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

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

BY: Diego Cesena
DEPUTY

**LEAGUE OF UNITED LATIN § 3:21-CV-00259-DCG-JES-JVB
AMERICAN CITIZENS, ET AL §**

V. § 9:01 A.M. TO 1:04 P.M.

**GREG ABBOTT, IN HIS §
OFFICIAL CAPACITY AS §
GOVERNOR OF THE STATE OF §
TEXAS, ET AL § OCTOBER 8, 2025**

**PRELIMINARY INJUNCTION HEARING
BEFORE THE HONORABLE DAVID C. GUADERRAMA,
HONORABLE JERRY E. SMITH
AND HONORABLE JEFFREY V. BROWN
DAY 7 (MORNING SESSION) OF 9 DAYS**

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**DAY 7
(INJUNCTION HEARING)**

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

3 JUDGE GUADERRAMA: Good morning, everyone.
4 Please be seated.

09:01:35 5 Mr. Kincaid is on the witness stand.

6 And Mr. Fox.

7 MR. FOX: Good morning, Your Honors. Before
8 resuming the examination of Mr. Kincaid, the Gonzales
9 plaintiffs filed a motion last night, two pages. I don't
10 know if the Court has seen it. I have copies, if not.

11 We would like to be heard on it, if possible, before
12 Mr. Kincaid resumes. It relates to his testimony.

13 JUDGE GUADERRAMA: Yes, sir. We want to give the
14 State an opportunity to respond and certainly will take it
09:01:59 15 in order.

16 MR. FOX: Yes. And, of course, I assumed the
17 State would respond. We would -- if possible, in the
18 order for this morning, obviously this relates to the
19 ongoing cross-examination of Mr. Kincaid.

09:02:07 20 JUDGE GUADERRAMA: Yes, sir.

21 JUDGE SMITH: Well, they will have an opportunity
22 to respond in writing if they wish to. If they don't wish
23 to, that's okay, too; but that's up to them.

24 MR. EZELL: I wish to, sir. And we would be
09:02:17 25 happy to do it as fast as we can. Obviously, I need to be

1 in here for Mr. Kincaid's testimony as the only person --
2 as the only person authorized to assert the privilege.

3 But my colleague Anthony Rodregous and I tried to
4 crank something out in the two hours we had this morning.

09:02:31

5 So we have a draft in progress, but we would appreciate
6 until, you know, the end of the day, after lunch sometime
7 to put something together.

8 JUDGE GUADERRAMA: All right. Thank you, sir.

09:02:38

9 MR. FOX: And, Your Honor, just to be clear, from
10 our perspective it is obviously critical that Mr. Kincaid
11 stay here in El Paso and available to be cross-examined
12 until the motion is ruled on.

09:02:48

13 JUDGE GUADERRAMA: You know, I need to confer
14 with my colleagues. That would be my preference as well.
15 I don't think Mr. Ezell is saying that that's not going to
16 happen. He said it's going to happen right after lunch,
17 he hopes. So depending on the ruling, you may have
18 another shot.

09:03:00

19 MR. FOX: Yes, Your Honor. I understand.
20 If possible, I think that if we finish otherwise the
21 cross-examination of Mr. Kincaid before lunch, then in
22 that case we would just ask that pending this motion he be
23 asked to stay available for testimony.

24 JUDGE GUADERRAMA: Yes, sir.

09:03:12

25 JUDGE SMITH: Are there any other updates from

09:03:29

1 either side regarding the scheduling issues that were
2 discussed before we adjourned yesterday? If you are not
3 ready for it, we can do it later. We just need to get all
4 that worked out as soon as possible. And I understand
5 it's complicated.

09:03:41

6 MR. KERCHER: Understood, Your Honor. I think
7 right now we have conferred. It looks like we will
8 probably wrap evidence -- I think right now, at the
9 latest, it looks like probably midday Friday. We have
10 conferred, both sides, regarding what closing argument
11 might look like.

09:03:55

12 I understand that the plaintiffs are asking for
13 20 minutes per party. Since there are six parties, that
14 would be two hours for them. That would -- if it were
15 equal time, that would be two hours for the State. I
16 don't think the Court wants to hear me talk for two more
17 hours, so I would ask for an hour and a half.

09:04:06

18 I don't know if plaintiffs -- I'll leave it to
19 plaintiffs on whether they would like to reserve some
20 portion of their 20 minutes for rebuttals, anything
21 inflammatory that I might say. But I think we're looking
22 at something like three and a half or four hours for
23 closing argument, which would probably work if we are able
24 to wrap evidence by lunch on Friday.

09:04:21

25 JUDGE SMITH: Evidence and argument? Or the

1 argument would be Friday afternoon? I'm just trying to
2 understand.

3 MR. KERCHER: I think we're thinking that
4 argument would be Friday afternoon. Assuming evidence
09:04:30 5 closes at -- by lunch on Friday, then we could come back
6 after lunch for closings at that point.

7 JUDGE SMITH: Does that include the possibility
8 of a rebuttal case by the plaintiffs or not? I mean, I
9 can obviously hear from the plaintiffs about that.

09:04:47 10 Mr. KERCHER: I'll leave it to the plaintiffs to
11 discuss the possibility of rebuttal evidence.

12 JUDGE SMITH: Because, obviously, in advance we
13 need to know whether to anticipate anything on Saturday.
14 And there are some courthouse issues that we can talk
09:04:58 15 about at a later time about that. It's not as simple as
16 it may seem. So we're just trying to get some idea of
17 what to expect.

18 MS. PERALES: Your Honor, our best estimate is
19 that we will end on Friday. It could be 6:00 or, maybe
09:05:13 20 with the Court's indulgence, 6:30; but that's our best
21 estimate right now.

22 JUDGE SMITH: That everything would end on
23 Friday?

24 MS. PERALES: Yes, Your Honor.

09:05:22 25 JUDGE GUADERRAMA: Including closings?

1 MS. PERALES: Yes, Your Honor.

2 MR. KERCHER: To the degree, Your Honor, that the
3 Court is concerned about needing to make arrangements for
4 Saturday, I understand that involves staff and overtime
09:05:36 5 and so forth, obviously the further we get along through
6 this process, we will know more today about how many
7 witnesses we get through. And so I think certainly by the
8 end of the day we ought to be able to give the Court or
9 provide the Court with a useful update on an estimate of
09:05:50 10 time.

11 JUDGE SMITH: We're not trying to nail anyone
12 down. We just -- yes, sir.

13 MR. STRACH: Thank you, Your Honors.

14 As to Mr. Kincaid, I'm assuming we'll wrap up this
09:05:58 15 morning with his testimony. If the Court -- I have not
16 looked at the motion. I'll look at it. We'll see what it
17 says. If the Court grants the motion --

18 Thank you. Appreciate that very much.

19 If the Court grants the motion, Mr. Kincaid I'm pretty
09:06:17 20 sure has a flight out of here today. And I have a flight
21 out of here today. And I'm trying to get the heck out of
22 El Paso if I can.

23 We will do whatever the Court desires, obviously. If
24 that means we have to come back, we'll come back. But we
09:06:37 25 would like the Court to consider the fact that we both

1 have flights out today. And so if the Court grants the
2 motion and wants him back, we would just like a little
3 more of a leeway in getting back to El Paso, if that's
4 okay.

09:06:58

5 MR. FOX: Your Honor, if I could be heard briefly
6 on that.

09:07:09

7 That arrangement is not -- we would object strongly to
8 that arrangement. This is an issue that was resolved by
9 the Court in 2022. It was raised in the middle of
10 cross-examination by the governor's counsel without
11 acknowledging that order from 2022.

09:07:22

12 The idea that we would have to delay proceedings and
13 since it's time sensitive to bring Mr. Kincaid back in the
14 event that we prevail on this motion, to us would be
15 completely unfair. And, you know, it's a two-page motion.
16 It does not take a lot of time to read.

09:07:37

17 JUDGE SMITH: Mr. Fox, yes. We have heard you on
18 that. And the State is going to file a response, a
19 written response to the motion. And then we'll look at
20 that.

21 And Mr. Kincaid and his attorney have the same
22 scheduling logistics issues as everyone else. And so we
23 understand your position on that.

24 MR. FOX: Thank you, Your Honor.

09:07:50

25 MR. STRACH: Thank you, Your Honor. We will do

1 what we need to do. I just wanted to highlight to the
2 Court we are both flying out today.

3 JUDGE SMITH: You have already said that twice.

4 MR. STRACH: Yes, sir. I agree. So I don't want
09:08:01 5 to repeat myself. But we're happy to come back in the
6 scheduling constraints of this hearing.

7 JUDGE SMITH: Okay. You are just repeating
8 yourself, so we are finished with this for now.

9 MR. STRACH: Okay. All right. Thank you, Your
09:08:12 10 Honor. Appreciate it.

11 JUDGE SMITH: All right.

12 JUDGE GUADERRAMA: Ms. Perales, I'm going to
13 grant the running objection that has been made regarding
14 expert testimony, what you-all consider expert testimony
09:08:26 15 from this witness, so you don't have to keep making it.
16 We'll consider it preserved on a running objection.

17 MS. PERALES: Thank you, Your Honor.

18 MR. DUNN: I just have a short issue to raise,
19 excuse me, while this witness is still here. I have
09:08:37 20 conferred with Mr. Kercher about it.

21 As you might recall, yesterday there was a question
22 about Senator Hinojosa, who will be testifying later today
23 from Nueces County, and a refusal for him to waive his
24 privilege. And we want that to remain constant or it
09:08:53 25 needs to be waived now.

1 In other words, Senator Hinojosa is going to testify
2 later today. And I have conferred, as I mentioned, with
3 Mr. Kercher and I understand that is going to remain
4 constant.

09:09:03

5 MR. KERCHER: That's correct. We're not trying
6 to sandbag the plaintiffs where we assert the privilege
7 while Mr. Kincaid is on the stand and then suddenly waive
8 the privilege when Senator Hinojosa is on the stand.
9 Senator Hinojosa intends to maintain his privilege through
10 his testimony.

09:09:15

11 **ADAM KINCAID,**
12 having been previously duly sworn, testified as follows:

13 **CROSS-EXAMINATION (continued)**

14 BY MS. PERALES:

09:09:20

15 **Q.** Good morning, Mr. Kincaid.

16 **A.** Good morning.

17 **Q.** I'm reminded of those police television shows where
18 they tell the witness, "Don't leave town."

09:09:33

19 I'm going to pick up where I left off. We were
20 talking about the DOJ letter from Ms. Harmeet Dhillon and
21 others. And during your testimony yesterday about the DOJ
22 letter, you drew a distinction between Congressional
23 District 29 and the other districts that were mentioned in
24 the letter.

09:09:55

25 And I believe you observed that it is a majority

1 Hispanic CVAP district; is that right?

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

3 **Q.** What impact, if any, did you understand the *Petteway*
4 decision to have on single minority-majority districts?

09:10:17

5 **A.** I don't think it had really any impact in particular,
6 as far as I recall. It was one of the coalition seats.

7 **Q.** Have you ever been tasked with drawing a redistricting
8 map that, while you are pursuing your goals, which can be
9 partisan, you are also told to maintain districts that are
10 required under the Voting Rights Act?

09:10:51

11 **A.** I think I know where you are going with this. And so
12 as far as during the 2021 redraw, what I was asked to do
13 was work around the districts that were in that pod; but I
14 wasn't given any qualifiers as to whether they were
15 required by the Voting Rights Act or not at that time.

09:11:14

16 **Q.** Okay. So let me -- let me break that into two. My
17 question --

18 **A.** -- right.

19 **Q.** -- which was a yes-no question -- and I know you have
20 drawn for other states. You have broad experience drawing
21 state redistricting plans, correct?

09:11:27

22 **A.** Yes, ma'am.

23 **Q.** So my first question is: Have you ever been tasked
24 with drawing a redistricting map that would include, for
25 example, partisan goals, Republican partisan goals, but

09:11:38

1 you have also been instructed to maintain districts that
2 are required by the Voting Rights Act?

3 **A.** Yes.

4 **Q.** Can you tell me which states that applies to?

09:12:01

5 MR. STRACH: Objection, Your Honor.

6 MR. KERCHER: I'll object to relevance here, Your
7 Honor, drawing maps in other states and how that impacts
8 his --

09:12:08

9 JUDGE GUADERRAMA: How is it relevant,
10 Ms. Perales?

11 MS. PERALES: Your Honor, if the witness is going
12 to testify -- where we are going with this is how the
13 witness draws redistricting maps for partisan gain, while
14 following instructions to preserve districts that are
15 protected under the Voting Rights Act. It's highly
16 relevant to our case, Your Honor.

09:12:24

17 MR. KERCHER: And the idea that some of his
18 experience might be relevant, the Court will note that I
19 did not object to Mr. Kincaid being asked whether he has
20 done that or knows how to do that. But asking him to go
21 into which states is not relevant and is a fishing
22 expedition about work of a Republican map drawer in other
23 states.

09:12:35

24 MS. PERALES: Your Honor, it's not a fishing
25 expedition. If it's one state, it's one state. If it's

09:12:49

1 more, you know, are they southern states? Are they
2 northern states? It's important to us.

3 JUDGE GUADERRAMA: I'm going to overrule the
4 objection. He can answer.

09:13:00 5 You can answer that question.

6 **A.** Okay. So going back to 2011, I was given a map that
7 had been negotiated between two incumbent members in South
8 Carolina and had to draw around the district that
9 Mr. Clyburn had created for himself, yes.

09:13:18 10 BY MS. PERALES:

11 **Q.** And did you understand that that was a VRA-protected
12 district?

13 **A.** My understanding is that was their view of the
14 district, yes.

09:13:27 15 **Q.** So that's one example. Are there any other times when
16 you have been called on to redistrict and maintain or
17 preserve a Voting Rights Act district?

18 **A.** Yes.

19 **Q.** How many occasions would that be?

09:13:48 20 **A.** Give me a second. Let me think through that. Where I
21 was explicitly told that it was required by the Voting
22 Rights Act, is that -- that's the question? Or where I
23 was told that this is a district that was drawn by a
24 member or negotiated by two members but not given a this
09:14:14 25 is required by the Voting Rights Act direction?

1 JUDGE SMITH: The question was: Are there any
2 other times when you have been called on to redistrict and
3 maintain or preserve a Voting Rights Act district?

09:14:25

4 THE WITNESS: Yes, sir. Yeah, I'm just trying to
5 make sure I'm clear on --

6 BY MS. PERALES:

09:14:35

7 **Q.** So you were called upon, as the question contains, to
8 maintain or preserve the district, whether because you
9 were told explicitly this is a Voting Rights Act district
10 or whether because it came to you as some type of
11 compromise, just including all of those possibilities?

12 **A.** Okay. Yes. So I'm trying to think through a few
13 different examples.

09:14:55

14 South Carolina would be a case, both in 2011 and 2021,
15 where I helped the delegation put together maps around
16 districts that had been negotiated with Jim Clyburn. So
17 that would be one example.

09:15:22

18 Let's see here. There aren't really many others. I'm
19 just trying to think through the different states where I
20 have done -- as far as Texas is concerned, you know, in
21 2021, I think, like we talked about before, I was
22 instructed to work around some of the districts in the
23 Houston area and some of the districts in the Dallas-Fort
24 Worth area.

09:15:47

25 **Q.** You mentioned earlier the word "pod." When you said

1 "pod," did you mean the Houston area or both Houston and
2 DFW?

3 **A.** I'm sorry. When did I say "pod"? What was the
4 context?

09:16:01 5 **Q.** I heard the word "pod," but -- and that's why I was
6 following up, because I hadn't heard the word "pod."

7 **A.** Okay.

8 **Q.** But if you did not say "pod," I'm not asking you about
9 pod.

09:16:09 10 **A.** I may have. I just don't recall saying that. That
11 was yesterday, I assume?

12 **Q.** No. It was just now.

13 **A.** Did I say pod?

14 **Q.** I think I misheard you, Mr. Kincaid. I apologize.

09:16:17 15 **A.** I don't recall saying pod, but...

16 **Q.** So let me follow up on your last answer.

17 You mentioned the phrase "work around." Can you
18 explain what that means?

09:16:33 19 **A.** Yeah. So with South Carolina, it was this is the
20 district that Mr. Clyburn wants; and we can figure out how
21 to work around that district and not try to make too many,
22 if any, changes to that district. Yeah.

23 **Q.** So when you are redistricting after a decennial census
24 though, of course, your task, especially with
09:16:51 25 congressional districts, is to balance population; is that

1 correct?

2 **A.** It's one of the tasks, yes, is balancing population.

3 **Q.** So you are going to be making some changes. And so
4 let's bring the example to Texas 2021.

09:17:04

5 **A.** Okay.

6 **Q.** You're drawing for the Texas Republican congressional
7 delegation; is that correct?

8 **A.** That's correct.

09:17:16

9 **Q.** And you were working around minority districts in
10 Houston and Dallas-Fort Worth; is that correct?

11 **A.** I was working around Democrat districts in Dallas and
12 Fort Worth. I would frame it that way. Yep.

09:17:33

13 **Q.** But not all Democratic districts are the same, are
14 they? Some of them are majority minority and some of them
15 could be majority white; is that right?

16 **A.** I mean, yes, they can be, generally speaking. Yes.

09:18:03

17 **Q.** So when you were working around -- in general, when
18 you are working around minority districts with the intent
19 to preserve them but you are also moving geography in and
20 out because you have got to get to a certain population --

21 **A.** Okay.

22 **Q.** -- at some point are you taking care to make sure that
23 the minority numbers are where they need to be?

24 **A.** I didn't look at the minority numbers in 2021 or 2025.

09:18:20

25 **Q.** But you did work around certain districts?

1 **A.** I worked around the footprint of those seats. Yes, I
2 did.

3 **Q.** Although the footprint does have to change for
4 population purposes, correct?

09:18:31 5 **A.** Just a little bit on the edges, yes.

6 **Q.** And does that include Congressional District 29 in
7 Houston?

8 **A.** So as far as -- well, it's a "yes" or "no" question.
9 So it would have included 29, yes.

09:18:45 10 **Q.** Would it also have included Districts 9 and 18?

11 **A.** I know where the pod came from.

12 So yes. As far as the pod of those three seats, yes.

13 I think maybe we should go and clarify pod, what that
14 means at this point, or do you want to go back to that
09:19:04 15 later?

16 **Q.** I'm just glad I'm not losing my hearing even more than
17 I already am. But, yes, I think I know what pod is, but
18 maybe you could provide an explanation.

09:19:20 19 **A.** Sure. So when I had drawn the unified map in 2021, it
20 included a different footprint for the Houston area of the
21 three seats, I guess, 18, 9, 29, and also 7. So I guess
22 the four.

23 My understanding -- and, you know, this was
24 secondhand -- was that there had been some deal cut on the
09:19:40 25 House side perhaps where they could work within that pod

1 to rework those seats. And then anything I did had to
2 not -- you know, yes.

3 **Q.** Had to not?

4 **A.** Anything I had done subsequently I needed to make sure
09:19:57 5 that I left those intact and vice versa, so -- so that's
6 what pod -- what I mean by pod.

7 **Q.** Was there a pod in Dallas-Fort Worth?

8 **A.** I don't recall there being a pod in Dallas-Fort Worth.
9 No.

10 **Q.** Were you working around Congressional District 30 in
11 Dallas-Fort Worth?

12 **A.** No. From what I recall, it's been four years now, the
13 issue is more with the borders of Texas 33 at the time.

14 **Q.** So you were maintaining the borders of 33; is that
09:20:40 15 right?

16 **A.** That's correct. Well, generally, yes, I was
17 maintaining the borders of 33. There were some small
18 blocks moved to balance the population along the edges,
19 but that was about it, so -- but generally, yes, I had to
09:21:00 20 keep it in the footprint that was provided to us.

21 **Q.** Those were your instructions?

22 **A.** That's correct.

23 **Q.** Okay. Thank you.

24 I'd like to move now to LULAC Exhibit 1381.

09:21:22 25 Mr. Kincaid, this is going to be a side-by-side map of the

1 Houston, Harris County area in Plan C2193, that's the 2021
2 enacted map, and C2333, which is the 2025 map.

3 **A.** Okay.

4 MS. WAKNIN: I'm sorry. It's not connecting.

09:22:00

5 MS. PERALES: We don't seem to be able to connect
6 to the Court's monitors. I believe we're working to
7 establish the connection, Your Honor.

8 JUDGE GUADERRAMA: Yes, ma'am. Thank you. And I
9 apologize if it's our equipment. I know it's not the best
10 apparently.

09:22:49

11 MR. DUNN: Let me -- what is the exhibit you want
12 to check?

13 MS. PERALES: It is LULAC 1381.

14 (Sotto voce discussion between counsel.)

09:24:29

15 MR. DUNN: It's about to come up. I'm not going
16 to be able to do side by side this way.

17 MS. PERALES: The map itself is a side by side.

18 MR. DUNN: Excellent.

19 MS. PERALES: Thank you for your patience,

09:24:42

20 Mr. Kincaid.

21 THE WITNESS: No problem.

22 MS. PERALES: And thank you to the Court for its
23 patience.

24 BY MS. PERALES:

09:24:54

25 **Q.** So, Mr. Kincaid, do you recognize on the left-hand

1 side the 2021 enacted map?

2 **A.** I do.

3 **Q.** And do you recognize on the right-hand side the map
4 enacted in 2025?

09:25:08

5 **A.** I do.

6 **Q.** Now, we've already established that you are the author
7 of C2333. So my question for you is: Observing from
8 C2193 to C2333, District 29 is now essentially broken in
9 half; is that correct?

09:25:35

10 **A.** It's definitely reworked, yes.

11 **Q.** And we still see some top of 29, or we would say like
12 north and slightly to the west we still see a green 29
13 there. That's right? Yes?

14 **A.** Yes. Uh-huh.

09:25:55

15 **Q.** Okay. But the bottom part is missing from 29 now,
16 correct?

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

18 **Q.** I'd like to go now to LULAC Exhibit 1289. I'll
19 represent to you that Exhibit 1289 is a report from the
20 Texas Legislative Council.

09:27:13

21 MS. PERALES: And if we could scroll down to
22 page 11, please.

23 BY MS. PERALES:

24 **Q.** And that is information taken from the -- as of the
25 2024 general election. If we just look at the left-hand

09:27:26

1 column, you'll see it's marked Plan 2193.

2 Do you see that on the left?

3 **A.** I do.

09:27:45

4 **Q.** Are you familiar with these reports from the Texas
5 Legislative Council?

6 **A.** I have seen some of them before, yes.

09:27:58

7 **Q.** So then you'll agree with me that in the column just
8 to the right -- well, to the left, it's Plan 2193. And
9 then the next column over will show us what has happened
10 with the district in 2193 when we get to the new
11 Plan 2333; is that correct?

12 **A.** Yes. That's what it says.

13 **Q.** And will you observe with me that District 29, in the
14 2021 map, has now been distributed into five districts?

09:28:16

15 **A.** Yes. I see that.

16 **Q.** And the biggest chunk of 29 has gone into the new 9.
17 You'll agree with me, yes?

18 **A.** Yes.

19 **Q.** That's 43 percent?

09:28:26

20 **A.** I see that, yes.

21 **Q.** And then there is a chunk of 29 that remains in 29,
22 about 37 percent, correct?

23 **A.** I see that, yes.

09:28:39

24 **Q.** And then after that, the numbers get smaller, about
25 2 percent or so go into District 7, the Lizzie Fletcher

1 Democratic district; is that right?

2 **A.** Yes.

3 **Q.** And then after that, some of it goes into District 18.

4 About 8 percent of the district is put in 18; is that

09:28:55

5 right?

6 **A.** Yes. I see that.

7 **Q.** And then the remainder goes into District 36; is that

8 right?

9 **A.** Yes. I see that.

09:29:03

10 **Q.** If we can go back to Exhibit 1381, comparing the two.

11 I'd like to ask, when you were drawing the new CD 9

12 you were aware, weren't you, that you were assigning

13 geography from 29 into 9, correct?

14 **A.** Yes.

09:29:32

15 **Q.** I'd like to go to Exhibit 1283, please.

16 MR. DUNN: I think Ms. Waknin can connect now, so
17 she has you.

18 MS. PERALES: If that is Exhibit 1283, if we

19 could go to page 8, please. If we can go back one page so

09:30:19

20 we can see information about CD 9. There we go.

21 BY MS. PERALES:

22 **Q.** So now, Mr. Kincaid, you'll recognize with me that the

23 left-hand column is for the districts in 2333.

24 Do you see that?

09:30:32

25 **A.** I do.

1 Q. And then the right-hand column is 2193.

2 Do you see that?

3 A. Yes. I see that, too.

4 Q. Not the far right but the next to the right.

09:30:42

5 A. Uh-huh.

6 Q. And so I'll represent to you this is the same type of
7 report, but it's going in the other direction. Now we can
8 see what the new 9 looks like and what its constituent
9 parts are from the 2021 plan.

09:30:58

10 You'll agree with me?

11 A. Yes.

12 Q. And so if we follow the columns to the right, we see
13 that there are population columns, correct?

14 A. Yes. I see that.

09:31:09

15 Q. And so here we see, again, that about 43 percent of
16 the new CD 9 is coming out of 29, correct?

17 A. 43 -- what is that? 43.7. It's a little blurry on my
18 screen, just so you know, but it's fine.

19 Q. I'm sorry.

09:31:30

20 A. Yeah. It's fine.

21 Q. Would you also agree with me, as we read across the
22 columns, Anglo, non-Anglo, Asian, Black, Hispanic, would
23 you agree with me that the vast majority of the Hispanic
24 population in the new 9 comes from 29 in the 2021 plan?

09:31:51

25 A. The vast majority? Let me see if I can agree with

1 vast majority.

2 We have the totals for the -- I see the percentages,
3 but do you have the totals for each of those population
4 blocs, by chance?

09:32:09 5 **Q.** No. So I'll rephrase the question.

6 **A.** Okay.

7 **Q.** Would you agree with me that in the new 9 from 2025
8 that, of the population you move into 9 from 29, it is
9 about 80 percent Hispanic?

09:32:34 10 **A.** That's what the report says, yes.

11 JUDGE GUADERRAMA: Is there any way to make that
12 a little bigger?

13 MS. PERALES: Bigger, Your Honor?

14 JUDGE GUADERRAMA: Yes, ma'am. Just so we can
09:32:49 15 see it. It might be easier to see.

16 MS. PERALES: Yes, Your Honor. We're going to
17 zoom out and then zoom back in.

18 MS. WAKNIN: You want the top row?

19 MS. PERALES: Yes. Thank you.

09:33:18 20 MR. DUNN: You have to take it down to the first
21 half.

22 MS. PERALES: Just through the population is
23 fine. Thank you.

24 JUDGE GUADERRAMA: Thank you.

09:33:35 25 MS. PERALES: Thank you, Your Honor.

1 BY MS. PERALES:

2 **Q.** Now, Mr. Kincaid, we also see that the new 9 is made
3 up -- as we covered before, about 2.9, 3 percent of the
4 new 9 is made up of the old 9, correct?

09:34:00 5 **A.** Yes. That's correct.

6 **Q.** And that's about 85 percent Hispanic in that
7 population, correct?

8 **A.** That's what it says, yes.

9 **Q.** And now that it's bigger, we can actually see the
10 total population. It's fair to say then that the new 9 is
11 made up of, from District 29, 335,238 people, 80 percent
12 of whom are Hispanic, correct?

13 **A.** Yes. I see that.

14 **Q.** And then the new 9 is made up of a part of the old 9,
15 about 22,442 people who are 84.7 percent Hispanic,
16 correct?

17 **A.** Yes. I see that, too.

18 **Q.** When you were drawing the 2025 map, you knew that
19 Congressional District 29 was and is represented by Sylvia
20 Garcia; is that correct?

21 **A.** Yes.

22 **Q.** Now, during your direct examination you went over with
23 my friend Mr. Kercher some maps that were shaded in
24 different colors by precinct.

09:35:18 25 Do you remember that?

1 **A.** I do.

2 **Q.** Okay. And I do have some questions for you about that
3 but not right this second. Only to ask you that isn't it
4 true that as you were assigning geography from 29 to the
5 new 9 that you could see that you were putting Democrat
6 precincts into 9 when they were Democratic precincts?

09:35:35

7 **A.** Yes. They were precincts that had voted for Kamala
8 Harris, that's correct.

9 **Q.** That's in the 2024 general election president, right?

09:35:57

10 **A.** Correct. I don't think she has run in Texas before.

11 **Q.** You knew as you were moving the people in what you
12 describe as the Kamala Harris precincts into 9, with the
13 goal of building a Republican 9, that the voters who did
14 vote for Kamala Harris in those precincts would not be
15 able to elect her in the new 9, correct?

09:36:26

16 **A.** I think I disagree, because she would have been a
17 statewide candidate, so -- but are you saying they
18 wouldn't be able to elect a Democrat to congress or what
19 is the -- because they would still be able to vote for
20 Kamala for president statewide in Texas no matter where
21 they -- what district they were in, right? So I'm just
22 not tracking what you are asking me.

09:36:46

23 **Q.** I'll ask it again.

24 **A.** Okay.

09:36:53

25 **Q.** The way that you've described what you could see was

1 that precincts were majority for Kamala Harris or the
2 precinct was majority for Trump or variations within that,
3 correct?

4 **A.** That's correct.

09:37:07

5 **Q.** So as you were moving these precincts that you could
6 see voted majority Kamala Harris into the new 9 and you
7 were working with the goal to build a Republican -- as
8 close as you could get to a Trump 60 percent Republican
9 district, you were aware that the voters who supported
10 Kamala Harris, as you were moving them into the new 9,
11 would not, in that instance, be voting for the winning
12 candidate in the new 9, correct?

09:37:32

13 **A.** I knew I was drawing them into a district that was
14 likely to elect a Republican to congress.

09:37:55

15 **Q.** Thank you. I'm also looking for an answer to my
16 question.

17 **A.** I'm just having a hard time tracking how to
18 specifically answer your question. That's all. So it's
19 got multiple layers.

09:38:07

20 So as far as did I know that they were Democrat
21 precincts? Yes, I did.

22 Did I know I was taking Democrat precincts and putting
23 them into a Republican district? Yes. I knew that as
24 well.

09:38:16

25 **Q.** And you knew that the Democratic votes cast in those

1 precincts would then, once moved into the new 9, not be
2 for the candidate, when you sum up the results, who would
3 be the winner of the new 9, correct?

4 **A.** The likely winner of the new 9, yes.

09:38:32

5 **Q.** But the actual winner, right? Because when we do
6 reaggregated election analysis, we can see when they're
7 finished with the district what percent of the vote went
8 to Kamala Harris reaggregated and what percent of the vote
9 went to Donald Trump reaggregated, correct?

09:38:50

10 **A.** If you are just talking president, yes, but -- yeah.
11 If you are just talking the presidential race, sure, yes.

12 **Q.** I would like to show LUIAC Exhibit 946. And I would
13 like to take you back to the plan we know as C2308. So
14 2025 summer, it's the first plan that we see in the
15 legislature in the special session.

09:39:21

16 **A.** Right.

17 **Q.** You are the author of 2308, correct?

18 **A.** I am.

19 **Q.** And there were some districts that changed from 2308
20 to 2333, and there were some districts that did not,
21 correct?

09:39:34

22 **A.** That's correct.

23 **Q.** Okay.

24 MS. PERALES: If we could scroll down to page 11.

09:39:41

25 BY MS. PERALES:

1 Q. Before I focus on the changes from 2308 to C2333, I
2 would like to focus on the changes from the 2021 map,
3 C2193, to District 29. Okay?

4 A. Okay.

09:40:18

5 Q. Would you agree with me that when you drew Plan C2308,
6 you took the 29 plan that was in place, District 29 that
7 was in place, and you put close to half of it into the new
8 9?

9 A. Yes.

09:40:32

10 MS. PERALES: If we could zoom in a little bit
11 there.

12 BY MS. PERALES:

13 Q. Approximately 48, 46 percent; is that correct?

14 A. I see that, yes.

09:40:41

15 Q. And of that population, which was 372,441 people,
16 about 78.5 percent of them were Hispanic?

17 A. I see that, yes.

18 MS. PERALES: I'd like to go to Exhibit 1383 for
19 LULAC, please. Exhibit 1383. Here, that should be 1383.

09:41:28

20 If that's what it is marked, then I'll just move on.

21 BY MS. PERALES:

22 Q. Perhaps I can accomplish this with you, Mr. Kincaid,
23 verbally.

24 MS. WAKNIN: I have it.

09:42:23

25 MS. PERALES: Yes, please. Exhibit 1383.

1 BY MS. PERALES:

2 **Q.** Here we go.

3 **A.** Okay.

4 **Q.** Do we see in this -- do we see the same approach here
09:42:39 5 between C2193, the 2021 map, and your first draw -- I'm
6 going to call it your first draw. I'm sure it was not
7 your first draw. I don't mean to insult you -- C2308, we
8 see the same effect on CD 29; is that correct?

9 The northern and more western portion of 29 is
09:42:59 10 reconfigured, and then the eastern and southern part of 29
11 is placed into 9; is that correct?

12 **A.** Yes. That's correct.

13 MS. PERALES: I'd like to go to LULAC
14 Exhibit 1202. If we could look at the top first.

09:43:34 15 **A.** I can't see this at all.

16 BY MS. PERALES:

17 **Q.** Mr. Kincaid, are you familiar with these Texas
18 Legislative Council reports called Red-225 District
19 Election Analysis?

09:43:49 20 **A.** No. I'm not sure I have seen this report before.

21 **Q.** I'll represent to you that the Texas Legislative
22 Council helps us understand things about districts in a
23 particular redistricting plan by reaggregateing election
24 results so we can see how the statewide election, for
09:44:08 25 example, would have come out in that particular district.

1 **A.** Okay.

2 MS. PERALES: If we could scroll to page 5,
3 please.

4 BY MS. PERALES:

09:44:18

5 **Q.** And the information about District 9, I believe that's
6 the page -- page 5. It should be information about the
7 new CD 9 in Plan 2333.

8 Would you agree with me that you drew Trump -- the
9 CD 9 in Plan C2333 with about Trump '24 general at
10 59.5 percent?

09:45:00

11 **A.** Yes.

12 MS. PERALES: Let's scroll, if we could, to
13 page 22 where we get to CD 36.

14 BY MS. PERALES:

09:45:26

15 **Q.** You'll agree with me, Mr. Kincaid, that CD 36 is
16 touching CD 9 in your Plan C2333, isn't it?

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

18 **Q.** So if we go to page 22, we have information about
19 CD 36. You would agree with me that CD 36 you drew at
20 Trump '24 general, 61.8 percent?

09:45:48

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

22 MS. PERALES: And then, finally, let's scroll to
23 page 8.

24 BY MS. PERALES:

09:45:57

25 **Q.** Would you agree with me that CD 14 in the plan you

1 drew C2333 is adjacent to Congressional 36?

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

3 MS. PERALES: And if we zoom in to CD 14.

4 BY MS. PERALES:

09:46:10 5 **Q.** Is it fair to say that you drew CD 14 at Trump '24
6 general, 61.5 percent?

7 **A.** That's correct.

8 **Q.** I'd like to go now to Exhibit 1401, LULAC.

09:46:40 9 And I'll just ask you, Mr. Kincaid. You could have
10 created CD 9 at over 60 percent Trump, right, by swapping
11 precincts with CD 36?

12 **A.** I could have, yes.

13 MS. PERALES: We can take that exhibit down.

14 BY MS. PERALES:

09:46:56 15 **Q.** Isn't it also true, though, that if you had swapped
16 those precincts back and forth to make CD 9 60 percent
17 Trump, that your Hispanic CVAP would have dropped below
18 50 percent?

09:47:11 19 **A.** I don't know that. That's certainly possible. But I
20 wasn't targeting the Hispanic CVAP numbers.

21 **Q.** Let's go to Exhibit 1143 LULAC.

09:47:42 22 MS. PERALES: And if we could scroll down to the
23 ACS year ending 2023. We can look at the -- just the --
24 if we can zoom in to the top so Mr. Kincaid knows what
25 we're looking at here.

1 BY MS. PERALES:

2 **Q.** Have you ever -- well, will you agree with me that
3 this report says "American Community Survey Special
4 Tabulation" across the top?

09:47:54

5 **A.** Yes.

6 **Q.** And then in the upper left-hand corner, we'll see some
7 information there, year ending 2023.

8 Do you see that?

9 **A.** I see that, yes.

09:48:05

10 **Q.** Okay. And would you agree with me --

11 MS. PERALES: If we zoom out and then we go back
12 in on CD 9 --

13 BY MS. PERALES:

09:48:22

14 **Q.** -- that the Hispanic CVAP of CD 9 in Plan C2333 is
15 50.3 percent?

16 **A.** Yes.

17 **Q.** I'd like to go to LULAC Exhibit 837.

18 MS. PERALES: And I'd like to scroll down to the
19 ACS 23.

09:48:56

20 BY MS. PERALES:

21 **Q.** Mr. Kincaid, I'll represent to you that we're now
22 looking at the same report for your earlier plan C2308.

23 **A.** Uh-huh.

09:49:11

24 **Q.** Would you agree with me that in your earlier plan,
25 C2308, that the Hispanic citizen voting age population of

1 CD 9 was 50.5 percent?

2 **A.** Yes. I see that.

3 **Q.** And so yesterday you talked with Mr. Kercher about the
4 changes from C2308 to C2333 involving adding Liberty
09:49:38 5 County to CD 9; is that correct?

6 **A.** Yes.

7 **Q.** And then, of course, removing population in Harris
8 County, northeast Harris County to complete the district,
9 correct?

09:49:50 10 **A.** Yes.

11 **Q.** And you will agree with me that despite these changes,
12 that the Hispanic citizen voting age population of CD 9
13 stayed between 50 percent and 51 percent?

14 **A.** Yes, it did.

09:50:07 15 **Q.** Let's talk a little bit about Bexar County. I believe
16 you described in your conversation with Mr. Kercher that
17 in Bexar County, Congressional Districts 35, 21, and 23
18 were a priority for meeting partisan targets; is that
19 correct?

09:50:32 20 **A.** That's correct.

21 **Q.** And you talk about one instance in which the
22 Congressional District 20 boundary followed in one place
23 the outline of two cities, Castle Hills and Olmos Park.

24 Do you recall that?

09:50:50 25 **A.** I do, yeah.

1 Q. Is it also true that when you drew the boundary of
2 Congressional District 20, you split three cities:
3 Windcrest; Converse; and, of course, the city of San
4 Antonio?

09:51:04 5 A. San Antonio I think had to be split no matter what.
6 But as far as the other two, I'm not sure. I would have
7 to see the map for those. It may not have been an area I
8 was looking at as intensely.

09:51:21 9 Q. So let's get to your drawing based on political
10 performance. If we can go to LULAC 1202. This, again, is
11 the Texas Legislative Council report Red-225 for Plan
12 C2333.

13 MS. PERALES: If we can get to the 2024 general
14 election, which I think we may have to scroll down for
09:51:45 15 that. And we're going to look at information for CD 35.
16 That may be a little too close.

17 BY MS. PERALES:

18 Q. So the 2024 general election, candidate Trump results
19 for CD 35. Do you see there that the percent for
09:52:39 20 Mr. Trump is 54.6 percent; is that right?

21 A. Yes.

22 Q. Now, I'd like to stay within this report, but I would
23 like to go up to CD 21. So for Congressional District 21,
24 you do get the performance number for candidate Trump in
09:53:10 25 the 2024 general election up to 60.2 percent, correct?

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

2 **Q.** And then finally -- well, just so we can observe, your
3 CD 35 numbers for Trump 2024 are about 5 percentage points
4 lower than for the neighboring CD 21, correct?

09:53:35 5 **A.** As aligned with my criteria, yes.

6 **Q.** Now, again, as a technical matter, you could have
7 evened out the Trump performance between Districts 21 and
8 35, they are adjacent, by giving more heavily Republican
9 precincts to CD 35, correct?

09:53:52 10 **A.** No. That's not correct.

11 **Q.** And why not?

12 **A.** Because my criteria when drawing this map was to make
13 sure that the districts with Republican incumbents was
14 60 percent or more. Trump had to stay 60 percent or more

09:54:08 15 Trump. So I could not drop the 21st District much more,
16 no.

17 **Q.** I understand. And that's why I asked my question as a
18 technical matter. So let me repeat my question.

19 As a technical matter, because 35 and 21 touch each
09:54:26 20 other, you could have evened out their performance by
21 moving more Republican performing precincts into 35,
22 correct?

23 **A.** Absent my criteria, yes, I could have done that.

24 **Q.** If you had done that, you would have dropped the

09:54:44 25 Hispanic citizen voting age population below 50 percent in

1 CD 35, correct?

2 **A.** I think that's possible, yes.

3 MS. PERALES: Let's go to LULAC 1143. If we can
4 go forward to the ACS year ending 2023 and to District 35,
5 if we could.

09:55:20

6 BY MS. PERALES:

7 **Q.** Would you agree with me, Mr. Kincaid, that the
8 Hispanic citizen voting age population of Congressional
9 District 35 in Plan C2333 is 51.6 percent?

09:55:35

10 **A.** Yes. I see that.

11 **Q.** Now, while you were drawing the boundary between
12 Congressional District 20, that's -- I know sometimes we
13 think of them in terms of their incumbent -- Joaquin
14 Castro?

09:55:54

15 **A.** Right.

16 **Q.** When you were drawing the boundary between
17 Congressional District 20 and Congressional District 35,
18 you split a whole bunch of precincts along that boundary;
19 isn't that right?

09:56:04

20 **A.** Yes, I did. I don't know if a whole bunch, but it's
21 several, yes.

22 **Q.** Okay.

23 MS. PERALES: Let's go ahead and show the
24 Demonstrative CD 35 split precincts.

09:56:22

25 BY MS. PERALES:

1 Q. If you'll observe with me down along the bottom.

2 MS. PERALES: If we could zoom in there to the
3 split precincts there. Yes. Thank you.

4 BY MS. PERALES:

09:56:38 5 Q. If you split, for example, Precinct 1026 perhaps is
6 the right number?

7 A. It might be 5. Yes.

8 Q. 1025. I'm sure your eyes are better than mine.

9 A. I can't tell if it's a five or a six. I think it's a
10 five.

11 Q. So we don't have to number them all. It looks like
12 about one, two, three, four, five, six, seven, maybe eight
13 precincts?

14 A. Yeah. I see that.

09:57:03 15 Q. And these precinct splits occurred in a heavily
16 Hispanic area. Would you agree with me?

17 A. I believe so, yes.

18 Q. Okay. Thank you.

19 MS. PERALES: Okay. We can take that down.

09:57:21 20 BY MS. PERALES:

21 Q. Yesterday, when you were talking to Mr. Kercher, we
22 saw a few partisan shaded maps during your testimony.

23 Do you remember that?

24 A. I do.

09:57:29 25 Q. You said you prepared them more or less over the past

1 month, if I recall, yes?

2 **A.** I believe that's what I said, yes.

3 **Q.** And just so the Court understands, when you are

4 sitting at your computer and you are drawing a

09:57:46

5 redistricting map, you can set a color shading theme, as

6 we call it, to shade at, for example, the precinct level

7 or the block level for political results, correct?

8 **A.** That's correct.

9 **Q.** Now, when you, Adam Kincaid, are sitting there and you

09:58:11

10 set your color shading theme, are you using a single

11 contest, let's say Trump versus Harris '24; or are you

12 using an index?

13 **A.** One race.

14 **Q.** One contest. Okay.

09:58:26

15 So you, Adam Kincaid, are sitting in front of your

16 computer. You have got a shading on for this one contest.

17 And you are looking at the geography. And it's colored.

18 And then from there, you are selecting -- using your

19 mouse, you're selecting a geography. It could be a block.

09:58:49

20 It could be something else. And then you are assigning it

21 to a particular district number; is that correct?

22 **A.** Yes.

23 **Q.** Okay. So that's what you have in front of you.

24 I'd like to look at the maps that the State has marked

09:59:04

25 as exhibits. But before we do that, by way of

1 introduction to the maps that the State marked as
2 exhibits, you created these exhibits after you finished
3 drawing the map, correct?

4 **A.** I did, yes.

09:59:25 5 **Q.** All right. And you created them for the State, yes?

6 **A.** Yeah. I guess so.

7 **Q.** For the State defendants. I should be more clear.

8 **A.** Sure.

09:59:43 9 **Q.** These exhibits that we're about to look at, they are
10 not screenshots of what you were looking at that you took
11 while you were mapping; is that correct?

12 **A.** That's correct. I'm not in the habit of taking
13 screenshots while I'm drawing maps.

09:59:58 14 **Q.** There are probably teachers in the past who used to
15 say show your work, but that's not what we're about to
16 look at, correct?

17 **A.** I actually would love to live stream my drawing. It
18 would make a lot of this all much easier, so...

10:00:10 19 **Q.** You could create an entire community of people who are
20 really into redistricting who would want to watch that.
21 Perhaps some of my friends over there as well.

22 **A.** I can think of a few.

23 **Q.** Okay. So let's go ahead and start then looking at
24 these maps. Let's show State 1530.

10:00:39 25 Now, Mr. Kincaid, these exhibits as we received them

1 don't have a label or a legend on them, correct?

2 **A.** I noticed that as well, yeah.

3 **Q.** You were struggling a little bit yesterday to say what
4 the threshold number was that you were using to decide
10:01:00 5 what was going to be blue and what was going to be red,
6 correct?

7 **A.** Well, I was trying to decide from what it was here.
8 Because I don't remember what the shade was on each
9 different one of these that I made. What I was trying to
10 demonstrate was, in the different areas, what the
11 thresholds for the barrier -- the borders were.

12 **Q.** I understand.

13 And the borders that you just mentioned are in white;
14 is that correct?

15 **A.** That's correct.

16 MS. PERALES: With the permission of Mr. Kercher,
17 I'd like to use the whiteboard and the markers.

18 MR. KERCHER: The whiteboard is not mine. The
19 markers are mine. Permission granted.

10:01:37 20 MS. PERALES: Thank you, Mr. Kercher.

21 BY MS. PERALES:

22 **Q.** I'm going to get a little bit closer to you,
23 Mr. Kincaid; but I don't mean to do that in any
24 threatening way.

10:01:48 25 MR. KERCHER: No more than usual.

1 BY MS. PERALES:

2 Q. Mr. Kincaid, we have the benefit of seeing the file
3 name for the exhibits that I'm about to show you.

4 A. Okay.

10:02:39 5 Q. And luckily for us, in the file name of the exhibit is
6 the numerical cut number --

7 A. Oh, great. Okay.

8 Q. -- that you used. So although it's not on the
9 exhibit, it is in the file name. And I will put them here

10:02:58 10 on the whiteboard --

11 A. Great.

12 Q. -- for you as we walk through.

13 A. Okay.

14 Q. So for State Exhibit 1530, the cut number is

10:03:10 15 29.1 percent.

16 A. Okay.

17 Q. Does that seem familiar to you?

18 A. I'll take your word for it.

19 Q. And now if we could show LULAC 1384. This is not a

10:03:33 20 State exhibit. This is just one of ours. We decided to

21 use the same overlay, but use a different cut, which is
22 50 percent.

23 A. 50 percent. Okay.

24 Q. Yes.

10:03:43 25 And so if we're looking at 1384, I'll represent to you

1 that instead of white lines, the district boundaries are
2 black lines.

3 **A.** Got it.

4 **Q.** Do you see that there?

10:04:00 5 **A.** I do.

6 **Q.** Okay. Now let's go to State 1531. This is in Bexar
7 County.

8 MR. KERCHER: (Turning screen.)

9 MS. PERALES: Mr. Kercher, you are a lifesaver.

10:04:23 10 BY MS. PERALES:

11 **Q.** So we see here this is your -- this is the shading
12 that you prepared for State defendants. The file name
13 says 30 percent.

14 Does that seem familiar to you on that cut?

10:04:33 15 **A.** Yes. I think that's what I said yesterday, too.

16 **Q.** Thank you.

17 And now we're going to go to LULAC Exhibit 1385.

18 Again, we're always going to use the 50 percent cut

19 number. And, again, the district boundaries are black

10:04:59 20 lines here. So then this would be Bexar County showing

21 the precincts that were either majority for candidate

22 Trump or majority for candidate Harris.

23 Do you see that there?

24 **A.** I do.

10:05:10 25 **Q.** Okay. Let's go now to State 1532. This is Dallas and

1 Tarrant County. The following says the cut number here is
2 40 percent.

3 Does that sound familiar?

4 **A.** Yeah. That looks right for this map.

10:05:44

5 **Q.** Now, Mr. Kercher is telepathically making my
6 handwriting very bad after I criticized his Texas. So I
7 apologize for the funky-looking numbers there.

8 Let's go to LULAC 1386. Again, this is the same area,
9 Dallas; and the numerical threshold is at 50 percent.

10:06:15

10 Do you see that there?

11 **A.** I -- yes. I see that. I don't see where it says
12 50 percent, but I see that that's the same area, yes.

13 **Q.** Thank you.

10:06:34

14 Let's go to State 1533. This is another part of
15 Harris County. This time the file name says the cut is at
16 35 percent.

17 Do you happen to remember that?

18 **A.** Yes. That makes sense.

10:06:51

19 **Q.** This is our second Harris County map. This one I
20 believe was named East Harris.

21 **A.** Yeah. It's eastern Harris. Yes.

22 **Q.** And just so we can observe, I notice with the cut that
23 you selected for this one, 35 percent, there is kind of a
24 nice following of the boundary of CD 9 along the edge of
25 CD 18.

10:07:19

1 That lines up pretty well, doesn't it?

2 **A.** It does, yes.

3 **Q.** It does. Okay.

10:07:33

4 Let's go to LULAC 1387. Again, using a 50 percent
5 cut.

6 Now we see that the boundary between 9 and 18 is
7 carving through majority Harris precincts; is that
8 correct?

9 **A.** Yes.

10:07:46

10 **Q.** Let's go next to State 1534. This is El Paso. And
11 you chose a 50 percent in the file name.

12 **A.** That's easy for everybody. This is El Paso.

13 **Q.** We didn't do another map for El Paso because the
14 50 percent would have looked exactly the same, just the
15 boundaries would have been not white but black.

10:08:10

16 Okay. Moving on. Let's look at State 1535. This is
17 the file name of Fort Bend and southwest Harris County.
18 The cut in the file name here is at 44 percent.

19 Do you recall that?

10:08:38

20 **A.** Yes.

21 **Q.** And then if we go to LULAC 1388, we see the district
22 boundaries now superimposed over a 50 percent threshold.

23 Do you see that?

24 **A.** Yes.

10:09:03

25 **Q.** Next is State 1536, north Dallas County. The cut

1 threshold in the file name that you chose for this one is
2 40 percent.

3 Do you remember that?

4 **A.** Yeah. This looks like 40 percent, yes.

10:09:32

5 **Q.** And then if we could look at LULAC 1389, this is the
6 same area, with a 50 percent cut.

7 Do you see that there?

8 **A.** I see that.

10:10:01

9 **Q.** Let's go to State 1537. This is going to be -- this
10 was labeled North Houston 42.9 percent.

11 Do you recall setting a 42.9 percent threshold?

12 **A.** For this map, yes.

13 **Q.** Thank you.

10:10:37

14 And then LULAC 1390, this is the 50 percent threshold
15 here. Do you see now that the line, especially between 29
16 and 18 here, cuts through majority Harris precincts in
17 this map?

18 **A.** Sure. Yeah.

10:11:13

19 **Q.** Let's go to State 1538. And this is Nueces County,
20 Corpus Christi. The file name says you chose the cut
21 threshold at 38.7.

22 Do you remember that?

23 **A.** Yes.

10:11:38

24 **Q.** And we see that the line boundary here on the district
25 lines up pretty well with a 38.7 threshold. That's right?

1 **A.** It does.

2 **Q.** And now let's go to LULAC 1391. That's using a
3 50 percent threshold.

10:11:58

4 Would you agree with me that in this map, which is
5 LULAC 1391, the boundary of -- this is actually District
6 27 dipping into 34, that that boundary is dividing
7 majority Harris precincts from each other?

8 **A.** Yes.

10:12:26

9 **Q.** Let's go to State Exhibit 1539. The file name we have
10 for this one is South Dallas 20 percent.

11 Do you remember using a 20 percent threshold for this?

12 **A.** Yes.

13 **Q.** And now if we go to LULAC 1392, this is using a
14 50 percent threshold.

10:12:53

15 Do we see the boundary here that shows in black
16 cutting largely through Democratic precincts?

17 **A.** Yes. I see that.

18 **Q.** There is only three more, Mr. Kincaid.

19 **A.** That's all right.

10:13:12

20 **Q.** State Exhibit 1540. This is also marked South Dallas
21 County in the file name, but the cut here is 40 percent.

22 Do you recall using a 40 percent cut in this map?

23 **A.** Yes.

10:13:46

24 **Q.** Same geographic area, though, as the previous map,
25 correct?

1 **A.** Yeah. I'm not sure why it's using that.

2 **Q.** And then if we could show LULAC 1393.

3 Again, I believe the observation would be the same as
4 the last map.

10:14:01 5 **A.** Yes.

6 **Q.** The boundary here is cutting through Democrat -- it's
7 dividing Democrat precincts from Democrat precincts for
8 this contest, Kamala Harris, yes?

9 **A.** Sure. Yes.

10:14:13 10 **Q.** If we could go to State 1541. This file name is
11 Travis County 30 percent.

12 Do you recall using a 30 percent threshold for this
13 map?

14 **A.** Yes.

10:14:32 15 **Q.** And then if we can go to LULAC 1394. It looks here,
16 if you would agree with me, that the boundary line using a
17 50 percent threshold, meaning majority Trump or majority
18 Harris, that the boundary here cuts through district -- or
19 precincts that are majority Harris; is that right?

10:15:04 20 **A.** Yes. This definitely looks like the Austin area.

21 **Q.** It does look like Austin, doesn't it?

22 Okay. Last map. State 1543. This file name is also
23 Harris, but it's -- the cut is at 31 percent.

24 Do you recall using a 31 percent threshold for this?

10:15:26 25 **A.** Yes.

1 Q. And now if we can go to LULAC 1395. Using a
2 50 percent threshold, you would agree that the boundary
3 between 29, 18, 9, and 7, divide Democratic precincts from
4 each other?

10:16:05

5 A. Yes.

6 Q. Besides shading and geography, I'd like to talk with
7 you a little bit about what someone drawing a
8 redistricting map can also see when they are using the
9 software to draw districts.

10:16:46

10 We've talked about shading for characteristics and
11 specifically your use of shading for a particular election
12 contest to evaluate support for a candidate such as Trump,
13 correct?

14 A. That's correct.

10:17:01

15 Q. You can also shade for other characteristics, correct?

16 A. If you have it in your redistricting platform, yes.

17 Q. And so if we had in the redistricting platform voting
18 age population by race, that you can shade by that, one
19 could shade by that, correct?

10:17:25

20 A. You could.

21 Q. Now, I also want to talk about a toolbox -- that's a
22 terrible way to describe it.

23 I would also like to talk about a box that you can
24 have on the screen in which you can ask for certain types
25 of information to be present. And as you are making

10:17:46

1 changes in the map, you essentially get an updated tally.

2 **A.** Okay.

3 **Q.** So, for example, if you are building a district and
4 you want to or need to hit a certain population target for
10:18:08 5 the purpose of one person, one vote, you can have in your
6 little box on your screen, active on your screen as you
7 are assigning geography into and out of, let's say,
8 District 36. You are seeing a real time change in the
9 total population of 36, for example, correct?

10:18:31 10 **A.** Yes. You would be able to see the population of 36.
11 Yes.

12 **Q.** And as you are moving geography in and out, that
13 number is changing for you, correct?

14 **A.** That's correct.

10:18:40 15 **Q.** And you use something like that when you are mapping
16 to keep track of total population so you know, oh, I'm
17 underpopulated or, oh, I'm overpopulated as you are making
18 changes to a district boundary, correct?

19 **A.** Yes.

10:18:55 20 **Q.** You can also keep as a running total as you are making
21 changes, for example, percent Trump '24 general, correct?

22 **A.** You could, yes.

23 **Q.** And so you could also set that up for three contests
24 in your little box. So you could do Trump '24, Cruz '24,
10:19:13 25 Abbott '22, correct?

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

2 **Q.** And then as you are assigning geography into and out
3 of the district, with each change you are able to see the
4 change that it has, not just on total population but also
10:19:26 5 on percent returns for Mr. Trump, Mr. Cruz, and
6 Mr. Abbott, correct?

7 **A.** Yes.

8 **Q.** You had something like that going on when you were
9 mapping?

10:19:33 10 **A.** I did.

11 **Q.** Okay. And then finally, if you had citizen voting age
12 population by race on your platform --

13 **A.** Uh-huh.

14 **Q.** -- you could also set it up in that box so that every
10:19:47 15 time you moved geography into and out of the district,
16 even if you are using shading on political performance,
17 you could watch those numbers changing as you are adding
18 or taking out geography with respect to, for example,
19 Hispanic citizen voting age population?

10:20:04 20 **A.** You could do that, yes.

21 **Q.** One more question about your mapping.

22 You said in response to a question from Mr. Gaber that
23 you got your election results from the Texas Legislative
24 Council; is that correct?

10:20:23 25 **A.** Yes.

1 Q. But you drew using 2020 VTDs in your system, didn't
2 you?

3 A. Yes.

4 Q. Okay. Did you get those -- those are the census VTDs?

10:20:33 5 A. They are.

6 Q. Okay. You'll agree with me that the 2024 Trump/Harris
7 results, which you would have gotten from TLC, are not
8 available in 2020 VTDs, correct?

9 A. That's correct.

10:20:45 10 Q. So just to be clear for the Court, what that meant was
11 that you were transposing election results from 2024 VTDs
12 into 2020 VTDs using some type of methodology?

13 A. That's correct.

14 Q. So the Court has heard a little bit about
10:21:04 15 disaggregation. You are essentially disaggregating, let's
16 say, Trump vote returns from 2024 VTDs down to the block
17 level and then building them back up into 2020 VTD
18 geography.

19 Is that what you were doing?

10:21:19 20 A. That's right. You take the results from 2024, you
21 bring them down to the census blocks, and then you can
22 reaggregate them back up to whatever geography you need
23 to.

24 Q. Let's talk a little bit -- let's talk a little bit
10:21:31 25 about the map that you drew in 2021 for the Texas

1 Republican congressional delegation. This is before you
2 drew most of what became C2193.

3 **A.** Okay.

4 **Q.** This is more at the beginning of the process.

10:21:53

5 You were working for Mr. Chris Gober who represented
6 the congressional delegation for the Republicans, correct?

7 **A.** Yes.

8 **Q.** And you drew a map at Mr. Gober's direction on -- I'll
9 just stop there.

10:22:11

10 You drew a map at Mr. Gober's direction, correct?

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

12 **Q.** After you drafted the map for the delegation, the
13 delegation met, they agreed on a map, and it was
14 submitted, correct?

10:22:21

15 **A.** That's correct.

16 **Q.** You recall this map was called unified, right?

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

18 **Q.** I know you mentioned unified yesterday. I wasn't sure
19 if it really had much of an explanation, but that's the
20 explanation for the unified map, correct?

10:22:35

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

22 **Q.** Did you call it unified because the delegation had met
23 and sort of come to an agreement on it?

24 **A.** It was a unified map.

10:22:43

25 **Q.** A unified map.

1 Let's talk about the unified map that you drew in
2 Harris County.

3 **A.** Yeah.

10:22:57

4 **Q.** If we could show LULAC 1396. And just to be clear,
5 we're talking about the unified map in Harris County.

6 **A.** Okay.

7 **Q.** If you just look at the blue boundary outlines, does
8 this look like the unified map to you?

9 **A.** It does.

10:23:19

10 **Q.** I'll represent to you that those are the boundaries
11 overlaid on top of C2333.

12 Do you recognize that?

13 **A.** Yes.

10:23:37

14 **Q.** I just wanted to make sure I got my oranges
15 straightened out before I said that to you.

16 So in the unified map, we see a configuration of CD 29
17 that has a piece in the north side of Houston and then it
18 has another piece that's to the south and to the east.

19 Do you see that?

10:24:02

20 **A.** I see that, yes.

21 **Q.** I know that when we work with maps, sometimes we make
22 up names for the different shapes. I always thought of
23 your version of 29 here as a lady walking with a candle.
24 She is walking to the west. She is holding a candle in
10:24:20 25 her arms. And she has a long dress flowing behind her.

1 And she has a very large triangular head. We'll forgive
2 her for that.

3 **A.** Lovely name for a district.

4 **Q.** So in this version that you drew, and I know you
10:24:37 5 talked about it a little bit earlier when you talked about
6 the pod, and we won't go back to the pod.

7 I did want to know this: Is it true that here you
8 made Congressional District 7 into a Republican district?

9 **A.** 7? No. I did not.

10:24:57 10 **Q.** No? Okay.

11 **A.** No. 7 is a Democrat seat in this map.

12 **Q.** I see.

13 So you maintained 7 as a Democratic seat in this map?

14 **A.** I was -- yes. We were creating four Democratic seats
10:25:09 15 in Houston.

16 **Q.** Okay. Now, going back to the lady with the candle,
17 Congressional 29. You drew this district with a round-up
18 59 percent Hispanic citizen voting age population,
19 correct?

10:25:21 20 **A.** I don't know that. I used political data to draw the
21 map, so...

22 **Q.** Now, this version of Harris County -- well, just a
23 follow-up to that.

24 The two other districts that you drew right around
10:25:39 25 there, 9 and 18, those are not majority Hispanic districts

1 in your unified plan, correct?

2 **A.** I don't believe so, no.

3 **Q.** Now, this version of Harris County that you drew made
4 it through the legislative process all the way through the
10:26:00 5 map that the Texas Senate passed and sent over to the
6 House in 2021; is that correct?

7 **A.** I believe that's right. Yes.

8 **Q.** And then you mentioned yesterday that the House
9 amended the Harris County congressional configuration by
10:26:15 10 amendment on the floor essentially?

11 **A.** Yes.

12 **Q.** Okay. But at least our lady with the candle and the
13 long dress, she made it through the Senate, yeah?

14 **A.** I always liked this district. I don't know if you do
10:26:28 15 or not, but I like it.

16 **Q.** Yes.

17 And when she gets changed, she looks more like a
18 dragon, doesn't she?

19 **A.** I think it looks like a seahorse, but sure.

10:26:39 20 **Q.** Seahorse. I apologize for the aggressive analogy. I
21 think dragon.

22 **A.** I also name districts as I draw them, so...

23 **Q.** Let's go to LULAC 1402. I'll represent to you this is
24 Plan C2135. This is the Senate engrossed plan, meaning
10:27:14 25 the plan that was passed out of the Senate in 2021.

1 We see your version of CD 29, CD 18, and CD 9; is that
2 correct?

3 **A.** I see that, yes.

4 MS. PERALES: And now, if we could go to LULAC
10:27:31 5 1399 -- wait. Wait. Wait. I misspoke. LULAC 1403. If
6 we could go scroll down to ACS here ending 2023 in 1403.

7 MS. WAKNIN: I'm sorry. I got disconnected.

8 MS. PERALES: We seem to have lost our
9 connection, Your Honor.

10:28:55 10 If we can scroll to ACS here ending 2023. If we can
11 go to Congressional District 29.

12 (Sotto voce discussion between counsel.)

13 BY MS. PERALES:

14 **Q.** I'm going to skip this question and correct an exhibit
10:29:35 15 later.

16 **A.** Okay.

17 **Q.** Let's go to LULAC Exhibit 1399.

18 Does this look like your unified map in the area of
19 Central Texas?

10:30:02 20 **A.** I believe so, yes.

21 **Q.** And in your unified map in 2021, you did draw CD 35 as
22 a district that ran along the I-35 corridor between Austin
23 and San Antonio, correct?

24 **A.** I did.

10:30:19 25 **Q.** And when the map that you drew was implemented in the

1 2022 elections, CD 35 elected Greg Casar to congress; is
2 that right?

3 **A.** I believe that's when he won, yes.

10:30:48

4 **Q.** Let's go to LULAC 1397. We're changing geography
5 again. We're going to Tarrant County this time. I would
6 like 1397.

7 **A.** That's what that is.

8 **Q.** That's what it is?

9 **A.** Uh-huh.

10:31:05

10 **Q.** How about 1400? We're going to get there.

11 Okay. Do you recognize 1400 as your unified map in
12 the Dallas-Fort Worth area?

13 **A.** I do.

10:31:30

14 **Q.** And I wanted to draw your attention to Congressional
15 District 25, which comes up out of Johnson County, I
16 believe, and then all the way up into the city of Fort
17 Worth; is that correct?

18 **A.** That's correct.

10:31:43

19 **Q.** And it runs through a narrow corridor into Tarrant
20 County. And it's gray here in this map. It goes all the
21 way up to north side into Fort Worth, correct?

22 **A.** That's correct.

23 **Q.** Now we can go to 1397.

10:32:04

24 And with your appendage that you drew from
25 Congressional 25, Johnson County up into Fort Worth, you

1 picked up primarily Hispanic population with that, didn't
2 you?

3 **A.** I did, but it was drawn off of partisanship again.

4 **Q.** And so what you were doing here is you were separating
10:32:17 5 off a piece of Congressional District 33 and attaching it
6 to 25, correct?

7 **A.** Yes. When you shade off the politics you'll see that
8 that area that's in 33 is all heavily Democrat and the
9 area to the west and north is less Democrat than that
10:32:32 10 area.

11 **Q.** And the area to the east is also very Democrat, isn't
12 it, because it's primarily Elack?

13 **A.** Here in the east it's heavily Democrat, yes.

14 **Q.** Thank you.

10:32:45 15 Let's go to 1398, LULAC 1398. I won't ask you if you
16 have seen this, because this is from the 2011
17 redistricting litigation here in Texas.

18 Would you agree with me that your carving of Fort
19 Worth Latinos looks very similar to the 2011 Texas
10:33:10 20 redistricting map that the three-judge panel in that case
21 ruled was a racial gerrymander, except that one was coming
22 from the north?

23 **A.** I guess so. I mean, I was looking at the politics
24 again. Like that heavily green area, I guess here it says
10:33:28 25 Black CVAP, that also overlaps a heavily Democrat area.

1 Q. I see. I understand.

2 MS. PERALES: And for the Court's reference,
3 that's *Perez v. Abbott*, 253 F.Supp 3rd 864.

4 Let's move on now. We can take that down.

10:33:43

5 BY MS. PERALES:

6 Q. Now, that appendage that you drew in the unified map
7 from Johnson County up into Fort Worth, that does not end
8 up in the 2021 map, does it?

9 A. It does not. I didn't expect it to either.

10:34:11

10 Q. And you mentioned gently earlier that you ended up
11 drawing a CD 33 that looked more like the 2012 version of
12 CD 33 in its footprint, correct?

13 A. I believe what I said is that the Texas 33 that was
14 adopted, I don't know who drew that. So I'm not sure who
15 put it back to its original configuration. So I cannot
16 answer that I drew Texas 33.

10:34:37

17 Q. Good point. Thank you, Mr. Kincaid.

18 But during your process, after you drew what you drew
19 with Johnson County up into Fort Worth, you did end up
20 doing some later maps after unified that brought 33 a
21 little bit closer to what it ultimately ended up being in
22 the 2021 map, didn't you?

10:34:55

23 A. I made some changes, but the legislature also made
24 some changes.

10:35:10

25 Q. Okay. And I don't want you to go too far into this,

1 because state legislators asserted the legislative
2 privilege regarding their communications with you and that
3 process of revising CD 33; isn't that correct? Do you
4 remember that from your deposition?

10:35:29 5 **A.** I believe so, yes.

6 MS. PERALES: For the Court's ease of reference,
7 that's ECF-782, upholding the legislative privilege on a
8 motion to compel.

9 BY MS. PERALES:

10:35:41 10 **Q.** So stepping away now from Dallas-Fort Worth, you would
11 agree with me that your unified map in 2021 contained some
12 more strongly partisan moves that ultimately were dialed
13 back in the map that was enacted in 2021.

14 Wouldn't you agree?

10:36:06 15 **A.** I would agree that some of the draws that we did were
16 dialed back before adoption, yes.

17 **Q.** And they were also more partisan, correct?

18 **A.** My draws?

19 **Q.** Yeah.

10:36:22 20 **A.** Yes.

21 **Q.** Okay. And you testified yesterday about Dallas-Fort
22 Worth, that you knew in 2021 about CD 32 and you had
23 thoughts about making that configuration more Republican;
24 is that correct?

10:36:36 25 **A.** That's true.

1 Q. And CD 32 is adjacent to CD 30, which is currently
2 represented by Jasmine Crockett; is that correct?

3 A. Not in the new draw. No. They are not adjacent.

4 Q. But in the 2021 map, 32 is adjacent?

10:36:56 5 A. They abut, yes.

6 Q. Yeah. You wanted to make CD 32 a Republican district
7 in 2021, correct?

8 A. I did.

9 Q. But ultimately that's not how the map ended up; is
10 that right?
10:37:12

11 A. No. It's not.

12 Q. Or that's not how the map ended up. Sorry. I got a
13 "no" for a "yes." It's my fault for asking the question
14 poorly.

10:37:24 15 Would you agree with me that the 2021 map in Dallas
16 County doesn't draw CD 32 as a Republican seat?

17 A. I would absolutely agree with that.

18 Q. Thank you.

19 But we're not able to use any information here about
10:37:47 20 what communications you might have had with legislators
21 about the Dallas congressional configuration because
22 that's protected by legislative privilege, correct?

23 A. Yes.

24 Q. When you were talking to Mr. Kercher yesterday, I
10:38:14 25 believe he showed you maybe one map that had to do with

1 compactness scores and two districts side by side. Did
2 you --

3 **A.** I don't think we worked through the compactness maps
4 at all.

10:38:25 5 **Q.** You didn't. They are marked as exhibits, though.
6 Are you aware of these maps that --

7 **A.** I'm aware of them, yes.

8 **Q.** Okay. Just a couple questions about those.

9 Those documents are not documents that you generated
10:38:34 10 during your map drawing process, correct?

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

12 **Q.** They are not documents you relied on during your map
13 drawing process, correct?

14 **A.** No. I did not rely on them.

10:38:44 15 **Q.** And these were documents that were created after the
16 fact by attorneys in this lawsuit, correct?

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

18 **Q.** A few more questions about your map drawing process.
19 We're almost done, Mr. Kincaid.

10:39:02 20 Your elections, the contests that we have been talking
21 about that you were looking at, Trump '24, Cruz '24,
22 Abbott '22, these are all general elections; is that
23 correct?

24 **A.** That's correct.

10:39:13 25 **Q.** You didn't have any Democratic primary elections in

1 your platform as you're reconfiguring, for example, 29; is
2 that correct?

3 **A.** I did not use any Democrat primaries, no.

4 **Q.** And you are not tracking which candidates are likely
10:39:29 5 to be nominated in a Democratic district in the Democratic
6 primary, correct?

7 **A.** I don't know how to answer that one. Again, I would
8 have assumptions about who would win a Democrat primary
9 generally, so I'm not sure how to -- that's kind of an odd
10:39:47 10 question.

11 **Q.** So in terms of what you were looking at numerically as
12 you are reconfiguring 29 --

13 **A.** Sure.

14 **Q.** -- so that it's sort of -- the seahorse is -- half the
10:39:59 15 seahorse is in 9 --

16 **A.** Right.

17 **Q.** -- and the other half of the seahorse kind of shifts
18 to the west down, you are not tracking numbers in your
19 platform about how the Democratic primary might come out
10:40:14 20 in the new 29, is that correct, in terms of what we have
21 been talking about, percent for a particular candidate?

22 **A.** No. I was not tracking Democrat primaries while
23 drawing the map. I had an assumption that if
24 Congresswoman Garcia ran again in that seat, she would win
10:40:34 25 the primary just fine.

1 Q. You did assume that?

2 A. I assumed she would win the primary.

3 Q. Do you know who has filed to run?

4 A. No. It was just by assumption at the time.

10:40:42

5 Q. Sure.

6 Do you know what the percent is of anticipated Latino
7 voters to turn out in your new 29 --

8 A. I don't.

9 Q. -- in a Democratic primary?

10:40:52

10 A. No.

11 Q. Do you know what that number would be for Black voters
12 turning out in a Democratic primary?

13 A. No.

14 Q. Do you know if any well-known Black politicians in
15 Houston have filed to run for 29 in the Democratic
16 primary?

10:41:04

17 A. I didn't know that. No.

18 Q. When you were assigning geography in your system, is
19 it correct to say that you did not have a visualization of
20 Hispanic Republicans in your computer?

10:41:21

21 A. No. I didn't have a visualization for Hispanic
22 Republicans.

23 Q. Okay. And it's correct to say you personally did not
24 conduct a VRA compliance analysis in the map that you drew
25 C2333; is that right?

10:41:40

1 **A.** I have already testified to that, yes.

2 **Q.** And you did not take steps yourself during the map
3 drawing process to ensure that CD 29 in C2333 offers
4 Latino voters the opportunity to nominate and elect their
5 candidate of choice; is that correct?
10:42:00

6 **A.** I just -- I drew a race-blind map using partisan
7 results, and that's how I created the map.

8 **Q.** Thank you. The answer to my question then is "no"?

9 **A.** No.

10 **Q.** Okay. And then same question, different geography.
11 You did not take steps during the map drawing process
12 to ensure that CD 35 and C2333 offers Latino voters the
13 opportunity to nominate and elect their candidate of
14 choice; is that right?
10:42:16

15 **A.** That wasn't an analysis that I did when drawing
16 Texas 35.
10:42:32

17 **Q.** Okay.

18 MS. PERALES: Thank you. I pass the witness.

19 JUDGE GUADERRAMA: Thank you, Ms. Perales.

20 Ms. Cohan.
10:42:51

21 **CROSS-EXAMINATION**

22 BY MS. COHAN:

23 **Q.** Good morning, Mr. Kincaid. My name is Lindsey Cohan.
24 I am counsel for the Texas NAACP.

25 We have never met before, correct?
10:43:00

1 **A.** I don't think so.

2 **Q.** The good news for you is that the sort of later in the
3 order the questioner, the shorter the exam. And
4 generally, I'm going to try to avoid beating any fairly
5 incapacitated horses at this point --

10:43:13

6 **A.** There is a few of those at this point.

7 **Q.** -- and get you on your way.

8 Yesterday you testified as to some of the criteria you
9 applied when drawing your maps. And I just wanted to make
10 sure I understood those criteria as they related to the
11 partisanship analysis.

10:43:27

12 So I think first you said if a Republican incumbent
13 was in a district that Trump won by 60 percent or more,
14 that district needed to stay at a minimum of 60 percent of
15 the 2024 Trump vote share; is that correct?

10:43:44

16 **A.** That's correct.

17 **Q.** And if a Republican incumbent was in a district that
18 Trump won by less than 60 percent, you had to improve
19 their Partisan Voting Index or keep it the same; is that
20 correct?

10:44:00

21 **A.** Improve their -- improve the numbers or keep the PVI
22 the same, yes.

23 **Q.** Okay. And the PVI you are referencing is the Cook
24 PVI; is that correct?

10:44:12

25 **A.** That's correct.

1 Q. And you testified, I think yesterday, maybe some this
2 morning, I apologize if I missed it, that you yourself
3 have access to partisanship data that's based on an
4 algorithm that, you know, you input certain datasets in to
5 and that produces it; is that correct?

10:44:31

6 A. That's correct.

7 Q. And so when you say you are looking to maintain or
8 improve the PVI margin, you aren't referring to that
9 proprietary partisan data that you generate; is that
10 correct?

10:44:45

11 A. That's true. It's just the district-wide results,
12 yeah.

13 Q. Okay. And you'll recall yesterday with Mr. Kercher,
14 and then again with Ms. Perales just this morning, you
15 walked through a series of images that I think you
16 generated; is that correct?

10:44:56

17 A. Yeah. Yes.

18 Q. Okay. And those images -- again, I don't want to go
19 over anything again that you already have, but I just want
20 to make sure I have it right. Those were generated from
21 your redistricting software, I think you called it Esri?

10:45:11

22 A. That's right.

23 Q. Okay. And these images you said were not generated at
24 the time you were creating the map, but you went back and
25 generated them when the State requested them; is that

10:45:27

1 correct?

2 **A.** Yeah. They were demonstratives to try to show what I
3 was looking at while drawing the map, yes.

4 **Q.** Great.

10:45:36

5 And was the partisan shading that we see in those
6 images, was that sort of frozen in time at the time you
7 finalized the map; or was that something that you had to
8 go back and regenerate?

9 **A.** What do you mean "frozen in time" and "regenerate"?

10:45:54

10 Like, did I have to run the algorithm again? Is that what
11 you are asking or --

12 **Q.** So I guess what I'm asking is you used certain
13 percentages to break down the shading, correct?

14 **A.** Yes.

10:46:04

15 **Q.** Are those the percentages that you used to generate a
16 final map and that's what existed in your system --

17 **A.** I see.

18 **Q.** -- or did you have to go back and put back in certain
19 percentages?

10:46:13

20 **A.** What I was trying to show was how I build a district,
21 right? And so you start with the most Democrat precincts
22 if you are drawing a Democrat seat, and then you work out
23 on a threshold until you hit your limit, right?

24 So that's what I was trying to show.

10:46:28

25 **Q.** Okay. And that's really helpful.

1 So the images we saw, the percentages that you used
2 for the breaks, were not necessarily the percentages that
3 you used to generate the map. Is that accurate?

10:46:43

4 **A.** No. It's still the same election data. So it would
5 be -- those breaks show you the break between where I
6 stopped drawing it and where -- where I stopped drawing
7 that district. That's what I was trying to show.

8 **Q.** Okay. It might be helpful if we pull one up, and we
9 can look at it.

10:46:55

10 **A.** Okay.

11 **Q.** My questions might be a little bit more coherent then.

12 MS. COHAN: So I'm going to ask Mr. Lewis then if
13 you are able to pull up Defendants' Exhibit 1537.

14 I am constantly amazed when this actually works.

10:47:07

15 BY MS. COHAN:

16 **Q.** Okay. And can you see this image up on your screen
17 there?

18 **A.** I can.

10:47:25

19 **Q.** Okay. And I believe you testified and the file name
20 indicates that this is the North Houston area; is that
21 correct?

22 **A.** That's correct.

23 **Q.** And that's generally what you can see in that -- sort
24 of right in the middle of CD 29. Is that accurate? Do

10:47:38

25 you know?

1 **A.** I'm sorry. Say that one more time.

2 **Q.** Sort of right in the -- well, let me go back.

3 The white outlines you said are the district outlines,
4 correct?

10:47:46 5 **A.** That's correct.

6 **Q.** And the one that's sort of most central, is that
7 CD 29?

8 **A.** Yes.

9 **Q.** And I would sincerely like to thank Ms. Perales for
10 pointing out that the percentages that were used are in
11 the file name because I did not know that and it was
12 driving me crazy trying to figure out what the percentages
13 used were.

14 So I think you can see at the top that the percentage
15 applied here was 42.9 percent.

16 Do you see that?

17 **A.** Yes.

18 **Q.** And the 42.9 percent, is that the percentage of Trump
19 share that you used to divide?

10:48:27 20 **A.** Yes. That's what I was trying to show.

21 **Q.** Okay. So if it's above 42.9 percent, it will be red.
22 And if it's below 42.9 percent, it will be blue; is that
23 correct?

24 **A.** Yes. I was trying to show a contrast to make it
10:48:40 25 easier to understand what I was looking at.

1 Q. Got it.

2 And you have used this word before, and I want to make
3 sure I'm using it accurately. Is the 42.9 percent known
4 as the break?

10:48:49 5 A. That's what I was calling it was just a break, yes.

6 Q. Okay. And I think I heard you testify yesterday that
7 there was some deep blue precincts.

8 Do you recall that testimony?

9 A. There is a lot of deep blue precincts, yeah.

10:49:03 10 Q. Does that mean that the -- there is like a color
11 gradient on this map that we don't see where they shade
12 darker, or is that just meaning they are more Democratic?

13 A. Well, that's kind of what I was trying to show with
14 all these maps as a whole, right, is that there are areas
15 where you have 20 percent precincts and then 30 percent
16 and then 40 percent. And as you are building a district,
17 you are kind of working in tiers, right? And so that's
18 what the whole idea of trying to put the demonstratives
19 out there was.

10:49:29 20 Q. All right. I apologize because my question was
21 probably not great. It was more technical.

22 Is there a color gradient that gets applied to this
23 that we don't see here?

24 A. So within Esri you have the opportunity -- you can
10:49:44 25 choose what your gradient looks like. So it's very

1 customizable. You can do two breaks. You can do eight
2 breaks. You can do lots of different color options.
3 Yeah. They have color breaks for, you know, people who
4 are color-blind, right? So all those things are in there.

10:49:59

5 So there is lots of different ways you can look at the
6 election results and shade on them.

7 **Q.** Here you just did red and blue, right? I don't see
8 any color gradients here.

10:50:12

9 **A.** I find that showing -- that shading things makes it
10 harder to understand what you are actually looking at,
11 because the colors start blurring together. So I was
12 trying to show a deep contrast between the borders is what
13 I was trying to show.

10:50:23

14 **Q.** But you have the ability somewhere in your system to
15 apply some sort of color gradient to show less to more
16 Democratic or less to more Republican districts; is that
17 correct?

18 **A.** I do, yeah.

19 **Q.** Okay.

10:50:32

20 **A.** I could, yes.

21 **Q.** And the break that you used here, 42.9 percent, was
22 that a percentage that you yourself picked to generate
23 this image?

24 **A.** It is.

10:50:42

25 **Q.** Okay. The State didn't tell you to use 42.9 percent?

1 **A.** No. I used 42.9.

2 **Q.** Why did you select 42.9 percent?

3 **A.** Because I was trying to make the line as clear as
4 possible for folks to look at it. If you do 43, there is
10:50:56 5 a couple that bleed in on the side, and it doesn't make it
6 clear what I was looking at.

7 So as you are building up, again -- I don't know.

8 I've tried to say this a few times. I will literally go
9 41, 42, 43, and put them in that way, right? So that's
10:51:14 10 how I'm building out the seats. And then if something is
11 isolated, like that triangle in the middle, that would go
12 into the district that it's isolated within.

13 Does that make sense?

14 **Q.** It does.

10:51:25 15 42.9 percent, is that the break that you use when you
16 are actually drawing maps?

17 **A.** I probably had it at 43 at some point and then I had
18 it at 42 at some point. So yes. It was not at 42.9 most
19 likely, but I don't recall.

10:51:43 20 **Q.** So sitting here today, you are not sure if this map
21 showing the partisan differences is actually the same as
22 the one you used to generate the map that you ultimately
23 drew; is that correct?

24 **A.** What I'm trying to say is that I put it at 42.9 so you
10:51:58 25 could see clearly what I was drawing off of. That's all.

1 Q. And my question is: Is 42.9 percent what you set it
2 at when you were drawing the districts to actually
3 generate C2333?

4 A. I don't recall specifically if it was at 42.9.

10:52:13

5 Q. Okay.

6 A. I may have -- there are times where I work up by
7 decimal. So that is something I do.

10:52:26

8 Q. Sitting here today, you cannot tell us that this image
9 is the one that you worked off of to generate the maps
10 that we are ultimately here about?

10:52:44

11 A. I have already said that what I tried to do was show
12 the contrast between the borders of the districts, and so
13 that's what I was doing. So what I'm saying is this data
14 that's reflected here is the data I'm working with. The
15 image itself is made to be sharp in contrast for the sake
16 of a demonstrative, but it's not necessarily how it would
17 look on my screen as I'm drawing it.

18 Q. And I can appreciate that.

10:52:58

19 You wanted this image to look as contrasting as
20 possible when you are putting it up in front of the Court;
21 is that correct?

22 A. Yeah. I wanted to make it as clear as I could, yes.

10:53:11

23 Q. But it's not actually -- sitting here today, you can't
24 tell me that this is the break that you used to draw these
25 districts; is that correct?

1 **A.** Yeah. I don't recall that.

2 **Q.** Thank you.

3 Now, I also want to pull up next what has been marked
4 as Plaintiffs' [sic] Exhibit 1541. And can you see that
5 on your screen now, Mr. Kincaid?

10:53:32

6 **A.** I can, yeah.

7 **Q.** And I believe that you previously testified that this
8 sort of very central area with a lot of blue is CD 37; is
9 that correct?

10:53:43

10 **A.** It is.

11 **Q.** And CD 37 is Austin?

12 **A.** Yes.

13 **Q.** Okay. And I'm going to say CD 37 is near and dear to
14 my heart because that's actually my district. But unlike
15 Mr. McCaffity, I'm not brave enough to put my address on
16 the record.

10:53:56

17 MR. McCAFFITY: Not afraid to be public.

18 BY MS. COHAN:

19 **Q.** I see in the file name and also yesterday you
20 testified that you applied a 30 percent break to this
21 image; is that correct?

10:54:09

22 **A.** That's correct.

23 **Q.** And 30 percent, is that another percentage that you
24 picked just to show the contrast in the area?

10:54:21

25 **A.** No. This was the actual percentage I used here.

1 Absolutely.

2 **Q.** So this is the actual 30 percent that you used when
3 you were drawing the map?

10:54:32

4 **A.** Yes. When I was drawing the blueberry, that's what I
5 was doing.

6 **Q.** And how did you come to pick 30 percent?

7 **A.** Because I worked up to 30 and I used 30.

10:54:53

8 **Q.** So 30 was just a number that looked good on the map or
9 was there some analytic behind it? Can you explain that
10 to me?

11 **A.** Sure. So, again, you take the precincts with the
12 smallest number of Trump votes and you work up and you
13 work up and you work up and you work up. So I stopped at
14 30 percent, and that's how I drew the seat.

10:55:06

15 **Q.** Okay. So and -- I'm sorry. I didn't mean to
16 interrupt you.

17 **A.** No. It's -- it got there pretty quick because there
18 is a lot of really, really Democrat precincts here. So I
19 stopped at 30.

10:55:15

20 **Q.** So essentially you started at the lowest percentage
21 and worked your way up till you got to 30 and you had
22 enough population; is that correct?

23 **A.** Yes.

10:55:34

24 **Q.** Okay. Now we just went over that for districts where
25 Trump had a 60 percent or greater share of that district

1 in 2024, you were trying to draw at least 60 percent Trump
2 2024 districts. Is that fair?

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

10:55:53

4 **Q.** Okay. And when you are drawing these maps in Esri, I
5 think you just told Ms. Perales that there is either a
6 legend or a table that appears that tabulates as you go.
7 Is that -- is that fair?

8 **A.** That's correct.

10:56:08

9 **Q.** And it would tell you if the red, the Republican was,
10 you know, at 60 percent of the Trump 2024 or more. Is
11 that -- is that fair?

12 **A.** If the district was that number, yes.

13 **Q.** Okay. So within the district that you are working on?

14 **A.** It would be the district level, yeah.

10:56:21

15 **Q.** We don't have that legend on these images; is that
16 correct?

17 **A.** It wouldn't be a legend. You mean a legend for the
18 scale of the image or the chart at the bottom that shows
19 the --

10:56:35

20 **Q.** Thank you. That's probably the more accurate
21 description.

22 It doesn't show the chart of the tabulations, correct?

23 **A.** No.

10:56:44

24 **Q.** But is that something that you would ordinarily see
25 when you were looking at this image?

1 **A.** No. Not always. So one thing you can do with Esri is
2 you can click on the -- you can have -- you can make a
3 separate panel and put it behind so you can have the
4 screen larger for the actual map. So computer images have
5 screens that get pretty busy sometimes. And so if you
6 make the spreadsheet go away, it makes it a lot easier to
7 see the map that you are working on.

10:57:03

8 **Q.** As someone that sadly spends way too much of their
9 lawyering career in Excel, I can absolutely agree with
10 that.

10:57:20

11 But ultimately that chart is sort of a feature you can
12 turn on to have and see; is that correct?

13 **A.** Yeah.

14 **Q.** You didn't turn it on or screenshot it in these
15 images, correct?

10:57:30

16 **A.** Well, it's on by default. So the chart is on by
17 default, right? So for all of them I put the chart behind
18 so I could have the image as large as possible so I could
19 take a screenshot of it.

10:57:48

20 **Q.** Got it.

21 So you moved the tabulation chart behind this image
22 and then screen captured it, correct?

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

24 **Q.** So we can't see the chart in this image, correct?

10:57:58

25 **A.** That's true.

1 Q. Okay. Thank you.

2 And I think, as we discussed earlier, when you were
3 generating these maps you also would have had to look at
4 the Partisan Voting Index, the PVI, correct?

10:58:10 5 A. I only really charted the PVI for two seats. That was
6 23 and 17 -- and 15.

7 Q. That's because those seats were less than 60 percent
8 Trump for the Republican incumbent?

9 A. That's right.

10:58:23 10 Q. Okay. And you also talked about yesterday at length,
11 and I won't belabor you, about some proprietary partisan
12 data that you used as well, correct?

13 A. That's correct.

10:58:40 14 Q. And is that information available to you when you are
15 generating these images here? In Esri, is that partisan
16 data that you have available to access in Esri?

17 A. Well, the partisan data is disaggregated at the block
18 level and then that's merged into the platform and that's
19 how we draw the maps, yeah.

10:58:57 20 Q. And actually that -- I'm glad you answered that. So
21 there is different geographical units you can look at when
22 you are drawing these maps, correct?

23 A. That's correct.

10:59:10 24 Q. And there are many more people in this room that know
25 way more about it than I do, but my understanding is there

1 is VTDs, correct?

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

3 **Q.** And then there is precincts?

4 **A.** No.

10:59:17

5 **Q.** No.

6 **A.** No.

7 **Q.** Explain that. Because we hear a lot about precincts,
8 so I want to understand the difference there.

10:59:29

9 **A.** So when it comes to the census geography, you
10 typically get it in two different hierarchies when you are
11 doing redistricting maps.

12 The standard one that I use is county, VTD, census
13 block. So it's only three layers of geography, right?
14 You have other layers that you could add on, like census
10:59:45 15 places or county subdivisions, and there is a whole host
16 of different ones.

10:59:59

17 If you are working in areas that have, you know,
18 tribes, you know, and reservations, you can highlight
19 those and make sure you are not splitting a reservation if
20 that's something that you are concerned about.

11:00:15

21 JUDGE SMITH: If I could just interrupt. One of
22 the things that I found confusing, and maybe it's just me,
23 throughout these various witnesses is whether in Texas a
24 VTD is the same as a precinct. Is that just another way
25 of saying precinct? Or if they are different, I'm

1 confused.

2 THE WITNESS: I'll do my absolute best to clarify
3 the difference between those two things.

11:00:29

4 So a VTD is the census's term for a voting tabulation
5 district. And they standardize those once per decade,
6 right? So they collect -- they are -- typically, the
7 census receives precinct lines or other geography from
8 either local jurisdictions or states every decade; and
9 they use those to build out what's called their TIGER
10 geographic files, right? So they are different layers.

11:00:47

11 And the point of that is to make sure that all of
12 their layers align with the individual census blocks. So
13 if you have the census blocks and they don't align with
14 everything else, it creates all sorts of problems when you
15 are trying to use the data.

11:01:00

16 And so right after lines are drawn in redistricting,
17 in the first or second year of a decade, states and local
18 jurisdictions go in and they readjust those precinct lines
19 that they have to align with the new districts, right?

11:01:19

20 So the local jurisdictions will use precincts for
21 voting and, you know, for holding elections and
22 administrative elections and everything else.

11:01:37

23 And so a lot of people use the term "VTD" as a proxy
24 for a precinct. They are not technically the same. They
25 are very similar in size, typically, and scope. But a VTD

1 is a census term for a voting tabulation district; while a
2 precinct, like when we're talking about gathering results
3 in geography from the state of Texas, they produce their
4 data using the election results matched to the precincts.

11:01:56

5 And that's part of what makes all this so complicated,
6 is a lot of jurisdictions will split census blocks where
7 they draw their new precincts, which creates all sorts of
8 different levels of complication on top of everything
9 else, which is why we take the election results and
10 disaggregate them back down to the census block, so we can
11 continue to use them in our redistricting software. So,
12 otherwise, that would not be possible.

11:02:14

13 JUDGE BROWN: So does that mean that precincts
14 and VTDS are the same kind of at the beginning of the
15 decade and then -- but they can change as the decade wears
16 on?

11:02:30

17 THE WITNESS: The precincts definitely change as
18 the decade goes on. And a lot of times the precincts
19 align with the VTDS; but this is another thing that makes
20 this fun, is a lot of times the VTDS are set by local
21 jurisdictions in, like, the eighth year or the ninth year
22 of a decade. And so then they change them again before
23 the, you know, election gets held in the zero year of the
24 decade. And so a lot of times the VTDS will not align
25 with the precincts as they exist.

11:02:41

11:02:56

1 And so we spend a lot of our time gathering precinct
2 maps across the entire country so that we can align the
3 results with the census blocks and the VTDs to align those
4 results from top to bottom.

11:03:10 5 My favorite is one lady emailed us a map that she had
6 drawn on with a black marker to show us where the precinct
7 lines were in her jurisdiction.

8 MS. COHAN: I fear I opened Pandora's Box with
9 that one.

11:03:30 10 JUDGE GUADERRAMA: Ms. Cohan, it's 11:00, maybe
11 we can take our break. But before we go, you had
12 indicated you were addressing Plaintiffs' Exhibit 1541?

13 MS. COHAN: Oh, defendants' exhibit. I
14 apologize. I misspoke.

11:03:44 15 JUDGE BROWN: Mr. Ezell, do you have an update on
16 how the written response to Mr. Fox's motion is coming
17 along?

18 MR. EZELL: I have not had the opportunity to
19 work on it. I have been monitoring for privilege this
11:03:57 20 entire time, Your Honor. As soon as we have breaks, I'll
21 be working on it. I'll give you something this afternoon
22 after lunch, if that's okay?

23 JUDGE GUADERRAMA: All right. Let's break until
24 11:15.

11:04:21 25 MR. VELEZ: This court stands in recess.

1 (Recess from 11:04 a.m. to 11:21 a.m.)

2 JUDGE GUADERRAMA: Be seated, please.

3 Mr. Kincaid is on the witness stand.

4 Ms. Cohan.

11:21:17

5 MR. EZELL: Your Honor, may I address the
6 response briefly?

7 JUDGE GUADERRAMA: Yes, sir.

11:21:25

8 MR. EZELL: I had a chance to confer during the
9 break. I have a draft. It should be apparent to everyone
10 in the room that I'm not normally a trial lawyer. I'm an
11 appellate lawyer. So I'm not in the habit of filing stuff
12 without doing multiple cite checks and that kind of thing.
13 I am outing myself as a nerd.

11:21:37

14 But we have a draft that we can file, you know, while
15 this questioning is going on. I'll have my colleague do
16 it for me here at counsel table. We'll get it on file as
17 soon as we can.

18 JUDGE GUADERRAMA: All right. Thank you. We
19 appreciate that.

11:21:45

20 MS. COHAN: I think there is no shortage of legal
21 nerds in here today, Mr. Ezell.

22 BY MS. COHAN:

23 Q. All right, Mr. Kincaid, just a few more questions from
24 me. And thank you for your patience.

11:22:04

25 We were just talking about VTDs, precincts, census

1 blocks. Back on your screen should be Defendants'
2 Exhibit 1541.

3 Do you see that?

4 **A.** Yes.

11:22:18

5 **Q.** And in this exhibit, as well as the other images that
6 you provided, the lines that we are seeing are precinct
7 lines; is that correct?

8 **A.** They are VTD lines.

9 **Q.** Those are VTD lines. Okay. Thank you.

11:22:35

10 And I think you said at one point in response to my
11 question that you could split a census block when you are
12 drawing; is that correct?

13 **A.** No. That's not what I said.

14 **Q.** Okay. I thought I misheard that.

11:22:47

15 Because, in fact, you cannot split a census block; is
16 that right?

17 **A.** I'm happy to clarify it if you'd like.

18 **Q.** Please.

19 **A.** Okay. So when you are redistricting with these

11:22:54

20 mapping softwares, they are driven off the census blocks
21 as they are established each decade. And so it's
22 impossible to split a census block within most of these
23 platforms.

24 That being said, local jurisdictions, when they are

11:23:07

25 drawing their precinct lines, they don't use the census

1 blocks. They actually just use the geography of their
2 county. And so they will go along the roads and they will
3 go along whatever and try to align the way they are
4 drawing the precincts to match this. But it's not always
5 a one for one because they don't load it the same way. So
6 it creates all sorts of problems on the election
7 districts.

11:23:24

8 **Q.** All right. Thank you for clarifying.

9 MS. COHAN: You can take this down, Jeremy.

11:23:37

10 Thank you.

11 BY MS. COHAN:

12 **Q.** You talked at length with Mr. Kercher and various
13 other of the attorneys about the Harris County area.

14 Do you remember that?

11:23:50

15 **A.** Yes.

16 **Q.** And I think when you drew CDs 29, 9, and 18, there was
17 some shuffling of the numbers. Is that accurate?

18 **A.** I'm sorry. What do you mean "shuffling of the
19 numbers"?

11:24:08

20 **Q.** So, for example, what had been CD 29 was now largely
21 comprised of CD 9, the new CD 9.

22 Does that make sense to you?

23 **A.** Okay.

24 **Q.** And my question for you is: That sort of change in

11:24:25

25 the numbering --

1 A. Right.

2 Q. -- was that something that you did?

3 A. Like numbering the districts?

4 Q. Yeah.

11:24:32 5 A. Yes. I numbered the districts.

6 Q. Okay. Thank you.

7 Is there a reason why you changed the numbers of the
8 districts and did not just use this sort of most of the
9 population to assign the district number based on what had

11:24:45 10 been the previous district number?

11 A. Yeah. I mean, there are a few different
12 considerations. I was trying to sort out how to do that.

13 Yeah. There were.

14 Q. Okay.

11:25:00 15 MS. COHAN: That's all the questions I have.

16 I'll pass the witness.

17 THE WITNESS: All right.

18 JUDGE GUADERRAMA: Mr. Bledsoe.

19 MR. BLEDSOE: Thank you, Your Honor.

11:25:05 20 **CROSS-EXAMINATION**

21 BY MR. BLEDSOE:

22 Q. Mr. Kincaid, my name is Gary Bledsoe. I'm a lawyer
23 representing Congressman Jasmine Crockett and Congressman
24 Al Green, and I have a couple of questions for you here.

11:25:23 25 I think, to begin with, would you agree with me that

1 you're really respected among Republican circles in terms
2 of a knowledgeable person about redistricting?

3 **A.** It depends on which Republican you talk to, but
4 generally I hope so.

11:25:40

5 **Q.** And part of your work involves you becoming familiar
6 with the political landscape around the country, in
7 particular in the states that you work in?

8 **A.** Yes, sir.

11:25:55

9 **Q.** Okay. And I think yesterday when you talked to
10 Mr. Kercher you acknowledged that you thought that
11 President Trump had made some inroads with African
12 American voters?

13 **A.** I'm not sure I spoke that specifically, but yes.

11:26:12

14 **Q.** But you would acknowledge, would you not, that
15 different groups broken down demographically have
16 different levels of support for the two political parties?

17 **A.** Absolutely, yes.

11:26:27

18 **Q.** And would you agree with me that the greatest level of
19 support for the Democratic Party comes from the African
20 American community?

21 **A.** I think that college-educated White women may be
22 pretty close to the same ratios.

11:26:47

23 **Q.** But you would agree with me that they don't have
24 districts that are college-educated White females, do
25 they?

1 **A.** Sure. You just asked me demographically, so yeah.

2 **Q.** Okay. And so out of the things that we can see on the
3 maps and in terms of looking at what a map might do in
4 terms of preferences, partisan preferences in terms of
5 demographics, African Americans stand out, don't they?
11:27:04

6 **A.** I'm sorry. Could you ask that just one more time? I
7 want to make sure I understand.

8 **Q.** Well, are African Americans the only demographic group
9 that is measured, in terms of the data that you look at,
10 the only ones that give 80 percent or greater support to
11 Democrat candidates?
11:27:27

12 **A.** To be clear, the data I look at, I don't look at the
13 racial data, number one. So I want to make sure I clarify
14 that again.

15 As far as the partisanship goes, if you are looking at
16 the partisanship of certain areas, that would be
17 different, a different consideration.
11:27:41

18 **Q.** But you would concede, would you not, that the only
19 group that's 80 percent or greater would be African
20 Americans, yes?
11:27:55

21 **A.** I will concede that there is high correlation between
22 African Americans and Democrat votes, yes.

23 **Q.** And higher than other groups, correct?

24 **A.** Among the census demographic groups, absolutely, yes.

25 **Q.** Okay. And you would agree with me, would you not,
11:28:08

1 that there is a greater preference for Democratic
2 candidates that you find in the Latino community than you
3 do in the White or Anglo community?

4 **A.** I would disagree with that.

11:28:29

5 **Q.** Okay. And you indicated, I think, you have a certain
6 level of familiarity with what has occurred in Texas
7 because of your involvement in Texas in the past; is that
8 correct?

9 **A.** I mean, I have pretty good knowledge of Texas, yes.

11:28:50

10 **Q.** So you were involved, as we have talked about here,
11 with the drawing of the 2021 map --

12 **A.** Yes, sir.

13 **Q.** -- correct?

14 **A.** Yes.

11:28:59

15 **Q.** And you talked with Ms. Perales about the unified
16 map --

17 **A.** I did. Yes.

18 **Q.** -- is that correct?

11:29:12

19 Now, would the unified map be statewide? Would it be
20 a certain geographical area? When you use the term
21 "unified map," what do you indicate? What are you talking
22 about?

23 **A.** We called it the unified map because all of the
24 Republican members of the congressional delegation and

11:29:24

25 Henry Cuellar signed off on the map.

1 Q. It's a statewide map?

2 A. Yes.

3 Q. And that was the original map that was tendered to the
4 legislature in 2021?

11:29:36

5 A. Yes.

6 Q. Okay. And prior to the unified map being tendered,
7 did anyone else draw the districts that you have indicated
8 you didn't draw? I think you said 9, 18, 29, and maybe
9 33. Did you draw them originally but someone else drew
10 them later? Or did you get something upfront?

11:30:01

11 A. So the unified map was submitted to the State of
12 Texas; and then the State of Texas, you know, went through
13 its processes. They had amendments from the floor, I
14 believe in the Senate and the House. I don't know where
15 all of those amendments came from. There were amendments
16 in El Paso that I didn't draw. There were amendments in
17 Houston that I did not draw. There were amendments in
18 Dallas that I did not draw. So I couldn't tell you who
19 drew each of those because I'm not aware.

11:30:17

11:30:30

20 Q. But let me go back to the question. I wasn't asking
21 about what ultimately happened when it was adopted.

22 I'm saying when that unified map went forward, did the
23 9, 18, 29, 30, 33, were those parts of the map drawn by
24 others or were they drawn by you at the time it was
25 originally tendered?

11:30:54

1 **A.** The unified map was drawn by me, yes.

2 **Q.** So you had a version of 9, 18, 29, 30, and 33 that you
3 drew?

4 **A.** Yes, sir. Yes.

11:31:04

5 **Q.** Okay. And the -- so are you aware that Congressional
6 District 9 was originally drawn by your friend Senator
7 King when he was the chair of the redistricting committee
8 back in 2003?

9 **A.** I actually did not know that.

11:31:31

10 **Q.** Okay.

11 **A.** That's interesting.

12 **Q.** And with Congressional District 9, you know that's a
13 district that's been represented by Congressman Al Green
14 for quite some time, right?

11:31:41

15 **A.** Yes, sir. Yeah.

16 **Q.** Okay.

17 **A.** I saw the overhead projector. I was looking for a
18 screen.

19 **Q.** Do you remember the DOJ letter that we talked about?

11:32:19

20 **A.** Yes, sir.

21 **Q.** Okay. And when you had your conversation about this
22 with Mr. Gaber, I think that you made a specific comment
23 in reference to those four districts in the first
24 paragraph. And you stated you took different -- you took
25 issue with what is actually included here, because you

11:32:41

1 said you disagreed with the classification of all those
2 districts; is that correct?

3 **A.** I believe what I said was that I agreed that Texas 9,
4 18, and 33 were coalition seats and disagreed that
5 Texas 29 was a coalition seat. I believe that's what I
6 said.

7 **Q.** Okay. And you said Texas 29 was a Latino majority
8 seat?

9 **A.** I didn't say that. Ms. Perales did. But yes.

10 **Q.** What did you say? You said something yesterday. I
11 thought you --

12 **A.** I think I agreed -- actually, I think I agreed with
13 Mr. Gaber when he said it was a majority Hispanic seat.
14 Something like that. But yes. I agreed that Texas 18 --
15 29 is a majority Hispanic seat under the last map.

16 **Q.** And 29 was a district where Latinos were able to elect
17 their candidate of choice, correct?

18 **A.** It was a majority Hispanic district, yes.

19 **Q.** I know majority Hispanic. Not all majority Hispanic
20 districts do that.

21 So my question is, it was able to elect the Latino
22 candidate of choice, correct?

23 **A.** Sure. Yes.

24 **Q.** Okay. So let's talk about the four districts here.

25 So we're talking about Congressional District 9 to begin

1 with. Congressional District 9 you removed 97.9 percent
2 of that district. Don't you think that's highly unusual?

11:34:18

3 **A.** I would agree -- well, what I would say is that the
4 core of Texas 9 is now in Texas 18. While the number
5 didn't switch -- you know, the number changed from 9 to
6 18. Most of what was the 9th District is now still
7 together in the 18th District.

8 **Q.** But you changed the character of Congressional
9 District 9; is that correct?

11:34:33

10 **A.** I changed the footprint of it. I would agree with
11 that.

12 **Q.** Well, would you agree with me that the African
13 American candidate of choice was elected consistently in
14 Congressional District 9 prior to your changes?

11:34:47

15 **A.** Yes.

16 **Q.** And would you agree with me now it is not likely that
17 the African American candidate of choice will be elected
18 in the new configuration of Congressional District 9?

11:35:04

19 **A.** In the new Texas 9, that's correct. In the new 18,
20 yes, it would.

21 **Q.** So in terms of the character of District 9, it has
22 been clearly changed by your map, correct?

23 **A.** Yes. There is a new District 9 that now exists in
24 eastern Harris County and Liberty County.

11:35:15

25 **Q.** And you stated, I think, that that was a coalition

1 district, did you not, yesterday in your testimony?

2 **A.** Yes. My view is that Texas 9 is a coalition district.

3 **Q.** Okay. And I want to go over something with you later;

4 but if the State has indicated in this case that they

11:35:38

5 think it is an African American opportunity district,

6 would you -- would you agree with their position?

7 **A.** I agree with the State. Sure. Yes.

8 **Q.** Okay. So -- okay. So now we move to District 18.

9 And would you agree with me that prior to the changes in

11:35:57

10 the map in Congressional District 18, African Americans

11 were able to elect their candidate of choice?

12 **A.** Sure. Yes.

13 **Q.** Okay. And so what changed there is I think you said

14 you put as many Democrats as you could in that district?

11:36:20

15 **A.** That's correct.

16 **Q.** Okay. And it went over 50 percent?

17 **A.** It did, yes.

18 **Q.** Okay. But you were aware --

19 **A.** I'm sorry. I'm sorry.

11:36:27

20 **Q.** -- were you not, that by and large, most of the

21 population in Congressional Districts 9 and 18 were

22 African American and Latino combined? You knew that going

23 in, right?

24 **A.** Just real quick. I want to go back and clarify.

11:36:39

25 You said above 50 percent. I assume you mean above

1 50 percent Black CVAP. Is that what you are saying?

2 **Q.** Right.

3 **A.** I want to clarify what you said before.

4 **Q.** You changed it to over 50 percent BCVAP.

11:36:51

5 **A.** Well, it was a 50. It is a majority Black CVAP seat,
6 yes, as drawn.

7 **Q.** All right. But it still will function the same,
8 correct, electing an African American candidate of choice?

9 **A.** It will, yes.

11:37:03

10 **Q.** And you knew at the time you made the changes that if
11 you look at the combined populations for 9 and 18, they
12 were predominantly African American and Latino; is that
13 correct?

11:37:17

14 **A.** I did not look at the demographics of the district
15 while I was drawing them, no.

16 **Q.** But you knew them, right? You didn't have to look at
17 the demographics because you knew it.

18 **A.** I knew it was a heavily African American area, yes.

11:37:33

19 **Q.** So now if we go to Congressional District 29 here that
20 you just talked about and you've indicated that Latinos
21 elected their candidate of choice, what you are saying is
22 you took no measure to protect this district in your
23 configurations of the methodology you used in redrawing
24 the district; is that right?

11:37:45

25 **A.** That's correct. I reconfigured the four Democrat

1 seats in Houston down to three seats in Houston.

2 **Q.** Okay. So I think what we want the Court to understand
3 is that, number one, you knew at the time you drew this
4 district that there were opportunity districts for African
5 Americans and Latinos in the state of Texas, did you not?
11:38:08

6 **A.** I knew that there were four districts in the Houston
7 area that were electing Democrats to congress; and I was
8 changing that from four to three, yes.

9 **Q.** But I'm not asking about just Houston. I'm saying in
10 the state of Texas, you were aware that there were a
11 number of African American or Latino opportunity districts
12 around the state?
11:38:23

13 **A.** Sure. Yes.

14 **Q.** Okay. And you sought to protect them in no way in
15 terms of the methodology that you used to redraw the map?
11:38:37

16 **A.** I drew the map using political data from start to
17 finish and provided it to the Texas Legislature for them
18 to do their VRA checks.

19 **Q.** But the answer is you did nothing to protect African
20 American and Latino existing opportunity districts,
21 correct?
11:38:56

22 **A.** I reconfigured almost the entire state when drawing a
23 new map to create five Republican opportunity districts,
24 yes.

25 **Q.** So you considered all of the districts to be the same,
11:39:06

1 that you had the absolute right to go in and change any
2 district that you desired; is that right?

3 **A.** I -- yes. My -- my task with this was to create a map
4 that gave Republicans five pick-up opportunities in 2026.
5 That was the -- that was the foundation of this redraw,
6 yes.

11:39:28

7 **Q.** Okay. And you did not look at areas either beyond the
8 idea of minority or African American or Latino opportunity
9 districts? You didn't counter or analyze at all whether
10 you were diluting minority voting strength in any area,
11 did you?

11:39:48

12 **A.** I did not look at the racial demographics of the
13 districts as I was drawing them.

14 **Q.** Okay. And, in your opinion, it was okay because you
15 were just maximizing the Republican performance?

11:40:02

16 **A.** I was drawing a map to comply with the criteria I had
17 and create five new Republican pick-up opportunities.

18 **Q.** Now, the Texas Legislative Council advises our
19 legislature to take great means, to take great effort to
20 avoid diluting minority voting strength around the state.

11:40:22

21 Were you advised of that requirement of the Texas
22 Legislative Council?

23 **A.** I was not advised of that.

24 **Q.** Okay. So if we take a look at these four districts
25 here, now which ones of those were not drawn by you in the

11:40:39

1 2021 map?

2 **A.** 18, 9, and 29. And some of 7, I believe, as well.

3 **Q.** And what?

4 **A.** And some of 7, I believe, as well; but I'm not as

11:41:00 5 clear on that one.

6 **Q.** Okay. So some of 7?

7 **A.** Maybe, yes.

8 **Q.** Okay. But 33 here -- I'm trying to get some

9 understanding --

11:41:09 10 **A.** I thought you were talking about --

11 **Q.** -- that you talked with Ms. Perales that you drew some

12 of it, some of 33, somebody else drew part of it, the

13 legislature, and I was trying to get some clarity on that.

14 **A.** Okay. So as far as Texas 33 is concerned, I thought

11:41:22 15 you were talking about the four seats in Houston. That's

16 my mistake. I'm sorry.

17 So as far as the four seats in this map, in this

18 letter Texas 33, the one I drew, was different than the

19 one that was adopted by the state.

11:41:35 20 **Q.** Okay. Now, the one that was adopted by the state

21 actually included large portions of Tarrant County in

22 District 30 for the first time.

23 Were you aware of that?

24 **A.** District 30, yes, it did.

11:41:55 25 **Q.** Okay. And was that your recommendation or was that

1 the recommendation of the Texas Legislature?

2 **A.** Going back four years. Let me think here. That was
3 my decision under the direction of counsel and to -- I was
4 trying to maximize the Republican seats in that area,
5 while also adhering to other directions that I have that
6 were covered by privilege that I can't get into. And in
7 order to get 30 to population, I brought it over to
8 eastern Tarrant County.

9 **Q.** Now, Ms. Perales put together this chart here. And it
10 had the South Dallas 20.0.

11 Do you see that?

12 **A.** Yes.

13 **Q.** And that includes part of Congressional District 30;
14 is that right?

15 **A.** That's correct. Yes.

16 **Q.** Okay. And Congressional District 30 is represented by
17 Congresswoman Jasmine Crockett; is that correct?

18 **A.** That's correct.

19 **Q.** That is an African American district; is that correct?

20 **A.** I'm sorry. Can you say that again?

21 **Q.** That district has been electing African Americans
22 since the 1990s; is that correct?

23 **A.** Yes.

24 **Q.** Okay. Okay. And so as you indicated before, you are
25 aware of the preference of African Americans for

1 Democratic candidates; is that right?

2 **A.** Yes.

3 **Q.** So wouldn't you agree with me that that indicates a
4 great likelihood that those 20.0 districts that we're
5 talking about here were African American districts?

11:43:32

6 **A.** Absolutely. I would agree with that. There is high
7 correlation between African Americans and Democrat votes.

8 **Q.** The -- so -- and I think I recall what your definition
9 was, but what was your definition for what you call a
10 coalition district?

11:43:58

11 **A.** Okay. A coalition district under what I'm -- is a
12 district that combines two or more racial or ethnic groups
13 together to elect their candidate of choice. It can work
14 together or ban together to elect their candidate of
15 choice.

11:44:20

16 **Q.** And that's distinguished or different from an
17 opportunity district, correct?

18 **A.** Yes.

19 **Q.** An opportunity district is one group is able to elect
20 their candidate of choice, correct?

11:44:38

21 **A.** Honestly, I know that sometimes the left uses those
22 terms interchangeably. So they consider -- you all seem
23 to consider coalition districts as opportunity districts,
24 and so I'm not going to contrast the two of those right
25 now.

11:44:58

1 Q. Okay. Well, I think yesterday you said that
2 pre-*Petteway* it was legal to draw them; is that right?

11:45:17

3 A. Pre-*Petteway*, what I said was that before the Fifth
4 Circuit's en banc opinion in *Petteway*, the Fifth Circuit
5 had acknowledged that coalition districts were required by
6 the Voting Rights Act or were permitted by the Voting
7 Rights Act.

8 Q. And it's legal to draw them if you want to. You don't
9 have to draw them under the Voting Rights Act, do you?

11:45:33

10 A. That's an interesting question. So are you talking
11 about now after *Petteway* was decided?

12 Q. Yes.

11:45:49

13 A. Okay. So after *Petteway* was decided, as a map drawer,
14 I'm faced with a really interesting problem when trying to
15 draw districts, especially coalition districts. Because
16 if coalition districts are not required by the Voting
17 Rights Act and I'm intentionally creating coalition
18 districts, I have to use racial data in order to create a
19 coalition district intentionally, right? So that would

11:46:05

20 mean that I'm creating a 14th or 15th Amendment violation
21 if I'm drawing districts based off of race to create a
22 coalition district. That's post *Petteway*, so --

23 Q. Well, let me -- that's not what I'm asking.

24 A. Well, you are asking -- I thought you asked me --

11:46:21

25 Q. If -- for example, if Black and Brown folks move into

1 a community like in Tarrant County and Whites have moved
2 out, that's what we call a naturally occurring district,
3 isn't it?

4 **A.** I'm sorry. I didn't follow that.

11:46:32

5 **Q.** A naturally occurring district. Sometimes districts
6 naturally occur. It's not the intent of the map drawer.
7 There's nothing wrong with having a district that has
8 Blacks and Browns that elect candidates of choice. There
9 is nothing that prevents that, is there?

11:46:46

10 **A.** That's why I said intentionally versus not
11 intentionally.

12 **Q.** But you can draw them; is that right?

13 **A.** If they are -- my view post *Petteway* is that if you
14 are drawing them intentionally to be coalition districts,
15 that is problematic.

11:46:58

16 If you are drawing districts that happen to be not of
17 one minority-majority or one majority group, that's
18 different because at that point you are not intentionally
19 creating a district based off of race.

11:47:13

20 **Q.** Like the three-judge panel that drew Congressional
21 District 33, they drew that as a naturally occurring
22 district. You can do that, can't you?

23 **A.** If I was drawing Texas --

24 **Q.** Not whether you could.

11:47:25

25 **A.** You are asking --

1 Q. You could do it, right?

2 A. No, I don't believe that I can. And the reason for
3 that is that Texas 33, in its configuration prior to this
4 redistricting, is a district that does not have
5 one -- well, let me say it a different way.

11:47:42

6 It's a district that under the new precedent in
7 *Petteway* is not a required district by the Voting Rights
8 Act in the state of Texas or the Fifth Circuit. So if I'm
9 drawing that seat now, if I sit down and I try to draw
10 Texas 33 today in that current footprint, the only
11 justification I have for that is for it to be a partisan
12 gerrymander that I'm trying to combine Democrat areas in
13 different places.

11:48:01

14 Because otherwise, if the boundaries of Texas 33 are
15 defined by racial groups and it's not required by the
16 Voting Rights Act, then I am racially gerrymandering.

11:48:15

17 Q. So you can draw a White district that -- where Whites
18 combine with other groups to constitute a majority, but
19 you can't draw a Black and Brown district to constitute a
20 majority.

11:48:39

21 Is that what you are telling this Court?

22 A. No, sir, I'm not.

23 Q. So could you right now draw up a district where Whites
24 were combined with another group to constitute a majority
25 and elect their candidate of choice? Yes or no?

11:48:48

1 **A.** Can I answer your first question first?

2 **Q.** The one question is: Can you draw a White district up
3 and join it with a minority group to elect their candidate
4 of choice? Yes or no?

11:49:01

5 **A.** Well, you asked me two questions; and I think I need
6 to answer both of them. I could do either one. I can
7 combine, you know, African American and Hispanic groups.
8 I could combine White groups and minority groups. The
9 difference is I have to do it for a partisan reason versus

11:49:17

10 based off of the race of the people who live there. And
11 so that is the difference in what I'm trying to convey, is
12 that the Supreme Court has told us in *Rucho v. Common*
13 *Cause* that partisan gerrymandering is not
14 unconstitutional, right?

11:49:31

15 **Q.** I'm not asking you about partisan gerrymandering.

16 **A.** Well, I think it's all tied together.

17 **Q.** I'm asking you a simple question about a map drawer
18 drawing a map. You are changing the question.

11:49:42

19 My question to you: There is nothing illegal by
20 drawing that map where you put a White and a Black or a
21 White and a Brown and draw a majority to elect their
22 candidate of choice.

23 There is nothing illegal about that, is there?

24 Nothing?

11:49:54

25 **A.** If I'm drawing districts intentionally based off of

1 race --

2 **Q.** I didn't ask you about race. You are injecting into
3 the question.

4 **A.** No, sir. I'm trying to answer your --

11:50:03 5 **Q.** If you draw one that naturally occurs. That's what
6 I'm asking you. You are injecting it to give a certain
7 answer.

8 What is your answer? Can't you draw a White and a
9 Black district together?

11:50:13 10 **A.** If I am drawing a natural district in just a
11 geographic area, sure, and that's the only intention
12 behind why I'm drawing it, yes.

13 **Q.** And so, therefore, could you draw a Black and Brown
14 district as long as it's not done for the purposes of
11:50:31 15 race, yes?

16 **A.** Absolutely.

17 **Q.** Blacks and Browns have the same rights as Whites,
18 don't they?

19 **A.** Yes. Absolutely. They do. And I can definitely draw
11:50:40 20 that if it's a naturally occurring district and I have not
21 drawn it based off of race.

22 **Q.** Okay. Now, we see here this is Document 225 that has
23 been submitted by the State in this litigation. And in
24 Document 225 that has been submitted in this litigation,

11:51:02 25 do you see there where it says the reason that an African

1 American candidate of choice, they indicate that they --
2 that the intervenors concede that Congressional
3 Districts 9, 18, and 30 were all minority opportunity
4 districts. So we agree with the position of the State
5 that 9, 18, and 30 are minority opportunity districts.

11:51:23

6 Do you see that?

7 **A.** I'm sorry. My screen is incredibly blurry. You are
8 going to have to give me a second.

9 I'm sorry. Where in that paragraph does it say that
10 they are opportunity districts?

11:51:53

11 **Q.** Do you see describing African American opportunity
12 districts? Do you see that in the fourth sentence?

13 **A.** No. Maybe I'm looking at the wrong paragraph. Where
14 am I looking here?

11:52:06

15 **Q.** The first paragraph, line 4.

16 **A.** Okay. Sorry. I was looking below.

17 **Q.** Do you see that?

18 **A.** Okay. Got it. Thank you. And this is the State's
19 filing?

11:52:32

20 **Q.** Yes. The State's response.

21 **A.** Great. Let me look at it for a moment.

22 **Q.** Okay.

23 **A.** I see that they are quoting a different filing saying
24 that intervenors concede that Congressional Districts 9,

11:52:53

25 18, and 30 are all minority opportunity districts. I see

1 that, yes.

2 **Q.** And so that's the State taking a different position
3 from you about what minority opportunity districts are.
4 They are characterizing 9, 18, and 30 as minority
5 opportunity districts, correct?

11:53:06

6 **A.** I'm not -- I mean, do I need to --

7 MR. KERCHER: Yeah. I'll object. That misstates
8 the testimony.

9 Additionally, the document speaks for itself. As the
10 Court can see, this is a parenthetical of the State's
11 pleadings describing what the plaintiffs have said rather
12 than, as I think Mr. Bledsoe has mistakenly represented,
13 that this parenthetical is actually the State's position.

11:53:16

14 MR. BLEDSOE: Your Honor, I think the position is
15 here that they are taking is that because they are
16 opportunity districts, we had no case. That was the
17 position of this motion, the motion to dismiss. Because
18 9, 18, and 30 were opportunity districts. And that's the
19 position the State took in the motion.

11:53:33

20 JUDGE GUADERRAMA: Well, the document speaks for
21 itself, Mr. Bledsoe. And it's indicating that you concede
22 that, the intervenors concede that.

11:53:49

23 MR. BLEDSOE: Thank you, Your Honor.

24 BY MR. BLEDSOE:

25 **Q.** So, in reference to your training. Now, you have

11:54:10

1 done -- you've done trainings, have you not, with Phil
2 King at ALEC conferences?

3 **A.** We did a panel together at ALEC a few years ago, yes.

11:54:45

4 **Q.** And in those panels you discussed the importance of
5 secrecy in legislative redistricting?

6 **A.** I don't know if I was the one who discussed that or if
7 another person on the panel discussed that. I don't
8 recall. It's been a long time since that panel.

11:54:57

9 **Q.** But that is the subject matter that was discussed; is
10 that right?

11 **A.** I will concede that. I don't have the agenda in front
12 of me. And it's been I think, what, seven, six years.

13 **Q.** And, in fact, you sometimes are hired to provide
14 advice --

11:55:09

15 **A.** Absolutely.

16 **Q.** -- to states and others in how to handle
17 redistricting, correct?

18 **A.** Yes.

11:55:19

19 **Q.** Okay. And one of the matters you advise on is in
20 reference to secrecy?

21 **A.** I advise people to work under the direction of counsel
22 in redistricting.

11:55:45

23 **Q.** And is it not true that you -- that you sometimes
24 advise in terms of the -- it's a good idea to hire a
25 lawyer because then different communications can become

1 privileged?

2 **A.** I generally believe it's a good idea to hire a lawyer
3 in redistricting, yes.

11:55:58

4 **Q.** Right. But I'm talking about what you advise people
5 as part of your work when you present at these seminars
6 and are retained by people.

11:56:15

7 **A.** Yes. I believe that whether it's the representatives
8 or map drawers or whoever else, it's a very good idea to
9 have counsel advising them on that process and working
10 closely with them to produce redistricting plans.

11 **Q.** Okay. And in reference to the drawing of the maps --
12 and, oh, I forgot. I think one thing I need to go over
13 with you is District 33.

11:56:45

14 Now, Congressional District 33 had elected the African
15 American candidate of choice for seven consecutive
16 elections; is that correct?

17 **A.** I don't know the number of elections, but I know that
18 Congressman Veasey was elected in that seat regularly,
19 yes.

11:56:57

20 **Q.** And you drew him out of his district?

21 **A.** I believe I did, yes.

22 **Q.** And you drew Congresswoman Jasmine Crockett out of her
23 district?

24 **A.** Yes. She is not in the 30th District any longer, yes.

11:57:12

25 **Q.** And you clearly drew Congressman Green out of his

1 district when you removed 97.9 percent of it?

2 **A.** I would argue that I changed the number of his
3 district. It did not draw him out of his district.

11:57:28

4 **Q.** Well, all 97.9 didn't end up in the same district. It
5 got splintered and a good part of it went elsewhere,
6 correct?

7 **A.** The number -- the district number moved, but his
8 district remained -- the core of his district still
9 remained in Texas 18.

11:57:37

10 **Q.** But he got moved to a different district, did he not?
11 He is no longer living in Congressional District 9, is he?

12 **A.** The number of the district changed.

13 **Q.** Can you simply answer the question?

14 JUDGE SMITH: The question is where does he live.

11:57:50

15 THE WITNESS: He lives in the new 18th -- in the
16 18th District.

17 BY MR. BLEDSOE:

18 **Q.** And so there were three African American
19 congresspersons, and you moved them all out of their
20 districts?

11:58:03

21 **A.** Okay. I disagree that I moved Congressman Green out
22 of his district, but I understand what you are saying that
23 the number changed. So, yes.

24 But as far as the DFW area, I reworked the entire

11:58:16

25 thing, for the most part. So, yes, Congressman Veasey and

1 Congresswoman Crockett got drawn out of the seats they
2 represent.

3 **Q.** Did you draw Congresswoman Fletcher out of her
4 district?

11:58:32 5 **A.** I believe I did in 2308. And then with the edits I
6 was -- she got back into the 7th District.

7 **Q.** Now, it's important to note that when -- I think you
8 heard Mr. Gaber yesterday when he played the podcast
9 interview with you when you were discussing 2308. You
10 were discussing 2308 in terms of one of the -- one of the
11 things you were describing about it was these two new
12 minority opportunity districts that had been created,
13 basically, the 18th and the 30th; is that right?

14 **A.** I don't believe I characterized them as opportunity
11:59:23 15 districts. I think that I described them as two majority
16 Black districts is what I said.

17 **Q.** Okay. So you were aware of the racial consequences of
18 the map in light of those comments; isn't that correct?

19 **A.** Yes. I knew what the racial composition of the map
11:59:40 20 was after it was drawn, yes.

21 **Q.** Okay. And you are aware that many parties had gone to
22 the legislature to complain about the discrimination that
23 had occurred in your map.

24 You are aware of that, aren't you?

12:00:01 25 **A.** I know there was a lot of public testimony over the

1 maps, yes.

2 **Q.** Okay. And you made changes to 2308 that came out in
3 2333, didn't you?

4 **A.** I did make some changes, yes.

12:00:12 5 **Q.** Okay. And even though you were aware of the changes
6 and the negative impact to Black and Brown voters, you
7 didn't make any changes there for 2333, did you?

8 **A.** I didn't make any changes in the Dallas-Fort Worth
9 area at all between 2308 and 2333. There were significant
12:00:37 10 changes in the Houston area between the two different
11 maps.

12 **Q.** But you intentionally did not change the map and
13 allowed the discrimination to continue. Isn't that true?

14 **A.** That's not correct.

12:00:52 15 **Q.** You were aware of the discrimination and didn't fix
16 it. Isn't that true?

17 **A.** I would not characterize it as discrimination, no.

18 **Q.** You were aware of the complaints and didn't fix them,
19 correct?

12:01:04 20 **A.** I'm aware of the complaints, yes.

21 **Q.** About race?

22 **A.** I am aware of those complaints, yes.

23 MR. BLEDSOE: Thank you. Pass the witness, Your
24 Honors.

12:01:18 25 JUDGE GUADERRAMA: Mr. Fox.

1 MR. FOX: Your Honors, I did see that we had a
2 response filed during Mr. Bledsoe's examination. I don't
3 know how the Court wants to handle that. I would say I
4 have less than an hour of questions, but some of them
5 involves conversations that are subject to this privilege
6 issue.

7 MR. KERCHER: If I could comment on that, Your
8 Honor. Mr. Kincaid has -- and this is obviously -- he is
9 obviously at the Court's mercy. But he has a flight
10 booked for 2:30 or 2:45. And so to the extent that it
11 might make sense to have resolution on this privilege
12 issue before Mr. Fox continues his examination, that might
13 help Mr. Kincaid make appropriate travel plans. He has,
14 as I understand it, marshmallows to buy for a Cub Scouts
15 camping trip this weekend.

16 JUDGE GUADERRAMA: Take a break?

17 (Sotto voce amongst the Judges.)

18 JUDGE GUADERRAMA: All right. We'll take a
19 recess and come back.

12:02:20 20 (Recess from 12:02 p.m. to 12:22 p.m.)

21 JUDGE GUADERRAMA: Thank you. Be seated, please.

22 Mr. Fox, your motion to reconsider is denied.

23 MR. FOX: Understood, Your Honor.

24 **CROSS-EXAMINATION**

12:23:40 25 BY MR. FOX:

1 Q. Good afternoon, Mr. Kincaid.

2 A. Good afternoon.

3 MR. FOX: Mr. Medina, could we please pull up
4 Gonzales Exhibit 34 -- 35. Excuse me.

12:23:54

5 BY MR. FOX:

6 Q. Mr. Kincaid, have you seen this document before?

7 A. I don't think so.

8 Q. Well, I'll represent to you, and you can take a look,
9 it's a June 23rd press release from Governor Abbott about
10 an upcoming special session.

12:24:19

11 Does that jog your memory at all that this is
12 something you saw?

13 A. I don't recall seeing the actual press release, no.

14 Q. Did you hear about the issuance of a press release?

12:24:29

15 A. I heard about the call of the special session.

16 Q. So this was a couple of weeks before the call of the
17 special session, right, if you look at that date?

18 A. Okay. Yes.

19 Q. And Mr. Medina -- well, Mr. Kincaid, if you look at
20 the bottom, do you see a paragraph that starts "at this
21 time"?

12:24:43

22 A. Yes.

23 Q. And take a look at that and then let me know when you
24 have read what is there and then we'll go to the next

12:24:53

25 page.

1 **A.** Okay. Next page.

2 **Q.** Do you see that's a list of bills that the governor
3 says will be the agenda for the special session as of this
4 press release?

12:25:05

5 **A.** Yes.

6 **Q.** You agree with me redistricting was not on this press
7 release?

8 **A.** It is not on this press release.

12:25:12

9 **Q.** It's your testimony that's not something you have
10 heard about during any of the events leading up to the
11 special session?

12 **A.** I'm sorry. What is my testimony?

13 **Q.** That this press release without redistricting on it is
14 not something you heard about at all?

12:25:24

15 **A.** No. That's not what I said. I said I have not seen
16 this specific press release. But I'm aware that he called
17 the special session.

18 **Q.** Were you aware that he put out an initial agenda for
19 the special session that did not include redistricting?

12:25:35

20 **A.** Yes.

21 **Q.** When did you learn that?

22 **A.** Probably around the time he made the call.

23 **Q.** And --

24 **A.** You asked me if I had seen the press release. And I

12:25:47

25 said I'm not sure I have seen the press release.

1 Q. I understand, Mr. Kincaid. I'm not trying to suggest
2 anything. I'm just trying to understand the facts of when
3 you learned about the issuance of an initial agenda that
4 did not include redistricting.

12:26:00 5 A. I would assume right around June 23rd but -- yeah.

6 Q. Do you know if that was before or after you had first
7 had conversations with people in the Department of Justice
8 about the potential of sending a letter?

9 A. That would have been after.

12:26:18 10 Q. It was after?

11 A. Yes.

12 Q. Do you know if it was before or after the letter was
13 sent?

14 A. It was before the letter was sent.

12:26:26 15 Q. Did the issuance of an initial agenda that did not
16 include redistricting come up in any of those
17 conversations about whether to send the letter?

18 A. No. I don't recall it coming up.

19 MR. FOX: We can take this down, Mr. Medina.

12:26:47 20 Thank you. And you can disconnect.

21 BY MR. FOX:

22 Q. You testified yesterday, Mr. Kincaid, that Robin
23 Armstrong, an RNC delegate, really kicked off the process
24 in Washington.

12:26:57 25 Do you recall that?

1 **A.** I do. Yes.

2 **Q.** And are you aware that Dr. Armstrong appointed the
3 Galveston County Judge, Judge Mark Henry?

4 **A.** I'm sorry. He appointed the Galveston County Judge?

12:27:07

5 **Q.** Yes.

6 **A.** I don't know what their relationship is. I didn't
7 know he appointed him.

8 **Q.** Do you know Judge Mark Henry or know of him?

9 **A.** I know of him. I have never spoken to Judge Henry.

12:27:18

10 MR. FOX: Mr. Medina, could you play what will be
11 marked as Brooks Exhibit 342, which I'll represent is an
12 August 19th, 2025, podcast involving J. Christian Adams
13 interviewing Judge Mark Henry.

12:27:36

14 And this is going to be starting at 10 minutes and
15 57 seconds. This is starting 10 minutes 57 seconds and
16 running until about 12 minutes and 45 seconds.

17 (Video played.)

12:27:49

18 MR. ADAMS: Well, let's fast-forward to today
19 because now you have a situation where a case, and not
20 just a case, but an idea that you initiated. It wasn't,
21 you know, let's just win this case. But you had an idea
22 that you wanted to change, frankly, the law; and you
23 succeeded.

24 Where does this go from here in Texas?

12:28:02

25 What are people saying in Galveston about this big

1 win?

2 Tell us more about sort of the aftereffects.

3 JUDGE HENRY: Well, as you know, now Texas is
4 redistricting. And I was very pleased to see, just a few
12:28:16 5 nights ago, Governor Abbott call me out by name and said,
6 you know, thanks to Mark Henry, here is where we are. So
7 I was very appreciative of the governor for recognizing
8 that I caused all this chaos.

9 And, by the way, I would kind of like a little reward
12:28:28 10 for getting 50 Democrats to leave the state; but I don't
11 know if that's going to come or not. But -- so we are
12 here now to redistrict and dissolve all coalition
13 districts, which is kind of a big deal in Texas. And
14 those seats will then be up for grabs.

12:28:39 15 They may go Republican. We don't know. But getting
16 rid of the coalition districts was really what I was
17 after.

18 MR. ADAMS: Yeah. And, you know what, I'm
19 constrained by attorney-client privilege. There is things
12:28:49 20 I would like to say that you have said, but I'll put it
21 this way: Without your leadership in this area, without
22 your steadfast resolve to drive this issue to a resolution
23 to change the law, this would not have happened. The
24 redistricting in Texas would not have happened. It was
12:29:07 25 100 percent your initiative and your courage, frankly, in

1 going forward.

2 And as you remember, there were some tight deadlines.
3 This didn't show up in the case until, you know, not at
4 the beginning, let's put it that way. And so your resolve
12:29:21 5 to do this is what really made the difference in getting
6 the law changed in the entire state of Texas, Louisiana,
7 Mississippi, and who knows where else going forward.

8 (Video concluded.)

9 BY MR. FOX:

12:29:34 10 **Q.** Mr. Kincaid, had you heard that exchange before today?

11 **A.** No.

12 **Q.** Now, you testified yesterday about some instructions I
13 think you said and some requests related to how you drew
14 the map.

12:29:46 15 JUDGE BROWN: Mr. Fox, could I interrupt for just
16 a second before you move on?

17 MR. FOX: Of course.

18 JUDGE BROWN: I just want to offer a correction.
19 I don't think that Dr. Armstrong appointed Judge Henry.

12:29:56 20 Judge Henry was elected to his post as County Judge. And
21 Judge Henry and the Commissioners Court appointed
22 Dr. Armstrong to fill a vacancy.

23 MR. FOX: Your Honor, I apologize. You certainly
24 would know. I certainly would not. I think I

12:30:10 25 misunderstood what I was informed about this, and I

1 apologize.

2 JUDGE BROWN: Okay. All right.

3 THE WITNESS: Should I restate my testimony then?

4 BY MR. FOX:

12:30:19 5 Q. Are you aware of the appointment process that Judge
6 Brown just described?

7 A. Yes. I am now.

8 THE WITNESS: Thank you, Judge Brown.

9 BY MR. FOX:

12:30:26 10 Q. Now, Mr. Kincaid, you testified yesterday about some
11 instructions and some requests about how you drew the map;
12 is that right?

13 A. That's correct.

14 Q. And you differentiated, I think, between instructions
12:30:36 15 and requests; is that right?

16 A. That's correct.

17 Q. And I think you said the instructions came to you from
18 someone in the White House; is that right?

19 A. That's correct.

12:30:44 20 Q. I just want to make sure I have a complete list of
21 what those instructions were.

22 Can you provide that?

23 A. Absolutely. So as far as the instructions from the
24 White House, those would have been the 60 percent

12:30:56 25 threshold for incumbent members of congress, for

1 Republican members of congress.

2 It would have been making sure the incumbent
3 Republicans who lived in their seats stayed in their
4 seats.

12:31:06 5 It would have included making sure we did not decrease
6 the districts that were under 60 percent.

7 And it would also have included what I talked about
8 with the PVI's but, you know, keeping 23 and 15 stable at a
9 minimum. Yeah.

12:31:27 10 **Q.** And then the requests I think you said were relayed to
11 you by Mr. Gober?

12 **A.** That's correct.

13 **Q.** What were the requests?

14 **A.** Are those -- I'm sorry. Would those be privileged at
15 all? Because I know they were last time, so I don't want
16 to --

17 MR. STRACH: Your Honor, if I may clarify with
18 Mr. Fox.

19 Are we asking about conversations that might be
12:31:51 20 attorney-client privilege between Mr. Kincaid and
21 Mr. Gober?

22 MR. FOX: So I -- to address the Court, I don't
23 think so, in that Mr. Kincaid was not retained by
24 Mr. Gober, does not, as I understand it, have an
12:32:04 25 attorney-client relationship with Mr. Gober. I'm asking

1 him just about what requests he received. I'm not asking
2 about any underlying conversations. I just want to know
3 what -- the things he was trying to do when he was drawing
4 the map.

12:32:16 5 JUDGE GUADERRAMA: Well, is that factual
6 statement true? You don't have an attorney-client
7 relationship with Mr. Gober on this issue?

8 THE WITNESS: So I am not the expert on
9 attorney-client privilege, so I will spell out the
10 relationship and then you-all can tell me if it's
11 privileged or not, I guess.

12 So I was retained by the RNC. Chris Gober is also
13 retained by the RNC to represent the delegation in this
14 matter. And so Chris was giving me direction -- well,
15 requests from the delegation as part of this work. And he
16 has operated as counsel in that capacity.

17 JUDGE GUADERRAMA: So he is the RNC's counsel but
18 not your counsel?

19 THE WITNESS: But we are both under the same
12:32:58 20 retainer kind of structure at the RNC. So I'm not sure
21 how to frame that. I know we had various privilege issues
22 before with all of this, so I just don't know how to --

23 MR. STRACH: It sounds to me like, Your Honor,
24 that they were all under a common interest privilege.

12:33:14 25 JUDGE GUADERRAMA: So he is an employee of the

1 RNC, who is a client of Mr. Gober?

2 MR. STRACH: Right.

3 JUDGE GUADERRAMA: And so a claim of privilege.

4 What do you think, Mr. Fox?

12:33:23

5 MR. FOX: Well, I think it's a little

6 extraordinary if Mr. Kincaid has been called here to

7 testify about drawing a map and can't tell us what he was

8 told to do in drawing that map. I'm not sure how we are

9 supposed to conduct an effective examination or understand

12:33:34

10 what Mr. Kincaid did under those circumstances.

11 JUDGE GUADERRAMA: I suppose he can tell us what

12 he did. I mean, that's not privileged.

13 MR. FOX: That's true, but I don't think he can

14 tell us why.

12:33:41

15 Also, it's not clear to me that Mr. Gober represented

16 Mr. Kincaid or that this was legal advice. It seems to me

17 to have been an instruction about drawing a map. But, of

18 course, I don't know the substance of what the

19 communications were.

12:33:52

20 JUDGE GUADERRAMA: Very good.

21 (Sotto voce discussion amongst the Judges.)

22 JUDGE GUADERRAMA: So we're going to sustain the

23 privilege objection.

24 BY MR. FOX:

12:34:16

25 Q. And so just for the record, Mr. Kincaid, you are not

1 able to tell me what requests you received from members of
2 congress that influenced your drawing of the map; is that
3 right?

4 **A.** The requests I received from Mr. Gober?

12:34:27

5 **Q.** Yes.

6 **A.** Yes. They sustained the privilege, so I cannot.

7 **Q.** And did the requests that you received from Mr. Gober
8 influence your drawing of the map?

9 **A.** Yes.

12:34:34

10 **Q.** Substantially?

11 **A.** I mean, I don't know how to frame "substantially," but
12 there were significant requests that I had to consider,
13 yes.

14 **Q.** And did you honor many of those requests in drawing
15 your map?

12:34:48

16 **A.** As many as I could, yes.

17 **Q.** Mr. Kincaid, did anyone tell you which districts were
18 the five districts that you were supposed to set up to
19 flip from Republican to Democrat?

12:35:03

20 **A.** No.

21 **Q.** That was a choice that you made?

22 **A.** Yes.

23 **Q.** And there were 13 Democratic districts in the prior
24 plan; is that right?

12:35:11

25 **A.** That's correct.

1 Q. And so you selected which five?

2 A. Yes.

3 Q. At what point did you make that decision?

12:35:22

4 A. Those were political realities as I worked through the
5 map.

6 Q. So, like, when in time? I'm sort of looking for a
7 date or a rough date.

12:35:35

8 A. I would call it a moving target in that sense. It
9 wasn't -- some of them were much more straightforward than
10 others, like I talked about with 32 and with 9. You know,
11 those kind of drew themselves in some sense. I knew 32
12 existed before the 9th District. Like I talked about,
13 once I established the other ones, it was there.

12:35:53

14 I knew 34 and 28 were the ones I wanted to draw. And
15 then 35 was probably the last one I realized.

16 But I was also looking to do a sixth, and I couldn't
17 do that because of other political issues.

12:36:06

18 So, I mean, there is a lot of different things that go
19 into that. So I couldn't tell you like a -- yeah. So it
20 was kind of a moving target.

21 Q. Can you give me a date range when it started? When it
22 ended?

23 A. May through July.

12:36:15

24 Q. And, Mr. Kincaid, what you just described is
25 interesting. Yesterday you sat down and you testified

1 about sort of a tour of the map. Is that fair?

2 **A.** Sure.

3 **Q.** And you said -- we started in the Panhandle and we
4 went down through Dallas-Fort Worth and we saw Houston and
5 we saw Central Texas.

12:36:29

6 **A.** Right.

7 **Q.** And I think based on what you just described -- and
8 I'm not saying you misrepresented anything. I just want
9 to understand how that relates to your actual map drawing
10 process. And it sounds like your map drawing process was
11 not linear in that way. Is that fair?

12:36:36

12 **A.** No. I -- I think we're talking about two different
13 things. So I think while we talked through everything
14 with Mr. Kercher yesterday, I talked about working in the
15 north and working around the state and working from
16 corners, right?

12:36:51

17 And so I think that the -- you know, the 32nd
18 obviously was one. As I said, I knew it existed before.
19 And so I got to that one.

12:37:05

20 Working up from the border, I knew 34 and 28 were
21 already Trump seats, and I knew I was going to make those
22 redder.

23 So, no, I think that it's -- the way I tried to
24 characterize it is the way that I worked through the map
25 and the way that it got finalized was, you know, going in

12:37:15

1 those regions and then through the corner and then through
2 the central part of the state and then Houston.

3 So, no, I don't think the two things are
4 contradictory.

12:37:26

5 **Q.** Was there ever a point where you had to double back
6 and try something because it didn't work and you had to go
7 back to a prior district and change it?

8 **A.** I mean, you are always doing some version of that.
9 But the overall structure of the map is what it is, right?

12:37:36

10 So -- and like I said before, one of the things I
11 was -- I continued to try to do during all the drawing was
12 to figure out a way that I could also go and flip the
13 7th District and I just wasn't able to do that.

12:37:49

14 **Q.** And, Mr. Kincaid, ultimately, after you drew this map,
15 you passed it on to Butler Snow; is that right?

16 **A.** That's correct.

17 **Q.** And then they passed it on to the legislature?

18 **A.** That's correct.

19 **Q.** And then the legislature looked at it?

12:37:57

20 **A.** I would assume so, yes.

21 **Q.** And you have seen some clips of this, but they had
22 debates about it on various aspects of it, right?

23 **A.** Yes.

12:38:06

24 **Q.** And then they made their own decision about whether to
25 pass it or not; is that right?

1 **A.** Yes.

2 MR. FOX: Thank you very much. No further
3 questions.

4 JUDGE GUADERRAMA: Plaintiff? Anyone else?
5 (No response.)

12:38:11

6 JUDGE GUADERRAMA: All right. Mr. Kercher.

7 MR. KERCHER: The Court knows how truculent I
8 like to be. Nevertheless, no redirect.

9 May this witness be excused?

12:38:25

10 JUDGE BROWN: I think I have a few. I know he is
11 trying to get out of here, but just real quick. And I
12 think most of this is just going to be a little bit of
13 clarification for me.

12:38:39

14 When you drew the 2025 map, did you know that CDs 9,
15 18, 29, and 33 under the 2021 map were considered minority
16 opportunity districts, in that they provided minorities an
17 opportunity to elect candidates of their choice?

18 THE WITNESS: I did.

12:38:59

19 JUDGE BROWN: And in 2020 and 2024, in at least
20 some parts of the state, President Trump did better among
21 Hispanic voters than Republicans typically do. Aside from
22 those instances, are you aware that Hispanics -- that a
23 comfortable majority of Hispanics in Texas vote in favor
24 of Democrat candidates, though not as cohesively and

12:39:19

25 overwhelmingly as Black voters?

1 THE WITNESS: Generally, yes. I know that
2 President Trump carried Hispanic voters by about
3 10 percent statewide by various reports in 2024.

12:39:34

4 JUDGE BROWN: In Harris County you changed CD 9
5 from Democrat to Republican but left CD 7 Democrat. Can
6 you tell us why you chose to flip 9 and not 7?

12:39:49

7 THE WITNESS: Yes. There were political
8 constraints on the west side of Harris County. I actually
9 wanted to flip that one. And because of three members of
10 congress that are not currently running for re-election, I
11 was not able to do that.

12:40:03

12 So with the way Mr. McCaul's seat and Mr. Luttrell's
13 seat and Mr. Hunt's seat were structured there, I wasn't
14 able to go and restructure the population in 7 enough to
15 redraw that seat.

12:40:18

16 JUDGE BROWN: You testified that you received
17 some instructions while drawing the 2021 map that some
18 Democrat districts were to be left alone or not messed
19 with or protected. You've told us what your criteria --
20 the criteria that you used to draw this map. And it
21 sounds like from that that you did not receive any similar
22 instructions with regard to the 2025 map.

23 THE WITNESS: I did not receive similar
24 instructions, no.

12:40:30

25 JUDGE BROWN: I think that's all I've got.

1 THE WITNESS: All right. Thank you, sir.

2 JUDGE GUADERRAMA: Any objection from plaintiffs
3 to Mr. Kincaid being permanently excused?

12:40:44

4 MR. FOX: Your Honor, just one matter on the
5 privilege issue.

6 JUDGE GUADERRAMA: Yes.

12:40:51

7 MR. FOX: Mr. Kincaid testified yesterday about
8 some of the instructions he received from the Republican
9 congressional delegation. In particular, he testified
10 about two counties that he was instructed to include in a
11 particular district. If the ruling is going to be -- I
12 mean, our position is that waived this categorically and
13 he should be able to talk about those instructions. I
14 think, at a minimum, if the ruling is going to be that he
15 can't, then that ought to be stricken.

12:41:03

16 JUDGE GUADERRAMA: Hold on. So what two
17 districts were those?

18 MR. FOX: So he was told -- it was two counties.

19 JUDGE GUADERRAMA: Two counties?

12:41:12

20 MR. FOX: It was two counties he was told that
21 had to be included in 25, in CD 25.

22 THE WITNESS: CD 5. And it was Kaufman and Van
23 Zandt Counties.

24 MR. FOX: Thank you.

12:41:22

25 JUDGE GUADERRAMA: Do you remember discussing

1 instructions that you received about those?

2 THE WITNESS: Yes, sir. Those were two -- those
3 were part of it, yes.

12:41:29

4 JUDGE GUADERRAMA: And so you want to ask him
5 more about that?

6 MR. FOX: I want to ask him more about all of the
7 instructions he had. I don't think he should be allowed
8 to selectively waive as to a few instructions and not be
9 fulsome.

12:41:50

10 (Sotto voce discussion amongst the Judges.)

11 Mr. KERCHER: To the extent it matters, this is
12 not a privilege the State is asserting. It's a privilege
13 I think that belongs to Mr. Kincaid and his attorney, if
14 that's appropriate.

12:42:05

15 For context, CD 5 is just not one of the challenged
16 districts. That may or may not inform the Court's
17 analysis but for context.

12:42:16

18 JUDGE GUADERRAMA: Right. And so I think our
19 agreement was that, for purposes of those individuals he
20 spoke to about CD 5 and the instructions he got, you can
21 question him about those conversations. You are cabined
22 to that.

12:42:30

23 MR. FOX: Your Honor, another one. Sorry. I'm
24 still looking through the transcript that we got in court
25 this morning. Another one is he was told that he was told

1 to use the Cook PVI by the delegation. He testified to
2 that as well. That obviously affects the entire map.

3 JUDGE GUADERRAMA: The Cook PVI.

12:42:42

4 THE WITNESS: I thought I mentioned, if I did,
5 that would be part of the direction I received from the
6 White House that I testified to a few minutes ago. So if
7 I said it was from the delegation, that would be my
8 mistake. So my apologies.

12:42:54

9 MR. FOX: Your Honor, I just want, just to be
10 clear for the record, I understand the Court's ruling.
11 Obviously, the way you draw CD 5 affects all the other
12 districts; and so our position is we ought to be able to
13 hear all of it or none of it. We would like to hear all
14 of it but understand the Court's ruling.

12:43:05

15 JUDGE GUADERRAMA: Okay. So just cabin it that
16 way. You don't want to ask him anything about what his
17 conversations he had with those individuals that gave him
18 the instructions for CD 5?

12:43:13

19 MR. FOX: Just with those individuals or just
20 about CD 5?

21 JUDGE GUADERRAMA: The individuals regarding
22 CD 5.

23 MR. FOX: Oh.

24 JUDGE GUADERRAMA: I don't know. You said --

12:43:21

25 MR. FOX: It's a subject matter limitation or a

1 person limitation, Your Honor?

2 JUDGE BROWN: It seems to me that he waived the
3 privilege with regard to conversations he had with whoever
4 instructed him to -- about those two counties in CD 5.

12:43:35 5 MR. FOX: Thank you. I appreciate the
6 clarification. I do have some questions.

7 JUDGE GUADERRAMA: All right.

8 **CROSS-EXAMINATION (continued)**

9 BY MR. FOX:

12:43:43 10 **Q.** Mr. Kincaid --

11 **A.** Yes.

12 **Q.** -- who gave you the instructions about the two
13 counties that had to be included in CD 5?

14 **A.** That would have been James Blair.

12:43:53 15 **Q.** And that came directly from James Blair, not from
16 Mr. Gober?

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

18 MR. FOX: Thank you, Your Honor. Excuse me.

19 BY MR. FOX:

12:44:00 20 **Q.** Mr. Kincaid, did you receive any other instructions
21 from Mr. Blair that are in the category of instructions --
22 or sorry.

23 Was that a request or an instruction?

24 **A.** That was a request from Mr. Gooden through Mr. Blair
12:44:13 25 to myself.

1 Q. Did you receive any other things in the category of
2 requests from White House officials rather than from
3 Mr. Gober?

12:44:23

4 A. No. That actually would have just been from, for
5 whatever reason, the congressman couldn't get a direct
6 line to James. So it was just him.

7 Q. It was just him. And that was the only such request
8 that you received?

9 A. From him, yes.

12:44:32

10 Q. Did you receive anything else in the bucket of
11 requests other than from Mr. Gober?

12 A. No.

13 MR. FOX: Thank you. No further questions.

12:44:46

14 MR. KERCHER: No redirect. May the witness be
15 permanently excused?

16 MR. BLEDSOE: Your Honor, I might have a
17 follow-up with Judge Brown's question.

18 JUDGE GUADERRAMA: Mr. Bledsoe, yes, sir.

19 **RE-CROSS-EXAMINATION**

12:44:52

20 BY MR. BLEDSOE:

21 Q. Mr. Kincaid, you testified yesterday, I think when you
22 decided to do Harris County, the first district you went
23 after was Congressional District 18, that that's the one
24 that for some reason appealed to you to go to first?

12:45:12

25 A. So what I had said was that we kind of -- I worked

1 around toward Harris County and did 36 and 14 and then
2 worked over to 18, yes.

3 **Q.** Okay. And then I think you testified that after you
4 had changed 18, it was natural for you to then go to
5 District 9?

12:45:30

6 **A.** I had created a core -- yes. That's correct.

7 **Q.** And you just testified in reference to Congressional
8 District 7 that it would have been more difficult in order
9 to make the changes to Congressional District 7 than

12:45:45

10 Congressional District 9?

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

12 **Q.** Okay. But you could have chosen to actually change
13 Congressional District 7, could you not, but it just would
14 have been more difficult?

12:45:54

15 **A.** It wasn't an either/or. It was a both sort of thing.
16 So I was looking at potentially getting as many as six
17 seats. So if that helps clarify the answer.

18 **Q.** You could have chosen 7? You could have changed 7?

19 **A.** I couldn't, given the other parameters that I had and
20 the constraints with the incumbents. It was just an
21 impossible thing to do, given the other constraints that I
22 had. But yes. I had looked at trying to create only two
23 Democrat seats in Houston instead of three.

12:46:11

24 **Q.** Okay. But subject to the constraints, you could have
25 changed 7?

12:46:25

1 **A.** Yes. Absolutely.

2 **Q.** Okay. What were those constraints? Protecting
3 congressional district, what was it, 22 or 2?

4 **A.** I can go through those if you would like. So there is
5 a few. So --

12:46:36

6 (Sotto voce discussion between counsel.)

7 BY MR. BLEDSOE:

8 **Q.** (Motioning.)

9 **A.** It would be the 10th District with Mr. McCaul, the 8th
10 District with Mr. Luttrell, the 22nd District with

12:46:54

11 Mr. Nehls, and the 38th District with Mr. Hunt. All of
12 those seats had a role to play with cabining in Texas 7
13 because of the population there.

14 **Q.** And now 7 touches 9 and 18, correct?

15 **A.** Yes. It does.

12:47:15

16 **Q.** Okay.

17 **A.** Under the current draw, yes.

18 **Q.** So you could have made changes going in the other
19 direction without regard to those constraints, correct?

20 **A.** No. Because the partisanship of 18, like I had said
21 before, is what became 18, those were the most heavily
22 Democrat areas of Harris County, so -- in that region. So
23 I was putting all of those into one district on purpose.

12:47:22

24 **Q.** Okay. So because you desired to put all in 18, then
25 you couldn't make the changes to 7 because you originally

12:47:41

1 made that decision about 18?

2 **A.** It was one of the few reasons. Like I said, so the
3 22nd District, right, has a hook down in the middle of
4 Fort Bend County. It has a carve-out for Mr. Nehls' home
5 and a lot of population over there on that side. That has
6 to go somewhere.

12:47:58

7 And just the structuring of the seats in that area
8 with the other incumbent needs and the thresholds of the
9 partisanship made that not possible to go after 7 as well.

12:48:15

10 MR. BLEDSOE: Okay. Thank you.

11 JUDGE GUADERRAMA: Plaintiff, anyone else?

12 (No response.)

13 MR. KERCHER: No redirect. May the witness be
14 excused at this time?

12:48:26

15 JUDGE GUADERRAMA: Any objection to Mr. Kincaid
16 being permanently excused?

17 MR. GABER: No, Your Honor.

18 MS. PERALES: No objection, Your Honor.

19 MR. FOX: No, Your Honor.

12:48:34

20 MR. BLEDSOE: No objection.

21 MR. McCAFFITY: No, Your Honor.

22 MS. COHAN: No, Your Honor.

23 JUDGE GUADERRAMA: Mr. Kincaid, thanks so much
24 for coming in. You are excused and free to go, sir.

12:48:42

25 THE WITNESS: Thanks very much.

1 JUDGE BROWN: And I hope your camping trip
2 doesn't get rained out.

3 THE WITNESS: Thank you.

4 MR. DUNN: While they arrange the next witness, I
5 just need to move in some exhibits.
12:48:49

6 If you will recall, on the first day of the hearing
7 the Court asked me to transcribe some of these media
8 interviews that have been played. So we have done that.

9 So Brooks 322-T, as in Tom, to 337-T, are transcripts
10 of the recordings that share that same exhibit number. We
11 would put them in the folder with the other side. We move
12 admission of those.
12:49:05

13 JUDGE GUADERRAMA: 337-T?

14 MR. DUNN: 332-T to 337-T.

15 (Plaintiffs' Exhibit Numbers 332-T to 337-T
16 offered into evidence.)
12:49:18

17 JUDGE GUADERRAMA: So, also, just now Mr. Fox
18 used Exhibit 342, which was purposely omitted. It was a
19 video, I think, with Judge Henry.

20 MR. DUNN: Yes -- I'm sorry. I didn't mean to
21 interrupt you. So we have 348 to 342 now exist that have
22 been provided to the State. We're working on an amended
23 exhibit list for those. We'll move admission once we have
24 that exhibit list on file.
12:49:34

25 JUDGE GUADERRAMA: All right. Thank you.
12:49:49

1 Who is your next witness?

2 MR. DUNN: Did I get a ruling on the admission of
3 the three --

4 JUDGE GUADERRAMA: They are admitted. Yes, sir.

12:49:55 5 Well, do we see any objection, Ms. Thorburn? Sorry.

6 MS. THORBURN: Did he say 332?

7 MR. DUNN: Yes.

8 JUDGE GUADERRAMA: 332-T through 337-T, which
9 corresponds to 332 to 337.

12:50:10 10 MS. THORBURN: No objection, Your Honor.

11 JUDGE GUADERRAMA: They are admitted. Thank you.
12 (Plaintiffs' Exhibit Numbers 332-T to 337-T
13 admitted into evidence.)

14 MS. THORBURN: The State calls Christina Adkins.

12:50:18 15 JUDGE GUADERRAMA: Christina Adkins.

16 Good afternoon, Ms. Adkins. Raise your right hand,
17 ma'am, to receive the oath.

18 Do you solemnly swear or affirm the testimony that you
19 will give in this proceeding will be the truth, the whole
20 truth, and nothing but the truth so help you God?

21 THE WITNESS: I do.

22 JUDGE GUADERRAMA: Thank you, ma'am. Have a seat
23 there, please.

24 Ms. Thorburn, whenever you are ready, ma'am.

12:50:54 25 MS. THORBURN: Thank you, Your Honor.

1 **CHRISTINA ADKINS,**

2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MS. THORBURN:

12:50:57 5 **Q.** Can you hear me all right?

6 **A.** I can.

7 **Q.** Well, good afternoon, Ms. Adkins, and welcome to El
8 Paso.

9 **A.** It's nice to be back.

12:51:04 10 **Q.** Could you please state and spell your name for the
11 Court?

12 **A.** Of course. My name is Christina Adkins.

13 C-h-r-i-s-t-i-n-a. Adkins is A-d-k-i-n-s.

14 **Q.** And we are very glad to have you back in El Paso.

12:51:20 15 Since you were here so recently, could you just remind
16 the Court what it is that you do?

17 **A.** Of course. I am currently serving as the director of
18 elections for the Texas Secretary of State's office. And
19 in that role I oversee the elections division where we

12:51:34 20 provide advice and assistance to local election officials.

21 We oversee the statewide election management system. We
22 provide auditing and training services. A number of
23 things related to the administration of elections.

24 **Q.** How long have you been doing that?

12:51:47 25 **A.** In my current role as director, I have been in this

1 position for a little over two years; but I have worked
2 for the Secretary of State's office in the election
3 division for about 13 years.

12:52:01

4 **Q.** How many election cycles would you say that you have
5 worked in elections?

6 **A.** Well, I began my employment in the elections division
7 in 2012. So I have worked four presidential elections and
8 then all of the accompanying elections in between.

12:52:17

9 **Q.** Before we get into the details of how elections are
10 really run and the procedures, I want to talk about just a
11 couple of things that have come up in the case.

12 **A.** Of course.

13 **Q.** Are you aware of what Spanish surname voter
14 registration is?

12:52:28

15 **A.** Yes.

16 **Q.** What is it?

12:52:43

17 **A.** So we are required to send out a mailer to certain
18 individuals that have a Hispanic surname when it comes to
19 our constitutional amendments. We provide a mailer that
20 lists the constitutional amendments and provides a
21 translation of the amendment themselves, or the language,
22 the proposed language, and an explanatory statement. And
23 that list is derived from a list that's created by the
24 U.S. Census Bureau, and it's a list of Hispanic surnames.

12:53:02

25 **Q.** Is the Spanish surname voter registration list a

1 direct measure of Hispanic ethnicity?

2 **A.** No.

3 **Q.** So, for example, what is your ethnicity?

4 **A.** My ethnicity? I would call myself a Mexican American
5 woman.

12:53:16

6 **Q.** Are you aware whether your name is on the Spanish
7 surname voter registration list?

8 **A.** My name is not on the Spanish surname voter
9 registration list.

12:53:25

10 **Q.** Is it possible to opt out of the Spanish surname voter
11 registration list?

12 **A.** Yes, it is. And we have had voters over the years,
13 when they receive it, they do contact our office and
14 request to be removed from the list. And we do that, so
15 they won't get that mailing in the future.

12:53:38

16 **Q.** If someone were to refer to this list as more of a
17 mailing list, would that be accurate?

18 **A.** I think that's an accurate description.

19 **Q.** Now I want to talk to you about something else that
20 has come up in the case. Are you familiar with Texas
21 Election Code Section 18.066 and 18.067?

12:53:54

22 **A.** I believe so.

23 **Q.** Would it refresh your recollection if I just pulled up
24 a PDF of it from Westlaw?

12:54:10

25 **A.** That would help, yes.

1 Q. Okay.

2 MS. THORBURN: Richard, could you please pull up
3 Section 18.066.

12:54:20

4 This is just for demonstrative purposes, Your Honor,
5 and counsel. I snapped this as a PDF from Westlaw. It
6 will not be offered as an exhibit.

7 Richard, if you could just zoom in so that she is able
8 to read it.

9 BY MS. THORBURN:

12:54:32

10 Q. Just refresh your recollection and see if you are
11 familiar with this.

12 A. Yes. I'm familiar with this provision.

13 MS. THORBURN: Richard, could you also please
14 pull up 18.067.

12:54:49

15 A. Yes. I'm familiar with this provision.

16 BY MS. THORBURN:

17 Q. What are these provisions?

18 A. These are the provisions that speak to the requirement
19 to maintain the statewide voter registration list. The
20 State maintains that.

12:55:00

21 It also is a provision that speaks to the use of that
22 information from that system if individuals are requesting
23 that information, how it can be used.

24 Q. Can the public request the voter file from the Texas
25 Secretary of State under these provisions?

12:55:14

1 **A.** Yes.

2 **Q.** What is the public required to provide when they
3 request that information?

12:55:27

4 **A.** So I believe it's under 18.067. It provides that
5 individuals have to sign an affidavit, essentially, that
6 says that they will not be using it for certain types of
7 commercial purposes. And I'm paraphrasing there.

12:55:41

8 **Q.** And are those individuals who sign that affidavit, are
9 they allowed to then share that information with third
10 parties?

11 **A.** There is nothing in the law that would prevent them
12 from sharing it with third parties, no.

13 **Q.** Are those third parties then required to sign an
14 affidavit?

12:55:49

15 **A.** No.

16 **Q.** Okay. Now I want to talk about the details of
17 elections.

18 **A.** Excellent.

12:56:00

19 **Q.** I'm going to have Richard bring up what we've marked
20 as State's Exhibit 1460.

21 MS. THORBURN: Yeah. If we could scroll down, I
22 believe it's page 4 of the PDF, and zoom in on the bottom
23 where it says "Important election dates." Okay.

24 BY MS. THORBURN:

12:56:16

25 **Q.** Have you seen this document before?

1 **A.** Yes, I have.

2 **Q.** What is it?

3 **A.** This document was created by our office, the Secretary
4 of State's office. We provide a list typically on a
5 two-year cycle of all of the upcoming important dates
6 related to upcoming elections. We do that prior to
7 issuing a more detailed calendar for each election.

12:56:27

8 MS. THORBURN: Okay. Richard, if you could,
9 maybe -- we need to look at this page and the next page.

12:56:52

10 Great.

11 BY MS. THORBURN:

12 **Q.** Ms. Adkins, just on a high level, running through each
13 of these dates, could you just explain to the Court the
14 process going from precinct chair filing to the primary
15 election?

12:57:02

16 **A.** So our primary election is scheduled for March 3rd of
17 2026 this next year. Prior to the primary election taking
18 place, there is a number of very relevant dates and
19 deadlines that pertain specifically to candidacy.

12:57:16

20 The first date that you have -- on the list that you
21 provided here, Tuesday, September 9th, 2025, that is the
22 first day of the filing period for individuals that are
23 applying for a party office. And that's the office of
24 precinct chair.

12:57:31

25 The next date that's listed on this calendar is

1 Saturday, November 8th, 2025. That is the first day of
2 the filing period for candidates that are primarily
3 seeking public office. That's the big filing period start
4 date. That filing period takes place for about 30 days.

12:57:48

5 And the final date for which a person can submit an
6 application for seeking the nomination in the primary
7 election process, if we're speaking about primaries
8 specifically, is Monday, November -- I'm sorry -- Monday,
9 December 8th, 2025.

12:58:03

10 **Q.** So am I correct that Tuesday, September 9th, was about
11 a month ago?

12 **A.** That's correct.

13 **Q.** And the November 8th date, would that apply to
14 congressional candidates?

12:58:15

15 **A.** Yes. That's correct.

16 **Q.** How do the deadlines that you just described interact
17 with each other?

18 **A.** So we have deadlines in the election code that are
19 keyed off of our election date, where we count backwards
20 from our election date.

12:58:30

21 And then we've got a number of deadlines, and I think
22 these are a good example of those, that are set by
23 statute. And they are set not keyed off of the election
24 date itself but are defined in Texas law.

12:58:43

25 These -- the deadlines for an election kind of all

1 meet in the middle or they have a point where they all
2 come together. And these candidate filing deadlines are
3 the first big deadlines in the election process that
4 pertain to the primary election and that a number of other
5 election deadlines are keyed off of.

12:58:58

6 **Q.** Now that we've talked about the deadlines, I want to
7 talk about the preparation that counties do for these
8 deadlines in these elections.

9 Do you know what map counties are planning on using
10 for the primary, the upcoming primary?

12:59:14

11 **A.** For the upcoming primary in March, the maps that our
12 counties would be working under at this moment would be
13 the maps that are current law, that were -- came out of
14 our most recent special session and that were signed by
15 the governor in early September.

12:59:29

16 **Q.** So that would be C2333 or the 2025 map?

17 **A.** The 2025 maps, correct, yes.

18 **Q.** How do you know that they are planning on using those
19 maps?

12:59:41

20 **A.** Our office is charged with providing guidance to our
21 election officials related to new laws as they are passed
22 by the Texas Legislature. So when these maps were signed
23 into law and we had effective maps essentially to work off
24 of because these maps will be in effect for the primary
25 election, we began educating county election officials of

01:00:00

1 the adoption of these maps to make sure that they were
2 aware that they needed to be reviewing them to determine
3 if there is any additional efforts they needed to make on
4 the local level for compliance.

01:00:14

5 And so we began that process immediately thereafter
6 the maps -- after the governor signed the map or signed
7 the law regarding the maps. We have done a number of
8 web-based trainings. We had an in-person training with
9 our county political party chairs. And at this training a
10 lot of our election officials also attend in person. And
11 have been answering a lot of questions about this, you
12 know, over the last few months.

01:00:32

13 In all of our interactions with the counties, we have
14 been reiterating that these maps are the maps that are in
15 place for the primary. Unless there is something, a court
16 order or something telling us otherwise, we have to
17 proceed and move forward with the maps that are law, that
18 will be law.

01:00:45

19 **Q.** Do you know when the counties began preparing to use
20 these maps?

01:01:01

21 **A.** I speak to a lot of county election officials on a
22 regular basis. Again, we have been reiterating the need
23 to review these maps very regularly. And a number of
24 counties that were impacted by these changes have
25 indicated to me that they began reviewing them immediately

01:01:15

1 after the adoption of the maps.

2 **Q.** Do you know how much work has already been completed
3 in implementing these maps?

01:01:29

4 **A.** Some of that is going to vary on a county-by-county
5 basis. So I can't speak to what each individual county
6 has done. But I can say that counties -- many counties
7 have already begun the review process to determine what
8 those local changes are that they need to make and are in
9 the process of redrawing their county election voter

01:01:46

10 registration precincts, which is the change that counties
11 would have to make to comply with the new maps. And many
12 counties have already begun that process and started
13 mapping all those changes out.

01:02:00

14 **Q.** Now that we've gone through the topics the counties
15 are going to have to do, I want to talk about how the new
16 maps affect the candidates.

17 Have candidates begun campaigning under the new maps
18 to your knowledge?

19 **A.** Yes.

01:02:09

20 **Q.** Do you know when candidates started campaigning under
21 the new map?

22 **A.** I would say that I noticed -- and I try to keep track
23 of these things, but I did notice that we were starting to
24 see announcements from different individuals right after

01:02:24

25 the maps were adopted and, you know, have continued to

1 receive inquiries from candidates that were seeking to run
2 under the new map to determine what their requirements
3 were for seeking public office.

01:02:39

4 **Q.** To your knowledge, what efforts have candidates
5 undertaken to campaign under the new map?

01:02:53

6 **A.** Well, there is -- that's going to vary depending on
7 the candidate, depending on the race. One of the things
8 that I -- from our perspective of the Secretary of State's
9 office that I have observed is we have a lot of questions
10 about what the candidate filing process entails.

01:03:09

11 To file for public office, you submit a candidate
12 application and you can also pay a filing fee or you could
13 submit a petition in lieu of that filing fee. And that
14 petition process requires gathering signatures of
15 individuals in your specific district. And so we have had
16 a lot of questions about that candidate petition process
17 and what territory lines should be used.

01:03:24

18 So I think based on the number of inquiries that have
19 come in to us on this issue, I would say that many
20 campaigns are in that process of preparing their candidate
21 filings and interacting with voters in that capacity.

22 **Q.** You mentioned petitions. How many signatures does a
23 candidate need if they are going to go the petition route
24 instead of filing a filing fee?

01:03:40

25 **A.** The specific number of signatures is different for the

1 different types of office. But if we're speaking
2 specifically about congressional races, those candidates
3 would need 500 signatures from individuals that reside
4 within their district.

01:03:53

5 JUDGE GUADERRAMA: Ms. Thorburn, it's 1:00. I
6 don't know if you are close to being done with the witness
7 and trying to reach that goal or --

01:04:06

8 MS. THORBURN: I think -- I apologize, Your
9 Honor. I think we can be done in about ten minutes. Or
10 we can break now for lunch. It is completely up to you,
11 Your Honor.

01:04:15

12 JUDGE GUADERRAMA: Well, we have a lot of
13 plaintiffs over there and if they are all planning to ask
14 questions, we probably should break for lunch. So let's
15 go ahead and recess. Be back at, let's say, 2:20.

16 (Morning session concluded 1:04 p.m.)

17 Date: October 8, 2025

18 **COURT REPORTER'S CERTIFICATE**

19 *I, Laura Wells, certify that the foregoing is a*
20 *correct transcript from the record of proceedings in the*
21 *above-entitled matter.*

22 _____/s/ Laura Wells

23 *Laura Wells, CRR, RMR*

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