

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF
THE NAACP, *et al.*

Plaintiffs,

v.

STATE OF GEORGIA, *et al.*

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-5338-ELB-SCJ-
SDG

DEFENDANTS' REPLY IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

RETRIEVED FROM DEMOCRACYDOCKET.COM

INTRODUCTION

“[U]ntil a claimant makes a showing sufficient to support [an] allegation [of race-based decisionmaking], the good faith of a state legislature must be presumed.” *Miller v. Johnson*, 515 U.S. 900, 915 (1995). Plaintiffs’ response makes clear that they lack any material facts to overcome that presumption in this case. After Defendants pointed out the lack of evidence to support their claims, Plaintiffs’ only real argument is that they have put forward enough to reach trial. But they have not shown enough to prevent summary judgment on their constitutional claims or on their Section 2 claims. And this Court need not even reach these issues given Plaintiffs’ approach to standing for organizations in redistricting cases that stretches Article III injuries beyond constitutionally permissible grounds.

While Plaintiffs clearly dislike the maps they challenge, they must come forward with evidence to demonstrate there is at least a triable issue of material fact for their claims. They have not and this case must be dismissed.

ARGUMENT AND CITATION OF AUTHORITIES

While “it is unusual to find summary judgment awarded to the plaintiffs in a vote dilution case . . . there have been cases before this Court and the Supreme Court where summary judgment was granted to the *defendants*.” *Ga. State Conf. of the NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1345

(11th Cir. 2015) (emphasis original); *see also Johnson v. Governor of Fla.*, 405 F.3d 1214, 1234 (11th Cir. 2005); *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999). Constitutional claims of racial gerrymandering can also be resolved at summary judgment to defendants. While it is logical that plaintiffs often do not prevail on summary judgment in redistricting cases because of the heavy burden they face, defendants can prevail because they can point out the absence of evidence supporting a plaintiff's claim. *Chen v. City of Houston*, 206 F.3d 502, 513 (5th Cir. 2000).

Facing this binding precedent, Plaintiffs attempt to create a new record on standing, point to district shapes and demographics that are not enough to even create circumstantial evidence of racial predominance on their constitutional claims, and argue incorrect legal standards for their Section 2 claims. Despite extensive discovery, Plaintiffs have come up short, and their claims should be dismissed because there is no issue of material fact to try.

I. Plaintiffs lack standing to challenge the 2021 redistricting plans.

A. The agreement among the parties regarding how many members the organizations needed to disclose in discovery did not supplant Plaintiffs' evidentiary obligations.

Plaintiffs accurately capture the substance of the e-mail exchange between counsel for the parties to this action, but draw a far more sweeping

conclusion about it. [Doc. 152, pp. 10-11]. Plaintiffs requested that “the State’s challenge to that Plaintiff’s associational standing will be limited to the identified member’s individual standing,” but that is not a concession that standing exists for every district challenged by Plaintiffs—only that Defendants would not inquire about other individual members because the requirement of *Ga. Republican Party v. SEC*, 888 F.3d 1198, 1203 (11th Cir. 2018) would be met. [Doc. 152, p. 12]. But Plaintiffs still had an obligation to verify that they had members in all the districts they challenge if they planned on rely on associational standing for this Court’s jurisdiction.

Further, Plaintiffs’ view of the discovery agreement does not make sense because Defendants cannot waive this Court’s jurisdiction. *See, e.g., Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 270 (2015). Rather, Defendants’ view on the agreement was that, to the extent a Plaintiff identifies a member (or members) for purposes of associational standing, Defendants would only ask personally identifying questions as to the identified member(s) (as distinct from asking their 30(b)(6) witness to name *all* members in the challenged districts and then probing into the standing of each one of those members). But Plaintiffs would still have to identify one member *for each challenged district* or at the very least engage in some process Defendants could test to ensure that the organizations had members in each challenged district. And that is

why Defendants conceded that Plaintiffs could replace an identified member if that member lacked individual standing to bring the claim.

But what developed was not what Defendants anticipated based on Plaintiffs' agreement. Rather than identifying member(s) in each challenged district or any process for determining whether such members existed, Plaintiffs repeatedly objected to the Defendants' standing inquiries on the basis of associational or attorney-client privilege. Defendants' Response to Statement of Material Facts (RSAMF), ¶¶ 6-7, 11, 15-16. This, of course, was Plaintiffs' prerogative. But they must live with the results of their decisions, and their attempt to seek shelter in *Ala. Legis. Black Caucus* is unavailing.

In that case, which included a full discovery period and complete trial, the defendants never requested information regarding the standing of the organization's individual members. 575 U.S. at 270. Instead, when the trial was complete, the district court raised standing *sua sponte*, and found that it lacked jurisdiction. When the Supreme Court eventually considered the issue, it ruled the facts and circumstances regarding the nature of the organization *and* the complete lack of inquiry by the defendants as to the plaintiffs' associational standing warranted an inference in the plaintiffs' favor. *Id.* at 270-271. The Court also held that the plaintiffs could establish (and defendants could rebut) evidence of standing on remand. *Id.* at 271.

This case is very different. Defendants have repeatedly inquired into the associational standing of Plaintiff organizations. RSAMF, ¶¶ 6-7, 11, 15-16. And the very existence of this motion and its challenge to standing removes it from the factual pattern that led to the Supreme Court's equitable decision in *Ala. Legis. Black Caucus*. In any event, Plaintiffs here are not entitled to any inference in their favor regarding standing because they had knowledge (and many opportunities) to amass evidence regarding their associational standing, and they chose instead to object. In that absence of evidence, this Court cannot simply rely on Plaintiffs' say-so that varies the 30(b)(6) testimony provided in discovery. *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984); RSAMF, ¶¶ 6-7, 11, 15-16.

As Plaintiffs have already pointed out, “[a]n association has standing to bring suit on behalf of its members *when its members would otherwise have standing to sue in their own right*, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Friends of the Earth, Inc. v. Laidlaw Env’t Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000) (emphasis added). But “under this theory, an organization must ‘make specific allegations establishing that at least one identified member ha[s] suffered or [will] suffer harm.’” *Ga. Republican Party*, 888 F.3d at 1203

(quoting *Summers v. Earth Island Institute*, 555 U.S. 488, 498 (2009)). And in the context of redistricting, that harm must occur in each challenged district. *Gill v. Whitford*, 138 S. Ct. 1916, 1930 (2018). Especially at this stage of the litigation, courts “cannot accept the organization’s self-descriptions of [its] membership...” *Ga. Republican Party*, 888 F.3d at 1203. Yet that is exactly what Plaintiffs ask this Court to do: rely on a “a sworn statement that the organization had many members.” [Doc. 152, p. 14].

For reasons already stated, this case is unlike *Ala. Legislative Black Caucus*. Plaintiffs instead request this Court establish a new rule for associational standing in redistricting cases that allows organizations to rely solely on their own statements. But the rules on the evidence necessary for associational standing do not allow this and the declarations proffered by Plaintiffs are insufficient to satisfy it.

B. Plaintiffs cannot establish organizational standing in redistricting causes of action.

Plaintiffs’ fallback position is that they have organizational standing. But they cite only one redistricting case involving organizational standing, which comes from a district court in Texas, and it is highly unpersuasive under the facts of this case. In *Perez v. Abbott*, a district court determined an organization had organizational standing to challenge a local districting plan

because, “despite not dealing specifically with redistricting claims of the type asserted in this case, courts have consistently found standing under *Havens* [*Realty Corp. v. Coleman*, 455 U.S. 363 (1982)] for organizations to challenge alleged violations of § 2 of the VRA and the Fourteenth Amendment.” 267 F. Supp. 3d 750, 772 (W.D. Tex. 2017). While that is true generally, the district court did not find any support for such organizational standing in other redistricting cases and instead leaned heavily on general election challenges. *See id.* (noting organizational challenges under the VRA in *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008) (challenge to voter ID law); *Ne. Ohio Coal. For the Homeless v. Husted*, 837 F.3d 612, 624 (6th Cir. 2016) (challenge to absentee ballot law); and *Lee v. Va. State Bd. Of Elections*, 155 F. Supp. 3d 572, 575-76 (E.D. Va. 2015) (separate voter ID challenge)).

The district court seemed cognizant that authority for organizational standing in the redistricting context was sparse (and probably nonexistent), drawing its legal reasoning for its decision more from the absence of authority contradicting the court’s view rather than any authority supporting it. *Perez*, 267 F. Supp. 3d at 772. While that might have been enough then, *Gill*, decided *the very next year*, provides the definitive answer. 138 S. Ct. 1916 (2018). And it is unequivocal that “[a] plaintiff who complains of gerrymandering, but who does not live in a gerrymandered district, ‘assert[s] only a generalized

grievance against governmental conduct of which he or she does not approve.”
Id. at 1930. This requirement of district-specific harm cannot be avoided by filing a claim as an organization. Otherwise, the requirement of individualized harm would be illusory. *See, e.g., Nat’l Treasury Emps. Union v. U.S.*, 101 F.3d 1423, 1429 (D.C. Cir. 1996). Without a district-specific injury, Plaintiffs cannot rely on generalized organizational harms in a redistricting case.

Even if Plaintiffs could show an organizational harm was sufficient in a redistricting case, the evidence they put forward only demonstrates they are serving their purpose for existence in educating voters about redistricting. [Doc. 152, p. 16]. As a result, Plaintiffs have not shown any reason why this Court should not dismiss this case for lack of standing.

II. Plaintiffs have not put forward sufficient evidence on their racial gerrymandering claim.

Even if Plaintiffs have standing, their claims fail. In order to prevail on summary judgment, Defendants can cite to an absence of evidence, which requires Plaintiffs to put forward admissible evidence “showing that there is a genuine issue for trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). Plaintiffs have not done so in response to Defendants’ motion.

Plaintiffs agree that they can prove their racial gerrymandering claim by either direct evidence on motivation or “circumstantial evidence of a

district's shape and demographics." [Doc. 152, pp. 16-17] (quoting *Miller*, 515 U.S. at 916). Plaintiffs do not even attempt to offer direct evidence of improper racial motivation, because they cannot. They rely solely on possible circumstantial evidence. [Doc. 152, pp. 17-21]. But none of that evidence is sufficient to demonstrate there is a dispute over any material fact.

First, Plaintiffs now claim that there are disputes about the use of race in 8 of the 14 congressional districts (57%) but only in seven state Senate districts and five state House districts. [Doc. 152, p. 17]. This underscores the need for the Court to closely enforce standing as to which districts are actually being challenged, because racial gerrymandering claims can only target particular districts. *Ala. Legislative Black Caucus*, 575 U.S. at 263.

Next, Plaintiffs first rely on Dr. Duchin's analysis. But in so doing, they avoid the fact that Dr. Duchin specifically refused to opine that districts were drawn primarily based on race—only that some factfinder could possibly reach that conclusion. [Doc. 152-1, ¶¶ 67, 72, 93]. As Defendants predicted, Plaintiffs rely on core retention, racial swaps, and racial splits of counties and precincts. *Compare* [Doc. 141-1, pp. 17-18] *with* [Doc. 152, pp. 18-20]. But Dr. Duchin's analysis is not as comprehensive as Plaintiffs present, because she also acknowledged the presence of other factors besides core retention that she did not account for in her analysis, including politics. [Doc. 152-1, ¶¶ 68, 69].

Further, Dr. Duchin never reviewed any political data about the alleged racial splits, despite having access to that data.¹ *Id.*

Thus, the entirety of evidence on the shape and demographics of the districts presented by Plaintiffs is not enough. “Shape is relevant not because bizarreness is a necessary element of the constitutional wrong or a threshold requirement of proof, but because it may be persuasive circumstantial evidence that ***race for its own sake, and not other districting principles***, was the legislature’s dominant and controlling rationale in drawing its district lines.” *Miller*, 515 U.S. at 913 (emphasis added). But the evidence Plaintiffs presented about the enacted congressional plan is far from this. Dr. Duchin does not testify that the state disregarded traditional redistricting principles in service of racial goals, such as in *Shaw v. Reno*, 509 U.S. 630 (1993), and *Miller*, 515 U.S. at 913. She does not show that the General Assembly had a racial target, as in *Ala. Legislative Black Caucus*, 575 U.S. at 267. At most, Dr. Duchin has shown a *political goal* that had apparent racial impacts, but did not consider any method to rule out a political purpose—and in fact agreed that political goals were the likely cause. RSAMF, ¶¶ 106, 113, 121, 129, 137, 146, 148, 150.

¹ While political data is not generally available below the precinct level, Ms. Wright’s office used a formula to place estimates of political data at the block level, so it would also appear on the screen. RSAMF, ¶ 77.

Left with this reality, Plaintiffs turn to a set of 100,000 maps using an algorithmic analysis that attempted to assess partisan goals. [Doc. 152, p. 21]. Not only are these maps insufficient because they do not consider any redistricting principles except for compactness, RSAMF, ¶¶ 164-173, they also miss the point of what Plaintiffs need to prove. The mere fact that the legislature could have achieved partisan goals without “moving so many voters of color,” [Doc. 152, p. 21], ignores the reality that “a jurisdiction may engage in constitutional political gerrymandering, even if it so happens that the most loyal Democrats happen to be black Democrats and even if the State were *conscious* of that fact.” *Hunt*, 526 U.S. at 551 (emphasis original); *see also Rucho v. Common Cause*, 139 S. Ct. 2484, 2506-07 (2019).

Facing a motion that points to the lack of evidence to support their constitutional claim, Plaintiffs must come forward with more than Dr. Duchin’s report. And “[g]iven the fact that the plaintiffs bore the burden of proof on this issue, and the presumption in favor of the [legislature’s] good faith, the plaintiffs needed to undercut the hypothesis that the [State’s] plans were independently substantially justified by traditional districting factors” to survive summary judgment. *Chen*, 206 F.3d at 520. As a result, “the plaintiffs’ circumstantial evidence is inadequate to allow a finding that race predominated.” *Id.*

III. The State should be dismissed as a party.

In their response to Defendants' arguments about the application of sovereign immunity to the State, Plaintiffs cite only precedent from other circuits. [Doc. 152, p. 22]. Plaintiffs offer no other arguments beyond the claim that this Court should defer to other courts besides the Supreme Court on these issues. Plaintiffs have not shown any reason why this Court cannot dismiss the State of Georgia and continue this case (to the extent it finds standing for plaintiffs) with the remaining Defendants.

IV. Plaintiffs have not shown any *Gingles* preconditions, requiring dismissal of their Section 2 claim.

As explained by all parties, a plaintiff bears the burden of first proving each of the three *Gingles* preconditions to show a Section 2 violation. *Nipper v. Smith*, 39 F.3d 1494, 1510 (11th Cir. 1994). After a plaintiff establishes the three preconditions, a court then reviews the "Senate Factors" to assess the totality of the circumstances. *Id.* at 1512; *Thornburg v. Gingles*, 478 U.S. 30, 79 (1986); *Johnson v. De Grandy*, 512 U.S. 997, 1011 (1994).

This is why a grant of summary judgment to Defendants on Plaintiffs' Section 2 claims is required. For Plaintiffs to succeed, they must show vote dilution based on an "intensely local appraisal" of the facts in the local jurisdiction. *De Grandy*, 512 U.S. at 1020-21 (no statistical shortcuts to

determining vote dilution); *Gingles*, 478 U.S. at 45, 78; *White v. Regester*, 412 U.S. 755, 769-70 (1983). But Defendants can succeed in this case by pointing out Plaintiffs' failure to establish one of the *Gingles* preconditions. *See Johnson v. DeSoto Cnty. Bd. of Comm'rs*, 204 F.3d 1335, 1343 (11th Cir. 2000); *Burton v. City of Belle Glade*, 178 F.3d 1175, 1199 (11th Cir. 1999); *Brooks v. Miller*, 158 F.3d 1230, 1240 (11th Cir. 1998); *Negron v. City of Miami Beach*, 113 F.3d 1563, 1567 (11th Cir. 1997). That is exactly what Defendants have done here, despite Plaintiffs' failed efforts to create areas of dispute.

A. Plaintiffs have shown no issues of material fact regarding the first *Gingles* precondition.

1. Plaintiffs have not shown that coalition districts are required by Section 2.

Plaintiffs begin by going beyond what the Supreme Court has said about coalition districts. They claim that the reference in *Bartlett* to coalition districts is not to coalitions of minority voters, but to districts with coalitions of minority groups and white voters (usually called crossover districts). [Doc. 152, p. 25] (quoting *Bartlett v. Strickland*, 556 U.S. 1, 6 (2009)). But that misunderstands *Bartlett*. That case answered the question: "In a district that is not a majority-minority district, if a racial minority could elect its candidate of choice with support from crossover majority voters, can § 2 require the district to be drawn to accommodate this potential?" in the negative. *Bartlett*, 556 U.S. at 6. After

carefully using the term “crossover” district throughout, Plaintiffs claim that the plurality swapped its language. But even if it did, the point remains: combining minority groups is not what is required by Section 2.

Further, Plaintiffs incorrectly state that the Eleventh Circuit held that coalition districts are required in *Concerned Citizens of Hardee County v. Hardee County Board of Commissioners*, 906 F.2d 524, 526 (11th Cir. 1990). In that case, there was no evidence of cohesion, and the sole issue on appeal was whether Black voters could rely on white crossover support to meet the first *Gingles* prong. *Id.* at 527. Thus, any statements about coalition districts are *dicta*, even if Eleventh Circuit precedent bound this Court.

Tellingly, Plaintiffs do not point to any appellate decision actually holding that coalition districts were required by Section 2, nor do they even address the prohibition on federal courts drawing coalition districts on remedial plans. *Perry v. Perez*, 565 U.S. 388, 399 (2012). Plaintiffs also do not cite any evidence that Black and Latino voters are cohesive except when they vote for the same party’s candidates in general elections.

Plaintiffs cannot show that coalition districts are required by Section 2, and thus Defendants are entitled to summary judgment on all claims on an alleged failure to draw coalition districts under the first *Gingles* precondition.

2. Plaintiffs' remedial plans cannot be remedies.

Plaintiffs next seek to oversimplify their burden on the first *Gingles* precondition. [Doc. 152, pp. 26-29]. If the sole question before this Court for the first *Gingles* precondition is “can more majority-Black districts be drawn,” then Section 2 cases are far simpler than courts have been treating them. And the fact the same Plaintiffs claim that the State relied too much on race underscores the need for the Court to provide clarity on exactly what the law of Section 2 required of the legislature.

Plaintiffs attempt to sidestep their proof on the first precondition by emphasizing that the maps they propose are merely demonstrative and that some other configuration could be created. But it is Plaintiffs' burden to show their illustrative plan constitutes a proper remedy, meaning that it can be implemented by this Court or the General Assembly. *Nipper*, 39 F.3d at 1530-31; *see also Burton*, 178 F.3d at 1199.

Plaintiffs then attempt to create disputes about facts by listing out various factors related to the creation of the illustrative plans. [Doc. 152, pp. 27-30]. But Plaintiffs ignore Dr. Duchin's inability to identify the reasons for connecting various communities and rely on her “heat maps” for evidence of minority communities. Reviewing her deposition and these maps makes clear that there is no dispute of fact on these points—neither demonstrates that

there are specific minority communities that are being adversely affected by the enacted plans. Dr. Duchin’s plans are drawn primarily based on race and traditional principles do not defeat that fact because “[r]ace was the criterion that, in the [map-drawer’s] view, could not be compromised, and race-neutral considerations came into play only after the race-based decision had been made.” *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 189 (2017).

At the end of the day, “the States retain a flexibility that federal courts enforcing § 2 lack, both insofar as they may avoid strict scrutiny altogether by respecting their own traditional districting principles, and insofar as deference is due to their reasonable fears of, and to their reasonable efforts to avoid, § 2 liability.” *Bush v. Vera*, 517 U.S. 952, 978 (1996). While the State’s enacted plans receive this kind of deference, the proposed plans from Dr. Duchin do not—and her inability to explain how she would follow traditional districting principles given her lack of knowledge of the communities in the state is fatal to Plaintiffs’ claims even at summary judgment.

B. Plaintiffs have shown no issue of material fact regarding legally significant racially polarized voting.

1. The second and third Gingles preconditions are not satisfied by showing differential voting patterns.

Establishing racial polarization requires something more than just different races voting for different parties. Plaintiffs attempt to counter this,

saying that “proof of the second and third Gingles factors will *ordinarily create* a sufficient inference that racial bias is at work.” [Doc. 152, p. 32] (quoting *Nipper*, 39 F.3d at 1525 (emphasis added)). But this is not the “ordinary case,” because Plaintiffs’ evidence regarding the second and third *Gingles* preconditions demonstrates one thing: that Georgia elections reveal a pattern of *partisan* polarization among the races. And while the Eleventh Circuit held in the past that “[t]he surest indication of race-conscious politics is a pattern of racially polarized voting,” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1567 (11th Cir. 1984), the record before the Court here reveals this as somewhat of a tautology. Plaintiffs are saying that we have racially polarized voting because we see differential voting by race, and we have race-conscious politics for the same reason. But courts cannot reach an “inference of racial bias” until plaintiffs first establish legally significant racially polarized voting. And to do so they need more than just differential voting patterns among the races, *especially* when those patterns precisely mirror partisan patterns.

Indeed, the Eleventh Circuit recently explained that “the Supreme Court has warned against conflating discrimination on the basis of party affiliation with discrimination on the basis of race.” *League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, No. 22-11143, 2023 U.S. App. LEXIS 10350, at *25 (11th Cir. Apr. 27, 2023). In other words, “partisan motives are not the same as racial

motives.” *Brnovich v. Dem. Nat’l Comm.*, 141 S. Ct. 2321, 2349 (2021). Thus, courts “must be careful not to infer that *racial* targeting is, in fact, occurring based solely on evidence of partisanship. Evidence of *race-based* discrimination is necessary to establish a constitutional violation.” *League of Women Voters of Fla., Inc.*, 2023 U.S. App. LEXIS 10350, at *25 (emphasis original).

Rather than look at voting behavior holistically to determine, for instance, whether white voters are *refusing* to vote for Black candidates regardless of party or platform, Plaintiffs’ expert instead looks exclusively at general elections between Democrats and Republicans. RSAMF, ¶ 304. And with this limited dataset, only one thing is *certain*: that Black Georgians vote with dramatic regularity for Democrats and that white voters vote with somewhat less—though still substantial—regularity for Republican candidates. Indeed, we see *no change* in voter behavior as the race of the candidate changes. And because of this “remarkable stability,” Defendants’ expert, Dr. Alford, looks at the very same data Plaintiffs look at and determined that it does not establish racial polarization. *See* [Doc. 142, ¶ 82].

This is not a factual dispute, because everyone agrees on the facts. It is only the conclusion drawn from those facts that is at issue. And Dr. Alford draws the *only* conclusion one can draw from Dr. Schneer’s isolated analysis: the different races are voting for different candidates because those candidates

subscribe to a particular political party. *Id.* In other words, we have partisan polarization that happens to coincide with race. But, without more, this does not satisfy *Gingles* or any controlling precedent.

Plaintiffs attempt to bypass this material requirement, insisting Dr. Schneer's evidentiary offering satisfies the *Gingles* preconditions. As a result, Plaintiffs claim, they are entitled to an inference in their favor that "will endure *unless and until* the defendant adduces credible evidence tending to prove that detected voting patterns can most logically be explained by factors unconnected to the intersection of race with the electoral system." [Doc. 152, p. 35] (quoting *Vecinos de Barrio Uno v. City of Holyoke*, 72 F.3d 973, 983 (1st Cir. 1995)). However, because Plaintiffs never satisfied the appropriate standard under *Gingles*, they are entitled to no inference in their favor, and Defendants therefore have no obligation to rebut evidence that has not yet been provided. And in this evidentiary vacuum, this Court cannot infer racial bias. *League of Women Voters of Fla., Inc.*, 2023 U.S. App. LEXIS 10350, at *25.

2. Based on the evidence in the record, there is no need for this Court to wait until totality of circumstances analysis to consider whether Plaintiffs have established racial polarization.

Plaintiffs suggest this Court should forego Defendants' legal argument until trial because it is more appropriately considered as rebuttal evidence at

the totality of circumstances inquiry, which is fact-intensive. [Doc. 152, p. 35]. And this would be true *if there were any evidence in the record to rebut*. But, as explained above, Plaintiffs have not yet met their initial burden to show legally significant racially polarized voting. And while there is some dispute among the circuits about when is best to analyze this issue, *see, e.g.*, [Doc. 141-1, pp. 32-33 n. 10], the third *Gingles* precondition is best suited for it. And because this is specially empaneled three-judge court whose decisions are reviewed directly by the Supreme Court, it need only treat precedent from this (or any) circuit as potentially persuasive, as opposed to precedentially binding.² The totality of circumstances is better suited for rebuttal evidence by Defendants and the response to that rebuttal evidence by Plaintiffs.

V. Proportionality forecloses Plaintiffs' Section 2 claims.

As Defendants stated in their opening brief, proportionality is not a safe harbor. [Doc. 141-1, p. 39]. But it has been the basis of a grant of summary judgment in a case upheld on appeal that Plaintiffs do not even address in their response. *African Am. Voting Rights Legal Def. Fund v. Villa*, 54 F.3d 1345,

² A different three-judge court sitting in this circuit has held Eleventh Circuit precedent binding. *See, e.g. Ga. State Conference of NAACP v. Georgia*, 269 F. Supp. 3d 1266, 1278 (N.D. Ga. 2017 (three-judge court)). But that three-judge court has no authority to bind this separately constituted court. *See, e.g. Parker v. Ohio*, 263 F. Supp. 2d 1100, 1112 n.3 (S.D. Ohio 2003) (three-judge court) (Gwin, J., concurring).

1355 (8th Cir. 1995) (evidence of “persistent proportional representation” sufficient to support grant of summary judgment to jurisdiction).³

The fact that Georgia already elects five Black candidates and five candidates of choice of Black voters to Congress is important to this Court’s consideration, because the text of Section 2 says so: “The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered.” 52 U.S.C. § 10301(b). Further, it is a necessary step in this Court’s analysis—if an additional district can be drawn, this Court must determine “whether the absence of that additional district constitutes impermissible vote dilution.” *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 437 (2006) (*LULAC*). Thus, this Court must determine whether Black voters *in the challenged districts* have their voting strength diluted. *Id.*

De Grandy requires that when “minority voters form effective voting majorities in a number of districts roughly proportional to the minority voters’ respective shares in the voting-age population,” it is relevant to whether those voters have “less opportunity than other members of the electorate to

³ Defendants inadvertently cited *Fairley v. Hattiesburg Miss.*, 662 F. App’x 291, 301 (5th Cir. 2016), in their brief as a case involving a grant of summary judgment based on proportionality. But the case was decided after a bench trial (even though most facts were uncontested).

participate in the political process and to elect representatives of their choice.” 512 U.S. at 1000 (quoting 52 U.S.C. § 10301(b)). Plaintiffs are correct that *De Grandy* only credited districts that had a “clear majority” or “supermajorities” of the relevant racial minority. *Id.* at 1023. *LULAC* also looked to “opportunity districts” using citizen voting-age population. 548 U.S. at 438.

But applying this same analysis to the Georgia congressional plan would mean that only two districts out of 14 on the enacted plan (14.3%) would count for purposes of proportionality because Plaintiffs say only two districts have majority-Black citizen voting-age populations. [Doc. 152, p. 37]. This is where the interplay of race and politics again cuts against Plaintiffs—they can already point to five districts in Georgia where Black-preferred candidates succeed, including two U.S. Senators, and now want to use the VRA to compel the creation of another congressional district. But when this Court evaluates whether the failure to create that district “constitutes impermissible vote dilution,” *LULAC*, 548 U.S. at 437, the consistent political success of Black-preferred candidates demonstrates there is no such dilution.

Further, if this Court requires the creation of a sixth district, Black voters will be able to elect candidates of choice in 42.9% of all congressional districts in Georgia. And using the VRA to compel political outcomes raises

serious questions about its constitutionality. [Doc. 141-1, pp. 33-35]; *City of Boerne v. Flores*, 521 U.S. 507, 519–20 (1997).

VI. Plaintiffs have not provided evidence to support their discriminatory purpose claim.

Plaintiffs claim that *Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252 (1977), applies in redistricting cases. [Doc. 152, p. 38]. But this is not correct. If Plaintiffs' claims fail under *Miller*, as discussed above, then Count III must also be dismissed because *Arlington Heights* does not apply. Plaintiffs still cannot cite a single case where a court used the *Arlington Heights* factors in a case challenging district boundaries—the sole case they cite involved only whether an at-large system of election violated the Constitution, which is far afield from whether particular district boundaries do so. *Rogers v. Lodge*, 458 U.S. 613, 614 (1982). Further, while *Arlington Heights* relied on a redistricting case for part of its standard, Plaintiffs cannot escape the fact that they ask this Court to apparently become the first court to apply *Arlington Heights* to a district plan separately from *Miller*. Indeed, it would be strange if the Court found no direct evidence of racial intent and no circumstantial evidence of

racial intent as a result of the shape and demographics under *Miller*, 515 U.S. at 916, but then found racially improper intent under *Arlington Heights*.⁴

But even with this wrong view of the law, and apparently recognizing the fact that none of their experts would opine on the intent of the General Assembly, Plaintiffs next attempt to cobble together evidence of racial purpose. After recapitulating their view of the district boundaries, they discuss Georgia's history, omitting the fact that Georgia's 2011 statewide redistricting plans were approved by the Department of Justice on the first attempt and were never found unconstitutional or illegal in any final judgment of a court.

Plaintiffs next attempt to recast the testimony of Dr. Bagley, who testified that the 2021 redistricting process entirely consistent with the 2011 and 2001 redistricting processes in Georgia. RSAMF, ¶ 67. Plaintiffs pretend as if a single stray comment by Chair Rich was “bemoan[ing]” having to comply with the Voting Rights Act, when the actual quote was explaining to constituents who were upset about a Republican incumbent being drawn out of his district: “No matter how much anybody here on this committee or in this

⁴ Plaintiffs' reliance on *Hunt*, 526 U.S. at 549-51, [Doc. 152, p. 39], illustrates how confusing this would be if the Court proceeds with an *Arlington Heights* analysis. That citation does not involve the Supreme Court considering evidence under the *Arlington Heights* factors, but rather evidence about the shape and demographics of the districts—exactly what *Miller* requires. *Id.*

room thinks that the application is unfair here, this is just not the body that has any authority to change the Federal Voting Rights Act.” RSAMF, ¶ 66.

The selective quoting continued with an attribution that Ms. Wright was working to intentionally avoid creating a record, when the actual exchange in the deposition was discussing Ms. Wright’s preference for in-person communication when talking with the committee chairs. RSAMF, ¶ 78. This is far from the accusation made against Ms. Wright and ignores Plaintiffs’ own evidence about the map-drawing process functioning largely the same in 2021 as in prior redistricting cycles regardless of the party in power.

Finally, Plaintiffs ignore the reality that Georgia had political data displayed at the block level, RSAMF, ¶ 77, and ignore Ms. Wright’s unequivocal testimony that Mr. O’Connor does not draw maps and had absolutely no role in creating any statewide maps. RSAMF, ¶ 85-86.

CONCLUSION

In a case with no individual voter plaintiffs, this Court should dismiss the entirety of this case for lack of standing by the organizational Plaintiffs. But even if Plaintiffs have standing, there is no issue of material fact because Plaintiffs do not have evidence sufficient to carry their burden. This Court should grant summary judgment to Defendants and dismiss the entirety of Plaintiffs’ claims.

Respectfully submitted this 10th day of May, 2023.

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Elizabeth Vaughan
Assistant Attorney General
Georgia Bar No. 762715
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Bryan P. Tyson

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com
Frank B. Strickland
Georgia Bar No. 687600
fstrickland@taylorenghish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenghish.com
Diane Festin LaRoss
Georgia Bar No. 430830
dlaross@taylorenghish.com
Donald P. Boyle, Jr.
Georgia Bar No. 073519
dboyle@taylorenghish.com
Daniel H. Weigel
Georgia Bar No. 956419
dweigel@taylorenghish.com

Taylor English Duma LLP

1600 Parkwood Circle

Suite 200

Atlanta, Georgia 30339

(678) 336-7249

Counsel for Defendants

RETRIEVED FROM DEMOCRACYDOCKET.COM

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Brief has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

RETRIEVED FROM DEMOCRACYDOCKET.COM

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF
THE NAACP, *et al.*

Plaintiffs,

v.

STATE OF GEORGIA, *et al.*

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-5338-ELB-SCJ-
SDG

**DEFENDANTS' RESPONSES AND OBJECTIONS TO PLAINTIFFS'
STATEMENT OF ADDITIONAL MATERIAL FACTS**

Defendants the State of Georgia; Brian Kemp, in his official capacity as the Governor of the State of Georgia; and Brad Raffensperger, in his official capacity as Secretary of State of Georgia (collectively, "Defendants") pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1(B)(3), provide their Responses and Objections to Plaintiffs' Statement of Additional Material Facts [Doc. 152-2] ("SAMF").

As an initial matter, Defendants object to the titles and headings used throughout the SAMF because they do not comply with LR 56.1(B)(1) in that they are argumentative statements unsupported by evidence. They are not repeated in this response. Similarly, Defendants object to Plaintiffs' titles,

characterizations, and/or descriptions of any exhibits cited in the SAMF to the extent that they deviate from the language or evidence contained in those exhibits.

Further, Defendants object to the entirety of Plaintiffs' SAMF because it fails to comply with the Local Rules in that it spans 372 paragraphs over 128 pages. Courts in this district have excluded or declined to consider shorter statements.¹ See *Dinkins v. Leavitt*, No. 1:07-CV-486-FWT, 2008 WL 447503, at *3 (N.D. Ga. Feb. 13, 2008) (declining to consider statement because "Plaintiff's 94-page statement of facts does not meet any of [LR 56.1(B)(1)'s] requirements. Certainly its 94-page length does not meet the conciseness requirement."); *Frazier v. Doosan Infracore Int'l, Inc.*, No. 1:09-CV-187-TCB, 2011 WL 13162052, at *3 (N.D. Ga. Feb. 24, 2011) (statement may be dismissed because "while Local Rule 56.1 may not impose a limit on the number of facts, it does require that the statement of facts be concise and include only material facts. Frazier's original statement of facts does not comply with these requirements, as it is not concise and it is replete with immaterial facts.").

¹ Defendants have not sought a status conference or filed an emergency motion pursuant to L.R. 7.2(B), see *Fair Fight Action v. Raffensperger*, Case No. 1:18-cv-05391-SCJ, Doc. No. 616 (March 31, 2021) because of the sensitive timelines involved in this case and the desire to avoid delay in this Court's consideration of this case.

Defendants' responses and objections to the statements are as follows:

1. The NAACP was founded on February 12, 1909, and is the oldest, largest and most widely recognized grassroots-based civil rights organization. See Declaration of Jacob Canter ("Canter Decl.") ¶ 2 (Gerald Griggs ("Griggs Decl.") at ¶ 3).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

2. The Georgia State Conference of the NAACP ("GA NAACP"), a unit of the National NAACP, is the oldest and one of the largest, most significant organizations promoting and protecting the civil rights of African Americans and other racial and ethnic minorities in Georgia. *Id.* at ¶ 4.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

3. The GA NAACP is a non-partisan, interracial, nonprofit membership organization with a mission to "eliminate racial discrimination through democratic processes and ensure the equal political, educational, social, and economic rights of all persons, in particular African Americans." Protecting and promoting the voting rights of Black voters, other voters of color, and underserved communities is essential to this mission. *Id.* at ¶ 5.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

4. The GA NAACP is dedicated to protecting voting rights through legislative advocacy, communication, and outreach, including work to promote voter registration, voter education, GOTV efforts, and election protection. The GA NAACP advocates for census participation and fair redistricting maps. *Id.* at ¶ 6.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

5. The, the GA NAACP has approximately 10,000 members across approximately 180 local units, residing in at least 120 counties in Georgia. *Id.* at ¶¶ 7-9; see also Griggs Dep. 34: 4-6.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

6. The GA NAACP has numerous—often hundreds—of members in each district challenged as a racial gerrymander. Griggs Decl. at ¶¶ 10-11.

RESPONSE: Objection. The Griggs declaration is inadmissible to the extent that it varies GA NAACP's 30(b)(6) testimony that the organization only identified one member in a district and was unable to testify as to how many members were affected by redistricting. Deposition of Ga. NAACP [Doc. 136]

(“GA NAACP Dep.”) 78:1-79:5. Further, the GA NAACP refused to provide testimony regarding how it determined which districts to challenge. *Id.* at 79:14-24. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

7. In each voting rights cluster analyzed by Plaintiffs’ mapping expert, Dr. Moon Duchin, the GA NAACP has numerous—often hundreds—of members who reside in majority-white districts in the enacted cluster, but in majority-minority illustrative districts in the same cluster in one of Dr. Duchin’s illustrative maps. *Id.* at 12. See also Canter Decl. ¶ 3 (Expert Report of Moon Duchin (“Duchin Rep.”) at 25-39).

RESPONSE: Objection. The evidence cited does not support the fact stated because there is no indication that Dr. Duchin performed any such analysis or which districts the members live in for each cluster analyzed. Further, the Griggs declaration is inadmissible to the extent that it varies GA NAACP’s 30(b)(6) testimony that the organization only identified one member in a district and was unable to testify as to how many members were affected by redistricting. GA NAACP Dep. 78:1-79:5. Further, the GA NAACP refused

to provide testimony regarding how it determined which districts to challenge. *Id.* at 79:14-24. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

8. GALEO Latino Community Development Fund, Inc. (“GALEO”) was founded in 2004 and works to “increase civic engagement and leadership development of the Latinx community across Georgia.” See Canter Decl. ¶ 4 (Declaration of Gerardo Gonzalez (“Gonzalez Decl.”) at ¶ 3); see also Declaration of Crinesha Berry (“Berry Decl.”) at ¶ 14 (Ex. 8).

RESPONSE: State Defendants admit that this as an accurate statement of the mission of GALEO stated on its website as it pertains to the Latino community.

9. Protecting and promoting the voting rights of Georgia’s Latinx U.S. citizens is essential to this mission. The organization devotes significant time and resources to conducting voter registration drives, voter outreach, assistance with voter ID and “Get Out The Vote” efforts to increase turnout of

Latinx voters, and advocacy for census participation and fair redistricting maps. See Gonzalez Decl. at ¶ 4; Berry Decl. at ¶ 14 (Ex. 8).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

10. GALEO has over 230 members in Georgia, in over 35 counties and 70 cities. See Gonzalez Decl. at ¶ 5-7.

RESPONSE: Objection. The Gonzalez declaration is inadmissible to the extent that it varies GALEO's 30(b)(6) testimony that the organization has over 250 members. Deposition of GALEO [Doc. 139] ("GALEO Dep.") 81:24-82:4, 82:21-25). See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) ("When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.").

11. GALEO has at least one member in certain districts challenged as a racial gerrymander, including enacted Congressional Districts 2, 3, 4, 6, 8, 10, 13, 14; enacted Senate Districts 2, 4, 14, 48; and enacted House Districts 44, 48, 52, 104. Id. at ¶ 8.

RESPONSE: Objection. The Gonzalez declaration is inadmissible to the extent that it varies GALEO's 30(b)(6) testimony regarding the organization's knowledge of its member residences that identified only one member as affected by redistricting. GALEO Dep. 81:24-82:4, 82:21-25. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) ("When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.").

12. The Georgia Coalition for the People's Agenda ("GCPA"), is a Georgia not-for-profit corporation with its principal place of business located in Atlanta, Georgia. See Canter Decl. ¶ 5 (Declaration of Helen Butler ("Butler Decl.") at ¶ 3).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

13. The GCPA encourages voter registration and participation, particularly among Black and other underrepresented communities. The GCPA's support of voting rights is central to its mission. The organization has committed and continues to commit, time, and resources to conducting voter registration drives, voter education, voter ID assistance, election protection,

census participation, fair redistricting maps, other get out the vote (“GOTV”) efforts in Georgia, such as “Souls to the Polls,” “Pews to the Polls” and other initiatives designed to encourage voter turnout, and impact litigation involving voting rights issues. *Id.* at ¶ 4; Berry Decl. at ¶ 14 (Ex. 7).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

14. The GCPA is a coalition of more than 30 organizations, which collectively have more than 5,000 individual members across the state of Georgia in various cities and counties. See Butler Decl. at ¶ 5.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case.

15. The GCPA has at least one member in certain districts challenged as racial gerrymanders, including: Congressional Districts 2, 3, 4, 8, 13 and Senate Districts 2 and 26. *Id.* at ¶ 8.

RESPONSE: Objection. The Butler declaration is inadmissible to the extent that it varies GCPA’s 30(b)(6) testimony regarding the organization’s knowledge of its member residences that identified only one member as affected by redistricting. Deposition of GCPA [Dkt. 138] (“GCPA Dep.”) 75:7-18. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657

(11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

16. The GCPA has at least one member who resides in majority-white Congressional district 3 in the enacted plan but would reside in majority-minority CD 3 in one of Plaintiffs’ mapping expert’s illustrative plans. *Id.* at ¶ 9.

RESPONSE: Objection. The Butler declaration is inadmissible to the extent that it varies GCPA’s 30(b)(6) testimony regarding the organization’s knowledge of its member residences that identified only one member as affected by redistricting. GCPA Dep. 75:7-18. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

17. On November 14, 2022, counsel for Plaintiffs informed counsel for Defendants via email that “Plaintiffs agree to waive any argument that they can support organizational standing by showing financial diversion, on the

condition that the State withdraws Interrogatory No. 3 and RFPs 10-12 and agrees not to seek similar evidence, i.e. via deposition questions on financial diversion.” See Berry Decl. at ¶ 10 (Exhibit 6).

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because Plaintiffs’ claims regarding their lack of financial diversions of resources are not relevant to the Court’s consideration on their standing.

18. Counsel for Plaintiffs further noted that “Plaintiffs still intend to support organizational standing by showing diversion of non-financial resources, such as activities specifically for the redistricting plans that divert time, personnel, and other non-financial resources from Plaintiffs’ usual activities.” See *id.* (Exhibit 6).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact.

19. On November 9, 2022, counsel for Defendants agreed to this. See *id.*

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because Plaintiffs’ claims regarding their lack of financial diversions of resources are not relevant to the Court’s consideration on their standing.

20. Each Plaintiff organization had to divert resources from core projects and activities as a result of the enactment of the redistricting plans. See Canter Decl. ¶ 6 (Deposition of Helen Butler (“Butler Dep.”) 23:22-36:14; 50:04-54:09 (describing resources diverted from the GCPA’s core activities and projects)); see also Canter Decl. ¶ 7 (Deposition of Cynthia Battles (“Battles Dep.”) 16:08-24:11 (same)); Canter Decl. ¶ 8 (Deposition of Gerald Griggs (“Griggs Dep.”) 26:03- 33:14; 47:24-48:24 (describing resources diverted from the NAACP’s core activities and projects)); Canter Decl. ¶ 9 (Deposition of Gerardo Gonzalez (“Gonzalez Dep.”) 41:05-59:24 (describing resources diverted from GALEO’s core activities and projects)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, it is stated as a legal conclusion, cites evidence that is immaterial, and the evidence cited does not support the stated fact. For example, the cited pages include testimony of GALEO concerning census work performed “every ten years” GALEO has “been in existence . . . 2010 . . . 2020” and not related to 2021 redistricting (GALEO Dep. 43:2-10); education efforts that were not solely about redistricting (GALEO Dep. 45:7-47:7); outreach efforts pertaining to local elections which are not affected by the challenged state-wide redistricting (GALEO Dep. 47:16-21); and their advocacy efforts concerning SB 202 and a “plethora of changes” GALEO claims

are “voter suppression tactics” unrelated to the challenged redistricting maps (GALEO Dep. 56:4-57:22). Further, the citations regarding GCPA are also immaterial, including the organization’s 30b6 evidence is that the redistricting work included getting people engaged in the 2020 census (GCPA Dep. 26:21-23), “educating about the census” (GCPA Dep. 26:23-24) “help[ing] people understand the process” (GCPA Dep. 27:6-7) continuously working on “a lot of local maps that were redrawn” (GCPA Dep. 27:11-15), and educating people on SB 202 (GCPA Dep. 27:23-25) which are not the result of the enactment of the maps GCPA is challenging in this litigation. Also, according to GCPA’s 30b6 evidence, the organization’s town halls conducted in “June and July of 2021” and testimony during the special session of the legislature predated the enactment of the maps GCPA challenges. (Deposition of Cynthia Battles, [Dkt. 137] (“GCPA Battles Dep.”) 16:24-17:15; 21:20-22:1.) Moreover, the cited evidence is immaterial to the claims and defenses in this case because adding to the organization’s ongoing voter-education efforts or diversion from what the organization “could be” doing does not constitute a diversion of resources generally and would not amount to a diversion from another activity. (GCPA Dep. 31:23-32:6).

21. President Gerald Griggs of the GA NAACP testified during his deposition that “[t]o the best of [his] knowledge, prior to [his] time as the

president and up till now, [GA NAACP has] had to shift [its] organizational philosophy and resources to [make] sure that the impact of the new maps [did] not substantially reduce the voting power of black people in communities of color throughout the State.” Griggs Dep. 26: 8-13.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

22. He also testified that the GA NAACP had to “shift [its] resources from [its] main pillars to focus directly on combating the significant impact of [redistricting].” See Griggs Dep. 26: 22-24.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

23. He further testified that the GA NAACP “... had to shift resources from [its] focus, which was racial discrimination, civil rights violations, to focusing on making sure there was no dilution through the [redistricting] plan and implementation.” See Griggs Dep. 28: 17-21.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

24. With respect to voter education programs, President Griggs testified that GA NAACP had to “... shift [its] messaging strategy and our overall strategy to get people to understand that[...] many of the congressional

districts that they now live in will be drastically changed, so polling precincts will be changed, their representatives will be changed, and that they need to understand what the impact that would have on them. Voter registration drives, if you were registered to vote, especially with the voting purges, you would have to make sure your registration is still up to date and good, and that you have to make sure that you are still in whatever district you were in or you may have be moved to another district. So [GA NAACP] had to educate people, and [...] had to make sure people were aware, and [...] had to make sure people understood that they still had the opportunity, through the Town Halls and through the hearings, to be present to give voice to what was about to happen, but also be prepared for the outcome of what would happen. None of that [GA NAACP] would be doing but for the issue of re-districting...” See Griggs Dep. 29:23-30:20; see also 30:20-31:1 (describing activities GA NAACP would have done instead of focusing on redistricting).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

25. President Griggs testified that a “substantial” number of volunteers were diverted from GA NAACP’s normal efforts to combating effects of redistricting. See Griggs Dep. 31:9-17.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

26. President Griggs further testified that GA NAACP had employees that “primarily focused on getting the message out and planning the programming around pushing back on [redistricting,] [s]o [...] they were working on that more than they were working on anything else that [was] a part of the pillars of [the GA NAACP] strategy to make sure we advance the lives of colored people in the State.” See Griggs Dep. 32: 8-14.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

27. Finally, President Griggs testified that without having to engage with redistricting the GA NAACP “... would have dedicated more resources to the actual voter mobilization and get out to vote earlier than [it] did, because [it was] focused on [redistricting] while in the middle of the municipal races. So [the GA NAACP] had to shift significant resources away from GOTV for municipal races to deal with special session as well as voter education of what was happening during that period in 2021.” See Griggs Dep. 34: 13-21.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

28. Gerardo Gonzalez, Chief Executive Officer (CEO) of the GALEO, testified during his deposition that after the enactment of the maps GALEO engaged in the effort to “educate and inform [its] community about the Georgia legislative efforts to diminish the voting strength of minority communities across the state of Georgia by unfairly cracking and packing [its] communities to dilute the growth of communities power in the legislative process through the redistricting process.” Gonzales Dep. 43: 18-25; see also 44: 19-23 (testifying that GALEO had to educate its members “...about the impact that [the redistricting had] on [its] community with the cracking and packing and why [GALEO] believed that happened.” He also testified that GALEO had to “inform and educate [its] community about the new districts in which they were going to be voting”).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and cites evidence that is immaterial to the claims and defenses in this case because adding information to the organization’s ongoing educational efforts does not constitute a diversion of resources.

29. He further testified that in response to the enactment of the maps GALEO’s messaging had to change “adding another topic to what [they] were talking to voters about [was] a diversion of resources that [they were] doing

associated with the work that [they were] doing” because “had the districts not changed, that’s not something [GALEO] would have talked about because [its members] would be able to exercise their right to vote without having to understand that there was a new district that they were voting in.” Gonzales Dep. 48:3-12.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, it is stated as a legal conclusion, and cites evidence that is immaterial to the claims and defenses in this case because adding “a topic” to information the organization was already providing does not constitute a diversion of resources.

30. He also testified that following the enactment of the maps, among other hostile legislative actions, GALEO “increase[d] [its] outreach efforts” which was a change or expansion in the number of volunteers GALEO utilizes in outreach efforts. Specifically noting that GALEO “had to increase [its] number of volunteers in [its] targeted outreach to [its] community to ensure that [it was] adequately educating and informing [its] community about the changes in districts, as well as changes in law.” Gonzales Dep. 56:1-12; 56:17-21.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and cites

evidence that is immaterial to the claims and defenses in this case because adding another topic to information about “changes in law” that the organization was already making available does not constitute a diversion of resources.

31. Finally, he testified that since the 2020 census, GALEO staff has increased from four people to fifteen, and that as a result of efforts by the Georgia legislature to dilute the ability of the minority community to exercise its right to vote GALEO had to “increase ... staff resource allocation to ensure [it] can continue to engage and educate [its] community about exercising the right to vote, given the changes in the law...” including, but not limited to, the redistricting process. Gonzales Dep. 58: 13-24.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as a legal conclusion and cites evidence that does not support the fact because Mr. Gonzalez testified that GALEO expanded staff due to the changes in the laws such as SB 202 and not just redistricting (GALEO Dep. 58:17, 73:15-23).

32. Helen Butler, Executive Director of GCPA, testified during her deposition that GCPA“...[has] a very limited staff...[and] had to assign and prioritize the activities of [its] staff and volunteers that work with [them] to be able to accomplish a lot of things that were impacted by the redistricting[,

which...] took [GCPA's] time and energies away from doing ... other activities [like...] trying to get our citizen review boards adopted throughout the state.” Butler Dep. 24:15-22.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because adding work to the organization's already existing activities to get people engaged in the process does not constitute a diversion of resources and would not amount to a diversion from another activity. (GCPA Dep. 24:23-24.) Further, the evidence cited does not support the fact stated because the activities listed predate the adoption of the maps GCPA is challenging in this litigation.

33. She further testified that GCPA had to “try to prioritize [its] efforts that [it] normally [did] in a normal election cycle with voter registration, education, mobilization, and election protection [while ...] trying to accomplish educating the public about the redistricting process, how it was happening, how it would impact the communities [such that GCPA] had to really reorganize and reprioritize [its] limited staff and volunteers that could do the work.” Butler Dep. 24:24-25; 25:1-7.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to

the claims and defenses in this case because adding work to the organization's already existing activities to get people engaged in the process does not constitute a diversion of resources and would not amount to a diversion from another activity. (GCPA Dep. 24:23-24.) Further, the evidence cited does not support the fact stated because the activities listed predate the adoption of the maps GCPA is challenging in this litigation.

34. While not able to list a specific percentage, Ms. Butler testified that "a large portion of [GCPA] activities had to be diverted to holding different town hall hearings" and that at least one employee had to "spend most of her time at hearings, trying to get people educated about the process, how they could have an impact, trying to help people know -- get tools to really draw their own maps to be engaged in the redistricting process because [it was] critical." Butler Dep. 25:13-21; see also Battles Dep. 16:08-17:22 (describing changes in responsibilities in light of redistricting).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because adding work to the organization's already existing activities to get people engaged in the process does not constitute a diversion of resources and would not amount to a diversion from another activity. (GCPA Dep. 24:23-24.) Further, the evidence cited does not

support the fact stated because the town halls held in “June and July of 2021” and Ms. Battles’ work during the Nov. 2021 special session of the legislature predated the adoption of the maps GCPA is challenging in this litigation. GCPA Battles Dep. 17:1-9.

35. She also testified that a “...large portion of that, our time and resources, were diverted to ... [d]oing the meetings, developing materials, all of those things that we [GCPA] had to do, that could have been spent on the other issues that [GCPA does], like criminal justice, like education equity, like improving our economic equity in the [] the state [such that GCPA] could not do those effectively [because GCPA] had to devote more time to the redistricting process.” Butler Dep. 26:6-13.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because adding work to the organization’s already existing activities to get people engaged in the process does not constitute a diversion of resources and would not amount to a diversion from another activity. (GCPA Dep. 24:23-24.) Further, the evidence cited does not support the fact stated because the activities listed predate the adoption of the maps GCPA is challenging in this litigation.

36. She added that while GCPA sometimes host townhalls, since redistricting “[GCPA has] been doing, more frequently, town halls with regards to redistricting to make sure [GCPA] reach[es] the people so that they know who is representing them and how it impacts their communities.” Butler Dep. 35:13-17.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because adding work to the organization’s already existing voter education activities does not constitute a diversion of resources in that Ms. Butler testified that GCPA already held town hall meetings prior to the adoption of the redistricting plans (GCPA Dep. 24:23-24, 35:12-13). Further, the evidence cited does not support the fact stated because GCPA’s town hall meetings predate the adoption of the maps GCPA is challenging in this litigation. GCPA Battles Dep. 17:1-9.

37. She further explained that while GCPA generally engages in phone banking and texting “... the messaging has [had] to be diverted to other things, not issues like education equity, not like criminal justice... [g]etting those citizen review boards that [GCPA has] been trying to do or economic justice equity issues, [instead GCPA was] spending more time doing [phone

banking and texting with] regards to polling changes and [...] how redistricting has impacted the communities.” Butler Dep. 35:23-36:7.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because adding work to the organization’s already existing phone banking, voter education and activities to “get people engaged in the process” does not constitute a diversion of resources. (GCPA Dep. 24:23-24.) The evidence cited also does not support the fact stated because the activities listed predate the adoption of the maps GCPA is challenging in this litigation.

38. Ms. Butler testified that programs that the GCPA would not be able to commit to due to its work combating the effects of the redistricting maps included “education initiatives, working with parents with regards to schools and involvement in schools getting community schools[,]” “economic empowerment [initiatives]” and “getting Medicaid expansion for health care.” Butler Dep. 52:13-53:17.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because not being able to commit to other work does not constitute a diversion of resources from another activity.

39. There is a long history of discrimination in Georgia affecting voting. See Canter Decl. ¶ 10 (Expert Report of Dr. Peyton McCrary (“McCrary Rep.”) ¶ 11).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

40. Since 1945, numerous redistricting plans in Georgia have been struck down as racially discriminatory. See McCrary Rep. ¶¶ 11, 17-18, 21-26. Canter Decl. ¶ 11 (Expert Report of Dr. Joseph Bagley (“Bagley Rep.”) at 13-31, 33-34).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

41. Between 1965 and 2013, the Department of Justice blocked 177 proposed changes to election law by Georgia and its counties and municipalities. Under Section 5 of the Voting Rights Act. McCrary Rep. ¶ 31. Of these Section 5 objections, 48 blocked redistricting plans. Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

42. In 2018, a three-judge panel sitting in the Northern District of Georgia concluded that plaintiffs in a racial gerrymandering action had introduced “compelling evidence” that “race predominated the redistricting

process,” through testimonial and documentary evidence related to the conduct of Dir. Wright and others that work at the LCRO. Bagley Rep. 39-40; see also Georgia State Conf. of NAACP v. Georgia, 312 F. Supp. 3d 1357, 1364-65 (N.D. Ga. 2018).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the cited case was not a final judgment.

43. Dr. Joseph Bagley is an Assistant Professor of History at Georgia State University, Perimeter College. Bagley Rep. at 3.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because Dr. Bagley’s expert status is not at issue at the summary-judgment motion stage of this case.

44. Dr. Bagley’s specific areas of study are United States constitutional and legal history, politics, and race relations, with a focus on the Deep South. Id.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because Dr. Bagley’s expert status is not at issue at the summary-judgment motion stage of this case.

45. Dr. Bagley analyzed, among other things, the sequence of events and legislative history leading to the passage of the redistricting plans. *Id.* at 6.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

46. During the summer of 2021, the Senate Committee on Reapportionment and Redistricting and the House Committee on Reapportionment and Redistricting formed a joint Reapportionment Committee for the purpose of holding a series of redistricting “Town Halls.” *Id.* at 43-56.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

47. Dr. Bagley reviewed the public testimony given at each of the town halls. *Id.* at 41-56.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he did not summarize every individual who testified at the various public hearings. Deposition of Joseph Bagley [Doc. 128] (“Bagley Dep.”) 79:25-80:7.

48. Dr. Bagley opined that throughout the town hall process: “The public was widely critical of holding these meetings before the release of the

Census data and the publication of maps. They called for ample time for analysis and feedback and map-submission after the fact.” Id. at 41.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions about the public hearings but just summarizing information from those hearings. Bagley Dep. 72:25-73:15. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

49. Dr. Bagley opined that throughout the town hall process: “The public was relentless in its call for a more transparent process, in general.” Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions about the public hearings but just summarizing information from those hearings. Bagley Dep. 72:25-73:15. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other*

grounds, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

50. Dr. Bagley opined that throughout the town hall process: “The public and members of the committee wanted more of a dialogue than a one-way-street of taking community comment at hearings.” *Id.* at 42.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions about the public hearings but just summarizing information from those hearings. Bagley Dep. 72:25-73:15. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

51. Dr. Bagley opined that throughout the town hall process: “Hearings were not held, according to members of the public and the committees, in the most populous areas of the state where they should have been.” *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions about the public

hearings but just summarizing information from those hearings. Bagley Dep. 72:25-73:15. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

52. Dr. Bagley opined that, throughout the process, members of the public testified that “[m]aps ought to reflect the growth of Georgia’s minority po[p]u[la]tion.” *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions about the public hearings but just summarizing information from those hearings. Bagley Dep. 72:25-73:15. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

53. Dr. Bagley opined that members of the public asked the Committee not to “engage in packing and cracking [of minority populations]” Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions about the public hearings but just summarizing information from those hearings. Bagley Dep. 72:25-73:15. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

54. Dr. Bagley opined that the Committee’s refusal to change the town hall process in the face of these public complaints constitutes evidence of procedural and substantive departures. See Id. See also Bagley Dep. 118:04-118:11.

RESPONSE: Objection. The evidence cited does not support the fact stated. The fact leaves off Dr. Bagley’s primary point in the cited portion of his deposition where he indicated that the only departures were from what the public requested, not from what occurred in prior redistricting cycles. Bagley Dep. 117:25-119:4.

55. On September 23, 2021, Governor Brian Kemp ordered a special session of the General Assembly to commence on November 3, 2021. Bagley Rep. at 57.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

56. Five days later, the Legislative Congressional and Reapportionment Office (“LCRO”) publicly posted the first draft congressional map—sponsored by Senator Kennedy and Lieutenant Governor Duncan. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

57. On November 2nd, 2021, just one day before the start of the special session, the LCRO published draft House and Senate plans sponsored by Chair Rich and Chair Kennedy, respectively. Id. at 58.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

58. Between September 23 and November 3, 2021, the legislature did not hold any town halls to solicit public feedback. See generally, Bagley Rep. at 43-58.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

59. The Senate Legislative and Congressional Reapportionment Committee held a hearing and solicited public comment just two days after the draft senate plan was released to the public. Id. at 58-62.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

60. The House Legislative and Congressional Reapportionment Committee held a hearing and solicited public comment on the same day it released a revised house map to the public. Id. 66-68.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

61. The Senate Legislative and Congressional Reapportionment Committee held a hearing and solicited public comment on a congressional map that had been released to the public just hours before the meeting. Id. at 73.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

62. SB 2EX—the congressional map—was sent to the Governor for his signature on November 30, 2021, just three weeks after the start of the special session. See Canter Decl. ¶ 12 <https://www.legis.ga.gov/legislation/60894>,

related to the Congressional map, was passed by the Senate on November 9, 2021.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

63. SB 1EX—the senate map—was sent to the Governor’s Office on November 30, 2021, just three weeks after the start of the special session. See Canter Decl. ¶ 13 <https://www.legis.ga.gov/legislation/60894/>.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

64. HB 1EX—the state house map—was sent to the Governor for his signature on November 29, 2021, just three weeks after the start of the special session. See Canter Decl. ¶ 14 https://www.legis.ga.gov/legislation/60897.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

65. The Governor delayed signing the redistricting plans for almost a month, until December 30, 2021. See Canter Decl. ¶ 15 (Def. Suppl. Resp. to Plaintiffs Second Set of Interrogatories at 4-5).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact because it characterizes the Governor’s actions as “delay” when the Governor is entitled

by law to 40 days after the conclusion of a legislative session to sign or veto legislation. Ga. Const. Art. III, Sec. V, Par. XIII(a).

66. Based on his analysis of the legislative history, *id.* at 58-88, Dr. Bagley opined that “The public made consistent demands for more transparency, but the process was still carried out behind closed doors with staff and counsel,” which were ignored. Bagley Rep. at 56. He also opined that Chair Rich’s statement that the VRA was “unfair” is contemporaneous evidence relevant to intentional discrimination. *Id.* at 57.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Chair Rich’s comment is taken out of context. Her actual quote was “No matter how much anybody here on this committee or in this room thinks that the application is unfair here, this is just not the body that has any authority to change the Federal Voting Rights Act.” Bagley Report, pp. 66-67. Further, the evidence cited does not support the fact stated because Dr. Bagley testified that he was not offering opinions in this section of his report. Bagley Dep. 84:24-85:7.

67. The legislature used the 2001 redistricting process as an excuse for ignoring the public’s calls for transparency, which Dr. Bagley opined “is both a procedural and substantive departure – substantively, there is nothing

in the committee guidelines that instructs committees or the General Assembly as a whole to fashion its behavior and actions, procedurally, based on previous cycles.” Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact because it refers to an “excuse” and “ignoring” calls. Further, the evidence cited does not support the fact stated because Dr. Bagley testified that any departures were from what the public requested, not from prior redistricting cycles, which he testified were procedurally and substantively similar. Bagley Dep. 117:25-118:16, 87:9-19. Further, the evidence cited does not support the fact stated because Dr. Bagley testified that he was not offering opinions in this section of his report. Bagley Dep. 84:24-85:7.

68. Dr. Bagley opined that his analysis revealed the public was concerned with the packing and cracking of populations of color. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions in this section of his report. Bagley Dep. 84:24-85:7. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga.

1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997). Further, Dr. Bagley testified that he did not analyze which districts he believed were packed and cracked. Bagley Dep. 139:12-17.

69. Dr. Bagley opined that the public was “concern[ed] that women of color, specifically... congresswoman Lucy McBath, were being targeted.” *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions in this section of his report. Bagley Dep. 84:24-85:7. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

70. Dr. Bagley opined that members of the public were concerned that “Voters of color were being manipulated again for partisan advantage in places like Henry, Cobb, and Gwinnett counties.” *Id.* at 56.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions in this section of his report. Bagley Dep. 84:24-85:7. Further, the evidence on which the

statement relies is inadmissible because it is hearsay. *See Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998) (emphasis added) (internal citations omitted); *see also Joiner v. Gen. Elec. Co.*, 864 F. Supp. 1310, 1317 (N.D. Ga. 1994), *rev'd on other grounds*, 78 F.3d 524 (11th Cir. 1996), *rev'd*, 522 U.S. 136, 118 S. Ct. 512, 139 L. Ed. 2d 508 (1997).

71. Based on his analysis, Dr. Bagley opined that “Staff in the LCRO and leadership on the respective committees were not as responsive to legislators of color as they were to the majority, which was all-white save for a handful of Latino and East Asian members, and none were Black.” *Id.* at 57.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Bagley testified that he was not offering opinions in this section of his report. Bagley Dep. 84:24-85:7.

72. Between 2010 and 2020 Georgia’s population grew, driven almost entirely by an increase in the population of people of color. Duchin Rep. at 8

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various minority groups is not relevant to the issues in this case.

73. The share of Black and Hispanic residents in Georgia expanded from 39.75% to 42.75%; the white population decreased from 5,413,920 to

5,362,156 between the 2010 and 2020 census data releases; and the Georgia population is 31.73% Black. *Id.*

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the fact is immaterial to the claims and defenses in this case because the rate of growth of various minority groups is not relevant to the issues in this case.

74. Despite the population growth of persons of color in Georgia, the newly enacted Congressional plan reduces the number of performing districts for Black and Latino-preferred candidates from 6/14 to 5/14, and the Senate plan has the same number of performing districts for Black and Latino-preferred candidates. *Duchin Rep.* at 10, 19.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

75. Gina Wright, the director of the Legislative and Congressional Reapportionment Office (“LCRO”), was primarily responsible for the technical aspects of drawing the legislative maps. *Canter Decl.* ¶ 16 (*Deposition of Gina Wright (“Wright Dep.”) 8:24-9:02*).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

76. Rob Strangia is the Geographic Information Systems (“GIS”) specialist at the LCRO, who participated in the mapdrawing process. Canter Decl. ¶ 17 (Deposition of Robert Strangia (“Strangia Dep.” 19:14-20:24).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact because Mr. Strangia did not testify that he participated in the mapdrawing process, only that he provided technical support for the software the office used and built databases of Census and political data.

77. Mr. Strangia created a formula to estimate political data at the block level, but this data is not accurate at the block level. However, the legislature had access to racial data at the block level that is accurate. Id. at 97:17-103:23.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because Mr. Strangia testified in that portion of his deposition that because Maptitude can allocate political data to blocks, the formula displays political data at the block level. Deposition of Robert Strangia [Doc. 148] (“Strangia Dep.”) 96:25-97:3.

78. Director Wright testified that she did not use email to communicate about redistricting maps because she did not want to “create... a record.” Wright Dep. 19:16-20:03.

RESPONSE: Objection. The evidence cited does not support the fact stated because Ms. Wright was testifying in that portion of her deposition about her preference for in-person communication, not about not “want[ing]” to create a record.

79. Dir. Wright kept drafts for all three of her maps private in her office until the drafting process was completed, and when Director Wright drew draft Congressional districts at the direction of legislators, racial data was projected onto the computer screens where the map lines were being drawn. Wright Dep. 39:17- 40:1 (private in office); Wright Dep. 10:25-11:21; Wright Dep. 14:11-20 (Rep. Rich); Wright Dep. 27:17-32:4; Wright Dep. 115:25-116:16; Wright Dep. 36:14-24, Wright Dep. 63:18-21; Wright Dep. 145:11-22; Wright Dep. 149:25-150:9.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data, and that the racial and political data was not visible at all times. Further, Ms. Wright testified that

political data was updated immediately as changes were made and that political considerations were important considerations for legislators. Deposition of Gina Wright [Doc. 132] (“Wright Dep.”) 257:21-258:14. Ms. Wright also testified that she never used racial themes or shading when drawing redistricting plans. Wright Dep. 259:18-260:8.

80. When Director Wright drew draft Congressional districts with legislators, she and the legislators could immediately see how line changes impacted the racial balance of districts. Wright Dep. 115:25-118:25 (data changed on screen when making changes to maps); 126:03-127:04 (same).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data and that the racial and political data was not visible at all times, nor was Ms. Wright able to be sure about whether legislators could see the racial data. Wright Dep. 116:6-19. Further, Ms. Wright testified that political data was updated immediately as changes were made and that political considerations were important considerations for legislators. Wright Dep. 257:21-258:14. Ms. Wright also testified that she never used racial themes or shading when drawing redistricting plans. Wright Dep. 259:18-260:8.

81. When Director Wright drew draft Senate districts at the direction of legislators, racial data was projected onto the computer screens where the map lines were being drawn. Wright Dep. 37:22-38:20; 40:3-41:19; 42:16-43:1; Wright Dep. 54:3-56:13; Wright Dep. 57:16-21; Wright Dep. 36:14-24, Wright Dep. 63:18-21; Wright Dep. 145:11-22; Wright Dep. 149:25-150:13.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data and that the racial and political data was not visible at all times, nor was Ms. Wright able to be sure about whether legislators could see the racial data. Wright Dep. 116:6-19. Further, Ms. Wright testified that political data was updated immediately as changes were made and that political considerations were important considerations for legislators. Wright Dep. 257:21-258:14. Ms. Wright also testified that she never used racial themes or shading when drawing redistricting plans. Wright Dep. 259:18-260:8.

82. When Director Wright drew draft Senate districts with legislators, she and the legislators could immediately see how line changes impacted the racial balance of districts. Wright Dep. 116:23-118:25; 126:03-127:04.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data and that the racial and political data was not visible at all times, nor was Ms. Wright able to be sure about whether legislators could see the racial data. Wright Dep. 116:6-19. Further, Ms. Wright testified that political data was updated immediately as changes were made and that political considerations were important considerations for legislators. Wright Dep. 257:21-258:14. Ms. Wright also testified that she never used racial themes or shading when drawing redistricting plans. Wright Dep. 259:18-260:8.

83. When Director Wright drew draft House districts at the direction of legislators, racial data was projected onto the computer screens where the map lines were being drawn. Wright Dep. 64:14-66; Wright Dep. 36:14-24, Wright Dep. 63:18-21; Wright Dep. 145:11-22; Wright Dep. 149:25-150:13.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data and that the racial and political data was not visible at all times, nor was Ms. Wright able to be sure

about whether legislators could see the racial data. Wright Dep. 116:6-19. Further, Ms. Wright testified that political data was updated immediately as changes were made and that political considerations were important considerations for legislators. Wright Dep. 257:21-258:14. Ms. Wright also testified that she never used racial themes or shading when drawing redistricting plans. Wright Dep. 259:18-260:8.

84. When Director Wright drew draft House districts with legislators, she and the legislators could immediately see how line changes impacted the racial balance of districts. Wright Dep. 116:23-118:25; 126:03-127:04.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. The evidence cited also does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data and that the racial and political data was not visible at all times, nor was Ms. Wright able to be sure about whether legislators could see the racial data. Wright Dep. 116:6-19. Further, Ms. Wright testified that political data was updated immediately as changes were made and that political considerations were important considerations for legislators. Wright Dep. 257:21-258:14. Ms. Wright also testified that she never used racial themes or shading when drawing redistricting plans. Wright Dep. 259:18-260:8.

85. Dan O'Connor, a data analyst with the LCRO, testified during his deposition that a district in Georgia that was roughly 30% black would tend to elect Democrats and that the figure was consistent from 2014 to the present. Canter Decl. ¶ 18 (Deposition of Daniel O'Connor ("O'Connor Dep.") 30:9-33:18).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because Mr. O'Connor testified that he did not review that type of data and the cited portion only answers questions from 2014 to 2015. Further, the fact is immaterial to the claims and defenses in this case because Ms. Wright testified unequivocally that Mr. O'Connor had no involvement in the mapdrawing process for the maps challenged in this litigation. Wright Dep. 74:17-19 (overall), 34:1-9 (Senate), 63:3-17 (House), 71:4-7 (data and information on all maps), 234:18-23 ("None of my staff were involved in the statewide map drawing process").

86. He also testified that if a legislator wanted to redraw such a district so that it was more likely to elect a Republican instead of a Democrat it would be necessary to lower the amount of BVAP in that district. Id. at 40:23-41:11.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because Mr. O'Connor was answering a question related to BVAP population. Further, the fact is immaterial to the claims and defenses in this case because Ms. Wright testified unequivocally that Mr. O'Connor had no involvement in the mapdrawing process for the maps challenged in this litigation. Wright Dep. 74:17-19 (overall), 34:1-9 (Senate), 63:3-17 (House), 71:4-7 (data and information on all maps), 234:18-23 ("None of my staff were involved in the statewide map drawing process").

87. He further testified that in order to lessen the BVAP in such a district one would need to either move BVAP out of the district and put it in another district or move WVAP into the district to dilute the amount of BVAP in the district. Id. at 41:12-24.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the fact is immaterial to the claims and defenses in this case because Ms. Wright testified unequivocally that Mr. O'Connor had no involvement in the mapdrawing process for the maps challenged in this litigation. Wright Dep. 74:17-19 (overall), 34:1-9 (Senate), 63:3-17 (House), 71:4-7 (data and information on all maps), 234:18-23 ("None of my staff were involved in the statewide map drawing process").

88. Dr. Moon Duchin is a Professor of Mathematics and a Senior Fellow in the Jonathan M. Tisch College of Civic Life at Tufts University, where she is the Director of the MGGG Redistricting Lab, focused on geometric and computational aspects of redistricting. Duchin Rep. at 3.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because Dr. Duchin’s qualifications are not at issue at summary judgment.

89. Dr. Duchin has been accepted as an expert in vote dilution cases on the issue of Gingles preconditions by a three judge panels in Alabama, and on racial gerrymandering issues by a three-judge panel in South Carolina. See Canter Decl. ¶ 19 (Deposition of Moon Duchin (“Duchin Dep.” Ex. 4 at 8).

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because Dr. Duchin’s qualifications are not at issue at summary judgment.

90. Dr. Duchin analyzed the Congressional, Senate, and House maps to determine whether there is evidence that race predominated over traditional redistricting principles in the drawing of certain districts. Duchin Rep. at 3-4. See also Duchin. Dep. 166:02-166:17.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin never states that she analyzed “whether there is evidence

that race predominated over traditional redistricting principles in the drawing of certain districts” in those citations.

91. To do so, Dr. Duchin primarily used two methods: First, Dr. Duchin examined core retention and population displacement from the benchmark plan to the enacted plan in order to detect evidence of “racially imbalanced transfer[s] of population in rebalancing the districts,” and whether those transfers “impact[ed] the districts’ effectiveness for electing Black and Latino candidates of choice.” Duchin Rep. at 67-71; Duchin. Dep. 166:02-166:08.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

92. Dr. Duchin opined that racially imbalanced population transfers in and out of a district are evidence that race predominates over traditional redistricting principles. Duchin Dep. 180:18-180:23.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin never offered the opinion that race predominated over traditional districting principles in her report, Duchin Dep. 181:24-182:14. Further, Dr. Duchin only testified in the cited portion of her deposition that racially imbalanced population transfers are “suggestive evidence, not

conclusive evidence” of predominance. Deposition of Moon Duchin [Doc. 134] (“Duchin Dep.”) 180:18-181:23.

93. Second, Dr. Duchin looked at political subdivision splits—including precinct splits and county splits—to determine whether those splits provide evidence of “cracking” and “packing” that suggests race predominated over traditional redistricting principles in the drawing of certain districts. Duchin Rep. § 10.2; Deposition of Moon Duchin (“Duchin Dep.”) 166:09-12.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

94. Dr. Duchin opined that “[i]t is extremely frequent for precinct splits to show major racial disparity,” as well as that “racially distinctive precinct splits provide particularly strong evidence that race has predominated over other principles in the creation of the map.” Duchin Rep. at 5, 79.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, Dr. Duchin testified that she qualified her opinion about split jurisdictions because she only saw a “pattern consistent with a packing and cracking strategy,” not that race predominated. Duchin Dep. 198:6-200:20.

95. Dr. Duchin also analyzed community testimony to review whether there were community of interest justifications for certain decisions that she

determined were evidence of race-conscious decision-making. Duchin Rep. at 79- 80; Duchin Dep. 166:13-166:17.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that her only opinion regarding community testimony was that changes to congressional districts 6 and 14 lacked justification by community-of-interest reasoning. Duchin Dep. 205:9-206:20.

96. CD 6 “was nearly at ideal size before the redistricting, having 771,431 residents enumerated in the census — less than seven thousand off from the target size.” Duchin Rep. at 67.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

97. CD 6 was nevertheless “subjected to major reconfiguration, with at least 40,000 people from the benchmark district reassigned to each of districts 4, 5, 7, and 11, while at least 40,000 different people were drawn in from each of districts 7, 9, and 11.” Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that, given the population variations in surrounding districts, one would expect changes in boundaries to all the districts. Duchin Dep. 169:2-172:7.

98. Larger proportions of Black and Hispanic population and neighborhoods were moved out of CD 6, and population from whiter suburban areas were moved into CD 6. Id. at 68.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

99. The largest reassignment of population out of CD 6 went to CD 4, approximately 200,000 Georgians. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that, given the population variations in surrounding districts, one would expect changes in boundaries to all the districts. Duchin Dep. 169:2-172:7.

100. The transfer of population from CD 6 to CD 4 was 37.5% Black or Latino. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

101. The largest transfer of population into CD 6 was from CD 7, approximately 200,000 Georgians. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that, given the population variations in

surrounding districts, one would expect changes in boundaries to all the districts. Duchin Dep. 169:2-172:7.

102. The population transferred into CD 6 from CD 7 was 16.1% Black or Latino. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

103. Under the benchmark plan, CD 6 performed for Black and Latino voters. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion. Defendants further note that “performing for Black and Latino voters” means electing Democratic candidates.

104. The changes to CD 6 added whiter suburban/exurban/rural areas to the district. Id. at 68, Figure 31.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

105. Dr. Duchin opined that CD 6 was cracked through “racially distinctive swaps of population” that diluted the voting power of Black and Latino voters. Duchin Dep. 173:1-173:25.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin did not testify about the population being “cracked” in the cited portions of the transcript. Further, Dr. Duchin testified that changes that were “dilutive of voting power” for Black and Latino voters meant the district was no longer electing Democratic candidates in the general election. Duchin Dep. 172:21-174:14.

106. Dr. Duchin opined that the racially distinctive population swaps in CD 6 are evidence that race predominated over traditional redistricting principles in the drawing of CD 6. Duchin Dep. 182:15-182:19.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin said she was only offering the opinion that there was evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6.

107. Dr. Duchin determined that core retention and population displacement in CD 14 were “distinctive in terms of density and racial composition.” Id.

RESPONSE: Objection. The evidence cited does not support the fact stated because that quote appears nowhere in the cited section. Dr. Duchin said she was only offering the opinion that there was evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6.

108. CD 14 expanded into Cobb County to include two majority-Black cities: Powder Springs and Austell. *Id.* at 68, Figure 31 (included below).

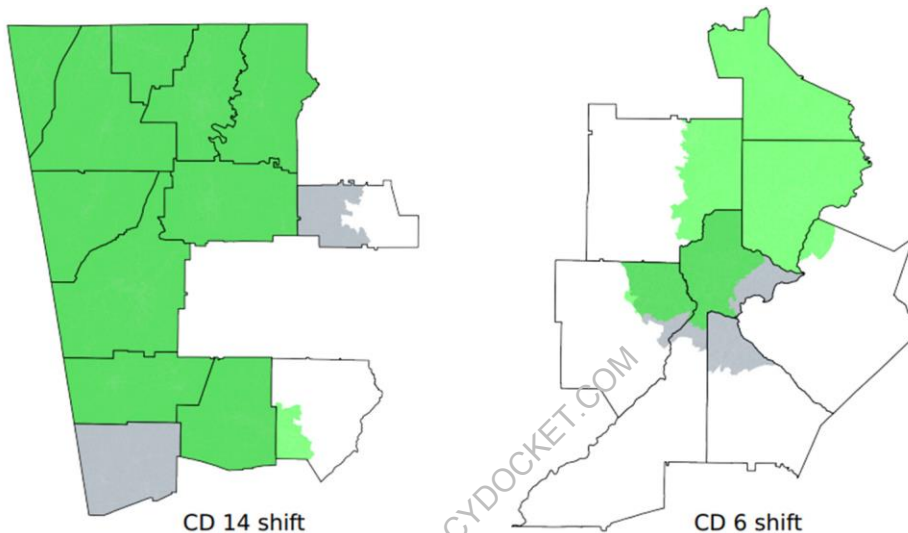


Figure 30: These before-and-after plots show benchmark configurations in gray, while new district placement is in light green. We can see that CD 14 made a new incursion into Cobb County while shedding rural Haralson and part of Pickens County. Meanwhile, CD 6 went sharply the other way, withdrawing from its metro Atlanta coverage and picking up rural counties to the north. Compare to Figure 31.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

109. Dr. Duchin opined that “incursion of CD 14 into Cobb is emphatically not required by adherence to traditional redistricting principles.” *Id.* at 69.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

110. The Duncan-Kennedy map—the first Congressional map released by the Senate Redistricting Committee—did not include Powder Springs and Austell in CD 14. *Id.* See also Duchin Dep. 177:14-178:15; Canter Decl. ¶ 20 (Deposition of Senator Kennedy (“Kennedy Dep.”) 117:25-118:01).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

111. Dr. Duchin determined that “dense African-American neighborhoods” in Powder Springs and Austell were “submerged among more numerous, dissimilar communities [in] CD 14,” which could not be justified by compactness concerns. Duchin Rep. at 68; Duchin Dep. 175:11-20.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

112. Dr. Duchin reviewed community testimony and determined that community of interest justifications could not account for including Powder Springs and Austell in CD 14. Duchin Rep. at 79-80.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated. Dr. Duchin testified that her only opinion regarding community testimony was that changes to congressional districts 6 and 14

lacked justification by community-of-interest reasoning. Duchin Dep. 205:9-206:20.

113. Dr. Duchin determined that her core retention and population displacement analysis of CD 14 provided evidence that race predominated over traditional redistricting principles in the drawing of CD 14. Duchin Dep. 182:15-19.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin said she was only offering the opinion that there was evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6.

114. Dr. Duchin analyzed core retention and population displacement in the enacted Senate Plan. Duchin Rep. at 69-70.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

115. Benchmark SD 48 was represented by Michelle Au, who was the candidate of choice of voters of color. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

116. Roughly two-thirds—over 130,000 people—of benchmark SD 48 was moved into enacted SD 7, of whom 37.8% were Black and Latino. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

117. The retained population of SD 48 has only a 17.8% BHVAP share. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

118. No territory moved into SD 48 has a BHVAP share over 23.5%. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

119. Dr. Duchin opined that the new SD 48 is highly ineffective for Black and Latino voters. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

120. Dr. Duchin opined that SD 48's racially imbalanced population displacement could not be explained by a desire to improve SD 48's compactness as compared to the benchmark SD 48. Id. at 70, Figure 32.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

121. Dr. Duchin opined that her core retention and population displacement analysis of SD 48 is evidence that race predominated over

traditional redistricting principles in the drawing of SD 48. Duchin Depo. 180:18-182:14; 189:02-189:24.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that she was only presenting evidence “that shows that decisions with a marked racial character were made in ways that made traditional principles worse” and that she could not rule out a political goal. Duchin Dep. 181:24-182:14, 182:20-183:6.

122. Dr. Duchin analyzed the core retention and population displacement of the enacted SD 17, which had previously been an effective district for Black and Latino voters. Duchin Rep. at 70.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

123. SD 17 retained only about half of its residents even though it was only mildly overpopulated. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

124. Approximately half of the outgoing population from SD 17 was Black and Latino. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

125. The incoming Black and Latino population to SD 17 was much lower than 50% of the incoming population. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

126. The new SD 17 is now ineffective for Black and Latino voters. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

127. Dr. Duchin determined that no district that received population from SD 17 thereby became effective for Black and Latino voters. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

128. Dr. Duchin opined that a desire to create a more compact SD 17 as compared to the benchmark SD 17 cannot explain the racially imbalanced population flows to and from SD 17. Id., Figure 32. See also Wright Dep. 181:21- 183:1 (describing Ex. 9); Wright Dep. Ex. 9.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

129. Dr. Duchin determined that her core retention and population displacement analysis of SD 48 is evidence that race predominated over

traditional redistricting principles in the drawing of SD 48. Duchin Dep. 180:18-182:14; 189:02-189:24.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that she was only presenting evidence “that shows that decisions with a marked racial character were made in ways that made traditional principles worse” and that she could not rule out a political goal. Duchin Dep. 181:24-182:14, 182:20-183:6.

130. Dr. Duchin analyzed the core retention and population displacement of enacted SD 56, which had recently become competitive for Black and Latino voters. Duchin Rep. at 69.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

131. Benchmark SD 56 was almost entirely placed into enacted SD 14. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

132. However, incumbent Republican John Albers was able to remain in the district. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

133. Dr. Duchin opined that the population flow from benchmark SD 56 to enacted SD 14 was racially imbalanced. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

134. Approximately 35.5% of the population moved from benchmark SD 56 to enacted SD 14 was BHVAP. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

135. Each territory moved into SD 56 contained under 19% BHVAP. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

136. The new SD 56 is not competitive for Black and Latino voters. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

137. Dr. Duchin determined that her core retention and population displacement analysis of SD 56 is evidence that race predominated over traditional redistricting principles in the drawing of SD 56. Duchin Dep. 180:18-182:14; 189:02-189:24.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that she was only presenting evidence “that shows

that decisions with a marked racial character were made in ways that made traditional principles worse” and that she could not rule out a political goal. Duchin Dep. 181:24-182:14, 182:20-183:6.

138. Dr. Duchin analyzed core retention and population displacement in the enacted House Plan. Duchin Rep. at 70-71.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

139. Dr. Duchin identified seven house districts that had become competitive for Black and Latino voters because of demographic shifts over the last ten-years: HDs 35, 44, 48, 49, 52, 104, and 109. Id. at 70.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

140. Dr. Duchin determined that five of these districts—HDs 44, 48, 49, 52, and 104—were “rebuilt to be ineffective for Black and Latino voters” because of “racially imbalanced population transfers.” Id. at 70.

RESPONSE: Objection. The evidence cited does not support the fact stated. The cited portion of Dr. Duchin’s report does not state that the “rebuilding” of those districts occurred “because of” racially imbalanced population transfers, only that racially imbalanced population transfers occurred.

141. Dr. Duchin produced a table that demonstrates the largest district-to-district reassignments for BHVAP for HDs 44, 48, 49, 52, and 104:

Benchmark HD	Outward	Inward
44	.425 (to HD 35)	.226 (from HD 20)
48	.464 (to HD 51)	.201 (from HD 49)
49	.227 (to HD 47)	.127 (from HD 48)
52	.436 (to HD 54)	.245 (from HD 79)
104	.715 (to HD 102)	.363 (from HD 103)

Table 40: This table records the BHVAP share of the largest district-to-district reassignment for the five "dismantled" House districts that were formerly swingy, now made ineffective.

Id. at 71, Table 40.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

142. Dr. Duchin opined that racially imbalanced population flows from and into HDs 44, 48, 49, 52, and 104 could neither be “explained by traditional districting principles like compactness or respect for county lines” nor by “respect for municipal boundaries.” Id. at 71, Figure 33.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, Dr. Duchin testified that she was not opining that the districts in Table 40 or Figure 33 were drawn primarily based on race. Duchin Dep. 188:1-189:19.

143. Cobb County is split across four districts, with CD 13 and CD 14 receiving portions of Cobb that are over 60% Black and Latino by VAP, while CD 6 contains a part of Cobb that is about 18.5% BHVAP. Id. at 71.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

144. Dr. Duchin determined this evidence is consistent with a “packing and cracking strategy.” Id.

RESPONSE: Objection. The evidence cited does not support the fact stated because there is no reference to a packing and cracking strategy on page 71 of Dr. Duchin’s report.

145. CD 2 and CD 8 split Bibb County. Id. at 72.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

146. Dr. Duchin determined that minutely race conscious decisions were “evident along the boundary of CD 2 and CD 8 in Bibb County,” as demonstrated by the figure below:

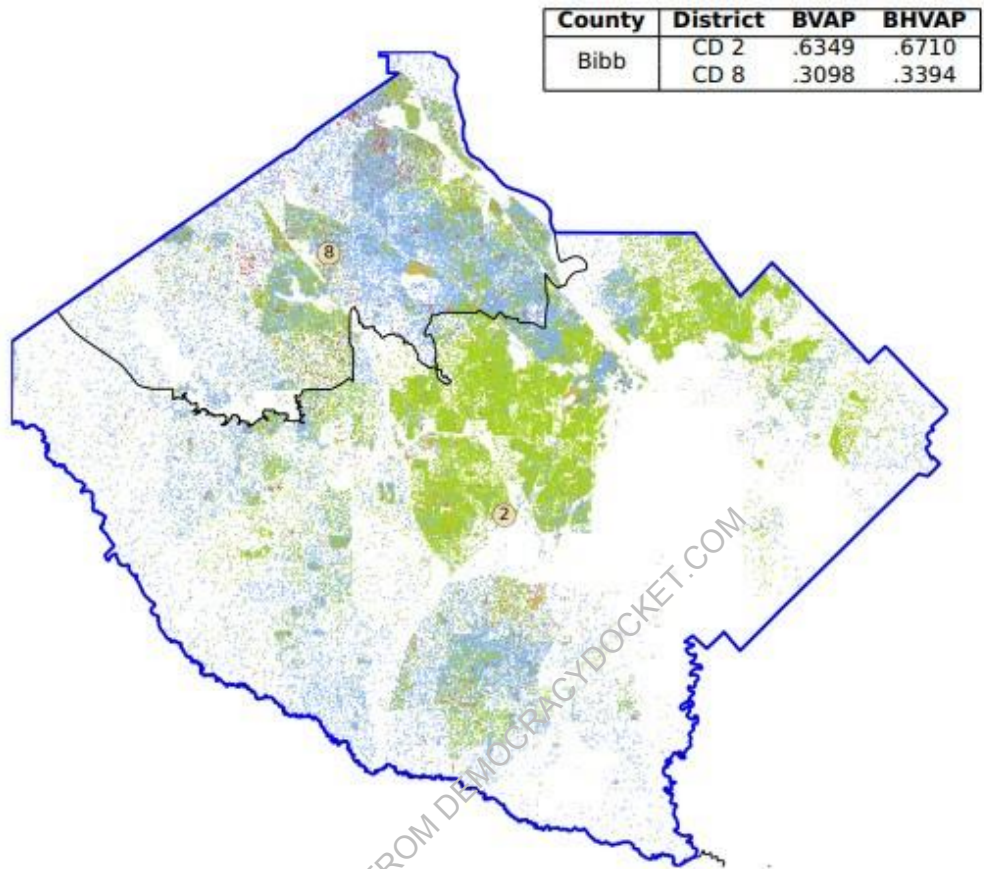


Figure 34: Minutely race-conscious decisions are evident along the boundary of CD 2 and CD 8 in Bibb County.

Id. at 72, Figure 34; see also Figure 2 at 9 (containing key to dot figure.)

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin testified that this split of Bibb County was also political, with more Democratic portions of Bibb County in District 2 and more Republican portions of Bibb County in District 8. Duchin Dep. 192:12-24, 195:10-196:13.

147. Dr. Duchin analyzed all county splits involving CD 3, 6, 13, and 14. Id. at 73; Table 41.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin did not “analyze” the splits but reported the racial statistics for each county split for these particular districts.

148. Dr. Duchin determined that all of the splits—with the exception of the Clayton County split-- are “consistent with an overall pattern of cracking in CD 3 and CD 6, packing in CD 13, and submerging a small and diverse urban community in CD 14,” as demonstrated below:

County	District	BVAP	BHVAP
Cherokee	CD 6	.0304	.0814
	CD 11	.0817	.1902
Clayton	CD 5	.7280	.8649
	CD 13	.7190	.8266
Cobb	CD 5	.1092	.1848
	CD 11	.2654	.3850
	CD 13	.4458	.6271
	CD 14	.4646	.5644
Douglas	CD 3	.2970	.3719
	CD 13	.5762	.6647
Fayette	CD 3	.2094	.2720
	CD 13	.5762	.6647
Fulton	CD 5	.4769	.5379
	CD 6	.1574	.2568
	CD 7	.1175	.1777
	CD 13	.8829	.9171
Gwinnett	CD 6	.1336	.2645
	CD 7	.3234	.5450
	CD 9	.2061	.3433
Henry	CD 3	.4678	.5259
	CD 10	.4414	.4948
	CD 13	.5710	.6324
Muscogee	CD 2	.5262	.5851
	CD 3	.1909	.2578

Table 41: All county splits involving CD 3, 6, 13, and 14. With the exception of the Clayton split, which is unremarkable in demographic terms, each of these is consistent with an overall pattern of cracking in CD 3 and CD 6, packing in CD 13, and submerging a small and diverse urban community in CD 14. See Appendix [C](#) for a complete list of county splits.

Id.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin testified not that there was a packing and cracking strategy, but only that the patterns were consistent with such a strategy and that she could not rule out a political goal. Duchin Dep. 198:6-21, 195:10-196:13.

149. Dr. Duchin analyzed the Newton County split involving CD 4 and CD 10. Id. at 74.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

150. Dr. Duchin determined that in “Newton County, CD 4 and CD 10 are divided by a line that is consistent with packing the former district and cracking the latter,” as demonstrated by the figure below:

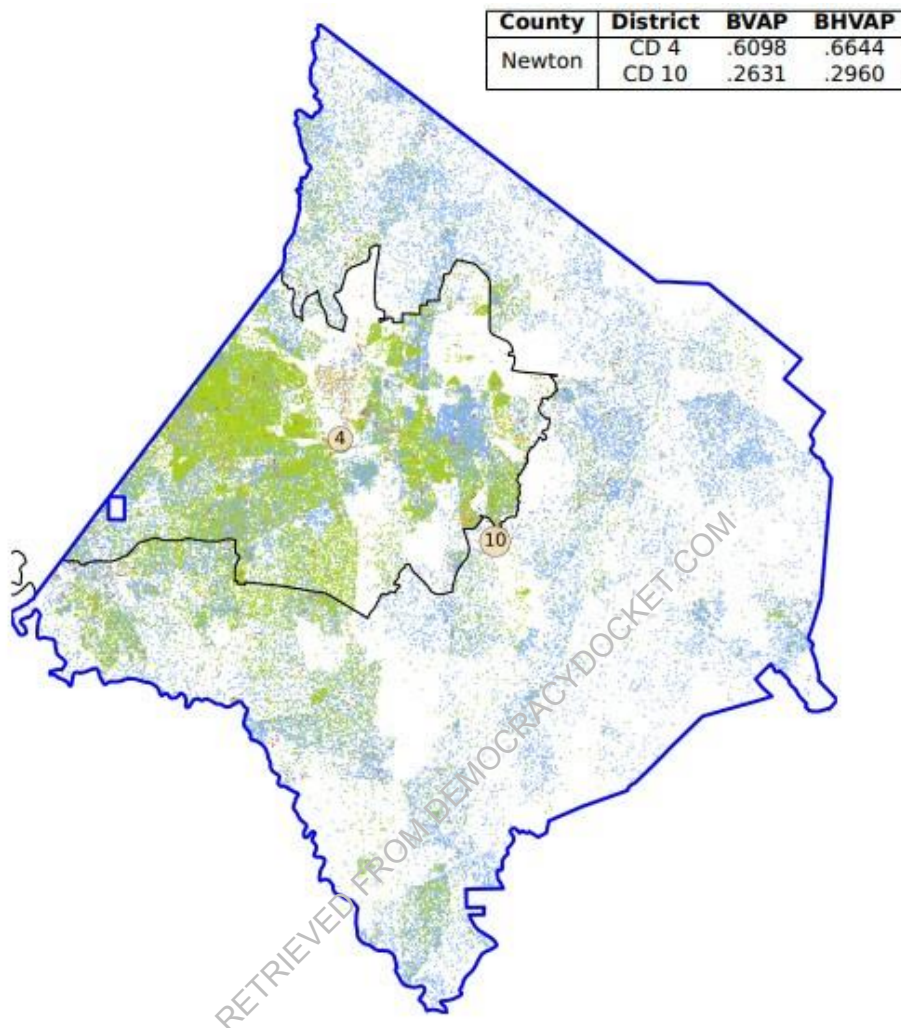


Figure 35: In Newton County, CD 4 and CD 10 are divided by a line that is consistent with packing the former district and cracking the latter.

Id. at 74, Figure 35.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin testified not that there was packing and cracking, but only that the patterns were consistent with such a strategy and that she could not rule out a political goal. Duchin Dep. 198:6-21, 195:10-196:13

151. Dr. Duchin also analyzed precinct splits in the Congressional map. Id. at 75.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

152. Dr. Duchin opined that “for the purposes of investigating racial gerrymandering, the splits to state precincts can be especially revealing: these are the units at which cast votes are reported, so finer divisions are usually made in view of demographics but not voting behavior—that is, these highlight the predominance of race over even partisan concerns.” Id; see also Duchin Dep. 186: 17-23.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

153. Dr. Duchin opined that specific precinct splits on the border of CD 6 and CD 11 “show significant racial disparity consistent with an effort to diminish the electoral effectiveness of CD 6,” as demonstrated by the table below:

State precinct	District	BVAP	BHVAP
MARIETTA 5A	CD 6	.1975	.4938
	CD 11	.4232	.5803
MARIETTA 6A	CD 6	.1391	.6607
	CD 11	.4738	.5464
SEWELL MILL 03	CD 6	.2225	.3042
	CD 11	.4064	.5548

Table 42: Three examples of split precincts on the CD 6 / CD 11 border that show significant racial disparity, consistent with an effort to diminish the electoral effectiveness of CD 6 for Black voters. (Note that CD 6 receives a higher share of BHVAP in Marietta 6A, but a far lower share of BVAP.)

Duchin Rep. at 75, Table 42.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin testified that she did not know if the split precincts in the chart were contiguous or had noncontiguous portions. Duchin Dep. 199:15-200:10.

154. Dr. Duchin opined that several precinct splits on the CD 4 and CD 10 border “stand out both in demographic and geographic terms,” which provide evidence of the “packing of CD 4 and cracking of CD 10,” as demonstrated by the table below:

State precinct	District	BVAP	BHVAP
ALCOVY	CD 4	.4010	.4499
	CD 10	.0512	.0620
CITY POND	CD 4	.5912	.6554
	CD 10	.3923	.4192
OXFORD	CD 4	.6444	.6932
	CD 10	.0929	.1213
DOWNS	CD 4	.6429	.7024
	CD 10	.4429	.4930

Table 43: Four examples of split precincts on the CD 4 / CD 10 border, all consistent with packing of CD 4 and cracking of CD 10.

Id. at 75, Table 43.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin testified that she did not know if the split precincts were split along geographic features. Duchin Dep. 200:21-201:7.

155. In the enacted Senate Plan, fourteen counties have at least a 20-point BHVAP disparity in BHVAP across county splits. Id. at 77.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

156. Dr. Duchin analyzed the split of Bibb County involving SD 18, SD 25, and SD 26. Id., Figure 37.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

157. Dr. Duchin determined that the racial disparities in the split of Bibb County involving SD 18, SD 25, and SD 26 are evidence that SD 26 was packed, as demonstrated by the table below:

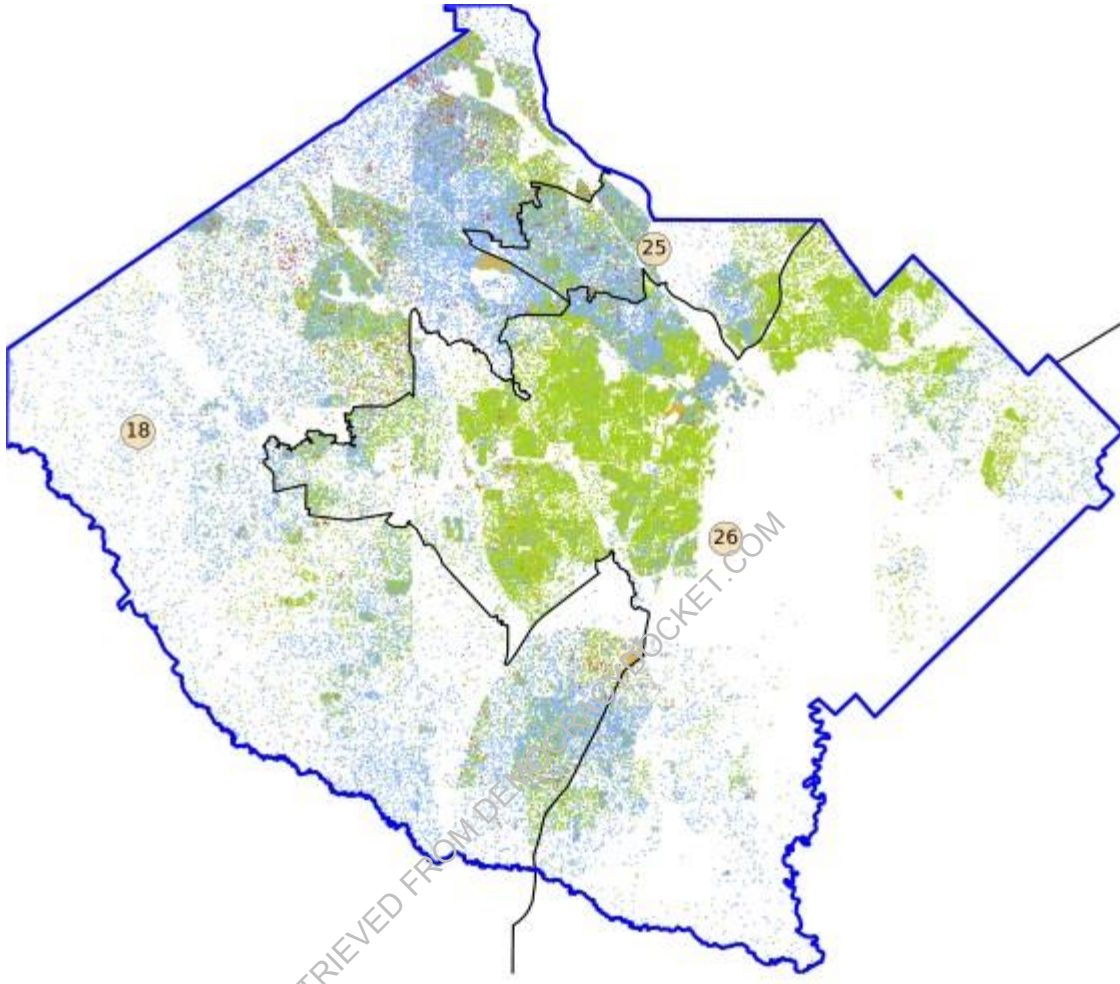


Figure 37: This figure shows the separation of Bibb County in a way that packs SD 26.

Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that she only saw patterns consistent with a packing and cracking strategy in her review of county splits, not that particular districts qualified as packed. Duchin Dep. 198:6-21.

158. Dr. Duchin analyzed the split of Chatham County involving SDs 1, 2, and 4. Id. at 78, Figure 38

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

159. SD 2 is an effective district for Black and Latino Voters, and SDs 1 and 4 are not. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

160. Dr. Duchin determined that the “pieces of Chatham County look to be clearly racially sorted into Senate districts in a way that ensures that Black and Latino voters can only have effective influence in one of the constituent district,” as demonstrated below:

RETRIEVED FROM DEMOCRACYDOCKET.COM

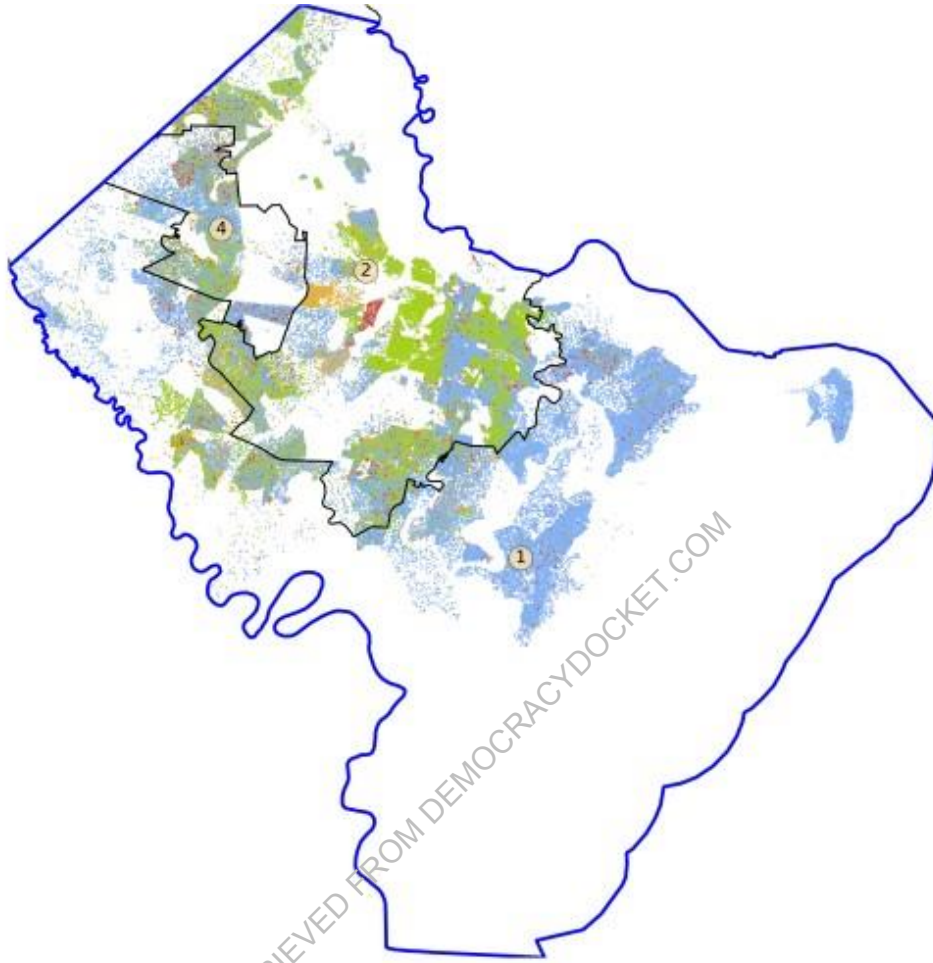


Figure 38: The pieces of Chatham County look to be clearly racially sorted into Senate districts in a way that ensures that Black and Latino voters can only have effective influence in one of the constituent districts. Indeed, SD 2 is an effective district, while SD 1 and SD 4 are not.

Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that she only saw patterns consistent with a packing and cracking strategy in her review of county splits, not that particular districts qualified as packed. Duchin Dep. 198:6-21.

161. Dr. Duchin examined, among other things, the claims from certain Defendant witnesses that partisan politics, and not race, motivated the legislature in drawing certain congressional, senate, and house districts. Canter Decl. ¶ 21 (Duchin Rebuttal & Supplemental Report (“Duchin Rebuttal Rep.”) at 6-10).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

162. Dr. Duchin ran algorithmic experiments to test the hypothesis that the legislature drew the congressional, senate, and house maps based not upon race but upon pursuing partisan advantage. Id. at 7-9.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

163. To examine the effects of partisanship, Dr. Duchin “generated 100,000 statewide plans at each level of redistricting with an exploratory algorithm seeking larger numbers of Trump-favoring districts from the 2020 Presidential election.” Id. at 7.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

164. These alternative partisan-advantage plans were drawn respectful of traditional districting principles, including compactness, population balance and county preservation, but did not include race data. *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24.

165. Because Dr. Duchin did not input race data into her algorithm, she was able to explore “whether plans selected for partisanship—but with no race data— tend to have the same hallmarks of racial sorting that [she] found in the enacted plans.” *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24.

166. Dr. Duchin then plotted the Black Voting Age Population in each of the districts in the enacted plans against the sets of partisan advantage districts created by her algorithms. *Id.* at 8.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

167. Dr. Duchin opined that “if a plan were drawn by using minority racial population to secure partisan advantage in a state with roughly 50-50 partisan support,” we would expect to see “cracking” of the minority group in those districts in the middle range of partisan advantage. *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24.

168. Dr. Duchin’s experiment did show that, in the middle range of partisan advantage districts in congressional, state Senate, and state House, the enacted plan’s Black VAP showed clear signs of “cracking,” i.e., “reduced Black population relative to the comparison plans. *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24.

169. Dr. Duchin opined that her algorithmic experiment suggests that the legislature did not pursue a “race neutral advantage [in the congressional map], but rather a highly race-conscious pursuit of partisan advantage.” *Id.* at 8, Figure 5.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24.

170. Dr. Duchin reached the same conclusion as to the Senate and House maps, finding that “The same signature of cracking is visible here as in the Congressional boxplot.” Id. at 9.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24.

171. Dr. Duchin then drew random congressional, Senate, and House plans from the middle-range districts of her Trump-favoring collections and compared the BVAP in those districts to the middle-range districts of the enacted plan. Id. at 10.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr. Duchin testified that she did not know the number

of majority BVAP districts on any of the plans she had the computer draw. Duchin Dep. 225:22-226:3.

172. Dr. Duchin concluded that the enacted plan had lower BVAP than all of the randomly selected congressional plans and virtually all of the randomly selected Senate and House plans. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr. Duchin testified that she did not know the number of majority BVAP districts on any of the plans she had the computer draw. Duchin Dep. 225:22-226:3.

173. Dr. Duchin concluded that, based on her experiments, there were many thousands of examples with even greater partisan tilt than in the enacted plan that could have been drawn, but which did “not show the marked signs of racial sorting that are found in the enacted plan.” Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr. Duchin testified that she did not know the number

of majority BVAP districts on any of the plans she had the computer draw. Duchin Dep. 225:22-226:3.

174. Dr. Duchin calculated that the probability of the enacted plan being as low in BVAP compared to the randomly-selected congressional plans was less than .00007. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

175. Dr. Duchin calculated that the probability of the enacted plan being as low in BVAP compared to the randomly-selected Senate plans was less than .00000004. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

176. Dr. Duchin calculated that the probability of the enacted plan being as low in BVAP compared to the randomly-selected House plans was less than .00000000006. Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

177. Dr. Duchin also found indications corroborating the hypothesis that race was used to achieve partisan outcomes in the state's enacted plans in

the high numbers of split precincts, because vote history is not available at a sub-precinct level. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the alternative plans for this experiment only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr. Duchin testified that she did not know the number of majority BVAP districts on any of the plans she had the computer draw. Duchin Dep. 225:22-226:3.

178. Dr. Duchin examined whether Plaintiffs could meet the first Gingles precondition. Duchin Dep. 28:07-30:02; Duchin Rep. at 3-4. To do so, Dr. Duchin analyzed whether it was possible to draw additional majority minority districts in Georgia's congressional, senate, and house maps while respecting traditional redistricting principles. Duchin Rep. at 3-4.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and because it is a legal conclusion.

179. In drawing her maps, Dr. Duchin first used a method called "computational redistricting," which uses computer programs to generate various maps. Duchin Dep. 18:15-19:02. Dr. Duchin runs this "algorithmic exploration" to serve as a base for latter mapping in order to "get a sense of what's possible in different parts of" Georgia. Id. 19:03-19:14.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

180. After the “algorithmic exploration” generated base maps, Dr. Duchin hand drew maps in order to balance traditional redistricting principles and create maps that are “remediable.” Duchin Dep. 65:06-77:12; 121:01-121:12; 123:13-123:15.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated. Dr. Duchin testified in the cited sections that “remediable” referred to her view of the nature of maps for the first precondition of *Gingles* and not to her drawing process.

181. Dr. Duchin examined quantifiable and unquantifiable traditional redistricting principles. Duchin Dep. 28:12-28:20; 65:10-71:06; 79:13-79:17; 155:12-155:21; Duchin Rep. at 20-24, 79-80.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin only testified to using quantifiable metrics and the limited community testimony that she identified in her first report in the cited sections of her deposition.

182. Dr. Duchin used the redistricting guidelines published by both chambers of the Georgia legislature to select which quantifiable and

unquantifiable redistricting principles to analyze, as reflected by the figure below:

- A. GENERAL PRINCIPLES FOR DRAFTING PLANS
1. Each congressional district should be drawn with a total population of plus or minus one person from the ideal district size.
 2. Each legislative district of the General Assembly should be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.
 3. All plans adopted by the Committee will comply with Section 2 of the Voting Rights Act of 1965, as amended.
 4. All plans adopted by the Committee will comply with the United States and Georgia Constitutions.
 5. Districts shall be composed of contiguous geography. Districts that connect on a single point are not contiguous.
 6. No multi-member districts shall be drawn on any legislative redistricting plan.
 7. The Committee should consider:
 - a. The boundaries of counties and precincts;
 - b. Compactness; and
 - c. Communities of interest.
 8. Efforts should be made to avoid the unnecessary pairing of incumbents.
 9. The identifying of these criteria is not intended to limit the consideration of any other principles or factors that the Committee deems appropriate.

Duchin Rep. at 20.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin's report at the cited reference only indicates that these principles were adopted, not that Dr. Duchin used them for selecting which principles to analyze.

183. Some of these principles are mandatory, such as compliance with the population balance for congressional and legislative districts, compliance with the Voting Rights Act, compliance with the U.S. and Georgia Constitutions, contiguity, and ensuring that there are no multi-member districts. *Id.* Others are not mandatory, such as consideration of the boundaries

of counties, compactness, communities of interest; the last is to make “efforts” to avoid the “unnecessary” pairing of incumbents. Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

184. To determine communities of interest, Dr. Duchin analyzed a voluminous record of public testimony. Duchin Dep. 68:18-69:10. This community of interest testimony informed Dr. Duchin’s hand-drawing process. Id. 70:08- 70:71:06; 79:09-79:16; 163:15-163:25.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because Dr. Duchin explained that her report only utilized the public testimony regarding the population areas between congressional districts 6 and 14. Duchin Dep. 205:9-206:20.

185. This testimony included public input reflecting concerns that the ultimately-enacted CD 6 would be blending communities that have interests more common in rural communities—such as the Army Corp. of Engineers—with communities that have interests more common in suburban areas—such as public transportation. Duchin Rep. 79-80.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not

support the fact stated because Dr. Duchin explained that her report only utilized the public testimony regarding the population areas between congressional districts 6 and 14. Duchin Dep. 205:9-206:20.

186. This testimony also included public input reflected concerns that the ultimately-enacted CD 14 would be blending communities that have interests more common in rural communities—such as manufacturing and agriculture—with communities that have interests more common in urban areas—such as housing. Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because Dr. Duchin explained that her report only utilized the public testimony regarding the population areas between congressional districts 6 and 14. Duchin Dep. 205:9-206:20.

187. For her demonstrative Congressional plan, Dr. Duchin drew an alternative map covering the entire state. Duchin Dep. 21:01-21:13.

RESPONSE: Objection. The evidence cited does not support the fact stated because the cited portion of the deposition only refers to alternative state Senate plans, not an alternative congressional plan.

188. For her demonstrative senate and house plans, Dr. Duchin divided the Enacted Plan into modules. Under this modular approach, Dr. Duchin drew

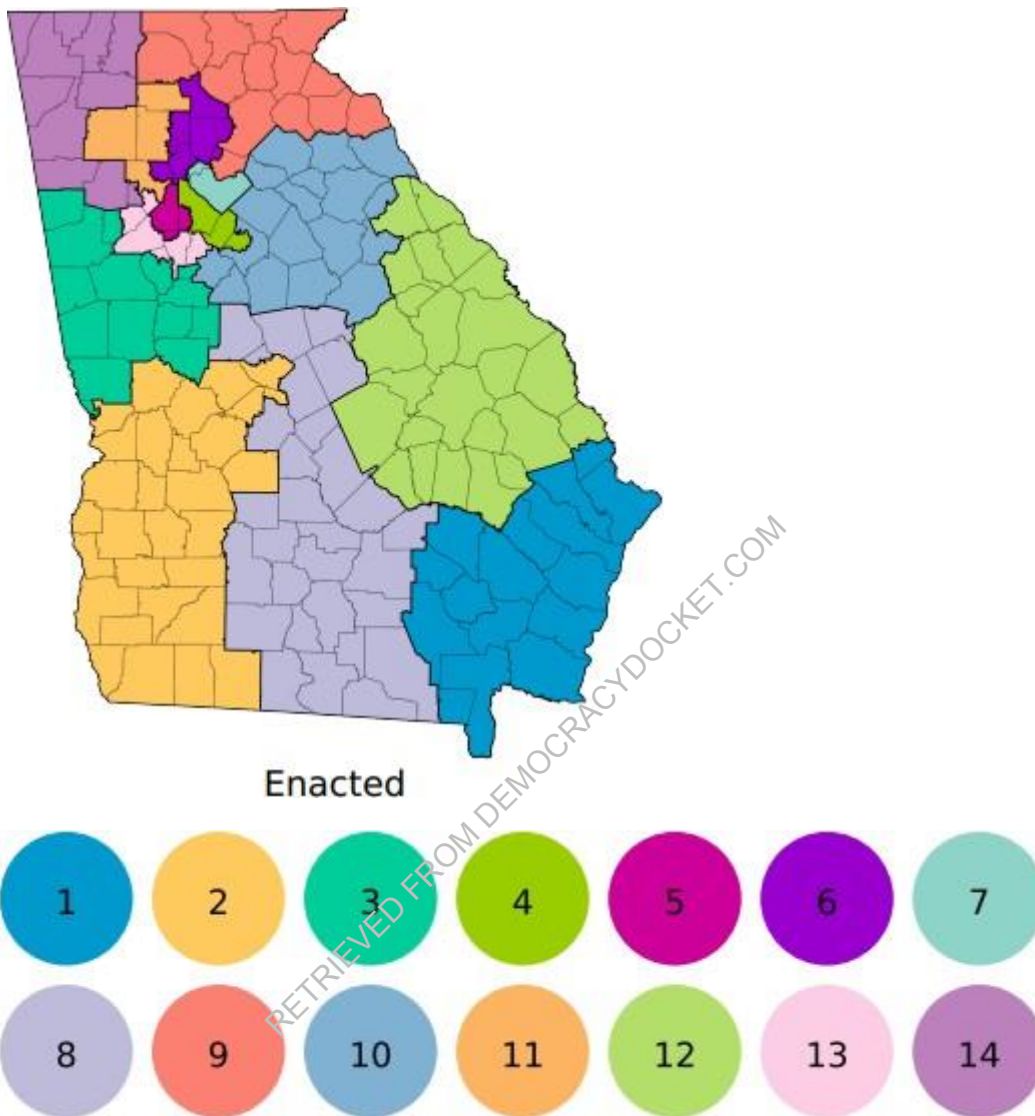
alternative maps in geographic areas covered by certain clusters of districts within certain modules in the enacted plan. Duchin Dep. 60:05-60:22; Duchin Rep. at 13, 14-15.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

189. The enacted congressional plan contained two majority BVAP districts (CD 4 and CD 13). Duchin Rep.at 25 (Table 11).

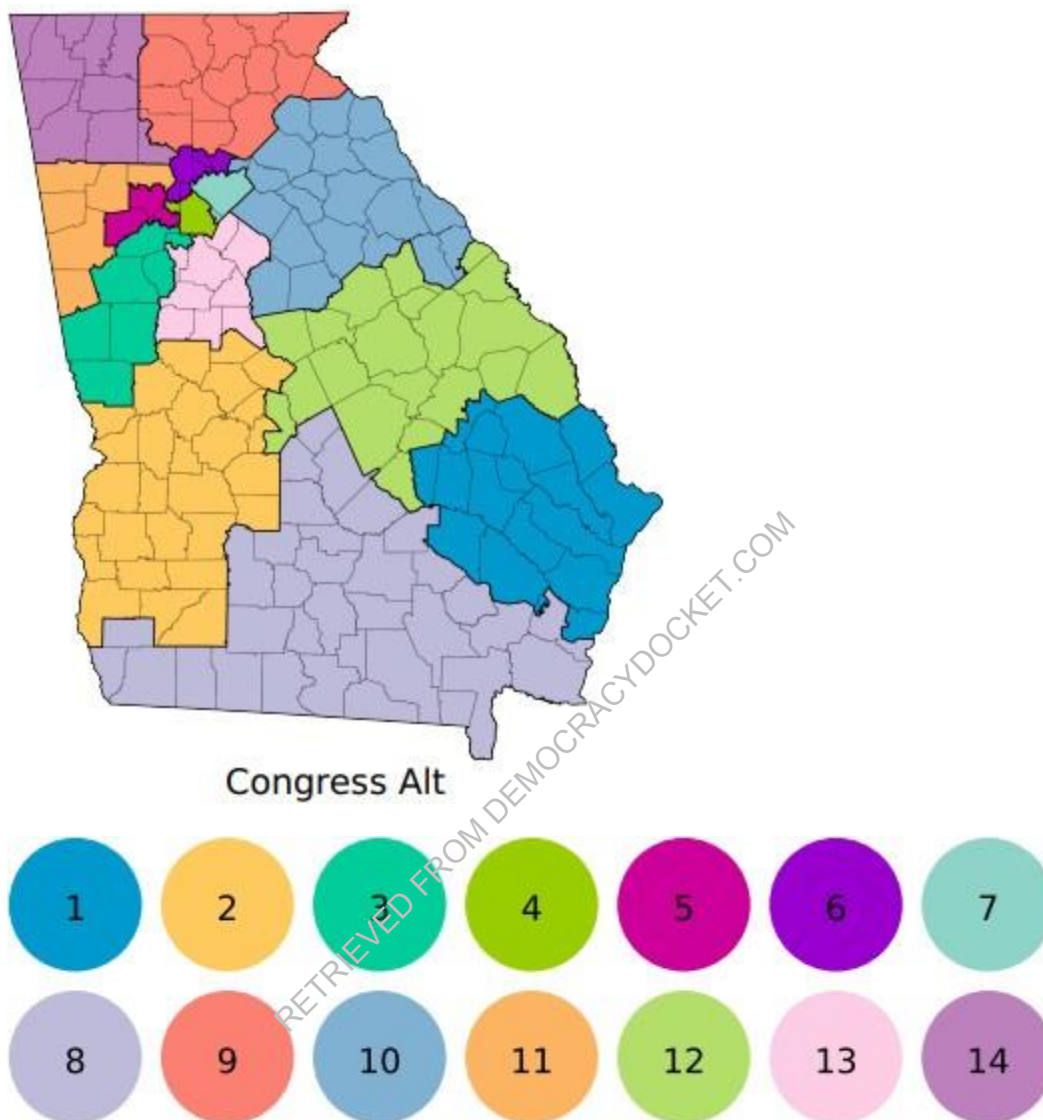
RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

190. Three additional districts in the enacted congressional plan are majority Black and Hispanic voting age population (“BHVAP”) (CD 2, CD 5, and CD 7). Id. CD 7 is not majority Black and Hispanic Citizen Voting Age Population (“BHCVAP”). Id. See also id. at 11, Figure 3.



RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

191. Dr. Duchin provided one alternative congressional plan (“Alt 1 CD”) that created additional majority-minority districts when compared to the enacted plan. *Id.* See also *id.* at 11, Figure 3.



RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

192. Alt 1 CD creates four majority BVAP districts (Alt 1 CDs 3, 4, 5, 13). Duchin Rep.at 25 (Table 11).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

193. Alt 1 CD also creates two majority BHVAP districts, (Alt 1 CDs 2 and 7). Id.

RESPONSE: Objection. The evidence cited does not support the fact stated because the table cited indicates that Alt 1 CD creates six majority BHVAP districts.

194. Each of the majority BHVAP districts in Alt 1 CD are also majority BHCVAP districts. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated because the cited table does not include CVAP data.

195. Alt 1 CD thus creates an additional majority-minority district: Alt 1CD 3, as demonstrated by the chart and figure below. Id.

CD	CD Enacted (Statewide)						CD Alt 1					
	Black VAP	Hispanic VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hispanic VAP	BH VAP	White VAP	Polsby Popper	Reock
1	28.2%	6.8%	35.0%	60.4%	0.285	0.456	30.3%	6.9%	37.2%	58.5%	0.312	0.633
2	49.3%	5.1%	54.4%	42.7%	0.267	0.458	47.7%	4.7%	52.4%	44.5%	0.315	0.494
3	23.3%	5.3%	28.6%	66.8%	0.275	0.461	51.2%	7.2%	58.4%	37.4%	0.278	0.411
4	54.5%	10.1%	64.6%	28.3%	0.246	0.307	50.6%	8.2%	58.8%	33.8%	0.295	0.481
5	49.6%	6.7%	56.3%	37.9%	0.322	0.512	50.1%	11.4%	61.5%	33.4%	0.216	0.424
6	9.9%	9.1%	19.0%	66.6%	0.198	0.424	13.7%	10.9%	24.6%	57.1%	0.232	0.346
7	29.8%	21.3%	51.1%	32.8%	0.386	0.496	34.3%	22.4%	56.7%	29.4%	0.351	0.518
8	30.0%	6.1%	36.1%	60.5%	0.210	0.338	27.3%	6.9%	34.2%	63.0%	0.227	0.377
9	10.4%	12.9%	23.3%	68.3%	0.253	0.380	4.6%	11.5%	16.1%	77.9%	0.403	0.512
10	22.6%	6.5%	29.1%	66.2%	0.284	0.558	17.6%	6.9%	24.5%	69.8%	0.335	0.576
11	17.9%	11.2%	29.1%	64.0%	0.207	0.480	17.6%	7.6%	25.2%	68.1%	0.283	0.364
12	36.7%	4.9%	41.6%	54.6%	0.278	0.502	39.2%	4.6%	43.8%	51.9%	0.181	0.489
13	66.7%	10.5%	77.2%	18.8%	0.157	0.380	52.0%	6.8%	58.8%	37.8%	0.276	0.510
14	14.3%	10.6%	24.9%	71.3%	0.373	0.426	7.6%	11.0%	18.6%	77.0%	0.514	0.484
Avg					0.267	0.441					0.301	0.473

RESPONSE: Objection. The evidence cited does not support the fact stated because it does not indicate how Alt 1 CD3 is “additional” in reference to anything else.

196. Defendants' mapping expert, Dr. Morgan, testified he had no basis to dispute that it was possible to draw additional majority-minority districts in the Congressional plan. Canter Decl. ¶ 22 (Deposition of John Morgan ("Morgan Dep.") 20:22-23:25).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

197. This chart, and others like it, reflect voting age population ("VAP") comparisons by district in the enacted plans and Dr. Duchin's created illustrative plans. Duchin Rep. at 25; see also *Id.* at 81.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number and instead refers to "others like" a particular chart without specifying where those charts are located.

198. This chart, and others like it, compare the enacted and illustrative plans on a variety of metrics including Black voting age population ("BVAP"), Hispanic voting age population ("HVAP"), White voting age population ("WVAP"), citizen voting age population ("CVAP"). Duchin Dep. 22:7-16; 46:6-7; Duchin Rep. at 7, 25, 81.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number and instead

refers to “others like” a particular chart without specifying where those charts are located.

199. This chart, and others like it, compare the enacted and illustrative plans, using the two most common compactness metrics are the Polsby-Popper score and the Reock score. These are both contour-based scores that rely on the outline of the district on a map. Polsby-Popper is a ratio formed by comparing the district’s area to its perimeter via the formula $4\pi A/P^2$ Reock considers how much of the smallest bounding circle is filled out by the district’s area. Duchin Rep. at 21.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it does not cite to evidence by page or paragraph number and instead refers to “others like” a particular chart without specifying where those charts are located.

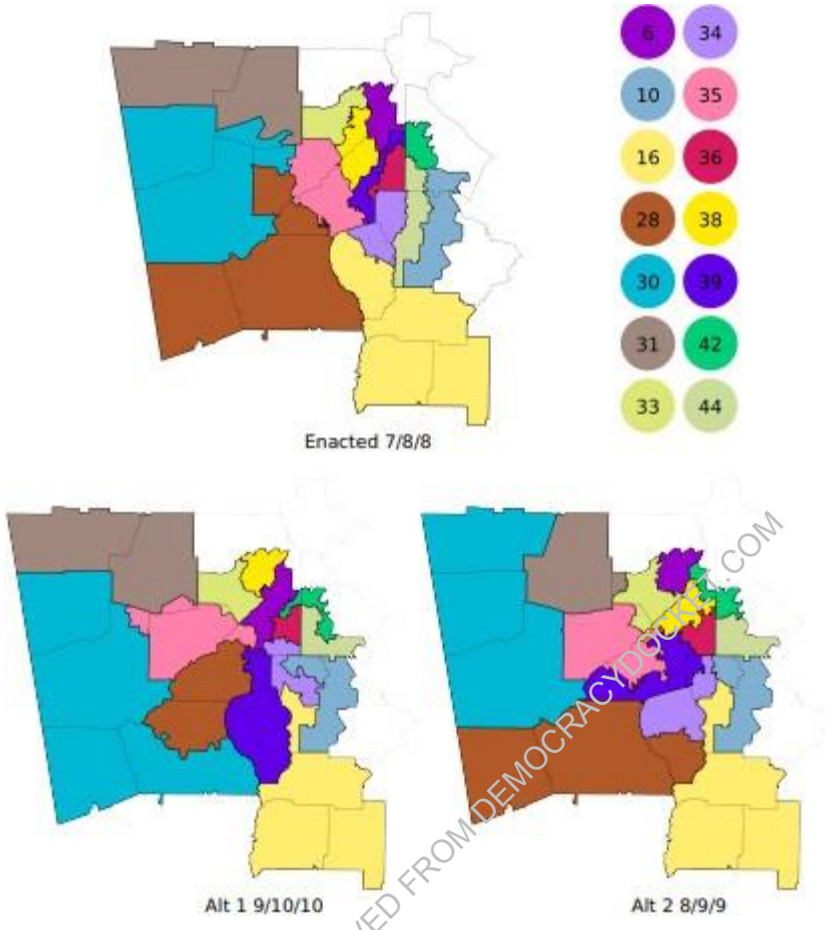
200. Dr. Duchin analyzed six clusters of senate districts: SD Northwest, SD Gwinnett, SD Atlanta, SD East Black Belt, SD Southwest, and SD Southeast.



Id. at 13 (Figure 5).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

201. In the SD Atlanta region, Dr. Duchin provides two alternative maps (“SD Alt 1 Atlanta” and “SD Alt 2 Atlanta”) that create additional majority-minority districts. Id. at 26-27.



Id. at 26 (Figure 8).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

202. Defendants’ expert, Dr. Morgan, testified he has no basis to dispute that Dr. Duchin was able to draw additional majority-minority senate districts. Morgan Dep. 24:02-24; see also Canter Decl. ¶ 23 (Expert Report of John Morgan (“Morgan Rep.” at 24, 27 (Charts 5 and 6)); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

203. The enacted SD Atlanta cluster contains 7 majority BVAP districts (SDs 10, 34, 35, 36, 38, 39, and 44). Duchin Rep. at 27 (Table 12 and Table 13).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

204. The enacted SD Atlanta cluster contains an additional majority BHVAP district (SD 33). Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number and instead refers to “an additional” district. Further, the evidence cited does not support the fact because it is unclear what the referenced district is “additional” to.

205. SD Alt 1 Atlanta contains 10 majority BVAP districts (SDs Alt 1 Atlanta 6, 10, 16, 28, 33, 34, 35, 36, 39, and 44). Id. (Table 12).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

206. SD Alt 2 Atlanta contains 8 majority BVAP districts (SDs Alt 2 Atlanta 10, 33, 34, 35, 36, 38, 39, 44) and 1 majority BHVAP district (SD Alt 2 Atlanta 16). Id. (Table 13).

RESPONSE: Objection. The evidence cited does not support the fact because Table 13 shows there are 9 majority BHVAP districts on SD Alt 2 Atlanta.

207. The tables below provide a comparison between the enacted senate plan and SD Alt 1 Atlanta and SD Alt 2 Atlanta:

SD	SD Atlanta Enacted						SD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
6	23.9%	8.2%	32.1%	57.8%	0.236	0.405	50.1%	6.1%	56.2%	39.8%	0.169	0.246
10	71.5%	5.2%	76.7%	19.6%	0.231	0.281	59.5%	11.0%	55.5%	23.4%	0.238	0.420
16	22.7%	5.0%	27.7%	66.9%	0.314	0.368	50.2%	6.2%	56.4%	40.9%	0.254	0.354
28	19.5%	6.4%	25.9%	69.4%	0.246	0.445	50.6%	6.8%	57.4%	39.3%	0.335	0.489
30	20.9%	6.1%	27.0%	69.4%	0.407	0.597	14.3%	5.1%	19.4%	76.9%	0.286	0.361
31	20.7%	7.4%	28.1%	68.3%	0.379	0.366	19.7%	7.2%	26.9%	69.4%	0.470	0.395
33	43.0%	22.9%	65.9%	30.2%	0.215	0.401	50.4%	18.1%	68.5%	27.9%	0.381	0.528
34	69.5%	12.7%	82.2%	13.4%	0.335	0.451	72.0%	11.6%	83.8%	11.5%	0.163	0.326
35	71.9%	7.5%	79.4%	18.8%	0.263	0.472	60.9%	8.0%	58.9%	38.2%	0.347	0.400
36	51.3%	7.1%	58.4%	36.2%	0.305	0.321	50.0%	5.7%	55.7%	38.8%	0.339	0.452
38	65.3%	8.4%	73.7%	21.9%	0.208	0.361	27.9%	15.4%	43.3%	46.1%	0.271	0.487
39	60.7%	5.6%	66.3%	27.9%	0.128	0.166	51.2%	5.4%	56.6%	38.6%	0.277	0.357
42	30.8%	8.6%	39.4%	51.4%	0.321	0.479	35.8%	9.6%	45.4%	43.5%	0.112	0.289
44	71.3%	8.6%	79.9%	15.3%	0.185	0.180	61.6%	3.6%	65.2%	31.0%	0.237	0.356
Avg					0.270	0.378					0.277	0.390

Table 12: SD Atlanta Alt 1 splits 8 counties within the cluster compared to 7 in the enacted plan and has a better discrete compactness score, with 2017 cut edges rather than 2197, to go with comparable Polsby-Popper and superior Reock compactness.

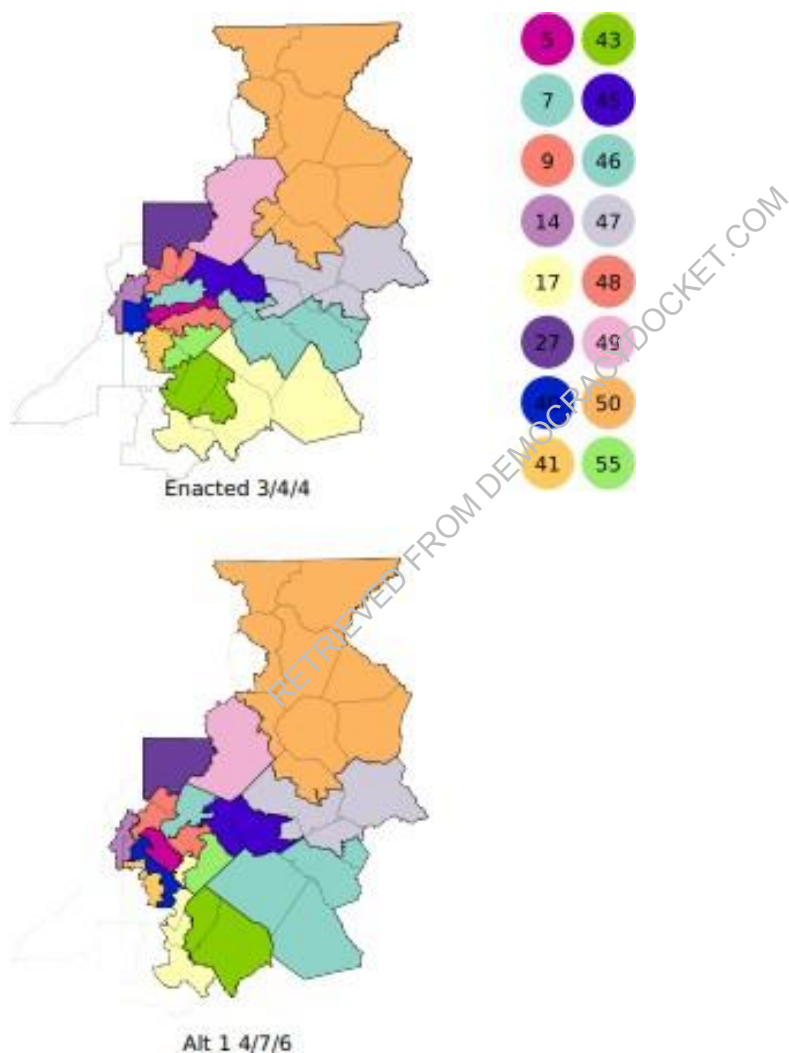
SD	SD Atlanta Enacted						SD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
6	23.9%	8.2%	32.1%	57.8%	0.236	0.405	28.0%	14.9%	42.9%	46.7%	0.256	0.477
10	71.5%	5.2%	76.7%	19.6%	0.231	0.281	59.7%	9.8%	69.5%	23.3%	0.307	0.416
16	22.7%	5.0%	27.7%	66.9%	0.314	0.368	48.4%	6.1%	54.5%	42.4%	0.258	0.366
28	19.5%	6.4%	25.9%	69.4%	0.246	0.445	15.8%	6.1%	21.9%	72.8%	0.347	0.371
30	20.9%	6.1%	27.0%	69.4%	0.407	0.597	15.7%	6.6%	22.3%	74.2%	0.473	0.508
31	20.7%	7.4%	28.1%	68.3%	0.379	0.366	25.9%	6.7%	32.6%	63.6%	0.591	0.636
33	43.0%	22.9%	65.9%	30.2%	0.215	0.401	50.6%	18.2%	68.8%	27.4%	0.224	0.463
34	69.5%	12.7%	82.2%	13.4%	0.335	0.451	54.4%	11.9%	66.3%	27.9%	0.246	0.381
35	71.9%	7.5%	79.4%	18.8%	0.263	0.472	60.9%	7.5%	68.4%	29.3%	0.206	0.490
36	51.3%	7.1%	58.4%	36.2%	0.305	0.321	54.0%	6.8%	60.8%	33.6%	0.263	0.466
38	65.3%	8.4%	73.7%	21.9%	0.208	0.361	51.0%	5.6%	56.6%	37.6%	0.154	0.260
39	60.7%	5.6%	66.3%	27.9%	0.128	0.166	86.5%	5.5%	92.0%	7.0%	0.118	0.271
42	30.8%	8.6%	39.4%	51.4%	0.321	0.479	17.0%	10.7%	27.7%	61.4%	0.144	0.282
44	71.3%	8.6%	79.9%	15.3%	0.185	0.180	76.3%	3.2%	79.5%	18.7%	0.374	0.456
Avg					0.270	0.378					0.283	0.417

Table 13: SD Atlanta Alt 2 splits 6 counties within the cluster and has just 1985 cut edges, better than the enacted plan's 7 and 2197, while also improving on both contour-based compactness scores.

Id. (Table 12 and Table 13).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

208. Dr. Duchin provided an alternative map in Gwinnett (“SD Alt 1 Gwinnett”) that created additional majority-minority districts:



Id. at 28 (Figure 9).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

209. Defendants' expert, Dr. Morgan, testified he has no basis to dispute that Dr. Duchin was able to draw additional majority-minority senate districts. Morgan Dep. 24:02-20; see also Morgan Rep. at 24, 27 (Charts 5 and 6); Morgan Dep. 29:10-30:4; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

210. The enacted SD Gwinnett cluster contains 3 majority BVAP districts (SDs 41, 43, and 55) and 1 additional majority BHVAP district (SD 5). Morgan Rep. at 29 (Table 14).

RESPONSE: Objection. The evidence cited does not support the fact because Mr. Morgan's report has no Table 14 on Page 29.

211. SD Alt 1 Gwinnett creates 5 majority BVAP districts (SDs Alt 1 Gwinnett 17, 40, 41, 43, and 55), and 2 majority BHVAP districts (SDs Alt 1 Gwinnett 5 and 9). Id.

RESPONSE: Objection. The evidence cited does not support the fact because Mr. Morgan's report has no Table 14 on Page 29.

212. The table below compares the enacted SD Gwinnett cluster to SD Alt 1 Gwinnett:

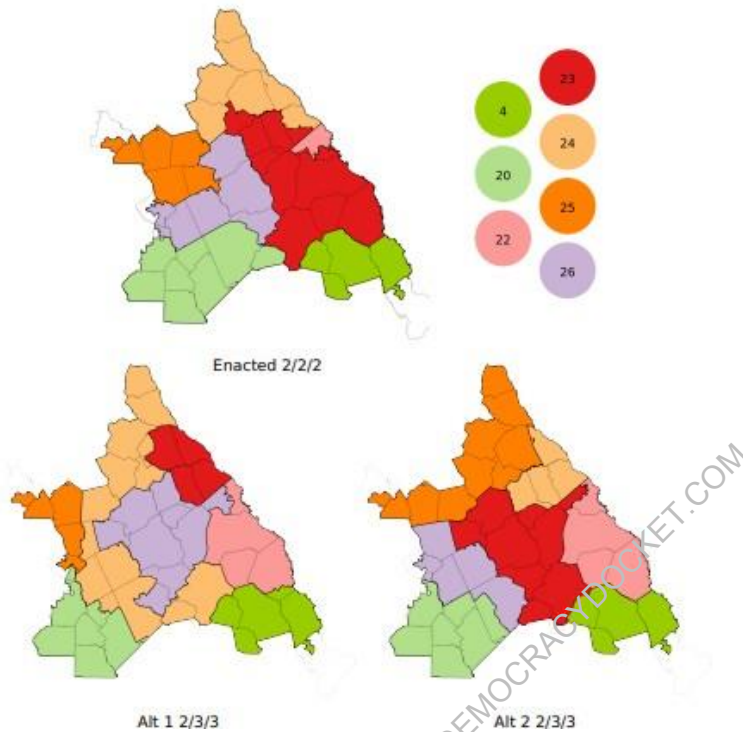
SD	SD Gwinnett Enacted						SD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
5	29.9%	41.7%	71.6%	15.7%	0.207	0.166	20.3%	34.6%	54.9%	28.0%	0.285	0.384
7	21.4%	16.6%	38.0%	37.8%	0.339	0.344	17.1%	14.3%	31.4%	45.5%	0.278	0.401
9	29.5%	18.8%	48.3%	35.8%	0.213	0.233	29.3%	27.0%	56.3%	26.2%	0.234	0.498
14	19.0%	12.1%	31.1%	57.1%	0.242	0.273	18.1%	11.4%	29.5%	57.6%	0.208	0.296
17	32.0%	5.1%	37.1%	59.4%	0.168	0.342	51.1%	6.6%	57.7%	35.9%	0.113	0.188
27	5.0%	10.2%	15.2%	71.5%	0.456	0.499	4.7%	10.2%	14.9%	70.8%	0.500	0.497
40	19.2%	21.6%	40.8%	46.3%	0.345	0.508	50.1%	17.7%	67.8%	25.1%	0.130	0.208
41	62.6%	6.7%	69.3%	21.4%	0.302	0.509	57.3%	10.0%	67.3%	23.3%	0.149	0.279
43	64.3%	6.9%	71.2%	26.5%	0.346	0.635	52.0%	7.0%	59.0%	38.3%	0.420	0.537
45	18.6%	13.1%	31.7%	55.5%	0.305	0.350	19.8%	12.1%	31.9%	58.8%	0.226	0.380
46	16.9%	7.0%	23.9%	69.9%	0.207	0.365	16.5%	5.0%	21.5%	73.4%	0.416	0.514
47	17.4%	9.6%	27.0%	67.5%	0.187	0.353	16.7%	8.7%	25.4%	68.5%	0.176	0.326
48	9.5%	7.0%	16.5%	52.2%	0.342	0.348	10.1%	6.4%	16.5%	54.8%	0.266	0.387
49	8.0%	21.9%	29.9%	65.6%	0.341	0.461	8.1%	24.6%	32.7%	62.8%	0.382	0.573
50	5.6%	8.8%	14.4%	81.5%	0.228	0.450	5.4%	6.1%	11.5%	84.3%	0.232	0.462
55	66.0%	8.7%	74.7%	20.6%	0.271	0.333	50.0%	13.9%	63.9%	30.0%	0.419	0.451
Avg					0.281	0.386					0.277	0.399

Id.

RESPONSE: Objection. The evidence cited does not support the fact because Mr. Morgan’s report has no Table 14 on Page 29.

213. Dr. Duchin provided two alternative maps for the SD East Black Belt cluster (“SD Alt 1 East Black Belt” and “SD Alt 2 East Black Belt”) that create additional majority-minority districts.

7.2.3 SD East Black Belt



Id. at 30 (Figure 10).

RESPONSE: Objection. The evidence cited does not support the fact because Mr. Morgan's report has no Figure 10 on Page 30.

214. Defendants' expert, Dr. Morgan, testified he has no basis to dispute that Dr. Duchin was able to draw additional majority-minority senate districts. Morgan Dep. 24:02-20; see also Morgan Rep. at 24, 27 (Charts 5 and 6); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

215. The enacted SD East Black Belt region contains two majority BVAP districts (SDs 22 and 26). See Duchin Rep. at 31 (Table 15 and Table 6).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

216. SD Alt 1 East Black Belt contains three majority BVAP districts (SDs Alt 1 East Black Belt 22, 25, and 26). Id. (Table 15).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

217. SD Alt 2 East Black Belt contains two majority BVAP districts (SDs Alt 2 East Black Belt 22 and 26) and one majority BHVAP district (SD Alt 2 East Black Belt 23). Id. (Table 16).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact because Table 16 shows there are 3 majority BHVAP districts on SD Alt 2 East Black Belt.

218. The table below provides a comparison between the enacted SD East Black Belt cluster and SD Alt 1 East Black Belt and SD Alt 2 East Black Belt:

SD	SD East Black Belt Enacted						SD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
4	23.4%	5.5%	28.9%	66.8%	0.265	0.471	23.5%	5.5%	29.0%	66.7%	0.284	0.495
20	31.3%	3.5%	34.8%	61.7%	0.358	0.404	34.4%	5.1%	39.5%	56.5%	0.231	0.498
22	56.5%	5.3%	61.8%	34.4%	0.288	0.404	50.5%	3.8%	54.3%	42.6%	0.241	0.455
23	35.5%	4.5%	40.0%	56.9%	0.164	0.365	23.0%	5.6%	28.6%	64.6%	0.466	0.497
24	19.9%	4.4%	24.3%	69.8%	0.213	0.366	25.0%	3.5%	28.5%	69.1%	0.083	0.229
25	33.5%	3.7%	37.2%	59.9%	0.241	0.386	50.0%	4.0%	54.0%	43.4%	0.174	0.344
26	57.0%	4.2%	61.2%	36.6%	0.203	0.469	50.1%	3.7%	53.8%	43.4%	0.209	0.472
Avg					0.247	0.409					0.241	0.427

Table 15: SD East Black Belt Alt 1 has more cut edges than the state (1301 vs. 1021 from the enacted plan), paired with a comparable Polsby-Popper and a superior Reock score. This alternative plan splits seven counties while the state splits four within the cluster.

SD	SD East Black Belt Enacted						SD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
4	23.4%	5.5%	28.9%	66.8%	0.265	0.471	23.4%	5.5%	28.9%	66.8%	0.265	0.471
20	31.3%	3.5%	34.8%	61.7%	0.358	0.404	32.5%	4.9%	37.4%	58.7%	0.304	0.586
22	56.5%	5.3%	61.8%	34.4%	0.288	0.404	50.4%	3.5%	53.9%	42.9%	0.264	0.432
23	35.5%	4.5%	40.0%	56.9%	0.164	0.365	47.4%	4.1%	51.5%	45.8%	0.231	0.441
24	19.9%	4.4%	24.3%	69.8%	0.213	0.366	23.1%	5.6%	28.7%	64.5%	0.327	0.458
25	33.5%	3.7%	37.2%	59.9%	0.241	0.386	28.2%	4.5%	32.7%	64.3%	0.176	0.311
26	57.0%	4.2%	61.2%	36.6%	0.203	0.469	51.2%	3.1%	54.3%	43.5%	0.205	0.331
Avg					0.247	0.409					0.253	0.433

Table 16: SD East Black Belt Alt 2 has just two county splits, compared to four in the state's plan. With just 1008 cut edges, it also executes a clean sweep of compactness scores relative to the enacted plan.

Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

219. Dr. Duchin analyzed seven House clusters: HD Atlanta, HD Cobb, HD DeKalb, HD Gwinnett, HD Southwest, HD East Black Belt, HD Southeast.

Id. at 14-15.



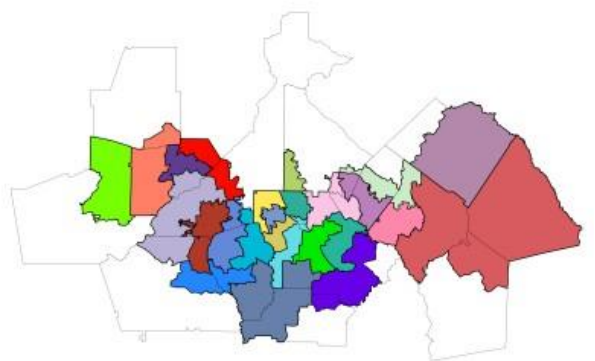
Figure 7: Seven "modular" House clusters made up of groups of enacted districts.

Id. at 15 (Figure 7).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

220. Dr. Duchin provided two alternative maps (“HD Alt 1 Atlanta” and “HD Alt 2 Atlanta”) for the HD Atlanta cluster that created additional majority- minority districts:

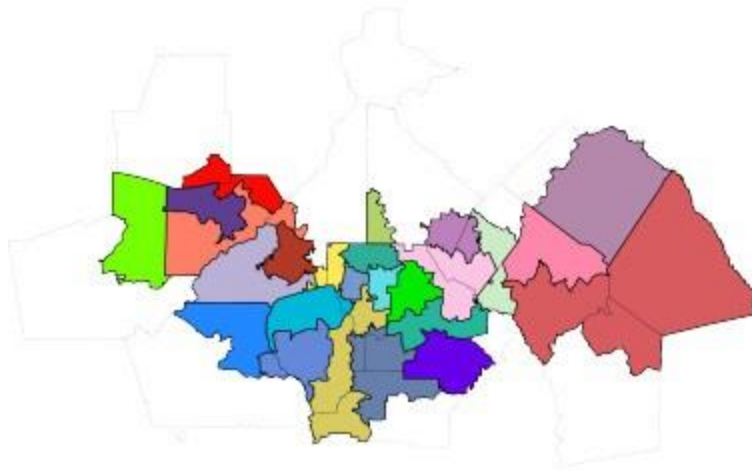
7.3.1 HD Atlanta



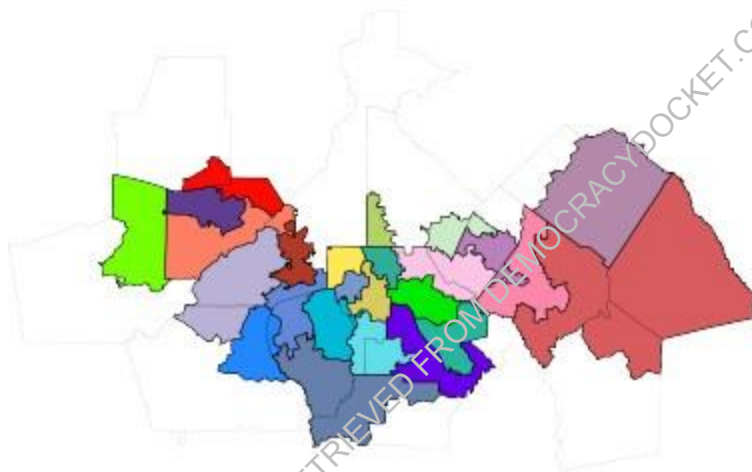
Enacted 18/18/18



RETRIEVED FROM DEMOCRACYDOCKET.COM



Alt 1 20/20/20



Alt 2 19/20/20

Id. at 32-33 (Figures 11 and 12).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

221. Defendants' expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep. 24:22-24:09; see also Morgan Rep., 18, 21 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:4-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

222. The enacted HD Atlanta cluster contains 18 majority BVAP districts (HDs 61, 65, 66, 67, 68, 69, 75, 76, 77, 78, 79, 90, 91, 92, 93, 113, 115, and 116). See Duchin Rep. at 34 (Table 17 and Table 18).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

223. HD Alt 1 Atlanta contains 20 majority BVAP districts (HDs Alt 1 Atlanta 61, 64, 65, 66, 67, 69, 74, 75, 76, 77, 78, 79, 90, 91, 92, 93, 113, 115, 116, 117). Id. (Table 17).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

224. HD Alt 2 Atlanta contains 19 majority BVAP districts (HDs Alt 2 Atlanta 64, 65, 66, 67, 68, 69, 75, 76, 77, 78, 79, 90, 91, 92, 93, 113, 115, 116, 117), and one majority BHVAP district (HD Alt 2 Atlanta 61). Id. (Table 18).

RESPONSE: Objection. The evidence cited does not support the fact because Table 18 shows there are 20 majority BHVAP districts on HD Alt 2 Atlanta.

225. The tables below provide comparisons between HD Atlanta enacted and HD Atlanta Alt 1 and HD Atlanta Alt 2.

HD	HD Atlanta Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
61	74.3%	7.6%	81.9%	16.8%	0.198	0.247	50.1%	10.0%	60.1%	37.1%	0.229	0.265
64	30.7%	7.4%	38.1%	57.8%	0.361	0.365	50.9%	6.5%	57.4%	40.0%	0.132	0.263
65	62.0%	4.5%	66.5%	31.5%	0.172	0.454	81.7%	4.7%	86.4%	12.5%	0.222	0.350
66	53.4%	9.5%	62.9%	33.9%	0.246	0.356	51.0%	9.0%	60.0%	36.2%	0.256	0.386
67	58.9%	7.8%	66.7%	30.9%	0.122	0.357	89.9%	5.4%	95.3%	4.4%	0.195	0.515
68	55.7%	6.3%	62.0%	33.9%	0.172	0.318	13.7%	6.6%	20.3%	71.5%	0.310	0.518
69	63.6%	5.4%	69.0%	26.9%	0.247	0.403	51.9%	8.8%	60.7%	34.0%	0.339	0.409
71	19.9%	6.2%	26.1%	69.8%	0.352	0.441	19.9%	6.2%	26.1%	69.8%	0.350	0.441
73	12.1%	7.0%	19.1%	72.6%	0.198	0.278	11.8%	6.4%	18.2%	75.9%	0.335	0.417
74	25.5%	5.6%	31.1%	64.4%	0.247	0.496	50.8%	6.9%	57.7%	39.7%	0.205	0.461
75	74.4%	11.3%	85.7%	11.3%	0.285	0.420	54.2%	7.7%	61.9%	34.1%	0.133	0.230
76	67.2%	13.2%	80.4%	10.5%	0.509	0.524	61.6%	20.0%	81.6%	11.2%	0.460	0.409
77	76.1%	12.2%	88.3%	7.6%	0.211	0.396	89.6%	5.0%	94.6%	3.5%	0.211	0.292
78	71.6%	8.9%	80.5%	15.0%	0.194	0.210	64.2%	11.3%	75.5%	15.4%	0.256	0.414
79	71.6%	16.0%	87.6%	7.1%	0.209	0.498	73.3%	14.6%	87.9%	8.0%	0.370	0.444
90	58.5%	4.3%	62.8%	34.0%	0.286	0.359	58.5%	4.3%	62.8%	34.0%	0.286	0.359
91	70.0%	5.9%	75.9%	22.0%	0.202	0.447	50.3%	5.2%	55.5%	40.7%	0.245	0.384
92	68.8%	4.7%	73.5%	24.1%	0.198	0.361	87.6%	3.5%	91.1%	8.3%	0.260	0.543
93	65.4%	9.6%	75.0%	22.9%	0.112	0.260	62.1%	10.4%	72.5%	25.4%	0.160	0.232
112	19.2%	3.3%	22.5%	73.7%	0.522	0.619	19.2%	3.3%	22.5%	73.7%	0.522	0.619
113	59.5%	6.7%	66.2%	31.8%	0.318	0.501	51.0%	5.1%	56.1%	41.2%	0.338	0.425
114	24.7%	3.7%	28.4%	68.8%	0.283	0.502	32.8%	4.4%	37.2%	60.3%	0.267	0.438
115	52.1%	7.0%	59.1%	36.9%	0.226	0.436	50.2%	6.0%	56.2%	38.6%	0.193	0.282
116	58.1%	7.3%	65.4%	27.2%	0.280	0.407	54.8%	8.0%	62.8%	29.6%	0.333	0.478
117	36.6%	5.4%	42.0%	54.5%	0.275	0.408	51.0%	7.2%	58.2%	39.0%	0.409	0.511
Avg					0.257	0.402					0.281	0.403

Table 17: In HD Atlanta, the enacted plan has 10 county splits and 2221 cut edges. Alt 1 maintains 10 county splits and improves to 1988 cut edges.

HD	HD Atlanta Enacted						HD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
61	74.3%	7.6%	81.9%	16.8%	0.198	0.247	47.4%	10.1%	51.5%	39.6%	0.290	0.276
64	30.7%	7.4%	38.1%	57.8%	0.361	0.365	50.5%	6.8%	57.3%	40.0%	0.201	0.271
65	62.0%	4.5%	66.5%	31.5%	0.172	0.454	67.6%	4.1%	71.7%	26.6%	0.302	0.458
66	53.4%	9.5%	62.9%	33.9%	0.246	0.356	51.2%	9.1%	60.3%	36.0%	0.336	0.407
67	58.9%	7.8%	66.7%	30.9%	0.122	0.357	90.4%	3.3%	95.7%	4.0%	0.131	0.428
68	55.7%	6.3%	62.0%	33.9%	0.172	0.318	58.2%	6.8%	65.0%	31.0%	0.168	0.329
69	63.6%	5.4%	69.0%	26.9%	0.247	0.403	54.6%	6.3%	60.9%	34.4%	0.310	0.538
71	19.9%	6.2%	26.1%	69.8%	0.352	0.441	19.9%	6.2%	26.1%	69.8%	0.352	0.441
73	12.1%	7.0%	19.1%	72.6%	0.198	0.278	11.9%	7.0%	18.9%	73.6%	0.373	0.498
74	25.5%	5.6%	31.1%	64.4%	0.247	0.496	12.8%	5.7%	18.5%	75.5%	0.192	0.320
75	74.4%	11.3%	85.7%	11.3%	0.285	0.420	61.4%	12.0%	73.4%	17.6%	0.225	0.404
76	67.2%	13.2%	80.4%	10.5%	0.509	0.524	70.4%	13.2%	83.6%	9.6%	0.352	0.416
77	76.1%	12.2%	88.3%	7.6%	0.211	0.396	77.0%	12.6%	89.6%	7.0%	0.491	0.510
78	71.6%	8.9%	80.5%	15.0%	0.194	0.210	68.6%	8.4%	77.0%	21.0%	0.325	0.540
79	71.6%	16.0%	87.6%	7.1%	0.209	0.498	73.1%	15.5%	88.6%	7.5%	0.357	0.549
90	58.5%	4.3%	62.8%	34.0%	0.286	0.359	58.5%	4.3%	62.8%	34.0%	0.286	0.359
91	70.0%	5.9%	75.9%	22.0%	0.202	0.447	53.0%	5.2%	58.2%	38.4%	0.231	0.369
92	68.8%	4.7%	73.5%	24.1%	0.198	0.361	69.6%	6.9%	76.5%	21.3%	0.174	0.330
93	65.4%	9.6%	75.0%	22.9%	0.112	0.260	85.5%	7.2%	92.7%	7.0%	0.201	0.329
112	19.2%	3.3%	22.5%	73.7%	0.522	0.619	19.2%	3.3%	22.5%	73.7%	0.522	0.619
113	59.5%	6.7%	66.2%	31.8%	0.318	0.501	53.9%	5.6%	59.5%	37.9%	0.153	0.355
114	24.7%	3.7%	28.4%	68.8%	0.283	0.502	24.9%	3.8%	28.7%	68.6%	0.235	0.487
115	52.1%	7.0%	59.1%	36.9%	0.226	0.436	50.3%	6.9%	57.2%	39.8%	0.304	0.475
116	58.1%	7.3%	65.4%	27.2%	0.280	0.407	53.2%	7.9%	61.1%	31.0%	0.382	0.452
117	36.6%	5.4%	42.0%	54.5%	0.275	0.408	50.1%	6.5%	56.6%	38.4%	0.155	0.323
Avg					0.257	0.402					0.282	0.419

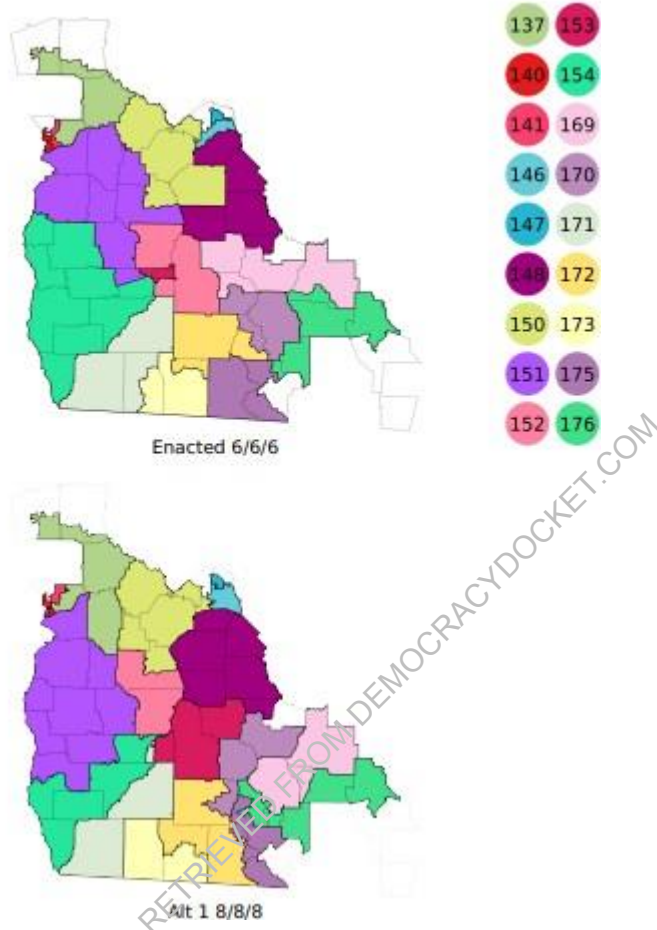
Table 18: With 9 county splits and 1995 cut edges, Alt 2 dominates the enacted plan.

Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

226. Dr. Duchin drew an alternative map for HD Southwest (HD Alt 1 Southwest) that created additional majority-minority districts:

7.3.2 HD Southwest



Id. at 35 (Figure 13).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

227. Defendants' expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep. 24:22-24:09; see also Morgan Rep. 18, 21 (Charts 2 and 3); Morgan Dep. 29:10- 30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

228. The enacted HD Southwest contains six majority BVAP districts (HDs 137, 140, 141, 150, 153, and 154). Duchin Rep. at 36 (Table 19).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

229. HD Alt 1 Southwest contains eight majority BVAP districts (HDs Alt 1 Southwest 137, 140, 141, 150, 151, 153, 154, 171). Id. (Table 19).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

230. The table below provides a comparison between the enacted HD Southwest cluster and HD Alt 1 Southwest:

HD	HD Southwest Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
137	52.1%	4.5%	56.6%	40.8%	0.165	0.328	51.7%	3.7%	55.4%	42.0%	0.143	0.259
140	57.6%	8.0%	65.6%	31.7%	0.192	0.289	57.1%	7.9%	65.0%	32.4%	0.197	0.257
141	57.5%	6.6%	64.1%	31.8%	0.200	0.261	53.6%	6.7%	60.3%	35.5%	0.299	0.423
146	27.6%	4.7%	32.3%	61.8%	0.195	0.257	23.3%	4.9%	28.2%	64.4%	0.208	0.468
147	30.1%	7.2%	37.3%	55.3%	0.261	0.331	31.8%	7.2%	39.0%	55.1%	0.220	0.341
148	34.0%	3.1%	37.1%	60.4%	0.235	0.438	38.6%	3.4%	42.0%	56.1%	0.388	0.590
150	53.6%	6.1%	59.7%	38.3%	0.275	0.439	51.2%	5.3%	56.5%	41.5%	0.250	0.544
151	42.4%	7.3%	49.7%	47.2%	0.222	0.528	51.0%	7.5%	58.5%	38.6%	0.275	0.424
152	26.1%	2.3%	28.4%	67.9%	0.297	0.394	34.2%	3.2%	37.4%	58.7%	0.314	0.473
153	67.9%	2.5%	70.4%	27.7%	0.297	0.298	52.9%	2.7%	55.6%	43.0%	0.400	0.536
154	54.8%	1.7%	56.5%	42.2%	0.332	0.410	50.1%	2.1%	52.2%	45.7%	0.175	0.261
169	29.0%	7.7%	36.7%	61.0%	0.226	0.283	24.0%	9.0%	33.0%	64.6%	0.296	0.456
170	24.2%	8.7%	32.9%	64.2%	0.342	0.531	26.8%	12.5%	39.3%	57.9%	0.223	0.285
171	39.6%	4.6%	44.2%	53.9%	0.368	0.347	51.0%	4.0%	55.0%	43.4%	0.249	0.275
172	23.3%	13.4%	36.7%	61.0%	0.316	0.437	25.1%	9.4%	34.5%	63.1%	0.217	0.375
173	36.3%	5.4%	41.7%	55.7%	0.378	0.564	35.4%	5.6%	41.0%	56.4%	0.412	0.424
175	24.2%	5.0%	29.2%	66.5%	0.374	0.472	21.0%	5.7%	26.7%	68.7%	0.143	0.273
176	22.7%	8.2%	30.9%	66.2%	0.160	0.335	23.8%	6.2%	30.0%	67.1%	0.116	0.227
Avg					0.269	0.386					0.252	0.383

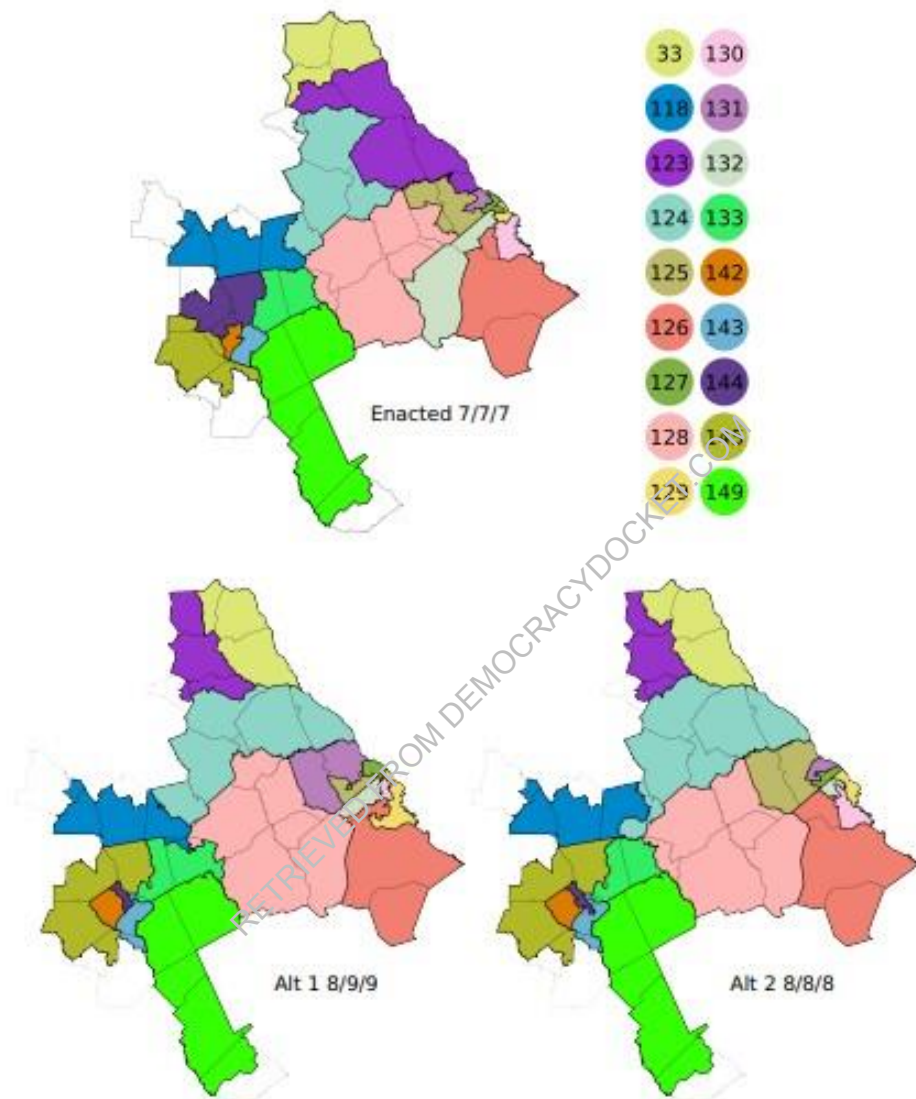
Table 19: HD Southwest Alt 1 splits 12 counties within the cluster, to the state's 10 split counties. Its 2290 cut edges are more than the state's 2094, though the Reock scores are nearly identical.

Id.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

231. Dr. Duchin provided two alternative HD East Black Belt maps (“HD Alt 1 East Black Belt” and “HD Alt 2 East Black Belt”) that created additional majority-minority districts:

7.3.3 HD East Black Belt



Id. at 37 (Figure 14).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

232. Defendants' expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan

Dep. 24:22-24:09; see also Morgan Rep. 18, 21 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

233. The enacted HD East Black Belt contains seven majority BVAP districts (HDs 126, 128, 129, 130, 132, 142, and 143). Duchin Rep. at 38 (Table 20 and Table 21).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

234. HD Alt 1 East Black Belt contains eight majority BVAP districts (HDs Alt 1 East Black Belt 126, 128, 129, 130, 132, 142, 142, and 144). HD Alt 1 East Black also contains a majority BHVAP district (HD Alt 1 East Black Belt 133). Id. (Table 20)

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact because Table 20 shows there are 9 majority BHVAP districts on HD Alt 1 East Black Belt.

235. HD Alt 2 East Black Belt also contains eight majority BVAP districts (HD Alt 2 East Black Belt 126, 128, 129, 130, 132, 142, 142, 144). Id. (Table 21).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

236. The tables below compare the enacted East Black Belt clusters with HD Alt 1 East Black Belt and HD Alt 2 East Black Belt:

HD	HD East Black Belt Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
33	11.2%	3.1%	14.3%	82.3%	0.371	0.487	18.7%	3.8%	22.5%	74.6%	0.405	0.343
118	23.6%	3.7%	27.3%	69.7%	0.223	0.350	23.2%	3.1%	26.3%	70.6%	0.218	0.329
123	24.3%	4.3%	28.6%	68.1%	0.178	0.295	13.3%	5.8%	19.1%	76.3%	0.281	0.357
124	25.6%	6.2%	31.8%	65.0%	0.233	0.442	28.4%	4.7%	33.1%	64.4%	0.224	0.362
125	23.7%	7.7%	31.4%	63.0%	0.173	0.409	24.1%	8.0%	32.1%	61.5%	0.255	0.328
126	54.5%	3.2%	57.7%	40.0%	0.414	0.516	52.5%	3.5%	55.0%	41.6%	0.322	0.534
127	18.5%	4.8%	23.3%	68.1%	0.201	0.351	14.6%	4.9%	19.5%	70.1%	0.585	0.546
128	50.4%	1.7%	52.1%	46.5%	0.319	0.601	50.1%	1.6%	51.7%	46.7%	0.357	0.628
129	54.9%	4.3%	59.2%	37.2%	0.254	0.482	51.9%	3.5%	55.4%	40.7%	0.108	0.314
130	59.9%	3.9%	63.8%	33.7%	0.255	0.508	54.4%	4.3%	58.7%	38.7%	0.253	0.451
131	17.6%	5.9%	23.5%	68.2%	0.283	0.377	27.1%	5.1%	32.2%	63.3%	0.285	0.604
132	52.3%	7.8%	60.1%	35.6%	0.296	0.270	53.6%	8.2%	61.8%	33.1%	0.293	0.243
133	36.8%	2.1%	38.9%	58.4%	0.415	0.543	49.7%	2.0%	50.7%	47.2%	0.178	0.385
142	59.5%	3.7%	63.2%	34.8%	0.229	0.353	50.8%	3.7%	54.5%	42.3%	0.539	0.605
143	60.8%	4.7%	65.5%	32.3%	0.299	0.502	52.4%	6.3%	58.7%	38.4%	0.176	0.332
144	29.3%	2.6%	31.9%	63.0%	0.325	0.510	50.4%	4.3%	54.7%	41.3%	0.299	0.298
145	35.7%	5.9%	41.6%	55.1%	0.194	0.376	23.1%	2.8%	25.9%	71.1%	0.204	0.422
149	32.1%	5.7%	37.8%	61.0%	0.223	0.325	32.1%	5.7%	37.8%	61.0%	0.223	0.325
Avg					0.271	0.428					0.289	0.411

Table 20: The Alt 1 map has 10 split counties within the HD East Black Belt cluster, while the enacted plan has 9. Its 1775 cut edges improves on the state's 1887, while also being more compact by Polsby-Popper.

HD	HD East Black Belt Enacted						HD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
33	11.2%	3.1%	14.3%	82.3%	0.371	0.487	18.3%	3.5%	21.8%	75.2%	0.370	0.323
118	23.6%	3.7%	27.3%	69.7%	0.223	0.350	27.0%	4.1%	31.1%	65.9%	0.229	0.342
123	24.3%	4.3%	28.6%	68.1%	0.178	0.295	13.7%	6.0%	19.7%	75.8%	0.293	0.395
124	25.6%	6.2%	31.8%	65.0%	0.233	0.442	25.5%	3.8%	29.3%	68.1%	0.234	0.381
125	23.7%	7.7%	31.4%	63.0%	0.173	0.409	30.2%	6.1%	36.3%	60.1%	0.396	0.670
126	54.5%	3.2%	57.7%	40.0%	0.414	0.516	50.7%	4.2%	54.9%	42.3%	0.394	0.494
127	18.5%	4.8%	23.3%	68.1%	0.201	0.351	17.6%	6.2%	23.8%	67.2%	0.267	0.264
128	50.4%	1.7%	52.1%	46.5%	0.319	0.601	50.2%	1.5%	51.7%	46.8%	0.409	0.672
129	54.9%	4.3%	59.2%	37.2%	0.254	0.482	50.4%	3.6%	54.0%	41.8%	0.248	0.323
130	59.9%	3.9%	63.8%	33.7%	0.255	0.508	57.1%	4.7%	61.8%	35.4%	0.231	0.325
131	17.6%	5.9%	23.5%	68.2%	0.283	0.377	17.6%	5.7%	23.3%	67.8%	0.318	0.373
132	52.3%	7.8%	60.1%	35.6%	0.296	0.270	54.4%	7.1%	61.5%	34.1%	0.219	0.278
133	36.8%	2.1%	38.9%	58.4%	0.415	0.543	46.6%	2.1%	48.7%	49.0%	0.296	0.438
142	59.5%	3.7%	63.2%	34.8%	0.229	0.353	50.1%	3.8%	53.9%	42.9%	0.436	0.605
143	60.8%	4.7%	65.5%	32.3%	0.299	0.502	52.9%	6.3%	59.2%	38.0%	0.143	0.316
144	29.3%	2.6%	31.9%	63.0%	0.325	0.510	51.0%	4.2%	55.2%	40.8%	0.226	0.243
145	35.7%	5.9%	41.6%	55.1%	0.194	0.376	23.1%	2.8%	25.9%	71.1%	0.190	0.359
149	32.1%	5.7%	37.8%	61.0%	0.223	0.325	32.1%	5.7%	37.8%	61.0%	0.223	0.325
Avg					0.271	0.428					0.285	0.396

Table 21: Alt 2 eliminates one county split relative to the enacted plan and has a sharply improved 1604 cut edges.

Id. (Table 20 and Table 21).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

237. Dr. Duchin also provided alternative maps for the HD Southeast cluster (“HD Alt 1 Southeast”) that contains additional majority-minority districts:

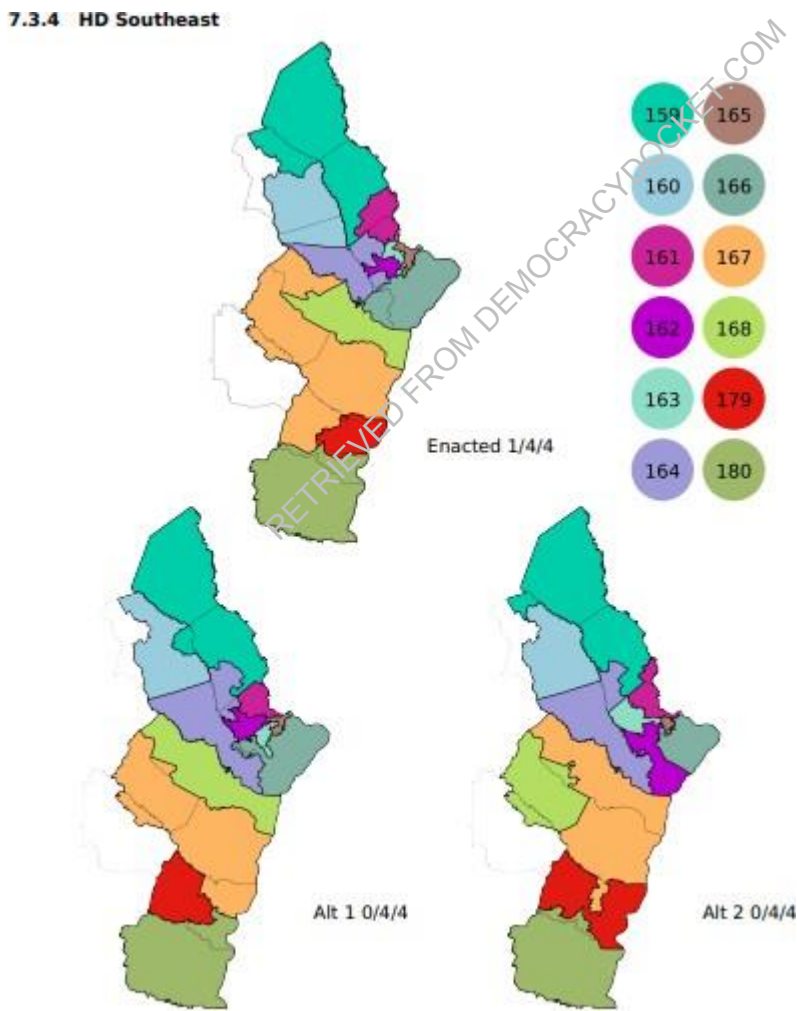


Figure 15: HD Southeast (12 districts).

Id. at 39 (Figure 15).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

238. Defendants' expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep. 24:22-24:09; see also Morgan Rep. at 24, 27 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

239. Enacted HD Southeast contains one majority BVAP district (HD 165) and three majority BHVAP districts (HDs 162, 163, 168). Duchin Rep. at 40 (Table 22 and Table 23).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact because Tables 22 and 23 show there are 4 majority BHVAP districts on Enacted HD Southeast.

240. HD Alt 1 Southeast contains five majority BHVAP districts (HDs Alt 1 Southeast 161, 162, 163, 165 and 168). Id. (Table 22).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

241. HD Alt 2 Southeast also contains five majority BHVAP districts (HDs Alt 2 Southeast 161, 162, 163, 165 and 168). Id. (Table 23).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

242. The table below provides a comparison of the enacted HD Southeast cluster and HD Alt 1 Southeast and HD Alt 2 Southeast:

HD	HD Southeast Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
159	24.5%	2.9%	27.4%	69.4%	0.219	0.345	22.2%	3.7%	25.9%	70.5%	0.204	0.358
160	22.6%	5.0%	27.6%	68.5%	0.369	0.483	26.6%	5.1%	31.7%	64.7%	0.242	0.373
161	27.1%	6.8%	33.9%	60.2%	0.306	0.511	42.1%	8.3%	50.9%	42.7%	0.359	0.475
162	43.7%	9.6%	53.3%	40.6%	0.211	0.366	39.9%	10.5%	50.4%	42.6%	0.147	0.372
163	45.5%	7.4%	52.9%	41.9%	0.175	0.271	44.0%	6.9%	50.9%	43.7%	0.244	0.335
164	23.5%	8.5%	32.0%	60.6%	0.167	0.299	12.9%	5.1%	18.0%	76.5%	0.143	0.309
165	50.3%	5.3%	55.6%	39.2%	0.162	0.230	0.3%	4.7%	52.0%	42.9%	0.189	0.380
166	5.7%	4.1%	9.8%	84.7%	0.364	0.429	7.2%	4.7%	11.9%	82.4%	0.245	0.459
167	22.3%	7.4%	29.7%	66.0%	0.192	0.417	20.0%	6.2%	26.2%	70.1%	0.266	0.327
168	46.3%	10.3%	56.6%	39.3%	0.258	0.243	45.9%	10.7%	56.6%	39.2%	0.236	0.246
179	27.0%	6.4%	33.4%	63.7%	0.417	0.451	32.0%	7.5%	39.5%	56.9%	0.433	0.539
180	18.2%	5.6%	23.8%	71.2%	0.396	0.606	17.0%	5.4%	22.4%	72.8%	0.348	0.594
Avg					0.270	0.388					0.255	0.397

Table 22: HD Southeast Alt 1 has fewer county splits (5 vs. 6) and a better cut edges score (1122 vs. 1245) than the enacted plan.

HD	HD Southeast Enacted						HD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
159	24.5%	2.9%	27.4%	69.4%	0.219	0.345	22.0%	3.6%	25.6%	70.7%	0.192	0.356
160	22.6%	5.0%	27.6%	68.5%	0.369	0.483	26.3%	5.1%	31.4%	64.9%	0.333	0.515
161	27.1%	6.8%	33.9%	60.2%	0.306	0.511	41.6%	10.0%	51.6%	42.2%	0.180	0.332
162	43.7%	9.6%	53.3%	40.6%	0.211	0.366	43.0%	8.5%	51.5%	42.5%	0.191	0.341
163	45.5%	7.4%	52.9%	41.9%	0.175	0.271	42.7%	7.7%	50.4%	43.1%	0.282	0.411
164	23.5%	8.5%	32.0%	60.6%	0.167	0.299	13.4%	5.5%	18.9%	75.6%	0.168	0.290
165	50.3%	5.3%	55.6%	39.2%	0.162	0.230	45.5%	5.0%	50.5%	44.4%	0.229	0.501
166	5.7%	4.1%	9.8%	84.7%	0.364	0.429	7.2%	4.1%	11.3%	83.0%	0.391	0.653
167	22.3%	7.4%	29.7%	66.0%	0.192	0.417	36.5%	7.4%	43.9%	52.5%	0.204	0.331
168	46.3%	10.3%	56.6%	39.3%	0.258	0.243	40.9%	10.8%	51.7%	44.3%	0.327	0.555
179	27.0%	6.4%	33.4%	63.7%	0.417	0.451	18.7%	6.0%	24.7%	71.6%	0.196	0.454
180	18.2%	5.6%	23.8%	71.2%	0.396	0.606	18.6%	5.7%	24.3%	70.7%	0.346	0.577
Avg					0.270	0.388					0.253	0.443

Table 23: Alt 2 also has just 5 county splits, to go with 1263 cut edges.

Id. (Table 22 and Table 23).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

243. Dr. Duchin concluded that it is possible to draw these additional majority-minority districts in the congressional, senate, and house plans while comporting with traditional redistricting principles. Duchin Rep. at 5; Duchin Dep. 65:06-66:09.

RESPONSE: Objection. The evidence cited does not support the fact because the cited sections of Dr. Duchin's report and testimony do not offer the conclusion that she drew alternative plans "while comporting with traditional redistricting principles."

244. Defendants' expert Dr. Morgan testified that he has no basis to dispute that Dr. Duchin's illustrative majority-minority districts are "reasonably configured." Morgan Dep. at 21:12-28:08; see also Morgan Rep. at 18, 21-22, 24, 27-28 (Charts 2, 3, 5, 6, and 7).

RESPONSE: Objection. The evidence cited does not support the fact because the cited sections of Mr. Morgan's report and testimony do not demonstrate an opinion about the reasonable configuration of any district and refer to topics far beyond the fact.

245. Dr. Duchin testified that throughout the map-drawing process, she balanced these redistricting principles. Duchin Dep. 122:08-18.

RESPONSE: Objection. The evidence cited does not support the fact because the cited sections of Dr. Duchin's deposition refer only to her decision to connect south Fulton with all of Fayette County on one of her Senate alternative plans.

246. Dr. Duchin examined several of the qualitative and quantitative redistricting principles codified by the Georgia legislature. Duchin Rep. at 20-24.

RESPONSE: Objection. The evidence cited does not support the fact because the cited sections of Dr. Duchin's report only reference numerical counts or calculations of redistricting principles.

247. All of the districts in all of Dr. Duchin's illustrative congressional, senate, and house district are contiguous. Duchin Rep. at 20.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

248. As demonstrated by the chart below, Dr. Duchin tightly balanced the populations of each of her illustrative congressional, senate, and house

	Maximum positive deviation	Maximum negative deviation	Top-to-bottom deviation
EnactedCD	+1	-1	2
DuncanKennedy	+2	-1	3
CD Alt	+1	-1	2
EnactedSD	+1879	-1964	3843 (2.01%)
SD Alt Eff 1	+2457	-2598	5055 (2.64%)
SD Alt Eff 2	+2547	-2490	5037 (2.63%)
SD Alt Eff 3	+3200	-3305	6505 (3.40%)
EnactedHD	+797	-833	1630 (2.74%)
HD Alt Eff 1	+1194	-1176	2370 (3.98%)
HD Alt Eff 2	+1222	-1097	2319 (3.90%)
HD Alt Eff 3	+1173	-1026	2199 (3.70%)

maps:

Id. at 20 (Table 7).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than a statement of fact give the use of the term “tightly balanced.” Further, the evidence cited does not support the fact because the term “tightly balanced” is undefined.

249. Dr. Duchin compared the overall average district compactness scores of the enacted plans and each of her illustrative plans under the Polsby-Popper, Reock, and “cut edges” approach, as demonstrated by the chart below:

	avg Polsby-Popper (higher is better)	avg Reock (higher is better)	Block cut edges (lower is better)
BenchmarkCD	0.238	0.452	5775
EnactedCD	0.267	0.441	5075
DuncanKennedy	0.295	0.471	4665
CD Alt	0.301	0.473	4665
BenchmarkSD	0.250	0.421	12,549
EnactedSD	0.287	0.418	11,005
SD Alt Eff 1	0.287	0.427	10,897
SD Alt Eff 2	0.296	0.440	10,349
SD Alt Eff 3	0.295	0.431	10,479
BenchmarkHD	0.244	0.382	24,001
EnactedHD	0.278	0.391	22,014
HD Alt Eff 1	0.261	0.391	21,843
HD Alt Eff 2	0.263	0.399	21,907
HD Alt Eff 3	0.279	0.403	20,917

Table 8: Compactness scores for each plan submitted with January 13 Report.

Canter Decl ¶ 28 (Moon Duchin Notice of Errata (“Duchin Errata”) at 2 (April 26, 2023)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

250. Dr. Duchin opined that overall compactness scores of her illustrative districts are comparable or better than the enacted plan, as demonstrated by the tables above. Duchin Rep. at 6 (Figure 1) and 21 (Table 8); Duchin Dep. 103:09-106:05; Duchin Rep. at 25 (Table 11); Duchin Rep. at 27 (Table 12); Id. (Table 13); Id. at 29 (Table 14); Id. at 31 (Table 15); Id. (Table 16); Id. (Table 17); Id. (Table 18); Id. at 36 (Table 19); Id. at 38 (Table 20); Id. (Table 21); Id. at 40 (Table 22); Id. (Table 23).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the citation of multiple tables is unrelated to opinions about overall compactness scores.

251. Dr. Duchin also compared the compactness scores of each of the individual districts in the district clusters she examined as part of her Gingles 1 analysis and determined that each of the clusters were as compact or comparable, and that each of the districts in those clusters were as compact or comparable. Duchin Rep. at 25- 40 (Tables 11-23).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number and instead refers to 15 pages and 12 different tables.

252. Dr. Morgan testified that Dr. Duchin's illustrative plans were as compact or comparable. See Morgan Dep. 79:13-82:18.

RESPONSE: Objection. The evidence cited does not support the fact stated because the fact does not reference to what the illustrative plans were being compared to.

253. Dr. Duchin also opined that her alternative plans respect the integrity of political subdivisions such as counties, cities, and voting precincts. Duchin Rep. 5, 22.

RESPONSE: Objection. The evidence cited does not support the fact stated because the cited portions of Dr. Duchin’s report only offer opinions about respecting counties and cities and only reference being “more cognizant” of precincts, not respecting them.

254. The chart below compares the number of political subdivisions splits in the enacted plans with Dr. Duchin’s illustrative plans:

	County Splits (out of 159)	County Pieces	Muni Splits (out of 538)	Muni Pieces	Precinct Splits (out of 2685)	Precinct Pieces
BenchmarkCD	16	38	67	141	67	134
EnactedCD	15	36	64	136	86	172
DuncanKennedy	15	36	53	114	66	132
CD Alt	13	30	58	127	47	95
BenchmarkSD	37	100	114	269	154	309
EnactedSD	29	89	109	266	144	289
SD Alt Eff 1	33	95	112	275	110	221
SD Alt Eff 2	26	78	108	264	97	196
SD Alt Eff 3	29	84	108	264	106	213
BenchmarkHD	72	284	169	506	303	630
EnactedHD	69	278	166	494	352	724
HD Alt Eff 1	73	276	164	492	279	570
HD Alt Eff 2	69	266	168	494	276	567
HD Alt Eff 3	69	265	165	478	277	567

Id. at 22 (Table 9). See also Duchin Errata at 3.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

255. Although Dr. Duchin did not have access to incumbent addresses, she did examine incumbency through analyzing core retention. Id. at 24.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin’s report cited for this fact says she had incumbent addresses supplied by counsel.

256. Defendants’ mapping expert explained that “protecting incumbents, including preserving cores of districts, is a traditional redistricting principle. Continuity of district representation is a traditional districting factor. Voters and residents establish relationships with their elected representatives.” Morgan Rep. at 8-9.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

257. Dr. Duchin determined that the legislature “placed a low priority on core retention, i.e., on maintaining voters in the same districts as they belonged to in the benchmark “congressional, senate, and house plans. Duchin Rep. at 24; Duchin Dep. 115:06-119:10. Dr. Duchin determined that core retention was particularly poor in the enacted house plan. Duchin Rep. at 24.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

258. Dr. Duchin reviewed a voluminous record of public testimony. Duchin Dep. 68:18-69:10. This community of interest testimony informed Dr. Duchin's hand-drawing process. Id. 70:08-70:71:06; 79:09-79:16; 163:15-163:25. See also Duchin Rep. at 79-80. See also Bagley Rep. at 48, 50, 52, 53.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated. Dr. Duchin testified in the cited references that her only opinion regarding community testimony was that changes to congressional districts 6 and 14 lacked justification by community-of-interest reasoning. Duchin Dep. 205:9-206:20. Further, Dr. Bagley's report has nothing to do with Dr. Duchin's hand-drawing process and does not support the fact.

259. Plaintiffs' expert Dr. Benjamin Schneer completed a racially polarized voting ("RPV") analysis. See generally Canter Decl. ¶ 24 (Expert Report of Benjamin Schneer ("Schneer Rep.")).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

260. "To identify instances of RPV in Georgia," Dr. Schneer "examine[d] (1) whether members of a minority group of interest appear to be cohesive in their electoral support for a candidate of choice (Specifically, does more than half of a given minority group support the same candidate?); and, (2) whether

White voters oppose this candidate (Specifically, do more than half of White voters oppose the minority candidate of choice?).” Schneer Rep. at 6.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

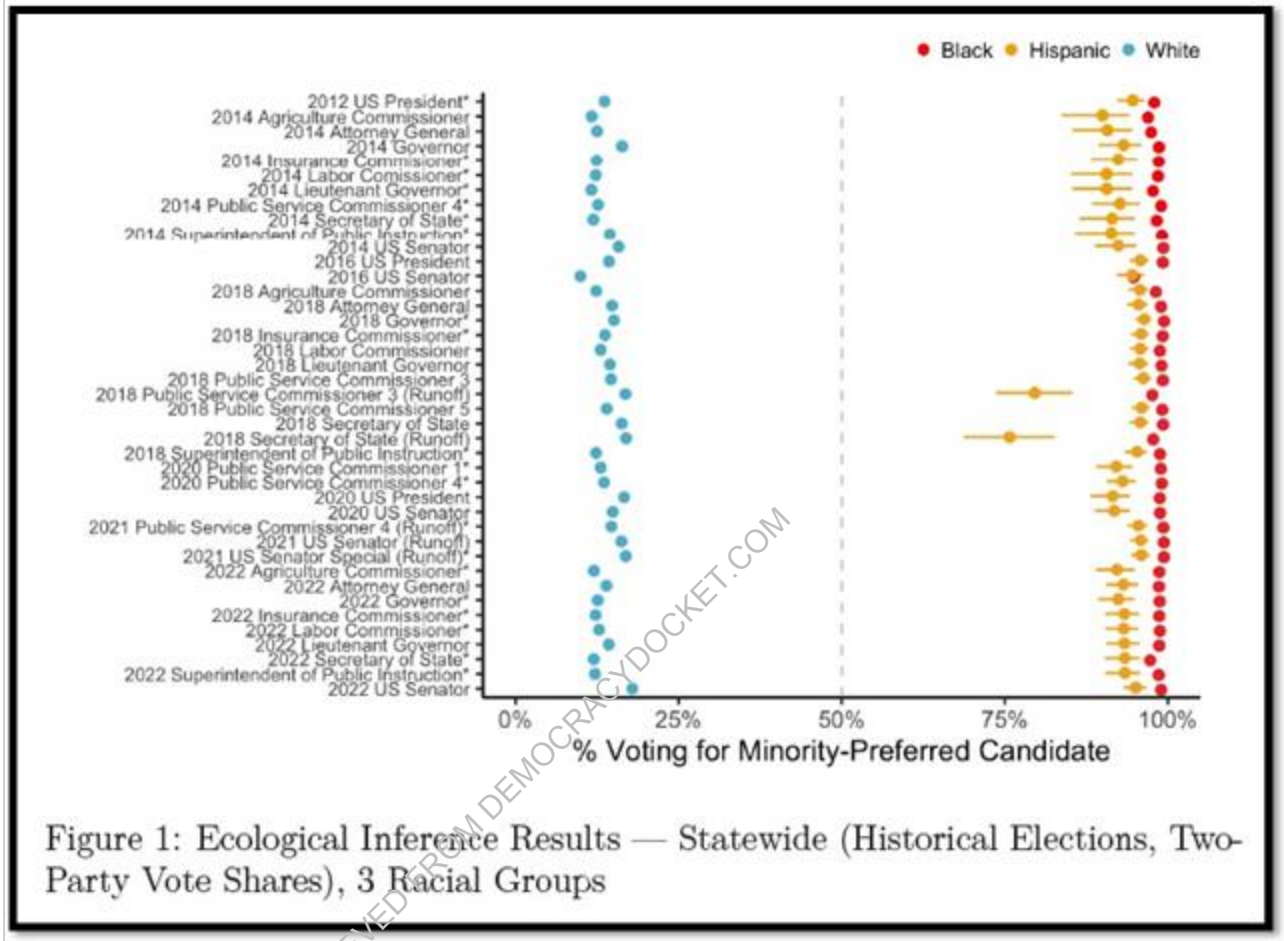
261. Dr. Schneer’s analysis relied on historical voting data in Georgia going back to 2012. Id. at 6-7.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

262. Dr. Schneer opined that “Black and Hispanic voters’ past behavior in statewide elections reveals that these groups had a clear candidate of choice in each election, with large majorities of these voters supporting the same candidate in each election and voting cohesively.” Id. at 17; id. at 18 (Figure 1).

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

263. Defendants’ expert Dr. Alford does not dispute any of these individual findings. In Dr. Alford’s report he noted that Dr. Schneer “... provide[d] analysis that demonstrates that Black voters provide uniformly high levels of support for Democratic candidates and white voters provide uniformly high levels of support for Republican candidates.” Canter Decl. ¶ 25 (Expert Report of John Alford (“Alford Rep.”) at 4).



RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

264. During his deposition, Dr. Alford, further testified, “I reach the same conclusion [as Dr. Schneer and Dr. Brunell] with regard to if the standard is simply that two racial groups are voting in opposite directions then it abundantly clear from everything that's in evidence in this case.” See Canter Decl. ¶ 26 (Deposition of John Alford (“Alford Dep.”) 126:22-127:21).

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Alford never reviewed anything with respect to Dr. Brunell and it is unclear whether Plaintiffs are properly characterizing the statements or reports of Dr. Brunell because they do not cite to any documents regarding Dr. Brunell. Deposition of John Alford [Doc. 150] (“Alford Dep.”) 127:2-9.

265. Dr. Schneer concluded that “[a]cross [SD Atlanta, SD Gwinnet, and SD East Black Belt, there is] RPV between White and Black voters. For each cluster, Black voters cohesively support a candidate of choice.” Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

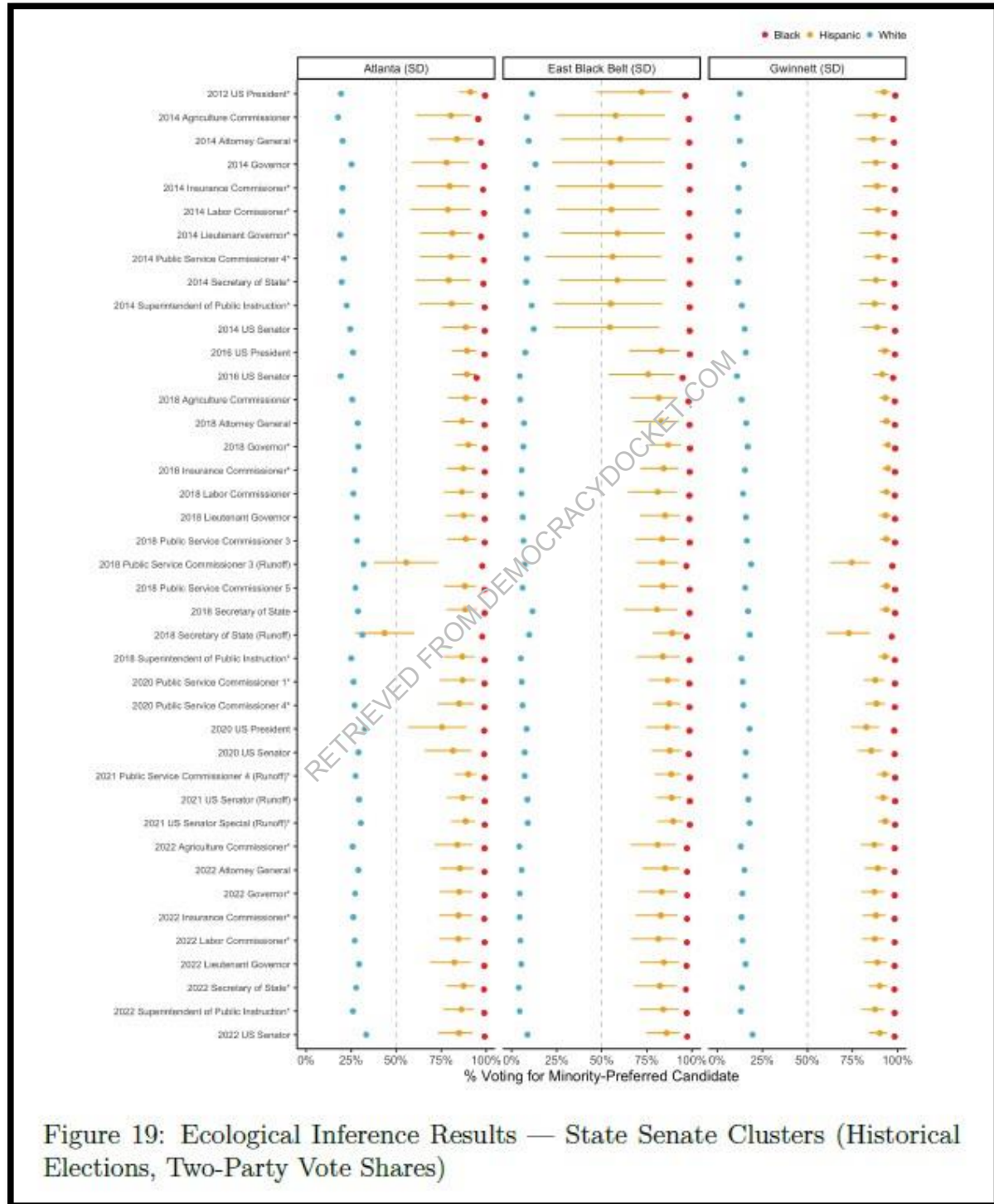
266. Dr. Schneer also concluded that “in the Atlanta and Gwinnett clusters, Hispanic voters cohesively support the same candidate of choice as Black voters and the lower confidence interval on the vote share estimate does not overlap with[] the 50% threshold in all elections where a minority candidate runs against a non- minority candidate.” Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

267. Dr. Schneer also concluded that in the East Black Belt cluster, Hispanic voters... systematically support the same candidates of choice as Black voters," although the "estimates for elections before 2016 tend to be more uncertain, with the confidence including the 50% threshold." Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

268. The figure below reflects the results of Dr. Schneer's racially polarized voting analysis for each of these clusters.



Id. at 47 (Figure 19).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

269. Dr. Schneer concluded that there is “evidence of RPV between White and Black voters across all state House clusters I examine[d]. Black voters cohesively support a candidate of choice[.]” Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

270. Dr. Schneer also concluded that “Hispanic voters join black voters in supporting the same candidate of choice in each [house district] cluster.” Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants

further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

271. The figure below reflects the results of Dr. Schneer's racially polarized voting analysis for HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast. Id. at 48 (Figure 20).

RETRIEVED FROM DEMOCRACYDOCKET.COM

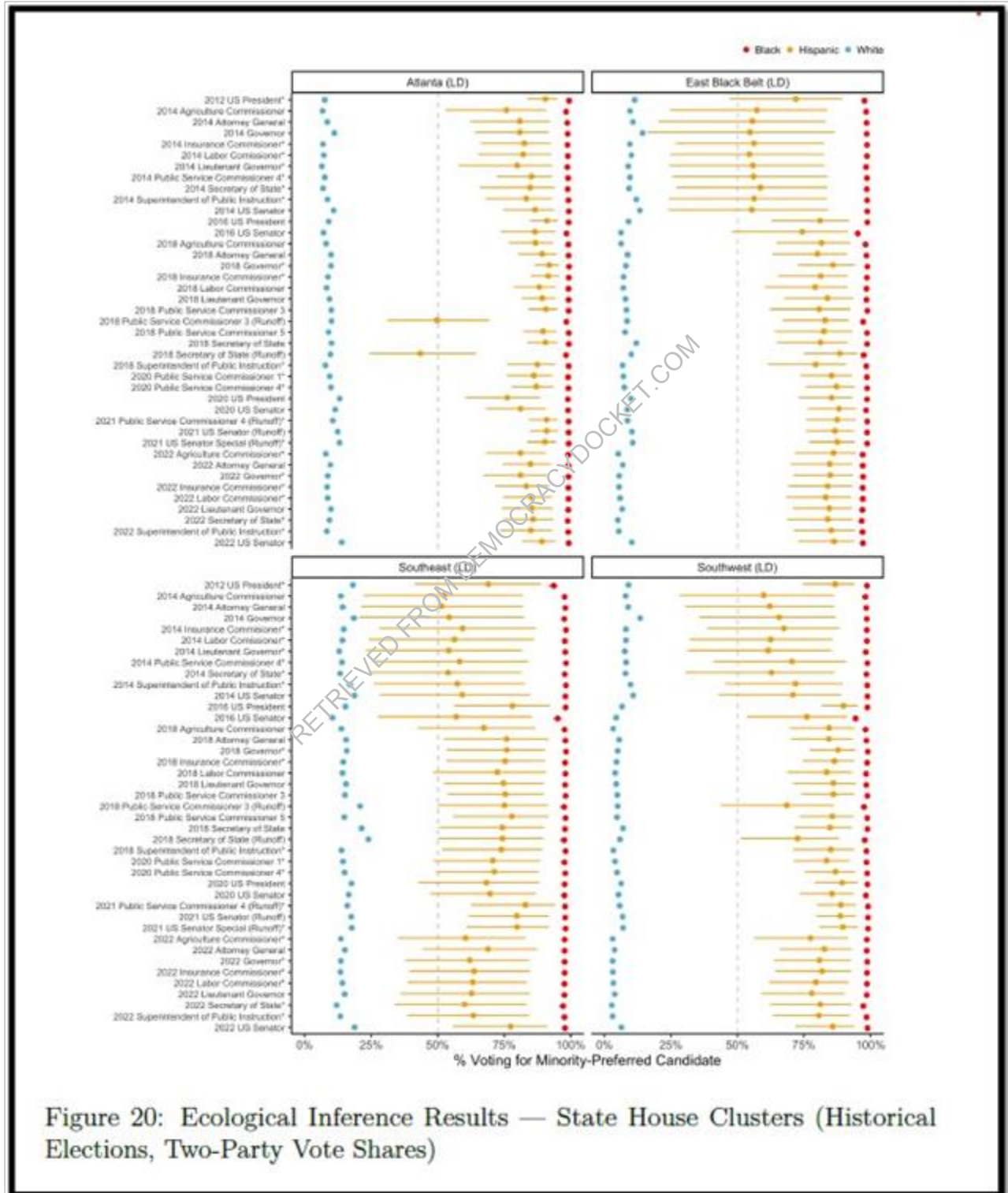


Figure 20: Ecological Inference Results — State House Clusters (Historical Elections, Two-Party Vote Shares)

Id. at 48 (Figure 20)

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

272. Dr. Schneer concluded that there is "RPV between Black voters on the one hand and White voters on the other hand when pooling across all [of the districts in the Enacted Congressional Map] (e.g., statewide) as well as specifically for all [districts in the Enacted Congressional Map] other than CD 5." Id. at 21.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

273. Dr. Schneer stated that "[i]n [enacted Congressional districts] 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Black voters supported, by an overwhelming margin, the minority candidate in all historical elections in which they ran." Id. at 19.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are

excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

274. Dr. Schneer stated that "CD 3 demonstrates clear evidence of RPV between White and Black voters for all elections that I examine[d]. For Black voters, I never estimate[d] a minority-preferred candidate vote share below 92.8%." Id. at 20.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

275. Dr. Schneer stated that "CD 7 presents [a] strong example among the congressional districts of RPV, with Black voters cohering around minority candidates (and other minority-preferred candidates) . . . In every election with a minority candidate running against a non-minority candidate, minority voters supported the minority candidate, often overwhelmingly." Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr.

Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

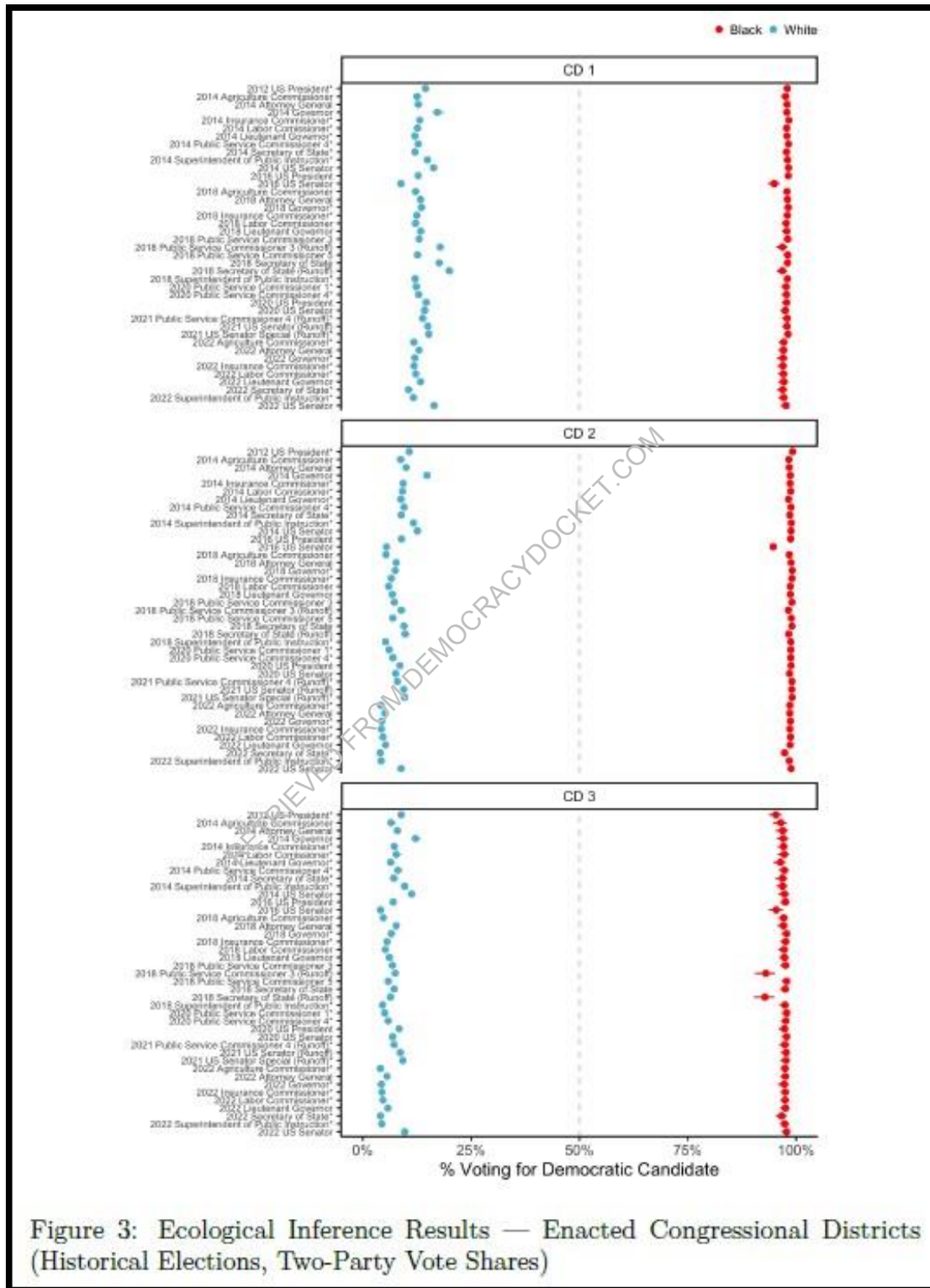
276. Dr. Schneer also produced five figures that reflect the results of his racially polarized voting analysis for all of the districts in the Enacted Congressional Map. Id. at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

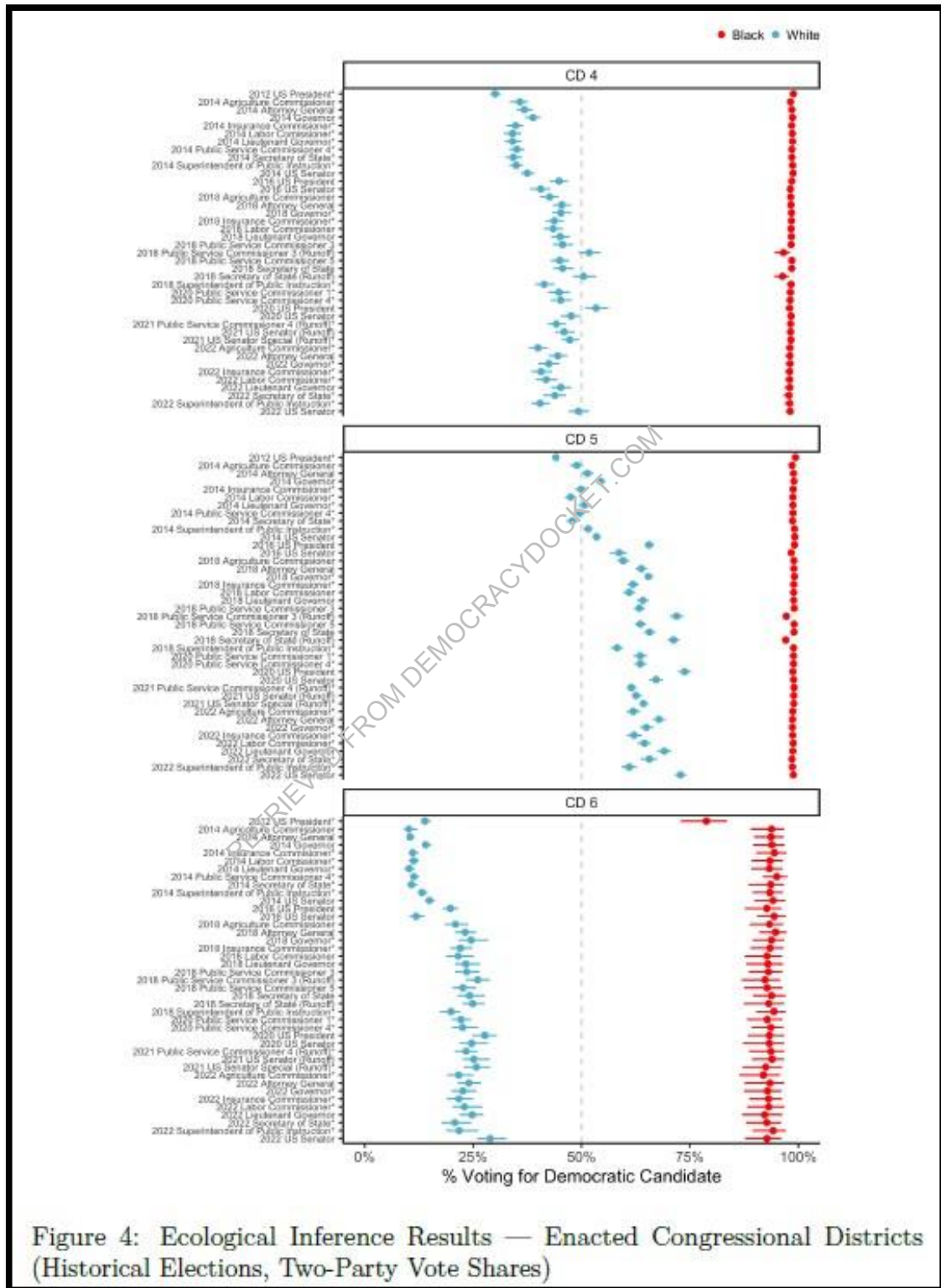
RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

277. The figures reflect that Black voters in each district in the Enacted Congressional Map vote cohesively for the same candidate of choice. Id. at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

278. The five figures from Dr. Schneer's report reflecting this information are presented on the following five pages.





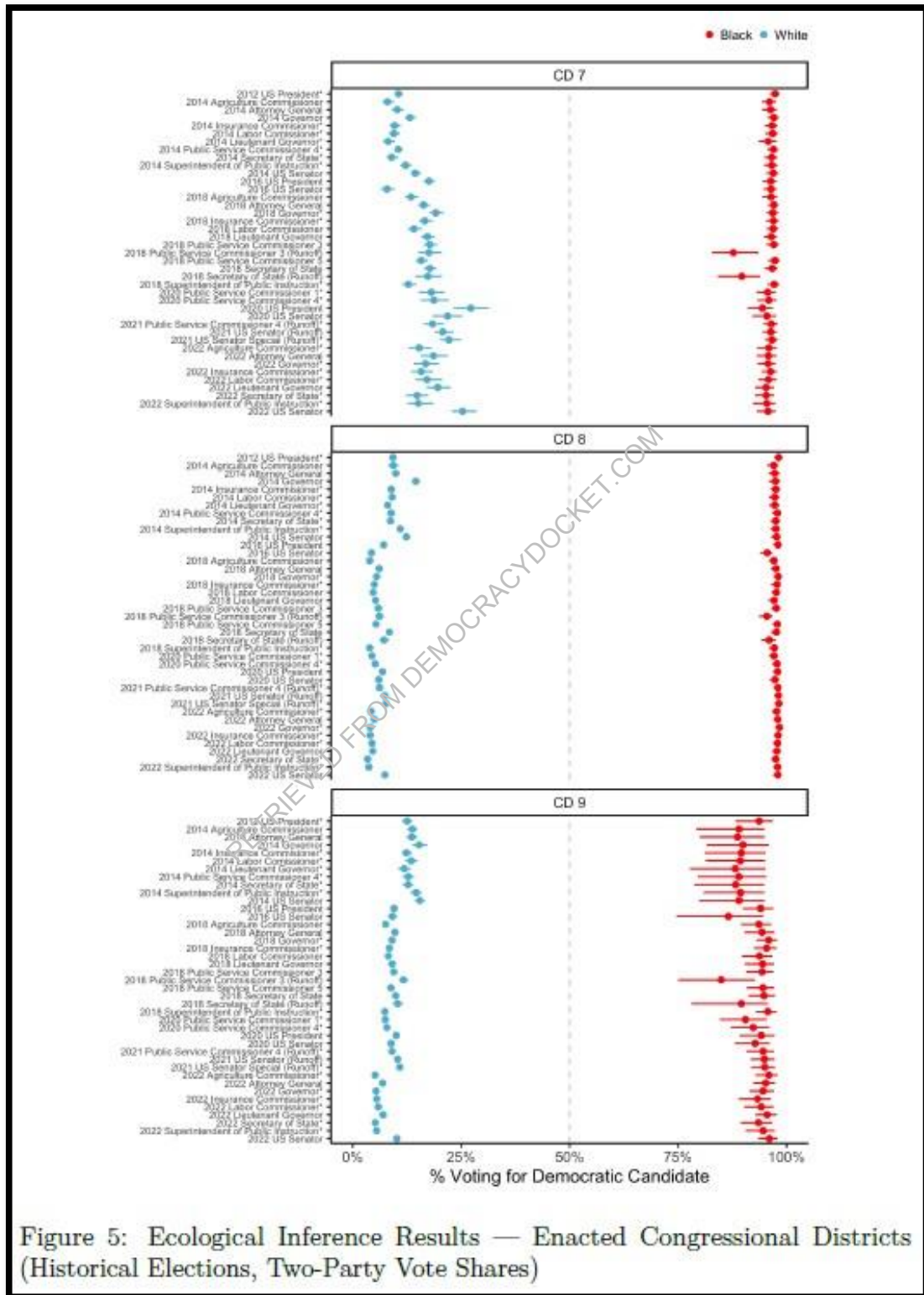


Figure 5: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)

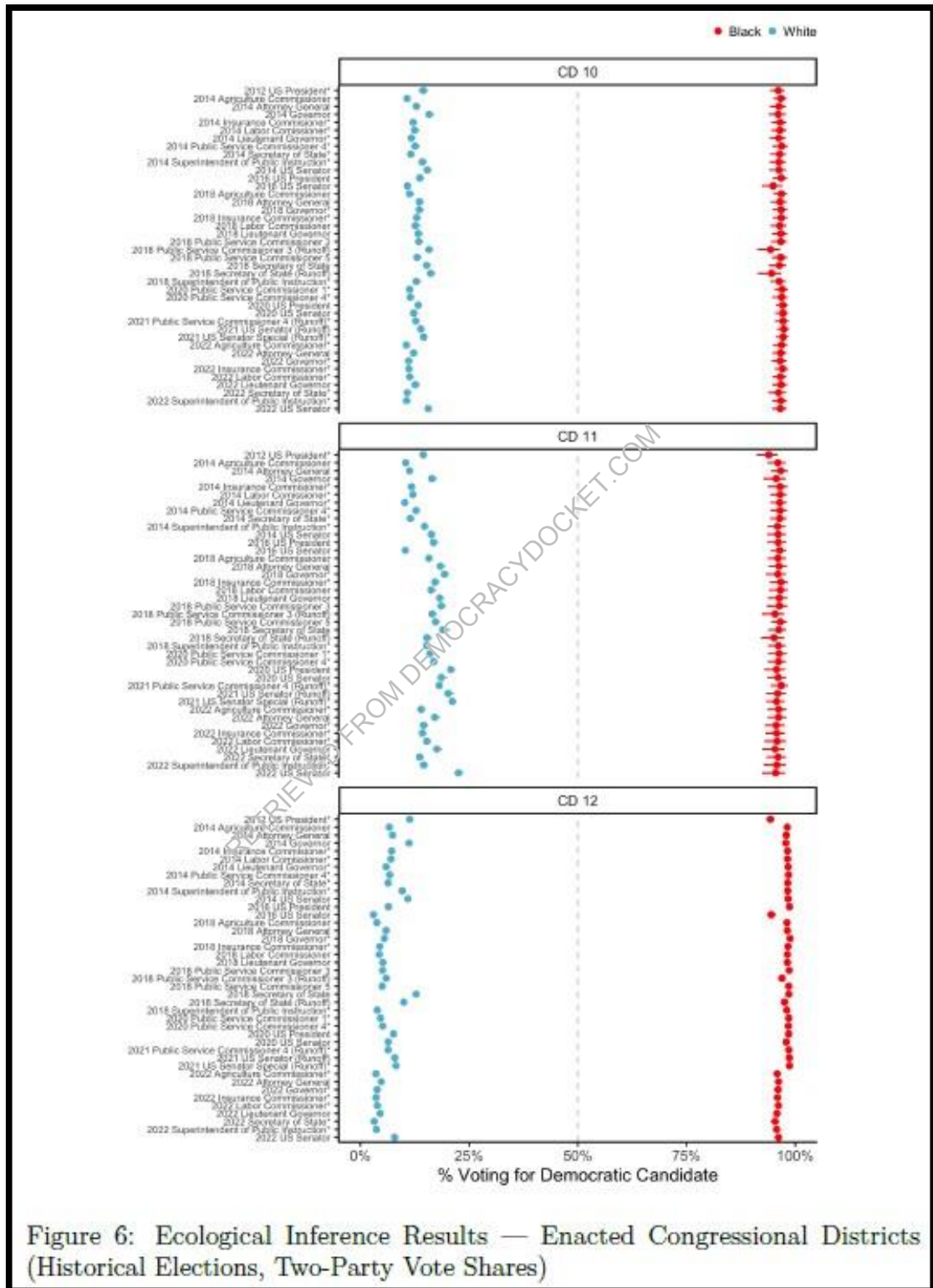
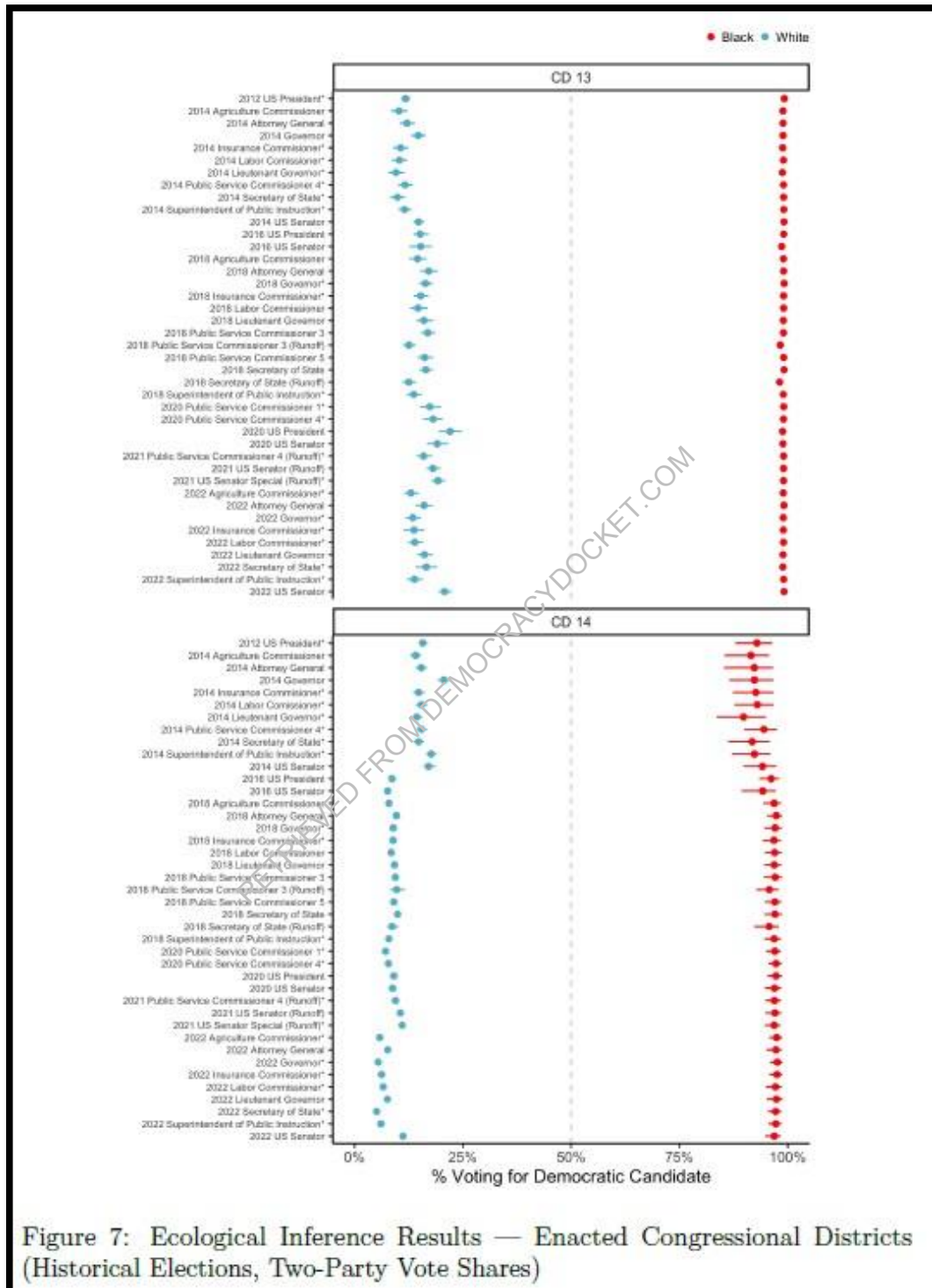


Figure 6: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)



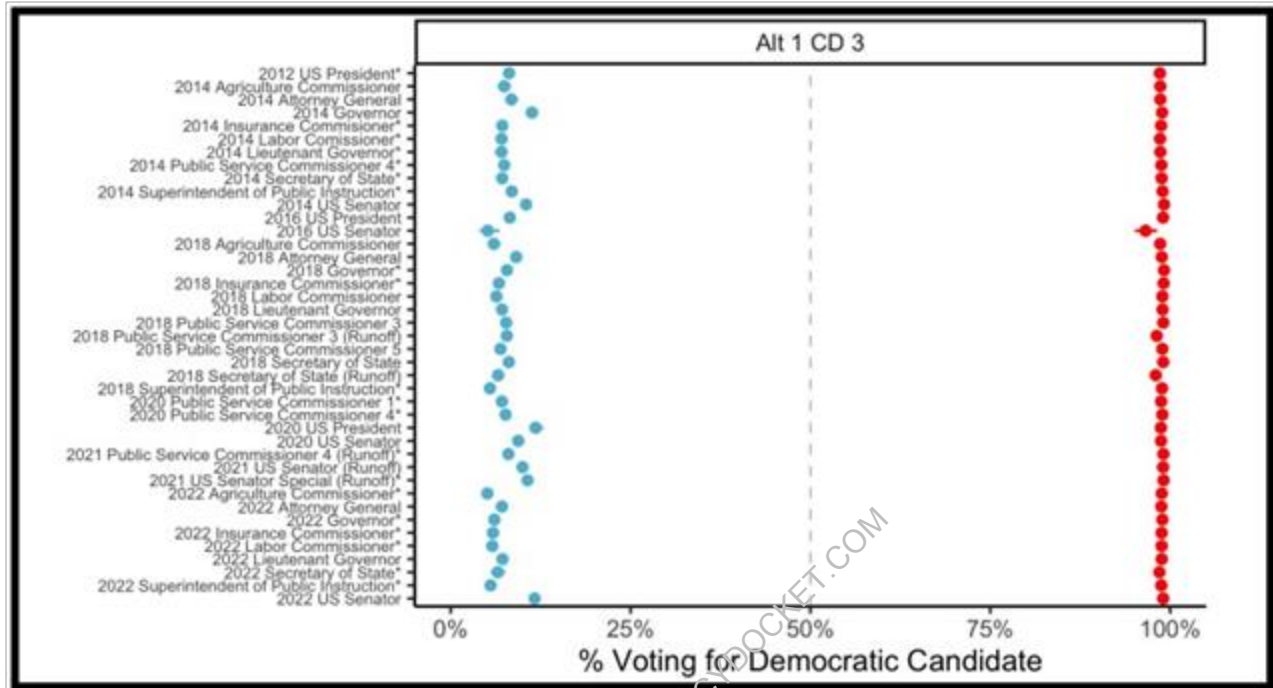
Id. at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

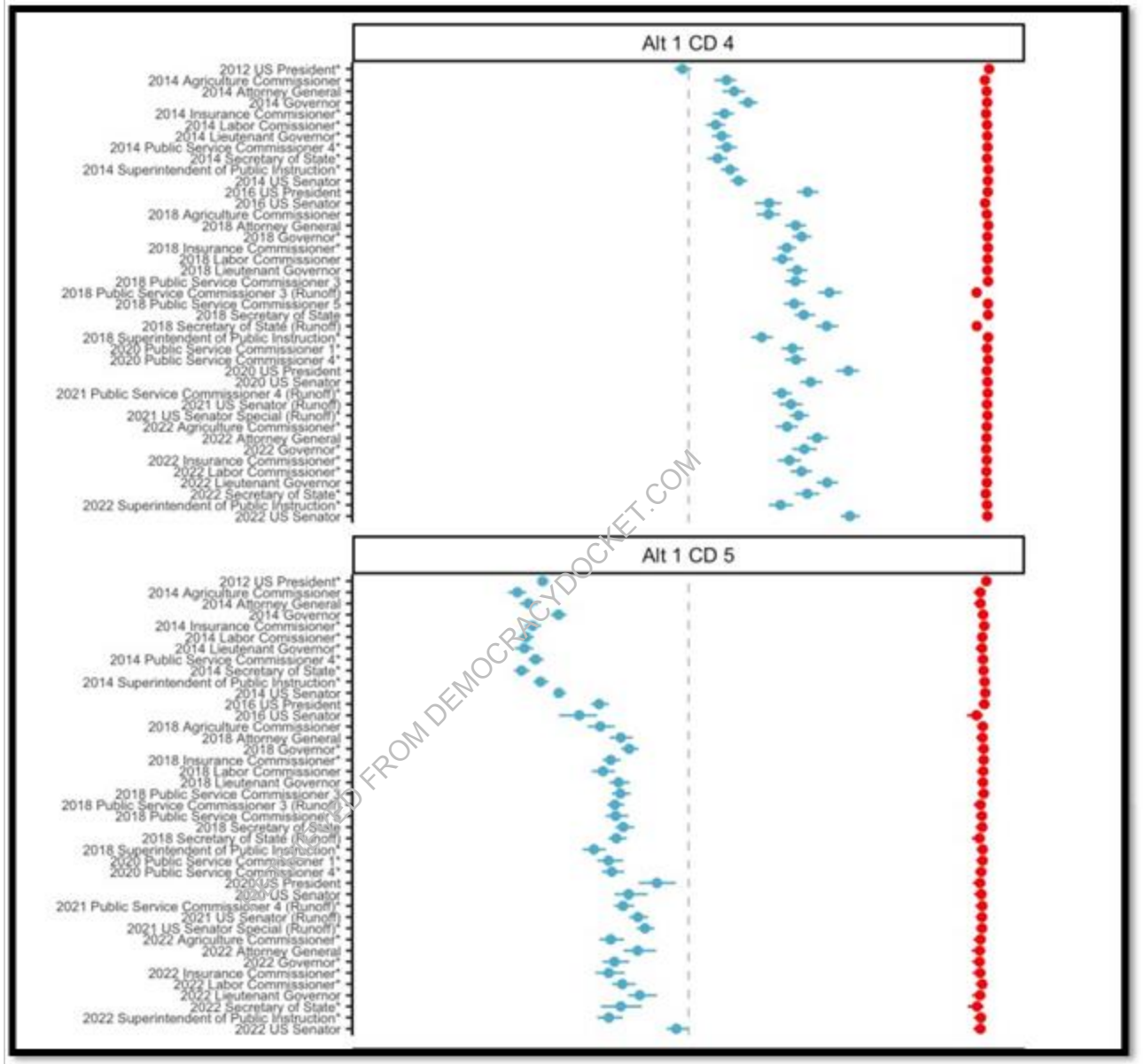
RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

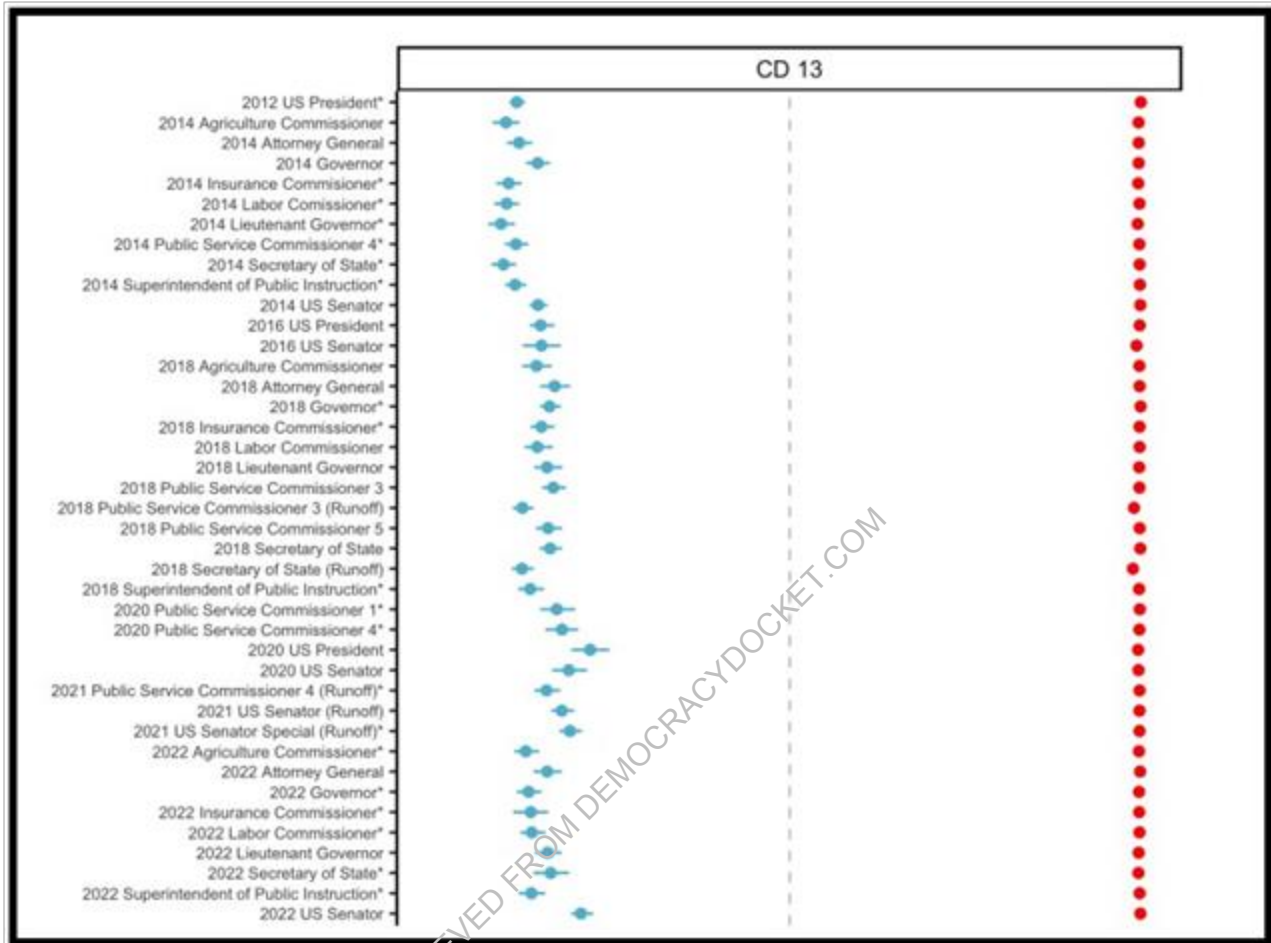
279. Dr. Schneer analyzed whether there is Black cohesive voting in each district that Dr. Duchin drew in her Congressional Alt 1 Map. Id. at 57.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

280. Dr. Schneer's analysis demonstrates extremely strong cohesion—over 75%—among Black voters for every majority-Black district in the Demonstrative Congressional Map (Demonstrative CDs 3, 5, and 13), as reflected in the table below: Id.







Id. at 58 (Figure 21).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

281. Dr. Schneer analyzed whether this is Black cohesive voting in the following districts in the Enacted State Senate Map: SD 9, SD 16, SD 17, SD

22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55. Id. 29-30.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

282. Dr. Schneer concluded that apart from SD 41 and potentially also from SD 40, "there is evidence of racially polarized voting behavior between Black and White voters in every other State Senate district I analyzed. Black voters clearly supported the minority-preferred candidate in every election under study, including those elections with a minority candidate running." Id. at 30.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

283. Dr. Schneer also concluded that [Enacted State Senate Map districts] 16, 22, 23, 25, 26, and 44 exhibit clear evidence of RPV with Black and Hispanic voters cohering around minority candidates[.]” Id. at 29-30.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

284. Dr. Schneer produced four figures that reflect the results of his racially polarized voting analysis for all of the Enacted State Senate Map districts which he analyzed (i.e., SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55). Id. at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

285. The four figures from Dr. Schneer’s report reflecting this information are presented on the following four pages.

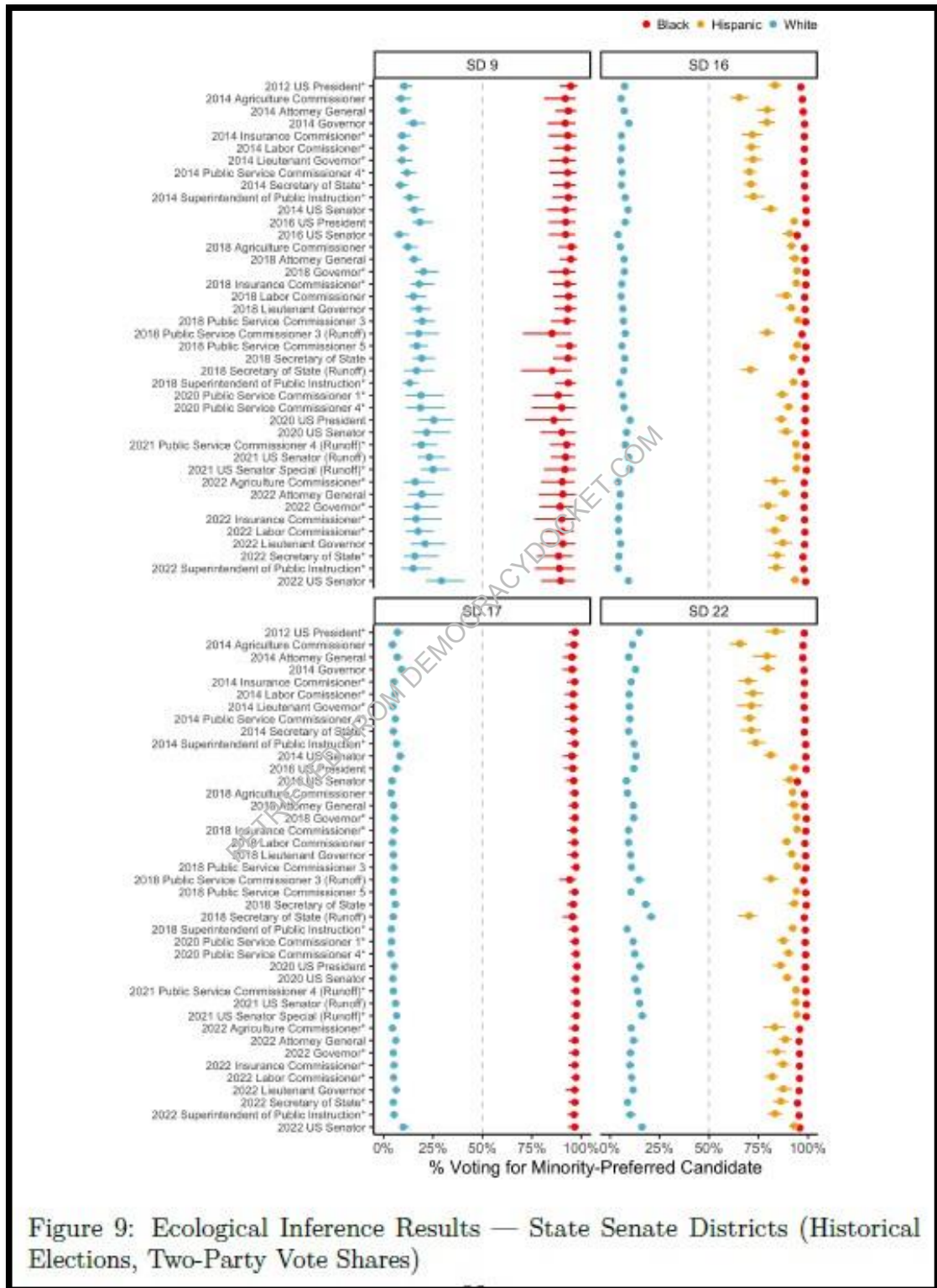


Figure 9: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)

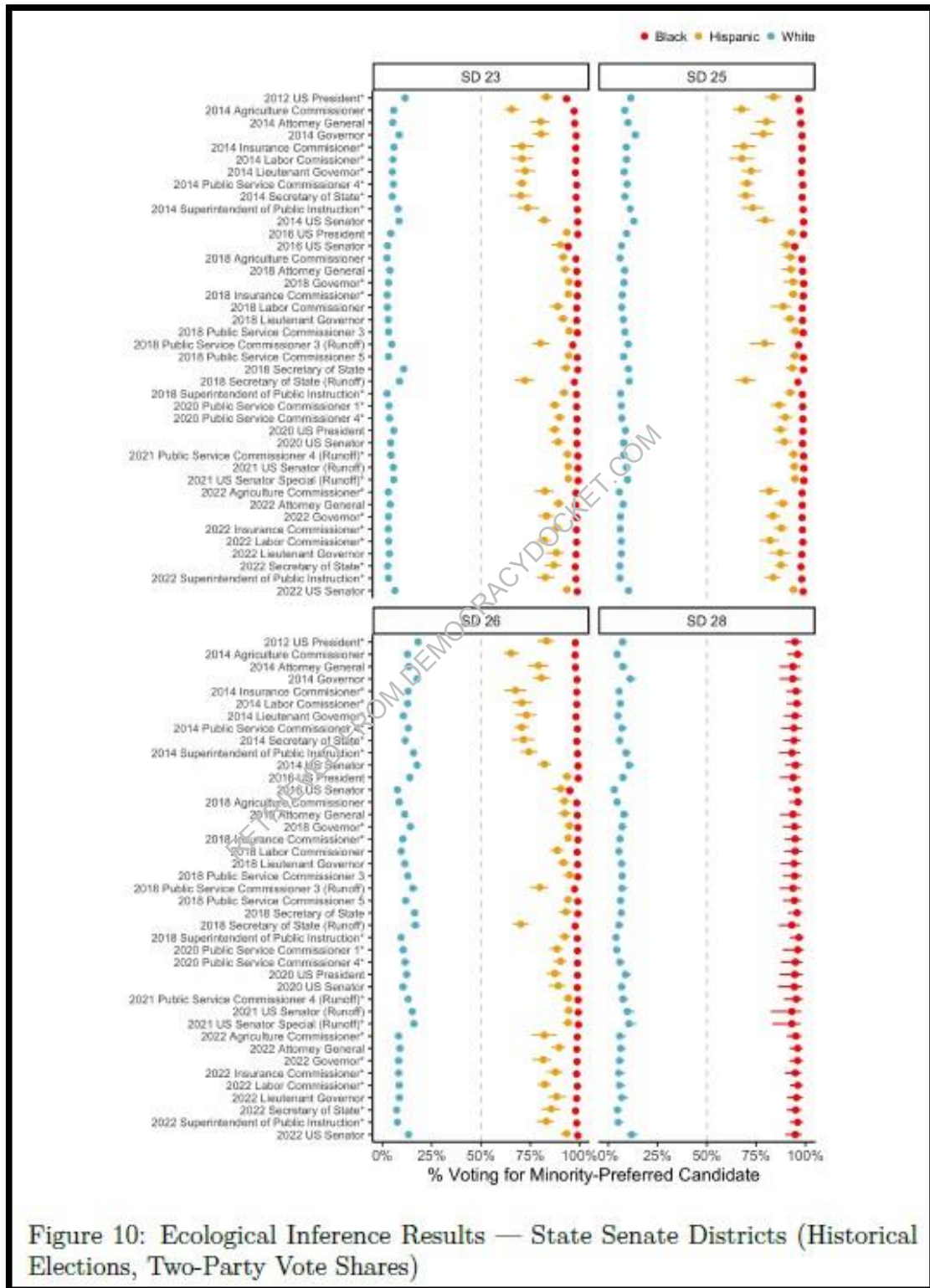
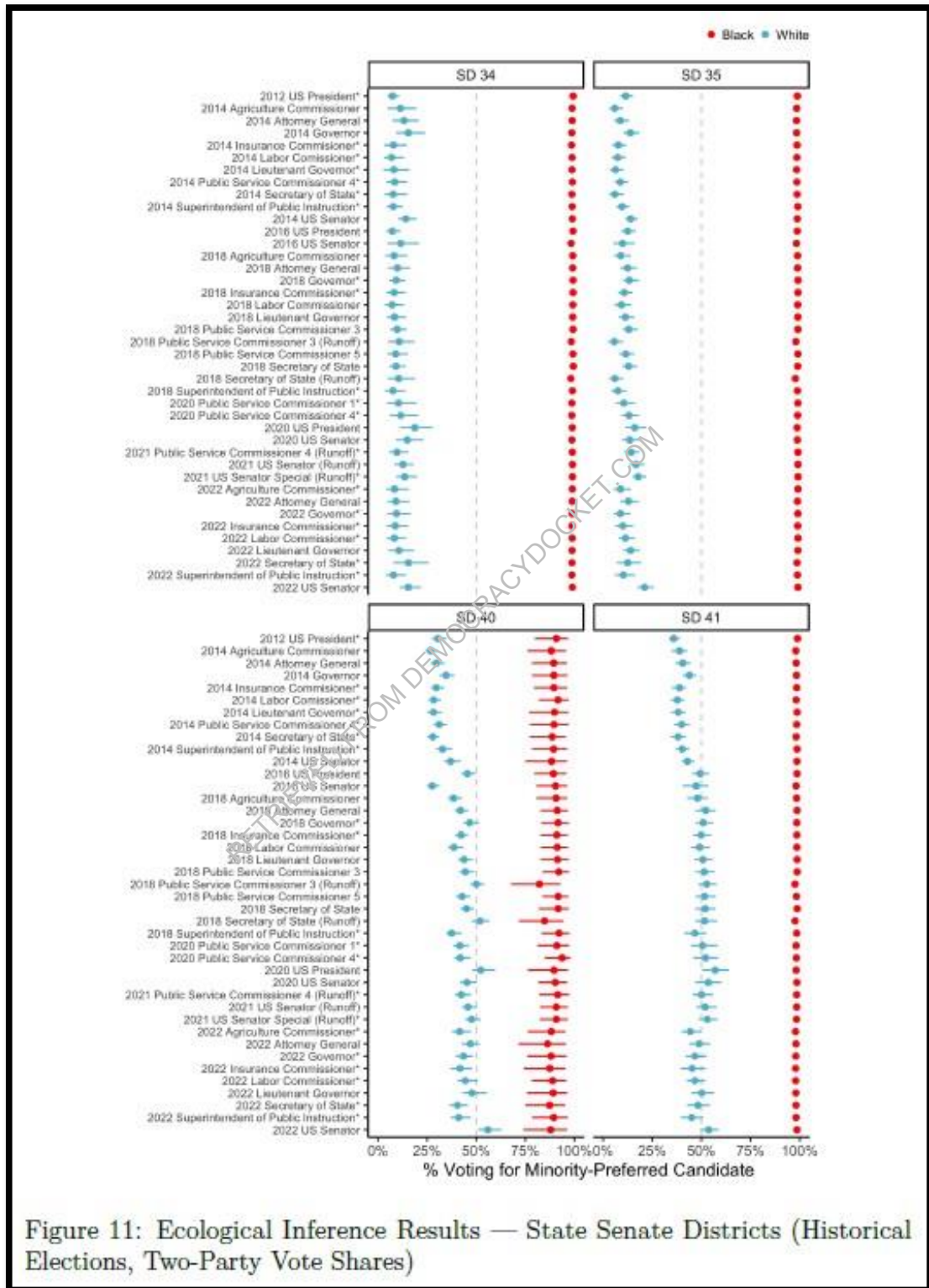
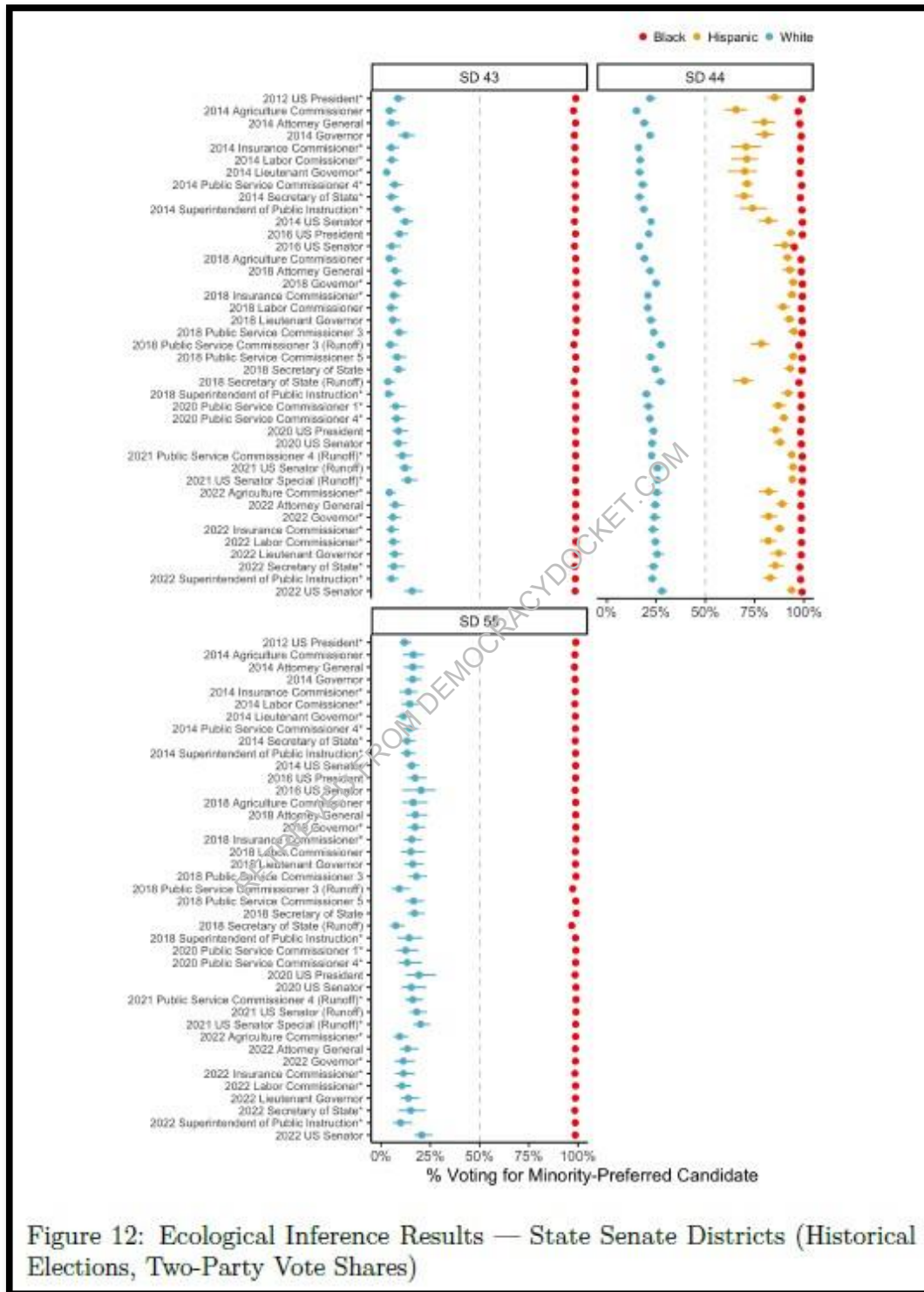


Figure 10: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)





Id. at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

286. Dr. Schneer also analyzed whether there is Black cohesive voting in certain illustrative districts: SDs Alt 1 16, 17, 25, 28, and 40, and whether there was Black and Hispanic cohesive voting in SDs Alt 2, 16, and 23. Id. at 63.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

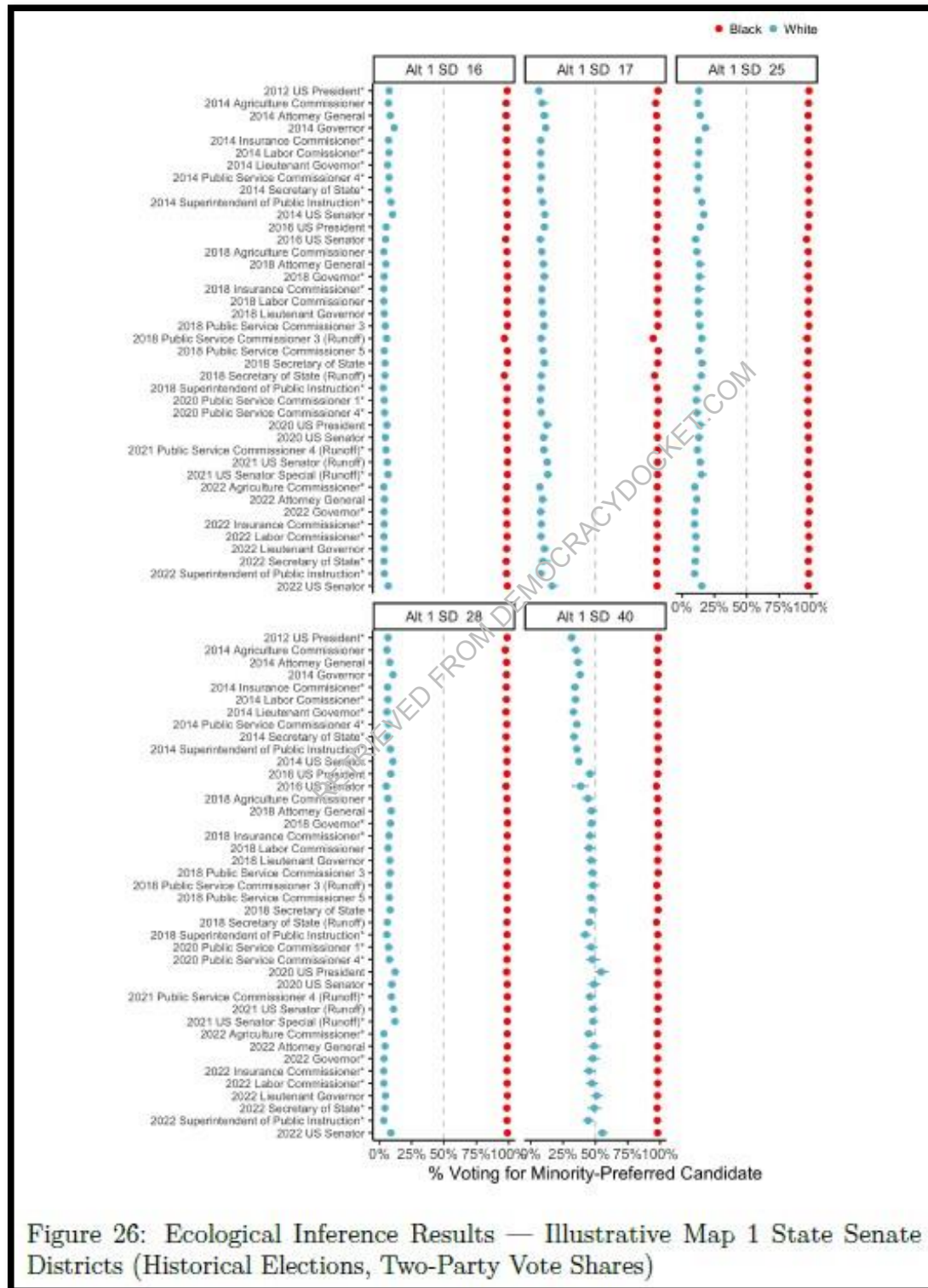
287. Dr. Schneer concluded that there is "evidence of RPV between Black and White voters across all past statewide elections with a minority candidate running for" SDs Alt 1 16, 17, 25, and 28." Id.

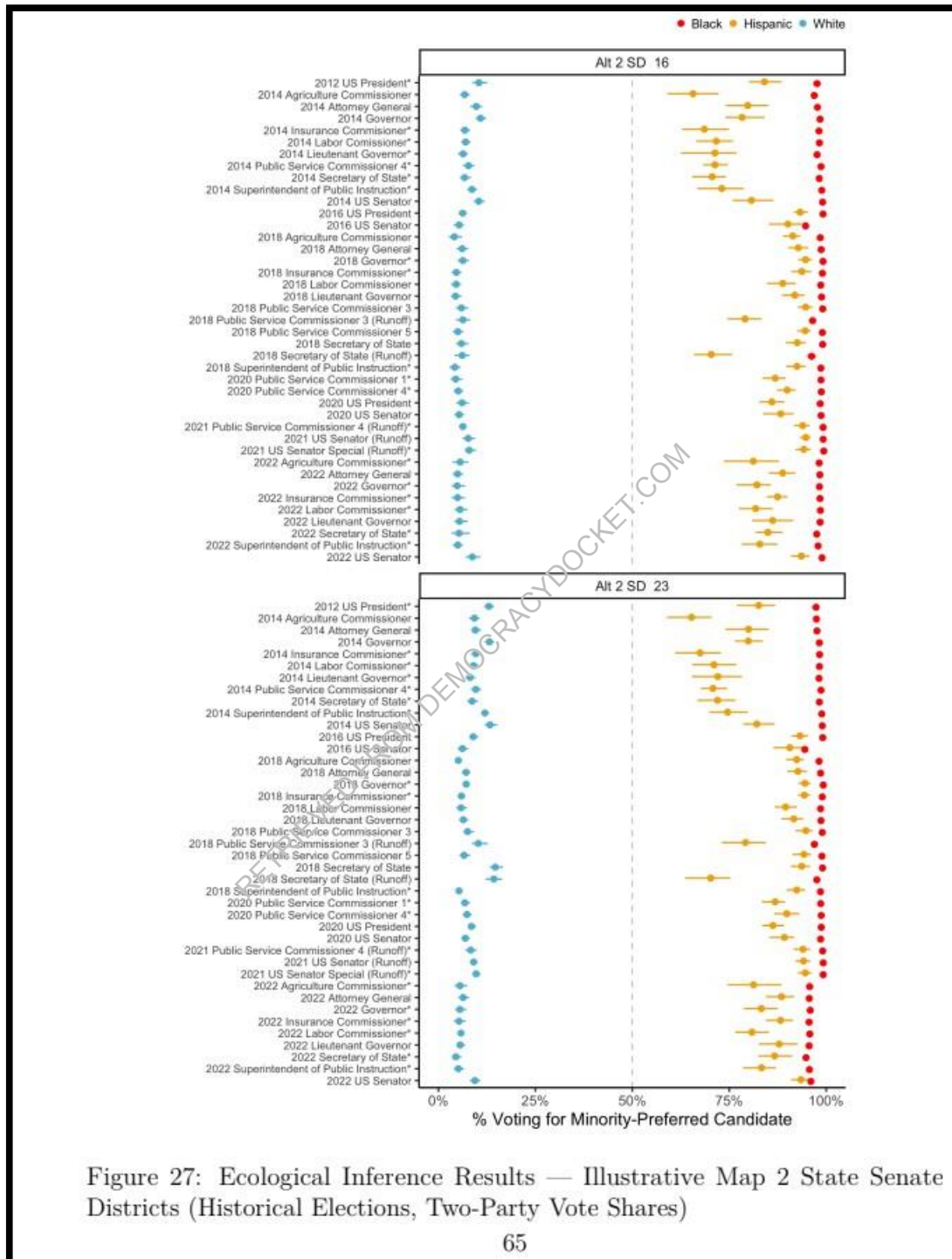
RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

288. Dr. Schneer concluded that he "observe[s] evidence of RPV with Black and Hispanic voters supporting minority-[preferred] candidates" in SDs Alt 2 16 and 23. Id.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

289. Dr. Schneer analyzed the results of his racially polarized voting analysis for SDs Alt 1 16, 17, 25, and 28 and for SDs Alt 2 16 and 23 in the figures below.





Id. at 64-65 (Figures 26-27).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

290. Dr. Schneer analyzed whether there is Black cohesive voting in the following districts in the Enacted State House Map: HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171. Id. at 36-37.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

291. Dr. Schneer concluded that there is "RPV between Black and White voters in [Enacted State House Map districts] 61, 65, 74, 78, 115, 116, 117, 142, 143, 151, 154 and 171[.]" Id. at 37.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

292. Dr. Schneer stated that “[Enacted State House Map districts] 61, 65, 74, 115, 142, 143, 151, 154 and 171 present clear evidence of RPV with Black voters selecting the minority candidates as their candidate of choice[.]” Id. at 36.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

293. Dr. Schneer stated that “on balance the estimates show that Black voters supported minority candidates” in HD 78 and HD 117. Id. at 37.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

294. Dr. Schneer also examined whether there was cohesion between Black and Hispanic voters in enacted HDs 161, 163, and 165. Id. at 36.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

295. Dr. Schneer determined that HDs 161, 163, and 165 present “clear of evidence of RPV with Black and Hispanic voters cohering to select the minority candidates as their candidate of choice.” Id. at 37.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

296. Dr. Schneer produced five figures that reflects the results of his racially polarized voting analysis for all of the Enacted State House Map districts which he analyzed (i.e., HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171). Id. at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

297. The five figures from Dr. Schneer’s report reflecting this information are presented on the following five pages.

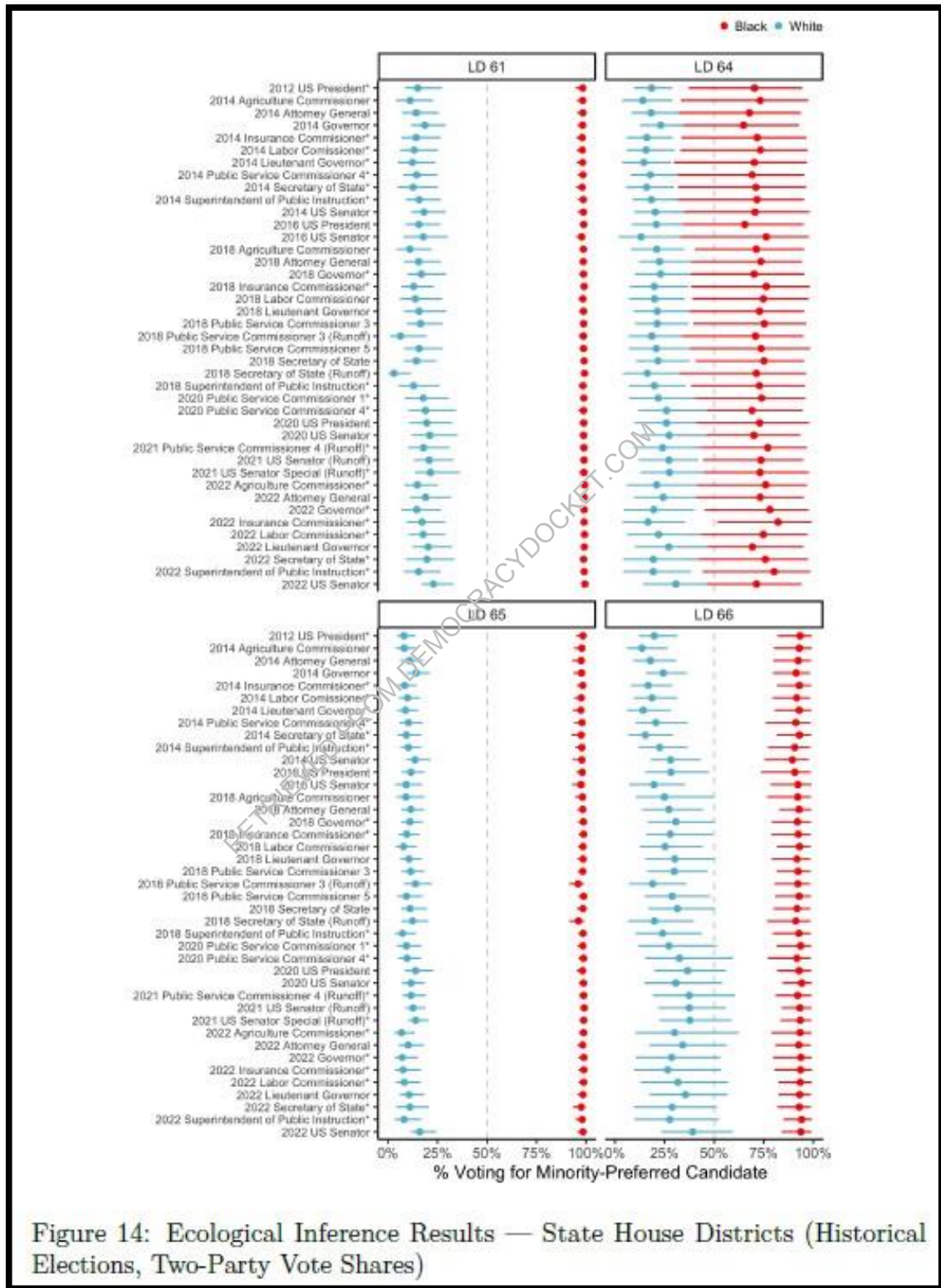
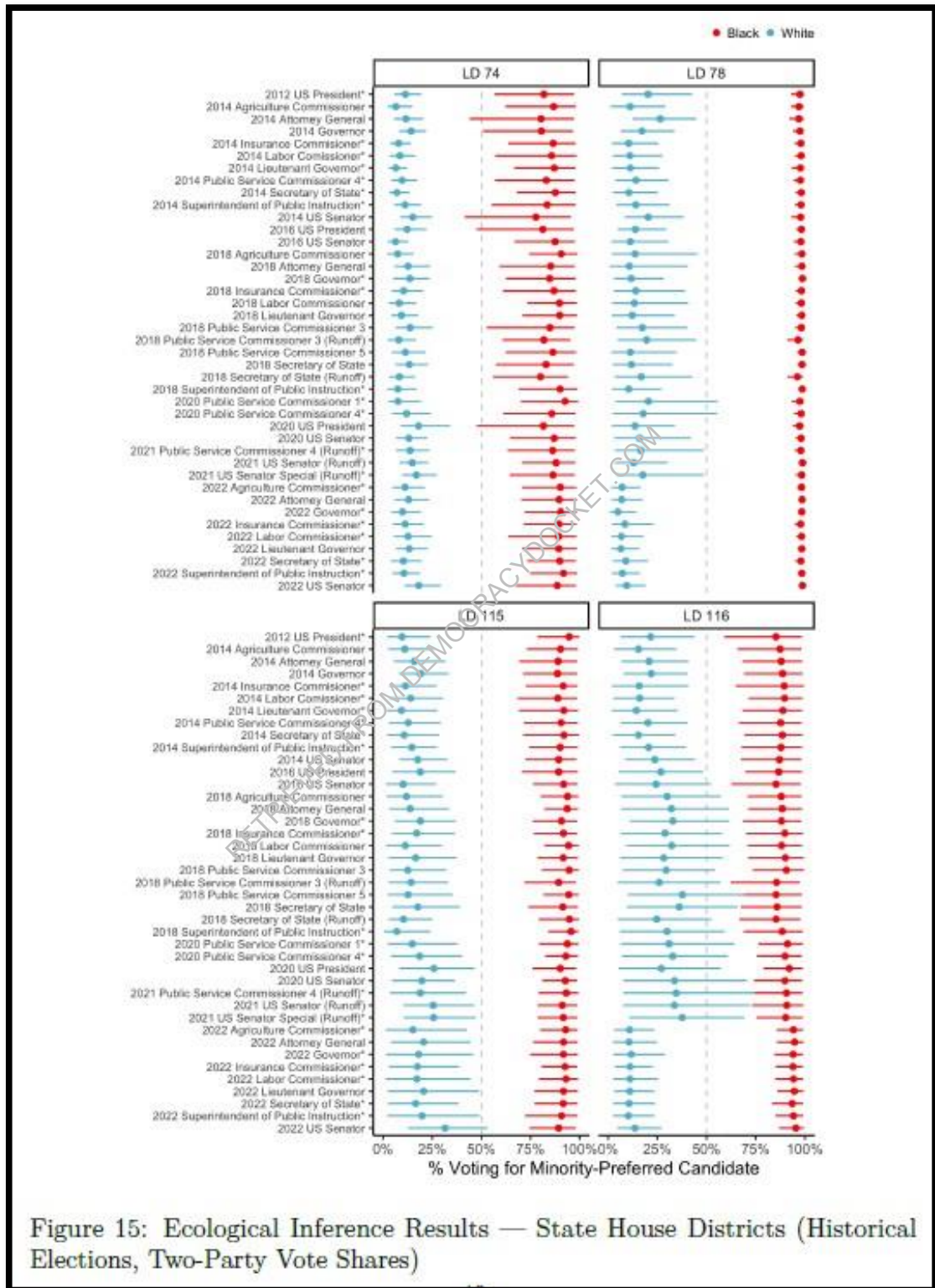
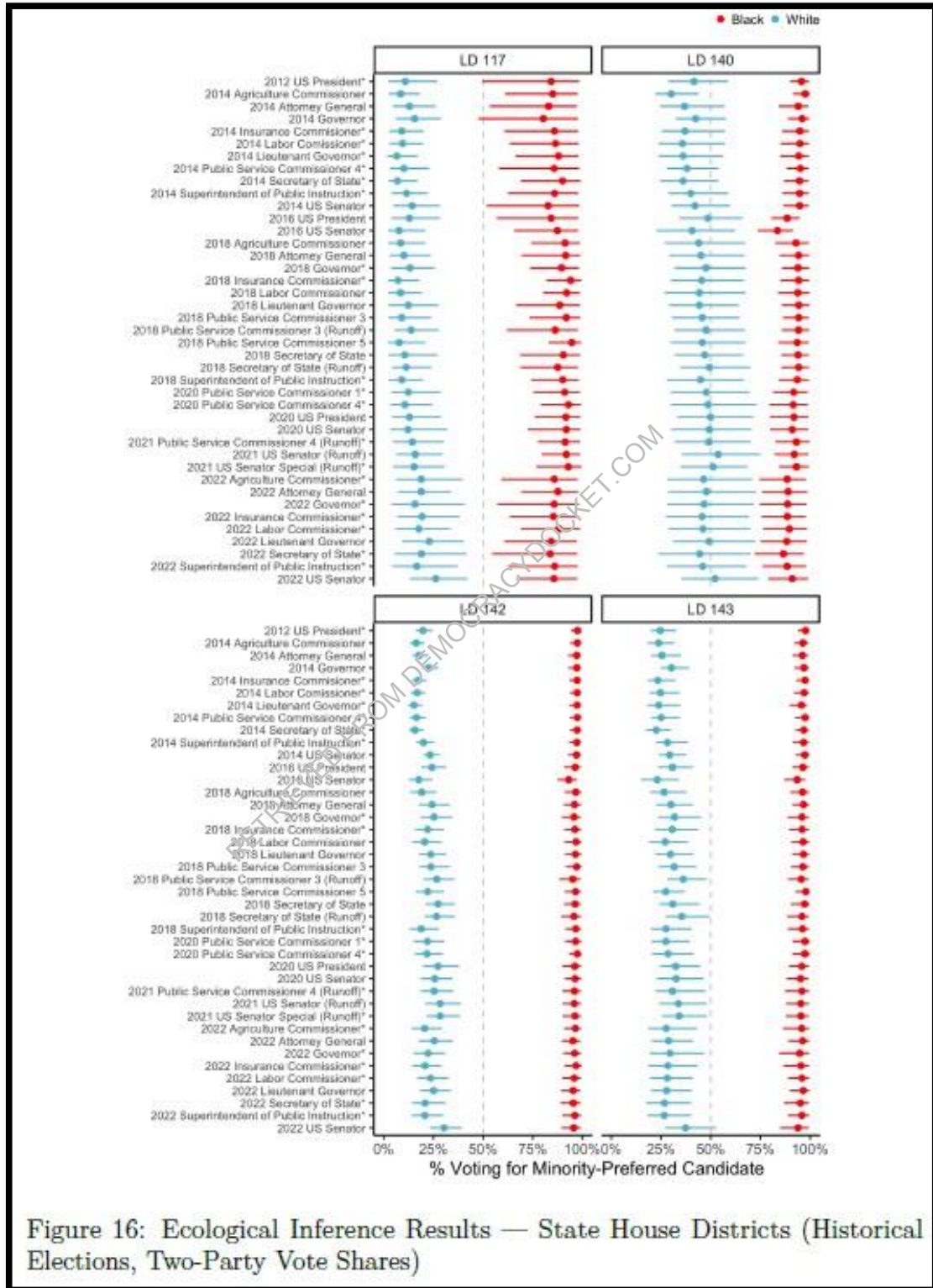
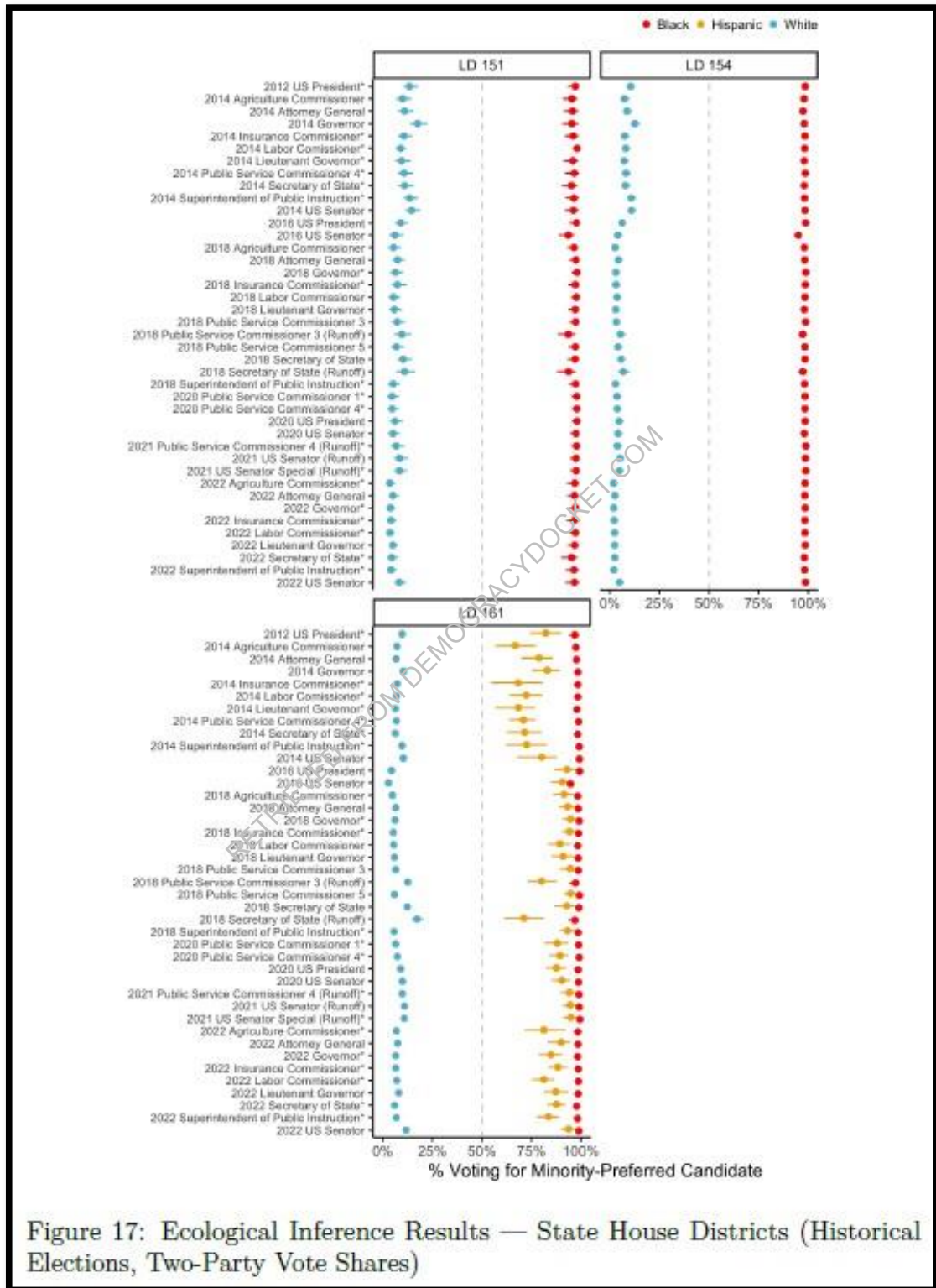
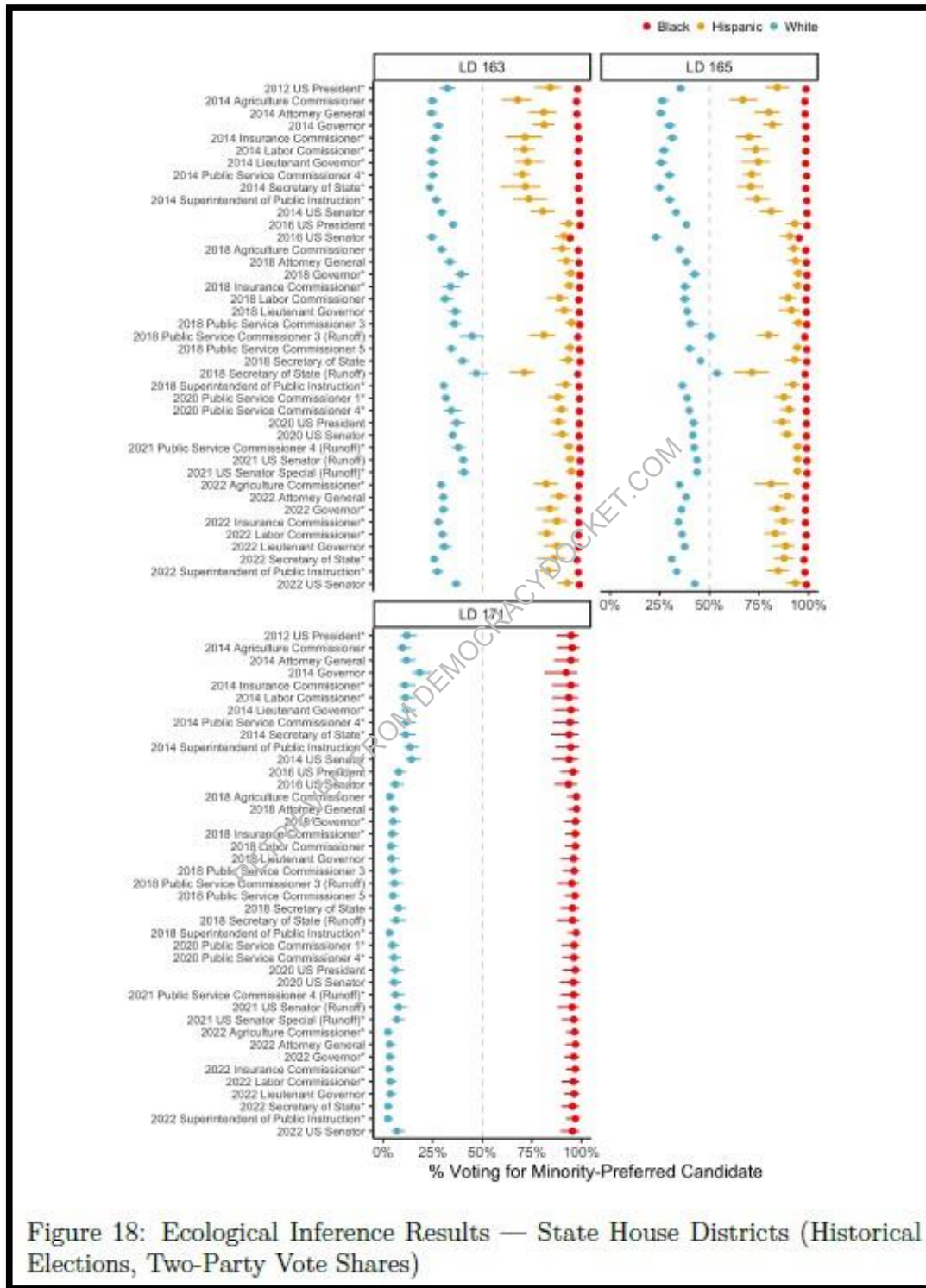


Figure 14: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)









Id. at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

298. Dr. Schneer also analyzed whether there is Black cohesive voting in HDs Alt 1 64, 74, 117, 144, 151, and 171. Id. at 66-67.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

299. Dr. Schneer stated that there is "evidence of RPV between Black and White voters in all districts I examine[d]." Id. at 66.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

300. Dr. Schneer also analyzed whether there is Black and Hispanic cohesive voting in HD Alt 1 161. Id. at 66-67.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

301. Dr. Schneer stated that in HD Alt 1 161, there is "RPV with Black and Hispanic voters supporting minority candidates[.]" Id. at 66.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

302. Dr. Schneer produced a figure that reflects the results of his RPV analysis.

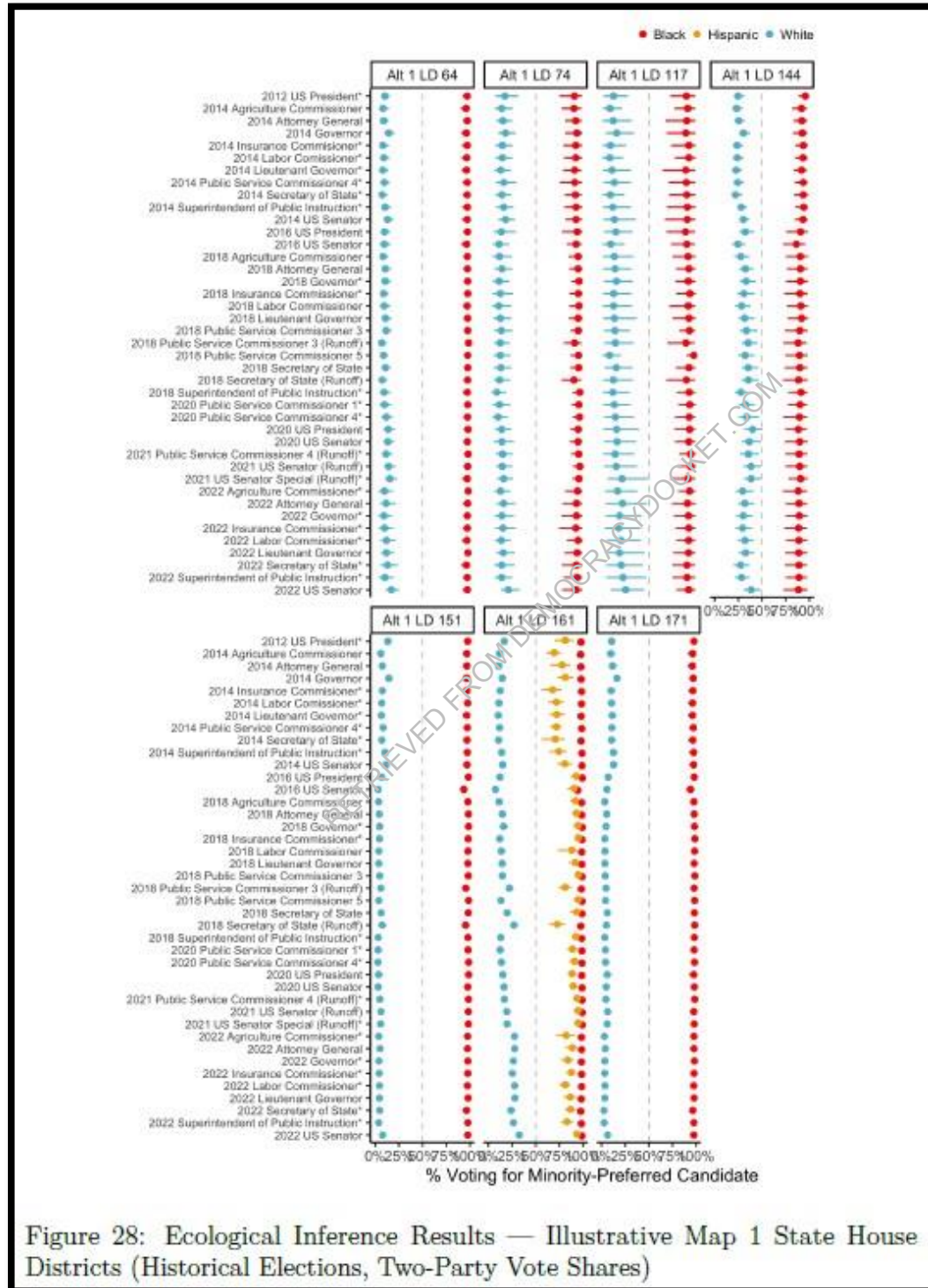


Figure 28: Ecological Inference Results — Illustrative Map 1 State House Districts (Historical Elections, Two-Party Vote Shares)

Id. at 68 (Figure 28).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

303. Dr. Schneer concluded that there is "clear evidence of racially polarized voting at the statewide level" and that "Hispanic and Black voters cohere around the same candidates of choice, and White voters oppose them, consistent with RPV." Id. at 17.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

304. Dr. Schneer opined that "primary elections can be of use in an RPV analysis, but in my view studying them is not necessary or sufficient for drawing conclusions about racially polarized voting in Georgia general elections." Id. at 12.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

305. Dr. Schneer opined that "if racially polarized voting occurs in a Georgia primary election it does not necessarily imply that racially polarized voting will occur in the general election, and vice versa." Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

306. Dr. Schneer opined that "it is sufficient in this case to examine behavior in general elections in order to determine the extent of racially polarized voting in Georgia general elections." Id. at 12-13.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is a legal conclusion. Defendants further object because the evidence

cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

307. Dr. Schneer also produced a figure which reflects the results of his racially polarized analysis across statewide elections. *Id.* at 18 (Figure 1).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

308. The figure reflects that White voters across all of the statewide elections vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for both Black and/or Black and Hispanic voters. *Id.*

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

309. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 263 of this Statement of Facts.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

310. Dr. Schneer analyzed whether there is White cohesive voting in SD Atlanta, SD Gwinnett, and SD East Black Belt in opposition to Black and/or Black and Hispanic voters' preferred candidates of choice in these clusters. *Id.* at 44.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

311. Dr. Schneer concluded that "[a]cross [SD Atlanta, SD Gwinnet, and SD East Black Belt, there is] RPV between White and Black voters. For each cluster, Black voters cohesively support a candidate of choice and White voters oppose these candidates systematically. Furthermore, Hispanic voters tend to support the same candidates of choice as Black voters." *Id.*

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's

declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

312. Dr. Schneer also produced a figure that reflects the results of his racially polarized voting analysis for SD Atlanta, SD Gwinnet, and SD East Black Belt. Id. at 47 (Figure 19).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

313. The figure reflects that White voters in SD Atlanta, SD Gwinnett, and SD East Black Belt vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters, and for both Black and Hispanic voters in SD Gwinnet. Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

314. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 268 of this Statement of Facts.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

315. Dr. Schneer also analyzed whether there is White cohesive voting in HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast in opposition to the Black and Hispanic voters' preferred candidates of choice in these clusters. *Id.* at 45.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

316. Dr. Schneer concluded that there is "evidence of RPV between White and Black voters across all state House clusters I examine[d]. Black voters cohesively support a candidate of choice and White voters oppose this candidate. Based on my estimates, this is true in every cluster and for every statewide election that I examine." *Id.*

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's

declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

317. Dr. Schneer also produced a figure that reflects the results of his racially polarized voting analysis for HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast. *Id.* at 48 (Figure 20).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

318. The figure reflects that White voters in HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast vote cohesively for the same candidate of choice in opposition to the preferred candidate for Black voters. *Id.*

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

319. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 271 of this Statement of Facts.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

320. Dr. Schneer concluded that there is “RPV between Black voters on the one hand and White voters on the other hand when pooling across all [of the districts in the Enacted Congressional Map] (e.g., statewide) as well as specifically for all [districts in the Enacted Congressional Map] other than CD 5.” Id. at 21.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter’s declaration refers to Exhibit 25, which are excerpts from Dr. Alford’s deposition and the discrete portion cited above does not contain any evidence supporting this fact.

321. Dr. Schneer stated that in all of the districts in the Enacted Congressional Map except for CD 5 “White voters opposed the candidate of choice of Black voters in every historical election” and “the confidence intervals on the estimates for White voters never overlap[ped] with the threshold for majority support.” Id. at 19-20.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the

evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

322. Dr. Schneer stated that in CD 3 "[f]or Black voters, I never estimate[d] a minority-preferred candidate vote share below 92.8%" and "[f]or White voters, I never estimate[d] a minority-preferred candidate vote share above 12.2%." Id. at 20.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

323. Dr. Schneer stated that in CD 7 "Black voters coher[ed] around minority candidates (and other minority-preferred candidates) and . . . White voters oppos[ed] these candidates of choice." Id.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are

excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

324. Dr. Schneer stated that "[o]verall, CD 4 suggests to me cohesive behavior across Black voters in support of minority candidates (and other minority- preferred candidates) [while] White voters have reliably opposed the minority candidates of choice." Id. at 21.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

325. Dr. Schneer also produced five figures that reflect the results of his racially polarized voting analysis for all of the districts in the Enacted Congressional Map. Id. at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

326. The figures reflect that White voters in each district in the Enacted Congressional Map except for CD 5 vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters. *Id.*

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

327. The five figures from Dr. Schneer's report reflecting this information are presented at paragraph 278 of this Statement of Facts.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

328. Dr. Schneer also "examine[d] the electoral performance of the enacted congressional districts." *Id.* at 49-51.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

329. Dr. Schneer "use[d] historical election data" to complete this analysis. *Id.* at 49.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

330. Dr. Schneer concluded that "based on historical elections, minority voters have close to no chance of electing preferred candidates in [] nine congressional districts." Id. at 51.

RESPONSE: Objection. The evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

331. Dr. Schneer stated that in Enacted Congressional Districts "1, 3, 6, 8, 9, 10, 11, 12 and 14, White voters comprise a strong majority of the electorate. If conditions remain similar to historical elections, minority voters who preferred a minority candidate would not be able to elect that candidate" because "the minority- preferred candidate did not win in any of the historical elections I examine for these districts." Id. at 50.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's

declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

332. Dr. Schneer also prepared a table reflecting the result that in nine districts in the Enacted Congressional Map, historical evidence indicates that the Black preferred candidate would not receive at least 55% of the vote share, which Dr. Schneer opined is "a conventional cutoff used in voting rights litigation to indicate a safer district." Id. at 52 (Table 2); id. at 49.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument and because it is a legal conclusion. Defendants further object because the evidence cited does not support the fact. Paragraph 26 of Mr. Canter's declaration refers to Exhibit 25, which are excerpts from Dr. Alford's deposition and the discrete portion cited above does not contain any evidence supporting this fact.

333. Dr. Duchin also completed a performance analysis of each of the districts in the Enacted Congressional Map. Duchin Rep. at 18 (Table 4).

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin's report cited for this analysis was an effectiveness analysis, not a performance analysis.

334. To perform her performance analysis, Dr. Duchin analyzed historical primary and general election results and determined that a district is performing if the relevant population's preferred candidate of choice wins at least three out of four primary elections and at least five out of eight general elections Duchin Rep. at 17.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin's report cited for this analysis was an effectiveness analysis, not a performance analysis, and the cited formula was what Dr. Duchin said she used to "deem" a district as effective.

335. Dr. Duchin, consistent with Dr. Schmeer, determined that in nine of the districts in the Enacted Congressional Map—CD 1, CD 3, CD 6, CD 8, CD 9, CD 10, CD 11, CD 12, and CD 14—the Black VAP does not have an opportunity to defeat the White VAP. Id. at 18 (Table 4).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Defendants further object because the evidence cited does not support the fact stated because the portion of Dr. Duchin's report cited does not reference White and Black VAP or the ability of Black voters to defeat white voters, as the fact states.

336. Dr. Schmeer analyzed whether there is White cohesive voting in each district that Dr. Duchin drew in the Demonstrative Congressional Map

in opposition to the preferred candidate of choice for Black voters. Schneer Rep. at 57.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

337. Dr. Schneer concluded that except for Demonstrative CD 4 “there is essentially universal evidence of RPV between Black and White voters. In these districts, when a minority candidate runs Black voters support them and White voters oppose this candidate. In elections between no minority candidates or two minority candidates, Black voters support the minority-preferred candidate and White voters oppose them.” Id.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

338. Dr. Schneer also produced a figure that reflects the results of his racially polarized voting analysis for Demonstrative CD 3. Id. at 58 (Figure 21).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

339. The figure reflects that White voters in Demonstrative CD 3 vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters. Id.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

340. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 280 of this Statement of Facts.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

341. Dr. Schneer analyzed whether this is White cohesive voting in opposition to the preferred candidate of choice for Black voters in the following districts in the Enacted State Senate Map: SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55. *Id.* at 29-30.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

342. Dr. Schneer concluded that apart from SD 41 and potentially also from SD 40, "there is evidence of racially polarized voting behavior between Black and White voters in every other State Senate district I analyzed. Black voters clearly supported the minority-preferred candidate in every election under study, including those elections with a minority candidate running. White voters opposed their candidate of choice." *Id.* at 30.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

343. Dr. Schneer stated that “[Enacted State Senate Map districts] 16, 22, 23, 25, 26, and 44 exhibit clear evidence of RPV with Black and Hispanic voters cohering around minority candidates and White voters opposing them in ever historical election with a minority candidate that I examine[d].” Id. at 29-30.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

344. Dr. Schneer stated that “[Enacted State Senate Map districts] 9, 17, 28, 34, 43 and 55 exhibit evidence of RPV between Black and White voters, again with Black voters cohering around the minority candidate and White voters opposing this candidate.” Id. at 30.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

345. Dr. Schneer also produced four figures that reflect the results of his racially polarized voting analysis for all of the Enacted State Senate Map districts which he analyzed (i.e., SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55). Id. at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

346. The figures reflect that White voters in each district analyzed except for SD 41 and potentially also SD 40 vote cohesively for the same candidate of choice and in opposition to the preferred candidate of choice for Black voters. *Id.* at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

347. The four figures from Dr. Schneer's report reflecting this information are presented at paragraph 285 of this Statement of Facts.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

348. Dr. Schneer also examined the electoral performance of the focus enacted state Senate districts. *Id.* at 49.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

349. Dr. Schneer "use[d] historical election data" to complete this analysis. *Id.*

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

350. Dr. Schneer concluded that “[b]ased on historical elections, the candidate preferred by minority voters would not have won in any election I examine between 2012 and 2022 in SDs 16, 17, 23, 25 and 28.” Id. at 53.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

351. Dr. Schneer also prepared a table reflecting the result that in SD 16, SD 17, SD 23, SD 25, and SD 28, which shows that in each of these districts historical evidence indicates that the Black preferred candidate would not receive at least 55% of the vote share, which is a conventional cutoff used in voting rights litigation to indicate a safer district. Id. at 56; (Table 3).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as argument, and because it is a legal conclusion.

352. Dr. Duchin also completed a performance analysis of SD 16, SD 17, SD 23, SD 25, and SD 28. Duchin Rep. at 48-49, 51.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin’s report cited for this analysis was an effectiveness analysis, not a performance analysis.

353. Dr. Duchin, consistent with Dr. Schneer, determined that SD 16, SD 17, SD 23, SD 25, and SD 28 do not provide the Black-preferred candidate an opportunity to defeat the White majority bloc-preferred candidate. Id.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin's report cited does not reference the opportunity of Black-preferred candidates to defeat white-majority-block preferred candidates. Further, Dr. Duchin testified that she did not include any measurements of racially polarized voting in her report. Duchin Dep. 37:19-38:7.

354. Dr. Schneer analyzed whether this is White cohesive voting in opposition to the preferred candidate of choice for Black voters in the following districts in the Enacted State House Map: HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 144, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171. Schneer Rep. at 36-37; Canter Decl. ¶ 27 (Deposition of Benjamin Schneer ("Schneer Dep.") 91:01-91:22 (HD 144)).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

355. Dr. Schneer concluded that there is “RPV between Black and White voters in [Enacted State House Map districts] 61, 65, 74, 78, 115, 116, 117, 142, 143, 151, 154 and 171[.]” Id. at 37.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

356. Dr. Schneer stated that “[Enacted State House Map districts] 61, 65, 74, 115, 142, 143, 151, 154 and 171 present clear evidence of RPV with Black voters selecting the minority candidates as their candidate of choice, and White voters opposing these candidates in every historical election” Id. at 36-37.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

357. Dr. Schneer stated that “on balance the estimates show that Black voters supported minority candidates” in HD 78 and HD 117 and these same minority candidates “were opposed by White voters in a vast majority of historical elections.” Id. at 37.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

358. Dr. Schneer also produced five figures that reflect the results of his racially polarized voting analysis for all of the Enacted State House Map

districts which he analyzed (i.e., HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171). *Id.* at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

359. The figures reflect that White voters in HD 61, HD 65, HD 74, HD 78, HD 115, HD 116, HD 117, HD 142, HD 143, HD 151, HD 154, and HD 171 vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters. *Id.* at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

360. The five figures from Dr. Schneer's report reflecting this information are presented at paragraph 297 of this Statement of Facts

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number.

361. Dr. Schneer also examined the electoral performance of the focus enacted state House districts. *Id.* at 49.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

362. Dr. Schneer “use[d] historical election data” to complete this analysis. Id.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

363. Dr. Schneer concluded that “[b]ased on historical elections, the candidate preferred by minority voters would not have won in any election I examine between 2012 and 2022 in [Enacted State House Map districts] 64, 74, 161 and 171.” See Canter Decl. ¶ 29 (Benjamin Schneer Notice of Errata at 1-2 (March 31, 2023)).

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

364. Dr. Schneer also “looked at. . . the performance of Legislative District 144,” and determined that by “essentially running the exact same type of performance analysis that I did for all other districts, this was a district where in no past elections that I examined were minority voters able to elect their candidates of choice.” Schneer Dep. 91:11-91:18.

RESPONSE: Defendants admit the Court may consider this for purposes of the summary judgment motion.

365. Dr. Schneer prepared a table reflecting the result that in HD 64, HD 74, HD 117, HD 161, and HD 171, which shows that in each of these districts historical evidence indicates that the Black preferred candidate would not receive at least 55% of the vote share, which is a conventional cutoff used in voting rights litigation to indicate a safer district. Schneer Rep. at 56 (Table 4).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as argument, and because it is a legal conclusion.

366. Dr. Duchin also completed a performance analysis of HD 64, HD 74, HD 117, HD 161, and HD 171. Duchin Rep. at 55, 63, 66.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin's report cited for this analysis was an effectiveness analysis, not a performance analysis.

367. Dr. Duchin, consistent with Dr. Schneer, determined that SD 16, SD 17, SD 23, SD 25, and SD 28 do not provide the Black-preferred candidate with an opportunity to defeat the White majority-bloc preferred candidate. *Id.*

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Duchin's report cited does not reference the opportunity of Black-preferred candidates to defeat white-majority-block

preferred candidates. Further, Dr. Duchin testified that she did not include any measurements of racially polarized voting in her report. Duchin Dep. 37:19-38:7.

368. Defendants' RPV expert in this case, Dr. John Alford, testified that Dr. Scheer's "evidentiary basis" and "empirical analysis" with regards to his racially polarized voting report is "perfectly adequate." Alford Dep. at 74:15-74:17.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Alford's deposition cited does not contain the information Plaintiffs claim.

369. He stated that he is "fine with reaching conclusions" based on Dr. Schmeer's analysis. Id. at 74:17-74:18.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Alford's deposition cited does not contain the information Plaintiffs claim.

370. Dr. Alford does not dispute any of Dr. Schmeer's findings about the levels of voting cohesion that Black voters demonstrate in Georgia: His only opinion in this case is Dr. Schmeer did not rule out that partisanship, not race, is the cause of that cohesion. Id. at 68:15-68:24.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Alford’s deposition cited does not contain the information Plaintiffs claim.

371. Dr. Alford testified that in Georgia “black voters vote [in a] highly cohesion fashion for democratic candidates . . .” Id. at 110:18-111:08.

RESPONSE: Objection. The evidence cited does not support the fact stated because the portion of Dr. Alford’s deposition cited does not contain the information Plaintiffs claim

372. Chair Kennedy recognized that that “process” the Senate Redistricting Committee undertook “recognized” the “principle” of RPV in Georgia. Kennedy Dep. 126:22-127:21.

RESPONSE: Objection. The evidence cited does not support the fact stated because Sen. Kennedy only discussed whether to include Forsyth County in Congressional District 6 in the cited portion of his deposition, not any reference to racially polarized voting.

Respectfully submitted this 10th day of May, 2023.

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General

Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Elizabeth Vaughan
Assistant Attorney General
Georgia Bar No. 762715
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Bryan P. Tyson

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com
Frank B. Strickland
Georgia Bar No. 687600
fstrickland@taylorenghish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenghish.com
Diane Festin LaRoss
Georgia Bar No. 430830
dlaross@taylorenghish.com
Donald P. Boyle, Jr.
Georgia Bar No. 073519
dboyle@taylorenghish.com
Daniel H. Weigel
Georgia Bar No. 956419
dweigel@taylorenghish.com
Taylor English Duma LLP
1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7249

Counsel for Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Statement has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson

Bryan P. Tyson

RETRIEVED FROM DEMOCRACYDOCKET.COM