data in the country. They do it all  
8 internally, which is amazingly helpful. And it's  
9 standardized.

09:53:18

10 So what we'll do is go to the Texas Legislative  
11 Service website, or leg. counsel website. They provide  
12 every election cycle a general election dataset which will  
13 give you the precinct results for every single election  
14 that was held that cycle in the entire state, right? So  
15 anything from president of the United States down to court  
16 or whatever the lowest one might be.

09:53:40

17 The other thing --

18 Q. So what do you do next?

19 A. So the next thing that we do is we also go to the  
20 Texas Legislative Council and we gather the precinct maps  
21 for that specific election cycle. So one thing with  
22 precinct maps is they are always changing. The problem  
23 with -- and the reason we do that is because you want to  
24 match up the election results for a cycle with the  
25 precincts that were used for that cycle because,

09:53:55

09:54:13

1 otherwise, you are matching election results to precincts  
2 that don't exist anymore, right?

3 And so we will gather the 2020 precincts for the 2020  
4 election. The 2022 precincts for the 2022 election, et  
5 cetera, et cetera, et cetera.

09:54:28

6 **Q.** And then?

7 **A.** And then we also gather the voter files for the state  
8 of Texas statewide. And what we'll do is we will get the  
9 voter file -- the first voter file produced by the state  
10 after the election.

09:54:44

11 **Q.** How does -- so you have talked about collecting  
12 different kinds of information.

13 **A.** Uh-huh.

14 **Q.** How do you mix them? I assume you are mixing them  
15 together in order to get information about partisanship at  
16 the block level. In a way that somebody who really is not  
17 technically advanced beyond LEGOs, how do you do that?

09:54:56

18 **MR. FOX:** Objection, Your Honor. Same objection  
19 for the record.

20 **JUDGE GUADERRAMA:** Yes, sir.

09:55:07

21 **A.** So what we do with the voter file at that point, the  
22 voter file gives you a lot of different information on  
23 Texas voters.

24 Number one, it gives you a list of all the voters in  
25 the state of Texas -- all the registered voters in the

09:55:19

1 state of Texas. It will also tell you their address. It  
2 will also tell you if they voted in the election that you  
3 are looking at.

09:55:32

4 Sometimes, and Texas does this, it will give you the  
5 vote method for how they voted, absentee, early, in  
6 person, all those sorts of things.

7 And then it also gives you the vote history. So you  
8 can know if someone voted in a Republican primary or a  
9 Democrat primary, right?

09:55:45

10 And so you can go through and you can sort all of  
11 those things out. They are all available on the Texas  
12 voter file.

13 From that point, what we do is we geocode. And I'll  
14 explain what that means in a second.

09:56:01

15 BY MR. KERCHER:

16 **Q.** Well --

17 **A.** Go ahead.

18 **Q.** What does "geocode" mean?

19 MR. FOX: Same objection, Your Honor.

09:56:09

20 JUDGE GUADERRAMA: Yes, sir.

21 **A.** So what geocode means is we run the addresses, the  
22 file, through mapping software. And it gives us the  
23 latitude and longitude for every single address in the  
24 state of Texas. So that way we know we can map out every  
25 voter. Every voter that's registered, every voter that

09:56:24

1 voted, every voter that voted absentee, every voter that  
2 voted whatever way they voted, we are able to know with  
3 precision where each of those people reside and if they  
4 voted or not.

09:56:41

5 BY MR. KERCHER:

6 **Q.** Have you ever been questioned about this methodology  
7 that you use in this litigation before?

8 **A.** Yes.

9 **Q.** When?

09:56:54

10 **A.** During my deposition in 2023.

11 **Q.** Has your method changed since then?

12 **A.** No. It's gotten faster. That's all.

13 **Q.** So we've talked about the method that you use when you  
14 draw a map to get partisan data at the block level. When  
15 you are drawing at the block level, are the only decisions  
16 that you make as a mapmaker, as a map drawer, are the only  
17 decisions you make at the block level partisan decisions?

09:57:22

18 MR. McCAFFITY: Objection, Your Honor. Calls for  
19 expert testimony.

09:57:39

20 JUDGE GUADERRAMA: Yes, sir.

21 **A.** No. So the block level partisan data is very useful  
22 when you aggregate it back up. And so what that means  
23 is -- and so when you asked me before if I use it, you  
24 know, I said all the time, because we use it all the time  
25 because it drives all of the election data that we work

09:57:57

1 with.

2 So one of the problems that you have with  
3 redistricting software is that it's bound by the previous  
4 decennial census. So the geographic layers that were  
5 produced by the Census Bureau for the 2020 census are  
6 still the ones that are going to work for your mapping  
7 software throughout the entire decade.

09:58:12

8 BY MR. KERCHER:

9 **Q.** Well, let me ask you this: Because my question is  
10 intended to be more narrow than this, and this is not your  
11 fault.

09:58:24

12 When I asked do you -- are you only making partisan  
13 decisions at the block level -- let me ask you something a  
14 little different.

09:58:36

15 MR. McCAFFITY: Objection. Calls for expert  
16 testimony.

17 MR. KERCHER: I haven't asked the question.

18 MR. McCAFFITY: You said "are you only making."  
19 Sorry. You know what I'm going to object to, Your Honor.

09:58:45

20 JUDGE GUADERRAMA: Yes, sir. We'll accept that  
21 objection.

22 BY MR. KERCHER:

23 **Q.** As a map drawer, have you ever made a choice at the  
24 block level that was not based on partisanship?

09:58:54

25 **A.** Yes.

1 **Q.** When you have made choices at the block level that  
2 were not based on partisanship, what were they based on?

3 MR. McCAFFITY: Objection, Your Honor. Calls for  
4 expert testimony.

09:59:08

5 JUDGE GUADERRAMA: Yes, sir.

6 **A.** So one thing you have to do in drawing congressional  
7 districts is you have to balance the population perfectly  
8 among the districts in the state.

9 BY MR. KERCHER:

09:59:20

10 **Q.** Well, let me stop you. I'm not asking what somebody  
11 has to do. I'm asking about what you do.

12 **A.** I have to balance the population of every district  
13 across the state of Texas or whatever state you are  
14 working on or -- perfectly. Because we're not allowed to  
15 deviate from perfect population. So every district has to  
16 be about the same.

09:59:33

17 You are not going to be able to do that using the  
18 precincts or the VTDs. So you have to split precincts in  
19 order to look at the total resident population numbers,  
20 not the racial numbers or anything else, but the number of  
21 people that were enumerated by the census at a specific  
22 census block. So that you can get, say, a district that's  
23 766,950 people, but you have to be at 960 people, find  
24 those 10 people, put them in the district to make it  
25 exactly perfectly populated.

09:59:50

10:00:07

1 **Q.** So that brings me to my next question.

2 When you sit down to draw a map, do you start drawing  
3 at the block level and work your way up? In terms of  
4 census geography, where do you start?

10:00:23

5 **A.** Yeah. We start big and work small. So that means  
6 that I typically start with counties and then work down  
7 from there to precincts or cities. Sometimes I'll select  
8 by a city geography because the city geography is also  
9 available in the census.

10:00:42

10 This is another reason why we disaggregate our  
11 election results down to the block level is because census  
12 blocks align with the -- census blocks align with the city  
13 layers provided by the census because it's the same  
14 geography from top to bottom, but precincts do not. So  
15 what you are able to do is figure out what the  
16 partisanship is of a city by using that block level  
17 partisan data.

10:01:02

18 **MR. FOX:** Objection, Your Honor. Narrative.

19 **MR. McCAFFITY:** I object to move to strike his  
20 expert testimony.

10:01:16

21 **JUDGE GUADERRAMA:** All right. I'll sustain the  
22 narrative objection. Let's ask a question.

23 **BY MR. KERCHER:**

24 **Q.** Have you ever used racial data to draw a map?

10:01:25

25 **A.** Have I ever used racial data? Not for a very long

1 time, if ever.

2 **Q.** What about using race as a proxy for partisanship?

3 You talked about how you are trying to draw

4 Republican-advantaged maps. When you draw a map, is it

10:01:41

5 your understanding that racial data can be used -- well,

6 strike that.

7 When you draw a map, do you use race as a proxy for

8 partisanship?

9 **A.** I do not.

10:01:57

10 **Q.** Does that mean, though, that you never ever see racial  
11 data regarding maps you have drawn?

12 **A.** No.

13 **Q.** Chronologically, how does that work? You have said  
14 you don't use racial data when you draw maps.

10:02:12

15 **A.** Right.

16 **Q.** You do see racial data. How do we understand those  
17 two things?

18 **A.** Sure. So when you are working with the mapping  
19 software, you can choose what you shade the geography with  
20 in the -- I figure you are going to -- no?

10:02:25

21 So you can shade the geography within a jurisdiction  
22 that you are working on, right? So you can shade -- you  
23 can -- in the same way that you would select the data that  
24 appears at the bottom of the screen, you can select the  
25 data that you shade on when you are drawing a map, right?

10:02:38

1 And so I will shade off of partisanship on election  
2 results. But I'm never going to pull up a shading of the  
3 racial makeup of an area and draw maps using that to  
4 target specific racial groups. But I --

10:03:00 5 **Q.** Let me -- I'm going to -- let me interject here.

6 MR. McCAFFITY: Objection, Your Honor. Move to  
7 strike that testimony as improper expert testimony.

8 JUDGE GUADERRAMA: Yes, sir.

9 BY MR. KERCHER:

10:03:12 10 **Q.** You have talked about what kind of shading you can  
11 have on while you are drawing a map and you can turn it on  
12 and off.

13 **A.** Uh-huh.

14 **Q.** Do you ever become aware of racial data after you draw  
10:03:22 15 a map?

16 **A.** Yes.

17 **Q.** Do you then incorporate that racial data into your  
18 next draw of the map?

19 **A.** "Incorporate" mean continue to use or what do you  
10:03:33 20 -- I'm sorry. Can you clarify what that means?

21 **Q.** Sure.

22 So let's say -- have you ever been in a situation  
23 where you drew a map without looking at race?

24 **A.** Uh-huh.

10:03:43 25 **Q.** And then found out the racial makeup of a given

1 district and then gone back and made changes to that  
2 district based on that racial understanding?

3 **A.** No.

10:04:01

4 **Q.** I want to turn your attention now to how you came to  
5 draw the maps in Texas in 2025 or the map.

6 We've heard evidence about a *New York Times* article in  
7 June of 2025 that said something to the effect of  
8 President Trump having conversations with Texas Republican  
9 officials about mid-cycle redistricting.

10:04:18

10 **A.** Uh-huh.

11 **Q.** When, if ever, did you first become aware that the  
12 White House was having conversations about redistricting?

10:04:36

13 **A.** It would have been earlier in 2025. I think I  
14 was -- I was aware that people were meeting with White  
15 House officials on redistricting probably February or  
16 March.

17 **Q.** When you first learned about those meetings, did you  
18 know at that point whether Texas would redistrict in 2025?

19 **A.** No.

10:04:51

20 **Q.** You have testified -- you testified that you wound up  
21 drawing most of the map that passed in 2025 in Texas. How  
22 did it happen that you got involved in that process?

23 **A.** Yeah. So running the National Republican  
24 Redistricting Trust, typically when redistricting comes up  
25 in conversation, you know, people suggest that they talk

10:05:11

1 to me about it.

2 So I was -- in early 2025, during these conversations  
3 there was somebody going around Washington, D.C. talking  
4 about redrawing the Texas congressional map; and they were  
5 directed repeatedly to me. And eventually they got my  
6 contact information.

10:05:30

7 **Q.** Don't be coy, Mr. Kincaid. Who was it?

8 **A.** It was the national committeeman for Texas, Robin  
9 Armstrong.

10:05:42

10 **Q.** What does "national committeeman" mean?

11 **A.** He is one of the three members of the Republican  
12 National Committee from Texas.

13 MR. KERCHER: Richard, could you please bring up  
14 the demonstratives of Mr. Armstrong.

10:06:04

15 BY MR. KERCHER:

16 **Q.** Is this him?

17 **A.** Yes.

18 **Q.** Do you recall when you first began speaking with  
19 Mr. Armstrong about redistricting in Texas?

10:06:12

20 MR. KERCHER: Thank you, Richard. You can take  
21 it down.

22 **A.** I believe it was in March was when I first had a  
23 conversation with Robin about this.

24 BY MR. KERCHER:

10:06:25

25 **Q.** Did you ever get hired by anybody as a part of

1 mid-cycle redistricting in 2025?

2 **A.** Yes.

3 **Q.** Who?

4 **A.** The Republican National Committee.

10:06:35

5 **Q.** And how does that work? Does the Republican National  
6 Committee contract with NRRT? Is that directly with you?

7 **A.** It was directly with me.

8 **Q.** Are there -- was the work that you were doing with the  
9 RNC, the Republican National Committee, is that right?

10:06:52

10 **A.** That's correct.

11 **Q.** Was the work that you were contracted to do with the  
12 RNC, is any of it confidential, to your knowledge?

13 **A.** Yes.

14 **Q.** To your knowledge, has the RNC waived confidentiality  
15 concerning the work you did for Texas?

10:07:07

16 **A.** I'm authorized to speak on my work for Texas, yes.

17 **Q.** So when you -- and what kind of an agreement is it?  
18 Do they just -- do you become an employee for the RNC?  
19 How does that work?

10:07:21

20 **A.** It's just a retainer. So it's a retainer to provide  
21 redistricting support to the RNC counsel's office.

22 **Q.** So, at that point, what are you doing for the RNC?  
23 Are you drawing maps?

24 **A.** It's more than just drawing maps. I mean, that's part  
25 of it. But it's also process and procedure research and

10:07:39

1 other things.

2 **Q.** At the time that the RNC put you on retainer and you  
3 start drawing maps and doing other redistricting  
4 support --

10:07:53 5 **A.** Sure.

6 **Q.** -- did you know at that point that you would be the  
7 map drawer for Texas?

8 **A.** I did not.

9 **Q.** You've talked a little bit about how you draw maps as  
10:08:06 10 a hobby, you kind of sketch, you are doing some map  
11 drawing when the RNC put you on retainer.

12 At some point you must have had a map that was  
13 something like a plan for what might happen in Texas?

14 **A.** Uh-huh.

10:08:22 15 **Q.** Can you tell the Court when that happened?

16 **A.** I didn't have a final map or close to a final map for  
17 Texas until mid July of this year.

18 **Q.** And so when you say "a final map," it sounds like -- I  
19 don't mean to pick on you, but it sounds like you were  
10:08:37 20 probably doing serious work on map drawing for Texas prior  
21 to mid July. Is that fair?

22 **A.** Yes.

23 **Q.** When did that work begin, or when did you switch from  
24 the sort of ordinary sketching to drawing a map that would  
10:08:49 25 become finalized?

1 **A.** I think the final phase of the redistricting for 2025  
2 probably started late June or early July is when I got in  
3 the final phase of redrawing the map.

10:09:15

4 **Q.** When did you learn, if ever, that you would be the map  
5 drawer for the Texas Legislature?

6 **A.** I wasn't entirely clear that was going to be the case  
7 until after Governor Abbott issued the call and I  
8 connected with attorneys for the Texas House.

10:09:33

9 **Q.** Who were the Texas -- who were the attorneys for the  
10 Texas House?

11 **A.** Tommie Cardin.

12 **Q.** Is he with Butler Snow?

13 **A.** Yes.

10:09:42

14 **Q.** When was your first contact with Mr. Cardin regarding  
15 Texas redistricting?

16 **A.** It was also mid-July. I think it was around the 13th  
17 or 14th.

18 **Q.** And at that point did you hand him whatever map you  
19 had been working on?

10:09:51

20 **A.** I did not.

21 **Q.** When did you first provide a map to the Texas  
22 legislature?

23 **A.** It would have been about a week and a half later.

10:10:08

24 **Q.** Did you ever speak with Texas State Senator Phil King  
25 during the redistricting process?

1 **A.** I did.

2 **Q.** How many times?

3 **A.** Three or four-ish, maybe five. But not many.

10:10:32

4 **Q.** Did Senator King ever ask you whether maps you were  
5 working on were drawn based on race?

6 **A.** He did at one point ask me if I was using race data,  
7 and I said no.

8 **Q.** We've talked about the ordinary map drawing process.  
9 We've talked about how you came to draw maps for Texas.

10:10:49

10 Let's talk about drawing the Texas maps.

11 **A.** Okay.

12 MR. KERCHER: Richard, could we please bring up  
13 C2308.

14 BY MR. KERCHER:

10:11:24

15 **Q.** While we're waiting on that to come up, Mr. Kincaid,  
16 do you know what Plan C2308 is?

17 **A.** Yes.

18 **Q.** Did you draw that map?

19 **A.** Yes.

10:11:33

20 **Q.** Can you tell the Court what your -- what your criteria  
21 were, not what anybody else told you, what -- when you sat  
22 down to the map with your Esri software, what you wanted  
23 to do when you drew the map?

10:11:48

24 MR. McCAFFITY: Objection, Your Honor. Calls for  
25 expert testimony.

1 JUDGE GUADERRAMA: Yes, sir.

2 **A.** When you say criteria that no one else told me, what  
3 do you mean by that?

4 BY MR. KERCHER:

10:12:02 5 **Q.** Well, you had explained to the Court that you were  
6 involved in an effort for Republican redistricting mid  
7 cycle, right?

8 **A.** Sure. Yeah.

9 **Q.** Is it fair to say that that effort was to draw a Texas  
10:12:20 10 map that would improve Republican performance in some way  
11 in Texas?

12 **A.** Yes.

13 **Q.** Did you have goals for how to do that?

14 **A.** I did.

10:12:29 15 **Q.** Describe those to the Court, please.

16 MR. McCAFFITY: Objection, Your Honor. Calls for  
17 expert testimony.

18 JUDGE GUADERRAMA: Yes, sir.

19 **A.** I had multiple goals, multiple criteria across  
10:12:41 20 multiple tiers. So I'll start with my top tier criteria.  
21 Given that you have to work with the incumbents that  
22 are -- you know, the Republican incumbents that are in  
23 office, my number -- my top criteria was to make sure that  
24 every Republican incumbent who lived in their seat stayed  
10:13:02 25 in their seat. That was one of the criteria.

1 Another criteria was to make sure that every  
2 Republican incumbent who was in a district that President  
3 Trump had won with 60 percent of the vote or more in 2024  
4 stayed in a district that President Trump won by -- with  
10:13:21 5 60 percent of the vote or more. I was not allowed to take  
6 any incumbent Republican who was above 60 below 60.

7 In addition to that, there were a series of members  
8 across the state who were in districts that President  
9 Trump had carried but by less than 60 percent of the vote.

10:13:40 10 So for those seats, I either had to improve them or  
11 keep their Partisan Voting Index exactly the same. So  
12 those were all criteria that I had to consider when  
13 drawing the map.

14 In addition to that --

10:13:55 15 BY MR. KERCHER:

16 **Q.** Let me -- let me stop you there.

17 **A.** Sure.

18 **Q.** First of all, we've got 2308 up. Now that you can see  
19 it on the screen, did you draw this map?

10:14:03 20 **A.** Yes.

21 **Q.** Okay. You mentioned, I think, Partisan Voting Index;  
22 is that correct?

23 **A.** That's correct.

24 **Q.** When you say "Partisan Voting Index," what do you  
10:14:15 25 mean?

1 **A.** The Partisan Voting Index is technically called the  
2 Cook Partisan Voting Index. It's produced by a group  
3 called the Cook Political Report. And it's really just a  
4 way of indexing all the districts in the country from the  
5 most Republican and the most Democrat, comparing them to  
6 the last two presidential elections.

10:14:27

7 **Q.** When you said a moment ago that you were not allowed  
8 to make certain changes based on how districts had  
9 previously performed --

10:14:43

10 **A.** Sure.

11 **Q.** -- by whom?

12 **A.** By the delegation.

13 **Q.** Okay. So you had talked about looking at incumbent  
14 districts and what you wanted to do with those concerning  
15 their past performance and how they would look in the new  
16 map?

10:14:56

17 **A.** Right.

18 **Q.** What other criteria, if any, did you use when you drew  
19 the map?

10:15:03

20 **A.** I wanted to improve the overall compactness of the  
21 map. That was another criteria. So there was the  
22 2193 map, the 2021 map. I just wanted to take those  
23 districts and make them cleaner, more compact, more  
24 city-based, more county-based, where I could than the

10:15:22

25 previous one. That's more of a personal preference more

1 than anything else. I like, when I can, to draw clean  
2 districts. And so that was one thing.

3 Another one was the five pickup opportunities. The  
4 criteria for those -- should I just go on or do you want  
5 to ask?

10:15:38

6 **Q.** Wait a minute.

7 **A.** Okay.

8 **Q.** You mentioned five pickup opportunities.

9 **A.** That's right.

10:15:42

10 **Q.** Can you tell the Court whether you had criteria for  
11 drawing those -- well, wait a minute.

12 Let me ask you this: What do you mean by pickup  
13 opportunities?

14 **A.** The five districts that Republicans could gain that we  
15 currently did not hold in the 2026 midterms.

10:15:53

16 **Q.** Can you tell the Court whether you had criteria for  
17 what those potential pickup districts would look like?

18 **A.** I did.

19 **Q.** What were they?

10:16:03

20 **A.** Yes. So all five of those new seats, the new pickup  
21 opportunities -- I really shouldn't say "new," because two  
22 of them already existed. So the three new pickup  
23 opportunities plus the other two, so the five, at a  
24 minimum, every single one of them had to be a district

10:16:21

25 that President Trump carried by ten points or more at a

1 minimum.

2 Second was that every one of those seats had to be  
3 carried by Ted Cruz in 2024. There was no set amount of  
4 range on how much he had to win it by, but he had to win  
5 each of those five seats.

10:16:36

6 **Q.** Let me stop you there.

7 A moment ago you said that one of the criteria was  
8 that you wanted the pickup districts to be districts that  
9 President Trump had won by 10 points or more.

10:16:48

10 Did I hear that correctly?

11 **A.** That's correct.

12 **Q.** When you say that President Trump won, in which  
13 election?

14 **A.** The 2024 presidential election.

10:16:56

15 **Q.** For that criterion were you only looking at the 2024  
16 data?

17 **A.** Yes.

18 **Q.** And so you talked about the metric for the 2024 Trump  
19 vote as having a specific amount to it. And then you also  
20 described a metric for Senator Cruz in 2024.

10:17:14

21 **A.** That's correct.

22 **Q.** Did that Senator Cruz metric have an amount to the win  
23 or was it just purely a win?

24 **A.** The Cruz one was a minimum.

10:17:28

25 And to be clear on the presidential one, the 10 points

1 was a minimum result. He had to win it by a minimum of  
2 10 percent. It didn't mean I couldn't draw a district at  
3 Trump plus 20, right? So...

10:17:46

4 **Q.** And as it shook out, when you were ultimately drawing  
5 districts, were you able to draw districts that were  
6 greater than Trump plus 10?

7 **A.** Yes.

10:18:00

8 **Q.** If you were able to draw districts that were  
9 more -- Republican districts that were more than Trump  
10 plus 10, did you take that opportunity?

11 **A.** Could you say that one more time?

12 **Q.** Sure.

13 MR. McCAFFITY: Objection. Calls for expert  
14 testimony.

10:18:10

15 JUDGE GUADERRAMA: Yes, sir.

16 BY MR. KERCHER:

17 **Q.** My question is about the choice that you made.

10:18:19

18 If you had the opportunity to draw a district that was  
19 more Republican than Trump plus 10 in '24, did you try to  
20 take that opportunity?

21 **A.** Absolutely.

10:18:34

22 **Q.** Before we move on, you mentioned a moment ago that  
23 compactness was important to you. What data do you have  
24 available to you -- I'm not going to try to make you into  
25 a compactness expert; but when you are trying to measure

1 compactness, what do you -- how do you measure that for  
2 your -- for purposes of your criteria?

3 MR. McCAFFITY: Objection. Calls for expert  
4 testimony.

10:18:46

5 JUDGE GUADERRAMA: Yes, sir.

6 **A.** Yeah. So the Esri software -- and I'm sorry. We  
7 skipped over this. Can we just go back real quick?  
8 Because you asked about the criteria for the pickups.

9 BY MR. KERCHER:

10:18:57

10 **Q.** Yes.

11 **A.** But there were other criteria as well that are  
12 important to note.

13 **Q.** I do want to go back to those, but I'm going back  
14 before that because you mentioned compactness.

10:19:03

15 **A.** Okay.

16 **Q.** I just made a note that I forgot to ask you something.

17 **A.** Great. I just wanted to make sure we didn't skip over  
18 it.

10:19:12

19 **Q.** I don't want you to give any expert opinions about  
20 what compactness means or what the best measures are. You  
21 said compactness matters to you.

22 How do you tell, how do you decide whether a district  
23 is compact?

24 MR. McCAFFITY: Objection. Expert testimony.

10:19:23

25 JUDGE GUADERRAMA: Yes, sir.

1 **A.** One is just visually looking at the map, right? And  
2 if you can -- I think everyone has their own views about  
3 what is or is not a compact map. But when you look at it,  
4 I like to be able to look at a map and see that it makes  
5 some sense when you look at it, right? That is a  
6 preference of mine.

10:19:38

7 As far as the technical measurements of compactness,  
8 there is a lot of them. The two primary ones are  
9 something called Reock and Polsby-Popper.

10:19:52

10 BY MR. KERCHER:

11 **Q.** When you say "primary," do you mean in terms of what  
12 you rely on?

13 **A.** Those commonly used, yeah, and then the ones I would  
14 rely on the most.

10:20:01

15 **Q.** Okay.

16 **A.** So the Reock test --

17 **Q.** I think I want to -- I'm sorry to keep interrupting  
18 you.

19 **A.** No.

10:20:08

20 **Q.** But I want to make sure that I'm asking you precise  
21 questions and that we're moving things along.

22 **A.** Yeah.

23 **Q.** We have heard some testimony about Reock and  
24 Polsby-Popper. There are experts who can talk about

10:20:17

25 those.

1 Are those metrics that matter to you?

2 **A.** Yes.

3 **Q.** Now, we have been talking about the criteria that you  
4 used in drawing the five opportunity districts, the five  
5 Republican pickup districts.

10:20:28

6 **A.** That's right.

7 **Q.** You talked about using a minimum of Trump '24 plus  
8 ten. You talked about using Cruz '24 bear win.

9 What other criteria, if any, did you use in drawing  
10 those Republican pickup opportunities?

10:20:44

11 **A.** I also looked at Governor Abbott's performance in 2022  
12 and 2018. We wanted to make sure that all of those  
13 districts, or at least most of them, were seats that he  
14 carried by as decent a margin as possible within the  
15 criteria in '22 and '18 because, obviously, the first test  
16 of this map would be in a midterm election versus a  
17 presidential election.

10:20:58

18 **Q.** So far we have been talking about partisan goals for  
19 these partisan seats. Were there any other partisan  
20 metrics that you used when you drew those seats?

10:21:18

21 **A.** Partisan? Partisan?

22 MR. McCAFFITY: Same objection, Your Honor.

23 JUDGE GUADERRAMA: Yes, sir.

24 BY MR. KERCHER:

10:21:32

25 **Q.** Let me ask you this: Did it matter to you how these

1 districts would perform beyond 2026?

2 **A.** Yes, it did.

3 **Q.** So if that mattered, were there any particular  
4 considerations that you took into account?

10:21:42

5 MR. McCAFFITY: Again, objection. Expert  
6 testimony.

7 JUDGE GUADERRAMA: Yes, sir.

8 **A.** So the other thing that we did -- or that I did. I'm  
9 sorry. I don't want to use the word "we."

10:21:52

10 So one thing that I did is I went back and I did a  
11 durability test on all of these districts. And what that  
12 means is I went back and I took the -- so just stepping  
13 back a second.

10:22:09

14 We have a national redistricting dataset that has  
15 disaggregated results down to the block level going back  
16 to -- decades. So what I was able to do is, with Texas,  
17 look at the 2012 Romney results. And so I looked at every  
18 presidential, senate, and governor's race in Texas, U.S.  
19 Senate and governor's race in Texas, from 2012 through

10:22:31

20 2024.

21 And the reason I did that is obviously Texas has been,  
22 you know, politically, you know, volatile for, you know,  
23 several years now. It's been, you know, wide Republican  
24 wins, narrow Republican wins, wide Republican wins again.

10:22:46

25 And the coalitions that Republicans have been winning

1 elections with has changed significantly from 2012 to now.

2 And so what I wanted to do is look at how these  
3 districts performed over the last three iterations of the  
4 Republican coalition.

10:23:02

5 BY MR. KERCHER:

6 **Q.** You've talked about partisan goals for the Republican  
7 pickup districts. You've talked about compactness.

8 You mentioned city and county boundaries?

9 **A.** That's right.

10:23:18

10 **Q.** How do you -- is there a software that allows you to  
11 account for that? Is that part of the census geography?

12 MR. FOX: Objection, Your Honor. Expert  
13 testimony.

14 JUDGE GUADERRAMA: I'm sorry. Say that again?

10:23:29

15 MR. FOX: Expert testimony.

16 JUDGE GUADERRAMA: Yes, sir.

17 **A.** The census provides a layer, a place layer that is  
18 city lines, yes. So we just use that. It's in Esri.

10:23:50

19 MR. KERCHER: Richard, could we zoom in on the  
20 Dallas-Fort Worth area. And a little bit closer. Thank  
21 you. Then could you click on cities. Zoom in just a  
22 little bit further.

23 BY MR. KERCHER:

10:24:09

24 **Q.** Okay. So, for the record, we are looking at Plan  
25 C2308 in DistrictViewer. We have zoomed in so that

1 Tarrant and Dallas Counties are a little bit more visible,  
2 and we have turned on cities.

3 Mr. Kincaid, we can see that the cities are  
4 beautifully illuminated in various colors across the DFW  
5 area.

10:24:27

6 Do you see that?

7 **A.** I do.

8 **Q.** When you talk about the census geography provided in  
9 Esri and what you are looking at when you see that  
10 geography, does it look like what we are seeing here in  
11 DistrictViewer?

10:24:37

12 MR. McCAFFITY: Objection. Calls for expert  
13 testimony.

14 JUDGE GUADERAMA: Yes, sir.

10:24:43

15 **A.** Similar, yes.

16 BY MR. KERCHER:

17 **Q.** What about natural geographic features and  
18 other -- and other geographic units or boundaries for  
19 drawing districts? Are those things that you consider  
20 when you draw maps --

10:25:00

21 **A.** Yes.

22 **Q.** -- or when you drew the Texas map? Excuse me.

23 **A.** Yes.

24 **Q.** And you mentioned earlier that drawing the maps with  
25 the appropriate equality in population was a part of the

10:25:11

1 process.

2 Generally, is that something you did when you drew the  
3 Texas maps?

10:25:22

4 **A.** Yes. I equalized the populations when drawing the  
5 maps, yes.

6 **Q.** All right. Since we're zoomed in to the Dallas-Fort  
7 Worth area, let's start there in terms of how you drew it.

8 **A.** Yeah.

10:25:52

9 **Q.** Can you tell the Court where did you -- when you sat  
10 down to draw the map or when you sat down to draw the  
11 Dallas-Fort Worth area, did you start with District 30 or  
12 33 or 32? How did you do that?

13 **A.** So --

10:26:06

14 **MR. McCAFFITY:** Objection, Your Honor, to the  
15 extent it calls for expert testimony.

16 **JUDGE GUADERRAMA:** Yes, sir.

17 **A.** I started work on the DFW area in actually the  
18 Panhandle.

19 **BY MR. KERCHER:**

10:26:14

20 **Q.** Did you say the Panhandle?

21 **A.** Yeah. Texas 13. That's right.

22 **Q.** Okay.

10:26:23

23 **MR. KERCHER:** Richard, can you zoom out -- and  
24 let's turn off cities so the map looks a little cleaner.

25 And I guess we need to see the Panhandle.

1 BY MR. KERCHER:

2 **Q.** Okay. So you said you started with District 13?

3 **A.** I did. Texas 13 was the first district I drew in  
4 2308.

10:26:47

5 **Q.** Okay. And in 2308, we can see that Texas 13 does  
6 indeed take up the Panhandle; and it stretches across  
7 North Texas underneath the Red River. Tell us about how  
8 you approached this and why that matters -- well, just  
9 tell us how you approached this.

10:26:59

10 MR. FOX: Objection, Your Honor. Expert  
11 testimony.

12 JUDGE GUADERRAMA: Yes, sir.

10:27:11

13 **A.** So I left 13 and 19, the borders between those two  
14 districts, exactly the same. 19 is the only seat actually  
15 in the state that didn't change at all, right? So what I  
16 did is worked east through 13 down to Wise and Denton  
17 Counties and changed the lines in Wise and Denton Counties  
18 first.

10:27:26

19 MR. KERCHER: So, Brian, if we could -- not  
20 Brian. Richard.

21 If we could zoom in back towards the DFW area. If we  
22 could continue to see that finger here in Wise and Denton  
23 Counties above DFW.

24 BY MR. KERCHER:

10:27:37

25 **Q.** All right, Mr. Kincaid. We've zoomed in a little bit.

1 Is this, what we are seeing here of Plan 2308, sufficient  
2 for you to explain what you did next in drawing the  
3 Dallas-Fort Worth area for 2025?

10:27:53

4 **A.** Since I know you can do it, could you put an overlay  
5 of 2193 over it? Would that be possible?

6 **Q.** Absolutely.

10:28:22

7 **A.** If you could zoom in on Denton, what you are going to  
8 see there, there is a little chunk in the southwestern  
9 side of Denton that was not in -- not in Texas 13 that I  
10 put into Texas 13. Those are some heavily Democrat  
11 precincts there in that area, which allowed me to pull  
12 some Democrats out of 26. And then I balanced the  
13 population of 13 to the west in Wise County.

10:28:40

14 And if you put the city lines back on, you'll see that  
15 the two cities that are in the center of Wise County are  
16 whole in the 13th -- in the 26th District.

10:28:56

17 **MR. FOX:** Objection, Your Honor, as expert  
18 testimony and as well as narrative. And move to strike on  
19 both grounds. I think the question was whether he was  
20 able to describe based on this view.

21 **JUDGE GUADERRAMA:** We'll consider the expert  
22 testimony.

23 As far as narrative, I'll instruct Mr. Kercher to ask  
24 a question.

10:29:04

25 **BY MR. KERCHER:**

1 **Q.** So I'm not sure that I actually followed the part  
2 about Wise County, Mr. Kincaid. Can you -- I think we  
3 have pulled up Wise County a little bit more clearly. We  
4 have the 2193 overlay on top of 2308, and we also have the  
5 city boundaries on.

10:29:21

6 Can you just please describe for the Court how you  
7 drew those -- the boundaries in Wise County?

8 **A.** Sure. So I --

9 MR. McCAFFITY: Objection. Calls for expert  
10 testimony.

10:29:31

11 JUDGE GUADERRAMA: Yes, sir.

12 **A.** So the 13th District had to get to a certain  
13 population. And that meant I had to take people out of  
14 the 13th District, because I had added some in in Denton.  
15 And so what I did is I took the line for Texas 26 and  
16 moved it north into Wise County.

10:29:41

17 You'll see the black line there. That's the 2308  
18 border. The red line is the 2193. And you'll note there  
19 that there is two little, you know, places, census places  
20 there. And I made sure that those were both whole with  
21 the line that I drew between 26 and 13 in Wise County.

10:29:59

22 BY MR. KERCHER:

23 **Q.** Okay. So we've started in Amarillo and have managed  
24 to come down to Denton. What did you -- what was the next  
25 step you took in drawing the DFW area?

10:30:17

1 **A.** Yeah. So I worked in a clockwise direction through  
2 Metro DFW. I shifted the lines with 26 in Denton County.  
3 So after I balanced 13 and had taken those areas out of  
4 Denton and put those in 13, the 26th District had lost a  
5 good number of Democrats. And so I cleaned up the line --

10:30:43

6 **Q.** Sorry. And so what did you do about that, if  
7 anything?

8 **MR. McCAFFITY:** Objection. Calls for expert  
9 testimony.

10:30:52

10 **A.** You'll note in the southeastern corner of Denton  
11 County there is a little red chunk there that had been  
12 drawn into Texas 32. Those were some heavy Democratic  
13 precincts that were drawn out of 26 last time, so I put  
14 those back into 26 under this draw.

10:31:07

15 **BY MR. KERCHER:**

16 **Q.** I'm sorry. I want to make sure I'm following you.  
17 You said the southeast corner of Denton; is that  
18 right?

19 **A.** That's correct.

10:31:13

20 **Q.** And so if we see this red squiggle here at the very  
21 bottom of southeast Denton County, is that what you are  
22 talking about?

23 **A.** Yes. It's heavily populated.

24 **Q.** Okay. Heavily populated how?

10:31:25

25 **A.** It has got a lot of Democrats in it.

1 **Q.** Why, if at all, did that matter to your map drawing  
2 process?

3 **A.** Well, again, when your --

10:31:34

4 MR. McCAFFITY: Objection. Expert testimony,  
5 Your Honor.

6 JUDGE GUADERRAMA: Yes, sir.

10:31:48

7 **A.** So the overall goal of this map was to create five  
8 solid Republican pickup opportunities. And in order to do  
9 that, you have to move Republican strength across the  
10 state from district to district. And so by putting more  
11 Democrats into 26, I was able to take those Democrats and  
12 put them in 26 and also make sure that the 26th District  
13 didn't become too Republican.

14 BY MR. KERCHER:

10:32:02

15 **Q.** Okay. So you had talked about how you moved  
16 clockwise. We started at 13 and 26. You have taken us to  
17 the southeast corner of 26, where you said there were a  
18 lot of Democrats.

19 What happened next in your map drawing process?

10:32:18

20 MR. KERCHER: And at this point, Richard, if we  
21 could slide the map up so that we can also see Dallas and  
22 Tarrant Counties, please.

10:32:31

23 **A.** Right. So actually the next district I worked on was  
24 4. But you'll note, if you go back to the cities, Frisco  
25 is made whole in the 4th District. So Frisco had been

1 split, but the piece of Frisco that was in Texas 26 was  
2 taken out and 4 took on all of Frisco. Then I balanced  
3 the population of 26 and Prosper.

10:32:53

4 **Q.** Okay. So we've talked about 26. You've talked about  
5 making Frisco whole in 4.

6 **A.** That's right.

7 **Q.** What was the next district in the DFW area you  
8 tackled?

10:33:03

9 **A.** The 4th and the 3rd were the next two districts I  
10 tackled.

11 **Q.** How did you do that?

12 MR. FOX: Objection, Your Honor. Expert  
13 testimony.

14 JUDGE GUADERAMA: Yes, sir.

10:33:07

15 **A.** There have been a series of complicated swaps that we  
16 had to do with Texas 4, Texas 3, and Texas 32, a few years  
17 back. And so with this draw, I tried to clean those up.  
18 And so what I did is I took the Plano split, which had  
19 been a three-way split --

10:33:29

20 BY MR. KERCHER:

21 **Q.** When you say "Plano split," can you explain to the  
22 Court what you are talking about?

23 **A.** Yeah. So the City of Plano within Collin County was  
24 split three ways. It's a large city and so --

10:33:38

25 **Q.** You say "was." Is that under the 2021 map?

1 **A.** That's correct.

2 **Q.** Please continue.

3 **A.** And so I got rid of one of those splits and made it a  
4 two-way split. And that was -- if you take off the  
5 overlay of 2193, you'll see instead of having a lot of  
6 twists and turns, it's a very clean line that divides  
7 Plano now.

10:33:50

8 **Q.** All right. So tell us again what we're looking at  
9 here.

10:34:04

10 **A.** That green -- that green in the southwest corner of  
11 Collin County.

12 **Q.** Where it says "Plano"?

13 **A.** That's right.

14 **Q.** So what I'm seeing -- and tell me if I'm wrong -- it  
15 looks like a border between 4 and 3 that goes through  
16 Plano; is that right?

10:34:14

17 **A.** That's correct.

18 **Q.** So you've talked about tackling 4 and 3 and about  
19 taking a three-part split in Plano down to two. What  
20 happened next in your map-drawing process in the DFW area?

10:34:31

21 **A.** Well, you'll note that the border --

22 **MR. McCAFFITY:** Objection, Your Honor. Expert  
23 testimony.

24 **JUDGE GUADERRAMA:** Yes, sir.

10:34:39

25 **A.** You'll note that the border between 3 and 4 is a

1 series of whole cities throughout Collin. So Allen and  
2 McKinney are both made whole in 3.

3 BY MR. KERCHER:

4 **Q.** Is that why you get -- about halfway down the border  
5 between 3 and 4, you have this funny little misshapen peg  
6 that juts out into the west? Is that to keep the city of  
7 McKinney whole?

8 **A.** That's the city boundary of McKinney, yes.

9 **Q.** Keep going, please.

10 **A.** And then if you work north, the city of Celina, which  
11 is in northwestern Collin County, goes across the county  
12 border; but all of Celina that is in Collin is whole in  
13 the 4th District.

14 **Q.** So that's Districts 3 and 4. What was the  
15 next -- what districts did you tackle next in the DFW  
16 area?

17 **A.** Sure. Well, I had to fix 4 out east for population as  
18 well. So I don't know if you need to zoom out for that or  
19 not, but I made the county in the northeastern corner  
20 whole. I think it was Clarksville -- not Clarksville, but  
21 the city has -- the county that has Clarksville in it, was  
22 split. So I made that whole.

23 And then I made sure that the -- is it the Red River  
24 munitions plant? I can't remember the exact name of it,  
25 but there is a military installation in -- if you could go

1 a little bit further to the east -- in -- yeah, in Bowie  
2 County. So I made sure that that -- that little carveout  
3 there is the military installation. So I made sure that  
4 was whole still in the 4th District.

10:36:14

5 **Q.** Okay. So in our efforts to understand how you drew  
6 DFW, we're now in far northeast Texas. Can you bring us  
7 back to DFW and tell us what happened next in that area as  
8 the map drawer?

10:36:29

9 **A.** Sure. So the 3rd District was the next thing I had to  
10 tackle. It had picked up a lot more Democrats in the  
11 Plano area than it had had before. And so what I did is I  
12 moved that east to pick up more Republican strength in the  
13 more rural East Texas counties. And then from there  
14 you'll note again, as I was doing throughout the area, the  
15 border between 4, 3, and 32 is the city boundary of  
16 Richardson.

10:36:45

17 **MR. McCAFFITY:** Objection. Move to strike based  
18 on it's expert testimony.

19 **JUDGE GUADERRAMA:** Yes, sir.

10:36:59

20 **A.** Richardson is the purple that spans the border.

21 **BY MR. KERCHER:**

22 **Q.** So if we're looking at the southern border of Collin  
23 County, we see the city of Richardson is in purple. And  
24 we see a boundary then kind of pop up across that southern  
25 Collin County border.

10:37:12

1 Is that what you are describing?

2 **A.** That's correct, yes.

3 **Q.** Okay. So Richardson is now whole in District 32; is  
4 that right?

10:37:22 5 **A.** That's correct.

6 **Q.** Is that the only change that you made to District 32?

7 **A.** No.

8 **Q.** What other changes, if any?

9 MR. McCAFFITY: Objection. Calls for expert  
10 testimony.

11 **A.** I completely transformed Texas 32.

12 BY MR. KERCHER:

13 **Q.** How?

14 **A.** Texas --

10:37:36 15 MR. McCAFFITY: Same objection.

16 MR. KERCHER: Do you guys just want placards?

17 **A.** So Texas 32 was a district that I knew existed four  
18 years ago and wanted to take the opportunity to draw it at  
19 this time. And so what I did is I took the more

10:37:59 20 Republican areas of North Dallas County --

21 BY MR. KERCHER:

22 **Q.** Now wait a minute. You said you knew that District 32  
23 existed four years ago and you wanted to do something with  
24 it this time.

10:38:11 25 What do you mean by that? Of course there was

1 District 32. What does that mean?

2 **A.** I knew there was a Republican district in North Dallas  
3 County that could be drawn four years ago that we did not  
4 draw.

10:38:23 5 **Q.** Okay. Okay. So understanding then that you are now  
6 looking at 32 four years later, how do you approach it?

7 **A.** Yeah.

8 MR. FOX: Objection. Expert testimony.

9 **A.** What you'll find is that the VTDS, so the precincts in  
10:38:38 10 North Dallas County are not as Democrat as the precincts  
11 in Central and Southern Dallas County.

12 And so I took the -- a lot of those are about  
13 40 percent Republican areas. And so I took those and then  
14 I extended the district east using a series of whole  
10:38:55 15 counties out into East Texas, with the exception of Hunt,  
16 which I had to split because it spanned the whole, you  
17 know, width of the district.

18 BY MR. KERCHER:

19 **Q.** Okay. What happened next?

10:39:09 20 **A.** Let's see here.

21 **Q.** Well, let me ask you, before you do that. You talked  
22 about the voting population in North Dallas County as  
23 being -- correct me if I'm wrong -- less Democrat than  
24 much of the rest of the county; is that right?

10:39:31 25 **A.** That's correct.

1 Q. And you are doing what then? You are pairing that  
2 with counties to the east of Dallas County?

3 A. That's right.

4 Q. Why?

10:39:39 5 A. Because they were heavily Republican --

6 MR. McCAFFITY: Objection. Expert testimony.

7 A. Because they were heavily Republican as well. So I  
8 was creating a new Republican district that extended from  
9 North Dallas County to the east.

10:39:51 10 BY MR. KERCHER:

11 Q. And help me understand when you say that the areas in  
12 North Dallas County are less Republican -- or excuse me --  
13 less Democrat than much of the rest of the county.

14 A. Yep.

10:40:00 15 Q. Does that mean that they are voting for President  
16 Trump in 2024? Does it mean that they are in some sense a  
17 red area or red precincts?

18 MR. FOX: Objection. Expert testimony.

19 A. There are parts of North Dallas County that are still  
10:40:17 20 Republican, but most -- a lot of North Dallas County has  
21 become more Democrat over time, but less so than the rest  
22 of the county.

23 BY MR. KERCHER:

24 Q. When I'm asking the question, I'm asking you not sort  
10:40:26 25 of as an academic question. I'm asking about your

1 understanding and why you would draw those precincts into  
2 eastern counties that are more Republican.

3 So can you tell the Court what your understanding was  
4 about the way that those north county -- those North  
10:40:45 5 Dallas County precincts were voting at the time that you  
6 drew this portion of the map?

7 MR. McCAFFITY: Objection. Calls for expert  
8 testimony.

9 **A.** Yeah. Using our political data, I was able to see  
10:40:53 10 that they were more Republican than the rest of the  
11 county. And so, again, those are precincts that I wanted  
12 to use to create a Republican district that would have  
13 gone for President Trump and give Republicans a pickup  
14 opportunity in 2026.

10:41:07 15 BY MR. KERCHER:

16 **Q.** Okay. So we are now finally beginning to work our way  
17 around the actual DFW districts. We're at sort of the  
18 3:00 position as we are going clockwise in CD 32.

19 What did you do next?

10:41:23 20 **A.** Next was Texas 5, right underneath it. So with  
21 Texas 5, a nonnegotiable for Texas 5 was that I had to  
22 keep Kaufman, Van Zandt, and Henderson Counties whole. I  
23 could not split those. So they had to remain the core of  
24 Texas 5.

10:41:41 25 **Q.** Is that, again, the instruction from the Texas

1 Republican congressional delegation?

2 **A.** Yes.

3 **Q.** Okay. So you are keeping Van Zandt and Kaufman County  
4 in 5. You can't split those out, according to the bosses  
5 in the delegation.

10:41:54

6 What happens next?

7 **A.** At that point, if you zoom in on Eastern Dallas County  
8 and put on the city lines, I can show you.

9 MR. KERCHER: Can we zoom in one more time,  
10 Richard.

10:42:08

11 BY MR. KERCHER:

12 **Q.** Is this what you need to be able to see, Mr. Kincaid?

13 **A.** Yeah. You can take the 2193 layer off to make it  
14 easier.

10:42:18

15 **Q.** All right. So right now we're looking at Eastern  
16 Dallas County. We can see a little bit of Kaufman County.  
17 We are still looking at 2308. We can see portions of  
18 CD 5, CD 30, CD 33. You just explained to us what you did  
19 with CD 5.

10:42:40

20 What did you do next?

21 MR. McCAFFITY: Objection. Calls for expert  
22 testimony.

23 **A.** So the precincts on the eastern side of Dallas County,  
24 some of them are more Republican than others. But what I  
25 did is I took all of Seagoville -- and forgive me, I

10:42:50

1 haven't lived in Texas for a long time, so I might  
2 pronounce some of the cities wrong.

3 BY MR. KERCHER:

4 **Q.** We say Seagoville.

10:43:03

5 **A.** Seagoville. So Seagoville and Mesquite and made those  
6 whole. And then you'll note that the line between 33  
7 there and 5 is the Garland and Dallas city line. So those  
8 were the borders that I used with Texas 5 moving it to the  
9 northwest.

10:43:21

10 And then if you had the political data, what you would  
11 be able to see is that area in North Dallas that I put  
12 into Texas 5 has several precincts that are more  
13 Republican than the areas to the south.

14 And so there is a city there --

10:43:40

15 **Q.** Okay.

16 **A.** I'm sorry. Go ahead.

17 **Q.** So you are talking to us now about North Dallas and  
18 putting portions of it into CD 5 because your  
19 understanding was that they are more Republican.

10:43:50

20 What did you do next?

21 MR. FOX: Same objection, Your Honor.

22 **A.** So those precincts there north of 33, east of 24,  
23 those are -- a lot of those are precincts that are up  
24 40-percent-something Trump, I believe. So I took those.

10:44:08

25 I put them into 5. The whole time I'm watching at the

1 bottom of my screen the Trump number dropping  
2 precipitously. And so I had to make sure that that number  
3 stayed above 60 percent Trump.

4 BY MR. KERCHER:

10:44:20 5 **Q.** So when you are saying you are watching the Trump  
6 number drop precipitously as you are adding some of these  
7 North Dallas regions to CD 5, is that because, as you told  
8 us a moment ago, that those are Trump 40 percent -- VTDs  
9 that voted for President Trump in 2024 something like  
10:44:39 10 40 percent?

11 **A.** A lot of them are. Some of them are even lower. So  
12 some of them are 30s. And so --

13 **Q.** Okay. So if your goal then is to keep this district  
14 at 60 percent or above, how do you counteract the -- that  
10:44:51 15 number dropping when you put these bluer VTDs into  
16 District 5?

17 MR. McCAFFITY: Objection. Expert testimony.

18 **A.** I added Anderson County back into the 5th District.  
19 It had been there in the previous decade. And then  
10:45:04 20 brought 5 to population north of downtown Dallas.

21 BY MR. KERCHER:

22 **Q.** Does that round out the changes that you made to  
23 District 5?

24 **A.** Yes.

10:45:14 25 **Q.** What district did you tackle next?

1 **A.** Beth Van Duyne's Texas 24.

2 **Q.** How did you do that?

3 MR. McCAFFITY: Objection. Calls for expert  
4 testimony.

10:45:27 5 **A.** All right. So Texas 24, I kept the Park Cities whole  
6 in Texas 24. If you zoom in, you'll be able to see that.

7 BY MR. KERCHER:

8 **Q.** I'm sorry. You said you kept which cities whole?

9 **A.** The Park Cities, University Park and Highland Park.  
10:45:44 10 They are called the Park Cities. I put them -- I made  
11 sure they were made whole in Texas 24.

12 Again, if we add the political shading, you could see  
13 that this area in the Park Cities and north is more  
14 Republican than the areas to the immediate west and south.

10:46:00 15 And so I took those areas --

16 **Q.** Mr. Kincaid, I'm sorry to interrupt you.

17 For the record, when you say the Park Cities, you say  
18 University Park and?

19 **A.** Highland Park right below that.

10:46:11 20 **Q.** I should know that. I live in Texas.

21 Those are sort of north of Central Dallas; is that  
22 right?

23 **A.** That's correct.

24 **Q.** And the way that they get -- they appear in  
10:46:21 25 District 24 under Plan 2308 is that they are in this sort

1 of peninsula that drops down into North or North Central  
2 Dallas County; is that right?

3 **A.** That's correct.

10:46:36

4 **Q.** Okay. And you said what about those cities? You kept  
5 them whole?

6 **A.** I did.

7 **Q.** And so when we see this southern boundary to  
8 District 24 beneath University and Highland Park, is part  
9 of that the city boundary for Highland Park?

10:46:48

10 **A.** To the southeast, those are areas that I had to go  
11 into to balance the population. Those are also VTDs that  
12 are -- well, they are in Dallas city proper, but they are  
13 also precincts that are in the 40s for President Trump  
14 versus the ones further down that are much bluer.

10:47:05

15 MR. McCAFFITY: Objection. Move to strike as  
16 expert testimony.

17 BY MR. KERCHER:

18 **Q.** Okay. So we have talked about how you made some  
19 changes to the Park Cities, as you say, and District 24.

10:47:15

20 What else did you do to that district when you redrew  
21 it for District 5?

22 **A.** Yeah. So I took Farmers Branch and made that whole as  
23 the conduit from the Park Cities to the west. So the city  
24 of Farmers Branch is made whole in Texas 24. It was split  
25 previously.

10:47:30

1 You'll also note -- and this is something I left out  
2 from the criteria earlier -- the city of Addison is  
3 slightly split there; and that was to make sure that the  
4 district office for Texas 24 stayed in Texas 24. One  
5 thing that --

10:47:42

6 **Q.** Let me ask you about that. Under the --

7 MR. McCAFFITY: Objection -- before you do that,  
8 Ryan.

9 Objection. Move to strike as both narrative and  
10 improper expert testimony.

10:47:49

11 JUDGE GUADERRAMA: We'll carry your expert  
12 testimony objection.

13 Narrative, not striking, I will just ask Mr. Kercher  
14 to ask another question.

10:47:59

15 MR. KERCHER: I tried to stop him, Your Honor.

16 BY MR. KERCHER:

17 **Q.** When you talk about moving that, making a change for  
18 the district office of 24 and Addison to stay in 24, was  
19 CD 24 held by a Republican under the 2021 map when you  
20 were drawing it?

10:48:16

21 **A.** Yes.

22 **Q.** And can you tell the Court whether or not you would  
23 prioritize keeping district offices for Democratic  
24 incumbents in the same way?

10:48:27

25 **A.** I did not.

1 Q. Okay. When you -- a moment ago you said that you used  
2 Farmers Branch as a conduit. We were talking about how  
3 you have this sort of peninsula in 24 that reaches down to  
4 the Park Cities. We can still see the bulk of 24 is just  
5 to the west in Tarrant County.

10:48:43

6 When you say Farmers Branch is a conduit, do you mean  
7 that's how you are connecting the Central Dallas portion  
8 to the Northeast Tarrant County portion?

9 MR. McCAFFITY: Objection. Leading.

10:48:58

10 A. The districts have to be contiguous, which means that  
11 they --

12 JUDGE GUADERRAMA: So I'll sustain the leading  
13 objection.

14 BY MR. KERCHER:

10:49:04

15 Q. What do you mean when you say you used Farmers  
16 Branch -- it was a long question, too.

17 What do you mean when you say you used Farmers Branch  
18 as a conduit?

19 MR. McCAFFITY: Objection. Calls for improper  
20 expert testimony.

10:49:14

21 A. It allowed me to connect the western side of the  
22 district with the eastern side of the district in one  
23 continuous seat. It also made the city boundary whole.

24 BY MR. KERCHER:

10:49:27

25 Q. Okay. But what is the point of that for you

1 as -- what was your goal when you did that?

2 MR. McCAFFITY: Objection. Calls for improper  
3 expert testimony.

10:49:41

4 **A.** Well, the 24th District gets most of its Republican  
5 strength from Northeast Tarrant County. So I needed to  
6 make sure that that continued to be connected.

7 BY MR. KERCHER:

10:49:54

8 **Q.** Okay. We've been talking about some of the changes  
9 you made to CD 24. Does that round out the changes that  
10 you made to CD 24?

11 **A.** It does not.

12 **Q.** What other changes did you make?

13 **A.** You'll note that the city of Coppell is whole there.  
14 Or Coppell. I can't remember how it's pronounced.

10:50:06

15 And then the split in Irving to the north there, that  
16 makes sure that Beth Van Duyne continued to live in Texas  
17 24. So that's why that is there.

18 And DFW, it keeps most of DFW also in 24.

10:50:22

19 **Q.** So you previously testified that you made a change to  
20 24 to keep the district office in 24?

21 **A.** That's right.

22 **Q.** You just testified that you made a change to 24 to  
23 keep Congresswoman Van Duyne in 24?

24 **A.** That's right.

10:50:33

25 **Q.** What consideration, if any, did you give to keeping

1 Democratic incumbents in the districts where they were  
2 under the 2021 map?

3 **A.** I didn't.

4 **Q.** Okay. So what other changes did you make to District  
5 24?

10:50:46

6 **A.** So in Northeast Tarrant County, if you'll notice  
7 there, I made sure that the district boundary aligned with  
8 the cities of Euless, Hurst, and Richland Hills, as well  
9 as North Richland Hills and Watauga.

10:51:05

10 There is a small split of Haltom City there; and that  
11 is just, again, to balance the population.

12 And I added a couple of precincts to clean up that  
13 line of the western side of 24 that you'll see there  
14 between 24 and 12.

10:51:21

15 **Q.** And as I'm looking at the western boundary of 24,  
16 particularly the northwestern boundary of 24, what forms  
17 that boundary?

18 Is that just a line you drew along a series of blocks  
19 or VTDs?

10:51:37

20 **A.** It's the interstate.

21 **Q.** Does that round out the changes you made to  
22 District 24, Mr. Kincaid?

23 **A.** From what I recall, yes.

24 **Q.** Okay. What district did you tackle next when you were  
25 redrawing the Dallas-Fort Worth area for the 2025

10:51:51

1 redistricting effort?

2 **A.** 12.

3 **Q.** How did you go about that?

4 **A.** I left the Parker County line exactly the same. I  
5 needed to make sure that Congressman Williams continued to  
6 reside in his seat.

10:52:08

7 **Q.** Is Congressman Williams another Republican incumbent?

8 **A.** Yes. In the 25th District.

9 **Q.** What other changes did you make to 12?

10:52:20

10 **A.** Yeah. So the changes were in the Fort Worth area.  
11 So, again, you'll notice there that the -- the border of  
12 12 and 25 is set at the Haltom City line, that yellow in  
13 the middle of Tarrant County.

14 And then from there I used rivers from down to the  
15 interstate. I believe it's Interstate 20, I believe. I  
16 might be wrong about that. But that major road down  
17 there. I used that and then balanced the population in  
18 Southwestern Tarrant County.

10:52:46

19 Again, that was in order to keep the district above  
20 60 percent Trump, make sure that the incumbent stayed in  
21 his seat, and also absorb more Democrats in the seat.

10:52:58

22 **MR. McCAFFITY:** Objection, Your Honor. Improper  
23 expert testimony.

24 **BY MR. KERCHER:**

10:53:10

25 **Q.** Does that round out the changes you made to

1 District 12?

2 **A.** Yeah. It might be helpful to put the 2193 overlay on  
3 there, just so that we can see how it changed.

4 **Q.** Sure.

10:53:37 5 **A.** Yeah. So you see there it moved to the east. That's  
6 a river boundary. I can't remember. I think it might be  
7 called the South Fork of the Trinity River or something  
8 like that. So it's just a river that runs through Fort  
9 Worth, and I used that as the boundary.

10:53:50 10 Like we talked about before, I tried to use neutral  
11 boundaries across the entire map where possible.

12 MR. McCAFFITY: Objection. Move to strike  
13 narrative. No question was asked.

14 JUDGE GUADERAMA: I'll sustain that objection  
10:54:06 15 since no question was asked.

16 BY MR. KERCHER:

17 **Q.** Mr. Kincaid, did you use any natural boundaries to  
18 help you draw the line of District 12 as you were drawing  
19 C2308?

10:54:16 20 **A.** Yes. I used a river that cut through the middle of  
21 the county.

22 **Q.** What natural boundaries did you use?

23 **A.** Again, there is a river there. I believe it's called  
24 the South Fork of the Trinity River, but I might be  
10:54:27 25 remembering that wrong. And then Interstate 20 to the

1 south there. And then there is a series of VTD lines at  
2 the bottom in the southwestern corner of 12.

3 **Q.** When you say Interstate 20, that's that sort of rocker  
4 there in South Central Tarrant County that forms the --

10:54:44

5 **A.** It's that yellow line. If you look in the green,  
6 you'll see 20 there. And if you continue that yellow line  
7 across until it disappears under the black, that's the  
8 highway I'm talking about -- the interstate I'm talking  
9 about.

10:54:55

10 **Q.** Okay. We've talked about District 12.  
11 What district did you tackle next?

12 **A.** I -- the next district I tackled was 33 and 30.

13 **Q.** Where did you start when you were addressing  
14 Districts 33 and 30?

10:55:19

15 MR. McCAFFITY: Objection to the extent it calls  
16 for improper expert testimony.

17 **A.** So once the -- I kind of had a border built in Tarrant  
18 and Dallas where everything --

19 BY MR. KERCHER:

10:55:34

20 **Q.** Let me stop you there.

21 When you say you kind of had a border built, what are  
22 you looking at where you are seeing this border? Are you  
23 talking about in the 2021 map?

24 **A.** No. I'm talking about the district lines that were  
25 drawn in what would be 2308.

10:55:45

1 Q. Okay.

2 A. And so you don't want to draw a map -- and I used to  
3 make this mistake when I was a young map drawer, where you  
4 are drawing something and you finish and then you don't  
10:55:55 5 have the right population for a district that you are  
6 drawing, and so you have to go find population other  
7 places and redo whole areas of your map.

8 And so what I did is I took what became 30 and 33 and  
9 drew one megadistrict, for lack of a better term, of the  
10:56:15 10 most Democrat VTDs I could find in Dallas and Tarrant  
11 County and put them all in one district.

12 Q. Okay. So once you had this Democratic megadistrict --

13 A. Yeah.

14 Q. -- how did you go about putting that into

10:56:36 15 making -- putting -- taking the megadistrict and putting  
16 it into two pieces?

17 A. Yeah.

18 MR. McCAFFITY: Objection. Calls for improper  
19 expert testimony.

10:56:43 20 A. So, actually, the next thing I did is I went over and  
21 drew the 6th District.

22 BY MR. KERCHER:

23 Q. So if I understand you, you have got this

24 mega-Democratic district in mostly Dallas County, part of

10:56:55 25 Tarrant County?

1 A. That's right.

2 Q. And then you put a pin in that and went over to  
3 District 6; is that right?

4 A. That's right.

10:57:00 5 Q. Okay. Let's talk about the changes that you made to  
6 District 6.

7 A. Yeah. Could you put the 2193 layer back and zoom in  
8 to Irving, please.

9 So Irving was carved up a lot in the 2021 redraw.  
10:57:35 10 You'll see all those red lines all over the place there.  
11 What was remarkable when I looked at the political data  
12 for 2024 is that these areas in Irving had moved  
13 significantly to the right, and most of them were over --

14 Q. When you say "areas" --

10:57:52 15 MR. FOX: Objection, Your Honor. Move to strike  
16 the last answer as based on expert testimony.

17 JUDGE GUADERRAMA: Based on expert --

18 MR. FOX: Expert testimony.

19 JUDGE GUADERRAMA: -- testimony? Yes, sir.

10:58:01 20 BY MR. KERCHER:

21 Q. So I want to make sure I'm following this, because  
22 we're looking at a lot of lines right now with the 2021  
23 map overlay. You were talking about looking at Irving.  
24 And then you said that there were areas that had moved to  
10:58:12 25 the right.

1 Did I follow that closely enough?

2 **A.** Yeah. The reason Irving --

3 **Q.** Hold on.

4 Did I follow that closely enough?

10:58:17 5 **A.** Yes.

6 **Q.** Okay. When you say that there are areas around Irving  
7 that have moved to the right, what did you  
8 understand -- what do you mean by that? What does that  
9 mean to you?

10:58:27 10 **MR. FOX:** Same objection, Your Honor.

11 **JUDGE GUADERRAMA:** Yes, sir.

12 **A.** The urban area became significantly more pro Trump in  
13 2024 than it had been in 2020. And so if you take that  
14 2193 layer back off again, you'll note that the new line  
15 for Texas 6 is a much cleaner line. That's --

10:58:43

16 **THE WITNESS:** Can I get another bottle of water  
17 by any chance? I'm talking a lot more than I usually do.  
18 Thank you.

19 **A.** So you'll see that the new Texas 6 is bound by the  
20 city of Irving on the eastern side. And then --

10:59:01

21 **BY MR. KERCHER:**

22 **Q.** Well, I'm sorry. I'm going to need you to kind of  
23 piece that together for me.

24 You said portions of Irving became more pro Trump in  
25 2024?

10:59:17

1 **A.** That's correct.

2 **Q.** And so you made a change regarding those portions  
3 compared to District 6. Why?

10:59:27

4 MR. McCAFFITY: Objection, Your Honor. Calls for  
5 improper expert testimony.

6 **A.** It's putting more Republicans in the Texas 6 and out  
7 of 30 and 33. Because I wanted to make sure that the  
8 future 30 and 33 were as Democrat as I could possibly make  
9 them.

10:59:40

10 BY MR. KERCHER:

11 **Q.** Okay. And so that helps us understand what is going  
12 on in Irving regarding District 6.

13 What other changes, if any, did you make to District  
14 6?

10:59:49

15 **A.** Sure. If you can put the 2193 layer back on.

16 MR. KERCHER: Your Honor, I know we're close to  
17 break. I think we'll finish District 6, and then we'll  
18 take a break. Does that make sense?

19 JUDGE GUADERRAMA: Yes, sir.

11:00:01

20 BY MR. KERCHER:

21 **Q.** All right. Mr. Kincaid, what other changes to  
22 District 6 did you make?

23 **A.** Yeah. So you'll note there that the 6th District had  
24 this very narrow throat that went up from -- I think it  
25 was Ellis County to the south, to carve in and pull in

11:00:12

1 these -- the urban population. So instead of doing that,  
2 I cleaned it up and used the city boundaries of Arlington  
3 for the most part, as well as if you can go down a little  
4 bit further south, the city boundary of -- I can't see  
5 that -- of Rendon is also used there as a boundary for  
6 Texas 6.

11:00:33

7 So I used Rendon, Arlington, for the most part, and  
8 then when I reached -- the entertainment district had to  
9 remain in the 25th District.

11:00:50

10 **Q.** When you say "entertainment district," for those who  
11 may be reading this transcript later who are not familiar  
12 with DFW, what do you mean by that?

13 **A.** The entertainment district is where the stadiums and  
14 other things are in eastern Arlington.

11:01:05

15 **Q.** I think most people from Texas would say that's where  
16 the Cowboys play.

17 **A.** Okay.

18 **Q.** Yeah. So you are talking about the area there where  
19 you are -- where Mr. Jones has his big house.

11:01:16

20 What was important about that as you are drawing this  
21 line?

22 **A.** I knew it was an important area for Congressman  
23 Williams. And he has the coolest district office in the  
24 country. It's actually in Ranger Stadium. And so that  
25 stayed in Texas 25.

11:01:28

1 Q. Okay. Does that round out the changes that you made  
2 to District 6?

3 A. No. I made some changes to the south as well for  
4 population reasons. So it lost a whole bunch of counties  
11:01:42 5 that it had to the east and became a more compact  
6 district.

7 Q. Is that on account of reaching further into the more  
8 densely populated areas of Tarrant and Dallas County?

9 A. It picked up a lot of Arlington and had to lose some  
11:01:55 10 rural counties to the southeast, yes.

11 Q. Does that round out the changes you made to 6?

12 A. Yes.

13 MR. KERCHER: Your Honor, would now be a good  
14 time for our morning break?

11:02:04 15 JUDGE GUADERRAMA: Yes, sir. Let's recess to  
16 11:15.

17 COURT SECURITY OFFICER: All rise.

18 MR. VELEZ: This court stands in recess.

19 (Recess from 11:02 a.m. to 11:17 a.m.)

11:17:23 20 JUDGE GUADERRAMA: Be seated, please.

21 The witness, Mr. Kincaid, is on the witness stand.

22 Mr. Kercher.

23 JUDGE BROWN: Mr. Kercher, before you start up  
24 again. You mentioned yesterday that you have a lawyer who

11:17:37 25 just passed the bar and needs to be sworn in?

1 MR. KERCHER: Yes, Your Honor. Grey Johnston.

2 JUDGE BROWN: Okay. I bet that one of us could  
3 do that at the beginning of the lunch break, if that works  
4 out for you-all.

11:17:48 5 MR. KERCHER: We would very much appreciate that.  
6 Thank you, Your Honor.

7 Richard, if we could please bring back up the  
8 DistrictViewer version of 2308.

9 BY MR. KERCHER:

11:17:59 10 **Q.** Mr. Kincaid, when we broke -- let's see where we were.

11 You had said that you created a super district between  
12 what are now 30 and 33 by just lumping a bunch of Democrat  
13 areas together.

14 **A.** That's correct.

11:18:14 15 **Q.** And that you put a pin in that and then went and made  
16 changes to District 6; is that right?

17 **A.** That's correct.

18 **Q.** Okay. And you have completed telling us the changes  
19 that you made to District 6.

11:18:26 20 Let's go -- does that mean that you then turned back  
21 to the super district; is that right?

22 **A.** Yeah. We can skip over 25, yeah. Because it's pretty  
23 much that border between 6 and 25 set 6 as well, so yes.

24 **Q.** So I don't want to skip over anything. When you say  
11:18:43 25 the border with 6 set 25, what does that mean?

1 **A.** It just means that if you look there -- it may be  
2 worth taking off 2193 to make it cleaner. Yeah.

3 So it just means there that the border between 6 and  
4 25 was set between the two seats, all the way up through  
11:19:10 5 using the Rendon border, using the -- you'll notice there  
6 in Cleburne it is split. And the reason for that is  
7 because Mr. Williams' district office in Cleburne was  
8 drawn into that seat there.

9 MR. McCAFFITY: Objection. Move to strike.  
11:19:23 10 Improper expert testimony.

11 BY MR. KERCHER:

12 **Q.** Okay. So let's talk about what you are calling the  
13 super district. And just so I'm all clear, when you say  
14 "super district," are you saying that the two areas that  
11:19:36 15 now comprise Districts 30 and 33 for this period you had  
16 sort of left as a big blue lump; is that right?

17 **A.** It was a big blue lump, that's right.

18 **Q.** All right. At some point you had to divide the big  
19 blue lump into two blue lumps. How did you do that?

11:19:55 20 **A.** Yeah. So with Texas 30 was the one I had focused on,  
21 if you had -- if we had the partisan shading, what you  
22 would see here is south of downtown is a decent number of  
23 clustered precincts that are all districts where President  
24 Trump received 20 percent of the vote or less -- or, yeah,  
11:20:20 25 or less, right? So I put all of those together in one

1 seat.

2 **Q.** And that --

3 MR. McCAFFITY: Objection, Your Honor. Move to  
4 strike expert testimony.

11:20:28

5 BY MR. KERCHER:

6 **Q.** By 20 percent of the Trump vote or less, are you  
7 saying that those are highly Democratic areas?

8 **A.** Very Democratic precincts, yes.

11:20:38

9 **Q.** So what did you do with those very Democratic  
10 precincts just to the south of Downtown Dallas?

11 **A.** I assigned them all to the 30th District. And then  
12 from there I worked to the west. And there is a series of  
13 heavily Democrat precincts all through that area. I  
14 assigned those into 30. And then given that we had  
15 taken -- I had taken in the western border of Dallas  
16 County, I put the 250,000 people from Tarrant also into  
17 that seat. So it was roughly the --

11:20:58

18 **Q.** Well, now, wait a minute. You just mentioned Tarrant  
19 County and 250,000 people from there.

11:21:13

20 **A.** That's right.

21 **Q.** As I'm looking at District 30 on DistrictViewer here,  
22 I see that there is a portion of it that juts into Tarrant  
23 County.

24 That's what you are describing; is that right?

11:21:23

25 **A.** That's correct.

1 Q. And so explain to me, again, why it is that you took  
2 that portion of Tarrant County and added it to 30.

3 Are those Democrats as well or is there another  
4 reason?

11:21:33

5 MR. McCAFFITY: Objection. Calls for improper  
6 expert testimony.

7 A. Those are heavily Democrat precincts in southeastern  
8 Tarrant County.

9 BY MR. KERCHER:

11:21:42

10 Q. And what about equalizing the population? How are you  
11 managing that as you are dividing this big blue lump  
12 between 30 and 33?

13 A. Sure. So if you --

14 MR. McCAFFITY: Same objection, Your Honor.

11:21:49

15 A. If you zoom in, I would like to show you the border  
16 between 30 and 33.

17 BY MR. KERCHER:

18 Q. Sure. Which part of that border, because it looks  
19 like they share kind of a long one?

11:21:57

20 A. You just -- you can start there where it said Grand  
21 Prairie a second ago, and we can work to the east.

22 So -- yeah. Let's do this here.

23 So the border was set again, like I had been doing in  
24 the rest of the region, using neutral boundaries. So

11:22:10

25 I-20. And then from there I worked north to some streets

1 and then up the local metro line, I think it is -- I can't  
2 remember what it's called. And then again joined a  
3 highway.

11:22:25

4 **Q.** So you are doing a great job, but you lost me. Where  
5 are we here on the map? I'm sorry.

6 **A.** The black line between 30 and 33.

7 **Q.** But that 30 and 33 line, right, goes more or less  
8 through the center of Dallas County and then trails off to  
9 the southeast?

11:22:37

10 **A.** That's correct.

11 **Q.** If we start in the southeast and we can follow that  
12 border around, it's very bumpy in the southeast. Why is  
13 that?

14 **A.** Those are precinct lines.

11:22:46

15 **Q.** As we move into Southeast Dallas, what lines are you  
16 following there?

17 **A.** In Southeast Dallas?

18 **Q.** Yes.

11:22:57

19 **A.** Those are the precinct lines there. And then you work  
20 up from there. And if you zoom in -- let's see here.

21 Do you see where it says "Dallas" there?

22 **Q.** Right in the center. Yes, sir.

23 **A.** Yeah. Just to the northeast of there. A little  
24 further in. A little further in.

11:23:09

25 Do you see that little nub there that drops below the

1 street?

2 **Q.** Yes.

3 **A.** That's where I balanced the population.

4 **Q.** The little triangle there just south of the

11:23:20 5 interstate; is that right?

6 **A.** That's right.

7 **Q.** Okay.

8 **A.** And so what you will see is it all traces city lines  
9 or the edge of VTDs --

11:23:27 10 **Q.** Okay.

11 **A.** -- with a couple exceptions.

12 **Q.** And so as you have described this line to us that  
13 separates 30 and 33, you have described some natural  
14 boundaries. You described a place where you equalized the  
15 population.

11:23:40

16 What other considerations, if any, went into splitting  
17 the big blue lump into 30 and 33?

18 **A.** My objective was to make 30 the more heavily Democrat  
19 seat of the two. And so I put all of the most heavily  
20 Democrat contiguous precincts in there. There were a  
21 few --

11:23:55

22 **Q.** Let me ask you: Why did you care about which of those  
23 two was more heavily Democrat?

24 **MR. McCAFFITY:** Objection. Calls for expert

11:24:07

25 testimony.

1 **A.** It just made for a more compact seat. And so what I  
2 did is I wanted to -- I was sorting off the politics  
3 within the Democrat seats, right? So -- and that's how 30  
4 came to be.

11:24:19

5 BY MR. KERCHER:

6 **Q.** You have talked to us about how you separated the blue  
7 seat 30 and 33 and explained the borders to 30 to us.

11:24:36

8 What other changes, if any, did you make to 33? Or  
9 does the splitting of that big blue lump between the two  
10 explain all of 33?

11 **A.** 33 was the district that was left over from the  
12 creation of 30 within the super district.

11:24:56

13 **Q.** Okay. Do you know whether the way that you drew the  
14 DFW area and the way that you have just described it to  
15 the Court is the way the DFW area wound up looking in the  
16 enacted map 2333?

17 **A.** It did.

18 **Q.** Okay.

11:25:08

19 MR. KERCHER: Richard, could we please bring up  
20 for demonstrative purposes only at this time Defendants'  
21 Exhibit 1536.

11:25:42

22 MR. FOX: Your Honor, while they are working to  
23 bring this up, we are going to object to any questioning  
24 about this exhibit, whether as a demonstrative or in  
25 evidence, as improper retained and undisclosed expert

1 testimony. It's our understanding this demonstrative was  
2 generated after Mr. Kincaid drew the map in preparation  
3 for this litigation, and that we think is clearly improper  
4 retained expert testimony that was not disclosed.

11:25:56

5 JUDGE GUADERRAMA: This is 1536?

6 MR. FOX: Correct.

7 JUDGE GUADERRAMA: All right. We'll carry that.

8 BY MR. KERCHER:

11:26:06

9 **Q.** Mr. Kincaid, you are seeing on your screen, or should  
10 be, what has been marked as Defendants' 1536 for ease of  
11 reference in the record.

12 Do you recognize this?

13 **A.** Yes.

14 **Q.** What is it?

11:26:13

15 **A.** This is an overlay of the 2024 presidential election  
16 results. Well, the shading of 2024 presidential election  
17 results.

18 **Q.** Did you make this?

19 **A.** I did.

11:26:25

20 **Q.** Can you tell the Court whether this is the kind of  
21 thing that you are looking at when you are drawing a map?

22 MR. McCAFFITY: Objection. Calls for expert  
23 testimony.

24 **A.** It is.

11:26:34

25 BY MR. KERCHER:

1 Q. Okay. Did you have this or an output like this when  
2 you drew the DFW area?

3 A. Yeah. My screen looked a lot like this, yes.

11:26:52

4 Q. When you look at what has been marked as 1536, we see  
5 that it is a series of red and blue VTDs; is that right?

6 A. That's correct.

7 Q. What do you see when you look at Defendants' Exhibit,  
8 for demonstrative purposes, 1536?

9 A. The red areas are more Republican than the blue areas.

11:27:07

10 And so --

11 Q. Is that -- help me understand that. When it's more  
12 Republican than the blue areas, is that the red areas are  
13 voting 50 plus 1 percent for President Trump in '24?

11:27:22

14 A. I don't remember what the split is on this. I think  
15 it's probably around 40 percent based off of some of the  
16 stuff I'm seeing here. But, yes, the reds are going to be  
17 about 40 percent Trump and above.

18 Q. Okay.

11:27:35

19 A. And you'll notice the North Dallas area, like I was  
20 talking about before, is more Republican than the South  
21 Dallas area.

22 Q. The white lines that we see on this demonstrative,  
23 what are those, if you know?

24 A. Those are the districts for 2308.

11:27:47

25 Q. So those are the district lines that you drew for the

1 Dallas-Fort Worth area; is that right?

2 **A.** That's correct.

3 **Q.** And is it right to say -- well, let me ask.

11:27:59

4 When you say the blue districts are more Democratic  
5 than the red districts, do the lines that you draw from  
6 your perspective in the 2308 map, this portion that became  
7 the 2333 map, do they follow those blue districts -- those  
8 boundaries between the blue and red districts or no?

9 **A.** Not perfectly, but they do follow them.

11:28:19

10 **Q.** The way they follow, is that intentional?

11 **A.** You have to go back. I'm sorry. Could you ask that  
12 one more time?

13 **Q.** Sure.

11:28:28

14 Where the district lines that you drew appear to line  
15 up with the boundaries between the red areas and the blue  
16 areas --

17 **A.** Right.

18 **Q.** -- is that intentional?

19 **A.** Yes.

11:28:36

20 MR. KERCHER: Understanding that -- and I imagine  
21 we'll get the same objection from counsel -- I'll ask  
22 Richard to bring up, for demonstrative purposes only at  
23 this time, Defendants' Exhibit 1539.

11:28:47

24 MR. FOX: And, yes, Your Honor. Same objection  
25 to all the questions about this demonstrative.

1 BY MR. KERCHER:

2 Q. Mr. Kincaid, do you recognize this?

3 A. I do.

4 Q. Did you make it?

11:28:55 5 A. I did.

6 Q. What is it?

7 A. This is South Dallas County shaded to 20 percent  
8 Trump.

9 Q. Why is that? Why does that matter to you? And I'm  
11:29:04 10 not asking why it might matter to other people or other  
11 map drawers.

12 As you are drawing the map, does this matter to you  
13 and why?

14 MR. McCAFFITY: Objection. Calls for improper  
11:29:13 15 expert testimony.

16 A. Since I was sorting the large district by  
17 partisanship, what you'll find here is that the VTDs to  
18 the south of the line are the more heavily Democrat areas.  
19 You'll see some scattered along the top, but the  
11:29:27 20 contiguous ones run south of there.

21 MR. KERCHER: Richard, could we please bring up  
22 for demonstrative purposes only at this time Defendants'  
23 Exhibit 1540.

24 MR. FOX: Same objection to all questioning about  
11:29:38 25 this one.

1 JUDGE GUADERRAMA: Yes, sir.

2 BY MR. KERCHER:

3 Q. Mr. Kincaid, do you recognize this?

4 A. I do.

11:29:43 5 Q. Did you make it?

6 A. I did.

7 Q. What is it?

8 A. It's also the same area, what became Texas 30, shaded  
9 by partisanship. And I believe this is at 30 percent, but  
10 I'm not -- I can't tell by the labeling here. I don't  
11 have the label of the map.

12 Q. When you say 30 percent, do you mean 30 percent to the  
13 VTD or voting for Trump?

14 A. That's correct, yeah.

11:30:03 15 Q. That's according to 2024 data?

16 A. That's correct.

17 Q. I mean, it looks like there is a lot of blue here to  
18 me. And I'm not trying to put words in your mouth. If  
19 that's not right, you should tell me.

11:30:14 20 But when I look at the blue on 1540, is this the big  
21 blue lump you described to the Court earlier?

22 A. That's correct. The southern part of it, yes.

23 Q. And we see this white line going through the center  
24 and sort of the top portion of the large bulk of these  
11:30:33 25 blue VTDs. Is that the line that you drew between

1 Districts 30 and 33?

2 **A.** The white line?

3 **Q.** Yes.

4 **A.** Yes.

11:30:48 5 **Q.** And did you say that the coloring here is based on  
6 Trump at 20 percent? 30 percent? 40 percent? What?

7 **A.** I don't recall. I can't tell by the labels. I think  
8 it's 30. I don't think -- it's not 20. But I do want to  
9 note, since we talked about it before and I mentioned it,

11:31:07 10 that Tarrant County corner of it, as you'll note there, it  
11 is all the most heavily Democrat precincts, except for the  
12 ones I needed to create the conduit into Irving, are all  
13 in Texas 30.

14 MR. McCAFFITY: Objection. Move to strike.

11:31:21 15 Narrative. Not responsive to the questioning.

16 JUDGE GUADERRAMA: I'll overrule the motion to  
17 strike, but you can ask another question.

18 BY MR. KERCHER:

11:31:30 19 **Q.** Mr. Kincaid, earlier we were talking about how you had  
20 pulled in like 250,000 people from Tarrant County into  
21 CD 30.

22 Do you remember that?

23 **A.** Yes.

24 **Q.** Do you see the portion of Tarrant County that you  
11:31:38 25 pulled into CD 30 on Demonstrative 1540?

1 **A.** Yes.

2 **Q.** Where is that?

3 **A.** It's the area to the far left of this image. And  
4 you'll see a continuous grouping of heavily Democrat

11:31:55 5 precincts on the southeastern side of Tarrant County that  
6 were put into 30.

7 **Q.** When you say the heavily Democrat grouping, does that  
8 have anything to do with why you put that portion of  
9 Tarrant County into CD 30?

11:32:08 10 **A.** It is the reason I put it into CD 30.

11 **Q.** Okay. Mr. Kincaid, let's look at Harris County.

12 **A.** Yeah.

13 MR. KERCHER: Richard, could we please go back to  
14 DistrictViewer and look at C2308.

11:32:27 15 BY MR. KERCHER:

16 **Q.** Now, Mr. Kincaid, while that comes up, let's sort of  
17 set the stage for Harris County. Earlier this morning  
18 when I asked you "How did you draw DFW?", you told us you  
19 started clear in Montana and worked your way all the way  
11:32:39 20 down to DFW.

21 When you started drawing the Harris County area, the  
22 Houston area, for map C2308, where did you start?

23 **A.** The thing with the Harris County area, we're kind of  
24 jumping ahead on my mapping process for this. I had

11:32:55 25 already drawn the rest of the state and got to the Harris

1 County area last.

2 **Q.** So let me make sure I understand. When you drew  
3 Harris County, that was the last portion of the state that  
4 you drew?

11:33:06 5 **A.** That's correct.

6 **Q.** Is there a reason for that?

7 **A.** I like to start in the corners when I'm drawing maps.

8 And so what I did after DFW is I finished the first  
9 district, and you'll see there it's all whole county and  
10 up to 4 where it balances the population in voting. But  
11 if you look -- if you zoom back out a little further.

11:33:19

12 Okay. So I had already worked on 16 and did everything  
13 along the Rio Grande before getting to the Houston area.

14 So when you are asking me where I started with

11:33:45

15 Houston, the honest answer is I started with the rest of  
16 the state and worked toward Houston. So the Harris County  
17 area was the last thing I drew in the map.

18 **Q.** So prior to drawing Harris County, what was the  
19 next-to-last portion of Texas that you had drawn?

11:33:59

20 **A.** The central Texas area was the most complicated area  
21 to draw, so that was the last before Harris.

22 **Q.** Okay. So you have got Harris County left over?

23 **A.** Yeah.

24 **Q.** And this is for 2308?

11:34:15

25 **A.** Uh-huh.

1 Q. Where did you start? Did you target a district in  
2 particular? How did you do it?

3 A. Yeah. So if you'll go back in there.

4 So the first thing that I worked on doing with the  
11:34:28 5 Harris County area was actually 36 and 14. So like the  
6 other ones, I am kind of framing in the county. And so  
7 for 36 it had been -- I changed the line in Harris to come  
8 in and pick up some Democrat areas closer in toward  
9 downtown. And then, you know, you'll see the Jefferson  
11:34:52 10 County line stayed roughly the same between 14 and 36.  
11 And then moved 14 down through Galveston County and  
12 changed the orientation of Erazoria. Yeah.

13 Q. Okay. So you've talked about sort of starting at 36  
14 and sorting out 14. 14 is the Galveston County area, and  
11:35:14 15 it's sort of moving towards Harris County.

16 What did you do next?

17 A. Yeah. At that point -- so if you look at Texas 18  
18 here in the middle, so there were four Democrat seats in  
19 the middle of Harris County before. And, you know,  
11:35:34 20 because of the redraw and the desire to pick up five  
21 seats, one of those seats had to be flipped. And so I  
22 began looking at the Democrat areas within Harris County.  
23 And so for the 18th --

24 Q. So there were several Democrat seats in Harris County?

11:35:50 25 A. Right.

1 **Q.** You've drawn the Court's attention to 18. Where did  
2 you turn your attention next as you are evaluating those  
3 four Democratic seats?

11:36:03

4 **A.** Yeah. So like in the Dallas County area, what I did  
5 is I shaded on the partisanship and looked for the most  
6 partisanly Democrat precincts in Harris County and then  
7 into Fort Bend and Brazoria County and put all of those  
8 together in the 18th District.

11:36:21

9 **Q.** So earlier you testified about sort of your process  
10 and you like to -- I think you said you like to  
11 start -- you put it more cleverly than this, but you start  
12 with bigger geographies and work down; is that right?

13 **A.** That's correct.

11:36:34

14 **Q.** So at this point you are looking at particularly blue  
15 VTDs and putting those together in large bundles; is that  
16 right?

17 **A.** That's correct.

18 **Q.** Okay. So tell us where sort of in Harris County you  
19 are putting together your first bundle of blue VTDs?

11:36:46

20 **A.** In the 18th District. What became the 18th District.

21 So if you zoom out, so you'll see there the 10th  
22 District is coming in over the top of 8. So 10 ended up  
23 picking up some Republican precincts from 8. So 8 had  
24 to -- you know, I was trying to figure out all of these  
25 things kind of at once because it was a pretty complicated

11:37:09

1 draw. But so 18 was drawn there.

2 And then 29 to the north of 18 was also a pretty  
3 straightforward draw. If you shade on the partisanship,  
4 what you'll see there is the border on the eastern side  
11:37:27 5 and the northern side are all very, very heavily Democrat  
6 precincts.

7 MR. FOX: Objection. Narrative. As well as  
8 moving to strike based on expert testimony.

9 JUDGE GUADERRAMA: All right. Let's ask a  
11:37:38 10 question here.

11 MR. KERCHER: I try to get to them, Judge.

12 BY MR. KERCHER:

13 Q. Mr. Kincaid, you are a big talker. You know a lot  
14 about what you have done here. Please remember to let me  
11:37:46 15 ask a question. Listen to my question and make sure you  
16 just answer my question.

17 A. Yep.

18 Q. In fact, you moved a little faster across 18 than I  
19 kind of thought you would. You talked about putting  
11:37:57 20 together sort of a bundle of blue VTDs.

21 Is that all there was to it to drawing 18? Did it  
22 just come together that simply, or were there other  
23 considerations?

24 MR. McCAFFITY: Objection. Calls for improper  
11:38:09 25 expert testimony.

1 **A.** Yeah. So the eastern border of 18 was very  
2 straightforward.

3 BY MR. KERCHER:

4 **Q.** Were there other considerations?

11:38:15

5 **A.** For 18?

6 **Q.** Yes.

7 **A.** There were.

8 **Q.** What were they?

9 **A.** So the other consideration --

11:38:21

10 MR. McCAFFITY: Same objection, Your Honor.

11 JUDGE GUADERRAMA: Yes, sir.

12 **A.** So for 18, some of the other considerations were for  
13 how 22 was going to be drawn. So I had to look at the  
14 Fort Bend County line as well at that point.

11:38:32

15 BY MR. KERCHER:

16 **Q.** Why did that matter to you?

17 **A.** Well, Fort Bend, the 22nd District is one of the ones  
18 that I had mentioned earlier that was not a 60 percent  
19 Trump seat to begin with. And so I needed to make sure  
20 that it either stayed as Republican as it had been before  
21 or got better. And so some of the precincts along the  
22 border of 22 and 18 are not as deep blue as the ones you  
23 would see in the rest of 18, but they are still much more  
24 Democrat than the rest of 22. So I had to look at that  
25 part of it as well.

11:39:00

1 Q. So --

2 MR. FOX: Objection, Your Honor. Move to strike  
3 based on expert testimony.

4 JUDGE GUADERRAMA: Yes, sir.

11:39:07

5 BY MR. KERCHER:

6 Q. So is it right to say, as you are looking at the  
7 boundary between 18 and 22, you are trying to balance,  
8 draw in a very blue district and a very red district with  
9 some precincts that are neither very blue or very red or  
10 have I misunderstood?

11:39:22

11 MR. FOX: Objection, Your Honor. Leading. As  
12 well as expert testimony.

13 MR. KERCHER: It was in the alternative. I  
14 don't --

11:39:27

15 JUDGE GUADERRAMA: All right. I'm going to  
16 overrule the leading objection. And for the record, they  
17 are objecting to any expert testimony.

18 BY MR. KERCHER:

19 Q. You may answer, sir.

11:39:34

20 A. There are some marginal, like 40-ish percent VTDs and  
21 30, 40 percent VTDs along the border --

22 Q. When you are talking about 30 percent to 40 percent  
23 VTDs, you are talking about the --

24 A. Trump percent.

11:39:44

25 Q. In 2024?

1 **A.** That's correct.

2 **Q.** Okay. Thank you.

3 So as a result of the sort of marginal VTDs along that  
4 CD 22 and 18 boundary, what choices did you make as the  
5 map drawer?

11:39:55

6 **A.** Again --

7 MR. McCAFFITY: Objection. Calls for improper  
8 expert testimony.

9 **A.** I mean, again, it was all just drawn off of politics  
10 for 22. I was trying to keep the 22nd District where it  
11 was or getting better. So I was really paying attention  
12 to the Trump -- the overall Trump number for 22. The '24  
13 Trump number for 22.

11:40:04

14 BY MR. KERCHER:

15 **Q.** Is it fair to say that -- I mean, well, I'll say to my  
16 eyes 18 looks like a different shape, quite different than  
17 it was under the 2021 map.

11:40:18

18 Was that a consideration for you as you drew the map?

19 **A.** I knew that was the case as I was drawing the map,  
20 yes.

11:40:32

21 **Q.** Did that influence how you drew the map or no?

22 **A.** I mean, the 18th District was drawn wholly off of  
23 partisanship going up on the eastern side to that northern  
24 area. So I was looking at the politics there and taking  
25 the most heavily Democrat precincts and putting them into

11:40:47

1 18. So the shape of the seat was I liked it. My  
2 objective was to clean up the overall twisting profile of  
3 18, 29, and 9.

4 **Q.** Under the 2021 map?

11:41:04 5 **A.** On the 2021 map. Yeah.

6 **Q.** So was 18 held by -- what is now 18, was that held by  
7 a Democrat incumbent or a Republican incumbent under the  
8 '21 map?

9 **A.** It was actually open when I was drawing the map over  
10 the summer.

11 **Q.** Had 18 been held by a Republican incumbent --

12 **A.** No.

13 **Q.** -- would that have changed your approach as the map  
14 drawer to how radically you would alter the shape of the  
15 district?

16 MR. McCAFFITY: Objection. Calls for improper  
17 testimony as an expert and also hypothetical.

18 JUDGE GUADERRAMA: What was the second part?

19 MR. McCAFFITY: It's an improper hypothetical.

11:41:44 20 JUDGE GUADERRAMA: I'll --

21 MR. KERCHER: That's fair. I'll withdraw the  
22 question. I'll ask a better question.

23 JUDGE GUADERRAMA: All right.

24 BY MR. KERCHER:

11:41:49 25 **Q.** As the map drawer, did you consider core retention

1 more closely when dealing with districts with a Republican  
2 incumbent or did that -- did that partisan consideration  
3 not matter?

11:42:07

4 **A.** I was definitely trying to minimize the disruption in  
5 the Republican incumbent seats, yes.

6 **Q.** What about the Democratic incumbent seats?

7 **A.** No. I was trying -- I had to rework most of the  
8 Democrat seats to create new pickup opportunities. So  
9 that wasn't a consideration.

11:42:19

10 **Q.** When we look at District 18 in Plan 2308, there is  
11 sort of a -- I don't know -- an epiglottis that sticks  
12 down, a trigger, if you will, that sticks down from the  
13 northeast portion of it?

14 **A.** Sure.

11:42:36

15 **Q.** Where did that come from?

16 **A.** Those are some -- that's -- I think it's two or three  
17 very Democrat VTDs that extend down there. It's a feature  
18 that exists on the 2193 map as well.

11:42:52

19 **Q.** Okay. So we talked about sort of the changes you make  
20 to 18 and why. And then you were going to tell us about  
21 changes to District 29, which is adjacent to 18. What  
22 changes did you make to 29 for Plan 2308?

23 **A.** If you don't mind, the next seat I drew is actually  
24 the 9th District.

11:43:07

25 **Q.** It's your party here, Mr. Kincaid.

1 Okay. So let's talk about the 9th District.

11:43:27

2 **A.** So after the 18th and the 36th were drawn, the 9th  
3 kind of drew itself. So I know that doesn't make sense,  
4 but after the eastern border of 18 was set and the  
5 northern border of 36 in Harris County was set, what I did  
6 is I took the 9th District up the eastern side of Harris  
7 County. And if you see that area on the --

11:43:45

8 **Q.** Let me ask you this: When you say you took it up the  
9 eastern border of Harris County, you can see that there's  
10 sort of a straight line as the northeast border of  
11 District 9 in 2308. If we follow that same border along  
12 the eastern side, is that all the Harris County border?

13 **A.** Except for that one area just north of Baytown, yes.

14 **Q.** Okay.

11:43:59

15 **A.** And so what you see there with the 9th District, there  
16 is a -- that gray part of 2. The reason that the 9th  
17 District doesn't take in that gray part of 2 is that's  
18 where Congressman Crenshaw lives in that area. And so I  
19 drew around his house, because I could not put him in the  
20 9th District.

11:44:16

21 **Q.** Why? Well, let me ask you: As the map drawer, why  
22 was it important to you not to put Congressman Crenshaw in  
23 the 9th District?

11:44:30

24 **A.** Congressman Crenshaw's Texas 2 is a district that  
25 President Trump carried with 60 percent or more. And if I

1 had drawn him into the 9th District, he would be in a seat  
2 that President Trump did not carry with 60 percent or  
3 more.

11:44:42

4 **Q.** Is there a reason that Baytown is carved out of  
5 District 9 in 2308 as the map drawer?

11:44:59

6 **A.** Yeah. If you zoom in and you put on the partisan  
7 shading, what you would see there are there is a series of  
8 Democrat precincts there that are all kind of lumped  
9 together. It makes up the downtown area of Baytown. And  
10 so given that I was trying to make the 9th District as  
11 Republican as I could at the time, yeah, that 36 ended up  
12 taking Baytown. And, like I said, I took the 9th north  
13 from there.

11:45:16

14 **Q.** Does that round out the changes to District 9 that you  
15 made in 2308?

16 **A.** It does.

17 **Q.** What was the next portion of the Harris County area  
18 that you drew for the 2308 map?

19 **A.** The next one was Texas 2.

11:45:28

20 **Q.** How did you do that, sir?

21 **A.** Yeah. So Texas 2, with the way the 9th District was  
22 drawn, lost a whole bunch of population in eastern Harris  
23 County. And so what I -- what I did there with the  
24 eastern Harris County area there next to 9, I had to add a  
25 lot more people into 2. And so 2 ended up picking up

11:45:50

1 Humble, which I did not have before. Humble is that other  
2 little gray claw in 29. It's just a town boundary there.

3 So Humble had been a little bit more than a 40 percent  
4 Trump area; and so I went ahead and put that into 2,  
5 because it was redder than the other areas around it.

11:46:06

6 And then with the southern part of Montgomery County,  
7 I brought the 2nd District further north into the Conroe  
8 area. And that was, again, I had to find Republicans in  
9 the 2nd District in order to get it redder because it had  
10 shed a whole bunch of Republicans in northeastern Harris.

11:46:24

11 **Q.** Where did you find those Republicans that you needed  
12 to put into District 2?

13 **A.** The Conroe area. But I also went and -- and if  
14 you -- well, I guess we could put that on there, too.

11:46:37

15 **Q.** Well, so you answered my question. Let me ask you  
16 another one.

17 You talked about moving District 2 into Montgomery  
18 County. And we can see that it cuts across the center of  
19 Conroe.

11:46:49

20 **A.** That's right.

21 **Q.** What other changes did you make to District 2,  
22 Mr. Kincaid?

23 **A.** Yeah. I also extended it down along the northwestern  
24 side of 29. And so what you are going to find there

11:47:00

25 between, you know, what became 29 and 2 are a series of

1 competitive but Democrat-leaning precincts there.

2 **Q.** Okay. So let me see if I follow it. Because if I'm  
3 looking at District 2 on Plan 2308, there is a sort of  
4 tail that drops down to the southwest; is that right?

11:47:18 5 **A.** That's correct.

6 **Q.** And that's where you are talking about 2 abutting 29;  
7 is that right?

8 **A.** That's correct.

9 **Q.** And so now you are talking about the partisan  
10 character of some of the districts in that tail; is that  
11 true?

12 **A.** That's correct.

13 **Q.** So why did the partisan character of that tail in  
14 southwest 2 under 2308 matter to you as the map drawer?

11:47:37 15 **MR. FOX:** Objection. Expert testimony.

16 **A.** Because I needed to get the 2nd District to keep it  
17 above 60 percent Trump in 2024. I know we have it in  
18 here. It may be too much of a -- to do; but if you  
19 overlay the Texas 2 from 2011 through -- well, the last  
20 decade's map, you'll see that a lot of that area that was  
21 put into 2 is actually the area that was in Texas 2 four  
22 years ago.

11:47:55

23 **BY MR. KERCHER:**

24 **Q.** I'm not going to ask Richard to try to find that right  
25 now. All of his hair will fall out, and he'll look worse

11:48:05

1 than I do.

2 So you are talking about reaching down -- this portion  
3 of District 2 under 2308 that reaches down in a little  
4 tail on the southwest to grab more Republicans.

11:48:21 5 What other changes to District 2 did you make under  
6 2308?

7 **A.** I mean, that's pretty much about it. I made sure that  
8 The Woodlands was still relatively whole in 2 because it  
9 had been before. And then that pretty much set the  
10 boundary for the 2nd District.

11:48:34

11 **Q.** Okay. What district did you tackle next?

12 **A.** 29 was right below it.

13 **Q.** Okay. Can you please explain to the Court how you  
14 drew District 29 under Plan C2308?

11:48:50

15 **A.** Yeah. So Texas 29, you'll notice there that -- I  
16 guess we don't have the partisan shading on it yet. But  
17 that area on the northern border of 29 are all very  
18 heavily Democrat precincts in 29. And then that area over  
19 on the eastern side of Humble is also a heavily Democrat  
20 area. And so what I did is I took those and put them in  
21 29 and worked my way south.

11:49:08

22 **Q.** So when you say on the eastern side of Humble --

23 MR. KERCHER: Richard, could we zoom in on the  
24 sort of green -- yes, sir. Zoom in there.

11:49:20

25 BY MR. KERCHER:

1 Q. So we've zoomed in here on the northeast portion of  
2 29, and we're looking at the city of Humble here in green;  
3 is that right?

4 A. That's right.

11:49:30 5 Q. When you say that there are districts on the eastern  
6 side of it, is this sort of the finger that curves around  
7 to the eastern border of Humble?

8 A. Those are all heavily Democrat VTDs, yes.

11:49:45 9 Q. And explain to the Court why the fact that those are  
10 heavily Democrat VTDs matter to you as the map drawer when  
11 you were creating CD 29 under 2308?

12 MR. McCAFFITY: Objection. Calls for improper  
13 expert testimony.

14 A. I couldn't put them in 2 because that would have  
11:49:58 15 endangered the 60 percent Trump target in 2.

16 BY MR. KERCHER:

17 Q. What was the partisan character of 2 you were trying  
18 to create?

19 A. I was trying to keep it above 60 percent Trump.

11:50:08 20 Q. What was the partisan character of 29 you were trying  
21 to create?

22 A. The most Democrat seat I could draw in the area.

23 Q. Okay. What other changes to 29 did you make, sir?

24 A. Yeah. So I worked down again to the highway there.

11:50:23 25 And on the east side -- on the west side, like I mentioned

1 before, I was putting in, you know, the more Democrat  
2 precincts on the eastern side of 2. There on that finger  
3 that carves down on the right on the west side. And then  
4 just worked it south. And those are all, again, 40 and  
5 30-ish percent precincts all the way down to -- I think  
6 it's the parkway there.

11:50:42

7 **Q.** Forgive me if I keep drilling down on this.

8 40-ish and 30-ish percent precincts, you are talking  
9 about for the Trump vote share in 2024; is that right?

11:50:56

10 **A.** That's correct.

11 **Q.** Am I seeing this correctly that part of the southern  
12 border of District 29 in 2308 is made up by the 610 Loop?

13 **A.** Yes.

14 **Q.** Is that intentional?

11:51:06

15 **A.** Yes.

16 **Q.** Why?

17 **A.** It's just the natural boundary. So I, you know,  
18 brought it down there.

19 You know, again, if you can overlay the 2193 plan real  
20 quick, you'll notice there that the 38th District I was  
21 also trying to maintain those borders as well. So that  
22 was also part of the consideration.

11:51:16

23 **Q.** Hold on. I believe you, but I'm lost. Can you --

24 **A.** Do you see the red 38? It's right next to the white

11:51:48

25 box on the left side.

1 Q. I see.

2 MR. KERCHER: Richard, can we move the map to the  
3 east? I see. Okay.

4 A. So there were, you know, cross-pressures I had to  
11:51:55 5 consider there as well, where I was trying to make sure  
6 that -- yeah. I'll get to that later when we talk about  
7 38.

8 But 29, again, it was brought down to the 610 Loop and  
9 then brought in that other little area there to balance  
11:52:08 10 the population.

11 BY MR. KERCHER:

12 Q. Okay. And I have had to take these just in the order  
13 that you drew them, but when you say cross-pressures  
14 concerning District 38, when you drew District 38 for  
11:52:17 15 Plan C2308, were you trying to give it a partisan  
16 character?

17 A. I was.

18 Q. What kind?

19 A. As Republican as I could.

11:52:24 20 Q. Does that round out the changes that you made to  
21 District 29?

22 A. To that point, yes.

23 Q. Okay. What other changes did you make?

24 A. At the end of drawing the Harris County area, I had to  
11:52:35 25 go in and tweak the line between 38 and 29 just to make

1 sure that I was getting as many Republicans as I could  
2 into 38 and out of 29.

3 So you see those changes there where there is that red  
4 outline, that one box? So those are some precincts that  
5 are slightly more Republican in the surrounding area to  
6 the east that I put into 38.

7 **Q.** What other changes to 29, if any, did you make?

8 **A.** That's about it.

9 **Q.** Okay.

10 **A.** Actually, one thing I should note. If you'll look,  
11 the line there between 29 and 18 is a straight line. So  
12 what I did is I went down the -- I think it was the  
13 railroad track. And so I used that instead of the VTD  
14 line to clean it up.

15 **Q.** When you say "instead of the VTD line," we've got  
16 2193, the 2021 map overlaid, and then under -- on that  
17 map, which is in red, there is a sort of a box, a  
18 trapezoid, if you will, that sticks out from what -- from  
19 the black line that you drew.

20 Is that what you are talking about?

21 **A.** That's correct.

22 **Q.** Explain to the Court, again -- hopefully I have zoomed  
23 the Court's attention into it -- what that box was under  
24 2193 that you changed?

25 **MR. FOX:** Objection. Improper expert testimony.

1 **A.** If you take off the 2193 layer and look at it --

2 JUDGE GUADERRAMA: Excuse me.

3 MR. FOX: Expert testimony again, Your Honor.

4 JUDGE GUADERRAMA: Oh, sorry. Yes, sir.

11:54:01 5 Sorry. Go ahead.

6 THE WITNESS: Sorry, Judge.

7 **A.** If you look at the line there between 18, 29, and 7,  
8 you are going to see a whole bunch of straight lines. So  
9 I was using roads, interstates, and the railroad tracks as  
10 the boundaries there, just like I was doing in the Dallas  
11 area.

11:54:13

12 BY MR. KERCHER:

13 **Q.** Okay. All right. After you completed your changes to  
14 29, what did you draw next?

11:54:22

15 **A.** 22.

16 **Q.** How did you do that? Well, let me ask it. I don't  
17 want to ask for a narrative response.

18 What was the first thing you did in making changes to  
19 District 22 for Plan C2308?

11:54:40

20 **A.** Yeah. So I changed the southwestern Harris County a  
21 little bit from what I recall and then changed some of the  
22 area where 7 came down into 22.

23 Can you put the 2193 overlay on there, please.

24 MR. KERCHER: You may want to qualify Richard as  
25 an expert in DistrictViewer by the time he is done. He is

11:55:01

1 doing yeoman's work.

2 **A.** Yeah. So you'll see there that I took the Texas 22  
3 and gave it a little bit more of that area in Fort Bend  
4 County that had been in 7 before. Those were VTDs that  
5 performed better for President Trump in 2024. And so I  
6 put a bunch of those into 22.

11:55:20

7 If you go -- just scroll down to Brazoria County.

8 BY MR. KERCHER:

9 **Q.** You are in danger of a narrative answer and you are  
10 getting ahead of me. So you are going faster than I can  
11 follow.

11:55:28

12 You were talking about making -- or I understood you  
13 to talk about the difference -- the border between 22 and  
14 7; is that right?

11:55:37

15 **A.** That's correct.

16 **Q.** And so part of that is going to be the Sugar Land  
17 area. Am I tracking so far?

18 **A.** That's correct.

19 **Q.** And so now that I know where to look, why were you  
20 making changes there?

11:55:48

21 **A.** Those were areas --

22 MR. FOX: Objection, Your Honor. Improper expert  
23 testimony.

24 JUDGE GUADERRAMA: Yes, sir.

11:55:54

25 **A.** Those were areas that had become more Republican and

1 were performing better for Republican candidates, and so I  
2 put those in 22.

3 BY MR. KERCHER:

11:56:04

4 **Q.** Was there a partisan character that you were trying to  
5 give to District 22 when you drew plan C2308?

6 **A.** I was trying to make it as Republican as I could.

7 **Q.** What about District 7?

8 **A.** Texas 7 is a Democrat seat. So I was just trying to  
9 put as many Democrats in there as I could at that point.

11:56:17

10 **Q.** Okay. So you've talked to us a little bit about  
11 shifting some VTDs around on that border between 22 and 7.

12 What other changes, if any, did you make to District  
13 22?

11:56:30

14 **A.** I mentioned the Harris County thing already. If you  
15 scroll down to Brazoria County, just a little further to  
16 the south there.

17 So in the previous map, Texas 22 had a large chunk of  
18 northern Brazoria County. That northern part of Brazoria  
19 County is Republican, but not as Republican. And so --

11:56:53

20 **Q.** Not as Republican as what?

21 **A.** As that area that I put into Texas 22 that I swapped  
22 out of 14.

23 So all of that area -- you see the line pretty much  
24 flips between 14 and 22 there. So all of that territory

11:57:05

25 to the south of 14 got put into 22 in order to keep the

1 district at a good Republican Trump number at or better  
2 than it had been before.

3 And one thing to note is I -- you should probably ask  
4 me why I did that thing with 14 at the bottom there.

11:57:25

5 **Q.** Mr. Kincaid, out of curiosity, why did you do that  
6 thing to 14 at the bottom there?

7 MR. McCAFFITY: Objection. Improper expert  
8 testimony solicited by the expert.

11:57:42

9 **A.** Yeah. So that area in 14, the congressman wanted at  
10 the time to keep all seven of the ports that he held in  
11 the 14th District in the 14th District. And so that line  
12 there allowed all seven ports that he represented to  
13 remain in the 14th District.

14 BY MR. KERCHER:

11:57:57

15 **Q.** All right. Does that conclude the changes that you  
16 made to District 22?

17 **A.** It does.

18 **Q.** What district did you tackle next?

11:58:12

19 **A.** It was kind of a combination at this point between 8,  
20 38, and 7. They all kind of play on each other. And so I  
21 had to do all three of them almost simultaneously.

22 **Q.** What did you do first then?

11:58:29

23 **A.** I started with 7 and absorbed as many Democrats as I  
24 could into the 7th District with this draw. And so what  
25 you are going to see there is a lot of those are very

1 heavily Democrat areas to the north and -- yeah, to the  
2 north of 18.

11:58:48

3 You'll also note there -- and I admitted this before,  
4 if you zoom in a little bit on the 18 and 7 line -- and go  
5 ahead put the 2193 layer back on. Sorry.

11:59:20

6 I also cleaned up the border between what had been the  
7 9th District and the 7th District. Whereas, before it had  
8 jutted northwest of Bellaire there, I was able to keep it  
9 along the -- I think it's a bayou, technically, that runs  
10 there to the highway and then down to the county line.

11 **Q.** Okay. As the map drawer, where to from there?

11:59:40

12 **A.** From there it was just a matter of absorbing  
13 those -- these areas over here to the west of 7 are some  
14 pretty heavily Democrat areas, but they had trended more  
15 Republican in 2024 to the -- just up, up, right. Yeah,  
16 it's hard. I don't have a pointer, I guess.

17 But so that area there, if you take off -- well, don't  
18 take it off because we'll need it again in a second.

19 **Q.** When you say "that area there," let me ask you.

11:59:56

20 We are now talking about -- is it right to say we are  
21 now talking about the border between northern 7 and  
22 southern 38; is that correct?

23 **A.** That's correct. Yeah.

24 **Q.** Okay. And what are we looking at here, sir?

12:00:05

25 **A.** Yeah. So you'll see there that the red line

1 shrinks -- you know, the black line shrinks pretty far  
2 down from that red line there. Those are the VTDs that  
3 are still pretty Democratic, but they are -- but they  
4 were -- you know, some of those were some more Republican  
5 leaning VTDs after the 2024 election. And so I put those  
6 into 8. And then -- and then from there, it was just a  
7 matter of adjusting the line between 38 and 8 to get the  
8 38th District back to where it had been in the previous  
9 draw.

12:00:20

10 **Q.** All right. So we talked a little bit about the  
11 changes that you made to the north of District 7 or the  
12 boundary between the north of District 7 and south of  
13 District 38.

12:00:35

14 What did you do next as a map drawer?

15 **A.** Again, 38 was really the last piece to fall into place  
16 kind of in that area. So -- and the reason for that is  
17 simply that it had lost some territory to 2. It was --  
18 you know, had lost some -- yeah, it had lost some  
19 territory to 2 that was Republican. And so I had to  
20 figure out a way to get it at least back to where it had  
21 been before, so it didn't violate my criteria on the  
22 incumbent districts, even though now it's open. So, yeah.

12:00:49

23 **Q.** What other changes, if any, did you make to the Harris  
24 County area for Plan 2308?

12:01:08

25 **A.** I think that covers most of it.

12:01:33

1 Q. Okay. Did you draw District 27 in Plan 2308?

2 A. Yes.

3 Q. Could we take a look at that.

12:01:48

4 MR. KERCHER: And, Richard, that will be to the  
5 west of 22. Yes, sir.

6 BY MR. KERCHER:

7 Q. Mr. Kincaid, can you tell the Court how you drew  
8 District 27?

12:02:04

9 A. Sure. Can you go ahead and take off 2193? We won't  
10 need that for a little while.

11 All right. So for 27, it's important to look at 37  
12 first, if that's all right.

13 Q. However it makes sense to you, sir.

14 A. All right.

12:02:14

15 MR. KERCHER: Richard, could we please zoom in to  
16 District 37, which is right over the center of Travis  
17 County.

18 BY MR. KERCHER:

12:02:26

19 Q. What do we see or -- so we've got District 37 as drawn  
20 in 2308.

21 Mr. Kincaid, tell us about how you drew District 37.

22 A. Yeah. So that line for 37 on the eastern side and the  
23 southern side of 37, if you shaded this on partisanship,  
24 what you would find is that all of the VTDs that are in 27  
25 are 30 percent or more Trump in 2024. Every single VTD to

12:02:44

1 the north and to the west of that line is less than  
2 30 percent Trump. So it's a purely partisan draw in  
3 Travis County that aligns with the President's performance  
4 in 2024.

12:03:02 5 MR. McCAFFITY: Objection. Move to strike.

6 Calls for improper undisclosed expert testimony.

7 BY MR. KERCHER:

8 Q. Mr. Kincaid, are you suggesting under oath that  
9 Central Travis County did not vote heavily for President  
10 Trump in 2024?

11 A. Well, the governor's mansion actually did,  
12 interestingly enough. So there was an area there in  
13 Downtown Austin that had trended to the right and so  
14 that's why it's drawn over there in 10. So since I'm  
15 under oath, I want to make sure I'm as specific as I  
16 possibly can be.

17 But, yes, the rest of that 37 was very, very heavily  
18 Democrat.

19 Q. So let me ask you, because you said it's -- I'm  
12:03:36 20 paraphrasing. You said something like 37 is a strictly  
21 partisan draw.

22 Are you saying that there were no other lines that  
23 were shifted for population equality and that sort of  
24 thing or am I misunderstanding?

12:03:48 25 A. No. No. There was definitely population balancing.

1 But as far as that line between 37 and 27, it just lines  
2 up perfectly with the 30 percent Trump number.

3 **Q.** Okay. So then that takes us -- well, let me ask you:  
4 Does that then allow us to transition into talking about  
5 how you drew the rest of 27?

12:04:03

6 **A.** Sure. That's fine. Yeah.

7 **Q.** Did you have a partisan goal when you were drawing 27?

8 **A.** Yes.

9 **Q.** What was it?

12:04:11

10 **A.** I had to figure out a way to keep the 27th District  
11 above 60 percent Trump.

12 **Q.** Okay. Can you tell the Court the first thing that you  
13 did in order to make that happen?

12:04:25

14 **A.** Well, the first thing that -- I'll take that, if you  
15 don't mind, in the opposite direction, in that the first  
16 thing I had to do is -- yeah. So when I got to 27, I had  
17 already worked through the Rio Grande Valley seats at that  
18 point. And so I took the -- in order to get the 34th, and  
19 I know we'll talk about this later, to be a Trump plus

12:04:48

20 10 district, I had to carve out some heavily Democrat  
21 precincts in Nueces County and Corpus Christi in order to  
22 do that.

23 And so what the 27th District did at that point is it  
24 moved to the north along the Gulf, like it currently does.

12:05:01

25 I made sure that Victoria County was in the 27th, because

1 that's where the incumbent lives. And then from there I  
2 had to fit it underneath the 10th District and then reach  
3 population over in Hays County.

12:05:16

4 **Q.** Why did you have to fit it underneath the 10th  
5 District?

12:05:31

6 **A.** Well, because by that point the 10th District had been  
7 stretched all the way from western Travis to accommodate  
8 where Congressman McCaul lived, out to the east to also  
9 pick up all of Brazos County, because he had to have all  
10 of Brazos County, and then keep it above 60 percent Trump.

11 **Q.** Would it have been nice to know Representative McCaul  
12 was going to retire before you had to draw District 10  
13 across the center of the state?

12:05:45

14 **A.** I have a list of five members I wish had been retired  
15 before I drew this map.

16 **Q.** All right, Mr. Kincaid, what other changes did you  
17 make to District 27?

12:05:58

18 **A.** After that, so the line in Hays County there, between  
19 21 and 27, allowed me to get the 27th District just above  
20 60 percent Trump in 2024. You'll notice there that there  
21 is a split that I tried to avoid, but I didn't have any  
22 way to avoid it, in Refugio, Aransas, and San Patricio, to  
23 make sure that the 27th District was contiguous by road  
24 because, otherwise, it would have been only contiguous by  
25 water. So I split those three counties in order to do

12:06:18

1 that.

2 **Q.** I heard you say that you brought in part of Hays  
3 County into District 27.

4 Do I have that right so far?

12:06:31 5 **A.** That's correct.

6 **Q.** And when you were talking about that, I heard you say  
7 that it helped you get to the Trump 60 percent or better  
8 number.

9 Do I have that part right?

12:06:41 10 **A.** That's correct.

11 **Q.** We have sometimes been talking about how you have this  
12 goal about some of these districts being Trump 60 percent  
13 or greater. You also talked about, though, earlier some  
14 of the other goals that you had for drawing particular  
15 kinds of districts, like whether or not they went for Cruz  
16 and that sort of thing.

17 Are you applying those criteria to every red district  
18 that you drew or just particular ones?

19 **A.** I was looking at the Cruz numbers and the Abbott  
12:07:08 20 numbers and the Trump numbers more intensely on the pickup  
21 opportunities than I was on the other seats. Because, I  
22 mean, it is a fair assumption that if you are drawing a  
23 seat at 60 percent Trump, it probably went Republican down  
24 the ballot as well. So I wasn't really as concerned about  
12:07:27 25 the Cruz numbers in 60 at that point.

1 Q. Okay. Does that round out the changes that you made  
2 to District 27, sir?

3 A. Yes.

12:07:47

4 Q. District 27 abuts, as we've talked about, District 35,  
5 which is in Central Texas. I want to round out the  
6 changes that you made, if any, to Central Texas. We  
7 talked about 35. We talked about 27. Can you talk to  
8 us -- no. We talked about 37 and 27. Excuse me.

9 Can you tell us about drawing --

12:08:06

10 MR. KERCHER: Richard, if you could slide us up a  
11 little bit. There you go.

12 BY MR. KERCHER:

13 Q. There were some important changes made in the San  
14 Antonio area.

12:08:14

15 Do you agree with that?

16 A. There were, yes.

17 Q. Can you describe for the Court how you drew the  
18 Central Texas, the Bexar, and Travis County areas?

12:08:24

19 A. Okay. Could we go back up to the Travis County area  
20 first and then work down to Bexar? Is that okay?

21 Q. However you did it, sir. You talked to us about 37.  
22 You talked to us about 27. Where do we go from there?

12:08:40

23 A. Yeah. So if you -- just -- so right here you kind of  
24 have this layer cake of 31, 17, 11, and 10, all stacked  
25 above the 37th District.

12:08:57

1 And if you look at the partisanship on these  
2 districts, what you are going to find is that the 31st,  
3 the 17th, and the 10th, and the 27th are all barely over  
4 60 percent Trump seats. And so a lot of this was  
5 balancing the partisanship between those districts.

12:09:21

6 And the real -- the thing that made it possible to do  
7 that was to pull the 11th District out of -- out of I  
8 think it's Lee County to the north from the fort and bring  
9 it into North Travis County. That enabled it to pick up  
10 some more Democrat areas in Pflugerville.

11 **Q.** Okay. Let me stop you there because we need to go  
12 question and answer.

13 **MR. McCAFFITY:** Objection. Also move to strike  
14 as it includes improper and expert testimony.

12:09:32

15 **BY MR. KERCHER:**

16 **Q.** Mr. Kincaid, you have been talking about sort of the  
17 layering of these districts immediately to the north of  
18 37, and you have been talking about their partisan  
19 performance.

12:09:43

20 How did those factors, if at all, influence how you  
21 drew the rest of the Travis County area in 2308?

22 **MR. McCAFFITY:** Objection. Calls for improper  
23 expert testimony.

12:09:56

24 **A.** Yeah. So like I mentioned before with the 10th  
25 District, Congressman McCaul lived on the west side of

1 Travis County; but his district was mostly to the east of  
2 Travis County. And because of that, you have kind of one  
3 of the funkier features of the Texas map, which is -- I  
4 always call it the McCaul hook, that goes from the eastern  
5 side of Travis over to the western side of Travis in order  
6 to pull in his house. Of course, now if Gober wins that  
7 seat, I guess -- anyway.

12:10:13

8 MR. KERCHER: Could we please zoom in on what I  
9 think is the hook there. A little bit to the south.

12:10:29

10 There you go.

11 BY MR. KERCHER:

12 Q. So I'm seeing a corridor.

13 A. That's right.

14 Q. Can you describe the corridor for the Court that you  
15 are referring to or that you call the McCaul hook?

12:10:39

16 A. Yeah. So the McCaul hook here, you'll notice on the  
17 north it's bounded by the contiguous parts of  
18 Pflugerville. So like I tried to do other places, I kept  
19 Pflugerville mostly whole. There is one noncontiguous  
20 chunk that does appear in 10, but the rest of Pflugerville  
21 is whole in 11.

12:10:56

22 Q. When you say noncontiguous, you mean of Pflugerville,  
23 not of the map?

24 A. Of Pflugerville, yes. Not the map.

12:11:04

25 Q. Okay. So you talked about how the part of this hook

1 follows the southern border of contiguous portions of  
2 Pflugerville. How does that continue channeling west into  
3 10 -- or the western portion of 10? Excuse me.

4 **A.** Yeah. The problem is that that area in western Travis  
12:11:19 5 is more Republican. But as you get closer to downtown,  
6 you are picking up a lot of Democrats really fast. And  
7 being that the other heavy population area in the 10th  
8 District is Brazos County, which is not as red as a lot of  
9 the other counties in that region because it has the  
12:11:37 10 university in it, so because of that, I could not add as  
11 much -- I needed to avoid adding a lot of Democrats in  
12 Travis County into the 10th District.

13 **Q.** Is it fair to say that that would help us understand  
14 why the hook is so slender as it goes through Central  
12:11:51 15 Travis County?

16 **A.** It is.

17 **Q.** All right. So you have talked a little bit about the  
18 McCaul hook and how you drew 10. 10 borders 37 to the  
19 north.

12:12:00 20 Where did you go next?

21 **A.** Yeah. I mean, 31 and 17 were really just balancing  
22 Republican and Democrat precincts back and forth until I  
23 could get both of them over 60 percent Trump. That was  
24 really all the border there was. I also liked that I was  
12:12:15 25 able to make 31 much more compact than it had been under

1 the previous draw. But that really rounds out how the  
2 central Texas area came to be.

3 **Q.** Okay. Did you make any changes -- let me ask you.

4 Did the changes that you made to Central Texas, what I  
12:12:29 5 think is Central Texas because I live in Travis County,  
6 did those affect the -- did those have any effects on  
7 Bexar County and the way that the districts looked down  
8 there?

9 **A.** So the southern line of 11 stayed exactly the same.  
12:12:44 10 So I didn't move any of the counties in 11 between 11 and  
11 21 or 11 and 23. The only real difference is that, you  
12 know, 27 picked up more of Hays County; and I was able to  
13 pull the 21st District out of Travis County. And that was  
14 really the only things that had, I guess, impacts on the  
12:13:03 15 Bexar County area.

16 **Q.** Can you tell us how you drew District 35?

17 **A.** Sure. So I think it's worth, if you don't mind,  
18 talking more broadly about the region before --

19 **Q.** Sure. Yeah. So if what you need to do in order to  
12:13:20 20 explain to the Court how you drew 35 is a higher level  
21 approach, we can do that.

22 When you went to draw 35, where did you start?

23 **A.** Yeah. So the thing with 35 is you can see here it's  
24 three whole counties plus Bexar County. But the real  
12:13:36 25 question is how I ended up with those three counties,

1 right?

2 And so the answer for that is, first, I had drawn the  
3 34th District as a series of whole counties all the way up  
4 the Gulf Coast until it ran out of population in Corpus  
12:13:48 5 Christi, right? So that had taken the 34th District out  
6 of Hidalgo County and made it a more compact district that  
7 went north, right? So -- and that kind of fits into what  
8 we were talking about with 27 a minute ago.

9 MR. McCAFFITY: Objection. Move to strike.

12:14:03 10 Includes improper expert testimony.

11 BY MR. KERCHER:

12 Q. So you have taken us way down to South Texas to talk  
13 about Bexar County. Where did you go next as a map drawer  
14 in order to land as you did in 35?

12:14:16 15 A. Yeah. So the next thing you have to look at is 15.

16 Q. Okay.

17 A. So 15 was pretty complicated because, you know, she  
18 was in an R plus seven district.

19 Q. Who is "she"?

12:14:28 20 A. Congresswoman Monica De La Cruz.

21 Q. Why did that matter to you at all?

22 A. She was a Republican incumbent. And so I needed to  
23 make sure that her district remained an R plus seven.

24 Q. How did that make the drawing of 15 complicated?

12:14:43 25 A. Well, I had to pick up the eastern Hidalgo County part

1 that I had just drawn out of 34, which is, you know -- the  
2 eastern part of Hidalgo is -- you know, it's -- it had  
3 voted pretty significantly for President Trump in '24, but  
4 not by huge margins, right? So these are 50, 52 percent  
5 sort of VTDs. So I had to move it north.

12:15:00

6 And so what the 15th did at that point is it ended up  
7 moving north into those counties. Some of them -- most of  
8 them actually had been in Texas 34 the previous decade.  
9 So they end up in Texas 15 this time.

12:15:17

10 **Q.** Okay. So you are talking about Hidalgo County and how  
11 some of that had to go into 15 and that created a partisan  
12 problem; is that right?

13 **A.** That's correct.

12:15:30

14 **Q.** So how did you go about remedying the partisan problem  
15 caused by bringing Democratic portions of Hidalgo County  
16 into 15?

17 **A.** Well, I had to make sure that the Congresswoman  
18 continued to live in her seat. So that was number one.  
19 And then from there I just -- I worked north into some  
20 pretty Republican counties in what is there in that  
21 northern part of 15.

12:15:41

22 **Q.** Okay. And now this is coming together for me, because  
23 I see that 15 borders 35. Is that where we are going  
24 next?

12:15:52

25 **A.** It's not. We will get there, I promise.

1 Q. Okay. Tell me how you -- tell me what you did next  
2 with 15, sir.

3 A. Well, that's 15. What I wanted to -- what is helpful  
4 to talk through is, again, you remember I start at  
5 corners, right?

12:16:07

6 Q. Okay.

7 A. And so the next one would have been Texas 16, which is  
8 the El Paso seat.

9 Q. So I'm sorry. I asked you about 35.

12:16:16

10 A. I know.

11 Q. And you took me down to Brownsville.

12 A. I did.

13 Q. And now you are taking me out to beautiful El Paso?

14 A. I am.

12:16:23

15 Q. Okay. I'm not the judge here, but you better get  
16 there fast, sir.

17 A. Yeah.

18 Q. All right. Tell me about how drawing 16 in El Paso  
19 wound up influencing how you drew 35.

12:16:34

20 A. Sure. So the 23rd District extends from El Paso all  
21 the way to Bexar County. And so the 23rd District is held  
22 by a Republican incumbent. And so what I needed to make  
23 sure I did with the 23rd District is see that it would  
24 stay at R plus seven or greater during the draw. So I had  
25 to make sure that I was able to do that.

12:16:54

1 So the El Paso County draw, what I did is I used the  
2 city boundaries. I took two VTDs north of the city  
3 line -- well, at the city line, which was Fort Bliss and  
4 the airport, and that area just north of there. Those are  
5 actually precincts or VTDs that the President carried with  
6 50 percent in 2024.

12:17:09

7 **Q.** Okay. Before you move on, since we're looking at the  
8 border between 16 and 23, did the border that you drew  
9 that we see in 2308 between 16 and 23 make it into the  
10 final map?

12:17:24

11 **A.** It did not.

12 **Q.** Did you draw the change between 16 and 23 between  
13 C2308 and C2333?

14 **A.** I did not.

12:17:34

15 **Q.** So you were talking about Fort Bliss and some of the  
16 VTDs that President Trump won in 2024. How did that  
17 affect the way that you drew this portion of 16 and 23?

18 **A.** Yeah. So what it did is, if you look there, Horizon  
19 City is whole in 23. Socorro is whole in 16. And if you  
20 shade on the partisanship, you would see that the Horizon  
21 City area was redder and that those precincts north of --  
22 Horizon City is whole in 23. And then those VTDs that  
23 were north of where it says El Paso there were 50 percent,  
24 and so I put those in 23.

12:17:55

12:18:13

25 **Q.** Look, that's interesting and all, but how does that

1 help us understand what happened in Bexar County?

2 **A.** Well, again, I had to get the 23rd up on its  
3 Republican number. So I wanted to make sure I was getting  
4 Republican areas of El Paso County.

12:18:26

5 And then I marched it to the east, as it currently is.  
6 And so I followed the district to the east. I kept the  
7 northern boundary between 11 and 23 unchanged.

12:18:52

8 And then if you go down south, I drew the  
9 28th District at that point in time. And so what I did  
10 with the 28th District -- do you want me to tell you what  
11 I did with the 28th District?

12 **Q.** What did you do with the 28th District, Mr. Kincaid?

13 **A.** At that point, I took the remainder of Hidalgo County  
14 and put it in 28. And then used whole counties up to  
15 Atascosa and balanced the population of 28 in Maverick  
16 County.

12:19:06

17 **Q.** And so you told us what your partisan goal is in  
18 District 23 under Plan C2308.

19 Did you have a partisan goal for District 28?

12:19:21

20 **A.** Yes.

21 **Q.** What was it?

22 **A.** It was a Republican pickup opportunity. So it was  
23 drawn to be a Trump plus 10 seat. And then the other  
24 thing I did is in Hidalgo County I had to go in and shade  
25 all the Cruz numbers in order to make the 20th District a

12:19:33

1 district that Ted Cruz had also won in 2024.

2 **Q.** You talked earlier this morning about looking at  
3 Abbott 2022 numbers also when you were looking at pickup  
4 opportunities.

12:19:46 5 **A.** That's correct.

6 **Q.** Did you look at the Abbott 2022 numbers when you were  
7 drawing District 28?

8 **A.** I did.

9 **Q.** How, if at all, did that inform the way that you drew  
10 it?

11 **A.** Governor Abbott didn't carry those districts down  
12 there, but I was able to get them the Cruz and Trump  
13 numbers that did. So that's what I looked at.

14 **Q.** Okay.

12:20:06 15 **A.** And so --

16 **Q.** Can we talk about 35 now?

17 **A.** Yes. We can.

18 **Q.** Okay. Mr. Kincaid, how did you draw District 35 in  
19 Plan C2308?

12:20:16 20 **A.** So the 35th District, what happened there is the 15th  
21 had moved to the east. The 28th had moved south. So both  
22 of those had split pieces of Guadalupe County. They had  
23 pieces of Wilson and Karnes. And so they pulled out of  
24 those counties. So those were counties that were free to  
12:20:35 25 be worked with, right, at that point.

1 And so Guadalupe, Wilson, and Karnes were whole  
2 counties that were combined with -- with that area of  
3 Bexar County there to make the 35th District. And that's  
4 how I drew it.

12:20:49

5 **Q.** Did you have a partisan goal when you drew the  
6 35th District?

7 **A.** I did.

8 **Q.** What was it?

12:20:55

9 **A.** Like the other pickup opportunities, it was drawn to  
10 be a Trump plus 10 seat that Ted Cruz had also carried in  
11 2024.

12 **Q.** Did you look at the Abbott numbers?

13 **A.** I did.

14 **Q.** How, if at all, did that affect the draw?

12:21:05

15 **A.** Governor Abbott did pretty well in those seats, and so  
16 he carried them. I didn't use them much more than that.

17 **Q.** Did you perform the durability analysis that you  
18 described where you were looking at older elections to see  
19 how --

12:21:18

20 **A.** I did.

21 **Q.** -- 35 might perform going forward?

22 **A.** Backward, yes.

23 **Q.** Okay.

24 **A.** And so I think the thing here with --

12:21:26

25 **Q.** Hold on. There is not another question. You answered

1 that one.

2 **A.** Sorry.

3 **Q.** What other changes, if any, did you make to 35?

4 **A.** Yeah. So 23, 35, and 20 were all kind of -- 20 is the  
5 one that I said it doesn't look like it's numbered,  
6 because 20 is over San Antonio. Yeah. There we go -- are  
7 all kind of pushing and pulling on each other in 21.

8 **Q.** What do you mean by that?

9 **A.** Yeah. So, again, for 23, like I mentioned before, I  
10 had to keep it at a Trump -- at an R plus seven district,  
11 right?

12 For the 21st District, I had to keep that one at a  
13 60 percent Trump seat.

14 And so hitting those targets was a challenge, number  
15 one and two, because those are --

16 **Q.** Tell the Court why hitting those numbers was a  
17 challenge.

18 **MR. McCAFFITY:** Objection to the extent it calls  
19 for improper expert testimony.

20 **MR. KERCHER:** Strike that question.

21 **BY MR. KERCHER:**

22 **Q.** Tell the Court why keeping those numbers for 21 was a  
23 challenge for you as a map drawer.

24 **MR. McCAFFITY:** Same objection.

25 **A.** It was a challenge because those were incumbent

1 Republican seats and that was the priority was to make  
2 sure that the 21st, which had been a 60 percent or more  
3 Trump seat, stayed 60 percent or more Trump.

12:22:38

4 And that the 23rd had been an R plus seven and stayed  
5 an R plus seven because it had been less than 60 percent  
6 Trump.

12:22:54

7 And so what I did there with the 20th District, in  
8 order to absorb as many Democrats as I could in that seat,  
9 the 35th, at that point, obviously, had -- it used to  
10 extend all the way from Austin down to San Antonio. So  
11 there were a lot of Democrat areas that had been in 35  
12 that had to go up into 20. And so the 20th District at  
13 that point absorbed pretty much all of Downtown San  
14 Antonio, which had been split between 35 and 20 before.

12:23:10

15 BY MR. KERCHER:

16 **Q.** When you were creating District 20 here, did you have  
17 a partisan goal for it?

18 **A.** District 20, I wanted to make it as Democrat as I  
19 could.

12:23:18

20 **Q.** Okay. So you talked about taking some of these  
21 old -- these districts that had gone up to 35 and putting  
22 them into 20.

23 What other changes did you make as you are drawing 20?

12:23:31

24 **A.** Yeah. So the other things I considered in 20, again,  
25 if we had the partisan shading, what you would see here is

1 that the VTDs to the south of that border at 20 were more  
2 Democrat generally than the ones above it.

3 The other problem that I had is that the 21st District  
4 couldn't come over to the west more. There were some  
12:23:47 5 precincts on the west side of 20 that, in a perfect world,  
6 I would have put in a more Republican seat; but I could  
7 not put them in 23 because it would sink 23. And by that  
8 what I mean is it would make it more Democrat. It would  
9 have missed its political targets. And so I had to put  
10 those in 20. And then --

11 Q. Okay.

12 MR. McCAFFITY: Objection, Your Honor. Move to  
13 strike based on improper expert testimony.

14 BY MR. KERCHER:

12:24:13 15 Q. So you are -- I mean, you are talking about moving a  
16 lot of things around for 20. Let me ask you this: As a  
17 map drawer did 20 present a challenge for you?

18 A. 20 was a challenge just in the sense that 35, 21, and  
19 23 were the priority. And I had specific targets I had to  
12:24:31 20 hit in all three of those that made the draw in Bexar  
21 County very complicated.

22 Q. Okay.

23 MR. FOX: Objection to the extent -- move to  
24 strike expert testimony.

12:24:40 25 JUDGE GUADERRAMA: Yes, sir.

1 BY MR. KERCHER:

2 **Q.** So you have been talking about some of the changes you  
3 made to District 20.

4 What, if anything, else did you do regarding 20?

12:24:47

5 **A.** Yeah. So the last thing I did with Texas 20 was I  
6 went back and forth between -- well, so if you'll note  
7 there, just if you zoom in on the northern border of 20,  
8 you'll see that there is a series of three small cities  
9 there, or small towns, that I made sure were whole in the

12:25:04

10 21st District. And then I made a straight line between  
11 Castle Hills and that other one there. I can't remember  
12 the name of it.

13 **Q.** So the three that you just said you kept whole, I see  
14 Alamo Heights?

12:25:16

15 **A.** Terrell Hills, Castle Hills, and then that yellow one  
16 there, Olmos Park I think is what it says.

17 **Q.** Okay.

18 **A.** So I used the straight line there between Castle Hills  
19 and Olmos Park as the border -- the northern border of 20.

12:25:30

20 **Q.** Understood.

21 **A.** Yeah. So you asked before about what the last thing I  
22 did with 20 was.

23 **Q.** Sir, what is the last thing you did with 20?

24 **A.** Yeah. So the last thing I did with 20 is actually

12:25:42

25 something that I had to figure out between 20 and 35. I

1 had looked at it a couple different ways. And so you have  
2 got about 100,000 people east of the loop there in the  
3 Kirby area. And so the question that I had to deal with  
4 was whether to draw in the Kirby area of 35 or the area  
5 south of where you see the line there with 20 into 35 --  
6 into 35.

12:26:04

7 And so I looked at both options. The Kirby area was  
8 more Democrat for -- so let me say it a different way.

9 35 coming to the south side of Bexar County, into that  
10 area below 20, enabled me to make the 35th District more  
11 Republican on the Trump numbers and the Cruz numbers in  
12 2024.

12:26:23

13 MR. McCAFFITY: Objection, Your Honor. Move to  
14 strike based on improper expert testimony.

12:26:34

15 BY MR. KERCHER:

16 **Q.** You lost me. I made the mistake of trying to make a  
17 note while you were talking. Now I don't know where we  
18 are on the map.

19 So you are talking about some of the changes in 20 and  
20 how that affected the way that you drew 35. We are now  
21 looking at the boundary here between northwest 35 and  
22 eastern 20.

12:26:44

23 **A.** Yep.

24 **Q.** And I heard you say -- did you say I-35 or are you  
25 talking about District 35?

12:26:56

1 **A.** I said District 35.

2 **Q.** Okay. So I see that part of the boundary between 35  
3 and 20 follows I-10; is that right?

4 **A.** A very small part of it, but yes.

12:27:09

5 **Q.** Okay. So help me understand what it is about the way  
6 that you are drawing 20 that influences how you draw 25 --  
7 or 35 here.

12:27:24

8 **A.** Yeah. So I was trying to maximize the Trump and Cruz  
9 numbers in the 35th District. And if you had -- if I had  
10 drawn that Kirby area that fingered to the east into 35,  
11 the 35th District would have been less Trump and less Cruz  
12 than the draw that we ended up -- that I ended up with  
13 here.

12:27:38

14 **MR. McCAFFITY:** Objection. Move to strike based  
15 on improper expert testimony.

12:27:53

16 **A.** If you shaded this on partisanship, what you would see  
17 is that there is a steady line of heavily Democrat  
18 precincts that are contained within 20 and then a  
19 smattering of 20 percent precincts -- or heavily Democrat  
20 precincts with smaller ones clustered in that Kirby area  
21 as well. So that's why the Kirby area gets drawn into 20  
22 and not 35.

23 **MR. McCAFFITY:** Objection. Move to strike the  
24 unsolicited testimony.

12:28:12

25 **MR. KERCHER:** So, Richard, if we could bring up,

1 please -- well, let me ask.

2 BY MR. KERCHER:

12:28:21

3 **Q.** We have been talking about the Central Texas area now  
4 for some time from Travis County down to Bexar County and  
5 basically all of the rest of Texas. Can we -- I want to  
6 bring up some of the demonstratives that we have chatted  
7 about.

8 MR. KERCHER: Richard, can we please bring up  
9 Defendants' Exhibit 1531.

12:29:02

10 MR. FOX: Your Honor, same objection to all the  
11 questioning about these as to the prior similar exhibits.

12 JUDGE GUADERRAMA: I'm sorry. Can you say that a  
13 little slower?

12:29:12

14 MR. FOX: Of course. We have the same objection  
15 to all the questioning about this demonstrative as to the  
16 prior similar exhibit as unsolicited retained -- or, I'm  
17 sorry, undisclosed retained expert testimony.

18 JUDGE GUADERRAMA: Yes, sir.

19 BY MR. KERCHER:

12:29:32

20 **Q.** Mr. Kincaid, you should have what has been marked as  
21 State Defendants' Exhibit 1533 here shown for  
22 demonstrative purposes only at this time.

23 Do you recognize this?

24 **A.** I do.

12:29:43

25 **Q.** Did you make it?

1 **A.** I did.

2 **Q.** What is it?

3 **A.** This is the Bexar County area of Texas 20 and  
4 Texas 35.

12:29:54

5 MR. KERCHER: Sorry. This is 153- -- for the  
6 record, this is not 1533. It's 1531. Apologies.

7 BY MR. KERCHER:

8 **Q.** Sorry, Mr. Kincaid. You were saying. What is this?

12:30:06

9 **A.** This is -- what you see there in blue are heavily  
10 Democrat precincts in the San Antonio area and Bexar  
11 County that were put into Texas 20 and not put into  
12 Texas 35.

13 **Q.** Okay.

12:30:20

14 MR. KERCHER: Richard, could we please bring up  
15 State Defendants' Exhibit 1541, here shown for  
16 demonstrative purposes at this time only.

17 MR. FOX: Same objection to this one, Your Honor.

18 BY MR. KERCHER:

19 **Q.** Mr. Kincaid, do you recognize 1541?

12:30:32

20 **A.** I do.

21 **Q.** Did you make it?

22 **A.** I did.

12:30:44

23 **Q.** You talked earlier about how when you drew CD 37 in  
24 the Central Travis County area that there was a clear blob  
25 of -- well, no -- a blue blob in the center of the

1 county --

2 **A.** That's correct.

3 **Q.** -- which sort of made drawing it easy; is that right?

4 **A.** That's correct.

12:30:51

5 **Q.** Can you tell the Court what we're looking at in 1541?

6 **A.** This is Travis County shaded to a 30 percent break.

7 Meaning everything red, President Trump would have gotten

8 30 percent of the vote or more in. Everything blue, he

9 would have received less than 30 percent in 2024.

12:31:07

10 **Q.** If we look immediately to the north of CD 37, which is  
11 in the center of 1541, is that the McCaul hook that we  
12 talked about?

13 **A.** Yes.

14 **Q.** And I see a lot of those -- most of the VTDs through  
15 that hook are blue.

12:31:23

16 Can you remind the Court how that affected the drawing  
17 of 10?

18 **A.** As far as 10 goes, like I said before, I was trying to  
19 get as few Democrat areas as possible in there, which is  
20 why you note that the 37th stops at that one reddish VTD  
21 there. And I put those in to that one and the one above  
22 it, mostly into the 10th, as well as the one in the  
23 northeast corner of 10.

12:31:37

24 **Q.** And then if we look here in the center of 37, there is  
25 a red VTD that connects out to 10; is that right?

12:31:59

1 **A.** Yes.

2 **Q.** Okay. Is that the -- you made the joke about the  
3 governor's mansion a moment ago. Is that that one red  
4 spot in the center of Travis County that you put into 10?

12:32:14

5 **A.** Yeah. It's the downtown area, but it's the capitol  
6 and the governor's mansion that are in the 10th district,  
7 because they were, again, in VTDs that had gone for the  
8 President with 30 percent or more.

12:32:31

9 MR. KERCHER: Richard, could we please bring up  
10 on DistrictViewer Plan C2333.

11 BY MR. KERCHER:

12 **Q.** Mr. Kincaid, we have been talking about thus far the  
13 map that you say you drew as C2308, right?

14 **A.** Yes.

12:32:43

15 **Q.** To your knowledge, was that the enacted map?

16 **A.** It was not.

17 **Q.** Did you make any -- did you draw any portion of the  
18 enacted map?

19 **A.** Yes.

12:32:56

20 **Q.** Okay. Can you just at a high level describe for the  
21 Court what -- where the changes were between 2308 --  
22 physically in Texas between 2308 and 2333, if you know?

23 **A.** Yes. So there are three primary changes from 2308 to  
24 2333. One of those changes was in Navarro County. I made

12:33:24

25 Navarro County whole in the 6th District. That changed a

1 lot of -- well, allowed me to get a little bit more  
2 Republican strength into 17.

3 The other change was in El Paso. So that was a change  
4 that had come from the Texas House. I did not draw that.

12:33:40

5 **Q.** Okay.

6 **A.** And then the other was the rotation of seats in the  
7 Harris -- in the Houston Metro Area.

8 **Q.** Okay.

12:33:51

9 MR. KERCHER: Richard, could you please zoom us  
10 into the Houston Metro Area.

11 BY MR. KERCHER:

12 **Q.** Let's do this the same way we did it the last time we  
13 looked at the Houston Metro Area, Mr. Kincaid, and please  
14 try to keep us in the state this time.

12:34:05

15 Where did you start when you were redrawing the Harris  
16 County map for Plan 2333?

17 **A.** I added Liberty County to the 9th District.

18 **Q.** Why on earth would you do that?

12:34:23

19 **A.** The 9th District was a district that I -- when I drew  
20 it the first time, like I said, it kind of drew itself in  
21 that it was the area in eastern Harris County that I could  
22 put in that district that didn't include Dan Crenshaw's  
23 house. But it was also not as Republican as I would have  
24 liked it to have been. And so what I wanted to do with

12:34:40

25 that seat is make it, you know, redder. So I added

1 Liberty County to it.

2 **Q.** There has been some discussion in this hearing about  
3 why a map drawer would add Liberty County to District 9  
4 when District 9 was already pretty red.

12:35:04 5 Can you tell the Court, yes or no, did you use -- did  
6 you make any change to District 9 based on racial data?

7 **A.** No.

8 **Q.** When you added Liberty County to District 9, did that  
9 affect the population or any of the other considerations  
10 that you as the map drawer had to address in drawing the  
11 district?

12 **A.** Yes.

13 **Q.** How so?

14 **A.** Well, the first problem I had was that it made the  
15 36th District not only underpopulated by about 93,000  
16 people, but it also made it noncontiguous. And so if you  
17 zoom out, what you'll see is that the Liberty County and  
18 Jefferson County lines abut each other. And so what I had  
19 to do was change the way 36 was drawn through Jefferson  
12:35:36 20 County. And so like I had done through most of the map, I  
21 used a road. So I used Interstate 10 as the dividing line  
22 between 14 and 36.

23 **Q.** Okay. What -- so you talked a little bit about the  
24 ramifications of putting Liberty County in 9 and how that  
12:36:17 25 affected 36 and 14.

1 **A.** Right.

2 **Q.** What other ramifications did you have to deal with as  
3 a result of putting Liberty County into 9?

12:36:30

4 **A.** Yeah. So the other thing that it ended up doing is I  
5 had to move 36 somewhere to pick up more people. And so I  
6 took it into the northern part of Brazoria County. The  
7 areas, as we have talked about before, that were in  
8 Texas 18 were already very, very heavily Democrat areas.

12:36:50

9 And by taking Liberty County out of 36, I had taken a  
10 number of Republicans out of that district. And I didn't  
11 want to make it -- you know, drop the Trump number too  
12 far. And so that northern area of Brazoria County was  
13 added to --

12:37:04

14 **Q.** Let me stop you. You are getting ahead of me here,  
15 and I don't want to get in trouble.

16 So you are talking about 36 and how 36 was moving into  
17 the northern part of which county?

18 **A.** Brazoria County.

19 **Q.** Brazoria County.

12:37:17

20 And so if I'm looking at 36 correctly, it sort of  
21 spans the Galveston Bay; is that right?

22 **A.** That's Chambers County.

23 **Q.** Chambers County. Pardon me.

24 **A.** Yeah.

12:37:29

25 **Q.** Okay. Show me where we're getting into Brazoria

1 County.

2 **A.** Just north of that yellow in 14. You see the gray  
3 right above it.

12:37:40

4 **Q.** Okay. So that portion of Brazoria County had not been  
5 in 36 previously?

6 **A.** Not in 2308.

7 **Q.** Okay. So now you've moved a portion of Brazoria  
8 County into 36. Was that for a partisan purposes?

9 **A.** Yes.

12:37:53

10 **Q.** What was the partisan purpose?

11 **A.** To add population in 36 that was not too heavily  
12 Democrat to hurt the seat too much.

13 **Q.** Okay. What did you do next as a result of having  
14 moved District 9 -- or Liberty County into District 9 and  
15 dealing with the fallout from there?

12:38:05

16 **A.** Yeah. So what it ended up doing overall is it created  
17 a clockwise rotation around the Houston area. And what  
18 that ended up doing was the 14th District ended up growing  
19 into Fort Bend County there.

12:38:24

20 **Q.** Is that where the 14th District is now, sort of the  
21 southern boundary of the 18th District?

22 **A.** That's correct. Yeah.

23 **Q.** So what is sort of the next step in the clockwise  
24 rotation you described?

12:38:35

25 **A.** The 22nd District picked up more of Brazoria County

1 and moved into more of a different -- the area in  
2 southwestern Harris County also changed.

3 **Q.** Okay. And I think I see where 22 now crosses the  
4 southwest Harris County boundary. Were there additional  
5 fallout effects of that change?

12:38:52

6 **A.** Yeah. You'll notice there that they --

7 **Q.** What were they?

8 **A.** Huh?

9 **Q.** What were they?

12:39:00

10 **A.** Yes. So the 8th District lost some of that population  
11 that it had had in southwestern Harris County. The  
12 7th District, the line there between 7 and 22, changed  
13 slightly. And then you see there the 18th used to have  
14 this hook. There is a heavily Democrat precinct on the  
15 south side of 18 in 2308. That went away and was put into  
16 14, to make the 14th contiguous into that area just below  
17 18.

12:39:22

18 **Q.** Okay. So it feels like we were around the 9:00 p.m.  
19 -- or the 9 in the clock as we are doing this clockwise  
20 rotation. What is the next step? What is the next piece  
21 of fallout for the Harris County area as a result of  
22 moving Liberty County into 9?

12:39:42

23 **A.** So, again, 22 rotated into 8. 8 then rotated into 2.  
24 And so these are just places where I'm moving Republicans  
25 from one district into another district.

12:40:00

1 Q. Why on earth would you move Republicans from one  
2 district to another? That seems suspicious.

3 A. To balance populations. So for 22, I was able to make  
4 22 a district that President Trump carried with 60 percent  
12:40:15 5 or more. So they would make it even stronger than it had  
6 been before.

7 The 8th District, I was able to put a little bit more  
8 Republican strength back into the 8th District so it  
9 didn't sink too far down.

10 And then for the 2nd District, again, it had to move  
11 out of the Conroe area, and so it picked up that  
12 northeastern Harris piece that it had had prior.

13 Q. So help me understand. I remember we talked about  
14 earlier in 2308 you had moved 2 northward into Montgomery  
12:40:44 15 County to pick up part of Conroe. Now you are saying it's  
16 moving back down into Harris County in part; is that  
17 right?

18 A. The Conroe area was put back into 8. That's correct.

19 Q. So as a result -- I'm sorry if I missed this.

12:40:55 20 How does that affect District 2 in 2333?

21 A. It would -- so taking out the Conroe area, it's a very  
22 heavily Republican area of that district. And so the 2nd  
23 had to move down into that southeastern corner of Harris  
24 County, the south -- I'm sorry -- northeastern corner of  
12:41:13 25 Harris County. And those are also heavily Republican

1 precincts.

2 **Q.** Okay. So let me see.

3 We talked before about 2 having this tail that comes  
4 out to the southwest of the district and that remains; is  
5 that right?

12:41:23

6 **A.** That's correct.

7 **Q.** So when you are talking about 2 moving into northeast  
8 Harris County from 2308 to 2333, are we talking about this  
9 sort of, if you will, low-hanging fruit in the southeast  
10 portion of District 2 under 2333?

12:41:37

11 **A.** Yeah.

12 MR. McCAFFITY: Objection. Leading.

13 JUDGE GUADERRAMA: Sustained.

14 BY MR. KERCHER:

12:41:44

15 **Q.** Can you please describe to the Court, using cardinal  
16 directions and semi-cardinal directions, which portion of  
17 District 2 in 2233 moved into the Harris County area from  
18 2308?

19 **A.** Yeah. So the -- I think it's the Kingwood area in  
20 northeastern Harris County, I took and put back into 2.  
21 And that was to help make the 2nd District to continue to  
22 be a reliable 60 percent plus Trump seat. Yeah. And it  
23 was more Republican than -- less Republican than the  
24 Liberty County area. So it helped improve 9 but also  
25 helped keep 2 above its target.

12:42:00

12:42:19

1 Q. What other changes, if any, did you make to Harris  
2 County -- to the Harris County area as between 2308 and  
3 2333?

12:42:33

4 A. Yeah. So with the changes in 8 and the fact that I  
5 was able to get some more Republican strength into the  
6 8th District, I was able to use that to work with the  
7 38th District as well. And so I was able to strengthen  
8 the 38th a little bit more along that 8th and 38th  
9 boundary.

12:42:47

10 And then in order to balance all of this population  
11 that was shifting around the 7th, the 18th -- and the  
12 18th, at least, had to move a little bit, too.

12:43:05

13 Q. How did the 7th and the 18th -- well, when you say  
14 they had -- when the 7th and the 18th had to move from  
15 your perspective as the map drawer, why?

12:43:25

16 A. Every district has to be at ideal population, right?  
17 And so taking the 14th into that southern part of Fort  
18 Bend County had taken some people out of 18. Taking 36  
19 and 14 into that northern part of Brazoria County had also  
20 taken people out of 18. And so the 18th District had to  
21 grow in population.

22 MR. McCAFFITY: Objection. Calls for improper  
23 expert testimony. Move to strike.

24 BY MR. KERCHER:

12:43:34

25 Q. And I think that you said that 7 and 18 had to move.

1 Can you describe for the Court how 7 moved as a result of  
2 this need to balance the population, from your perspective  
3 as a map drawer?

12:43:48

4 **A.** Sure. So for 7 and 18, it wasn't a lot; but if you  
5 look at that area that's I guess just to the far western  
6 piece of 18 there, there is just a small change of  
7 population that I think moved back into 7 -- no. Moved  
8 from 18 into 7. Yeah. That's pretty much it. It wasn't  
9 a lot, but there was some change there with 7 and 18.

12:44:09

10 **Q.** Have we discussed all of the changes that you made to  
11 the Harris County area between 2308 and 2333?

12 **A.** Not quite yet.

13 **Q.** Okay. Can you tell us the next thing that you  
14 changed?

12:44:18

15 **A.** Yeah. So, again, the 18th had to gain population.  
16 And so if you look in that northern part of 18, whereas  
17 before it had been bound by the bayou, I guess it was, I  
18 brought it up to the Sam Houston Parkway. So that was the  
19 border that I set for the district.

12:44:34

20 There were two VTDs on the northeastern side of 18  
21 that I had put in 9 before that were pretty Democratic,  
22 but not as Democratic as the ones I had put in 18 last  
23 time. So I went ahead and put those into 18 that time.

12:44:52

24 So I changed that line and cleaned that up. And if  
25 you had zoomed in, you would see that it's bound by the

1 highway for the northern border of 18.

2 The other thing that I --

3 **Q.** So that's the next thing you did in order to -- that's  
4 the next change that you made from 2308 to 2333 in the  
5 Harris County area.

12:45:09

6 What, if anything, did you do next?

7 **A.** The only other thing I had to do was to get 18 to  
8 population after it had lost what it lost in Brazoria and  
9 Fort Bend was I had to add a couple of VTDs to the eastern  
10 side of downtown into 18 to balance the population.

12:45:23

11 **Q.** So we've been talking a lot about all these changes  
12 that -- the ripple effects of putting Liberty County into  
13 District 9.

14 **A.** Yeah.

12:45:34

15 **Q.** Let me ask you what role, if any, did the city of  
16 Baytown play in this portion of the redraw?

17 **A.** Yeah. Could you zoom in on Baytown. And would you  
18 mind laying over 2308.

19 Okay. So you'll note in 20- --

12:46:24

20 **Q.** All right. So right now, sir, we are looking at  
21 DistrictViewer Plan 2333 with Plan 2308 overlaying; and  
22 we're looking at Baytown with the cities on.

23 **A.** That's correct.

24 **Q.** With this view in mind -- excuse me.

12:46:41

25 With this view in mind, can you tell us the first

1 thing about how, if at all, Baytown played a role in this  
2 portion of the redraw?

3 MR. McCAFFITY: Objection. Calls for improper  
4 expert testimony.

12:46:53

5 **A.** Yeah. So the challenge that I had is that the  
6 9th District had to get to population. And the 36th was a  
7 little bit over. The 9th was a little bit under. And so  
8 -- I might have that reversed. But either way, 36 and 9  
9 had to balance their population.

12:47:08

10 And so if you zoom in just a little bit more, what you  
11 are going to see there is that the black line is bound by  
12 another highway.

13 BY MR. KERCHER:

12:47:19

14 **Q.** And to be clear, sir, the black line that you are  
15 talking about is the boundary between 36 and 9 under  
16 Plan C2333?

17 **A.** That's correct.

18 **Q.** Okay.

12:47:31

19 **A.** And you'll notice that for 2308 and for 2333, the  
20 downtown area of Baytown is whole in both of those  
21 districts.

22 **Q.** Sorry. You lost me.

23 I was so proud of myself for figuring out you were  
24 talking about 2333 and the boundary between 9 and 36.

12:47:46

25 What am I noticing about that boundary line or about

1 Baytown there?

2 **A.** Yeah. So that area there where you see all those  
3 roads crossing back and forth, so you'll see that that  
4 area, if you put on the heat map of the partisanship in  
5 that area, you are going to see that a couple of them are  
6 high 40s, a couple of them are low 50s.

7 **Q.** You are talking about Trump vote share?

8 **A.** Trump 2024 numbers, that's right.

9 **Q.** All right. Let me ask the question before you answer  
10 it so that the court reporter continues to like me.

11 When you talk about high 40s, low 50s, you are talking  
12 about the Trump vote share from 2024; is that right?

13 **A.** That's correct.

14 **Q.** Okay. So you are talking about how there are certain  
15 particular, it sounds like, VTDs of particular partisan  
16 character that you are looking at in Baytown. Explain to  
17 the Court now, if at all, that influenced you as the map  
18 drawer for this portion of the map.

19 MR. McCAFFITY: Objection. Calls for improper  
20 expert testimony.

21 **A.** So, again, I bound the border of Texas -- of Texas 9  
22 to I think it's 140, whatever that number is there, I  
23 can't quite read it out, to that highway. What you'll  
24 notice to the northeast --

25 JUDGE SMITH: It's 146.

1 THE WITNESS: 146. Thank you, sir.

2 **A.** The other VTDs over there, there is three more VTDs  
3 that were in Texas 9 under the -- under 2308 that I put  
4 into 36 under 2333.

12:49:10

5 BY MR. KERCHER:

6 **Q.** Why did you do that?

12:49:21

7 **A.** It was -- so the thing was, the 9th District, in order  
8 to get to population, I had to -- I was in a place where I  
9 had to either split that area of Baytown or I had to draw  
10 it around the eastern side of Baytown in order to balance  
11 the population. And even then I was still probably going  
12 to have to split Baytown, and that also would have made it  
13 noncontiguous.

12:49:39

14 And so instead of doing that, what I did is I took  
15 those VTDs that were -- that represented the downtown area  
16 of Baytown, and I put them together in the 9th District.  
17 And then I took the 36th and added in the two -- the three  
18 VTDs that were in 9 before. There is a split there, that  
19 little diamond. That black and red diamond there, that's  
20 a split VTD there for balancing the population.

12:49:59

21 **Q.** I see.

22 Is it right to say that the descriptions that you have  
23 just given us -- well, let me back up, because I have  
24 heard you say several things and I want to see if I can  
25 get them straight.

12:50:11

1 We were talking about some VTDs. Those were a  
2 particular part of the character. But you were also  
3 talking about balancing the population.

4 **A.** That's right.

12:50:18

5 **Q.** Let's take that one piece at a time.

6 How did those partisan VTDs, the 40 to 50 percent  
7 VTDs, what did you do with those? That's the first  
8 question.

9 **A.** The 40 to 50 percent VTDs were put into 9.

12:50:32

10 **Q.** Okay. Why?

11 **A.** Because by adding Liberty County to the 9th District,  
12 I was -- it had already gotten to almost -- it was like a  
13 Trump plus 19-something seat. So it was pretty red. So I  
14 wasn't really worried about making it too much redder,  
15 because I had already jumped it by about 2 percent. And I

12:50:50

16 was worried about making sure the district remained -- 36  
17 remained contiguous, like I talked about, with taking it  
18 over the top of Baytown. I was also --

19 **Q.** Were there any other reasons that you moved those  
20 particular VTDs from 36 to 9?

12:51:06

21 **A.** I didn't want to split Baytown in half, the downtown  
22 area in half.

23 **Q.** Does that conclude the reasons that you moved those  
24 partisan VTDs?

12:51:18

25 **A.** Yeah. Apart from the fact that I had to bound it to

1 the highway, yes.

2 **Q.** So the next -- my next question is: Did that create  
3 population equality issues that you as the map drawer  
4 addressed?

12:51:30

5 **A.** Yeah. You'll notice that there is a couple of little  
6 blips across the highway there.

7 **Q.** What were they?

12:51:41

8 **A.** Those little blips across the highway there are just a  
9 few people I had to go grab to balance the population and  
10 make it to zero deviation.

11 **Q.** Okay.

12 MR. KERCHER: Richard, could we please bring  
13 up -- well, let me ask.

14 BY MR. KERCHER:

12:51:53

15 **Q.** Does that conclude your description, Mr. Kincaid, of  
16 the changes that you made between 2308 and 2333?

17 **A.** I believe so, yes.

12:52:08

18 MR. KERCHER: Richard, could we please bring up  
19 what has been marked as State Defendants' Exhibit 1533,  
20 which we show here for demonstrative purposes only.

21 MR. FOX: Your Honor, I haven't seen this one  
22 yet. I assume it is the same objection as to the prior  
23 ones.

12:52:24

24 JUDGE GUADERRAMA: All right. Is this Harris  
25 County?

1 MR. KERCHER: You don't have it?

2 MR. FOX: I just haven't seen it yet.

3 MR. KERCHER: Is that 1533? Looks like I've got  
4 a mistake in my notes. Okay. All right.

12:52:54 5 (Sotto voce discussion between counsel.)

6 MR. KERCHER: How about 1537.

7 BY MR. KERCHER:

8 Q. Mr. Kincaid, I'm showing you State Defendants'  
9 Demonstrative 1537.

12:53:10 10 Do you recognize this?

11 A. Yes.

12 Q. Did you make it?

13 A. Yes.

14 Q. What is it?

12:53:12 15 A. This is the new Texas 29 overlaying the 2024  
16 presidential election results in Harris County.

17 Q. What is the difference between the blue and the red?

18 A. I can't make out the labels on the break, but let me  
19 see here.

12:53:30 20 Q. If you don't know, you don't know.

21 MR. FOX: Your Honor, just to make sure, since  
22 this is a different demonstrative, we object to testimony  
23 about this one, as well, on the same grounds.

24 JUDGE GUADERRAMA: 15- --

12:53:41 25 MR. KERCHER: -37, Your Honor.

1 JUDGE GUADERRAMA: -- -37.

2 BY MR. KERCHER:

3 **Q.** Mr. Kincaid, as with the other demonstratives we  
4 looked at like this, there are white lines.

12:53:49

5 What do those represent?

6 **A.** Those represent the new district lines and -- go  
7 ahead.

12:54:04

8 **Q.** When you as the map drawer -- is this -- like the  
9 other red and blue demonstratives we have looked at, is  
10 this the way -- does this look like what you were looking  
11 at as the map drawer while you were drawing the map?

12 **A.** Yes.

13 **Q.** As the map drawer when you look at 1537, what do you  
14 see? Why is that important to you?

12:54:17

15 MR. McCAFFITY: Objection. Calls for improper  
16 expert testimony.

12:54:32

17 **A.** Well, as I had mentioned before, you'll notice that  
18 the eastern and northern borders of 29 and 18 here are  
19 very clearly bound by heavily Democrat VTDs. And the ones  
20 that are more Republican are drawn into the Republican  
21 districts.

12:54:48

22 The only exception to that is on the western side  
23 where even those VTDs are -- you know, they are  
24 largely -- they are more Republican than the other ones  
25 that are the deep blue ones, but they are still more

1 marginal VTDs.

2 MR. KERCHER: Can we look at Defendants'  
3 Exhibit 1543, which we show here for demonstrative  
4 purposes only at this time.

12:54:59

5 BY MR. KERCHER:

6 Q. Mr. Kincaid --

7 MR. FOX: Same objection, Your Honor.

8 JUDGE GUADERRAMA: Yes, sir.

9 BY MR. KERCHER:

12:55:05

10 Q. Mr. Kincaid, do you recognize 1543?

11 A. Yes.

12 Q. Did you make it?

13 A. Yes.

14 Q. What is it?

12:55:09

15 A. It's the same overlay, just further south, that shows  
16 the eastern border of Texas 18.

17 One thing I'll note --

18 Q. Let me ask you this: Is there anything that you would  
19 note about 1543?

12:55:21

20 A. Yeah. There is a little blue blob there at the bottom  
21 of that feature that we talked about earlier.

22 Q. Yeah.

23 A. There is no population there.

24 Q. Okay. So when you say "the blue blob we talked about

12:55:33

25 earlier," we're talking about the epiglottis or the

1 trigger that branches south of northeast 18th; is that  
2 right?

3 **A.** That's correct.

4 **Q.** And when you say "the blob," are you talking about the  
5 blue area just outside of the white boundary of 18 there?

12:55:46

6 **A.** That's correct.

7 **Q.** Okay. What is noteworthy about that?

8 **A.** There is no population there.

9 **Q.** Then how can it be blue?

12:55:57

10 **A.** Because it was zero votes for President Trump, because  
11 there was no people there. But it's still a VTD.

12 **Q.** Okay. It is so obvious when you say it, I guess.

13 Mr. Kincaid, at some point after drawing 2308 did you  
14 become aware of any of the racial or demographic  
15 characteristics of the districts in 2308?

12:56:19

16 **A.** I did.

17 **Q.** Did you make any changes as a result of becoming aware  
18 of the racial or demographic character of the districts in  
19 2308?

12:56:35

20 **A.** I did not.

21 **Q.** Why not?

22 **A.** I don't draw off of race.

23 **Q.** You described being involved in a nationwide  
24 Republican redistricting effort that included Texas; is  
25 that right?

12:57:01

1 **A.** Yes.

2 **Q.** And I'm not asking for any -- I'm not asking  
3 for -- well, did you have a personal belief as to whether  
4 voters -- let's call them voters of color, Hispanic and  
12:57:22 5 African American voters in Texas were moving towards the  
6 Republican Party?

7 **A.** Yes.

8 MR. FOX: Objection, Your Honor. Improper expert  
9 testimony.

10 12:57:30 BY MR. KERCHER:

11 **Q.** So, I mean, what was -- what was your plan here as a  
12 part of this redistricting effort in Texas? Was it to  
13 dilute the votes of populations who were moving, in your  
14 personal opinion, towards the Republican Party?

15 12:57:47 **A.** No.

16 **Q.** Mr. Kincaid, you have been a trooper.

17 MR. KERCHER: Pass the witness.

18 MR. GABER: Your Honors, it's four to 1:00.

19 JUDGE GUADERRAMA: All right. Let's go ahead and  
12:58:05 20 recess to 2:00, and we'll resume our proceedings then.

21 JUDGE SMITH: That's only an hour.

22 JUDGE GUADERRAMA: Oh, I'm sorry. 2:15. We'll  
23 resume our proceedings then.

24 COURT SECURITY OFFICER: All rise.

12:58:23 25 (Morning session adjourned at 12:58 p.m.)

