

# EXHIBIT 2

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF LOUISIANA

3

4 PRESS ROBINSON, et al, CASE NO.  
5 Plaintiffs, 3:22-cv-00211-SDD-SDJ

6 v

7 KYLE ARDOIN, in his  
8 official capacity as c/w  
9 Secretary of State for  
10 Louisiana,  
11 Defendant.

12  
13 EDWARD GALMON, SR., et  
14 al, CASE NO.  
15 Plaintiffs, 3:22-cv-00214-SDD-SDJ

16 v

17 R. KYLE ARDOIN, in his  
18 official capacity as  
19 Louisiana Secretary of  
20 State,  
21 Defendant.

22

23 PROCEEDINGS

24 INJUNCTION HEARING

25 Held on Tuesday, May 10, 2022

Before The

HONORABLE SHELLY DICK

Judge Presiding

Baton Rouge, Louisiana

23

24 REPORTED BY:CHERIE' E. WHITE  
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CERTIFIED COURT REPORTER

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1 P R O C E E D I N G S

2 THE COURT:

3 Good morning. Be seated. Welcome  
4 back to day two. Hopefully, we won't have  
5 a situation of fire and ice like we had  
6 yesterday, and I'm referring to the  
7 temperature in the courtroom.

8 Okay. Do we know what the clock --  
9 how the clock remains? Do you-all want to  
10 put that on the record so we are on the  
11 same page?

12 Ms. Khanna?

13 MS. KHANNA:

14 Yes, Your Honor. Plaintiffs have  
15 taken up 190 minutes and the defendants  
16 have taken up 140 minutes.

17 THE COURT:

18 Plaintiffs, 190 and defendants, 140?

19 MS. KHANNA:

20 Yes, Your Honor.

21 THE COURT:

22 Okay. All right. Next witness?

23 MS. BRANNON:

24 I have to because I haven't entered  
25 an appearance yet. Sarah Brannon,

1 B-R-A-N-N-O-N. And plaintiffs call  
2 Dr. Lisa Handley.

3 DR. LISA HANDLEY,  
4 after having first been duly sworn by the  
5 above-mentioned court reporter, did testify as  
6 follows:

7 MS. BRANNON:

8 We have agreed to stipulate to the  
9 expertise of the witnesses, so I would  
10 like to ask for a stipulation that  
11 Dr. Handley is an expert in -- an expert  
12 witness in district -- in redistricting  
13 with an emphasis on racially polarized  
14 voting. Is there an agreement?

15 THE COURT:

16 Is there a stipulation?

17 MR. FARR:

18 Good morning, Your Honor. Tom Farr  
19 from the law firm of Nelson Mullins. I'm  
20 here representing the Secretary of State,  
21 and we have no objection to that  
22 stipulation, Your Honor.

23 THE COURT:

24 Thank you, sir.

25 MS. BRANNON:



1           Your Honor, may I approach the  
2           witness?

3           THE COURT:

4           Yes. And the court will accept  
5           Dr. Handley and allow opinion testimony in  
6           the area of expert witness experience in  
7           racially polarized voting.

8           You may approach.

9           MS. BRANNON:

10           Your Honor, I just somehow have  
11           realized that I cut my foot.

12           THE COURT:

13           Are you bleeding all over?

14           MS. BRANNON:

15           I am. Can we take a five-minute  
16           recess?

17           THE COURT:

18           We can take a recess while you call

19           EMS. Okay. We will take five minutes.

20           (A short recess was taken at 9:37 a.m.)

21           THE COURT:

22           Okay. Be seated.

23           MS. BRANNON:

24           I'm recovered.

25           THE COURT:

1                   Good. And if you feel lightheaded  
2                   from the loss of blood, we will take  
3                   another recess. Maybe somebody brought  
4                   cookies.

5                   MS. BRANNON:

6                   Okay. So we are going to return.  
7                   For the record, I have given Dr. Handley a  
8                   binder with a copy of her expert materials  
9                   in this case, and we are going to walk  
10                  through all of those and introduce them as  
11                  we discuss them.

12                  THE COURT:

13                  Okay. Proceed.

14                  DIRECT EXAMINATION BY MS. BRANNON:

15                  Q.    Dr. Handley, did you prepare a  
16                  report in this case?

17                  A.    Several, yes.

18                  Q.    Can you turn to the first page of  
19                  your binder?

20                  A.    (Witness complied.)

21                  Q.    Is that a copy of the preliminary  
22                  report you prepared?

23                  A.    It is.

24                  MS. BRANNON:

25                  For the record, Dr. Handley's

1 preliminary report is Exhibit PR-12.

2 THE COURT:

3 Record Document 41, dash, 3, right?

4 MS. BRANNON:

5 Yes.

6 BY MS. BRANNON:

7 Q. Dr. Handley, is your CV attached to  
8 your preliminary report?

9 A. It is.

10 Q. Is this a complete and accurate  
11 summary of your background and professional  
12 experience?

13 A. It is.

14 Q. Dr. Handley, what do you do for a  
15 living?

16 A. I am a consultant.

17 THE COURT:

18 Ma'am, I think you might need to  
19 adjust your mic. Yeah, right there. Your  
20 mic, just adjust it.

21 THE WITNESS:

22 Just put it closer to my pad?

23 THE COURT:

24 Okay. Now we can hear better.

25 BY MS. BRANNON:

1 Q. I'll re-ask. Dr. Handley, what did  
2 you do for a living?

3 A. I am a consultant here in the  
4 United States and overseas. I also am a  
5 part-time academic in the U.K.

6 Q. Can you provide us some examples of  
7 some of your clients for your consulting  
8 business?

9 A. I have worked, as I mentioned, the  
10 UM. I worked for scores of states and local  
11 jurisdictions. I worked for the redistricting  
12 for the Department of Justice for several civil  
13 rights organizations, including the ACLU.

14 Q. Can you briefly describe some of  
15 your academic work you have done on the topic of  
16 redistricting and minority vote dilution?

17 A. Almost all of the articles that  
18 you'll see listed in my CV, that includes books,  
19 articles, peer-review journals, law review  
20 articles, chapters in books deal with minority  
21 representation, voting redistricting with the  
22 subjects of this case.

23 Q. All right. And have you testified  
24 before as an expert witness?

25 A. I have.

1 Q. Approximately how many times have  
2 you performed a racial block voting analysis as  
3 an expert witness?

4 A. As an expert witness, scores of  
5 times.

6 Q. Okay. And have you been -- have you  
7 been accepted as an expert witness before to  
8 testify about redistricting and racially  
9 polarized voting?

10 A. I have.

11 Q. Approximately how many times?

12 A. Scores.

13 Q. Dr. Handley, what were you asked to  
14 do in this case?

15 A. I was asked to conduct an analysis  
16 of the voting patterns by race in Louisiana and  
17 to evaluate proposed districts; that is, the  
18 enacted plan and several illustrative plans to  
19 ascertain the opportunity for black voters to  
20 elect the candidates of their choice.

21 Q. And were you asked to analyze voting  
22 patterns in the State of Louisiana specifically?

23 A. Yes. I analyzed voting patterns  
24 statewide, I analyzed voting patterns in 16  
25 congressional districts and in the enacted

1 congressional districts.

2 Q. And can you provide us a general  
3 summary of the opinions that you reached with  
4 respect to your analysis as to whether there's  
5 racially polarized voting in Louisiana?

6 A. Yes, there is racially polarized  
7 voting in Louisiana. There is quite stark  
8 racially polarized voting in Louisiana.

9 Q. What is your definition of racially  
10 polarized voting?

11 A. Thornburg versus Gingles tells us  
12 that voting is polarized in black voters and  
13 white voters vote differently. In other words,  
14 if black voters voting alone elected different  
15 candidates than white voters, then the contest is  
16 racially polarized.

17 Q. What statistical techniques did you  
18 use to analyze whether voting in Louisiana is  
19 racially polarized?

20 A. I used three standard techniques:  
21 Homogeneous precinct analysis, ecological  
22 regression, and ecological inference.  
23 Technically I used four because there are two  
24 variants of ecological inference.

25 Q. We heard details yesterday about

1 ecological inference, but can you provide a brief  
2 summary of homogeneous precinct analysis and  
3 ecological regression.

4 A. Homogeneous precinct analysis simply  
5 compares the voting patterns of precincts that  
6 are overwhelmingly one race compared to precincts  
7 that are overwhelmingly in another race.

8 So in this case, you are comparing  
9 precincts that are overwhelming white to  
10 precincts that are overwhelming black. It's not  
11 actually a statistical technique. It's simply  
12 comparing these two precincts. We call it an  
13 estimate because, of course, not all voters live  
14 in homogeneous precincts and might vote  
15 differently than the voters who live in more  
16 diverse precincts.

17 Q. Why do you use all three methods?

18 A. Two of the methods have been around  
19 for a very long time. When *Thornburg v Gingles*  
20 was decided, homogeneous precinct analysis and  
21 ecological regression was used by the plaintiffs'  
22 experts and the court approved those methods.  
23 Since then, ecological inference was developed by  
24 a professor at Harvard by the name of Gary King  
25 and courts have accepted that.

1                   Now, this is three different  
2 techniques to arrive at estimates. If you -- if  
3 the estimates are more or less the same, despite  
4 using three different techniques, we are certain  
5 that we have grasped what the voting patterns  
6 are.

7           Q.    Have courts accepted your expert  
8 testimony using these different statistical  
9 methodologies in voting cases before?

10          A.    Yes. Now, again, ecological  
11 inference is more common. I've only been using  
12 that for maybe 20 years, but the others for  
13 40 years, a long time.

14          Q.    Okay. Let's look at your analysis a  
15 little bit more in detail.

16          MS. BRANNON:

17                   Can we see demonstrative

18                   Exhibit 1.2?

19          TRIAL TECH:

20                   (Complied.)

21          BY MS. BRANNON:

22          Q.    Did you analyze statewide elections?

23          A.    I did analyze statewide elections.

24          Q.    How many statewide elections did you

25 analyze?



1 A. Fifteen statewide elections.

2 Q. Are you familiar with this table  
3 that is demonstrative Exhibit 1.2?

4 A. Yes. These are the 15 contests that  
5 I analyzed.

6 Q. Why did you choose these elections?

7 A. These are all recent elections from  
8 2015 on. They all include black candidates.

9 Q. Let's walk through your analysis of  
10 a statewide election.

11 MS. BRANNON:

12 Can we see demonstrative  
13 Exhibit 1.3?

14 TRIAL TECH:

15 (Complied.)

16 BY MS. BRANNON:

17 Q. Dr. Handley, do you recognize this  
18 spreadsheet?

19 A. I do.

20 Q. Is this spreadsheet part of your  
21 preliminary report as appendix A?

22 A. It is.

23 Q. Can you explain what this  
24 spreadsheet shows by walking us through the  
25 portion that has been highlighted?

1           A.    Yes.  So this is a particular  
2 contest.  In this case, it's the attorney general  
3 in 2019, October 2019.  You can see the two  
4 candidates, Jackson and Jeff Landry.  You can see  
5 their party, you can see their race, and the next  
6 column is the actual votes they received.

7                       Below that is the black turnout and  
8 the white turnout figures.  And then the next set  
9 of four columns are the estimates derived by the  
10 four different techniques of the percentage of  
11 black voters who voted for each of these  
12 candidates.

13                      So, for example, C 90.6 is the EIR  
14 times C estimate, 91.2 is the EI 2 times 2,  
15 94 percent is the ER, and 87.7 is the homogeneous  
16 precinct estimate of percentage of the black  
17 voters who supported Ike Jackson.  And then you  
18 see the same information for the white voters.  
19 So like EIR times 29.4 percent of the white  
20 voters that supported Ike Jackson by EI 2.2, it's  
21 10.1 by ER, it's 9.2; and by HB, it's 12.2.  So  
22 all of them are quite comparable.

23                      For example, the estimate that the  
24 percentage of black voters who voted for Jackson  
25 was similar between 87.7 percent and 94 percent.

1 THE COURT:

2 Dr. Handley, one second. Will you  
3 help her with her mic? See if maybe we  
4 can adjust it.

5 THE WITNESS:

6 The problem is I'm leaning forward.

7 THE COURT:

8 Right. What we will do is she  
9 will -- she will just see if we -- Mr. IT  
10 is here too, so we are well. We are over  
11 prepared.

12 THE WITNESS:

13 This is going to be too far away.

14 You can still hear?

15 THE COURT:

16 No. That's better and you can  
17 certainly adjust it. I'll stop. We may  
18 be give you some assistance, okay? Please  
19 carry on. I'm sorry I interrupted you.

20 BY MS. BRANNON:

21 Q. Dr. Handley, what are confidence  
22 intervals?

23 A. So the EIR times C estimates, the  
24 column next to that, we have confidence  
25 intervals. You can think of those as sort of the

1 margins of error that you see in a survey that  
2 we're 95 percent certain that the true estimate,  
3 the estimate being 90.6, that the true estimate  
4 is somewhere between 90.3 and 90.9.

5 Q. And why do you include confidence  
6 intervals only for your EIR times C calculation?

7 A. Those are the only confidence  
8 intervals that are generally accepted by experts  
9 in my area for -- for these kinds of estimates.

10 Q. Does the -- this appendix A also  
11 provide information about voter turnout?

12 A. It does. The italicized lines in  
13 the attorney general race, it says black turnout,  
14 slash, black VAP. That's the percentage of black  
15 voting age population that actually turned out  
16 for that particular office; and the same for  
17 white turnout of white VAP. So 35.2 percent of  
18 black voting age, of the eligible black voting  
19 age population turned out to vote and 45.2  
20 percent of the whites.

21 Q. Would you characterize this 2019  
22 attorney general election as a polarized contest?

23 A. I would.

24 Q. Why?

25 A. The vast majority of black voters

1 voted Jackson. If they had voted alone, Jackson  
2 would have one overwhelmingly. The vast majority  
3 of white voters supported Landry, and if they  
4 alone would have voted, he would have one  
5 overwhelmingly. In fact, he did win.

6 Q. Does the race of the candidates need  
7 to be different to determine if there's racially  
8 polarized voting?

9 A. No. The point is that black and  
10 white voters are for different candidates. No.  
11 It so happens in the contest that I looked at  
12 with at least one or two exceptions, the black  
13 candidate was the black preferred candidate; that  
14 is, the candidate preferred by black voters, but  
15 there are exceptions to that in the elections  
16 that I looked at.

17 Q. Does appendix A show the same type  
18 of data for the rest of the 14 statewide  
19 elections that you analyzed?

20 A. Yes. So all 15 are in this and I  
21 just described one. They are all read the same.

22 Q. What, if any, conclusions did you  
23 reach about racially polarized voting in  
24 Louisiana in statewide elections based on your  
25 analysis with these 15 elections?

1           A.    All 15 contests were polarized. In  
2 every instance, black voters and white voters  
3 would have elected different candidates had they  
4 voted separately.

5           Q.    You already explained how you looked  
6 at voting patterns in congressional elections.  
7 Why?

8           A.    Of course, it indicated that  
9 endogenous elections; that is, elections for the  
10 office at issue, are more probative than  
11 exogenous elections.

12                   Now, in this case, you are looking  
13 at proposed plans. There were no elections under  
14 it, but congressional elections in general would  
15 still be more probative and would be particularly  
16 so in Louisiana where the districts didn't change  
17 that much from the enacted plan from the current  
18 plan.

19           MS. BRANNON:

20                   Can we see demonstrative  
21 Exhibit 1.4?

22           TRIAL TECH:

23                   (Complied.)

24           BY MS. BRANNON:

25           Q.    Do you recognize this table?

1           A.    This -- yes.  This is a list of the  
2 congressional election contests that I looked at.  
3 Again, this is from 2016 to the most recent  
4 contest, and it was the contest that included  
5 black candidates.  There were no contests in  
6 District 1 that included black candidates.

7           Q.    And is the analysis of these  
8 congressional districts described in your  
9 reports?

10          A.    Yes.

11          MS. BRANNON:

12                 Can we see demonstrative

13                 Exhibit 1.5?

14          TRIAL TECH:

15                 (Complied.)

16          BY MS. BRANNON:

17           Q.    Dr. Handley, do you recognize this  
18 table?

19          A.    Yes.

20           Q.    Was there a version of appendix B  
21 attached to your preliminary report?

22          A.    Yes.

23           Q.    Did you make any corrections?

24          A.    I updated it by adding three  
25 elections that occurred in 2021.  There were two

1 congressional elections in District 2 to replace  
2 Cedric Richmond and there was an election in  
3 District 5, and so this has been updated to  
4 include those elections. I also changed the date  
5 of the elections from October to the correct  
6 date, which is November, and I had to correct one  
7 of the confidence intervals because of a typo.

8 Q. Was revised Appendix B included with  
9 your rebuttal report?

10 A. Yes.

11 MS. BRANNON:

12 For the record, Dr. Handley's  
13 rebuttal report is Exhibit PR-87.

14 BY MS. BRANNON:

15 Q. Did any of these changes impact any  
16 of your opinions in this case?

17 A. No.

18 Q. Is the data as reflected in revised  
19 Appendix B that's on the screen similar to the  
20 data that is reflected in Appendix A we were just  
21 discussing?

22 A. If by "data" you mean precinct  
23 information, that is both the demographic  
24 information and the election returns. It's the  
25 same. If you mean reading the charts, it's read



1 the same as well.

2 Q. Yeah. Reading the charts?

3 A. Reading the charts.

4 Q. Reading the chart is the same. This

5 chart would be read the same as Appendix A that

6 we have walked through?

7 A. That's correct.

8 Q. Okay. What, if any, conclusions did

9 you reach about voting patterns and congressional

10 elections in Louisiana based on your analysis?

11 A. The elections in Districts 3, 4, 5

12 and 6 were all white polarized. The elections in

13 District 2 less so. In fact, most of them were

14 not polarized in District 2.

15 Q. All right.

16 MS. BRANNON:

17 Can we see demonstrative

18 Exhibit 1.6?

19 TRIAL TECH:

20 (Complied.)

21 BY MS. BRANNON:

22 Q. Dr. Handley, did you conduct any

23 analysis of the voting patterns in the newly

24 enacted congressional map related to HB-1?

25 A. I did. Of course, no election has

1 occurred. So this reflects recompiled results  
2 using the precincts that the old elections  
3 occurred in and sort of re-running the elections  
4 as they would have occurred -- they would have  
5 occurred in the enacted congressional districts.

6 Q. Do you recognize the tables on this  
7 demonstrative?

8 A. Yes.

9 Q. Is there a version of Appendix C  
10 attached to your preliminary report?

11 A. Yes.

12 Q. Did you make any changes?

13 A. Yes. So it turns out that we had an  
14 old version of what's called a block two district  
15 equivalency file for the enacted plan, and when  
16 we discovered that it was old and we needed to  
17 fix it, I then, in a burst of caution, re-ran all  
18 of the analyses for the enacted districts using  
19 the new block to district equivalency.

20 Q. Does this demonstrative demonstrate  
21 your original Appendix C and your updated  
22 Appendix C?

23 A. That's correct.

24 Q. Did your new analysis of  
25 congressional districts in the enacted plan of

1 congressional district -- this is Congressional

2 District 2, correct?

3 A. Yes.

4 Q. Did any of your opinions change?

5 A. No. The -- the block equivalency  
6 file was only off by about 2 percent of the  
7 population. So we moved the 2 percentage into  
8 the correct districts and it changed the  
9 estimates barely, maybe by a percentage point, if  
10 it changed them at all. As you can see, voting  
11 is still quite polarized.

12 MS. BRANNON:

13 And, for the record, the updated  
14 Appendix Cs are provided with plaintiffs'  
15 Exhibit PR-92.

16 Can we see PX-1.7?

17 TRIAL TECH:

18 (Complied.)

19 BY MS. BRANNON:

20 Q. Did you do an analysis of the  
21 enacted plan for congressional districts other  
22 than Congressional District 2?

23 A. Yes. I did look at voting patterns  
24 in all of the enacted districts that overlaid  
25 Illustrative District 5; that is, the additional

1 black opportunity district offered by the  
2 illustrative plan. And as you can see, it  
3 overlaps Districts 2, 3, 4, 5 and 6.

4 Q. So --

5 A. So those were the -- those were the  
6 congressional districts that I looked at. It  
7 does not overlap 1, so I did not look at 1.

8 Q. And you recognize this map?

9 A. Yes.

10 Q. And it shows the overlay you were  
11 just describing?

12 A. That's correct.

13 Q. All right. Did you make any further  
14 changes to your analysis for the other  
15 congressional districts besides CD2?

16 A. Do you mean because of the block  
17 equivalent, I did it?

18 Q. Yes.

19 A. Yes. I re-ran all of the analyses.

20 Q. And those are all included in the  
21 corrected materials report that we filed in this  
22 case?

23 A. That's correct.

24 MS. BRANNON:

25 Which, for the record, is PR --

1 Exhibit PR-92.

2 BY MS. BRANNON:

3 Q. Did any of your opinions change as a  
4 result of redoing this analysis for all five of  
5 the congressional districts you looked at?

6 A. No. As I said, the changes were  
7 mostly less than a percentage point and voting  
8 still very polarized in these congressional  
9 districts.

10 MS. BRANNON:

11 We can take this one down.

12 TRIAL TECH:

13 (Complied.)

14 BY MS. BRANNON:

15 Q. What -- when conducting your  
16 analysis of these congressional districts in the  
17 enacted plan, what conclusions did you reach?

18 A. If voting was polarized in all of  
19 the districts that I looked at, there was some  
20 variation in that there was more white crossover  
21 vote in enacted District 2 than there was in 3,  
22 4, 5 and 6, which were quite starkly polarized.

23 Q. What do you mean when you say "white  
24 crossover voting"?

25 A. I'm talking about white voters who

1 are voting for the black preferred candidate.

2 Q. Let's turn now to your analysis of  
3 black voters opportunities to elect candidates of  
4 their choice in the illustrative maps and the  
5 enacted congressional map.

6 Did you evaluate the opportunity of  
7 black voters to elect their candidate of choice  
8 in the enacted map?

9 A. I did.

10 Q. And what methodology did you use?

11 A. Of course, no elections have  
12 actually occurred in either the illustrative or  
13 the enacted plan, so I used -- I relied on what I  
14 called recompiled election results looking at how  
15 previous elections would have faired, how the  
16 candidates of choice in previous elections would  
17 have faired under the proposed districts.

18 Q. Have you used this method of  
19 recompiling election results when providing other  
20 expert opinions that have been accepted by courts  
21 before?

22 A. Yes.

23 Q. Why do you think it is useful to  
24 form this evaluation?

25 A. The only way to know if a proposed

1 plan will provide black voters with an  
2 opportunity to elect their candidates of choice  
3 since no elections have occurred is to do  
4 something like this, to look at recompiled  
5 election results, determine if the black  
6 preferred candidates would win, and how many  
7 elections they would win.

8 Q. Did you also perform this recompiled  
9 election results analysis on Illustrative Map 2A  
10 that was drawn by plaintiffs' expert  
11 Tony Fairfax?

12 A. I did.

13 MS. BRANNON:

14 Can we see demonstrative  
15 Exhibit 1.8?

16 TRIAL TECH:

17 (Complied.)

18 BY MS. BRANNON:

19 Q. Do you recognize these tables?

20 A. Yes.

21 Q. Can you explain the information  
22 provided on these tables starting with the  
23 enacted plan on the right side of the screen?

24 A. Yes. Now, when you are trying to  
25 figure out if a district is going to provide

1 black voters with an opportunity to elect, the  
2 elections that you want to look at are elections  
3 in which black voters and white voters agreed on  
4 who they would elect. And that happens to be the  
5 case in all 15 elections that I looked at.

6           So here what I did was I  
7 determined how many of those 15 elections with a  
8 black preferred candidate either win the majority  
9 vote or win enough votes to go on to the runoff,  
10 so that's my effectiveness score one. It's just  
11 the percentage times the black preferred  
12 candidate would win or lose if there were a  
13 runoff.

14           The second column, the effectiveness  
15 score two is what would happen if they made it to  
16 the runoff and there were now just two  
17 candidates, would they win the runoff, and this  
18 is the percentage of times they would win the  
19 runoff.

20           So, for example, in District 2, the  
21 black preferred candidate in all 15 contests  
22 would have either won or proceeded to the runoff;  
23 and in the two -- two candidate contest if they  
24 had gone to the runoff, they would have won  
25 100 percent of the time.



1                   Now, in the other districts in the  
2 enacted plan, although the black preferred  
3 candidates in some of these districts would have  
4 proceeded to the runoff in about 25 percent of  
5 these elections, none of them would have actually  
6 won the runoff. So in the other districts, the  
7 black preferred candidate would have not  
8 ultimately prevailed in any of the elections.

9           Q.    So can you just please explain how  
10 that works in Louisiana's voting system?

11           A.    All right. So this is a little  
12 different than how I usually do this because you  
13 have a system that is -- well, it used to be  
14 unique. I think maybe some other states are  
15 adopting it, but you have a primary system and it  
16 includes both Democrats and Republicans; and the  
17 election might actually end there without a  
18 general election, while in most states you have  
19 the -- you go on and you have a general election  
20 with two candidates, a Democrat and Republican.  
21 Sometimes here you go on and you have an election  
22 with two Republicans, so that makes it a little  
23 bit different, and that's why I -- that's why you  
24 see these two columns.

25           Q.    Would you characterize any of the

1 congressional districts an enacted plan other  
2 than Congressional District 2 as an opportunity  
3 district?

4 A. I would not.

5 Q. And then can you just briefly  
6 explain the analysis that is reflected in Table 2  
7 on the left side of the map about Illustrative  
8 District -- Illustrative Map 2A?

9 A. So, again, I used exactly the same  
10 methodology, did exactly the same thing, but this  
11 time you can see that District 2 is also  
12 100 percent of the time the black preferred  
13 candidate wins.

14 In District 5, 86.7 percent of the  
15 contest produced the black preferred candidate as  
16 winning or proceeding to the runoff, and in  
17 77.8 percent of the runoffs, also two candidate  
18 contests, the black preferred candidate prevails  
19 in District 5.

20 Q. Would you characterize any of the  
21 congressional districts in Illustrative Map 2A as  
22 opportunity districts?

23 A. Yes. Districts 2 and District --  
24 and District 5 both provide black voters with an  
25 opportunity to elect their candidates of choice.

1 The other districts, 1, 3, 4 and 6 do not.

2 Q. Is the information in Table 2  
3 reflected in your reports in this case?

4 A. Yes.

5 Q. What conclusions, if any, did you  
6 draw about the ability of black voters to elect  
7 their candidates of choice in this illustrative  
8 plan versus the enacted plan?

9 A. There is one black opportunity  
10 district in the enacted plan and there are two in  
11 the illustrative plan marked map 2A.

12 Q. Bringing together your racial  
13 polarization analysis and your effectiveness  
14 analysis of the enacted plan and the illustrative  
15 maps, how does the racially black voting in  
16 Louisiana effect voters' opportunities to elect  
17 their candidates of choice?

18 A. Because voting is racially  
19 polarized, black voters can only elect their  
20 candidate of choice if the district is drawn that  
21 gives them this opportunity.

22 MS. BRANNON:

23 I also move for admission of all of  
24 Dr. Handley's materials that have been in  
25 this case, but for the record, it's PR-12,

1 PR-87, PR-91 and PR-92.

2 THE COURT:

3 Any objection?

4 MR. FARR:

5 No objection, Your Honor.

6 THE COURT:

7 So admitted.

8 BY MS. BRANNON:

9 Q. Dr. Handley, did you also look at  
10 the expert report of defendant's expert,  
11 Dr. Solanky? I think I'm saying that correctly,  
12 Solanky.

13 MR. FARR:

14 That's correct.

15 THE WITNESS:

16 I did.

17 BY MS. BRANNON:

18 Q. Do you think it was appropriate for  
19 Dr. Solanky to offer voting opinions about the  
20 voting patterns in East Baton Rouge from the  
21 analysis of just one election?

22 A. Certainly, you would look at a  
23 pattern of voting over more than one election.  
24 You would look at as many as you could.

25 MS. BRANNON:

1 Can we see demonstrative 1.10?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. BRANNON:

5 Q. And Dr. Solanky did an evaluation of  
6 East Baton Rouge Parish, correct?

7 A. Yes.

8 Q. Do you recognize this map?

9 A. Yes.

10 Q. Do you think it was appropriate that  
11 Dr. Solanky looked just at East Baton Rouge  
12 Parish?

13 A. No, for two reasons: No. 1, East  
14 Baton Rouge Parish is not large enough to be its  
15 own congressional district, that the population  
16 is too small. You would have to add neighboring  
17 parishes to it, thus he pointed out the voting  
18 patterns in neighboring parishes is different.

19 And, No. 2, you can see from this  
20 map that, in any case, East Baton Rouge is not  
21 wholly contained within any congressional  
22 districts, either in the enacted or the  
23 illustrative maps. It is divided between two  
24 districts.

25 Q. Would it be possible to draw a

1 congressional district just with East Baton Rouge  
2 Parish?

3 A. No. The population is too small.

4 Q. So even if Dr. Solanky's conclusion  
5 was correct that the voting patterns in East  
6 Baton Rouge -- about the voting patterns in East  
7 Baton Rouge, do you think that that analysis is  
8 relevant to questions about performance in an  
9 Illustrative District 5?

10 A. No. Again, you have to add  
11 population. As he himself points out the  
12 population, the voting patterns in the parishes  
13 neighboring East Baton Rouge Parish is different.

14 Q. Did you also look at the report of  
15 Dr. Alford?

16 A. I did.

17 Q. Did Dr. Alford offer any criticism  
18 of the methodology in your report?

19 A. No.

20 Q. Dr. Alford's report -- Dr. Alford in  
21 his report in addressing the cause of voting  
22 patterns in Louisiana does an evaluation as to  
23 whether there is racial --

24 MS. BRANNON:

25 Excuse me, Your Honor. Can I start

1           again?

2       BY MS. BRANNON:

3           Q.     Does any evaluation of whether there  
4     is actual racially polarized voting involve an  
5     evaluation of the causes of the voting patterns  
6     that have been analyzed?

7           A.     No.  The Voting Rights Act, I  
8     believe the Voting Rights Act was specifically  
9     amended to focus the inquiry on the electoral  
10    consequences of different voting patterns and to  
11    not -- the reason for those.  Intent was  
12    specifically taken out of the equation, the  
13    intent of the legislators as well as the intent  
14    of the voters.

15          Q.     Do you agree with Dr. Alford's  
16    suggestion in his report that the fact that black  
17    voters support Democrats and white voters support  
18    Republicans in Louisiana means that voting is not  
19    racially polarized?

20          A.     When you determine voting is  
21    racially polarized, you do it the way that I have  
22    done it.  This is the way that experts have done  
23    it for over 50 years.  You look at the voting  
24    patterns of blacks and whites and you compare to  
25    see if they are voting the same candidates or

1 different candidates. This is how it is done.  
2 This is how you determine if voting is racially  
3 polarized.

4 MS. BRANNON:

5 Nothing further, Your Honor.

6 THE COURT:

7 Cross?

8 MR. FARR:

9 Thank you, Your Honor. Can everyone  
10 hear me?

11 THE COURT:

12 Yes, sir. Did you need to -- did  
13 you need to remain seated? I can't  
14 remember --

15 MR. FARR:

16 I just want to tell Dr. Handley nice  
17 to meet you. And through the graciousness  
18 of Your Honor, I've got a back condition,  
19 so she's agreed that I can examine you  
20 from counsel's table, and I'm grateful to  
21 her for doing that. Please let me know if  
22 you can't hear my questions and I'll try  
23 to rephrase them.

24 THE WITNESS:

25 Okay.



1 THE COURT:

2 Let me ask this. Would it be  
3 helpful -- you may be seated, sir.

4 Would it be helpful to be able to  
5 make eye contact? I mean, is there  
6 somebody that I can move, either counsel  
7 table move out of the way or does it  
8 matter?

9 MR. FARR:

10 I can see Dr. Handley, if she can  
11 see me.

12 THE COURT:

13 Can you see her -- him?

14 THE WITNESS:

15 I can see, yes. I don't have my  
16 glasses on, but other than that --

17 THE COURT:

18 All right. Well, then that's fine.  
19 We just want to make sure that you-all  
20 communicate well.

21 THE WITNESS:

22 Okay.

23 THE COURT:

24 Go ahead, sir.

25 CROSS-EXAMINATION BY MR. FARR:

1 Q. Dr. Handley, we haven't met before,  
2 but I've reviewed some of your prior testimony in  
3 some cases that involved our firm; and it's an  
4 honor to meet you here today.

5 THE COURT:

6 And state your name for the  
7 reporter. You may have already done that,  
8 but I just need it.

9 MR. FARR:

10 Yes, ma'am. I'm Tom Farr, and I'm  
11 from the law firm of Nelson Mullins and  
12 I'm here representing the Secretary of  
13 State.

14 BY MR. FARR:

15 Q. So, Dr. Handley, when were you first  
16 contacted about Louisiana redistricting in this  
17 cycle?

18 A. It's difficult to say. I was  
19 working with the ACLU in another couple of states  
20 before we started talking about Louisiana.

21 Q. It's not a memory test, Dr. Handley.

22 A. Okay. I'm sorry. I don't remember  
23 exactly when. Certainly, less than a year ago.

24 Q. Okay. Well, let's see if we can  
25 clarify that a little bit with some questions

1 I'll ask.

2 Do you remember who called you about  
3 working on Louisiana redistricting?

4 A. No.

5 Q. When were you actually engaged to  
6 work on Louisiana redistricting?

7 A. Oh, that's also a tough question  
8 because I am not even sure that I have a contract  
9 with the ACLU with Louisiana, so I can't actually  
10 answer that question.

11 Q. And do you know who engaged you?

12 A. No.

13 Q. Okay. You don't know the person  
14 that engaged you?

15 A. Well, I suppose ultimately it would  
16 have been Dale Hope, and I had conversations with  
17 him earlier; and this is the head of the voting  
18 rank division -- the voting section of the ACLU.

19 Q. Yes, ma'am. I know Mr. Dale Hope.  
20 I think very highly of him, so thank you for that  
21 answer.

22 Did you do any work on Louisiana  
23 prior to the Louisiana legislative process?

24 MS. BRANNON:

25 Your Honor, I'm just going to -- she

1 can answer that question, but I want to  
2 put an objection on the record to the  
3 extent it's seeking what we would consider  
4 being work product leading up to  
5 litigation, but anything that relates to  
6 not leading up to litigation, you can  
7 answer.

8 THE COURT:

9 Your objection is noted. It may be  
10 a little premature, but you-all know that  
11 she thinks you are going in the wrong  
12 direction, so there you go.

13 MR. FARR:

14 Your Honor, I'm not going to ask her  
15 about work product. I just want to know  
16 when she started working on this, and if  
17 it's -- we are all interested in other  
18 issues in the case, so --

19 THE COURT:

20 Okay. There's no objection to your  
21 current question, so if you want to  
22 restate it?

23 MR. FARR:

24 Yes, ma'am.

25 THE COURT:

1                   Go ahead.

2                   MR. FARR:

3                   Thank you, Your Honor.

4 BY MR. FARR:

5                   Q.     Ms. Handley, do you remember when  
6 you started working on matters related to  
7 Louisiana congressional redistricting in this  
8 cycle? Let me try -- let me try it off a little  
9 bit.

10                  A.     I'm sorry. I -- I can't remember.

11                  Q.     That's all right. I understand. Do  
12 you think you began working before the  
13 legislative process started?

14                  A.     I have no idea. I don't know when  
15 the legislative process started.

16                  Q.     Okay. I heard you mention  
17 something. Could it have been that you were  
18 working on Louisiana redistricting sometime  
19 within the last year?

20                  A.     Yes.

21                  Q.     Okay. And you just didn't start  
22 when the plan was enacted?

23                  A.     That's correct.

24                  Q.     Did you give any input on your  
25 theories and calculations to the legislature

1 during the legislative process?

2 A. Did I? The legislature never  
3 contacted me or asked me to do any work, no.

4 Q. But you didn't voluntarily give any  
5 of your research to the Louisiana legislature  
6 while they were considering congressional plans?

7 A. I personally?

8 Q. Yes.

9 A. No.

10 Q. Did you talk to anybody who gave  
11 information about your plans or any advice that  
12 you may have transmitted? Did you talk to anyone  
13 who may have provided that information to the  
14 Louisiana legislature?

15 A. Possibly.

16 Q. Do you know who that would have  
17 been?

18 A. No.

19 Q. And did you perform your  
20 polarization studies that we talked about today  
21 before the plan was enacted?

22 A. It depends on what you mean by  
23 "enacted."

24 Q. Why don't you --

25 A. So my understanding was it passed,

1 but then it was vetoed and then the veto was  
2 overridden. I analyzed the plan after it was  
3 passed by the legislature.

4 Q. Okay. And your report's got  
5 analysis of statewide polarization rates?

6 A. I'm sorry. Could you repeat that?

7 Q. Yes, ma'am. In reading your report,  
8 it appears that you have -- you've done  
9 polarization studies on statewide elections?

10 A. That's correct.

11 Q. Did you do those before the  
12 congressional plan was enacted?

13 A. I don't remember in time. I'm not  
14 exactly sure what you mean by "enacted." I did  
15 it most likely before the veto was overridden.

16 Q. Okay. So before the initial plan  
17 was ever written, you think sometime before then  
18 you did your statewide polarization studies?

19 A. I probably had started them.

20 Q. Okay. All right. Thanks.

21 Now, I want to ask you some  
22 questions about what you mean by "polarization,"  
23 and we can go to your report if that will help  
24 you, but when I read your report on page 1 --

25 MR. FARR:

1 Well, let me pull up PR-12 on the  
2 screen.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. FARR:

6 Q. Are you there?

7 A. Yes.

8 Q. So during your testimony, you said  
9 several times that voting in Louisiana is  
10 racially polarized. Is that a fair recitation?

11 A. Yes.

12 Q. And then on page 1 of your report,  
13 you make a statement that voting in the State of  
14 Louisiana is racially polarized. You see that?

15 A. Yes.

16 Q. Now, turn to page 8. It looks like  
17 it's the second full paragraph where it says  
18 "congressional elections." Do you see that? You  
19 see that paragraph?

20 A. Yes, I do.

21 Q. Okay. And is it fair to say that  
22 your report that elections in the 2011 version of  
23 Congressional District 2 were probably not  
24 racially polarized?

25 A. Although the statewide elections



1 were polarized, the congressional elections, I  
2 think it was most of them, not all of them, were  
3 not polarized.

4 Q. Okay. So that's -- that's where I  
5 want to ask you some questions, Dr. Handley.

6 You've been doing this for a long  
7 time and you know way more than I do. Is there a  
8 difference between legally significant racially  
9 polarized voting and just simple polarized  
10 voting?

11 A. Now, I've written on this, but I'm  
12 not a lawyer, so I don't really know that you  
13 want me to answer this.

14 Q. Well, I'd like you to because I  
15 think you've explained it before. Is there a  
16 difference between significant racially polarized  
17 voting and substantial racially polarized voting?

18 MS. BRANNON:

19 I'm just going to object. I'm going  
20 to object to the extent that calls for a  
21 legal conclusion.

22 MR. FARR:

23 Your Honor, I'm just asking her for  
24 her opinion as an expert in the area of  
25 racial polarization. She understands the

1 two different types of racial  
2 polarization.

3 THE COURT:

4 Well, the question on the floor  
5 right now, is there a difference between  
6 significant racial polarization and  
7 substantial racial polarization, you did  
8 rephrase your question. You removed the  
9 words "legally sufficient," so I'm going  
10 to overrule the objection.

11 So the question is, is there a  
12 difference between significant racial  
13 polarization and substantial racial  
14 polarization, if you have an opinion on  
15 that.

16 THE WITNESS:

17 Between significant and substantial?

18 THE COURT:

19 Is -- that's -- isn't that your  
20 question, sir?

21 MR. FARR:

22 Yes, it is.

23 THE COURT:

24 Okay.

25 THE WITNESS:

1 I can't think of one.

2 MR. FARR:

3 Okay. Let me pull up a deposition  
4 that Dr. Handley gave in the Ohio Randolph  
5 Institute case on December 12th, 2018.

6 TRIAL TECH:

7 (Complied.)

8 BY MR. FARR:

9 Q. Can you see that on your screen,  
10 Dr. Handley?

11 A. I can.

12 Q. And were you an expert witness in  
13 that case?

14 THE COURT:

15 You need to know the case again?

16 THE WITNESS:

17 I need to know which case this is.

18 BY MR. FARR:

19 Q. Well, it says it's your deposition  
20 on the front page, correct?

21 A. Yes. I believe this is my  
22 deposition and I believe I know what case it is.

23 Q. Yes. And you remember being  
24 cross-examined by my law partner, Phil Strach, in  
25 that case?

1 A. I do not.

2 Q. Okay. Well, let's turn to page 104  
3 of that exhibit. And I'll represent to you,  
4 Dr. Handley, this is a series of questions that  
5 my partner, Phil Strach, asked you in this  
6 deposition. I'm going to read the question and  
7 I'd like for you to read the answer. Would that  
8 be all right?

9 THE COURT:

10 Give us a line reference.

11 BY MR. FARR:

12 Q. I'm going to start with line 21.  
13 Are you ready?

14 A. Yes.

15 Q. So the question is "All right.  
16 Thank you. Are you aware of the difference  
17 between statistically significant racially  
18 polarized voting and legally significant racially  
19 polarized voting," and your answer is --

20 MS. BRANNON:

21 Your Honor, I'd like to object. I  
22 think this is improper impeachment. I  
23 don't think he's laid the foundation.

24 THE COURT:

25 Sir, you want to respond? Did you

1 hear her objection?

2 MR. FARR:

3 I think I did and I don't know  
4 really what the substance of the objection  
5 is. I'm impeaching the witness on a  
6 previous deposition that she gave to  
7 significant racial polarization versus  
8 substantial racial polarization.

9 THE COURT:

10 She's correct. It's improper  
11 foundation. It is not -- it's improper  
12 impeachment. It is not a prior consistent  
13 statement. The questions are different  
14 and you made them different. Objection  
15 sustained.

16 MR. FARR:

17 Your Honor, may I try again?

18 THE COURT:

19 You may, but take the deposition  
20 down.

21 TRIAN TECH:

22 (Complied.)

23 BY MR. FARR:

24 Q. Dr. Handley, do you agree that  
25 substantively significant racial polarization

1 means that the minority and the whites are voting  
2 for different candidates?

3 A. Yes. Yes.

4 Q. Do you agree that it would rise to  
5 the level of legal significance if the minority  
6 preferred candidate usually lost?

7 MS. BRANNON:

8 Again, Your Honor, I'm going to  
9 object. That calls for a legal  
10 conclusion.

11 MR. FARR:

12 I'm not asking for a legal  
13 conclusion. I'm asking for her -- the way  
14 she understands racial polarization.

15 THE COURT:

16 The question is legally significant.  
17 That is a legal question. That is a  
18 question of a legal opinion. The  
19 objection's sustained.

20 MR. FARR:

21 Well, may I ask the question again,  
22 Your Honor? I'll take the word "legal"  
23 out.

24 THE COURT:

25 And you did that and you are going

1 to receive the same result. You are going  
2 to have improper impeachment. You can try  
3 again, but if the word legally is in the  
4 prior question, it's -- you're not -- it's  
5 not a prior inconsistent statement.

6 MR. FARR:

7 I'm sorry, Your Honor. I apologize.

8 THE COURT:

9 Okay. No worries. Go ahead.

10 BY MR. FARR:

11 Q. So my question is would polarization  
12 rise to the level of significant polarization if  
13 the minority for a candidate usually lost?

14 A. Polarization is -- let's see. Let's  
15 see how -- I suppose you could say that one  
16 contest being polarized is less significant than  
17 more contests being polarized.

18 Q. Which if the -- if the white  
19 candidates did not vote in sufficient numbers to  
20 defeat the black candidate, preferred candidate  
21 of choice, would you consider that to be  
22 significant racial polarization?

23 A. I think it would depend on the  
24 circumstances. So if you had a district that --  
25 I can't really answer that as a hypothetical.

1 Could you give me --

2 Q. Let me try again. Explain why you  
3 concluded that voting in the State of Louisiana  
4 was racially polarized while also saying that the  
5 voting in Congressional District 2 was not  
6 racially polarized?

7 A. So in the 15 contests that I looked  
8 at statewide, in every case the black and white  
9 voters would have elected different candidates.

10 In Congressional District 2, in many  
11 cases the white voters supported the incumbent  
12 black candidate, Cedric Richmond.

13 Q. So the white voters in Congressional  
14 District 2 did not vote as a block and defeat the  
15 black voter, the preferred candidate?

16 A. In Congressional District 2 when  
17 Cedric Richmond was the candidate, that's  
18 correct.

19 Q. Okay. And whites are the majority  
20 in Congressional District 2?

21 A. I beg your pardon?

22 Q. Are whites the majority in  
23 Congressional District 2?

24 A. They are not.

25 Q. Okay. Are there areas in Louisiana



1 where the level of polarization is higher and  
2 lower?

3 A. That the what -- I'm sorry. Repeat  
4 the question.

5 Q. Yes, ma'am. You reported on  
6 statewide polarization rates for statewide  
7 elections; is that correct?

8 A. Yes.

9 Q. Are there some areas of the state  
10 where the polarization rate is higher than in  
11 other areas of the state?

12 A. It depends on what you mean by  
13 "polarization rates." You mean the number of  
14 contests that --

15 Q. No.

16 A. -- are polarized; is that what you  
17 mean?

18 Q. I mean the difference between the  
19 number of whites and blacks who vote for the  
20 black preferred candidate of choice.

21 A. It is the case that there is more  
22 white crossover vote in Congressional District 2  
23 than anywhere else that I looked in the state.

24 Q. Okay. And could there be other  
25 areas of the state where the crossover vote is

1 higher than the -- than the average?

2 A. Not at the congressional level or  
3 statewide. There may be pockets.

4 Q. Okay. When you did your study on  
5 racial polarization, you did not do a  
6 parish-by-parish study on polarization rates?

7 A. That's correct.

8 Q. Okay. I'll move on to another  
9 subject now, Dr. Handley.

10 When you talk in your report about  
11 voting age population for African-Americans, are  
12 you referring to any part black voting age?

13 A. It depends. I report of any part  
14 black and the DOJ definition of voting age  
15 population in my rebuttal report and in the  
16 supplemental report.

17 Q. Okay. So let's turn to PR-12.

18 A. I'm sorry. To what?

19 Q. I'm sorry, ma'am. Your initial  
20 report, which I think is labeled PR-12?

21 A. Oh, okay.

22 Q. And -- and can you turn to Table 3,  
23 which is on page 10?

24 A. (Complied.)

25 Q. Are you there?

1 A. I am.

2 Q. And you see on footnote 14 you say,  
3 "Black voting age population has been calculated  
4 by counting all persons who checked black or  
5 African-American on their census form"; is that  
6 correct?

7 A. Yes.

8 Q. And in making that footnote, were  
9 you referring to any part black?

10 A. Yes.

11 Q. Okay. Thank you. And using the  
12 census category part black, did that result in a  
13 higher black percentage in the districts you are  
14 looking at than if you used a single race black?

15 A. Yes.

16 Q. Now, I want to move to some  
17 questions about your appendices. And I think  
18 this is kind of a refresh or review of Appendix A  
19 which is your study of statewide elections; is  
20 that correct?

21 A. Yes.

22 Q. Appendix B was your study of  
23 percentage of black and white voters for each  
24 candidate in congressional elections from 2016 to  
25 2020?

1 A. Ultimately, 2021.

2 Q. Okay. That was in your report you  
3 just gave us; is that correct?

4 A. Yeah.

5 Q. All right. Fair enough. And that  
6 was under the plan that was enacted in 2011?

7 A. The congressional elections were,  
8 yes.

9 Q. Okay. And then in Appendix C  
10 through G, you do a polarization study on all of  
11 the districts in the plan that was enacted in  
12 2022; is that correct?

13 A. Almost. I didn't look at  
14 District 1.

15 Q. Oh, you didn't look at Congressional  
16 District 1?

17 A. That's correct.

18 Q. I was going to ask you just out of  
19 curiosity, why didn't you look at that?

20 A. Because it doesn't overlap. It  
21 supplies no voters to Illustrative District 5.

22 Q. Okay. And you didn't report a  
23 similar analysis for Mr. Fairfax's  
24 illustrative -- illustrative plans, did you?

25 A. I'm sorry. Repeat that.

1 Q. Did you do a similar report for the  
2 illustrative plans that Mr. Fairfax has proposed  
3 in this case?

4 A. A similar report? I'm sorry.

5 Q. Yeah. As to what you did for the  
6 2011 congressional districts, did you do  
7 something like that for the districts in  
8 Mr. Fairfax's illustrative plans?

9 A. No.

10 Q. You didn't report that. Did you  
11 ever do that and not report it?

12 A. No.

13 Q. Okay. Now, I want to go through  
14 some terms to get the question I want to ask you,  
15 Dr. Handley.

16 Is it fair to say a majority black  
17 district, as the U.S. Supreme Court has defined  
18 it, means a district where the black voting age  
19 population is an actual majority?

20 MS. BRANNON:

21 Objection. Again, Your Honor, isn't  
22 that a legal conclusion?

23 THE COURT:

24 Sir?

25 MR. FARR:



1 might have come out of some recent case. If you  
2 want to define it that way, you can.

3 Q. Okay. Well, are there districts  
4 where black voters are able to elect their  
5 candidate of choice, even if they are not a  
6 majority?

7 A. Yes.

8 Q. And in those instances, do they --  
9 is the candidate of choice selected because there  
10 are white voters crossing over to help elect the  
11 black candidates preferred -- the black minority  
12 group preferred candidate?

13 A. Yes.

14 Q. All right. Now, have you -- have  
15 you written about something called an effective  
16 district?

17 THE COURT:

18 I'm sorry. I missed that. The what  
19 district?

20 MR. FARR:

21 I'm sorry, Your Honor.

22 BY MR. FARR:

23 Q. Have you written or described some  
24 districts as being effective districts?

25 A. Yes.

1 Q. And can an effective district be a  
2 district that has less than 50 percent black  
3 voting age population?

4 A. Yes.

5 Q. And an effective district means that  
6 the -- that the district provides the black  
7 community an opportunity to elect their candidate  
8 of choice; is that correct?

9 A. Yes.

10 Q. And that said, even when they are  
11 not a majority of the district, it could be?

12 A. It could be the case, yes.

13 Q. Now, in other cases, Dr. Handley,  
14 have you ever done something called a functional  
15 analysis to determine whether a district could  
16 provide African-Americans with the opportunity to  
17 elect their candidate of choice with a black  
18 percent that's under 50 percent?

19 A. Yes.

20 Q. And did you do such a study in this  
21 case?

22 A. I did not.

23 Q. All right. I want to turn now to  
24 some questions about your rebuttal report.  
25 Please feel free, ma'am, to pull that up in front



1 of you if it will be helpful. I don't know that  
2 I'll be quoting any pages, but feel free to  
3 respond to that if that helps your testimony, all  
4 right?

5 A. Yes.

6 Q. Now, you are familiar with the  
7 report Dr. Lewis submitted for the defendants  
8 analyzing crossover voting in the illustrative  
9 plans?

10 A. I read Dr. Lewis's report.

11 MR. FARR:

12 Okay. And, just for the record, I  
13 believe that's Exhibit LEG 2 is the report  
14 I'm referring to.

15 BY MR. FARR:

16 Q. So you had an opportunity to review  
17 Dr. Lewis's report?

18 A. I read Dr. Lewis's report, yes.

19 Q. And in your rebuttal reports,  
20 correct me if I'm wrong, the only experts you  
21 provided rebuttal testimony to are Dr. Solanky  
22 and Dr. Alford; is that correct?

23 A. Yes.

24 Q. And more specifically, you did not  
25 submit a reply to Dr. Lewis's report?

1 A. Correct.

2 Q. So if someone in this case asserted  
3 that districts with the black voting age  
4 population below 50 percent was -- will give the  
5 black community an equal opportunity to elect  
6 their preferred candidates of choice, you have no  
7 basis to disagree with that statement, do you?

8 A. If you mean Dr. Lewis convinced me  
9 of that, I would have to disagree with you. No,  
10 he did not convince me that a district with less  
11 than 50 percent was equal.

12 Q. But you yourself have not done a  
13 study to see if a district which was less than  
14 50 percent would provide an equal opportunity to  
15 elect a black for a candidate; is that right?

16 A. In this case, that's correct.

17 Q. So you've testified about  
18 Mr. Fairfax's illustrative plans; is that right?

19 A. Yes.

20 Q. Have you studied the plans drawn by  
21 Mr. Cooper?

22 A. No.

23 Q. Okay. I'll -- let's turn. I just  
24 have a few more questions, Dr. Handley, and I'll  
25 be done.

1                   Could you turn back to your original  
2 report, which is PR-12, and I'd like you to look  
3 at Table 1 on page 6.

4           A.    (Complied.)

5           Q.    Are you there?

6           A.    Yes.

7           Q.    And you selected the statewide races  
8 that you would study in your report and there's  
9 15 races that are listed there; is that correct?

10          A.    The 15 races listed there are the  
11 contests that I analyzed, that's correct.

12          Q.    Okay. And you didn't include  
13 Governor Edwards' election in 2015 or 2019; is  
14 that a fair statement?

15          A.    That's correct. There were no black  
16 candidates in those contests.

17          Q.    But -- but do you think that  
18 Governor Edwards was the preferred black  
19 candidate of choice for the black community?

20          A.    Yes. I saw Dr. Alford's report that  
21 produced Dr. Palmer's numbers, so yes.

22          Q.    Okay. And then also, you didn't  
23 include in one of the races you studied the 2016  
24 presidential election involving Secretary Clinton  
25 and Senator Cain; is that correct?

1 A. That's correct.

2 Q. Please bear with me, Dr. Handley.

3 I'm trying to find one of your charts. I think

4 we can look at Table 4 on page 11. Are you

5 there?

6 A. Yes.

7 Q. You say, Dr. Handley, in order to

8 determine the effectiveness of congressional

9 districts in the enacted plan -- and then I think

10 moving over, you did the same thing on page 13

11 for the illustrative plan; is that a fair

12 statement?

13 A. Yes.

14 Q. And so all your report is who won or

15 lost the election?

16 A. No, not exactly. The percentage of

17 cases that -- the percentage of elections are in

18 the first column in which the black preferred

19 candidate either outright or would have proceeded

20 to a runoff.

21 Q. Okay. And then what was the second

22 column?

23 A. The percentage of two candidate

24 contests in which the black preferred candidate

25 won obviously with more than 50 percent of the

1 vote.

2 Q. And you didn't report the vote  
3 totals or the margins of victory in any of those  
4 elections; is that a fair statement?

5 A. No. It's not -- it's not listed in  
6 these tables, but it's certainly listed in my  
7 appendix.

8 Q. Okay. I'm sorry. I missed that. I  
9 apologize.

10 Did you report the relative  
11 fundraising by the candidates in the elections  
12 that you selected?

13 A. Did you say fundraising?

14 Q. Yes.

15 A. No.

16 Q. All right. Have you ever talked  
17 more about it's better to use a more highly  
18 visible race to calculate racially polarized  
19 voting than one that's not visible?

20 A. I probably have. I agree with that  
21 statement.

22 Q. Okay. So what would be more visible  
23 to judge racially polarized voting, the  
24 governor's elections or the Secretary of State  
25 election?

1 A. I would use both.

2 Q. Excuse me?

3 A. I would use both. If they had a  
4 black candidate, why would I have to choose one  
5 or the other?

6 Q. Would you have an opinion on which  
7 is more visible to the voters of Louisiana?

8 A. I would not, not if one, for  
9 example, included a black candidate and the other  
10 did not.

11 MR. FARR:

12 Okay. That's all, Your Honor.

13 Thank you.

14 THE COURT:

15 Any redirect?

16 MS. BRANNON:

17 Yeah, just some brief redirect,

18 Your Honor.

19 REDIRECT EXAMINATION BY MS. BRANNON:

20 Q. First, can we call up demonstrative  
21 Exhibit 1.11? Dr. Handley, are you familiar with  
22 this table?

23 A. Yes.

24 Q. Does this show the voting age  
25 population for all parts black and then also the

1 voting age population under the DOJ definition in  
2 Illustrative District 2?

3 A. Yes.

4 Q. Was your analysis any different  
5 about the effectiveness of Illustrative District  
6 2, depending on the definition used for the black  
7 population?

8 A. No.

9 Q. Was your analysis any different  
10 about the effectiveness of the congressional  
11 districts enacted -- the enacted map, depending  
12 on what definition of black is used?

13 A. No.

14 Q. Okay. And counsel asked you about  
15 performing a functional analysis.

16 Why didn't you perform a functional  
17 analysis at this time in this case for your  
18 report?

19 A. I did perform a functional analysis.  
20 A functional analysis is simply looking at how  
21 black preferred candidates would -- whether they  
22 would have an opportunity -- whether black voters  
23 would have an opportunity to elect candidates of  
24 choice, depending on the voting patterns of  
25 blacks and whites, as opposed to just the voting

1 age population. That's what this is. Not this  
2 chart, what the effectiveness tables were.

3 Q. You can take that down.

4 A. I'm sorry.

5 Q. And did you do that for an analysis  
6 of the illustrative plans?

7 A. I did a functional analysis of  
8 several illustrative plans as well as the enacted  
9 plan.

10 Q. Correct. And we have already  
11 discussed that that information is in your  
12 chart -- in your report, correct?

13 A. Yes.

14 Q. And as part of the -- your analysis  
15 of the enacted plan, do any of the populations in  
16 the enacted plan have a voting age population of  
17 over 50 percent besides Congressional District 2?

18 A. In the enacted plan?

19 Q. Yes, in the enacted plan.

20 A. No.

21 THE COURT:

22 Under either definition or which  
23 definition?

24 MS. BRANNON:

25 Under either definition.



1 THE WITNESS:

2 No.

3 BY MS. BRANNON:

4 Q. Do any of the congressional  
5 districts in the enacted plan conform to allow  
6 black voters to elect their candidate of choice  
7 besides Congressional District 2?

8 A. No.

9 Q. Can we turn back to the Appendix C?  
10 Not Appendix C, revised Appendix C.

11 MS. BRANNON:

12 Just bear with me a minute,  
13 Your Honor. It is Illustrative District  
14 1. -- Exhibit 1.6. And actually, can you  
15 turn to revised Appendix C in your report,  
16 which is in your binder? We can take this  
17 down.

18 TRIAL TECH:

19 (Complied.)

20 MS. BRANNON:

21 And, for the record, that's exhibit  
22 PR-92.

23 BY MS. BRANNON:

24 Q. In looking at Appendix C that's in  
25 the report, can you just refresh your

1 recollection as to exactly what is contained in  
2 that document?

3 A. You mean corrected Appendix C?

4 Q. Yes.

5 A. So this is statewide elections  
6 recompiled, reconfigured to conform with the  
7 enacted district boundaries and racial black  
8 voting analysis of the five districts that would  
9 contribute voters to the Illustrative District 2,  
10 illustrative -- additional opportunity district  
11 in Illustrative Plan 2 or Plan 2A?

12 Q. Is it an evaluation of the enacted  
13 plan?

14 A. Yes.

15 Q. Okay. Can you go through that, the  
16 review of that document?

17 MS. BRANNON:

18 And maybe we can pull it up on the  
19 screen, Appendix C from Exhibit R-92,  
20 PR-92. Keep going, and then keep going.

21 TRIAL TECH:

22 (Complied.)

23 MS. BRANNON:

24 Okay. Yeah, Appendix C. There.

25 TRIAL TECH:

1 (Complied.)

2 MS. BRANNON:

3 That's the right thing.

4 BY MS. BRANNON:

5 Q. This is from your report, correct?

6 A. Yes.

7 Q. Okay. Can you explain whether all  
8 of these elections are polarized or not in your  
9 analysis of the enacted plan?

10 A. They are all polarized for all of  
11 the districts, I believe, including District 2.  
12 If you could turn that, they are all polarized  
13 for all enacted districts, including District 2.

14 Q. And would a BVAP of less than  
15 50 percent allow black voters to elect their  
16 candidate of choice in Congressional District 2  
17 in the enacted plan, or not the enacted plan, or  
18 just based on your analysis, would --

19 MS. BRANNON:

20 Let me rephrase the question,

21 Your Honor.

22 BY MS. BRANNON:

23 Q. Would a BVAP of less than 50 percent  
24 allow black voters to elect their candidate of  
25 choice in Congressional District 2?

1           A.    I don't know. The -- the district  
2 was 58 percent. Oh, in Enacted District 2, it's  
3 still 58 percent, so I can't answer that for  
4 that, but in the illustrative plan, it's  
5 50 percent and it still allows the black voters  
6 to elect their candidate of choice.

7           Q.    Do you think a BVAP of less than  
8 50 percent in Congressional District 2 would  
9 allow black voters to elect their candidate of  
10 choice?

11          A.    It's possible.

12          Q.    Okay. And in looking at this  
13 analysis --

14          MS. BRANNON:

15                Maybe can we go back to Appendix B,  
16 revised Appendix B, which is in 92 -- 91?  
17 I'm sorry, Your Honor. No. Can we go to  
18 Exhibit PR-87, and then could we go to  
19 revised Appendix B at the end of this  
20 document?

21          TRIAL TECH:

22                (Complied.)

23          MS. BRANNON:

24                Maybe we don't have it. This is  
25 just -- and can we go down to look at the

1 next page?

2 TRIAL TECH:

3 (Complied.)

4 BY MS. BRANNON:

5 Q. And just looking at -- for example,  
6 at Congressional District 3, can you just briefly  
7 describe the white crossover voting that you  
8 found in -- when looking at Congressional  
9 District 3?

10 A. So the black preferred candidate in  
11 2020 was Ryland Harris. He received somewhere  
12 between 64 and 69 percent of the black vote and  
13 he received somewhere in the neighborhood of 1.7  
14 to 6 percent of the white vote.

15 Q. So that's a low amount of white  
16 crossover vote?

17 A. That's a very low amount of white  
18 crossover vote, yes.

19 MS. BRANNON:

20 Your Honor, I have no further  
21 questions.

22 THE COURT:

23 Okay, Dr. Handley. Thank you,  
24 ma'am.

25 Okay. We are going to stay on the

1 record until 11:30. The court has a  
2 pretrial conference at 11:30, so let's  
3 plow through. If somebody needs to use  
4 the restroom, you can certainly -- you are  
5 not going to bother me.

6 MS. OSKAI:

7 Good morning, Your Honor. I'd like  
8 to also enter an appearance. My name is  
9 Samantha Osaki, that's O-S-A-K-I, for the  
10 American Civil Liberties Union for the  
11 Robinson plaintiffs.

12 The Robinson plaintiffs will now  
13 call Dr. Dorothy Nairne.

14 DOROTHY NAIRNE, Ph.D,  
15 after having first been duly sworn by the  
16 above-mentioned Court Reporter did testify as  
17 follows:

18 THE COURT:

19 Good morning, ma'am. You'll need to  
20 adjust the mic.

21 THE WITNESS:

22 Good morning. Good morning, can you  
23 hear me?

24 THE COURT:

25 Yes, ma'am.

1 EXAMINATION BY MS. OSAKI:

2 Q. Good morning, Dr. Nairne.

3 A. Good morning.

4 Q. To start, could you please state  
5 your name for the court?

6 A. My name is Dorothy Nairne.

7 Q. And how do you identify racially,  
8 Dr. Nairne?

9 A. I am black. I am African-American.

10 Q. What town and parish do you live in,  
11 Dr. Nairne?

12 A. I live in Napoleonville, Assumption  
13 Parish.

14 Q. And how long have you lived at your  
15 current address?

16 A. It's a family home that I've visited  
17 all my life and I've been there full-time since  
18 2017.

19 Q. And before 2017, how long have --  
20 have you and your family traced your roots in  
21 Louisiana?

22 A. For generations. My mother's,  
23 mother's, mother's mothers and fathers were  
24 enslaved here in Louisiana in Assumption Parish.

25 Q. Could you please tell us briefly

1 about your education and career history,

2 Dr. Nairne?

3 A. I had the benefit of going to the  
4 University of Wisconsin -- go Badgers -- and then  
5 I went to -- I studied journalism and  
6 African-American studies, then I lived in Atlanta  
7 and went to Clark Atlanta University where I got  
8 a master's in African-American studies and a PhD  
9 in economic affairs and development.

10 Q. And could you please describe what  
11 you currently do for a living?

12 A. I have a start-up business here in  
13 Louisiana that is focusing on glass recycling and  
14 taking the glass, turning it into sand and doing  
15 stormwater management and Mardi Gras beads so  
16 that we can create jobs for people coming out of  
17 prison.

18 Q. Thank you, Dr. Nairne. Do you  
19 belong to any civic, nonprofit or political  
20 groups?

21 A. I'm very active with the NAACP, with  
22 the Urban League, with Climate -- Weather For  
23 Climate and also with other start-up  
24 organizations like Fund 17 and there's one called  
25 Flight and together Louisiana and together



1 New Orleans.

2 Q. So do you consider yourself to be  
3 active in your community?

4 A. I am very active.

5 Q. Dr. Nairne, could you please  
6 describe the role that race has played in your  
7 family since your family has lived in Louisiana?

8 A. So first, my grandparents were on --  
9 they were sharecroppers on different plantations  
10 in Assumption Parish, and so my grandfather could  
11 read, so he used to read to all of the other  
12 sharecroppers who couldn't read and also help  
13 them with their money.

14 So my grandmother used to tell  
15 stories about how on the plantations they were  
16 paid with jitney, so they would try to pay people  
17 different money so you could never get off the  
18 plantation.

19 So I've got that long background  
20 where my grandmother always wanted to get off the  
21 plantation and my mother did. My family, her  
22 family poured into her where she was able to go  
23 to school beyond the 6th grade all the way in  
24 New Orleans because there was no school in  
25 Assumption Parish for black children. So they

1 had to walk from grades one until six probably  
2 five miles each way. And the white children who  
3 were in school had the bus, all of these public  
4 schools. So my mother would tell gross stories  
5 of being spit on from the school bus and then  
6 having to go all the way to New Orleans to go to  
7 school beyond the 6th grade.

8 Q. Are you a registered voter,  
9 Dr. Nairne?

10 A. I am a registered voter.

11 Q. Are you registered to vote at your  
12 current address?

13 A. Yes, I am.

14 Q. Do you regularly vote in  
15 congressional elections?

16 A. I vote, yes.

17 Q. Do you plan on voting in future  
18 congressional elections?

19 A. Yes, I do.

20 Q. Thank you. I'd next like to discuss  
21 your involvement with this case. What motivated  
22 you to be a plaintiff and a witness today?

23 A. I grew up with the notion that where  
24 much is given, more is expected. I have been  
25 completely privileged in having an education and

1 knowing people in Assumption Parish, in  
2 Napoleonville who haven't had those  
3 opportunities. So for me, it's a moral  
4 imperative to give as much as I can for the  
5 people who live around me who want justice, who  
6 want racial equality and who want opportunities.

7 Q. Thank you, Dr. Nairne.

8 Let's talk a little bit about your  
9 current congressional district. Do you know what  
10 your current Congressional District is?

11 A. I am in District 6.

12 Q. And who is your current  
13 representative?

14 A. Graves, Garrett Graves.

15 Q. What is your understanding of your  
16 Congressman Graves?

17 A. He is a white man.

18 Q. In general, do you follow your  
19 congressman's actions?

20 A. I follow him and I have contacted  
21 his office on several occasions.

22 Q. In your affidavit, you note that you  
23 believe that your congressmen does not advocate  
24 for your community's needs. What did you mean by  
25 that?

1           A.    I'm very active, as I stated, in my  
2 community and also participating widely on Zoom  
3 or for policy conferences; and I haven't seen him  
4 at any events, whether for King day, Juneteenth  
5 day or just to discuss the plight of the black  
6 community.

7           Q.    Have you seen him campaigning in  
8 your community?

9           A.    No. No. No. I have not seen him  
10 campaigning during the several elections that  
11 I've been around for.

12          Q.    Thank you, Dr. Nairne. I'd now like  
13 to discuss the Enacted Maps.

14          MS. OSAKI:

15                May we please pull up the enacted --  
16 the enacted map under HC-1, which has been  
17 moved as Plaintiffs Exhibit PR-15 on  
18 page 48.

19          TRIAL TECH:

20                (Complied.)

21          BY MS. OSAKI:

22          Q.    Dr. Nairne, are you familiar with  
23 this map?

24          A.    Yes, I am.

25          Q.    Do you know which district you

1 reside in under this map?

2 A. It's still unclear, so there's one  
3 election where I went from school to school to  
4 school looking for, you know, am I voting, can I  
5 vote, where am I voting and they turned me away,  
6 so I learned that I was in District 6 and I'm  
7 right there on the cusp; so some of my neighbors  
8 vote in District 2 and some in District 6, so  
9 it's confusing, it's chaotic, and it doesn't help  
10 us to organize or plan.

11 Q. What do you mean by "on the cusp"?

12 A. So my house is like literally where  
13 my neighbors across the street are in District 2,  
14 so they were able to vote, but I wasn't.

15 MS. OSAKI:

16 May we please zoom in on that area?

17 It's Assumption Parish in Congressional

18 District 6.

19 TRIAL TECH:

20 (Complied.)

21 MS. OSAKI:

22 Thank you.

23 BY MS. OSAKI:

24 Q. Dr. Nairne, based on your living

25 experiences looking at this map, what is your

1 impression of your district, Congressional

2 District 6?

3 A. So as small as Assumption Parish is,  
4 it's a big land mass but small community. We are  
5 not able to organize or able to mobilize or able  
6 to voice our -- and organize our voice in  
7 Assumption Parish.

8 Q. And could you describe  
9 geographically what areas your community in  
10 Assumption Parish convenes with in Congressional  
11 District 6 of this enacted map?

12 A. Sure. So a lot of the work that I  
13 do is with people of the river parishes:  
14 St. John, St. James, St. Charles and Jefferson  
15 and Orleans Parish. And so when it comes time to  
16 discuss candidates and voting, I'm -- I'm silent,  
17 I have nothing to say because they are in one  
18 district and I'm in another.

19 Q. So under Congressional District 6,  
20 you're the -- can you describe some of the  
21 parishes that you would be linked with here?

22 A. So St. Mary's, Iberville. I -- I  
23 have absolutely no alliance there, no community  
24 members there in those parishes.

25 Q. I'd like to talk a little bit more

1 about that. Based on your living experiences,  
2 how would you describe some of those communities  
3 that are -- that are included on circling here?

4 A. So a lot of the communities' work  
5 that I do is with the river parishes where we do  
6 a lot of work around environmental justice and  
7 racial justice and looking at cancer alley and  
8 looking at just what's happening with people's  
9 living experiences as well as with HIV, with  
10 crime and with how we improve each other's lives.

11 So I don't work with people within  
12 Terrebonne or the other parishes, so I'm kind of  
13 a sore thumb standing out there because we work  
14 together, but then we don't vote together.

15 Q. I see. So it sounds like you are  
16 saying you are not as familiar with these that  
17 you are included with?

18 A. Yes.

19 Q. Okay. Now, under this enacted plan  
20 and based on your living experiences as a  
21 resident of Congressional District 6, do you  
22 believe your interests would be fairly  
23 represented?

24 A. I do not believe that my interests  
25 are represented.

1 Q. And why is that?

2 A. I feel like I'm alienated, that I  
3 don't have associations and groups that I would  
4 work with. I would have to start over really to  
5 see who's where and doing what given this map  
6 that I'm looking at right now.

7 Q. Thank you, Dr. Nairne. I'd now like  
8 to discuss one of plaintiffs' illustrative maps.

9 MS. OSAKI:

10 Could we please pull up one of  
11 plaintiffs' illustrative maps which has  
12 been moved into evidence as PR-15 on  
13 page 47?

14 TRIAL TECH:

15 (Complied.)

16 BY MS. OSAKI:

17 Q. Dr. Nairne, are you familiar with  
18 this map?

19 A. Yes, I am.

20 Q. Under this Illustrative map, are you  
21 aware of what district you live in?

22 A. I would know -- I know where I live,  
23 but I would know what district that I am in.  
24 Sure enough, me and all my neighbors would be in  
25 District 2 according to this map.



1 MS. OSAKI:

2 May we please zoom in to  
3 Congressional District 2 on this  
4 illustrative map?

5 TRIAL TECH:

6 (Complied.)

7 MS. OSAKI:

8 Thank you.

9 BY MS. OSAKI:

10 Q. Dr. Nairne, geographically, what  
11 areas would -- would you be linked with in this  
12 Congressional District 2 of this illustrative  
13 map?

14 A. In this map, I would be with the  
15 people that I'm working with currently along with  
16 the river parishes all the way into Orleans and  
17 Jefferson Parishes. This maps makes sense to me.

18 Q. Do you have any personal connections  
19 with any of those other parishes?

20 A. I have personal connections, family,  
21 friends, colleagues in all of this -- this entire  
22 area.

23 Q. How would you describe communities  
24 in these areas, these river parish areas based on  
25 your personal knowledge?

1           A.    We have a shared history, we have a  
2 shared cultural heritage, and we work together to  
3 make improvements along this area with community  
4 development where we are doing work around  
5 creating jobs for people, opportunities for young  
6 people, and trying to improve our health.

7           Q.    What did you mean by that, "trying  
8 to improve your health"?

9           A.    This area is known as cancer alley,  
10 and just so I work somewhat with the cancer index  
11 and looking at just neighbors across the street,  
12 next to me, even my own mother who had a tumor  
13 the size of a soccer ball in her belly; and so,  
14 you know, just cancer is everywhere and, you  
15 know, if it's in my own house, then is it in me  
16 too, so it really requires us to do quite a bit  
17 of work together.

18          Q.    Can you describe some of the health  
19 -- health inequities that are similar along the  
20 river parishes? What about industries, are there  
21 industries that are similar along these  
22 communities?

23          A.    Well, the sugar cane industry  
24 defined this area, this region, but now the sugar  
25 cane is mechanized so people don't have those

1 jobs anymore, so there's a lot of not much to do  
2 going on in Assumption, St. James, St. John and  
3 St. Charles.

4 Q. Now, under this new -- under this  
5 illustrative plan and based on your living  
6 experiences, do you believe that your community's  
7 interest would be fairly represented?

8 A. Under this map, yes.

9 Q. Why is that?

10 A. It would give us a base so that we  
11 can mobilize and so that we can organize and so  
12 that we have one collective voice so that we  
13 would have action together so we can move forward  
14 and improve, but not our communities, our  
15 households, our entire state.

16 Q. Based on your living experiences in  
17 Louisiana, does it make sense culturally,  
18 socioeconomically, historically or otherwise, for  
19 your community to settle under this illustrative  
20 map Congressional District 2 alongside these  
21 other river parish communities?

22 A. To me, it makes complete sense that  
23 we are in this district.

24 Q. Thank you. Finally, Dr. Nairne, how  
25 would you feel if a map like this illustrative

1 plan that is a map that enacts a second majority  
2 black congressional district were to be enacted  
3 into law?

4 A. I know exactly the households that  
5 I'm going to knock on their doors should this  
6 happen. There were a number of people -- so  
7 during the census and leading up to the elections  
8 for 2020, I was a block captain for Together  
9 Louisiana. So there were a couple of households  
10 that I knocked on their doors and they were like  
11 oh, good, you mean change is coming for us. So  
12 then when they see that changes are not real,  
13 their hopes are dashed. They are feeling like  
14 yet again you lied, some bad sense; no, I didn't  
15 lie to you. This process just takes a while.

16 So I know I would go to his home.  
17 This is somebody I've known all my life and just  
18 to see -- he's weathered and worn out and just to  
19 have him have a little bit of hope, wow, that  
20 would make my year, my day, my hour. So that's  
21 where I would go and say look, change is coming  
22 here to Assumption Parish, so we have some happy  
23 people who would have hope again in Louisiana.

24 MS. OSKAI:

25 Thank you, Dr. Nairne. No further

1 questions, Your Honor.

2 THE COURT:

3 Cross?

4 CROSS-EXAMINATION BY MR. WALES:

5 Q. Hi -- excuse me. Hi, Dr. Nairne.

6 Jeff Wales. I'm an attorney for the state, and

7 I'll be asking you a few questions today.

8 Dr. Nairne, you said you moved to

9 Louisiana in 2017; is that correct?

10 A. Yes, it is.

11 Q. So where did you live before that?

12 A. Well, I lived in South Africa.

13 Q. And -- and so where did you grow up?

14 Is that where you grew up, in South Africa?

15 A. No. I grew up between Milwaukee and

16 also between Louisiana where I would come in the

17 summer.

18 Q. So you would visit in Louisiana, but

19 you wouldn't come here full-time?

20 A. Correct.

21 Q. So when did you register to vote?

22 A. I registered to vote I think in

23 2017.

24 Q. And you are a registered Democrat,

25 correct?

1 A. Yes.

2 Q. And earlier you said something about  
3 being confused about where to vote. Did you find  
4 out where to go vote?

5 A. I did.

6 Q. So you are aware that the Geaux Vote  
7 App is where the Secretary of State lets people  
8 know where to vote?

9 A. Yes, I am.

10 Q. All right. And you live in  
11 Congressional District 6 currently, correct?

12 A. That's correct.

13 Q. And that your current congressman is  
14 Garrett Graves?

15 A. Yes.

16 Q. And he is a Republican, correct?

17 A. Yes.

18 Q. And you testified earlier in your  
19 declaration that you are highly engaged, so you  
20 attend redistricting workshops around the state?

21 A. Yes, I do.

22 Q. And you've written letters to your  
23 congressmen, to Congressman Graves; is that  
24 correct?

25 A. I went to him regarding the

1 environment, so yes.

2 Q. And you've spoken about your  
3 advocacy and your work in the community.

4 Irrespective of the results of this  
5 litigation, will you continue to be engaged with  
6 the elected representatives who represent you?

7 A. Yes, I will.

8 Q. And regardless of what the map looks  
9 like now or will look like, you'll continue to  
10 advocate for things you care deeply about,  
11 correct?

12 A. Yes.

13 Q. In paragraph 11 of your declaration,  
14 you've stated that you have donated to  
15 congressional candidates. Can you tell me which  
16 candidates you donated to?

17 A. I donated to several candidates \$5  
18 here and \$10 there.

19 Q. All right. And what is the  
20 affiliation of those candidates, the political  
21 affiliation?

22 A. Some are independent, a couple of  
23 green party, and a few Democratic candidates.

24 Q. Do you recall have you ever donated  
25 to the Democratic Congressional Campaign campaign

1 committee?

2 A. I'm not sure. Help me understand.

3 Q. Sure, sure. If I may, I'm going to  
4 use this system.

5 THE COURT:

6 You can use the document camera.

7 Mr. Wells, tell us what you are going to  
8 put up there before you just throw it up  
9 there.

10 MR. WALES:

11 Okay. Yes, ma'am. I'm going to  
12 show a document from the official  
13 government website from the Baton Rouge  
14 Federal Actions Commission, if I can get  
15 the -- did you turn it on?

16 BY MR. WALES:

17 Q. All right. Let me try again.

18 Dr. Nairne, do you remember donating to a group  
19 called Act Blue?

20 A. I think I did donate to them, yes.

21 Q. Okay. So you would believe me if I  
22 said you had donated to Act Blue and that  
23 contained an earmark for the DCC, also known as  
24 the Democratic Congressional Campaign Committee?

25 A. Okay.



1 Q. Going back to your voting  
2 registration, you said that you are a regular  
3 voter, correct?

4 A. Yes.

5 Q. Did you ever miss an election?

6 A. There are so many, but I try to  
7 vote, especially locally.

8 Q. So it's possible that you have  
9 missed a few elections?

10 A. I'm pretty good at voting.

11 Q. Okay. And so, again, we still don't  
12 have a --

13 THE DEPUTY:

14 I'm texting them now.

15 BY MR. WALES:

16 Q. Okay. And I'm going to ask you,  
17 Dr. Nairne -- Dr. Nairne, if you remember voting  
18 in the December 2018 election that was for the  
19 Louisiana Secretary of State. It was an election  
20 between Secretary of State Kyle Ardoin and Gwen  
21 Collins-Greenup?

22 A. I don't remember, honestly.

23 Q. You don't -- you don't recall voting  
24 in that election?

25 A. No. I don't recall not voting

1 because that was a statewide election, correct?

2 Q. Correct.

3 A. Yeah. So I would not have been  
4 turned away from voting during that election.

5 THE COURT:

6 Just give us a second, Mr. Wales.  
7 She's contacted IT so they can  
8 troubleshoot it for us. Do you have any  
9 other questions you can go to?

10 MR. WELLS:

11 No. No, Your Honor.

12 BY MR. WALES:

13 Q. All right. It looks like there is  
14 light. Excuse me. Dr. Nairne, I'm going to show  
15 you a document from the Louisiana Secretary of  
16 State's office and I'm going to see if -- all  
17 right.

18 MR. WALES:

19 Well, zoom.

20 TRIAL TECH:

21 (Complied.)

22 THE COURT:

23 If you quit your day job --

24 BY MR. WALES:

25 Q. Thank you. So Dr. Nairne, I realize

1 the -- the first line over here is a little bit  
2 difficult to read. It's in script, but can --  
3 can you read that for us, please?

4 A. Sure. As Secretary of State of the  
5 State of Louisiana, I do hereby certify that the  
6 annex hereto is true and correct voter  
7 registration information for the state of Dorothy  
8 Evelyn Nairne, and that's me.

9 Q. Thank you so much.

10 A. Uh-huh (affirmatively).

11 Q. And so I'm going to show you another  
12 page in here. And can you tell me what the top  
13 two lines say?

14 A. Did not vote 2021.

15 Q. Oh, I'm sorry. At the very top of  
16 the page?

17 A. Oh, okay. Assumption Parish.

18 Q. And even prior to that?

19 A. Louisiana Secretary of State voter  
20 election history report for Parish of Assumption.

21 Q. Okay. And you see about -- about  
22 eight election dates there?

23 A. Uh-huh (affirmatively).

24 Q. And do you see how many where it  
25 says you did not vote?

1 A. I see.

2 Q. All right. And how many elections  
3 did you not vote in?

4 A. So I voted in one, two, three, four,  
5 five, I did not vote in November 2021, July 2020,  
6 so I did not vote in three elections.

7 Q. Okay. And then the election I was  
8 asking you about in -- I'm sorry, in December of  
9 2018, that was the election that was discussed  
10 earlier -- earlier by the expert. It was for  
11 Secretary of State between Kyle Ardoin and Gwen  
12 Greenup; you did not vote in that election,  
13 correct?

14 A. Well, I see now.

15 Q. Yes. And Kyle Ardoin, who won that  
16 election, is the defendant in this suit, correct?

17 A. Yes.

18 Q. So you did not participate in the  
19 election in which the defendant of this suit was  
20 elected?

21 A. Okay.

22 MR. WALES:

23 All right. That's all the questions  
24 I have. Thank you very much.

25 THE COURT:

1 Any redirect?

2 MS. OSAKI:

3 No redirect, Your Honor. Thank you.

4 THE COURT:

5 Okay. You may step down. Thank you  
6 for your help today, ma'am. Okay. We are  
7 going to be in recess until 1:30.

8 THE DEPUTY:

9 The court is now in recess.

10 (A short recess was taken at 11:23 a.m.)

11 THE COURT:

12 Okay. Please be seated. Good  
13 afternoon everyone.

14 Why don't we say who we are calling  
15 as our next witness because it needs to be  
16 put on the record.

17 Go ahead. Put it on the record who  
18 your next witness is and who you are, sir.

19 MR. CHAKRABORTY:

20 Good afternoon, Your Honor. Our  
21 next witness is Traci Burch, and I'm  
22 making my first appearance today.

23 I am Amitav Chakraborty on behalf of  
24 the plaintiffs.

25 THE COURT:

1                   Okay. And we are waiting on the

2                   Zoom. Dr. Burch, can you hear us?

3                   THE WITNESS:

4                   Not yet.

5                   THE COURT:

6                   Can you hear me now?

7                   THE WITNESS:

8                   Yes.

9                   THE COURT:

10                  Your witness, sir.

11                  MR. CHAKRABORTY:

12                  Thank you.

13                  THE COURT:

14                  Wait. We need to swear her in.

15                  Sorry.

16                  TRACI BURCH,

17                  after having first been duly sworn by the

18                  above-mentioned Court Reporter did testify as

19                  follows:

20                  THE COURT:

21                  Now, your witness.

22                  DIRECT EXAMINATION BY MR. CHAKRABORTY:

23                  Q.    Thank you. Good afternoon. Can you

24                  please state --

25                  A.    Good afternoon.

1 Q. Can you please state your full name  
2 for the record?

3 A. Dr. Traci Burch.

4 Q. And what is your educational  
5 background, Dr. Burch?

6 A. I am -- I first completed by  
7 undergraduate work at Princeton where I majored  
8 in politics and got a certificate in  
9 African-American studies, and I finished my PhD  
10 at Harvard in the Ph.D degree program in  
11 government policy.

12 Q. And what is your current occupation?

13 A. Currently, I am an associate  
14 professor of political science at Northwestern as  
15 well as a regents professor at the American Bar  
16 Foundation.

17 Q. And how long have you been a  
18 professor, Dr. Burch?

19 A. Since 2007.

20 Q. What are your principle areas of  
21 research?

22 A. Sorry. My principle areas of  
23 research include political behavior, political  
24 participation, barriers to voting and race ethnic  
25 politics, and I also focus on the ways that

1 interaction with the government can effect all  
2 those things such as participation, and I  
3 specifically have focused on how the federal  
4 justice system can effect various things.

5 Q. Thank you. And have you been  
6 published on any or all of these subjects?

7 A. Yes, I have been.

8 Q. Have you previously served as an  
9 expert witness?

10 A. Yes. I have testified at -- at  
11 trial in four cases and in -- at a deposition in  
12 an additional -- additional case.

13 Q. Did any of those cases in which you  
14 testified involve claims brought under the Voting  
15 Rights Act?

16 A. Yes.

17 Q. And was your testimony credited or  
18 accepted by the court in each of those cases in  
19 which you testified?

20 A. Yes.

21 MR. CHAKRABORTY:

22 Your Honor, pursuant to the Federal  
23 Rule 702 and the state Secretary of State  
24 parties, the Robinson plaintiffs would  
25 like to proffer Dr. Burch as an expert in



1 political behavior, political  
2 participation and barriers to voting.

3 THE COURT:

4 Is there any objections?

5 MS. KHANNA:

6 No objections, Your Honor.

7 THE COURT:

8 Okay. Dr. Burch will be accepted  
9 and be able to give testimony in the areas  
10 of political behavior, political  
11 participation and barriers to voting,  
12 correct?

13 MR. CHAKRABORTY:

14 Yes, Your Honor.

15 THE COURT:

16 You may proceed.

17 BY MR. CHAKRABORTY:

18 Q. Mr. Burch, did you submit an expert  
19 report as part of your work in this case?

20 A. I did. And could you excuse me for  
21 a few minutes? I just need to close my door.

22 Sorry. Thank you. Yes, I did.

23 MR. CHAKRABORTY:

24 No worries at all. I'd like to  
25 bring up on the screen, and just let us

1 know if you are not able to see it, what  
2 has been premarked as PR-14.

3 THE COURT:

4 I don't know that you can screen  
5 share.

6 THE DEPUTY:

7 We are supposed to be able to.

8 THE COURT:

9 Okay. I'm going to let you  
10 disregard my technical input.

11 BY MR. CHAKRABORTY:

12 Q. Sorry, Dr. Burch. Just give us one  
13 second.

14 Dr. Burch, are you able to see any  
15 report on your screen?

16 A. Not yet.

17 THE DEPUTY:

18 Okay. Wait. Let's see.

19 THE COURT:

20 IT is coming. Is there any way you  
21 can do a little bit with Dr. Burch until  
22 IT gets here?

23 MR. CHAKRABORTY:

24 I can do a couple of questions.

25 THE COURT:

1                   Okay. Great.

2       BY MR. CHAKRABORTY:

3           Q.     Dr. Burch, just jumping into it a  
4     brief bit before we tackle the technical  
5     difficulties, did you submit a report for your  
6     work in this case?

7           A.     I did.

8           Q.     I'll show you briefly what has been  
9     premarked as PR-14, and it will be your expert  
10    report.

11                   What did you set out to evaluate in  
12    your expert report?

13           A.     So in my expert report, I was asked  
14    to evaluate the set factors of -- relevant to  
15    this case in Louisiana, particularly Senate  
16    factors five, six, seven, eight and nine.

17           Q.     Thank you. And what materials did  
18    you rely on to reach your conclusions about those  
19    factors?

20           A.     A wide variety of materials  
21    including my own analysis of the census data such  
22    as the data from the plaintiff census and the  
23    American Civil Liberties communities, various  
24    agencies of the court, demography literature, the  
25    legislative record including hearings, videos,

1 hearing of testimonies and road shows, other  
2 documents such as amendments and bills that were  
3 submitted, various news reports and -- and other  
4 public speeches by public officials.

5 Q. Thank you, Dr. Burch. I'd just like  
6 to pause there until we fix the issues.

7 THE COURT:

8 Do you think she's got a copy of her  
9 report that she could look at while you  
10 examine her? Because I have her report  
11 here. I can follow along.

12 MR. CHAKRABORTY:

13 We do, and I believe Dr. Burch does,  
14 but we were going to bring up a  
15 demonstrative.

16 THE COURT:

17 Oh. Help is on the way, Dr. Burch.

18 Give us a minute.

19 MS. MCKNIGHT:

20 I'm sorry, Your Honor. We are going  
21 to try to log into the Zoom. We are going  
22 to try to log into Zoom at the same time  
23 to avoid a delay later on. Thank you.

24 THE WITNESS:

25 All right. I've got it.

1 BY MR. CHAKRABORTY:

2 Q. Thank you for your patience,  
3 Dr. Burch. So I'd like to jump back and -- and I  
4 know you were just talking a minute ago about the  
5 Senate factors that you examined. Are those  
6 factors displayed for you on the screen?

7 A. Yes, they are.

8 Q. And just as a reminder to the court  
9 and everybody here, which factors were those?

10 A. So I reviewed Senate Factor 5, the  
11 extent to which members of the minority group are  
12 suffering from the effect of different  
13 discrimination in areas such as employment,  
14 education and health that effect participation;  
15 Senate Factor 6, which revealed political  
16 campaigns; Factor 7, which is minority group  
17 representation in public office; Factor 8, which  
18 is about whether there's lack of responsiveness  
19 of the elected officials to the procedural needs  
20 of the group; and Factor 9, which is whether the  
21 state of the policy or practice is to take the  
22 position in that and is that the same.

23 Q. Thank you, Dr. Burch. I'd like to  
24 start with Senate Factor 5. Which specific areas  
25 of disparity did you evaluate as part of this

1 factor?

2 A. I examined education and other  
3 aspects of socioeconomic status such as  
4 employment and income. I looked at health, I  
5 looked at residents in housing, and I also  
6 examined the criminal justice system.

7 Q. Thank you, Dr. Burch. I'd like to  
8 begin by talking about education.

9 MR. CHAKRABORTY:

10 Matthew, can you please turn to the  
11 next slide?

12 TRIAL TECH:

13 (Complied.)

14 BY MR. CHAKRABORTY:

15 Q. Dr. Burch, what does this slide  
16 display?

17 A. So this -- this slide displays a --  
18 a couple of the charts from my report in which I  
19 am documenting contemporary disparities in  
20 education. And on the left, this slide shows the  
21 difference in scores on standardized tests for  
22 Louisianians who are in 8th grade over time.

23 And for each map, for each graph,  
24 I'm sorry, the top one is for mathematics and the  
25 bottom is for English, and the white students are

1 at the top and the red dots and the blue dots --  
2 blue crosses are black students. And, as you can  
3 see, there's a persistent gap over time and that  
4 determines the students' scores on these  
5 achievement tests, and that gap is pretty  
6 persistent and consistent over time.

7 Q. And what's displayed on the right  
8 here?

9 A. And so on the right, as you can see  
10 here, I -- this is just part of one of the charts  
11 that I have that shows educational attainment by  
12 race scores 25 and older, and white Louisianians  
13 are much more likely to have earned a bachelor's  
14 degree or higher than black Louisianians.

15 Q. Thank you, Dr. Burch. Based on  
16 these selected examples and other citings in your  
17 report, what were your conclusions about the  
18 existence and extent of educational disparities  
19 that exist in Louisiana between black and white  
20 populations?

21 A. Yes. So I concluded that there were  
22 still great disparities in education and  
23 educational attainment between black and white  
24 Louisianians, not only related to these factors  
25 that I state here, but also with respect to

1 persistent segregation in education as well; and  
2 those factors, those disparities are given by  
3 both historical and contemporary discrimination  
4 in the education realm.

5 Q. Thank you.

6 MR. CHAKRABORTY:

7 Next slide please, Matthew.

8 TRIAL TECH:

9 (Complied.)

10 BY MR. CHAKRABORTY:

11 Q. Dr. Burch, what does this slide  
12 show?

13 A. So this slide shows more evidence of  
14 disparity with respect to socioeconomic status  
15 between black and white men. And consistent with  
16 the prior set of graphs, white Louisianians are  
17 shown here in the print and black Louisianians  
18 are shown here in the teal.

19 And as you can see on all of these  
20 factors, black Louisianians are worse off than  
21 white Louisianians. Unemployment rates, the  
22 unemployment rate is nearly double from black  
23 Louisianians. Family poverty is nearly three  
24 times as high for black Louisianians than for  
25 white Louisianians. White house -- Louisiana



1 households on average, median household income is  
2 tens of thousands of dollars higher than that of  
3 black Louisianians' households, and there's  
4 definitely disparity in terms as to ethnicity,  
5 vehicles, there is -- black households are more  
6 than four times or three times as likely, sorry,  
7 almost four times as likely in black households  
8 than white households.

9 Q. And based on these conclusions in  
10 your report, what was your conclusions about  
11 socioeconomic disparity between white and black  
12 Louisianians?

13 A. Again, I concluded that there are  
14 socioeconomic disparities that exist today and  
15 that those disparities relate to both  
16 contemporary and historical disparities between  
17 black and white Louisianians.

18 MR. CHAKRABORTY:

19 Next slide, please.

20 TRIAL TECH:

21 (Complied.)

22 BY MR. CHAKRABORTY:

23 Q. Dr. Burch, what information is  
24 displayed on this slide?

25 A. So this slide shows some of the

1 information that I wrote about with respect to  
2 disparity in housing.

3 Q. And what types of examples or  
4 disparity did you examine in your analysis of  
5 this factor or this -- this issue?

6 A. So in particular, I looked at  
7 disparity in -- in residents and where people  
8 live because it's so important to policies and --  
9 and political participants.

10 And so here, you can see in the map  
11 on the left, I had a historical map that was used  
12 by the Homeowners Loan Corporation dated since  
13 the 1930s and 1940s. And several cities of  
14 Louisiana that -- and this map was used to  
15 determine lending and the risk of lending. Red  
16 areas typically are those that were high risk and  
17 -- and not suitable for lending and happen to be  
18 neighborhoods where black people lived.

19 And so looking at these maps and --  
20 and these areas of segregation and -- and these  
21 historical maps as continues to present day, as  
22 you see on the left where it shows that there is  
23 still metro areas and cities in Louisiana that  
24 are highly -- marked by high segregated by race;  
25 and that includes New Orleans, the New Orleans,

1 Metairie metro area, Baton Rouge, the  
2 Shreveport/Bossier cities and Lake Charles, and  
3 those cities are -- are highly segregated by race  
4 as well.

5 Q. Thank you, Dr. Burch. Can policies  
6 effect -- I know you -- I just wanted to know,  
7 can government policies effect the -- the level  
8 and placement of segregation between black and  
9 white Louisianians in housing?

10 A. Yes. Even present contemporary  
11 policies or just voting decisions on where and  
12 how to build, especially as I give an example in  
13 my report about decisions about how to rebuild  
14 after Katrina. That coupled with other issues  
15 such as seeing the pace at which disaster relief  
16 was given effect the ability of black people to  
17 rebuild in areas that have been hurt by natural  
18 disasters, for example. So these areas -- so  
19 housing is effected in several areas.

20 Q. Thank you.

21 MR. CHAKRABORTY:

22 Please turn to the next slide,

23 Matthew.

24 TRIAL TECH:

25 (Complied.)

1 BY MR. CHAKRABORTY:

2 Q. Dr. Burch, what's on this slide?

3 A. So these -- this slide discusses  
4 several of the disparities in health that I  
5 talked about in my report. And, in particular,  
6 we can see here in the left report -- chart that  
7 mortality for black Louisianians from diseases  
8 such as cancer, cardiovascular disease and  
9 diabetes is higher than that of those mortality  
10 rates for white Louisianians. Overall, as in the  
11 second slide, the disparities in health translate  
12 into a disparity in life expectancy.

13 So on average, white Louisianians --  
14 white Louisiana men are about -- expected to live  
15 about seven years longer than black Louisiana  
16 men; and with respect to women, there's a large  
17 gap as well. White Louisiana women are expected  
18 to live about five years longer than black  
19 Louisiana women. Infant and child mortality for  
20 blacks versus white Louisiana children is higher  
21 as well.

22 Q. And can environmental factors  
23 contribute to racial health disparities such as  
24 these?

25 A. Yes. So in my report, I talk a lot

1 about both the fact that natural disasters can  
2 have differential effects and have had  
3 differential effects in terms of mortality on  
4 black versus white Louisianians, and I also talk  
5 about disparity related to exposure to pollution  
6 particularly in the area of Louisiana known as  
7 cancer alley which is between Baton Rouge and  
8 New Orleans.

9           And research has shown that for  
10 black residents in those areas that higher  
11 exposure to environmental pollution and the like  
12 is related to higher rates of COVID-19, asthma  
13 and -- and cancer.

14           Q. Thank you. So on this topic, would  
15 you say that black Louisianians have worse  
16 outcomes overall than white Louisianians?

17           A. Yes.

18           MR. CHAKRABORTY:

19                   Next slide.

20           TRIAL TECH:

21                   (Complied.)

22           BY MR. CHAKRABORTY:

23           Q. Dr. Burch, what does this slide  
24 display information regarding?

25           A. So this slide discusses disparities

1 with respect to the criminal justice system in  
2 Louisiana. And as you can see from this graph on  
3 the left, black Louisianians are about -- about a  
4 third of Louisiana's overall population but are  
5 over represented among prison, probation and  
6 parole populations. In fact, black  
7 representation in Louisiana's prison and parole  
8 population is double their representation in the  
9 overall population.

10 Q. And so what are your conclusions  
11 about the kinds of disparities that exist between  
12 black and white Louisianians in the realm of  
13 criminal justice?

14 A. That there are dramatic disparities  
15 in the involvement with the criminal justice  
16 system between black and white Louisianians with  
17 black Louisianians being much worse off, and  
18 these factors, these -- these disparities can't  
19 be explained by just crime rates alone and, in  
20 fact, are related to those that they are both  
21 historical and contemporary discrimination in the  
22 criminal justice system.

23 Q. And just to confirm. I know you  
24 just mentioned for criminal justice there, but  
25 would you say that all of the disparities that

1 you talked about today, you know, education,  
2 health, socioeconomic status and -- and criminal  
3 justice, all are tied to historical trends but  
4 also are exhibited currently and are existing  
5 disparities?

6 A. Yes. So -- so for all of the  
7 disparities that I mentioned, the research shows  
8 that both historical discrimination as well as  
9 contemporary discrimination by the state and  
10 other factors feeds and contributes to those  
11 areas.

12 Q. And finally, last question on this  
13 topic, Dr. Burch. All of these disparities, how  
14 do they effect political participation in black  
15 Louisianians in the state?

16 A. So, and I've done it for each factor  
17 that was in my report, but overall if you think  
18 about the fact that political science -- think  
19 about the decision to participate in politics to  
20 effect a rationale choice, we think that voters  
21 weigh cost and benefits of these disparities, the  
22 disparities of these factors tend to make voting  
23 much more costly. So it would effect the  
24 education, for instance, it's much more difficult  
25 for someone to -- having to navigate

1 bureaucracies and the like if they have lower  
2 educational attainment. It's difficult for  
3 people to get to a polling place if they don't  
4 have access to a vehicle or a -- or a household  
5 that has access.

6           The criminal justice system effects  
7 political participation because of loans and  
8 franchise laws. People aren't allowed to vote if  
9 they are serving a sentence in prison, for  
10 instance, and so all of these factors are  
11 interrelated, but also definitely have an effect  
12 on political participation and the literature  
13 shows that quite clearly.

14       Q.    Thank you, Dr. Burch.

15       MR. CHAKRABORTY:

16           I'd like to move on to the next  
17 slide, Matthew.

18       TRIAL TECH:

19           (Complied.)

20       BY MR. CHAKRABORTY:

21       Q.    I'd like to move on to -- ask you  
22 about your analysis of racial appeals and  
23 political campaigns. And before we get to this  
24 slide, what is a racial appeal?

25       A.    So a -- a racial appeal in a



1 political campaign is an aspect of either a  
2 speech or a -- a campaign ad, for instance, that  
3 would prime voters to think about racial concerns  
4 when making decisions about candidates in policy.  
5 And those can be either implicit, which means  
6 that race isn't mentioned, but you could see code  
7 words or black exemplars, for example, that would  
8 prime or still prime words to think about race to  
9 make political decisions or they can be explicit,  
10 which means they refer for specifics for the  
11 race.

12 Q. And based on your experience and  
13 review of the relevant literature, are appeals  
14 effective or do they effect voting behavior?

15 A. Yes. Racial appeals are both  
16 explicit and implicit and have been shown to  
17 heighten the way voters pay attention to or think  
18 about race and -- and it also effects how voters  
19 think about candidates when they think about this  
20 issue.

21 Q. Did you examine the racial appeals  
22 in Louisiana?

23 A. Yes. I looked at a recent statewide  
24 campaign, which is the 2019 gubernatorial  
25 election.

1 Q. And what did you conclude about this  
2 race?

3 A. I found evidence of several of --  
4 sorry. I'm getting feedback. I -- I found  
5 evidence of several campaign ads and statements  
6 that could be characterized as a racial appeal.

7 Q. Can you give us some of those  
8 examples?

9 A. Yes. So a prominent one has still  
10 -- and here is from a campaign ad that was run by  
11 the Eddie Rispono running for governor campaign.  
12 And in it there's several aspects that calls for  
13 (inaudible) they characterize racial appeal.

14 So, for instance, you have there in  
15 the middle a picture of a mugshot, a black that  
16 infers, activates on your particular serial type  
17 such as black commonality. You have an image of  
18 a candidate with all white constituents, and also  
19 you have the use of language such as sanctuary  
20 city and crimes that have been shown in  
21 particular to crime racial ads, among others.

22 Q. Thank you, Dr. Burch. What were  
23 your conclusions about the existence of racial  
24 appeals as it exists in Louisiana?

25 A. Based on the several examples that I

1 found from that political campaign, that racial  
2 appeals -- that there are still racial appeals  
3 that characterize these things in a political  
4 campaign.

5 Q. Thank you.

6 MR. CHAKRABORTY:

7 Next slide, Matthew.

8 TRIAL TECH:

9 (Complied.)

10 BY MR. CHAKRABORTY:

11 Q. I'd like to ask you about your  
12 examination of Senate Factor 7, which is the  
13 extent to which black Louisianians have been  
14 elected to public office.

15 Which elected offices did you  
16 evaluate in reaching your conclusions?

17 A. I evaluated several -- several  
18 offices as well as offices at the state and local  
19 levels as well.

20 Q. Let's start at the federal level.  
21 What did you find with respect to federal  
22 positions and black representation in those?

23 A. As shown up here, I -- I found that  
24 there's been associated destruction; no black  
25 senators and only four black Louisianians elected

1 to Congress at the -- at the federal level.

2 Q. And what about state and municipal  
3 positions?

4 A. Similarly, there have been no black  
5 governors or lieutenant governors in Louisiana,  
6 and as with respect to the state legislature,  
7 currently about a quarter of state legislative  
8 seats are held by black members. Louisiana mayor  
9 is less than a -- a quarter of all black -- black  
10 mayors are less than a quarter of all Louisiana  
11 mayors. State court judges are about  
12 20.1 percent of all state court judges and a  
13 quarter of the elected court members are black as  
14 well.

15 Q. Thank you. What were your  
16 conclusions from the analysis of this factor of  
17 the intended representation of black Louisianians  
18 in office?

19 A. Given the fact that they're about a  
20 third of the population and it seems to be there  
21 is no -- none of the offices that I examined has  
22 there been a black representation of  
23 Louisianians. It's measured a third of that body  
24 or that group.

25 Q. Thank you.

1 MR. CHAKRABORTY:

2 Next slide, please.

3 TRIAL TECH:

4 (Complied.)

5 BY MR. CHAKRABORTY:

6 Q. Dr. Burch, did you look at the  
7 responsiveness of elected officials to the needs  
8 of black Louisianians?

9 A. I did.

10 Q. And which sources of evidence did  
11 you look to as part of that analysis?

12 A. I looked at my examination of -- of  
13 -- that I conducted for Senate Factor 5 as well  
14 as really the voices of black Louisianians  
15 themselves as represented in the road shows.

16 Q. I know we already covered your --  
17 your Senate Factor 5 evidence. What have you  
18 learned from the latter that you reviewed the  
19 testimony of these road shows?

20 A. Consistently across different areas  
21 of the state, black Louisianians stood up at  
22 these road shows and discussed their concerns  
23 about race representation in their state and  
24 talked about how they felt like things haven't  
25 been improving. I have some examples here that

1 have been pulled from my -- my report that comes  
2 from the road shows where -- where people stood  
3 up and talked about how they felt as though they  
4 weren't -- they were overlooked, they weren't  
5 represented fairly and they were concerned about  
6 the lack of representation and concern for, in  
7 effect, the government policies that would help  
8 them throughout the state.

9 Q. Thank you. And so what were your  
10 conclusions based on these sources that you  
11 reviewed in response to the elected officials to  
12 the needs of the black Louisianians?

13 A. Based on the policies and the  
14 persistent gaps that I found with respect to  
15 Senate Factor 5 as well as based on voices of  
16 black Louisianians themselves, that -- that black  
17 Louisianians (inaudible) publicly elected  
18 officials were not responsive.

19 Q. Thank you, Dr. Burch.

20 MR. CHAKRABORTY:

21 Next slide, Matthew.

22 TRIAL TECH:

23 (Complied.)

24 BY MR. CHAKRABORTY:

25 Q. Dr. Burch, did you look at Senate

1 Factor 9?

2 A. I did.

3 Q. And what is Senate Factor 9?

4 A. Senate Factor 9 examines whether the  
5 legislature had proper justification listed for  
6 HB-1 and SB-5.

7 Q. And what source of evidence that you  
8 knew then did you examine to draw conclusions on  
9 this factor?

10 A. I looked at the legislative record,  
11 the hearings, the (inaudible) dates, the road  
12 shows, the bills, the amendments, amendments  
13 themselves, and I also examined some other public  
14 statements by legislators.

15 Q. And have you conducted an analysis  
16 for state records, either in your academic work  
17 or in other cases?

18 A. Yes, both.

19 Q. So based on your review of  
20 legislature statements, what are your conclusions  
21 about the -- this factor?

22 A. So I concluded that there were  
23 several factors that I laid out in my report that  
24 were advanced in various points that were  
25 important for justification that the legislature

1 was considering when discussing HB-1 and SB-5.

2 Those would be the -- the minimizing the

3 population deviation across districts, such as

4 keeping parishes -- parishes and precincts

5 together and getting no -- no -- not splitting

6 previews when splitting a parish's compactness.

7 They did say at first that they were

8 interested in these traditional legislative

9 principals; however, when they were presented as

10 maps, that performed better on the traditional

11 legislative principles, that did not have -- that

12 contained few majority-minority districts. They

13 either, for the record, backed off from some of

14 those traditional legislative principals or said

15 that they were left.

16 Q. Thank you. I think you briefly

17 touched on it. Can you provide just one example

18 of such a shifting justification perhaps on the

19 slide?

20 A. Yes. So, for instance, with respect

21 to the population deviation, to hear Chairman

22 Sklefani do one of several examples that write

23 about making the population down to as close to

24 the nearest person as possible to the possible

25 district when -- later in the process, when



1 presented, I believe by -- in Amendment 88 as  
2 well as in Amendment 91 with maps that were  
3 actually lower population deviations but contain  
4 two majority-minority districts, for instance,  
5 made the statements backing away from those a  
6 commitment, saying that well, it's not -- you  
7 know, yes, this map is lower in terms of  
8 population, but that's not -- that's not as  
9 important as -- that's not the thing that matters  
10 like just difference is as important.

11 Q. Thank you.

12 MR. CHAKRABORTY:

13 You can take the demonstrative down  
14 and put up what has been premarked as  
15 PR-89.

16 TRIAL TECH:

17 (Complied.)

18 BY MR. CHAKRABORTY:

19 Q. Dr. Burch, I'd like to close by  
20 asking you a couple of questions about your  
21 supplemental report. Do you recognize this  
22 document?

23 A. Yes.

24 Q. And what is it?

25 A. It is the supplemental report that I

1 submitted.

2 Q. What does your supplemental report  
3 examine?

4 A. I was asked to examine the  
5 relationship between race partisanship.

6 Q. And what did you review in order to  
7 reach your conclusions on this topic?

8 A. The scholars, the scholars and  
9 literature as well as some -- as -- as well as an  
10 examination of registration of patterns,  
11 registration by race.

12 Q. And based on your review, did you  
13 reach any conclusions about the historical length  
14 between race and party and/or the contemporary  
15 relationship between the two?

16 A. Yes. So the literature itself tends  
17 to locate the link that there is -- that there is  
18 a link between race, racial attitudes and  
19 partisanship, and then the contemporary or the  
20 current, the substantiation of that starts with  
21 the assignment, real lineup of parties beginning  
22 in The New Deal and solidifying in the 1960s and  
23 resulting bill of rights. And over time, that  
24 realignment, particularly the realignment of  
25 white southerns away from the Democratic party

1 into the Republican party is a hallmark of  
2 politics, obviously the civil rights throughout.

3           Moreover, I conclude that there's  
4 growing strong evidence in the literature that  
5 that relationship between partisanship and race  
6 and racial attitudes is getting stronger and has  
7 been getting stronger since 2008. Any phenomena  
8 or the data show as well as the road shows that  
9 trends are happening in Louisiana as well.

10         Q. Thank you, Dr. Burch.

11         MR. CHAKRABORTY:

12           Your Honor, at this time, I'd like  
13 to introduce PR-14 and PR-89 into  
14 evidence. They are Dr. Burch's main and  
15 supplemental expert reports.

16         THE COURT:

17           Any objection?

18         MS. MCKNIGHT:

19           No objection.

20         MR. CHAKRABORTY:

21           And no further questions,

22         Your Honor.

23         THE COURT:

24           Cross-examination?

25         MR. CHAKRABORTY:

1 Thank you, Dr. Burch.

2 CROSS-EXAMINATION BY MS. MCKNIGHT:

3 Q. Good afternoon, Dr. Burch. I'm not  
4 sure if you can see me.

5 A. Yes, I can see you.

6 Q. I'm sorry. This is a bit awkward.  
7 It's an honor to meet you. I'll have a few  
8 questions for you this afternoon. I'm sorry, I  
9 can't look you in your face.

10 A. Okay. And I'm just grateful you  
11 guys were able to accommodate me.

12 Q. Absolutely. So Dr. Burch, I'd like  
13 to start with something you've written in the  
14 past which is that voters in a given racial or  
15 ethnic group cannot be assumed to share policy  
16 preferences. You wrote that, didn't you?

17 A. You'll have to show it to me.

18 MS. MCKNIGHT:

19 Okay. Let's bring up. This would  
20 be Burch 1, Mr. Williamson.

21 TRIAL TECH:

22 (Complied.)

23 BY MS. MCKNIGHT:

24 Q. Do you recall writing a book  
25 entitled Creating a New Racial Order?

1 A. Yes. I -- that was my co-authors  
2 book.

3 Q. Okay. And that -- I think I'll wait  
4 for him to bring up the cover of the book for  
5 you, Dr. Burch.

6 A. Uh-huh (affirmatively).

7 Q. I think Mr. Williamson just needs to  
8 share his screen.

9 THE COURT:

10 Can you give me the quote again?

11 It's voters?

12 MS. MCKNIGHT:

13 Sure. Voters in a given racial or  
14 ethnic group cannot be assumed to share  
15 policy preferences.

16 THE COURT:

17 Thank you.

18 MS. MCKNIGHT:

19 Burch 1. Hold on one moment,  
20 Your Honor.

21 THE COURT:

22 That's okay. We are going to be  
23 patient today.

24 MS. MCKNIGHT:

25 Thank you, Your Honor.

1 BY MS. MCKNIGHT:

2 Q. Dr. Burch, we have before you an  
3 electronic version of your book entitled Creating  
4 a New Racial Order. Do you see that?

5 A. I do.

6 Q. And if we can flip to the next page,  
7 here's a copyright page for that book. Does this  
8 look right to you, Dr. Burch, copyright 2012 by  
9 Princeton University Press?

10 A. Yes.

11 Q. Okay. Now, Dr. Burch, this is an  
12 electronic version so you can see at the bottom  
13 there are a number of pages because it's  
14 electronic, but if we turn to the next page, find  
15 the quote, page with your quote on it, I'm not --  
16 I've highlighted the section for you to see. Are  
17 you able to read that Dr. Burch?

18 A. Yes.

19 Q. Okay. So Dr. Burch, thank you for  
20 your patience. In the highlighted section, it's  
21 three lines down. Voters in a given racial or  
22 ethnic group cannot be assumed to share policy  
23 preferences. Do you see that?

24 A. Oh, wait. I'm sorry. You were --  
25 I'm sorry. You put something over the whole

1 quote that -- if you could, just remove that  
2 bottom line so I can see it.

3 Q. Sure.

4 A. Okay. That is -- that is definitely  
5 not a (inaudible).

6 Q. You can take that down. Does that  
7 refresh your recollection that you thought in the  
8 past voters in a racial or ethnic group cannot be  
9 assumed to share policy preferences?

10 A. Yes, I agree with that.

11 Q. Okay. And now, your report in this  
12 case, does not examine whether a white voter in  
13 rural Louisiana will vote the same way as a black  
14 voter in urban Baton Rouge, for example, correct?

15 A. No. I examined research that looked  
16 at voting patterns by race.

17 Q. Okay. And your report does not  
18 examine white crossover voting that is white  
19 voters who vote for the candidates of choice of  
20 black voters, correct?

21 A. No. I'm looking at both party  
22 registration as well as the other people readers  
23 as to those kind of questions.

24 MS. MCKNIGHT:

25 Okay. Now, turning to your report,

1 this is PR-14 at page 25 through 28.

2 Mr. Williamson, we can just go to page 25,  
3 the header of the section.

4 Pardon me. I think you need to go  
5 PR-14, page 25, but unfortunately the  
6 numbers -- there you go.

7 TRIAL TECH:

8 (Complied.)

9 BY MS. MCKNIGHT:

10 Q. So, Dr. Burch, I heard you testify  
11 on direct that you believe there are still racial  
12 appeals that characterize elections in Louisiana.  
13 Did I hear you right?

14 A. Yes.

15 Q. Okay. So in reviewing the section  
16 Senate Factor 6, racial appeals and campaigns,  
17 over the past 30 years you identified only one  
18 candidate who made a racial appeal in an  
19 election, correct? And that candidate --

20 A. No. Could you switch to -- could  
21 you go to the next page, please?

22 Q. Sure.

23 A. So I have both during this  
24 gubernatorial campaign in the middle. I'm  
25 talking about Eddie Rispono here, but also, if



1 you go to the next page, I also have here, racial  
2 appeals that targeted -- that were run by the  
3 Louisiana Republican party and for -- for  
4 instance, the quotation at the bottom of that  
5 page that's from the -- the party not from Eddie  
6 Risponse and the next page is another racial  
7 appeal that was made by a different candidate.

8 Q. Okay. Let's turn to the next page  
9 so I can understand what you meant by that third  
10 example?

11 A. Uh-huh (affirmatively).

12 Q. And so the third example was which  
13 other candidate, Dr. Burch?

14 A. So here you have Conrad Apple was  
15 talking about -- that making the appeal that  
16 African-Americans should support Republicans  
17 better than Democrats because of issues regarding  
18 racial -- concerns about racial.

19 Q. Okay. And going back a page, those  
20 racials appeals had to do with a candidate for  
21 Eddie Risponse; is that right?

22 A. I think that the one for -- the  
23 second one was probably more general, but it  
24 probably referred in general to support of black  
25 people for (inaudible) Democratic parties.

1 Q. So I just want to make sure I  
2 understand, that the second one here, I'm seeing  
3 reference to candidate Rispone here and then 2019  
4 gubernatorial race, are you referring to  
5 something else?

6 A. No. What I'm saying here is that in  
7 the RNC, the -- the Republican -- the Louisiana  
8 GOP coalition is with respect to  
9 John Bel Edwards. But the quote on the next page  
10 is more general.

11 Q. I see. And so are you aware whether  
12 candidate Rispone won or lost his election?

13 A. I believe he lost.

14 Q. And do you know whether the last two  
15 elections for governor, whether the candidate of  
16 choice for black voters won?

17 A. Yes. John Bel Edwards did win.

18 Q. Now, let's turn to another Senate  
19 Factor, Senate Factor 9. Now, I understand that  
20 Senate Factor 9, you studied whether the  
21 legislatures rationale for drawing its  
22 congressional plan was supported by the evidence  
23 or if it was quote, unquote, tenuous; is that  
24 right?

25 A. Is that an exact quotation from

1 somewhere?

2 Q. Well, the word tenuous is a quote  
3 from Senate Factor 9; is that right?

4 A. Yes.

5 Q. Okay. And so in doing your work on  
6 this report for Senate Factor 9, you developed an  
7 opinion that the legislature's rationale for  
8 drawing its congressional plan was tenuous,  
9 correct?

10 A. I don't know if I used those exact  
11 words. Can you show me where I said that  
12 exactly?

13 Q. Well -- well, let me step back. Is  
14 it your position that their rationale was not  
15 tenuous?

16 A. My position is that the rational was  
17 not supported by evidence or they would back off  
18 certain rationals, but I don't believe I ever  
19 said that whether it was tenuous or not.

20 Q. Okay. Okay. Well, I think -- I  
21 think it may make sense to just get to Factor 9,  
22 so you can understand my questions, you've  
23 written a very thorough report. I just want to  
24 make sure we are understanding each other.

25 So if we would turn to PR-14,

1 page 32. And so here, you begin your section on  
2 Senate Factor 9, tenuousness. Do you see that?

3 A. I do.

4 Q. Okay. In here, you write that the  
5 sponsors and advocates of two bills provided  
6 several justifications and you go onto show that  
7 you believe that they are proper justifications  
8 lack support; is that right?

9 A. Empirical support, yes.

10 Q. Okay. And now, in preparing your  
11 report you studied the legislative record related  
12 to redistricting this year in order to develop  
13 your conclusions, right?

14 A. I did.

15 Q. In fact, studying legislative  
16 history is part of your research practice.  
17 You've identified it in another part of your  
18 report in your background, correct?

19 A. Yes.

20 Q. Okay. And let me step back. When  
21 studying a legislative record to understand  
22 legislative intent, you don't want to cherry pick  
23 certain pieces of the record and ignore  
24 legislative priorities that have been repeatedly  
25 stated because you want to get a full picture of

1 the record; would you agree with that?

2 A. Yes.

3 Q. And your report quotes from the  
4 legislative record, correct?

5 A. Yes.

6 Q. You reviewed the state government  
7 affairs committee hearings, correct?

8 A. Yes.

9 Q. And you reviewed the Florida Bates,  
10 correct?

11 A. I did.

12 Q. And during the committee hearings  
13 and Florida Bates, the legislature repeatedly  
14 described the plan as a continuity of  
15 representation plan; isn't that right?

16 A. Not repeatedly. That actually  
17 started to enter the record at the end, and I  
18 believe I do have quotations to that effect in  
19 the report.

20 Q. Okay. Let's start with where you  
21 have quotations that effect in the report and  
22 then we will get to repeatedly so can you  
23 identify in your report where you have those  
24 quotations?

25 A. So I'm going to refer. I have my --

1 I have my report here so I'm going to flip  
2 through it and look.

3 Q. Take your time.

4 A. So on page 39, I have some  
5 information to that effect.

6 MS. MCKNIGHT:

7 Mr. Williamson, would you mind  
8 turning to page 39 so we can all follow  
9 along.

10 BY MS. MCKNIGHT:

11 Q. Is this the page 39 you are  
12 referring to or is it the exhibit number below?

13 A. It's the page yes, this is 39.

14 Q. Okay. Great.

15 A. So I write here, during the -- I  
16 believe it's the Florida debate which might be  
17 the one -- which I think might be the final  
18 transcript or close to it or represented that he  
19 was presenting the bill that day. He said that  
20 the primary criterion for drawing the  
21 congressional districts have become, quote, they  
22 honor traditions as best as possible, and this  
23 did create massive disapproval and so he -- and  
24 then later on in that moment he said that 1, HB-1  
25 was designed to, quote, maintain traditional

1 boundaries. So yes, I do talk about the fact  
2 that has become a part of the (inaudible).

3 Q. Okay. So you quote -- you quote  
4 Representative Mickey, but where do you talk  
5 about that as becoming a priority?

6 A. So on page 39 I said, by the end of  
7 the process, a quarter of HB-1 in particular had  
8 shifted their legislative priorities. Instead of  
9 compactness or other measures, Representative  
10 Mickey stated a primary criteria for drawing  
11 congressional districts to come was to honor  
12 (inaudible) as best as possible to create this  
13 message was equal with the people.  
14 Representatives (inaudible) records of PB-1  
15 prioritized the traditional ballots after looking  
16 at all the other criterias.

17 Q. Okay. And do you know when the  
18 legislative redistricting session began in  
19 Louisiana?

20 A. You mean with the road shows and  
21 everything else?

22 Q. The legislative redistricting  
23 session?

24 A. So they started holding road shows  
25 and hearings back in 2021, but did you mean such

1 as when the (inaudible) started?

2 Q. Correct.

3 A. That was in February.

4 Q. Would -- would you have any reason

5 to disagree with me if I told you it was

6 February 2nd?

7 A. I accept that. That's fine.

8 Q. Okay. So just to tie this up. Is

9 this the only place where you reference

10 traditional boundaries on page 39 of your report?

11 A. Let me see. There may be some other

12 areas in which I talk about reference to

13 traditional boundaries, but that's the one that

14 comes to mind.

15 Q. Okay. None others come to your mind

16 at this moment?

17 A. In the report --

18 Q. Yes.

19 A. -- as far as that -- that being a

20 priority? No. Again, they had in each place

21 they started out with a list of priorities up

22 until the end, No. 1, was always the engagement

23 of communities of interest and other kinds of --

24 and the other traditional redistricting format.

25 Q. Okay.



1           A.    Again, the priorities (inaudible)  
2   and here the priorities by the end of this  
3   legislative -- legislative session shifted to  
4   when they were then emphasizing the appearance to  
5   the primary -- the primary criteria was now  
6   honoring traditional boundaries so yes, that's  
7   priority.

8           Q.    I see.  So since you -- you were  
9   concerned about the end of the process.  Let's go  
10  to the beginning of the legislative session on  
11  redistricting and bring up PR -- well, before I  
12  do that, let me share with you.  The parties have  
13  stipulated to transcripts of certain hearings,  
14  committee hearings and floor sessions, and so  
15  what I'm about to bring up for you is an exhibit  
16  that is a transcript that has been prepared by  
17  plaintiffs of the special session SGA committee  
18  transcript dated February 2, 2022.  We are going  
19  to pull up PR-52 at page 7.  And now, Dr. Burch,  
20  I'm looking at lines 9 through 16.

21          A.    Uh-huh (affirmatively).

22          Q.    And I'll offer for you that the  
23  speaker during this hearing is president of the  
24  Senate Page Cortez.  In here he states, the third  
25  tenant or principle was as best possible to

1 maintain the continuity of representation. What  
2 do I mean by that, it means that if your district  
3 elected you and you've done a good job they also  
4 have a right to re-elect you. Conversely, you  
5 don't get to choose who your population is they  
6 choose you. If you didn't do a good job. They  
7 have the right to un-elect you. Do you see that?

8 A. I do.

9 Q. And does that refresh your  
10 recollection about whether the legislature  
11 identified continuity on representation on the  
12 first day of legislation?

13 A. Yes. I said I could recall that,  
14 but again, if you see here in the -- the  
15 quotation he cited it's not the top priority it's  
16 third so as I said before, those priorities  
17 shifted.

18 Q. I see. Well, let's go down to lines  
19 23 through 25 on this same page. So this reads  
20 by President Cortez, so the next principle that I  
21 tried to adhere to was with something you-all  
22 heard on the road show many times called  
23 compactness. So does this refresh your  
24 recollection about whether President Cortez and  
25 the legislature discussed continuity of

1 representation before they even addressed  
2 compactness on the first day of the legislative  
3 session on redistricting?

4 A. Yes. They did.

5 Q. Okay. Thank you. I'm going pull up  
6 another exhibit for you. This exhibit is a  
7 transcript stipulated by both parties to the  
8 special session SGA committee transcript dated  
9 February 3rd, 2022. It's Exhibit PR-54 at  
10 page 4. And here, I'm starting at line 13 and  
11 going down into the next page, the Line 1.

12 Dr. Burch, we will highlight it for  
13 you and then let us know if you need us to zoom  
14 in at all. I'm going to read the first line and  
15 then paraphrase the rest. I -- I will stop so  
16 you can have a chance to review it, but here,  
17 I'll represent to you that the speaker is  
18 chairwoman of the Senate redistricting first  
19 Senator Hewitt and she said on the floor or in  
20 this committee at that time, we talked about  
21 continuity representation a lot in these hearings  
22 and we heard again at the road show one of the  
23 kind of talking points was elected officials  
24 should not choose their voters, voters should  
25 choose their elected officials and to that again,

1 I would respond by saying I respect the voters in  
2 this state and know that they are in the best  
3 position to vote an elected official in or out of  
4 office based on their performance. Dr. Burch,  
5 does this refresh your recollection about whether  
6 the legislature considered notion of continuity  
7 of representation early in the legislative  
8 session?

9 A. I never said they that didn't  
10 consider it early, I said it wasn't the top  
11 priority so if you look at it again you didn't  
12 show me what -- like before, you didn't show me  
13 what came before that and what order it talked  
14 about continuity in the legislative session so I  
15 don't really know -- so I can't really -- so I  
16 don't really know if I could agree like I said,  
17 before that, they prioritized what they had done  
18 and then they shifted priority.

19 Q. I see. And so, let me do one more  
20 example, Dr. Burch, and then we can -- we can  
21 start moving on. If we could bring up PR-71.  
22 Dr. Burch, this is a special session Senate  
23 full-floor debate dated February 8, 2022. And  
24 again, this is a Senate full-floor debate and I'm  
25 looking at line 16 through the next page on -- on

1 line 4, but we can just start on page -- sorry.  
2 On page 88, at line 16. And so here, I'll just  
3 read the first few lines. The next principle  
4 preserve the core of the prior districts to  
5 ensure continuity of representation. You know,  
6 we heard many times on the road show and the  
7 president spoke to this a little bit earlier on  
8 the bill and then it goes on to reiterate points  
9 about voters being able to vote in or out their  
10 elected officials. Do you see that, Dr. Burch?

11 A. I do.

12 Q. Okay. And would it surprise you to  
13 know that the phrase continuity appears more than  
14 35 times in 13 days of transcripts in this case?

15 A. No.

16 Q. Okay. So in reviewing these hearing  
17 transcripts that are dated February 2nd,  
18 February 3rd, February 8th, and that you are not  
19 surprised that continuity was references more  
20 than 35 times in 13 days of legislative  
21 transcripts, does that refresh your recollection  
22 about the fact that the legislature repeatedly  
23 described the plan as a continuity of  
24 representation plan?

25 A. Again, it's not -- I never said that

1 I didn't recall that they talked about continuity  
2 representation, what I said is that that priority  
3 shifted across time. Even the last quote --  
4 quotation you showed me. It began with the next  
5 as if that wasn't the first thing they talked  
6 about. And as I said, hereby the time we get to  
7 the end, that traditional redistricting principle  
8 aspect was -- what they arrived on as the -- as  
9 the top priority, but that was only after all the  
10 other ones such as compactness and even the  
11 example that I gave that are correct. There was  
12 the absolutely deviation was again, supplanted by  
13 or plans that had two majority, minority  
14 districts actually performed better on the  
15 metric, so I stand by what I wrote in my report  
16 that again, that -- those priorities shifted and  
17 by the end, that had to come and those quotations  
18 you showed me those were early on they were  
19 talking about other principles before they  
20 actually got continuity of representation.

21 Q. I see. And -- and even if it was a  
22 third principle on the very first day of the  
23 redistricting session, you did not examine  
24 continuity of representation and whether or not  
25 the legislature fulfilled their goal of

1 continuity representation, correct?

2           A.    I looked at both the plan that was  
3 there as well as the -- the full plan and of  
4 course, the boundaries had to change a little  
5 bit, but as far as whether or not they got as  
6 close as possible to the old boundaries no, I  
7 didn't look at that. And I don't believe there  
8 was any discussion as far as whether that was the  
9 plan that brings change -- these changed the  
10 boundaries of all the plans that were available.  
11 So it wasn't -- so it's not in my report is a  
12 recollection of is an issue it's that they didn't  
13 really compare bills based on you know, whether  
14 that was a -- that was a statement that in terms  
15 of like how closely that -- that plan came than  
16 say, a different bill the computer might have  
17 observed.

18           Q.    I see. So I'll represent to you  
19 that we have experts in this case who have  
20 submitted reports that the core retention score  
21 in this plan has been calculated to be  
22 96 percent. I'll also represent to you that that  
23 is a higher score than any of plaintiff's  
24 illustrative plans. My question to you relates  
25 to the Senate factor of tenuousness. I

1 understand from your earlier testimony that you  
2 were trying to understand the legislature's  
3 priority in drawing it its plan and trying to  
4 study whether those priorities played out in the  
5 ultimate plan in the at past. I understand from  
6 your testimony just now, that you did no  
7 examination of continuity of the representation  
8 in your report, correct?

9 A. Right. That's not those figures  
10 aren't in the record.

11 Q. Okay. And you did not conclude in  
12 your report that the legislature's rational to  
13 draw a continuity of representation plan was  
14 quote, unquote, anyway, right?

15 A. No. I said that those plans lack  
16 empirical support and that the references you  
17 just made are in the record.

18 Q. Okay. But you would agree with me  
19 that the references I just made to the  
20 legislature describing continuity of  
21 representation as a goal those are in the  
22 records, correct?

23 A. Yes. In the way that I described.

24 Q. And I'm going to share a fact with  
25 you. Tell me if you agree or disagree or have



1 knowledge about it priority plan drawn in 2011  
2 was pre-cleared by president's Obama's Department  
3 of Justice, correct?

4 A. That was in the record.

5 Q. So you would agree with me that  
6 that's a fact?

7 A. Yes.

8 Q. Now, in this case, you did not study  
9 whether the so-called tenuous was due to  
10 political as opposed to racial choices, correct?

11 A. The only references that I have in  
12 this section with respect to race are I do have a  
13 discussion about the extent to which there was a  
14 new census redrawing of two majority, minority  
15 districts also I reference race when I talk about  
16 dispersions that the Senators and members of the  
17 house made with respect to what they thought  
18 about minority voting or different parts of  
19 minority positions.

20 Q. Okay. So I -- I think you answered  
21 a different question and so pardon me for  
22 repeating. I believe it is just a yes or no  
23 question. You did not study whether the  
24 so-called tenuous that you found was due to  
25 political as opposed to racial choices, correct?

1           A.    Yes.  I believe I talked about ways  
2   in which they were discussing race.

3           Q.    Okay.  We will move on.  Dr. Burch,  
4   you believe that the legislature should have  
5   drawn maps identifying black voters as a  
6   community of interest, correct?

7           A.    I believe what I wrote is that black  
8   voters and other people themselves said that they  
9   constituted a community of interest.

10          Q.    Okay.  Is it your position that the  
11   legislature could use race as a proxy for a  
12   traditional districting criterion?

13          A.    It's my understanding that based on  
14   the need to ensure representation that the  
15   legislature had to consider race.

16          Q.    Okay.  But you don't have an  
17   understanding about whether race can be used as a  
18   proxy for traditional districting criterion?

19          A.    I never made that point.  The only  
20   point that I'm making is that on the record, that  
21   was brought up on the record and actually, I  
22   believe I had some point to which the legislators  
23   agreed, so my -- my point really was to just put  
24   on the record that that was discussed.

25          MS. MCKNIGHT:

1                   Okay. Thank you very much,

2                   Dr. Burch. I have no further questions.

3                   THE COURT:

4                   Any redirect?

5                   MR. CHAKRABORTY:

6                   Yes, Your Honor.

7                   REDIRECT EXAMINATION BY MR. CHAKRABORTY:

8                   Q. Dr. Burch, just a couple of brief  
9                   questions.

10                  MR. CHAKRABORTY:

11                  Can we pull up PR-52, Matthew? And  
12                  can we please turn to page 7?

13                  TRIAL TECH:

14                  (Complied.)

15                  BY MR. CHAKRABORTY:

16                  Q. Dr. Burch, that middle area there,  
17                  the third tender principle, do you recognize that  
18                  as the portion that Ms. McKnight was representing  
19                  earlier with you?

20                  A. Yes.

21                  Q. Great. Thank you. Can we please  
22                  turn to page 5? And do you see, Dr. Burch, at  
23                  the very top of this page where it reads let's  
24                  start with Senate bill offered by  
25                  President Cortez?

1 A. I do.

2 Q. And then you see President Cortez,  
3 the Senate president start his remarks that  
4 ultimately lead onto the portions that  
5 Ms. McKnight read out to you?

6 A. Yes, I do.

7 Q. And do you have any reason to doubt  
8 that Senate Bill 1, actually deals with state  
9 legislative redistricting?

10 A. I -- well, yes. That's S HB-5.

11 Q. Right. It doesn't deal with  
12 congressional redistricting such as SB-5 or HB-1?

13 A. That's right.

14 Q. Did any of those change your basic  
15 conclusion on Senate Factor 9, that the  
16 justifications afforded by legislators were  
17 tenuous?

18 A. No. Nothing that I put forward here  
19 changes what I wrote.

20 MR. CHAKRABORTY:

21 Thank you. No more questions.

22 THE COURT:

23 Okay. Thank you, Dr. Burch, let's  
24 take a 15-minute recess.

25 (A short recess was taken.)

1 THE COURT:

2 Okay. Be seated. Next witness.

3 MR. HAWLEY:

4 Good afternoon, Your Honor. Making

5 my first appearance, I'm Jonathan Hawley.

6 H-A-W-L-E-Y. I represent the Galmon

7 plaintiffs, and the plaintiffs next call,

8 Dr. Allan Lichtman will be joining us via

9 Zoom. Good afternoon, Dr. Lichtman.

10 THE WITNESS:

11 Good afternoon.

12 DR. ALLAN LICHTMAN,

13 after having first been duly sworn by the

14 above-mentioned Court Reporter did testify as

15 follows:

16 DIRECT EXAMINATION BY MR. HAWLEY:

17 Q. Can you hear me okay, Dr. Lichtman?

18 A. I hear you fine. I'm a little deaf,

19 so I speak slowly and clearly.

20 Q. I will do that.

21 MR. HAWLEY:

22 Your Honor, the Galmon plaintiffs

23 wish to tender Dr. Lichtman as an expert

24 in American politics, American political

25 history, voting rights and qualitative and

1 quantitative social science analysis.

2 THE COURT:

3 Any objection?

4 MR. BRADEN:

5 My name is Mark Braden, defendant  
6 intervenors for the legislature, and we  
7 have no objections.

8 THE COURT:

9 Okay. Dr. Lichtman will be accepted  
10 by the court in the fields of American  
11 politics, American political history,  
12 voting rights and qualitative and  
13 quantitative social sciences and  
14 Dr. Lichtman may provide opinion testimony  
15 in those fields.

16 BY MR. HAWLEY:

17 Q. Thank you, Your Honor.

18 Dr. Lichtman, will you please state your full  
19 name for the record?

20 A. Allan J. Lichtman. That's  
21 A-L-L-A-N, J, period, L-I-C-H-T-M-A-N. I'm  
22 getting an echo.

23 Q. We are okay on our end,

24 Dr. Lichtman. Can you hear me?

25 THE COURT:

1                   Mr. Hawley, would you like to turn  
2                   the podium.

3 BY MR. HAWLEY:

4                   Q.    No.  Can you -- can you still hear  
5 me okay, Dr. Lichtman?

6                   A.    I hear you fine.  I'm still getting  
7 an echo.  Maybe if I turn my --

8                   THE COURT:

9                   Turn your speaker down.

10                  THE WITNESS:

11                  -- my commuter volume down a little  
12 that might help.  Let me try it.  All  
13 right.  Let's try it now.

14 BY MR. HAWLEY:

15                  Q.    Okay.  Dr. Lichtman, how about now?

16                  A.    Much better.

17                  Q.    Okay.  Thank you.  Dr. Lichtman,  
18 you've been retained as an expert for the Glamon  
19 plaintiffs; is that correct?

20                  A.    Yes.  Yes.

21                  Q.    And you prepared -- thank you.  And  
22 you prepared a report in this case?

23                  A.    Yes.

24                  MR. HAWLEY:

25                  For the record, that is Exhibit

1 GX-03, which is Record Docket No. 48.

2 BY MR. HAWLEY:

3 Q. Dr. Lichtman, do you have a copy of  
4 your initial report in front of you now?

5 A. I do.

6 Q. And you also prepared a rebuttal  
7 report in this case, correct?

8 A. Correct.

9 MR. HAWLEY:

10 And, for the record, that is Exhibit  
11 GX-31, Record Document 120-4.

12 BY MR. HAWLEY:

13 Q. Dr. Lichtman, do you have a copy of  
14 your rebuttal report with you as well?

15 A. Yes.

16 Q. And Dr. Lichtman, is your CV  
17 included in your report?

18 A. Yes.

19 MR. HAWLEY:

20 And I'll say for the record that is  
21 at page 99, of GX-3, Record Document 48.

22 BY MR. HAWLEY:

23 Q. And, Dr. Lichtman, is your CV a  
24 complete and accurate summary of your background  
25 and professional experience?



1 A. Yes.

2 Q. I'd like to ask you a few brief  
3 question about that. Can you please summarize  
4 your professional background?

5 A. I graduated in 1967 with a BA from  
6 Brandeis University in history, but I've been a  
7 science major for three years before turning to  
8 history my senior year which may explain my  
9 interest in social science and qualitative  
10 methodology. I then got my PhD from Harvard  
11 University in 1973 with a specialty in American  
12 political history and quantitative methods.

13 Q. Where are you currently employed?

14 A. I am employed at American University  
15 in Washington, D.C. and I'm not sure if I'm  
16 pleased or embarrassed to say next year will be  
17 my 50th year of science.

18 Q. And I assume that means you are  
19 tenured?

20 A. I have been tenured since about  
21 1980. In 2011, I was appointed distinguished  
22 professor so I made office of university rank.  
23 It's a rank above full professor there are only a  
24 handful of us out of many hundreds of faculty  
25 members at the university.

1 Q. And what are your principles areas  
2 of research?

3 A. I would say American politics,  
4 American political history, voting rights,  
5 quantitative methods, qualitative methods,  
6 political prediction.

7 Q. Have you previously served as an  
8 expert witness in voting rights cases?

9 A. Probably close to a hundred and if  
10 you count civil rights cases in general north of  
11 110.

12 Q. And do those include redistricting  
13 cases?

14 A. Yes.

15 Q. Have you served as an expert in  
16 redistricting cases in Louisiana?

17 A. Yes.

18 Q. And does that include the Terrebonne  
19 Parish litigation?

20 A. Yes.

21 Q. In that case, did you undertake a  
22 Senate factor's analysis?

23 A. I did.

24 Q. And did the court in that case  
25 credit your Senate factors analysis?

1 A. It did.

2 Q. And did other courts previously  
3 credited and relied on your analysis?

4 A. Not every time, of course, there  
5 have been over a 110, but most of the time  
6 including the United States Supreme Court in its  
7 landmark 2006 decision in the Texas Congressional  
8 Redistricting Case, LULAC versus Perry, the court  
9 relied on my work, my analysis and doing  
10 something quite unusual and that is it  
11 invalidated a district, a congressional district  
12 in southwest Texas, based on my work on the  
13 grounds that it polluted the votes of Hispanics.

14 Q. Dr. Lichtman, what were you asked to  
15 do in this case?

16 A. I was asked to examine the 9 Senate  
17 factors that relate to totality of circumstances  
18 in the State of Louisiana facing the  
19 opportunities for African-American voters who  
20 participate fully in the political process and to  
21 elect candidates of their choice and I was also  
22 asked to respond to any material presented by  
23 defendants.

24 Q. And what methodology did you employ  
25 as part of that analysis?

1           A.    I employed standard methodologies in  
2 my fields of research over these many decades. I  
3 analyze sources like surveys, scholarly articles,  
4 books, journalistic articles, governmental  
5 reports, demographic information, election  
6 returns and similar data to reach my conclusions,  
7 and I applied quantitative methods in this case  
8 mostly fairly simple quantitative methods, for  
9 example, just looking at percentage differences  
10 to gauge racially polarized voting in Louisiana  
11 or just looking at percentage and differences to  
12 engage socioeconomic disparities between  
13 African-Americans and whites in Louisiana and  
14 then, of course, like any historian, I analyzed  
15 documentary materials, I've written a book on  
16 historical methodologies.

17           Q.    And what are your overall  
18 conclusions?

19           A.    My overall conclusions are that  
20 essentially all of the 9 Senate factors apply in  
21 the State of Louisiana contemporarily to impede  
22 the opportunities for African-American voters to  
23 participate fully in the political process and to  
24 elect the candidates of their choice, and I also  
25 find that these are not isolated factors

1 separated into watertight compartments, but that  
2 one factor synergistically influences the other  
3 to expand the impediments that I discuss.

4 Q. Did you read the expert report  
5 submitted by the defendants in these consolidated  
6 cases?

7 A. I did.

8 Q. And did anything in those reports  
9 change your conclusions about the Senate factors  
10 in Louisiana?

11 A. Not only did nothing in those  
12 reports change my conclusions, they strengthened  
13 my conclusions. None of the reports directly  
14 address the Senate factors or even mention my  
15 report by name. None of the information  
16 presented in my report was refuted by any of the  
17 expert reports submitted on behalf of defendants.  
18 Two of the expert reports, one by Dr. Alford and  
19 one by Mr. Hefner and -- and one by Mr. -- I hope  
20 I get his name right, Solanky, indirectly address  
21 some of my two Senate factors, 2 and 9, and to  
22 the extent there was information in those  
23 reports, he falls to that.

24 Q. Dr. Lichtman, I'd like to cover the  
25 history of your two reports and some key points

1 and cover the key areas of your analysis and  
2 conclusions, and we will start with Senate Factor  
3 1.

4 Does the State of Louisiana have a  
5 history of voting discrimination against its  
6 black citizens?

7 A. It not only has a history, it has an  
8 ongoing history; and that history relates not  
9 just to direct voter discrimination, for example,  
10 the use of at-large elections with the  
11 availability of polling places for  
12 African-Americans, but it also relates right up  
13 to the present of discrimination in three areas  
14 that significantly effected the impact of voting;  
15 that is, law enforcement, discrimination in law  
16 enforcement, significantly impacted voting for a  
17 couple of reasons. No. 1, Louisiana has some  
18 pretty strict felony disenfranchise laws. You  
19 can't vote while you were incarcerated, you can't  
20 vote while you were on parole or probation and  
21 there's no automatic restoration of your voting  
22 rights after five years. You have to go through  
23 a process.

24 Secondly, as I point out in my  
25 report, once you've been incarcerated your

1 integration into a fully functioning member of  
2 society including a voting member in political  
3 participation becoming all that much more  
4 difficult, second area would be the area of  
5 education. And all this scholarly research  
6 indicates that education is a prime determinant  
7 of political participation and of course, levels  
8 and proficiency in education effect almost  
9 everything in the course of the lifestyle of  
10 proficient education, in proficiency. In  
11 addition, in education, it contributes to other  
12 socioeconomic factors which have an impact on  
13 voting.

14           Finally, there is racial segregation  
15 and the literature I cite in my report indicates  
16 that segregation perpetuates circle of the  
17 poverty. It expands it multiplies socioeconomic  
18 disparities that have a direct impact on the  
19 ability of African-Americans in Louisiana to  
20 participate in the political process and to elect  
21 candidates of their choice.

22           Q. On the topic of discriminatory  
23 voting practices, in particular you mentioned  
24 just now at-large judicial elections and closing  
25 of polling places. Are those examples of efforts

1 that have continued into the present day?

2 A. That's correct. Those are examples  
3 that continue into the 20th century, and we can  
4 also talk about as actually good in the context  
5 of another factor, what I believe to be the  
6 discriminatory redistricting plan in the post  
7 2011.

8 Q. Let's move on to Senate Factor 2.  
9 Dr. Lichtman, does Louisiana have racially  
10 polarized voting?

11 A. Louisiana, as I point out in my  
12 report, has extreme racially polarized voting;  
13 that is, African-Americans vote almost  
14 unanimously for Democratic candidates and  
15 Republican candidates choice of African-American  
16 voters, and this racial divide between blacks and  
17 whites voting Democratic and Republican is  
18 inextricably tied to race. Party labels by  
19 themselves are meaningless. They are just  
20 labels. What matters is what those labels  
21 represent.

22 We know for the 19th century and  
23 well into the 20th century blacks in the south  
24 are voting Republican, the party of Lincoln, and  
25 whites were voting Democratic, the party of



1 redemption. That changed particularly after the  
2 Voting Rights Act of 1965. It wasn't an  
3 immediate process, but over time and certainly up  
4 to our own time the party images and  
5 representations shifted. Democrats came to  
6 represent the party of civil rights and black  
7 interests and Republicans, the opposite. I  
8 document this change in many ways in my report.

9           First of all, I cite scholarly  
10 literature on what they call the co-joining of  
11 race and party in recent years. Secondly, I look  
12 at political leadership and I look at two  
13 advocacies; NAACP, the oldest advocacy group in  
14 the country and the ladder conference on civil  
15 and human rights. And they have legislative  
16 score cards to what extent the legislators  
17 represent black and minority interests; and they  
18 both show the same thing: That there is extreme  
19 polarization between the positions taken by  
20 Republican leaders, legislators in the Congress  
21 and the position taken by Democrats.

22           It's extreme polarization, as I  
23 document in my report, that matches the extreme  
24 polarization of the voting -- voting of blacks  
25 and whites.

1                   Second -- a third area I look at is  
2 the rank and file; that is, what are the  
3 attitudes with respect to race of Louisianians  
4 who are Republicans and Democrats. Again, I find  
5 extreme polarization on issues squarely related  
6 to race and I document this in two respected  
7 studies, the cooperative congressional election  
8 study, a standard source. And here in Louisiana,  
9 the Riley Center study, they ask different  
10 questions, but they come to the same answer  
11 again. It's the polarization reflecting the  
12 polarization in the vote.

13                   Finally, and this is important, I  
14 look at the actual results of election.  
15 Republicans are quite dominant in Louisiana  
16 winning almost all statewide elections. Winning  
17 essentially all legislative elections in white  
18 districts and what is consistent in my findings  
19 is that Republicans in all of these areas have  
20 not sponsored any winning black Republican  
21 candidates. All of the statewide executive  
22 offices are owned by whites both U. S. Senate  
23 Office that are voted statewide are held by  
24 whites. Whites win in the white majority  
25 districts in the state house of representatives

1 and in the state Senate. I even drilled down for  
2 more fine grain level, the level that mayoral  
3 elections that is I looked at mayoral elections  
4 in municipalities then war in Louisiana and no  
5 blacks are elected in any majority white  
6 municipality only blacks are elected in majority  
7 black municipalities and there are no black  
8 Republicans, so I document this at the level  
9 scholarship, at the leadership level, at the rank  
10 and file level, at the level of the actual  
11 results of elections.

12 Q. Ultimately, Dr. Lichtman, as between  
13 race and party, which do you consider to be the  
14 driving causal mechanism of Louisiana's polarized  
15 voting?

16 A. The driving mechanism is clearly  
17 race as I explained. Party by itself doesn't  
18 explain anything. As I said at one time,  
19 racially voting patterns were reversed it is  
20 because of what the parties represent that I  
21 document in so many ways that's driving voting.  
22 In other words, blacks are voting Democrat in  
23 Louisiana, whites are voting Republican and this  
24 is not related to Louisiana by the way, not in  
25 spite of race, but because of race is at the

1 center of all of this. I also cite scholarship  
2 by Dr. Bromage claiming how race is at the center  
3 of Republican political strategy that comes down  
4 to meeting of the \*\*\*.

5 Q. You mentioned reports written by  
6 Dr. Alford in this case, correct?

7 A. Correct.

8 Q. Did anything in Dr. Alford's report  
9 change your conclusions about racially polarized  
10 voting in Louisiana?

11 A. No. It strengthens it. Let me  
12 explain. All of the analyses of Dr. Alford  
13 performed show the same thing my report showed.  
14 Extreme polarization of between African-Americans  
15 and whites in terms of blacks voting Democratic,  
16 whites voting Republican in very large  
17 majorities. Now, Dr. Alford states or at least  
18 implies that the driving force is party not race,  
19 but he stops cold there. He never explains or  
20 attempts to justify that conclusion. He doesn't  
21 look at my analysis history, doesn't look at my  
22 analysis of leaders, doesn't look at my analysis  
23 of rank and file doesn't look at my analysis or  
24 any analysis in these areas of the actual results  
25 of elections. In fact, what's interesting and

1 telling is Dr. Alford looks at, I believe  
2 something like 28 Republican candidacies in his  
3 analysis and not one of those Republican  
4 candidacies involved a black candidate.  
5 Dr. Alford also ignores that part of my initial  
6 report that looks at whether or not race can  
7 influence voting when the Polar party is not an  
8 issue. I looked at the 2008 primary, Democratic  
9 primary where overwhelmingly blacks participate  
10 and that involved Barack Obama the  
11 African-American and Clinton the white candidate  
12 and a few other white candidates, and what I  
13 found is that African-Americans voted 86 percent  
14 for Obama and only 30 percent of whites voted for  
15 Obama, so within the same party it was a sharp  
16 where I also looked at the subsequent 2008  
17 general elections and found that black Democrats  
18 voted 98 percent for Obama, but white Democrats  
19 only voted 38 percent for Obama. So there isn't  
20 critically and inextricably a poll party you can  
21 see voters responding on race again, Dr. Alford  
22 does not consider those results or present any  
23 comparable results of his own.

24 Q. Moving to Senate Factor 3, Dr.  
25 Lichtman. Does Louisiana employ any voting

1 practices that enhance the opportunity for  
2 discrimination?

3 A. It does. It employs one of them  
4 that's explicitly listed under Senate Factor 3  
5 and that is the use of the majority vote  
6 requirement and subsequent runoff elections.

7 Q. What effect does the majority voter  
8 requirement have on black and black preferred  
9 candidates?

10 A. Well, it means is even if a black  
11 candidate gets a plurality in the first round as  
12 a result of a split among more than one ambitious  
13 white candidate, that does not elect that black  
14 candidate, but rather that black candidate has to  
15 face off one -- one on one against a white  
16 candidate. And clearly in statewide in Louisiana  
17 the white voters dominant in that kind of contest  
18 the African-American candidate has little chance  
19 of winning and I gave three examples of that in  
20 my report.

21 Q. You -- what are those three recent  
22 examples?

23 A. Yeah. We have the 2015 election for  
24 lieutenant governor the black candidate won the  
25 first round by three percentage points so it was

1 close, but not eye lash and the candidate lost  
2 55, 45 in the runoff. We had a 2017 election for  
3 treasurer black candidate won the first round  
4 even more decisively by 7 points and was defeated  
5 even more decisively 54, 45 and finally we have  
6 the 2017 election the Secretary of State. The  
7 black candidate didn't win the first round, but  
8 came really close came within 10,000 votes or if  
9 so, but got shrouded in the runoff by 59 percent.

10 Q. When was the majority vote adopted  
11 in Louisiana?

12 A. It was first adopted in 1975. And  
13 the most famous runoff, of course, was in 1991  
14 between the Ku Klux Klan candidate David Duke,  
15 and I think it was Edwin Edwards who was against  
16 him.

17 Q. So was the majority vote requirement  
18 adopted in response to the U.S. Supreme Courts  
19 foster decision?

20 A. No. It was adopted more than two  
21 decades before and as I said, kind of a highlight  
22 runoff election that got major national attention  
23 occurred several years before that in 1991.

24 Q. Moving to Senate Factor 4.  
25 Dr. Lichtman, what are your findings on candidate

1 slating in Louisiana's congressional elections?

2           A.     Well, I found something rather  
3 interesting, that the way Louisiana set up its  
4 congressional redistricting plan it kind of made  
5 slating irrelevant and unavailing for black  
6 candidates; that is in District 2, which is  
7 overwhelmingly packed with blacks and Democrats  
8 slating is irrelevant is going to black governor,  
9 whereas the other five districts that are  
10 overwhelmingly white and Republican slighting is  
11 equally irrelevant because a black candidate has  
12 no chance essentially to win in districts that  
13 are -- R plus 20 or more according to standard  
14 political analysis type. That's the partisan  
15 voting index that measures the Patterson strength  
16 of the district and it's in my report.

17           Q.     Next to Senate Factor 5.  
18 Dr. Lichtman, what effect does the history of  
19 discrimination you described before have on black  
20 Louisianians today?

21           A.     It has profound effects on black  
22 Louisianians today. I document in my report that  
23 there are major today socioeconomic disparities  
24 between African-Americans and whites in Louisiana  
25 and that extends to almost every area of



1 significance of peoples lives and political  
2 participation and voting. It extends to income,  
3 to unemployment, to poverty, to dependence upon  
4 welfare, to homeownership, to the availability of  
5 vehicles, the availability for broadband  
6 internet, it extends to educational attainment  
7 and educational proficiency, all these between  
8 African-Americans and whites in Louisiana in the  
9 present day and it extends to various measures of  
10 health as well.

11 Q. And do these inequities impact black  
12 political participation?

13 A. Yes. As I explain in my report,  
14 first of all, they -- this isn't the only one,  
15 but first of all, and the most obvious is that  
16 they impact the participation rates of blacks  
17 versus whites in terms of turnout, and I present  
18 data in my report showing differentials between  
19 black and white turnout in recent elections in  
20 Louisiana that can extend into the double digits  
21 and that hadn't really ameliorated itself in  
22 recent elections other information presented by  
23 one of the experts for defendants bolsters that.

24 Q. Are you referring to the report  
25 Dr. Solanky and his voter turnout statistics?

1           A.    I am. Dr. Solanky presents two  
2 tables on voter turnout. I think they are  
3 Tables 2 and 4 in his report. One of the tables  
4 looks at statewide turnout and finds substantial  
5 disparities. I did between blacks and whites in  
6 their turnout rates. Similarly, he wrote that  
7 every congressional district, all 6 of them and  
8 found that invariably in every one of those 6  
9 congressional districts, black turnout lagged  
10 white turnout sometimes up into the double  
11 digits.

12           Q.    Is reduced political participation  
13 demonstrated in other ways?

14           A.    Yes. As I explain in my reports, a  
15 lack of sources, lack of educational  
16 pro-efficiency, attainment impedes participation  
17 in other ways. I give two examples: One is  
18 lobbying of public officials very important for  
19 participating in the political process and  
20 influencing the outcomes which has we see you  
21 know quite different whites and blacks in  
22 Louisiana and I present survey data showing that  
23 whites are substantially more likely in Louisiana  
24 to contact public officials. Again, a  
25 recollection of all of these many socioeconomic

1 differences.

2           The second area is political  
3 contributions. Not surprisingly the disparity in  
4 resources evident between blacks and whites in  
5 Louisiana manifests itself and again, I present  
6 survey data, recent survey data on this, that  
7 whites are far more likely than blacks to make  
8 political contributions and of course, I didn't  
9 actually present tables on this, but it certainly  
10 makes sense that groups that have lower levels of  
11 education fewer resources makes it more difficult  
12 to find candidates to run and to run political  
13 campaigns so while turnout is the most obvious,  
14 there are other very important ways in which  
15 these disparities reflected discrimination impact  
16 the ability of African-Americans in Louisiana to  
17 participate fully in the political process and  
18 elect candidates of their choice.

19           MR. HAWLEY:

20           Mr. Mortenson, will you please pull  
21 up page 85 of GX-3?

22           THE WITNESS:

23           Wow, I actually see it.

24           BY MR. HAWLEY:

25           Q.    Excellent. Dr. Lichtman, does this

1 table look familiar to you?

2 A. It does. It's right from the  
3 appendix of my report.

4 Q. And what does it show?

5 A. It shows that in critical areas  
6 according to the U.S. news state rankings these  
7 are not outline, but in other rankings you have  
8 similar answers in critical areas are very  
9 important to a group that's vulnerable like  
10 African-Americans and has the burden of very  
11 significant socioeconomic disparities not only  
12 are they facing these present day disparities,  
13 but they are dealing with a state that ranks at  
14 or near the bottom in critical areas, 45th in  
15 health care 48th in education, 49th in economy,  
16 50th in opportunity, 48th in infrastructure, 50  
17 in crime and corrections, 43rd in fiscal  
18 stability, 50 in quality of life 50 overall.  
19 This shows the impediments faced by  
20 African-Americans in Louisiana and it also  
21 documents the present day ramifications of  
22 historical and ongoing discrimination in  
23 Louisiana.

24 Q. Thank you, Mr. Mortenson. We can  
25 pull down GX-3. Moving to Senate Factor 6,

1 Dr. Lichtman. Have Louisiana's campaigns been  
2 marked been racial appeals?

3 A. Yes. They have been marked by both  
4 subtle and overt racial appeal and almost all my  
5 examples except for maybe one are 21st century  
6 examples, I'm not going back to the old year of  
7 Jim Crow the old ones from the 1990s. And these  
8 examples go all the way up to 2022, and they  
9 don't just involve French candidates you talking  
10 about some of the leading Republican politicians  
11 in the State of Louisiana, David Vitter, Mike  
12 Foster, Steve Scalese, one of the members of the  
13 Republican leadership, U.S. representative Mike  
14 Johnson, U.S. Senator John Kennedy, as well as  
15 important Republican affiliated organizations in  
16 the State of Louisiana.

17 Q. Is it safe to say then racial  
18 appeals have been employed by winning campaigns  
19 in Louisiana?

20 A. Absolutely. David Vitter employed  
21 this in 2010, and he certainly had a lengthy  
22 campaign. Steve Scalese has consistently been  
23 winning in Louisiana. Mike Johnson is a sitting  
24 U.S. Representative, John Kennedy is a sitting  
25 U.S. Senator.

1 Q. Moving down to Senate Factor 7.  
2 Have black Louisianians historically been elected  
3 to public office?

4 A. Not historically and --

5 Q. Dr. Lichtman?

6 A. I'm sorry. I lost your question  
7 there. You somehow the technology fail and you  
8 blacked out.

9 Q. Perhaps, it was me and not the  
10 technology so I'll go ahead and ask it again.  
11 Have black Louisianians historically been elected  
12 to public office?

13 A. Not historically really since  
14 reconstruction and not at present.

15 Q. Is there a disparity between the  
16 black share of Louisiana's population and their  
17 representation in Congress and the state  
18 legislature?

19 A. Yes. When you look at the -- the  
20 voting representation of blacks in Louisiana,  
21 it's a little bit north of 31 percent and there's  
22 a wide disparity in terms of black  
23 representation. Now, I want to be clear. I'm  
24 not making a legal conclusion here. In fact,  
25 throughout my testimony in the report, I'm never

1 making legal conclusions to the extent I look at  
2 things like briefs or court decisions so  
3 substantive not to draw a conclusion. So I'm not  
4 legally saying at all that any group including  
5 African-Americans must have proportional  
6 representation. I am simply responding to the  
7 impact of this query which is to consider the  
8 extent to which black representatives have been  
9 elected to public office in Louisiana. And there  
10 is a vast discrepancy between black voting age  
11 population and black representation. No black is  
12 elected to any statewide executive office in the  
13 State of Louisiana. That's a 0 percentage, no  
14 black is elected statewide to a U. S. Senate  
15 position that is a 0 percentage. When you look  
16 at the state legislature, blacks are  
17 underrepresented by something like 4 to 9 in  
18 Senate and house seats are only being elected in  
19 majority black districts which really shut the  
20 off and limits their ability to expand their  
21 representation and in terms of the supreme court  
22 and other judicial positions in Louisiana, blacks  
23 are also substantially underrepresented. And as  
24 I mentioned and same thing in -- as I mentioned  
25 previously, these are not black dispute the

1 political strength of Republicans they are not  
2 electing black Republican.

3 Q. Dr. Lichtman, have any black  
4 candidates been elected to office since  
5 reconstruction?

6 A. Not that I'm aware of.

7 Q. Moving down?

8 A. I think there were five during  
9 reconstruction and none since.

10 Q. Thank you. Moving to Senate Factor  
11 8. Based on your analysis has the State of  
12 Louisiana been responsive to the needs of its  
13 black citizens?

14 A. Well, I looked at responsiveness in  
15 five areas that are fundamental and especially  
16 important to a group like African-Americans that  
17 already bears the burden of socioeconomic  
18 disparities things like income, poverty,  
19 education, homeownership. So I looked at  
20 education health care, I looked at economic  
21 opportunity, and I looked at environmental  
22 pollution and found that in all of those five  
23 areas, the state has not been responsive to the  
24 particular rights and needs of its  
25 African-American residents.



1 Q. And are these inequities in some  
2 cases caused by official government policy?

3 A. Absolutely. As I point out in many  
4 of these areas, all of these disparities, all of  
5 these issues are part and parcel of government  
6 policies and government policy with regard to  
7 polluting industries in heavily black areas or  
8 the long delay in adopting Medicaid expansion  
9 something critical to the health of  
10 African-Americans and so many failures in  
11 criminal justice.

12 Q. Dr. Lichtman, would you consider  
13 these findings to be either limited or  
14 subjective?

15 A. It's certainly not limited. These  
16 are areas of fundamental importance to a  
17 vulnerable group like African-Americans and they  
18 are the kinds of things social scientists would  
19 look at the well-being and life chances of  
20 African-Americans are fundamentally effected by  
21 criminal justice, health care, education,  
22 economic opportunity, and all the problems I  
23 document for health with environmental pollution.  
24 And they are not subjective. That is for each of  
25 these five areas, I provide specific information.

1 I just don't throw out opinion and it is relevant  
2 I think that as with the rest of my report, no  
3 expert for defendants challenge any of the  
4 information that I provided under Factor 8 in my  
5 initial report.

6 Q. Lastly Dr. Lichtman, Senate Factor  
7 9. Can the absence of a second black opportunity  
8 congressional district be justified by core  
9 retention?

10 A. Core retention is a criteria,  
11 criteria of choice. It's not legally required.  
12 It's not like one person, one vote conformity  
13 with the voting rights. As a general matter  
14 states certainly could adopt that as one of their  
15 redistricting criteria, but here's the problem:  
16 Here in Louisiana by adopting that the district  
17 is heard as fundamental criterion redistricting  
18 that freezes in the existing packing and cracking  
19 under the previous plan. That is the previous  
20 plan as I explained at length in my report packs  
21 African-Americans into Congressional District 2  
22 far beyond what is necessary for  
23 African-Americans to elect Congress persons of  
24 their choice and then cracks African-Americans  
25 into overwhelmingly white Republican districts

1 where they have no chance whatsoever, no matter  
2 how unhappy they might be with their white  
3 Republican representatives they have no chance to  
4 vote them out of office. They are freezing in  
5 the inequities that you had previously  
6 established, in fact, if core retention was the  
7 fundamental talisman for redistricting as opposed  
8 to other requirements then there never would have  
9 been a remedy for a discriminatory redistricting  
10 plan you would just be replicating that plan over  
11 and over and over again like you are doing here.

12 Q. Dr. Lichtman, are you aware that the  
13 previous 2011 congressional plan was pre-cleared  
14 by the U.S. Department of Justice?

15 A. Absolutely. But all that means is  
16 that the plan was not retro-aggressive that means  
17 that it did not go to 0 African-American  
18 opportunity districts as objection letters make  
19 it crystal clear are letters not interposing an  
20 objection. A pre-clearance does not mean that a  
21 plan is free of violating the Voting Rights Act.  
22 It simply means that the plan was not  
23 retro-aggressive with respect to the previous  
24 plan.

25 Q. Can the current congressional plan

1 be justified by an interest in compactness?

2           A. Absolutely not. As I point out in  
3 my original report by freezing in essentially the  
4 same district that you had in the post 2010  
5 redistricting plan, you are freezing in place a  
6 district that cannot be justified on the  
7 traditional ground of compactness. In fact, the  
8 district is highly non-compact as I explain in my  
9 report. It reaches out a long finger, it is --  
10 has areas of intrusions that are not smooth or  
11 symmetrical and, in fact, it closely represents  
12 from way back when the Elbridge Gerry:  
13 Salamanderian that brought on the term  
14 gerrymandering in the first place. It was  
15 nothing about this district that's frozen in  
16 place that could be justified by creating a  
17 compact district that's not surprising when you  
18 are packing African-Americans into a district and  
19 then cracking them elsewhere, it's not surprising  
20 that the district is does not conform to the  
21 /PHR-FP conceivably in other states other  
22 circumstances you can have a packed district that  
23 would pack that but not here that's not what was  
24 done and the plan cannot be justified on that  
25 basis.

1 Q. And just to clarify. The district  
2 you are referring to there is the second  
3 congressional district the mass majority black  
4 congressional district?

5 A. That's correct. It's overwhelmingly  
6 black overly Democrat it's the pack packed  
7 district and all the other districts are the  
8 crackers.

9 Q. Is the current age of that district  
10 needed for the black voters there to elect their  
11 preferred candidates?

12 A. Absolutely not it's way beyond what  
13 is necessary for blacks to elect candidates of  
14 choice. I think an analysis that I present it  
15 represents the fourth highest black population in  
16 the country African-Americans are winning that  
17 district by an average of 80 percent or more. No  
18 chance that an African-American candidate of  
19 choice would not win that district as I said the  
20 Cook Political reforms in terms their partisan  
21 voter index that measures Patterson strength  
22 that's that district about the D plus 25 that  
23 means it's 25 percent more 25 percentage points  
24 more than the average Democrat vote in the last  
25 two presidential elections both of which were

1 majority Democrat and so and if you look also  
2 nationwide as I point out in my report black  
3 candidates of choice almost invariably win even  
4 in district below 40 percent to the 50 percent  
5 and it's very simple that in the 40 percent range  
6 blacks dominant the Democrat primary get to  
7 nominate a candidate of their choice they then  
8 vote overwhelmingly in that candidate that and  
9 general election for that candidate to win in a  
10 district that's within the 40 percent range.

11 Q. Dr. Lichtman, did you review the  
12 report prepared by Mr. He have /TPHER in this  
13 case?

14 A. I did.

15 Q. How does Mr. He have /TPHER attempt  
16 to analyses communities of interest?

17 A. Yeah. Mr. He have /TPHER indicates  
18 in his report that he can't give us a hard and  
19 fast objective specific definition of what  
20 constitutes a community of interest, in fact, he  
21 says to a great extent up to the perceptions of  
22 the people that we are looking at in a given  
23 area. He just ticks off some general boxes like  
24 politics, economy, culture residents occupation  
25 then in order to analyze communities of interest

1 in the existing plan, I presume though he doesn't  
2 address my report to say that it wasn't tenuous  
3 because of the respective he looks at five broad  
4 regions. These regions are much too broad to  
5 analysis what's going on within a congressional  
6 district which of course cuts across these  
7 regions. In addition it's not good enough to  
8 look at regions as compared to one another  
9 because they are so big five of them to the whole  
10 state you've got to look within. This is the  
11 standard social science within differences as  
12 compared to between differences. So I took, for  
13 example, one of his regions anchored in the city  
14 of New Orleans and I looked at the extent to  
15 which blacks and whites in the city of  
16 New Orleans according to his criteria basically  
17 comes to a community of interest. And of course,  
18 they don't share a common history of  
19 discrimination they don't share a common  
20 ancestor, they don't share common politics or  
21 political values, they don't it -- let me see.  
22 They don't have the same occupations. And I  
23 drilled further I looked at do they share the  
24 same residence and do they go to the same schools  
25 beyond all of these other factors in other words

1 to what extent are they really integrated within  
2 the city of New Orleans as a community and I  
3 looked at the measures of segregation and found  
4 that the measures of segregation were quite  
5 extreme in New Orleans more than 60 percent of  
6 blacks would have to relocate during integration  
7 and that there was also similar lack of  
8 integration for the school. So we look at the  
9 city of New Orleans an anchor of one of the five  
10 regions we see blacks and whites have very little  
11 in common to constitute within that region a  
12 community of interest.

13 Q. And did Mr. He have /TPHER show that  
14 black and white Louisianians in the five majority  
15 white districts in the congressional map share  
16 commonalities?

17 A. No his analysis couldn't possibly  
18 show that because again, it's based upon these  
19 broad regional -- these regional areas which  
20 congressional districts cut across and what he  
21 doesn't analyze within as opposed to between. So  
22 I looked at the commonality between whites and  
23 blacks across and again they don't have common  
24 ancestry, they don't have common politics they  
25 don't have common experience in the history



1 discrimination they don't have commonality in  
2 terms of the failure of states to meet their  
3 particularized needs I also looked at residential  
4 and school segregation across Louisiana and found  
5 that blacks and white the don't live together,  
6 they don't go to the same schools. I also looked  
7 at a variety of other indicators highlighted by  
8 Mr. He have /TPHER. I found that across  
9 Louisiana blacks and whites don't have the same  
10 family structure, they don't have the same levels  
11 of income or poverty or dependence upon welfare  
12 programs or unemployment. They don't live in the  
13 same kinds of homes with African-Americans far  
14 more likely to be renters than homeowners there  
15 aren't the same access to vehicles or broadband  
16 internet they don't have the same educational  
17 attainment and they don't have the same  
18 educational pro-efficiency and they don't work in  
19 the same jobs and occupations so there is no  
20 basis for Dr. Alford doesn't analyze it and look  
21 any deeper there is no basis for claiming that in  
22 these five white Republican dominated districts  
23 that the African-Americans in those districts  
24 share a community of interest with whites.

25 Q. At the end of the day Dr. Lichtman

1 how many of Senate factors support a finding of  
2 vote delusion in the Louisiana essentially all of  
3 them with when I look at the slating factor and  
4 it's important to understand the thing I alluded  
5 to earlier in my testimony. That these factors  
6 do not operate in isolation. They are suited  
7 just -- they combine to impede the opportunities  
8 for African-Americans to participate in the  
9 process and elect candidates of their choice. So  
10 this horrible and ongoing discrimination leads to  
11 socioeconomic disparities which in turn lead to  
12 impediments for African-Americans to participate  
13 in the voting process and elect candidates of  
14 their choice some to the majority vote runoff  
15 requirement contributes to that and in turn that  
16 contributes to a lack of representation in a  
17 government dominated by whites at every level in  
18 Louisiana which in turn leads to the failure of  
19 the states to meet the particularized needs of  
20 African-Americans and in turn leads to the  
21 adoption of a redistricting plan that freezes in  
22 place a plan that packs African-Americans into a  
23 non-compact district and then cracks  
24 African-Americans into other districts where they  
25 have no chance to elect candidates of their

1 choice standard vote delusion packing and  
2 cracking. So you can't just look at these  
3 factors in isolation you have to see how they one  
4 impacts another?

5 Q. Thank you Dr. Lichtman Your Honor  
6 I'd like to move exhibits GX-3 and GX-31 into  
7 evidence those are Dr. Lichtman's initial report  
8 and his rebuttal expert report?

9 THE COURT:

10 Is there any objection?

11 MR. FARR:

12 No objections, Your Honor.

13 MR. HAWLEY:

14 I have no other questions at this  
15 time, Your Honor.

16 THE COURT:

17 Cross-examination?

18 MR. BRADEN:

19 My name is Mark Braden.

20 THE WITNESS:

21 I lost you.

22 THE COURT:

23 We still have you.

24 THE WITNESS:

25 I don't see you for some reason.

1           Our camera may be -- just give us a  
2           second.

3           THE COURT:

4                    Is that better?

5           THE WITNESS:

6                    Much better. Thank you.

7           THE COURT:

8                    Spell your last name counsel.

9           MR. BRADEN:

10                   Mark Braden, B-R-A-D-E-N, and I  
11           represent the defendant intervenor  
12           legislature groups.

13   CROSS-EXAMINATION BY MR. BRADEN:

14           Q.    Dr. Lichtman, good to see you again.

15           A.    Good to see you again. Always a  
16   pleasure.

17           Q.    Thank you. I'm sorry that you were  
18   not able to attend in person. We certainly would  
19   have enjoyed your testimony in person here rather  
20   than remote. I try not to take up --

21           A.    Thank you.

22           Q.    -- too much of the rest of your  
23   afternoon, but I do have some specific questions.

24           MR. BRADEN:

25                    If we could go to your report, in

1 page 28 of your report, if we could bring  
2 that up. That's GX-3 or GX-3 or 003, and  
3 if we could go to page 28.

4 TRIAL TECH:

5 (Complied.)

6 THE WITNESS:

7 Okay.

8 BY MR. BRADEN:

9 Q. So, and I believe you just testified  
10 to this but let me just simply confirm. It's you  
11 testified as to white crossover voting earlier I  
12 believe?

13 A. I testified both to black cohesion  
14 and white crossover voting, isn't that correct.

15 Q. So on your report here you're  
16 projecting in some races what crossover in excess  
17 of 25 percent or more than a quarter?

18 A. I'm not projecting. These are exit  
19 poll results subsequent to the election. They  
20 are not a projection on these elections.

21 Q. Okay. That's correct. And you have  
22 a chart showing this too, I believe? This would  
23 be chart one?

24 A. Sure you want to go to that.

25 Q. You should absolutely go to that.

1 If we could bring that up.

2 A. What page?

3 Q. I believe that is is 0068, chart  
4 one. So?

5 A. Got it.

6 Q. So it's your -- it's your view that  
7 the record shows white crossover voting ranging  
8 from 20 percent to 26 percent in the three  
9 elections on the chart?

10 A. That's correct.

11 Q. Okay. So and you also believe if  
12 you go to page 62 of your report and I also  
13 believe you just testified to this but let me  
14 just confirm it. That the black candidate of  
15 choice can win in a district as low as 40 percent  
16 minority population?

17 A. In the 40 percent range. You know  
18 maybe not quite at 40 but certainly in -- below  
19 50 percent in a 40 percent range, absolutely.  
20 And the crossover and cohesion numbers bear that  
21 out so you would have 45 percent African-American  
22 voters in a district I could do the math for you.

23 Q. Uh-huh (affirmatively)?

24 A. As soon as I get on my.

25 Q. Please do.

1           A.     Yeah. Okay. So we got 45 percent  
2 times 95, that's 42.75 then we can round that off  
3 to 43 to make it easy. Okay. And then we have  
4 55 percent non black and by the way the non black  
5 would include not just blacks you got to  
6 understand that it would also include Hispanics  
7 and others but let's just assume it's just blacks  
8 and it's 25 percent. So that's 13.75 and round  
9 it off to make it simple an even 13 that's  
10 56 percent of the black candidate of choice.

11           Q.     Okay. So if I understand those  
12 numbers right, there would be no compelling need  
13 for the State of Louisiana to create districts of  
14 more than 50 percent to elect a black candidate  
15 of choice in congressional analysis?

16           A.     Well you would have to do the  
17 district specific analysis. This is just generic  
18 but if you could -- in my view and this is  
19 generic I haven't done the detail district  
20 specific analysis but, for example, in my North  
21 Carolina testimony in the Covington case where  
22 the court accepted it I pointed out indeed  
23 African-American candidates could win in the  
24 40 percent range. And that was particularized  
25 analysis of each district but I certainly

1 wouldn't rule out if the state could create two  
2 districts about a 45 percent in African-American  
3 in their voting age population given that there's  
4 going to be Hispanics and others in that district  
5 who do tend to vote Democrat but again depending  
6 on the district specific analysis that could give  
7 African-Americans an opportunity to elect  
8 candidates of choice again I'm speaking in  
9 narrative.

10 Q. Thank you. Dr. When were you first  
11 contacted about working on Louisiana  
12 congressional redistricting this cycle?

13 A. I really don't remember. I've been  
14 involved in maybe ten cases in this post 20  
15 thousands several months ago at least.

16 Q. Okay. Do you know if you were  
17 working on this prior to the legislative session  
18 that resulted in the passage of the first plan  
19 and second plans the veto override plan do you?

20 A. Refresh me is this February 2022.

21 Q. Yeah. February were you working in  
22 February on it?

23 A. I'm sure I was working in February.

24 Q. Okay. And do you know who contacted  
25 you in regards to that?



1 A. The alliance attorneys.

2 Q. Okay. And did you play any role or  
3 play any information to the legislature during  
4 the process?

5 A. No.

6 Q. So is this a little like do have a  
7 view with you weren't you the expert witness in  
8 1990 on the Louisiana congressional  
9 redistricting?

10 A. I don't remember it very well but  
11 that was one of those short cases when working  
12 for the United States Department of Justice and I  
13 think it was a very different clearly it was  
14 30 years ago.

15 THE COURT:

16 Just a minute. Okay. We -- she  
17 wasn't able to take any of that testimony.  
18 Dr. Lichtman, is there a possibility that  
19 you are interfering maybe with your  
20 microphone or something because we -- the  
21 court reporter, none of us could make out  
22 any of that any of your last answer.

23 A. Oh. I didn't hear anything. I can  
24 turn it down more if you want.

25 \*\*\*FINISHED THROUGH END

1 THE COURT:

2 No, I don't think it's --

3 THE WITNESS:

4 I'm 75 and technologically  
5 challenged. Is it better, Your Honor?

6 THE COURT:

7 Yes, it seems better.

8 THE WITNESS:

9 I'll try it again. Let me know if  
10 it works. I'll try to replicate it.

11 THE COURT:

12 If you have --

13 THE WITNESS:

14 So, as I said, I don't remember -- I  
15 don't remember it well, but I do remember  
16 I was hired I believe by the United States  
17 Department of Justice to defend their  
18 policies, and I don't believe that we were  
19 plaintiffs in that case. We might have  
20 been defendants and, you know, like that  
21 whole round of those short cases.

22 BY MR. RIZZUTO:

23 Q. You don't?

24 A. Defendants had very little chance.

25 Q. Might you have been hired by the

1 Democratic leadership of the state, let's say the  
2 governor, the legislature, the defendants in the  
3 case?

4 A. Anything is possible. I know for  
5 some of those cases I was hired by justice. I  
6 don't remember because it was 30 years ago who I  
7 was hired by in this case. I kind of assumed it  
8 was justice, but I don't recall.

9 Q. I would represent to you and to the  
10 court my understanding is that you were an expert  
11 for the defendants, which was the State of  
12 Louisiana, at least that's the way --

13 A. I know I represented the defendants.  
14 I don't know if I was hired by the State of  
15 Louisiana or by justice. I won't argue with you  
16 because I don't have a recollection.

17 Q. Yeah.

18 A. So whatever you say, I'm not going  
19 to disagree.

20 Q. Do you remember that you were  
21 arguing on behalf of a plan, a 1990s plan that  
22 had seven districts of which two were black and  
23 five white?

24 A. I don't remember. I don't remember  
25 that detail; but, again, if you want to represent

1 that --

2 Q. Okay.

3 A. -- I'm not going to argue, but I  
4 don't recall the specific composition. When you  
5 say two are black, would that be majority  
6 black --

7 Q. Yes, two.

8 A. -- or 40 percent black? I don't  
9 remember.

10 Q. Yes. Two black majority. There  
11 were more congressional districts, one more in  
12 that cycle, so at that time, my understanding of  
13 reading the record and -- is that you were  
14 working as an expert for the defendants trying to  
15 defend the two black districts in the  
16 7th District plan and that the court held that  
17 the plan was an institutional gerrymander. Does  
18 that ring any bells with you?

19 A. \*\*\*not all of this, but definitely I  
20 truly that case like all the other cases. I.

21 Q. And now that you are in the court  
22 here with the plaintiffs who are arguing for two  
23 black seats in a six member district plan,  
24 correct?

25 A. I have not examined any plans

1 presented by plaintiffs, but I presume that's  
2 what we are doing.

3 Q. Okay. And you don't remember  
4 whether or not the court in the Hayes case versus  
5 the State of Louisiana in 1993, you don't  
6 remember whether or not the court credited your  
7 testimony?

8 A. I'm sure they didn't. We lost the  
9 case.

10 Q. Yeah?

11 A. Normally when you lose a case work  
12 was not credited your testimony but that's all I  
13 remember.

14 Q. Yes. If we could -- I think maybe I  
15 can refresh your recollection. If you go to --  
16 we can bring up a copy of the heys versus State  
17 of Louisiana. It's at 839 fed sup 1188. I wish  
18 I could hand you a copy of it but I believe we  
19 can bring it up on the screen and just really  
20 quickly I believe there's a footnote 48 H A Y S.  
21 48 at page 1203 if I've got to right. So if you  
22 could take a minute and look at paragraph 48,  
23 footnote 48 and see whether or not that refreshes  
24 your recollection as to the court's view on your  
25 testimony.

1           A.    I don't see it. I'm sorry. I don't  
2 see the heading.

3           Q.    Okay. There's a footnote 48 either  
4 on I believe it's -- bring up page 46 of 50. I'm  
5 sorry I'm looking at this item in my hand and it  
6 doesn't do you any good I printed a copy out here  
7 for you but it doesn't do you much good to try to  
8 hand you a printed copy I presume.

9                    There we are. That's footnote 48.  
10 Could you just highlight it for him and bring it  
11 up and make it larger he has probably the same  
12 eyesight I do.

13          A.    Okay. Now, I can see it.

14          Q.    Okay. Great and it's easy to pick  
15 out there's a couple of references to you which  
16 have been italicized.

17          A.    Let me read it.

18          Q.    Yeah.

19          A.    Because I don't remember it.

20          Q.    Great?

21          A.    But I'm sure this will help refresh  
22 my memory but I need a minute or two.

23          Q.    Oh absolutely.

24          A.    I old and slow.

25          Q.    Absolutely.

1 A. Got it.

2 Q. Okay?

3 A. It doesn't refresh my memory  
4 particularly but I understand it the same so you  
5 can ask me questions.

6 Q. So?

7 A. It's pretty self explanatory.

8 Q. And it should be I believe here that  
9 the court rejected your expert testimony in  
10 support of a plan with two black seats am  
11 consider correct?

12 THE COURT:

13 You have to.

14 A. That's correct. But that's the  
15 exact opposite of what we have here where the  
16 defendants have packed blacks into a single  
17 district far beyond what was necessary to elect  
18 black candidates of choice, so I don't see how  
19 this criticism -- I'm not disputing what the  
20 court says relates to the current situation in  
21 Louisiana.

22 THE COURT:

23 Counsel, Mr. Hawley is about to  
24 internally combust.

25 MR. HAWLEY:

1 I'm sorry. Mr. Braden, do you have  
2 another copy of the --

3 THE COURT:

4 Mr. Hawley, we can't hear you.

5 MR. HAWLEY:

6 I'm sorry. I was just asking  
7 Mr. Braden for a copy of the  
8 demonstrative.

9 MR. BRADEN:

10 My apologies. I actually should  
11 have given it to you upfront.

12 MR. HAWLEY:

13 Thank you.

14 THE COURT:

15 Okay. Emergency averted. You may  
16 continue.

17 BY MR. BRADEN:

18 Q. And so you don't remember holding  
19 this case rejecting the plan as a racial  
20 gerrymander had two black seats you just don't  
21 have any recollection of that?

22 A. I do remember the state lost the  
23 case. I don't remember the details of the  
24 finding, but it probably was racially  
25 gerrymandering. I think it's the same case as



1 what the state is doing now.

2 Q. If you can't remember, we will just  
3 move on from there.

4 In -- in your report in this case,  
5 do you provide any geographic analysis showing  
6 whether or not the black population has become  
7 more compact in the case or geographically  
8 concentrated since the 1990 geography?

9 A. I've not analyzed plans --

10 Q. Okay.

11 A. -- in this case -- so.

12 Q. It's really more --

13 A. I can't answer that question --

14 Q. Okay.

15 A. -- one way or the other. You have  
16 to ask the plan drawers.

17 Q. I really wasn't asking you about the  
18 plans. I was asking you about the dispersion of  
19 the black population in the State of Louisiana.  
20 Do you have any familiarity with that?

21 A. I didn't look at that.

22 Q. Okay. And I just -- let me use  
23 Maryland as an example. So maybe this will  
24 enable you to answer the question as to whether  
25 there's been a change in that.

1           In Maryland, the black population is  
2 essentially concentrated in -- in one or two  
3 urban areas, depending how you define urban  
4 areas, the Washington Baltimore corridor and the  
5 rest is predominantly white?

6           A.     Washington, although it's not quite  
7 the corridor because you have in the Washington  
8 suburbs two very large counties, Prince George's  
9 County and Montgomery County, so not necessarily  
10 the corridor. And Prince George's County is very  
11 heavily black; and while Montgomery County is not  
12 majority black, it has a very substantial black  
13 population as well and it's very big. It's got  
14 over a million persons in large geographically,  
15 so it's certainly not true that in my home state  
16 the African-American population is very narrowly  
17 concentrated in confined geographical areas.

18          Q.     So you wouldn't -- you don't believe  
19 that a majority of the black population in  
20 Maryland lives in -- in what would be considered  
21 to be urban or suburban areas?

22          A.     It's -- you know, Montgomery you can  
23 call urban. It's really suburban. Certainly  
24 there is a correlation between geographic area  
25 and black population, absolutely. There

1 certainly is a degree of concentration there that  
2 can effect the drawing of districts.

3 Q. So --

4 A. But it's not just confined to a very  
5 narrowly circumscribed city.

6 Q. And so you don't understand -- I'm  
7 going to waste your time here for just a second.  
8 You don't understand or not -- you didn't opine  
9 in any way that the -- that Louisiana is  
10 different than many other states in the sense  
11 that it has large urban black populations in a  
12 couple locations but very dispersed rural black  
13 populations in virtually every parish in the  
14 state?

15 A. I can't answer your question. As I  
16 told you, that's beyond the scope --

17 Q. Beyond the scope?

18 A. -- of my expertise.

19 Q. So do you happen to know how many  
20 black elected officials there are in the state?

21 A. Not for every jurisdiction, but I  
22 can tell you there is no statewide, none in the  
23 U. S. Senate, one in Congress and something like  
24 34 maybe in the legislature and something like 7  
25 in the -- I forget how many, but over 20, close

1 to 30 mayoral situations and municipalities that  
2 are comfortable overall.

3 THE COURT:

4 Mr. Braden, I'm going to ask that  
5 you speak up or use the microphone. I'm  
6 having trouble hearing you and I know  
7 Dr. Lichtman has already said that he has  
8 a -- a little bit challenge in determining  
9 his ability in hearing.

10 MR. BRADEN:

11 My apologies.

12 THE COURT:

13 Thank you.

14 BY MR. BRADEN:

15 Q. Now, as to gubernatorial elections  
16 in Louisiana, did the candidate of black choice  
17 win?

18 A. In which elections.

19 Q. The last two gubernatorial races?

20 A. In the majority race s.

21 Q. Last two races for governor in the  
22 State of Louisiana?

23 A. Oh, yes of course John Bel Edwards  
24 you know one swallow does not make a sprig and  
25 he's not black.

1 Q. Okay. And you talked about racial  
2 from the 1990s, the runoff race between the clan  
3 candidate and Edwin Edwards and I guess would  
4 could come up with some colorful descriptions of  
5 that race but we won't go that way but my  
6 understanding is you testified that it showed the  
7 impact of slating but didn't the black preferred  
8 candidate win in that race too?

9 A. I did not testify at all about that  
10 race as an example of slating. I simply said in  
11 a different factor, factor relating to runoff and  
12 at large elections and it's factor three not  
13 factor four that that was an example of a runoff  
14 election that caught nationwide attention that  
15 was well before the foster decision. I didn't  
16 put it in the context of slating at all  
17 /STKPWHR-T and so I heard you say that -- that  
18 black candidates don't win at large elections.  
19 Do you know whether the mayor I don't think I can  
20 see it. I don't think we are in East Baton Rouge  
21 I think we are in Baton Rouge parish. I could be  
22 wrong about that but my understanding is that the  
23 mayor of East Baton Rouge is black. Do you know  
24 that.

25 A. Let me check. I might have that

1 information. I'm not sure.

2 THE COURT:

3 We are in East Baton Rouge Parish  
4 and the mayor of the Baton Rouge  
5 metropolitan greater Baton Rouge is  
6 African-American.

7 THE WITNESS:

8 You are talking about the mayor of  
9 Baton Rouge city.

10 MR. BRADEN:

11 The /SKWRUPBL graciously answered  
12 the question for us.

13 THE COURT:

14 No I didn't answer you that we are  
15 not in east parish there's an East Baton  
16 Rouge Parish and the Mississippi River and  
17 one bridge connects those actually bridges  
18 I guess.

19 THE ATTORNEY:

20 Q. And I understood from you that the  
21 mayor of East Baton Rouge is black wit I can  
22 answer you yeah Baton Rouge is a black city and  
23 likely a black mayor that's exactly my point  
24 blacks can win in black jurisdictions and they  
25 are getting shut out in white districts statewide

1 and white justifications and none of the blacks  
2 are Republicans?

3 Q. Is it your position that it's a  
4 majority black parish?

5 A. I didn't look at the parish. I  
6 looked at the city.

7 MR.

8 Okay. No further questions,

9 Your Honor.

10 THE COURT:

11 Okay. Is there any redirect?

12 MR. HAWLEY:

13 It's brief, Your Honor. Thank you.

14 REDIRECT EXAMINATION BY MR. HAWLEY:

15 Q. Dr. Lichtman, just a few moments ago  
16 Mr. Braden asked you about some of the particular  
17 of of your expert testimony in the Hayes case in  
18 the '90s. Do you recall that?

19 A. I recall the questions, yeah.

20 Q. Yes?

21 A. And it did help me refresh a bit on  
22 heys which I didn't remember in detail.

23 Q. Here I will represent to you since  
24 we no longer have it on the screen that the core  
25 characterized the defendants objective in that

1 case as to quote prove that factors other than  
2 race could explain district four. My question is  
3 that the inquiry you were asked to undertake in  
4 this case to explain what factors explain a  
5 challenged district?

6 A. If you correctly I don't remember  
7 but I assume you correctly characterized that my  
8 query here is quite different.

9 Q. And what is your inquiry here?

10 A. Well my inquiry here is to look at  
11 the factor and look at effectiveness fact ares to  
12 determine whether the five white majority  
13 districts established communities of interest  
14 between blacks and whites to assess the rational  
15 of maintaining continuety of districts and to  
16 assess the rational with respect to the  
17 traditional redistricting requirement of the  
18 packs all the A L S Senate tact for related to  
19 the different matter s.

20 Q. And ultimately the Senate factor  
21 inquires a Senate. Whether the particular legal  
22 claim or particular district at issue is that  
23 fair to say?

24 A. I don't want to give you a legal  
25 opinion. I can say I have done Senate factor



1 analyses under very different cases and  
2 situations.

3 Q. Thank you. Dr. Lichtman. No  
4 further questions. Thank you?

5 THE COURT:

6 Okay. Thank you, Dr. Lichtman. We  
7 are going to let you go for the afternoon.  
8 Okay. It's --

9 THE WITNESS:

10 Thank you, Your Honor.

11 THE COURT:

12 Thank you, sir. It's quarter to  
13 5:00. Have we got any other witnesses  
14 that we can go until 5:30?

15 MR. RIZZUTO:

16 Yes, Your Honor. My name is Ryan  
17 Rizzuto, and I represent the Robinson  
18 plaintiffs. This is my first appearance  
19 before the court.

20 THE COURT:

21 Give me the last name, spell it for  
22 me.

23 MR. RIZZUTO:

24 R-I-Z-Z-U-T-O.

25 THE COURT:

1                   Okay. Mr. Rizzuto, your witness.

2                   MR. RIZZUTO:

3                   Plaintiffs call Dr. R. Blakeslee  
4                   Gilpin, G-I-L-P-I-N.

5                   ROBERT BLAKESLEE GILPIN, Ph.D,  
6                   after having first been duly sworn by the  
7                   above-mentioned Court Reporter did testify as  
8                   follows:

9                   DIRECT EXAMINATION BY MR. RIZZUTO:

10                  Q.     Could you please state your full  
11                  name for the record?

12                  A.     Yep. My name is Robert Blakeslee  
13                  Gilpin. The standard spelling of Robert,  
14                  B-L-A-K-E-S-L-E-E, G-I-L-P-I-N.

15                  THE COURT:

16                  Go ahead, counsel.

17                  DIRECT EXAMINATION BY MR.

18                  Q.     Good afternoon, Dr. Gilpin. Could  
19                  you please introduce yourself to the court?

20                  A.     Yes. My name is Dr. Robert  
21                  Blakeslee Gilpin. I am an associate professor of  
22                  history at Tulane university and the director of  
23                  graduate studies at the history department there.

24                  Q.     Can you tell us about your educate  
25                  o'clock background?

1           A.     Yes, I received my BA and M A  
2 simultaneously in Yale university in 2001 in  
3 American history an M fill if from canal bridge  
4 university in 2002 in British history and then an  
5 M fill from PhD Y. From jail in 2009.

6           Q.     And /KWRUPBGZ mention that you were  
7 at Tulane could you speak to your role there?

8           A.     Yes so I teach a variety of classes  
9 on American history U.S. history in law civil  
10 construction southern interest electric cull and  
11 culture history and mentor and advise  
12 undergraduate and graduate students.

13          Q.     And do any of those courses you just  
14 mentioned cover Louisiana's history of official  
15 discrimination against black voters?

16          A.     Yes all the courses touch directly  
17 on that subject.

18          Q.     Have you ever written anything that  
19 has covered the history of voters registration in  
20 Louisiana?

21          A.     Yes I've written chapters and  
22 volumes about the reconstruction period moving  
23 into the 20th century that deal directly with  
24 that subject matter.

25          Q.     Professor Gilpin, is this your first

1 time testifying as an expert witness in a case?

2 A. It is indeed.

3 Q. Your Honor, we in southern history?

4 THE COURT:

5 Any objection.

6 MS. MCKNIGHT:

7 We have no objection.

8 THE COURT:

9 Okay. Dr. Gilpin will be allowed  
10 and admitted.

11 BY MR. RIZZUTO:

12 Q. PR-13 and 88.

13 THE COURT:

14 You may.

15 BY MR. RIZZUTO:

16 Q. Now, Professor Gilpin, I just handed  
17 you what is marked as PR-13 and PR-88. Do you  
18 recognize those?

19 A. Yes, I do.

20 Q. What's PR-13?

21 A. PR-13 is the main report I was asked  
22 to produce for this case.

23 Q. And PR-88?

24 A. Is the supplemental report I was  
25 asked to produce.

1 Q. Now, let's start with your first  
2 report PR-13. Can you speak to its purpose?

3 A. The purpose of the report was to  
4 talk about the State of Louisiana's long history  
5 of discrimination against its black citizens and  
6 specifically how that history fed into voter  
7 discrimination particularly after the franchise  
8 was granted in the late 18 '60s.

9 Q. And what was the scope of your  
10 inquiry in that report?

11 A. So my report began in pre American  
12 Louisiana which is really when the racial  
13 categories that are going to later be used by  
14 the State of Louisiana both pre suffrage and post  
15 suffrage were created and sort of hone bid the  
16 state and were used up until the present day.

17 Q. Broadly speaking what were your  
18 conclusions?

19 A. So from the very beginning, the  
20 state has been quite seriously invested in  
21 categorizing its citizens by race and  
22 specifically to used those categories to  
23 discriminate against black freedoms and after the  
24 18 '60s particularly or specifically against the  
25 right to vote. So that was really the target of

1 a huge number of efforts by the State of  
2 Louisiana throughout the post 1868 period.

3 Q. I'd like to start from the beginning  
4 of that history Dr. Gilpin can you speak to the  
5 historical roots of official discrimination in  
6 Louisiana?

7 A. Yeah. So as I was just mentioning  
8 that process began with categorizing an its  
9 citizens and there was a period of fluidity  
10 before the state became much more rigid about  
11 defining who was black and who was white and  
12 there was a middle category that began to be  
13 erased in 18 '40s and '50s when the state became  
14 very concerned with the influx of immigrants that  
15 didn't really fit any of the categories they had  
16 and that was when the State of Louisiana created  
17 a lot of methods and tools that they would use to  
18 disenfranchise black voter the so property  
19 requirements poll taxes, and things like this  
20 literacy tests were actually developed in the 18  
21 '40s and '50s and then repurposes later so so  
22 that's really the antebellum roots of modern  
23 voter discrimination in the State of Louisiana.

24 FINISHED THROUGH END

25 Q. What's the purpose within your

1 report of letting out this antebellum history?

2 A. Well, as I was just mentioning, the  
3 sort of connection between these things is often  
4 quite concrete. So literally the white elites in  
5 the postbellum period simply just sort of went  
6 back into their own history to find these tools  
7 and repurpose them, but basically that the -- the  
8 foundation of both racial categorization and  
9 voter discrimination itself is really firmly  
10 established in the antebellum period and then  
11 carried through very kind of intentionally in the  
12 postbellum period.

13 Q. Now, moving forward in history to  
14 efforts of before, how did voter discrimination  
15 against black Louisianans evolve after the Civil  
16 War?

17 A. So in the first constitutional  
18 regression, which had actually happened in the  
19 middle of the Civil War is the first effort by  
20 white Louisianans to kind of refashion old laws  
21 and maintain some of the racial hierarchies that  
22 they established in the antebellum period.

23 The black codes that were written in  
24 1865 are the first examples of that and are  
25 really quite explicitly understood as a way of

1 commonly bringing together as much of the slavery  
2 rules that they could. It's not until the 1890s  
3 that those had kind of taken a much more  
4 explicitly political form, and that is most  
5 notably with the adoption of the grandfather  
6 clause, which was created by white Louisianians  
7 in 1898 that establishes a rule where black  
8 voters have to be able to trace their ancestry of  
9 either a father or a grandfather, they had to  
10 have voted before January 1st of 1867, which was  
11 an illogical impossibility because black people  
12 can't -- could not vote before that date. So it  
13 was an effective way of taking black Louisianans  
14 out of politics.

15           At the time of the grandfather  
16 clause, they represented about 44 percent of the  
17 electorate in Louisiana, which has never been  
18 reached ever since then. Within two years, that  
19 was below 1 percent because of the effectiveness  
20 of the grandfather clause, so it took black  
21 voters from about 130,000 down to about 5,000 in  
22 two -- just two years.

23           Q.     And did tactics like the grandfather  
24 clause and the other tactics you mentioned  
25 continue into the 20th century?



1           A.    Yes.  The grandfather clause was  
2 struck down by the Supreme Court in 1915, but the  
3 variety of total conventions that Louisianians  
4 had developed in the 1840s and '50s \*\*\*tests poll  
5 /TAGSs understanding clauses and really investing  
6 a lot more power in white registrars of voters  
7 was something that was -- really the weight of  
8 the state was putting behind that.  So to the  
9 degree where you could have a white registrar  
10 reject voter if they could not count the number  
11 of jelly beans in a jar that was at the polling  
12 station.

13           Q.    Now, moving a bit farther into the  
14 20th century, how well did voting discrimination  
15 in Louisiana change after the Voting Rights Act  
16 was passed in 1965?

17           A.    So it's not so much the  
18 discrimination change, especially in terms of  
19 magnitude or the determination by the State of  
20 Louisiana to disenfranchise its black voters.  
21 What the Voting Rights Act really did was make  
22 both citizens in Louisiana in both the state and  
23 federal government aware of these attempts to  
24 disenfranchise black voters.  And this is  
25 particularly through the pre-clearance clause

1 that made it possible for the -- sort of kind of  
2 dizzying extent of these efforts were kind of  
3 brought to light, and then also it gave a  
4 possibility for those efforts to disenfranchised  
5 black voters to actually contest it in court.

6 Q. Can you speak about any of these  
7 Section 2 violations that you note in your  
8 report?

9 A. Yeah. So I think the one that I  
10 find most compelling is the -- is the Chisom  
11 versus Roemer case of 1991 because it bears such  
12 a strong resemblance to things that have happened  
13 in the last calendar year in the State of  
14 Louisiana whether up in West Monroe or in  
15 Baldwin.

16 So these are the exact same themes  
17 30 years apart. The first one we were made aware  
18 of because of pre-clearance. The second one is  
19 just through the doggedness of -- I'm sure some  
20 of the people in this room could actually bring  
21 those kinds of things to light because the  
22 determination of the state has remained  
23 inexplicably unaltered. The mechanism of making  
24 us aware of them has drastically changed after  
25 2013.

1 Q. Now, turning to your second report,  
2 PR-88, what was the purpose of that report?

3 A. So that report is -- the purpose was  
4 to talk about the history of racial  
5 classification by the State of Louisiana, again,  
6 stretching back to the pre-American Louisiana,  
7 which is when these racial categories sort of  
8 started to be formulated; but particularly after  
9 the Treadaway case of 1910, which is when the  
10 State of Louisiana adopted this one-drop rule.  
11 If anyone could be proven to have 1 percent  
12 ancestry, they were going to be considered black  
13 by the State of Louisiana.

14 Q. Now, how long was this one-drop rule  
15 on analog and in place in Louisiana?

16 A. So that remained in place until 1970  
17 when it was replaced by the 132nd law. That was  
18 very vigorously contested in the 1970s actually  
19 by white Louisianians or people who considered  
20 themselves white who sued the state to try and be  
21 reclassified. That law was changed in 1983 to  
22 try to lower the standard by which -- what the  
23 state would accept, although during that case I  
24 think quite interestingly the state was citing  
25 ancestry going back to Mobile, Alabama in 1760 to

1 prove that the citizen in question was black, at  
2 least by the standards of the state.

3           So, again, it's really interesting  
4 how invested the State of Louisiana is in those  
5 categories and how they were used quite  
6 explicitly then to disenfranchise voters.

7           Q.   Stepping back a moment to something  
8 more generally, what was your conclusion in your  
9 report?

10          A.   Most particularly that those  
11 categories have been used over -- certainly over  
12 the course of the 20th and 21st centuries to  
13 disenfranchise black voters, but overall that  
14 there is just such a basic absurdity to racial  
15 categorization because there's real no science  
16 behind it but the state remains very invested in  
17 making those distinguishing categories so that  
18 they then can be used in cases like this.

19          Q.   Did you find anything related to how  
20 the history may effect the ways that multiracial  
21 Louisianians might identify today?

22          A.   Yeah. Well, I think one of the  
23 things you have to take into consideration, we  
24 are talking about over 300 years of history and  
25 Louisianians of all colors are keenly aware of

1 the consequences of what their category is both  
2 in terms of their self identification and how the  
3 state identifies them. And so there's just --  
4 there is an enormous amount at stake in terms of  
5 what they identify as and what the state  
6 identifies them, and they are very aware of that  
7 and that sort of guides a lot of the idea going  
8 forward.

9 Q. And just to be clear, this history  
10 timeline is the history you discussed in your  
11 original report?

12 A. Yes. I mean, I think it is -- it's  
13 pretty much -- it's a real cornerstone of  
14 everything that's discussed in the first report  
15 is what I'm discussing in the second report.

16 Q. Dr. Gilpin, how would you respond to  
17 the critique that your reports don't include  
18 enough examples of race discrimination?

19 A. Well, I disagree pretty  
20 fundamentally with that premise most particularly  
21 because after the Voting Rights Act was renewed  
22 in 1982, to me, everything that's come since then  
23 -- and we are talking about the last four decades  
24 I recall in recent history and also particularly  
25 I recall that because of the remarkable

1 consistency with which white Louisianians have  
2 attempted to disenfranchise black voters. This  
3 is not something that sort of stopped at any  
4 given point, but it's really been a threw line in  
5 the entire history of Louisiana even if we are  
6 talking about pre-suffrage, but particularly we  
7 are talking about post 1982 where the state has  
8 just displayed a remarkable degree of continuity,  
9 doggedness, determination to stop black people  
10 from voting.

11 Q. Could you please outline for the  
12 court one of the examples of recent  
13 discrimination that you outline in your report?

14 A. Sure. I mean, I mentioned a few  
15 minutes ago the West Monroe Baldwin case which I  
16 think is probably the most scrutinized thing  
17 that's been used by the Louisiana politicians to  
18 try and disenfranchise black voters. That is the  
19 \*\*\*elections in the state and in West Monroe.  
20 The Hardy versus Edwards case is also a very,  
21 very recent example. We are talking about in the  
22 last calendar year of these, of a variety of  
23 schemes, basically whatever people can come up  
24 with in order to disenfranchise black voters.  
25 That's always the goal and it's really whatever

1 tools are at their disposal to do that, they will  
2 try to utilize.

3 Q. Dr. Gilpin, in your view, are  
4 similar practices made by -- made against black  
5 voters a thing of the past?

6 A. I would say they are very much the  
7 defining characteristics of Louisiana politics  
8 past, present and certainly it looks like the  
9 future.

10 Thank you, Dr. Gilpin. At this time, we  
11 move PR-13 and PR-88 into evidence.

12 THE COURT:

13 Any objections.

14 MS. MCKNIGHT:

15 No objection Your Honor.

16 THE COURT:

17 PR-13 and PR-88 admitted any Rizzuto

18 Thank you, Your Honor.

19 THE COURT:

20 Any cross?

21 MS. MCKNIGHT:

22 Yes, ma'am.

23 CROSS-EXAMINATION BY MS. MCKNIGHT:

24 Q. Good afternoon, Dr. Gilpin. I'm  
25 Kate McKnight with legislative intervenors, and I

1 have a few questions for you this afternoon or  
2 this evening?

3 A. Okay.

4 Q. Let's start with PR-13 your report  
5 in this case we are going to start on page 39.  
6 Does he need to be switched? So Dr. Gilpin you  
7 include in your report a section titled voting  
8 rights in Louisiana, 1982 to 2013 do you see  
9 that?

10 A. I do.

11 Q. Okay. And in this section you study  
12 case law developments related to the Voting  
13 Rights Act, right?

14 A. Yeah. I think that's one of the  
15 things that are examined in this section.

16 Q. Okay. Now, during this time period  
17 following the 1990 census Louisiana tried to  
18 comply with a Voting Rights Act by drawing two  
19 majority minority congressional districts,  
20 correct?

21 A. I mean, I am aware of this I'm not  
22 sure it's discussed at any length in the report.

23 Q. Okay. And Louisiana's effort to  
24 draw a second congressional district after the  
25 1990 census was struck down by courts as a racial



1 gerrymander, correct?

2 A. Again, I'm not sure if that's in the  
3 scope of this report. I'm dimly aware of this  
4 otherwise.

5 Q. Okay. So a Voting Rights Act case  
6 in the early 1990s would not be within the scope  
7 of your report which includes a section titled  
8 voting rights in Louisiana 1982 to 2013?

9 A. No. I mean it would fall under that  
10 heading perfectly comfortably but it may not have  
11 been included for whatever reason.

12 Q. And what might that reason be?

13 A. Possibly that I overlooked it  
14 possibly that the report was getting quite long.  
15 I'm not entirely sure.

16 Q. Okay. So I understand that in your  
17 report you do not address Louisiana's effort to  
18 comply with the Voting Rights Act by creating a  
19 second majority-minority district following the  
20 1990 census, correct?

21 A. I mean, if you didn't find it, I'm  
22 not sure that it's in there.

23 Q. Okay. And, in fact, you do not even  
24 you cite a lot of case law but you did not even  
25 cite one of the Hayes cases in the heys line of

1 cases?

2 A. No I don't believe I cited any of  
3 the Hayes cases.

4 Q. Okay. Thank you. Let's move onto  
5 page 45 in your report.

6 A. (Complied.)

7 Q. Dr. Gilpin you note toward the end  
8 of the 4<sup>th</sup> paragraph the one that starts the  
9 hotly contested, you note quote the changes to  
10 the V R A in the wake of shell bee county meant  
11 that states were no longer under the burden of  
12 proving their laws to be non discriminatory, do  
13 you see that?

14 A. Yes, I do.

15 Q. Okay. So before shell bee county,  
16 which was a 2013 supreme court opinion, Louisiana  
17 was under a burden of proving its voting laws to  
18 be non discriminatory, correct?

19 A. Yeah. That's my understanding of  
20 the Section 5 pre-clearance.

21 Q. Okay. And in 2011, so before shell  
22 bee county, Louisiana's congressional map was  
23 pre-clear, correct?

24 A. I'm not sure that I discuss that in  
25 this report. I mean I heard it in the courtroom

1 today.

2 Q. Okay. So you understand that to be  
3 true?

4 A. Sure.

5 Q. Okay. Thank you no further  
6 questions. Dr. Gilpin.

7 THE COURT:

8 Any redirect? Rizzuto no redirect

9 Your Honor.

10 THE COURT:

11 Okay. Thank you. Dr. Gilpin, you  
12 may go or you are released. Next witness?

13 MR. SAVITT:

14 Good afternoon, Your Honor. I'm  
15 making my first appearance. I'm Adam  
16 Savitt. That's S-A-V-I-T-T, on behalf of  
17 the Robinson plaintiffs, and we would like  
18 to call Ashley Shelton.

19 ASHLEY SHELTON,  
20 after having first been duly sworn by the  
21 above-mentioned Court Reporter did testify as  
22 follows:

23 THE DEPUTY:

24 And would you please state your name  
25 and spell it for the record, please?

1 THE WITNESS:

2 Sure. My name is Ashley,

3 A-S-H-L-E-Y, Shelton, S-H-E-L-T-O-N.

4 DIRECT EXAMINATION BY MR. SAVITT:

5 Q. Good afternoon, Ms. Shelton.

6 A. Good afternoon.

7 MR. SAVITT:

8 Could we please pull up PR

9 Exhibit 11?

10 TRIAL TECH:

11 (Complied.)

12 BY MR. SAVITT:

13 Q. And do you recognize this document,

14 Ms. Shelton?

15 A. I do.

16 Q. And what is it?

17 A. It is my declaration.

18 Q. Okay. Thank you very much. We can

19 put that down. Ms. Shelton where do you live?

20 A. In Baton Rouge.

21 Q. And how long have you lived in

22 Baton Rouge?

23 A. My whole life.

24 Q. Okay. And thank you and what is

25 your current job title?

1           A.    I am a president and CEO for the  
2 power coalition of equity and justice.

3           Q.    And what does the power coalition  
4 do?

5           A.    We work: Historically  
6 disenfranchised communities throughout Louisiana  
7 engaging helping connect them back to their voice  
8 their vote and their power.

9           Q.    Thank you and would you say you  
10 focus on communities of color in your power  
11 coalition?

12          A.    Yes.

13          Q.    And, Ms. Shelton, why are you -- are  
14 you here today?

15          A.    I am here today because we did a ton  
16 of work working across communities State of  
17 Louisiana I participated in redistricting last  
18 cycle and I probably could have shot a /KAPB none  
19 through the capital and not hit one important and  
20 this particular power coalition engaged over a  
21 thousand citizens across the state that  
22 participated in this process from census all the  
23 way to the road show understand a then the  
24 special session and so I am here today to  
25 represent the folks that consistently asked for a

1 fair and equitable redistricting process and did  
2 not receive that.

3 Q. Thank you Ms. Shelton and you  
4 mention that the power coalition works  
5 predominantly with communities of color based on  
6 your experience working with power coalition do  
7 black voters face discrimination related to  
8 voting?

9 A. Yes.

10 Q. And could you describe that  
11 discrimination?

12 A. Sure. I mean. You know, Gosh, so  
13 for you know just in our own experiences, we  
14 during COVID so 70 percent of the deaths from  
15 COVID early on were African-American people so  
16 disproportionately black people were dying from  
17 COVID and in that -- you know in that process of  
18 you know, the then the Secretary of State then  
19 put into place during the primary several reasons  
20 that votes could you know could request an  
21 absentee valid especially if they have underlying  
22 conditions but when we got to the general  
23 election they did not want those reason to stand  
24 and so we ended up having to organize and sued  
25 the Secretary of State and the governor did stand

1 with us even though we had to name him in that  
2 lawsuit that at the end of the day with so many  
3 African-American votes dying early on in had  
4 COVID with the continued this was before vaccines  
5 before we understood how it was going to continue  
6 to grow and change we were able to ensure that  
7 black voters that disproportionately had  
8 underlying conditions had access to their vote  
9 also there is an example in baker baker is right  
10 outside it's one of the many incorporated areas  
11 of Baton Rouge right outside and during the 2020  
12 election there was a white man who sat in his  
13 chair with a very large gun outside of a black  
14 precinct he was you know 600 yards away or feet  
15 away which is the law but clearly sitting there  
16 with a large gun in proximity to a black -- black  
17 precinct you know was alarming and very squarely  
18 the police were called FBI state troopers I mean  
19 everyone was there but no one you know took  
20 action. Because it clearly was you know voter  
21 intimidation but nobody took action on that and  
22 so basically multiple you know -- multiple you  
23 know police groups just kind of sat and watched  
24 him instead of removing him which black voters  
25 were comfortable making their vote.

1 Q. Thank you and was power coalition  
2 and its constituents present at that baker roll  
3 eight poll?

4 A. Yes we were there had two staff  
5 members and several mens of the community and we  
6 had to move them back so they could be in a safe  
7 distance as the police kind of worked out what  
8 was going on but again he was able to sit there  
9 for a good bit of the day.

10 Q. And so is it fair to say that you  
11 didn't feel like your needs were adequately  
12 responded to by the Louisiana officials?

13 A. They were not.

14 Q. Thank you. In your experience, are  
15 there greater obstacles for black voters than for  
16 white voters?

17 A. Yes.

18 Q. Could you describe some of them?

19 A. So in you know in Louisiana we have  
20 transportation issues you know if you like even  
21 New Orleans which probably has our best transit  
22 system still lacking you know in many ways  
23 Baton Rouge has a system that is not -- you know  
24 that works but is not meeting the needs of our  
25 entire city and Shreveport has even less of an



1 transit system those are our three largest metros  
2 with Jefferson but you know but Jefferson has  
3 none either and so the idea that black voters  
4 have to like we provide ride to the polls so that  
5 we can ensure that black voters can actually vote  
6 in elections but again black voters  
7 disproportionately experience poll enclosures and  
8 poll changes they also too whenever they have a  
9 polling location they also experience that their  
10 polling locations also have issues with  
11 disability accessibility and so for us the  
12 ability to be able to engage black voters in a  
13 sure black voters and ensure that they have  
14 access to their voice and their vote is really  
15 critical for us and one of the things that I love  
16 in New Orleans we get to work with a funeral home  
17 that they have a whole vehicles that they donate  
18 to the process not the hurs so people understand  
19 the importance of getting people to vote and in  
20 the rural communities it's even harder but we do  
21 work with partners and churches across the state  
22 to make sure that people can access their right  
23 to vote.

24 Q. So is it fair to say that lack of  
25 access to transportation makes it harder for

1 black Louisianians to participate in the  
2 political process?

3 A. Yes.

4 Q. And Ms. Shelton does power coalition  
5 work to contact Louisianians by voting?

6 A. Yes.

7 Q. Can you describe some of power  
8 coalitions efforts in that front?

9 A. Absolutely so we work we basically  
10 build what we call a universe and usually for  
11 statewide elections about 500,000 people and we  
12 do text messages phone phone banking phone calls  
13 as well as candidacies where we are door knocking  
14 and talking to communities we also do candidate  
15 surveys and candidate forums.

16 Q. And Ms. Shelton do black voters need  
17 this extra out each in your experience?

18 A. Yes.

19 Q. And why is that?

20 A. One of the things that we found in  
21 our work is that nobody was talking to black  
22 voters or brown voters or indigenous or A B I and  
23 that the work that you know we know that of our  
24 universe of voters that we are reaching we are  
25 sure you know historically disenfranchised

1 communities that we can get about 65 to  
2 65 percent of our universe to turn out to vote  
3 which proves to me that no one was addressing  
4 them no one was addressing them no one was  
5 including them in the process and a lot of our  
6 work is reconnecting people to an agency as  
7 voter.

8 Q. Thank you. In your experience  
9 working with power coalition are there technology  
10 barriers that make it difficult to reach black  
11 voters?

12 A. Yes we I mean many folks have talked  
13 to and it's no secret that broadband is an issue  
14 throughout urban communities but it's also an  
15 issue in the urban communities we work on votes  
16 file phone numbers change constantly folks are  
17 dealing with housing security and other issues  
18 and certainly it's certainly an issue of access  
19 and you know whether or not they can afford a  
20 cell phone a house /TPAOEPB or whatever some of  
21 those other ways that we would try and contact  
22 them.

23 Q. Thank you Ms. Shelton and you  
24 mentioned the impact of poll enclosures on the  
25 communities you served are you aware of poll

1 closures that resulted from precinct

2 consolidation?

3 A. Yes.

4 Q. Could you speak to that issue?

5 A. So I mean, we have one you know

6 instance you know that kind of comes to clearly

7 to mind in New Orleans east they were closing and

8 consolidating a polling location that was

9 predominantly African-American and in that

10 polling location you know, we tried to work with

11 the Secretary of State to make it make sense for

12 the -- for the voters that were chronic voters

13 many of them in that area and what ultimately you

14 know their argument was well we are just moving

15 it a couple of miles but in moving it a couple of

16 miles meant that the community would have to you

17 know cross a dangerous highway and so again, on

18 paper it doesn't look like it is this big deal

19 but to those voters that are are trying to access

20 their vote and used to walk to the polls can no

21 longer do that in a safe way if they have got to

22 cross a major interstate to access their vote.

23 Q. Thank you Ms. Shelton I'd like to

24 shift gears could you please provide a brief

25 overview of power coalition activities relating

1 to the 202 on redistricting process?

2           A.     Yes we started our process and  
3 worked all over the state to engage rural  
4 communities in the power census in being counted  
5 try to address some of the fear and fear  
6 monitoring that was happening about what did it  
7 mean to take the census and we did that work  
8 throughout the census process and then shifted  
9 gears you know shortly thereafter to start  
10 teaching people what redistricting was so we held  
11 redistricting where we taught folks cracking  
12 packing other definitions and we also worked with  
13 them learned Mapitude they learned how to draw  
14 their own maps we also have three redistricting  
15 fellows that also did trainings across the state  
16 I think they did had three trainings in  
17 individual small clusters different parts of the  
18 state and I think most importantly we supported  
19 people to participate in the road shows and so I  
20 mean again there were at almost every road show  
21 there were at least a hundred people that came  
22 and testified at each stop and overwhelmingly  
23 the majority the testimony at every single road  
24 show white and black old and young is they wanted  
25 fair and equitable plan understand a they want

1 add second edge majority district it was clear it  
2 was real that people said this all over the State  
3 of Louisiana and they were ignored by house  
4 governmental affairs and Senate governmental  
5 affairs.

6 Q. Thank you Ms. Shelton hazard part of  
7 power coalitions did it submit that contained  
8 more than one majority black district?

9 A. We did.

10 Q. And why it was important to provide  
11 those maps to the legislature?

12 A. It was important for us to prove  
13 that it can could be done that you know again we  
14 lost five percent in white population we gained  
15 almost three percent in black and other you know  
16 populations so for us this was about honoring the  
17 fact that we have the second largest black  
18 population in the country and that actually that  
19 it could be drawn in many different ways to prove  
20 that it wasn't just an idea or something that you  
21 know that I wanted but that it actually was  
22 something that was possible and necessary for a  
23 fair and equitable maps in Louisiana.

24 Q. Thank you, Ms. Shelton. How did  
25 power coalition and its constituents during the

1 radio shows and legislative sessions?

2 A. We were treated -- it was  
3 unfortunate because I think for many of the road  
4 shows you could see how Senate governmental  
5 affairs Senate affairs members doodling and not  
6 looking up people are telling their stories of  
7 voting generations work to ensure that their  
8 folks had a right to vote and folks are looking  
9 down and not paying attention and then when we  
10 went to the capital and we also we had over you  
11 know for the opening of the redistricting session  
12 there were over 250 you know people of color  
13 white alleys that shows up to say we are here we  
14 are watching you this is what we said we wanted  
15 and we are going to continue to say what we want  
16 and even in the legislative commute rooms  
17 legislators walking around not paying attention  
18 basically waiting to see when all the all the  
19 testimony would be done so they could vote not  
20 one map that included a second majority minority  
21 district get out of a committee we they wouldn't  
22 even allow it to be discussed on the floor.

23 Q. And Ms. Shelton were there any other  
24 instances that you felt that you were not heard  
25 by the legislature during that time?

1           A.     Yes so on the day when they were  
2     overriding the receipt owe we were all at the  
3     capital we were in the house voted before the  
4     Senate you know the house voted I mean it came to  
5     down to a couple of votes right and at the end of  
6     the die we didn't you know the veto was over  
7     turned basically they knew in the house that it  
8     was over turned because the votes on the Senate  
9     side and once that happened once the vote was  
10    made they cheered they celebrated the vote was a  
11    long racial lines and then you walk across the  
12    hallway to the Senate chamber and it is like a  
13    funeral it is somber it is quiet the black  
14    Senators testified and said you know we can't  
15    change their mind us but this is the historical  
16    nature of what we are trying to do here and  
17    again, the vote of course the governor's veto was  
18    over turned.

19           Q.     And just for the record who cheered?

20           A.     The conservative members of the  
21    house and and members of the Senate because they  
22    both came to both sides.

23           Q.     And could you please describe what  
24    it felt like to you and power coalition's  
25    constituents when the legislature over road the



1 veto?

2           A.    I mean, I think it's, you know,  
3 deflating and it's also /TPWEPB like a true sign  
4 of disenfranchise /-PLT so how is it thousands of  
5 people participate and they say specifically two  
6 key message understand a the message that I gave  
7 them the messages that were on their card that  
8 were messages that had you know like again a  
9 familiar /KWRAL fight for them around having  
10 their voice and their vote and to then you know,  
11 one get a community out crew cry for the governor  
12 to veto and then to have that veto over turned it  
13 just basically tells voters that we have worked  
14 so hard to give agency to as a voter and remind  
15 them that their vote and voice actually has power  
16 it just basically says to them it's politics as  
17 usually it doesn't matter and so they disengage  
18 and so it makes our work doubly hard.

19           Q.    And following that Ms. Shelton how  
20 did the impact the power?

21           A.    So for power coalition you know we  
22 have got mid terms coming up in the fall and so  
23 this current you know like so we do a lot of  
24 education work with our communities the  
25 historically disenfranchised communities in

1 Louisiana and in the process of doing that work  
2 right like we have got to we have got to educate  
3 them on like what district do they live in what  
4 changes have happened and then also too engage  
5 them in the process of understanding you know  
6 what and when they are going to vote and I think  
7 the specifically for power coalition again we are  
8 -- we are doing touches right like you know last  
9 last year we did over I want to say over a  
10 million touches and when you talk about a million  
11 touches that means that you know we are touching  
12 voters at least three times so phone call door  
13 knock you know a text message or a whole bunch of  
14 other things and so the difference is me having  
15 to do double work because I'm dealing with  
16 disenfranchised voters you told me that if we  
17 engage and we provided our voice that it would be  
18 okay and so they are deflated and disconnected  
19 and so again double work right versus working  
20 with a population and group of voters who don't  
21 feel /TKEUS /EPB /TPRAPB /KHAEUZed who do feel  
22 like they do have a voice in power and that they  
23 are going to be elect candidates of choice and we  
24 know that being able to elect a candidate of  
25 choice drives voter interest and voter excitement

1 in these processes and so on -- so again this map  
2 that is enacted I've got both a disenfranchised  
3 and /TKEUS inflated group of people who feel this  
4 system doesn't work.

5 Q. Thank you Ms. Shelton shifting gears  
6 you said lived in /TKPWRAOUPBLG your whole life?

7 A. Yes.

8 Q. Are there differences between north  
9 Baton Rouge and south Baton Rouge?

10 A. Yes.

11 Q. I think it's Baton Rouge is a tail  
12 of two cities basically /WEFR the worst and the  
13 best quality of life within a few square mail  
14 miles of each other north Baton Rouge being  
15 predominant African-American south Baton Rouge  
16 being white and the income certainly the south  
17 Baton Rouge is more and /PHOD re lat income and  
18 south Baton Rouge is a much more /WELTDZ /AOE  
19 community and then also too political Chi it's  
20 been interesting because basically voters in the  
21 State of Louisiana in the state city of  
22 Baton Rouge basically they have voted to success  
23 seed from north Baton Rouge is the best way I  
24 could put it it is currently in court but it  
25 gives you an idea of how powerful that difference

1 is or that division between communities in East  
2 Baton Rouge Parish?

3 Q. Thank you. And you mentioned that  
4 north Baton Rouge was predominantly people of  
5 color would you say that north Baton Rouge or the  
6 people of north Baton Rouge have common needs  
7 that go beyond race?

8 A. Yes.

9 Q. And could you speak to those please?

10 A. Yeah I mean I think that we have you  
11 know second we are the second etc. Poorest state  
12 I think maybe some of the data we saw today maybe  
13 we beat Mississippi to be the poorest state in  
14 north Baton Rouge we have got housing insecurity  
15 we have got food insecurity we have absolutely  
16 food deserts as well as no opportunities for  
17 economic -- you know economic growth and you  
18 know, and yeah.

19 Q. Thank you Ms. Shelton. Shifting  
20 gears again, the defendants argue that political  
21 party rather than race is responsible for voting  
22 patterns in Louisiana. In your experience as  
23 president and CEO of power coalition do you find  
24 that black voters vote for Democrats just because  
25 they are Democrats?

1           A.    No I think that vote for -- I mean I  
2 think they vote for who is going to care about  
3 theirself interest does that happen to be  
4 /TKPHREBGs most most of the time more than likely  
5 however I think it is also true that I don't  
6 think the black community is /\*EFRBed well by  
7 either side.

8           Q.    Thank you Ms. Shelton just one more  
9 topic why is it important to power coalitions  
10 constituent to be an additional black majority  
11 district?

12          A.    Because again I think that one of  
13 the things that was so beautiful when we started  
14 the redistricting journey as /APBZ /O\*RZ an  
15 trying to engage people very dense content it's  
16 not like anything that we have been talking about  
17 easy to understand and multiple /TK-FRPZs and so  
18 to be able to engage that many people in the  
19 process to have them show up at the capital every  
20 day and have them feel engaged and only powered  
21 and this was right the way that again there was  
22 several different ways that they could have  
23 gotten a second district and then to have the  
24 legislature tell them no at every turn from the  
25 road show to the redistricting special session to

1 the veto override and so the power coalition this  
2 is about voice and power and you know about black  
3 people being able to have -- to be elect  
4 candidates of choice and by packing us all into  
5 one district we basically minimize the ability of  
6 black voters to elect candidates of choice.

7 Q. Thank you Ms. Shelton no further  
8 questions?

9 THE COURT:

10 I have two just before cross if you  
11 don't mind ma'am. One is you mentioned  
12 the precinct consolidation in New Orleans  
13 east. You said it moved a few miles but  
14 across a dangerous highway can you tell me  
15 what highway that was.

16 A. I'm pretty sure it was -- it's I- 10  
17 I think it's still I- 10.

18 THE COURT:

19 It's I- 10.

20 THE WITNESS:

21 Yeah.

22 THE COURT:

23 You said highway and I didn't know  
24 internist highway my other question was  
25 you said two messages came through in

1           these road shows from various people that  
2           power coalition encouraged to participate  
3           in the political process. You didn't say  
4           what those two messages were.

5           A.    Oh sorry that they want add fair and  
6           equitable redistricting process and that they  
7           wanted a secretary majority maritime district to  
8           honor the change in population and shift in  
9           population.

10          THE COURT:

11                 Okay. Thanks that may have provoked  
12           additional questions which I'm certainly  
13           going to allow counsel to have. Cross?  
14           Jeff Jeff thank you. Your Honor hi Ms.  
15           Shelton my name a Jeffrey /WAEEL attorney  
16           for the state and I'll be asking you a few  
17           questions this afternoon.

18           A.    My.

19           Q.    How long has the power of /KAOLGDZ  
20           just?

21           A.    Yes.

22           Q.    And called power coalition?

23           A.    Yes.

24           Q.    Everybody refer to it as power  
25           coalition how long has power coalition existed in

1 the state?

2 A. Gosh since so about 2015.

3 Q. 2015 okay?

4 A. And I think there's a little bit of  
5 gray because we did spin out of another nonprofit  
6 organization onto our own and so and so and also  
7 too we are physically sponsored by another  
8 nonprofit and so again probably within the you  
9 know Secretary of State's registry that date  
10 might be different.

11 Q. What are that what is that nonprofit  
12 that you-all split from?

13 A. It's called one voice.

14 Q. One voice?

15 A. Uh-huh (affirmatively).

16 Q. And what's the nonprofit that you  
17 are financially sponsored by?

18 A. Public Alice Washington eyes.

19 Q. Public Alice Washington eyes /AUPBZ  
20 so from that is a that the sole source of  
21 your funding or you have other contributors and  
22 donors and things of that nature?

23 A. No they are our individual sponsor  
24 and so we raise other funds from.

25 Q. Do you /STHRO your to your don't



1 ignores?

2 A. It is released within public Alice  
3 Washington eyes within their 990 and I mean they  
4 have to still report our our grants and our  
5 information because we are a fiscally responsible  
6 project.

7 Q. Okay. And in I've been looking at  
8 you website on so I know you partner south of  
9 your organization what are some /THOERZ organize  
10 /-Z you partner with?

11 A. Yes power of coalition /E serve  
12 people in and to address policy add /SRAS issues  
13 you have to work with directly impacted people so  
14 voice of experience holds they all have specific  
15 content area expertise so vote works around  
16 criminal justice the Louisiana housing alliance  
17 around housing the I'm trying to think go around  
18 the table basically that works within the  
19 Vietnamese community in New Orleans east and so  
20 again it's a broad spectrum of groups that has  
21 specific area content expertise.

22 Q. And Louisiana budget project?

23 A. Yes yes and Louisiana partnership  
24 for children and families as well as Louisiana  
25 policy institute. And women with a vision so yes

1 there are several -- several different groups and  
2 the /PWEUPBLT project although not a base  
3 building group does provide found Alice  
4 Washington expertise on budget and  
5 ^ testimony ^ fiscal issues that impact poverty  
6 stricken communities across Louisiana.

7 Q. So in paragraph 15 of your  
8 declaration that you made in this case you state  
9 /TH-T your member board are directly impacted by  
10 vote delusion and so my question for are  
11 organization organizations do organizations have  
12 a right to vote?

13 A. Organization /-GZ do not have a  
14 right to vote I think what we are specifically  
15 talking about is that these organizations  
16 represent a base which means that they have a  
17 membership and so, for example, vote has several  
18 hundred members in New Orleans they have about a  
19 hundred members here in Baton Rouge they have got  
20 members in Shreveport and all over the state and  
21 so again it's not the individual organization it  
22 is the people /TH-T they represent and the people  
23 that they work with.

24 Q. So you had testified that you were  
25 engaged in the redistricting process and power

1 coalition was engaged in the redistricting  
2 process?

3 A. In the most recent.

4 A. Yes.

5 Q. Redistricting session correct?

6 A. Right.

7 Q. And so at the road show understand  
8 an at the capital every member of the power  
9 coalition who attended could turn in a card in  
10 support or opposition to any bill proposed,  
11 correct?

12 A. Correct.

13 Q. And everyone had the opportunity to  
14 provide public comment at those events?

15 A. Most of the time I mean there were a  
16 lot of people some days and so we couldn't they  
17 had to break and we couldn't get to everybody  
18 especially on the first day, but for the most  
19 part.

20 Q. Okay. And does the power coalition  
21 typically engage in the legislative process?

22 A. We do.

23 Q. On many different issues?

24 A. Yes.

25 Q. And as far as legislative activity

1 would that include encouraging the governor to  
2 vet veto bills than you were in opposition to?

3 A. Yes I mean it's add /SRAS you have  
4 the power we are the power coalition so we look  
5 for the path that will get people what they  
6 deserve and what they need.

7 Q. And in the future you would continue  
8 to fight for laws or bills that you support or  
9 oppose either support or oppose at the  
10 legislature correct?

11 A. Restate.

12 Q. So in the future let me restate  
13 that. If this enact -- the enacted map goes  
14 forward the enacted map is allowed you'll  
15 continue to fight for issues that the power  
16 coalition cares about, correct?

17 A. We will and I think the difference  
18 though that's very important that I want to  
19 continue to make is that am I working to you know  
20 move people that are excited and feel like they  
21 are living in a state that's listening to them  
22 and giving them equal voice or are they living or  
23 are they actually living in a state that like  
24 does not do that so it's one about moving  
25 disenfranchised folks which is the work we have

1 done for years so it undermines and forces us to  
2 have to do double work because we have got to  
3 reconnect to their agency as a voter.

4 Q. So for the -- the past decade you've  
5 had the previous congressional map that only had  
6 one majority maritime district correct?

7 A. Correct.

8 Q. And the power coalition was able to  
9 encourage individuals to register to vote under  
10 that map?

11 A. Yes.

12 Q. All right. And you had attempted as  
13 you had stated early you reached out and did text  
14 messages phone calls encouraging both  
15 registration and turn out, correct?

16 A. Uh-huh (affirmatively).

17 Q. And all right and you had said  
18 something earlier about candidates of choice.  
19 Are so the power coalition members does have  
20 candidates of choice?

21 A. I mean, the members that live in  
22 District two.

23 Q. All right. And District two they  
24 do?

25 A. I mean in this yes that's a

1 /PHAEURPBLGT African-American district  
2 congressional District two but I currently live  
3 in congressional district six and I do not have  
4 the opportunity to pick a candidate of choice.

5 Q. So you don't have an opportunity to  
6 elect a candidate of choice in district six  
7 that's your testimony?

8 A. Yes.

9 Q. And is your candidate of choice is  
10 that limited to any particular political party  
11 stated across way can your candidate of choice  
12 with be a conservative Republican?

13 A. My candidate anybody that is going  
14 to center the issues I care about I have a black  
15 mother I have a beautiful goofy son that's  
16 64200 pounds his voting record does not vote for  
17 anything that care about including the  
18 infrastructure that just passed he voted against  
19 that and our city is our state is come /PWHREUPBG  
20 in terms of infrastructure. And so even when it  
21 made sense he voted against it.

22 Q. But you would say a candidate of  
23 choice could be conservative and could be  
24 Republican?

25 A. Yes.

1 Q. And they could be white?

2 A. I mean it's not been my experience  
3 to date but I mean I guess it's possible.

4 Q. And just are one more question on  
5 for you on December 14th you wrote a letter  
6 stating we conducted an analysis of recompiled  
7 election result understand a /E are majority  
8 districts in the coalition maps CD2 and CD5 was  
9 re /HRAOE lie performed by a candidate to perform  
10 by black voters to prevail do you recall this  
11 letter?

12 A. Yes I don't -- I mean if you want to  
13 put it up.

14 Q. Yeah we can. It's Exhibit 9 if that  
15 helps at all my question is you mentioned  
16 analysis in there on page 2 of why was this  
17 /APBLGS never provided to the legislature?

18 A. So as we sat up in committee day  
19 after day throughout the redistricting process  
20 you know representative John self self you know  
21 asked that question and I think that part of what  
22 even in that space you know like I think it is  
23 the work is there right like maps were drawn by a  
24 nationally recognized demography whom this court  
25 has had the opportunity to talk to /E it's like

1 at the end of the day like why did we have to do  
2 the state's work for them I mean at the end of  
3 the day we were able to show what was necessary  
4 for the record and what was necessary for them to  
5 make a decision about whether or not you know,  
6 whether or not these seven maps that met all of  
7 the traditional redistricting principles that  
8 showed a second majority minority district all of  
9 those things were met and so.

10 Q. But you didn't feel the need to show  
11 that to the legislature?

12 A. Again, I mean, we worked with lots  
13 of partners and so I don't want to -- you know I  
14 mean it wasn't my decision but I do think that at  
15 the end of the day I do agree it's not our job to  
16 to do every single part I mean like we have done  
17 every single part of this process for the state  
18 to fight for African-American communities to have  
19 voice and the idea that like I got to also show  
20 you my math and show you my homework even though  
21 I do in the sense that there were seven maps  
22 submitted with that letter that show that it's  
23 possible for African-American for a second  
24 majority maritime district to honor the  
25 /TKPWROEDZ in black population which is the



1 purpose of redistricting which is to honor  
2 changes in population.

3 Q. You said the court had heard from  
4 that demography who drew that for you which one  
5 was that?

6 A. Well, I mean one of the two that's  
7 -- but either one of the two that spoke today I  
8 want to say it was Tony Fairfax but I -- but one  
9 of the two that were here today well yesterday.

10 Q. And just short just some couple more  
11 really questions how long have you lived in  
12 Baton Rouge /-FPL all my life I'm 46?

13 Q. All your life?

14 A. I'm 46.

15 Q. So /KWHURP here when kin holding was  
16 elected?

17 A. Yes.

18 Q. And Sharon broom was elected  
19 obviously?

20 A. Yes.

21 Q. And they were elected parish wide  
22 correct?

23 A. Yes.

24 Q. And was kin holding elected when  
25 East Baton Rouge Parish was a majority white?

1 A. I'm not sure.

2 Q. Okay. Thank you very much. That's  
3 all the questions I have.

4 THE COURT:

5 Any redirect /SA\*F /SAF no

6 Your Honor.

7 THE COURT:

8 All right you are free for go thank  
9 you for your helping. It's almost 540 we  
10 will reconvene at 930 but before that can  
11 you give the court a sense of whereabouts  
12 you are it's looking like that you are  
13 going to make be able to close this thing  
14 out on Friday? I have I haven't counted  
15 heads so I don't have a sense in my mind  
16 how many how many -- how many witnesses we  
17 are into your witness lists.

18 MS. KHANNA:

19 I believe we will be fine to close  
20 out on Friday Your Honor tomorrow the  
21 plaintiffs will have I would say no more  
22 than one to two relatively shortnesses and  
23 I imagine the defendants will being able  
24 to put on their case in chief in the  
25 morning.

1 THE COURT:

2 The plan tomorrow is we will convene  
3 at 930. Yeah that's correct. We will be  
4 able to convene at 930. We will break  
5 early tomorrow there's a court wide  
6 function that I'm really -- really need to  
7 go to. But I'll play it by ear I can go  
8 late I mean my goal would be to break  
9 around 330 but if we are in a spot where  
10 we need to go until four or a little after  
11 four we can -- we can do that okay but we  
12 do need to plan to break a few minutes  
13 early tomorrow. All right. Rest well.  
14 See you in the morning at 9:30 a.m.

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