

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH CAROLINA STATE	:	3: 21-cv-03302-MGL-TJH-RMG
CONFERENCE OF THE NAACP,	:	
<i>et al.</i>	:	OCTOBER 6, 2022
	:	
Plaintiffs,	:	VOLUME III (PAGES 533 - 798)
v.	:	
	:	
THOMAS C. ALEXANDER, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THREE-JUDGE PANEL:
HONORABLE MARY GEIGER LEWIS, HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

A P P E A R A N C E S:

For the Plaintiffs:
The South Carolina State
Conference of the NAACP,
Et al.

DAVID ALLEN CHANEY, JR.
ACLU of South Carolina
P.O. Box 1668
Columbia, SC 29202

SOMIL B. TRIVEDI
American Civil Liberties Union
915 15th Street NW
Washington, DC 20005

LEAH C. ADEN
RAYMOND AUDAIN
JOHN CUSICK
NAACP Legal Defense Fund
40 Rector Street, 5th Floor
New York, NY 10006

JOHN ARAK FREEDMAN
JOHN MARK HINDLEY
Arnold and Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, D.C. 20001

ADRIEL I. CEPEDA DERIEUX
MING CHEUNG
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004

ANTONIO LAVALLE INGRAM, II
SANTINO COLEMAN
NAACP Legal Defense and
Educational Fund, Inc.
700 14th Street NW, Suite 600
Washington, D.C. 20005

For the Defendants:
Thomas C. Alexander,
et. al,

JOHN M. GORE
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001

ROBERT E. TYSON, JR.
LA'JESSICA STRINGFELLOW
VORDMAN CARLISLE TRAYWICK
Robinson Gray Stepp & Laffitte LLC
1310 Gadsden Street
Columbia, SC 29201

MARK CARROLL MOORE
MICHAEL ANTONIO PARENTE
ANDREW ADDISON MATHIAS
HAMILTON BOHANON BARBER
Nexsen Pruet
PO Box 2426
Columbia, SC 29202

For the Defendant:
South Carolina State
Election Commission

MICHAEL REID BURCHSTEAD
ELIZABETH CRUM
Burr and Forman LLP
PO Box 11390
Columbia, SC 29211

Court Reporter:

LISA D. SMITH, RPR, CRR
U.S. District Court Reporter
P.O. Box 835
Charleston, SC 29401

Proceedings recorded by mechanical stenography,
transcript produced by computer.

INDEXPLAINTIFFS' WITNESSES**BAODONG LIU, PhD**

DIRECT EXAMINATION BY MR. CUSICK.....	550
CROSS-EXAMINATION BY MR. MATHIAS.....	582
CROSS-EXAMINATION BY MR. GORE.....	600
REDIRECT EXAMINATION BY MR. CUSICK.....	614

REPRESENTATIVE JOHN KING

DIRECT EXAMINATION BY MR. TRIVEDI.....	616
CROSS-EXAMINATION BY MR. MOORE.....	646
CROSS-EXAMINATION BY MS. STRINGFELLOW.....	661

LYNN TEAGUE

DIRECT EXAMINATION BY MR. CHANEY.....	672
CROSS-EXAMINATION BY MR. PARENTE.....	703
CROSS-EXAMINATION BY MR. TRAYWICK.....	739
REDIRECT EXAMINATION BY MR. CHANEY.....	748

KAMBRELL GARVIN

DIRECT EXAMINATION BY MR. CHEUNG.....	752
CROSS-EXAMINATION BY MR. MATHIAS.....	770
CROSS-EXAMINATION BY MS. STRINGFELLOW.....	771

REPRESENTATIVE MARGIE BRIGHT MATTHEWS

DIRECT EXAMINATION BY MR. TRIVEDI.....	773
--	-----

- - -

1	PLAINTIFFS' EXHIBITS			
	Exhibit	Description	Identified	Admitted
2	2	Senate Defendants' Objections to Plaintiffs' Interrogatories	545	546
3				546
4	4	Senate Defendants' Objections to Plaintiffs' First Set of Requests For Admission And Second Set of Interrogatories to Senate Defendants	545	
5				
6				
7	20	2.1 Chart	744	
8	48	Dr. Liu - CV	550	
9	49	Senate and House Map Signed by The Governor	762	
10				
11	62	Dr. Liu Rebuttal Report	550	
12	67	Dr. Duchin Report/CV - 4/11/22	717	
13	70A	League of Women Voters Map	689	
14	72	Polsby-Popper Score Chart	685	
15	73	Duchin Report Table 4 Showing County Splits	688	
16				
17	74	Duchin Report Table 5 Showing City and Town Splits	689	
18	98	SC Senate Judiciary Redistricting Subcommittee November 29, 2021	796	
19				
20	108	SC House Judiciary Full Committee January 10, 2022 (Part 1 Revised)	641	
21				
22	112	SC House of Representatives Hearing Transcript - January 12, 2022	644	
23				
24	115	Senate Judiciary Committee Hearing Transcript - January 19, 2022	797	
25				

PLAINTIFFS' EXHIBITS

Exhibit	Description	Identified	Admitted
594	SC NAACP Testimonies from House Hearings	545	546
719	SC House Plan 2 Senate Amendment 2A	789	X
721	E-mails from R. Oppermann to W. Roberts and A. Fiffick re: Reports	546	546
722	Two Pages of Disclosure Pursuant to Confidentiality	546	546

HOUSE DEFENDANTS' EXHIBITS

Exhibit	Description	Identified	Admitted
22	January 12, 2022 House Journal	594	X
121	2-4-21 Email from Lynn Teague to John Ruoff	706	707
138	Email Exchange with Dr. Ruoff and Lynn Teague	709	X
142	Email Exchange Regarding Zoom with John Cusick	735	736
148	Email Exchange with Dr. Ruoff and Lynn Teague	724	X
149	Email Exchange with Dr. Ruoff and Lynn Teague	729	730
152	Video of January 12, 2022 House of Representatives Floor Debate from Archives	638	X
153	House Judiciary Committee Rules - January 26, 2022	634	X

- - -

SENATE DEFENDANTS' EXHIBITS

Exhibit	Description	Identified	Admitted
29B	South Carolina Congressional Districts' Map- House Plan 2 Senate Amendment 1	789	X
70A	South Carolina Congressional Districts' Map - LWV	689	X
70E	Population Summary LWVSC Congressional 1	719	X
70F	Core Constituencies - NAACP Congressional 1	720	X
76	Senate/House Sean P. Trendle Rebuttal Report - 5/4/22	608	X

- - -

1 *(The following bench trial proceedings resumed*
2 *October 6, 2022, at 9:00 a.m.)*

3 JUDGE GERGEL: Good morning, everyone.

4 Are there any matters that any of the parties need to
5 address with the Court? First, from the plaintiff.

6 MR. CHANEY: Yes, your Honor. I did want to circle
7 back about the meet and confer the Court asked for the parties
8 to have yesterday.

9 JUDGE GERGEL: Yes.

10 MR. CHANEY: It was productive. I think all the
11 parties are on the same page for dramatically streamlining the
12 designations. I did want to raise some questions of timing
13 with the Court. We mentioned, I think on Monday, that we
14 would like to provide the Court with color-coded copies of the
15 transcripts as well as cover page summaries to guide the
16 Court's exploration of the --

17 JUDGE GERGEL: That would be helpful, yes.

18 MR. CHANEY: -- of the information. Obviously,
19 that's a big ask of our paralegal team. With the Court's
20 permission, we'd like to follow up with the designations
21 themselves next week.

22 JUDGE GERGEL: That'd be fine.

23 MR. CHANEY: And then if we --

24 JUDGE GERGEL: No problem.

25 MR. CHANEY: And then if we follow up later with

1 the --

2 JUDGE GERGEL: I kind of feel the designation is
3 going to mean something once we hear from both sides about the
4 evidence. That's going to help us more to understand the
5 importance of it. So, I think that's fine.

6 MR. CHANEY: Okay. That's what --

7 JUDGE GERGEL: Anything else?

8 MR. CHANEY: I just wanted to confirm that what we
9 intended to communicate is that we would be providing the
10 whole transcripts of a particular witness with the
11 highlighting to guide the Court's attention. I think there
12 was some dispute between the parties if that's what the Court
13 heard, and so we wanted to get your --

14 JUDGE GERGEL: Yeah. Frankly, my preference is, if
15 it's understandable, without giving us a, you know, multi-hour
16 deposition. And the more common practice is for counsel to
17 provide us just a few page excerpts, unless somebody feels
18 like you can't understand the context of it or something. But
19 to give us, you know, a huge deposition and then have us
20 hunting through it for these few pages, is a real waste of
21 time. And y'all want us to read your designations.

22 MR. CHANEY: Understood, your Honor. And we were
23 trying to track -- I believe the defendant, when they
24 submitted theirs, was the entire copy, along with the
25 designations. And so, I think our --

1 JUDGE GERGEL: I don't want to give undue work for
2 anybody. I mean, but I'm just saying, I want to read the
3 stuff y'all want to designate, and I don't want to go hunting
4 back and forth for it.

5 MR. MOORE: And, your Honor, I mean, that is our
6 position as well. And, perhaps, we didn't understand what the
7 plaintiffs were saying the other day. I'm assuming -- and, as
8 you know, the House is concerned about that -- these
9 transcripts may be -- these deposition designations may well
10 be filed on the public docket. So, as I understand, the Court
11 may --

12 JUDGE GERGEL: If they're exhibits, they're filed.

13 MR. MOORE: And so I, obviously, have a concern with
14 things that are filed in the public docket with full
15 depositions that are not coming in. So, I would prefer some
16 redactions. I would prefer excerpts, excerpts of the actual
17 testimony that each side proposes, not full depositions with
18 color coding.

19 THE COURT: Well, Mr. Moore, as you well know, the
20 rule is, you offer the designation, and if the opposing party
21 wants to add to it, it's allowed to do that.

22 MR. MOORE: Correct.

23 JUDGE GERGEL: It does not anticipate we're going to
24 get document dumps, entire depositions dumped into the record.
25 You know, there's already a lot of documents here, okay? And

1 I think everybody wants me to read their designations. That's
2 what you want us to do. And if you make it easier for us,
3 that just makes it more likely that we'll spend our time
4 reading it rather than hunting for it.

5 MR. CHANEY: Understood, Your Honor. I wasn't trying
6 to argue the point and just make it so that --

7 JUDGE GERGEL: I got you. I just want to make it
8 clear what's good. I want to hear from all the lawyers. I
9 want to know what evidence that they think is important.
10 That's what I want to know. And I don't want to be hunting
11 for it.

12 There was a lot in this record. And I know with
13 reapportionment, you've got to have a lot of underlying data
14 in the record just because people are going to be referring to
15 it, and you'd like to have the underlying data. I get that.
16 That is just fine. And we've hopefully expedited a lot of
17 those uncontested data entries into the record. But
18 deposition excerpts are a different character. They are
19 something y'all are trying to make a point, and I want to
20 understand your point.

21 You know, I said the other day in the first hour of
22 everybody's direct and cross: I got it, and so do my
23 colleagues. We got y'all's points. They were all good
24 points. I mean, we got it. So, try to work a little bit on
25 not belaboring things that we kind of get. You know, this is

1 not a jury that you have to kind of teach them. We've all
2 read the reports. We understand. We've talked among
3 ourselves. We kind of all get it. And what we want to do is
4 the sort of refinement. I kind of get the direct. Frankly, I
5 want to hear the crosses of all these witnesses. That's what
6 I want to hear. I want to hear the weaknesses. I don't have
7 enough background to just read the report and be critical
8 about it, but I learned by the cross-examinations, the
9 weaknesses of these experts.

10 And so, I would say get the direct up, make the
11 point, cross. Be selective, don't pick every issue. Pick the
12 issues that are really, you know, germane to the defense, and
13 let's go for it. And I think that's most helpful. But I have
14 read every one of these reports several times. I understand
15 the reports. I don't fully understand all the weaknesses.
16 I've read y'all's, you know, *Daubert* stuff, so I kind of got
17 some of it. But it's so much helpful to hear the witness
18 interact with the lawyer on issues of dispute in those
19 records, you know, in the methodologies and in the
20 conclusions.

21 MR. MOORE: I think I understand your point,
22 your Honor.

23 JUDGE GERGEL: Good. Judge Lewis is making the point
24 that the point of a counter-designation is you put a selective
25 thing in, then you put the counter in, you don't put the

1 entire deposition in. And, you know, one of the problems -- I
2 hate to sound like an old-timer, but, you know, the first
3 Monday after I was sworn in, I tried my first jury trial.
4 I've tried hundreds of cases. Today, that would make me like
5 unbelievable, because we just don't try many cases like we
6 used to. We used to try big cases, small cases, medium-size
7 cases. We just did them all the time. We spent our time
8 trying cases. And, you know, the lack of doing that makes you
9 a little rusty. You just don't get as much. Mr. Moore got a
10 lot more trial work when he was an AUSA than he has as a civil
11 litigator.

12 MR. MOORE: Absolutely, your Honor.

13 JUDGE GERGEL: I mean, you know, it's just we need --

14 MR. MOORE: I, frankly, miss those days.

15 JUDGE GERGEL: I'm sure you do. And, you know,
16 there's some things I miss being on the other side of the
17 table, you know.

18 But, I think we've just got to think about what's
19 efficient here. And I'm going to give you one right now.
20 When you put up your experts, I have read their CVs, as have
21 my colleagues. We have already turned down a *Daubert*. Put
22 them up, tell me what you want to offer them for. I want to
23 hear from the opposing party as to why they're not an expert.
24 If it's just for the same basis the party asserted in *Daubert*,
25 let's get the testimony moving. I just think we spend a lot

1 of time on things that aren't going to matter. So, I think
2 when you put up an expert, you know, put them up -- you've got
3 the CVs already in the record -- and simply tell me what you
4 want to offer it for. And then I want to hear from opposing
5 party. We'll do the same thing when they put up their expert.
6 So, we spend our quality time on highlighting the points. And
7 then, really the valuable thing for us is hearing the
8 cross-examination.

9 MR. CHANEY: Understood, Your Honor. And I would
10 tell the Court that we heard your message on Tuesday as well
11 and spent a lot of our day yesterday streamlining our outline
12 of witnesses that Court hasn't heard from yet. So, I hope
13 we've met that bar.

14 JUDGE GERGEL: It's a lot easier, by the way, for me
15 to say it --

16 MR. CHANEY: Sure.

17 JUDGE GERGEL: -- than for you to do it, okay?

18 MR. CHANEY: Sure.

19 MR. MOORE: But we're trying. We're all trying.

20 MR. CHANEY: During our meet and confer, we were able
21 to identify a number of other exhibits there's no contest to,
22 so I wanted to go ahead and admit those.

23 JUDGE GERGEL: Let's go ahead and admit those. Okay.

24 MR. CHANEY: So, Plaintiffs' Exhibit 2, Plaintiffs'
25 Exhibit 4, Plaintiffs' Exhibit 594 --

1 JUDGE GERGEL: 594?

2 MR. CHANEY: Correct. Plaintiffs' Exhibit 721 and
3 Plaintiffs' Exhibit 722. And 722 has not been previously
4 marked. It is the first two pages of the disclosure that was
5 ordered the night before last, pursuant to the
6 confidentiality.

7 JUDGE GERGEL: Okay. Very good. Okay. How about,
8 do we have any additional defense -- well, first of all, let
9 me do this.

10 Is there an objection to the plaintiffs' offerings?

11 MR. MOORE: No further objections.

12 MR. GORE: No further objection, Your Honor.

13 JUDGE GERGEL: Plaintiffs' Exhibits 2, 4, 594, 721
14 and 722 are admitted without objection.

15 ***(Plaintiffs' Exhibits 2, 4, 594, 721 and 722 were***
16 ***admitted into evidence.)***

17 JUDGE GERGEL: Okay. How about from the defendants?

18 MR. MOORE: So, your Honor, I don't think that we're
19 ready to move in items. I will tell you that, when we get to
20 Ms. Teague, there are some items that we seek to introduce.
21 And I understand that the plaintiffs have objected to a number
22 of them on associational privilege grounds, perhaps. I
23 understand she's going to be the fourth witness, so, perhaps,
24 we could talk to them a little bit at lunch and then make a
25 quick legal argument after lunch on those, if that's okay.

1 JUDGE GERGEL: That's absolutely fine.

2 MR. CHANEY: And I'll just point out, I think those
3 exhibits, while there's something that ties them together, the
4 relevance of them is a case-by-case basis. And so, I do think
5 it's going to be a situation where the Court's going to have
6 to determine, in the course of cross-examination, whether or
7 not they've laid foundation for why the Court should admit
8 them into evidence, if at all.

9 JUDGE GERGEL: Yeah. Well, you know, the traditional
10 way, I love getting everything in that's not contested, but,
11 you know, when there's a relevance objection, I kind of have
12 to hear the testimony, because y'all may see or not see the
13 relevance. I don't have enough background to do it. So, I
14 like to do it in realtime, and then we determine is there a
15 foundation for this, is it relevant, etc.

16 And I've got to say, we're probably a little more
17 relaxed than in front of a jury on the relevance. I mean, we
18 want to get the evidence in, so let's not spend a lot of time
19 on relevancy. If there's sort of a colorable, reasonable
20 argument for it, I want to go ahead and get it in. We can
21 weight it. And if it's ultimately determined not to be
22 important, we have the ability to discard it.

23 MR. MOORE: My colleague is probably going to kill me
24 for asking this, but --

25 JUDGE GERGEL: They'll kill you for something else,

1 Mr. Moore. Don't worry.

2 MR. MOORE: They've been -- they've been trying for
3 months, Judge, and they haven't yet.

4 For these Teague exhibits, would it be helpful if we
5 provided your Honors copies of them in advance?

6 JUDGE GERGEL: Probably not. I mean, I think the
7 better thing is to hear, you know, why there is a dispute
8 here. We'll hear her testimony, the cross. You know, there
9 are potential issues, organizational issues, that are relevant
10 to the case, and then there are a lot of reasons they're not,
11 so you know, basis. So, you know, fine, let's just move on.
12 We'll hear it. And if there's a colorable argument, we'll put
13 it in, and if it's not important, we'll ignore it.

14 MR. MOORE: We've got that. I also need to ask the
15 Court some more quick followup questions. I'm imagining that
16 if Mr. Parente and I don't have the first witness, that you
17 don't have an objection to us going outside and working to
18 streamline some things for cross, right?

19 JUDGE GERGEL: I do not. I have no objection.
20 Streamlining is a very high priority here.

21 Mr. Gore, good morning, sir.

22 MR. GORE: Good morning, your Honor. Thank you.

23 I just wanted to point out that the parties have
24 stipulated on the foundation and authenticity for defense
25 documents.

1 MR. CHANEY: Yeah. And when I said "foundation," I
2 meant foundation for their relevance. I didn't mean like 602
3 foundation. I agree. We've stipulated to those rules.

4 MR. GORE: Perfect. Thank you.

5 JUDGE GERGEL: Okay. Good. Thank you very much.

6 Okay. Are we ready?

7 MR. CHANEY: Very last thing.

8 JUDGE GERGEL: Yes.

9 MR. CHANEY: I just wanted to circle back to
10 something Mr. Mathias raised during opening, which was that
11 the Court offered a historical tour at some point during
12 trial.

13 JUDGE GERGEL: Yes.

14 MR. CHANEY: And I just wanted to see if Friday or
15 tomorrow would be an option.

16 JUDGE GERGEL: Let's do it Tuesday. And what I'll do
17 is, you know, during lunch, maybe people can bag their lunch,
18 and we'll go to the historic courtroom. You can, you know,
19 have your lunch, and I'll give you a little talk about the
20 history of that courtroom. You know, the road to *Brown vs.*
21 *Board of Education* began in that courtroom. So, it's a
22 historic place and is very special in this courthouse.

23 Okay. Anything further?

24 MR. CHANEY: Nothing more for the plaintiffs. Thank
25 you.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

550

1 MR. MOORE: Nothing from the House, your Honor.

2 MR. GORE: Nor from the Senate.

3 JUDGE GERGEL: Very good. Call your next witness.

4 MR. CUSICK: Good morning, Your Honor. This is John
5 Cusick, for the plaintiffs. We call Dr. Baodong Liu.

6 JUDGE GERGEL: Very good. And give me your name
7 again, sir?

8 MR. CUSICK: John Cusick, C-u-s-i-c-k.

9 JUDGE GERGEL: Thank you.

10 **BAODONG LIU, PhD, having been first duly sworn,**
11 **testified as follows:**

12 **DIRECT EXAMINATION**

13 **BY MR. CUSICK:**

14 Q. Good morning, Dr. Liu.

15 A. Good morning.

16 Q. You can take your mask off if you feel comfortable.

17 A. Thank you.

18 Q. Thank you for joining us today.

19 MR. CUSICK: Your Honor, I'm just going to approach
20 the witness with PX-48 and 62.

21 JUDGE GERGEL: Please feel free to do so.

22 MR. CUSICK: Thank you. And, your Honor, as I heard
23 your instruction, I'm just going to ask a few questions about
24 updates with his CV before we move to tender him into
25 evidence.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

551

1 JUDGE GERGEL: The CV is in evidence already?

2 MR. CUSICK: Correct, your Honor.

3 JUDGE GERGEL: What do you offer Dr. Liu -- I have
4 reviewed it. All of us have reviewed it. What are you
5 offering him as an expert in?

6 MR. CUSICK: We're offering Dr. Liu as an expert
7 witness in racial polarization analysis, American political
8 behavior --

9 JUDGE GERGEL: Hold up a second. Hold up a second.

10 MR. CUSICK: Sure.

11 JUDGE GERGEL: So, racial polarization. American?

12 MR. CUSICK: Political behavior, and statistical and
13 quantitative methods.

14 JUDGE GERGEL: Do the defendants object to Dr. Liu's
15 qualifications beyond what was previously offered in the
16 *Daubert* motion?

17 MR. MATHIAS: Beyond what was previously offered in
18 the *Daubert* motion, no.

19 JUDGE GERGEL: Very good.

20 MR. GORE: No, your Honor.

21 JUDGE GERGEL: Very good.

22 The Court recognizes Dr. Liu as an expert in racial
23 polarization, American political behavior, and statistical and
24 quantitative methods.

25 Please proceed, sir.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

552

1 MR. CUSICK: Sure. Thank you.

2 **BY MR. CUSICK:**

3 Q. Dr. Liu, I now want to discuss your role in this case.
4 In looking at page two of your report, what were the three
5 questions that you were asked to assess?

6 A. I was asked to provide testimony on three areas: First,
7 whether there is a pattern of racially polarized voting in the
8 state of South Carolina.

9 Second, I was asked to analyze the competing
10 redistricting plans in terms of the effectiveness in
11 protecting the minority voters -- in this case, black
12 voters -- to have the opportunity to elect candidates of their
13 choice.

14 And finally, I was also asked to do an analysis about the
15 role of race as opposed to the role of party.

16 Q. And I'll take these questions in turn. Dr. Liu, briefly
17 tell the Court, what was your conclusion for your racially
18 polarized voting analysis?

19 A. That there is a pattern of racially polarized voting in
20 not only congressional elections, but also other elections in
21 South Carolina.

22 Q. And going forward, if I refer to it as "RPV," you
23 understand what I'm referring to?

24 A. Yes. It's a very common expression.

25 Q. And turning to the second question, what was your

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

553

1 conclusion for assessing the enacted plan versus some of the
2 competing plans for the electoral opportunities for black
3 voters?

4 A. My conclusion is that, among the competing plans, the
5 enacted plan was the least effective.

6 Q. And for the final question, assessing whether race or
7 party played a greater role in the enacted map, what was your
8 conclusion?

9 A. My conclusion is that between race and party, it is the
10 role of race that is the driving factor in this enacted plan.

11 Q. And we'll begin now with the findings and conclusions for
12 your RPV analysis. Before getting into those, generally, why
13 is RPV relevant in a case like this with intentional
14 discrimination and racial gerrymandering claims?

15 A. RPV is vitally important for this lawsuit because the
16 plaintiffs made the claim that there was racial
17 discrimination -- racial gerrymandering. However, if racial
18 gerrymandering happens, it has to have a factor that is
19 racially polarized voting to make racial discrimination work.

20 Imagine that if there is a high level of white bloc
21 voting against the candidate preferred by Black voters, that
22 has to have a racial polarized voting on the parts of both
23 Blacks and Whites to make the redistricting process effective
24 to block the Black voters from exercising their constitutional
25 right.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

554

1 Q. And is your definition of racially polarized voting
2 consistent with other experts in the field?

3 A. Yes. I'm using the same method that is very common in
4 all the litigations concerning voting rights cases.

5 Q. And, numerically, what do you mean by a majority of Black
6 voters when you refer to it in an RPV analysis?

7 A. I use a simple threshold that is 50 percent plus one.

8 Q. And how is Black preferred candidate defined?

9 A. The BPC, or Black preferred candidate, is empirically
10 operationalized by looking at how Black voters choose their
11 candidate. And if that candidate is reflected by 50 percent
12 plus one, then that's the preferred candidate for the Black
13 voters.

14 Q. And at a very high level, could you briefly describe the
15 RPV methodology that you used in this case?

16 A. Sure. The methodology I have used to analyze RPV is
17 called "ecological inference," which is a quantitative method
18 developed by a Harvard professor named Gary King.

19 Q. And do you commonly use economical inference when you've
20 conducted RPV analyses in other cases?

21 A. Yes. This is the most common methodology used by expert
22 witnesses in all voting rights litigations.

23 Q. What data did you rely upon for your RPV analysis?

24 A. There are two mainly sources of data: One is the
25 election returns at precinct levels, and the other is the

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

555

1 racial demographics. In this case, the racial composition of
2 precincts. And I used the data from the Election Commission
3 of South Carolina.

4 Q. Do you know if that data is public?

5 A. Yes. It's publicly available on the official website of
6 the South Carolina Election Commission.

7 Q. And how does that data that the South Carolina Election
8 Commission publishes compare to other state's data that you
9 used for RPV analysis?

10 A. In that regard, South Carolina is very unique because the
11 election commission, through its website, does provide not
12 only the precinct level election outcome, but also the turnout
13 data by race. So, for each election, there is the data
14 available for the extent to which White voters cast their vote
15 and the extent to which Black voters cast their vote. So,
16 that's unique in the United States. And it's the most
17 reliable and precise data source one can expect for RPV
18 purposes.

19 Q. And, Dr. Liu, on page 41 of your initial report, which is
20 PX-48, you have a document entitled, Appendix 3. Does this
21 provide a full description of how you obtained the data that
22 you relied upon?

23 A. Yes.

24 Q. And in your two decades of experience, is it common for
25 you, and experts in your field, to rely on data provided by

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

556

1 other people -- for example, plaintiffs' counsel -- in a case?

2 A. Yeah, it is very common. Usually when I work for a
3 litigation serving as the expert witness on RPV, I often work
4 with the data team that is also working -- that's also working
5 for the counsel for the plaintiffs. Especially during the new
6 rung of redistricting, we have a lot of data need. And the
7 data team works very hard to provide the data I need.

8 Q. What type of elections did you analyze?

9 A. There are mainly two types of the elections that I
10 analyze: The first is what we call "endogenous elections."
11 By that, we mean that the elections concern the electoral
12 offices at issue for the legal dispute. In this case,
13 obviously it's congressional elections. We also analyze what
14 we call "exogenous elections." By that, we mean the elections
15 that do not deal with the electoral office at issue.

16 Q. Is this also consistent with best practices in the field
17 for measuring RPV?

18 A. Yes. We commonly rely on endogenous elections first to
19 find out whether there is a pattern of RPV. And then we use
20 data available to analyze exogenous elections to serve as
21 supplement to our research.

22 Q. Dr. Liu, I want to first look at Table 1 in your report
23 that's on page seven.

24 MR. CUSICK: If you could bring that up, Mr.
25 Najarian.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

557

1 THE WITNESS: Yes. I'm here.

2 **BY MR. CUSICK:**

3 Q. And in looking at Table 1, how many elections did you
4 review?

5 A. I analyzed a total of seven general elections concerning
6 congressional elections in South Carolina.

7 Q. How many election cycles did you review?

8 A. Usually we relied on the most recent data, and we used
9 three election cycles. But for this one, I also added the
10 fourth. So, there are a total of four election cycles.

11 Q. Is there a reason you used more recent elections -- for
12 example, those before 2014 -- as opposed to those before?

13 A. Yes. There's reason for that. The most recent elections
14 are more appropriate for the lawsuit in terms of RPV analysis,
15 because the heart of voting rights litigations concern with
16 how voters will vote in the near future. So, by using the
17 most recent election data, we can make reasonable predictions
18 about what will happen in the near future.

19 Q. Why is looking at biracial elections important for RPV?

20 A. It is important to use biracial elections. For the
21 definition of biracial elections, we mean that elections that
22 have featured not only the White majority candidate, but also
23 a minority candidate at issue, so, in this case, a Black
24 candidate.

25 It's important to use these elections that are biracial,

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

558

1 because it's the elections that provide the choices to voters.
2 And, by that, we mean that Black voters can choose not only a
3 candidate from the White majority group, but also their own
4 racial group; so do the White voters.

5 Q. Dr. Liu, what does Table 1 show the Court?

6 A. Table 1 is a summary of the findings concerning
7 endogenous elections with regard to general elections. And
8 the clear finding from this table is that, among all seven
9 elections that I analyzed, there is a deep -- or high level of
10 racially polarized voting, in that Black voters voted for
11 their own racial group candidate; at the same time, White
12 voters voted against the same candidate.

13 Q. And if you look at the fourth row here for the 2018 CD 4
14 race -- do you see that Dr. Liu?

15 A. Yes.

16 Q. In the fourth column for White voter support for the
17 Black candidate, is that the highest among the elections you
18 reviewed here?

19 A. It's a very important election I analyzed. First of all,
20 there is a very, very high level of racially polarized voting,
21 because Black voters support this Black candidate named
22 Brandon Brown at 98.58 percent. So, almost 99 percent.
23 However, the White support for this candidate was at
24 22.65 percent. So, it's very high racially polarized voting.

25 Q. And, Dr. Liu, I now want to look at Table 2, which begins

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

559

1 on page eight. Why did you look at primary elections?

2 A. Obviously, general elections determine the final winners
3 of electoral offices at issue, but primary elections help us
4 as experts to analyze the context in which general elections
5 take place, because the two major parties go through the
6 primary -- or nomination contest to decide who will represent
7 the party.

8 Q. What should the Court take away from Table 2?

9 A. That the primary elections in South Carolina revealed a
10 pattern of racially polarized voting as well. Race is an
11 important factor that one has to take into consideration when
12 redistricting is concerned.

13 Q. And, again, you looked at CD 4, which is in rows four and
14 five, and there's a runoff election. Do you see that, Dr.
15 Liu?

16 A. Yes.

17 Q. Is there anything significant about this runoff election?

18 A. Again, these two rows show the candidate named Brandon
19 Brown in District 4. What happened is that this candidate
20 went through the primary and then went to the runoff. In both
21 elections, this candidate experienced racially polarized
22 voting in that Black voters voted for him, and White voters,
23 by majority, voted against him.

24 Q. Thank you, Dr. Liu. I want to look at the last table in
25 your RPV analysis, which is Table 3 that begins on page 10.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

560

1 What does Table 3 tell the Court?

2 A. Table 3 is a summary of the findings concerning exogenous
3 elections. In this table, I used a total of six recent
4 elections statewide that all showed that there was a racially
5 polarized voting pattern. And that is inconsistent with the
6 findings that concerned with the endogenous elections.

7 Q. In looking at the fifth and sixth columns -- White voter
8 support for a Black preferred candidate, and black voter
9 support for a Black preferred candidate -- how does that
10 compare to other states where you reviewed RPV?

11 A. That there is a very high level of racially polarized
12 voting. In this table it is clear that Black voters vote by
13 super majority, almost more than 95 percent for most elections
14 in the table. They voted for the Black preferred candidate,
15 in this case, the Black candidate.

16 And then we also see for the same elections the White
17 voters voted against the same Black preferred candidate, and
18 they voted with less than a quarter of support from the White
19 electorate.

20 Q. Thank you, Dr. Liu. I now want to discuss your
21 effectiveness analysis, which is the second question you were
22 asked to address. If you could, briefly just tell the Court:
23 What was the purpose of this analysis?

24 A. The effectiveness analysis is an analysis that compares
25 competing redistricting plans. So, through effectiveness

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

561

1 analysis, one can examine the extent to which each plan is
2 protecting or harming the Black voters from exercising their
3 constitutional right. So, this is a very important study that
4 showed whether or not the enacted plan is the plan that has
5 the best system to allow Black voters to exercise their
6 constitutional right.

7 Q. Briefly tell the Court, what were the three components of
8 your effectiveness analysis?

9 A. There are three components in my effectiveness analysis.
10 First of all, my effectiveness analysis, or EA, includes a
11 very important overall comparison of racial makeups for
12 different plans. By that, I mean whether or not a particular
13 plan has the racial makeup that makes cracking possible,
14 meaning spread Black voters in different districts so that
15 their vote strength can be diluted, as opposed to other
16 competing plans.

17 And the second component is to look at RPV again. As I
18 said earlier, only through RPV, a redistricting plan can harm
19 the minority group from exercising their constitutional right,
20 because the existence of White bloc voting can enable the
21 usual defeat of a Black preferred candidate. So, I used RPV
22 again in the EA to look at whether or not in one or all the
23 competing plans there was a consistent pattern of RPV.

24 And finally, the third component of my EA is that I look
25 at how Black preferred candidates, or BPCs, performed in the

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

562

1 competing plan. And I make comparison of which one from the
2 competing plans gives the best opportunity to protect Black
3 voters in exercising their constitutional right.

4 Q. Dr. Liu, let's look at Table 4 in your report, which
5 begins on page 13. And how are you defining Black voting age
6 population in the first row?

7 A. As I noted in my footnote 15, the BVAP in this table is
8 measured by any part Black voting age population, from the
9 most recent census, that is, the 2020 census.

10 Q. Looking at the third set of rows here, which begin with
11 "RPV original" and have the four enacted plans; do you see
12 those?

13 A. Yes.

14 Q. Briefly explain to the Court what the takeaway is from
15 your findings here among the four plans.

16 A. The takeaway is that, as you can see in the RPV bloc of
17 this table, it's uniformly 100 percent, regardless of the
18 plans being the original benchmark plan that was used in the
19 last rung of redistricting before 2020, or the new
20 redistricting plan that is the enacted plan, or the
21 Harpootlian Plan, or the plaintiffs' plans, plan one and plan
22 two. All of them show the highest level of RPV.

23 Q. Now, looking to the last set of rows, the average percent
24 vote for a Black preferred candidate.

25 A. Yes.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

563

1 Q. What data did you rely upon to make these assessments?

2 A. The final component, the third component of my EA, as I
3 said, is the average percent vote for BPC. For that, I simply
4 used the average of the vote tally based on different plans.

5 Q. And what was your finding for CD 1 in the first full
6 column?

7 A. As you can see from the column regarding CD 1, the
8 enacted plan had 44 percent, which is even lower than the last
9 rung of redistricting in CD 1, and yet, the Harpootlian Plan,
10 the competing plan that's after the enacted plan, had
11 50 percent of average vote for BPC. So, it's better.

12 And then you can see below that, the plaintiffs' plan,
13 plan one, has 53 percent, and plan two has 51 percent. And,
14 therefore, the enacted plan had the lowest average percent
15 vote for Black preferred candidate.

16 Q. Based on your empirical analysis here, does CD 1 require
17 a 35-percent BVAP for a Black preferred candidate to
18 potentially win?

19 A. Could you repeat that question, please?

20 Q. Based on your analysis here, does CD 1 require a
21 35-percent BVAP for a Black preferred candidate to potentially
22 win in CD 1?

23 A. The first block of my Table 4 is the Black VAP. So,
24 here, I listed all these Black VAP according to different
25 plans. It is clear that the Harpootlian Plan has a Black VAP

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

564

1 percentage as 21 percent. And yet, the Harpootlian Plan has
2 an average percent vote for BPC as 50 percent. Therefore, the
3 answer to your question is no.

4 Q. And now, looking at the CD 5 column, still under the
5 average vote for a Black preferred candidate, what was your
6 finding for the enacted plan compared to the Harpootlian Plan?

7 A. Yes, the CD 5 column showed the Harpootlian Plan would
8 lead to a 47-percent average vote for BPC, which is the
9 highest among the competing plans.

10 Q. Does this analysis, or RPV, factor in White crossover
11 voting, Dr. Liu?

12 A. Yes, it does.

13 Q. How so?

14 A. Yes. The RPV, as I stated earlier, is about the extent
15 to which the White majority voters voted differently or in the
16 opposite way to the Black voters. So, anytime I make an
17 empirical investigation into RPV, I look at both White and
18 Black and, therefore, they are incorporated into my empirical
19 measure.

20 Q. And what do you think about arguments that Black
21 electoral opportunity is dependent on White crossover voting
22 in a district like CD 1?

23 A. Black candidates, of course, are very attentive to the
24 White crossover vote. It is the factor that may provide
25 enduring or lasting effect for the Black candidates to win

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

565

1 competing elections. However, as I have shown in the earlier
2 tables, Table 1 through Table 3, where I give the exact column
3 of White crossover vote in South Carolina, it is clear that
4 the White crossover vote is not consistently high. Actually,
5 they are very low. And, therefore, the argument that only
6 through White crossover vote can Black candidates receive or
7 have a chance of winning is not grounded in the empirical
8 data.

9 Q. And in that last set of rows for the average vote showed
10 a Black preferred candidate, could you have used a different
11 metric to assess that, for example, White crossover voting?

12 A. No. That would not be appropriate.

13 Q. Why not?

14 A. Well, because the average percent vote for BPC, which I
15 used here for Table 4, in the last block of Table 4, is the
16 average vote, which is what statistics call "central
17 tendency," that is, the most commonly used statistics. And it
18 takes into consideration of all election results. And there's
19 no estimation whatsoever, it's simply average. If I use a
20 different measure, such as White crossover vote, that would be
21 much less effective because it's an estimation of the extent
22 to which White voters cast their vote, not the real vote
23 tally.

24 Q. Dr. Liu, I now want to discuss your analyses regarding
25 race versus party in your report, which are in Sections 7 and

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

566

1 8.

2 JUDGE GERGEL: Can I slow you down just for a second?

3 Doctor, you've analyzed the NAACP Plan and the
4 Harpootlian Plan. We've been told about a League of Women
5 Voters Plan. Did you analyze that plan?

6 THE WITNESS: I didn't.

7 JUDGE GERGEL: Thank you.

8 **BY MR. CUSICK:**

9 Q. Dr. Liu, for your analyses regarding race versus party,
10 what hypothesis were you testing?

11 A. It's often in voting rights litigations that defendants
12 argue that it's the factor of partisan affiliation that made a
13 difference in the redistricting plans, rather than the race as
14 the driving factor in determining how a redistricting plan was
15 put together and passed legislature.

16 Q. So, how --

17 A. So, it is important for an empirical investigation to
18 differentiate the two, whether it is race or the party that is
19 serving as the driving factor between the two.

20 Q. How did you go about testing that hypothesis?

21 A. I used the real election data -- in this case, the 2018
22 gubernatorial nomination contest -- for both major parties, so
23 that I have the actual data for both race and party. And then
24 I analyzed how the role of race, as opposed to the role of
25 party, worked out in this particular election, and then see

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

567

1 how the redistricting plan that is passed by the state
2 legislature in South Carolina actually reveals whether it's
3 race or party.

4 Q. Why did you rely on the 2018 gubernatorial election data?

5 A. As I said earlier, recent elections are important,
6 because a redistricting plan is about how voters will vote in
7 the near future in some jurisdictions under dispute. So,
8 therefore, I need to use recent elections. And 2018 is a
9 recent election. And, furthermore, 2018 elections -- in this
10 case, the gubernatorial nomination contest -- allowed me to
11 look at how voters decide, whether they decided to vote in the
12 Democratic primary or the Republican primary. Therefore, I
13 can see how the partisan factors play a role.

14 And in both the Democratic primary and the Republican
15 primary for the 2018 gubernatorial nomination contest, there
16 were viable candidates that were in competition with each
17 other. So, therefore, it's a real choice voters made. And I
18 was able to use that data from the election commission of
19 South Carolina to engage in my empirical analysis.

20 Q. Could you have also used the 2020 presidential election
21 results data in making this analysis?

22 A. The 2020 election data would be much less reliable and
23 accurate because, first of all, as we know, 2020 is a
24 presidential election year, which usually has a very high
25 level of voter turnout. We all know that congressional

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

568

1 elections sometimes take place in a year that is not a
2 presidential election year. So, to use the presidential
3 election year is not a good test.

4 And secondly, in presidential elections, voters may
5 decide to vote for the candidate rather than the party.
6 Imagine that a Democratic voter in a usual term, meaning
7 traditional Democratic voter, may somehow decide in 2020 to
8 vote for President Trump, a Republican candidate. That
9 happened all the time in all the United States' states. And
10 in this case, if I used the 2020 election in South Carolina, I
11 cannot differentiate race and party effectively.

12 Q. So, Dr. Liu, I now want to look to your findings here.
13 If you could look at Table 6 on page 16. How do you define
14 core "into" and "out" here?

15 A. Yes. In Table 6, I used the so-called VTD assignments,
16 whether the assignment being "core," or "into," or "out." So,
17 a total of three categories in terms of how VTD, which is
18 voting tabulation district, according to the U.S. Census.

19 The "core" means that a VTD is determined by the enacted
20 plan to stay in the same district as it was prior to the
21 enacted plan. So, it becomes the core to keep it the way it
22 was.

23 The "into" category, or the second row, is about the VTDs
24 that were for the first time moved into this district,
25 according to the enacted plan, from a district that does not

1 belong to, originally, the same district.

2 And the third category in terms of VTD assignment is
3 called "out," which is that an original VTD that was located
4 inside the particular district, and the enacted plan somehow
5 decided to move it out of the original district.

6 Q. So, Dr. Liu, I now also want to look at Figure 1, which
7 is on page 17, side by side with Table 6. Looking at Table 6
8 in Figure 1, what does this show the Court?

9 A. Yeah. Table 6 is a summary of the findings about race
10 versus party concerning CD 1. So, in this table, I have not
11 only the raw numbers for the breakdown of race and party. For
12 instance, for the White racial group, I have the White
13 Democrat and White Republican, and I have the same thing for
14 the Black racial group, i.e., Black Democrat and Black
15 Republican. And that is reported in Table 1 in terms of the
16 three VTD assignments.

17 So, I have not only the raw numbers for these categories,
18 but also the proportioned in Table 6. As you can see, for
19 instance, the first cell of Table 6 that shows White Democrat
20 in the core VTD assignment, that has more than 15,000 voters
21 that's White Democrat. But, overall, there are 17.3 percent,
22 so that's the proportion I reported in Table 6.

23 However, it's only a table that shows statistics. As
24 empirical analysts, we often use a visual representation to
25 reflect what the statistics show in a table. So, Figure 1 on

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

570

1 the right side, as you can see now, is the exact visual
2 representation of how these proportions, in terms of racial
3 and party breakdowns, reveal in the three VTD assignments.

4 Q. And what were your findings?

5 A. My finding is very clear. Let's look at the right side
6 of the screen, that is, the visual representation. Now, the
7 first VTD assignment, again, is the core. That means the VTDs
8 that stay in CD 1, according to the enacted plan. Now, there
9 are four bars for this core. They are for the breakdown of
10 race and party.

11 Now, the four bars have different colors and different
12 heights, which allow us to make a vivid comparison. For
13 example, in the core assignment, the tallest bar is the green
14 bar, which is the White Republican, and the second tallest, in
15 terms of the height, is the red, which is the White Democrat.
16 So, in this core -- which, again, means the VTDs that stay in
17 CD 1 -- the White Republicans by far are the most favored
18 category, and White Democrats are the second favored. And in
19 comparison, the Blacks, whether they are Black Democrats or
20 Black Republicans, they have the lowest or the shortest bars,
21 which suggests, in terms of proportion for the core of CD 1,
22 Blacks are least favored in terms of being decided to stay in
23 CD 1.

24 So, the core gives us the base to make comparisons.

25 Clearly, Whites are more likely to stay in CD 1, regardless of

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

571

1 their parties, as opposed to Blacks. When they argue it's
2 because that there are more Whites to draw from in the first
3 place, so, I use the second VTD assignment, which is the into
4 category, and the third category, that is the out, to see how
5 the movements of VTD, according to the enacted plan, display
6 any pattern on race or party.

7 Now, let's move to the into category. Clearly, the green
8 bar, again, is the highest but much shorter compared to the
9 core, but the blue bar increased dramatically, and it becomes
10 the second highest. What is the blue bar? The blue bar is
11 the Black Democrats. Therefore, the into category shows that,
12 in terms of movements of VTD into the CD 1 of the enacted
13 plan, Blacks -- especially Black Democrats -- became the
14 target. So, it's opposite to what we find in the core, that
15 is, the redistricting plan, indeed, moved Blacks more as a
16 target for this into assignment. And the out category, the
17 final comparison of the four colors, showed that, among the
18 four breakdowns of race and party, you look at Blacks --
19 again, Blacks, that blue bar, and the red, which is the White
20 Democratic bar, they are the same.

21 So, in other words, the out assignment and the into
22 assignment showed that Blacks become disproportionately the
23 target of movement compared to the core. And that gives us
24 the first look at how the enacted plan spread out the Black
25 voters among all districts. In this case, for CD 1's

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

572

1 purposes, either moved out of VTDs into CD 1, or moved out
2 from CD 1 to other, the Black voters are disproportionately
3 the target of the enacted plan.

4 Q. Thank you, Dr. Liu. Did you conduct a similar analysis
5 for Congressional District 2?

6 A. Yes, I did.

7 MR. CUSICK: I'll ask Mr. Najarian to pull up Table 7
8 in Figure 2, on page 18, and have them side by side. Thank
9 you.

10 BY MR. CUSICK:

11 Q. Dr. Liu, what does Table 7 in Figure 2 show the Court?

12 A. Again, Table 7 is a summary of the statistics, raw
13 numbers and proportions for CD 2 in terms of VTD assignments
14 concerning core, or into, or out. And Figure 2 is simply a
15 visual representation of how these proportions looked
16 differently in these VTD assignments.

17 Once again, we can take a look at the first VTD
18 assignment, the core. The green color, again, is the tallest,
19 meaning the White Republican was the favored to be kept in CD
20 2. However, if you look at the into category, the tallest
21 becomes blue, which is obviously Black, Black Democrat in this
22 case. So, in the into category, you have the Blacks as the
23 target of movement, and then the out is the White, the red
24 category. The red is the White Democratic category.

25 So, being the same party, the Democratic Party, if you

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

573

1 are Black, you tend to have the greater proportion of being
2 put in the into category. If you're White, you are
3 disproportionately put into the out category. So, being the
4 same party, and, yet, you are treated differently, obviously
5 race is the driving factor, not party.

6 Q. Dr. Liu, I now want to turn to Section 8 of your report,
7 which begins on page 19. And at the top it says, "A
8 Verification Study of Race Versus Party." Do you see that?

9 A. Yes.

10 Q. Why did you conduct a verification study?

11 A. It is always important for any empirical scientist to
12 double check, or to either confirm or reject what we've found
13 in an empirical test. So, earlier, I did the race versus
14 party by looking at how disproportionately race may play a
15 greater role in party. However, it is important to see
16 whether that finding is confirmed by conducting another
17 empirical test. So, in this case, I used the approach called
18 "Ansolabehere approach." He is a professor from Harvard
19 University that developed this particular approach for me and
20 other scholars to engage in yet another check on the role of
21 race versus party.

22 Q. Could you briefly explain to the Court how that differs
23 from the previous race-versus-party analysis, in terms of
24 methodology?

25 A. Yes. It is very important to use this second

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

574

1 verification study to see how my findings may turn out to be
2 consistent in this Ansolabehere approach. And the
3 Ansolabehere approach is different from the approach I used
4 prior to this, because it is an approach to look at how voters
5 are drawn from the potential larger area into a particular
6 district. If race is not a factor, then either Black or White
7 may have the same probability of being drawn from the
8 potential bigger area, which Professor Ansolabehere of Harvard
9 University called "envelope."

10 If race doesn't play a role, then, regardless of whether
11 it's a White voter or a Black voter, they should be the same,
12 put in the same district with the same rate. But if race is a
13 factor, we should see different rates for Blacks and Whites.
14 So, that's very important.

15 And, furthermore, I also used, again, the 2018
16 gubernatorial data. But in this case, I used how voters are
17 drawn from the envelope to the district based on the breakdown
18 of race and party, so that I can compare whether it's race or
19 it's party that played a greater role.

20 Q. What does "envelope" mean?

21 A. Envelope, broadly speaking, is the broader area, the
22 larger potential area. So, in this case, empirically, they
23 are the counties as a whole, collectively, that districts are
24 drawn from. So, the counties are much larger collectively,
25 but some part of the counties may be drawn to be put into

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

575

1 particular districts, such as CD 1. So, the envelope in this
2 case is a larger area potentially for the enacted plan to draw
3 voters from.

4 Q. Now, I want to go to your report findings first on
5 Table 8 on page 19. Could you explain for the Court what you
6 did here in the findings?

7 A. Table 8 is about the findings concerning enacted CD 1,
8 again, by using Ansolabehere's approach, that is, to compare
9 how the VAP in the envelope as opposed to the VAP in the
10 district. So, these columns give you the raw numbers, and
11 then it gives you also the proportion in the final column. As
12 you can see from Table 6, on average, the first row, the total
13 row, shows 68.87 percent of voters are drawn from the
14 envelope. In this case, the envelope contains six counties in
15 southern South Carolina for CD 1. So, overall, about
16 69 percent of voters are from these six counties that are put
17 in CD 1.

18 However, if you look at the rows below the first row, I
19 have the racial breakdown for you here in Table 8. As you can
20 see clearly, Whites had 74.43 percent, which is certainly the
21 highest proportion, concerning how the assignment was made
22 from the envelope to the district, as opposed to Blacks, which
23 had only 52.69 percent, a much lower percentage compared to
24 Whites. In other words, Blacks are treated least favorably in
25 terms of how CD 1 is drawn in the enacted plan.

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

576

1 Q. I want to now look at Table 9 on page 20, which also
2 focuses on CD 1. What does this table tell the Court, Dr.
3 Liu?

4 A. This table went one step further by looking at the
5 breakdown of race and party by using the 2018 gubernatorial
6 primary contest for both the Democratic Party and the
7 Republican Party. Again, I have the four categories in terms
8 of these racial and party breakdowns -- White Democrats, Black
9 Democrats, White Republicans and Black Republicans -- so that
10 I can compare the same party, but different race, to see how
11 things play out for CD 1.

12 As you can see, once again, the proportion column, which
13 is the last column, for example, the White Democrats had as
14 high as almost 69 percent of probability of being put in the
15 district from the envelope. But the same party, yet different
16 race, Black Democrats had only 50.65 percent of probability of
17 being put into the district. Therefore, same party, different
18 race, and different rates. Therefore, race is certainly a
19 driving factor.

20 Q. You conducted similar analyses for CD 2, Dr. Liu?

21 A. Yes, I did.

22 Q. And so, let me have you turn to Table 10, which also
23 begins on page 20. And briefly, for the Court, what's the
24 takeaway here?

25 A. Consistent with the findings I showed earlier concerning

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

577

1 CD 1, Table 10, which is about enacted CD 2, once again, one
2 can see, on average, 73 percent of voters are assigned from
3 the envelope to CD 2. The Whites have a much higher
4 probability of 83.33 percent, whereas Blacks have only
5 53.93 percent. That's a 30-percent difference.

6 Q. And so, now turning to Table 11 on page 21, what's the
7 takeaway here for CD 2?

8 A. Again, consistent with the findings that I showed for CD
9 1, for CD 2, if we break down race and party, you look at
10 White Democrats versus Black Democrats, you see that White
11 Democrats have 70.87 percent of probability of being assigned
12 to the district from the envelope, whereas the Black Democrats
13 had less than 50 percent, a huge difference. And that's also
14 true for the Republican Party, the White Republicans versus
15 Black Republicans, a huge racial gap as well. So, there is
16 consistent empirical evidence that shows that race, by far, is
17 the driving force between the two.

18 Q. Dr. Liu, we've heard you testify for at least two
19 reports. Could you just briefly summarize the ultimate
20 significance of your findings for these two analyses?

21 A. Are you talking about the race-versus-party analysis?

22 Q. Correct.

23 A. Yes. My first test, which I used the gubernatorial
24 primary contest data to compare not only raw numbers but
25 proportioned, indicated that race is the driving factor rather

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

578

1 than party. One can see that the party's advantage for the
2 Republican Party in the enacted plan is a result of the race
3 as the driving force. And that was confirmed by the
4 Ansolabehere approach. So, both findings confirmed that race
5 outweighs party much more.

6 Q. For these race-versus-party analyses, did you make any
7 conclusions regarding Congressional District 5?

8 A. Yes. I did the same analysis for CD 5; however, I did
9 not find either the support for party as a factor or race as a
10 factor. So, it's inconclusive. I cannot use the same
11 approach to reveal the same findings for the CD 5 in the
12 enacted plan.

13 Q. So, Dr. Liu, to bring us back to the big picture, we've
14 talked about your RPV analysis, your effectiveness analysis,
15 and your race-versus-party analyses. Are there connections
16 among or between your analyses when the Court's looking at
17 your report?

18 A. Yes. As I said, there are three components of my report,
19 which one can imagine are three chapters. All three chapters
20 point to the same coherent message, that is, race is, by far,
21 the most important factor that one has to look at in terms of
22 empirical data in the enacted plan.

23 And the RPV is the essential analysis for us to see how
24 the racial groups voted differently that enabled the district
25 that is configured in certain ways. According to my

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

579

1 effectiveness analysis, that may spread out the Black voters,
2 or crack Black voters, in different districts so that their
3 voting strength is diluted. Thanks to racially polarized
4 voting, the Black preferred candidates lose their opportunity
5 to win elections, or even Black voters have any chance to
6 influence in districts according to the enacted plan.

7 And finally, race versus party showed further evidence
8 that, even if party is proposed as the reason for why the
9 enacted plan is put together in the first place, it's actually
10 the race that's the driving force for why the Republican Party
11 enjoyed an advantage rather than it's the parties and politics
12 only -- or solely responsible for how the enacted plan was put
13 together.

14 Q. Dr. Liu, I now want to briefly discuss your rebuttal
15 report, which is in Tab 2 of your binder. And this is PX-62,
16 which has entered into evidence. Could you look at Table 1 on
17 page three for a moment? And in the first row here, racially
18 polarized voting, why did you include that in your rebuttal?

19 A. First of all, my rebuttal report is a summary of my
20 findings concerning Mr. Trende's report. Mr. Trende is the
21 expert witness for the defendants. So, I read his report, and
22 I used Table 1 in this case to compare his approach or his
23 methodology as opposed to mine. And the very first row of
24 Table 1 is racially polarized voting. As I stated at the
25 beginning, RPV is vitally important because it allows us to

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

580

1 see how redistricting plans may make a difference for Black
2 voters' constitutional rights. And, unfortunately, Mr.
3 Trende's report doesn't show any analysis on RPV, whereas, I
4 did.

5 Q. Dr. Liu, I now want to turn to Table 3 in your rebuttal
6 report, which begins on page five. Why did you conduct this
7 analysis?

8 A. Mr. Trende, in his report, made a claim that the enacted
9 plan was put together because it follows the principles of
10 redistricting in South Carolina. And specifically, he
11 mentioned that respect for boundaries, including counties,
12 precincts, VTDs and so on, and he made a strong claim about
13 how the enacted plan reduced the number of split counties in
14 this new plan, as opposed to the last rung, redistricting from
15 12 to 10.

16 So, what I did in this rebuttal was to look at, indeed,
17 what are the split counties as opposed to the nonsplit
18 counties. So, Table 2 showed that these 10 counties are still
19 the counties that were split. Why are they split? Which
20 counties are there? So, I list all of them here. And also I
21 showed which districts that they have splits.

22 Q. Dr. Liu, I now want to turn to the next page for
23 Figure 1, page six of your report. What does Figure 1 show?

24 A. Figure 1 is a visual representation of my findings
25 concerning the comparison of split counties and nonsplit

DR. BAODONG LIU - DIRECT EXAMINATION BY MR. CUSICK

581

1 counties. So, let's take a look at the left side of Figure 1.
2 This is a comparison of the racial breakdown inside the split
3 counties.

4 Again, I have different colors and different heights for
5 these bars. These bars represent Black racial group, White
6 racial group, and all others. As you can see in the split
7 counties -- 10 of them -- the green bar is the tallest, which
8 is the white; and the red bar is the second. But, in
9 comparison, in the split counties, as opposed to the right
10 side of the Figure, which is the nonsplit counties, one can
11 see that the two bars are much closer together on the left,
12 the green versus red. So, Black versus White.

13 In the split counties, there are disproportionately more
14 Black compared to the right side, where there's a drastic
15 difference, that is, the White racial group is much taller in
16 terms of the height of the bar, and Black group is much
17 shorter on the right side for the nonsplit.

18 So, the message is clear: There are differences between
19 the split counties and nonsplit counties. It is the racial
20 difference. Blacks are much more likely to be put in the
21 split counties, as opposed to the nonsplit counties compared
22 to Whites. Why is this the case? So, if Mr. Trende makes a
23 claim that respect for a county as whole, why does it apply to
24 White voters more than Black voters? The messages is clear.
25 Because the cracking of Black voters and make them dispersed

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

582

1 among different districts, that's why there are more chances
2 for Blacks to be in split counties than in nonsplit counties.
3 So, even protecting the principle of boundaries, it is in
4 favor of Whites.

5 Q. Dr. Liu, what methodology did you use here for Figure 1?

6 A. It is a very common, widely used methodology in social
7 sciences. First of all, we compare and contrast two competing
8 factors, and then we use proportions to show different bars as
9 visual representation. In addition to that, as you can see
10 from page six of my rebuttal, I used a Chi-square test, which
11 is a statistical test to see whether or not it comes to the
12 statistically significant level. Indeed, through the
13 Chi-square test, it is clear that Blacks have greater chance,
14 actually more than seven percent chance, of being put in the
15 split counties than Whites.

16 Q. Thank you, Dr. Liu, for your testimony this morning.

17 MR. CUSICK: I have no further questions, your Honor.

18 THE COURT: Cross-examination by the defense?

19 MR. MATHIAS: Your Honor, I assure you the fact that
20 I have more paper with me than I have in previous times does
21 not mean I intend to belabor any point.

22 JUDGE GERGEL: Thank you, sir.

23 **CROSS-EXAMINATION**

24 **BY MR. MATHIAS:**

25 Q. Now, Dr. Liu, where do you live?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

583

1 A. I live in Utah.

2 Q. Have you ever lived in South Carolina?

3 A. Could you repeat that question?

4 Q. Have you ever lived in South Carolina?

5 A. No, I haven't.

6 Q. Okay.

7 MR. MATHIAS: Denise, can you pull up PX-48?

8 BY MR. MATHIAS:

9 Q. Dr. Liu, have you ever heard the term, "Achilles heel?"

10 A. Of course, I've heard that term.

11 Q. Do you know what it means?

12 A. I mean, I don't know exactly what it means. When you
13 raised that question, I don't know what you mean.

14 Q. If I said it meant, despite strength, something has a
15 significant and impairing weakness, would you agree with me?

16 A. I don't know what you are asking. I cannot answer that
17 question.

18 Q. Okay. And you raised three points in your report,
19 essentially racially polarized voting, right? Effectiveness
20 analysis, correct?

21 A. Yes.

22 Q. And race versus party, correct?

23 A. Yes. Those are the three components in my report.

24 Q. Okay. And I'll take them in the same order that Mr.

25 Cusick did. If you look at page three of your report, that's

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

584

1 where you began a racially polarized voting analysis. And
2 under Roman numeral III, you, out of the gate, cite *Thornburg*
3 *v. Gingles*, correct?

4 A. Yes.

5 Q. Your definition of racially polarized voting is not the
6 same as the one used by the Court in *Thornburg v. Gingles*,
7 correct?

8 A. I disagree. I completely follow the U.S. Supreme Court.

9 Q. So, *Thornburg v. Gingles* used the definition of 50 plus
10 one?

11 A. Well, that's the empirical part. One has to
12 operationalize with the *Gingles* request.

13 Q. I'll ask again. *Thornburg v. Gingles* did not use RPV as
14 50 plus one, correct?

15 A. My understanding is the original experts for that
16 particular Supreme Court case, he used the same approach.

17 Q. I'm not asking about the experts, I'm asking about the
18 Court. Did the Court use a definition of RPV as 50 plus one?

19 MR. CUSICK: Your Honor, just an objection, to the
20 extent it calls for a legal conclusion.

21 JUDGE GERGEL: Well, to the extent he knows. He says
22 he relied on it. Overruled.

23 THE WITNESS: The *Gingles* gave us the legal
24 definition, and we all follow that. All the experts in
25 litigations follow that. So do I.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

585

1 BY MR. MATHIAS:

2 Q. But it's not 50 plus one, right?

3 A. Fifty percent plus one is widely used.

4 Q. But not widely used by *Gingles*, correct?

5 A. I have already answered that question.

6 Q. I don't think you have, but I'll move on.

7 MR. MATHIAS: If you, Denise, will move to page 11 of
8 the report. Thank you.

9 BY MR. MATHIAS:

10 Q. Dr. Liu, you're here today testifying as an expert on
11 racial polarization, American political behavior, and
12 statistical and quantitative analysis, correct?

13 A. Yes.

14 Q. You are not a geographer, correct?

15 A. I'm not asked in this case to provide testimony on
16 anything related to geography or geocoding, in that nature.

17 Q. But you're not a geographer, correct?

18 A. I'm not.

19 Q. You are not a cartographer, correct?

20 A. I'm not.

21 Q. Have you ever drawn a map?

22 A. I'm not -- I'm not a GIS expert.

23 Q. But have you ever drawn a map?

24 A. No.

25 Q. Now, in your effectiveness analysis, you compared the

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

586

1 enacted plan to the Harpootlian Plan and the various plans
2 submitted by the NAACP. Did you take into consideration at
3 all traditional redistricting principles when making that
4 comparison?

5 A. I have thought about them, but my role is, like I said,
6 to provide analysis on the three components.

7 Q. Right. But you did not take into account traditional
8 redistricting principles in writing your report, correct?

9 A. That's at least a misleading question to begin with,
10 because, as an expert, I am very aware of and familiar with
11 the principles that are there, especially in this case, South
12 Carolina. So, I do have opinions, I have ideas, but in this
13 case, my role is to provide three components' analysis for the
14 Court.

15 Q. Okay.

16 MR. MATHIAS: Denise, if you could scroll to page 13.

17 BY MR. MATHIAS:

18 Q. Dr. Liu, on page 13 of your report, you've got Table 4,
19 effective analysis for enacted congressional redistricting
20 plans. Can you point me to a row or column in which you
21 incorporated traditional redistricting principles?

22 A. For this particular table, it is about effectiveness
23 analysis. It's not about any comparison of principles.

24 Q. So, am I correct to say that there is no incorporation of
25 traditional redistricting principles in Table 4?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

587

1 A. I have already informed the Court, and I indicated in my
2 report that there are three parts of my report, and I
3 faithfully conducted my duty.

4 Q. Okay. So, I'll give you a moment. But with respect to
5 the second part of your report, the effectiveness analysis,
6 can you direct the Court to any analysis you conducted with
7 respect to traditional redistricting principles?

8 A. Could you please repeat that question?

9 Q. Do you have a copy of the report in front of you?

10 A. Yes, I do.

11 Q. On Section 2, can you direct the Court to where you
12 discussed traditional redistricting principles?

13 A. Again, as I said, as an expert, I'm very aware of and
14 super familiar with these principles, but my role is to
15 provide specific analysis concerning RPV, effectiveness
16 analysis, and race versus party.

17 Q. So, you have no idea how the plans compare with respect
18 to the traditional redistricting principles, right?

19 A. That's a wrong conclusion. I do have ideas about
20 principles.

21 Q. Okay. Tell me how the Harpootlian Plan compares to the
22 enacted plan with respect to compactness.

23 A. Again, those are not my duty to provide testimony in
24 either my report or today in my testimony.

25 Q. You said you had ideas. I'm just asking you to tell the

1 Court what those ideas are.

2 A. I do know what is compactness. That's: They have to
3 show certain geographic shapes that are compact.

4 Q. Good. Since you know what compactness is, how does the
5 Harpootlian Plan plan compare to the enacted plan with respect
6 to compactness?

7 A. I was not asked to analyze that, nor do I provide any --

8 JUDGE GERGEL: Let me help you. The expert is not
9 retained and has not offered opinions on these other factors.
10 You can make the point later that he didn't consider that and
11 that should go to the weight we should give it. But it
12 doesn't accomplish anything to keep asking him the same
13 question over and over again, when he's made it clear that
14 wasn't his analysis and he didn't do it. I mean, we get the
15 point, but you don't need to keep asking him the same
16 question.

17 MR. MATHIAS: Yes, your Honor. I was just searching
18 for a direct answer.

19 Denise, can you look at page 12, please? Can you
20 zoom in on the subparagraph (a)?

21 BY MR. MATHIAS:

22 Q. The second sentence of this paragraph reads: "This
23 comparative study reports the different opportunities for
24 racial minority voters, in this case, Black voters, to elect
25 the candidates of their choice, given how the different

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

589

1 redistricting plans have determined the racial configuration
2 of certain jurisdictions under legal dispute."

3 I could substitute the word "Democrat" for "elected
4 candidates of their choice," and this sentence would be no
5 less accurate, correct?

6 A. That's a misleading statement. My full report shows the
7 so-called Democratic candidates. That, itself, is a result of
8 race.

9 Q. Are you aware of any instance in South Carolina where the
10 candidate -- the Black candidate of choice was anything other
11 than a Democrat?

12 A. Again, as I said, it's not a secret that Black voters in
13 the south -- in this case, South Carolina -- prefer the
14 Democratic Party. But that doesn't mean race is not a factor,
15 because my data showed that actually race is the driving
16 factor of why certain a party either enjoys or doesn't enjoy
17 certain advantage from a particular group, such as Blacks.

18 MR. MATHIAS: Judge Gergel, I won't repeat it again.

19 **BY MR. MATHIAS:**

20 Q. But are you aware of any candidate that is of a party
21 other than Democrat that was preferred by Blacks in South
22 Carolina? It's a yes-or-no question.

23 A. It may have happened, but I'm not aware of any single
24 example.

25 Q. Okay. Thank you.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

590

1 MR. MATHIAS: If you could pull up page 14, Denise.

2 **BY MR. MATHIAS:**

3 Q. On this page, Dr. Liu, you talk about voting tabulation
4 districts. Did you do anything to control for the fact that
5 the Census Bureau changes voter tabulation districts from one
6 census to another?

7 A. No, I do not.

8 Q. So, you have no idea, if any of the voting tabulation
9 districts you used here are, in fact, different than they were
10 in the prior cycle?

11 A. Even if I were aware of that, it doesn't change my
12 report. It doesn't change my conclusion.

13 Q. But you made no effort to determine if the voting
14 tabulation districts you used were different?

15 A. Again, my duty is to provide empirical analysis along
16 those three components. So, whether or not the VTDs changed
17 in the census itself has nothing to do with my analysis.

18 Q. Am I correct to understand that you're looking at what
19 VTDs are moving in and out of various districts?

20 A. Yes. That's, indeed, what I do.

21 Q. So, if a VTD is different than it was in the prior cycle
22 where it was and where it's been moved, that has no bearing on
23 your report?

24 A. Again, my report is about, from the actual data itself;
25 the data being the South Carolina Election Commission data

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

591

1 that has not only the race, but also the participation in the
2 primaries for the gubernatorial election in 2018.

3 Q. But you're talking about --

4 A. So --

5 Q. I'm sorry. Go ahead.

6 A. Yeah. So, here, you can make whatever implication you
7 want, that doesn't have anything to do with the location of
8 VTDs. Whether it's a new census rung, change of partially
9 some location or not, it's not what my analysis is about, so
10 it has no bearing on my conclusion.

11 Q. So, if there was a VTD that was wholly within
12 Congressional District 6, for instance, in 2010, but in 2020
13 it straddles 6 and 1, do you know if it moved into or out of 6
14 or 1? You don't, right?

15 A. If you have this hypothetical question, I would give you
16 a much more clear answer if you show me what exactly you mean
17 by pointing to a map, a particular VTD, that is moved in this
18 new round of census, I'll tell you my reaction. But your
19 hypothetical question is something I cannot answer.

20 Q. My hypothetical is simply exposing a flaw in your
21 analysis. You didn't even check if there were VTDs that
22 changed from 2010 to 2020 that straddled the districts or
23 changed in any other meaningful way, did you?

24 A. I thank you for your question --

25 JUDGE GERGEL: Let me just ask this: Are you asking

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

592

1 it because there are a meaningful number of districts that
2 that occurred, because that would be relevant, or is it just a
3 hypothetical you're positing to this witness?

4 MR. MATHIAS: It's a hypothetical. And I'm exposing
5 the fact that he didn't consider it.

6 JUDGE GERGEL: Well, are you representing to us? The
7 question implies to us that that, in fact, occurred. If it
8 did in a material way, I want to know that. If it didn't, it
9 seems -- so, what question?

10 MR. MATHIAS: Well, it may have occurred. I don't
11 know as I stand here.

12 JUDGE GERGEL: You don't know yourself. Okay.
13 Please proceed.

14 MR. MATHIAS: Can you move to page 15, Denise, and
15 zoom in on the next-to-last paragraph, beginning "the
16 plaintiffs allege"?

17 **BY MR. MATHIAS:**

18 Q. The last sentence of that paragraph reads: "With the
19 rapid population growth at 18.19-percent rate in Charleston,
20 in the last decade, the redistricting process in South
21 Carolina had to consider the effects on the Black community,
22 which represents almost 22 percent of the city's population."

23 Are you aware that roughly 22 percent of Charleston's
24 Black population is in CD 1 under the enacted plan?

25 A. These numbers are directly the result of my empirical

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

593

1 investigation into the Charleston area. So I Googled it. I
2 had the official website. I'll be happy to show you where I
3 found it.

4 Q. Well, that doesn't answer my question. Are you aware
5 that roughly 22 percent of Charleston's Black community is in
6 CD 1 under the enacted plan?

7 A. No. That's not what I mean. This sentence, as you can
8 read, is about why it's necessary the redistricting plan
9 should pay attention to the Black community due to its
10 presence in the Charleston area.

11 Q. Okay.

12 MR. MATHIAS: Denise, if you can move to page 16.

13 BY MR. MATHIAS:

14 Q. And just for your bearings, Dr. Liu, we're now in the
15 part of your report where you discuss race versus party.
16 We've moved on from the effectiveness analysis.

17 Again, Dr. Liu, you are not a geographer, correct?

18 A. Yes, correct.

19 Q. Did you look at where Black voters live in the
20 congressional districts that you studied?

21 A. If you are referring to location analysis, I didn't do
22 it.

23 Q. Okay. So, if a voter, regardless of race, lives near the
24 border of two congressional districts, isn't he or she more
25 likely to be moved to a different congressional district, as

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

594

1 opposed to a voter that lives further away from that border?

2 A. Sir, once again, you've raised a hypothetical question.

3 If you show me what happened in the real map, I can certainly
4 give you my direct reaction. However, having said that, it
5 has nothing to do with my final conclusion. My final
6 conclusion of this report is based on the three components
7 that I was asked to do. And I have expertise, and I used the
8 most conventional tools available to social scientists to give
9 the answer. So, even if I do a locational analysis, it will
10 not change my conclusion, for example, on race versus party,
11 RPV on the effectiveness analysis. It has nothing to do with
12 that at all.

13 MR. MATHIAS: Denise, can you pull up House
14 Exhibit 22 and zoom in on the Charleston area?

15 **BY MR. MATHIAS:**

16 Q. So, for instance, Dr. Liu -- and we'll see if this works
17 -- those two dots that I've drawn, one roughly around North
18 Charleston, one roughly in the City of Charleston, Voter A
19 lives in North Charleston, Voter B lives in the City of
20 Charleston. You didn't consider which one of them might be
21 more likely to be moved into a neighboring congressional
22 district, correct?

23 A. That's not a fair or accurate characterization of my
24 report. I do have a footnote, Footnote 18, for example, in my
25 report that addresses exactly the same question that you

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

595

1 raised, that is, the location of Black voters in North
2 Charleston area. So, I addressed the fact that in the North
3 Charleston area, these Black voters are moved or are split
4 away from CD 1 and moved into CD 6. And that is a disregard
5 for the community of interest as far as the black interest is
6 concerned in this area.

7 So, to answer your question, I did notice that. I did
8 address that in my report.

9 Q. But how, mathematically, did you control for the
10 disparity and likelihood between voters and whether or not
11 they're moved into a different congressional district,
12 respecting their geographic distance from that district?

13 A. I also have a response to that question in my rebuttal
14 report, if you can show that on the screen. Anyway, I have
15 that rebuttal report in front of me, so I can point to the
16 place where I addressed the same issue. Let me get to my
17 rebuttal report.

18 So, my rebuttal report on page seven, I addressed the
19 almost same kind -- or similar kind of claim by Mr. Trende
20 concerning how Black voters are moved from CD 1 to CD 6. So,
21 it was all total 140,489 residents moved from the 1st to the
22 6th of whom 113,531 are of voting age. Of these voting age
23 residents, 63.9 percent are non-Hispanic White, while
24 23.4 percent are Black. This compared to an overall combined
25 BVAP in Charleston and Dorchester Counties of 22.5 percent.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

596

1 So, the net effect of these moves on the racial composition of
2 these districts is minimal.

3 As I stated on page eight, this statement, which, again,
4 addresses to your original question, is misleading, because
5 using the movement of voters from Charleston and Dorchester
6 Counties does not tell us the whole story of how CDs 1 and 6
7 are constructed in the enacted plan. I'll give you two
8 reasonings. First, there are also voters from Berkeley County
9 that are moved from CD 6 to CD 1. Mr. Trende indicates that
10 the Black VAP of Charleston and Dorchester Counties is
11 22.5 percent, but many of those Black voters were already in
12 CD 6. So, I was aware of that. Not only was I aware of that,
13 I engaged in the empirical test itself and found that the
14 Black VAP of all these areas in these two counties that were
15 available to be moved into CD 6 was only about 12 percent.
16 So, to characterize my report as it doesn't address the place
17 of these Black voters in the counties or in the areas, that's
18 just not correct. That's not accurate at all.

19 Q. And maybe you misunderstood my question. And perhaps I
20 can ask it better.

21 Isn't a voter more likely to be moved into another
22 district, as compared to another voter if that original voter
23 lives closer to the district into which they've been moved?

24 A. That question itself is also very misleading, because
25 remember, when you say that if a voter is close to the border

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

597

1 between two districts, you are already setting up a condition
2 that the boundaries are already set for two districts. As we
3 all know, especially from the two alternative plans provided
4 by the plaintiffs, the districts can be drawn very differently
5 with different boundaries. If the boundaries are shifting
6 very dramatically, the original voters that are close to the
7 border may be actually in the center of another plan. So, it
8 all is relative in terms of spatial locations. So, one has to
9 take consideration of which plan are we talking about, which
10 boundaries are we talking about.

11 Q. Districts have to be contiguous, right?

12 A. Yes.

13 Q. Thank you.

14 MR. MATHIAS: Denise, you can leave that map up. Can
15 you zoom in on Charleston again?

16 BY MR. MATHIAS:

17 Q. Dr. Liu, you said you're from Utah. Are you a Utah Utes
18 fan?

19 A. Yes, I am. Diehard.

20 Q. Do you consider BYU or Utah State to be your greater
21 rival?

22 A. Should I answer that question? Of course, I cheer for my
23 own university.

24 Q. Okay. So, again, a hypothetical. Let's say in the
25 Charleston area there are 100,000 people that cheer for the

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. MATHIAS

598

1 Utes and 100,000 people that cheer for the Cougars. And here,
2 you've got approximately 75,000 Utes fans, and down here
3 you've got 25. So, if the voters in this northern district
4 are moved, your analysis would lead us to the conclusion that
5 the South Carolina General Assembly was discriminating against
6 Utah Utes fans, correct?

7 A. That's a very hypothetical question. There are many
8 potential reasons for moving. So, one has to look at the
9 whole picture about how other voters are moved. What about
10 the voters that are not only the supporters of Utes versus
11 BYU, but also other voters that don't have preference. I
12 mean, all these factors must be put together in terms of to
13 see whether it's the preference for Utah that really matters.

14 So, only based on what you showed, one has very limited
15 ability to give a full and empirical accurate answer. So, I
16 would be very hesitant to provide analysis just based on those
17 two dichotomies.

18 Q. I just have one last question, Dr. Liu. Am I correct --
19 well, maybe more than one question. But am I correct that in
20 your report, you were unable to draw a conclusion with respect
21 to racial discrimination in CD 5?

22 MR. CUSICK: Objection, to the extent it misstates
23 testimony.

24 MR. MATHIAS: I'm only asking --

25 JUDGE GERGEL: Overruled. He can answer the

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

599

1 question.

2 THE WITNESS: As I said, CD 5 is a district that I
3 used the same techniques or methodology that I engaged in in
4 the analysis on CD 1 and CD 2. However, I found no empirical
5 evidence one way or another to either support whether it's the
6 partisan factor that's the driving reason for why CD 5 is
7 constructed, or it's race. So, I have to be faithful to my
8 own finding, that is, no finding, no conclusive statement that
9 I can provide to the Court, so I didn't provide any statement
10 on CD 5 in terms of race versus party.

11 Q. And you used the same analysis. Couldn't it be true that
12 you drew a different conclusion because you didn't consider
13 where the Black voters lived in CD 5?

14 A. Again, I used the exact same approach, same algorithm.
15 But when I made comparisons, as I showed vividly earlier to
16 the Court, how those bars are compared to each other in terms
17 of the height and colors, I found that neither party nor race
18 can be used as the reason for how CD 5 is constructed.

19 Therefore, there's no way for me to make a conclusive
20 statement in my report about CD 5.

21 Q. Thank you, Dr. Liu.

22 THE COURT: Thank you, Mr. Mathias.

23 Cross-examination, Mr. Gore.

24 **CROSS-EXAMINATION**

25 **BY MR. GORE:**

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

600

1 Q. Good morning, Dr. Liu.

2 A. Good morning.

3 Q. My name is John Gore, and I represent the Senate
4 defendants. It's nice to see you in person.

5 A. Nice to see you.

6 Q. Let's first go to your report, if we might, to page 13,
7 Table 4, which is the effectiveness analysis you conducted.
8 Page 13, Table 4. I just want to make sure I'm clear on
9 something in the record.

10 So, you testified that there is crossover voting in these
11 elections that you analyzed, correct?

12 A. Every time I do RPV analysis, the White crossover voting
13 is always a part of what I analyze.

14 Q. Great. And so, you had this third series of numbers, and
15 they're all 100 percent?

16 A. Yes.

17 Q. Do you mean to convey here that, in these elections you
18 looked at, a hundred percent of Black voters vote for one
19 candidate and a hundred percent of White voters vote for
20 another candidate?

21 A. No, no, no. That's not what I mean at all. What I mean
22 is that: Do I find RPV in these elections? Remember, I had
23 four elections that I analyzed for my EA, or effectiveness
24 analysis. If all four elections exhibited racially polarized
25 voting therefor, then I provide 100 percent.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

601

1 Q. So, this is simply the number of elections exhibiting
2 racially polarized voting divided by the number of elections
3 you examined, correct?

4 A. Exactly. Yes.

5 Q. Okay. Let's move to the next page, which is page 14,
6 Table 5. I think Mr. Mathias asked you some questions about
7 the VTDs. So, as I understand the chart, the far right-hand
8 column shows the number of VTDs split into one or more
9 districts, correct?

10 A. Correct.

11 Q. Okay. So, what you're showing here for enacted District
12 1, for example, you say there are 21 VTDs split between
13 District 1 and some other district; is that right?

14 A. Yes.

15 Q. And, similarly, for 2, you say the number is 16. And,
16 for example, for 6, you say the number is 25, correct?

17 A. Yes, correct.

18 Q. Dr. Liu, are you aware that there are only 13 split VTDs
19 in the enacted plan?

20 A. Well, once again, these are simply the tallies based on
21 the data that I received. And I tallied those VTDs that are
22 assigned different district numbers, and, therefore, they are
23 split. I was not asked to do the verification on the map
24 whatsoever, so I just faithfully reported these numbers.

25 By the way, why did I report these numbers in addition to

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

602

1 the three components that are obviously shown in all the
2 tables rather than Table 5? Well, simply, it's for me to see
3 whether or not there is a significant problem of split VTDs in
4 South Carolina. So, as you can see from all these rows, these
5 numbers in the last column, these are all small numbers
6 compared to the VTDs that are not split. So, my overall
7 conclusion is it's not really a significant factor in South
8 Carolina when I analyze the VTD movements.

9 So, yeah, you may be correct, there are -- I take your
10 word there are less than the number I reported. My numbers
11 are based on the data I saw.

12 Q. Thank you. And you didn't verify, I think you said, if
13 that data accurately conveyed the number of split VTDs in the
14 enacted plan, correct?

15 A. Again, there's no reason for me to be skeptical about
16 whatever data I received from the data team.

17 Q. And that was data you received from the plaintiffs' team,
18 correct?

19 A. Yes, correct.

20 Q. And you also didn't verify whether it accurately conveyed
21 where the VTDs are located in South Carolina, correct?

22 A. I didn't do a locational analysis.

23 Q. And you didn't verify whether the VTDs were accurately
24 incorporated into the data set you received, correct?

25 A. Again, there was no reason for me to be skeptical to the

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

603

1 data team of ACLU, which is a very reputable organization that
2 provides the original data for me.

3 Q. So, as you sit here today, you can't testify that the
4 data you received was accurate with respect to VTDs; is that
5 correct?

6 A. Well, that will be a misleading -- or at least somewhat a
7 confusing statement, because I did check on the way they
8 collected data, and the way they provided the source of data,
9 and the process from which they merged the data, which is in
10 my appendix. And I did go through those steps and I found no
11 reason to be skeptical.

12 Q. But you didn't double check the data itself, correct?

13 A. As I said earlier, it's very common -- in the litigations
14 that we do as expert witnesses there are data teams, there are
15 experts. And my job is to analyze data, and there's no reason
16 for me to check each row, each cell. And that's just not
17 common at all.

18 Q. Let's go ahead and move to page 16. I want to ask you
19 some questions about Table 6. Now, Dr. Liu, are you aware
20 that -- well, in the 2016 election, do you know how absentee
21 ballots were allocated to precincts in South Carolina?

22 A. I do not.

23 Q. So, you're not aware that in the 2016 election, every
24 absentee ballot cast in the county was allocated to a single
25 absentee ballot precinct? Were you aware of that?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

604

1 A. No, I was not aware of that.

2 Q. And are you aware that, in 2020, absentee ballots were
3 all allocated back to the precinct of the voter's residence?
4 Were you aware of that?

5 A. No, I was not.

6 Q. And do you know how absentee ballots were treated in the
7 2018 gubernatorial primary election set that you analyzed here
8 for Table 6? Let me start that again.

9 Do you know how absentee ballots were allocated to
10 precincts in the 2018 gubernatorial primary election data set
11 that you used to create Table 6 and conduct the analysis in
12 this section of your report?

13 A. I was not aware of that exact procedure concerning these
14 absentee votes. However, I wanted to add a very important
15 note about this. All I need to do for this case is to provide
16 empirical evidence as accurate as it can be from an analytical
17 point of view. And so, if the absentee vote is there and
18 there's no way to check or double check the racial component
19 of the absentee, then there's no way for me to put them
20 together as I put in this report regarding Table 6 or other
21 tables. So, I did my best.

22 Q. And in this table, you used the same data set with
23 respect to VTDs that we were just discussing a moment ago,
24 right?

25 A. Yes. Correct.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

605

1 Q. And do you know how turnout in the 2018 gubernatorial
2 primaries in South Carolina compared to turnout in the 2020
3 presidential election?

4 A. I already addressed the turnout issue earlier in my
5 testimony when I said that I didn't use the 2020 election data
6 for this purpose of analyzing race versus party because the
7 2020 election was a presidential year election. Actually,
8 it's a historical election all across this country. And,
9 therefore, voter turnout is much higher than other years.

10 However, this lawsuit is about congressional
11 redistricting, and we all know a congressional election
12 sometimes takes place in presidential elections, other times
13 it takes place in non-presidential election years. So, one
14 should not use the misleading, you know, historical turnout to
15 engage in an otherwise conventional, normal congressional
16 election analysis. So, that's why I choose --

17 Q. Thank you, Dr. Liu.

18 JUDGE GERGEL: Let's take a break, if we could. I
19 think right now, we've been going two hours.

20 MR. GORE: Thank you, Judge.

21 JUDGE GERGEL: Ten-minute break.

22 **(Recess)**

23 JUDGE GERGEL: Please be seated. Dr. Liu can return
24 to the stand.

25 Can we retrieve the witness?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

606

1 MR. GORE: He's coming right now.

2 JUDGE GERGEL: Good. Okay. Please proceed, Mr.
3 Gore.

4 MR. GORE: Thank you, your Honor.

5 Thank you, Dr. Liu.

6 THE WITNESS: Hello.

7 **BY MR. GORE:**

8 Q. We were discussing Table 6 on page 16 of your report. It
9 should be on the screen in front of you

10 A. Yes. I can see that.

11 Q. And if instead of wanting to test for partisan
12 affiliation through the 2018 primary results, someone tested
13 for actual election outcomes and results in the 2020 general
14 election, this table would look a lot different, right?

15 A. I don't know. I didn't do, obviously, the analysis of
16 2020.

17 Q. For example, instead of White Dem, Black Dem, White
18 Republican, Black Republican, it would say White Biden, Black
19 Biden, White Trump, Black Trump, correct?

20 A. I suppose so.

21 Q. And the numbers here would be different, wouldn't they?

22 A. I suppose so.

23 Q. And do you know whether the map drawer used the 2020
24 presidential election to draw the maps in this case?

25 A. I'm not expert at evaluating the detail process.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

607

1 Q. Dr. Liu, when you were looking at the core, into, and out
2 VTDs, did you control for the distance between the VTD and the
3 benchmark line in the benchmark plan?

4 A. No, I did not.

5 Q. And did you control for core preservation?

6 A. No, I did not.

7 Q. How about compactness?

8 A. I did not.

9 Q. Or contiguity?

10 A. I did not.

11 Q. Protecting incumbents?

12 A. I did not.

13 Q. Or avoiding VTD splits?

14 A. I did not.

15 Q. How about where African-American voters live
16 locationally?

17 A. I did not.

18 Q. Let's move on to the next part of your report. I'd like
19 to go to page 19, to your verification study. And we have
20 this Table 8 here on page 19; is that right? Do you see that?

21 A. Yes, I can see that.

22 Q. And throughout this section, there are tables on the
23 following pages as well. Did you control for the preservation
24 of cores in this analysis?

25 A. No, I did not.

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

608

1 Q. Did you control for compactness?

2 A. No, I did not.

3 Q. Did you control for core preservation?

4 A. No, I did not.

5 Q. How about avoiding VTD splits?

6 A. No, I did not.

7 Q. Or pairing incumbents?

8 A. No, I did not.

9 Q. Or where Black voters live in the district, locationally?

10 A. No, I did not.

11 Q. All right. Does the envelope approach here -- it also
12 doesn't control for contiguity, does it?

13 A. No, it didn't.

14 Q. So, if we can go to S-76, Senate Exhibit 76, which is in
15 evidence, on page nine of the report, which is page 10 of the
16 PDF here, there's a map that should now be on your screen.

17 And it shows Colleton County precincts with benchmark
18 assignments. Do you see that map?

19 A. Yes, I can see a map in front of me.

20 Q. And toward the bottom of that map, there were two VTDs,
21 or precincts, in Colleton County that were assigned to the 1st
22 District in the benchmark plan. Those are Green Pond and
23 Edisto Beach. Do you see that?

24 A. Yeah, I can see those.

25 Q. And then at other end of the county, there is a VTD

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

609

1 called Ashton Lodge. Do you see that?

2 A. Ashton. There are so many. Okay. Yeah, I see that.

3 Q. The Ashton Lodge precinct and the Green Pond precinct
4 aren't contiguous, are they?

5 MR. CUSICK: Objection, to the extent that it --

6 JUDGE GERGEL: Can you repeat that? I'm sorry.
7 What's the objection?

8 MR. CUSICK: To the extent it's outside the scope of
9 his expertise for anything on contiguity.

10 JUDGE GERGEL: If he doesn't feel like he can answer
11 it -- but I think it's fine. Overruled.

12 THE WITNESS: Could you please repeat that question?

13 MR. GORE: Sure.

14 **BY MR. GORE:**

15 Q. Are the Green Pond precinct and Ashton Lodge precinct
16 contiguous?

17 A. Based on this map, they are not.

18 Q. And the envelope approach would treat both of those VTDs
19 as available within the envelope of VTDs for the same
20 district, correct?

21 A. This map doesn't have the names of counties, so -- oh,
22 yeah, on the top, there's a title, right? Is it Colleton
23 County?

24 Q. Yes.

25 A. Are these all Colleton County?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

610

1 Q. Colleton County, yes.

2 A. All of them?

3 Q. Yes.

4 A. Yeah. That's a part of the envelope for CD 1, for sure.

5 Q. And I believe you mentioned on page 19 of your report --
6 we can go back there, if we can -- that the envelope for CD 1
7 is Beaufort, Berkeley, Charleston, Colleton, Dorchester and
8 Jasper Counties; is that right?

9 A. Yes. Six of them, yes.

10 Q. And could all of those counties fit in a single district
11 in the enacted plan?

12 A. Obviously, they are presumably too big for just
13 one district.

14 Q. So, with all those counties put together, there's too
15 much population for a single district, correct?

16 A. Obviously, they look too big for just one.

17 Q. Let's go ahead and turn to your rebuttal report, if we
18 might, which is Plaintiffs' Exhibit 62. We'll go to Table 3
19 on page five of your report. And, here, you talk about the
20 racial composition of split counties in the enacted plan. Do
21 you see that?

22 A. Yes, I do see that.

23 Q. And according to this table, some of these counties have
24 a lower black percentage than the statewide BVAP; is that
25 correct?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

611

1 A. Yes.

2 Q. And that includes Charleston County?

3 A. Yes.

4 Q. And Greenville County?

5 A. Yes.

6 Q. And Spartanburg County, correct?

7 A. Yes.

8 Q. Are you aware, Dr. Liu, that these 10 counties also have
9 a higher total population than the statewide average for
10 counties in South Carolina?

11 A. Again, that's not the focus of my analysis. What I try
12 to compare in my rebuttal is the split counties and the
13 nonsplit counties in terms of the Black presence in those two
14 categories: Is it true that Blacks are more likely to be put
15 in the split counties? And the answer is obviously yes. So,
16 in terms of pure number of residents in terms of raw number,
17 that's not my focus.

18 Q. So, you did not control, as part of this analysis, for
19 the total population size of these counties; is that correct?

20 A. For my conclusion, there's no need to do that.

21 Q. And you also didn't control for traditional districting
22 principles here either, did you?

23 A. Not at all.

24 Q. Didn't control for core preservation?

25 A. It doesn't change my conclusion, even if I do conclude

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

612

1 those.

2 Q. Or compactness; is that right?

3 A. That's correct.

4 Q. Or avoiding VTD splits?

5 A. Could you repeat that question?

6 Q. Avoiding VTD splits?

7 A. Again, that has nothing to do with the purpose of my
8 report here.

9 Q. And did you do anything to compare this table, or what's
10 presented here, to the benchmark plan?

11 A. Could you repeat that question please?

12 Q. Sure. Did you do anything to compare this table, or the
13 data in this table, to the benchmark plan?

14 A. Again, I quoted what Mr. Trende said in his original
15 report, that is, the number of split counties was reduced from
16 12 to 10. And that's obviously a fact.

17 Q. I understand what Mr. Trende said. I'm just asking you
18 if you compared this data at all to the benchmark plan?

19 A. That's the comparison that I also made, yes. Indeed, the
20 split counties -- the total number of split counties are
21 reduced from 12 to 10. That's all I looked at.

22 Q. Did you compare the racial composition of split counties
23 in the enacted plan to the racial composition of split
24 counties in the benchmark plan?

25 A. Could you please repeat that question?

DR. BAODONG LIU - CROSS-EXAMINATION BY MR. GORE

613

1 Q. This table is called: The Racial Composition of Split
2 Counties in the Enacted Plan; is that right?

3 A. Correct.

4 Q. Did you also prepare a table, or otherwise compare this
5 information, to the racial composition of split counties in
6 the benchmark plan?

7 A. There is no need for me to do that, so I didn't do it.

8 Q. And are you aware, Dr. Liu, that nine of these 10
9 counties on this chart were split already in the benchmark
10 plan?

11 A. Again, it has no relationship with the question I raised,
12 that is: If the principle of making boundaries whole,
13 including counties, is so important, then what are the
14 counties that are still split? Are they the counties with
15 more Black presence? That's the question I raised. So, every
16 question you've raised up to this point has nothing to do with
17 that question, so I didn't do that kind of analysis.

18 Q. So, just to be clear, you did not know that nine of these
19 10 counties already were split in the benchmark plan; is that
20 correct?

21 MR. CUSICK: Objection, to the extent counsel is
22 testifying to new facts not in evidence.

23 JUDGE GERGEL: Well, I believe the more appropriate
24 would be asked and answered. He already answered the
25 question.

DR. BAODONG LIU - REDIRECT EXAMINATION BY MR. CUSICK

614

1 I get it, Mr. Gore.

2 MR. GORE: Thank you. I have no further questions,
3 your Honor.

4 THE COURT: Thank you.

5 Anything on redirect?

6 MR. CUSICK: Your Honor, just a few questions?

7 JUDGE GERGEL: Yes. Go right ahead, sir.

8 **REDIRECT EXAMINATION**

9 **BY MR. CUSICK:**

10 Q. Dr. Liu, Mr. Gore asked you a couple questions about
11 Table 5 and the VTD data set that you relied upon in your
12 initial report. Do you recall that testimony?

13 A. Is it Table 5?

14 Q. Yes.

15 JUDGE GERGEL: If you're going to ask him, can we put
16 up Table 5 so we can look at it?

17 THE WITNESS: Yes, I can see that.

18 **BY MR. CUSICK:**

19 Q. Are you aware of any expert who filed a report to dispute
20 the data that you relied upon?

21 A. No.

22 Q. Do you recall similar questions about Table 6 that Mr.
23 Gore asked you about the VT data set, which is on page 16?

24 A. Yes, I can see that. Yes, he did raise questions.

25 Q. Are you aware of any expert who filed a report to dispute

DR. BAODONG LIU - REDIRECT EXAMINATION BY MR. CUSICK

615

1 the data that you relied upon in this table?

2 A. I was not aware of that.

3 Q. Are you aware of any rebuttal expert in this case who
4 could have tested for such a data set?

5 A. I was not aware of any such a thing.

6 Q. Mr. Gore asked you a number of questions about whether
7 you controlled for some traditional redistricting principles.
8 Do you recall that testimony?

9 A. Yes, I do recall.

10 Q. And would any of those traditional redistricting
11 principles have changed your conclusions in the three
12 questions that you were asked to assess?

13 A. Given they are all important in the redistricting plan,
14 they, however, are not the focus on my analysis. So, how
15 those principles are followed or violated would not make any
16 difference for me to answer the three questions raised at the
17 beginning of my report.

18 Q. And you're not aware of any expert reports that challenge
19 your conclusions in your racially polarized voting or
20 effectiveness analyses?

21 A. I was not aware of any such challenge.

22 Q. Just a few final questions, Dr. Liu. Do you recall Mr.
23 Mathias's questions about whether your report looked at
24 collegiate alliance and whether you reviewed that?

25 A. Yes, he did raise that question.

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

616

1 Q. You didn't look at collegiate alliance, right?

2 A. No.

3 Q. You looked at party and race?

4 A. Yes.

5 Q. And between those two, which appears to have driven the
6 formulation of the enacted map?

7 A. There's overwhelming empirical evidence that race is the
8 driving force.

9 Q. That's it.

10 MR. CUSICK: Thank you, your Honors.

11 JUDGE GERGEL: Thank you. You may step down, Doctor.

12 THE WITNESS: Thank you.

13 JUDGE GERGEL: Call your next witness.

14 MR. CUSICK: Your Honors, we call Representative John
15 King to the stand.

16 JUDGE GERGEL: Very good.

17 ***JOHN KING, having been first duly sworn, testified as***
18 ***follows:***

19 **DIRECT EXAMINATION**

20 **BY MR. TRIVEDI:**

21 Q. Good morning, Representative King. How are you?

22 A. I'm doing well. And yourself?

23 Q. Good. Representative King, your name came up earlier at
24 trial, so I want to briefly address those issues with you
25 today. But, first, let's do some quick background.

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

617

1 Representative King, where are you from?

2 A. I'm originally from Chester, South Carolina, but I reside
3 in Rock Hill.

4 Q. And how long have you lived in South Carolina?

5 A. Forty-six years.

6 Q. Where have you lived in South Carolina?

7 A. Chester and Rock Hill.

8 Q. And did you leave South Carolina for a little bit for
9 college?

10 A. I did.

11 Q. Where did you go?

12 A. Morehouse College in Atlanta, Georgia.

13 Q. Where else have you been educated?

14 A. I graduated from Morehouse in 1997; Gupton-Jones College
15 of Funeral Service, in 1998; Strayer University with my
16 masters in 2006. And I attended Charlotte School of Law for
17 two years.

18 Q. Can you describe your professional background?

19 A. I'm a licensed funeral director, a college instructor at
20 Clinton College, and a state representative for District 49.

21 Q. And are you a member of any civic organizations here in
22 South Carolina?

23 A. I'm a member of Omega Psi Phi Fraternity, Incorporated;
24 Burning Bush Masonic Lodge 186; the NAACP Rock Hill Branch.
25 Quite a bit of organizations. I can't think of them all right

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

618

1 now.

2 Q. That's at lot. That's all right. Sir, do you identify
3 as Black?

4 A. I do.

5 Q. And are you registered to vote?

6 A. I am.

7 Q. Why is that important to you?

8 A. I believe it's a fundamental right that we all have and
9 we should use, because it shapes our communities, our state,
10 as well as our nation, the people that we elect.

11 Q. So, let's talk about your career in public office. When
12 were you first elected to public office?

13 A. I was first elected to the Chester City Council in 1999.

14 Q. And what other public official positions have you had?

15 A. I served on Chester County Council up until 2006.

16 Q. And did you say you currently serve in the South Carolina
17 House of Representatives?

18 A. Yes, sir.

19 Q. When were you first elected?

20 A. I was elected in 2008. Sworn in in 2008, and first
21 session in 2009.

22 Q. Okay. And what district do you represent?

23 A. House District 49.

24 Q. What areas of the state does District 49 cover?

25 A. York County, the southern portion of Rock Hill, and it

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

619

1 goes over into the city of York.

2 Q. Can you tell us a little bit about York County?

3 A. Oh, yes. York County is a bedroom community to
4 Charlotte. We are a community that believes -- as you enter
5 our community, there are signs in our city limits that says:
6 "No room for racism." It is a community where -- you may be
7 familiar with the Friendship 9 and the sit-ins to ensure that
8 people of color had rights. And so, Rock Hill was one of
9 those civil rights communities where the late Congressman John
10 Lewis was there. And so, it's a community that is diverse.
11 We are a college town. We have Winthrop, we have Clinton
12 College and York Technical College. But a small southern
13 community with a Charlotte flare.

14 Q. Got you. Are there other Black members of the House of
15 Representatives in your area of the state?

16 A. I think we are a 13 or 14-member delegation, and I'm the
17 only African American in the whole county.

18 Q. And what congressional district do you live in?

19 A. Congressional District No. 5.

20 Q. Are there issues in York County that congressional
21 representation could be responsive to in your community?

22 A. Yes.

23 Q. Can you tell us about that?

24 A. Sure. Most recently, I was contacted -- well, I was
25 contacted by Winthrop as well as Clinton College about seeing

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

620

1 about helping them speak with our federal delegation to get
2 funds. I spoke with -- at that time current representative,
3 Gary Simrill, reached out to me and asked me to contact
4 Congressman Clyburn. And so, he made it very clear that our
5 present congressman could not help us with what we needed.
6 And Congressman Clyburn is not our representative, but I did
7 contact Congressman Clyburn's office. We just, as a matter of
8 fact, mailed him -- or e-mailed him a request to come in. I
9 spoke with Congressman Clyburn personally, and they're
10 planning to come into our community.

11 Q. So, just to be clear, was that an issue that affected the
12 Black community in your area?

13 A. It affected Clinton College and Friendship College. We
14 were looking at trying to get funds to help with Clinton
15 College and the foundation over at Friendship.

16 Q. And what you're saying is you had to contact a Black
17 congressman from next door, because your current congressman
18 couldn't deal with it?

19 MR. MOORE: Objection as to leading, your Honor.

20 JUDGE GERGEL: I think Representative King can speak
21 for himself. You don't need to lead him. Sustained.

22 **BY MR. TRIVEDI:**

23 Q. Representative King, let's talk about your past
24 redistricting experience. Do you have past redistricting
25 experience in South Carolina?

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

621

1 A. Yes, sir.

2 Q. Were you a part of the 2000 redistricting cycle?

3 A. Yes.

4 Q. And what was that experience?

5 A. It was far different from the experience that we just
6 presently did.

7 Q. Okay. Was that back when you were on the county council?

8 A. In 2000, yes.

9 Q. Okay. And what was your role in that redistricting?

10 A. I was a county councilman, along with the other council
11 members at that time. It was six county council members and
12 the county supervisor. We all went down to Columbia from
13 Chester and met with -- I want to say it was research and
14 statistics. I can't remember exactly. But we actually worked
15 together to draw lines for each one of the county council
16 districts, with in mind the historic fact of two
17 African-American districts were in place already.

18 Q. Okay. Was that process of creating the county council
19 districts open to anyone who wanted to participate?

20 A. It was open to all the citizens of the County of Chester.

21 Q. Okay. Were you also involved with redistricting in 2010?

22 A. I was a member of the House of Representatives in 2010
23 when we did redistricting.

24 Q. Okay. What all did you do during that cycle?

25 A. Well, my delegation and I, we went into what we consider

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

622

1 the map room, to look at the districts within York County
2 together.

3 Q. All right. So, now I want to fast forward to the 2020
4 congressional redistricting process. During that process, did
5 you serve on the House Judiciary Committee?

6 A. Could you repeat your question?

7 Q. During the 2020 congressional redistricting cycle, the
8 one we're here to talk about, did you serve on the House
9 Judiciary Committee?

10 A. I did.

11 Q. What was your position?

12 A. I'm a member of the House Judiciary Committee and first
13 vice chair.

14 Q. Were you on any subcommittees of the Judiciary Committee
15 as well?

16 A. I'm on the Election Law Subcommittee.

17 Q. Okay. How many people were on the Election Law
18 Subcommittee at the time of redistricting?

19 A. I want to say it was either four or five of us. I'm not
20 sure of the number. I'm trying to think in my head.

21 Q. Okay. Do you remember some of the folks that were on it?

22 A. Yes. Myself, Representative Bruce Bryant, Representative
23 Brandon Newton. And the chair of that committee is Jay
24 Jordan.

25 Q. You got it. Prior to the 2020 redistricting cycle, what

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

623

1 had the Election Law Subcommittee's role been with respect to
2 redistricting?

3 A. It has always been the committee that was formulated with
4 its banded of other members to deal with redistricting.

5 Q. And why do you think the Election Law Subcommittee had
6 been the one who historically dealt with redistricting?

7 MR. MOORE: Objection as to form. I think it calls
8 for speculation.

9 JUDGE GERGEL: If he knows. Overruled. Lay a
10 foundation.

11 THE WITNESS: Could you repeat your question for me?

12 **BY MR. TRIVEDI:**

13 Q. Why had the Election Law Subcommittee been the one tasked
14 with redistricting in past cycles?

15 A. Because we are the ones that strictly deal with all
16 election issues, that any bill that comes across the desk of
17 the House, the Speaker has historically sent it to the
18 election committee.

19 Q. What are some other voting issues that the Election Law
20 Subcommittee had dealt with in the past?

21 A. Recently, myself and Representative Cobb-Hunter, had a
22 bill that dealt with notifying felons of their rights to be
23 able to vote. We have dealt with early voting recently.
24 We've dealt with the overhaul of the election law as well as
25 dealt with some of the election commission, stuff that has

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

624

1 happened in the state recently. The most recent stuff that
2 you've seen, excluding the maps, we have dealt with everything
3 election that you can think of, other than redistricting.

4 Q. Is some of that work on the Election Law Subcommittee
5 related to racial discrimination?

6 A. Yes, some of it is.

7 Q. How so?

8 A. Just in reference to, you know, some of the stuff of
9 purging voters, dealing with -- in my opinion, the reason why
10 Ms. Cobb-Hunter and I did the felons is because of the number
11 of African-American felons that we have come into that were
12 told they could not vote. And we just wanted them to be
13 educated, so we put up a piece of legislation that says that
14 every step of the way, they needed to be told how they can get
15 their rights restored.

16 Q. To your knowledge, does any other subcommittee of the
17 Judiciary Committee -- or any other committee, period -- deal
18 with election type work?

19 A. To my knowledge and to what I've seen as a legislator
20 since 2009, I have only seen -- this is to my knowledge. I've
21 only seen the election laws take care of anything dealing with
22 elections.

23 Q. Okay. Have you ever personally been told that you would
24 be involved --

25 A. Let me correct that.

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

625

1 Q. Yeah. Go ahead, please.

2 A. The election laws, from my knowledge, have always been --
3 or, either if there was an election complaint, that would go
4 before ethics, if there's a complaint against a member dealing
5 with the election or something like that. But they only deal
6 with complaints.

7 Q. Got it. Did you understand that you would be involved in
8 redistricting in the 2020 cycle?

9 MR. MOORE: Objection. I don't believe he can answer
10 unless -- I don't think he can provide hearsay.

11 JUDGE GERGEL: Lay a foundation please.

12 BY MR. TRIVEDI:

13 Q. Did you expect to be involved in redistricting in 2020?

14 A. Yes.

15 Q. Why is that?

16 A. I was on special laws initially, if I'm not mistaken, as
17 a member of the subcommittee for special laws. And when I was
18 changed over to election laws, I went to then-chair of the
19 committee, Peter McCoy, and I asked him why would I be put on
20 election laws. He said, well, John, you --

21 MR. MOORE: Objection as to hearsay, your Honor.

22 JUDGE GERGEL: It's not offered -- it's explaining
23 why he thought he was going to be on it. Overruled. It's not
24 offered for the truth of the matter. That's why he understood
25 to do it. Overruled.

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

626

1 THE WITNESS: I asked why I was being put on election
2 laws. I was then told that I was being put on there because
3 redistricting was coming up and the census and everything was
4 coming up, and it put me in a place to where I would -- that
5 committee was the committee that would handle redistricting,
6 and because of my seniority on there and because of my
7 previous experiences, that's why they were putting me on
8 there.

9 Q. Okay. For the 2020 congressional redistricting process,
10 was the Election Law Subcommittee ultimately tasked with that
11 duty?

12 A. No.

13 Q. Who made the decision to create -- to not give the
14 process to the Election Law Subcommittee?

15 A. The Speaker of the House.

16 Q. And what was done instead?

17 A. He appointed an ad hoc committee.

18 Q. Okay. Do you know who the Speaker -- I'm sorry. Just to
19 be clear, who was the Speaker at the time?

20 A. Speaker Jay Lucas.

21 Q. Okay. And who did Mr. Lucas put on the ad hoc committee?

22 A. The chair was Jay Jordan. Weston Newton, Neal Collins,
23 Brandon Newton, Pat Henegan, Justin Bamberg, Beth Bernstein.
24 And they were all state representatives.

25 Q. You may have said this, but was Mr. Justin Elliott also

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

627

1 on there?

2 A. Justin Elliott, yes. I'm sorry.

3 Q. No. My fault. Was anyone from the Election Law
4 Subcommittee placed on the Ad Hoc Redistricting Committee?

5 A. Yes.

6 Q. Who was that?

7 A. Brandon Newton and Jay Jordan.

8 Q. So, you were not placed on the ad hoc committee; is that
9 right?

10 A. That is correct.

11 Q. Did anyone ever explain why you weren't put on the ad hoc
12 committee?

13 MR. MOORE: Objection as to hearsay.

14 JUDGE GERGEL: No, that's getting close to the truth
15 of the matter, not his beliefs. So, I sustain that objection.

16 MR. TRIVEDI: Okay.

17 **BY MR. TRIVEDI:**

18 Q. Did you ever come to understand why you were not placed
19 on the ad hoc committee?

20 A. No.

21 Q. To your knowledge -- you may not know -- did Mr. Jordan,
22 from the Election Law Subcommittee, have more redistricting
23 experience than you?

24 A. No.

25 Q. To your knowledge, if you know, did Mr. Newton have more

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

628

1 redistricting experience than you?

2 A. No.

3 Q. Are they both white?

4 A. Yes.

5 Q. At the time that the Ad Hoc Redistricting Committee was
6 being created, did you raise your concerns about your
7 exclusion from the ad hoc committee?

8 A. I wrote a letter to the Speaker and spoke with the
9 Speaker.

10 Q. Did anything come of that?

11 A. No.

12 Q. Did you ever come to understand that the Election Law
13 Subcommittee was not tasked with redistricting because it
14 didn't have enough geographic diversity?

15 A. Yes.

16 Q. How so?

17 A. I was told that, from my region, we had Representative
18 Bruce Bryant, Representative Brandon Newton, and myself.

19 Q. And all of you were from the same area?

20 A. Same congressional district.

21 Q. Is that Congressional District 5?

22 A. Congressional District 5.

23 Q. Okay. Could the Election Law Subcommittee have expanded
24 to gain additional geographic diversity so that it could have
25 done redistricting?

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

629

1 A. Yes.

2 Q. Had they ever done that in the past?

3 A. Yes.

4 Q. Would that have allowed you to remain on the committee
5 that was going to deal with redistricting?

6 A. Yes.

7 Q. Would that have allowed you to apply your prior
8 redistricting to the committee process?

9 A. Yes.

10 Q. Representative King, how did you feel about being
11 excluded from the redistricting process?

12 A. I felt disrespected. Overlooked, was how I felt.

13 Q. Do you feel like the speaker's choice not to place you on
14 the ad hoc committee was personally racist?

15 MR. MOORE: Objection. Speculation.

16 JUDGE GERGEL: He can offer his opinion. Overruled.

17 THE WITNESS: I believe that, at the time, I felt
18 that it was.

19 **BY MR. TRIVEDI:**

20 Q. Representative King, I'd now like to turn to the
21 composition of the members who did make up the Ad Hoc
22 Redistricting Committee.

23 Representative King, were any State House representatives
24 from Congressional District 5 on the Ad Hoc Redistricting
25 Committee?

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

630

1 A. Initially, yes.

2 Q. What happened there?

3 A. My congressional person that was on there was
4 Representative Brandon Newton, and he resigned from the
5 committee because of family issues, is what we were told.

6 Q. Was Mr. Brandon Newton ever replaced on the ad hoc
7 committee?

8 A. He was never replaced. And I did ask the Speaker to
9 place me there, since Mr. Newton was not there, and that did
10 not happen.

11 Q. Was that done?

12 A. No.

13 Q. Did you say earlier -- and just to refresh my
14 recollection -- that the Election Law Subcommittee was not
15 chosen for redistricting in part because it had too many
16 people from the CD 5 area?

17 A. That is correct.

18 Q. And now are you saying that the ad hoc committee ended up
19 with nobody from the CD 5 area?

20 A. That is correct.

21 Q. Did you raise this concern to anyone at the time of
22 redistricting?

23 A. I did.

24 Q. Okay. I'm now going to pull up an exhibit, and it should
25 show up in front of you.

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

631

1 MR. TRIVEDI: Mr. Najarian, can we pull up
2 Plaintiffs' Exhibit 112 and scroll to page 31, and highlight
3 lines nine through 13. And this is from the January 12th,
4 2022, House floor transcript.

5 BY MR. TRIVEDI:

6 Q. Representative King, do you remember speaking at a House
7 floor meeting on January 12th, 2022?

8 A. I do.

9 Q. Would you mind reading the piece of the transcript that's
10 popped up for you?

11 A. "District 5, there was a void. And the reason why I say
12 there was a void is because we did not have one vote on that
13 committee when you-all submitted it from subcommittee to full
14 committee, which means there was a --"

15 Q. Thank you. What did you mean when you said "there was a
16 void" on the committee?

17 A. There was no one from Congressional District 5 to express
18 our interests, since Mr. Newton had selected not to be on the
19 committee because of family issues.

20 Q. Do you think that void harmed the redistricting process?

21 A. I think that it did harm the redistricting process,
22 because no one was there to have our interests from
23 Congressional District 5.

24 Q. Thank you. Representative King, I now want to jump to
25 January 2021, because we've heard testimony from

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

632

1 Representative Cobb-Hunter about what happened to you at a
2 particular meeting, and I wanted the Court to hear it directly
3 from you.

4 Did you testify earlier that, during the congressional
5 redistricting process, you served as first vice chair of the
6 House Judiciary Committee?

7 A. Yes.

8 Q. How would you describe the role of the vice chair on the
9 House Judiciary Committee?

10 A. So, the first vice chair only takes effect if the chair
11 of the committee is not present, or if the committee chair has
12 to leave out for a particular reason, such as if he needs to
13 leave out to have a meeting with a staff member, and the
14 meeting is going on, or if a Speaker has asked him to come
15 out, then I will sit in that place. Or, if he's not present,
16 then I would be the chair for that meeting until he returns.

17 Q. Would you describe that role as purely ceremonial?

18 A. No, I would not, because our rules do not describe it as
19 ceremonial.

20 Q. So, do you recall that on January 10th, 2021, there was a
21 meeting of the full House Judiciary Committee to discuss a
22 proposed congressional map?

23 A. That is correct.

24 Q. At some point before that meeting, did you become aware
25 that the chairman of the committee, Mr. Murphy, wouldn't be

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

633

1 able to attend?

2 A. Repeat your question one more time for me?

3 Q. At some point, did you become aware that the chairman of
4 the Judiciary Committee, Mr. Murphy, wouldn't be able to
5 attend that meeting?

6 A. Yes. At the actual meeting, is when I found out.

7 Q. So, you found out when you walked in?

8 A. When I walked in.

9 Q. Okay.

10 A. Well, not when I walked in. When I was sitting at my
11 space there in the committee room and a letter was read, is
12 when I found out.

13 Q. Okay. What did you come to learn about what would happen
14 at that meeting?

15 A. A letter was read that the chair had, that he was not
16 present and that he was appointing Weston Newton, I believe,
17 as the acting chair.

18 Q. Did you think that you would be the one chairing that
19 meeting once you figured out that Mr. Murphy wouldn't be
20 there?

21 A. Of course. I knew that, at that point when he read the
22 letter, that I would be the chair, because our rules called
23 for it.

24 Q. Okay. So, let's take a look at those rules.

25 MR. TRIVEDI: Mr. Najarian, can we now pull up House

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

634

1 Exhibit 153?

2 **BY MR. TRIVEDI:**

3 Q. Mr. King, do you recognize this document?

4 A. Yes, I do.

5 Q. What is it?

6 A. It's the rules of the House of Representatives Judiciary
7 Committee for 2021/2022 session, adopted January 26th of 2021
8 *(sic)*.

9 Q. And were these rules in place during the 2020
10 redistricting cycle?

11 A. Yes, sir.

12 Q. Were they in place during the meeting that we were just
13 talking about?

14 A. Yes, sir.

15 Q. Oh. And I apologize. I think a moment ago I described
16 this meeting as happening in January 2021?

17 A. Correct.

18 Q. Did it happen in January 2022?

19 A. It happened in January 2022.

20 Q. Sorry about that. And so, were these rules in place
21 during that January 2022 meeting?

22 A. Yes, it was.

23 Q. Thank you. Did you consider these rules binding on your
24 work in the Judiciary Committee?

25 A. Yes.

1 MR. TRIVEDI: Mr. Najarian, can we zoom in on Rule
2 Number 1 and highlight the second sentence starting with "The
3 first vice-chairman."

4 **BY MR. TRIVEDI:**

5 Q. Representative King, could you read that sentence out
6 loud?

7 A. "The first vice-chairman shall preside over committee
8 meetings in the absence of the chair."

9 Q. So, first of all, is this the first rule in the rule
10 book?

11 A. It is the absolute first rule.

12 Q. Okay. And what does this rule say happens when the chair
13 is absent?

14 A. That the first vice-chairman shall preside.

15 Q. And did you just use the word "shall"?

16 A. I did.

17 Q. Not the word "may"?

18 A. Correct.

19 Q. And what does that word "shall" mean to you?

20 A. Definite. Should happen. Must happen.

21 Q. Does Rule Number 1 say the vice-chair shall preside in
22 the absence of the chair unless Rule 14 is invoked?

23 A. No.

24 Q. Does Rule Number 1 say the vice-chair shall preside in
25 the absence of the chair unless the reason for the absence is

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

636

1 that the chair is sick?

2 A. No.

3 Q. Does Rule Number 1 say the vice-chair shall preside in
4 the absence of the chair unless it's during COVID?

5 A. No.

6 Q. Does Rule Number 1 say the vice-chair shall preside in
7 the absence of the chair unless the meeting is about
8 redistricting?

9 A. No.

10 MR. MOORE: Objection, your Honor. A little bit of
11 leading.

12 JUDGE GERGEL: Well, I'm not objecting about leading.
13 I'm just saying, we can read the rules. It's highlighted. We
14 don't need to say what it does. Go to the next question.

15 MR. TRIVEDI: I appreciate it, Judge.

16 JUDGE GERGEL: I get your point about this and
17 Rule 14. We get it. You don't need to keep beating the drum
18 here.

19 MR. TRIVEDI: Thank you, your Honor.

20 **BY MR. TRIVEDI:**

21 Q. Did anyone ever tell you when you were elected vice-chair
22 that Rule 1 wouldn't apply to you?

23 A. Never.

24 MR. TRIVEDI: Mr. Najarian, now can we scroll to
25 Rule 14 on the second page?

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

637

1 BY MR. TRIVEDI:

2 Q. In the first sentence, Representative King, do you see
3 the term "extraordinary circumstances"?

4 A. I do.

5 Q. In your view, is being sick an extraordinary
6 circumstance?

7 A. No.

8 Q. Had folks been sick and missed committee meetings in the
9 past?

10 A. Yes.

11 Q. Have there been other times where the chair missed a
12 meeting because he was sick?

13 A. Yes.

14 Q. When was that?

15 A. In March of 2022.

16 Q. So, in March of 2022, there was another meeting where the
17 chair was absent because of a sickness, as far as you knew?

18 A. Yes. Yes, as far as I know.

19 Q. And in that meeting, were you made chair of the meeting?

20 A. Yes.

21 MR. TRIVEDI: Okay. We can take that exhibit down.

22 Thank you, Mr. Najarian.

23 BY MR. TRIVEDI:

24 Q. Okay. Representative King, going back to the
25 January 10th meeting, you said, I believe, that you found out

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

638

1 by the reading of a letter out loud that you wouldn't chair
2 the meeting; is that right?

3 A. That is correct.

4 Q. Were you surprised by what happened in that meeting?

5 A. Very surprised.

6 Q. Did you say anything about it?

7 A. I did. And --

8 Q. All right. We'll now pull up another exhibit. This one
9 is going to be a video.

10 MR. TRIVEDI: Mr. Najarian, if we could put up House
11 Exhibit No. 152.

12 *(Video played)*

13 BY MR. TRIVEDI:

14 Q. Representative King, I know that was a long clip. But
15 what did you mean when you said that the majority broke its
16 own rules?

17 A. Well, when we go into session, we establish rules that we
18 would follow when we go into organization session. That
19 encompasses our committee rules and the standard House rules.
20 And those rules were not followed and they were disregarded.

21 Q. And just to repeat a little bit, the January 10th
22 meeting, where you say the rules were not followed, that was
23 about redistricting; is that right?

24 A. That was about redistricting.

25 Q. Was the March meeting, where you were made the chair,

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

639

1 about redistricting?

2 A. It was not about redistricting.

3 Q. When you said the majority broke its own rules, did that
4 tell you anything about their willingness to break other
5 rules?

6 MR. MOORE: Objection.

7 JUDGE GERGEL: I think that's going a little far.
8 You've made the point.

9 MR. TRIVEDI: Thank you, your Honor.

10 JUDGE GERGEL: We get it -- you know, we really do --
11 that they violated their rule, and it was an African-American
12 vice-chair. We get all that.

13 MR. TRIVEDI: Your Honor, I'm only pressing because
14 these are defenses that they've raised. They've raised them.

15 JUDGE GERGEL: Well, let them. I get it. And then
16 they can cross-examine. I think Representative King can
17 handle himself just fine.

18 MR. TRIVEDI: All right. I agree with that part.

19 **BY MR. TRIVEDI:**

20 Q. What impact on congressional redistricting do you think
21 that this violation of rules had?

22 MR. MOORE: Same objection.

23 JUDGE GERGEL: Repeat the question.

24 MR. TRIVEDI: What impact did the violation of the
25 rules have on congressional redistricting?

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

640

1 JUDGE GERGEL: That's a fair question. Overruled.

2 MR. MOORE: I actually think he asked -- the first
3 question was: In your opinion, what impact did it have on
4 congressional redistricting?

5 JUDGE GERGEL: That doesn't matter.

6 Go ahead and ask the question.

7 **BY MR. TRIVEDI:**

8 Q. In your opinion, what impact did the violation of the
9 rules have on congressional redistricting?

10 A. Well, the violation, in my opinion, had I been chair,
11 would have given every member around that table an
12 opportunity. We would not have rushed and voted that
13 particular piece of legislation probably out that day. We
14 would have sat -- because many of us, as members, that was the
15 first time we had seen it as a full committee. And I would
16 have hoped that we would have taken more time to really look
17 at it as a full Judiciary Committee. So, I would have given
18 it due diligence of a full investigation of the maps that will
19 affect us for the next 10 years.

20 Q. Okay. So, speaking of the maps, now let's turn to the
21 substance of the maps briefly. And then we'll be done.

22 At the January meeting, you were discussing a
23 congressional map that was put forward by the House; is that
24 right?

25 A. Correct.

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

641

1 Q. Do you remember speaking about the substance of those
2 maps at the January meeting?

3 A. I do.

4 MR. TRIVEDI: Mr. Najarian, could we put up
5 Plaintiffs' Exhibit 108?

6 BY MR. TRIVEDI:

7 Q. Representative King, do you see that this is a transcript
8 of the January 10th meeting?

9 A. I do see that.

10 MR. TRIVEDI: And now, could we scroll to between
11 pages 55 and 56 and highlight line 24 on page 55 down to
12 line two on page 56?

13 BY MR. TRIVEDI:

14 Q. Representative King, could you read that in whole?

15 A. "Congressional 6, Congressional 1 was cracked to pull out
16 heavily African-American areas and put them in District 6,
17 which makes Congressional 1 less competitive."

18 Q. And what did you mean by "cracked" there?

19 A. So, what I mean by cracked is they went into a heavy
20 African-American community and went straight down and just
21 cracked them to give us less of a voice as a people in one
22 congressional district that could be competitive, versus
23 putting us all into Congressional 6. It lessens the
24 opportunity to have a voice in Congressional 1.

25 Q. Does it lessen the opportunity for any particular set of

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

642

1 people?

2 A. Black people.

3 MR. TRIVEDI: Thank you. Mr. Najarian, it's the same
4 exhibit, but could we scroll back up to page 18, lines 14
5 through 19.

6 BY MR. TRIVEDI:

7 Q. Representative King, would you mind reading that aloud as
8 well?

9 A. "But you're going tell me that people in Richland County
10 and in Fairfield County -- I mean, in Richland County, I'm
11 sorry -- have the same needs and the same conversations that
12 people in Charleston County has? Unheard of. Unheard of.
13 So..."

14 Q. What did you think was unheard of?

15 A. People in Coastal having the same concerns that we may
16 have in the Midlands or the Upstate.

17 Q. Do you think splitting Charleston County between
18 Congressional Districts 1 and 6 gives the Charleston area more
19 representation or less?

20 MR. MOORE: Objection.

21 JUDGE GERGEL: Offered as opinion. It's overruled.

22 THE WITNESS: I think splitting it gives it less
23 representation.

24 BY MR. TRIVEDI:

25 Q. Why is that?

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

643

1 A. When I think about African Americans and our voice in the
2 district, it lessens our interests. And what I mean by that
3 is we would have less of a voice in District 1, and in
4 District 6 you have packed all the African Americans and
5 cracked the district to the disadvantage of African Americans
6 in Congressional 1.

7 Q. Okay.

8 MR. TRIVEDI: Mr. Najarian, can we now turn to page
9 22 of that same exhibit and highlight lines five through 22?
10 This is a long one, but could we highlight the portion, lines
11 16 through 18? Thank you.

12 BY MR. TRIVEDI:

13 Q. Representative King, could you read that part?

14 A. "Interests, I don't -- I'm Black but I don't have the
15 same interests as the folk in Charleston County that are
16 Black."

17 Q. What did you mean when you said, "I don't have the same
18 interests as the folk in Charleston County that are Black"?

19 A. So, we, as a group of people, do have similar interests
20 and same interests when it comes to our community. When I say
21 "community," I'm talking about the community of Black people.
22 However, my interests into the area in which I represent may
23 be different in reference to work and different things like
24 that when you're dealing with Coastal issues versus the
25 Midlands, or, in my area, our issues are totally different as

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

644

1 a community, but not as black people.

2 Q. Thank you.

3 MR. TRIVEDI: Mr. Najarian, could we now pull up
4 Plaintiffs' Exhibit 112?

5 BY MR. TRIVEDI:

6 Q. Well, Representative King, do you remember there being a
7 January 12th House floor committee? We talked about that
8 earlier.

9 A. Yes.

10 MR. TRIVEDI: Could we go to page 96, lines four
11 through 11.

12 BY MR. TRIVEDI:

13 Q. Representative King, could you read this out loud,
14 please?

15 A. "So, those that are listening who are preparing to sue
16 South Carolina? Yes, this is party-driven lines. And how did
17 they do it? They cracked the Black districts and packed and
18 put them all in Congressional 6. Now, I respect my
19 Congressman, but I think he needs competition over in
20 Congressional District 5. I believe that we all should have."

21 Q. What did you mean when you say said, "this is
22 party-driven lines?"

23 A. I don't think that they had the best interests of African
24 Americans, or Black people, when they drew these lines. I
25 think they, through cracking and packing of the districts,

JOHN KING - DIRECT EXAMINATION BY MR. TRIVEDI

645

1 they -- because the party that is in control is the Republican
2 Party, they drew the lines. And so, I'm not saying that it
3 was party-driven in reference to outweigh one party over the
4 other. The party that is in control is the party that drew
5 the lines to impact and depreciate the vote of African
6 Americans in the state.

7 MR. TRIVEDI: Could we now turn to page 97 of that
8 same exhibit and highlight lines two through four?

9 **BY MR. TRIVEDI:**

10 Q. Representative King, would you mind reading that as well?

11 A. "It's the person, but you all want to crack and pack in
12 order to accomplish your goal of 10 years of noncompetitive
13 districts."

14 Q. And could you tell us what you meant by this as well?

15 A. It all goes back to the impact of having to listen to
16 African Americans. And so, when you crack districts, the
17 opportunity for Black constituents to be heard in a district
18 is lessened, versus, you know, having a district that is
19 competitive, where the representative will have to listen to
20 the concerns of people who they might normally not listen to,
21 and, in this case, take our issues to D.C. that are concerns
22 for African-American communities. Right now, that voice is
23 only heard by one congressperson because they have no interest
24 in our community. As I stated earlier, I have to call
25 Congressman Clyburn when I want something done in the

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

646

1 African-American community.

2 Q. Were any of your concerns that you raised with respect to
3 the House plans ever addressed or fixed by your colleagues in
4 the House?

5 A. No.

6 Q. And what about your colleagues in the Senate?

7 A. No.

8 Q. And is it your understanding that the map that ultimately
9 passed had all or most of the same problems that you
10 complained about with respect to the House map?

11 A. Correct.

12 Q. How did you vote on the map that was ultimately enacted?

13 A. I voted against it.

14 Q. And why did you do that?

15 A. Because of the impact that it would have on the
16 African-American community through packing and cracking.

17 Q. Thank you, Representative King.

18 MR. TRIVEDI: No more questions.

19 JUDGE GERGEL: Cross-examination.

20 **CROSS-EXAMINATION**

21 **BY MR. MOORE:**

22 Q. Good afternoon, Representative King. How are you?

23 A. I'm doing well. And yourself, Attorney Moore?

24 Q. So, Representative King, first of all, as you testified
25 earlier, you were on the Election Law Subcommittee, correct?

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

647

1 A. Okay.

2 Q. Okay. And you were the only Democrat on the Election Law
3 Subcommittee, correct?

4 A. Great observation. Yes.

5 Q. And Republicans are in the majority in the State House,
6 correct?

7 A. Yes.

8 Q. Republicans are in the majority in the House of
9 Representatives, correct?

10 A. Yes.

11 Q. By approximately a two-thirds majority; is that correct?

12 A. Not two-thirds. No, I don't think it's two-thirds.

13 Q. They're in a substantial majority position, are they not?

14 A. Yes.

15 Q. Okay. And so, the Election Law Subcommittee has three
16 Republicans and one Democrat, correct?

17 A. Correct.

18 Q. Okay. And the ad hoc committee, as it was originally
19 constituted, was to have five Republicans and three Democrats,
20 correct?

21 A. Correct.

22 Q. Okay. Which is a greater proportional representation for
23 Democrats; is that not true, Representative King?

24 A. I don't agree.

25 Q. And ultimately, as the ad hoc committee was constituted,

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

648

1 it had four Republicans and three Democrats, correct?

2 A. Repeat your question?

3 Q. As the ad hoc committee was ultimately constituted, it
4 had four Republicans and three Democrats, correct?

5 A. No, sir.

6 Q. Well, Representative King, correct me if I'm wrong,
7 Representative Jordan is a Republican, correct?

8 A. Would you allow me to explain my answer?

9 Q. Well --

10 JUDGE GERGEL: Let him explain his answer. Because
11 obviously the math would support your view. But he has an
12 explanation.

13 Go ahead, sir.

14 THE WITNESS: The committee was constituted
15 ultimately with five Republicans and three Democrats. One
16 Republican resigned, which still left an opening on the
17 committee. The committee was initially opened up as five and
18 three. We never went back to say we eliminated anything. We
19 just didn't have representation.

20 BY MR. MOORE:

21 Q. I understand that's your point, Representative King. And
22 perhaps I asked a confusing question.

23 JUDGE GERGEL: Mr. Moore, we get it. We get it.

24 MR. MOORE: Yes, sir. Okay. All right.

25 BY MR. MOORE:

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

649

1 Q. And with respect to the ad hoc committee, and as it's
2 ultimately constituted -- and when I say "ultimately" I mean
3 the final version, after Brandon Newton resigned, okay --
4 there were four Republicans, three Democrats, correct?

5 A. Correct.

6 Q. Okay. Two of those Democrats were African Americans,
7 correct?

8 A. I don't know how they identify, but I would assume that
9 they are, because one is biracial.

10 Q. Well, and Representative Henegan, who was on that
11 committee, who is African American, is actually the chair of
12 the Legislative Black Caucus, correct?

13 A. Correct.

14 Q. Okay. And two of those representatives are female,
15 correct?

16 A. Correct.

17 Q. Okay. No one from the Election Law Subcommittee is
18 female, correct?

19 A. Correct.

20 Q. Okay. And ultimately, a four-to-three Republican to
21 Democrat split is a better proportional representation for
22 Democrats than a three to one, correct?

23 A. I agree.

24 Q. Sir?

25 A. I agree.

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

650

1 Q. Okay. All right. And you know each of the
2 representatives of the ad hoc committee, correct?

3 A. I do.

4 Q. Okay. And two of the folks who were on the Election Law
5 Subcommittee were initially selected from the ad hoc
6 committee, correct?

7 A. Say that one more time?

8 Q. Two of the folks -- and I'm talking about Representative
9 Jordan and Representative Brandon Newton, they were both
10 members of the Election Law Subcommittee, correct?

11 A. Yes, sir.

12 Q. And Representative Jordan is the chair of the Election
13 Law Subcommittee, correct?

14 A. Correct.

15 Q. So, he has substantial experience in dealing with
16 election laws, correct?

17 A. On the committee election laws, yes.

18 Q. Okay. All right. And I understand that you have a
19 concern that you weren't placed on the ad hoc committee. But
20 if Republicans had decided to choose someone else, they could
21 have chosen Representative Bryant, who is from CD 5 and also
22 was on the Election Law Subcommittee, correct?

23 A. Yes.

24 Q. Okay. To keep the balance five to three, Republican to
25 Democrat, correct?

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

651

1 A. Correct.

2 Q. And you were unhappy that you weren't placed on the ad
3 hoc committee, correct?

4 A. Correct.

5 Q. Okay. And you sort of lobbied to be placed on the ad hoc
6 committee, did you not, Representative King?

7 A. I spoke with the Speaker.

8 Q. Okay. And I believe you told us earlier that you had
9 some discussion with Representative Peter McCoy. Of course,
10 he was no longer in the House when the ultimate decision was
11 made as to how to select the ad hoc, correct?

12 A. That is not how that happened, no, sir. Your
13 recollection is different from mine.

14 Q. Well, the ad hoc committee was appointed and named after
15 Representative McCoy left the House to become the United
16 States attorney for this district, correct?

17 A. Your question was that I lobbied. I did not lobby. I
18 was placed on the committee some years ago. And when I asked
19 why was I being taken off of special laws and put on election
20 laws, he told me they were putting me there because it would
21 be the committee that handles redistricting. So, I did not
22 lobby for it, I was placed there without even asking to be on
23 election laws.

24 Q. But you were never placed on the Election Law
25 Subcommittee -- excuse me. Strike that.

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

652

1 You were never placed on the ad hoc committee by the
2 Speaker, correct?

3 A. Correct.

4 Q. Okay. And when you were not placed on that, you went to
5 the Speaker to lobby to be the person --

6 MR. TRIVEDI: Objection. Misstates testimony.

7 JUDGE GERGEL: Folks, let me just say this. We, long
8 ago, figured out the concerns of Representative King and the
9 answer of the State. I don't know where this is all advancing
10 us. We get it. It's just a piece of evidence that we will
11 weigh. But going over the same and re-plowing the same
12 evidence over and over again, just doesn't accomplish
13 anything, Mr. Moore.

14 MR. MOORE: And I understand that, your Honors. I
15 would respectfully request that I have the same amount of time
16 to cross as --

17 JUDGE GERGEL: Well, no. I want you to have the time
18 needed to make your point. And you've done a good job of
19 making your point. And I just -- you know, we're trying to
20 move the trial on, and hearing it over and over again -- the
21 gentleman feels he was disrespected --

22 MR. MOORE: I totally get that.

23 JUDGE GERGEL: -- but you dispute that. We'll weigh
24 that evidence. But we've heard it.

25 MR. MOORE: Yes, sir. So, I'll move on to a slightly

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

653

1 different topic.

2 JUDGE GERGEL: Good.

3 BY MR. MOORE:

4 Q. The position of first vice-chair is an elected position;
5 is that correct, Representative King?

6 A. It's voted on by my colleagues.

7 Q. Okay. It's voted on by the members of the Judiciary
8 Committee, correct?

9 A. That's correct.

10 Q. Okay. And you wanted to be the first vice-chair; is that
11 correct?

12 A. That is not true. I was asked to be the first vice-chair
13 because of my seniority. And the way we do it in the House of
14 Representatives, so that I can make sure that you and the
15 Court understands, if that senior member is of the minority
16 party, they are the ones who serve as the first vice-chair and
17 voted on by their colleagues. So, I did not lobby or campaign
18 for it.

19 Q. Well, Representative King, that's your opinion, correct?

20 A. That's the truth, not my opinion.

21 Q. And, Representative King, you're aware that
22 Representative Bamberg had the votes on the Judiciary
23 Committee to become first vice-chair --

24 A. And I --

25 Q. -- and after -- let me finish please, sir -- and after

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

654

1 talking to you, and you expressing your concerns, he agreed to
2 step aside; isn't that correct?

3 A. No, sir.

4 Q. Okay. So, you dispute that; is that correct,
5 Representative King?

6 JUDGE GERGEL: Again, I'm not sure the relevance of
7 all this, folks. I mean, again, you know, there's evidence
8 that there was a rule. In the rule, there's a dispute about
9 whether illness of a member is an extraordinary circumstance.
10 We get all that. To keep going over and over again, it's not
11 that I'm trying to disregard either parties' position, it's
12 just, we get it.

13 MR. MOORE: All right. I understand that,
14 your Honor.

15 BY MR. MOORE:

16 Q. So, Representative King, would you agree with me that all
17 the members who served on the ad hoc committee ultimately --
18 those seven people -- have a reputation in the House for being
19 collegial and cooperative?

20 MR. TRIVEDI: Objection. Calls for speculation.

21 JUDGE GERGEL: If he knows, he can answer.

22 Overruled.

23 BY MR. MOORE:

24 Q. Have a reputation for being collegial and cooperative.
25 Do you agree or disagree with that, Representative King?

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

655

1 A. I think that -- I think highly of all my members of the
2 House.

3 Q. You understand that, among a number of people, you do not
4 have a reputation for being collegial and cooperative; isn't
5 that correct, Representative King?

6 A. I have a reputation of representing the people of which I
7 serve. If they like it, they like it, if they don't -- but
8 what I do know is that I work well with all of my colleagues.
9 And, as you remember during the deposition, you brought that
10 up several times, that my colleagues did not like me. Yes,
11 you did. And I will say to you that I'm well liked by my
12 colleagues, I'm well respected by my colleagues. A proven
13 example is that the majority leader, Gary Simrill, picked up
14 his phone and called me two weeks ago to try to help him
15 accomplish something in York County. So, I'm well respected.
16 I'm a fighter for the people.

17 And unfortunately, I don't know where you've gotten your
18 information from, but I took it back to the Speaker when you
19 said those things to me. And what he said to me was that was
20 not true.

21 Q. I didn't ask for your say, Representative King.

22 MR. TRIVEDI: Objection. He's got to let the witness
23 finish.

24 JUDGE GERGEL: Please continue your answer,
25 Representative King.

1 THE WITNESS: I was told that your information that
2 you have is not true.

3 BY MR. MOORE:

4 Q. Okay. Well, Representative King, have you read the
5 deposition transcripts in this case?

6 A. No, sir.

7 Q. Okay. And are you aware that Representative Beth
8 Bernstein, who is a Democrat, was deposed in this case?

9 JUDGE GERGEL: This is pitting witnesses. We're not
10 doing this, folks. It just doesn't matter. We've heard the
11 evidence. We'll weigh it. But beating this up is -- he was
12 the elected vice-chairman of the committee. The rule said
13 they "shall." And the question is, he shall preside whether
14 there were extraordinary circumstances. We'll weigh that.
15 All of this about back and forth doesn't matter. Was the rule
16 violated? And then we have to determine if it was, was it
17 because of his race or some other reason. We've heard enough
18 about this, frankly.

19 MR. MOORE: Yes, sir, your Honor. I'll move on.

20 BY MR. MOORE:

21 Q. You gave some opinions on the floor about packing and
22 cracking, correct?

23 A. I gave my observation, yes.

24 Q. Okay. And those are your observations. You understand
25 that they may not have been shared by a number of members of

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

657

1 the House, correct?

2 A. That's possible.

3 Q. Okay. And you also raised the issue --

4 MR. MOORE: And, again, I think this goes to weight,
5 your Honors, so I'm going to ask for a little bit of latitude.

6 BY MR. MOORE:

7 Q. You said that, in your opinion, the first vice-chair
8 always steps in for the chair if the chair is absent, correct?

9 A. It's not my opinion, it's the rule.

10 Q. That's your opinion, correct, that that's what the rule
11 says?

12 MR. TRIVEDI: Objection. Asked and answered.

13 MR. MOORE: I'll rephrase.

14 BY MR. MOORE:

15 Q. Representative King, you know that there are other
16 circumstances, other meetings, that you were not chairing if
17 the chair stepped out for a few moments, correct?

18 A. That is not true.

19 Q. That is your position, correct?

20 A. No. It's what I experienced.

21 Q. And you also know, Representative King, that Chairman
22 Murphy was absent for a good bit of this past legislative
23 session, correct?

24 A. Yes, sir.

25 Q. Okay. And you know that, because of his absence, the

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

658

1 Judiciary Committee canceled a number of meetings or simply
2 did not schedule them in his absence, correct?

3 A. Correct.

4 Q. Okay. In fact, you did not simply take over and preside
5 in his absence for all other scheduled meetings after this
6 redistricting bill, correct?

7 A. That is not true.

8 Q. You chaired a meeting, correct?

9 A. I did chair a meeting.

10 Q. Okay. And you chaired that meeting after you complained
11 vigorously about the way you felt you had been treated with
12 respect to the redistricting bill; isn't that correct?

13 MR. TRIVEDI: Objection. Misstates testimony.

14 JUDGE GERGEL: I heard a lot of noise, but I have no
15 idea what just happened.

16 MR. MOORE: So, I'll rephrase.

17 BY MR. MOORE:

18 Q. Is it not correct that you were given the right to chair
19 that meeting because you complained vociferously about the way
20 you felt you'd been treated on January 10th?

21 A. I chaired the meeting -- let me get comfortable. I
22 chaired the meeting after the South Carolina Legislative Black
23 Caucus and members of the Democratic Caucus wrote a letter to
24 the Speaker acknowledging, acknowledging that they did not
25 follow the rules and how disrespectful it was. So, that's why

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

659

1 I chaired the meeting.

2 Q. Representative King, you're not aware of any rule in the
3 Judiciary Committee rules or in the House rules that says that
4 one particular rule trumps another, correct?

5 A. Am I aware of what, now?

6 Q. You're not aware of a specific rule in the House rules of
7 the Judiciary Committee, which we just saw, okay, that says
8 that one rule trumps another, correct?

9 A. I do not.

10 Q. Okay. And there's nothing in the House rules themselves
11 that governs whether one rule trumps another in a committee
12 rule book, correct?

13 A. I do know that the rules that we follow have been the
14 Rules 1 through 14 that we have followed since I've been on
15 judiciary.

16 Q. Okay. Well, Rule 14 was just enacted during the time of
17 COVID, correct?

18 A. I'm not sure exactly, because we would have had to vote
19 on that as a committee, and I don't remember voting on any new
20 rule changes during our committee.

21 Q. When did you become a member of the Judiciary Committee?

22 A. Years ago.

23 Q. All right. So, with respect to your comments about no
24 representation for CD 5, you don't know if, in the 2010 cycle
25 or the 2000 cycle, that the committee that considered the maps

JOHN KING - CROSS-EXAMINATION BY MR. MOORE

660

1 as an Election Law Subcommittee or as an Election Law
2 Subcommittee with extra people, had a representative through
3 each congressional district, do you, Representative King?

4 A. I don't remember the makeup of the committee. That has
5 been quite a while ago. But I do know that the election laws
6 was the base of where they selected the committee from.

7 Q. And I understand that. Do you also understand that
8 sometimes people can decide to change procedures, correct?

9 A. That is not typical for what we do in the House. We tend
10 to follow precedents.

11 MR. MOORE: I beg a moment, your Honor?

12 JUDGE GERGEL: Yes.

13 MR. MOORE: I think I have two final questions,
14 your Honor.

15 JUDGE GERGEL: Very good.

16 BY MR. MOORE:

17 Q. You're aware, Representative King, are you not, that the
18 bill that was ultimately signed into law is not the bill that
19 came out of the Judiciary Committee, correct?

20 A. Of course, I knew that.

21 Q. The bill that was signed into law was the Senate's
22 version?

23 A. Correct.

24 Q. And you're also aware -- or, were you aware,
25 Representative King, this meeting that you complain of

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

661

1 happened on January 10th, correct?

2 A. Yes, sir.

3 Q. January 10th of 2022, correct?

4 A. Yes, sir.

5 Q. Okay. And you're aware that a lawsuit was brought before
6 any votes on redistricting were even contemplated, correct?

7 A. Yes.

8 Q. Okay. And were you aware that the Court had set a date
9 to complete all redistricting by January 18th or lift a stay
10 in the lawsuit? Were you aware of that, Representative King?

11 A. Vaguely.

12 Q. Okay. Thank you, Representative King.

13 MR. MOORE: I don't have any other questions.

14 THE COURT: Thank you. From the Senate, any
15 questions?

16 MS. STRINGFELLOW: Just briefly, your Honor.

17 JUDGE GERGEL: Thank you. Let's avoid duplication.

18 **CROSS-EXAMINATION**

19 **BY MS. STRINGFELLOW:**

20 Q. Good afternoon, Representative King.

21 A. Good afternoon.

22 Q. Representative King, it's your testimony that you would
23 not have voted the map out of committee on January 10th; is
24 that correct?

25 A. That is correct. I don't think I voted for it anyway.

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

662

1 Q. And, as you previously testified, you were aware that the
2 Court had been given a deadline to the legislature to complete
3 the redistricting process by January 18th; is that correct?

4 A. I vaguely remember that, but I'm not 100-percent sure of
5 the date.

6 Q. But would you agree that delaying the committee's vote on
7 January 10th would have delayed the process and jeopardized
8 the Court-imposed deadline?

9 A. In my opinion, I wanted to make sure we had the best for
10 the citizens of South Carolina. And so, my ultimate goal as a
11 representative is to make sure that every citizen has a voice
12 in the political process. And unfortunately, with the
13 cracking and packing, we're still in court today because that
14 process was not done fair to the people of South Carolina.

15 Q. And I believe you testified about this, that the plan
16 that was before the committee on January 10th was not the
17 Senate plan that was ultimately enacted; is that true?

18 A. That is.

19 MS. STRINGFELLOW: Okay. No further questions, your
20 Honor.

21 JUDGE GERGEL: Thank you, Ms. Stringfellow.

22 Now, folks, that's a good model for
23 cross-examination, right?

24 MR. MOORE: Are you saying both were?

25 JUDGE GERGEL: Not -- I was identifying Ms.

1 Stringfellow.

2 MR. MOORE: I had to ask.

3 JUDGE GERGEL: Okay. We are making some progress
4 here, folks. And I'm just streamlining here. And I
5 appreciate it. And I have given my good friends on both sides
6 a bit of a hard time to keep us moving here, because we're
7 getting it. I mean, we understood the point about
8 Representative King. And what that means, you know, I think
9 we all recognize, in the big picture, it's just a piece of
10 evidence. It's the totality of the evidence that we have to
11 evaluate.

12 Okay. It is 12:30. Let us break.

13 You didn't have any redirect, do you?

14 MR. TRIVEDI: Had you asked, I would not have taken
15 any, but thank you, your Honor.

16 JUDGE GERGEL: Thank you. It was intentional. Okay.
17 Thank you, Representative King.

18 THE WITNESS: Thank you, your Honor.

19 JUDGE GERGEL: Let's be back at 1:30.

20 ***(Lunch recess)***

21 THE COURT: Any matters that need to be addressed
22 with the Court before we call the witness?

23 MR. CHANEY: Yes, please, your Honor.

24 Lynn Teague will be the next witness. And I wanted
25 to revisit the set of exhibits that Mr. Moore brought up this

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

664

1 morning. The set of exhibits that I believe defense counsel
2 intends to confront this witness with are covered by one of
3 our motions in limine, ECF 350. And so, at least in the first
4 instance, I'd like to question --

5 JUDGE GERGEL: What's the nature of these exhibits
6 that cause you concern?

7 MR. CHANEY: They're parts of e-mail threads, many of
8 which Ms. Teague is, like, on a CC line or a two line but
9 doesn't actually speak on. None of them involved people that
10 drew maps or passed maps. And so, at least in the first
11 instance, our argument is these aren't relevant, because if
12 they go to the mental state even of those saying something,
13 the mental states of those witnesses and out-of-court speakers
14 aren't relevant to any topic worth consideration by this
15 Court.

16 JUDGE GERGEL: Okay. Who wants to tell me about
17 these e-mails and why they're relevant?

18 MR. PARENTE: Yes, your Honors. These were e-mails
19 that -- most of the ones that I intend to ask Ms. Teague
20 about, she actually does write subsequent information about
21 discussions about their maps or the political process. I
22 believe they're relevant because plaintiffs are calling Ms.
23 Teague in their case-and-chief and making her relevant. They
24 haven't asked for --

25 JUDGE GERGEL: No. She doesn't make it relevant.

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

665

1 Her testimony is what's relevant. She's not relevant. The
2 relevance is the testimony. What about her comments are
3 relevant? We're spending a lot of time on irrelevant things
4 or repeatedly talking about things that are marginally
5 relevant. I'm just trying to keep us on track here.

6 MR. PARENTE: Yes, your Honor.

7 And most of these exhibits are very brief, and I'll
8 try to be brief with Ms. Teague. But there's a lot of
9 discussion about the partisan nature of the maps and the
10 General Assembly. There's also discussion about the
11 initiation of this litigation months before census data was
12 released. And I believe that goes to the credibility of
13 plaintiffs' claims here.

14 JUDGE GERGEL: I, frankly, think -- I mean, I
15 remember the original filing of the lawsuit was because there
16 was malapportionment, which every reapportionment plan begins
17 with. So, the fact they filed a lawsuit -- I thought we said
18 this before. So, they filed a lawsuit because there's going
19 to be malapportionment. The fact they filed the lawsuit
20 before a claim was adopted, I'm only looking at the third
21 superseding -- or the third amended complaint. All that other
22 stuff is irrelevant. I just don't see it as being important.

23 And the question is not whether individual members of
24 the NAACP may have a thought or two about -- I mean, I think
25 if it's something about partisanship and you want to bring

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

666

1 that up, that's fair. But just random comments about plans
2 that weren't adopted are not at issue. I'm just sort of
3 mystified by why we're talking about it.

4 MR. PARENTE: Your Honor, I apologize if I wasn't
5 clear. There's discussion about what types of claims
6 plaintiffs would be bringing in February of 2021, which is --

7 JUDGE GERGEL: But it doesn't matter. See, this is
8 the point. You're talking all these preliminary skirmishes.
9 We've got a plan. Is it constitutional? Is race predominant?
10 If race is predominant, is there a compelling state interest?
11 Those are the issues in front of us.

12 Somehow they didn't -- the first complaint or the
13 second complaint alleged something that's not part of the
14 third complaint, it just doesn't matter. And the complaint
15 only raises issues relating to the map. The enacted map is
16 the issue, not the NAACP, not the e-mails talking about what
17 they might do. All of that, it just seems to me, to be
18 largely window dressing.

19 I want you to put up your case, but the way you're
20 going to persuade us -- let me just say this very clearly --
21 is to show that the map is constitutionally defensible.
22 That's the issue. That's the only issue here. And all these
23 other things that we've just endlessly been talking about are
24 just -- you know, they're just distracting, and I don't think
25 they're helping your case.

1 You know, I always thought when I was presenting a
2 case, I wanted to take territory. I wanted to make a point
3 and help my client. Putting up stuff that doesn't matter just
4 doesn't carry you forward. It doesn't hurt you, it just
5 doesn't help you any. And I want you do stuff that helps your
6 case. I want everybody to put up their best case. So, an
7 endless discussion about NAACP internal discussions that don't
8 go to the constitutionality of this map, and attack the
9 credibility of somebody who did not enact the plan, I just
10 don't -- I'm just struggling with relevance. I don't know if
11 my colleagues --

12 Do you agree? And my colleagues agree -- we all
13 agree that it just doesn't seem relevant. Let's focus on the
14 map. Listen, there are plenty of issues to talk about with
15 this map. They're complicated, okay? And y'all would do your
16 best to just let's talk about the maps.

17 Yes, Mr. Moore.

18 MR. MOORE: I just want to add briefly, your Honor, I
19 get your point. Okay. I might not always do what goes to
20 your point, but I get your point.

21 JUDGE GERGEL: I would be stunned, Mr. Moore, if you
22 would do what I asked you to do. That would leave me
23 speechless.

24 MR. MOORE: But I'm trying my best, your Honor. I'm
25 trying my best, okay. But to respond to that, I'm not so sure

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

668

1 why Ms. Teague's testimony is relevant in any --

2 JUDGE GERGEL: I'm not sure either. I haven't heard
3 it, but I'm not sure either. I'll be honest with you.

4 MR. MOORE: And so, if it's relevant, then we should
5 have a right with respect to some of her testimony, because --

6 JUDGE GERGEL: Well, I'm going to limit. I'm not
7 going to have these endless discussions. Listen, she's a
8 representative of one of the plaintiffs. She can testify --

9 MR. MOORE: She actually is not. They actually did
10 not join the litigation. The League of Women Voters is not --

11 JUDGE GERGEL: This is the League? I didn't even
12 know who you were talking about.

13 MR. MOORE: This is the League of Women Voters, yes,
14 your Honor.

15 JUDGE GERGEL: So, why is she being offered?

16 MR. CHANEY: She has personal experience both in
17 Charleston and Columbia. They can walk through the map, and
18 her experience with the community, the interest in both of
19 those areas, to help the Court. The League developed its own
20 map that --

21 JUDGE GERGEL: I've been asking people about that
22 League map. I mean, I know nothing about it.

23 MR. CHANEY: Well, we're going to tell you about it.

24 JUDGE GERGEL: Okay. That, I think is relevant,
25 because it is an alternative. And one of the questions is --

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

669

1 and, you know, even if we were to rule for the plaintiff, we
2 send it to the legislature. We don't draw a map. They would
3 initially have a chance to do it. So, we're not in the
4 map-drawing business. But what we do want to know is, if we
5 were to determine there was a constitutional violation, I
6 don't want to be in a position asking the legislature to do
7 something they cannot possibly do. I mean, I want to make
8 sure it's doable.

9 MR. CHANEY: And I think the Court will
10 appreciate the map that the League of Women Voters have.

11 JUDGE GERGEL: And that, the League of Women Voters,
12 has gotten my attention. All I've seen about the League of
13 Women Voters is a little thing in Dr. Duchin's report. That's
14 all I got. And so, I've been asking people: Tell me more
15 about that report. It doesn't quite have the patina of
16 partnership of a Harpootlian Plan, and I'm just curious. Tell
17 me more about it. I don't have any opinion. I'm just asking
18 questions. So, if she can talk about the League of Women
19 Voters Plan, I'm interested in learning more about that plan.
20 Her knowledge -- let's think about this for a second.

21 Her knowledge about -- is it communities of interest
22 you want her to talk about? What do you want her to talk
23 about?

24 MR. CHANEY: Well, I'll tell the Court why it's
25 relevant. So, the Court mentioned wanting to hear about the

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

670

1 League's plan as an alternative that was put before the
2 legislature.

3 JUDGE GERGEL: Yes.

4 MR. CHANEY: I think what's relevant is not just the
5 shape and performance of that plan, but also the criteria that
6 went into developing it.

7 JUDGE GERGEL: I agree with that.

8 MR. CHANEY: And in the process of unpacking both the
9 criteria that went into developing it and its performance
10 relative to the enacted plan, one of the things that Ms.
11 Teague can talk about is what her map looks like relative to
12 the enacted plan and some particular areas that the Court has
13 heard a lot about.

14 JUDGE GERGEL: The more she gets into that, the more
15 the defendants have a right to cross-examine her about those
16 things, okay? I think, fair enough, if you want her to talk
17 about it -- and I'm all for her explaining that map -- the
18 defendants are going to have fair opportunity to cross her on
19 this.

20 Mr. Traywick?

21 MR. TRAYWICK: Your Honor, I'd also note that
22 Ms. Teague did not draw the map. So, we're kind of -- and in
23 comparing maps, we're kind of getting into expert land and a
24 26(e) problem, Rule 27 problems. We got problems.

25 MR. CHANEY: They can make their contemporaneous

JOHN KING - CROSS-EXAMINATION BY MS. STRINGFELLOW

671

1 objection. I don't think the Court will find her testimony to
2 be problematic. She was in the --

3 JUDGE GERGEL: And if we find it wanders into that,
4 Mr. Traywick, we're going to disregard it anyway. But I am
5 just trying to understand -- and I do not know the answer to
6 this question: Is there a reasonable option that is more
7 consistent with traditional districting principles, or are we
8 asking the legislature if we were to find a constitutional
9 violation, we're sending them on a fool's errand they can't
10 accomplish anyway?

11 So, I think these alternative plans are worthy of
12 discussion. And the League, as I said, being a
13 not-for-profit, nonpartisan group, I'd like to hear what
14 they've got to say.

15 MR. CHANEY: And certainly, your Honor. And we
16 understand that Ms. Teague should be exposed to
17 cross-examination about what she's going to testify about.
18 But what she's going to testify about does not include the
19 substance of these e-mails that well --

20 JUDGE GERGEL: Let's do this. Give me context. You
21 put up your direct. If they hard question her, I'll look at
22 the e-mails. And we'll look at the e-mails, and if we don't
23 think they're relevant, we won't allow it. If they're
24 relevant -- but I'm pretty liberal on cross-examination. You
25 put it up, they got a right to take a shot at it.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

672

1 MR. CHANEY: I understand that, your Honor. I
2 appreciate it.

3 JUDGE GERGEL: Okay. Call your next witness.

4 MR. CHANEY: Plaintiffs call Lynn Teague to the
5 stand.

6 *LYNN TEAGUE, having been first duly sworn, testified*
7 *as follows:*

8 DIRECT EXAMINATION

9 BY MR. CHANEY:

10 Q. Before we get started, a couple requests. First, do your
11 best to speak into the microphone. That's the only way that
12 our court reporter picks it up, so I know she'd appreciate
13 that. And then, second, if I ask you a question you don't
14 understand or you don't quite hear, just let me know, and I'll
15 repeat it or rephrase it, okay?

16 A. Great.

17 Q. Okay. And if you could please introduce yourself to the
18 panel, Ms. Teague.

19 A. I am Lynn Teague. I'm the vice president for Issues in
20 Action of the League of Women Voters of South Carolina.

21 Q. Thank you. And have you ever testified in court before?

22 A. I have not.

23 Q. Okay. Have you testified in the legislature before?

24 A. Many times.

25 Q. Okay. So, just not ever in court?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

673

1 A. Not in court.

2 Q. Where are you from, Ms. Teague?

3 A. I'm from South Carolina. I grew up in Columbia. My
4 family's spread all the way from Elloree to Charleston.

5 Q. Okay. Is your whole family going back also from South
6 Carolina?

7 A. Yes. Going back to before the revolution, yeah.

8 Q. Before the Revolutionary War?

9 A. Actually, going back 350 years, in one case.

10 Q. Okay. And where do you live now?

11 A. I live in Columbia.

12 Q. Okay. And what congressional district is that?

13 A. Well, it is now drawn into 6. It has been 2.

14 Q. Okay. Are you working full time right now?

15 A. I am a retired archeologist. And like everybody else
16 who's an officer in the League of Women Voters in South
17 Carolina, I am a volunteer.

18 Q. And tell us again what your role is with the League of
19 Women Voters.

20 A. Well, as vice president for issues and action, my
21 responsibility is basically -- and has been for 10 years
22 now -- to represent the League at the State House and to also
23 work with our local leagues on public education.

24 Q. What is the League of Women Voters?

25 A. It's a 102-year-old organization that grew out of the

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

674

1 suffragist movement. We took on the job of wanting to ensure
2 that once women got to vote, we were engaged, active and
3 informed voters. And we have expanded that to not
4 discriminate on the basis of gender.

5 Q. And what sort of work specifically does the League do in
6 South Carolina?

7 A. I work in South Carolina, as well as everywhere. It
8 falls under two different categories. We have voter services.
9 And that's what I think a lot of people are very familiar
10 with, seeing League people out telling people how to register
11 to vote, encouraging people to vote, managing candidate
12 forums, that sort of thing. That's a different side of the
13 activities than I'm on. The other thing is we advocate on
14 issues that are identified by our grassroots members.

15 Q. Okay. And does the League have any partisan affiliation?

16 A. We do not. I can safely say that we annoy both parties
17 often.

18 Q. You say you "annoy both parties"?

19 A. Yes.

20 Q. Okay. Do you also work with both parties?

21 A. Yes.

22 Q. Can you give us an example of that?

23 A. Well, we're here about redistricting. We had the only
24 truly bipartisan bill to attempt to get an independent
25 commission.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

675

1 Q. And can you mention some of the legislators that were
2 involved with that bill?

3 A. Yes. The primary sponsor was Representative Cleary, a
4 Republican. Representative Cogswell, who represents the area
5 where we are right now, was another. Jason Elliott, from
6 Greenville, and some Democrats. Representative Funderburk,
7 Bernstein --

8 Q. I won't make you list every single one of them.

9 A. Oh, okay.

10 Q. I appreciate that. Was the League of Women Voters in
11 South Carolina involved in the most recent congressional
12 redistricting cycle?

13 A. Yes, we were.

14 Q. And in your role as vice president and lead lobbyist,
15 were you personally involved on the League's behalf in the
16 redistricting work?

17 A. I was personally involved. I'm not one of the experts
18 who draws the map. I was the person assembling our team,
19 working with our team, and then representing the League at the
20 State House and presenting our positions and our maps.

21 Q. Understood. And we'll get to the map and some of those
22 decisions a little bit later. But if I ever ask you a
23 question that, because you're not a map drawer, you don't know
24 the answer to, please let me know. I don't want to push you
25 into that territory.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

676

1 A. Right. Thank you.

2 Q. Okay. Before we get there, have you ever worked with the
3 South Carolina State Conference of the NAACP?

4 A. Yes. The League has partnered with the South Carolina
5 State Conference of the NAACP over the years, and we were in
6 close communication throughout most of the redistricting
7 process.

8 Q. Aside from redistricting, do you work with the State
9 Conference on other issues as well?

10 A. Sure. We work with the State Conference on registering
11 voters, we work with them on managing panels -- educational
12 panels for the public.

13 Q. And you understand that the State Conference is the
14 plaintiff in this case, correct?

15 A. I do.

16 Q. Okay. Despite partnering with the State Conference in
17 various capacities, would you feel comfortable answering one
18 of my questions in a way that you felt might hurt the State
19 Conference's case in court today?

20 A. Yes, I would have to if it -- because I'm here
21 representing the League and I have to truthfully do that to
22 the best of my ability.

23 Q. Thank you, Ms. Teague. I'd like to turn to the
24 redistricting process and some of the public engagement around
25 the congressional redistricting plans specifically. Did the

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

677

1 legislature provide opportunities for members of the public to
2 provide input before maps were released?

3 A. They did. They provided opportunities beginning in late
4 July for public hearings around the state. Both Houses did
5 this. And then later, there were meetings at the State House
6 of committees.

7 Q. And did you submit testimony as part of that public input
8 process?

9 A. We submitted testimony at every stage, yes.

10 Q. Okay. And did you personally observe a lot of the public
11 testimony during those public hearings?

12 A. Yes, I did.

13 Q. Okay. And do you have a view as to whether those
14 opportunities for public input, from before the maps were
15 released, were sufficient to solicit public input?

16 A. Well, a lot of information came out of those early
17 hearings. But basically, once maps were there to look at,
18 that was a different issue. And there was, I think, less
19 opportunity at that point.

20 Q. Okay. I'd like to zoom in on that a little bit. You
21 mentioned that, at some point, maps were released. Between
22 when maps were released and the enacted plan was voted on by
23 both chambers, were there opportunities for public input in
24 that window?

25 A. There were opportunities for public input altogether from

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

678

1 late July into mid January. But the actual maps to look at,
2 coming out of the House and Senate, only came at the very end
3 of that process.

4 Q. Okay. And were you able to provide testimony subsequent
5 to the Senate and House maps being released?

6 A. Yes. The last testimony I presented was January 13th to
7 the Senate.

8 Q. Okay. And do you have a view as to whether those
9 post-map opportunities for public input were sufficient to
10 allow the public an opportunity to speak into that process?

11 A. I personally don't think so. The League was set up to do
12 this. We had made this a priority for several years. And we
13 did have people who were experienced and had done map drawing
14 and so forth. We had mathematicians who could help us
15 evaluate. But for the average member of the public, the time
16 frame was very short.

17 Q. Transitioning just a little bit, you mentioned earlier
18 that you had occasion to listen to a lot of that public input.
19 Did I hear you right?

20 A. Yes.

21 Q. Okay. What were some of the key themes, if any, that you
22 can recall through that public input process?

23 A. There were some very consistent themes. We heard over
24 and over again that people were disturbed about how fragmented
25 they felt their community was. This was true in Richland, it

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

679

1 was true in Charleston, and it was also true in other areas,
2 where members of the public that I heard speak said, we don't
3 want our community divided, you know, especially as it had
4 been divided in the existing maps.

5 Q. And we'll talk some more later about the enacted map
6 itself. But in comparing the public testimony that you heard
7 to the enacted map, were you left with an impression as to
8 whether or not the map was informed by that public comment?

9 A. I felt that the enacted map very inadequately reflected
10 the public comment that I had heard.

11 Q. And did that leave you with any view one way or another
12 about whether the congressional redistricting process was
13 transparent or accountable?

14 A. Yes. I felt that, while there were many opportunities
15 before the maps were released for people to say things and say
16 what their priorities were, in the ultimate endpoint, that
17 seemed not -- the accountability didn't seem to be there.

18 Q. Understood. I'd like to pivot to the League's own map in
19 that drawing process, if that's okay with you.

20 A. Yes.

21 Q. Did the League of Women Voters of South Carolina prepare
22 a congressional map?

23 A. We did.

24 Q. Okay. Who was involved in that process?

25 A. John Roof actually drew that map -- all of our maps. And

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

680

1 this was his fourth round of redistricting in South Carolina.
2 And he's an acknowledged expert, has testified as an expert.
3 And then, the team, the core team for the League included me
4 and mathematicians to help evaluate, someone to help
5 coordinate our external panel, because we wanted to get
6 comment from others who were not involved in the League effort
7 before submitting our map, and we did that, including
8 ex-legislators.

9 Q. And did the League develop its own criteria for its
10 map-drawing process?

11 A. Yes. We took off from the National League criteria, with
12 a few slight modifications. Our criteria were, first of all,
13 of course, equal population, contiguity, and a responsible
14 effort to allow minorities to be able to choose
15 representation. And those were our bottom-line criteria that
16 could not be violated.

17 We had a second tier of criteria, which were political
18 subdivisions. And this actually also reflects the comments we
19 heard a lot from the public as well as our own thoughts, and
20 communities of interest.

21 As a third tier, compactness. We looked at compactness,
22 but we didn't seek compactness if it violated these other
23 criteria.

24 Q. Understood. So, it sounds like you weighted certain
25 criteria more heavily than others?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

681

1 A. Yes.

2 Q. And I know you're not a map drawer, but, if you know, is
3 it common in the map drawing process to have one criteria
4 somewhat in conflict with another criteria?

5 A. Yes. That happens frequently.

6 Q. And so, the order of criteria that you described, the
7 first order are the ones that you would never violate?

8 A. Right.

9 Q. Okay. And then, sort of going on down, you would just
10 compare the relative weight given to that criteria to decide
11 which would triumph in a particular area?

12 A. Yes.

13 Q. Okay. Were there any other special rules that the League
14 applied to its own map-drawing process?

15 A. Yes. Our other rules were we did not consider incumbent
16 protection, although we did not seek to eliminate incumbents
17 at all. We simply did not prioritize protecting incumbents.
18 And we did not use -- even though the League's national
19 criteria would have allowed us to do it, we did not use any
20 partisan voting history, because we looked at that to evaluate
21 the maps afterwards, in comparison to other maps. We did not
22 use it in drawing our own maps.

23 Q. Okay. Just to make sure I'm understanding you correctly,
24 you did not rely on incumbent information or party voting
25 information at all in drawing your maps?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

682

1 A. Correct.

2 Q. Okay. In the map that you ultimately submitted, which
3 we'll unpack a bit later, were there any incumbents that were
4 moved or paired?

5 A. Actually, inadvertently and because we weren't paying
6 attention, it wasn't our priority. In our initial
7 congressional map, there was an incumbent who was drawn out of
8 his district. And when this was pointed out, we submitted an
9 amended map, because it was possible to do so without
10 violating any of our other criteria.

11 Q. And so, even without weighting or even considering
12 incumbency at all, at the end of the day, it only took a small
13 tweak to actually be respectful of all the incumbents?

14 A. Correct.

15 Q. And the other thing you didn't consider was political
16 information, partisan information?

17 A. Right.

18 Q. Help me understand that, because my understanding of the
19 League, I've heard you, Ms. Teague, talk about
20 competitiveness. Was it not a goal to draw a more competitive
21 map?

22 A. It was our belief that maps should reflect communities of
23 interest and give voters a fair chance. And we felt that in
24 the end, we didn't want to gerrymander for competitiveness.
25 We didn't want to prioritize it over other things. We felt

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

683

1 that in some communities it would arise naturally as a product
2 of the nature of the community of interest. And that, in
3 fact, is what happened.

4 Q. And, like I said, we'll unpack the map again later. But
5 in the map that came out, did you end up with a more
6 competitive map?

7 A. Our map?

8 Q. Yes.

9 A. Yes. It was more competitive. District 1 became very
10 competitive within its slight Republican lean, but within
11 one percentage point in using our figures.

12 Q. And that happened without considering party at all in the
13 map drawing?

14 A. Correct.

15 Q. And how did the League consider, if at all, the old map,
16 what people in court have called the benchmark map? But we'll
17 try to resist that.

18 A. Right. Yeah. Frankly, we consider our map the
19 benchmark. But basically, while we're not admirers of the old
20 map, when our criteria could be satisfied without making a
21 major alteration, we did that.

22 Q. So, it's sort of the lowest order of priority?

23 A. Precisely.

24 Q. Okay. And why was that? Why was it so low, one; and
25 then why did you consider it at all, two?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

684

1 A. Well, one reason we considered it was in hopes that that
2 would make it more likely that the general assembly would look
3 at it as something to consider in drawing their own maps. We
4 are not fans of the old maps. We believe that there have been
5 distortions over the years that we're not convinced -- again,
6 I'm not an attorney. But my understanding was that basically,
7 as maps were evaluated every 10 years, the question was
8 really: Has it gotten worse? And if you start with a bad
9 map, you keep asking has it gotten worse, you really still
10 have a bad map.

11 Q. That's a great way to put it. I appreciate that. A
12 couple more questions about the process itself.

13 Was it a priority of the League to create an additional
14 opportunity district for Black voters in your map?

15 A. No. We did not set out to create another opportunity
16 district.

17 Q. And does your map create an opportunity for Black voters
18 to elect a candidate of choice in a district other than CD 6?

19 A. Yes. We believe it would provide an excellent
20 opportunity in CD 1, because it's very competitive that we
21 made our map.

22 Q. And was the League required to compromise any of its
23 other map-drawing criteria in order to create that outcome?

24 A. Absolutely not, no.

25 Q. So, let's talk some about the map itself and how it

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

685

1 compares with the enacted map. I'd like to start with some
2 objective and sort of measurable performance statistics.

3 MR. CHANEY: And with the Court's permission, I'd
4 like to forego a discussion of what each redistricting
5 principle means. I think the Court understands that --

6 JUDGE GERGEL: We get it. We get it.

7 MR. CHANEY: -- and Ms. Teague does as well.

8 Mr. Najarian, can you bring up PX-72, please?

9 **BY MR. CHANEY:**

10 Q. Ms. Teague, I'm showing you Plaintiffs' Exhibit 72. Can
11 you tell what this chart is depicting?

12 A. Well, yes. This is looking at some of the basic criteria
13 here.

14 Q. And do you recognize the Polsby-Popper score? Are you
15 familiar with that metric?

16 A. Yes.

17 Q. Okay.

18 A. Higher is better.

19 Q. Higher is better. And are we talking about compactness
20 here? I guess I should back up. You have to say yes or no, or
21 our court reporter won't pick it up.

22 A. Yes.

23 Q. Was compact district a goal of the League map?

24 A. It was a tertiary level goal. In spite of that, we came
25 up with fairly compact maps because it turned out that that's

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

686

1 where our other criteria led us.

2 Q. So, it was considered, but it wasn't one of those top
3 priorities?

4 A. Right.

5 MR. TRAYWICK: Your Honor, objection. I've given a
6 ton of leeway to Mr. Chaney. He's been leading Ms. Teague.

7 JUDGE GERGEL: He's not leading her much. Let's just
8 keep the discussion going.

9 MR. CHANEY: I'm just parroting back what --

10 JUDGE GERGEL: You don't have to explain. Listen,
11 like almost every witness that's been put up, they can speak
12 for themselves. The lawyers don't need to testify for them.
13 But I overrule the objection. Go ahead.

14 MR. CHANEY: Thank you, your Honor.

15 **BY MR. CHANEY:**

16 Q. And to your knowledge, was compact district a goal in
17 either the House or Senate redistricting guidelines?

18 A. Supposedly. It's among the criteria they said they were
19 using.

20 Q. Right. And we'll highlight the rows associated with the
21 League of Women Voters in the enacted map.

22 A. Yes. Well, our map is decidedly better than the enacted
23 map.

24 Q. And we'll get there. Does the League map or the enacted
25 map perform better on the Polsby-Popper score?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

687

1 MR. TRAYWICK: Objection, your Honor. They're
2 comparing maps, and this is what expert testimony is. I mean,
3 this was a --

4 MR. CHANEY: This is already in evidence.

5 JUDGE GERGEL: This is already in evidence. All
6 right. Listen, she doesn't really need to testify, because I
7 can look at it and know the answer --

8 MR. TRAYWICK: Right. It's also cumulative.

9 JUDGE GERGEL: -- but I don't think it's a basis of
10 objection, because it doesn't take any special expertise to
11 read the map I'm looking at.

12 **BY MR. CHANEY:**

13 Q. And what about the Reock score, Ms. Teague? Does the
14 enacted map or the League map perform better?

15 A. The League map performs better.

16 Q. And then finally, the Block-edges score, which performs
17 better?

18 A. Ours performs better.

19 Q. Okay. Now, just to be clear, are you familiar with the
20 intricacies of what each one of these different scores
21 measure?

22 A. Only roughly, I'll be honest. I'm not an expert at map
23 drawing.

24 Q. Okay. But your testimony, at least from this map, on
25 every compactness score, the League's map performs better?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

688

1 A. Right. Yes. I certainly looked at these comparisons as
2 the maps were generated, yes.

3 MR. CHANEY: And if we could move, Mr. Najarian, to
4 PX-73.

5 BY MR. CHANEY:

6 Q. What are we looking at here, Ms. Teague?

7 A. Okay. We're looking at splits. And the League takes
8 splits very seriously.

9 Q. Yeah. I was going to ask: Was it important to the
10 League to avoid splits?

11 A. We really wanted to avoid splits, especially at the
12 county level. We believe that counties represent, in fact,
13 communities of interest in themselves in that they're governed
14 as units, they're operating under the same ordinances and
15 policies and, over time, have developed cohesion. Most of
16 these counties are fairly old. And so, we really wanted to
17 avoid county splits. And it's normally a good principle of
18 redistricting to avoid it.

19 Q. To your knowledge, was it also part of the House and
20 Senate guidelines, that they, too, were seeking to avoid
21 county splits?

22 A. It's part of the traditional redistricting criteria, yes.

23 Q. And does the League's map or the enacted map do better on
24 county splits and subdivision splits?

25 A. The League's map does better.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

689

1 MR. CHANEY: And if we could look at city splits in
2 PX-74, please.

3 BY MR. CHANEY:

4 Q. Without belaboring the point, Ms. Teague, does the
5 League's map or the enacted map do better on city splits?

6 A. League map does better.

7 Q. And what about on town splits?

8 A. We do better.

9 Q. Okay. Thank you. I'd like to move now to the actual
10 lines and communities affected by the League's map and the
11 enacted map.

12 MR. CHANEY: Mr. Najarian, could you please publish
13 Senate Exhibit 70A side by side with House Exhibit 22?

14 BY MR. CHANEY:

15 Q. Do you recognize these two maps?

16 A. Yes. The League map and the enacted map.

17 Q. Now, before we jump into the map, Ms. Teague, you've
18 mentioned a few times the term, community of interest. What
19 does that term mean to you specifically?

20 A. Well, communities of interest are usually defined by
21 common economic bases and social relationships. And we
22 believe also that those county lines that we saw earlier are
23 important in recognizing communities of interest.

24 Q. Do communities of interest exist at multiple different
25 sort of levels, different sizes?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

690

1 A. Absolutely. A congressional district is large, and there
2 will inevitably be variation in it.

3 Q. Great. Thank you.

4 MR. CHANEY: Mr. Najarian, if we could zoom in on
5 Charleston on each map? Thank you.

6 BY MR. CHANEY:

7 Q. Ms. Teague, are you familiar with the Charleston area?

8 A. I have been familiar with the Charleston area all my
9 life, which is, at this point, a fairly long time.

10 Q. And how are you familiar with the Charleston area?

11 A. Well, I have relatives here. I've always had relatives
12 here and family that we would visit. We vacation down here.
13 And when I was a child, you know, as a long-time South
14 Carolinian, I, like many people, have horror memories of the
15 old Grace Bridge, but also many good memories throughout my
16 life of the Charleston area.

17 Q. Could you succinctly describe for us the differences
18 between the League map and the enacted map in the Charleston
19 area?

20 A. Yeah. The Charleston area is one in which we were very
21 concerned about the enacted map. We see the greater
22 Charleston area as a very important community of interest.
23 And that includes not just the peninsula and not just the
24 peninsula in West Ashley, but it has always included, for
25 centuries, James Island, what is now Mt. Pleasant, Daniel

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

691

1 Island and so forth. And that is an area that has been united
2 for centuries by an economic base that's heavily focused on
3 the port.

4 Q. You said "for centuries." That's a bold claim. But can
5 you tell us a little bit more about what makes you say that?

6 A. Yes. I could bore this Court at great lengths. But
7 early on, there were shipwrights working out of James Island,
8 out of West Ashley. There was a shipyard founded around 715
9 that was very close to where the Wando terminal is now. At
10 the same time, there were wharves on the peninsula that were
11 maintained by individual merchants. And it was all very much
12 an integrated community.

13 Q. Based on your knowledge of Charleston, do the district
14 lines in the enacted map appear to be respectful of the
15 community of interest you're describing?

16 A. The district maps and the enacted map do not respect that
17 community of interest at all.

18 Q. How so?

19 A. Well, it takes the peninsula and part of West Ashley out
20 of association with James Island, the Mt. Pleasant area and so
21 forth, areas that have been part of the same community for a
22 very long time and still are.

23 Q. When you were describing Charleston earlier, you
24 mentioned the Port of Charleston. Can you explain why you
25 mentioned that and whether the port is itself important to

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

692

1 what community of interest Charleston is?

2 A. Well, one of the first things we noticed about the
3 enacted map was that it actually splits the port facilities.
4 So, we have with Wando terminal in CD 1, and then we have the
5 Charleston peninsula facilities in CD 6.

6 Q. And just to make sure I'm looking at the right place on
7 the map, would that be the sort of vertical line in the
8 enacted map?

9 A. Yes.

10 Q. Okay. That splits the peninsula from Mt. Pleasant?

11 A. Right.

12 Q. And did you say there are port facilities on both sides?

13 A. Yeah. In both districts, yeah. It splits the South
14 Carolina Port Authority facilities.

15 Q. Now, I heard you say earlier that keeping a community of
16 interest in tact is important to the League. But Charleston
17 wasn't whole in the last redistricting map, right?

18 A. That's true.

19 Q. Okay. Now, over the last decades, have there been any
20 changes or developments in the Charleston area that would
21 justify keeping Charleston in a single district?

22 A. Yeah. Well, there have been. We think, all alone, there
23 was rationale for keeping it all together, but now even more
24 so. Because, what we've seen is that economic base becoming
25 stronger and more extensive, moving out from the core

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

693

1 facilities there in the port. And, for instance, driving down
2 from Columbia yesterday, I was seeing industrial development,
3 signs of industrial development and residential development as
4 far as north of Summerville that would not have existed a few
5 decades ago.

6 Q. And so, is the community of interest that you're
7 describing of all of Charleston, would you say that that's
8 tied together more strongly or less strongly now than it was
9 in the last cycle?

10 A. Even more strongly than it was.

11 Q. And finally, looking at the areas of the map assigned to
12 CD 6 -- so, with the peninsula, for example -- do those areas
13 have more in common with other parts of Charleston that we've
14 been talking about, or with downtown Columbia?

15 A. Oh, downtown Columbia is very different. The economic
16 base in Columbia, of course, has little to do with the port.
17 It's state government, the University of South Carolina, Fort
18 Jackson. It's the center of the Midlands economy, and very
19 different.

20 Q. Thank you. In looking at the enacted map, do the
21 district lines in the Charleston area appear to adhere to
22 traditional redistricting principles?

23 A. We don't believe they do.

24 Q. Okay. But beyond the permissible redistricting criteria,
25 does there appear to be any logic or explanation for how these

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

694

1 lines were drawn?

2 A. We could not help but observe that it seemed that high
3 density Black population precincts were drawn out of CD 1.

4 Q. Thank you.

5 MR. CHANEY: Now, Mr. Najarian, could you zoom us out
6 and then zoom us back in to Richland County?

7 BY MR. CHANEY:

8 Q. Ms. Teague, you mentioned you live in Columbia. Can you
9 describe just briefly the differences between what the League
10 did and what the enacted map does in the Richland County area?

11 A. Yes. We kept Richland in tact, rather than having CD 2
12 intrude all through north Richland County and over into Fort
13 Jackson. And we felt this was appropriate for a number of
14 reasons. One is that Richland does represent a community of
15 interest. The other is that Lexington and Richland are very
16 different. They're close. You see there, the little river is
17 what divides them. But the other things that divide them are
18 huge. Lexington has a very low minority population. Richland
19 I think is 49.something percent Black. Really different
20 interest represented.

21 Q. Was Richland County split in the old map?

22 A. Yes.

23 Q. Okay. And would that be the sort of hook shape?

24 A. Yes.

25 Q. And why didn't the League maintain those lines, or

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

695

1 something close to it, with the map that you sent to the
2 legislature?

3 A. We felt there was no good rationale in the classic
4 traditional redistricting criteria for putting that hook
5 through Richland.

6 Q. And based on your knowledge of the area, is there any
7 organizing logic for the lines in the enacted map to sort of
8 cleave through Richland County in the way that it does?

9 A. Well, it -- they certainly -- it's observable that they
10 crack Black neighborhoods.

11 Q. And now, you would agree that Fort Jackson is a component
12 of this map?

13 A. Yes.

14 Q. Okay. And do you think that the existence of the base
15 justifies, under redistricting principles, sort of splitting
16 the base from the rest of Columbia?

17 A. No. I'd say the base has much more in common
18 economically with the rest of Columbia than it does with
19 Lexington.

20 Q. Okay. And the last topic I want to discuss is
21 competitiveness and partisan advantage. Does the League's map
22 or the enacted map do a better job of entrenching a 6-1
23 partisan advantage in South Carolina?

24 A. Well, the enacted map is certainly a much better job of
25 entrenching that 6-1.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

696

1 Q. And specifically, which map creates a more politically
2 competitive district in CD 1?

3 A. The League created a much more competitive district in CD
4 1.

5 Q. And you testified earlier that was not a goal of the
6 League, right?

7 A. No. We did not design it to be competitive.

8 Q. In your entire involvement in this redistricting cycle,
9 did you ever hear someone say that partisan advantage in CD 1
10 is a priority of the congressional redistricting plan?

11 A. In all the hearings that I participated in, I did not
12 hear anyone say, gee, what we really want to do here is
13 protect a party.

14 Q. Is partisan gain a traditional redistricting principle?

15 A. Well, not for the League.

16 Q. Is it in the Senate or House's redistricting guidelines?

17 A. No.

18 Q. Okay. Now, what about all the public testimony you
19 testified you listened to? Did you hear anybody come in and
20 say, I really want a map that ensures a 6-1 majority for
21 Republicans?

22 A. No.

23 Q. And, Ms. Teague, how long have you worked in and around
24 the State House?

25 A. Ten years for the League.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

697

1 Q. And do you have good relationships with legislatures?

2 A. I have good relationships with many legislatures.

3 Q. Friends with some of them?

4 A. Yeah, uh-huh.

5 Q. Okay. And do they talk to you off the record, sometimes?

6 A. Yes.

7 Q. Did you ever hear, even in private conversation, that the
8 House or Senate was trying to redraw congressional maps to
9 ensure partisan gain?

10 MR. PARENTE: Objection, your Honor. Calling for
11 hearsay again.

12 JUDGE GERGEL: It goes to the purpose. Overruled.

13 MR. CHANEY: I'll repeat the question.

14 THE WITNESS: Yes, please.

15 **BY MR. CHANEY:**

16 Q. Did you ever hear, even in private conversations, that
17 the House or Senate was trying to redraw the congressional map
18 so as to ensure a partisan gain in CD 1?

19 A. No. Well, I should say that, at one point, a question
20 was raised in a Senate committee whether there had been
21 national Republican involvement. And I heard no clear answer
22 to that.

23 Q. Okay. Thank you. Thank you for adding that. And thank
24 you for your patience, Ms. Teague. I'm getting close to the
25 end. I don't want to keep you up there for too long.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

698

1 Now, ultimately the League's map was not made into law,
2 correct?

3 A. Correct.

4 Q. Was there a point in the legislative process where there
5 appeared to be some clear finalists to be passed in the law?

6 A. Well, yes. The Senate Amendments 1 and 2.

7 Q. Tell us about that. Tell us about those two maps.

8 A. Okay. Yes. I testified on those. Senate Amendment 1
9 was basically the Senate's leadership's map, and Senate
10 Amendment 2 was Senator Harpootlian's. And they differed
11 significantly.

12 Q. Did the League or yourself have a position as to which
13 map it preferred?

14 A. Yes. In fact, I think in my oral testimony, I was more
15 blunt than I am in my written testimony, and simply started by
16 saying that Senator Harpootlian's map was very good, and the
17 other map was not.

18 Q. Okay. And why did you say that? What caused you to form
19 that opinion?

20 A. Well, on basically every measure of traditional
21 redistricting, the Harpootlian map was higher scoring, you
22 know, for compactness and other variables, and it responded to
23 the great public interest in keeping counties like Charleston
24 and Richland whole. It responded even to the desire that had
25 been expressed by several people in one House hearing that

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

699

1 Beaufort be kept in CD 1.

2 Q. Yeah. And I'd love to kind of unpack that just a little
3 bit. You mentioned that the Amendment 2 did a better job than
4 Amendment 1 at compliance with the traditional redistricting
5 principles. But what about with fidelity to the Senate's own
6 guidelines?

7 A. Well, the Senate's own guidelines were basically
8 traditional redistricting criteria, yeah.

9 Q. And so, under those guidelines, which map performed
10 better?

11 A. The Harpootlian Amendment.

12 Q. Okay. And in your view, is the Harpootlian Amendment or
13 the Senate Amendment 1 more responsive to the public input you
14 heard?

15 A. The Harpootlian Amendment.

16 Q. Okay. And you mentioned Beaufort. Can you tell me more
17 about the input from Beaufort?

18 A. Oh, yes. Several maps, including the League's map, did
19 not have Beaufort in CD 1. And there was one House hearing
20 where there was the secession of maybe half a dozen people who
21 testified -- I think four or five of them were from Beaufort,
22 one, a public official. And there was one who was actually a
23 declared candidate who said she was going to run in the
24 Republican primary, but later withdrew.

25 Q. And the input also came in from Charleston, you said?

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

700

1 A. Yes.

2 Q. And that's the input we discussed already?

3 A. Right.

4 Q. And then Richland County, is that what you already
5 discussed earlier?

6 A. Yes.

7 Q. Okay. So, of those three communities -- Beaufort,
8 Charleston and Richland -- did Amendment 1 honor all three?

9 A. No.

10 Q. Did it honor any of the three?

11 A. No.

12 Q. Well, did Amendment 1 honor the request from Beaufort
13 residents?

14 A. Well, it did honor the request from Beaufort residents,
15 yes, but it did not honor the requests from people who were
16 concerned about Charleston or Richland.

17 Q. And what about Senator Harpootlian's map? Did it honor
18 the requests from the people in Beaufort?

19 A. Yes, it did.

20 Q. And the other two as well?

21 A. Yes.

22 Q. So, in rough terms, if you know, what are the demographic
23 compositions of Richland and Charleston compared to Beaufort?

24 MR. TRAYWICK: Objection, your Honor. She's not an
25 expert in demography.

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

701

1 JUDGE GERGEL: If she knows. She doesn't need
2 special expertise. We could take judicial notice of it. So,
3 go ahead and answer.

4 THE WITNESS: Yes. We've looked at the raw census
5 figures and so forth. Beaufort has about a 17-percent Black
6 population in the 2020 census, which is in contrast to
7 Charleston, Colleton, Berkeley, all of which are over
8 25 percent.

9 Q. And I think you testified earlier that Richland has a
10 significant minority population?

11 A. Just under 50-percent Black population.

12 Q. Okay. And so, the Harpootlian Amendment was responsive
13 to all three major sort of community inputs, and the Amendment
14 1 was responsive only to Beaufort; is that right?

15 A. Only to Beaufort, yes.

16 Q. Okay. And based on all that, did the legislature
17 ultimately pass the Harpootlian map or Amendment 1?

18 A. Amendment 1.

19 Q. Okay. And as a member of the public, did that decision
20 leave you with an impression as to what was driving the
21 legislature's map-drawing decision?

22 A. Yes. When I look at the map that was enacted, it looked
23 to me like there was a very pronounced racial factor in how
24 the lines were drawn.

25 Q. Based on your observation of the process leading up to

LYNN TEAGUE - DIRECT EXAMINATION BY MR. CHANEY

702

1 the congressional redistricting plan, as well as the substance
2 of the map itself, are you left with any view as to the role
3 race played in the map's formation?

4 A. I think race was a major tool that was used to achieve
5 the ends of the map drawers.

6 Q. What's the basis of that view?

7 A. Both the specifics and the statewide. You know, in the
8 specific, we can look at things like Charleston, where we see
9 high density Black populations being drawn out of CD 1.
10 Statewide, aside from CD 6, which is a very white-side
11 district, we know that South Carolina has highly variable
12 racial distribution populations going from about seven percent
13 in the Pickens area down to the majority in some counties down
14 in the Lowcountry. And so, you would expect some variation
15 there. Instead, what we see in the enacted map is that the
16 minority population, especially the Black population, seems to
17 have been evened out between the other districts. They range
18 only from a little under 17-percent BVAP to a little under 25,
19 I think.

20 Q. And based on all that, knowing what you know being a
21 native South Carolinian, and from helping draw the League's
22 own map, do you believe it's possible to arrive at the enacted
23 map without using race as a predominant factor?

24 A. I don't see how you would do that, certainly not using
25 the traditional redistricting criteria.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

703

1 MR. CHANEY: Just one moment, your Honor.

2 I have no further questions at this time.

3 JUDGE GERGEL: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. PARENTE:

6 Q. Good afternoon, Ms. Teague. My name is Michael Parente.
7 I'm one of the attorneys for the House of Representatives in
8 this case. It's nice to meet you.

9 Did you bring any documents with you today?

10 A. I have some documents with me, yes.

11 Q. Do you have them up there on the witness stand with you?

12 A. Yeah, I do.

13 Q. Have you referred to any of those documents during your
14 testimony?

15 A. No.

16 Q. And what is the content of those documents?

17 A. Copies of the testimony that I gave in all of those
18 hearings and committee meetings, copies of the maps, and my
19 summary of the stats on the maps, all of which is posted on
20 our website.

21 Q. Okay. And you reviewed those documents in preparation
22 for today's testimony?

23 A. Yes, I did.

24 Q. And do you recall the House of Representatives issued the
25 League of Women Voters South Carolina a document subpoena in

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

704

1 this case?

2 A. Yes.

3 Q. And do you recall the organization was kind enough to
4 provide numerous documents in response to that subpoena?

5 A. Yes. We provided I think over 20 gigabytes.

6 Q. And are you aware that that production of documents was
7 much more voluminous than the production we received from the
8 plaintiffs in this case?

9 A. No, I wasn't aware of that.

10 Q. All right. And I appreciate your cooperation on that.
11 I'll ask for a little more context on some of those documents
12 in just a minute. But you testified earlier that you are the
13 vice president of Issues & Action with the League of Women
14 Voters in South Carolina; is that accurate?

15 A. That's accurate.

16 Q. And as part of that role, your organization engages in
17 litigation related to voting rights; is that correct?

18 A. We have, yes. Two occasions over the past 10 years.

19 Q. And your organization has filed lawsuits against the
20 House of Representatives previously over election laws; is
21 that correct?

22 A. In 2020, yes.

23 Q. And was that related to absentee ballots during COVID?

24 A. Yes.

25 Q. And, Ms. Teague, your organization is not a plaintiff in

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

705

1 this case that we're here for today, are they?

2 A. That's right.

3 Q. But your organization had been involved in the South
4 Carolina Reapportionment Committee that was chaired by members
5 of plaintiffs, South Carolina State Conference of the NAACP;
6 is that correct?

7 A. Yes.

8 Q. And you and members of the League of Women Voters
9 attended those reapportionment committee meetings; is that
10 correct?

11 A. Yes.

12 Q. And you personally were a signatory on certain letters
13 that were sent to the House of Representatives and to the
14 Senate regarding redistricting?

15 A. Right. On the process issues, yes.

16 Q. Okay. And the League of Women Voters of South Carolina's
17 logo is used on the letterhead of those letters; is that
18 correct?

19 A. Yes.

20 Q. But at some point before the October 8th letter that was
21 sent to the House and to the Senate, the League of Women
22 Voters's logo was removed, and you stopped signing those
23 letters; is that correct?

24 A. I'm trying to recall. Yes.

25 Q. And did you stop signing those letters because the

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

706

1 coalition of the NAACP and the ACLU was too focused on
2 politics for the League's liking?

3 A. No. We didn't think they were being partisan, but we had
4 different maps. We knew all along that, while we had very
5 compatible interests, they weren't the same interests.

6 MR. PARENTE: Ms. Leclerc, I'd like to introduce
7 House Exhibit 121.

8 MR. CHANEY: And, your Honor, I would just ask if Mr.
9 Parente would give me a chance to look at these documents
10 before they're placed on the screen.

11 JUDGE GERGEL: Absolutely.

12 MR. PARENTE: And would the Court like to see the
13 document before I move to enter it into evidence?

14 JUDGE GERGEL: If there's going to be an objection.
15 Is there an objection to it?

16 MR. CHANEY: Not to this one, subject to preserving
17 the issues raised in ECF 315, much in the same way as the
18 *Daubert*.

19 JUDGE GERGEL: If there's not an objection, I don't
20 need to look at it. If you'll show it to us. What's the
21 number?

22 MR. PARENTE: House Exhibit 121, your Honor.

23 JUDGE GERGEL: Is there an objection to House 121?

24 MR. CHANEY: Only the ones previously raised, your
25 Honor.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

707

1 JUDGE GERGEL: Very good. From the Senate, any
2 objection?

3 MR. TRAYWICK: No objection, your Honor.

4 JUDGE GERGEL: House 121 is admitted. Please
5 proceed.

6 *(House Exhibit 121 was admitted into evidence.)*

7 JUDGE GERGEL: Our first rendition of the League of
8 Women Voters map was when y'all just put it on the screen a
9 minute ago. Could someone print us some colored copies of
10 that. We'd love to have three colored copies of that map --
11 or one. My law clerk can copy it for us.

12 MR. PARENTE: May I approach?

13 JUDGE GERGEL: Yes. Are we going to be offering the
14 Harpootlian map at some point?

15 MR. GORE: Your Honor, I'll just not for the record
16 that all these maps are already in evidence as Senate
17 exhibits. I'm happy to give you those numbers.

18 JUDGE GERGEL: Yeah. Maybe help us with numbers.
19 But there are so many volumes of stuff, if somebody could give
20 us some colored maps, we'd just eyeball it. Because,
21 everybody is talking about all this expert stuff and
22 statistics, and complicated statistics that we couldn't
23 possibly figure out ourselves. The maps are very revealing,
24 you know, one way or the other.

25 Let me give y'all another revolutionary idea. You

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

708

1 could give us a hard copy of the document you want to put up.

2 MR. TRAYWICK: Your Honor, may I approach?

3 JUDGE GERGEL: You may.

4 MR. TRAYWICK: This is Senate's Exhibit 78.

5 JUDGE GERGEL: Thank you. That's very helpful.

6 MR. PARENTE: Sorry for the interruption, your Honor.

7 JUDGE GERGEL: Please proceed.

8 MR. PARENTE: Thank you, your Honor.

9 **BY MR. PARENTE:**

10 Q. Ms. Teague, I believe before the interruption -- and I
11 apologize for that -- you mentioned that partisanship didn't
12 factor into your decision to stop signing on to those letters;
13 is that accurate?

14 A. That's correct.

15 Q. Okay. Ms. Teague, do you recognize this e-mail?

16 A. Oh, I do. I do. In fact, I can address it easily.

17 Q. Sure. And this e-mail is dated February 4th, 2021; is
18 that correct?

19 A. Yes.

20 Q. And is that approximately six months before census data
21 was released?

22 A. Yes. And census data came out in August.

23 Q. And you were previously involved in the NAACP calls; is
24 that correct?

25 A. Yes.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

709

1 Q. And the League decided to exit those calls; is that
2 correct?

3 A. Actually, we did not exit those calls.

4 Q. Did the League exit those calls for a period?

5 A. I think for one call we raised our concern that having
6 active members of the legislature involved gave the appearance
7 of partisanship, and everyone agreed with us in the NAACP.
8 And it was decided that there would not be any further
9 participation by anyone who was acting as an elected official.
10 And from that time on, we were very comfortable with the
11 calls.

12 Q. And these references to Scott and Govan are Senators John
13 Scott, Jr. and Representative Jerry Govan; is that correct?

14 A. Yes.

15 Q. And those two members of the general assembly are
16 Democratic members; is that correct?

17 A. Correct. And I'll add that it was not anything in
18 particular that they said that led to our decision, it was
19 simply that there's an obvious danger there.

20 Q. And what was that danger?

21 A. Well, the perception that the League was involved in a
22 partisan effort.

23 Q. All right.

24 MR. PARENTE: I'm going to take down House
25 Exhibit 121 and move to introduce House Exhibit 138.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

710

1 MR. CHANEY: And, your Honor, we're going to object
2 to 4.01 relevance as well as hearsay. The bulk of this
3 contains Ms. Teague talking about what somebody else --
4 actually, my predecessor, Susan Dunn -- told her.

5 Another excerpt is a statement by John Ruoff, who's
6 not Ms. Teague, with his opinion as to yet another third
7 party. And it's unclear how any of this has anything to do
8 with the matters before the Court.

9 JUDGE GERGEL: Can we see the document?

10 MR. PARENTE: Yes, your Honor.

11 MR. CHANEY: I would prefer if you would approach the
12 Court instead of publishing it.

13 MR. PARENTE: May I approach, your Honor?

14 JUDGE GERGEL: How is this relevant?

15 MR. PARENTE: Your Honors, I believe it's relevant
16 because there's discussion about national folks coming in and
17 being the new big dog on the block, which refers to parties
18 involved in this litigation months before census data was even
19 released.

20 JUDGE GERGEL: Let me take my view here, and then I'm
21 going to consult with my colleagues. It seems to me what was
22 sort of done before there were maps or things that were done
23 in other plans, unless they tell us something about the
24 current plan, it's just not relevant. And this is sort of
25 internal debate among these advocacy groups. How does that

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

711

1 tell us whether or not the plan before the Court, the enacted
2 plan, is or is not constitutional? I just don't get the
3 relevance.

4 MR. PARENTE: And it may not be in this particular
5 e-mail, but there's discussions months beforehand where
6 there's discussions of racial gerrymandering.

7 MR. CHANEY: And he's testifying as to stuff that's
8 not before the Court. If he has other e-mails, I think we can
9 address those.

10 JUDGE GERGEL: Well, I can only address one e-mail at
11 a time. Overruled. Proposed House Exhibit 138 is excluded
12 because the objection is sustained on the basis of relevance.

13 MR. PARENTE: Thank you, your Honor.

14 Your Honors, Senate Exhibit 70A is already admitted
15 into evidence.

16 JUDGE GERGEL: Yes.

17 MR. PARENTE: I'd like to publish this exhibit.

18 **BY MR. PARENTE:**

19 Q. Ms. Teague, do you recognize this map?

20 A. Yes. That's the map we submitted.

21 Q. And, Ms. Teague, you mentioned this is the League of
22 Women Voters map that was submitted to both the House and
23 Senate.

24 A. Yes.

25 Q. And is this the corrected version that you mentioned or

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

712

1 the original version?

2 A. Quite honestly, I'm not sure. It was a minor change.

3 Q. And the League of Women Voters submitted its own separate
4 congressional map to the legislature; is that correct?

5 A. Yes.

6 Q. And the NAACP and ACLU submitted two different maps to
7 the legislature; is that correct?

8 A. Correct.

9 Q. Your organization did not sign on to the NAACP or ACLU
10 maps; is that correct?

11 A. Correct.

12 Q. Do you know who drew the NAACP or ACLU maps?

13 A. No.

14 Q. Ms. Teague, the League of Women Voters' submission that
15 we're looking at here includes Beaufort County in
16 Congressional District 2; is that correct?

17 A. Yes.

18 Q. And you mentioned before that you heard public opposition
19 from residents of Beaufort to being included in Congressional
20 District 2; is that correct?

21 A. Correct.

22 Q. And you mentioned that maybe half a dozen people
23 testified about Beaufort wanting to be included in
24 Congressional District 1; is that correct?

25 A. That was at one House hearing, yes, that I recall

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

713

1 distinctly.

2 Q. Do you know how much written testimony the House received
3 regarding Beaufort's wanting to be included in Congressional
4 District 1 rather than Congressional District 2?

5 A. I do not.

6 Q. The League of Women Voters map that we're looking at here
7 also puts Bennettsville in Congressional District 7 with
8 Moncks Corner; is that correct?

9 A. Yes.

10 Q. And Bennettsville and Moncks Corner had not previously
11 been included in the same congressional district; is that
12 correct?

13 A. That's correct.

14 Q. Would you agree that Congressional District 7 in this map
15 that we're looking at here is not touched to the least amount
16 possible?

17 A. Well, yeah, I mean, it's not a least-changed option, yes.

18 Q. So, you would agree this is not a least-changed plan,
19 correct?

20 A. Correct. And we had never asserted that our plan was
21 that.

22 Q. And you discussed with Mr. Chaney a moment ago how many
23 counties the League of Women Voters map split. Do you recall
24 that testimony?

25 A. Yes.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

714

1 Q. And one of the charts Mr. Chaney showed you earlier
2 listed the NAACP map as splitting 19 counties. Do you recall
3 seeing that figure?

4 A. I do.

5 Q. And a 19-county split is more than the enacted plan
6 split; is that correct?

7 MR. CHANEY: Your Honor, I'm not sure why Ms. Teague,
8 who's the League representative, needs to be asked questions
9 about the NAACP map.

10 JUDGE GERGEL: Let me say, questioning her about a
11 map she didn't endorse, doesn't support, and disputes with, I
12 don't know that accomplishes anything. We can obviously read
13 Dr. Duchin's charts. And we saw that there were, frankly,
14 issues with the NAACP 1, and particularly the number one map,
15 not as much as number two, but there are issues. We get that.
16 But I don't think you need to have this witness point it out
17 to us.

18 MR. PARENTE: I'll move on, your Honor. Thank you.

19 BY MR. PARENTE:

20 Q. The League of Women Voters' submission prioritized
21 keeping counties whole; is that correct?

22 A. Yes.

23 Q. And keeping counties whole was elevated over other
24 traditional redistricting principles; is that correct?

25 A. It was elevated over compactness, competitiveness.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

715

1 Q. Was it elevated over any other traditional redistricting
2 principles?

3 A. Well, there were traditional redistricting principles
4 that we didn't use in drawing our maps, as I've said before.
5 We --

6 Q. I'm sorry. Go ahead and finish.

7 A. You know, incumbent protection in the form of consistency
8 and so forth, we didn't use that at all.

9 Q. Thank you, Ms. Teague. And are you aware that the League
10 of Women Voters' map split 23 VTDs?

11 A. Yes.

12 Q. And are you aware that that is ten more VTD splits than
13 the enacted plan?

14 A. Actually, I had forgotten that.

15 Q. And so, while the League prioritized keeping counties
16 whole, the League of Women Voters map split Marlboro County;
17 is that correct?

18 A. Yes.

19 Q. And it also split Edgefield County; is that correct?

20 A. Yes.

21 Q. And it also split Barnwell County; is that correct?

22 A. Yes.

23 Q. Ms. Teague, do you know the population of Marlboro
24 County?

25 A. No.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

716

1 Q. What about Edgefield County?

2 A. No.

3 Q. What about Barnwell County?

4 A. I do not know any county populations off the top of my
5 head.

6 Q. So, the League prioritized keeping counties together
7 without knowing the population of those counties; is that
8 correct?

9 A. Well, our map drawer was certainly paying attention to
10 that, but I would say, in the case of Marlboro, there was
11 internal debate.

12 Q. And are you aware those three counties all have less than
13 27,000 residents each? Does that sound about correct to you?

14 A. Yes. They're definitely lower population counties.

15 Q. You would agree they're smaller counties in South
16 Carolina?

17 A. Right. If --

18 Q. And are you aware -- I'm sorry, go ahead.

19 A. If where you're going is did we prioritize protecting one
20 size of county over protecting another size of county,
21 basically, no we didn't.

22 Q. Okay. Thank you, Ms. Teague. Are you aware that the
23 League of Women Voters map does not have a total deviation of
24 one person?

25 A. Yes. We have three. We're told that that could be

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

717

1 easily corrected, but, yes.

2 Q. So, it could be easily corrected, but that would mean
3 further changes would need to be made to the map; is that
4 correct?

5 A. Yes.

6 Q. And those further changes to the map may involve
7 splitting more counties or VTDs in order to achieve population
8 equality; is that correct?

9 A. I would be very surprised if it involved splitting more
10 counties. It could involve splitting more VTDs.

11 Q. Thank you.

12 MR. PARENTE: One moment, your Honor.

13 JUDGE GERGEL: You're fine.

14 MR. PARENTE: If we could switch back to the document
15 camera.

16 Well, your Honor, I'm turning to Plaintiffs'
17 Exhibit 67, which has been admitted into evidence. It's Dr.
18 Duchin's report, which Ms. Teague was just shown portions of.

19 JUDGE GERGEL: This is Dr. Duchin's report, correct?

20 MR. PARENTE: It is, your Honor, yes.

21 JUDGE GERGEL: Yes. Thank you.

22 **BY MR. PARENTE:**

23 Q. And this is on page nine of Dr. Duchin's report. Ms.
24 Teague, the BVAP, the Black voting age population, in
25 Congressional District 6 in the League of Women Voters

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

718

1 submission is 47.65 in this chart; is that correct?

2 A. Let's see here.

3 JUDGE GERGEL: I'm sorry. What was the question?

4 Ask the question again.

5 MR. PARENTE: I'm sorry. I was looking at the wrong
6 number. I apologize.

7 JUDGE GERGEL: Yes, I thought you were. Go right
8 ahead.

9 **BY MR. PARENTE:**

10 Q. The Black voting age population in Congressional District
11 6 in the League of Women Voters' submission here is shown as
12 48.8 percent; is that accurate?

13 A. That's correct.

14 Q. And are you aware that is using the "any part Black"
15 demographic?

16 A. Yes.

17 Q. And are you aware that the general assembly was using the
18 DOJ definition for Black?

19 A. Yes.

20 Q. And you're aware that those numbers may differ; is that
21 correct?

22 A. Yes.

23 JUDGE GERGEL: Do they, in fact, differ?

24 MR. PARENTE: They do, your Honor. The number that I
25 have that's available on the website, I believe this is --

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

719

1 MR. CHANEY: And, your Honor, I'm going to object.

2 This is not the way evidence comes in at trial.

3 JUDGE GERGEL: I know, but I just want to -- I'm just
4 trying to figure out if it's a material matter, because I want
5 to delve into it if it is.

6 MR. CHANEY: Yes, your Honor.

7 JUDGE GERGEL: And if you disagree, you can tell me,
8 and we can get into it. I'm just trying to figure it out.

9 MR. PARENTE: Your Honor, if I may put up Senate
10 Exhibit 70E.

11 JUDGE GERGEL: Has it been --

12 MR. PARENTE: It is admitted into evidence, your
13 Honor.

14 JUDGE GERGEL: Correct. Thank you. And what are
15 these numbers for? What plan is this?

16 MR. PARENTE: This is the League of Women Voters'
17 submission, your Honor.

18 JUDGE GERGEL: Thank you.

19 **BY MR. PARENTE:**

20 Q. And, Ms. Teague, is that clear enough to read? It may be
21 a little bit blurry. I apologize.

22 A. It's a little bit blurry, but, yes, I can read it.

23 Q. And do you see the last column has the header "Percent NH
24 18+ DOJ Black"?

25 A. Right. I do.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

720

1 Q. And that number for District 6 in the League of Women
2 Voters map is 47.65; is that accurate?

3 A. That's correct.

4 Q. And are you aware that the same number for the enacted
5 plan is 47.42 percent?

6 A. Let's see. Yes.

7 JUDGE GERGEL: Let me see if I understand your point.
8 Your point is one is able to get essentially the same number
9 as the enacted plan without going into Charleston, correct?

10 MR. PARENTE: That it has a similar Black voting age
11 population in Congressional District 6.

12 JUDGE GERGEL: Thank you, Mr. Parente.

13 THE WITNESS: Yes. I don't believe at any point we
14 challenged that.

15 MR. PARENTE: Thank you.

16 Your Honor, I'd like to show Senate Exhibit 70F which
17 has been admitted into evidence.

18 JUDGE GERGEL: And what is that?

19 MR. PARENTE: This is a core constituency report
20 that's available online for the League of Women Voters map.
21 And I don't want to speak on behalf of the Senate, but I
22 believe there was an issue with stamping this document so that
23 the number was typed in on the bottom here. But this has been
24 admitted into evidence without objection.

25 MR. CHANEY: As long as it's the actual 70F, then

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

721

1 we're good.

2 MR. PARENTE: It is.

3 BY MR. PARENTE:

4 Q. I'm going to turn the page to the last page, which shows
5 the League of Women Voters Congressional Plan District 6 and
6 the core constituencies. The League of Women Voters map
7 retained only 45.20 percent of Congressional District 6; is
8 that accurate?

9 A. Of the prior map?

10 Q. Yes.

11 A. I don't know. It doesn't sound unreasonable, but I don't
12 know that figure.

13 Q. Okay. And are you familiar with these types of reports
14 from the program Maptitude?

15 A. Yes, although in focus is better.

16 Q. I apologize. I'm having troubling with this technology.
17 Is that better?

18 A. Better. Yes, definitely.

19 Q. I'm impressed with myself. Ms. Teague, if you look at
20 the highlighted row that starts with "District 6" --

21 A. Yes.

22 Q. -- and under the population in the first column, does
23 that number reflect 45.20 percent?

24 A. Yes.

25 Q. And I believe you testified earlier the League of Women

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

722

1 Voters did not consider their map to be a least-changed plan;
2 is that correct?

3 A. Correct.

4 Q. And the League of Women Voters map did not consider core
5 retention as a traditional redistricting principle, did it?

6 A. We did not. In the case of District 6, I will do the
7 unwise thing of amplifying and say that we believed that there
8 was an adherence to communities of interest in drawing a map
9 that showed a strong Midlands community of interest.

10 Q. And, since you mentioned Midlands' community of interest,
11 you testified earlier with Mr. Chaney that you believe
12 Richland County is a community of interest; is that correct?

13 A. Yeah, I believe most counties are a community of interest
14 in the sense that they have common government and have
15 responded to common government for some period of time in most
16 cases.

17 Q. So, you believe that Irmo has a community of interest
18 with Hopkins?

19 A. Irmo and Hopkins. Irmo and Hopkins are pretty different.
20 We know that every congressional district has variation,
21 internal variation. The's inevitable.

22 Q. Thank you, Ms. Teague. And the League of Women Voters
23 map also did not consider an incumbency protection; is that
24 correct?

25 A. That's correct.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

723

1 Q. And, in fact, the League of Women Voters paired
2 Congressman Duncan and Congressman Timmons in Congressional
3 District 3; is that correct?

4 A. Inadvertently, because we were not paying a lot of
5 attention to that. We did submit an amended map that
6 corrected that without violating our criteria.

7 Q. So, considering incumbency was a criteria of the League?

8 A. Well, it was not an original criterion at all. Our
9 attention was drawn to it, and we saw no reason to provoke
10 objections to our map on grounds that could be corrected
11 without changing our criteria.

12 Q. And when you say "provoke objections," do you mean that
13 you were aware that the general assembly, which is controlled
14 by Republicans, would not pass a map that put two Republican
15 congressman in the same district; is that accurate?

16 A. I would say that for both parties there's usually an
17 aversion to double bunking.

18 Q. And what do you mean by "double bunking"?

19 A. Drawing two legislators into -- incumbent legislators
20 into the same district.

21 Q. And so, you're saying that should be avoided, if at all
22 possible?

23 A. I'm saying that was not a driving force for us, but we
24 recognized that it was for the general assembly.

25 MR. PARENTE: Your Honors, I'd like to move to

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

724

1 introduce House Exhibit 148.

2 JUDGE GERGEL: Is there an objection?

3 MR. CHANEY: One moment, your Honor, I need to look
4 at it.

5 Okay. And, your Honor, we object for many of the
6 same reasons. The portions of this exhibit that reflect
7 statements by Ms. Teague are minimal and don't have any
8 bearing on the material issues. I'd ask the Court to consider
9 it as --

10 JUDGE GERGEL: Well, let me hear the relevance of it,
11 please, sir.

12 MR. CHANEY: Yes.

13 MR. PARENTE: And, your Honor, I would only focus on
14 the portion that Ms. Teague is writing here. But it is an
15 e-mail about -- Ms. Teague just testified about double
16 bunking, and it's an e-mail about double bunking incumbents.

17 JUDGE GERGEL: Well, she's corrected it -- first of
18 all, the plan submitted by the League caught this so-called
19 double bunking and supplemented it. I can't imagine why this
20 is relevant to our consideration. I mean, we're not adopting
21 any plan. If we were to find a violation, we would send it
22 back to the legislature. So, this is not a point to fine-tune
23 the little flaws of any party's -- I assure you, every plan
24 has its flaws. And I would be stunned if the general
25 assembly, if it were sent back, would adopt in total any plan

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

725

1 presented.

2 So, if the question is if at one time they had double
3 bunking, and they fixed it, discussions about double bunking
4 seem to me to be irrelevant. Would you agree with that?
5 Okay. So, if it's about double bunking, we sustain the
6 objection.

7 MR. PARENTE: Thank you, your Honor. I'll move on.

8 **BY MR. PARENTE:**

9 Q. Ms. Teague, you testified at several House and Senate
10 hearings; is that correct?

11 A. Yes.

12 Q. So, there were ample opportunities for the public to
13 engage with the general assembly on redistricting; is that
14 correct?

15 A. Correct. Well, I would say there were many.

16 Q. And one of the goals you stated in that public testimony
17 was that you and your organization wanted more competitive
18 districts; is that correct?

19 A. We hoped that that would be the result of the map we drew
20 and of maps drawn by the general assembly, yes.

21 Q. And currently in South Carolina, the general assembly is
22 controlled by the Republican Party; is that correct?

23 A. Yes.

24 Q. So, your goal in creating more competitive districts was
25 to give Democratic candidates more chance to win elections; is

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

726

1 that right?

2 A. It was to give voters more of a choice, more of an
3 opportunity to make decisions.

4 Q. More of an opportunity to vote for Democratic candidates,
5 though; is that right?

6 A. Well, or to reject them.

7 Q. And so, would you agree that the League of Women Voters
8 maps would not give the same political advantage to
9 Republicans as the enacted plan?

10 A. That's correct.

11 Q. So, the enacted plan performs better for Republicans than
12 the League of Women Voters Plan; is that accurate?

13 A. That's correct.

14 Q. And the League of Women Voters Plan would not perform as
15 well politically for Republicans or incumbents; is that
16 correct?

17 A. Assuming that prior voting histories and so forth are
18 predictive, yeah.

19 MR. PARENTE: Your Honor, I'd like to go back to
20 Plaintiffs' Exhibit 67, which is Dr. Duchin's report, which is
21 in evidence. And I'd like to show page 25.

22 BY MR. PARENTE:

23 Q. Ms. Teague, can you see that okay?

24 A. Yes. It is in focus.

25 Q. And, Ms. Teague, on the line that says "League of Women

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

727

1 Voters of South Carolina," it shows that the effectiveness out
2 of 28 races is six; is that correct?

3 A. Yes.

4 Q. And that's comprised of two races in Congressional
5 District 1 and four races in Congressional District 6; is that
6 correct?

7 A. Yes.

8 MR. CHANEY: And, your Honor, I'm going to object.
9 I don't think there's been any foundation laid for Ms. Teague
10 to know what this map does or doesn't stand for.

11 JUDGE GERGEL: Ms. Teague can speak for herself. If
12 she doesn't feel comfortable answering, she can so say. But
13 she's responding, so I overrule the objection.

14 THE WITNESS: Yeah, I don't feel very comfortable
15 responding to this, actually.

16 BY MR. PARENTE:

17 Q. Okay. Are you familiar with what an effectiveness
18 analysis is?

19 A. Yes.

20 Q. And an effectiveness analysis shows how a map will
21 perform politically based on partisan data; is that correct?

22 A. Yes.

23 Q. And so, does this appear to be an effectiveness analysis
24 that you're familiar with?

25 A. It's not one that I have -- it's not a specific one that

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

728

1 I've studied in the past, yes.

2 Q. Do you have any -- I'm sorry, go ahead.

3 A. No, I have not studied this particular analysis.

4 Q. But you testified earlier that, in the League of Women
5 Voters submission, it gave Congressional District 1 a chance
6 to elect a candidate of choice; is that accurate?

7 A. Yes.

8 Q. And, based on looking at this chart, does the League of
9 Women Voters perform politically the same as the map labeled
10 "Harpootlian"?

11 A. Yes.

12 MR. CHANEY: And, your Honor, I'm going to object
13 again. This isn't a political effectiveness map, this is a
14 racial effectiveness map -- or a chart. Excuse me.

15 JUDGE GERGEL: I think asking a witness to testify
16 about something she just said she's not particularly familiar
17 with is just not very helpful to the Court.

18 MR. PARENTE: I'm done with this.

19 JUDGE GERGEL: We can read the report. We heard a
20 lot from Dr. Duchin and we've seen this chart repeatedly. I
21 just don't know why asking this witness, who says she's not
22 familiar with it, anything about it. Now, if you want to ask
23 her about the League itself, the League map, ask her about
24 that. Don't ask her about something she's not familiar with.

25 MR. PARENTE: Thank you, your Honor. I'm done with

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

729

1 this exhibit.

2 And, your Honors, I'd like to move House Exhibit 149
3 into evidence.

4 JUDGE GERGEL: Is there an objection?

5 MR. CHANEY: One moment, your Honor.

6 And, your Honor, once again, insofar as this is
7 somebody not involved in the map-drawing process, talking
8 about pre-litigation conversations, or map-drawing
9 conversation within a coalition of people who are also not
10 going to be drawing the map that was passed, I don't think
11 there's any relevance.

12 JUDGE GERGEL: Well, let me hear the defense's
13 explanation on relevance.

14 MR. PARENTE: Yes, your Honor. Ms. Teague testified
15 about attending a public hearing and about who was speaking at
16 those hearings and what type of testimony was presented at
17 those hearings. And this is an e-mail that discusses
18 participants in those hearings and what testimony was given.

19 JUDGE GERGEL: And what specifically is this
20 addressing?

21 MR. PARENTE: It's addressing the members who spoke
22 at that meeting about Beaufort being included in CD 1.

23 JUDGE GERGEL: Okay. I think she's discussed it.
24 I'll overrule the objection.

25 MR. PARENTE: Thank you, your Honor. I'd like to

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

730

1 publish House Exhibit 149.

2 JUDGE GERGEL: Does the Senate object to the --

3 MR. TRAYWICK: We do not, your Honor.

4 THE COURT: House Exhibit 149 is admitted.

5 *(House Exhibit 149 was admitted into evidence.)*

6 MR. PARENTE: Thank you, your Honor.

7 BY MR. PARENTE:

8 Q. Ms. Teague, do you recall this e-mail?

9 A. Yes, I do.

10 Q. And what is the date of this e-mail?

11 A. Well, this is December 27th and 28th.

12 Q. And with that time frame do you know which map this
13 e-mail is referring to?

14 A. The first alternative House map.

15 Q. How is that --

16 A. There was an original staff house map, and it was
17 followed by a House alternative map.

18 Q. Thank you. So, this is referring to that alternative,
19 the second house staff plan?

20 A. Yes.

21 Q. And, Ms. Teague, looking at the bottom e-mail that you
22 write, you say that you: Wouldn't be surprised if the far
23 right Beaufort folks, and in parentheses (Lynn's Piper,
24 whatever, and her friends) -- closed parens -- who testified
25 that Beaufort must be in CD 1, weren't lined up by Weston

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

731

1 Newton to give them one excuse to do this.

2 Is that an accurate reading of your e-mail?

3 A. That's what I said.

4 Q. And do you have any evidence to support the claim that --

5 JUDGE GERGEL: Now, hold on a minute. You're
6 impeaching on something she didn't testify about. Here,
7 you're bringing it in and then want to impeach her. What's
8 the point? And how is it relevant to whether the enacted map
9 is constitutional?

10 MR. PARENTE: In her direct, she testified about the
11 handful of folks that testified at public hearings.

12 JUDGE GERGEL: Okay. And she's now commenting about
13 her speculation about it. I just don't know why that's
14 relevant to this case.

15 Is there an objection?

16 MR. CHANEY: I mean, my objection continues in
17 perpetuity, your Honor.

18 JUDGE GERGEL: I sustain. This is not relevant.

19 MR. PARENTE: Thank you, your Honor. May I move up
20 to a different e-mail in this chain?

21 JUDGE GERGEL: Okay. Go right ahead.

22 **BY MR. PARENTE:**

23 Q. Ms. Teague, let me move to this top e-mail.

24 MR. CHANEY: And, your Honor, just to be clear, the
25 top portion of the e-mail isn't based on the relevance

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

732

1 proffered to the Court already.

2 JUDGE GERGEL: And tell me why this is relevant.

3 MR. PARENTE: This is relevant because Ms. Teague has
4 testified that she presented testimony to the legislature on
5 multiple occasions about the House and Senate plans, and I
6 believe this goes to the credibility of that testimony.

7 JUDGE GERGEL: Okay. Let me read what it says.

8 MR. CHANEY: And, your Honor, this is a consistent
9 statement with her testimony today about what she heard in
10 Charleston County.

11 JUDGE GERGEL: I'll overrule the objection. Go ahead
12 and ask her what you're going to ask her. I'm not sure where
13 this is going.

14 MR. CHANEY: And, your Honor, to the extent that we
15 don't revisit the admissibility of just this portion, I would
16 just make it clear for the record that I would want the
17 exhibit to be scrubbed of the bottom e-mail that the Court has
18 already determined --

19 JUDGE GERGEL: Let me say, this is just a three-judge
20 panel. We'll disregard what's not -- clearly what we've been
21 showed so far wasn't relevant. I'm not sure this is relevant.
22 Let me hear the question.

23 MR. PARENTE: Thank you, your Honor.

24 **BY MR. PARENTE:**

25 Q. Ms. Teague, are you aware that there were hundreds of

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

733

1 submissions by a variety of residents in Beaufort that they
2 wanted to remain in a Coastal district and not in
3 Congressional District 2 with Lexington and Macon?

4 A. I believe I already testified that I was not aware of how
5 many written submissions there were from any area, really.

6 Q. And you say in this e-mail that: "We are basically just
7 laying out a position to build a record for our friends at the
8 LDF and ACLU at this point." Is that accurate?

9 MR. CHANEY: And, your Honor, I'm going to object.
10 That's what Ms. Teague is doing. It has nothing to do with
11 the public testimony that could potentially provide a hook to
12 Mr. Parente's line of questioning.

13 JUDGE GERGEL: Overruled. You can question her about
14 that.

15 MR. PARENTE: Thank you.

16 BY MR. PARENTE:

17 Q. I'll repeat it, Ms. Teague. Is it an accurate reading of
18 your e-mail that, "We are basically just laying out a position
19 to build a record for our friends at LDF and ACLU at this
20 point?"

21 A. Yes. I think the following sentence --

22 JUDGE GERGEL: Read the next sentence.

23 THE WITNESS: Yeah. The next sentence matters. "The
24 House has no intention of listening to anyone."

25 I will say, first of all, if the question is, did I

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

734

1 sometimes become frustrated and even cranky during this long
2 contentious process, I concede. I plead guilty. I did not
3 mean that we were choosing to, in any way, modify what we were
4 saying in support of anybody else's position. But we
5 recognized by this time that we were unlikely to be litigants
6 in this because it requires more bandwidth than the League
7 has, to be blunt. And so, we knew that it was likely that it
8 would be litigated and we wanted our presentations on the
9 record for consideration.

10 Q. And I think you mentioned earlier the House had an
11 initial staff plan and an alternative staff plan; is that
12 correct?

13 A. Yes.

14 Q. And are you aware that the alternative staff plan took
15 into account that considerable testimony from the public and
16 made those changes in the alternative plan?

17 A. Yes. But, again, I was not aware of how many written
18 submissions there were. I did not investigate that at any
19 time.

20 Q. Okay. Thank you, Ms. Teague. Those are all my questions
21 for you.

22 JUDGE GERGEL: Thank you.

23 MR. MOORE: Could we just take a moment?

24 JUDGE GERGEL: Yes.

25 MR. PARENTE: Your Honor, there's one more exhibit

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

735

1 I'd like to move into evidence, which is House Exhibit 142.

2 JUDGE GERGEL: Is there an objection to House 142?

3 MR. CHANEY: Just one moment, your Honor.

4 And, your Honor, this is an e-mail of Ms. Teague
5 explaining why she's declining to participate in litigation as
6 a litigant. She's already answered this question. It doesn't
7 say anything different.

8 JUDGE GERGEL: Well, let me hear what --

9 MR. CHANEY: So, to be clear, we are objecting as the
10 to relevance.

11 JUDGE GERGEL: Very good.

12 MR. PARENTE: Your Honor, there's a reference to the
13 House and racial gerrymandering in this, which Ms. Teague has
14 testified that the House and Senate engaged in racial
15 gerrymandering.

16 MR. CHANEY: Your Honor, she has not testified as to
17 the phrase "racial gerrymandering."

18 MR. PARENTE: She testified that --

19 JUDGE GERGEL: I think she said it was racially
20 focused. I disagree. Let me see the document.

21 MR. PARENTE: Would you like me to publish it, your
22 Honor, or bring it up?

23 JUDGE GERGEL: No. Just hand it up to Ms. Perry.

24 MR. CHANEY: I'm sorry to interrupt, your Honor.

25 Just one more thing. It's clear from the last sentence in the

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

736

1 third paragraph that the substance of this e-mail has to do
2 with the House and Senate plans and not congressional.

3 JUDGE GERGEL: Thank you. We'll read it.

4 I'll overrule the objection. House 142 is admitted
5 for whatever marginal relevance it may have.

6 ***(House Exhibit 142 was admitted into evidence.)***

7 MR. PARENTE: Thank you, your Honor.

8 **BY MR. PARENTE:**

9 Q. Ms. Teague, do you recognize this e-mail?

10 A. Let's see here. Yes, I do.

11 Q. And the subject of this e-mail is: Zoom with John Cusick
12 and others from LDF. Is that accurate?

13 A. And it does address the Senate and House maps, but, yes,
14 I recognize this.

15 Q. And you write in the first paragraph of this e-mail about
16 a Zoom with John Cusick and others from the LDF, and the
17 subject is "potential litigation." Is that correct?

18 A. Yes. The question was very basic. It was, were we
19 planning to litigate.

20 Q. And you state further down in this e-mail that you are so
21 personally disinclined to engage in litigation; is that
22 correct?

23 A. Yes. I have to take into account that the League is an
24 all volunteer -- except for one part-time clerk --
25 organization without attorneys, without the capacity to take

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

737

1 on a lot of litigation.

2 Q. But you discuss filing an amicus brief in this case, but
3 you have not filed one in this case, have you?

4 A. Not in this case, no.

5 Q. You state further down that, "You don't think the Senate
6 or House maps are likely to be successful racial gerrymander
7 cases." Is that an accurate reading?

8 A. Yes. In fact, I will recall shocking the Senate
9 committee when I testified that they'd drawn a pretty decent
10 map.

11 Q. And you go on to say --

12 JUDGE GERGEL: You're not objecting to that?

13 MR. PARENTE: Judicial notice, please.

14 **BY MR. PARENTE:**

15 Q. And, Ms. Teague, you go on to say that, "The House has
16 been evil." Is that accurate?

17 A. Yes, that's what I said.

18 Q. And you used the word "evil" there; is that right?

19 JUDGE GERGEL: We can read it.

20 THE WITNESS: Yes.

21 **BY MR. PARENTE:**

22 Q. And you go on to say, "but not necessarily through a
23 racial gerrymander;" is that right?

24 A. In the case of the House, yes, the House map. "An expert
25 would need to address that," is what I went on to say.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. PARENTE

738

1 Q. And you think that the House has been evil because you
2 don't agree with their politics; is that correct?

3 A. You know, I over -- no. I disagreed with the fact that
4 they had drawn a map that our mathematicians told us was
5 wildly biased. And "evil" is not a good choice of words
6 there, but, again, you know, this is a long -- you've seen
7 hundreds of my e-mails. And I don't think that I've always
8 used the best words or, in some cases, even -- in some cases,
9 I've just been upset.

10 But what our mathematicians told us was that, on the
11 House map out of 11.8 billion simulations that they ran in the
12 Monte Carlo Markov chain analysis, only 470 were more biased
13 than what the House, in fact, passed. So, that led -- I could
14 have said -- would have been better advised to say: The House
15 has devised a remarkably gerrymandered map.

16 Q. And when you used the word "biased" in your testimony a
17 moment ago, you mean politically biased; is that correct?

18 A. Actually, I mean statistically biased. Monte Carlo
19 Markov chain, we did not -- it does not measure why it's
20 biased, it just measures if it's biased.

21 JUDGE GERGEL: Let me remind you that we are here on
22 the congressional map, not the House and Senate map. So let's
23 move on.

24 MR. PARENTE: I understand, your Honor. Those are
25 all my questions.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

739

1 Thank you, Ms. Teague

2 JUDGE GERGEL: Anything further, Mr. Traywick?

3 MR. TRAYWICK: Thank you, your Honor.

4 JUDGE GERGEL: I can always count on my friend, Mr.
5 Traywick, to be brief.

6 MR. TRAYWICK: Brief, noncumulative thoughts only.
7 Thank you.

8 **CROSS-EXAMINATION**

9 **BY MR. TRAYWICK:**

10 Q. Ms. Teague, my name is Lisle Traywick, and I represent
11 the Senate defendants in this matter. It's nice to see you.

12 A. Nice to see you.

13 Q. Thank you for being here. You would agree that the
14 Senate held 10 public hearings across the state, correct?

15 A. Yes.

16 Q. And all that was before drafting guidelines and drawing
17 maps, correct?

18 A. Yes. In fact, if you'd like to walk through the process,
19 I'll say I think the Senate did a very fine job of organizing
20 its public hearings around the state.

21 Q. Thank you. I appreciate that. You just saved some
22 questions, too.

23 A. I thought I might.

24 Q. That's right. And those were for both Senate and
25 congressional --

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

740

1 A. Yes.

2 JUDGE GERGEL: But, you know, Mr. Traywick, if you
3 ask more questions, you might get answers you don't like.

4 MR. TRAYWICK: That's right. I better leave it
5 there.

6 BY MR. TRAYWICK:

7 Q. So you were present at a lot of the meetings in Columbia
8 as well; correct?

9 A. Correct.

10 Q. Of the subcommittee and then the committee?

11 A. Yes.

12 Q. Okay. Do you remember being present at the Senate
13 redistricting subcommittee meeting during which Senator Rankin
14 set a deadline for public submission?

15 A. Yes, I do.

16 Q. And do you remember telling him that you were ready to
17 submit your map that afternoon?

18 A. Yes.

19 Q. So, you were ready to go?

20 A. Yes, indeed. I remember that very clearly. It was
21 September 17th, 2021.

22 Q. Okay. And other groups submitted a bunch of maps for
23 consideration as well, correct?

24 A. Yes.

25 Q. Okay.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

741

1 A. But we wanted to make it very clear that the League was
2 not going to delay anybody's process.

3 Q. Sure. And we appreciate that. So, you've monitored the
4 legislative process in South Carolina for decades, right?

5 A. Yes -- well, for 10 years, yes.

6 Q. Ten years. Okay. So, it wouldn't surprise you at all
7 that constituents would also directly contact their senators
8 or representatives, right?

9 A. I would be astonished if they didn't.

10 Q. Sure. So, the body of testimony and feedback was not
11 just limited to folks who showed up either in person or
12 virtually at public hearings, correct?

13 A. Oh, absolutely, yeah. I tried to make it real clear I
14 claim no knowledge of the comprehensive body of input that
15 legislatures got.

16 Q. And the Senate's first public hearing was on July 26,
17 2021. Does that sound right?

18 A. Yeah, that sounds right. And July 27th I think was the
19 first testimony.

20 Q. Okay. And then, didn't the Senate staff release a plan
21 on November 23rd?

22 A. November 23rd? Yes.

23 Q. And then the map passed the Senate on January 20th,
24 correct?

25 A. Yes.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

742

1 Q. Of 2022?

2 A. Right. The last hearing on that one was January 13th.

3 Q. So, from the time the Senate staff plan was released
4 until passage of it -- of the congressional plan that was
5 enacted, was roughly 60 days, right?

6 A. For the Senate map or the congressional?

7 Q. The congressional?

8 A. Okay. The final congressional map, I don't think was
9 introduced very long before those hearings.

10 Q. But did it work any significant changes from the staff
11 plan?

12 A. Okay. I'm trying to think back here. Yes. Inclusion of
13 the enacted map includes all of the Charleston peninsula, for
14 example. In CD 6, unlike the previous maps, there were
15 changes that we considered significant changes.

16 Q. Sure. But the staff plan had split the peninsula, right?

17 A. Right.

18 Q. So, that was roughly 60 days. But from July 26th, 2021,
19 to January 20th, 2022, that's roughly six months, right?

20 A. Right.

21 Q. From start to finish for the process of redistricting?

22 A. It seemed like eternity, but, yes.

23 Q. Is six months equivalent to roughly the length of a
24 normal legislative session?

25 A. Actually, a little longer probably.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

743

1 Q. Okay. So, it received a lot of process, correct?

2 A. Yes. Absolutely. Never denied that.

3 Q. Okay. And you would agree that redistricting receives
4 far more process than normal legislation, right?

5 A. I'm trying to think, and I cannot recall anything that
6 received as much process attention. And I think that -- you
7 know, in the many e-mails you've read out you've, no doubt,
8 even seen, where I commended the senate staff for their
9 responsible professional work on.

10 Q. I appreciate that, Ms. Teague.

11 A. Yeah.

12 Q. So, you would have to concede that folks expressed
13 different views from you or from the League, correct?

14 A. Of course, yes.

15 Q. Sure. And you would agree that opponents to legislation
16 are sometimes the loudest to speak about it, correct?

17 A. Not necessarily. Not necessarily.

18 Q. Why the qualifications?

19 A. Huh? I'm thinking about the current abortion debate.

20 Q. Okay. Fair enough. But if 40 people testified to split
21 Charleston County while five people said keep it whole, you
22 still would have sided with the latter, correct?

23 A. Given our criteria, yes. And, again, when we drew our
24 draft maps, we did submit them to our own panel of people who
25 were selected simply for their familiarity with their areas

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

744

1 and so forth, for their input as well and made some changes
2 there.

3 Q. But you would agree that counting numbers on public
4 testimony is no substitute for analysis, right?

5 A. Correct.

6 Q. Okay. Ms. Teague, I believe that you said your map made
7 District 1 more competitive. Did I hear that correctly?

8 A. Yes.

9 Q. I'd like to show you what's been introduced into evidence
10 as Plaintiffs' Exhibit No. 20. I want to draw your attention
11 to Chart 2.1. What's the number there for CD 1 for the League
12 of Women Voters South Carolina plan?

13 A. .517.

14 Q. Right. So, that means that 51.7 percent would have voted
15 in favor of President Biden, correct?

16 A. Correct.

17 Q. So, by politically competitive, you mean that it moved it
18 into the Democratic column, correct?

19 A. I meant that it moved within a percentage point basically
20 of a dead heat.

21 Q. But 51.7 percent is more than 45.6 percent, correct?

22 A. Yes, using the Biden-Harris measure. We actually also
23 consulted and noted in our testimony that we consulted a
24 composite figure that involved a series of elections prior to
25 this.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

745

1 MR. CHANEY: And, your Honor, I'm going to object
2 again. I think Mr. Traywick is misunderstanding these
3 statistics. This has to do with racial voting, not
4 necessarily just partisan data. So, he's not asking the right
5 questions for this map. And, as the Court has already pointed
6 out, I don't think that it's the right type of charts to be
7 asking --

8 JUDGE GERGEL: Asking her to comment on -- I'm going
9 to sustain the objection. You're asking her to comment about
10 someone else's -- some expert's chart that she didn't produce,
11 hasn't studied, to my knowledge, etc. If you think she has,
12 lay a foundation. But, you know, using her to question about
13 somebody else's report, I think this is sort of closing
14 argument kind of --

15 MR. TRAYWICK: Okay. Your Honor, and I hear you on
16 that. Respectfully, that's what he did with the compactness
17 scores and other things. So, I was just trying to keep it
18 even.

19 JUDGE GERGEL: Well, you should have objected then.

20 MR. TRAYWICK: I thought I did, but that may be the
21 one I missed. All right.

22 JUDGE GERGEL: You haven't missed many.

23 **BY MR. TRAYWICK:**

24 Q. All right. So, Ms. Teague, did you testify the enacted
25 plan draws a high BVAP VTDs in Charleston out of CD 1? Did I

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

746

1 hear that right?

2 A. High density and high BVAP. There are precincts included
3 in CD 1 and the enacted plan that have a relatively high BVAP,
4 but they tend to be in rural areas with a low total
5 population.

6 Q. Sure. But you didn't consider politics or election
7 results in those VTDs, did you?

8 A. In drawing our maps, no.

9 Q. Okay. You also didn't personally conduct a cracking
10 analysis, did you?

11 A. No.

12 Q. You were just eyeballing?

13 A. Well, eyeballing it from the maps, yeah.

14 Q. Okay. And you didn't do any analysis of race versus
15 politics in the enacted plan, did you?

16 A. We did not do that analysis, no. And that question has
17 come up a number of times. And, no, we did not analyze that
18 statistically.

19 Q. Okay. I appreciate that. All right. I just want to end
20 with a few final questions to make sure we agree on these.

21 You agree that the League of Women Voters plan is worse
22 than the enacted map on core preservation, right?

23 A. Excuse me?

24 Q. On core preservation?

25 A. Core preservation, yes.

LYNN TEAGUE - CROSS-EXAMINATION BY MR. TRAYWICK

747

1 Q. And you agree that was in the Senate guidelines?

2 A. Yes, that was in the Senate guidelines. And I've said
3 that, while we considered the existing lines when it was six
4 of one, half dozen of another, given our criteria -- our
5 criteria with what we were using. So, yeah.

6 Q. And your criteria is different from the Senate and House
7 guidelines, correct?

8 A. In that we did not prioritize core preservation, yes.

9 Q. And your plan was not a minimal-change plan for
10 Congressman Clyburn, was it, in District 6?

11 A. No.

12 Q. And the League of Women Voters Plan was also worse on VTD
13 splits than the enacted plan, correct?

14 A. As I recall, yes.

15 Q. And then you agree that a Democrat would have won
16 Congressional District 1, correct, under the League's map?

17 A. No, I would not agree with that. I would say that what
18 we can see in that area historically -- this is not part of
19 our analysis, this is you asking for my opinion. What we've
20 seen historically is the quality of candidates can matter a
21 great deal. When you have -- our after-the-fact analysis
22 showed that it was very close in a partisan sense, and quality
23 of candidates and circumstances can go a long way in changing
24 how that outcome develops. So, no, I don't think this is a
25 slam dunk for anybody. That was the idea. Voters should have

LYNN TEAGUE - REDIRECT EXAMINATION BY MR. CHANEY

748

1 a choice, is why we like the outcome of our applying our
2 criteria in that case.

3 Q. So, even under the enacted plan, you would agree
4 Charleston is continuously experiencing growth in the
5 Lowcountry, in general, right?

6 A. Oh, absolutely, yes.

7 Q. Yeah. So, CD 1 could change even this cycle or the next
8 cycle, right?

9 A. CD 1 could change, but we were drawing maps based on the
10 2020 census.

11 Q. Right. And you didn't look at the political data from
12 2020, correct?

13 A. We did not in drawing our maps.

14 Q. Thank you. That's all the questions I have. I
15 appreciate your time.

16 JUDGE GERGEL: Anything on redirect?

17 MR. CHANEY: Just a handful of questions, your Honor.

18 **REDIRECT EXAMINATION**

19 **BY MR. CHANEY:**

20 Q. Ms. Teague, I want to circle back to the e-mail about
21 leaving or not leaving a call, or a recurring call with the
22 State Conference --

23 JUDGE GERGEL: That's not going to matter.

24 MR. CHANEY: I just wanted to make sure I understood
25 her testimony.

LYNN TEAGUE - REDIRECT EXAMINATION BY MR. CHANEY

749

1 BY MR. CHANEY:

2 Q. Was it your testimony that you left just a single
3 meeting?

4 A. Yes.

5 Q. And then did you go back to meeting with the State
6 Conference?

7 A. Yes. And we continued throughout the redistricting
8 process and did not have any concerns during that period.

9 Q. Was that just to avoid even the appearance of
10 partisanship?

11 A. Exactly.

12 Q. Okay. Now, you were asked questions about the fact that
13 the League's map places Beaufort in CD 2 instead of CD 1,
14 right?

15 A. Yes.

16 Q. Did you draw -- did the League draw its map before or
17 after that Beaufort community input?

18 A. Before. Our maps were done by September 15th.

19 Q. Okay. So the maps were drawn before the Beaufort input
20 that you've heard counsel talk about?

21 A. Right.

22 Q. Does the Harpootlian map that you discussed, does it keep
23 Beaufort whole?

24 A. I believe it does, yes.

25 Q. And does it put Beaufort in CD 1 or CD 2?

LYNN TEAGUE - REDIRECT EXAMINATION BY MR. CHANEY

750

1 MR. TRAYWICK: Your Honor --

2 THE WITNESS: CD 1.

3 MR. TRAYWICK: -- just if we're going to apply
4 evenly, she can't testify about other maps.

5 JUDGE GERGEL: Well, I mean, y'all were asking her
6 all of these questions. I mean, I could have answered every
7 one of these questions. You're really going over testimony.
8 We heard it. We wrote down notes. We've got all this. I
9 don't know why you need to go back over her testimony again,
10 to be honest with you.

11 MR. CHANEY: All right. Well, last question then --
12 well, last small set of questions. How about that?

13 **BY MR. CHANEY:**

14 Q. Mr. Traywick asked you about whether the League did a
15 handful of different types of analyses, right?

16 A. Right.

17 Q. Okay. Did the League do a cracking analysis?

18 A. Oh, gosh. Statistical analysis of cracking?

19 Q. Yes.

20 A. No.

21 Q. Okay. To your knowledge, did the legislature?

22 A. I don't know.

23 Q. Okay. And did the League do its own RPV analysis?

24 A. We did not.

25 Q. And to your knowledge, did the legislature?

LYNN TEAGUE - REDIRECT EXAMINATION BY MR. CHANEY

751

1 A. I don't know.

2 MR. CHANEY: No further questions.

3 JUDGE GERGEL: Thank you. Thank you. You may step
4 down.

5 Okay. Let's take our afternoon break.

6 **(Recess)**

7 JUDGE GERGEL: Let's proceed.

8 MR. CHEUNG: All right. Ming Cheung, for the
9 plaintiffs.

10 JUDGE GERGEL: Thank you, sir.

11 MR. MATHIAS: And, yes, your Honor. I don't mean to
12 drag anything out. In fact, I'm standing to question the
13 relevance of this witness. I don't know that he could be
14 anything more than cumulative.

15 JUDGE GERGEL: Well, let's put him up and let's hear
16 what he has to say and see if there are any objections you
17 have.

18 MR. MATHIAS: Yes, sir.

19 MR. CHEUNG: Plaintiffs call Kambrell Garvin.

20 **KAMBRELL GARVIN, having been first duly sworn,**
21 **testified as follows:**

22 MR. CHEUNG: Your Honors, may I proceed?

23 JUDGE GERGEL: You may. Please do, sir.

24 MR. CHEUNG: Thank you.

25 **DIRECT EXAMINATION**

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

752

1 BY MR. CHEUNG:

2 Q. Good afternoon, Representative Garvin. How are you?

3 A. Doing well.

4 Q. Could you please state and spell your name for the
5 record?

6 A. Certainly. My name is Kambrell Garvin. That's spelled
7 K-a-m-b-r-e-l-l. Last name, Garvin, G-a-r-v-i-n.

8 Q. And what is your current position?

9 A. I'm a member of the South Carolina House of
10 Representatives.

11 Q. For which district?

12 A. District 77.

13 Q. And where is District 77 located?

14 A. Yes, sir. That's located out in northeast Columbia and
15 Blythewood, Richland County.

16 Q. Thank you. How long have you represented at District 77?

17 A. Four years.

18 Q. Are you currently running for another term?

19 A. I am. I'm currently running for my third term.

20 Q. Do you have another work or employment?

21 A. I do. I am an attorney in Columbia. I'm primarily
22 practicing in the areas of personal injury, medical
23 malpractice. Plaintiffs work.

24 Q. Where did you go to law school?

25 A. I attended the University of South Carolina School of

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

753

1 Law, finishing up in 2019.

2 Q. Do you have any other degrees?

3 A. I do. I do. I earned an undergraduate degree from
4 Winthrop University in 2013, a degree in political science. I
5 earned a master's from the Johnson Hopkins School of Education
6 in 2016.

7 Q. Do you currently reside in Richland County?

8 A. I do. In Blythewood. Well -- yes, sir, in Blythewood.

9 Q. Is Blythewood a town in Richland?

10 A. Yes, sir. Blythewood is a town in Richland. And I
11 paused a second ago because there's a town limit to
12 Blythewood. I live in the Blythewood outskirts, if that makes
13 sense, in the 29016 zip code, which is still considered a
14 Blythewood address.

15 Q. Thank you. And are you registered to vote in Blythewood?

16 A. I am.

17 Q. Do you identify as Black?

18 A. Yes, I do.

19 Q. Which congressional district do you live in?

20 A. The 2nd Congressional District.

21 Q. And could you tell us about your personal connection to
22 Richland County and South Carolina?

23 A. Certainly. So, Richland County is home. Historically, I
24 had an opportunity to take an ancestry DNA test, and I was
25 blown away by the fact that my family has been in Richland

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

754

1 County, or the Midlands, of South Carolina from the time that
2 they arrived in the United States over 200 years ago on slave
3 ships to this present day. So, Richland County's home and has
4 always been home for my family.

5 Q. Have you ever left Columbia, Richland to come back?

6 A. I did. I did. So, I left Richland for college when I
7 attended Winthrop University. And then I also joined a
8 program after college called Teach for America, that sent me
9 to Walterboro, South Carolina, in Colleton County, where I
10 spent three years teaching sixth-grade science. And then I
11 came back home in 2016 to attend law school.

12 Q. Thank you. How would you describe Richland County to
13 someone who's never been there before?

14 A. Absolutely. I would consider Richland County to be a
15 melting pot. I think that we have racial diversity, we have
16 economic diversity. When I would campaign for office, I could
17 literally be in a neighborhood one day with homes in one price
18 range and another day homes in another price range. I think
19 it's a wonderful place to live and to be and to raise a
20 family.

21 Q. How would you describe the demographics of your district?

22 A. Absolutely. Of my district? Majority African American,
23 which is in line with a majority of the population of Richland
24 County, which is nearly 50-percent African American.

25 Q. Thank you. We'll come back to Richland County, but let's

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

755

1 talk a little bit about the redistricting process. Were you a
2 member of the South Carolina General Assembly when the most
3 recent congressional map was enacted?

4 A. I was.

5 Q. Did you vote against the enacted congressional map?

6 A. That's correct. I did vote against it, the enacted map,
7 yes.

8 Q. Why did you vote against the map?

9 A. I had several issues with the map. I took to the floor
10 of the general assembly when opportunity presented itself to
11 ask some process questions. I was concerned about the process
12 itself. I was concerned about the drawing of the map and how
13 the map -- whether or not the map took into consideration many
14 of the public concerns that were addressed throughout the
15 various hearings all over the state.

16 Q. How much input were you able to have on the redistricting
17 process?

18 A. I would describe it as being very limited, given that I
19 wasn't a member of the committee. And you said of the actual
20 process itself, correct?

21 Q. Yes, that's right.

22 A. Yes. Very limited. And I took the opportunities that
23 were presented on the floor to have a voice in the process.

24 Q. When did you find out about the proposed maps?

25 A. Oh, every proposed map that I found out about, it was the

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

756

1 same time that the general public found out about them,
2 through Twitter usually or through the local news media.

3 Q. Did you feel like you had an opportunity to change the
4 proposed maps before they were enacted?

5 A. I did not, no.

6 Q. Did you express your concern to other legislators?

7 A. Absolutely. There were several conversations about the
8 process, about what the maps would look like. So, yes, there
9 were conversations with other colleagues about the process.

10 Q. You mentioned the house floor earlier. Did you raise
11 your concerns on the House floor?

12 A. I did. I did. I asked the chairman of the ad hoc
13 committee again about the process and about whether or not the
14 public input that was given, whether or not that input was
15 taken into consideration when the maps were drawn and later
16 released.

17 Q. Of those concerns that you raised on the House floor, did
18 you raise any concerns about how different counties are
19 treated compared to each other?

20 A. I did. I did. I believe one of the concerns that I
21 raised and one of the issues that I heard over and over again
22 in the hours of testimony that I listened to -- and, while I
23 wasn't on the committee, I actually took the time to listen to
24 a lot of the public hearings virtually. And one thing I that
25 I heard over and over again were concerns about how the maps

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

757

1 were drawn, especially connecting Charleston County and
2 Richland County.

3 Q. And on the House floor, did you ask about Beaufort
4 County?

5 A. I did ask about Beaufort County on the House floor. And
6 I believe that my question related to whether or not the
7 concerns of the folks in Charleston County were also taken
8 into -- or given the same level of consideration as the
9 residents in Beaufort County. And my recollection of that
10 conversation with the chair of the committee was that, you
11 know, you can't make everybody happy.

12 Q. What did you think of that response?

13 A. Well, I certainly thought that the folks in Beaufort
14 County, that their concerns were given more weight than the
15 folks down in Charleston County in North Charleston, who did
16 express concerns about being drawn into a
17 Richland-County-based district that spans over a hundred
18 miles.

19 Q. You mentioned listening to public hearings. Were they
20 both the House and Senate hearings?

21 A. I did, yes. I listened to the public hearings where the
22 ad hoc committee went all over the state. I listened to a
23 majority of those in the House, and I listened to a couple of
24 the Senate debates on the matter.

25 Q. And can you say more about what was your impression of

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

758

1 the concerns around Charleston?

2 A. Yes. A lot of the concerns that I heard around
3 Charleston were that Charleston was being split. It was being
4 split from, I guess, the more Coastal areas, where we are
5 today, and the North Charleston area. There were folks who
6 really were baffled through their testimony as to why they
7 were being placed, again, over a hundred miles away in
8 Richland County, with a Richland-based district, in comparison
9 to being connected to the -- I guess it would be the 1st
10 Congressional District. There were several concerns. And
11 that's what I heard over and over again.

12 So, when I took to the floor of the House, I really
13 wanted to be those folks' voice to get a better understanding,
14 and to really articulate their concerns, and to hopefully get
15 a better understanding of the process and how we came to get
16 the map that we had.

17 Q. And do you recall what the public concern was around
18 Richland, if any?

19 A. The public concern around Richland was neighbors being
20 split, obviously, and Richland not being whole. I think that
21 remains a concern for me and many others.

22 Q. Do you recall any member of the public expressing a
23 preference to split Charleston County?

24 A. Do I recall a member of the public expressing a desire to
25 split Charleston County? I did not. I never heard that.

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

759

1 Someone that went in and actually said, please keep us in
2 Richland County -- or with a Richland-County-based district,
3 no, never heard that.

4 Q. And did you hear any member of the public from Richland
5 County expressing -- or anywhere in the state expressing a
6 preference to split Richland County?

7 A. I did not. I never heard anyone in Richland County
8 asking to be split or the County asking to be split, no.

9 Q. What about any member of the public in general? Did
10 anyone express a preference in splitting --

11 A. In the hours of testimony that I listened to, I have no
12 recollection. I probably would have fell out of my chair had
13 someone said, let's keep Richland and Charleston in the same
14 map.

15 Q. So, after the public testimony, do you believe the
16 enacted congressional map took into account the views of the
17 public expressed about Charleston and Richland?

18 A. I do not believe that the enacted maps took into
19 consideration the views expressed by the citizens in Richland
20 County and Charleston County. It was clear from the comments
21 made on the floor that the attitude was that, we can't make
22 everybody happy, and it kind of is what it is.

23 Q. And during redistricting process, do you recall seeing
24 any maps that would have accommodated the concerns of
25 Charleston and Richland?

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

760

1 A. I do. I do. Like I said earlier, I watched the hearings
2 in the Senate, and I want to say that there was a map
3 introduced by -- I want to say it was Senator Harpootlian that
4 had a map that kept Richland whole and that kept Charleston
5 whole.

6 Q. And do you know if the concerns of -- do you recall if
7 the Harpootlian map, how it addressed Beaufort County?

8 A. Do I recall? I want to say that it kept -- the
9 Harpootlian map, I want to say that it kept Beaufort County
10 whole as well. I think the map kept all three counties whole,
11 is my recollection of it: Richland, Charleston and Beaufort.

12 Q. So, earlier you said you felt like you lacked the
13 opportunity to impact how the final map was drawn. Could you
14 explain more about why you felt that way?

15 A. So, the process -- you know, as a rank-and-file member,
16 as a member that was not on the ad hoc committee, and as just
17 a regular member of the general assembly who took a great
18 interest in the process, I did not believe that -- I kind of
19 felt that it was a done deal, and the maps that were released
20 demonstrated that. There were several maps that we debated on
21 the House floor that were submitted by outside organizations
22 that were introduced by colleagues. And when they introduced
23 those maps, those maps were voted down time and time again by
24 the majority.

25 So, it really underscored my feelings and really my

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

761

1 suspicions as it related to whether or not I really had a
2 voice in the process, because it felt like, at the end of the
3 day, the majority, you know, were already kind of determined
4 to do what they were going to do.

5 Q. So, going back to the treatment of the different
6 counties. The final congressional map, did it accommodate the
7 concerns of the residents of Beaufort County, do you believe?

8 A. Yes, it did. Actually, it did, because the residents of
9 Beaufort County wanted to remain within the 1st Congressional
10 District. I believe the argument was that they shared some
11 economic similarities, I believe was the argument that they
12 made, and the folks on the Charleston side who came made very
13 similar arguments. And it certainly disregarded or didn't
14 take into account that same -- that second thought process.

15 Q. Do you know the racial demographics of Beaufort County
16 relative to Charleston and Richland?

17 A. Loosely. I know that Charleston County is much more
18 diverse. There's a larger number of African Americans in
19 Charleston County compared to Beaufort County.

20 Q. And what about Richland County?

21 A. Well, Richland County is very diverse. Again, African
22 Americans make up approximately 50 percent of the County.

23 Q. But at the end of the process, do you believe that the
24 congressional districting process treated Black voters or
25 Black communities unfairly?

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

762

1 A. The way the maps were drawn, I think it certainly puts
2 African-American voters at a disadvantage. For instance, if
3 you look at my community in northeast Columbia, Blythewood,
4 we're cut out of the 6th Congressional District, so we really
5 don't have an opportunity to have an impact or sway on the
6 congressional election. And I think it's really important
7 that whether you are an African-American politician or whether
8 you're a white politician, that you have to be accountable to
9 all voters, in particular, voters of color.

10 Q. So, let's move on to talk about the specific lines drawn
11 around Richland County. Are you familiar with the
12 congressional district lines around Richland County?

13 A. I am, yes.

14 MR. CHEUNG: Mr. Najarian, can we please pull up
15 PX-49?

16 BY MR. CHEUNG:

17 Q. Representative Garvin, do you recognize this exhibit?

18 A. I do.

19 Q. And what is it?

20 A. So, this is the Senate and House passed map that was
21 signed by the governor, and so enacted by the general
22 assembly.

23 MR. CHEUNG: Can we zoom in on Richland County in the
24 center of this map? Thank you.

25 BY MR. CHEUNG:

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

763

1 Q. Representative Garvin, how would you describe the
2 congressional lines around Richland County?

3 A. Peculiar I think is a good word for it. Peculiar.

4 Q. Can you say more about that? Where do you live on this
5 map?

6 A. Certainly. So, I live in the northern most part of the
7 County. So it would be, I guess, the red. If you see the
8 blue, I call it the Incredible Hulk's hand coming in, grabbing
9 out portions of Richland. But I live in the upper part of the
10 County, that's a part of the 2nd Congressional District.

11 Q. So, you're describing that, you said, Incredible Hulk's
12 hand coming into Richland County?

13 A. Yes.

14 Q. And that hand places you in Congressional District 2?

15 A. Yes. The Incredible Hulk hand that has cut Richland,
16 places me within Congressional District 2. And, ironically, I
17 can literally stand outside of my neighborhood and look across
18 and see folks and constituents that live within Congressional
19 District 6.

20 Q. So, to clarify it, the congressional map splits your
21 House district between two congressional districts?

22 A. Yes.

23 Q. In your view, does that split of Richland County make
24 sense?

25 A. It does not make sense to me to split Richland County.

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

764

1 No, it doesn't make sense.

2 Q. Do you think it's important to keep Richland County
3 whole?

4 A. I think it will be very, very important to keep Richland
5 County whole. I think it gives the voters of Richland County
6 an opportunity to have a say in who they elect. But the way
7 the map is currently drawn, I think the folks that live in
8 parts of my district have very limited abilities to be able to
9 influence the outcomes of elections, congressional elections.

10 Q. That hand that puts you in Congressional District 2, does
11 that place you in the same district as Lexington County?

12 A. That's correct. Yes.

13 Q. How different is Richland County from Lexington County,
14 would you say?

15 A. Absolutely. Lexington County and Richland County are
16 polar opposites. While geographically they're close together,
17 they couldn't be further apart. I think, historically, as a
18 young man, I can recall hearing older relatives,
19 African-American relatives, obviously expressing caution about
20 any time we crossed into Lexington. And I think that's just
21 something that has always resonated with me. And I think that
22 when you look at it from a diversity standpoint, Richland is
23 far more diverse than Lexington. And, so, yes, again,
24 Richland and Lexington are just opposites.

25 Q. You mentioned words of caution from older folks. Do you

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

765

1 know the reason for their caution?

2 A. I think from a historical standpoint. I think history --
3 you know, oftentimes folks argue that history is no longer
4 relevant to the present day. But Lexington does have a
5 historical -- a history of discriminatory practices of
6 lynching of African Americans. And I think, while I believe
7 the County has worked to improve race relations, I think those
8 things still lie below the surface within a lot of
9 African-American communities, that concern.

10 I know in the 1800s, there was a gentleman named Willie
11 Leaphart that was lynched in Lexington County, and 12
12 lynchings followed that. And I share that to simply say that
13 that history is still relevant I think to today and to the
14 perception of how the two counties are so different.

15 And I don't want anyone to interpret my words or my
16 comments today to believe that Lexington is unsafe, but I do
17 want to be very clear that I think that, historically,
18 Richland has been a more welcoming place for people of color,
19 while Lexington, there have been concerns.

20 Q. So, going back to the hand that reaches into Richland
21 County. Can you describe the racial demographics of that
22 hand?

23 A. Sure. So, where I live -- I'll speak about that.
24 Northeast Columbia has become a very diverse area of town. If
25 you look at the local -- like the officials, if you look at

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

766

1 the school board, for the first time in 2016, for the first
2 time, the school board became a majority African-American
3 school board. The local elected officials, there were several
4 seats. Senator Mia McLeod was the first African-American
5 woman elected in 2016 to represent her district. In 2006, a
6 gentleman named Anton Gunn was the first African-American male
7 to represent his House district.

8 So, I share that to simply say that the northeast
9 Columbia corridor, Blythewood area, has changed over the past
10 15 or so years.

11 Q. Thank you. Do you know if those changes took place in
12 the last 10 years?

13 A. Yes. Absolutely. Change has continued. Yes, the growth
14 of the African-American population, I would say, has really
15 exploded within this community. Yes.

16 Q. And how does that hand affect the Black voters who live
17 there, their ability to achieve effective representation in
18 congressional districts?

19 A. Sure. What this hand does is it takes the voters out of
20 northeast Columbia and Blythewood, African-American voters,
21 and places them within Lexington County. And it really does
22 dilute their ability to influence the outcome. It's almost
23 like -- it feels to me almost like, you know, it's just making
24 up a difference in population. And there's really no
25 opportunity, again, to have a measurable outcome within any

1 electoral race.

2 Q. And what do you think about putting parts of Richland
3 County in Congressional District 6 with parts of Charleston
4 County?

5 A. Well, again, it doesn't make sense to place parts of
6 Charleston County in Richland County. It just doesn't make
7 sense to split Richland County into -- I drove down from
8 Richland today, and it was literally a two-hour drive from my
9 house to Charleston. And it just doesn't make a whole lot of
10 sense to place them together.

11 Q. What is your understanding of Charleston County and any
12 unique issues affecting the communities there?

13 A. You said, what is my understanding of them?

14 Q. Yes.

15 A. So, Richland and Charleston are just two different
16 places. From my perspective, there's very little overlap in
17 regards to local issues. You know, again, we're a hundred
18 miles apart, so I just don't see a whole lot that connects
19 Richland to Charleston.

20 Q. What about the cultures and interests of Richland County
21 versus Charleston?

22 A. Again, while I think both communities and both counties
23 have large African-American populations, there are African
24 Americans, you know, don't all fit into the same box. There
25 are several subcultures here in Charleston, Gullah Geechee and

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

768

1 so forth. And in Richland County we just wouldn't have an
2 understanding of a lot of the differences. And so, yeah.

3 Q. And going back to the impact of this map, and
4 specifically on you as a candidate and as a representative,
5 does this congressional map impact your work and your life in
6 some way?

7 A. Certainly. So, certainly when we go out, voters are
8 confused about where they fall into the congressional
9 districts. Voters ask why are the maps drawn this way. I
10 honestly have a hard time explaining why the maps were drawn
11 in the way that they were drawn. So I think it does cause
12 confusion when literally neighbors -- we have neighbors --
13 that are drawn into separate congressional districts that
14 could shout across the street at each other who just aren't
15 together and then, instead, connected to folks in Charleston.

16 Q. For residents in Richland who are in Congressional
17 District 2, are you aware of any policy interests of theirs
18 that are not adequately represented by their congressional
19 representative?

20 A. Certainly. So I think any time we start talking about
21 policy, it's a really important conversation. When we look at
22 mental healthcare, in my district, the 29223 zip code, we have
23 the highest diabetic amputation rate not just in Richland
24 County, not just in the State of South Carolina, but in the
25 United States. So I think having a representative that wants

KAMBRELL GARVIN - DIRECT EXAMINATION BY MR. CHEUNG

769

1 to see or fight for access to healthcare, you know, I think
2 that's important.

3 When we talk about issues of education and public
4 education, I certainly think having a representative that
5 believes as the community believes in the value and the
6 importance of ensuring that every child gets the best part of
7 public education, and willing to put money into public
8 education versus shipping it to other places, is really
9 important.

10 So, at the end of the day, I think it is really important
11 for the folks that I represent to be able to have a say in
12 electing someone that represents their interests. And we
13 currently do not have that, especially within the part that's
14 ripped out of Richland County.

15 Q. And just to wrap up, if Black voters in Richland County
16 were to be kept together in one congressional district, how
17 would that affect their ability to get effective
18 representation?

19 A. I certainly think that it would be impactful for
20 African-American voters to be able to be kept together, not
21 sliced, not diced, not placed within another congressional
22 district where they really have no opportunity to affect the
23 outcome, and it's almost like we're simply there to make up a
24 number shortage. So I think it would be very impactful for
25 African-American voters in Richland County to be able to

KAMBRELL GARVIN - CROSS-EXAMINATION BY MR. MATHIAS

770

1 have -- especially within the portions of Richland County that
2 have been cut out, to be able to have a say and to have a
3 measurable impact on the outcome of elections.

4 Q. When you say "to make up for a number shortage," do you
5 think that's the only reason why parts of Richland were put
6 into that Congressional District 2?

7 A. Well, I certainly believe that parts of Richland were
8 placed within Congressional District 2 as a way to really
9 dilute that influence. African-American voters don't have an
10 opportunity to impact the outcome, so I think from my
11 perspective, a shortage was certainly a part of it, yes.

12 Q. Thank you, Representative Garvin.

13 MR. CHEUNG: No further questions at this time.

14 JUDGE GERGEL: Cross-examination.

15 **CROSS-EXAMINATION**

16 **BY MR. MATHIAS:**

17 Q. Representative Garvin, are you aware of the fact that I
18 hope you have a nice drive home?

19 A. Well, I certainly appreciate that, sir. It's a two-hour
20 drive.

21 MR. MATHIAS: All right. Thank you. That's all I've
22 got.

23 JUDGE GERGEL: That is a model for cross-examination.

24 MS. STRINGFELLOW: Yes, your Honor.

25 JUDGE GERGEL: Yes.

KAMBRELL GARVIN - CROSS-EXAMINATION BY MS. STRINGFELLOW 771

CROSS-EXAMINATION

BY MS. STRINGFELLOW:

Q. Good afternoon, Representative Garvin. How are you?

A. I'm doing well.

Q. Good. You testified that you were not a part of the Ad Hoc Redistricting Committee, right?

A. That's correct.

Q. But you also testified that you followed the Senate redistricting progress closely; is that correct?

A. I followed the floor debate, yes.

Q. Okay. And so, you could have followed the house redistricting process just as closely; is that correct?

A. Oh, I followed them both very closely.

Q. Okay.

A. I'm sorry if I inferred or led that I did not.

Q. And so, if you wanted to have any input on the ways that the maps were drawn, you had the opportunity to speak with your colleagues; is that correct?

A. Oh, yeah, absolutely.

Q. Okay. And you testified about parts of Richland County being in Congressional District 2. Are you aware that Congressman Wilson sits on the Committee of Armed Services?

A. I am, yes.

Q. Okay. And would you agree that it would make sense for Fort Jackson to be a part of Congressman Wilson's district

KAMBRELL GARVIN - CROSS-EXAMINATION BY MS. STRINGFELLOW 772

1 since he sits on that committee?

2 A. I'm so glad that you asked this question, because
3 Congressman Wilson, as a former military office or serviceman,
4 I think that he would advocate for Fort Jackson wherever Fort
5 Jackson is drawn if he's sitting on the Armed Services
6 Committee. I have no doubt that he would do whether it's in
7 his district or not.

8 But to answer your questions, do I think that
9 African-American voters should be cut out from having
10 political influence? I don't think that should happen at the
11 expense under the guise of giving Congressman Wilson Fort
12 Jackson.

13 Q. Okay. And finally, you testified that Lexington and
14 Richland have nothing in common with one another; is that
15 correct?

16 A. I testified that, geographically, they're very different
17 places. And I think that -- yes.

18 Q. But wouldn't you agree that there are several citizens
19 from Lexington that travel into Richland to work and vice
20 versa, that citizens from Richland travel into Lexington for
21 work?

22 A. I don't doubt that.

23 Q. Okay. Thank you.

24 MS. STRINGFELLOW: Nothing further, your Honor.

25 THE COURT: Thank you.

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 773

1 Anything on redirect?

2 MR. CHEUNG: No redirect. Thank you, your Honor.

3 JUDGE GERGEL: Very good. You may step down.

4 Call your next witness.

5 MR. TRIVEDI: Are we ready, your Honor?

6 JUDGE GERGEL: We are.

7 MT. TRIVEDI: All right. The plaintiffs call Senator
8 Margie Bright Matthews.

9 **MARGIE BRIGHT MATTHEWS, having been first duly sworn,**
10 **testified as follows:**

11 **DIRECT EXAMINATION**

12 **BY MR. TRIVEDI:**

13 Q. Good afternoon, Senator. How are you?

14 A. I'm great. How are you?

15 Q. Good. Could you tell us where you were born?

16 A. I was born in Walterboro, South Carolina.

17 Q. And is that where you grew up?

18 A. Born and raised.

19 Q. Where do you live now?

20 A. I live in Beaufort, South Carolina and also in
21 Walterboro.

22 Q. And how long have you lived in South Carolina?

23 A. All of my life.

24 Q. And where have you gone to school?

25 A. I went to the University of South Carolina after leaving

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 774

1 Walterboro High school. I received my undergraduate degree in
2 '85, had a baby as a single mom, and then went on to law
3 school in 1986, graduated from the University of South
4 Carolina Law School, and was admitted to the Bar in 1989.

5 Q. Can you tell us briefly your employment history since
6 then?

7 A. My employment history, as a law student, I worked for the
8 Senate as a page, and then as a law clerk to Senate Medical
9 Affairs for then Senator Peden McLeod, who recently died in
10 the last year or so. And then after graduation, I went on to
11 work in the law firm of McLeod Fraser & Cone in my hometown,
12 doing insurance reserve defense as well as other defense and
13 plaintiff's work.

14 Q. And are you a member of any civic organizations here in
15 South Carolina?

16 A. Oh, yes.

17 Q. Can you name a few?

18 A. Oh, goodness. Of course, I'm a Rotarian. I have been a
19 member of the Civitan. A little bit of everything. I am a
20 member of Delta Sigma Theta Sorority. They're dear to my
21 heart. We do a lot of civic engagements with minority women.
22 And you name it. I'm a member of a lot of bar associations.
23 The National Association For Criminal Defense Attorneys.
24 South Carolina Association For Justice. American Association
25 For Justice. Women's organizations. I'm the co-chair for

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 775

1 this year's national convention for the National Foundation of
2 Women Legislators.

3 Q. Okay. I think we can stop there. That's a lot.

4 A. Yes. I'm tired.

5 Q. When did you become a state senator?

6 A. Coming into the antechamber there, it made me think about
7 when I became a state senator. The last time I was in this
8 courtroom, I was probably seated back there where Mr. Roberts
9 is seated as a result of the murder trial for Dylan Ruoff,
10 where my predecessor, Clementa Pinckney was murdered. I was
11 elected to fill his seat, and I took over in 2016.

12 Q. And what Senate district do you represent?

13 A. I represent Senate District 45.

14 Q. What areas of the state does District 45 cover?

15 A. The easiest way I can say it is, once you come across the
16 Georgia border into South Carolina, all six counties leading
17 up to Charleston, that's my area. And it's easier if you look
18 at the map in your head, Jasper, Hampton, Colleton, Beaufort,
19 Charleston, you go on, and that's it.

20 Q. Those are Coastal communities?

21 A. All of my counties are Coastal communities, with the
22 exception of Allendale. In the upcoming senatorial map, I
23 will not have Allendale, I go further into Charleston County.

24 Q. Okay. Which congressional district do you live in?

25 A. I live in Congressional District 6 under the new maps.

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 776

1 And just so I can clarify, my husband and I call ourselves --
2 we're getting close to 60, so we bought a house in Beaufort.
3 When we bought the house it was in 6, but with the new map
4 that was adopted, it looks like it is going to be in the 1st
5 Congressional District, right across the border. So it looks
6 like 6 and maybe 1, once we make the final move. We just
7 moved in this year.

8 Q. And we'll see how all this goes.

9 A. Yeah.

10 Q. Let's talk about the redistricting process. Were you a
11 member of the Senate when the most recent congressional
12 redistricting plan was enacted?

13 A. Yes.

14 Q. And were you a member of the Senate's redistricting
15 subcommittee?

16 A. Yes, I was.

17 Q. Who else served with you on that subcommittee?

18 A. Jordan would be a, of course, senator. Luke Rankin was
19 the chair. Senator Campsen, Senator Dick Harpootlian, Senator
20 Tom Young, Senator Scott Tally, Senator Ronnie Sabb. And I
21 think that's it.

22 Q. You got it. Were any other representatives from
23 Congressional District 1 in that subcommittee?

24 A. Yes.

25 Q. Who was that?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 777

1 A. Senator Campsen.

2 Q. Okay. What areas of Congressional District 1 is Senator
3 Campsen from?

4 A. Senator Campsen is in my district pretty much. But he
5 runs along the coast. He has a portion of -- I'm not sure of
6 Georgetown, but he comes all along Charleston, Edisto Beach
7 area, some of the island, then he comes along to Beaufort and
8 Colleton County, which is Edisto Beach, and he comes along
9 into Beaufort.

10 Q. Were there any representatives from Congressional
11 District 6 on the subcommittee?

12 A. That would be me, that I could -- yes. It would be me.
13 And I don't think Tom Young has any of it. Myself and Dick
14 Harpootlian.

15 Q. Were there any other Black legislators on the
16 subcommittee?

17 A. Yes. One. Senator Sabb, from Williamsburg, was on the
18 subcommittee.

19 Q. Okay. I want to talk about the process a little bit.
20 Prior to maps being released, can you describe the process for
21 gaining public input and things of that nature?

22 A. Prior to the maps being released, the process was sort
23 of, we developed -- I'm not sure what part you're asking, but
24 we developed the standards.

25 Q. Uh-huh.

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 778

1 A. And then we set out to -- the staff scheduled public
2 hearings throughout the state. If my memory serves me
3 correctly, we did about 10 public hearings, those for which we
4 could not -- with COVID and all of the constraints we had, we
5 travelled around the state. And for those of us that could
6 not travel to all of them because of the distance, or
7 whatever -- with working at my day job, let's say it like
8 that -- we were allowed to attend via digital means.

9 Q. Do you remember how many of those hearings you attended?

10 A. I don't remember right offhand. But every one that I
11 could not physically attend, I attended all of them, except
12 for one that I think had something to do with one of my
13 children, as usual, that conflicted with that. And even I
14 remember one of the hearings I was on my iPad trying to get
15 service as we were on the way to a volleyball match, so that I
16 could make sure I heard. And I don't know, I took a lot of
17 notes during those hearings.

18 Q. Do you remember a general tenor of the testimony that you
19 heard at those public hearings?

20 A. Almost always, we had a lot of testimony from folks that
21 wanted their communities to remain contiguous, or that they
22 wanted their communities of interest to be considered. They
23 wanted to make sure that the counties remained intact. And
24 they wanted to make sure that they were not broken up and
25 confused on which legislator they needed to go to.

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 779

1 Now, I'm saying this because most of those -- those 10
2 hearings that we had, those were primarily -- the comments we
3 received concentrated primarily only on the senatorial and
4 legislative districts -- or the representatives for the House.
5 But, for us, the ones that the Senate did, those 10 were
6 primarily only on concentrating on that. We only really had
7 one as it relates to the congressional districts, and that was
8 on a Thursday or a Friday. And I can't remember -- and,
9 there, again, I remember a lot of it, because I had to attend
10 and leave because I had to go to my daughter's volleyball
11 match.

12 Q. Was there a general tenor from that one meeting about
13 congressional redistricting specifically?

14 A. Oh, the congressional district, it was hot and heavy,
15 person after person, groups after groups. They wanted to make
16 sure -- they were worried about the coastline of South
17 Carolina. And, of course, I perked up, because six counties
18 on the coast, that's me. They all wanted to make sure that
19 Charleston remained whole. My folks from Colleton County,
20 they came because, if you'll remember, there was a Colleton
21 case against the Senate. They also wanted to make sure that
22 Colleton was delineated as wanting to remain together and that
23 they were concerned -- where we get a lot of our income from
24 is making sure that we keep the tourism dollars through the
25 coastline. So, I mean, most of what we heard was: We want to

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 780

1 remain intact as one county. We did not want to be
2 fragmented.

3 Q. At some point after these hearings, did the Senate staff
4 go about making draft maps?

5 A. I don't know what the Senate staff did. I know what
6 happened when I came to the subcommittee meeting. And --

7 Q. So, I'm sorry. Go ahead.

8 A. We weren't involved. Our subcommittee -- I know me being
9 from the six counties I'm in and so involved with 1st versus
10 6th, I wasn't consulted about to give any input into -- I kept
11 asking about it, but it seems like we got there around
12 Thanksgiving, and it just got rushed. And there was no
13 analysis that I know that any members within the Senate
14 Democratic Caucus had to do with it.

15 Q. Okay. I think you just might have said this, but were
16 you ever shown draft maps before they were released to the
17 public?

18 A. No, I was not.

19 Q. Were you also involved in --

20 A. And let me correct that.

21 Q. Please.

22 A. I was not shown draft maps. But oftentimes -- and mind
23 you, we were already behind the gun on when the census data
24 was released. I believe it was released about eight months
25 late. So, we were under the gun. I understand that somewhere

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 781

1 around Thanksgiving was when we were getting the push. And
2 oftentimes, because of the push and the rush and the timeline,
3 we would end up getting things from -- and it can bear out in
4 what was posted online. Most of the times, things would be
5 posted on online on Friday afternoon.

6 Q. Despite the rush, do you think there was time to consult
7 you?

8 A. Of course.

9 Q. Okay. Senator, you were also involved in the State
10 Senate redistricting process? Did you say that earlier?

11 A. Yes.

12 Q. How did those processes compare as between the State
13 Senate and the congressional map?

14 A. There was no process to the congressional maps. I
15 appeared at our subcommittee meeting the day before we were to
16 have the general judiciary meeting. There was no real vote at
17 the subcommittee meeting. The consensus was: Because of the
18 timeline, let's hurry up and get this map out. When I got
19 there and I saw the map, I know it was obvious to every member
20 of staff that I was not a happy camper, because I could not
21 believe what I was seeing. And maybe it was my fault that I
22 didn't look at it on Thanksgiving Day, but I was up to my neck
23 in stuffing and turkey and potato pies.

24 Q. We'll get to that map in a second. I appreciate that.

25 You mentioned the guidelines a moment ago.

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 782

1 A. Yes.

2 Q. Let's take a look at the guidelines quickly. Did the
3 Senate subcommittee adopt guidelines for use in the
4 congressional redistricting process?

5 A. Yes, we did.

6 MR. TRIVEDI: Mr. Najarian, could we pull up
7 Plaintiffs' Exhibit 16.

8 BY MR. TRIVEDI:

9 Q. Senator Bright Matthews, do you recognize this document?

10 A. I do.

11 Q. What is it?

12 A. That is the 2021 redistricting guidelines we spent quite
13 a bit of time on.

14 Q. What did you think the purpose of creating these
15 guidelines was?

16 A. Sort of like you do when you're going to write a paper,
17 you write your outline. This was the outline in the guide by
18 which we were to use to analyze and draw and assist in the
19 drawing and give direction in creating maps.

20 Q. Did you consider these guidelines binding on your
21 process?

22 A. Yes, because I've never been in a redist- -- I'm not a
23 constitutional lawyer. I had to read a lot of the case to get
24 it myself. I knew it surface wise from law school. And so,
25 it was important to me to go through this analysis. And we

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 783

1 had several people in the room that understood this analysis,
2 the Article 1, Section-2 analysis. We went through all of
3 these areas and discussed it at length.

4 Q. So let's talk about one of those areas.

5 MR. TRIVEDI: Mr. Najarian, could you highlight the
6 section labeled "V," voting rights.

7 BY MR. TRIVEDI:

8 Q. Senator, could you read that to yourself and tell us what
9 it means to you. I know you said you're not a lawyer, but
10 what did it mean to you during the process --

11 JUDGE GERGEL: She is a lawyer.

12 MR. TRIVEDI: I'm sorry?

13 JUDGE GERGEL: She is a lawyer.

14 THE WITNESS: Constitutional lawyer.

15 MR. TRIVEDI: Oh, constitutional lawyer. That's
16 right. She's a very good lawyer.

17 THE WITNESS: It meant that we could not draw a map
18 that would dilute the minority voting strength and must comply
19 with Section 2 of the Voting Rights Act.

20 BY MR. TRIVEDI:

21 Q. Senator, do you know how the subcommittee or the staff
22 ensured that its proposals did not have the purpose or effect
23 of diluting minority voting rights?

24 A. No.

25 Q. Did staffers or attorneys ever present an analysis

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 784

1 explaining how the maps avoided diluting minority voting
2 rights?

3 A. You mean the congressional maps?

4 Q. Yes, ma'am.

5 A. Absolutely not. If they had that analysis, it was never
6 given to us, nor it appeared that they felt that they had the
7 time to get the analysis together or present it to us.

8 Q. Did you feel like the guidelines required that the
9 committee satisfy itself that they were not diluting minority
10 voting rights prior to releasing maps?

11 A. Of course. That was my hope.

12 MR. TRIVEDI: Mr. Najarian, could we now go to
13 Section C, avoiding racial gerrymandering?

14 BY MR. TRIVEDI:

15 Q. And, again, Senator I'll ask, could you read it to
16 yourself and then tell us what it means in your own words?

17 A. It relates to the Fourteenth Amendment of the
18 Constitution, and it refers to the *Shaw* case, basically saying
19 race should not or must not be the predominant factor in the
20 race-neutral considerations in drawing the lines.

21 Q. So, similarly, do you know how the subcommittee ensured
22 that its proposals did not make race a predominant factor?

23 A. No.

24 Q. And did you ever receive any analyses indicating that
25 their maps did not make race a predominant factor?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 785

1 A. I did not receive any analysis at all regarding that,
2 other than peripheral, later on the floor -- not in the
3 subcommittee -- not really in the Judiciary Committee -- on
4 the floor, a reference to BVAP and WAP and all of that.

5 Q. Did you consider that information sufficient to meet this
6 guideline?

7 A. No.

8 Q. Thank you.

9 MR. TRIVEDI: Mr. Najarian, could we now go to the
10 next page Section 3, additional considerations, and highlight
11 communities of interest. Thank you.

12 **BY MR. TRIVEDI:**

13 Q. Again, Senator, could you read this to yourself and let
14 me know when you're done. It's a little long.

15 A. I understand that one most, because this is the one I
16 presented. After I reviewed a lot of the cases and looked
17 over information, I asked that this be amended as an
18 additional consideration.

19 Q. Okay. Senator, do you see the words "Republican" or
20 "partisan" in the definition of communities of interest here?

21 A. No. It's nowhere in there.

22 Q. You do see the word "political." Is that right?

23 A. That is correct.

24 Q. What did you consider the word "political" to mean at the
25 time you're putting these guidelines together?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 786

1 A. Issues such as abortion or environment issues, water
2 rights issues, things like that.

3 Q. Did you consider the word "political" to mean that the
4 map would keep Republican lawmakers safe?

5 A. No. No. Of course not.

6 Q. Do you, sitting here today, think that that word means
7 keeping Republican lawmakers safe?

8 A. No, I do not.

9 Q. Looking at the language under communities of interest,
10 does this mention a benchmark map?

11 A. No, it does not.

12 Q. Does it mention the term "core retention"?

13 A. No.

14 MR. TRIVEDI: Mr. Najarian, can we highlight the
15 section that says "constituent consistency." Thank you.

16 BY MR. TRIVEDI:

17 Q. Senator, if you could read this to yourself. What does
18 this section mean to you?

19 A. We discussed that several times in the committee. It's
20 to preserve the core of existing districts and, in some
21 regards, trying to keep incumbents' residents in their
22 district with their core constituents. And that's all it
23 does.

24 Q. Did you understand it at the time to mean keeping
25 Republicans safe?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 787

1 A. No.

2 Q. Did anyone tell you at the time that that's what it
3 meant?

4 A. It was never stated.

5 Q. Zooming back out to the guidelines as a whole, do you see
6 anywhere that it says the goal of 2020 congressional
7 redistricting was to make seats safer for Republicans?

8 A. No. That was never put in this document, nor was it ever
9 discussed in any of the meetings I was involved in.

10 Q. Did anyone tell you privately that that was the goal of
11 congressional redistricting even though we didn't put it in
12 the guidelines?

13 A. They would never. No.

14 Q. Do you believe if it was the goal of the majority in the
15 subcommittee to make Republican seats safer, they could have
16 made that clear?

17 A. Yes.

18 Q. Do you believe they should have made that clear?

19 A. I don't believe it would be right for them to make it
20 clear, but if that's what they wanted, they had the vote, they
21 should have put it in the document.

22 Q. Thank you. Senator, now I'd like to move to a discussion
23 of the maps themselves. There were several iterative plans
24 over the course of late 2021. But did the Senate come down to
25 a choice between one map from Senator Harpootlian and one map

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 788

1 from Senator Campsen?

2 A. Yes.

3 Q. Before we put those maps up on the screen, I just wanted
4 to ask you about the process. Did you have any involvement
5 with creating Senator Harpootlian's map?

6 A. Other than discussing with him some of the concerns that
7 we had, and Mr. Oppermann, of wanting to keep the coast on the
8 coast in one district, congressional district, that was
9 primary for me.

10 Q. You mentioned Mr. Oppermann. What did he do?

11 A. He assisted in preparing the maps. And actually I talked
12 to him a couple of times so that I could understand some of
13 the issues and how it was done.

14 Q. You're very accomplished, but you didn't draw the map
15 yourself?

16 A. No. They don't let me near too many computer programs.

17 Q. Why did you think it was necessary to work with others
18 and draw your own map?

19 A. As I said, I came to the Senate in 2016. Even though I
20 was honored to be placed on this committee, I knew the
21 importance of it. This is a 10-year effect. I talked
22 numerous times to not only Senator Harpootlian, but I talked
23 to several of the other Senators that went through this
24 redistricting process, some of my seniors. I talked to them
25 because I wanted to make sure that I was studious, number one,

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 789

1 but I wanted to make sure that I gave the process due
2 consideration and just was not lost the entire time. Because,
3 when it first started, I can tell you, I felt lost in
4 understanding what I had to do, so I literally had to take
5 hours to make sure that I understood the law and understood
6 what our goal was, because I knew it was going to go in a
7 quick process.

8 Q. Was one of your goals with this map avoiding the dilution
9 of black voting power?

10 A. After reading the law and understanding it, and I wanted
11 to make sure that the Black vote was not diluted, in violation
12 of the Constitution.

13 Q. Was one of your goals with this map partisan gain for
14 Democrats?

15 A. No.

16 Q. Okay. Let's turn to the maps themselves.

17 MR. TRIVEDI: Mr. Najarian, could we place Senate
18 Defendant's Exhibit Number 29B and Plaintiffs' Exhibit 719 on
19 the screen side by side? Okay. Great.

20 BY MR. TRIVEDI:

21 Q. Senator, do you see the two maps in front of you?

22 A. Yes, I do.

23 Q. Okay. Do you see on the left in small print under South
24 Carolina congressional districts, one says Senate Amendment
25 2A?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 790

1 A. Yes.

2 Q. Do you recognize that as Mr. Harpootlian's map?

3 A. Yes.

4 Q. Okay. And on the right do you see Senate Amendment 1?

5 And do you recognize that as Mr. Campsen's map?

6 A. Yes.

7 Q. Okay.

8 JUDGE GERGEL: What's the number for the Campsen map?

9 MR. TRIVEDI: S-29. Senate 29-B.

10 Okay. So now, Mr. Najarian, if we could zoom in on
11 the Charleston peninsula.

12 **BY MR. TRIVEDI:**

13 Q. Senator, in the Campsen Plan on the right, what, if
14 anything, is concerning about the treatment of the Charleston
15 peninsula?

16 A. They broke up Charleston. They, in that map, took
17 Charleston and basically went into the Black community and
18 snatched them out of North Charleston. Right down the street
19 here is North Charleston. If you keep on going on Meeting
20 Street, you're there. They went in there -- even though we
21 heard person after person come up and say the coastline is
22 important, we have different issues than the middle part of
23 the state and the upper part of the state. We need somebody
24 that will understand and represent the coastline.

25 Q. Why doesn't it solve that problem that you're describing

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 791

1 that both Charleston and North Charleston get put into CD 6?

2 A. Excuse me?

3 Q. I'm sorry. So, in this map you said that Charleston and
4 North Charleston are put into CD 6; is that right?

5 A. No. North Charleston is pulled out and put into CD 6.

6 Q. Okay.

7 A. Charleston is still in 1.

8 Q. Okay. In the Campsen map?

9 A. In the Campsen map.

10 Q. I guess I should have been clearer. I was focusing on
11 the Charleston peninsula.

12 A. Okay.

13 Q. Okay. But, in any case, I think we heard your testimony
14 about it. Let's turn to the Harpootlian map on the left.

15 How is that all in the Harpootlian map better in the
16 respect that you just described?

17 A. The public hearings we had, it accomplished what
18 political leaders that came from those areas that didn't have
19 an interest of anything -- I mean, county council members,
20 other folks like city council members, school board members
21 and the community at large, they all said they wanted to keep
22 counties together.

23 The Harpootlian map -- if I look at Campsen's map, the
24 one that was adopted, three of my counties basically get
25 broken up. The Harpootlian map, if you'll notice there,

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 792

1 Colleton County, we have Edisto Beach in the ACE Basin -- I'm
2 sorry, that's the Combahee, Ashepoo and Edisto Rivers --
3 that's a part of Colleton. Tourism is important to us just as
4 in Charleston, and we have some of the same concerns. So, the
5 Harpootlian map keeps all of Charleston together, and keeps
6 Colleton together and keeps Beaufort intact.

7 Q. Okay. We'll actually get to Beaufort in a second. Let's
8 talk about Hollywood and Ravenel.

9 A. Okay.

10 Q. Okay. Senator, do you see on the left side of both maps
11 here, we have the areas labeled Ravenel-Hollywood and then
12 Meggett down at the bottom?

13 A. Yes.

14 Q. Okay. What, if anything, is concerning to you about the
15 treatment of those areas in the Campsen map?

16 A. That was a big, big concern to me in the committee
17 meeting. I believe, if I recall correctly, I had Senator
18 Campsen seated to my left. And when I saw it, I kept flipping
19 back and forth on the pages. I said, What in the world? I
20 said, So you're traveling down 17, all of 17 and 64, coming to
21 Charleston. Why would they split the district through 17, all
22 of 17, coming from Beaufort? I know you said we're not
23 dealing with that. But you're coming on 64, the Charleston
24 Highway, a well-traveled highway, you have the Hollywood,
25 Ravenel and Meggett area, heavily minority areas that are

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 793

1 altogether on the Harpootlian -- the left map, all of that's
2 together. And you can see the water. And boating is big in
3 those areas. All of those are in the same areas. But yet,
4 when you go to the map on the right, why would you split
5 Ravenel, Hollywood and Meggett? Those are Geechee Gullah
6 communities. They have the same community of interest. Why
7 would you split them up when there was -- we're dealing with a
8 lot of things in those areas regarding water quality, sewer,
9 and not to mention some -- but I was just surprised that they
10 would have gone in and snatched out those areas the way they
11 did.

12 Q. And why do you think they did that?

13 A. I think I said it before in the committee meetings,
14 because I felt that they went in and grabbed the Black voters
15 out of those areas. Where you see the pink there, they
16 grabbed them out of Charleston when there's no reason. They
17 do everything, they work here, they play here, they fish here,
18 they hunt here. Why would you move them out of Charleston?

19 Q. Okay.

20 MR. TRIVEDI: Mr. Najarian, let's move to the last
21 map, which is Jasper and Beaufort.

22 BY MR. TRIVEDI:

23 Q. Senator, again, the Campsen Plan is on the right. What,
24 if anything, is concerning to you about Jasper and Beaufort in
25 the Campsen map?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 794

1 A. The Campsen map goes down into Hardeeville. And let's go
2 back to what I was talking about earlier.

3 Q. Okay.

4 A. You know, Jasper and Beaufort and Colleton are the bulk
5 of my district. And one of the things when we were at the
6 Technical College of the Lowcountry, it was a packed House,
7 and I was happy to see that, because this is my area. And
8 folks were on the screen from Hilton Head. What we heard over
9 and over again in that meeting was that -- and this is
10 interesting -- Jasper wanted to be together, Beaufort wanted
11 to be together. But I think what's interesting there -- and
12 I'm going to contrast this with Charleston. In Charleston, we
13 didn't hear anybody that said, We want to be separate, we want
14 North Charleston to be separated from Charleston.

15 In Jasper County, there at the tip there where you see
16 Hardeeville going all the way down to Bluffton and Hilton Head
17 on the pink part on that right map, we had a large contingency
18 of folks from Sun City, Margaritaville, a lot of the retirees
19 that came from there, they came out and they told us
20 resoundingly that, We don't need to be with Jasper because we
21 have more in interest with Hilton Head and that Jasper -- one
22 guy even said, The only reason why we were ever annexed into
23 Jasper County is because of Pulte Homes for the taxes. So
24 they asked to be separated out.

25 So what is interesting is that, in the Senator Campsen

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 795

1 map, they listened to the people at Margaritaville, and Sun
2 City and Del Webb and took them out, but on the other one, did
3 not.

4 Q. So, just help us out -- I appreciate that. And you could
5 actually maybe circle it on your screen. Could you show us
6 where on the map Sun City is in the Campsen map? Is it that
7 little shark fin area?

8 A. (Witness complied.)

9 Q. Okay. And what is the area to the northeast of that,
10 that is triangular, that juts into Jasper County but remains
11 in green? What is that area?

12 A. Which one are you on?

13 Q. I'm on the right side.

14 A. Okay.

15 Q. Okay. And do you see just to the northeast of where you
16 just circled?

17 A. Hardeeville, the Levy area?

18 Q. And then there's an area that comes into Jasper County
19 and crosses the county line to get there but remains in CD 1.
20 Do you see where I'm getting to?

21 A. Okay. Yes. That northern Beaufort part to the right
22 there?

23 Q. Yes.

24 A. That is the county. That northern Beaufort, they kept
25 all of that in CD 1. But that left part there of Hardeeville

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 796

1 that I think is somewhat triangular -- I think it looks like a
2 shoe somewhat. That's almost all -- and I don't like saying
3 that -- a predominantly Black area. That's the Levy area.

4 Q. Thank you, Senator. We can leave the maps up, if you'd
5 like. Now I want to move to some of the testimony that you
6 gave during congressional redistricting.

7 Do you recall testifying at the November 29th, 2021,
8 Senate Redistricting Subcommittee after the very first senate
9 staff plan had been released?

10 A. Well, I didn't necessarily think I was testifying.

11 Q. Right. Speaking?

12 A. Yes. I remember speaking and asking questions about the
13 map.

14 Q. I appreciate that.

15 MR. TRIVEDI: Mr. Najarian, now can we turn to
16 Plaintiffs' Exhibit 98, page 23, lines six through 14.

17 BY MR. TRIVEDI:

18 Q. Senator, would you mind reading that out loud?

19 A. "As far as Charleston County, I represent Charleston
20 County too. I represent this side of Main Road in Charleston
21 County. I don't understand why on this map those Black voters
22 in Charleston County were carved out, and the more affluent
23 areas went to make this a more representative map, where
24 repub- -- a Republican could be elected."

25 Q. So what did you mean by this?

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 797

1 A. I don't understand why you would remove the Blacks so
2 that a Republican could be elected.

3 Q. Okay. Senator, now I'd like to pull up Plaintiffs'
4 Exhibit 115, which is the transcript of the January 19th,
5 2022, Judiciary Committee meeting.

6 JUDGE GERGEL: Let me raise an issue. I don't know.
7 Obviously, you've got a ways to go today on the Senator.

8 MR. TRIVEDI: No, your Honor.

9 JUDGE GERGEL: How much more do you have?

10 MR. TRIVEDI: I'd say -- I could do --

11 JUDGE GERGEL: Let me tell you my problem. I lament
12 about this. When I'm in my own courthouse, my colleagues
13 don't quite have this problem. I have emergencies come up,
14 and I have one at 5:00 p.m. that I have to go address.

15 MR. TRIVEDI: I'm having one now.

16 JUDGE GERGEL: I can see that. And I don't see it's
17 going to be possible to finish your direct today and allow the
18 defense lawyers to cross -- they're entitled to -- in a
19 reasonable time. You're going to kill my staff, is what we're
20 going to do. The court reporter is working incredibly hard.

21 THE COURT REPORTER: Thank you.

22 JUDGE GERGEL: And she nods.

23 And, you know, I hate to burden the Senator, but I
24 think we're going to need to come back tomorrow because, not
25 only do you need to finish, but they need to have a right to

MARGIE BRIGHT MATTHEWS DIRECT EXAMINATION BY MR. TRIVEDI 798

1 fully cross-examine her. And so, I'm thinking we maybe ought
2 to break right now and let me go deal with my emergency. And
3 I just don't think coming back at 5:45 to do -- and it will
4 kill my staff.

5 MR. TRIVEDI: Of course, your Honor.

6 JUDGE GERGEL: So, any thoughts anyone has about
7 that?

8 Mr. Gore, you've got cross-examination of this
9 witness?

10 MR. GORE: I do, your Honor. And we agree with your
11 assessment on the schedule.

12 JUDGE GERGEL: I mean, it's an important witness.
13 And, unlike the House, she actually participated in the plan
14 that got adopted. And I think they're entitled to have a full
15 robust cross-examination. So, I think we will adjourn today
16 and we'll reconvene at 9:00 o'clock tomorrow morning. Okay?

17 MR. TRIVEDI: Thank you, your Honor.

18 JUDGE GERGEL: Thank you.

19 * * * * *

20 I certify that the foregoing is a correct transcript from
21 the record of proceedings in the above-entitled matter.

22 s/Lisa D. Smith,

11/6/2022

23 Lisa D. Smith, RPR, CRR

24 Date

25