

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA**

DR. DOROTHY NAIRNE, REV. CLEE
EARNEST LOWE, DR. ALICE
WASHINGTON, STEVEN HARRIS, BLACK
VOTERS MATTER CAPACITY BUILDING
INSTITUTE, and THE LOUISIANA STATE
CONFERENCE OF THE NAACP,

Plaintiffs,

v.

R. KYLE ARDOIN, in his official capacity as
Secretary of State of Louisiana

Defendant.

CIVIL ACTION NO. 3:22-cv-00178
SDD-SDJ

**PLAINTIFFS' PRE-TRIAL PROPOSED
FINDINGS OF FACT & CONCLUSIONS OF LAW**

Plaintiffs have challenged Louisiana's State House and State Senate plans because they dilute Black voting strength in violation of Section 2 of the Voting Rights Act of 1965 ("Section 2"), 52 U.S.C. § 10301. A bench trial is scheduled to start November 27, 2023.

Plaintiffs respectfully submit the following Pretrial Proposed Findings of Fact and Conclusions of Law as a general outline of facts to be adduced at trial and proposed legal conclusions. Plaintiffs will provide additional Proposed Findings of Fact and Conclusions of Law after the close of trial.

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PROPOSED FINDINGS OF FACT

I. Background

A. Louisiana State Legislative Redistricting Process and Criteria

1. In tandem with the decennial U.S. Census, the Louisiana State Legislature is responsible for establishing new plans for Louisiana's state legislative districts. La. Const. art. III, § 6. The boundaries for the state legislative districts are drawn by the Legislature.

2. The maps must be approved by the House and Governmental Affairs Committee ("HGA") and the Senate and Governmental Affairs Committee ("SGA"), and ultimately by the full House and Senate by majority votes. When, as was the case here, maps are passed and delivered to the Governor close to the end of the legislative session, the Governor has 20 days to sign the bill into law or veto the maps. La. Const. art. III, § 18. If the Governor fails to take any action, the bill becomes law.

3. H.B. 14 and S.B. 1 were passed and then sent to the Governor on February 21, 2022. The Governor failed to sign or veto either bill. The Legislature decided that the laws were effective on March 9, 2022, after the Governor indicated that he would not sign or veto either one. *See* La. State Legis., SB1, <https://www.legis.la.gov/legis/BillInfo.aspx?s=221ES&b=SB1&sbi=y> (last accessed Nov. 9, 2023); La. State Legis., HB14, <https://www.legis.la.gov/legis/BillInfo.aspx?s=221ES&b=HB14&sbi=y> (last accessed Nov. 9, 2023).

4. The number of state legislative districts is set by the Louisiana State Constitution. There are 39 State Senate districts and 105 State House districts. La. Const. art. III, § 3.

5. On June 11, 2021, the Legislature adopted Joint Rule 21, which sets forth the criteria any redistricting plan submitted for consideration by the Legislature must satisfy. Pursuant to Joint Rule 21, each redistricting plan must comply with the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment to the U.S. Constitution; Section 2 of the Voting Rights

Act of 1965, as amended; and all other applicable federal and State laws. Joint Rule No. 21. Redistricting Criteria, § B, <https://www.legis.la.gov/Legis/Law.aspx?d=1238755> (last visited Nov. 9, 2023). Each legislative redistricting plan must also (1) provide for single-member districts; (2) comprise districts that have a population as nearly equal to the ideal district population as practicable; and (3) be a whole plan which assigns all of the geography of the State. *Id.*, § D. And further, “[a]ll redistricting plans shall respect the established boundaries of parishes, municipalities, and other political subdivisions and natural geography of this state to the extent practicable.” *Id.*, § H.

B. Plaintiffs

i. Individuals

6. Plaintiff Dr. Dorothy Nairne, a resident of Assumption Parish and House District 60, is Black and a registered voter in Louisiana. Dr. Nairne would reside within the boundaries of Illustrative House District 58 in Plaintiffs’ expert William Cooper’s June 2023 illustrative House plan. Dr. Nairne is a member of the Louisiana NAACP.

7. Plaintiff Reverend Clee Earnest Lowe, a resident of East Baton Rouge Parish and House District 66, is Black and a registered voter in Louisiana. Rev. Lowe would reside within the boundaries of Illustrative House District 101 in Mr. Cooper’s June 2023 illustrative House plan.

8. Plaintiff Dr. Alice Washington, a resident of East Baton Rouge Parish and House District 66, is Black and a registered voter in Louisiana. Dr. Washington would reside within the boundaries of Illustrative House District 101 in Mr. Cooper’s June 2023 illustrative House plan.

9. Plaintiff Steven Harris, a resident of Natchitoches Parish and House District 25, is Black and a registered voter in Louisiana. Mr. Harris would reside within the boundaries of Illustrative House District 23 in Mr. Cooper’s June 2023 illustrative House plan. Mr. Harris is a member of the Louisiana NAACP.

ii. Louisiana State Conference of the National Association for the Advancement of Colored People

10. The Louisiana State Conference of the National Association for the Advancement of Colored People (“Louisiana NAACP”) is a non-profit civic engagement organization working to empower Black political participation. The Louisiana NAACP membership includes Black voters in the State of Louisiana who plan to vote in future State elections. Ex. 214, NAACP-LA-Leg0000144–0000301, at art. II, § 1(b) [hereinafter PX 214]; *id.* at art. I, § 1(b); *id.* at art. III, § 2; *id.* at art. IV § 1.

11. The NAACP has identified at least one member in each part of the state in which districts dilute Black voting strength (that is, “pack” or “crack” Black voters) who could be drawn into a new majority-Black district that could be created in that area, as demonstrated by Mr. Cooper’s illustrative plans.

12. The Louisiana NAACP itself has also diverted resources from its core mission towards responding to the effects of Louisiana’s enacted State House and State Senate plans.

13. The Louisiana NAACP regularly devotes significant portions of its resources to voter education and outreach efforts. These efforts take the form of door-to-door canvassing, voter registration efforts, community and candidate forums, and other activities.

14. The effectiveness of the Louisiana NAACP’s efforts in getting voters registered and to the polls and the resources required are affected by a number of factors that are directly related to the Legislature’s districting decisions.

15. First, the amount of voter education and mobilization resources required of the NAACP depends on the activity levels of others who are also engaged in these efforts, and particularly, the efforts of political parties and political campaigns, which frequently devote substantial resources to voter mobilization in competitive elections. Where elections are not competitive, because districts have been drawn in a way that virtually guarantees that one party’s candidate will win, neither party nor candidate has the incentive to expend significant resources on

voter mobilization. In such cases, organizations like the Louisiana NAACP must step in to fill the gap and ensure voters are registered and have the information they need about the candidates and issues and about how to cast their ballots. This was the case in 2023, the first election after the Legislature passed the challenged House and Senate plans. In the areas where Black voters have been packed and cracked, there have been numerous noncompetitive House and Senate elections this year—with candidates in over 40% of districts winning outright by not drawing an opponent or not requiring a runoff election after the primary. The Louisiana NAACP has witnessed disinvestment and lack of mobilization among candidates, campaigns, political parties, and other organizations in these areas. In response, the Louisiana NAACP has redirected resources and volunteer efforts away from districts where political campaigns and other organizations are active so that it can meet the needs of voters in these noncompetitive districts and ensure they are aware of the other important elections and constitutional amendments on their ballots, that their registration information is up to date, and that they know where and how to vote.

16. Second, redistricting affects voters' perception of whether their participation in the political process is meaningful and whether their elected representatives are responsive to their needs. For example, when volunteers engaged in voter canvassing encounter voters who feel that their vote does not count, they spend more time educating those voters on the importance of participation, with the result that they are able to speak to fewer voters in a given day. After the enactment of the challenged state legislative plans, the Louisiana NAACP's volunteers have faced higher levels of disillusionment among Black voters. As a result, the organization has been required to divert significantly greater resources to canvassing, particularly in areas and districts where Black voters routinely see their candidates of choice defeated. The Louisiana NAACP has had to reallocate its voter engagement resources to specific impacted areas where Black voters are discouraged and less engaged as a result of legislative maps they perceive as unfair.

17. In order to devote resources such as volunteers and education and outreach materials to those specific areas where Black voters reside in noncompetitive, packed and cracked districts, the Louisiana NAACP has been forced to divert them from other areas of the state in which it had planned to engage in voter education and outreach and from other planned activities. The Louisiana NAACP has cancelled or postponed specific events—for example, planned rallies and town hall sessions to be held in Bogalusa and Orleans—in order to redirect its resources to engaging Black voters who would otherwise be ignored as a direct result of the challenged redistricting plans.

iii. Black Voters Matter Capacity Building Institute

18. Black Voters Matter Capacity Building Institute (“BVM”) is a non-profit civic engagement organization with the mission to expand Black voter engagement and increase power in marginalized, predominantly Black communities. Pls.’ Ex. 210, BVM-LA-Leg 0005179–81 [hereinafter PX 210].

19. BVM has diverted resources from its core mission towards responding to Louisiana’s enacted State House and State Senate plans, both during and after the redistricting process unfolded in Louisiana.

20. During the redistricting process, BVM diverted staff time and financial resources from the organization’s other efforts to cover: (1) mini grants to partners that participated in the redistricting process; (2) payments for lodging for out-of-town partners during BVM’s redistricting takeover event; (3) a bus to take people to the redistricting takeover event from other parts of the state; (4) outreach costs, such as broadcast texting; and (5) events and event planners. Had these funds, expended from BVM’s finite budget, not been diverted and used to pay for activities opposing the proposed redistricting plans, they could have been expended toward efforts that go to the core of BVM’s mission, including get-out-the-vote efforts to expand Black voter engagement across the state, and holding more teachings to educate the community on issues that are central to BVM’s

mission. Pls.’ Ex. 209, BVM-LA-Leg 0002891–93 [hereinafter PX 209] (contemporaneous communications demonstrating that BVM’s other initiatives were delayed during the period that BVM was devoting resources toward opposing the legislative plans at issue).

21. After enactment of the challenged state legislative plans, instead of expending its limited resources on voter registration efforts or educating constituents on issues that are important to Black voters in Louisiana, BVM has continued to divert resources from those core activities toward finding ways to hold elected officials accountable, even in districts where Black voters are unable to elect their candidate of choice and are receiving unfair representation. BVM’s accountability strategy includes a campaign to hold legislators accountable for voting against fair maps and diluting Black Louisianans’ votes, and to “mak[e] sure that those who make it to the office uphold their responsibilities in ensuring fair and equal representation in our communities,” even in the face of that dilution. Pls.’ Ex. 207, BVM-LA-Leg 0000383–84 [hereinafter PX 207]; *see also* Pls.’ Ex. 208, BVM-LA-Leg 0003053, 0005833–36, 0005840 [hereinafter PX 208]. And like the Louisiana NAACP, *see supra* ¶¶ 15–17, BVM has also altered its approach to organizing in response to the effect that the dilutive House and Senate plans have had in Louisiana—including the increasing sentiment among the people with whom BVM seeks to engage with that their vote does not count because of the enacted plans passed during the redistricting process.

22. As long as the unlawful maps remain in place, BVM will continue to need to divert resources from its core activities (*i.e.*, voter registration efforts, or educating constituents on issues that are important to Black voters in Louisiana) toward previously unplanned activities that are required to respond to the enacted maps’ dilutive effect, including: (1) engaging with the elected officials that represent Black voters in unlawfully packed and cracked districts; and (2) convincing Black voters who rightfully believe that the enacted state legislative plans dilute their power that their votes still matter.

C. Defendants

23. Defendant R. Kyle Ardoin is the Louisiana Secretary of State and is sued in his official capacity. Secretary Ardoin is the “chief election officer of the state,” La. Rev. Stat. § 18:421(A), and as such will be “involved in providing, implementing, and/or enforcing whatever injunctive or prospective relief may be granted to” Plaintiffs in this litigation challenging Louisiana’s enacted state legislative plans. *Hall v. Louisiana*, 974 F. Supp. 2d 978, 993 (M.D. La. 2013).

24. The remaining defendants—Clay Schexnayder and Patrick Page Cortez, the presiding officers of the Louisiana State Legislature; and the State of Louisiana, by and through Attorney General Jeff Landry—intervened in this lawsuit in May 2022. ECF No. 13.

II. *Gingles* I

A. Plaintiffs’ Illustrative Plans

25. Plaintiffs’ expert, William S. Cooper, developed illustrative plans to assess whether the Black population in Louisiana is sufficiently large and geographically compact to allow for three additional majority-Black Senate districts and six additional majority-Black House districts.

26. Mr. Cooper is qualified to serve as an expert witness in redistricting and demographics. *See generally* Pls.’ Ex. 20, Cooper Report (Sept. 29, 2023), ¶¶ 2–7 [hereinafter PX 20]; Pls.’ Ex. 21, Cooper CV [hereinafter PX 21].

27. Since 1986, Mr. Cooper has prepared redistricting maps encompassing approximately 750 jurisdictions in 45 states. *See generally* PX 20, ¶¶ 2–7; PX 21. Mr. Cooper has qualified as an expert witness on redistricting and demographics in federal courts in about 55 voting rights cases in 20 states. PX 20, ¶ 2; *see also* PX 21.

28. Six of these lawsuits resulted in changes to statewide legislative boundaries: *Alpha Phi Alpha Fraternity v. Raffensperger*, No. 1:21-cv-05337 (N.D. Ga.); *Thomas v. Reeves*, No. 3:18-cv-441 (S.D. Miss.); *Alabama Legislative Black Caucus v. Alabama*, No. 2:12-cv-691 (M.D. Ala.);

Bone Shirt v. Hazeltine, No. 3:01-cv-3032 (D.S.D.); *Old Person v. Brown*, No. 4:96-cv-0004 (D. Mont.); and *Rural West Tennessee African-American Affairs Council, Inc. v. McWherter*, No. 92-cv-2407 (W.D. Tenn.). See PX 20, ¶ 2; PX 21.

29. He has over thirty years of experience in voting cases in Louisiana. See PX 20, ¶¶ 5–6; see also PX 21. In 1993, he developed illustrative police jury plans for the East Carroll, Madison, West Feliciana, and Point Coupee Parishes. PX 20, ¶ 4. In 1994 and 1995, he developed illustrative school board plans for Bossier, East Carroll, West Carroll, and Iberville Parishes. *Id.* In 1996, he served as a *Gingles* I expert for plaintiffs in a Section 2 lawsuit and developed an illustrative plan for the town council in St. Francisville. *Id.* In 1998, he developed an illustrative plan for the 23rd Judicial District. *Id.* In 2005, he served for the plaintiffs and developed an illustrative plan for the school board of St Landry Parish. *Id.* ¶ 5. In the 2010 redistricting cycle, he served as the *Gingles* I expert for plaintiffs in a Section 2 lawsuit involving the 32nd Judicial District in Terrebonne Parish. *Id.* Most recently, he was the *Gingles* I expert for the Galmon plaintiffs in *Robinson v. Ardoin* No. 3:22-cv-00211-SDD-SDJ), a challenge to the Louisiana congressional map, and his work was favorably cited by this Court. See *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 838 (M.D. La.), *cert. granted before judgment*, 142 S. Ct. 2892, 213 L. Ed. 2d 1107 (2022), and *cert. dismissed as improvidently granted*, *Allen v. Milligan*, 599 U.S. 1 (2023).

30. For this current redistricting cycle, in addition to *Robinson*, Mr. Cooper has also testified at trial as an expert witness in redistricting and demographics in five cases challenging district boundaries under Section 2 of the Voting Rights Act: *Caster v. Merrill*, No. 2:21-cv-1356-AMM (N.D. Ala.), *Pendergrass v. Raffensperger*, No. 1:21-cv-05339-SCJ (N.D. Ga.), *Alpha Phi Alpha Fraternity v. Raffensperger*, No. 1:21-cv-05337-SCJ (N.D. Ga.), *NAACP v. Baltimore Cnty.*, No. 1:21-cv-03232-LKG (Md.), and *Christian Ministerial Alliance v. Hutchinson*, No. 4:19-cv-402-JM (E.D. Ar.).

31. To develop his illustrative plans in this case, Mr. Cooper used (1) population and geographic data from the 1990 to 2020 Censuses, (2) the 1 and 5 year American Community Survey (“ACS”) estimates conducted by the Census Bureau, (3) geographic boundary files created from the U.S. Census and 1990, 2000, 2010, and 2020 Topologically Integrated Geographic Encoding and Referencing (TIGER) files, and (4) the 2021 Louisiana Voter Registration data produced by the Louisiana Legislature for the 2020 Census redistricting cycle. *See* Pls.’ Ex. 22, Exhibit B to Cooper Report [hereinafter PX 22]. Mr. Cooper accessed disaggregated block-level ACS citizen data by race from the Redistricting Data Hub (a common source of information for demography experts). *See id.* He used *Maptitude for Redistricting*, a geographic information system (“GIS”) software that many local and state bodies employ for redistricting. *See id.*

32. Using these data, Mr. Cooper reviewed current and historical demographics of Louisiana, including the socio-economic, employment, education, and health characteristics of the Black, Latino, and non-Hispanic white populations at the state, parish, metropolitan, and municipal level, as published by the Census Bureau in the ACS. PX 22.

33. Mr. Cooper used population data from the U.S. Census 1990, 2000, 2010, and 2020 PL 94-171 data files. The PL 94-171 dataset is the complete count population file designed by the Census Bureau for use in legislative redistricting. *Id.* The file contains basic race and ethnicity data on the total population and voting-age population found in various units of Census geography. *Id.* It is published in electronic format. *Id.*

34. Mr. Cooper developed the illustrative plans in this case in accordance with traditional redistricting principles, including compactness; contiguity; one person, one vote; communities of interest; traditional boundaries; and non-dilution of minority voting strength.

35. Mr. Cooper reviewed the Legislature’s Census 2020 redistricting criteria as embodied in the Legislature’s Joint Rule No. 21. Redistricting Criteria, <https://www.legis.la.gov/Legis/>

[Law.aspx?d=1238755](#) (last accessed Nov. 9, 2023).

36. His illustrative plans comply with Joint Rule 21, including but not limited to the following criteria:

- Sec. G(1) – To the extent practicable, each district within a redistricting plan submitted for consideration shall contain whole election precincts as those are represented as Voting Districts (VTDs).
- Sec. H – All redistricting plans shall respect the established boundaries of parishes, municipalities, and other political subdivisions and natural geography of this state to the extent practicable. However, this criterion is subordinate to and shall not be used to undermine the maintenance of communities of interest within the same district to the extent practicable.

37. Additionally, Section D(2) of Joint Rule 21 forbids the consideration of any plan that has “an absolute deviation of population which exceeds plus or minus five percent of the ideal district population.” Mr. Cooper drew all illustrative districts so that they fall within a +/- 5% deviation from the ideal district population size (119,430 for the Senate and 44,360 for the House). *See* PX 20, ¶ 72.

38. Mr. Cooper began his inquiry by studying historical demographic data for Louisiana. *See* PX 20, ¶¶ 13–15; *see also id.* ¶¶ 21–52. To determine whether additional majority-Black legislative districts could be drawn based on the 2020 Census, Mr. Cooper focused primarily on: (1) metropolitan areas with substantial Black populations that have experienced Black population growth since 2000 (*e.g.*, Baton Rouge) or, conversely, (2) metropolitan areas with substantial Black population where there has been a decline in the white population since 2000 (*e.g.*, New Orleans and Shreveport). *See id.* ¶¶ 13–15. He defined metropolitan areas in Louisiana using the Census Bureau’s boundaries for Metropolitan Statistical Areas. *See id.* ¶¶ 13–19.

39. Mr. Cooper’s focus on these areas of the State was bolstered by U.S. Census data, which illustrated that Louisiana’s metropolitan areas have grown by 233,382 persons (equivalent to about two Senate districts and five House districts), while non-metro/rural areas of the state lost 44,601 persons (equivalent to about one House district). *Id.* ¶ 39.

40. The one exception to the process defined above is a House district in the Natchitoches area. PX 20, ¶ 15. Under the enacted House plan, majority-Black House District 23 (in the 2011 House Plan) was eliminated. Mr. Cooper examined 2020 Census demographics around Natchitoches to determine whether a majority-Black district could be retained in that area. *Id.*

41. The illustrative plans' inclusion of three additional majority-Black districts in the Louisiana Senate and six additional majority-Black districts in the Louisiana House indicates that the Black population in Louisiana is sufficiently numerous and geographically compact to allow for additional majority-Black districts in the identified areas of the state. *Id.* ¶ 17.

42. Mr. Cooper was able to create three additional majority-Black districts in the illustrative Senate plan: Illustrative Senate District ("SD") 38 in Caddo and Bossier Parishes; Illustrative SD 17 in East Baton Rouge, Iberville, Pointe Coupee, and West Baton Rouge Parishes; and Illustrative SD 19 in Jefferson and St. Charles Parishes. *Id.*

43. Mr. Cooper was able to create six additional majority-Black districts in the illustrative House plan. He created three new majority-Black House districts in East Baton Rouge Parish (Illustrative HD 65, 68, and 69), but in creating those districts, he reconfigured nearby HD 62 such that it no longer contains a majority-Black voting age population—resulting in a net addition of two majority-Black House districts in East Baton Rouge Parish. *See* PX 20, ¶¶ 17, 103–39; Pls.' Ex. 66, Exhibit N-1 to Cooper Report [hereinafter PX 66]. Mr. Cooper also created four new majority-Black House districts elsewhere in the state: Illustrative House District ("HD") 1 in Caddo and Bossier Parishes; Illustrative HD 23 in DeSoto, Natchitoches, and Red River Parishes; Illustrative HD 38 in Calcasieu Parish; and Illustrative HD 60 in Ascension and Iberville Parishes. *See* PX 20, ¶ 17.

B. Numerosity of the Black Population

44. According to the 2020 Census, non-Hispanic whites comprise 55.75% of the population in Louisiana. *See* PX 20, ¶ 22. African Americans are the next largest racial/ethnic

category, representing 33.13% of the population in 2020—the second highest proportion of any state in the nation. *Id.* The 2020 Census shows that Louisiana’s Black population has increased since 2000 (up from 32.86%), while its non-Hispanic white population has decreased since 2000 (down from 62.53%). *Id.* ¶ 23.

45. While overall population grew in the metropolitan areas, the white population fell in six of Louisiana’s nine metropolitan areas for a net loss of 201,689 persons (equivalent to almost two Senate districts and five House districts). *Id.* ¶ 45. Meanwhile, Black population grew in eight of nine metropolitan areas. *Id.* ¶ 41.

46. Illustrative SD 38 is an additional majority-Black district that could be drawn in Bossier and Caddo Parishes. *Id.* ¶¶ 93–95. Illustrative SD 38 can be drawn by unpacking Enacted SD 39 (63.7% BVAP) and adding neighboring areas with substantial Black populations in Enacted SD 31 and 36. *Id.* Based on Louisiana’s AP Black population data, Illustrative SD 38 has a Black Citizen Voting Age Population (“BVAP”) of 53.17%. *Pis.’ Ex. 47, Exhibit J-1 to William Cooper Report [hereinafter PX 47].*

47. Illustrative SD 17 is an additional majority-Black district that could be drawn in the metropolitan Baton Rouge area. PX 20, ¶¶ 96–99. Illustrative SD 17 encompasses all of Pointe Coupee, Iberville, and West Baton Rouge Parishes, and part of East Baton Rouge Parish. *Id.* Unlike sprawling Enacted SD 17, Illustrative SD 17 does not extend west into predominantly white communities in St. Landry and St. Martin. Instead, Illustrative SD 17 is anchored in East Baton Rouge, drawing in part of the Black population from packed Enacted SD 15 (73.9% BVAP) and Enacted SD 14 (58% BVAP). *Id.* Illustrative SD 17 has an AP-Black BVAP of 52.48%. PX 47.

48. Illustrative SD 19 is an additional majority-Black district that could be drawn in the New Orleans metropolitan area—specifically, in Jefferson and St. Charles Parishes. Illustrative SD 19 can be drawn by uncracking Enacted SD 19 and neighboring Enacted SDs 5, 7, and 10, and

unpacking neighboring SD 8. PX 20, ¶¶ 100–02. At present, Enacted SD 19 cuts across parts of Lafourche, St. John the Baptist, St. Charles, and Jefferson Parishes—in the process, submerging a large Black population in a majority-white district. *Id.* Illustrative SD 19 converts a meandering four-parish majority-white Enacted SD 19 (28.69%) into a much more compact two-parish majority Black district. *Id.* Illustrative SD 19 has an AP-Black BVAP of 50.97%. PX 47.

49. Illustrative HD 1 is an additional majority-Black district that could be drawn in Bossier and Caddo Parishes. PX 20, ¶¶ 121–23. Illustrative HD 1 encompasses seven full municipalities in Caddo Parish, and parts of Shreveport, Blanchard, and Bossier City. *Id.* Illustrative HD 1 is drawn by unpacking Enacted HD 2 (67.4%) and HD 4 (72.1% BVAP) and reducing the geographic extent of Enacted HD 1. *Id.* Illustrative HD 1 has an AP-Black BVAP of 55.33%. PX 66.

50. Illustrative HD 23 is an additional majority-Black district that could be drawn in Natchitoches, Red River, and Desoto Parishes. Illustrative HD 23 is in the same region as majority-Black HD 23 under Louisiana’s 2011 House plan, a district that was eliminated under the 2022 enacted House plan.¹ PX 20, ¶¶ 124–27. Illustrative HD 23 follows the Red River north from Natchitoches to include all of Red River Parish. *Id.* Further west, the district tracks I-10 into Desoto Parish. Illustrative HD 23 has an AP-Black BVAP of 50.56%. PX 66.

51. Illustrative HD 38 is an additional majority-Black district that could be drawn in Calcasieu Parish in and around the city of Lake Charles. PX 20, ¶¶ 128–30. Illustrative HD 38 is drawn by unpacking Enacted HD 34 (72.6% BVAP) and uncracking Black population distributed across Enacted HD 35 (12.5% BVAP) and 37 (17.6% BVAP). *Id.* Illustrative HD 38 has an AP-

¹ The district labeled as Enacted HD 23 in the enacted House plan is also majority Black, but it encompasses entirely different territory, because the enacted House plan moves HD 23 across the state to Orleans Parish. The illustrative House plan’s restoration of HD 23 in northwest Louisiana does not eliminate that majority-Black district in Orleans Parish—rather, in restoring HD 23 to its original location, the illustrative House plan instead moves HD 5 to Orleans Parish, where it has the same configuration as Enacted HD 23.

Black BVAP of 50.84%. PX 66.

52. Illustrative HD 60 is an additional majority-Black district that could be drawn in the southern part of the Baton Rouge metropolitan area—specifically, in Iberville and Ascension Parishes. PX 20, ¶¶ 131. Since 2000, the population of Ascension Parish has grown by about 50,000 persons to 126,500 and the Black population has doubled from 15,684 to 32,216. *Id.* As a result of this population growth, it is now possible to draw an additional majority-Black House district on the East Bank and the West Bank of Iberville and Ascension Parishes, without crossing over into the New Orleans metropolitan area. *Id.* Illustrative HD 60 has an AP-Black BVAP of 52.83%. PX 66.

53. Illustrative HD 65 is an additional majority-Black district that could be drawn in the Baton Rouge metropolitan area—specifically, in East Baton Rouge Parish, including neighborhoods north of Airline Highway and east of I-110. PX 20, ¶¶ 134–36. As detailed in Exhibit P-1, Illustrative HD 65 includes part of the cities of Baton Rouge and Central, with the remaining population in unincorporated areas of East Baton Rouge Parish. *Id.* Illustrative HD 65 has an AP-Black BVAP of 56.03%. PX 66.

54. Illustrative HD 68 is an additional majority-Black district that could be drawn in the Baton Rouge metropolitan area—specifically, in East Baton Rouge Parish. PX 20, ¶¶ 137–38. Illustrative HD 68 includes neighborhoods in the central part of the City of Baton Rouge, with Airline Highway serving as an eastern boundary. *Id.* Baton Rouge is the only municipality in Illustrative HD 68, with the remainder of the district in unincorporated areas of the parish. *Id.* Illustrative HD 68 has an AP-Black BVAP of 54.21%. PX 66.

55. Illustrative HD 69 is another additional majority-Black district that could be drawn in the Baton Rouge metropolitan area in East Baton Rouge Parish by unpacking Enacted HD 61 (from 75.29% BVAP to 50.20% BVAP) and HD 101 (from 60.22% BVAP to 50.75% BVAP). PX 20 at Fig. 39; *compare* Pls.’ Ex. 40, Exhibit I-1 to Cooper Report [hereinafter PX 40] (AP BVAP

percentages for districts in the enacted House plan), *with* PX 66 (AP BVAP percentages for districts in the illustrative House plan). Illustrative HD 69 neighbors Illustrative HD 68. Illustrative HD 69 has a BVAP of 50.20%. PX 66.

C. Compactness of the Black Population

56. A visual estimation and comparison to Louisiana's enacted House and Senate plans confirms that the majority-Black districts in Plaintiffs' illustrative plans are geographically compact. *See* PX 20, ¶¶ 73–74, 103–04, Fig. 13, Fig. 24. The districts largely follow traditional boundaries, and the boundaries in the illustrative plans correspond to existing voting tabulation districts. *Id.* ¶¶ 82–85, 110–13, Fig. 14, Fig. 25.

57. Further, Mr. Cooper used traditional compactness measures, which take into account the shape of the districts. *See* Pls.' Ex. 89, Cooper Rebuttal Report (Aug. 11, 2023), ¶ 50 [hereinafter PX 89].

58. Mr. Cooper considered district-by-district compactness scores generated by Maptitude. PX 20, ¶¶ 82–85, 110–13, Fig. 14, Fig. 25. Mr. Cooper initially reported three compactness scores: Reock, Polsby-Popper, and Convex Area/Hull. *Id.* These measures, particularly Reock and Polsby-Popper, are typically used by *Gingles* I experts in analyzing the mathematical compactness of districts. PX 89, ¶ 51. These measures are calculated by the Maptitude software and can be compared across districts. *Id.* All of Mr. Cooper's illustrative districts were similarly compact or more compact than the districts in Louisiana's enacted House and Senate plans. PX 20, ¶¶ 82–85, 110–13, Fig. 14, Fig. 25. On average, the illustrative districts are slightly more compact in the illustrative Senate plan than the enacted Senate plan, and as compact in the illustrative and enacted House plans. *Id.*

59. In his rebuttal report, Mr. Cooper reported nine additional measures of compactness using Maptitude. *See* Pls.' Ex. 90, Exhibit B-1 to Cooper Rebuttal Report [hereinafter PX 90]; Pls.' Ex. 91, Exhibit B-2 to Cooper Rebuttal Report [hereinafter PX 91].

Ex. 91, Exhibit B-2 to Cooper Rebuttal Report [hereinafter PX 91]; Pls.’ Ex. 92, Exhibit B-3 to Cooper Rebuttal Report [hereinafter PX 92]; Pls.’ Ex. 93, Exhibit B-4 to Cooper Rebuttal Report [hereinafter PX 93]; Pls.’ Ex. 94, Exhibit B-5 to Cooper Rebuttal Report [hereinafter PX 94]. He found a similar pattern under these measures as the more commonly used compactness scores. *See* PX 90; PX 91; PX 92; PX 93; PX 94.

60. The districts in Plaintiffs’ illustrative plans are not only compact but meet the other traditional redistricting criteria. PX 20, ¶¶ 18, 69–72.

61. The districts in Plaintiffs’ illustrative plans are contiguous. *Id.*

62. The districts in Plaintiffs’ illustrative plans adhere to the principle of one-person, one-vote. *Id.* Consistent with the requirements of Section D(2) of Joint Rule 21, none of the populations of the districts in Plaintiffs’ illustrative plans deviate more or less than five percent from the ideal district population. *Id.*

63. The districts in Plaintiffs’ illustrative plans respect communities of interest. *Id.* ¶¶ 10–11, 18, 21–29, 52, 69, 75–76, 105–06,

64. Mr. Cooper respected communities of interest when drawing Plaintiffs’ illustrative plans. *Id.* ¶¶ 18, 52, 69, 75–76, 105–06; PX 89 ¶¶ 5, 6, 10, 30. Mr. Cooper primarily relied on his prior experience in the state, Census data, and information that counsel provided him from the plaintiffs and Plaintiffs’ expert Dr. Craig E. Colten to define communities of interest.

65. By assembling qualitative and quantitative evidence of the historical geography of the Red River Valley Parishes, Acadiana, and the River Parishes, Plaintiffs’ expert Dr. Colten further explained how Plaintiffs’ illustrative plans respect certain communities with long-standing historical and cultural connections within those territories, reinforcing Mr. Cooper’s testimony that the illustrative plans respect communities of interest.

66. In examining communities within the Red River Valley Parishes, Dr. Colten found

that Shreveport's Black residents share particularly traumatic experiences of historical racial violence. During Reconstruction, Black Shreveport residents were prey for mobs who lashed out against their participation in the electoral process, with much of the violence targeted against Black leaders. Pls.' Ex. 129, Colten Initial Report (July 22, 2022), at 12 [hereinafter PX 129]. Between 1865 and 1876, Caddo Parish had the highest number of homicides (566) across a notoriously violent state, earning the parish its label of "Bloody Caddo." *Id.* 85 percent of those victims were Black and 84 percent of those perpetrators were white. *Id.* The legacy of this racial tension has continued in more recent decades: for example, following court-ordered desegregation in 1970, white flight has taken place in Shreveport, with white residents moving into more distant suburbs. *Id.* at 12, 13.

67. Illustrative SD 38 unites Black communities with shared historical connections that are currently divided by district lines in the enacted Senate plan, by keeping Shreveport's suburban Black neighborhoods in the same district as their counterparts closer to the urban core. This respects the overlap of interests stemming from Black Shreveport residents' shared history of extreme racial and political violence. Pls.' Ex. 131, Colten Suppl. Report (Sept. 11, 2023), at 1 [hereinafter PX 131].

68. Illustrative HD 1 and 2 also respect communities with distinct historical developments in Shreveport. The border between Illustrative HD 1 and 2 in Plaintiffs' illustrative House plan reflects the demarcation between neighborhoods that have similar racial demographics today, but have different settlement histories. Pls.' Ex. 132, Colten Rebuttal Report (Aug. 11, 2023), at 2 [hereinafter PX 132]. Illustrative HD 1 contains the historical African American urban core, whereas Illustrative HD 2 contains neighborhoods that became heavily populated by African Americans later in time, as a result of white flight and post-1960s neighborhood demographic change. *Id.*

69. Further south, Dr. Colten's analysis of the Red River Valley Parishes also reveals that certain communities within DeSoto, Red River, Natchitoches, Winn, Grant, and Rapides Parishes have shared historical and cultural connections. PX 129 at 6.

70. The Red River passes through these parishes and has created a floodplain that supports extensive cotton cultivation, which is the mainstay of the agricultural economy from DeSoto and Red River Parishes down through Natchitoches. PX 129 at 6. And in the wooded hills beyond the floodplain, pine forests support economic pursuits related to timber and timber products. *Id.* As a result, communities extending outward in either direction from the Red River have experienced parallel, shared economic development. For example, communities in towns like Mansfield (west of the Red River) and Hall Summit (east of the Red River) share yeoman farming and timber extraction histories, generating overlapping interests in these communities. PX 131 at 1. As in Shreveport, these parishes in the Red River Valley also share a legacy of racial violence and terror. PX 129 at 8–9.

71. The city of Natchitoches has also maintained an identifiable local culture that traces to the history of its founding by French colonists in 1714. PX 129 at 6–7. Natchitoches remained isolated through the colonial period, developing a strong French identity that influenced the dominant language and the French-Creole architecture in the city, as well as a dominant Catholic faith that persisted across white and Black residents beyond the mid-19th century. *Id.*

72. South of Natchitoches, another historically distinct community exists in the Cane River colony. PX 129 at 7–8. There, by 1860, an enclave of approximately 400 Black Louisianans lived as “free people of color,” setting them apart from the still-enslaved Black communities in the surrounding region. These free people of color shared many uncommon experiences in that time period, including the ability to own land and amass wealth, business relationships with white Creoles, and political influence in the region. The Cane River colony has persisted to the present day, and has been nationally recognized with the creation of the Cane River Creole National Historical Park and Heritage Area, which centers on the Cane River Creole community that descend from the free people of color. *Id.* at 10–11.

73. The illustrative plan better reflects these communities in the Red River Valley than

the enacted House plan. Illustrative HD 23 keeps together communities that extend outward in either direction from the Red River with historically shared economic pursuits, from DeSoto and Red River Parishes down through the city of Natchitoches. PX 131 at 1. Illustrative HD 23 better respects the relationship between Natchitoches and the more northern Red River Valley parishes, as well as the distinctive identity of the community in the city of Natchitoches itself, than the enacted House plan. *Id.*; PX 132 at 2. And the southern boundary of HD 23 also preserves the distinct community of Creoles of color that descend from the Cane River colony's free people of color, keeping that distinct community whole in Illustrative HD 25. PX 132 at 2.

74. Dr. Colten's analysis of Acadiana explained that the area was historically divided by natural features that supported different economic pursuits, with sugar cane cultivation dominating on the natural levees along the bayous in the eastern portion of Acadiana, while rice was the major crop on the western prairies. PX 129 at 14.

75. Both Illustrative SD 17 and Illustrative SD 2 include large swaths of eastern Acadiana and respect the shared historic economic pursuits of communities in that area. SD 17 includes communities in eastern Acadiana along the west bank of the Mississippi that were dominated by sugar cane cultivation, and SD 2 encompasses the Acadians in southern Iberville Parish and farther east who have long-standing local economic and cultural ties based on sugar cane cultivation and processing and natural resource harvesting in the backswamps. PX 132 at 1.

76. Dr. Colten's analysis of the historical geography of the River Parishes shows that, while residents of Jefferson and Orleans Parishes may be geographically proximate, their historical and cultural experiences are different in many ways. PX 129 at 24. The Mississippi River serves as a major social and cultural divide between these two communities. *Id.* at 25; *see also* PX 131 at 1. Economic activities diverge on either bank, with ship-building and petrochemical industries clustered on the west bank in Jefferson Parish, while suburban retail and related commercial activity dominates

the east bank in Orleans Parish. PX 129 at 24. And unlike in the east bank, which installed superior flood protection earlier than west-bank Jefferson Parish, the neighborhoods on the west bank in Jefferson Parish have been more susceptible to flooding. *Id.* at 25. Because residential neighborhoods are highly segregated in Jefferson Parish, Black residential neighborhoods have formed in those areas that are nearest to large industries and their emissions and have been more susceptible to flooding. *Id.* at 24–25.

77. Upstream from Orleans Parish, in contrast, a shared history of racial tension and violence shaped the communities on both banks of the Mississippi—including the especially formative 1811 Slave Insurrection and brutal response. This historical incident provides a powerful sense of community along the river upstream from Orleans Parish. PX 132 at 1–2.

78. The illustrative Senate plan’s use of the Mississippi River as a border between Orleans Parish (in Illustrative SD 5) and Jefferson Parish (in Illustrative SD 19) keeps the comparable communities in Jefferson Parish together in SD 19. PX 131 at 1; *see also* PX 132 at 1–2. In the enacted Senate plan, by contrast, SD 5 straddles the Mississippi River, separating a Jefferson Parish west-bank industrial neighborhood with working-class families from other similar communities with shared economic pursuits, shared experiences of residential segregation, and shared impact of environmental externalities from flooding and industry—and instead placing that west-bank neighborhood in a district with both higher-income white Louisianans and lower-income Black Louisianans in different economic industries on the east bank of the Mississippi in Orleans Parish. PX 131 at 1.

79. Further upstream from Orleans Parish, Illustrative SD 19 also unites both sides of the Mississippi River and encompasses the communities that reside in the territory on both banks of the Mississippi where the 1811 Slave Insurrection and brutal response took place. This historical incident provides a powerful basis for keeping the communities along the river at this site together in

Illustrative SD 19. PX 129 at 20; PX 132 at 1.

80. In examining the parishes along the Mississippi River, Dr. Colten also examined East Baton Rouge—which, along with West Feliciana Parish, is proximate to the River Parishes but stands in contrast to the other parishes in that region, and is more culturally in line with the Florida Parishes. *See* PX 129 at 18–21. Dr. Colten explained how Baton Rouge has expanded in the decades following the 1950s, with a series of suburban additions forming as arcs around the core of the city, each suburban arc a bit farther east from the city center. PX 132 at 2. Each suburban addition came with residential areas, schools, and commercial districts, and residents of each suburban arc developed shared concerns based on schools, commerce, and political representation, as well as the date of formation of each suburban arc. *Id.*

81. Illustrative HD 61, 68, 69, 65, and 101 capture the extension of those suburban additions to Baton Rouge during the 1960s and 1970s, with each district capturing a suburban arc containing communities with shared dates of formation and economic, cultural, and political interests. PX 132 at 2.

82. Dr. Colten’s analysis of the historical geography of the River Parishes shows that the illustrative Senate plan better respects the communities with shared historical and cultural experiences than the enacted Senate plan.

III. *Gingles II* and *III*

83. The other two *Gingles* preconditions are that minority voters are “politically cohesive” and that “the white majority typically votes in a bloc to defeat the minority candidate.” *Milligan*, 599 U.S. at 18 (quoting *Thornburg v. Gingles*, 478 U.S. 30, 51 (1986)). Plaintiffs typically rely on expert testimony to establish that these preconditions are satisfied. *See id.*

A. Dr. Lisa Handley’s RPV Analysis

84. Plaintiffs retained Dr. Lisa Handley to provide expert testimony on *Gingles II* and *III*.

Dr. Handley is qualified to serve as an expert witness on racially polarized voting (“RPV”) and the statistical analysis of minority vote dilution and redistricting. Pls.’ Ex. 1, Handley Initial Report (June 30, 2023), at 2 [hereinafter PX 1].

85. Dr. Handley has over 35 years of experience as a voting rights and redistricting expert. PX 1 at 2.

86. Dr. Handley holds a Ph.D. in political science from George Washington University. Pls.’ Ex. 2, CV of Dr. Lisa Handley, at 1 [hereinafter PX 2]. She has taught political science courses at both the graduate and undergraduate level at several universities. *Id.* Dr. Handley has provided election assistance to numerous countries, including to various post-conflict countries through the United Nations. *Id.*

87. Dr. Handley has been accepted as an expert witness in litigation involving voting rights and redistricting scores of times, and courts have routinely credited and relied on her expert testimony. PX 1 at 2–3; *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, No. 1:21-CV-05337-SCJ, 2023 WL 7037537, at *21 (N.D. Ga. Oct. 26, 2023) (accepting Dr. Handley as an expert and noting she has routinely been qualified as an expert in cases where she used the same methodology she employed here); *Robinson*, 665 F. Supp. 3d at 840; *Lopez v. Abbott*, 339 F. Supp. 3d 589, 610 (S.D. Tex. 2018) (crediting Dr. Handley’s testimony); *United States v. Vill. Of Port Chester*, 704 F. Supp. 2d 411, 427, 441 (S.D.N.Y. 2010) (relying on Dr. Handley as an expert and noting that “[t]he methods employed by Dr. Handley” including ecological inference analysis “have been accepted by numerous courts in voting rights cases”).

88. To assess RPV in this case, Dr. Handley analyzed voting patterns by race in seven areas of Louisiana where Mr. Cooper’s illustrative House and Senate plans create more majority BVAP districts than the enacted House and Senate plans. PX 1 at 7–8.

89. Dr. Handley’s seven areas are: Area 1: Northwest Louisiana, Area 2: Southeast

Louisiana, Area 3: East Central Louisiana, Area 4: Western Louisiana, Area 5: Southwest Louisiana, Area 6, South Central Louisiana, and Area 7: East Central Louisiana. PX 1 at 9.

90. Dr. Handley employed three commonly used, well-accepted statistical methods to conduct her racially polarized voting analysis: homogeneous precinct analysis, ecological regression, and ecological inference (“EI”). PX 1 at 4–5. With these three statistical methods, she calculated estimates of the percentage of Black and white voters who voted for candidates in recent statewide general elections and state legislative general elections in the seven geographic areas that she analyzed. *Id.* at 6–7.

91. Homogeneous precinct analysis and ecological regression have been used for approximately 40 years. PX 1 at 4. These analytic tools were employed by the plaintiffs’ expert in *Gingles* and were accepted by the Supreme Court. *Id.*; *Gingles*, 478 U.S. at 52–53, 80.

92. EI is a more recently developed technique, and experts agree that EI produces the most accurate estimates. PX 1 at 4–5. EI has been accepted in numerous district court proceedings. *See, e.g., Petteway v. Galveston Cnty.*, No. 3:22-CV-57, 2023 WL 6786025, at *47 (S.D. Tex. Oct. 13, 2023), *amended*, No. 3:22-CV-57, 2023 WL 6812289 (S.D. Tex. Oct. 15, 2023) (noting that all experts in the case agreed that “RxC ecological inference is an appropriate method for analyzing the voting patterns of different demographic groups”); *see also Singleton v. Merrill*, 582 F. Supp. 3d 924, 967, 981, 991 (N.D. Ala. 2022), *aff’d sub nom. Allen v. Milligan*, 599 U.S. 1 (2023).

93. Dr. Handley used two forms of EI called “King’s EI” and “EI RxC.” PX 1 at 4–5. Dr. Handley uses homogeneous precinct analysis and ecological regression to check the estimates produced by her EI RxC. PX 1 at 4–5.

94. Dr. Handley analyzed 16 recent (2015-2022) statewide elections, including elections for Lieutenant Governor, Attorney General, Secretary of State, and Treasurer. PX 1 at 6–7. Dr. Handley also analyzed recent state legislative contests in the areas of interest. *Id.* at 11.

95. Dr. Handley focused on elections that include at least one Black candidate, an approach that multiple courts have endorsed in other cases, because these are the most probative for measuring racial polarization. PX 1 at 6 n.9; *see also Robinson*, 605 F. Supp. 3d at 801 (crediting Dr. Handley’s opinion that “courts consider election contests that include minority candidates to be more probative than contests with only White candidates, because this approach recognizes that it is not sufficient for minority voters to be able to elect their preferred candidate only when that candidate is White”); *United States v. City of Eastpointe*, 378 F. Supp. 3d 589, 610–11 (E.D. Mich. 2019) (“These [white-only] elections are ... less probative because the fact that black voters also support white candidates acceptable to the majority does not negate instances in which a white voting majority operates to defeat the candidate preferred by black voters when that candidate is a minority.”); *United States v. City of Euclid*, 580 F. Supp. 2d 584, 598 (N.D. Ohio 2008) (“These contests are probative of racial bloc voting because they . . . featured African–American candidates.”).

96. Courts in the Fifth Circuit have held that biracial elections are the most probative for analysis of racially polarized voting. *See, e.g., Magnolia Bar Ass’n, Inc. v. Lee*, 994 F.2d 1143, 1149 (5th Cir. 1993); *E. Jefferson Coal. For Leadership & Dev. V. Par. Of Jefferson*, 926 F.2d 487, 493 (5th Cir. 1991); *Citizens for a Better Gretna v. City of Gretna*, 834 F.2d 496, 504 (5th Cir. 1987) [hereinafter *Gretna*]; *see also Gingles*, 478 U.S. at 80–82 (relying exclusively on biracial legislative contests to determine whether a legislative redistricting plan diluted the Black vote).

97. Dr. Handley evaluated the voting patterns of 16 elections within each of her seven areas of interest. Pls.’ Ex. 3, Appendix A-1 to Handley Report [hereinafter PX 3]; Pls.’ Ex. 4, Appendix A-2 to Handley Report [hereinafter PX 4]; Pls.’ Ex. 5, Appendix A-3 to Handley Report [hereinafter PX 5]; Pls.’ Ex. 6, Appendix A-4 to Handley Report [hereinafter PX 6]; Pls.’ Ex. 7, Appendix A-5 to Handley Report [hereinafter PX 7]; Pls.’ Ex. 8, Appendix A-6 to Handley Report [hereinafter PX 8]; Pls.’ Ex. 9, Appendix A-7 [hereinafter PX 9].

98. In these elections for all seven areas, Dr. Handley found that voting was very polarized by race, PX 1 at 9–12, meaning that, in each of the seven areas, Black voters were very cohesive in supporting their preferred candidates and white voters were cohesively bloc voting against Black-preferred candidates. *Id.*

99. In every election that Dr. Handley analyzed, Black voters were “very cohesive” in supporting their preferred candidates in each of the seven areas evaluated. *Id.* Indeed, racial polarization was stark, with the vast majority of Black voters supporting one candidate and the vast majority of white voters supporting the other candidate. *Id.* Black-preferred candidates received an average of 82.7% of the Black vote in statewide elections in these areas and only an average of 12.2% of the white vote. PX 1 at 10. When limited to only two-candidate contests, Black-preferred candidates received an average 93.2% of the Black vote in statewide races in these areas and an average of 15.6% of the white vote. *Id.*

100. In Area 1, the percentage of support from Black voters for the Black-preferred candidate ranges from 97.4% to 44.8%, with the support being over 50% in all the elections analyzed but one, and over 60% in all elections analyzed but three. *See* PX 3.

101. In Area 2, the percentage of support from Black voters for the Black-preferred candidate ranges from 97.3% to 50.4%, with the support being over 50% in all the elections analyzed and over 60% in all elections analyzed but two. *See* PX 4.

102. In Area 3, the percentage of support from Black voters for the Black-preferred candidate ranges from 96.2 % to 35.2%, with the support being over 50% in all but two of the elections analyzed and over 60% in all elections analyzed but three. *See* PX 5.

103. In Area 4, the percentage of support from Black voters for the Black-preferred candidate ranges from 97.2 % to 36.7%, with the support being over 50% in all but two of the elections analyzed and over 60% in all elections analyzed but three. *See* PX 6.

104. In Area 5, the percentage of support from Black voters for the Black-preferred candidate ranges from 96.5 % to 50.7%, with the support being over 50% in all but three of the elections analyzed and over 60% in all elections analyzed the remaining elections analyzed. *See* PX 7.

105. In Area 6, the percentage of support from Black voters for the Black-preferred candidate ranges from 97.5 % to 44.9%, with the support being over 50% in all but one of the elections analyzed and over 60% in all elections analyzed but three. *See* PX 8.

106. In Area 7, the percentage of support from Black voters for the Black-preferred candidate ranges from 97.4% to 36.8%, with the support being over 50% in all but one of the elections analyzed and over 60% in all elections analyzed but two. *See* PX 9.

107. In every election that Dr. Handley analyzed within each of the seven areas of interests, white voters consistently bloc voted to defeat the candidates supported by Black voters. PX 1 at 9. Dr. Handley found that, in these elections within these seven areas of interest, due to white bloc voting, candidates preferred by Black voters were consistently unable to win elections and will likely continue to be unable to win elections outside of majority-Black districts. PX 1 at 33. Dr. Handley found that white voters voted as a bloc against Black-preferred candidates in all the 16 elections in the areas that she analyzed. PX 1 at 9.

108. The average white voter support for the Black-preferred candidate was only 12.6% in all 16 elections Dr. Handley analyzed, and it only rose to 15.6% when looking only at the two candidate contests within the 16 elections. PX 1 at 10.

109. In Area 1, the percentage of support from white voters for the Black-preferred candidate ranged from 22.6% to 3%. *See* PX 3.

110. In Area 2, the percentage of support from white voters for the Black-preferred candidate ranges from 22% to 4.9%. *See* PX 4.

111. In Area 3, the percentage of support from white voters for the Black-preferred candidate ranges from 24.8 % to 3.5%. *See* PX 5.

112. In Area 4, the percentage of support from white voters for the Black-preferred candidate ranges from 15.4% to 3.2%. *See* PX 6.

113. In Area 5, the percentage of support from white voters for the Black-preferred candidate ranges from 19.8% to 2.5%. *See* PX 7.

114. In Area 6, the percentage of support from white voters for the Black-preferred candidate ranges from 15.5% to 2.9%. *See* PX 8.

115. In Area 7, the percentage of support from white voters for the Black-preferred candidate ranges from 25.4% to 4.7%. *See* PX 9.

116. Due to the low level of white support for Black-preferred candidates, Dr. Handley found that blocs of white voters in the areas of interest were able to consistently defeat Black-preferred candidates. PX 1 at 11.

117. Dr. Handley also analyzed endogenous state legislative elections in these seven areas of interest and found starkly racially polarized voting. PX 1 at 11. Ten of the 11 state senate elections she evaluated were racially polarized. *Id.* All of the ten state house elections she analyzed were racially polarized. *Id.*

118. Dr. Handley concluded that the starkly racially polarized voting in the areas that she analyzed “substantially impedes” the ability of Black voters to elect candidates of their choice to the Louisiana State Legislature in these areas unless districts are drawn to provide Black voters with this opportunity. PX 1 at 33.

119. Dr. Handley also evaluated whether Black voters had the opportunity to elect candidates of their choice under the illustrative districts drawn by Mr. Cooper as compared to the districts in the enacted House and Senate plans. PX 1 at 12–13. She looked individually at the

performance of illustrative and enacted districts in overlapping geographic areas in and around the new Black-majority districts in the illustrative plans. *Id.* at 12–16.

120. Dr. Handley evaluated three “clusters” of State Senate districts and five “clusters” of State House districts for her analysis. PX 1 at 14–15. State Senate Cluster 1 contains three districts in Bossier and Caddo Parishes; State Senate Cluster 2 contains four districts in Jefferson and St. Charles Parishes; and State Senate Cluster 3 contains four districts in East Baton Rouge, West Baton Rouge, Iberville, and Point Coupee Parishes. *Id.* at 14. State House Cluster 1 contains several districts in De Soto, Natchitoches, and Red River Parishes; State House Cluster 2 contains 5 districts from Calcasieu Parish; State House Cluster 3 contains eight districts from Bossier and Caddo Parishes; State House Cluster 4 contains three districts from Ascension and Iberville Parishes; and State House Cluster contains ten districts from East Baton Rouge and East Feliciana Parishes. *Id.* at 15.

121. Dr. Handley considered the district’s demographic composition (*i.e.*, its BVAP) and used recompiled election results with official data from 2015-2022 statewide election contests to determine whether Black voters have an opportunity to elect their candidates of choice in the newly proposed districts in both the illustrative plans and the enacted House and Senate plans. PX 1 at 15.

122. Recompiled elections analysis has been accepted by courts for the purpose of evaluating Black voters’ opportunity to elect their chosen candidates under a districting plan. *See, e.g., Robinson*, 605 F. Supp. 3d at 803.

123. Dr. Handley calculated two effectiveness scores. The first score (All-Elections Effectiveness Score) indicates the percentage of election contests (out of the total 16 statewide contests) that the Black-preferred candidate would have won or advanced to a runoff in the district. PX 1 at 12. The second score (Two-Candidate Effectiveness Score) reports the percentage of two-candidate elections (out of the eight two-candidate contests) that the Black-preferred candidate would have won in the district. *Id.*

124. Based on her analysis, Dr. Handley concluded that in each of the eight clusters, the only districts that provided Black voters with an opportunity to elect their chosen candidates were districts that were at least 50 percent Black in voting age population. PX 1 at 16.

125. Dr. Handley found that Black voters would have a greater opportunity to elect their candidates of choice in Plaintiffs' illustrative districts than the enacted districts in each cluster, with each of those areas offering at least one additional opportunity district. PX 1 at 16–33.

126. State Senate Cluster 1 has three districts. PX 1 at 16. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the two Black-majority districts in the illustrative Senate plan in this area—Illustrative SD 38 and 39—had Effectiveness Scores well above 50%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 16–17. By contrast, Enacted SD 38 does not provide an opportunity to elect Black voters, with an All-Elections Effectiveness Score of only 18.8% and a Two-Candidate Effectiveness Score of 0%. PX 1 at 17.

127. In Senate Cluster 1, therefore, the illustrative Senate plan has two effective Black-majority districts, Illustrative SD 38 and 39; while the enacted Senate plan has only one effective Black-majority district, Enacted SD 39. PX 1 at 16.

128. State Senate Cluster 2 has four districts. PX 1 at 19. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the one Black-majority district in the illustrative Senate plan in this area—Illustrative SD 19—had Effectiveness Scores well above 50%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 19. By contrast, Enacted SD 8, 9, 10, and 19 do not provide an opportunity to elect for Black voters, all with an All-Elections Effectiveness Score under 20% and a Two-Candidate Effectiveness Score of 0%. PX 1 at 19.

129. In Senate Cluster 2, therefore, the illustrative Senate plan has one effective Black-

majority district, Illustrative SD 19; while the enacted Senate plan does not have any effective Black-majority district. PX 1 at 16.

130. State Senate Cluster 3 has four districts. PX 1 at 21. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the three Black-majority districts in the illustrative Senate plan in this area—Illustrative SD 14, 15, and 17—had Effectiveness Scores well above 50%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 21. By contrast, Enacted SD 6 and 16 do not provide an opportunity to elect Black voters, each having an All-Elections Effectiveness Score under 20% and a Two-Candidate Effectiveness Score of 0%. PX 1 at 21.

131. In Senate Cluster 3, therefore, the illustrative Senate plan has three effective Black-majority districts, Illustrative SD 14, 15, and 17; while the enacted Senate plan has only two effective Black-majority districts, Enacted SD 14 and 15. PX 1 at 21.

132. State House Cluster 1 has three districts. PX 1 at 23. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the one Black-majority district in the illustrative House plan in this area—Illustrative HD 23—had an Effectiveness Score well above 50%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 23.

133. In House Cluster 1, therefore, the illustrative House plan has one effective Black-majority district, Illustrative HD 23; while the enacted House plan does not have any effective Black-majority districts. PX 1 at 23.

134. State House Cluster 2 has five districts. PX 1 at 25. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the two Black-majority districts in the illustrative House plan in this area—Illustrative HD 34 and 38—had All-Elections Effectiveness Scores of 100%, and thus would provide Black

voters with an opportunity to elect their candidates of choice. PX 1 at 25. By contrast, Enacted HD 33, 35, and 36 do not provide an opportunity to elect for Black voters, each having an All-Elections Effectiveness Score and a Two-Candidate Effectiveness Score of 0%. PX 1 at 25.

135. In House Cluster 3, therefore, the illustrative Senate plan has two effective Black-majority districts, Illustrative HD 34 and 38; while the enacted Senate plan has one only effective Black-majority district, Enacted HD 34. PX 1 at 23.

136. State House Cluster 3 has eight districts. PX 1 at 27. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the four Black-majority districts in the illustrative House plan in this area—Illustrative HD 1, 2, 3, and 4—had Effectiveness Scores well above 50%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 27. By contrast, Enacted HD 1, 5, 6, 8, and 9 do not provide an opportunity to elect for Black voters, each having an All-Elections Effectiveness Score under 20% and a Two-Candidate Effectiveness Score of 0%. PX 1 at 27.

137. In House Cluster 3, therefore, the illustrative House plan has four effective Black-majority districts, Illustrative HD 1, 2, 3, and 4; while the enacted House plan has only three effective Black-majority districts, Enacted HD 2, 3, and 4. PX 1 at 29.

138. State House Cluster 4 has three districts. PX 1 at 29. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the one Black-majority district in the illustrative House plan in this area—Illustrative HD 60—had an Effectiveness Score of 100%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 29. By contrast, Enacted HD 59, 60, and 88 do not provide an opportunity to elect for Black voters. Enacted HD 59 and 88 have an All-Elections Effectiveness Score of 6.3% and a Two-Candidate Effectiveness Score of 0%. PX 1 at 29. Enacted HD 60 has an All-Elections Effectiveness Score of 43.8% and a Two-Candidate Effectiveness Score

of 25%. *Id.*

139. In House Cluster 4, therefore, the illustrative House plan has one effective Black-majority district, Illustrative HD 60; while the enacted House plan does not have any effective Black-majority districts. PX 1 at 29.

140. State House Cluster 5 has ten districts. PX 1 at 31. Taking into account the recompiled election results, the two effectiveness scores, and the district BVAP, Dr. Handley concluded that the seven Black-majority districts in the illustrative House plan in this area—Illustrative HD 61, 63, 65, 67, 68, 69, and 101—had Effectiveness Scores well above 50%, and thus would provide Black voters with an opportunity to elect their candidates of choice. PX 1 at 31. By contrast, Enacted HD 65, 66, 68, 69, and 70 do not provide an opportunity to elect for Black voters, each having an All-Elections Effectiveness Score under 20% and a Two-Candidate Effectiveness Score under 12.5%. PX 1 at 31.

141. In House Cluster 5, therefore, the illustrative House plan has seven effective Black-majority districts, Illustrative HD 61, 63, 65, 67, 68, 69, and 101; while the enacted House plan has only five effective Black-majority districts, Enacted HD 61, 62, 63, 67, and 101. PX 1 at 31.

142. No “districts with less than 50% BVAP” in any of the areas of interest provided an effective opportunity for Black voters to elect their candidate of choice. PX 1 at 16.

143. A database necessary to conduct the EI analysis was created at Dr. Handley’s direction. The Court finds that the database Dr. Handley created to conduct her EI and other analyses was reliable and properly constructed.

144. The methodology that Dr. Handley implemented to allocate the absentee and early votes within the database is peer reviewed and used by other well-known experts in the field. *See* Voting and Election Science Team, “Documentation.txt,” *Harvard Dataverse*, <https://dataverse.harvard.edu/file.xhtml?fileId=5206372&version=21.0> (last accessed Nov. 9, 2023); “2020 Louisiana precinct and election results shapefile,” *Redistricting Data Hub*,

https://redistrictingdatahub.org/wp-content/uploads/2021/06/readme_la_vest_20.txt (last accessed Nov. 9, 2023).

145. To explain why this allocation method does not bias the estimates provided by her EI analysis, Dr. Handley performed two additional analyses. *See* Pls.' Ex. 16, Handley Suppl. Rebuttal Report (Sept. 29, 2023) [hereinafter PX 16]. First, Dr. Handley reviewed the political parties of early and absentee votes to determine if there are any consistent differences in the percentages of Democrats and Republicans who vote early or absentee. Dr. Handley found that in the elections she examined, the percentage of Republican and Democratic voters who cast early and absentee votes was very similar, with the exception of the 2020 elections. *See* PX 16 at 3. Second, Dr. Handley conducted a racial bloc voting analysis of early and Election Day voters separately to determine if the degree of racial polarization varied between early voters and Election Day voters. She found that the voting patterns were very similar, and that voting was quite polarized for both early voters and Election Day voters. *See id.* This additional analysis supports Dr. Handley's original opinion that there is no bias caused by her allocation method that would create any uncertainty in the results of her EI analysis.

146. The Court finds that the slight over and underestimate of votes per precinct resulting from Dr. Handley's allocation method is statistically insignificant and thus does not render her conclusions unreliable.

B. Dr. Marvin King's EI Analysis

147. Plaintiffs also elicited expert testimony from Dr. Marvin King. Dr. King is an expert in political science. Dr. King earned his doctorate in political science from the University of North Texas in 2005. Pls.' Ex. 134, King CV [hereinafter PX 134]. Since then, Dr. King has served as an Associate Professor in Political Science and African American Studies at the University of Mississippi, and has published a number of academic articles focusing on the interplay between race

and voting. *See id.*

148. Dr. King provided further evidence of racially polarized voting per the *Gingles* preconditions II and III—showing that Black voters vote cohesively, and white voters vote in a bloc to defeat Black candidates of choice.

149. Dr. King performed an EI analysis of Louisiana’s election for U.S. Senate in 2022—where two Democrats, one Black (Gary Chambers) and one white (Luke Mixon), ran for office. To show the difference in the support for these candidates from Democratic voters by race, Dr. King conducted an EI analysis of voting patterns of registered Democratic voters in this election. Pls.’ Ex. 133, King Rebuttal Report, at 3–6 [hereinafter PX 133]. Dr. King analyzed the voting patterns of Democratic voters in this election in the 14 parishes that overlap with the areas of interest in this case. PX 133 at 4–5.

150. Dr. King’s analysis showed that support from Black Democrats in these 14 parishes for Gary Chambers, the Black candidate, ranged from 82.67% to 51.92%, while support from Black Democrats for Luke Mixon was considerably lower, at a range of 57.83% to 31.305%. PX 133 at 4–5. The voting patterns of white voters were markedly different: support from white Democrats in these 14 parishes for Luke Mixon ranged from 61.65% to 42.06%, while support from white Democrats for Gary Chambers was considerably lower at 48.97% to 17.77%. *Id.*

IV. Totality of Circumstances

151. In addition to the *Gingles* preconditions, Plaintiffs offered evidence to establish the factors identified in the Senate Report accompanying the 1982 amendments to Section 2 of the Voting Rights Act (*i.e.*, “Senate Factors”) to assess an alleged Section 2 violation. The Senate Factors include: (1) the history of voting discrimination in the state or political subdivision; (2) the extent of RPV; (3) voting practices or procedures that may enhance the opportunity for discrimination against minority groups; (4) access to candidate slating; (5) discrimination in education, employment, health,

and other areas of life that hinder participation in the political process; (6) racial campaign appeals; (7) minority electoral success in the jurisdiction; (8) the responsiveness of elected officials; and (9) the tenuousness of the justification for the voting practice. *Gingles*, 478 U.S. at 36–37, 44–45.

A. Senate Factor 1: History of Voting Discrimination in Louisiana

152. The first Senate Factor accounts for “the history of voting-related discrimination in the State or political subdivision.” *Gingles*, 478 U.S. at 44.

153. Plaintiffs’ expert, Dr. Blake Gilpin, provided extensive evidence concerning the history of racial discrimination in Louisiana and how it undermined the right of Black voters to participate in the democratic process. *See generally* Pls.’ Ex. 124, Gilpin Report [hereinafter PX 124].

154. Dr. Gilpin is qualified to serve as an expert historian. Dr. Gilpin is an associate professor of history at Tulane University. *Id.* at 1. He has a Ph.D and M.Phil in History from Yale University. Pls.’ Ex. 125, Gilpin CV [hereinafter PX 125], at 1. He has written and lectured extensively on southern history with a particular emphasis on race relations, including the legacies of slavery and the Civil War in southern history. PX 124 at 1; PX 125.

155. Dr. Gilpin has been qualified by this Court as an expert in southern history in the voting rights case involving redistricting of Louisiana’s congressional districts. *See Robinson v. Ardoin*, 605 F. Supp. 3d 759, 811–12 (M.D. La. 2022).

156. Dr. Gilpin drew upon sources standard in historical and social scientific analysis, including, but not limited to: scholarly books, articles, and reports; newspaper and other articles; demographic information; election information; court opinions; government documents; letters; and scientific surveys. *See generally* PX 124.

157. Dr. Gilpin concluded that Louisiana has a long and extensive history of racial discrimination continuing up to the present day that has touched upon the right of Black voters to

register, vote, or otherwise participate in the political process. *Id.* at 1–51.

158. Prior to passage of the Voting Rights Act of 1965, there was a significant racial disparity in voter registration in Louisiana. PX 124 at 24–29. In 1898, 45% of Louisiana’s Black population was registered to vote, and approximately 44% of all registered voters in the state were Black. *Id.* at 24. Two years later—as a direct result of Louisiana’s legal efforts to disenfranchise Black voters—only 4% of Louisiana’s Black population was registered to vote. *Id.* That dramatic decrease in Black voter registration rates began with the implementation of the grandfather clause in 1898, and continued with the implementation of poll taxes, literacy tests, citizenship tests, registration purges and even unusual means like “understanding” clauses or requiring potential voters to count the number of jellybeans in a jar to prevent Black citizens from registering to vote. *Id.* at 24–25. By 1910, less than 1% of Louisiana’s Black voting-age population registered to vote, and the Black voter registration rate remained lower than 1% until 1948—when, after concerted political and legal efforts, 5% of Louisiana’s Black population was able to register. *Id.* at 25.

159. Louisiana also limited the ability of Black voters to vote on their candidate of choice by implementing all-white primaries that effectively excluded Black people in Louisiana from the political process between their creation in 1923 and the Supreme Court’s condemnation of the practice in 1944. *Id.* at 25. Louisiana also banned single-shot voting, which was a primary practice that allowed Black voters to aggregate votes behind one candidate. *Id.*

160. Between 1896 and 1965, Louisiana’s record followed a standard pattern: even as the Supreme Court condemned one disenfranchising practice after another, Louisiana consistently found new ways to develop techniques and devices to maintain white supremacy in the political process. PX 124 at 26; *see also id.* at 25–29.

161. After the passage of the Voting Rights Act in 1965, the discrimination did not cease but became more visible through the preclearance requirement and citizens’ ability to challenge

discriminatory practices in court. PX 124 at 29–30. From 1965 to 1999, the U.S. Attorney General issued 66 objection letters to more than 200 voting changes. *Id.* at 30. The majority of the objections involved white Louisianans redrawing political districts to dilute the strength of Black votes as well as at-large voting systems and elimination of polling places. *Id.*

162. Louisiana has continued this trend into the present. PX 124 at 41, 44–51. One example is the elimination of polling places. After 2013, two-thirds of all parishes in Louisiana closed polling places, numbering 126 in total. *Id.* at 34, 45. Winn Parish, for example, which is 31 percent Black, shuttered almost a quarter of its polling places. *Id.* at 45. As of December 2017, Louisiana had only 2,068 polling locations serving 3,904 precincts, despite the law requiring that every precinct have a polling place. *Id.* The Louisiana Parish Board of Supervisors eliminated 103 polling places between 2012 and 2018, requiring greater travel that overwhelmingly impacts Black voters. *Id.* Hence, by 2018, the number of polling locations per 1,000 registered voters in a census tract was negatively related to the number of Black residents in that census tract. *Id.* at 46.

163. Multiple federal courts have taken judicial notice of the history of racial discrimination affecting voting in Louisiana. *See infra*, Conclusions of Law § V.A (collecting cases).

B. Senate Factor 2: Racially Polarized Voting

164. The second Senate Factor measures “the extent to which voting in the elections of the state or political subdivision is racially polarized.” *Gingles*, 478 U.S. at 37.

165. As set forth above, Louisiana elections are characterized by stark patterns of RPV. *See supra*, Findings of Fact § III.A. Across the sixteen elections that Dr. Handley analyzed, Black voters in the areas of interest are politically cohesive—Black-preferred candidates received an average of 82.7% of the Black vote in statewide elections in these areas. PX 1 at 10. And with only an average of 12.2% of the white vote supporting the Black-preferred candidates, white voters are voting as a bloc to usually defeat the Black-preferred candidates. *Id.*

166. Plaintiffs offered several expert witnesses who opined on whether the stark racial voting patterns were explainable by factors other than race—specifically, party affiliation and partisanship.

167. Plaintiffs’ expert Dr. Traci Burch provides evidence addressing the historical realignment of the Republican and Democratic Parties was “the result of movement of African American constituents toward the Democratic Party as a result of the New Deal,” and pressure that Black voters then put on Democrats at the local and state levels to “liberalize on issues of civil rights.” Pls.’ Ex. 128, Burch Suppl. Report at 1 [hereinafter PX 128]. These trends of racial identities and attitudes driving party affiliation have continued into more recent decades: Dr. Burch’s findings indicate that racial attitudes, more than ideological shifts or other policy preferences, explained an increasingly large part of candidate choice and partisanship among white voters between 1972 and 2000, and that since 2008, racial threat and racial anxiety have become even more salient to white voters’ party affiliation and candidate choice. *Id.* at 1–4.

168. This historical and social science context regarding the increasing contribution of racial identities and attitudes to party identification helps explain and support the persistent existence of RPV in Louisiana, and led Dr. Burch to conclude that “race and racial attitudes drive party cohesion and vote choice,” and that over the past two decades “racial attitudes are becoming *more* salient to partisanship and vote choice.” PX 128 at 4–6.

169. Dr. Burch notes that Black voters consistently identify strongly with the Democratic Party in ways that cannot be explained by socioeconomic status, policy preferences, or ideology. Cohesive Democratic support is caused instead by the “sense of racial linked fate, or the degree to which a Black person believes that their fate is tied to the fate of the race, and in the social pressure to conform to group ideas of Black uplift.” PX 128 at 5. Attributing polarization of voting in Louisiana to party cohesion instead of race is flawed because it “ignores the rather strong evidence

in the literature that race and racial attitudes increasingly drive partisanship and vote choice.” *Id.* at 6.

170. Dr. Handley conducted additional EI analysis of four recent Louisiana elections, and established that white Democrats have strongly and consistently supported white Democratic candidates at much higher levels than Black Democratic candidates. Pls.’ Ex. 15, Table 3 of Handley Rebuttal (Aug. 11, 2023) [hereinafter PX 15]. In the runoff elections in November 2015 John Bel Edwards, a white Democrat, ran in the gubernatorial race against a white Republican (David Vitter) and Kip Holden, a Black Democrat, ran for lieutenant governor against a white Republican (Billy Nungesser). *Id.* In all seven areas of the state Dr. Handley analyzed, white voters registered as Democrats supported John Bel Edwards at significantly higher rate than they supported Kip Holden. *Id.* John Bel Edwards’s support from white registered Democrats ranges from 73.9% to 48.6%, while Kip Holden’s support only ranged from 60.4% to 5%. *Id.* John Bel Edwards was the winner of the November 2015 runoff election, while Kip Holden did not prevail. *Id.* Additionally, in November 2019, John Bel Edwards ran for re-election in the gubernatorial race against Eddie Rispone, a white Republican, and Gwen Collins-Greenup, a Black Democrat, ran for Secretary of State against Kyle Ardoin, a white Republican. *Id.* In all seven areas of the state, white voters registered as Democrats again supported John Bel Edwards at significantly higher rate than they supported Gwen Collins-Greenup, the Black candidate. *Id.* John Bel Edwards’s support from white registered Democrats ranged from 67.5% to 39.8 %, while support for Gwen Collins-Greenup only ranges from 39.8% to 12.4%. *Id.*

171. In support of his findings that the voting in Louisiana is racially polarized, and specifically that voting in Louisiana is racially polarized even among co-partisans, Dr. King explained “racial resentment.” PX 133 at 9–11. Racial resentment blends anti-Black feelings with traditional moral values, and individuals express racial resentment through their votes and their

support (or disapproval) of public policies. *Id.* Based on Gallup’s measures of racial resentment from 2004 to 2016, Dr. King found that there is “some racial resentment” among most white Americans, and even more “racial resentment” among white republicans. *Id.* Dr. King also noted that time does not impact or lessen racial resentment among white Republicans, as Republicans were *constant* in their racial resentment over the twelve-year period examined. *Id.* at 9–10.

172. Dr. King identified electoral consequences of racial resentment, namely that white voters discriminate against Black candidates. *Id.* Dr. King cited political science research indicating that racial resentment cost President Barack Obama the equivalent of an *additional state* in the electoral college. *Id.* Moreover, Dr. King proffered that anti-Black prejudice is the strongest explanatory variable of policy divergence on racial issues, and that anti-Black political opinions contributed to vote opposition against President Obama in the 2008 election for U.S. President. *Id.* Similarly, Dr. King cited research indicating that racial resentment can increase *nonvoting* in primary elections where a Black candidate is on the ballot, even where those voters are of the same political party as the Black candidate. *Id.* at 10–11. Dr. King concluded that the bias white voters exhibit towards nonvoting in primary elections—rooted in racial resentment—underscores his conclusion that Black candidates not running in opportunity districts or majority-minority districts are unlikely to win. *Id.* Accordingly, Dr. King observed that “[w]hat matters most is the creation of opportunity districts,” as there is no evidence that white Louisianans will support the Black-preferred candidate, even if the white Louisianans are of the same political party as that candidate. *Id.* at 11.

C. Senate Factor 3: Voting Practices or Procedures that Tend to Enhance the Opportunity for Discrimination Against Minority Voters

173. The third Senate Factor measures “the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group.” *Gingles*, 478 U.S. at 37.

174. In contrast to other states, Louisiana maintains a majority vote requirement system for its elections, including state legislative races. *Harvell v. Blytheville Sch. Dist. No. 5*, 71 F.3d 1382, 1390–91 (8th Cir. 1995).

175. Other structural features of Louisiana’s legislative elections, including the odd-year and off-cycle election timing, also foster voter confusion and campaign disinvestment that tend to enhance disparities in voting access. *Id.*

D. Senate Factor 4: Candidate Slating Processes

176. The fourth Senate Factor is whether “there is a candidate slating process,” and if so, “whether the members of the minority group have been denied access to that process.” *Gingles*, 478 U.S. at 37.

177. There is no slating process involved in Louisiana state legislative elections, so this factor is not relevant to this case.

E. Senate Factor 5: Discrimination in Areas of Life that Hinder Political Participation

178. The fifth Senate Factor measures “the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process.” *Gingles*, 478 U.S. at 37.

179. Plaintiffs’ expert Dr. Traci Burch offered testimony on Senate Factor 5, as well as Factors 6, 7, 8, and 9.

180. In preparing her reports, Dr. Burch relied on sources and methodologies that are consistent with her work as a political scientist. Pls.’ Ex. 126, Burch Initial Report at 3 [hereinafter PX 126]; *see also* PX 128.

181. Dr. Traci Burch has been an associate professor of political science at Northwestern University and a research professor at the American Bar Foundation since 2007. PX 127 at 1. Prior

to that, Dr. Burch received her Ph.D. in government and social policy from Harvard University, and her undergraduate degree in politics from Princeton University. *Id.*

182. Dr. Burch has published numerous peer-reviewed publications and a book on political participation, and she teaches several courses related to voting and political participation. *Id.* at 1–3.

183. Dr. Burch has received several prizes and awards, including national prizes, for her book and her dissertation. She has also served as a peer reviewer for flagship scholarly journals in her field of political science. *Id.* at 3–4.

184. Dr. Burch’s research and writing involves conducting data analysis on voter registration files and voter turnout data as well as other primary and secondary sources. She is widely regarded as an expert on political behavior, barriers to voting, and political participation. *See generally id.*; *see also* PX 126 at 1–2.

185. Dr. Burch has previously served as an expert witness in at least seven other cases, including voting rights cases where she offered expert testimony relating to certain Senate Factors. PX 126 at 2. Dr. Burch was qualified to serve as an expert in all of the cases in which she has testified in court, including before this Court. *Id.*

186. The Court credits Dr. Burch’s findings that, as a result of Louisiana’s long history of discriminating against Black residents in nearly every aspect of daily life, the Black community in Louisiana suffers socioeconomic disparities that impair their ability to participate in the political process. PX 126 at 4–12. Specifically, Black Louisianans suffer disparities in socioeconomic status in the areas of education, employment, health, housing, and criminal law enforcement, among others. *Id.*

187. Louisiana operated a system of separate and unequal public education for white and Black students until well into the 1970s, long after the Supreme Court’s seminal decision in *Brown v. Board of Ed. of Topeka*, 347 U.S. 483 (1954). PX 126 at 5. Indeed, as of May 1961, the Southern

Educational Reporting Service found that only .0004% of Louisiana's Black students attended school with white students. *Id.* Even as late as 1968, at least 11 of 64 parishes in Louisiana remained completely segregated, and the average Black student attended schools that were approximately 8% white. *Id.*

188. Louisiana's delayed desegregation of their public schools was due to resistance from Louisiana's state and local governments, which maintained policies of consistent resistance. *Id.* Despite federal court orders requiring desegregation issued in 1956, the Louisiana legislature adopted several laws in special sessions that were designed to maintain segregated schools. *Id.* Specifically, the Louisiana legislature "promptly enacted 25 measures designed to halt, or at least forestall, the implementation of the Orleans Parish School Board's announced proposal to admit five Negro girls of first grade age to formerly all-white schools." *Id.* (quoting *Bush v. Orleans Par. Sch. Dist.* (1960)). Later, the Louisiana legislature attempted to abolish the Orleans Parish School Board and passed Act 555, which required separate schools for Black and white children. Only following federal intervention did the first seven Black students integrate New Orleans public schools in November 1961; the story of one of those children, Ruby Bridges, remains well-known and inspired the Norman Rockwell painting, *The Problem We All Live With*. *Id.*

189. Even following these efforts at integration, Louisiana continued to support segregation. Following more intervention from federal courts, Louisiana was forced to stop its practices of providing "substantial state assistance to racially segregated private schools" like "furnishing school textbooks, school supplies and educational materials, library books, and by providing school bus transportation to students attending private, racially segregated schools which serve as a haven to those leaving racially integrated public schools." PX 126 at 6 (quoting *Brumfield v. Dodd*, 405 F. Supp. 338, 348 (E.D. La. 1975)).

190. Louisiana's history of *de facto* and *de jure* segregation in education affects

socioeconomic and political equality today. Educational segregation continues to affect the lives of Black Louisianans. Approximately 41.6% of current Louisiana voters were educated while Louisiana's state and local governments still funded segregated and unequal schools by law. *Id.* And data shows that Black students who grew up under conditions of segregation were less academically prepared for college and had been exposed to more violence and social disorder than those coming from "majority-dominant settings." *Id.* at 7.

191. Black students continue to grow up under conditions of educational segregation, and racial gaps persist along various metrics, including racial gaps in reading proficiency, math proficiency, and attainment of bachelor's degrees and postgraduate degrees. White and Asian Louisiana adults are far more likely than Black and Latino Louisiana adults to have earned a bachelor's or postgraduate degree. PX 126 at 6–7. And Black eighth graders score on average 30 points lower in Math and 26 points lower in Reading than white eighth graders in Louisiana. *Id.* at 8.

192. These educational disparities affect political participation, with the highest voter turnout occurring among people with the most education. PX 126 at 6.

193. In addition to educational disparities, Black Louisianans face racial discrimination in employment, with Black Louisianans nearly twice as likely to be unemployed as white Louisianans. PX 126 at 9. Indeed, audit studies have consistently found that employers discriminate against racial minorities in hiring, and approximately 8,698 charges of race- or color-based employment discrimination were filed with the EEOC in Louisiana between 2011 and 2021. *Id.* at 9–10.

194. Black Louisianans also tend to fare worse in terms of financial resources compared to white Louisianans. The median income for Black Louisianan households is approximately \$29,000 less than that of white Louisianan households, and Black Louisianans experience poverty rates nearly three times those of white Louisianans. PX 126 at 10.

195. Voters with greater resources, including financial resources, are more likely to vote,

and Black Louisianans are at a disadvantage relative to white Louisianans along many of the socioeconomic indicators that have been shown to affect voting. PX 126 at 10. Indeed, education, employment, and other elements of socioeconomic status are leading predictors of voting. *Id.* at 12.

196. Racial residential segregation is a persistent feature of several cities and metropolitan areas in Louisiana, including New Orleans-Metairie-Kenner, Baton Rouge, Shreveport-Bossier City, and Lake Charles, among others, and reflects Louisiana's long history of racial discrimination in housing and lending. PX 126 at 12–13, 16.

197. Racial residential segregation matters in the context of voting because, in Louisiana, segregated Black areas have less access to public goods such as polling places or transportation that matter for voting. PX 126 at 12.

198. Racial residential segregation also affects health outcomes. PX 126 at 12. Black Louisianans fare worse than white Louisianans in terms of the mortality rates for invasive cancers, cardiovascular disease, and diabetes. *Id.* at 16. Similarly, disease prevalence rates vary between Black and white Louisianans, with more Black Louisianans diagnosed with diabetes and obesity. *Id.* Black Louisianans also have lower overall life expectancies than white Louisianans, with Black men living seven years less than white men in Louisiana and Black women living five years less than white women in Louisiana. *Id.* at 16–17. Infant and child mortality rates among Black children are about twice as high as those for white children in Louisiana. *Id.* at 17.

199. Black Louisianans also have less access to care than white Louisianans. Black Louisianans are more likely than white Louisianans to say that there was a time in the past 12 months that they needed to see a doctor but could not do so because of cost. PX 126 at 18. And white Louisianans are more likely to have health insurance than Black Louisianans. *Id.* at 17–18. Other studies show that discrimination is itself associated with poor health as residential racial segregation may make it more difficult for Black people to access primary care physicians and other doctors. *Id.*

at 18.

200. Environmental factors also contribute to health disparities between Black and white Louisianans. For example, Black mortality rates during Hurricane Katrina were significantly higher in Orleans Parish across all age group categories 30 years and older. PX 126 at 18. And the construction of chemical plants and other hazards near heavily Black residential areas exposes Black Louisianans to higher levels of air pollution and other dangers. *Id.* at 19. Indeed, an area of Louisiana that stretches between New Orleans and Baton Rouge and includes mostly Black land areas is locally referred to as “Cancer Alley,” and studies have linked high levels of air pollution in the area to increased risks of cancer, COVID-19, and asthma. *Id.* at 18–19.

201. These health conditions affect the ability of Black Louisianans to overcome the costs or physical obstacles of voting. PX 126 at 19.

202. Black Louisianans also disproportionately bear the brunt of the consequences of the state’s criminal justice system. PX 126 at 19. This disparity is a result of discrimination in policing, sentencing, and other stages of the justice system. *Id.*

203. Increased contact with the criminal justice system decreases voter turnout through demoralizing effects on the Black community and voter mobilization efforts. PX 126 at 19.

204. The disproportionate impact of Louisiana’s criminal justice system on Black Louisianans has roots in the Reconstruction era, when the Louisiana legislature enacted “Black Codes” to control and target newly freed slaves. PX 126 at 19.

205. Louisiana’s incarceration rate today is the highest in the country. PX 126 at 20. Black prisoners still constitute about two-thirds of Louisiana’s prisoners, and Black Louisianans are imprisoned at a rate double their presence in the population. *Id.* Black Louisianans are also disproportionately on probation and parole in Louisiana. *Id.*

206. Contact with the criminal justice system in Louisiana can also directly result in

disenfranchisement as Louisianans who are serving an active sentence in prison or who are on parole or probation for a felony conviction cannot vote. PX 126 at 21.

207. All of these disparities between Black and white Louisianans—with respect to income, employment, education, health, housing, and interactions with the criminal justice system—lead to differences in voter turnout between Black and white Louisianans because they affect people’s ability to bear the costs of voting. PX 126 at 4–22.

208. All of these racial disparities in various areas of life are vestiges of Louisiana’s long history of discrimination against its Black residents, and these interfere with Black Louisianans’ ability to effectively participate in the political process today. PX 126 at 4.

209. Louisiana’s history of discrimination has not ceased. Contemporary discrimination contributes to these racial disparities between Black and white Louisianans. *See generally id. at 4–29.*

210. These disparities manifest in political participation. For example, there is a sizable turnout gap in Louisiana, with white voters more likely to vote than Black voters. PX 126 at 3, 6. For example, in the 2020 general election, sixty four percent (64%) of white Louisianans said that they voted, compared with 58% of Black Louisianans. *Id.* at 6. These turnout gaps are consistent with gaps discussed in the political science literature from prior elections in Louisiana.

F. Senate Factor 6: Racial Appeals

211. The sixth Senate Factor assesses “whether political campaigns have been characterized by overt or subtle racial appeals.” *Gingles*, 478 U.S. at 37. Just as overt racial appeals, subtle racialized references can be employed to influence voters. *Id.* Elections in Louisiana have long been marked by both overt and subtle racial appeals. PX 126 at 22.

212. David Duke, a former Grand Wizard of the Ku Klux Klan, won a strong majority of Louisiana’s white vote in three recent statewide elections: a 1990 U.S. Senate race, a 1991

gubernatorial open primary, and a 1991 gubernatorial runoff. PX 126 at 23. Duke, the founder of the National Association for the Advancement of White People, ran on a platform that openly appealed to white racial fears. *Id.* at 23.

213. In the 2019 Gubernatorial race, Eddie Rispone, the Republican candidate, produced an ad that infused implicit racial appeals to mobilize white voters. Rispone's ad blames Governor John Bel Edwards for crimes committed by people after their early release from prison and, while the ad does not explicitly mention race, it discusses crime and sanctuary cities and begins with mugshots of Black men prominently displayed. PX 126 at 23. The imagery of the ad also contains the all-white, non-candidate images of Rispone with his constituents, which scholars mark as common in implicit racial appeals. *Id.*

214. In another ad placed in a prominent Louisiana newspaper, Rispone further embraced racial appears, relying again on the "charge of liberalism" and using code words like sanctuary city, illegal immigration, terrorist, gang, and radical leftists protesting. Dr. Burch described research showing that such code words prime racial resentment in white voters. PX 126 at 23.

215. Explicit racial appeals may target Black voters as well by using rhetoric designed to portray the chosen candidate or party of Black voters as racist or indifferent to Black concerns, which demobilizes Black voters. PX 126 at 24. For example, during the 2019 gubernatorial race, Rispone (the Republican candidate) and Edwards (the Democratic candidate) traded accusations that the other was racist. *Id.* And Edwards's supporters ran ads arguing that Rispone supported then-President Donald J. Trump and calling Trump a racist. *Id.* In response, Rispone and the Louisiana GOP said that Edwards was a racist taking part in the family tradition of taking advantage of Black people. According to Dr. Burch, ads such as these are designed to demobilize Black voters by portraying their chosen candidate or party as insensitive to Black voters' needs. *Id.*

216. Similarly, Republican state senator Conrad Appel argued in a Facebook post that

Black voters should not support Democrats because Democratic policies will lead to “racial replacement.” PX 126 at 24–25.

217. These are just a few examples of many political campaign ads that use racial appeals and represent a political environment in which racial appeals are pervasive. PX 126 at 22–27.

218. As these examples illustrate, racial appeals are far from a relic of the past. PX 126 at 22–27.

G. Senate Factor 7: Lack of Black Electoral Success

219. The seventh Senate Factor—which, along with Senate Factor 2, is among the most important—measures “the extent to which members of the minority group have been elected to public office in the jurisdiction.” *Gingles*, 478 U.S. at 37.

220. Plaintiffs’ evidence, including Dr. Burch’s expert report, demonstrates that Black Louisianians are underrepresented in statewide elected offices and rarely succeed in local elections outside of majority-Black districts.

221. In its entire history as a state, Louisiana has never elected a Black person to the U.S. Senate and has only sent five Black people to the U.S. House of Representatives. PX 126 at 25. Since reconstruction, Black people have been elected to represent Louisiana in Congress only from majority-Black districts.

222. At the state level, no Black people have been elected as Governor of Louisiana since Reconstruction, when P.B.S. Pinchback was elected governor. PX 126 at 25. And no Black people have been elected as Lieutenant Governor of Louisiana since Reconstruction, when three Black men served in that post (Pinchback, Oscar Dunn, and Caesar Antoine). *Id.*

223. Black citizens are also underrepresented in the Louisiana state legislature. Approximately one-third of Louisianians are Black, but Black legislators hold only 36 out of 144 total seats in 2023: Black senators hold only 10 out of 39 total seats and Black legislators in the Louisiana

House of Representatives hold 26 out of 105 total seats. PX 126 at 25.

224. Black citizens are also underrepresented in Louisiana’s city halls, boards of education, and state courts. Less than 25% of Louisiana mayors are Black, and only 26.1% of Louisiana state court judges are Black. PX 126 at 25. Two of the eight elected Board of Elementary and Secondary Education members are Black, both elected from majority-Black districts. *Id.* And only one Associate Justice on the Louisiana Supreme Court is Black: Piper Griffin, who was elected from the State’s sole majority-Black Supreme Court district. *Id.*

H. Senate Factor 8: Responsiveness

225. An additional factor, often referred to as Senate Factor 8, investigates “whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.” *Gingles*, 478 U.S. at 37.

226. As discussed throughout Dr. Burch’s expert report, policy outcomes in Louisiana do not track the specific needs of the Black community in Louisiana. Elected officials in Louisiana have routinely ignored or failed to respond to the particularized needs of the Black community.

227. The longstanding and persistent gaps in socioeconomic status, education, residential conditions, involvement with the criminal justice system, and health outcomes between white and Black Louisianans demonstrate the lack of responsiveness of Louisiana’s public officials to the particularized needs of the Black community. PX 126 at 26. Indeed, Louisiana ranks 48th of the 50 states in math achievement scores, 46th for cancer death rates, and 44th for overall life expectancy, and as previously shown, Black Louisianans are even worse off across all of these dimensions. *Id.*

228. Black Louisianans have also expressed that they do not feel adequately represented by public officials. Approximately 70% of Black respondents to a local survey agreed that “most elected officials in Louisiana don’t care what people like me think.” PX 126 at 26.

229. Black Louisianans have expressed similarly negative sentiments about their ability to vote as compared to white Louisianans. Fewer Black Louisianans were “very confident” that “people who are legally qualified to vote are able to” in Louisiana, and a majority of Black Louisianans feel that Black people are treated less fairly than white people when voting in elections. PX 126 at 26–27.

230. Black Louisianans’ negative sentiments towards their representation were expressed publicly by Black Louisianans during the redistricting process. PX 126 at 27. Indeed, Black Louisianans communicated to representatives that they wanted increased minority representation in the state senate and the state house, and supported maps that drew additional majority-minority districts. *Id.* at 28. The Legislature failed to advance maps that reflected these interests.

I. Senate Factor 9: Tenuousness

231. A final additional factor, often referred to as Senate Factor 9, concerns “whether the policy underlying the state or political subdivision’s use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.” *Gingles*, 478 U.S. at 37.

232. There is no substantial justification for Louisiana’s failure to draw additional majority-minority districts following the 2020 Census. PX 126 at 28–42.

233. Neither the sponsors nor supporters of S.B. 1 or H.B. 14 presented convincing evidence that suggested that incorporating additional majority-minority districts into their redistricting scheme would be impossible without violating legitimate redistricting principles or the Voting Rights Act. PX 126 at 28.

234. Senate President Cortez admitted that it is fully possible to draw additional majority-minority senate districts in Louisiana at multiple occasions. PX 126 at 29–30. Nonetheless, he gave three reasons for choosing not to increase the number of majority-minority districts in the Senate map he advanced despite Louisiana’s population changes: continuity of representation, minority vote

dilution, and compactness, which also incorporated concerns about communities of interest. *Id.* at 28–30.

235. House and Governmental Affairs Committee Chairman Stefanski claimed that the protection of incumbents limited the ability to draw additional majority-minority districts in the House map, as did concerns about minority vote dilution. PX 126 at 30.

236. The justifications for failing to increase Black voters’ representation were not substantiated by compelling evidence or rationales. For example, legislative leaders consistently stated or implied that majority-minority districts needed to have high percentages of Black voters to ensure that the district would perform as a majority-minority district by ensuring Black voters could invariably elect their candidate of choice. PX 126 at 31–35. Despite advancing this notion that a district had to be packed with high percentages of Black voters to perform as a “slam dunk,” they presented no evidence that majority-Black districts with narrower majorities would not perform. *Id.* In contrast, supporters of bills that actually would have increased Black representation presented evidence that additional majority-Black districts (with narrower majorities) would reliably perform to allow Black Louisianans to elect candidates of their choice. *Id.* This is in keeping with political science evidence cited by Dr. Burch that indicates that “the size of the majority needed to give Black voters a chance to elect their candidate of choice has been decreasing especially since 2010 because of racial partisan polarization.” *Id.* at 32.

237. During the redistricting session, legislative leaders also consistently suggested that enacting a map without increasing opportunities for Black voters to elect their legislators of choice was the inevitable cost of prioritizing “continuity of representation.” PX 126 at 35–38. As Dr. Burch notes, continuity of representation was framed “not about voters,” but “about the self-interest of legislators.” *Id.* at 36. Moreover, “continuity of representation” does not appear anywhere in the redistricting criteria adopted by the Legislature in Joint Rule 21. *Id.* The motive and timeline for

when this talking point was adopted make it a tenuous justification to deny Black voters' representation.

238. Finally, while Senate President Cortez offered compactness, including the maintenance for communities of interest, as a justification for advancing the enacted Senate plan without any new majority-Black districts, this argument was applied only at sporadic instances and in vague terms. PX 126 at 38–42. Moreover, the maintenance of communities of interest could similarly cut against the enacted House and Senate plans in favor of alternatives that would increase Black voters' representation. PX 126 at 39 (citing, *e.g.*, Senator Peterson's testimony regarding Jefferson Parish's communities of interest spread across multiple districts).

239. The Legislature was aware that constituents wanted additional majority-minority districts. Speaker Clay Schexnayder testified that he heard during the legislative process suggestions that there should be more majority-minority districts. Schexnayder Dep. Tr. (Sept. 7, 2023), at 25:10–13.

240. Speaker Clay Schexnayder was not aware of the specifics of Joint Rule 21, *id.* at 33:22–25, but he was aware that the Legislature had to comply with Section 2 of the Voting Rights Act. *Id.* at 40:23–41:16, 44:14–21.

241. Speaker Clay Schexnayder did not play a significant role in the drafting of the enacted House plan. *Id.* at 31:9–15, 44:1–4, 50:7–9.

242. Senator Cortez's only role in creating the enacted House plan was to speak to the Representatives in his Senate District—he only considered whether these five members were satisfied with the map. Cortez Dep. Tr. (Aug. 23, 2023), at 75:24–76:15.

243. The main factor that was considered by the Legislature when creating and enacting the enacted House plan was the interests and consideration of the members of the Legislature in their

own districts. Schexnayder Dep. Tr. (Sept. 7, 2023), at 32:3–13, 46:24–47:13, 48:3–11, 44:15–23, 54:18–55:3; Cortez Dep. Tr. (Aug. 23, 2023), at 75:24–76:8.

244. The Legislature did not conduct any performance analysis to determine whether the enacted House and Senate plans complied with the Voting Rights Act., Schexnayder Dep. Tr. (Sept. 7, 2023), at 44:8–10, 61:8–11, 74:6–10; Cortez Dep. Tr. (Aug. 23, 2023), at 139:22–140:9, 147:19–148:12.

245. Speaker Clay Schexnayder did not play a significant role in the decision to move HD 23 to Orleans Parish. Schexnayder Dep. Tr. (Sept. 7, 2023), at 46:1–3.

246. Speaker Clay Schexnayder was aware the Black population in some of the Black-majority districts in the enacted House plan are “very high.” Schexnayder Dep. Tr. (Sept. 7, 2023), at 67:16–18.

247. Speaker Clay Schexnayder was aware the Black population in the area of original HD 23 had increased. Schexnayder Dep. Tr. (Sept. 7, 2023), at 59:18–20.

248. Speaker Clay Schexnayder testified that there was discussion in the Legislature about potential ways to move a majority-white district from this area instead of HD 23 had increased. Schexnayder Dep. Tr. (Sept. 7, 2023), at 60:2–12.

249. The personal interest of the individual members in their own districts was the most important factor considered by the Legislature when creating the enacted House and Senate plans. Schexnayder Dep. Tr. (Sept. 7, 2023), at 48:15–19.

250. Senator Cortez testified that one of the other most important tenets in drawing and enacting the Senate map was to keep the exact number of the majority-minority districts the same as it was in 2010. Cortez Dep. Tr. (Aug. 23, 2023), at 77:20–78:2, 101:12–19, 105:6–20.

PROPOSED CONCLUSIONS OF LAW

I. Jurisdiction

251. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a), and 1357; 42 U.S.C. §§ 1983 and 1988; and 52 U.S.C. §§ 10301, 10302, 10308(f), and 10310(e).

252. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

253. Courts can “enjoin state officials to conform their future conduct to the requirements of federal law.” *Quern v. Jordan*, 440 U.S. 332, 337 (1979). It is undisputed that a particular state official is a proper defendant from whom to seek such relief so long as the official has “some connection with the enforcement of the act.” *Ex parte Young*, 209 U.S. 123, 157 (1908)). The requisite connection can be demonstrated where “a state official is giving effect to a state statute in a manner that allegedly injures a plaintiff and violates his constitutional rights.” *McDaniel v. Precythe*, 897 F.3d 946, 952 (8th Cir. 2018). Under these circumstances, “an action to enjoin implementation of the statute or for declaratory relief is available against the state official.” *Id.*

254. This Court further holds that Plaintiffs have Article III standing. A plaintiff has Article III standing to bring a claim if the plaintiff has suffered a cognizable injury that is “fairly traceable to the challenged action” and “redressable by a favorable ruling.” *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 149 (2010).

255. Article III requires only one of these plaintiffs to have standing to proceed. *See Dep’t of Com v. N. Y.*, 139 S. Ct. 2551, 2565 (2019).

256. An individual eligible to be a registered voter who resides within a cracked or packed voting district has suffered an injury-in-fact sufficient to confer Article III standing. *See Anne Harding v. Cnty. of Dallas*, 948 F.3d 302, 307 (5th Cir. 2020) (“It is conceded that each voter resides in a district where their vote has been cracked or packed. That is enough [to confer standing].”); *see*

also Gill v. Whitford, 138 S. Ct. 1916, 1930–31 (2018) (“[T]he harm asserted by the plaintiffs is best understood as arising from a burden on those plaintiffs’ own votes [T]hat burden arises through a voter’s placement in a ‘cracked’ or ‘packed’ district.”). “Packing” the minority vote, such that minority voters are “concentrat[ed] . . . into districts where they constitute an excessive majority,” is an injury-in-fact because packed districts dilute minority votes, allowing them to elect only one candidate of choice, when a lawful map may allow them to elect additional candidates of choice. *Gingles*, 478 U.S. at 46 n.11.

257. Based on the foregoing findings of fact, the Court holds that the enacted state legislative plans’ vote dilution denies Plaintiff Dorothy Nairne an equal opportunity to elect a candidate of her choice to the House of Representatives in the Louisiana State Legislature. *See supra*, Findings of Fact § I.B.i.

258. Based on the foregoing findings of fact, the Court holds that the enacted state legislative plans’ vote dilution denies Plaintiff Rev. Clee Earnest Lowe an equal opportunity to elect a candidate of his choice to the House of Representative in the Louisiana State Legislature. *See supra*, Findings of Fact § I.B.i.

259. Based on the foregoing findings of fact, the Court holds that the enacted state legislative plans’ vote dilution denies Plaintiff Alice Washington an equal opportunity to elect a candidate of her choice to the House of Representatives in the Louisiana State Legislature. *See supra*, Findings of Fact § I.B.i.

260. Based on the foregoing findings of fact, the Court holds that the enacted state legislative plans’ vote dilution denies Plaintiff Steven Harris an equal opportunity to elect a candidate of his choice to the House of Representatives in the Louisiana State Legislature. *See supra*, Findings of Fact § I.B.i.

261. Based on the foregoing findings of fact, the Court holds that the Louisiana NAACP

has associational standing on behalf of its members. *See supra*, Findings of Fact § I.B.ii.

262. An organization has associational standing if: “(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 143 S. Ct. 2141, 2157 (2023) (quoting *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977)). The Court holds that the Louisiana NAACP meets each of these requirements.

263. The Court holds that the Louisiana NAACP satisfies all three *Hunt* factors. First, the Louisiana NAACP has presented sufficient evidence of the existence of members who would have standing in their own right. In each area of the state, the NAACP has identified a member whose vote is diluted in the district where they live. Specifically, the Court finds that the Louisiana NAACP’s has identified specific members who are Black, registered voters and who have sustained and, absent relief from this Court, will continue to sustain the injury of vote dilution because they live in current State House and Senate districts in which the Black population has been “cracked” or “packed.”

264. The Louisiana NAACP has presented evidence of the names and addresses of those individuals, and the Court is satisfied with this evidence. To protect their First Amendment right to freedom of association, the Court does not name them here.

265. The Court further finds that Plaintiffs have the injury-in-fact experienced by these members can be traced to the Defendant Louisiana Secretary of State, as the Secretary of State is charged with implementing the enacted House and Senate plans under which these NAACP members’ votes are diluted.

266. Finally, the Court finds that Plaintiffs have proven that a favorable judgment would redress the harm experienced by Louisiana NAACP members by enjoining the Secretary of State from conducting elections under the dilutive state legislative plans and requiring that elections be

conducted under new state legislative plans that do not dilute the votes of NAACP members, including, by way of example, the Plaintiffs' illustrative plans.

267. The Court finds that the Louisiana NAACP's multi-tiered membership structure does not preclude the Louisiana NAACP from demonstrating associational standing. Members of the NAACP are simultaneously members of the local NAACP branch in their area, the Louisiana NAACP, and the national NAACP. Under this structure, the Louisiana NAACP undeniably has individual members who have standing in their own right.

268. Moreover, even if an individual member were a member only of the local branch, which in turn is a member of the Louisiana NAACP, that would not deprive the Louisiana NAACP of associational standing. The official membership structure of an organizational plaintiff is irrelevant where "the goals of the constitutional standing requirement" have been fulfilled. *See, e.g., Friends of the Earth, Inc. v. Chevron Chem. Co.*, 129 F.3d 826, 828 (5th Cir. 1997). Both the Supreme Court and the Fifth Circuit have held that an associational standing inquiry should not "exalt form over substance" when analyzing whether an association has "members" for purposes of assessing associational standing. *Id.* (quoting *Hunt*, 432 U.S. at 345). The key inquiry is simply whether the association "provides the means by which [its members] express their collective views and protect their collective interests." *Id.* (quoting *Hunt*, 432 U.S. at 345). The Louisiana NAACP's multi-tiered membership structure does nothing to weaken its role as the means by which its members express their views and protect their interests. Further, neither the Court nor the parties have identified any case suggesting that an organization may not assert associational standing based on members whose standing in their own right is asserted as associational standing. If the Louisiana NAACP's local branches have associational standing through their members, as the evidence establishes that they do, then the Louisiana NAACP has associational standing through its local branches.

269. The Court further concludes that the Louisiana NAACP has met the other two

elements of the associational standing test. As the Fifth Circuit has previously held, “protecting the strength of votes . . . [is] surely germane to the NAACP’s expansive mission” at all levels of the organization. *Hancock Cnty. Bd. of Supervisors v. Ruhr*, 487 F. App’x 189, 197 (5th Cir. 2012). Moreover, participation of individual members is not required because the Louisiana NAACP seeks prospective and injunctive relief, not individualized damages. *Consumer Data Indus. Ass’n v. Texas*, No. 21–51038, 2023 WL 4744918, at *4 n.7 (5th Cir. 2023).

270. The Court concludes that the Louisiana NAACP has standing to raise claims of Section 2 violations on behalf of its members in the disputed areas of the Louisiana House and Senate plans because the Louisiana NAACP has satisfied all three requirements set forth in *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. at 345.

271. Based on the foregoing findings of fact, the Court further holds that the Louisiana NAACP and BVM have organizational standing. *See supra*, Findings of Fact § I.B.ii–iii.

272. An organization suffers an injury sufficient to confer standing under Article III if its ability to pursue its mission is “perceptibly impaired” by the challenged conduct. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982). An organization can prove standing through “a drain on its resources resulting from counteracting the effects of the defendant’s actions.” *La. ACORN Fair Hous. v. LeBlanc*, 211 F.3d 298, 305 (5th Cir. 2000) (citing *Ass’n. of Cmty. Orgs. for Reform Now v. Fowler*, 178 F.3d 350, 360 (8th Cir. 1996)). An organization suffers a drain on its resources where it devotes resources “toward mitigating [the] real-world impact” of the challenged conduct. *OCA-Greater Houston v. Texas*, 867 F.3d 604, 612 (5th Cir. 2017). “[T]he injury alleged as an Article III injury-in-fact need not be substantial; it need not measure more than an identifiable trifle.” *Id.* (cleaned up); *see also United States v. Students Challenging Regul. Agency Procs.*, 412 U.S. 669, 689 n.14 (1973) (explicitly rejecting a requirement that an injury be significant and noting that injuries such as “a fraction of a vote, a \$5 fine and costs, and a \$1.50 poll tax” are sufficient to

constitute an injury-in-fact (internal citations omitted)).

273. Here, as in *OCA*, each of the Organizational Plaintiffs “went out of its way to counteract the effect” of the challenged redistricting map. 867 F.3d at 612. BVM created an entirely new accountability project to hold elected representatives accountable in uncompetitive districts. The NAACP worked to engage Black voters in areas of the state where the plans packed and cracked them, creating uncompetitive districts, reducing or eliminating planned efforts in other parts of the state and eliminating other planned activities. As in *OCA*, these voter education efforts were not related to or incurred in the service of litigation. *Id.* at 612–13 (distinguishing *NAACP v. City of Kyle*, 626 F.3d 233, 238 (5th Cir. 2010)).

274. Each Organizational Plaintiff’s diversion of resources is concrete: the Louisiana NAACP made a decision not to engage in specific planned activities in one part of the state in order to increase resources devoted to voter engagement in another part of the state, and BVM diverted resources from planned voter education and registration projects to efforts to ensure elected officials in uncompetitive districts are held accountable to Black voters. Plaintiffs have established that the increased cost of voter engagement in uncompetitive districts forsaken by political campaigns and where elected officials cannot be held accountable through competitive elections required a shift of their resources from other districts and projects to activities that were not planned and that would not be conducted but for the challenged redistricting plan, and that is sufficient to establish injury-in-fact for standing purposes. *OCA*, 867 F.3d at 612; *Fowler*, 178 F.3d at 360; *see also Harding v. Edwards*, 484 F. Supp. 3d 299, 316 (M.D. La. 2020) (finding standing where organizations demonstrated “concrete spending changes and new initiatives in response to Defendants’ actions”).

275. The enacted state legislative plans’ dilutive effect on the Organizational Plaintiffs’ members and constituents also “frustrates,” “complicates,” and fundamentally impairs their core missions to increase power in marginalized, predominantly Black communities, further reinforcing

the organizations' standing. *OCA-Greater Houston*, 867 F.3d at 610. *See* PX 210; PX 214.

II. Overall Legal Framework

276. Section 2 of the VRA renders unlawful any state “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a); *see also Gingles*, 478 U.S. at 36.

277. The Supreme Court recently affirmed that the *Thornburg v. Gingles* framework that has governed violations of Section 2 of the VRA for nearly the last 40 years remains unchanged. *See Milligan*, 599 U.S. at 19 (“*Gingles* has governed our Voting Rights Act jurisprudence since it was decided 37 years ago. Congress has never disturbed our understanding of § 2 as *Gingles* construed it. And we have applied *Gingles* in one § 2 case after another, to different kinds of electoral systems and to different jurisdictions in States all over the country.”) (collecting cases).

278. Dilution of a minority community’s voting strength violates Section 2 if, under the totality of the circumstances, the “political processes leading to nomination or election in the State . . . are not equally open to participation by members of [a racial minority group] . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b); *see also Gingles*, 478 U.S. at 36.

279. “Dilution of racial minority group voting strength” in violation of Section 2 “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters or from the concentration of blacks into districts where they constitute an excessive majority.” *Gingles*, 478 U.S. at 46 n.11.

280. A violation of Section 2 does not require proof of discriminatory intent and can “be proved by showing discriminatory effect alone.” *Gingles*, 478 U.S. at 35. Thus, the essence of a Section 2 “results” claim is that an “electoral law, practice, or structure interacts with social and

historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives.” *Id.* at 47, 63; *see also League of United Latin Am. Citizens v. Abbott*, 601 F. Supp. 3d 147, 159 (W.D. Tex. 2022) (three-judge court) (“The Supreme Court interpreted that new language in *Thornburg v. Gingles*, to mean that Section 2, unlike the Constitution, could be violated even if a state did not act with a racial motive. The Court also took a broad view of discriminatory effect, such that Section 2 generally requires the creation of legislative districts where a racial minority is (1) large and geographically compact, (2) politically cohesive, and (3) otherwise unable to overcome bloc voting by the racial majority.” (citation omitted)).

281. A Section 2 claim has two components. *First*, Plaintiffs must meet the three preconditions established in *Gingles*: (1) the minority group is “sufficiently large and geographically compact to constitute a majority in a single-member district” (*Gingles I*); (2) the minority group is “politically cohesive” (*Gingles II*); and (3) the “white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate” (*Gingles III*). 478 U.S. at 50–51.

282. *Second*, Plaintiffs must, under the totality of circumstances, “demonstrat[e] that a challenged election practice has resulted in the denial or abridgment of the right to vote based on color or race.” *Chisom v. Roemer*, 501 U.S. 380, 394 (1991); *see also* 52 U.S.C. § 10301(b). Senate Factors are relevant to this inquiry. *Gingles*, 478 U.S. at 36–37, 44–45.

283. The Senate Factors include: (1) the extent of any history of official discrimination in the state or political subdivision that touched the rights of the members of the minority group to register, to vote, or otherwise participate in the democratic process; (2) the extent to which voting in the elections of the state or political subdivision is racially polarized; (3) the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group; (4) whether minority candidates have been denied access

to any candidate-slating process; (5) the extent to which minorities in the state or political subdivision bear the effects of discrimination in education, employment, and health, which hinder their ability to participate effectively in the political process; (6) whether political campaigns have been characterized by overt or subtle racial appeals; and (7) the extent to which minority group members have been elected to public office. *See id.* at 36–37 (quoting S. Rep. No. 97-417, at 28–29 (1982), as reprinted in 1982 U.S.C.C.A.N. 177, 206–07).

284. Additional factors recognized by the Senate Committee include whether there is a significant lack of responsiveness on the part of elected officials to the particular needs of members of the minority group, and whether the policy underlying the state or political subdivision’s use of such voting qualification, prerequisite to voting, or standard, practice of procedure is tenuous. *See id.*

285. In describing the “comprehensive” totality-of-circumstances analysis, the Supreme Court has also explained that while “proportionality is not dispositive in a challenge to single-member districting, it is a relevant fact in the totality of circumstances to be analyzed when determining whether members of a minority group have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Johnson v. De Grandy*, 512 U.S. 997, 1000 (1994) (internal citations omitted); *see also League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 426 (2006) [hereinafter *LULAC*] (“[W]hether the number of districts in which the minority group forms an effective majority is roughly proportional to its share of the population in the relevant area” is a “relevant consideration.”) (citing *De Grandy*, 512 U.S. at 1000).

286. These requirements have been in place and applied by the courts in vote dilution claims, including statewide redistricting claims, for decades. *See, e.g., Gingles*, 478 U.S. at 48–51; *LULAC*, 548 U.S. at 425; *Rose v. Raffensperger*, 511 F. Supp. 3d 1340, 1349 (N.D. Ga. 2021); *Milligan*, 599 U.S. at 17–23.

287. The Supreme Court has recently reaffirmed “the law as it exists” with respect to the well-worn *Gingles* results test and confirmed again the applicability of these requirements to single-member districts like the ones at issue here. *Milligan*, 599 U.S. at 23, 38.

288. Based on the foregoing findings of fact, Plaintiffs have demonstrated that each requirement of the *Gingles* results test is satisfied.

III. *Gingles I*

289. The first *Gingles* precondition is “focused on geographical compactness and numerosity, [and] is ‘needed to establish that the minority has the potential to elect a representative of its own choice in some single-member district.’” *Milligan*, 599 U.S. at 18 (quoting *Grove v. Emison*, 507 U.S. 25, 40 (1993)).

290. To satisfy the first precondition, a plaintiff must show that “the minority group [is] sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district.” *Milligan*, 599 U.S. at 18 (cleaned up).

291. “A district will be reasonably configured ... if it comports with traditional districting criteria, such as being contiguous and reasonably compact” and “respect[ing] existing political subdivisions, such as counties, cities, and towns.” *Id.* at 18, 20 (citing *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 272 (2015)); see also *LULAC*, 548 U.S. at 433 (*Gingles I* “should take into account ‘traditional districting principles such as maintaining communities of interest and traditional boundaries’”) (citation omitted).

292. Plaintiffs typically attempt to satisfy *Gingles I* by drawing hypothetical majority-minority districts. *Clark v. Calhoun Cnty.*, 88 F.3d 1393, 1406–07 (5th Cir. 1996) [hereinafter *Clark II*]; see also *Gonzalez v. Harris Cnty.*, 601 F. App’x 255, 258 (5th Cir. 2015) (“Satisfying the first *Gingles* precondition—compactness—normally requires submitting as evidence hypothetical redistricting schemes in the form of illustrative plans.”).

293. Plaintiffs can establish that the minority population is compact for purposes of *Gingles I* by showing that it can be placed in a district that is “reasonably compact and regular.” *Bush v. Vera*, 517 U.S. 952, 977 (1996); accord *Milligan*, 599 U.S. at 18. There is no rule requiring that to satisfy *Gingles I*, all traditional districting criteria must be satisfied. *LULAC*, 548 U.S. at 433 (“no precise rule has emerged governing § 2 compactness,” but “the inquiry should take into account traditional redistricting principles”) (citation and internal quotation omitted).

294. Although “[p]laintiffs typically attempt to satisfy [the first *Gingles* precondition] by drawing hypothetical majority-minority districts,” *Clark II*, 88 F.3d at 1406, such illustrative plans are “not cast in stone” and are offered only “to demonstrate that a majority-[B]lack district is feasible,” *Clark v. Calhoun Cnty.*, 21 F.3d 92, 95 (5th Cir. 1994) [hereinafter *Clark I*]; see also *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (same).

295. The “ultimate end of the first *Gingles* precondition is to prove that a solution is possible, not necessarily to present the ultimate solution to the problem.” *Rodriguez v. Harris Cnty.*, 964 F. Supp. 2d 686, 746 (S.D. Tex. 2013), *aff’d sub nom. Gonzalez*, 601 F. App’x 255 (citing *Gingles*, 478 U.S. at 50 n.17); accord *Clark I*, 21 F.3d at 95. *Gingles I* sets a minimum threshold requirement to distinguish colorable Section 2 claims and those that have no chance of success. See *Bartlett v. Strickland*, 556 U.S. 1, 21 (2009) (“[T]he *Gingles* requirements are preconditions, consistent with the text and purpose of § 2, to help courts determine which claims could meet the totality-of-the-circumstances standard for a § 2 violation.”).

A. Numerosity

296. With respect to numerosity, a bright-line 50% plus one rule applies in assessing whether the minority population is “sufficiently large” for purposes of *Gingles I*. *Bartlett*, 556 U.S. at 12, 18–20. That is, Plaintiffs “asserting § 2 liability must show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.” *Id.* at 19–20;

see also Robinson, 605 F. Supp. 3d at 776 (citing *Bartlett*, 556 U.S. at 19–20).

297. In voting rights cases when Black voters are the only minority group whose effective exercise of the franchise is at issue, “it is proper to look at *all* individuals who identify themselves as [B]lack” to calculate a district’s BVAP and assess the numerosity of the Black population in that district. *Georgia v. Ashcroft*, 539 U.S. 461, 473 n.1 (2003) (emphasis in original); *see also, e.g., Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 118 F. Supp. 3d 1338, 1343 n.8 (N.D. Ga. 2015) (“[T]he Court is not willing to exclude Black voters who also identify with another race when there is no evidence that these voters do not form part of the politically cohesive group of Black voters in Fayette County.”). Indeed, “[t]he irony would be great if being considered only ‘part Black’ subjected a person to an extensive pattern of historical discrimination but now prevented one from stating a claim under a statute designed in substantial part to remedy that discrimination.” *Singleton*, 582 F. Supp. 3d at 1004.

298. Accordingly, the AP BVAP metric is appropriate when establishing the first *Gingles* precondition in a Section 2 case. *See, e.g., Robinson*, 605 F. Supp. 3d at 819–20; *Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 419–20 (M.D. La. 2017), *rev’d on other grounds sub nom., Fusilier v. Landry*, 963 F.3d 447 (5th Cir. 2020); *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, Nos. 1:21-CV-5337-SCJ, 1:21-CV-5339-SCJ, 1:22-CV-122-SCJ, 2022 WL 633312, at *16 (N.D. Ga. Feb. 28, 2022); *Singleton*, 582 F. Supp. 3d at 1002–04; *Ga. State Conf. of NAACP*, 118 F. Supp. 3d at 1343; *Covington v. North Carolina*, 316 F.R.D. 117, 125 n.2 (M.D.N.C. 2016) (three-judge court), *aff’d*, 581 U.S. 1015 (2017); *Mo. State Conf. of NAACP v. Ferguson-Florissant Sch. Dist.*, 201 F. Supp. 3d 1006, 1033 (E.D. Mo. 2016).

299. Based on the foregoing findings of fact, the Court concludes that Plaintiffs have established by a preponderance of the evidence that the BVAP in each new majority-Black district in the illustrative plan—specifically, Illustrative HD 1, HD 23, HD 38, HD 60, HD 65, HD 68, HD

69, SD 17, SD 19, and SD 38—is greater than 50 percent. *See supra*, Findings of Fact § II.B.

B. Compactness

300. “While no precise rule has emerged governing § 2 compactness, the inquiry should take into account traditional districting principles such as maintaining communities of interest and traditional boundaries.” *Kumar v. Frisco Indep. Sch. Dist.*, 476 F. Supp. 3d 439, 494 (5th Cir. 2020) (citing *LULAC*, 548 U.S. at 433); *see also Robinson*, 605 F. Supp. 3d at 776 (same); *Milligan*, 599 U.S. at 18 (“A district will be reasonably configured, our cases explain, if it comports with traditional districting criteria, such as being contiguous and reasonably compact.”); *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1307 (N.D. Ga. 2013) (traditional districting principles include “maintaining communities of interest and traditional boundaries,” “geographical compactness, contiguity, and protection of incumbents”) (citation omitted); *Miller v. Johnson*, 515 U.S. 900, 916 (1995) (identifying contiguity as a traditional districting principle); *Shaw v. Reno*, 509 U.S. 630, 651–52 (1993) (identifying population equality as a traditional districting principle); *Davis v. Chiles*, 139 F.3d 1414, 1425 (11th Cir. 1998) (plaintiffs satisfy the first *Gingles* precondition when their proposed majority-minority district is “consistent with traditional districting principles”).

301. There is no requirement that illustrative new Black-majority districts comport with traditional redistricting principles *better* than the districts in the enacted plan. Compliance with the compactness criterion requires only that an illustrative district is “*reasonably* compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries,” not that the illustrative districts are equally or more compact than the enacted districts. *Vera*, 517 U.S. at 977 (emphasis in original).

302. An illustrative plan can be “far from perfect” in terms of compactness yet satisfy the first *Gingles* precondition. *Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d

1297, 1326 (M.D. Ga. 2018), *aff'd*, 979 F.3d 1282 (11th Cir. 2020).

303. “The first *Gingles* precondition does not require some aesthetic ideal of compactness, but simply that the black population be sufficiently compact to constitute a majority in a single-member district.” *Houston v. Lafayette Cnty.*, 56 F.3d 606, 611 (5th Cir. 1995) (quoting *Clark I*, 21 F.3d at 95).

304. “[T]here is more than one way to draw a district so that it can reasonably be described as meaningfully adhering to traditional principles, even if not to the same extent or degree as some other hypothetical district.” *Chen v. City of Houston*, 206 F.3d 502, 519 (5th Cir. 2000).

305. The remedial plan that the Court eventually implements if it finds Section 2 liability need not be one of the maps proposed by Plaintiffs. *See Clark I*, 21 F.3d at 95–96 & n.2 (“[P]laintiffs’ proposed district is not cast in stone. It [is] simply presented to demonstrate that a majority-black district is feasible in [the jurisdiction] The district court, of course, retains supervision over the final configuration of the districting plan.”).

iv. Geographical Compactness

306. The Court may find geographic compactness if illustrative plans are not irregularly shaped. “For example, a district would not be sufficiently compact if it was so spread out that there was no sense of community, that is, if its members and its representative could not effectively and efficiently stay in touch with each other; or if it was so convoluted that there was no sense of community.” *Benavidez v. Irving Indep. Sch. Dist.*, No. 3:13-CV-0087-D, 2014 WL 4055366, at *9 (N.D. Tex. Aug. 15, 2014) (quoting *Dillard v. Baldwin Cnty. Bd. of Educ.*, 686 F. Supp. 1459, 1466 (M.D. Ala. 1988)).

307. The Court finds that Plaintiffs’ illustrative plans meet these criteria. There are no “land bridges,” and the proposed districts are regularly shaped. They are not “convoluted,” rather, as discussed further below, they combine communities with similar needs and interests. For these

reasons, the Court is unpersuaded by Defendants’ arguments that the plans are comparable to those at issue in *LULAC*, where the Supreme Court found one district noncompact because of “the enormous [300 mile] geographical distance separating the Austin and Mexican-border communities, *coupled with* the disparate needs and interests of these populations.” 548 U.S. at 435 (emphasis added).

308. The proposed districts also maintain “traditional boundaries.” *LULAC*, 548 U.S. at 433 (citation omitted).

309. The Court notes that Plaintiffs are not required to prioritize drawing lines in the same manner as the jurisdiction has historically. *See Gonzalez*, 601 F. App’x at 260–61 (citation omitted) (stating it would be “unfair to require Plaintiffs to draw maps in strict accordance with [a jurisdiction’s] priorities”); *Luna v. Cnty. of Kern*, 291 F. Supp. 3d 1088, 1113 (E.D. Cal. 2018) (holding that plaintiffs need not prioritize redistricting principles in the same manner as a jurisdiction did when creating a challenged map).

310. The maintenance of parish lines does not predominate over compliance with Section 2 of the Voting Rights Act where splitting of counties is necessary to create a reasonably compact district and provide Black voters the opportunity to elect their candidate of choice. *See Bartlett*, 556 U.S. at 7 (noting that a state’s election law requirements may be superseded by federal law); *see also Perez v. Abbott*, 250 F. Supp. 3d 123, 142 (W.D. Tex. 2017) (holding that states cannot “claim that a single traditional districting principle . . . allows them to avoid drawing districts required by § 2 under the totality of circumstances”).

311. Plaintiffs’ illustrative plans adequately follow traditional boundaries by parishes here. Further, where Plaintiffs did split parishes, they did not split any precincts.

312. Based upon the foregoing findings of fact, the Court concludes that the illustrative plans comport with the traditional redistricting principle of geographical compactness. *See supra*,

Findings of Fact § II.C.

v. Contiguity

313. Contiguity is a traditional redistricting principle that requires districts to be contiguous, meaning that all parts of a district are connected to one another. *See Harris v. Ariz. Indep. Redistricting Comm’n*, 578 U.S. 253, 258 (2016) (citation omitted) (recognizing contiguity as a traditional redistricting principle).

314. Based upon the foregoing findings of fact, the Court concludes that Plaintiffs’ illustrative plans comport with the traditional redistricting principle of contiguity. *See supra*, Findings of Fact § II.C.

vi. Population Equality

315. Population equality is also a traditional redistricting principle. *Reynolds v. Sims*, 377 U.S. 533, 562–63(1964); *Shaw*, 509 U.S. at 651–52.

316. Applying that guideline to the proposed legislative districts, the Court concludes that, based upon the foregoing findings of fact that all the population of all the illustrative districts are within the guidelines of Joint Rule 21, the illustrative plans reflect population equality. *See supra*, Findings of Fact § II.A.

vii. Communities of Interest

317. Courts have recognized that “maintaining communities of interest” is a traditional redistricting principle. *LULAC*, 548 U.S. at 433. “A State is free to recognize communities that have a particular racial makeup” so long as there is “some common thread of relevant interests.” *Miller*, 515 U.S. at 920. “The Court recognizes the distinct need to afford communities of interest the respect they deserve.” *Kumar*, 476 F. Supp. 3d at 502.

318. “[M]embers of a racial group in different areas—for example, rural and urban communities—could share similar interests and therefore form a compact district if the areas are in

reasonably close proximity.” *LULAC*, 548 U.S. at 435. In accordance with this principle, the Court affirmed in *Milligan* that an illustrative district that joined an urban city (Mobile) to a rural community (the Black Belt) was reasonably configured. *Milligan*, 599 U.S. at 1503–05. The inquiry thus is whether communities share relevant and sufficient characteristics, not whether they fall into the category of rural or urban.

319. These shared characteristics may include social and economic needs of the communities. For example, in *Theriot v. Parish of Jefferson*, the Fifth Circuit found that a majority-Black district for the Jefferson Parish Council included “low-income residents who are less-educated, more often unemployed, and more poorly-housed” and thus shared “common social and economic needs.” 185 F.3d 477, 486 (5th Cir. 1999). The Court held that, “[g]iven the common thread which binds the [B]lack voters within [that district], they are entitled to an effective voice in the electoral process and to an influence over the outcome of elections.” *Id.* at 487 (internal quotation and citation omitted). *See also Lawyer v. Dep’t of Just.*, 521 U.S. 567, 581 (1997) (affirming that a community of interest existed where people shared socioeconomic interests).

320. Furthermore, illustrative plans need not perfectly encompass every community of interest. *See Kern*, 291 F. Supp. 3d at 1110 (“Plaintiffs are . . . not required to accommodate every conceivable community of interest . . . in order to draw a sufficient illustrative map that satisfies the first *Gingles* precondition”); *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1399 (E.D. Wash. 2014) (holding that *Gingles I* does not require a “perfectly harmonized districting plan,” as such a requirement “would put the cart before the horse”). Plaintiffs’ burden under *Gingles* is not one “that requires plaintiffs to establish there are no identifiable differences between the communities joined in their illustrative map. It is simply too easy to identify at least some differences between any two communities.” *Kern*, 291 F. Supp. 3d at 1116. Rather, “it is sufficient that a plaintiff show that a workable plan for another minority-controlled voting district is possible.” *Fairley v. Hattiesburg*, 584

F.3d 660, 671 n.14 (5th Cir. 2009) (citing *Gingles*, 478 U.S. at 50 n.17; *Houston v. Lafayette County*, 56 F.3d 606, 611 (5th Cir. 1995)).

321. The Court credits Mr. Cooper’s testimony that he respected communities of interest when drawing Plaintiffs’ illustrative plans. *See supra* ¶¶ 63–64.

322. The Court also credits the testimony and opinions of Dr. Colten, which reinforce that the illustrative districts respect communities of interest that share cultural, social, historical, educational, and economic connections. Dr. Colten identified specific communities of interest that are respected by the illustrative plans, including Black residents of Shreveport whose communities were shaped by shared experiences of racial violence and white flight, the communities that extend outward in either direction from the Red River with historically shared economic pursuits, the communities with distinctive historical and cultural identities in Natchitoches and the Cane River colony, the Acadiana residents with shared historical economic development dominated by sugar cane cultivation, the Black Jefferson Parish residents with shared working-class industrial economic pursuits and exposure to negative environmental externalities, the community upstream from Orleans Parish that resides in the site of the 1811 Slave Insurrection and brutal response, and the suburban communities that formed around the city of Baton Rouge. *See supra* ¶¶ 65–82.

323. Based upon the foregoing findings of fact and conclusions of law, the Court holds that there is a “common thread” that binds Black voters who reside in Illustrative HD 1, HD 23, HD 38, HD 60, HD 65, HD 68, HD 69, SD 17, SD 19, and SD 38. *See supra*, Findings of Fact § II.C.

C. Racial Predominance

324. By its very nature, Section 2 requires that plaintiffs propose illustrative districts that are majority-minority districts. *Gingles I* requires minority voters to show that a challenged electoral scheme has actually caused a diminution of electoral power they would otherwise have the potential to exercise. *See Gingles*, 478 U.S. at 50 n.17. And it directs plaintiffs to make that showing by

demonstrating—with “objective, numerical” precision—that an “election district could be drawn in which minority voters form a majority.” *Bartlett*, 556 U.S. at 18. That “is an inquiry into causation that *necessarily* classifies voters by their race.” *Clark II*, 88 F.3d at 1407 (emphasis added).

325. *Milligan* reaffirms that it is permissible to consider race when developing illustrative plans to satisfy the first *Gingles* precondition. Indeed, as the majority stressed, “[t]he very reason a plaintiff adduces a map at the first step of *Gingles* is precisely *because of* its racial composition—that is, because it creates an additional majority-minority district that does not then exist.” *Milligan*, 599 U.S. at 34 n.7 (emphasis in original); *see also id.* at 40–41 (“[T]his Court and the lower federal courts . . . have authorized race-based redistricting as a remedy for state districting maps that violate § 2.”).

326. In holding that the consideration of race does not preclude satisfying *Gingles* I, the Supreme Court rejected the argument that the *Milligan* plaintiffs’ illustrative plans failed *Gingles* I because race was a consideration in their design. *See Milligan*, 599 U.S. at 24 (rejecting argument that “the illustrative plan that plaintiffs adduce for the first *Gingles* precondition cannot have been ‘based’ on race”).

327. In addition, the Fifth Circuit has held that racial predominance analysis is not an appropriate consideration in evaluating a *Gingles* I illustrative plan. *See Clark II*, 88 F.3d at 1406–07; *see also Robinson v. Ardoin*, 37 F.4th 208, 223 (5th Cir. 2022) (citing *Clark II* and holding that this Circuit has “rejected the proposition that a plaintiff’s attempt to satisfy the first *Gingles* precondition is invalid if the plaintiff acts with a racial purpose.”). Thus, evidence purporting to show that race predominated in Mr. Cooper’s process or in his illustrative plans is simply irrelevant.

328. Even if a showing of racial predominance could defeat a plaintiff’s attempt to satisfy *Gingles* I, such a showing has not been made here. Mr. Cooper considered race appropriately for the purposes of satisfying *Gingles* I, balancing it with the other traditional redistricting principles he

considered. The Court finds that race did not predominate in Mr. Cooper’s illustrative plans or in the process he used to develop them.

* * *

329. Based upon the foregoing findings of fact and conclusions of law, the Court holds that Plaintiffs have established the first *Gingles* precondition. *See supra*, Findings of Fact § II.

IV. *Gingles* II and III

330. The second *Gingles* precondition requires that “the minority group [] be able to show that it is politically cohesive.” *Gingles*, 478 U.S. at 51; *see also Milligan*, 599 U.S. at 18–19 (“The second [precondition], concerning the political cohesiveness of the minority group, shows that a representative of its choice would in fact be elected.”). “A showing that a significant number of minority group members usually vote for the same candidates is one way of proving the political cohesiveness necessary to a vote dilution claim, and, consequently, establishes minority bloc voting within the context of § 2.” *Gingles*, 478 U.S. at 56 (cleaned up).

331. The third *Gingles* precondition requires a showing that “the white majority votes sufficiently as a bloc to enable it . . . to defeat the minority’s preferred candidate.” *Milligan*, 599 U.S. at 18 (quoting *Gingles*, 478 U.S. at 51). *Gingles* III “‘establish[es] that the challenged districting thwarts a distinctive minority vote’ at least plausibly on account of race.” *Id.* at 19 (quoting *Grove*, 507 U.S. at 40).

332. Both *Gingles* II and III address whether voting is racially polarized. In *Gingles*, the Supreme Court explained that “[t]he purpose of inquiring into the existence of racially polarized voting is twofold: to ascertain whether minority group members constitute a politically cohesive unit and to determine whether whites vote sufficiently as a bloc usually to defeat the minority’s preferred candidates.” 478 U.S. at 56.

333. Racially polarized voting exists where there is a “consistent relationship between [the]

race of the voter and the way in which the voter votes.” *Id.* at 53 n.21 (alteration in original). “A showing that a significant number of minority group members usually vote for the same candidates is one way of proving the political cohesiveness necessary to a vote dilution claim.” *Id.* at 56. A showing that “in general, a white bloc vote that normally will defeat the combined strength of minority support plus white ‘crossover’ votes rises to the level of legally significant white bloc voting.” *Id.*

334. The Court holds that the biracial elections analyzed by the parties’ experts are more probative than the elections only involving white candidates. *See Gingles*, 478 U.S. at 52–53 (relying exclusively on interracial contests to determine whether the Black vote was diluted). *See also Jenkins*, 4 F.3d at 1128–29 (holding that plaintiffs were not “required to present evidence on white versus white elections if they do not believe that those elections are probative”); *Campos v. City of Baytown*, 840 F.2d 1240, 1248–49 (5th Cir. 1988) (upholding district court decision where “the inquiry of racially polarized voting properly focused only on those contests . . . that had a minority member as a candidate”); *Gretna*, 834 F.2d at 503–04 (“[I]mplicit in the *Gingles* holding is the notion that [B]lack preference is determined from elections which offer the choice of a [B]lack candidate. The various *Gingles* concurring and dissenting opinions do not consider evidence of elections in which only whites were candidates. Hence, neither do we.”); *Wright*, 979 F.3d at 1301 (quoting *Solomon v. Liberty Cnty. Comm’rs*, 221 F.3d 1218, 1227 (11th Cir. 2000) (“a court may assign more probative value to elections that include minority candidates, than elections with only white candidates”).

335. Applying the *Gingles* principles to the foregoing findings of fact, the Court concludes that Plaintiffs have established *Gingles II* and *III*. *See supra*, Findings of Fact § III. There is abundant record evidence showing that Black voters in Louisiana are “politically cohesive,” and that “the white majority typically votes in a bloc to defeat the minority candidate.” *See Lopez*, 339 F. Supp. 3d at 610.

336. Courts rely on statistical analyses to estimate the proportion of each racial group that voted for each candidate. *See, e.g., Gingles*, 478 U.S. at 52–54; *Nipper v. Smith*, 39 F.3d 1494, 1505 n.20 (11th Cir. 1994); *Gretna*, 834 F.2d at 500–03 (5th Cir. 1987); *see also League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 986 F.2d 728, 743 (5th Cir. 1993), *on reh’g*, 999 F.2d 831 (5th Cir. 1993).

337. Courts have recognized ecological inference (“EI”) as an appropriate analysis for determining whether a plaintiff has satisfied the second and third *Gingles* preconditions. *See, e.g., Alpha Phi Alpha Fraternity*, No. 1:21-CV-5337-SCJ, 2022 WL 633312, at *56–64; *Caster v. Merrill*, No. 2:21-cv-1536-AMM, 2022 WL 264819, at *27, *38, *68–70 (N.D. Ala. Jan. 24, 2022); *Rose v. Raffensperger*, No. 1:20-CV-02921-SDG, 2022 WL 205674, at *11 (N.D. Ga. Jan. 24, 2022); *Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 691 (S.D. Tex. 2017); *Benavidez v. City of Irving*, 638 F. Supp. 2d 709, 723–24 (N.D. Tex. 2009); *Bone Shirt v. Hazeltine*, 336 F. Supp. 2d 976, 1003 (D.S.D. 2004), *aff’d*, 461 F.3d 1011 (8th Cir. 2006).

338. Dr. Handley conducted these types of analysis, and the Court finds Dr. Handley credible, her analysis methodologically sound, and her conclusions reliable. Based on the foregoing findings of fact, the Court credits Dr. Handley’s testimony and conclusions. *See supra*, Findings of Fact § III.A.

339. The Court finds that Dr. Handley’s RPV analysis satisfies the requirement that vote dilution claims are “district-specific.” *Gingles*, 478 U.S. at 103 (O’Connor, J., concurring).

340. Initially, the Court finds that Dr. Handley was not relying on *statewide* voting statistics to establish legally significant racially polarized voting. *See, e.g., Magnolia Bar Ass’n*, 994 F.2d at 1151.

341. Rather, the RVP analysis Dr. Handley conducted in seven different areas of the state was specific to the areas of the state where Plaintiffs are making vote dilution claims. Dr. Handley

created these areas of interest guided by the new Black-majority districts created by Mr. Cooper's illustrative plans. *See* PX 1 at 7–9. Thus, while Dr. Handley's methodology included using election results from 16 different statewide elections, she confined her EI analysis to the specific election data for the voters who live within each of the seven areas of interest. *Id.* The Court finds that Dr. Handley performed a sufficiently local analysis of the challenged districts.

342. The Court finds that Dr. Handley was not looking at only one small part of the district. *See, e.g., Abbott v. Perez*, 138 S. Ct. 2305, 2331–32 (2018). Rather, the Court finds that Dr. Handley analyzed all disputed districts, because Dr. Handley's seven areas include the parishes that overlap geographically with each of the new Black-majority districts, and therefore, these seven areas are the areas where the potential voters for the new districts live. *See* PX 1 at 7–9.

343. While these areas of interest are not specific election districts, in *Westwego Citizens for Better Government v. City of Westwego*, the Fifth Circuit acknowledged that *Gingles* suggests some flexibility in the type and nature of the REV analysis that must be provided in the face of sparse data. 872 F.2d 1201, 1209 n.11 (5th Cir. 1989) (citing *Gretna*, 834 F.2d at 502–03). Under Section 2's flexible standard, “a court may consider other relevant factors” when “elections from the challenged district do not provide sufficient evidence to determine if polarized voting exists.” *See E. Jefferson Coal. for Leadership and Dev. v. Jefferson Par.*, 691 F. Supp. 991, 999 (E.D. La. 1988); *see also Gretna*, 834 F.2d at 502–03. Courts have relied on this exact type of analysis from Dr. Handley in Section 2 cases. *See Alpha Phi Alpha*, 2023 WL 7037537, at *145–51, *411–13.

344. The Court finds that, at the time Dr. Handley conducted her analysis and wrote her report, she was facing sparse data, because no state legislative elections with the new enacted districts had yet taken place for her to analyze. This is precisely the type of case where the flexible option envisioned by the *Gingles* Court is necessary, and Dr. Handley's creation and analysis of seven areas of interest is a sufficiently local analysis of the challenged districts.

345. Based on the foregoing findings of fact, the Court concludes that the second *Gingles* precondition is satisfied here, because Black voters in Louisiana in the areas of interest are politically cohesive. *See* 478 U.S. at 49. “Bloc voting by blacks tends to prove that the black community is politically cohesive, that is, it shows that blacks prefer certain candidates whom they could elect in a single-member, black majority district.” *Id.* at 68. Based on the foregoing findings of fact, the analyses conducted by Dr. Handley clearly demonstrate high levels of cohesiveness among Black Louisianians in supporting their preferred candidates in the area where Mr. Cooper has proposed to draw additional majority-Black districts. The Court finds that the Black voters in the areas of interest are politically cohesive because across the sixteen elections that Dr. Handley analyzed, the candidate preferred by Black-preferred candidates received an average of 82.7% of the Black vote in statewide elections in these areas and only an average of 12.2% of the white vote. PX 1 at 10. When limited to only two-candidate contests, Black-preferred candidates received an average 93.2% of the Black vote in statewide races in these areas and an average of 15.6% of the white vote. *Id.*

346. Based on the foregoing findings of fact, the Court concludes that the third *Gingles* precondition is satisfied here, because the white majority votes in the seven areas of interest vote as a bloc to defeat the minority candidate.

347. While there is no specific threshold percentage required to demonstrate bloc voting, as “[t]he amount of white bloc voting that can generally ‘minimize or cancel’ black voters’ ability to elect representatives of their choice . . . will vary from district to district.” *Gingles*, 478 U.S. at 56 (internal citations omitted). The Court concludes that average white voter support for the Black-preferred candidate of only 12.6% across 16 elections is more than sufficient to satisfy *Gingles* III. *See Mo. NAACP*, 201 F. Supp. 3d at 1060–62 (finding racial polarization where Black-preferred candidates lost 75% of the time over a five-year period in mixed-race contested elections); *United States v. Vill. of Port Chester*, No. 06 CIV. 15173 (SCR), 2008 WL 190502, at *15 (S.D.N.Y. Jan.

17, 2008) (finding racially polarized voting where plaintiffs' expert showed that minority candidate of choice was defeated 75% of the time).

348. The Court concludes that Dr. Handley's analysis of 21 endogenous state legislative elections in these seven areas of interest also show racially polarized voting, as 20 of these 21 elections were racially polarized. Pls.' Ex. 10, Appendix B1 to Handley Report [hereinafter PX 10]; Pls.' Ex. 11, Appendix B2 to Handley Report [hereinafter PX 11]. Courts have consistently held that endogenous elections, as elections for the same office within the same area, are more probative than exogenous elections. *Magnolia Bar Ass'n*, 994 F.2d at 1149. The Court holds that the analysis conducted by Dr. Handley of endogenous state legislative elections is highly probative and establishes that state legislative elections in the seven areas of interest are racially polarized.

349. The Court concludes that the starkly racially polarized voting in the areas of interest substantially impedes the ability of Black voters to elect candidates of their choice to the Louisiana State Legislature in the areas of interest unless districts are drawn to provide Black voters with this opportunity.

350. The Court concludes there is no requirement as part of the Gingles II and III preconditions to demonstrate a threshold level of BVAP. *See, e.g., Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 186, 195–96 (2017) (finding that a simple analysis looking at turnout rates and personal knowledge of the area was narrowly tailored to comply with the Voting Rights Act). In *Covington*, 316 F.R.D. at 168, the court found that a district effectiveness analysis that used actual results of elections to calculate a win rate for Black candidates of choice in districts was a useful analysis in a Section 2 vote dilution case. The Court finds that Dr. Handley conducted this type of effectiveness analysis and that it was useful to evaluate the racial polarized voting in the areas of interests. The Court finds that voting in these areas is significantly racially polarized because, per the factual findings, no districts with less than 50% BVAP in any of the areas of interest provide an

effective opportunity for Black voters to elect their candidate of choice.

351. In sum, the Court concludes that Plaintiffs have established *Gingles II* and *III*.

V. Totality of Circumstances

352. After a plaintiff establishes the *Gingles* preconditions, a “totality of circumstances” analysis is required to determine whether minority voters “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b); *see also LULAC*, 548 U.S. at 425–26; *Fairley v. Hattiesburg*, 662 F. App’x. 291, 295 (5th Cir. 2016); *Patino*, 230 F. Supp. 3d at 713 (quoting *Perez v. Pasadena Indep. Sch. Dist.*, 958 F. Supp. 1196, 1201 (S.D. Tex. 1997)) (assessing whether “under the ‘totality of the circumstances,’ plaintiffs do not possess the same opportunities to participate in the political process and elect representatives of their choice enjoyed by other voters.”); *Westwego Citizens for Better Gov’t, v. City of Westwego*, 946 F.2d 1109, 1115 (5th Cir. 1991) (discussing how the lingering effects of racial discrimination continue to impact voting in Westwego); *Clark v. Edwards*, 725 F. Supp. 285, 290–91 (M.D. La. 1988) (providing stipulations detailing the history of voting-related discrimination in Louisiana), *vacated sub nom. Clark v. Roemer*, 750 F. Supp. 200 (M.D. La. 1990), *vacated and remanded*, 501 U.S. 1246 (1991), and *supplemented*, 777 F. Supp 471 (M.D. La. 1991).

353. The Supreme Court has made clear that the totality of the circumstances inquiry “is peculiarly dependent upon the facts of each case,” “requires an intensely local appraisal of the design and impact of the contested electoral mechanisms,” and “depends upon a searching practical evaluation of the past and present reality and on a functional view of the political process.” *Gingles*, 478 U.S. at 45, 79 (citations and internal quotations omitted); *see also NAACP v. Fordice*, 252 F.3d 361, 367 (5th Cir. 2001); *Magnolia Bar Ass’n*, 994 F.2d at 1147; *Clements*, 999 F.2d at 860.

354. “The totality of the circumstances determination is made by reference to the ‘Senate

Factors,’ which are derived from a report of the Senate Judiciary Committee accompanying the 1982 amendments to the Voting Rights Act.” *Robinson*, 605 F. Supp. 3d at 771.

355. The Court is not limited to considering “solely these factors, and the factors are ‘neither comprehensive nor exclusive.’” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1342 (11th Cir. 2015) (quoting *Gingles*, 478 U.S. at 45). Nor is there any “requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Gingles*, 478 U.S. at 45 (quoting S. Rep. No. 97-417, at 29, 1982 U.S.C.C.A.N. 207); *see also Westwego Citizens for Better Gov’t* 946 F.2d at 1120; *see also McMillan v. Escambia Cnty.*, 748 F.2d 1037, 1042–47 (5th Cir. 1984) (finding a Section 2 violation based on Senate Factors 1, 2, 3, 5, 7, and 9); *Miss. State Chapter, Operation Push v. Allain*, 674 F. Supp. 1245, 1262–68 (N.D. Miss. 1987) (finding a Section 2 violation after determining that five Senate Factors weighed in plaintiffs’ favor), *aff’d*, 932 F.2d 400 (5th Cir. 1991).

356. Senate Factor 2, the extent to which voting in the jurisdiction is racially polarized, and Senate Factor 7, the extent to which members of the minority group have been elected to office in the jurisdiction are the most important Senate Factors. *Fairley*, 662 F. App’x at 296 (citing *Clark II*, 88 F.3d at 1397) (“The existence of racially polarized voting and the extent to which minorities are elected to public office remain the two most important factors considered in the totality-of-circumstances inquiry.”); *Clark II*, 88 F.3d at 1398 (finding the “presence of racially polarized voting and the virtually complete absence of black elected officials in county offices” provided strong evidence of vote dilution). The presence or absence alone of these factors is not, however, dispositive. *See, e.g., Major v. Treen*, 574 F. Supp. 325, 351 (E.D. La. 1983) (three-judge court) (“That several black candidates [...] have won office in Orleans Parish does not foreclose a finding of dilution.”).

357. “[I]t will be only the very unusual case in which the plaintiffs can establish the existence of the three *Gingles* [preconditions] but still have failed to establish a violation of § 2 under

the totality of circumstances.” *Clark I*, 21 F.3d at 97 (quoting *Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir. 1993)); *see also Ga. State Conf. of NAACP II*, 775 F.3d at 1342 (same).

A. Senate Factor 1: Louisiana Has a History of Voting-Related Discrimination Against Black Voters.

358. Senate Factor 1, accounting “the history of official voting-related discrimination in the state or political subdivision,” weighs heavily in Plaintiffs’ favor. *Gingles*, 478 U.S. at 37.

359. Louisiana’s history of voting-related discrimination is so deeply ingrained that “it would take a multi-volumed treatise to properly describe the persistent, and often violent, intimidation visited by white citizens upon black efforts to participate in Louisiana’s political process.” *Citizens for a Better Gretna v. City of Gretna*, 636 F. Supp. 1113, 1116 (E.D. La. 1986), *aff’d*, 834 F.2d 496 (5th Cir. 1987); *see also United States v. Louisiana*, 225 F. Supp. 353, 363 (E.D. La. 1963) (three-judge court) (extensively cataloging Louisiana’s “historic policy and the dominant white citizens’ firm determination to maintain white supremacy in state and local government by denying to [Black citizens] the right to vote”), *aff’d*, 380 U.S. 145 (1965). *See also Westwego Citizens for Better Gov’t*, 946 F.2d at 1115 (discussing how the lingering effects of racial discrimination continue to impact voting in Westwego); *Edwards*, 725 F. Supp. at 290–91 (providing stipulations detailing the history of voting-related discrimination in Louisiana). Indeed, this Court has previously found that there is “no sincere dispute” regarding the presence of Senate Factor 1 in Louisiana. *Robinson*, 605 F. Supp. 3d at 848. This Court adopts those repeated findings here.

360. Based upon the foregoing findings of fact, the Court concludes that there is a persistent history of discrimination against Black voters in Louisiana. *See supra*, Findings of Fact § IV.A. This factor weighs in favor of a finding of vote dilution.

B. Senate Factor 2: Voting in Louisiana is Extremely Polarized Along Racial

Lines.

361. Senate Factor 2 calls for the examination of “the extent to which voting in the elections of the state or political subdivision is racially polarized.” *Gingles*, 478 U.S. at 37. In sum, the Court concludes both that voting in Louisiana is polarized on racial lines and that race is the functional cause of this polarization. The second Senate Factor thus weighs heavily in Plaintiffs’ favor.

362. Courts have found that voting in Louisiana is racially polarized. *See, e.g., Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 436–37 (recognizing racially polarized voting in Terrebonne Parish); *St. Bernard Citizens for Better Gov’t v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *9 (E.D. La. Aug. 26, 2002) (recognizing racially polarized voting in St. Bernard Parish); *Edwards*, 725 F. Supp. at 298–99 (concluding that “across Louisiana and in each of the family court and district court judicial districts as well as in each of the court of appeal districts, there is consistent racial polarization in voting”); *Citizens for a Better Gretna*, 636 F. Supp. at 1124–31 (recognizing racially polarized voting in City of Gretna); *Major*, 574 F. Supp. at 337–39 (recognizing racial polarization in Orleans Parish).

363. “It is the *difference* between the choices made by blacks and whites—not the reasons for that difference—that results in blacks having less opportunity than whites to elect their preferred representatives. Consequently, . . . under the ‘results test’ of § 2, only the correlation between race of voter and selection of certain candidates, not the causes of the correlation, matters.” *Gingles*, 478 U.S. at 63. The Court finds that the relevant inquiry in determining whether voting is racially polarized is whether Black and white voters consistently support different candidates—that is, whether Black voters are cohesive in their support of their candidates of choice, and whether the candidates supported by Black voters are usually defeated by the candidates supported by white voters. Pls.’ Ex. 12, Handley Rebuttal Report (Aug. 11, 2023), at 10 [hereinafter PX 12].

364. The degree to which partisan affiliation instead of race drives polarization falls within

the second Senate Factor examining “the extent to which voting ... is racially polarized.” *Clements*, 999 F.2d at 850 (quoting S. Rep. No. 97-417, at 29, 1982 U.S.C.C.A.N., 206). Only where “the record indisputably proves that partisan affiliation, not race, best explains the divergent voting patterns among minority and white citizens” could a vote dilution claim turn on this factor. *Clements*, 999 F.2d at 850. And Defendants bear the burden of “try[ing] to rebut plaintiffs’ claim of vote dilution via evidence of ‘objective, nonracial factors’” like partisanship, “‘under the totality of the circumstances standard,’” not under the *Gingles* preconditions. See *Teague v. Attala Cnty.*, 92 F.3d 283, 292 (5th Cir. 1996) (quoting *Nipper*, 39 F.3d at 1513). Showing that party and not race is the source of polarization “is for the defendants to make.” *Teague*, 92 F.3d at 290. Like the rest of the totality of circumstances factors, courts balance the relative strength of evidence the parties direct to each factor—including racial polarization—to determine whether Black Louisianians’ votes are being diluted. See, e.g., *Lopez*, 339 F. Supp. 3d at 604 (“[P]laintiffs do not bear the burden in the first instance to eliminate factors other than race as influencing voters.”) (citation omitted).

365. As set forth above, proof of racially polarized voting under *Gingles* creates an inference of racial bias in the electoral system. See *Teague*, 92 F.3d at 290 (“Plaintiffs are to present evidence of racial bias operating in the electoral system by proving up the *Gingles* factors.”). The Fifth Circuit in *Teague* concluded that a district court “err[ed] by placing the burden on plaintiffs to disprove that factors other than race affect voting patterns” as part of the *Gingles* analysis. *Id.* This is consistent with the position of the *Gingles* plurality, which held that racially polarized voting “refers only to the existence of a correlation between the race of voters and the selection of certain candidates.” 478 U.S. at 74.

366. The Court, therefore, concludes that the Plaintiffs do not bear the initial “burden of negating all nonracial reasons possibly explaining” racially polarized voting and Black electoral defeat. *Teague*, 92 F.3d at 295. Defendants take on the burden to rebut Plaintiffs’ claim by offering

evidence of non-racial voting patterns, if they so choose. *Id.* at 290; *see also Nipper*, 39 F.3d at 1513 (“A defendant in a vote dilution case may always attempt to rebut the plaintiff’s claim by introducing evidence of objective, non-racial factors.”).

367. Defendants’ expert, Dr. Alford, merely presents the existence of a partisan divide along racial lines. Dr. Alford reveals nothing about why Black and white voters support candidates from different parties. Rather, Dr. Alford agrees “Democratic candidates draw cohesive support from Black voters,” irrespective of the candidate’s race, and that “White voters vote cohesively” against those candidates of Black voters’ choice. Legislative Defs.’ Ex. 53, Alford Report, at 17–18. Dr. Alford does not conduct any analysis attempting to assess the roles race and party have in Louisiana voters’ vote choices. The data available only illustrates who voters voted for, not the reasons for their voting behavior. The Court concludes that Defendants have failed to rebut Plaintiffs’ showing of racially polarized voting and the operation of “racial bias . . . in the electoral system.” *Teague*, 92 F.3d at 290.

368. The Court concludes, however, that Plaintiffs’ experts provided evidence that race and not party is a consistent factor in the voting patterns in the areas of interest. For example, while Black Democrats voted over 95% for both the white and Black candidates for Governor and Lieutenant Governor respectively, white Democrats overwhelmingly voted against the Black candidates, but for the white candidate. PX 12 at 11. White Democrats voted as a bloc against the Black-preferred candidate of choice when the candidate was not white. Thus, even where Black and white voters share partisan leanings, elections remain racially polarized.

369. The Court concludes that the EI analysis performed by Dr. King establishes that white Democrats are inclined to support a white Democrat over a Black Democrat when given the choice. The Court concludes that voting in Louisiana is racially polarized even among co-partisans.

370. Moreover, the historical realignment of Black voters from voting Republican to

voting Democrat in Louisiana undercuts the argument that polarization is attributed to partisanship and not race. *See supra* ¶¶ 167–69. As this Court recognized in *Robinson*, “[t]he realignment of Black voters from Democrat to Republican is strong evidence that, party affiliation notwithstanding, Black voters cohesively [vote] for candidates who are aligned on issues connected to race.” 605 F. Supp. 3d at 845. This historical realignment is supported by fact witness testimony indicating Black voters in Louisiana prefer Democratic candidates not simply because they are Democrats, but because Democratic candidates are more likely to raise and discuss issues that matter to Black Louisianians.

371. In support of their assertion that political ideology and not race explains Louisiana’s polarized voting, Defendants and their expert offer the simple fact that Black voters prefer Democrats and white voters prefer Republicans. But that fact tells us nothing about whether race and issues inextricably linked to race impact the partisan preferences of Black and white voters. The Court concludes that Plaintiffs offered substantial evidence that issues of race and racial justice *do* play a critical role in shaping those preferences today.

372. Based upon the foregoing findings of fact, the Court concludes that legislative elections in Louisiana in the areas of interest are characterized by stark patterns of racially polarized voting. *See supra*, Findings of Fact § IV.B. This factor weighs in favor of a finding of vote dilution.

C. Senate Factor 3: Louisiana’s Voting Practices and Procedures Tend to Enhance the Opportunity for Discrimination Against Minority Voters.

373. Senate Factor 3, assessing “the extent to which the state of political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group,” weighs in Plaintiffs’ favor. *Gingles*, 478 U.S. at 45. The Supreme Court has long recognized the dilutive impact of enhancing factors. *See, e.g., Gingles*, 478 U.S. at 47 (affirming that at-large voting may “operate to minimize or cancel out the voting strength of racial minorities in the voting population”) (citation omitted).

374. Based on the foregoing findings of fact, this Court concludes that voting practices in

Louisiana’s legislative elections further enhance the opportunity for discrimination, including majority-vote requirements and odd-year election cycles. *See supra*, Findings of Fact § IV.C; *see also Harvell v. Blytheville Sch. Dist. No. 5*, 71 F. 3d 1382, 1390–91 (8th Cir. 1995) (finding that “majority vote requirement” and “staggered terms” “tend to suppress minority voters’ influence”). This factor weighs in favor of a finding of vote dilution.

D. Senate Factor 5: Black Voters Suffer from Louisiana’s Discrimination in Education, Employment, and Health, Which Hinder Political Participation.

375. Senate Factor 5, measuring “the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process,” weighs heavily in Plaintiffs’ favor. *Gingles*, 478 U.S. at 37. Courts have recognized that, as a result of past discrimination, Black voters in Louisiana suffer from socio-economic disadvantages that diminish their ability to participate in the political process.

376. “To establish this factor, a plaintiff must prove two elements—(1) socioeconomic disparities in areas such as education, income level, and living conditions which arise from past discrimination, and (2) ‘proof that participation in the political process is in fact depressed among minority citizens,’ which can be shown by evidence of reduced levels of registration or lower turnout among minority voters.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 442 (quoting *LULAC*, 999 F.2d at 867). “Where the minority group presents evidence that its members are socioeconomically disadvantaged and that their level of participation in politics is depressed, the group need not prove any further causal nexus between its members’ disparate socioeconomic status and the depressed level of political participation.” *LULAC*, 986 F.2d at 750 (cleaned up); *see also Teague*, 92 F.3d at 294 (“Plaintiffs are not required to prove a causal connection between [socioeconomic disparities] and a depressed level of political participation.”).

377. “[D]epressed levels of income, education and employment are a consequence of

severe historical disadvantage. Depressed levels of participation in voting and candidacy are inextricably involved in the perception of futility and impotence such a history engenders.” *Citizens for a Better Gretna*, 636 F. Supp. at 1120; *see also St. Bernard Citizens for Better Gov’t*, 2002 WL 2022589, at *9 (“Both Congress and the Courts have recognized the effect lower socio-economic status has on minority participation in the political process.”); *Major*, 574 F. Supp. at 340–41 (similar).

378. Courts have recognized that “Blacks in contemporary Louisiana have less education, subsist under poorer living conditions and in general occupy a lower socio-economic status than whites” and that these socioeconomic factors “are the legacy of historical discrimination in the areas of education, employment and housing.” *Major*, 574 F. Supp. at 341. In addition, Plaintiffs have offered extensive evidence that Black Louisianians suffer socioeconomic hardships stemming from centuries-long racial discrimination, and that those hardships impede their ability to participate in the political process.

379. As discussed above and throughout Dr. Burch’s expert report, Louisiana’s Black residents experience stark socioeconomic disadvantages across all areas of life: employment, education, poverty, health, housing, and exposure to the criminal justice system. These inequities inhibit their participation in the political process, resulting not only in reduced voter turnout, but also diminished lobbying and campaign contributions.

380. Defendants do not meaningfully dispute that Louisiana’s current and historical discrimination has produced striking disparities between the state’s Black and white citizens in almost every area that is relevant to quality of life.

381. This Court finds that socioeconomic disparities in areas such as education, income level, and living conditions persist in Louisiana; these disparities arise from past discrimination; and they impair Black Louisianians’ participation in the political process. Defendants offered no evidence

to dispute this conclusion.

382. Based upon the foregoing findings of fact, the Court concludes that Black residents of Louisiana bear the effects of discrimination, which depress their socio-economic status and ability to participate in the political process. *See supra*, Findings of Fact § IV.E. This factor weighs in favor of a finding of vote dilution.

E. Senate Factor 6: Racial Appeals Are Common in Louisiana Politics.

383. Senate Factor 6, noting “the use of overt or subtle racial appeals in political campaigns,” weighs in Plaintiffs’ favor. *Gingles*, 478 U.S. at 37. Here, Plaintiffs have provided specific examples of “blatant,” “subtle and furtive” racial appeals during campaigns over the past few decades. *Id.* at 40.

384. This Court has previously recognized the use of racial appeals in Louisiana’s political campaigns. *See, e.g., Clark v. Roemer*, 777 F. Supp. 445, 458 (M.D. La. 1990) (crediting testimony of Sylvia Cooks, who ran in two judicial elections in Louisiana in 1980s, regarding “the overt and covert racial appeals in both elections by candidates and the public”).

385. As discussed above and throughout Dr. Burch’s expert report, both overt and subtle racial appeals remain commonplace in Louisiana politics.

386. Defendants do not meaningfully dispute that overt and subtle racial appeals continue to mark the state’s political campaigns.

387. Based upon the foregoing findings of fact, the Court concludes racial appeals have been present elections in Louisiana. *See supra*, Findings of Fact § IV.F. This factor thus weighs in Plaintiffs’ favor.

F. Senate Factor 7: Black Louisianans Are Significantly Underrepresented in Elected Office.

388. Senate Factor 7, “the extent to which members of the minority group have been elected to public office in the jurisdiction,” weighs heavily for Plaintiffs. *Gingles*, 478 U.S. at 37.

“The extent to which minority candidates are elected to public office also contextualizes the degree to which vestiges of discrimination continue to reduce minority participation in the political process.” *Veasey*, 830 F.3d at 261.

389. This Court has held that “[t]he lack of black electoral success is a very important factor in determining whether there is vote dilution.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 444. The Court had noted that “[s]tatewide, blacks have [] been underrepresented in the trial and appellate courts. While the . . . black population comprises about 30.5% of the voting-age population in Louisiana, black people only account for about 17.5% of the judges in Louisiana.” *Id.* at 445.

390. Plaintiffs’ evidence, including Dr. Burch’s expert report and witness testimony, demonstrate that Black Louisianians are underrepresented in statewide elected offices and rarely succeed in local and district-based elections outside of majority-Black districts.

391. Defendants do not meaningfully dispute that Black Louisianians are underrepresented in public office.

392. Based upon the foregoing findings of fact, the Court concludes Black Louisianians are underrepresented in public office in Louisiana. *See supra*, Findings of Fact § IV.G. This factor thus weighs in favor of a finding of vote dilution.

G. Senate Factor 8: Louisiana is Unresponsive to the Needs of Black Louisianians.

393. Senate Factor 8, noting “lack of responsiveness on the part of elected officials to the particularized needs of minority group members” weighs for Plaintiffs. *Gingles*, 478 U.S. at 37.

394. Plaintiffs have demonstrated, through Dr. Burch’s expert report and witness testimony, that policy outcomes in Louisiana do not track the specific needs of the Black community in Louisiana, and that elected officials in Louisiana have routinely ignored or failed to respond to the particularized needs of the Black community. *See supra* ¶¶ 226–30.

395. Based upon the foregoing findings of fact, the Court concludes Black Louisianians are underrepresented in public office in Louisiana. *See supra*, Findings of Fact § IV.H. This factor thus weighs in favor of a finding of vote dilution.

H. Senate Factor 9: Defendants’ Justifications Are Tenuous.

396. Senate Factor 9, determining that the policy underlying the state or political subdivision's use of the challenged standard, practice, or procedure is “tenuous,” favors Plaintiffs. *Gingles*, 478 U.S. at 37. As set forth in the above findings of fact, the rationales offered by the Legislature to justify passing the enacted state legislative plans without increasing Black-majority districts evolved over time, were unsupported with evidence, or haphazardly applied. Indeed, legislative leaders conceded it *was* possible to create more Black-majority districts but opted not to, relying on unsupported claims that the districts had to have excessive majorities to perform or would risk splitting some (but not other) communities of interest. The Legislature ultimately passed maps that prioritized incumbent protection over Black voters’ opportunity to elect the candidates of their choice, despite “continuity of representation” never appearing in Joint Rule 21 as a priority redistricting principle.

397. Based upon the foregoing findings of fact, the Court concludes that Defendants’ justifications are tenuous. *See supra*, Findings of Fact § IV.I. This factor thus weighs heavily in favor of a finding of vote dilution.

I. Proportionality Further Supports a Finding of Vote Dilution.

398. In addition to analyzing the Senate Factors, the Court may also consider the extent to which there is a mismatch between the proportion of Louisiana’s population that is Black and the proportion of legislative districts in which they have an opportunity to elect their candidates of choice. *See De Grandy*, 512 U.S. at 1000; *Milligan*, 599 U.S. at 1504 (citing *De Grandy* among the Section 2 precedents that the Court affirmed); *see also, e.g., Mo. State Conf. of NAACP*, 894 F.3d at

940 n.12; *Black Pol. Task Force v. Galvin*, 300 F. Supp. 2d 291, 312 (D. Mass. 2004) (three-judge court). “Another relevant consideration is whether the number of districts in which the minority group forms an effective majority is roughly proportional to its share of the population in the relevant area.” *Fairley*, 662 F. App’x 291, 300–01 (5th Cir. 2016) (citing *LULAC*, 548 U.S. at 426) (The Court ultimately found that the district court did not err in finding the redistricting plan, which retained three majority-white wards and two majority-black wards despite a slight African American majority, was roughly proportional to their share of city’s population and did not dilute voting power of African American citizens.).

399. While the Voting Rights Act does not mandate proportionality, the one circumstance it expressly permits courts to consider is “[t]he extent to which members of a protected class have been elected to office in the State or political subdivision.” 52 U.S.C. § 10301(b). An inquiry into proportionality “provides some evidence of whether the political processes leading to nomination or election in the State or political subdivision are not equally open to participation” by a minority group. *LULAC*, 548 U.S. at 438 (cleaned up).

400. Thus, though not dispositive, disproportionality is relevant to the totality-of-circumstances analysis. *See, e.g., Bone Shirt*, 336 F. Supp. 2d at 1049; *Arbor Hill Concerned Citizens Neighborhood Ass’n v. Cnty. of Albany*, 281 F. Supp. 2d 436, 455–56 (N.D.N.Y. 2003).

401. Louisiana’s statewide population exceeds 33 percent. *See supra* ¶ 44. Under the enacted state legislative plans, the number of House and Senate districts where Black voters constitute an effective voting majority of the population is disproportionately low relative to the proportion of Louisiana’s population that is Black.

402. Based on the foregoing findings of fact, the Court concludes that the present disproportionality in the state legislative plans weighs in favor of a finding of vote dilution. *See Singleton*, 2022 WL 265001, at *73–74 (assessing comparable proportionality figures, “consider[ing]

the proportionality arguments of the plaintiffs as part and parcel of the totality of the circumstances, and [] draw[ing] the limited and obvious conclusion that this consideration weighs decidedly in favor of the plaintiffs”). This is especially true given that Black Louisianians were significantly responsible for the state’s population growth over the past 10 years. *See Bone Shirt*, 336 F. Supp. 2d at 1049 (accepting evidence from Mr. Cooper showing that minority group’s population “rapidly increas[ed in] both their absolute numbers and share of the population” and finding that plaintiffs “presented evidence of disproportionality”).

* * *

403. Under the totality of the circumstances, Louisiana’s Black electorate has less opportunity than the white electorate to participate in the political process and elect candidates of its choice.

404. Having considered the facts of this case, as well as “an intensely local appraisal of the design and impact of the contested electoral mechanisms,” *Gingles*, 478 U.S. at 79 (citations omitted), the Court concludes that Louisiana’s enacted State House and Senate plans deprive Black voters of the equal opportunity to elect candidates of their choice, in violation of Section 2. 52 U.S.C. § 10301.

VI. Remedy

405. Having found a violation of Section 2 of the Voting Rights Act, the Court enjoins the Defendant from conducting any future elections under the enacted State House and Senate maps and will issue an order regarding appropriate process for creating remedial districts.

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**Pro Hac Vice Motion Forthcoming