

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANNE HARDING,	(3:15-CV-00131-D
GREGORY R. JACOBS,	(
MORGAN MCCOMB, and	(
JOHANNES PETER SCHROER	(
Plaintiffs,	(
	(
VERSUS	(DALLAS, TEXAS
	(
COUNTY OF DALLAS, TEXAS	(
CLAY LEWIS JENKINS, in his	(
official capacity as	(
County Judge of Dallas,	(
County, Texas, et al.	(
Defendant.	(APRIL 16, 2018

VOLUME 2

TRANSCRIPT OF TRIAL

BEFORE THE HONORABLE SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE

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

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1 VOLUME 2 - TRIAL - APRIL 16, 2018

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

3 THE CLERK: All rise.

4 United States District Court for the Northern District
5 of Texas is now in session, the Honorable Sidney A. Fitzwater
6 presiding.

7 Let us pray:

8 God save the United States and this Honorable Court.

9 THE COURT: Be seated, please.

10 Good morning, counsel and litigants.

11 Before the plaintiffs call their first witness, the
12 Court will address the matter of preadmitted exhibits.

13 Mr. Morenoff.

14 MR. MORENOFF: Thank you, Your Honor.

15 As you suggested the parties did negotiate and have been
16 able to resolve most of the admission of exhibits.17 As a result, the plaintiffs would move that the
18 following of the Plaintiff's Exhibits be admitted into
19 evidence:20 Plaintiff's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
21 12, 15, 16, 17, 18, 20, 22, 24 --22 THE COURT: If you'll stop -- slow down just a
23 little for the court reporter.

24 After 18 you skipped to what?

25 MR. MORENOFF: We skipped 19.

1 Then 20, but not 21, 22, but not 23, 24, 25, 26, 27,
2 27-C, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40.
3 This continues through 48 before we skip again. Then
4 starting back up at 55 and 56, 57, 58, 59, continuing through
5 62. Then not moving Exhibits 63 through 67, but including
6 68, 69, 70, 71, 72, 73, 74, 75, and 76.

7 THE COURT: All right. I'm going to restate for
8 the record what I believe is being offered.

9 Plaintiff's Exhibits 1 through 12 inclusive; 15 through
10 18 inclusive; 20, 22, 24 through 27 inclusive; 27-C, 28
11 through 48 inclusive; 55 through 62 inclusive; and 68 through
12 76 inclusive.

13 MR. MORENOFF: Yes, sir.

14 THE COURT: Are there any objections to any of
15 these exhibits?

16 MR. DUNN: No objection, Your Honor.

17 THE COURT: The following exhibits are admitted in
18 evidence.

19 Plaintiff's Exhibits 1 through 12 inclusive; 15 through
20 18 inclusive; 20, 22, 24 through 27 inclusive; 27-C, 28
21 through 48 inclusive; 55 through 62 inclusive; and 68 through
22 76 inclusive.

23 MR. MORENOFF: Thank you, Your Honor.

24 THE COURT: Mr. Dunn.

25 MR. DUNN: Good morning, Your Honor.

1 Defendants move admission of Exhibits 2 through 6
2 inclusive; 19, 23, 24, 26, 28, 29, 31 through 34 inclusive;
3 44 through 59 inclusive; 61 through 63 inclusive; 65 through
4 69 inclusive; Exhibit 70-A as in apple, 70-B as in boy, 70-C
5 as in cat, 72, 73, 75, 77, and 81.

6 And that's all.

7 THE COURT: Any objection?

8 MR. MORENOFF: Your Honor, there are a number of
9 those that were not on the list that we discussed. So could
10 we pause and confer a moment?

11 THE COURT: You may confer.

12 (Attorneys confer.)

13 MR. DUNN: Of that list, Your Honor, these few
14 exhibits should be omitted: 19, 23, 24, 29, and 32 through
15 34.

16 And then, finally, on Exhibit 73 there's an agreement
17 for it to be admitted, but the plaintiffs retain a relevancy
18 objection.

19 MR. MORENOFF: Yes, Your Honor, we would like that
20 to be a running objection to the relevance of that exhibit,
21 but since it's a bench trial we assume that you can disregard
22 this to the extent that that's appropriate.

23 THE COURT: All right. The Court at this time
24 admits the following exhibits: Defendant's Exhibits 2
25 through 6 inclusive; 26, 28, 31, 44 through 59 inclusive; 61

1 through 63 inclusive; 65 through 69 inclusive; 70-A, 70-B,
2 70-C, 72, 75, 77, and 81.

3 The Court also admits Defendant's Exhibit 73, and the
4 plaintiffs are given a running objection to that exhibit
5 based on relevance.

6 MR. DUNN: That concludes our offer at this point,
7 Your Honor.

8 THE COURT: The plaintiffs may call their first
9 witness.

10 MR. MORENOFF: Thank you, Your Honor.
11 We would like to then call Anne Harding to the stand.

12 THE SECURITY OFFICER: Good morning.
13 You're going to stand here and face the Judge.

14 THE COURT: Raise your right hand, please.
15 (Witness sworn.)

16 THE COURT: All right. Be seated, please. And if
17 you'll adjust the microphone where you can speak right into
18 it.

19 MS. ALVAREZ: Your Honor, may I proceed?

20 THE COURT: You may.

21 ANNE ELIZABETH HARDING

22 DIRECT EXAMINATION

23 BY MS. ALVAREZ:

24 Q. Ms. Harding, I'm going to ask you some questions.

25 I would appreciate it if you could speak slowly and into

1 the microphone so the court reporter can take down everything
2 you say. Is that all right?

3 A. Yes.

4 Q. Can you tell us your full name, please.

5 A. Anne Elizabeth Harding.

6 Q. Can you spell your last name for the court reporter.

7 A. H-a-r-d-i-n-g.

8 Q. And what is your address, Ms. Harding?

9 A. 3808 Gaspar Drive, G-a-s-p-a-r Drive, Dallas, 75220.

10 Q. And what county is that?

11 A. Dallas.

12 Q. What is your race, Ms. Harding?

13 A. White, Caucasian, Anglo.

14 Q. Do you happen to know what commissioner court district
15 that you live in?

16 A. Yes.

17 Q. What district is that?

18 A. I live in district 4, Elba Garcia's district.

19 Q. And did you vote for Ms. Elba Garcia?

20 A. I did not.

21 Q. Would you vote for Commissioner Garcia if she switched
22 parties?

23 A. I would not.

24 Q. Why is that?

25 A. Her policies and positions don't align with my personal

1 views on most issues.

2 Q. So did you vote for her opponent in the race?

3 A. I did.

4 Q. Was that person a Republican, a Democrat?

5 A. I believe they were Republican.

6 Q. Would you ever vote for a Democrat?

7 A. I would.

8 Q. What would be required for you to vote for a Democrat?

9 A. For that person to have fiscally conservative
10 policies.

11 Q. I'm going to bring you a map, Ms. Harding. It's
12 Plaintiff's Exhibit 11 for the record.

13 I'm going to show it to you, and I'd like you to point
14 out where your house is.

15 A. Okay.

16 Just point?

17 My house is here in this orange area.

18 MS. ALVAREZ: Let the record reflect the witness is
19 pointing to district 2 in the Plaintiff's proposed map right
20 here.

21 THE COURT: Any objection?

22 MR. DUNN: No.

23 THE COURT: The record will so reflect.

24 MS. ALVAREZ: Thank you for coming today,
25 Ms. Harding.

1 Pass the witness.

2 THE COURT: Mr. Hebert.

3 CROSS EXAMINATION

4 BY MR. HEBERT:

5 Q. Good morning, Ms. Harding.

6 A. Good morning.

7 Q. My name is Gerald Hebert. I'm one of the attorneys for
8 the defendants.

9 You have a political background working for the
10 Bush-Quayle campaign in 1992?

11 A. That's correct.

12 Q. And you did political communications, correct, for them?

13 A. Yes.

14 Q. You also worked for Republican Congressman Pete Sessions
15 as his field director at one time?

16 A. That's correct.

17 Q. All right. And are you associated in any way with the
18 Equal Voting Rights Institute that the lawyers who have
19 brought this case purport to represent?

20 A. No.

21 Q. You're not.

22 Do you know if it's a membership organization?

23 A. I do not know.

24 Q. Do you know if it has a board of directors?

25 A. I do not know.

1 Q. Okay. Isn't it true that when given the option between
2 a Republican candidate and a Democratic candidate you always
3 vote Republican?

4 A. No.

5 Q. If we could bring up your deposition, page 13, lines 21
6 through 24.

7 MR. HEBERT: This is a video deposition, Your
8 Honor.

9 (Video playing.)

10 "A. I lived in a variety of districts that are primarily
11 represented by Democrats.

12 "Q. Okay. Which district do you live in now?"

13 MR. HEBERT: We'll come back to that. I think I
14 pulled up the wrong --

15 (Video playing.)

16 "Q. When there is a Democrat and a Republican running, who
17 do you normally vote for?

18 "A. I always vote for the Republican if that's an option."

19 MR. DUNN: For the record that was page 14, lines
20 21 through 24.

21 BY MR. HEBERT:

22 Q. Now, you said that you lived in Commissioner Garcia's
23 district, correct?

24 A. That's correct.

25 Q. Did you ever communicated directly with her?

1 A. No.

2 Q. Have you ever communicated with anybody on her staff?

3 A. No.

4 Q. Have you ever asked for any particular governmental
5 service from Commissioner Garcia?

6 A. No.

7 Q. Did you ever asked for any governmental service from
8 anybody on the county commission?

9 A. No.

10 Q. Have you asked for any governmental services from the
11 county judge?

12 A. No.

13 Q. Now, there was a redistricting process in 2011 -- are
14 you aware of that -- for the county commission?

15 A. I am aware of that, yes.

16 Q. And you -- are you aware of the fact that there were
17 public hearings held around that time about redistricting?

18 A. Yes.

19 Q. Did you -- you did not participate or attend any of
20 those hearings, correct?

21 A. I did not participate.

22 Q. And did you attend any?

23 A. No.

24 Q. Did you at that time communicate in any way with anybody
25 on the commissioners court about redistricting?

1 MS. ALVAREZ: Objection, Your Honor. This is
2 getting far outside the scope of direct.

3 THE COURT: I'll overrule the objection at this
4 point.

5 BY MR. HEBERT:

6 Q. You need me to repeat the question?

7 A. Yes.

8 Q. Okay. You did not contact any of the county
9 commissioners or the county judge about redistricting, did
10 you?

11 A. No.

12 Q. And nothing prevented you from participating or
13 communicating with the county commissioners, correct?

14 A. Correct.

15 Q. Now, is it your testimony that you have concerns about
16 the enacted county commission redistricting plan because it
17 doesn't elect enough Republicans?

18 A. No.

19 Q. Isn't it true that you believe the fairer plan would be
20 one with two Republicans elected?

21 A. No.

22 MR. HEBERT: If we could bring up page 17, lines 25
23 to page 18, line -- through lines 23.

24 (Video playing.)

25 "Q. How would you change it to make it amenable to your --

1 what you think would be a fair district? I mean a fair
2 district plan?

3 "A. Like I can't really speak to specific district lines.

4 "Q. Uh-huh.

5 "A. I think it would be more fair if there were two
6 districts where Republicans could be elected.

7 "Q. Okay. Now, let me ask you this. Is it -- is it -- do
8 you agree or disagree that generally the Republicans or
9 racial make-up of Republicans are normally Anglos and the
10 racial make-up of Democrats are more minorities? would you
11 agree with that?

12 "A. Do you mean Republican and Democrat voters?

13 "Q. Yes.

14 "A. I would agree with that statement.

15 "Q. So, in other words, if we wanted to have -- I guess what
16 you're talking about is another Republican precinct -- you
17 would want a second precinct that's got more Republicans in
18 it. Is that correct?

19 "A. A second -- yes. A second precinct that has more
20 Republicans in it.

21 "Q. Okay. And in your -- in your opinion if we had another
22 commissioner precinct that had more Republicans that would be
23 a fairer redistricting plan; is that correct?

24 "A. Yep."

25 BY MR. HEBERT:

1 Q. So you testified previously that the redistricting plan
2 for the Dallas County Commissioners Court should have a
3 second Republican leaning precinct, did you not?

4 A. Yes.

5 Q. Okay. And you believe that the current map -- the map
6 that's being challenged in this lawsuit -- you believe that
7 that map was drawn to favor Democrats in Dallas County,
8 correct?

9 A. Yes.

10 Q. Would you support a redistricting plan for the Dallas
11 County Commission if a plan was developed wherein Hillary
12 Clinton if you looked at her election returns in the four
13 districts -- If Hillary Clinton carried all four districts in
14 a plan, would you favor that kind of a plan?

15 would you support it?

16 A. I don't know. I don't know what that means.

17 Q. All right. Well, let me see if I can clarify it for
18 you.

19 So you know that Hillary Clinton ran for President of
20 the United States in 2016, correct?

21 A. Yes, I'm aware of that.

22 Q. And we have election returns by precinct for that race,
23 correct?

24 A. Yes.

25 MS. ALVAREZ: Objection, Your Honor, relevance.

1 This is a different level of government.

2 THE COURT: Okay. overruled at this point.

3 BY MR. HEBERT:

4 Q. So if we took those election returns and we looked at
5 them and we looked at a new map with four districts in it and
6 in that new map, Hillary Clinton's 2016 race, she carries all
7 four of the commissioner districts, you would not support
8 that plan, correct?

9 A. I really don't know. I don't have the knowledge to
10 answer that question.

11 Q. why not?

12 A. That seems like a detailed demographic question about
13 several different levels of government.

14 Q. well, I'm asking about a county commission plan -- a
15 hypothetical county commission plan that has four districts,
16 just like the current plan, but that it's a -- the districts
17 were drawn in such a way that Hillary Clinton carried all
18 four.

19 would you support that kind of a plan?

20 I mean, Hillary Clinton was a Democrat, correct?

21 A. Hillary Clinton was a Democrat.

22 Q. So the Democrat carries all four districts. would you
23 support that plan?

24 You wouldn't, would you?

25 A. I would have to see the plan.

1 Q. Okay. would you support a plan if it had four districts
2 where Democratic voters could elect all four of the
3 commissioners?

4 A. No.

5 Q. You would not?

6 Okay. Do you know Lupe Valdez, who that is?

7 A. I know who she is, yes.

8 Q. She's the sheriff, right, former sheriff?

9 A. Yes.

10 Q. All right. So if there was a redistricting plan drawn
11 and in all four of the districts for Dallas County Commission
12 Lupe Valdez, a Democratic candidate, would win all four
13 districts, you wouldn't support that kind of a plan, would
14 you?

15 A. I think you're talking about two different things.
16 There are a lot of districts in which a Democrat wins at one
17 level and a Republican at another level. I don't think you
18 can say because a Democrat wins at a federal level that a
19 commissioner would win at a local level.

20 Q. So you would not -- if Democratic voters elected
21 Democratic candidates in all four districts --

22 MS. ALVAREZ: Objection, Your Honor, cumulative.

23 MR. HEBERT: Excuse me. I hadn't finished the
24 question.

25 THE COURT: You may complete your question.

1 BY MR. HEBERT:

2 Q. You would not support that kind of a remedy in this
3 case, correct?

4 A. I would have to see the map.

5 Q. So you would have to see the map even if the map was
6 shown to you and it showed that Democratic voters would elect
7 all four of the commissioners in that remedy map? You would
8 have to see that map in order to know whether you support it?

9 A. Yes.

10 Q. Okay. Have you seen the remedy map or the proposed
11 demonstration map that you're putting forward in this case?

12 A. Yes.

13 Q. All right. Have you looked at the election returns at
14 all to see how it performs in the districts?

15 A. No.

16 Q. All right. So you have no idea whether or not it elects
17 Democrats or Republicans in any of those districts, correct?

18 A. No.

19 MR. HEBERT: That's all I have.

20 Thank you.

21 REDIRECT EXAMINATION

22 BY MS. ALVAREZ:

23 Q. Ms. Harding, defense counsel read you or played a part
24 of your deposition where you said you would like to see
25 districts where Republicans could win. What did you mean by

1 that?

2 A. I'd like to see more fair districts for the
3 Commissioners Court where it's not a certain outcome that a
4 Democrat will win.

5 Q. And when you're talking about Democrats and Republicans
6 in the part of your deposition, did you start by making that
7 comparison or was that only after defense counsel asked you
8 if white people voted Republican and African Americans and
9 Hispanics voted Democrat?

10 A. After.

11 Q. And when you say that you would vote for a Democrat,
12 have you ever done that?

13 A. Yes.

14 Q. Who did you vote for that was Democrat, if you don't
15 mind sharing with us?

16 A. I voted for my city councilman who -- Adam Medrano, who
17 is a Democrat, most recently. I voted for Mark Veasey, who
18 is my Congressman.

19 Q. Do you think the way the maps are drawn has anything to
20 do with whether or not the sheriff wins a countywide race?

21 A. No.

22 Q. Do you think that how a presidential candidate performs
23 countywide has anything to do with how a Commissioners Court
24 map might be drawn?

25 A. No.

1 Q. Do you think that other levels of government in terms of
2 election results have anything to do with a Commissioners
3 Court map?

4 A. No.

5 Q. When you make your choices -- when you vote and you make
6 your choices, do you consider each level of government
7 differently when making your choice?

8 A. Yes.

9 Q. So you might vote for a Republican in one race and a
10 Democrat in another?

11 A. That is correct.

12 Q. So what did you mean in your deposition when you said
13 you always vote for the Republican if that's an option?

14 A. For the most part Republican candidates better align
15 with my personal politics, but there have been times when in
16 fact the Democrat is in fact more conservative and aligns
17 better with what I would like to see done at a certain level
18 of government.

19 Q. Defense counsel asked you if you had ever availed
20 yourself of county services, and you have not. Is that
21 right?

22 A. I have not.

23 Q. But do you have specific complaints about the way the
24 county commissioners are currently running the government?

25 A. Yes.

1 Q. Can you give us an example of one of those?

2 A. I think an example would be Parkland Hospital and the
3 way that the county commissioners are administering the
4 hospital and spending the money on it.

5 Q. And does the way the county government -- the way the
6 county government is currently run, do you feel like your
7 commissioner, Commissioner Garcia, gives you a voice?

8 A. No.

9 Q. Would you need to discuss policy matters with her or her
10 staff to make that decision?

11 A. No.

12 MS. ALVAREZ: Thank you, Ms. Harding.

13 THE COURT: Recross?

14 RECROSS EXAMINATION

15 BY MR. HEBERT:

16 Q. Ms. Harding, you testified just on redirect that you
17 believe that a more fair district plan would be one where
18 Democrats wouldn't always win. You'd like to see more
19 Republicans. Is that basically what you said?

20 A. Correct.

21 Q. Okay. So as I understand your concern about the current
22 plan, it's a political concern. You'd like to see a new plan
23 where Republicans could get elected, correct?

24 A. I would like to see a more balanced map.

25 Q. And what does that mean, more Republicans than just one?

1 A. That either a Republican or a Democrat could get
2 elected. I'd like to have a choice as a voter.

3 Q. So under the current map when you go and vote, there's a
4 Democrat and a Republican on the ballot, correct?

5 A. Yes.

6 Q. And you cast the ballot?

7 You have a choice?

8 You have a choice between the two candidates?

9 A. I have a choice between the two candidates, but it is a
10 foregone conclusion which candidate will win in each
11 district.

12 Q. I see what you're saying.

13 But your concern with the current plan then is a
14 political concern, correct?

15 A. My concern is that I do not have a candidate of my
16 choice to vote for in my district.

17 Q. And you mentioned Parkland Hospital. Have you contacted
18 any county commissioners about Parkland Hospital?

19 A. No.

20 MR. HEBERT: That's all I have.

21 THE COURT: Any further questions of the witness?

22 MS. ALVAREZ: Briefly, Your Honor, if that's all
23 right.

24 REDIRECT EXAMINATION

25 BY MS. ALVAREZ:

1 Q. Ms. Harding, when you say that you have a problem with
2 the way the county government runs Parkland Hospital,
3 you've -- defense counsel asked you if you'd ever contacted
4 your commissioner, and you haven't. Is that correct?

5 A. I have not.

6 Q. Is the administration of Parkland Hospital something
7 that's often debated and discussed at meetings?

8 A. I don't know.

9 Q. Is it your understanding that your concern about
10 Parkland Hospital and spending would be listened to by your
11 commissioner?

12 A. I don't believe I would change her position on
13 anything.

14 Q. If you thought you could change her position, might you
15 consider contacting her?

16 A. If I thought I could change her position, I would
17 contact her.

18 Q. When you say you'd like more competitive districts where
19 a Republican or a Democrat would win, is that -- do you mean
20 that you would like to see a district where the elected
21 candidate is not a foregone conclusion against you?

22 A. Correct.

23 Q. In your Commissioners Court district, do you feel it's
24 possible for the candidate of your choice to ever prevail?

25 A. I do not think that the candidate of my choice would

1 ever prevail in my current district.

2 Q. You said in your deposition when defense counsel asked
3 you that you believe most Anglos are probably Republican. Is
4 that an accurate statement of your viewpoint?

5 MR. HEBERT: Your Honor, I object. I did not ask
6 that question.

7 THE COURT: Overruled.

8 THE WITNESS: Could you repeat the question,
9 please?

10 MS. ALVAREZ: Yes.

11 BY MS. ALVAREZ:

12 Q. Is it an accurate statement of your viewpoint that most
13 Anglos are Republican?

14 A. From my personal experience, yes.

15 Q. So as an Anglo the candidate of your choice is often
16 Republican?

17 A. Often Republican, yes.

18 Q. But not always?

19 A. Not always.

20 Q. But the way your Commissioners Court district is drawn
21 now, is there a Democrat elected?

22 A. There is always a Democrat or a liberal elected, yes.

23 Q. And as an Anglo in that district, do you feel like the
24 candidate who wins that district is chosen by a majority of
25 Anglo voters?

1 A. No.

2 Q. What types of voters do you think elect your
3 commissioner?

4 A. I believe that my commissioner is primarily elected by
5 Hispanic voters.

6 Q. And when you said you voted for Mark Veasey, did he have
7 a Republican opponent?

8 MR. HEBERT: Your Honor, none of this was part of
9 my recross. This is all stuff that happened way before.

10 THE COURT: If it relates to the recross you may
11 proceed. Otherwise, I'll sustain the objection.

12 BY MS. ALVAREZ:

13 Q. Can you explain -- I'm sorry.

14 Can you explain, Ms. Harding, what type of map -- what
15 do you think -- what type of map do you think would better
16 offer you an option?

17 A. I would like to see a map in which districts -- all four
18 districts are competitive and balanced and voters have a
19 choice.

20 Q. By that do you mean a map where Anglos would have a
21 choice?

22 A. Yes.

23 Q. And to have a choice does that mean that the candidate
24 has a chance of winning or simply that a candidate an Anglo
25 might choose would be on the ballot?

1 A. That my candidate would have a chance of winning.

2 Q. So if you had a candidate that you thought you and other
3 Anglos in your district could vote for, but that candidate
4 could never win, would that be a choice in your -- in your
5 mind?

6 A. I think that I have to have a choice of a candidate that
7 might be elected to office.

8 MS. ALVAREZ: Thank you, Ms. Harding.

9 THE COURT: Recross?

10 MR. HEBERT: Nothing further, Your Honor.

11 THE COURT: You may step down. You're excused.

12 Thank you.

13 MR. DUNN: Your Honor, before we take up the next
14 witness we'd like to invoke the rule. I think most of the
15 folks in here are parties or experts, but there may be a few
16 who are not. There are some folks we don't recognize.

17 THE COURT: I'll ask counsel to assist the court in
18 enforcing the rule.

19 As I understand it, Mr. Dunn, you do not object to
20 experts remaining in the courtroom; is that correct?

21 MR. DUNN: That's correct.

22 Or parties.

23 THE COURT: All right.

24 MR. MORENOFF: Your Honor, currently in the room I
25 don't know everyone on this side of the courtroom, but on

1 this side of the courtroom we seem to have the four
2 plaintiffs, an expert, a paralegal for the plaintiffs, and a
3 political reporter.

4 THE COURT: All right.

5 MR. DUNN: And we similarly only have parties and
6 experts opposing counsel.

7 THE COURT: That's fine.

8 The plaintiffs may call their next witness.

9 MR. MORENOFF: Thank you, Your Honor.

10 For our next witness the plaintiffs will then call
11 Dr. Peter Morrison.

12 (Witness sworn.)

13 THE COURT: All right. Be seated, please. And if
14 you'll adjust the microphone where you can speak into it.

15 MR. MORENOFF: Your Honor, as you suggested at the
16 pretrial conference, we intend to in place of direct
17 examination approach the witness, hand him a copy of his
18 expert -- his initial expert report and allow him to give a
19 brief summary to the court of what he has done and concluded,
20 if that's all right.

21 THE COURT: Any objection?

22 MR. DUNN: No objection. But you are planning to
23 do a Q and A?

24 He's not going to just give a speech, right?

25 MR. MORENOFF: It was my understanding that that

1 was in fact the court's preference was that he simply have a
2 brief introduction of the expert, but we can do so through
3 questions if that's what you prefer.

4 MR. DUNN: Whatever the court prefers.

5 THE COURT: I think a summary is fine, and then
6 he'll be subject to cross-examination.

7 And then on redirect, it would be question and answer.

8 MR. MORENOFF: Of course.

9 THE COURT: All right. You may approach.

10 THE WITNESS: Thank you.

11 May I proceed, Your Honor?

12 THE COURT: You may.

13 PETER A. MORRISON

14 DIRECT EXAMINATION (By Narrative)

15 THE WITNESS: I have before me Plaintiff's Exhibit
16 Number 68 which is my expert report of Peter A. Morrison.
17 And I'm going to briefly cover the major points, staying well
18 within 15 minutes.

19 I have a number of points about the enacted plan that
20 derive from my demographic analysis. And I should say that I
21 have put together the data for both the enacted plan and the
22 remedial plan from the 2010 full count of the population in
23 Dallas County and also supplemented that with data from the
24 American Community Survey, which furnishes the additional
25 information for discerning the composition of eligible

1 voters. That is to say, persons 18 and older who are
2 citizens.

3 To summarize my opinions about the defendants' enacted
4 plan, I regard it as not a fairly drawn plan. I believe it
5 is a plan that clearly shows the statistical footprint of a
6 plan in which predominant emphasis was given to race. This
7 is apparent in the choices that were made in configuring the
8 boundaries of the districts which effectively disenfranchise
9 at least one of every four Dallas County white voters.

10 And when I say "disenfranchise," I mean it applies the
11 classic mechanisms of packing and cracking. Packing being
12 concentrating white voters in this case excessively within
13 one district and spreading the other white voters more or
14 less evenly across three other districts so that they are
15 submerged within those districts and they -- they can be more
16 readily ignored or at least they are less influential.

17 There is also clear-cut evidence that the -- those who
18 drew the boundaries of this plan subordinated numerous
19 traditional redistricting criteria.

20 Most important I think is the clear evidence that -- I
21 should say the clear pattern in the data that show that they
22 disregarded established communities of interest. They paid
23 no heed whatsoever to the constitutionally protected
24 principle that each citizen's vote should carry about the
25 same weight as any other citizen, regardless of where that

1 citizen happened to reside, which district.

2 Turning to the remedial plan, which I formulated, I
3 believe its significance here is that it demonstrates that it
4 is feasible to create a fairly drawn plan that avoids the
5 impermissible forms of vote dilution that are apparent in the
6 enacted plan and also it demonstrates that it is feasible as
7 well at the same time to better respect the numerous
8 traditional redistricting criteria that were disregarded by
9 those who drew the enacted plan.

10 Specifically, the remedial plan that I drew avoids
11 diluting the votes of white voters through packing or
12 cracking. Rather, it has the effect of empowering white
13 citizens in each of two districts. And overall I think it's
14 clear from the data that I have that -- that I put together
15 and tried to make the case that over all the remedial plan
16 allocates political power in closer proportion to each racial
17 and ethnic group's presence among eligible voters in Dallas
18 County, that is to say, it empowers Hispanic citizens, it
19 empowers black citizens and it empowers white citizens in
20 closer proportion to their presence in the electorate.

21 I won't go into the details of the established
22 communities of interest other than to say that it's a
23 somewhat complicated story, and it takes a bit of
24 familiarization with the maps to see where the pattern
25 emerges, but basically the established communities of

1 interest that demographers such as myself recognize are those
2 that are defined by the census bureaus as census places. And
3 a census place can be anything from an incorporated city to
4 an incorporated town to an unincorporated community that is
5 commonly recognized as a place name that people when they
6 hear the name they say I know what -- what you're referring
7 to on the map.

8 And it's clear that the boundaries of the enacted plan
9 have been drawn in such a way as to do much more than simply
10 add population to districts that need to have more population
11 or subtract population from districts that are overpopulated.

12 There are instances where there are switches in one part
13 of the -- of the boundary that add population and at another
14 point in the boundary of the same community population is
15 subtracted. That is to say, there is an interchange of
16 population that would be unwarranted when the simple need is
17 to boost the population or -- or lower the population.

18 I have tabulated some of the instances and tried to show
19 that there is a statistical footprint of drawing boundaries
20 in such a way as to do much more than simply reallocate
21 population.

22 I might just take a moment -- Let me stop here and ask,
23 Your Honor, if you have any questions about anything or you
24 want me to go back over anything? Or may I proceed just to
25 give a bit of context about the last two decades of growth in

1 the county?

2 THE COURT: You may continue.

3 THE WITNESS: All right. Very briefly, Dallas
4 County, as you know, is a very rapidly growing county, and in
5 the process of population growth there has been a -- a -- a
6 realignment of the composition of the electorate that is
7 occurring gradually, and it is marked by a very gradual
8 diminishment in the proportion of eligible voters who are
9 white and a very slight increase over time in the proportion
10 who are black and a somewhat more rapid increase in the
11 proportion who are Hispanic.

12 And table 1 is -- is on page 3, documents the changes in
13 the composition of these groups. I'm not going to reiterate
14 the numbers, but basically those are what those numbers show.

15 I would like to turn to table 2, which is on page 6,
16 which is the heart of what I submit as the critique that I
17 made of the defendant's enacted plan, and in that enacted
18 plan it shows that district 2 was a district in which 69.8
19 percent of the eligible voters are white which is far more
20 concentrated -- a far higher percentage than would be
21 necessary for white voters to elect their favored candidates
22 of choice.

23 District 3 has a 52.3 percent black majority, which
24 is -- it's over 50 percent, but not by much, and I would say
25 it's -- it probably meets the minimum standard of the voting

1 Rights Act, but it's not certainly as strong as it could be
2 in order to assure blacks the ability to elect candidates of
3 their choice.

4 And in District 4, Hispanics constitute 37.1 percent of
5 the eligible voters.

6 And that would be regarded as an influenced district, in
7 my view.

8 The evidence of packing and cracking is pretty clear.
9 way too many -- I should say a far higher proportion of
10 voters in District 1 -- in District 2 are -- are white, and
11 if one looks at Districts 1, 3, and 4, none of these
12 districts reaches more than 42.8 percent white. So whites
13 have been scattered across those three districts.

14 Figure 2, shows where boundaries are split. I would
15 just -- I'm not going to go into the details unless you have
16 any questions on that, but I would just call attention to one
17 of the many divisions of -- of incorporated cities.

18 The City of Garland is -- I characterize that informally
19 as it underwent a triple amputation because there are pieces
20 of it that have been allocated to three separate districts.
21 And one looks at the map and wonders what was motivating
22 that.

23 I'd like to touch very briefly on the point about
24 devaluation of votes cast by whites and blacks, and this has
25 to do with the Supreme Court -- the Supreme Court's

1 determination of the Equal Protection Clause of the
2 Fourteenth Amendment, which mandates that individuals' votes
3 be equally weighted within a districting plan, typically
4 referred to as the one person one vote mandate.

5 And this is -- this has been -- this reflects an
6 unresolved tension within the law because when one does
7 redistricting based on total population, one may end up with
8 a distribution of eligible voters that is not exactly equal.
9 And, in fact, it may be so unequal that one finds one's self
10 with a situation where a vote cast in one district carries
11 more weight than a vote cast in another district.

12 And my belief here is that in doing redistricting and
13 balancing the traditional redistricting criteria that
14 demographers such as myself work with, that one should at
15 least take account of the possibility that votes are being
16 devalued and one should avoid an unnecessarily extreme
17 imbalance. That is to say, it's not something -- it's not a
18 problem you can cure, but it's a problem you can recognize --
19 a potential problem you can recognize as a byproduct of
20 redistricting and try to avoid an unnecessarily extreme
21 imbalance in the weight that a vote carries in one district
22 versus another.

23 The key features of the remedial plan that I have
24 constructed are that it distributes the county's total
25 population among the four districts, and it distributes

1 white, black, and Hispanic eligible voters among the four
2 districts in a fashion that I think accords with the
3 requirement that one balance as best as one can the
4 recognized traditional redistricting criteria. And in table
5 3 I have presented the remedial plan.

6 And if Your Honor will permit me to do so, I'd like to
7 just walk you through table 3.

8 MS. ALVAREZ: Your Honor, the screen appears to be
9 frozen.

10 I can't put the map on the screen.

11 THE WITNESS: All I need is table 3.

12 MR. MORENOFF: Do we have table 3 for you?

13 THE WITNESS: I see it on my --

14 MS. ALVAREZ: Your Honor, the screen appears to be
15 frozen. I can't put the map on the screen. I have it on the
16 screen, but what's on the screen is not what's on the
17 computer. It froze on whatever table I was showing, and it
18 won't let me change.

19 MR. MORENOFF: I think I've got it from here.

20 MS. ALVAREZ: Well, you have to move it to the
21 screen. The screen is showing a frozen table.

22 MR. MORENOFF: Of table 3?

23 MS. ALVAREZ: No.

24 Your Honor, do you see table 3 remedial plan? Is that
25 what you see?

1 THE COURT: Yes.

2 MS. ALVAREZ: But he wants the map.

3 MR. MORENOFF: No, doesn't yet.

4 MS. ALVAREZ: Not yet?

5 THE COURT: Go ahead, Mr. Morenoff.

6 THE WITNESS: I'm sorry. It's not table 3.

7 The table that I want to go to is table 5. I apologize.

8 Hold on. Hold on.

9 MR. MORENOFF: Yes.

10 THE WITNESS: I'm sorry. It is table 3. It reads
11 remedial plan.

12 MR. MORENOFF: You do want table 3?

13 THE WITNESS: I apologize.

14 Table 3 is the remedial plan that I formulated, and if I
15 can just draw your attention to the -- the center panel,
16 which says "total deviation from ideal," that means -- This
17 is a basic parameter which judges the degree to which the
18 total population is equally distributed among the four
19 districts, and that means that there is on a scale of 1 to 10
20 percent, which is sort of the permissible range under --
21 without having a further explanation. This plan registers
22 4.29 as the total deviation for ideal. Whereas the enacted
23 plan I think is around 7 or 8, which is on the high side.

24 The first point is that my remedial plan achieves a
25 closer balance of total population.

1 Secondly, it cures insofar as possible the impermissible
2 aspects of the enacted plan, first of all, by creating a
3 district -- creating two districts -- This is in the bottom
4 panel. District 2 and district 4, in which if you look under
5 the column white you see that district 2 has a 65.2 percent
6 share of total CVAP, which is eligible voters, citizens
7 voting age population.

8 And also in district 4 whites constitute 55.1 percent.

9 So district 2 is lower than the one white district in
10 the enacted plan, 65.2 percent, and district 4 provides,
11 again, a majority for whites.

12 In district 3, we see that blacks are 56.8 percent of
13 eligible voters.

14 You recall that in the enacted plan, I think it was
15 around 52, 53 percent. So 56.8 percent in my judgment is a
16 strong majority but not one in which blacks are packed in
17 any -- to any degree.

18 And finally, looking at district 1, under the Hispanic
19 column, we see that Hispanics who here are 37.6 percent of
20 eligible voters -- and that compares with 37.1 percent in the
21 enacted plan -- they have a very slightly stronger share
22 here. It's just a fraction of a percentage point. But they
23 also enjoy the prospect of forming any number of possible
24 coalitions. 37.6, if one were to add a bit of the 19.1
25 percent in that district who are black or some of the 38.0

1 percent who are white, if some kind of a coalition were put
2 together from any of these buckets of voters finding common
3 cause, that's a district in which Hispanics would be able to
4 put together a majority.

5 So they have not only a strong influence district but
6 one that certainly holds out the possibility of building
7 coalitions across racial and ethnic lines in any possible
8 way, given the combination that you have here.

9 I would also point out that the fact that -- again,
10 under the column that is headed white at the bottom, it says
11 45.8 percent. 45.8 percent is the share -- is whites' share
12 of all eligible voters in the county. Not quite 50 percent,
13 and diminishing year by year by a fraction of a percent.
14 According to my data it's 45.8 percent. The latest data
15 would probably show it's 45. something lower percent. And
16 over a period of 10, 12, 15 years, 45.8 is probably going to
17 sink below 40 percent. That would be my expectation given --
18 given the direction of trends.

19 But right now, if there's one group -- if there is one
20 racial group in the county that would warrant two districts
21 in which they enjoyed a majority, it would be whites. And if
22 there are other groups that would warrant one district, they
23 would be blacks and Hispanics.

24 And most important is that there is no -- I shouldn't
25 say there is no, but there is no unnecessary concentration of

1 one group or another group in any district given the need to
2 balance numerous other criteria, such as avoiding splitting
3 communities of interest and respecting giving some weight to
4 the fact that one doesn't want to have votes that are
5 unnecessarily unequal going from one district to another.

6 Do you -- would you like me to go back over anything,
7 Your Honor? Or may I proceed to the final points I want to
8 make?

9 THE COURT: You may proceed.

10 THE WITNESS: All right. I'm going to turn to
11 table 5, which is on page 16. And in this table I've tried
12 to summarize as concisely as I can the dimensions of
13 comparison that I regard as relevant here.

14 And you'll see in this table there is a column headed
15 the enacted plan, and there is a column headed the remedial
16 plan.

17 The first panel shows the shares of CVAP, which is the
18 shares of eligible voters.

19 There is a black control district in the enacted plan
20 where control is at a 52.3 percent level, which is -- I would
21 regard that as minimally satisfactory to -- to probably
22 assure blacks the ability to elect candidates of their choice
23 if they turned out at a sufficiently equal rate to other
24 groups.

25 Conversely, the remedial plan boosts that to 56.8

1 percent. So that's a certain degree of control, I think.
2 Blacks definitely control district 3 in my remedial plan.

3 The next row down, Hispanic. Hispanics have influence
4 in both plans. 37.1 in the enacted plan. 37.6 in the
5 remedial plan. So my remedial plan is -- is marginally
6 better. Not enough to make a big point about, but it's not
7 marginally worse.

8 The white control district that was at 69.8 percent in
9 the enacted plan -- and I regard that as evidence of
10 packing -- I was not able to completely unpack the degree to
11 which whites are concentrated somewhere, but I was able to
12 lower it to 65.2 percent in my district 2 from 69.8.

13 And I was able to in the process of balancing these
14 criteria boost the white concentration from 42.8 percent,
15 which is no more than an influence district, to 55.1 percent
16 in my district 4, which makes it another control district.

17 The next row is the total population deviation from
18 ideal, and I noted before that the case law pretty much says
19 if it's 10 percent or over you need to have an explanation,
20 like there's a river in the way or there's a mountain range
21 that prevents you from equalizing population. In this case
22 the wiggle room from 0 to 10 percent, I've lowered the 7.6
23 one in the enacted plan to the 4.29 in the remedial plan.

24 And the communities of interest, I want -- I
25 characterize these comparisons as a kind of statistical

1 footprint of intent. I can't say what was going on, but it's
2 clear that while the number -- the number of communities that
3 were split in each plan is about the same -- 11 versus 10,
4 not a significant different, although 10 is less than 11 in
5 the case of the remedial plan -- the total number of separate
6 splits -- that is to say communities that are split at
7 multiple points along their boundaries, and in a few
8 instances are offsetting splits that are adding population at
9 one point and taking it out at another -- the enacted plan
10 has 16 of those separate splits as best as I can tell, the
11 remedial plan has only 12. And I regard that as -- as sort
12 of pretty clear evidence that somebody was trying to
13 systematically accomplish another purpose when they were
14 drawing the boundaries, other than simply equalizing
15 population while respecting different communities of
16 interest.

17 So that's what I have to say, Your Honor.

18 And if you have any questions or if you want me to
19 return to anything, I'm happy to do so.

20 MR. MORENOFF: Then we will pass the witness.

21 THE COURT: Cross-examination.

22 CROSS EXAMINATION

23 BY MR. DUNN:

24 Q. Hello, Dr. Morrison. I'm Chad Dunn. We've met once
25 before; is that true?

1 A. That's true.

2 Q. Safe travels from Nantucket, I hope?

3 A. Yes.

4 Q. All right. I'm going to start off with the maps, and
5 what I'd like to do is kind of show them to the Court.

6 You're sort of the first witness. Be helpful to take a look
7 at them.

8 So I'm going to take you to Plaintiff's --

9 MR. DUNN: Oops. It's going to be just one second,
10 Your Honor. I've got a bit of a technical problem.

11 (Pause.)

12 MR. DUNN: All right

13 BY MR. DUNN:

14 Q. I'm going to show you what's been previously admitted as
15 Defendant's Exhibit 70-A. You'd agree with me, sir, that
16 this is the benchmark map. In other words, this is the map
17 that the commissioners ran under in the previous decade,
18 right?

19 A. As best as I can tell.

20 Q. It's been admitted as such without objection. So I'm
21 not trying to trick you. But these are the lines that
22 generally existed before this redistricting process was
23 undertaken, fair enough?

24 A. Fair enough.

25 Q. You can see it generally has a pattern, does it not, in

1 terms of what I guess I would refer to as an X pattern in
2 terms of how the population in the county is divided in four
3 different quadrants that are roughly triangles. That true?

4 A. Yeah. You could characterize it that way.

5 Q. And so under the benchmark map, there was essentially --
6 towards the end of the decade there was a district that had
7 elected a Hispanic candidate of choice and that's the one in
8 yellow, the one to the west. Is that true?

9 A. I'll take it on your faith. I haven't studied the prior
10 map. If you say so, I believe it.

11 Q. I similarly assume you can't confirm for us there was a
12 district that elected an African-American candidate of choice
13 to the south, the red district?

14 A. I was not asked to look back on the history of elections
15 prior to what was going on. So this is all new to me, but
16 I'll take your word for it.

17 Q. So you've not been able to inform us about the electoral
18 outcomes in the remaining two districts?

19 A. Correct.

20 Q. But I assume you put some study into the map that Dallas
21 County, Texas's elected officials adopted. Is that true?

22 A. Correct.

23 Q. So I'll take you to that now, that's Defendant's Exhibit
24 70-B which I now have on your screen. I'll try to make it a
25 little larger.

1 You recognize this as the map the commissioners adopted
2 in 2011 that's at issue in this case. Is that true?

3 A. Again, I'll take your word for it. I'm looking at the
4 figure 2 in my report, and it looks to be the same, yes.
5 Different -- different color scheme, but I can see the -- you
6 know, the boundaries.

7 Q. All right. And, of course, the analysis and opinions
8 that you have given us today, they only have great weight if
9 you've taken the time to substantially study the map under
10 concern here. Would you agree?

11 A. With respect to the boundary splits, yes, but that's
12 only one -- one part of my analysis and one -- one source of
13 information that I've relied on in forming my opinion.

14 So, yeah, for that particular point, yes.

15 Q. All right. And so under the district map that the
16 commissioners adopted, again we see a district to the west
17 and roughly a similar shape as it had been in the previous
18 decade. Is that true?

19 A. Again, I did not look at the previous decades. I'll
20 take your word for it though.

21 Q. We can go back to it and look at it, if you'd like.

22 A. All right.

23 Again, there's a district to the west; is that right?

24 A. It doesn't look anywhere near like the same shape
25 though.

1 Q. Sure.

2 A. It's on the west, yes, but in this earlier map, it goes
3 all the way from the north to the south, and there's much of
4 a bulge in the subsequent map. I mean, it's on the west, but
5 I wouldn't characterize it as anywhere near being equivalent
6 or the same. It's a different district. It's just
7 positioned on the western side of the county.

8 Q. We'll get into the details of the drawing in a minute.
9 I'm just -- I'm just -- because this is the first day of
10 trial I'm starting off high-level for His Honor --

11 A. Sure.

12 Q. -- so he can generally understand the map. I understand
13 you think this is different and wrong. We'll give you plenty
14 of opportunity to talk about it. But my point is there are
15 roughly four districts in roughly the same area of the
16 county. Is that right?

17 A. That I would agree with, yes.

18 Q. And then ultimately you drew a map which has been
19 previously admitted as Defendant's Exhibit 70-C, and you
20 recognize this to be that map; is that true?

21 MR. MORENOFF: Excuse me, that -- that's not the
22 right 70-C.

23 BY MR. DUNN:

24 Q. Well, why don't we look at it then in your report.

25 Can you identify what page of your report your map is

1 on? Yes. It's page 13, figure 3.

2 All right. So this is a map -- this is your drawing of
3 your map; is that right?

4 A. That's correct.

5 Q. And here even though it's in black and white, you can
6 see the color shading. And that is the district boundaries
7 in your map; is that true?

8 A. Correct.

9 Q. All right. So these are the three maps that the Court
10 has to consider: The original benchmark map, the map the
11 county passed and the one that you're here that you're
12 advocating for. Is that true?

13 A. True.

14 Q. All right. Now, I want to talk to you about the
15 construction of your map district.

16 who is Thomas Bryan?

17 A. Thomas Bryan is a GIS expert, former Census Bureau
18 employee who does the -- executes the technical steps using
19 GIS software to create the maps per my instructions.

20 Q. And nowhere in your report -- either of your reports do
21 you make any mention of Thomas Bryan, isn't that true?

22 A. That's true.

23 Q. And in none of your testimony today have you mentioned
24 Thomas Bryan; is that true?

25 A. That's true.

1 Q. But ultimately Thomas Bryan is the individual who drew
2 this map, not you; isn't that a fact?

3 A. I wouldn't characterize it that way.

4 I would say that he executed the map that I instructed
5 him to draw. He showed me what he did, and I said, yes,
6 that's the map that I want.

7 Q. Well you're in Nantucket?

8 A. Yes.

9 Q. That's where you live, and that's where you work. Is
10 that true?

11 A. Yes.

12 Q. And it's Mr. Bryan, right, no doctor?

13 A. Has a master's degree in some kind of science.

14 Q. And so Mr. Bryan is in Maryland; is that right?

15 A. Yes.

16 Q. And Mr. Bryan is the one that opens up on the software
17 and actually places the lines into the software to create the
18 map. Is that right?

19 A. Correct.

20 Q. And the way it worked is that ultimately there was
21 approximately eight versions of the map that each of you went
22 through; is that true?

23 A. There were numerous versions, yes. I don't remember how
24 many.

25 Q. You produced eight of them to us; is that right?

1 A. All right. Eight sounds reasonable.

2 Q. And so Mr. Bryan would prepare a map and he would send
3 it to you by email; is that true?

4 A. Yes.

5 Q. And included in the email would be a data table; is that
6 right?

7 A. That's correct.

8 Q. And this data table would include data on the racial
9 make-up of each of those districts?

10 A. Correct.

11 Q. You would review these data tables and the visual
12 depiction of the map, and then somehow you would communicate
13 to Mr. Bryan the changes that you wanted. That's a fact,
14 right?

15 A. Correct.

16 Q. And then Mr. Bryan would make your changes, and we'd be
17 on to version two, which again he would send you in a
18 graphical form along with racial data. Is that correct?

19 A. Correct.

20 Q. And you went through that step until you finally got to
21 version 8, the one that's on page 13 of your report?

22 A. Correct.

23 Q. And so in terms of the person who actually drew the map,
24 that was Mr. Bryan with your input; is that true?

25 A. No. I would not characterize it that way. What drew

1 the map was the GIS software. The instructions that were
2 inputted to the GIS software to make the map were
3 instructions that Mr. Bryan put in based on what I told him I
4 was trying to accomplish in terms of balancing various
5 traditional redistricting criteria and also in recognition of
6 some of the statistical parameters that we had from the map
7 we had just created.

8 And my instructions would be this parameter I want to go
9 up, and I'm hoping you can make it go up without making that
10 parameter go down, please try to do that and then show me
11 what you were able to accomplish.

12 And if you want to literally say what drew the map, it
13 was the software that drew the map. Mr. Bryan printed out
14 what the software showed on the screen, communicated it to
15 me. We both looked at it. So, I mean, it's a semantic issue
16 to some extent. I hope you can see what I'm trying to get
17 at. He didn't do it. He did it under my instructions, and
18 he executed the purposes that I had in mind.

19 Q. Because the parameters that you were looking at drove
20 the map. Do I have that right?

21 A. My judgment is what drove the map.

22 Q. In looking at these parameters?

23 A. Correct. That in looking at the parameters and
24 endeavoring to balance a number of traditional redistricting
25 criteria and also to cure the problem that I saw in the

1 enacted plan, which was the clear evidence of packing and
2 cracking. And I was trying to diminish the degree to which
3 whites were packed anywhere and the degree to which they were
4 dispersed all over the county, rather than concentrated as
5 they might have been.

6 Q. So let me see if I can understand what parameters that
7 you looked at.

8 One of them we talked about was the racial data that was
9 transmitted to you by Mr. Bryan. That's a parameter you were
10 relying upon?

11 A. The racial and ethnic make-up of the eligible voter
12 population, and the other parameter would be the total
13 resident population, just the body count within a district
14 which is what -- that number is you're trying to equalize in
15 each district.

16 So there are two categories of parameter. One is total
17 population, the other is the --

18 Q. I understand you have a lot you want to explain. We
19 have limited time. I just asked you a yes or no question.
20 Did you use racial data as one of the parameters?

21 A. Yes.

22 Q. All right. One of the other parameters that you've
23 testified to today is the traditional redistricting
24 principles. That's another parameter you say today that you
25 relied upon. Is that right?

1 A. I would characterize it as redistricting criteria. It's
2 not a parameter. Parameters evidence the extent to which
3 those criteria have been balanced by comparing one plan to
4 another or a succession of plans that lead to the final one
5 that I -- that I chose.

6 Q. Now, one of the parameters though that you didn't
7 perform any analysis on in your reports is election results;
8 is that right?

9 A. That's correct.

10 Q. And, in fact, you've given no consideration to the
11 election results or outcomes regarding how Anglos vote in the
12 county; is that right?

13 A. Correct. That would be within the purview of political
14 scientists, not demographers.

15 Q. Because a political scientist -- a typical political
16 scientist in this field has the tools and ability to analyze
17 how particular racial groups in a particular jurisdiction can
18 vote. Is that correct?

19 A. That's correct.

20 Q. So this isn't something we have to guess. There are
21 measurements that are accepted in social science that we can
22 use to understand how people in the county vote?

23 A. Correct.

24 Q. And you didn't do any of those?

25 A. That's not within my field of expertise.

1 Q. But I did hear you today talk about in your opinion a
2 district that was 50, 51 percent white, would perform for the
3 Anglo candidate of choice.

4 Did I not hear that opinion today?

5 A. Yes. That's a recognized reality that comes out of all
6 the political science literature.

7 Q. But because you didn't do any voting analysis, you're
8 unable to tell us whether there's unique be characteristics
9 for Dallas County that would mean a district like that
10 wouldn't perform?

11 A. You're correct on that point.

12 Q. And I assume since you didn't look at voting trends you
13 also didn't look at the extent to which Anglos vote for
14 Democrats in Dallas County?

15 A. No. I did not look at any partisan dimensions of
16 voting.

17 Q. And you were present here earlier in the courtroom when
18 Mrs. Harding gave her testimony; is that true?

19 A. Yes.

20 Q. And you understood that Mrs. Harding -- what she seeks
21 in this case, what she described here was her goal was
22 districts who would elect Republicans. Did you hear that,
23 sir?

24 A. I didn't hear it quite that way.

25 what I heard her saying was that she was looking for a

1 plan that would make it possible for a Republican to win
2 rather than make it a foregone conclusion that a Democrat
3 would win.

4 That is to say, she was evidencing a desire to be able
5 to choose a candidate who might be a Democrat, although she
6 typically votes Republican. She wants to have a choice
7 rather than a foregone conclusion. That's what I heard her
8 say.

9 Q. You understand that one of the focuses of the
10 plaintiffs' efforts in this case is to obtain a district that
11 would give another opportunity to elect a Republican
12 candidate. You understand that?

13 A. That's not --

14 Q. Okay.

15 A. -- part of what I did in my analysis. I'm agnostic on
16 that point.

17 Q. And because you didn't look at election results, other
18 than your gut feeling that 51 percent of whites should be
19 enough, you're not able to tell us today whether the map that
20 you're advocating for would in fact elect a second
21 Republican?

22 A. No, I can't tell you anything about whether it would
23 elect a Republican or a Democrat.

24 Q. And another piece that goes into that analysis is voter
25 cohesion, is that right, in terms of determining whether or

1 not a district will perform one way or another?

2 A. Voter cohesion is a part of the rationale for having a
3 district in which different coalitions could form just based
4 on the demographic numbers. That is to say, whites -- I
5 should say Hispanics could affiliate with blacks. They could
6 affiliate with whites. They could affiliate with both groups
7 to some extent. There are coalitional possibilities. And,
8 again, that -- I -- I simply put forward the numbers that a
9 political scientist could look at and say -- and perhaps
10 opine more specifically about what the possibilities might
11 be.

12 Q. Now, ultimately --

13 THE COURT: Counsel --

14 MR. DUNN: -- you are unable to give --

15 THE COURT: Counsel, before you go into that, why
16 don't we take the morning break?

17 At this time we're going to take the morning break until
18 10:45.

19 We'll resume at 10:45.

20 THE SECURITY OFFICER: All rise.

21 (Recess taken at 10:16.)

22 (Proceedings resumed at 10:45.)

23 THE SECURITY OFFICER: All rise.

24 THE COURT: Be seated, please.

25 You may proceed.

1 CROSS EXAMINATION (continued)

2 BY MR. DUNN:

3 Q. Before we started our break, you and I had this
4 conversation about the percentage of whites that you'd like
5 to see in a district to statistically conclude that that
6 district would give Anglo voters an opportunity to elect a
7 candidate of choice, and I believe the number you were saying
8 was 51, 52 percent. Is that right?

9 A. That certainly is a majority, yes.

10 Q. In fact, during the testimony that you've given here
11 today before I was at the podium, you mentioned 51 percent as
12 a figure. Isn't that true?

13 A. I guess so, yes. That's my recollection, yes.

14 Q. But at your deposition the figure was 55 percent, isn't
15 that a fact?

16 A. 55 percent for what -- that's the -- the remedial plan
17 you're talking about.

18 Q. That you'd like to see 55 percent concentration of
19 Anglos to show that it's a performing district?

20 A. Well, that would make it a certainty, yes.

21 Q. And so you did say 55 percent at your deposition, isn't
22 that true?

23 A. If you say so I'll take your word for it.

24 Q. But today 51 or 52 percent would work; is that right?

25 A. 51 percent would be sort of a lower bound. It would be

1 the minimal -- you know, if it were 50.1 percent, I'd say
2 that's really marginal, and if it were 49 percent, that I
3 think would be regarded as not quite ringing the bell. It's
4 a -- it's a matter of judgment that a political scientist
5 would offer, and what I know is that in the range of the low
6 to mid-50s is kind of what I'm shooting for in terms of the
7 parameter to be able to say this is a district where whatever
8 else is going on, the people in that district are -- the
9 group that has the 51 to 55 percent share will very likely be
10 able to elect candidate -- their candidates of choice.

11 Q. very likely be able to.

12 And the way we find out is by doing a vote analysis; is
13 that right?

14 A. A political scientist would do that. I'm not in the
15 business of saying who's going to win what election or which
16 candidates are going to win. I'm just trying it provides an
17 opportunity for the residents of that district to elect their
18 candidates of choice.

19 Q. In other words, when you pulled up the statistics for
20 the map you proposed and you see a number in the neighborhood
21 of 52, 53 percent, you think that, well, there's a good
22 chance that 52 or 53 percent of Anglos in that district will
23 have an opportunity to elect; is that right?

24 A. That is the standard that is recognized in the field as
25 being, yes, they would have a clear opportunity to elect

1 candidates of -- their choice.

2 Q. But then to determine whether or not it's actually going
3 to work, instead of just having the feeling it's going to
4 work, to determine it you would do a vote analysis?

5 A. I don't do a vote analysis. My -- my job --

6 Q. But you recognize that's the accepted technique?

7 A. I -- I don't have any opinion or recognition on that.

8 I simply know that the job of the demographer in a
9 situation like this is to focus on the parameters and get the
10 parameters at levels that will afford people -- eligible
11 voters in a district to either elect their candidates of
12 choice or to have some influence in varying degree to form
13 coalitions that might elect candidates of choice. That's
14 what I do as a demographer. I do not analyze the elections
15 themselves to see who gets elected, whether it's a Democrat
16 or Republican.

17 Q. And ultimately the map that you and Mr. Bryan developed
18 results at least under the latest ACS data in 52.9 percent of
19 Anglos in the new district the plaintiffs are advocating for;
20 is that right?

21 A. I'll take your word for that. I know it's in one of the
22 tables.

23 Q. And -- and that's fine. It's not -- it's not critical
24 at this point. It's in the reports, of course. But the
25 point is this lawsuit has been going on for a few years; is

1 that true?

2 A. Yes.

3 Q. And over that time we continue to receive from the
4 Census Bureau updated ACS, American Community Survey data.
5 Is that right?

6 A. They do once a year in which the five year --

7 Q. My question is a yes or no, sir.

8 A. Yes.

9 Q. And the American Community Survey, part of what it does
10 is attempts to measure the total citizen voting age
11 population in various localities around the United States; is
12 that accurate?

13 A. Yes.

14 Q. And ultimately, each year we've received new ACS CVAP
15 data for Dallas County, and we're able to calculate the total
16 Anglo, Hispanic or black CVAP in the districts you have drawn
17 or the counties drawn or otherwise; is that true?

18 A. Yes.

19 Q. And in the time we've been looking in these maps and in
20 the time we've been seeing these ACS data reports come out,
21 in each year the Anglo CVAP percentage in your proposed
22 district is going down; is that right?

23 A. It's gone down very slightly, yes. The share of it.

24 Q. And -- and I think you said earlier, in all fairness,
25 when you were with Mr. Morenoff, you've talked about how in

1 the last several decades the population in the county has
2 changed considerably. Is that accurate?

3 A. Yes.

4 Q. As it has changed, individuals have passed way, others
5 have moved in or been born. Is that fair to say?

6 A. Yes.

7 Q. But the net result is there is no question the Anglo
8 population of the county has been reducing, isn't that true?

9 A. It's been shrinking very, very gradually, just
10 fractionally every year.

11 Q. And ultimately when the Dallas County Commissioners
12 Court sat down to the task of redistricting in 2011 they were
13 looking at decennial census numbers that showed a significant
14 reduction in Anglo population; is that accurate?

15 A. I wouldn't say there was a significant reduction. The
16 reduction that I've referring to is what's been measured from
17 2010 to the present.

18 Q. well, let's come at it a different way.

19 You would agree, would you not, this the populations
20 that grew in the previous decade were the African-American
21 and Latino population?

22 A. Yes. Especially the Latino. The African-American
23 population again, just fractionally. Latino, somewhat
24 faster.

25 Q. And in your analysis you haven't determined in your

1 reports or otherwise that -- which populations are dying,
2 moving out? You can't describe those with any specificity
3 for us; isn't that true?

4 A. I'm not sure what you're getting at.

5 I -- I can certainly measure them year by year with the
6 American Community Survey

7 Q. Well, let me put it this way.

8 Let's say, for example -- let's say, for example, it
9 were true that Anglos were moving out or passing away in the
10 county at a higher rate than African-Americans and Latinos.
11 Just accept that with me for a moment

12 A. All right.

13 Q. You didn't perform any analysis that the Anglos that
14 were passing away or moving away what their voting behavior
15 was?

16 A. No.

17 Q. It could be the case -- you just don't know -- that the
18 people that moved -- the Anglo citizens that are moving out
19 of Dallas County or passing away are Republicans at a greater
20 degree than the Democratic ones?

21 You just don't know; is that right?

22 A. Anything is possible.

23 Q. Okay.

24 A. We don't know. We --

25 Q. Because all you're looking at is you're just counting up

1 the Anglo citizen age voting population, and you've got a
2 number of people and that's what you're working with; is that
3 right?

4 A. I'm working with the numbers as we have them to identify
5 whether there is an opportunity based on the data that we
6 have on a plan for the people in one or another district to
7 elect their favored candidates of choice. I have it has
8 nothing to do with people moving away or dying off.

9 Q. I see. So even if it were the case that there were a
10 greater -- that a greater proportion of the people who
11 were -- of the Anglos who were dying and moving out of the
12 county supported Republican candidates, you -- you factor
13 that into your analysis not at all?

14 A. I have no data on that information. And it's outside
15 the scope of my analysis.

16 Q. Now, ultimately you would expect, based upon the
17 trends -- and I understand those can change, but if the
18 trends remain the same, you would expect the additional
19 district that you are proposing for Anglo citizens will fall
20 below the 50 percent CVAP?

21 A. It's also below the 50 percent level.

22 Q. The -- the second district --

23 A. Oh, I'm sorry. Yes. It's got less the -- it -- it
24 contains -- the -- the proportion -- ask the question again.
25 I think I misunderstood what the question was.

1 Q. Fair enough.

2 what I was suggesting is as long as the trends continue
3 that we've seen in the CVAP data, you would expect in time
4 that the additional Anglo opportunity district that your map
5 draws would fall below 50 percent for Anglos?

6 A. No. That's not correct. That's not correct.

7 what I have said simply is that Anglo's share of the
8 total eligible voter population in Dallas County as a whole
9 is shrinking marginally. It's going down one or two-tenths
10 of a percentage point per year, something like that. So --

11 Q. You're not seeing the Anglo population reduced by one
12 and two percent a year?

13 A. No. And I'm talking about countywide. It's countywide
14 share.

15 Q. I'm talking about your district in particular, the
16 additional district that your map proposes. You're not
17 seeing that reduced by a percent or so each year?

18 A. I can't say that I've made the comparison explicitly,
19 but my recollection is, as I think back on the earlier
20 versions of the American Community Survey data that we used,
21 that it was the case that the district that I was forming was
22 registering a very tiny fractional reduction in the Anglo
23 share of eligible voters. Again, a tenth of a percentage
24 point perhaps. But the problem there is that it's hard to
25 discern the change for sure because it does have a margin of

1 error around the percentage. It's a sample-based number.
2 But nothing dramatic.

3 Q. Is the answer to my question whether you were seeing the
4 Anglo CVAP numbers reduced in your proposed district over
5 time by a percent yes or no or I don't know?

6 A. It's no.

7 Q. Now, let's transition for a minute and talk about the --
8 the maps. And, again, the process that -- that you went
9 through to get with the maps.

10 And part of your testimony today has been taking the --
11 the map that the county adopted and drawing it on your system
12 so that you can observe these cracking and packing and these
13 other population statistics that you looked at in reaching
14 your opinions; is that right?

15 A. Correct.

16 Q. And the way that process worked is Mr. Bryan recreated
17 the 2011 map on his computer, isn't that true?

18 A. Correct.

19 Q. And the way he went about recreating that map is he used
20 census blocks and reconstructed the map to look as closely as
21 he could with the map that the county had adopted. Isn't
22 that fact?

23 A. That's correct.

24 Q. But the county you know had drawn their map using voting
25 precincts; is that true?

1 A. I don't know that for a fact. It had nothing to do with
2 the way we did our work.

3 Q. So you don't know how it is that the county map was
4 constructed, whether they used census blocks or voting
5 precincts or both?

6 A. No, I don't know.

7 Q. There are advantages and disadvantages to each depending
8 upon your motivation, wouldn't you agree?

9 A. There's only one advantage for me which is the census
10 block is the favored unit of analysis and precincts would be
11 composed of census blocks. If you wanted to know anything
12 about its demographic make-up, a block is the smallest unit
13 of analysis.

14 Q. That's my point. When you work from census blocks, what
15 that does is it gives you data on a census block level; is
16 that right?

17 A. The way we have analyzed it, yes.

18 Q. And that data is racial data; isn't that true?

19 A. The way we have analyzed it, yes.

20 Q. Now, if you draw the districts using VTDs or voter
21 tabulation districts, voting precincts, then you can get
22 racial data and political data; isn't that a fact?

23 A. I haven't looked at the data, but that's normally the
24 case, yes.

25 Q. And so when you work from a VTD standpoint if you're so

1 inclined you can look at the racial information, right?

2 A. Yes.

3 Q. As you're drawing.

4 And if you want, if you're so inclined and working
5 with VTDS you can look at the political -- the election
6 outcomes. Isn't that true?

7 A. That's my experience, yes.

8 Q. But the way that you and Mr. Bryan went about it, you
9 didn't -- because you were using census blocks you didn't
10 have and he didn't have any way to analyze election results
11 for the map that you created.

12 A. Well, that's not true at all. There -- there clearly
13 was a way. It's just that that was not part of what my
14 analysis was encompassing. One could easily do that using
15 VTDS, simply by approximating.

16 Q. That's fair enough. I should rephrase.

17 When Mr. Bryan was in the throws of drawing this map he
18 wasn't able to see in realtime as he was selecting individual
19 voting precincts what the voter outcomes were for the voters
20 in the precincts he was working with?

21 A. Neither of us could because we were not referring to any
22 political data or election data.

23 Q. So in terms of data all you had available was race?

24 A. All we had available was census published data on
25 population, eligible voters by race.

1 Q. Now, as a result of using census blocks to build the
2 2011 map, Mr. Bryan's representation of the 2011 map looks
3 different than the actual 2011 map that the Commissioners
4 Court adopted; isn't that true?

5 A. I can't say that it's true or not. I've heard that
6 there may be some minor discrepancies, but I don't know what
7 they are, and I'll accept the fact that there may be a census
8 block here and there that may not have been distinguished on
9 the hard copy map from which he reconstructed the map.

10 Q. Well, Mr. Bryan gave a deposition in this case?

11 A. That's my understanding.

12 Q. In fact, the way this played out, we came to Washington,
13 D.C., we took your deposition -- is that right?

14 A. Yes.

15 Q. And at your deposition we learned for the first time
16 that Mr. Bryan was involved; isn't that right?

17 A. I guess it was the first time for you, yes.

18 Q. Okay. And so we had to go and schedule Mr. Bryan's
19 deposition outside the discovery process. Did you know that?

20 A. I didn't pay any attention to what the process was.

21 I -- I knew his deposition was taken.

22 Q. Okay. And so ultimately we talked to Mr. Bryan about
23 the process he went through in an extensive deposition. And
24 you've seen that, right?

25 A. I can't say that I've read his deposition, no.

1 Q. I see. All right. Okay. So what you represent to us
2 today as to what Mr. Bryan did is your recollection?

3 A. I can only tell you what my instructions were to him,
4 and I'm presuming that he faithfully honored my instructions
5 rather than tried to deceive me in what he was doing.

6 Q. There couldn't have an honest mistake here and there?

7 A. There's always the opportunity for an honest mistake to
8 occur.

9 Q. Ultimately Mr. Bryan testified, did he not, that he used
10 the block level geography from the census block, and that
11 that resulted in differences of population figures for each
12 of the maps, the map statistics that the county put out
13 compared to the map statistics that Mr. Bryan had on his 2011
14 plan.

15 A. We've encountered that. That has occurred before.
16 Sometimes the Census Bureau's definition of a block does not
17 align exactly with the political geography. The census block
18 is typically what we think of as a city block that we're all
19 accustomed to, but sometimes a census block can be a peculiar
20 configuration if it's in an area for example where there is
21 railroad tracks. It doesn't look like a city block. It
22 looks like a piece of territory that the Census Bureau
23 defined for purposes of enumerating residents. So there's
24 always the possibility there are tiny discrepancies.

25 Q. In fact, there are cases -- probably millions of them

1 across the country -- where a census block would be divided
2 by voting precinct lines; is that true?

3 A. I've seen that happen, yes.

4 Q. So in the case where you're using census blocks and
5 you're dividing them along voting precincts at some point
6 you're unable to tell the racial composition of the
7 population on one side or the other of the voting printing
8 line. Isn't that true?

9 A. That's correct. You have push the census data to the
10 limits of what the census can reveal about that piece of
11 geography that is encompassed by a census block.

12 Q. And you understand and accept as somebody that's an
13 expert in demography that at least in Dallas County in Texas
14 there's considerable segregation by race among housing in the
15 county. Would you not agree?

16 A. I haven't looked at the statistics there. I'm sure
17 there is some. I don't know if it's considerable, below
18 average or above enough.

19 Q. Fair enough. You've looked at the distribution of
20 racial population in Dallas County, and you would agree that
21 a greater proportion of African-American lives in the south,
22 a greater proposition of Latinos live in the west, a greater
23 proportion of Anglos live in the north. You would agree with
24 that?

25 A. I would agree that each group is proportionally greater

1 in one part of the county as versus another. I don't know if
2 it's exactly as you stated, but, yes, there are
3 differentials.

4 Q. And having what I'll call homogenous populations
5 concentrated in one area presents its own set of challenges
6 in creating a map. Isn't that true?

7 A. I'm not sure what you're referring to as a challenge.

8 Q. Well, if a considerable in African-Americans live in one
9 area, then often it's natural that they're going to end up in
10 one district because they live close to one another.

11 A. The degree to which they're concentrated in one area
12 would make that area a candidate to be part of a district in
13 which one was trying to concentrate African-Americans.

14 Q. So, for example, if there was a city that had a greater
15 concentration of African-Americans, your choice in this
16 context would be to put them into one commissioner's district
17 or split the city; is that right?

18 A. I don't know that that's the choice. I would say it
19 would be possibly the case that if the city were homogenously
20 African-American -- that is to say it was -- it had a high
21 proportion of African-Americans and that proportion was high
22 throughout the city rather than being itself divided into two
23 areas within the city, then that city would be a candidate
24 for being part of a African-American opportunity district.

25 Q. Under your testimony here today, you're to avoid as a

1 redistricting splitting cities; isn't that true?

2 A. That's one of the criteria that I am trying to balance,
3 to minimize the extent to which one splits cities
4 unnecessarily.

5 Q. Well, let's go back to the census blocks for a moment.

6 Now, again in our example of a city -- in your example
7 of a city that doesn't have a homogenous population but is
8 nevertheless segregated -- you follow my example?

9 A. Yes.

10 Q. In that case we might have a situation where within a
11 census block say one-half of it has a high proportion of
12 whites and the other half of it has a high proportion of
13 Latinos. You see that?

14 A. Yes.

15 Q. And so when we're using census blocks and allowing them
16 to be divided by voting precincts, you're unable to tell us
17 what the racial make-up is of the population that gets on
18 either side of that line?

19 A. That's correct.

20 Q. And so with respect to the individual census blocks on
21 the parameter of the districts that you drew, you or
22 Mr. Bryan are unable to inform us as to the racial make-up of
23 who's in each district within that census block.

24 A. That -- yes, you're correct. That goes beyond the --
25 that goes beyond the capability of the census data as it is

1 collected by census block. You're talking about pushing the
2 data beyond what they can measure.

3 Q. And so when you and Mr. Bryan initially produced your
4 map, I presume, you gave it to Mr. Morenoff, and he provided
5 it to us at some point. You understand that was the process?

6 A. Yes.

7 Q. And when we received your map it didn't breakdown which
8 voting precincts were -- which VTDS were in which
9 commissioner district, did it?

10 A. No.

11 Q. It didn't breakdown which census block was in which
12 district, did it?

13 A. No. I take issue there.

14 I believe it did show -- I know that every census block
15 was classified as being in one and only one district. That
16 is the way the geography was classified, not by precinct but
17 by census block

18 Q. And so if we're talking about the 2011 map the
19 commissioners adopted, the reason that the figures are
20 different between what you and Mr. Bryan used and what the
21 county produced is because you put whole census blocks on
22 either side of the district line?

23 A. That would be one possible factor.

24 Another possible factor could be honest mistakes. But I
25 should point out that the -- the type of situation, the type

1 of geographic anomaly you're referring to is so exceedingly
2 rare it would make virtually no difference in terms of the
3 parameters I construct. In other words, there is not a
4 widespread presence or even a common presence of census
5 blocks where one part of the block is in one precinct and
6 another part is in another precinct. That is a very rare
7 occurrence, and one regards it as kind of a rounding error
8 that might have an effect to one-hundredth of a percentage
9 point

10 Q. There's several places in your analysis where you have
11 rounding errors, wouldn't you agree?

12 A. I wouldn't call it a rounding error.

13 I would say there are sampling errors based on the
14 American Community Survey because every parameter that we get
15 from the ACS data carries with it a margin of error which the
16 Census Bureau publishes which says here is the number, but it
17 has a plus or minus value of something, and you should be
18 aware that we're not measuring it to the single digit.

19 Q. Going back to the census blocks, I suggested that what
20 Mr. Bryan did was take the census blocks and keep them whole
21 and put them on one side or the other of the district line.
22 You said it could have just been a mistake. Do you know?

23 A. I can only acknowledge that when you deal with what are
24 probably tens of thousands of blocks and you try to
25 reconstruct things from a map that is a little bigger than

1 this, one always has to assume that you may have gotten it
2 99.99 percent right and there might be a few blocks that are
3 in the wrong place, but, again, that is clearly a possibility
4 that would be tolerable if it occurred, and I'm not conceding
5 that it did.

6 I've worked with Mr. Bryan for a long time, and I have
7 not encountered a situation where his reconstruction of a
8 plan ever failed to come out with exactly the same number
9 that he was trying to construct from another plan, but I
10 realize that it could occur.

11 Q. Mr. Bryan didn't -- didn't provide you with a
12 comparative analysis of the splits that his 2011 version map
13 had compared to what was passed?

14 A. We didn't have any data for what was passed. All we
15 knew was the map and the -- the physical rendition of it on a
16 piece of paper.

17 Q. You had the shapefile, did you not?

18 A. No, we did not have the shapefile.

19 THE COURT: would you spell shape for the record,
20 please.

21 MR. DUNN: S-h-a-p-e-f-i-l-e. One word.

22 BY MR. DUNN:

23 Q. You recall at your deposition -- I beg your pardon. I
24 guess because you haven't read Mr. Bryan's deposition, I'll
25 have to represent this to you. Mr. Bryan produced email

1 exchanges between you and he as relates to his work in this
2 case. Is that the first you're hearing of that?

3 A. I'm sorry. What was the last question?

4 Q. Mr. Bryan before his deposition produced emails
5 exchanged between you and he on his work in your case. Is
6 this the first you're hearing of this?

7 A. No. I know we exchanged emails.

8 Q. And you know they were produced to me?

9 A. Yes.

10 Q. And at his deposition there was an Exhibit 1, and I'm
11 showing you Exhibit 1, page 6.

12 There we are.

13 All right. You see this?

14 A. Yes.

15 Q. So this is an email from Peter Morrison to Farvin
16 Johnson. Do you see that?

17 A. Yes.

18 Q. Who is Farvin Johnson?

19 A. That's his email address, one of his.

20 Q. That his son?

21 A. No. That's a set of alpha numeric he uses. I don't
22 know where that came from.

23 Q. Is there a Farvin Johnson?

24 A. Not that I know of.

25 Q. Do you know why he doesn't use something like Thomas

1 Bryan?

2 A. I know he has several email addresses.

3 Some --

4 THE COURT: Just a moment. It will help if you
5 don't talk over each other for the reporter.

6 THE WITNESS: He has several email addresses. This
7 is one that he was using back in 2014 I see from this, and
8 subsequently, he's got another one that is -- you can -- it
9 says Bryan Thomas or Thomas Bryan, something like that.

10 BY MR. DUNN:

11 Q. Did he ever explain to you back then why he was using
12 Farvin Johnson?

13 A. I never asked him and he never offered any explanation.

14 Q. All right. If you look here at page 566, Exhibit 1, to
15 Thomas Bryan's deposition you will see where you say "Tom:
16 Here's where you can access the shapefile for the existing 4
17 commissioner districts." Arguably that could mean the
18 benchmark plan from 2001 to 2010, but the context here in the
19 third paragraph makes it clear this was the plan that was
20 passed.

21 "Our mission will be to devise one or more alternatives
22 to this plan."

23 So it's true, is it not, that you had and you provided
24 it to Mr. Bryan a shapefile for the 2011 map?

25 A. I see it said a shapefile for whole voting precincts.

1 Yes, it may be that he started out with that shapefile in
2 2014. I can't rule that out. It appears that was the
3 starting point back then.

4 Q. And so you're familiar enough with the software to
5 understand that he could have overlaid the census blocks, the
6 voting precincts together and used the shapefile to recreate
7 the county plan, could he not?

8 A. Yes. And I believe that may have been -- that's one
9 possible way he could do it. The shapefile we referred to in
10 that email is the shapefile at the precinct level, not the
11 block level. So he still faced the challenge of taking that
12 shapefile and then taking precincts, individual precincts,
13 and converting them into the constituent census blocks that
14 composed each individual precinct. Whether he elected to go
15 that way or to start from scratch, I don't know. Because in
16 some cases, it's more work to have to reconstruct every
17 precinct at the block level than simply to say take the whole
18 county, pull together all the blocks and then see where the
19 boundaries are for the four districts.

20 I wouldn't be surprised if he had done it that way, but
21 I -- I don't tell him how to proceed in terms of -- of
22 executing the plan that I want. I said this is a place where
23 you can get some data. This may be what you need, but I
24 didn't tell him to use that data.

25 Q. So as the person who is sponsoring this testimony under

1 oath in a United States District Court, you didn't think it
2 was a critical piece of information to know at the granule
3 level how the 2011 map that you were comparing to your map
4 was created?

5 A. That's not true at all. I was concerned that he
6 approximated using the smallest unit of geography that the
7 Census Bureau provides, which is the census block, rather
8 than doing it with precincts, which are aggregations of
9 census blocks, because the work that we wanted to do was to
10 examine things at the block level, not the precinct level.
11 The precinct level would not give us the true picture of what
12 could be created if one were trying to construct a different
13 map from scratch.

14 Q. Because what you want to rely upon principally is racial
15 data; isn't that true?

16 A. I wanted to rely upon census data that would allow me to
17 measure the parameters that I needed to measure on each map
18 and each successive refinement to a map that I was trying to
19 create.

20 Q. Which was race, isn't that a fact?

21 A. Race and total population.

22 Q. Now, in talking about -- It sounds to me like in terms
23 of reconstructing the 2011 map Mr. Bryan made his own
24 decisions in that regard.

25 A. Yes. I -- I instructed him to reconstruct the 2011 map

1 in whatever was the most accurate and efficacious way to do
2 so given the GIS software and given his extensive experience
3 using GIS software with census data.

4 Q. Now, you realize that Dallas County in advance of doing
5 the 2011 redistricting had adopted redistricting principles?

6 A. I remember seeing a document that had that heading, yes.

7 Q. And these redistricting principles laid out in -- in a
8 priority order the various items that the Commissioners Court
9 thought was important that the final map reflect. Isn't that
10 true?

11 A. I remember seeing that, yes.

12 Q. Now, ultimately you never provided that list of
13 redistricting principles to Mr. Bryan; isn't that a fact?

14 A. There was no need to provide those principles to him. I
15 was instructing him based on my judgment as to what
16 principles I wanted to start with and which ones I wanted to
17 then balance and respect going forward.

18 Q. well, perhaps you didn't hear my question.

19 My question was did you provide the list of
20 redistricting principles the Commissioners Court adopted to
21 Mr. Bryan?

22 A. No, I did not.

23 Q. And since he didn't have 'em, he couldn't have
24 considered them; isn't that true?

25 A. No, that's not true.

1 Q. You think he would just know them or find them on his
2 own?

3 A. No. I explained to him exactly what I wanted him to
4 do.

5 Q. I see?

6 A. I would take the -- the principle that I had in mind and
7 I would say I want you to see if you can unpack the
8 concentration of white voters in the current district and
9 come up with a -- any plan in which there could be a white
10 majority in two districts that had equal numbers of
11 residents. That was my first instruction to him.

12 Q. So was it the case that Mr. Bryan wasn't competent
13 enough on his own to see these traditional redistricting
14 principles and apply them as he's coming up with draft maps?

15 A. That's what he would be doing if he were sitting here
16 today testifying.

17 His job was simply to execute the instructions and seek
18 out the parameters that I wanted to know about. I wanted
19 him -- I wanted him to do -- I wanted him to do things
20 step-by-step, the way I had instructed him to do, not to
21 delegate the job to him to say come up with a map that
22 balances traditional redistricting principles. That's not
23 what he does. That's what I do.

24 Q. Oh, okay. So you didn't think it would aid the process
25 at all for Mr. Bryan to have known what it was that the

1 county had -- had voted were its priorities?

2 A. I didn't say that.

3 Q. You didn't think it was important enough to him to
4 provide it though?

5 A. I saw no reason to provide it to him.

6 Q. Ultimately, Mr. Bryan testified that other than
7 incumbency protection and the racial criteria, you didn't
8 instruct him in any other way in terms of traditional
9 redistricting principles. Is this the first you're learning
10 of that?

11 A. I wouldn't -- I wouldn't say that that has any bearing
12 on what I did.

13 It is the first time that I have learned that he made
14 that statement, if that's what you're asking, yes.

15 Q. Well, since you haven't seen it I'll take you to page 52
16 of Mr. Bryan's deposition. I'm going to show you here at
17 page 52, line 6, where he's asked:

18 "Q. Other than incumbency protection and those goals
19 that you just mentioned, were there any other redistricting
20 principals that you complied with?"

21 And his answer was:

22 "A. No."

23 Isn't that true?

24 A. He was not aware that he was complying with these
25 principles by virtue of following my instructions in

1 successive maps that he drew. I did not tell him what the
2 purpose was that I had in mind -- I should say I did not tell
3 him what the redistricting principle was that I had in mind.
4 I said I would like you to see if you can do this with this
5 parameter, make it go up or down. And in that sense I think
6 he was unaware of the fact that my purpose in asking him to
7 make that refinement was because I was balancing one or
8 another redistricting principle --

9 Q. Wasn't a piece of information that you felt you needed
10 to share with him?

11 A. Pardon me.

12 Q. That wasn't a piece of information that you felt you
13 ought to share with the map drawer?

14 A. I did not feel I needed to tell him what the principle
15 was. I told him what I wanted him to see if he could do with
16 the parameter that was the measure of the principle.

17 Q. Okay. But you did -- in all fairness I'll take you to
18 the page before, page 51, there at the bottom of the page.
19 He's asked at line 18:

20 "Q. Other than incumbency protection, which you
21 mentioned, what are the other principles that you remember
22 Dr. Morrison relating to you?"

23 And he answers: "So the questions -- the two over
24 writing (sic) questions that he presented to me and asked me
25 to prepare alternatives for -- let me group them into two

1 markets. One is, can we build or maintain influence district
2 for the minorities or majority districts for the minorities?
3 The other bucket would be is it" -- beginning at page 52,
4 line 1 -- "is it possible to maintain or even improve the
5 minority influence or minority/majority districts and still
6 have two majority white and nonHispanic districts?
7 It was an inquiry to test whether it was possible or if there
8 were a variety of scenarios that can be created that result
9 in that outcome."

10 Then it continues with the original question I asked
11 "other than incumbency protection and those goals that I just
12 mentioned were there any other redistricting principles that
13 you complied with?" And he said no. I understand you have
14 got an explanation, but would you agree with me that's the
15 testimony shown on the page?

16 A. Yes, that's what he said.

17 Q. You would agree with me from Mr. Bryan's perspective you
18 did share with him some of your strategies -- at least the
19 incumbency protection and the creation of these minority and
20 majority districts?

21 A. Yes.

22 Q. But at least according to Mr. Bryan he was one unaware
23 of any other factors you were relying on?

24 A. He was unaware of the fact that the factors that he
25 enumerated above are shown to me as traditional redistricting

1 principles. I did not refer to them as traditional
2 redistricting principles. I instructed him specifically as
3 he reported in the deposition what I was trying to
4 accomplish. So I think we have here a semantic issue, not a
5 substantive one.

6 Q. So going back to these eight versions, you might have
7 could have skipped a few steps if you had let Mr. Bryan in on
8 the score, right?

9 A. I don't agree with you at all on that point.

10 Q. Now, talking about at least the two principles that
11 Mr. Bryan knew of, you also told him, did you not, that the
12 only incumbent that you were concerned about protecting was
13 Commissioner Price. Isn't that true?

14 A. That may have been at one point in the process, but
15 there was a subsequent effort to respect incumbency that took
16 account of all the elected officials who had not announced
17 their plan to retire.

18 Q. And so at some point you say you instructed Mr. Bryan to
19 look at the three remaining commissioners and keep them in
20 their district.

21 A. My recollection is in looking at the map at a subsequent
22 point there was one commissioner whose incumbency had not
23 been respected, and there was an easy way to adjust it by
24 simply changing a few census blocks so he or she would be in
25 the correct district, and that was one of the refinements

1 that we made over the course of the two- or three-year period
2 that we refined this plan.

3 Q. When it got down to it -- well, so, in other words, what
4 you did was you drew the districts based on race, and once
5 you got the racial figures the way you wanted them, you went
6 back in and figured out how to put incumbents into the
7 districts that had been drawn for them. Is that true?

8 A. I would say -- it's not exactly that way. There was a
9 point at which there was a -- there was an improvement that
10 could be made in terms of respecting incumbency, and in
11 looking at the map I realized that that improvement could be
12 made without compromising any of the other features of the
13 plan that had been prepared to date, and so I asked Mr. Bryan
14 to see if he could make that change and then report back the
15 revised parameters to me, which confirmed that the plan's
16 integrity was intact and that the incumbent had been
17 respected.

18 Q. But ultimately when you got, as I recall the history,
19 when you got version 7 complete -- you had the racial
20 composition you wanted -- you transitioned to version 8 to
21 deal with some final clean-up issues including incumbency.
22 Is that your recollection?

23 A. I can't say whether the numbers you've given 7 or 8 are
24 correct, but, yes, it was an iterative process of
25 successively refining the plan and doing what we refer to as

1 a quality control check to double-check all the
2 calculations.

3 Q. So I want to go back to the email exchanges between you
4 and Mr. Bryan. And Exhibit 1 to his deposition. I'll go to
5 page 51.

6 This is a -- let me zoom out here for you, sir.

7 So this is an email -- I want to start in the middle of
8 the page, October 25th, 2015, at 7:58 p.m.

9 This is an email from Tom to you. Would you agree?

10 A. Yes.

11 Q. Okay. Do you know what the Z12 is down here by his
12 signature?

13 A. That's a handle he uses. I -- I don't have any idea
14 where it comes from.

15 Q. Oh, is that another alias he's got?

16 A. I don't -- it depends on what you mean by an alias.

17 Q. Well, he's Farvin Johnson in one email, and he's Z12
18 here. Are there other words he went by?

19 A. None that I know of.

20 Q. So here in the email, if you look here, he says "We've
21 taken version 8 and enhanced it from version 7, and we did it
22 without egregiously breaking any city boundaries."

23 Do you see that?

24 A. Yes.

25 Q. "But there are a number of points in version 8 where I

1 did have to break city boundaries." And then he talks about
2 three different numbered -- he has three different bullets
3 there in his list. Would you agree?

4 A. Yes.

5 Q. And in each one of those that he's discussing to get to
6 your final version of the map, each of those numbers in the
7 list are racial data. Isn't that right?

8 A. Yes.

9 Q. And so ultimately what he's saying here in his email is
10 here's version 8, and I had to break some city boundaries in
11 order to meet these racial thresholds that presumably came
12 from you. Isn't that true?

13 A. I didn't tell him which boundaries to break, but I told
14 him to try to achieve a purpose and he reported back to me
15 one way that he had discovered to do it, and this is what he
16 said were the changes that he had to make, 1, 2, and 3, and
17 he wanted me to review that.

18 Q. All right. You -- we'll go back to his email in a
19 moment, but you respond up here "Outstanding! I'll look at
20 it tomorrow. Sounds like we've got a winner."

21 Is that true?

22 A. Yes.

23 Q. And in your estimation you did have a winner because
24 this is the map that you turned in in your report the
25 plaintiffs are advocating; is that true?

1 A. I'm not sure it's called v8, but if that was the one,
2 yes, that's true.

3 Q. When Mr. Bryan testifies at deposition that version 8
4 was the final version, you don't have any reason to disagree?

5 A. I'd have to check back on what -- how he numbered
6 them.

7 Q. So going back to the email that Mr. Bryan sent to you,
8 he mentions sort of two parameters -- to use your word --
9 that he's looking at here, city boundaries and racial data.
10 There's no others, are there?

11 A. No.

12 Q. And then those two at the end of the day in the final
13 analysis, one of them had to give, and it was the city
14 boundaries that gave in favor of the racial data. Isn't that
15 a fact?

16 A. I would -- I would say that there was a balancing of
17 these competing criteria.

18 Q. Well, if it's -- if it's a seesaw, one of them ended up
19 on the ground and one of them ended up in the air. Wouldn't
20 you agree?

21 A. He had to split some boundaries that he would prefer not
22 to split, and he achieved another purpose. I would call that
23 a balancing.

24 Q. I'm going to take you to page 52 of these emails and --
25 and -- in all fairness, let me show you. This is the top of

1 the email we're looking at here. Right there you see at the
2 end of page 51?

3 A. Yes.

4 Q. Email from you to Mr. Bryan, and you said you had some
5 time this weekend, and you get into some stuff here later in
6 your email. Okay?

7 A. Yes.

8 Q. I want to make sure you'd seen it all. In this email
9 where you're giving direction, you would agree with me this
10 is earlier in time in terms of the chain of the emails. Is
11 that right?

12 A. Yes.

13 Q. And so in this one, you're talking about phase 6 and
14 moving to phase 7, right?

15 In other words, you're talking about edits you want to
16 phase 6 to come up with the 7, isn't that true?

17 A. Yes.

18 Q. And in this one the only parameter that you're
19 discussing here is racial data; isn't that true?

20 A. Yes.

21 Q. There's no other reference --

22 A. No. I'm sorry. That's not the only one.

23 If you look at the second to bottom paragraph it says
24 "If necessary you can split place boundaries and also stretch
25 the balance of total pop." That's the total population

1 criteria and the total deviation from ideal. He was
2 balancing the factors discussed in the second paragraph with
3 a third consideration which is the total deviation from ideal
4 which is articulated in the third paragraph.

5 Q. I'm sure His Honor is familiar with this, but for the
6 purposes of our record it's required under Constitutional law
7 for districts of this nature to be within 10 percent of each
8 other in population; is that true?

9 A. Correct.

10 Q. And we refer to that as deviation; is that right?

11 A. The total deviation from ideal.

12 Q. All right. So in here you're looking at deviation of
13 total population, and you're looking at racial data. Is that
14 a fact?

15 A. Correct.

16 Q. And to the extent you mentioned some other criteria like
17 place boundaries, you say we can subordinate those. Isn't
18 that true?

19 A. Can you point to where I use the word "subordinate"?

20 Q. (Indicating).

21 A. Okay. I said you can subordinate clean place boundaries
22 if necessary. That is to say if all the boundaries are clean
23 and it's necessary to split a boundary somewhere, go ahead
24 and do that because it may be necessary to have some boundary
25 splits. And I'm talking about --

1 Q. I guess it's not clear to me what the adjective "clean"
2 is referring to.

3 A. What I had said is we want to avoid splitting the
4 boundaries of the established communities of interest --
5 cities, townships, et cetera. I said that's -- that's what
6 we'd like to adhere to as an ideal.

7 And here I'm saying we may not be able to achieve that
8 ideal. We may have to split some boundaries. And, in fact,
9 both the plan that I formulated and the enacted plan do split
10 place boundaries. The question is how often and in how many
11 different places. And so I said we don't need to achieve the
12 ideal standards of no boundary splits, we can compromise on
13 that somewhat if we are balancing that consideration against
14 other considerations that are articulated elsewhere in this
15 email.

16 This is exactly what balancing means when we talk about
17 balancing traditional redistricting criteria.

18 Q. Let's come at it from 180 degrees.

19 What is a dirty place boundary split?

20 A. I don't have it -- I don't associate the word "dirty"
21 with boundaries.

22 The term "clean" means we'd like to have no boundary
23 splits. That's what I meant by clean. Dirty, if you used
24 that term, would imply the opposite of that.

25 Q. All right. In the next sentence you say "I suspect you

1 can 'decant' Hispanic-rich territory from either D1 or D2 into
2 D3 to enrich Hispanics."

3 Did I read that correctly?

4 A. Yes.

5 Q. What do you mean there by the term "decant"?

6 A. What I mean is it may be possible to identify certain
7 blocks that could be shifted from one district into another
8 in order to concentrate Hispanics more in a district where
9 they are already concentrated. So that was my effort to
10 achieve a stronger Hispanic presence in the district where
11 Hispanics were concentrated at that point. That would be how
12 I got up to the 37.7 percent from -- from the lower -- lower
13 percentage that I might have had at that point.

14 The metaphor is literally take it out of one place and
15 pour it into another if you can do so without disrupting the
16 boundary or leading to some exaggerated bizarre boundary that
17 makes no sense.

18 Q. There's one last email while we're at it I'd like to ask
19 you about. This is again Exhibit 1 to Thomas Bryan's
20 deposition, page 5 of the exhibit.

21 Now, here you have some emails again to Mr. Bryan on
22 Sunday, August 20th, 2017, starting at the bottom at 4:21
23 p.m.

24 Do you see, sir?

25 A. Yes.

1 Q. So you say in here "I'm asserting that they" -- the
2 county -- "sought to pack whites excessively into their blue
3 district."

4 Do you see that?

5 A. Yes.

6 Q. And you say "There's two smoking gun possibilities. why
7 did they grab that northern portion of Irving and put that in
8 their blue district? Yet they also excluded the brown chunk
9 of Richardson."

10 Do you see that?

11 A. Yes.

12 Q. And then you say "Do these two chunks differ, too?"

13 Is that right?

14 A. Yes.

15 Q. Now, what is it -- you would agree with me that a fair
16 reading of this email is that you've reached a conclusion and
17 you're hunting around for a basis to support it, would you
18 not?

19 A. I'm looking for empirical evidence of what I had already
20 concluded based on the aggregate statistics. There's no
21 question that whites are packed into -- were packed into the
22 district in the enacted plan. I mean, the numbers are stark
23 in the aggregate table in my report. There's no question
24 about that. And I was looking for some indication of how
25 that packing might have occurred where it would be in the --

1 in the metaphor I'm using here, the -- the smoking ember.
2 That is to say, a situation where you took a piece of -- a --
3 a small piece of an area out and then put another small piece
4 in, and when you looked at the two, you could see that it was
5 having the net effect of slightly -- ever so slightly
6 increasing the concentration of whites. That would be a
7 smoking ember. And I was referring to these at a -- at an
8 early stage as instances where I thought something --
9 where -- where I was seeing the outlines of a statistical
10 footprint of intent. And I was asking Mr. Bryan to look at
11 these in great detail at the block level and see if they
12 conformed to any kind of a pattern that might suggest this
13 unwarranted interchange of territory when ordinarily the only
14 justified change would be to say you need to take some people
15 out or put some people in, but not interchange one type of
16 person with another type of person thereby disrupting the
17 boundary of the city.

18 Q. It's been the bedrock of science since the enlightenment
19 that a scientist begins with a hypothesis, then
20 experimentation and then reaches a conclusion. would you
21 agree?

22 A. That's one model, yes.

23 Q. But this email reflects that that was not your model;
24 isn't that a fact?

25 A. No. I wouldn't say that at all. I already had strong

1 evidence that there was packing of whites into one district,
2 and I was now looking for the way in which it had been
3 brought about that would suggest it didn't happen by
4 accident.

5 Q. And so ultimately Mr. Bryan looked into these two chunks
6 and confirmed your suspicion that these chunks were moved
7 around in an effort to pack whites. Is that true?

8 A. My recollection is that there was some ambiguity, but
9 there were instances where that -- where the data conformed
10 with that hypothesis, yes, they confirmed that there was an
11 interchange of territory rather than a one-way change of
12 territory and that one explanation for the interchange would
13 be it accomplished the single-minded purpose of packing
14 whites into a district.

15 Q. I'm going to take you to Exhibit 70-B that has been
16 admitted as the county's map. This is the district map I've
17 showed you earlier. Isn't that true?

18 Earlier today in your testimony?

19 A. That's what it says on the top.

20 Q. I'm highlighting the area that contains Irving.

21 Do you see that?

22 A. Yes.

23 Q. And ultimately what you see is that along the interstate
24 there, the center of this square, Irving is divided, is it
25 not?

1 A. I can't really tell which is Irving. I can tell if you
2 want to talk about colors. I -- and maybe point to what
3 you're talking about.

4 Q. So you don't know where Irving is?

5 A. I do know where Irving is. I just can't see where the
6 boundaries are.

7 Q. You're unable to see it from the colors in the map?

8 A. I can see a green -- I can see green territory, and I
9 can see orange territory below it.

10 Q. And you see that this interstate here goes through the
11 center of Irving and that those district lines split the
12 city, would you not agree?

13 A. I'll have to say it's hard for me to see on the -- on
14 the -- I'm not sure where the district line is -- I can't see
15 what the district line is here you're referring to, and I
16 certainly can't tell what the boundaries of Irving are on
17 this map that I'm looking at right now.

18 Q. Fair enough.

19 Let's go to Exhibit 70-C. This is your map.

20 A. That's a little clearer. Okay.

21 Q. And you can see this green area here that extends on the
22 other side of that interstate?

23 A. Yes.

24 Q. That's Irving.

25 A. All right.

1 Q. Are you with me now?

2 A. Could you just enlarge that portion of it?

3 I can't read any of the writing. So I don't -- I don't
4 know which --

5 Q. Oops.

6 A. There you go.

7 And just focus in so I can see the word "Irving"
8 somewhere.

9 I see Carrollton where purple is

10 Q. Here, I'll bring it --

11 MR. DUNN: May I approach, Your Honor?

12 THE COURT: You may.

13 THE WITNESS: This might be easier.

14 All right. That's Irving. Right.

15 Okay. And what -- what is your question?

16 BY MR. DUNN:

17 Q. Well, if you don't mind --

18 A. Yeah.

19 Q. -- for the Court's benefit I'll put it back on the --

20 A. Yeah.

21 Q. All right. You see there, sir, the green area
22 (indicating)

23 A. Yes.

24 Q. Irving is split in your map; isn't that true?

25 A. In my map.

1 Q. And then going back to the county's map, it's also
2 split; is that right?

3 A. If you say so I'll take your word for it. So you are
4 saying both maps have split Irving?

5 Q. Are you learning that for the first time today?

6 A. I haven't seen it in detail but some cities are split.
7 Irving appears to be one that's split in both plans.

8 Q. If splitting the city is a statistical telltale
9 evidence, as you described it earlier today, of intentional
10 discrimination, don't you think it's important to make sure
11 you knew which cities were split and had to be split by both
12 of you?

13 A. No, I disagree with you. It's not any single city
14 that's split. Obviously, some cities are necessarily split.
15 It's a pattern that emerges from the splits both in terms of
16 the number of splits, the number of separate splits for a
17 given city and whether there are offsetting splits that add
18 population at one point only to subtract it at another point.
19 That is what I referred to as the statistical footprint, and
20 it does not depend on any single instance of a city. It is
21 an overall statistical pattern.

22 Q. So the county gets a demerit for splitting Irving, but
23 you don't?

24 A. No. Nobody gets a demerit for splitting any one side.

25 Q. And you're the person I guess that knows when there's a

1 significant number and which ones are significant and you
2 just call them as you see them; is that it?

3 A. No. I show in my table 5 a summary of the number of
4 communities that were split and I -- In table 5, I said both
5 plans split essentially the same number, the enacted plan 11,
6 the remedial plan 10, but the number of separate splits in
7 the enacted plan are 16. Whereas in the remedial plan there
8 are only 12, and there are no offsetting splits, unwarranted
9 offsetting splits in my plan. Whereas there are offsetting
10 splits that are unwarranted in the enacted plan. That is the
11 statistical footprint.

12 Q. Well, we'll get to the list of splits here in a moment,
13 but the -- with regard to your email -- and I can put it back
14 up there again -- those two areas, Irving and the Richardson
15 chunk, you ultimately, in your map, cut them both in a very
16 similar way than the county did, didn't you?

17 A. Yes.

18 Q. And despite learning that, after presumably Mr. Bryan
19 responded to your email by phone or otherwise, that didn't
20 change your opinion.

21 A. No. It was -- it was a necessary split.

22 Q. It looked like two smoking gun possibilities at first,
23 but when it didn't turn out to be that, you didn't change
24 your opinion, did you?

25 A. I never said it looked like a smoking gun possibility.

1 Q. Back to page 5 of Exhibit 1.

2 (Indicating) Isn't that how you referred to them,
3 smoking gun possibilities?

4 A. I referred to it as a smoking gun possibility, but I did
5 not regard it as a smoking gun. As I said, no single split
6 is a smoking gun.

7 Q. So it was a smoking gun until it didn't back up your
8 position, and then it was nothing?

9 A. I'm sorry, I should clarify.

10 The smoking gun aspect of it was the interchange of
11 territory that -- that was Richardson at one point, and I
12 think another split at another point. The Richardson split
13 by itself, in isolation, from an offsetting split elsewhere
14 is what constitutes the smoking gun possibility.

15 Q. All right. I'm going to move now to your list of city
16 splits.

17 And you recall in you're expert report, as you've just
18 referenced -- table 5 that was shown here earlier -- you give
19 a total number of communities split, do you not, for each of
20 the plans? we've discussed this?

21 A. Yes.

22 Q. And you produced this expert report several weeks before
23 your deposition; isn't that true?

24 A. I don't remember the exact timing, but that sounds about
25 right.

1 Q. And nowhere in your report or any of the schedules
2 attached did you give or provide a list of the actual
3 communities that were split. Isn't that accurate?

4 It's not in the report.

5 A. I'm not sure that's true. I believe I -- I may not have
6 given an exhaustive description of every split, but I
7 certainly highlighted them somewhere in the report.

8 Q. Well, in terms of somebody who wanted to look at your
9 report, perform an ad hoc peer review, there wasn't anywhere
10 for them to go and tally up the 11 communities that you split
11 and write down their names, was there?

12 A. I don't agree with you on that. I think one would have
13 to refer to a higher resolution map than the one that is
14 shown in any of the figures in my report, but I believe I
15 gave a -- a faithful description of the important splits, if
16 not every last one of them.

17 If you refer to page 9 of my report, probably 8, 9 -- 8
18 and 9 --

19 Q. You talk about some of them in the narrative.

20 A. Yes.

21 Q. That's fair enough. There's some of them mentioned.
22 But not all of them; isn't that true?

23 A. That's true.

24 Q. And so after you produced your report, we had to go to
25 Mr. Morenoff, and we had to seek from him a list of the

1 actual splits. And you provided them, did you not?

2 A. That's my recollection yes.

3 Q. We had to look at the splits and confirm through
4 shapefiles and other techniques whether we could confirm a
5 split existed; would you agree?

6 A. I believe that was the process.

7 Q. And we showed up at your deposition there in Washington,
8 D.C., and I asked you some questions about the city splits.
9 Is that right?

10 A. I recall that, yes.

11 Q. And one of the things that we got into is what exactly
12 are the splits. And you didn't know, did you, the list?

13 A. I knew where they were. I don't know that I had an
14 exhaustive list. I was still refining the analysis, but I
15 knew where they were on the map, and I highlighted them in my
16 report starting on page 8.

17 You'll notice that they're highlighted in the red
18 circles. That was my way of identifying where the splits
19 appeared to have occurred.

20 Q. It was a bit of a challenge because you were using the
21 wrong map for the county in 2011, wouldn't you agree?

22 A. Are you telling me I was using the wrong map or are you
23 telling me that I was not using precisely the right map.

24 Q. You were not using precisely the right map?

25 A. That may be a little closer.

1 Q. Do you agree that you weren't when you calculated your
2 city splits?

3 A. Pardon me?

4 Q. You agree that you were not using precisely the right
5 map?

6 A. I don't -- I don't know -- you seem to be asserting that
7 I was not using the right map. I wasn't aware of that, but
8 if you say that it doesn't agree with the map that you think
9 I should have been using, that may be the case.

10 But nonetheless, the red circles outline the territory,
11 and I would say those red circles are what one would look at
12 on any map to discern where the splits occurred.

13 Q. Now, at your deposition which you can see here from the
14 transcript was taken November 8th, 2017 -- do you see that?

15 A. Yes.

16 Q. You don't have any reason to dispute that, do you, sir?

17 A. No.

18 Q. And your report which I showed you earlier -- and can do
19 so again if necessary -- showed that it had been produced
20 August 22nd of 2017. Is that your recollection, sir?

21 A. If that's what you say, yes, I'll take your word for
22 it.

23 Q. August 22nd, isn't that true?

24 A. Yeah.

25 Q. So from August to September to October into a little bit

1 of November, after producing your report, you gave a
2 deposition; isn't that right?

3 A. Yes.

4 Q. And at page 131 of that deposition you say "I'm still at
5 the stage of needing to verify where those splits are. I've
6 not completed that analysis, and I'm not entirely sure that
7 all of the splits that I've identified are where they" --
8 continuing on page 132 -- "appear to be. And I'm not
9 entirely sure I've perfectly approximated them."

10 wasn't that your testimony?

11 A. Yes, it was.

12 Q. And at some point have you produced a subsequent report
13 that does accurately approximate them and identify them and
14 verify them for us? Isn't that true?

15 A. I didn't feel it was necessary to do any further --

16 Q. I'm sure you have an explanation, sir.

17 A. No, I did not.

18 Q. Did you produce a report or not?

19 A. Pardon me?

20 Q. Did you produce a report and provide us your verified
21 list that you had not yet done as of November 8th?

22 A. No, I did not.

23 Q. Now, you'd agree with me when -- when you tell this
24 Court that you're certain you've seen evidence of
25 discriminatory intent because of how some cities have been

1 split up, you better get that right. You agree, don't you?

2 A. No, I don't agree. That's a peripheral issue. I never
3 completed that analysis with a quality control check, but I
4 stand by the data that I show that in -- in my earlier table
5 that shows on a countywide basis and the way the districts
6 are constructed, irrespective of any city splits, there is
7 unquestionably statistical evidence of packing and cracking.
8 That stands unassailed.

9 whether I can identify the statistical footprint of
10 intent is an issue that I chose not to pursue unless it
11 became a major issue. But I'm quite confident that there are
12 enough indications, I may not have counted exactly the right
13 number, but there are present in the enacted plan instances
14 of unwarranted exchange of territory which adds population at
15 one point and subtracts it at another point from a particular
16 district, from a particular opportunity, and that in itself I
17 know stands. I know that exists and I can point to those
18 instances. That's all I need to know to satisfy myself that
19 there is something going on there that if one were to pursue
20 it to the nth degree one could make a statistical footprint.

21 But even if the statistical footprint is preliminary or
22 unverified, my foundation of evidence, my foundation of data,
23 consists of the unquestionable packing of whites as shown by
24 the data tables that I've presented in my report

25 Q. And I suppose one day you'll verify what you're telling

1 us here?

2 A. It may not be necessary to do so.

3 Q. Let me ask you this, sir.

4 Is there any quality social science journal that would
5 produce this as a peer-reviewed work at the level that you've
6 done it at this point, unverified and unfinished?

7 A. Before I submitted it to a journal, which I intend to
8 do, I will very likely want to take a look at these and
9 verify them, or at least say the -- the ones that I'm
10 confident of now illustrate how one goes about identifying
11 the statistical footprint of intent.

12 Q. This court wasn't entitled to that courtesy?

13 A. Pardon me?

14 Q. This court wasn't entitled to that courtesy?

15 A. I don't regard it as a courtsey. I regard it as a
16 peripheral issue at this point from the court's standpoint.

17 Q. I'm going to transition a bit in this area to talk about
18 your assertion of packing and cracking, which I understand is
19 related to the city splits. But you talked here today, and
20 you say so in your report, that when the packing and cracking
21 led to the -- this is from page 12 of your rebuttal report,
22 "The disenfranchisement of Anglo voters in Dallas County
23 through packing and cracking," that's one of your opinions;
24 is that right?

25 A. Yes.

1 Q. But in order to understand whether or not somebody has
2 been disenfranchised you have to know something about their
3 vote choice, isn't that a fact?

4 A. No.

5 Q. In other words, if it were the case that the Anglo
6 population had been split to a degree in the map but that a
7 large portion of that that had been split off from the larger
8 group supported other candidates, in fact, they wouldn't have
9 been cracked, but they would have been provided an
10 opportunity, Anglos who had a particular political choice
11 were in one district, Anglos that had a different political
12 choice were in another district with other like-minded
13 districts. You've got to know how they vote in order to
14 decide if they are packing and cracking?

15 A. That's not what I do as a demographer.

16 Q. You see whites on this side of the line, whites on that
17 side of the line, and you say that's cracked?

18 A. The data that I have provided correspond to the accepted
19 definitions of cracking and packing or the understandings of
20 them from the standpoint of what demographic data reveal.
21 They do not reveal anything about who wants to vote for whom
22 or whether you have white voters who are Democrats on one
23 side of a line and white voters who are Republicans on
24 another. Of for that you have to talk to a political
25 scientist.

1 Q. So if -- if it were the case that two-thirds roughly of
2 the Anglos in Dallas County prefer Republican candidates and
3 a third of Anglos in Dallas County prefer Democratic
4 candidates and they were more or less divided between
5 districts on that basis, that's information that you are
6 learning for the first time now?

7 A. I didn't say that -- anything to that effect. I simply
8 said that has nothing to do with the task that I was
9 undertaking as a demographer.

10 Q. I want to transition and talk about an intent analysis,
11 because what you did when you were with Mr. Morenoff earlier
12 is indicate that you see from the statistics intent; is that
13 right?

14 A. I didn't see I saw intent. I said there are patterns
15 that would be consistent with a single-minded purpose.

16 Q. You would need to see the other factors in order to make
17 that judgment as a matter of fact that the Commissioners
18 Court operated with a discriminatory intent, wouldn't you
19 agree?

20 A. I -- I didn't say that anybody operated with a
21 discriminatory intent. I said it was simply that it is
22 consistent with a single-minded purpose, which was to pack
23 whites in a single district.

24 Q. Well, based on your testimony alone you don't believe
25 His Honor ought to find just with what you tell us here today

1 that there's discriminatory intent. He needs to look at
2 other factors, wouldn't you agree?

3 A. I would say using the word "intent" yes, that's correct.

4 Q. Now, ultimately there are things -- and if you don't
5 know, that's fair, you just tell me that, but there are
6 social science accepted procedures and practices for
7 determining whether a government action was derived from a
8 certain intent, is there not?

9 A. I'll take your word for it. I'm -- I'm looking at it
10 just from the standpoint of what demographers do. We work
11 with statistics. We don't work with measures of intent.

12 Q. So just to be fair then, that's not an area that you're
13 an expert in?

14 Determining intent?

15 A. I can -- I cannot determine intent. I can only assemble
16 data that are consistent with a single-minded purpose.

17 Q. All right. Now, earlier you mentioned some -- some case
18 law. I know you're not a lawyer, but you are familiar that
19 several decades ago the U.S. Supreme Court gave us an
20 analysis of how to determine intent, a case called Arlington
21 Heights, you're aware of that?

22 A. No, I'm not.

23 Q. So then I assume it's true that whatever the factors are
24 in Arlington Heights, if it exists, you haven't analyzed
25 them?

1 A. I may have analyzed them, I'm just not aware of the fact
2 that they were in that case.

3 Q. You haven't viewed any of the recordings of the
4 Commissioners Court in this case; is that true?

5 A. Correct.

6 Q. You haven't reviewed any of the testimony of people who
7 showed up and spoke at the public meetings, have you?

8 A. No, I have not.

9 Q. You haven't reviewed any of the documents and materials
10 that the county produced to Mr. Morenoff and the plaintiffs
11 concerning the redistricting process, other than the maps and
12 the data, isn't that true?

13 A. That's true.

14 Q. And you'd agree with me that if somebody was going to
15 have the opinion that a plan was adopted with a
16 discriminatory intent, somebody would have to look at all
17 those things too, would they not?

18 A. If they wanted to establish firmly what the intent was.
19 I can say what the effect was and I can say it seems to
20 derive from a single-minded purpose.

21 Q. So your testimony that the plaintiff -- that the 2011
22 map the commissioners adopted is discriminatory effect but
23 you have no opinion on the intent?

24 A. What I can say is that if one were to switch the labels
25 in all the comparisons that I have made so that what is now

1 referred to as white was referred to as black, a plaintiff
2 would have ample evidence to establish that the map that was
3 enacted was clearly in violation of the Voting Rights Act if
4 the group involved was a protected minority.

5 Q. And you have that opinion based upon looking only at the
6 map and the population data that goes with it; is that right?

7 A. And understanding what the criteria are in the voting --
8 in the federal Voting Rights Act and the established criteria
9 that are used in situations where a vote dilution claim is
10 brought on behalf of a protected minority.

11 THE COURT: Mr. Dunn, we'll take our lunch break at
12 this time.

13 We will now stand in recess until 1:30.

14 We'll resume at 1:30.

15 THE SECURITY OFFICER: All rise.

16 (Recess taken at at 12:02.)

17 (Proceedings resumed at 1:30)

18 THE SECURITY OFFICER: All rise.

19 THE COURT: Be seated, please.

20 You may proceed, counsel.

21 MR. DUNN: Thank you, Your Honor.

22 CROSS EXAMINATION (Cont.)

23 BY MR. HEBERT:

24 Q. Dr. Morrison, I want to start this afternoon with the
25 maps in your report. And so I believe you do have a written

1 copy of your report that your attorney provided you?

2 A. I do.

3 Q. Right there present with you, sir?

4 A. Yes.

5 Q. All right. If you go to page 8 -- I'm sorry -- page
6 5 --

7 A. Yes.

8 Q. -- and it's also on your screen for the Court's benefit.
9 There you are -- Okay. I'm showing page 5 to the Court; is
10 that true?

11 A. Yes.

12 Q. And this is where you have placed into your report a
13 graphical depiction of the map that Dallas County adopted in
14 2011; is that true?

15 A. True.

16 Q. And you obtained this particular graphical
17 representation of that map from the county.

18 A. That's my best recollection.

19 Q. Yeah. Okay. And then if you'll turn then to page 8 of
20 your report, this is another depiction of the county's 2011
21 map, but this is the one that you and Mr. Bryan created; is
22 that right?

23 A. That's correct.

24 Q. And as you've acknowledged, because you and Mr. Bryan
25 worked from census block groups, there are some

1 discrepancies; is that right?

2 A. Well, let me just correct you. We worked with census
3 blocks.

4 Q. Excuse me. Census blocks, not groups?

5 A. Correct.

6 Q. And you've confirmed that with Mr. Bryan, that you used
7 census blocks and not groups?

8 A. Correct.

9 Q. All right. So back to page 8 you'll note that you
10 circle a number of cities that you allege to be split; is
11 that true?

12 A. Correct.

13 Q. Now, I'm going to take you -- we're going to do a little
14 comparison back and forth. Page 1 -- or page 5. This is the
15 map the county provided you. And I'd like you to look along
16 interstate 635, Coppell, up here in the Northwest. Do you
17 see that?

18 A. Yes.

19 Q. You'll note here up in the farthest corner adjacent to
20 Tarrant County that all of the pink district 2 is north of
21 635. Do you see that?

22 A. That's what it looks like, yes.

23 Q. But when we look at your version of the map, page 8, at
24 that same region we see your version of the map shows that
25 area is actually split and that part of the northern portion

1 of 635 is included in this Western District.

2 A. You're referring to that little square, that visible
3 square that's circled. Yes. Right. I see that.

4 Q. So that -- I mean, we can pretty easily see then that
5 the map -- at least in this respect -- that you worked off of
6 is incorrect; is that true?

7 A. I wouldn't say it's incorrect. I remember seeing that.
8 It pretty much stands out like a sore thumb. And my
9 recollection is, I'm not -- I'm not clear on this, but there
10 was some issue of that being either an uninhabited or
11 unpopulated piece of territory that might correspond to
12 something like a cemetery or a park. I don't know what it
13 was. But I'm aware of that, and that was something that was
14 circled initially as something to look into it, and I have
15 not resolved that.

16 But my recollection is that there was an answer to it,
17 and it was -- I -- I don't know what the use of that land is

18 Q. You said a lot of things there, but I think the sum
19 total of it was you don't know what, if anything, is in that
20 square; is that true?

21 A. That's correct. And that remains to be resolved.

22 Q. But what you did do when you produced this report to
23 everybody is you tallied that up in the city split?

24 A. That's correct.

25 Q. And separately in your report you indicate that the

1 splits in Coppell are part of the reason that you think
2 there's a discriminatory effect here. Isn't that right?

3 A. These -- as I said, no -- no single city determines my
4 opinion. I simply circled the areas that demanded further
5 investigation, and in this case there were two of them
6 circled.

7 And the one that you're referring to, the square that I
8 said I don't know what's there, I have yet to resolve
9 finally. This is what I would refer to as what goes into the
10 final quality control that would allow me to come up with the
11 exact correct number of splits.

12 But you're correct. The one on the left, I don't know.

13 But the one on the right, which is the larger circle
14 that is to the right of the one on the extreme left, that one
15 clearly is a split.

16 Q. All right. If the court ultimately determines nearly
17 half of the city splits that you've identified are actually
18 not split at all in the 2011 plan, I guess then it's your
19 testimony that still doesn't matter?

20 A. Oh, it does matter. It would -- it would correct the
21 total count, and I would then want to look at whether there
22 still remain instances of offsetting boundary splits where
23 territory was added at one place and subtracted at another.

24 So, as I say, this is a -- an unfinished portion of my
25 analysis.

1 Q. All right. So here in the upper left-hand corner, let's
2 focus on that split to talk about a related but different
3 issue.

4 So in this scenario you have an interstate, and on each
5 side of the interstate there's -- assume with me there's some
6 population whether there is not.

7 A. All right.

8 Q. Okay. Now, one of the things that you say is that
9 splits like this, again, assuming this was an accurate split
10 and assuming there was population on both sides of the split,
11 one of the things that is your conclusion is that splits like
12 this can show that a population has been disenfranchised. Is
13 that right?

14 A. No. Not -- not any single split or pair of splits as is
15 circled here in Coppell. That doesn't demonstrate anything
16 about disenfranchisement. It simply pertains to the overall
17 pattern of boundary drawing and exceptions to the integrity
18 of city boundaries.

19 Q. All right. So one doesn't matter but at some point,
20 however it works out in your analysis, you tally up enough of
21 them that are actually split, and those populations being
22 split lead you to conclude that some voters have been
23 disenfranchised?

24 A. No. That's not -- that's not what that leads to. It
25 leads to a different conclusion.

1 Q. Now, if you -- you have though stated the opinion here
2 today that it is your belief that Anglo voters under the 2011
3 plan were disenfranchised to some extent?

4 A. Correct.

5 Q. But you have no way of knowing when an individual block
6 is divided whether the population on one side of the block is
7 of a certain race and the population of another side of the
8 block is of another race. Isn't that true?

9 A. That's correct. I've said that earlier today, yes.

10 Q. And you also don't know how either of those groups vote?

11 A. Correct.

12 Q. And since you don't have either of those pieces of
13 information, you're really not able to conclude that
14 anybody's been disenfranchised. Isn't that true?

15 A. No, that's not true at all. It doesn't follow at all.

16 My basis for saying that people are disenfranchised is
17 based on the aggregate data that are shown in I believe it's
18 table 3. Or table 2.

19 Q. Now --

20 A. In other words, it doesn't -- it doesn't have anything
21 to do with these splits. It has to do with the simple
22 tabulation of demographic data that are shown in the table
23 that demonstrate without doubt -- without any question and
24 having nothing to do with any of these maps. It is beyond
25 any question that the boundaries have been drawn in such a

1 way that whites are excessively concentrated which is known
2 as packing, and they are scattered among the other districts
3 which is known as cracking. And that's what that -- that's
4 what table 2 shows, and that's the basis for my opinion about
5 disenfranchisement.

6 Q. And from the -- In other words, you treat all whites the
7 same, all blacks the same, and all Latinos the same in terms
8 of determining what their vote choice is?

9 A. I have nothing to say about their vote choice. I treat
10 them as members of a racial or ethnic category that is
11 recognized by the Voting Rights Act using the official data
12 that the Voting Rights Act respects which is official census
13 data, and that's all shown in table 2.

14 Q. Now, I'm going to talking about vote choice. I know
15 we've covered this to some extent, but I need to make sure
16 this is clear.

17 when you produced your map here today that the
18 plaintiffs are proposing, you have done -- you have not done
19 what we call a functional analysis to see how it performs in
20 various elections?

21 A. Correct. That's outside the scope of what I was asked
22 to do.

23 Q. And so you're unable to give the opinion, one way or the
24 other, whether or not the map the plaintiffs are advocating
25 would actually elect the Anglo candidate of choice in two

1 districts?

2 A. That would be something you'd have to look to a
3 political scientist to do.

4 Q. And you agree that if one is drafting a hypothetical
5 majority/minority district based on that group's share of the
6 total population that such a district might fail to function
7 as a majority/minority group based on other measures. Do you
8 agree with that statement?

9 A. You'd have to ask that question to a political
10 scientist. That's not in the area of expertise.

11 Q. Well, you've authored a publication and made that very
12 conclusion, have you not, sir?

13 A. I don't deny that I've authored a publication, but
14 before I testify in court I'm not representing myself as a
15 political scientist.

16 Q. I see. Well, I'm going to show you here on the screen,
17 sir -- I'll take you to the title page. This is an article
18 from March of 2017 from Social Science Quarterly entitled,
19 "From Legal Theory to Practical Application: A How-to for
20 Performing Vote Dilution Analyses. From legal theory to ..."

21 Do you see that, sir?

22 A. Yes.

23 Q. And you're one of the authors in this publication; is
24 that true?

25 A. That's correct. And Professor Hood is a political

1 scientist who was the coauthor.

2 Q. All right. So down here on page 8 is the sentence that
3 I just read to you.

4 Do you see that highlighted, sir?

5 A. Yes.

6 Q. And so I gather from your testimony thus far you're
7 saying you didn't read page 8. That was Dr. Hood's
8 contribution?

9 A. That's a statement that Dr. Hood would be qualified to
10 make based on his expertise. I have no quarrel with it, but
11 I would say that that is a statement that a political
12 scientist would testify to in court.

13 Q. And you know it to be true that in none of Dr. Hood's
14 reports did he perform a functional analysis on your map; is
15 that correct?

16 A. I don't know what he did in this case. I have not read
17 his report.

18 Q. Because like Mr. Bryan's deposition, you haven't
19 followed along with the report and deposition of Dr. Hood; is
20 that correct?

21 A. That's correct. I have not followed Dr. Hood's
22 deposition, nor have I read his report yet.

23 Q. Now, I want to transition to a moment because you gave
24 testimony with Mr. Morenoff regarding the general structure
25 that you had attempted to follow in drawing your map.

1 And one of the things I heard you discuss and is
2 discussed in your report is that you made sure that there was
3 a Latino opportunity district in your map; is that right?

4 A. That's correct.

5 Q. In fact, you had some criticism of the county's map
6 because you said it just an influence map, and so you wanted
7 to increase the Latino percentages so there would be a strong
8 ability to elect. Is that fair?

9 A. Not quite.

10 I would say my objective was to maintain a Latino
11 opportunity district, and if anything, have it be -- register
12 as a stronger opportunity district rather than a lesser
13 opportunity district. So long as it was equal to or improved
14 on the enacted plan's opportunity district for Latinos I
15 would be satisfied.

16 Q. And so nevertheless, it was a goal of yours to ensure
17 that there was a district where Latinos would have an
18 opportunity to elect a candidate of choice?

19 A. That was one of the factors I was balancing in balancing
20 these traditional redistricting criteria.

21 Q. And to be fair, that's also one of the factors that the
22 Commissioners Court adopted in its criteria, is it not?

23 A. I haven't reviewed their criteria. I don't recall what
24 they were.

25 Q. Now, well, I thought here this morning you testified

1 that you had reviewed their criteria and that's why you were
2 able to pull the puppet strings on Mr. Bryan while he drew
3 them out.

4 MS. ALVAREZ: Objection, Your Honor, misstates the
5 witness' testimony

6 THE COURT: Two things. I believe this is your
7 co-counsel's witness, not yours. So he will need to make the
8 objections.

9 If you will also stand when you address the Court.

10 THE WITNESS: Could you repeat the question?

11 MR. DUNN: Yes, sir.

12 BY MR. DUNN:

13 Q. I thought it was your testimony before lunch that you
14 knew what the county's redistricting criteria were and
15 because you had that knowledge you were able to make sure
16 that Mr. Bryan followed it in his various eight versions of
17 reports.

18 A. My recollection is that I said I recalled seeing that
19 list of the criteria, but I did not study it carefully, nor
20 did I rely on it exclusively. I do recall there being a list
21 of the criteria.

22 Q. All right. But you can't recall for us today here in
23 court whether the Commissioners Court adopted a criteria to
24 ensure that there were minority or Latino or African American
25 opportunity districts in the map?

1 A. All I know is I saw the list. I have no idea whether
2 they adopted them or whether there was dispute about them or
3 whether there was argument about them or whether they failed
4 to adopt them. I only know that I saw the list, and I was
5 aware that -- that there was a list. I -- I have no idea
6 what they did with the list.

7 Q. Mr. Morenoff didn't show you the official clerk-stamped
8 order of the Commissioners Court signed by each of the
9 commissioners adopting the various criteria that they
10 followed?

11 A. I don't of any recollection of Mr. Morenoff showing me
12 that, no.

13 Q. So you are unable to confirm for us whether or not it
14 was the case every member of the Commissioners Court agreed
15 with those criteria?

16 A. I have no knowledge about that, but I have no basis for
17 disputing what you say.

18 Q. All right. Well, back to your map. In any event, it's
19 the case that you had as one of your goals to draw a Latino
20 opportunity district. You've said yes to that.

21 A. Yes.

22 Q. It was also one of your goals to make sure that the
23 African American district continued to perform. You
24 testified to this to Mr. Morenoff earlier. Do you recall?

25 A. I didn't say that it continued to perform. I said I

1 wanted to maintain an African -- a black district in which
2 blacks were at least as high a percentage in my plan as they
3 were in the enacted plan, and I succeeded in doing that.

4 Q. And then another goal that you had was to attempt to
5 draw two districts that had at least a -- if not a majority
6 Anglo population at least that both would perform for the
7 Anglo voting population. Is that true?

8 A. No, that's not true.

9 what I said was my objective was to create two districts
10 in which whites, nonHispanic whites, were a majority of the
11 eligible voters, and I succeeded in doing that.

12 Q. So we had wanted to have one Latino district, one
13 African American district and two Anglo districts. And you
14 succeeded in drawing that; is that true?

15 A. That is true.

16 Q. The reason that you made sure there was an African
17 American and Latino opportunity district drawn is because you
18 knew the Voting Rights Act required that; isn't that true?

19 A. I can't say that I knew that it required it.

20 I knew that it was consistent with the purposes of the
21 rules that the Voting Rights Act put forth. And I knew that
22 it was the safe side of the rules. And that the overall
23 objective was to maintain the strengths that I could see,
24 what few there were in the enacted plan, while resolving the
25 weaknesses in the enacted plan.

1 Q. All right. So do you think in this circumstance the
2 2011 Dallas County redistricting that it was required by
3 federal law that there be a Latino and African American
4 opportunity district?

5 MR. MORENOFF: Your Honor, I'm going to object that
6 that is straight up calling for a legal conclusion.

7 BY MR. DUNN:

8 Q. You can say you don't know.

9 A. I'm not a lawyer and I don't know what --

10 THE COURT: Let me make a ruling --

11 MR. DUNN: I'm sorry, judge

12 THE COURT: -- before you instruct the witness.

13 All right. You may continue your answer. I think
14 you're going to moot the objection.

15 THE WITNESS: Okay. I'm not a lawyer and I don't
16 know what the law mandates. I can only say I know what the
17 purposes are of the Voting Rights Act. And based on the
18 extensive experience I've had I know what is the safe side of
19 a rule to be on. I don't know what the law says.

20 BY MR. DUNN:

21 Q. Fair enough.

22 In any event, you didn't think that you and Mr. Bryan
23 endeavoring to create the Latino and black district was
24 impermissible in some way?

25 A. I'm -- I'm not following the question.

1 Q. Fair enough.

2 I'm just confirming that you and your work drawing your
3 proposed map didn't believe it to be impermissible to draw a
4 black and Latino opportunity district?

5 A. Correct.

6 Q. Now while we're on this subject, I would like to show
7 you page 16 of your report, your initial report, which I'll
8 bring up here on the screen.

9 I'll use this as a rule.

10 All right, sir. Are you able to see there table 5?

11 A. Yes.

12 Q. Now, this is where you talked about earlier a comparison
13 of percentages between the enacted plan and your plan. Do
14 you see that?

15 A. Yes.

16 Q. And you would agree that there's some dispute between
17 the parties as to whether your figures here are exactly
18 right?

19 A. Could you tell me where the dispute is? I'm not -- I'm
20 not sure what you're referring to.

21 Q. That's all right if you don't recall.

22 The point is that you have here a percentage under the
23 remedial plan for the Hispanic influence district. Do you
24 see that?

25 A. Yes.

1 Q. And one of the things that I think I heard you say in
2 response to Mr. Morenoff's part of your examination is that
3 you felt like the 37.1 percent that was in the enacted plan
4 was in danger of not allowing a legitimate opportunity to
5 elect and so you wanted to plus it up some?

6 A. That's not what I said.

7 Q. Well, ultimately you concluded that 37.6 percent did
8 allow Latino's an influence district?

9 A. Yes.

10 Q. All right. And it's your belief that under your plan
11 and as you labeled it district 1 and as the county labeled it
12 district 4, in either version of the plan Latinos have an
13 opportunity to influence the outcome?

14 A. Correct. And I would say that the opportunity that
15 Latinos have in each of those districts, given the comparison
16 of 37.1 and 37.6 is for all practical purposes equal.

17 Q. And from your standpoint you're treating an influence as
18 something less than ability to elect; is that right?

19 A. Conceptually that's correct, yes. Those are two
20 distinct concepts.

21 Q. But when you talk about the Anglo, white controlled
22 district, under the enacted plan 42.8 percent of the whites
23 are in district 1 and you, when you redraw it you make it
24 55.1 percent under the data that you were using at that time
25 for the district you called district 4.

1 Do I have the numbers correct?

2 A. As far as I can tell you do, yes.

3 Q. All right. Now, 37.1 and 37.6 percent of Latinos gives
4 them influence, but 42.8 of Anglos in the district is not
5 influence. Isn't that the sum of your testimony?

6 A. I believe what the words there state are white
7 influence/control. So I'm not sure where you think that I'm
8 referring to the 42.8 as something other than a white
9 influence district.

10 Q. So it's your testimony that under the 2011 plan the
11 county adopted that whites had influence in district 1 as
12 labeled in that map; is that true?

13 A. That's correct.

14 Q. And so what you did when you drew your map is you didn't
15 want 'em to just have influence, you wanted 'em to have
16 control, and so you drew it in such a way that the percentage
17 became 51 -- 55.1 in that district; isn't that true?

18 A. I would say it's not what I wanted, it was my -- my
19 objective was to see whether it was feasible to do so. And
20 the answer was, yes, it was feasible to do so, while
21 balancing other traditional redistricting criteria.

22 Q. So to understand your opinion of the state of the maps,
23 but your opinion of the county's 2011 map is that whites have
24 the control of one district -- is that accurate, this one
25 here, district 2?

1 A. Yes.

2 Q. And, again, under the 2011 enacted map whites have
3 influence on a second district, district 1; is that true?

4 A. Correct.

5 Q. And then under your plan that you draw, whites end up
6 with control of one district that you label district 2 and
7 control of another district that you label district 4.

8 Is that accurate?

9 A. Yes. You've got it right.

10 Q. All right. I want to shift gears with you altogether
11 here and go to your rebuttal reports.

12 Just give me one second here.

13 MR. DUNN: I want to note for the record that
14 Dr. Morrison's initial report is Plaintiff's Exhibit 68. The
15 rebuttal report which we're about to discuss is Plaintiff's
16 Exhibit 71.

17 BY MR. DUNN:

18 Q. All right, sir. In your rebuttal report on page 9, you
19 discuss a 36-point gap here; is that right?

20 A. Yes.

21 Q. And what does that 36-point gap refer to?

22 MR. MORENOFF: Your Honor, I'm going to object to
23 this line of questioning, as there was no discussion of the
24 rebuttal report in Mr. Morrison's initial testimonies.

25 THE COURT: Given the procedure we're using,

1 it's -- it's difficult in light of the summary to say what
2 exceeds and does not, so I'm going to overrule the objection
3 at this point.

4 BY MR. DUNN:

5 Q. Do you need to see the other page, sir?

6 A. If I could see a copy of the report, if you have one
7 handy, I -- I realize you can put it up on the screen, but
8 I'm -- I recall estimating this 36-point gap pertaining to
9 Professor Lichthman's report, but the --

10 MR. DUNN: May I approach?

11 THE COURT: You may.

12 THE WITNESS: Thank you.

13 BY MR. DUNN:

14 Q. Yes, sir.

15 A. And what page was that on that you were referring to?

16 Q. Page 9, sir.

17 A. Page 9. Okay.

18 This was part of a -- an analysis that I did that came
19 up with a -- an estimated 36-point gap that pertained to
20 Professor Lichthman's argument that there were lingering
21 effects of discrimination evidenced in Hispanics and in
22 Hispanic voters' behavior. And I regarded this as an
23 exercise in irrelevance because Professor Lichthman had
24 nothing to say about the central claim in this case, which
25 was -- had nothing to do with Hispanics' ability to elect or

1 lingering affects. It had to do with packing and cracking of
2 Anglo voters.

3 So I can't say that I've gone back and done any further
4 work on this. I can try to give you an answer, but it has to
5 do with the fact that if there were lingering effects on any
6 groups' electoral behavior and those effects were influencing
7 those groups decades earlier, and then we look at today's
8 world when many of these people will have either succumbed to
9 mortality or have been replaced by newcomers either through
10 birth or in migration who never were around at the time these
11 discriminatory effects were occurring decades earlier.

12 So I was trying to make the point there's a gap there.
13 Demographers can think of ways to estimate what proportion of
14 it might be attributable to something that happened in the
15 1960s or '50s or '70s, and I can't say that I really got much
16 further than that. I don't know that I can easily explain in
17 court how one comes up with the estimate that half of this
18 remaining 36-point gap could possibly be attributed directly
19 to historical discrimination in Dallas County.

20 I did assemble some data that showed that there was --
21 there has been a steady influx of Hispanics from not only
22 other states but from all over the western hemisphere to
23 Dallas County over several decades and that will have diluted
24 whatever he was positing.

25 But my major point it has nothing to do with the issues

1 of this case. This is not about Latino's inability to elect
2 people. It's about white voters being packed and cracked.

3 I don't know if that answers your question or not.

4 Q. Are you finished?

5 A. Yeah.

6 Q. So what does the 36 point percentage gap refer to?

7 A. It's hard for me to explain. I can read what I have in
8 my report, if you want.

9 Q. well, we don't encode to do that. We can read. We were
10 hoping to get the benefits of your opinions here today.

11 A. well, my opinion is there's a 36-point gap and about as
12 precise as I can be is to say something less than half of
13 that gap could possibly be attributable directly to
14 historical discrimination.

15 That's a qualitative statement, not a quantitative one.

16 Q. Now, one of the other things you said in your answer
17 just now is you don't think this has anything to do with this
18 case?

19 A. I don't see its bearing on the central issue in this
20 case, no.

21 Q. But -- but this analysis and this calculation of this 36
22 percent it doesn't come up in your first report, it comes up
23 in your second report. Isn't that true?

24 A. It was prompted by Dr. Lichthman's excursion into
25 irrelevance when he decided to tell us about something that

1 had nothing to do with the case and said nothing at all about
2 my report.

3 He did not question or have any issues with the
4 methodologies and the statements that I made and the data
5 that I assembled having to do with the central issue in this
6 case, which is that there has been vote dilution with respect
7 to white voters in Dallas County. He referred to Hispanics
8 and he went off on a tangent and I took the trouble of taking
9 issue with the argument that he was making, although as I
10 characterized it in my report I said it is a red herring
11 argument that has the effect of distracting one from the
12 central issue.

13 Q. So the answer to my question was as to whether or not
14 the 36 percent appears in your first report or your second
15 report is it's in my second report?

16 A. Correct.

17 Q. And when I asked you about this at your deposition you
18 had a similar explanation that you do now and that you
19 couldn't tell me what the 36 percent referred to. Isn't that
20 true?

21 A. I probably said something to that effect, it's a
22 judgment call, it's a matter of judgment based on my having
23 looked at this issue before and making a qualitative judgment
24 that it would be difficult to imagine how the gap could be
25 attributable -- more than half of the gap could be

1 attributable to some cause that Professor Lichthman had
2 posited.

3 Q. Well, after I told you that this was my one and only
4 opportunity to talk to you before trial and I needed to
5 understand what the 36 percent gap was, I ultimately said I
6 guess it's sort of just like looking at a jar of jelly beans,
7 didn't I?

8 A. Yes. That's exactly what it's like. It's like me
9 looking at a jar of jelly beans and saying it looks like it
10 can't be possibly more than half red, but I haven't counted
11 the beans.

12 Q. Is this why you didn't bring up this part of your
13 testimony earlier today, is because ultimately your
14 conclusions are based in no scientific method whatsoever?

15 A. My conclusions in my rebuttal report are summarized in a
16 simple statement --

17 Q. I didn't ask you that question, sir.

18 I asked you yes or no, is the reason you didn't talk
19 about this analysis is because you didn't develop the
20 analysis, you just put it in the report and put a number on
21 there like a 36-point gap to make it look like something
22 nefarious had occurred?

23 A. No. That's not what I did. I gave it my best shot.
24 But it is a jar of jelly beans and I haven't counted them. I
25 don't have the data to count them. I can only look at it

1 from afar.

2 Q. In talking about this opinion that you ultimately
3 developed about the historical discrimination of citizens in
4 Dallas County, you claimed that with respect to the education
5 gap between Anglos and minorities that, "A majority of these
6 comparatively under educated newcomers originate from abroad,
7 especially Mexico as well as California and other states."

8 Isn't that true?

9 A. That's exactly what I said, yes.

10 Q. And ultimately that conclusion that you reached, you
11 reached it -- this is -- this is you looking at the jar of
12 jelly beans, right?

13 A. No. That's looking at the American community survey
14 micro data sample.

15 Q. well, ultimately you understand that the data that the
16 census bureau put out doesn't line up with your conclusion?

17 A. No, that's not true. It does line up with the
18 conclusion. You just stated the conclusion that I drew from
19 the ACS public use micro data sample. It was that Hispanics
20 came from many different places, and I was count them. Those
21 were jelly beans I could count.

22 Q. well, the 2011 to 2015 ACS report on this issue showed
23 that 969,000 and change Hispanics were in Dallas County.
24 555,000 were native born in the United States. That's 57.3
25 percent according to my math. Does that sound right?

1 A. Right. And that leaves 43 percent that weren't.

2 Q. And then ultimately with regard -- with regard -- I
3 mean, this isn't a new subject for you, right?

4 I mean, you've testified in court before about the
5 lingering effects of discrimination on a population?

6 A. I have, yes.

7 Q. And you're well familiar with the derivative effect,
8 you've written on it. Isn't that true?

9 A. Yes, I have.

10 Q. But nowhere in your report do you talk about this 43 or
11 so percent that isn't native born to the United States and
12 recognize that they too suffer from the derivative effect of
13 discrimination; isn't that true?

14 A. The -- the key point is that the discrimination that
15 they suffer derived from what happened to them in another
16 place or another country, not in Dallas County, not in Texas.
17 That's the point of what I was saying.

18 People who arrive as adults in Dallas County and
19 received an inferior education in Mexico or some other state
20 are suffering the lingering effects of discrimination
21 elsewhere, but not discrimination encountered in Dallas
22 County.

23 Q. Well, you're --

24 A. I'm not aware that one would be -- that Dallas County
25 would be responsible for the fact that an Hispanic who

1 received a poor education in Arizona or some other state,
2 that Dallas County would be responsible for that having
3 happened 30 years ago.

4 Q. You published a whole article on the lingering effects
5 of discrimination; isn't that true?

6 A. I did.

7 Q. I show it here on the screen. The lingering effects of
8 discrimination: Tracing persistence over time in local
9 populations." And it's in the popular what is RES Policy
10 Review?

11 A. It's a peer-reviewed scientific journal called
12 Population Research and Policy Review.

13 Q. So in the July 26, 2006 issue you get in depth with
14 analysis on how to measure and examine derivative
15 discrimination; isn't that true?

16 A. I developed, I believe, the first -- for the first time
17 a methodology for attempting to quantify the lingering
18 effects of discrimination or at least to place limits on how
19 pervasive those effects might be in present day
20 populations.

21 Q. But at your deposition when I tried to ask you about
22 derivative effects of discrimination you said I'm not even
23 sure I know what that means. Isn't that true?

24 A. I don't know if those were my exact words, but the --
25 the term itself has different meanings to different people.

1 I think I understand generally what it means. But people
2 define it in different ways.

3 Q. But you didn't offered up, well, I'm an expert in this,
4 I wrote an article that was published in a peer-reviewed
5 journal over ten years ago and here's what I understand
6 derivative effect to mean. You just said I don't know what
7 that term means. Isn't that true?

8 A. Did you want a quote that I said I don't know what term
9 means. If I did say that, I didn't mean it literally that I
10 don't know what it means. What I do know is it has different
11 meanings in different contexts and different people.

12 Q. One of the things it says here in the abstract of your
13 article is "I illustrate applications of demographic analysis
14 to examine how former policies and practices produced effects
15 that persist (or linger on) among members of a contemporary
16 population."

17 Is that right?

18 A. That's what it says, yes.

19 Q. You were qualified to do that. You've got a detailed
20 analysis here and data and all that. You could have -- you
21 could have put what you published here in this article to
22 work on Dallas County, could you not?

23 A. I'm not sure that I could have quantified it with the
24 data that were available for the particular assertions that
25 Professor Lichthman had made. This was a case where he was

1 referring specifically to Hispanics, not just to anybody who
2 was around 50 years ago.

3 And quite honestly, this was a peripheral issue, and I
4 did not see the justification for expending resources or my
5 own time on an issue that had -- as I said, had bearing only
6 on the red herring argument that Dr. Lichtman had put
7 forward.

8 I wanted to make it clear that what he was saying would
9 not be documented by a demographic analysis, but I didn't
10 carry it through to the ultimate fruition that I could have
11 done if it were the central issue in this case. And, as I
12 say, it was not an issue in this case at all.

13 Q. So the answer to my question is could you have performed
14 the analysis in your published paper in the context of this
15 case is yes?

16 A. No. I don't think -- I'm not sure that I could have
17 because I don't think the data would support it.

18 This case is one that is -- would be -- it would be
19 especially challenging simply because it picks out one
20 segment of the population, Hispanics, not everybody in the
21 population. And for some of this analysis one can only go
22 back and get counts of total population with no distinction
23 by race or ethnicity that would support this.

24 I had to work with the ACS public use micro data sample
25 to pin down that distinction.

1 Q. But in any event, you didn't try?

2 A. I did try.

3 Q. Let me take you then what you have in front of you, page
4 11 of your report, your rebuttal report, and as you're
5 talking about the subject, you ultimately reach this
6 conclusion here.

7 "For example, only about one in five have any
8 chronological connection whatsoever with what happened in
9 Dallas County prior to 1965."

10 Is that true?

11 A. Correct.

12 Q. And you leave out any explanation of lingering
13 discrimination in terms of the analysis that you were capable
14 of performing?

15 A. Well, I think the one in five speaks for itself. I said
16 there was no chronological connection. In other words, you
17 couldn't as an illustration, if the discrimination whose
18 effects occurred at a particular time and would
19 hypothetically have lingered on for decades -- if those
20 effects occurred before a person was born or before a person
21 had attended school, whatever you want, then that's what I
22 mean by there is no chronological connection. You weren't in
23 existence when the effect occurred. It's as though you said
24 were you a victim of Nazism if you were born after world war
25 II. The answer is there's no chronological connection.

1 Q. Well, if we're talking about -- we've been talking about
2 the Hispanic/Latino population in the county; is that true?

3 A. Yes.

4 Q. Whatever we disagree with, you will agree with me that
5 you've presented no evidence in your report of any
6 concurrent, recent or lingering effects of discrimination on
7 Anglo or white voters?

8 A. I had no -- I had no reason to look into that at all.
9 That was not part of what I was retained to do in this report
10 in my -- in my expert report.

11 Q. So the answer to my question is you did not provide any
12 opinions --

13 A. Correct.

14 Q. -- on that issue?

15 A. Correct.

16 Q. I'm going to turn to the issue of turnout because you
17 also discussed turnout in your rebuttal report. Is that
18 true?

19 A. You'll have to point out to me where I did that.

20 Q. If you'll go to page 9.

21 A. Yes.

22 Q. And isn't it true that the turnout rates that you used
23 for Anglos, Latinos and Blacks in your appendix is not for
24 the State of Texas. It's nationwide?

25 A. Correct.

1 Q. And in that case then it would also be true that the
2 turnout rate for Anglos, Hispanics, and Blacks in your
3 appendix only includes one percent of data from Dallas
4 County, more or less?

5 A. I don't know what the percent is, but the aid
6 standardization procedure I used is a fairly standard one
7 that demographers use and it is a way of estimating the
8 extent to which turnout that you observe is a function of the
9 age structure and the difference in age structure between two
10 populations.

11 So if you envision a hypothetical comparison of
12 Hispanics in Dallas County and they're all under 30 and
13 Anglos in Dallas County are all over 50, you would expect
14 there to be a turnout difference per capita, given the fact
15 that there is an established pattern of increased
16 participation with increasing age up until about 65 or 70.

17 Q. I'd like you to listen to my question, if you could.

18 A. All right.

19 Q. And try to answer the question.

20 A. Sure.

21 Q. I'll come at it from a different angle.

22 Greater than 90 percent of your turnout data doesn't
23 come from Dallas County; isn't that true?

24 A. I don't know what the percentage is, but it's --

25 Q. All right. Then. Very little of your turnout data

1 comes from Dallas County.

2 A. That may -- that may be true, yes.

3 Q. So you don't know the quality of your data or the --

4 A. No, I do know the quality of my data. I know it very
5 clearly.

6 Q. You would agree that there are regional differences in
7 turnout?

8 A. That's my understanding, yes.

9 Q. And that when social scientist's do investigation into
10 the turnout of given population, there are techniques that
11 they employ to analyze locally how turnout occurs. Isn't
12 that true?

13 A. Yes.

14 Q. And you didn't do those techniques?

15 A. No. I had no need to.

16 Q. But, of course, if different populations of the county
17 are turning out at different rates, that would inform whether
18 or not a certain percentage of a race -- of a race in a
19 district is enough to elect the candidate of choice, would it
20 not?

21 A. I'm sure that would have something to do with it, but I
22 made no statements about what kind of turnout would result
23 from any of the districts that I formed. That was outside
24 the scope of my analysis.

25 Q. Would you agree that the most recent data shows that

1 both for Hispanics and Blacks they turnout lower than Anglos
2 at every age level?

3 A. I have no basis of agreeing or disagreeing with that. I
4 haven't seen the data on it for Dallas County.

5 Q. But again, if you don't know the turnout, you have no
6 ability to determine whether or not a map you draw will
7 perform for the populations you have put in the majority?

8 A. I am not a political scientist. That's -- I'm not --
9 I'm not opining on whether they will or will not perform.
10 I'm simply saying they meet the standards for districts that
11 are expected to perform under the Voting Rights Act.

12 Q. All right. I'm going to shift gears. Speaking of
13 political scientists, part of your efforts were to provide
14 some data to Dr. Hood; is that right?

15 A. Yes. I recall putting together --

16 Q. Yes works.

17 A. Yes.

18 Q. And for the Court's context, Dr. Hood is a political
19 scientist at the University of Georgia; is that true?

20 A. Correct.

21 Q. And Dr. Hood ultimately gave some consideration to how
22 citizens in Dallas County vote. Is that accurate?

23 A. I don't know what he did.

24 Q. Fair enough.

25 If any event you were asked to give him some data and

1 you did so?

2 A. Correct.

3 Q. And at your deposition you produced to me a thumb drive,
4 disc drive of all the remaining portions of your file that I
5 did not yet have. Is that true?

6 A. Correct.

7 Q. And we had the court reporter mark the drive as Exhibit
8 1. Do you recall that?

9 A. I do.

10 Q. We put it in a computer. I stood around you, and you
11 went through the various files. Do you recall that, sir?

12 A. I do.

13 Q. And in that we discussed the data files that you gave to
14 Dr. Hood; is that accurate?

15 A. Yes.

16 Q. Now, I'm going to take you here to the screen, and I
17 haven't -- I haven't included all of these files here, but
18 there's just a couple I want to ask you about, and it's
19 the -- this table here. Do you see this?

20 A. Yes.

21 Q. It will take me a minute to open that.

22 All right, sir. The file I've opened is entitled 2012
23 all four elections 06-18-107. Is that true?

24 A. I can't see it, but I'll take your word for it.

25 Q. At the very top middle of the page.

1 A. Yes, I see it. Right.

2 Q. All right. Now, I'm going to take you here to this page
3 which is labeled -- or tab, I suppose. How do you refer to
4 these along the bottom?

5 A. Tab.

6 Q. All right. You go to tab that says 57 county
7 commissioner number 1. Do you see that?

8 A. Yes.

9 Q. There's a number of tabs along the bottom, is that not
10 true?

11 A. Yes.

12 Q. You include things here like presidential, sheriff,
13 other elections on after the one we have up today? Is that
14 right?

15 A. Yes.

16 Q. In each of these tabs what you have is election data by
17 precinct for that election; is that true?

18 A. Yes. That's the way it comes when you download it. You
19 get all the elections in different tabs.

20 Q. Okay. And over here on the right.

21 In the columns Q and R --

22 A. Yes.

23 Q. -- you have what's referred to as a QC check; is that
24 true?

25 A. Yes.

1 Q. And based upon your testimony at deposition, I
2 understand that you did the quality control analysis on this
3 data. Is that right?

4 A. A quality control check, yes.

5 Q. And where we see within the schedules here highlighted
6 precincts, those are precincts that you decided to look into
7 in some way; is that fair?

8 A. Correct.

9 Q. I'd like to talk a little bit more about those
10 precincts, but before I do how did you come up with the
11 elections you were going to clue in here?

12 A. The elections I included were the ones that Professor
13 Hood requested of me.

14 Q. I see. So you didn't make any of your own
15 determinations as to which elections Dr. Hood would look at?

16 A. That's correct.

17 Q. But originally you had a data file that included a
18 number of elections. In fact, all the elections in the
19 county in a given year?

20 A. Yes. That's how the data came. You download the Excel
21 file and you get all the elections and pick out the 1 or 2 or
22 whatever you want. What you're showing here are tabs that
23 have not been deleted because they are tabs that came along
24 that I had no use for.

25 Q. And so -- and the reason -- when you say you had no use

1 for 'em, you had no use for 'em because you say Dr. Hood told
2 you I only want these elections?

3 A. He didn't tell me I don't want these elections. He told
4 me I do want this election and that election, go get it. And
5 I said, well, I have to take the file with 50 elections, and
6 I'll get the two you want. He didn't tell me what he didn't
7 want; he told me what he did want.

8 Q. Why not just provide him the schedule with all the
9 election data and let him work from there?

10 A. Because he would have an insurmountable problem trying
11 to put the data together. This is something that I offered
12 to do if he wanted me to put together what I call an election
13 matrix for any particular election or elections he wanted to
14 look at. I said it's a tricky things, it's something
15 demographers are better at than political scientist's, and I
16 said if you want me to do it, I can do it, it's tedious, but
17 I can do it carefully, and I can report to you how I did it,
18 and I can show you the quality control checks, and then I can
19 show you how I dealt with the issues that you would have
20 confronted, and then you can decide whether I like what I did
21 and want to accept it or don't like what I did.

22 Q. Again, if I can call your attention back to tab 57, do
23 you recall our discussion about the highlighted precincts?

24 A. Yes.

25 Q. And you made a note here; is that not true? It begins

1 in column J, row 188. G 188?

2 A. Yes.

3 Q. And that comment says "Comment: Consider excluding rows
4 highlighted yellow to see how analyses run both with and
5 without Com," C O M. Is that accurate?

6 A. Correct.

7 Q. Did you perform that analysis?

8 A. No. That was not an analysis for me to do. That was my
9 highlighting the fact that there were a few precincts that
10 would be logically inconsistent. And that one way to handle
11 it would be to clean up the data set and exclude them, and
12 another one would if one wanted to go the additional step and
13 be even more thorough, run the analysis with the corrected
14 data set and with the uncorrected data set to see whether the
15 results were essentially the same.

16 My own recommendation would be if you're excluding one
17 percent or two percent of all the data and you've got a data
18 set that's 98 percent intact, you're going to get the same
19 answer, but I left that decision to him. I didn't say what
20 he should do. I said it's your call. You decide how
21 opportunity to handle this issue

22 Q. So it's your testimony you provided him the file with
23 this note in it?

24 A. That's correct.

25 Q. And based on what you told us here you don't know what,

1 if anything, he did with that later?

2 A. I do not know what he did.

3 Q. But ultimately you went through this chart and you
4 highlighted sections that you had questions about and -- and
5 you testified that you weren't necessarily consistent in the
6 individual precincts that you highlighted; isn't that true?

7 A. I believe it was a judgment call where I was identifying
8 instances where one might not be able to account for the
9 seeming logical inconsistency that presented itself in a
10 particular precinct. For example, that there were more --
11 there were more registrants than eligible voters. That's a
12 logically inconsistent coincidence, and it would arise from
13 the fact that we're integrating data at two points in time
14 which could account for it, but that the best way to handle
15 it is to say if it's a rare occurrence the best thing to do
16 is just delete it and not get involved with any precinct that
17 happens to manifest this logical inconsistency. It's
18 basically a way of cleaning a data set, and it's a standard
19 practice in any data set.

20 Q. So the answer to my question is did you testify that the
21 precincts that you highlighted to consider taking out you
22 didn't do so consistently is, yes, that's what you testified
23 to?

24 A. I did not say I did it inconsistently. I said I
25 highlighted the ones that I wanted Professor Hood to focus on

1 and give his consideration to and decide how he wanted to
2 handle it. I said one option is to delete them. Another
3 option is to keep them intact and run the analysis both ways.
4 And that was his decision.

5 Q. Let me take you to page 164, 165 of your deposition.
6 The question is:

7 "Q. So everywhere you have a yellow highlight, that was
8 something that you double-checked?"

9 And your answer was "A. Not necessarily consistently,
10 but there was something that I wanted to be sure to resolve.
11 So I said, 'Be sure to check every single detail of this
12 row.'"

13 Is that not your testimony?

14 A. That's what I said, and I'm not sure what the term not
15 necessarily consistently -- what the reference for that term
16 is, but I think you can see the sense of what the following
17 statement was.

18 Q. Well in one of you're earlier answers, you said one of
19 the things you look for is were there more voters in that
20 precinct than the data showed were registered voters. That
21 was something you flagged; is that right?

22 A. I would flag that, and if the discrepancy was small, I
23 knew that there was a potential explanation which could be
24 that since time one there has been very possibly an influx of
25 new voters that would register at time two of registered

1 voters who were not counted in the 2010 census.

2 So the question was do I have a plausible explanation
3 for why something that should be no more than a 100 percent
4 is 105 percent. And that was a judgment call

5 Q. Well, if you look there at the screen, sir, back in the
6 data set on line 123, you will see where you highlighted a
7 precinct that had 120 percent turnout among the voting age
8 population. Do you see that?

9 A. Yes.

10 Q. That's an area that you wanted to look into further; is
11 that right?

12 A. Correct.

13 Q. But, for example, if you go to other precincts in here,
14 there will be some 115, 117 percent that you don't highlight.

15 A. Correct.

16 Q. Why is that?

17 A. If you look in the upper right-hand corner, the blue
18 banner, it says 2012. So that was an election held in 2012.

19 If you look to the right half where the 2010 voting age
20 population is shown that is the population that was measured
21 two years prior to 2012. That's an historical measure of
22 what was in that precinct two years earlier.

23 So it's entirely plausible that the precinct could have
24 had an influx of 5, 10, 15 percent so its population base in
25 2010.

1 All sorts of things could account for this. My --

2 Q. That could be true for the ones you highlighted?

3 A. Pardon?

4 Q. That could be true for the ones you highlighted?

5 A. That's why I highlighted them, because they were so, so
6 extreme.

7 Q. Okay. well, look --

8 A. The ones that I highlighted were so out of line that I
9 thought it's -- it's hard to imagine how a precinct could
10 have picked up 20 percent or 30 percent more of the
11 population in just two years.

12 If it's 5, 6, 7 percent, then I can understand why that
13 would happen.

14 I also looked at some other factors, such as is this --
15 what is the -- what is the racial ethnic composition of this
16 precinct, is it one where it might be a place where
17 population -- to which population was gravitating, was there
18 possibly new housing built in this area. I didn't look at
19 each one, but I called attention to all those that I thought
20 Professor Hood should look at and consider deleting from the
21 data set so it would be a clean data set.

22 Q. Anywhere in either of your two reports and your
23 extensive deposition have you provided to us the standards or
24 matrix that you used to pick in and out precincts on this
25 data set so that our experts could replicate what you have

1 done?

2 A. I would characterize what I did as purely a judgment
3 call based on my experience.

4 Q. It's sort of like the jar of jelly beans?

5 A. Correct.

6 Q. All right. Dr. Morrison, you -- you -- as you mentioned
7 earlier, you've given testimony for decades now in voting
8 rights cases; is that true?

9 A. Correct.

10 Q. In fact, you told me at your deposition that -- you
11 couldn't give me an exact count but it might be 12 or 18
12 times you've testified in court cases; is that right?

13 A. Yes. Most of the cases I have been involved in have
14 settled.

15 Q. In fact you said it was 12 to 18 times you've testified
16 in court but many more times in depositions, in cases that
17 resolved --

18 A. Correct.

19 Q. -- is that right?

20 A. After they heard my deposition they reached a
21 settlement.

22 Q. I see.

23 And at the time of your deposition though in this case,
24 I asked you: Could you cite to me any cases where the court
25 credited or relied upon your testimony? And you said no;

1 isn't that true?

2 A. If I said that it's because I don't recall the
3 specifics.

4 Q. I take you here to page 118 of your deposition, line 4.

5 "Q. Okay. Can you name for us a case or cases you
6 recall the court credited and relied upon your testimony?

7 "A. I could go through the record and my CV --
8 actually, I don't even know if it's in my CV here. Where the
9 court relied on my testimony? I'd have to go back through
10 the records.

11 "Q. Well, that's far. You can't think of any at this
12 moment?

13 "A. No."

14 And I also asked you at the time of your deposition
15 could you name us one case where the court didn't find your
16 testimony persuasive; isn't that true?

17 A. Yes.

18 Q. And you also couldn't do that either; isn't that a fact?

19 A. I couldn't -- I couldn't recall specific instances, but
20 I -- I don't recall if I stated that in each case there are
21 experts arguing on both sides and obviously there are
22 instances where a judge has favored the opposing expert over
23 my opinion in making a ruling, but I -- I -- I think
24 that's -- that goes with the territory.

25 No expert is the one that is relied on all the time in

1 every case.

2 Q. well, that's fair.

3 But it's actually the case that a number of courts have
4 chosen to reject your opinions, not just a few; isn't that
5 true?

6 A. I don't know that I would say that they have rejected
7 it. I would say that they have favored the opposing experts'
8 interpretation.

9 Q. You've been accused before of submitting your opinions
10 late; isn't that true?

11 A. I don't know that I'd use the word "accused."

12 If I had submitted a report late it is -- it's -- it's
13 not anything that I recall and it may well be attributable to
14 the attorney who submitted it late or told me what the
15 deadline was and it was the wrong deadline.

16 I don't -- I don't recall being tardy in failing to meet
17 an obligation.

18 Q. This case was the first one?

19 A. I'm not --

20 Q. where you --

21 A. I'm not following you.

22 Q. This case was the first time you've been tardy providing
23 information to the court?

24 A. I don't -- I don't understand why you say I've been
25 tardy providing information to the court.

1 Q. You've been accused by courts of providing -- or using
2 unsubstantiated data; isn't it true?

3 A. What do you mean by unsubstantiated data?

4 Q. Data that was inconsistent with other publications that
5 the court considered?

6 A. Could you give me an example of that?

7 I -- I'm not exactly sure what you're referring to.

8 Q. You don't remember that happening?

9 Do you remember the DeBaca case?

10 A. You'll have to tell me what the place was. I don't
11 remember the plaintiff's name on some of these.

12 Q. I'm taking you to the top of the page.

13 I have the case here on your screen.

14 Q. This is DeBaca versus the County of San Diego, 794
15 F.Supp 990, 1992 case, United States District Court Southern
16 District of California.

17 You gave testimony in this case; isn't that true?

18 A. It says it was a 1995 and I frankly have no recollection
19 of it.

20 But I don't know that I testified in it.

21 Q. Well, I understand you're probably not used to reading
22 legal cases in this format, but where you got the date 1995
23 was a note that there's another case out there that didn't
24 follow them one in some respect?

25 A. Oh, okay.

1 Q. But there at the top in the very top line in the header.
2 This case was in 1992. Do you see that?

3 A. So it's even earlier than 1995.

4 Q. So you don't have a recollection of this case?

5 A. No, I don't.

6 Q. Well, the court published an opinion here. And in it
7 they discuss one of your opinions on page 8. And they talk
8 about defendant's respond with the proposed district and they
9 give population numbers for this district and the ideal
10 population. The court cites to your declaration. Do you see
11 that, sir?

12 A. Yes.

13 Q. And then ultimately the court says "It's unclear what
14 figures Dr. Morrison used in finding a total population of
15 445,517 for the proposed district."

16 Do you see that?

17 A. Yes, I do.

18 Q. And it says "according to the plaintiffs' exhibit the
19 total population is 480,281," roughly 30,000 different; do
20 you see that?

21 A. Yes.

22 Q. And so ultimately the court couldn't square the
23 testimony that you gave in that case about certain figures
24 with another party's testimony; is that true?

25 A. Yes. They said it was unclear what figures I used. And

1 that could result from a range of possibilities ranging from
2 I lied, I got the wrong numbers, or I didn't clearly state
3 where I got the numbers or I didn't clearly explain how I
4 arrived at them. I don't know what the circumstance was
5 there.

6 Q. We have the same problems with your opinions in some
7 respects in this case; isn't that true?

8 A. Tell me what is unclear and I'll try to clarify it for
9 you.

10 Q. Well, do you recall the Gomez case?

11 A. Again, you'll have to tell me where it was and when it
12 was -- when it was -- oh, the Watsonville case, yes.

13 Q. Gomez versus the City of Watsonville, 863 F.2d 1407,
14 1988. This is from the Ninth Circuit; is that true, sir?

15 A. It's a 1988 case. I think it was the first one I ever
16 testified in.

17 Q. All right, sir. And it was -- you were ultimately
18 discussed in this opinion as well. And I assume you don't
19 have a recollection of it like the other, because it's so
20 old?

21 A. I remember the name Watsonville and I remember the place
22 and I remember it was an important case at the time.

23 Q. Now, in here you say -- the highlighted opinion, which
24 we lost.

25 well, always have a plan B.

1 We lost our connection, Dr. Morrison, so I'm just going
2 to do this with this paper copy here.

3 I'll take you to page 8 of that opinion.

4 There we are.

5 Here it says, "The appellee's expert, Dr. Peter
6 Morrison, and two lay Hispanic witnesses testified to the
7 existence of political differences with the watsonville
8 Hispanic community."

9 Did I read that correctly?

10 A. Yes.

11 Q. "Dr. Morrison concluded that he would not expect to find
12 all Hispanics in watsonville voting alike."

13 Do you see that, sir?

14 A. Yes.

15 Q. Do you see -- and ultimately the court didn't follow
16 your opinion; isn't that true?

17 A. I don't know what they followed.

18 Q. But in this case you are assuming that all the Anglo
19 voters in Dallas County are cohesive and voting the same?

20 A. I'm making no assumptions about how they vote. I'm
21 simply --

22 Q. And earlier when I asked you about it you said, oh,
23 that's a political scientist, I'm not qualified to give an
24 opinion about that. Wasn't that your testimony?

25 A. That's my testimony.

1 Q. But back in 1988 you felt qualified to tell that court
2 whether or not there was political differences among the
3 Latino population; isn't that true?

4 A. I guess the word -- I guess it depends on whether the
5 word "concluded" is attributable to me as an expert or as a
6 layperson.

7 My -- my belief is that when I said I would not expect
8 to find all Hispanics in watsonville voting alike, I would
9 characterize that as a layperson's opinion, probably
10 misinterpreted as an expert's opinion, and if it had been
11 asked to me at that time are you expressing that as an
12 expert, I would say I'm not a political scientist but my lay
13 opinion is I would not expect all members of any group to
14 always vote alike.

15 Q. well, the court here didn't say, hey, Dr. Morrison took
16 his expert hat off, set it on the table and said my opinion
17 even though I don't live here is that these Latino folks are
18 not voting cohesively. Instead, it says it is your expert
19 testimony; isn't that true?

20 A. I see the -- I don't know if it says it's my expert
21 testimony, but I see I did say I based on this projection on
22 socioeconomic differences among Hispanics and the failure of
23 many eligible Hispanics to registry and vote. And I believe
24 I was forming that opinion based on the fact that the
25 Hispanics population in watsonville was socioeconomically

1 diverse rather than homogenous. So that -- if it were an
2 expert opinion that's what I was basing it on.

3 Q. But today you're not a political scientist so you can't
4 render an opinion?

5 A. I would not venture to render an opinion given the state
6 of the science today as opposed to the state of the science
7 in 1988.

8 In 1988 all we had to go on was socioeconomic
9 differences. Today we have highly sophisticated data that
10 can document directly how Hispanics vote. Such data were not
11 available at that time.

12 Q. There's also a court opinion called Baldus or Baldus
13 that wouldn't accept your opinion; isn't that true?

14 A. Can you tell me where that was?

15 Oh, that's in Wisconsin.

16 Q. For the record it's Baldus versus Members of Wisconsin
17 Government Accountability Board, 862 F.Supp 2.d, 860 the
18 Eastern District of Wisconsin, April 11, 2012.

19 Is that accurate, sir?

20 A. Yes.

21 Q. Ultimately here on -- towards the end, the next to the
22 last paragraph of the opinion they talk about some ACS data
23 and how it applied to the case. And they say "All they have
24 offered here is Dr. Morrison's new declaration." So, in
25 other words, you realized you had a problem in that case, you

1 came up with a new declaration later to try to fix it. You
2 recall doing that, don't you?

3 A. I recall coming up with a declaration using a
4 demographic approach to the problem. And it says there that
5 the judge there found it not persuasive.

6 Q. Ultimately the court didn't follow it because they said
7 that you had no justification for this 35.75 rate. Do you
8 see that?

9 A. Yes.

10 Q. Sort of like you have no justification here for your 51
11 percent Anglo; isn't that true?

12 A. I don't agree with you.

13 Q. Sort of like you have no justification here for your 36
14 point gap; isn't that true?

15 A. I don't agree with you.

16 Q. In other words, this isn't the first court to find you
17 looking at a jar of jelly beans and not being able to
18 describe your strategies, is it?

19 A. I find that in every court -- in every case that I've
20 testified in, one or the other expert is very often deemed to
21 be unpersuasive but is not deemed to be incompetent or a junk
22 scientist, if that's what you're getting at.

23 There's always a less persuasive expert in the courtroom
24 and in that case I was unpersuasive.

25 Q. Now, a more recent case -- you have to remember the 2010

1 case of U.S. versus Village of Port Chester, you recognize
2 that case?

3 A. Yes.

4 Q. And for the record that's 704 F.Supp 2.d 411, United
5 States District Court, Southern District of New York, April
6 1, 2010.

7 Is that true, sir?

8 A. Yes.

9 Q. Now, if you will go with me to page 13 of this opinion.
10 And numbered paragraph 7 it says, "This court also rejects
11 the notion offered in Dr. Morrison's expert report that a
12 proper measure of an effective majority must include a
13 consideration of voter turnout."

14 Do you see that?

15 A. Yes.

16 Q. But you've spent today and this morning telling this
17 court that there was no reason for you to do a turnout
18 analysis with regard to Dallas County; isn't that true?

19 A. I didn't say there was no reason. I said I was not
20 asked to. That was not part of what I was asked to do.

21 Q. Actually, what you said is you weren't qualified to do
22 turnout, that would have to be a political scientist. Isn't
23 that what your testimony reflects?

24 A. That would be the preferred person to do it and the
25 preferred expert to testify on it.

1 Q. But back in 2010 in the United States District Court in
2 New York you were able to give opinions on the proper measure
3 of -- and consideration of voter turnout. Is that true?

4 A. I think the words speak for themselves. It's a truthful
5 statement that anyone could make that a measure of effective
6 majority must include a consideration of voter turnout when
7 one consider the simple premise that any layperson can
8 understand that if nobody turns out you don't have an
9 effective majority. You don't need to be an expert to make
10 that statement.

11 Q. I'll take you to footnote 9 of that same opinion.

12 Here it says, "The court will not discuss at length
13 Dr. Morrison's effort to discredit Dr. Beveridge's
14 statement." Do you see that?

15 A. Yes.

16 Q. I'm skipping some, to be fair.

17 The next highlighted portion says, "Dr. Morrison's
18 analysis in this part of his report because, among other
19 reasons, his charts relied heavily on the accuracy of
20 registration data but did not reflect any of the admitted
21 problems with the data."

22 Do you see that?

23 A. Yes.

24 Q. That's a lot like the data that you gave to Dr. Hood
25 here in this case that had problems with it that you left him

1 to fix; isn't that true?

2 A. No, I don't see it that way.

3 In this case it says I did not reflect any of the
4 admitted problems with registration data. Those were
5 problems that somebody else pointed to.

6 In the case of Dr. Hood's data that I gave I pointed out
7 what the problems were and I deferred to his judgment as to
8 what to do about them. So I don't see the -- I don't see the
9 basis for your saying isn't that the same as.

10 Q. Well, there's an issue that we haven't discussed yet in
11 this case and that you mentioned in your time with
12 Mr. `Morenoff and that was that you used citizen voting age
13 population data on most of, if not all of, your charts that
14 lay out statistics for given districts; isn't that true?

15 A. Correct.

16 Q. And you made some statement here to the effect o there's
17 an unresolved issue in the law about the use of citizen
18 voting age population data. Is that not a phrase you used,
19 sir?

20 A. It's not about using the data. It's about the tension
21 within the law between electoral equality and
22 representational equality as articulated by Justice Kozinski
23 in the Las Angeles County case about at least two decades
24 ago.

25 Q. I see. So you're familiar with Judge -- Judge

1 kozinski's opinion two decades but not the U.S. Supreme
2 Court's opinion in Arlington Heights?

3 A. That's correct.

4 Q. You and other experts with your similar views have
5 posited for a while that citizen voting age population should
6 be the benchmark that's used to equalize populations and
7 districts; isn't that true?

8 A. No, that's not true. I have -- I have tried to make the
9 case why it could be done if that choice were to be made by
10 the Supreme Court.

11 Q. Well, you participated in the Evanwell case?

12 A. Yes.

13 Q. And you participated on the sides of the individuals who
14 were arguing that the Supreme Court ought to set the
15 deviation standard of using citizen voting age population,
16 did you not?

17 A. I did not make the judgment call that she should or
18 should not do it. What I addressed, what my amicus brief
19 addressed with my fellow demographic colleagues was is it
20 correct to state that one could use these data were the court
21 to decide that it wanted to use that measure instead of total
22 population. It was a matter of could you do it, because
23 there were those who were saying you can't do it, and I was
24 saying I've worked extensively with the American Community
25 Survey data and I can say that you could do it in most

1 instances and I want it to be known that it is not a barrier,
2 that the data are not a barrier to doing it. It's a decision
3 that the court has to make as to whether -- as to which
4 measure is the right one. And that again traces back to the
5 fundamental tension within the law between electoral equality
6 and representational equality. And that's what I mean when I
7 say there is an unresolved tension within the law that
8 persists today.

9 Q. And you as a Ph.D. awarded expert who's testified in
10 innumerable federal courts just have no opinion one way or
11 the other whether it ought to be CVAP or total population or
12 a different statistic?

13 A. That's correct. I do not have an opinion on what is the
14 right way to do it. I only have an opinion on the
15 feasibility of doing it from a technical standpoint.

16 Q. And ultimately though the U.S. Supreme Court did resolve
17 the Evanwell case; isn't that true?

18 A. Yes.

19 Q. And what the Supreme Court ruled was it was up to the
20 individual jurisdiction to select which population data they
21 wanted to use for deviation purposes, and that in that case
22 the State of Texas, who had used CVAP, could do so.

23 Isn't that what the court found?

24 A. That's my recollection, yes.

25 Q. And so you would agree that it's not unreasonable for

1 Dallas to use citizen voting age population to -- to not use
2 citizen voting age population but to use the whole
3 population?

4 A. I don't have an opinion on what they should do or not
5 do. All I can do is say they could do either but there is no
6 technical barrier to doing so.

7 Q. Well, Texas you know uses total population.

8 A. That's my understanding.

9 Q. And it would be uncommon, would it not, for Dallas, a
10 subdivision of the State of Texas, to use a different metric
11 than the state did?

12 A. Taking the meaning of the term "uncommon" literally,
13 yes, it would be a rare event in -- within the State of
14 Texas.

15 Q. So to the degree that your reports talk about the
16 citizen voting age population, that's not particularly fair
17 when the jurisdiction used total population, is it?

18 A. I'm not following your argument, because the
19 jurisdiction has used both total population and citizen
20 voting age population for the two separate purposes for which
21 it is presently used to meet the requirements of the Voting
22 Rights Act.

23 Total population is the metrics for apportioning
24 population for representational equality. And citizen voting
25 age population is the measure that is used for assessing the

1 concentration of eligible voters. And it is also in a
2 derivative sense a metric if one wanted to measure the degree
3 to which votes are unequally weighted, depending on which
4 district one lived in.

5 That's the tension within the law. That's the one I
6 said it's -- it's important to avoid an unnecessarily extreme
7 imbalance in how votes are weighted.

8 Q. Well, it seems like there's a tension within
9 Dr. Morrison, because if we look at the Port Chester opinion
10 at footnote 10 -- excuse me, at footnote 11 it says that "Dr.
11 Morrison posited that CVAP data for Port Chester may not be
12 fully accurate because there is some evidence that there is
13 over-reporting of citizenship status by Hispanics in the
14 census in general, that is, Hispanic noncitizens will
15 indicate on census forms they are in fact not
16 citizens." [sic]

17 Then it goes on to say Dr. Morrison did admit, however,
18 that he had no evidence showing any such over-reporting of
19 citizenship status in Port Chester specifically."

20 Did I read that correctly?

21 A. You read it accurately. And that has nothing to do with
22 what we're talking about. That is purely a measure of --
23 purely a matter of how correct the answers census bureau
24 tabulates when they ask people to check a box whether you are
25 a citizen or not. And when the person checks the box that is

1 that person's answer, they have no way of validating it.

2 And the census bureau has done technical studies that
3 indicate that there may be over-reporting and they're
4 generally concerned with the way people answer questions. So
5 this is a matter of how the census appraises the data that it
6 gets from the answers that people give on questionnaires.

7 Q. Well, nobody has been foolish enough to give me a Ph.d,
8 but it looks like in Port Chester when the CVAP data didn't
9 support the opinion you wanted to have, it had problems that
10 you couldn't substantiate. Here in Dallas County when the
11 CVAP does support what you want, it's now the finest and the
12 only piece of data that should be used.

13 A. You said that's the way it looks to you, and I have no
14 reason to dispute that.

15 Q. And finally on footnote 24, you start to talk about
16 lower rates of political participation in Port Chester. Do
17 you see that?

18 A. Yes.

19 Q. And here you are in a second opinion able to do some
20 analysis of turnout in political participation; is that true?

21 A. That's -- let me just read that for a minute.

22 Yes. I see what I was getting at there

23 Q. So for our record it says, "To explain lower rates of
24 Hispanic political participation in Port Chester,
25 Dr. Morrison attempted to place great emphasis on the fact

1 that the Hispanic community in the village contains many
2 recent arrivals and is generally a more transient population.
3 Dr. Morrison, however, has not conducted any particular
4 studies to determine how transient the Hispanic community
5 actually is in Port Chester, let alone how this would
6 interact the rate of political participation of the Hispanic
7 population."

8 Do you see that there, sir?

9 A. I do.

10 Q. And, indeed, in that case you were willing to give an
11 opinion, but like this case you didn't actually do any
12 analysis when you developed that opinion. Isn't that true?

13 A. I did enough analysis to be able to form an opinion
14 based on the measure of transience. And the transience of a
15 population is known to be directly related to whether the
16 population -- whether the individuals who are transient
17 persons who may have moved in a few months ago have yet taken
18 the trouble to register to vote. So there is a built-in
19 delay and lag in registration among people who are newly
20 arrived as opposed to people who have been in residence for a
21 couple of years and will have registered. That I know is a
22 general reality about political participation from the
23 political science literature that I have read. And that was
24 the basis for my opinion, not something I could quantify, but
25 simply an opinion that I could render and say this is one

1 reason why you might find lower participation on people who
2 arrived in the community a month ago because they haven't yet
3 registered to vote.

4 And, again, that I think makes common sense.

5 Q. Here's what happened here, isn't it, Dr. Morrison? You
6 were contacted by Mr. Morenoff, somebody at his direction,
7 and you were told about this case where whites were suing
8 Dallas County, and they were alleging they had been
9 discriminated against; isn't that true?

10 A. I'm not sure those are the exact words that he used, but
11 that was my initial understanding, yes.

12 Q. And that was a topic that interested you and you wanted
13 to be an expert in that case; isn't that true?

14 A. No.

15 Q. And so what you did was you set out to say, all right,
16 this would be a great opportunity for us to test the Voting
17 Rights Act for whites. I need to find some evidence of
18 discrimination. And you went looking for it. Isn't that a
19 fact?

20 A. No.

21 Q. And you ultimately exchanged various emails with
22 Mr. Bryan over time asking him to check into various smoking
23 guns or smoking embers, but time and time again none of those
24 smoking guns or smoking embers worked out in Mr. Bryan's
25 analysis, did it?

1 A. I totally disagree with you on all the statements you've
2 just made.

3 Q. And then ultimately you put down in a sworn expert
4 report that there were nearly a dozen city splits in this map
5 and that that was evidence of intentional discrimination, and
6 you have since learned you were wrong on nearly half of them;
7 isn't it true?

8 A. No, it's not true.

9 Q. And the backs of these plaintiffs over here have relied
10 on you to come into court with an opinion about a map and all
11 along you haven't taken the time to analyze the original map,
12 the actual map that the county placed. Isn't that a fact?

13 A. I have analyzed the original map, and what I have to say
14 is based on the data that are shown in the tables that I have
15 assembled in my original first report where, as I say, those
16 demographic data document without doubt that there has been
17 packing and cracking of white voters.

18 And my report also documents the fact that there is an
19 alternative plan that can avoid what would in any other
20 situation were the affected group a minority instead of
21 whites would be regarded as a classic example of vote
22 dilution.

23 Q. At the end of the day, you had the county's map right
24 there on page 5 of your report accurately depicted, but
25 rather than throw darts at that map you and Mr. Bryan

1 concocted another one using a different granular data and
2 found trouble with it. Isn't that true?

3 MR. MORENOFF: I object to the serial
4 mischaracterization of Mr. Morrison's testimony.

5 MR. DUNN: I'm almost finished, your Honor.

6 THE COURT: The question was argumentative. If you
7 will rephrase it.

8 MR. DUNN: Sure. I withdraw it, Your Honor.

9 BY MR. DUNN:

10 Q. At the end of the day you can't tell this Court or these
11 plaintiffs that the map you come here advocating for would
12 actually elect another Republican to the Commissioners Court,
13 can you?

14 A. I have no idea who it would elect. What I do know is it
15 would offer --

16 MR. DUNN: Thank you, sir.

17 We pass the witness.

18 THE COURT: We'll take our afternoon break at this
19 time.

20 We will resume at 3:30.

21 THE SECURITY OFFICER: All rise.

22 (Recess taken at 3:00.)

23 (Proceedings resumed at 3:30.)

24 THE SECURITY OFFICER: All rise.

25 THE COURT: Be seated, please.

1 Redirect?

2 MR. MORENOFF: Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. MORENOFF:

5 Q. Dr. Morrison, plaintiff's counsel spent a good deal of
6 time asking you questions about political science. And maybe
7 the way I should start this is backing out a minute to hone
8 in on what your expertise is.

9 what degrees do you hold?

10 A. I hold a Ph.D. in sociology.

11 Q. And where have you spent most of your career?

12 A. I've spent the majority of my career at the Rand
13 Corporation in Santa Monica, California, which I went to
14 after a two year extent as an assistant professor at the
15 University of Pennsylvania.

16 Q. And how long were you at Rand?

17 A. From 1969 through about 1995. I stayed on as a
18 consultant for some years thereafter, but my formal full-time
19 employment I think ended around the mid '90s.

20 Q. Does Rand host a demographic institute?

21 A. They -- Rand has what is -- what was known, when I
22 founded it, as the Rand Population Research Center. And I
23 think it has morphed into some other names but I was the
24 founding director of the Rand Corporation Population Research
25 Center. And it was one of perhaps half a dozen population

1 research centers in academic centers around the country. One
2 of them is at U.T. Austin, Princeton, University of
3 Pennsylvania, and other places.

4 And the one at Rand is the distinctive in that it is the
5 only ongoing population research center outside of an
6 academic setting.

7 To elaborate a little bit, these centers are funded by
8 the National Institutes of Health that gives them long-term
9 continuing support to maintain and strengthen a core group of
10 researchers who are recognized as prominent researchers,
11 promising young researchers in the field of demography as it
12 has grown over the years. And that support has led to
13 basically a flourishing of research. And so when you read
14 about demography the best of it is being done at those kinds
15 of centers.

16 Q. And you were the founding director?

17 A. Correct.

18 Q. Okay. What do you do now?

19 A. Since I retired from Rand I have been -- I have had a
20 continuing interest in voting rights cases and I have been
21 making myself available to both defendants and plaintiffs.
22 Mostly defendants, because they are the ones that usually
23 come along. And I have -- I have -- I should say evaluated
24 maps and plans and assisted parties, both defendants and
25 plaintiffs, in, first of all, assessing what kind of a case

1 they had or didn't have, and in some instances I have
2 indicated to them that from what I can see they don't have a
3 case and that they might want me to help them see a way of
4 settling the case with a plaintiff rather than fighting it in
5 court and losing against someone like me on the other side
6 who would have all the facts against them.

7 So . . .

8 Q. Have you drawn maps for others before the plaintiffs?

9 A. Yes. I've drawn hundreds of different proposed
10 alternative maps for probably dozens of clients.

11 Q. What is a demographer's role in the map making process?

12 A. A demographer's role in the map making process is really
13 to assemble pieces of geography properly measured using
14 census data, which in today's world poses some technical
15 issues, so that one can access what alternative districts or
16 alternative plans with different kinds of districts amount to
17 in terms of meeting criteria that are set forth under the
18 Voting Rights Act.

19 So we are typically in the business of assembling data
20 that are robust, reliable, current, tell both parties as much
21 as demographers can say based on the data that are available
22 and at hand about what a plan not only looks like in terms of
23 its geographic configuration but also assemble the necessary
24 metrics that can document its compliance with the purposes of
25 the Voting Rights Act as well as the standards.

1 Q. Well, let's start there.

2 Are there standard thresholds that demographers use to
3 tell whether they are crafting districts that comply?

4 A. Well, yes. It typically would be the kind of data that
5 are shown in the tables of my report where I've assembled
6 the -- the parameters on each district and the overall total
7 deviation from ideal.

8 And it's -- there are a lot of different ways you can
9 make a plan and can make all the numbers come out so that you
10 have properly apportioned the total population. The question
11 is what effect is the aggregation of territory into four
12 districts or seven districts, or whatever, what effect --
13 what opportunities is that -- does that create for one or
14 another group that is protected -- a protected minority under
15 the law.

16 Q. Are there particular population thresholds, whether CVAP
17 or total population, that are generally used by people in
18 your field to determine whether a district affords an
19 opportunity to a group?

20 A. There are not strict thresholds. There -- there is the
21 first Jingles precondition sets forth a pretty clear
22 benchmark, which is that a district -- it says can you form a
23 district in which the protected minority could constitute a
24 majority of eligible voters in that district. And I would
25 read that to be is it 50 percent plus one person.

1 Now, that's a -- you can say that's the standard. That
2 doesn't mean that it will always from a political scientist's
3 point of view perform for one or another group, but it is a
4 threshold that you can say if it's 49.99 you haven't yet rung
5 the -- rung the bell.

6 Q. There was some discussion of turnout today. How would
7 turn-- differential turnout figures for different groups
8 impact what level of CVAP -- CVAP would be necessary in order
9 to have a district afford a community the opportunity to
10 elect its preferred candidates?

11 A. Okay. This is -- the way you ask the question it is
12 really ultimately a political scientist question to answer in
13 a particular instance, but in common sense layman's
14 understanding is that we have fairly widespread, consistent
15 evidence that certain minority groups turn out at a lower
16 rate for a number of reasons. Hispanics, in particular, tend
17 to turn out at a lower rate for reasons I won't go into. It
18 isn't anybody's fault, that's just way it is.

19 In the past it has been the case that African Americans
20 didn't turn out at as high a rate as non-Hispanics whites do.
21 But that gap has changed and African Americans now have
22 demonstrated that they when properly motivated can turn out
23 at very high rates, even exceeding those of whites.

24 So a lot of it depends on the nuance situation.

25 And turnout obviously determines --

1 Q. okay.

2 A. -- you know, whether a 50 percent majority is a 47
3 percent majority among those who vote or a 51 percent
4 majority because they turned out more than other groups.

5 Q. To the extent a particular group might have higher
6 turnout figures than other groups in the population, would
7 you need to have more or less of that group in order for it
8 to have a realistic opportunity to elect its preferred
9 candidate?

10 A. My understanding of the interpretations that the courts
11 have placed on this, benefiting from the advice of political
12 scientists, is that the case law does, you know, establish
13 ranges where if you are trying to empower a disadvantage
14 minority group, such as Hispanics in a particular place, 50.5
15 percent wouldn't quite do it. They might say we'd like to
16 see maybe 58 or 60 percent.

17 In the case of African Americans I think it would depend
18 on where. But, again, there are broad ranges. I don't think
19 there's any fixed -- there isn't any fixed standard, but it
20 is based on the -- to a large extent on what has been
21 observed in prior elections in that jurisdiction.

22 Q. But if one had observed a group with higher turnout than
23 the population at large, would that number then need to be
24 higher or lower?

25 A. It certainly would not need to be higher.

1 Q. Thank you.

2 A. It could be lower.

3 Q. You've drawn a lot of maps?

4 A. Yes.

5 Q. Have any of them ever been overturned by a court?

6 A. None to my knowledge.

7 Q. Okay. Generally speaking, to the extent you know, have
8 the maps you've worked performed the way they were
9 anticipated to?

10 A. Yes, they have.

11 Q. Okay. Do you ever consult for governments that are
12 threatened with litigation?

13 A. Yes.

14 Q. Okay. How many governments have you analyzed whether
15 they should expect difficulties in a lawsuit?

16 A. I can't give you an exact count, but I can say I -- I do
17 recall a few. We have them actually was here in Texas,
18 Coppell School District, which I worked on about maybe two
19 years ago.

20 Q. What was the situation there?

21 A. That was a situation where Latinos were claiming that
22 the Latino community, which I took to mean eligible voters
23 within the Coppell School District, were unable to elect
24 their favored candidates of choice and there have been a
25 history of -- I don't remember the exact history, but

1 basically Hispanics I think had run but had not gotten
2 elected at large.

3 Q. What was your advice to Coppell?

4 A. Pardon?

5 Q. What was your advice to Coppell?

6 A. I looked at the demographics and based on the
7 demographics I said it looks to me like the plaintiffs have a
8 pretty persuasive case, you know, this would be a tough one
9 for me -- not a tough one, but I wasn't sure that when I put
10 the data together that it would tell a story that I could
11 testify to in any convincing way and say, well, the
12 plaintiffs are wrong, because it looked to me like the
13 plaintiffs were right.

14 Q. Was your advice taken?

15 A. It was taken in the sense that I suggested to the
16 plaintiff -- and -- I mean to the defendant, this is over an
17 extended period of time, I said, look, it looks to me like
18 you have a tough case here and I don't -- I don't see there
19 being any objective basis for me putting data together that
20 would help you prevail. I said, now, you can maybe try to
21 work out a settlement. And they talked about a settlement
22 for some period of time.

23 And we went through several rounds of, you know,
24 basically the political actors discussing what they could and
25 could not find palatable. And at some point I said have you

1 considered something other than going to districts, because
2 if you're going to settle this that's not the only thing that
3 you have -- you have to do, could consider an alternative
4 form of voting, such as cumulative voting, which has been --
5 it's not widespread across the nation, but it has been used
6 in some other places in Texas.

7 In fact, I think it's more prevalent in Texas than
8 elsewhere. And I explained to them what the logic of
9 cumulative voting was. That's really layman's logic, not as
10 a political scientist. And I said you ought to take a look
11 at this, and see this may be something that -- that you'd
12 like to consider.

13 And my recollection, I'm just explaining this in my
14 layman's terms, my recollection is they spoke to the
15 plaintiffs and the plaintiffs said, look, we got an election
16 coming up in a couple of months, we've got to make a decision
17 here, either you go to districts or they said, well, okay,
18 we'll let you try it once. We'll do cumulative voting. And
19 they had time to set it up. And my recollection is that the
20 settlement was reached just a -- a matter of a few months
21 before the election was held they had a ballot that was
22 cumulative voting where -- I don't know if, Your Honor,
23 you -- I don't know need to explain to you what cumulative
24 voting is?

25 THE COURT: No.

1 THE WITNESS: And what happened in the first
2 election was that they ran. It turned out that the Latino
3 candidate got elected. I thought that was quite impressive.
4 I felt rather proud that I had brought that to their
5 attention that there was another alternative.

6 And the last time I looked, I think a year later, they
7 had another election and I think a second Latino got elected.
8 So I thought my advice was helpful. I felt that I had
9 discharged my responsibilities in a professional fashion.
10 And I was pleased that there had been a settlement that
11 seemed to benefit everybody.

12 BY MR. MORENOFF:

13 Q. Sure. And at the end of the day the election system
14 that you proposed worked as hoped?

15 A. It appeared to work.

16 I further tried to discern why it worked, what made it
17 work, but it's still -- it's hard to tell from the data that
18 are available. You can't really tell.

19 Q. You were engaged by the plaintiffs in this case, yes?

20 A. Yes.

21 Q. What were you engaged to do?

22 A. I was engaged to look at the plan that had been enacted
23 and to evaluate what was wrong with it as well as considering
24 what might have been right with it.

25 And I was also asked to see if it was feasible to

1 construct an alternative to that plan that might cure the
2 problems that it posed and what was regarded as most
3 troublesome, which was the packing and cracking of -- of
4 white voters and the disenfranchisement -- the indirect end
5 effect of disenfranchising not only whites but also blacks to
6 some extent.

7 Q. And to the extent there was a third topic were you also
8 to address whether any intent was discernible
9 demographically?

10 A. I don't think I was explicitly asked to focus on intent,
11 but I found myself stumbling on the statistic footprint of a
12 single-minded purpose and I'd rather refer to it as a single
13 minded purpose rather than intent.

14 Q. Let's start with the first then.

15 A. All right.

16 Q. The first was to analyze the plan.

17 Do you believe that the enacted plan adhered to
18 traditional redistricting principles?

19 A. My only standard was to say if this had been a plan
20 where, as I say, the labels had been switched and what I
21 referred to as white voters were in fact black voters, this
22 would be a classic example of a case of vote dilution in
23 which you'd say blacks are being disenfranchised and there's
24 no question that the -- that the plaintiffs would prevail
25 under the standards of the Voting Rights Act if that had been

1 the case. It has all the classic hallmarks of a successful
2 challenge to a map.

3 Q. Did you need to see the adopted criteria passed by the
4 Dallas Commissioners Court in order to form an opinion on
5 whether or not this map adhered to traditional redistricting
6 principles?

7 A. No, I did not.

8 Q. Why?

9 A. Because all that I have to say has to do with what the
10 statistics are in my report and in that table that shows the
11 clear-cut evidence of packing. There's no question that
12 there's packing. And there's no question that there's
13 cracking. And then there are the derivative concerns that I
14 had with respect to the boundaries and also my observation
15 that the -- those that had drawn the boundaries had basically
16 paid no heed to the one person one vote stipulation which
17 says you sort of want to avoid an unnecessarily extreme
18 imbalance between the weight that a vote cast by a voter in
19 one district is versus what that same voter would -- would --
20 what the -- how that vote would be weighted were that same
21 person to live in a different district. That's the
22 underlying tension --

23 Q. Did you also form an opinion of whether the total
24 population differentials were unnecessarily large?

25 A. I did not find that the total deviation from ideal was

1 unnecessarily large. It was still within range. It was
2 under 10 percent. But it's always better to have a plan
3 that's better in every other respect and also has a lower
4 total deviation from ideal. It's another plus in the favor
5 of the proposed plan that I formulated.

6 Q. Mr. Dunn asked you if you would confirm his sense of the
7 rate of Anglo population decline in Dallas County. Did you
8 agree with him?

9 A. I don't think I did, no. I don't recall. I can only
10 say what I -- it's a fraction of a percent per year.

11 Q. Regardless of what that rate is, does that have any
12 impact on the rights of Anglos living in Dallas today?

13 A. No.

14 Q. Okay. I'm going to jump to your second prong, which was
15 whether it was possible to create an alternative map.

16 A. All right.

17 Q. okay?

18 was it possible?

19 A. Very much so.

20 Q. okay. what factors did you consider in designing your
21 plan?

22 A. I began from scratch. I didn't try to modify the
23 enacted plan and say, well, can we tweak it here and tweak it
24 there and make it come out the way I want. I started out
25 from scratch and said, well, where are the concentrations of

1 different groups in the population. And there are
2 concentrations, but some of them are separate from each
3 other. So you have a problem of saying, well, you could form
4 a district over here and a district over here, but they would
5 be separated by territory where these people were absent in
6 between. So there's a question of -- it's a complicated
7 county.

8 And I took it down to the census block level, and I told
9 Mr. Bryan we're going to work at the census block level and
10 build it up. Basically you have to experiment and trial and
11 error and say how do you put this thing together, and at the
12 same time, wherever possible, trying not to disrupt the
13 existing municipal geography, which is, you know, the
14 boundaries of established communities of interest

15 Q. So I want to make sure I heard a few things in there.

16 A. All right.

17 Q. Did you try to equalize total population?

18 A. Equalizing total population is kind of the framework
19 within which you work. Whatever you're doing, you have to
20 come up with a total deviation ideal that even if you're
21 playing around with a plan it's not over 10 percent. Or if
22 it is, you still have some work to do on it.

23 So equalizing total population was one consideration but
24 by no means the only one.

25 Q. Did you try to equalize census voting age population?

1 A. In that case, it's more of a check to say when you're
2 done with the whole process and you look at the imbalance in
3 citizen voting age population -- that is to say the
4 differential weighting of votes -- that's something you take
5 a final look at and say is there any way I could reduce that
6 without jeopardizing anything else I've done. It's kind of
7 putting the final fine tuning and just tweaking it to get it
8 a little lower if possible or at least say I've paid
9 attention to it. I haven't totally overlooked that fact.

10 Q. But it was something that you addressed?

11 A. It's something -- it's one of the factors that I
12 balanced in my work.

13 Q. Did you try to keep the districts you were proposing
14 reasonably compact?

15 A. I did. It's a tough thing to do in Dallas County, and
16 they, you know -- by some standards no districts that anyone
17 creates for a plan like this will ever look compact, but some
18 look worse than others.

19 Q. Did you try to respect incumbency?

20 A. Yes. Incumbency is one of the traditional redistricting
21 criteria. It is permissible to -- to make strange looking
22 little squiggles and thumbs that stick out some places where
23 you are saying I did that because there was an incumbent who
24 had been fenced out of a district that he belonged in -- he
25 or she belonged in. I did respect incumbency. And I based

1 that -- I weighed that on the basis of the information I had
2 I think about a year ago on the incumbent -- all incumbents
3 who had not said that they intended to retire.

4 Q. And I am going to zoom for just a moment if I can in
5 here.

6 Do you see that this map includes the names of the
7 commissioners?

8 A. Yes.

9 Q. Okay. Are there two commissioners who lived somewhat
10 close together?

11 A. My recollection -- this is something I did about a year
12 and a half ago or so. So my recollection was that there was
13 one incumbent who lived in the blue district and one in the
14 green district. And you see their names there. And I think
15 you see next to Mr. Price's name just to the lower left of
16 the word "mister" a blue dot, a blue star which is in the
17 blue district. And Dr. Garcia, if you look at the left of
18 the word "doctor" and a little to the north, you will see a
19 star in the green district. Those two individuals are very
20 close to each other, and I think in an earlier version of the
21 plan we had, if I recall correctly, Mr. Price was in the
22 green district along with Dr. Garcia. And so my recollection
23 is we made an adjustment that had no material effect on the
24 parameters, but it located Mr. Price in the proper
25 district.

1 Q. And was it possible to keep Commissioner Price in the
2 district -- historically predominantly African American
3 district which has long elected him?

4 A. Yes.

5 Q. Was it possible to keep Dr. Garcia in the predominantly
6 Hispanic district that has elected her?

7 A. Yes, I managed to do that.

8 Q. Did you also try to limit the division of cities?

9 A. Yes. My -- my -- to understand how I did this, my
10 instructions to Mr. Bryan were as you try to accomplish a
11 given step in the refinement of a plan, I want you to
12 understand that I'm trying wherever possible not to split
13 boundaries. However, where it's necessary to split
14 boundaries, you have my authority to show me what you came up
15 with without splitting the boundary and then how much better
16 the plan could be if you were allowed to split the boundary
17 here or there, one boundary at a time. So it was an
18 incremental process.

19 Q. Were you eventually also -- did you eventually also
20 consider the impact on other racial or ethnic communities
21 across Dallas and their ability to elect who they preferred?

22 A. I would say that the way I fashioned this plan was I
23 emphasized maintaining the voting strength of Hispanics and
24 of Blacks and improving on each. More so for Blacks than for
25 Hispanics. But to the best of my ability, given the

1 geography, while at the same time forming two white majority
2 districts.

3 Q. In the African American district that you were just
4 discussing, is the African American community now more or
5 less dependent on crossover support from some other community
6 in your map?

7 A. I would say they are less dependent.

8 Q. Okay. In what is labeled district 1, is the Hispanic
9 community more or less dependent on crossover support to
10 elect its preferred candidate?

11 A. Very slightly less dependent.

12 Q. Okay. I'm going to jump for just a moment now. While
13 we're talking about the map I want to talk about how it was
14 prepared.

15 A. All right.

16 Q. Does Thomas Bryan work for you at Morrison & Associates?

17 A. He works for himself. He works under my direction, and
18 he performs a service that is a highly skilled technical kind
19 of thing using GIS software, and he does what I instruct him
20 to do, and he is the best judge of how to --

21 Q. Sure.

22 A. -- explore the possibilities before reaching a
23 conclusion.

24 Q. Understanding he is not full-time, is he one of the
25 associates?

1 A. I would call him an associate, yes. He has a full-time
2 job elsewhere.

3 Q. When he does so, does he report to you?

4 A. Yes.

5 Q. Did you rely on his work as a GIS specialist?

6 A. Yes.

7 Q. Okay. Let's pause. Can you describe his expertise as a
8 GIS specialist?

9 A. Yes. He -- he has several advanced degrees in business
10 and some kind of computer technology. I don't remember what
11 the degree is, but basically you can think of it as the
12 predecessor to what would today be regarded as the -- the
13 training that you would get to work with what are called big
14 data.

15 And he is presently employed by a Fortune 500 company
16 where he works with nothing but big data. Prior to that --

17 Q. You --

18 A. -- he spent a number of years at the Census Bureau where
19 I believe he was a senior statistician and had extensive
20 experience working with Census Bureau including the American
21 Community Survey. And I think he is probably the most
22 knowledgeable person that I know, including the people at the
23 Census Bureau that I now know, about how the data work and
24 what the technical aspects are that one needs to understand.
25 So that's why I rely on him.

1 And he also has -- I would just say this
2 parenthetically. He has been trained to the Census Bureau's
3 standards which are when you do the work you then go back and
4 spend about half as much time just checking it to make sure
5 that you got it right. And that's what we call QC or quality
6 control.

7 Q. Is -- excuse me -- is Mr. Bryan's expertise and the data
8 he furnished to you the kind of data a map maker -- a map
9 making expert would typically rely on in crafting a map?

10 A. Yes.

11 Q. Okay. Your actual report, did you draft it?

12 A. Yes. Every word in it.

13 Q. Did Mr. Bryan draft any of it?

14 A. No.

15 Q. The prior versions of the map that were not included in
16 your map, would you consider those drafts?

17 A. I would consider them successive refinements to a plan
18 that I eventually wanted to present as a finished plan. They
19 were not really revisions. They were refinements. We were
20 seeking -- I was seeking to balance a number of criteria, and
21 I tried a number of different directions of balancing to
22 finally arrive at something that I thought was the proper
23 balance, and then we made some final -- I would call them
24 cosmetic refinements which would include ensuring that
25 incumbents were in the right district and in some instances

1 perhaps possibly getting rid of one boundary split or
2 avoiding some squiggle in a line.

3 Q. Just to be perfectly clear, who determined how to
4 balance competing criteria?

5 A. I did. Just myself.

6 Q. Okay. Would it be fair to say then that you made
7 decisions, and he was a draftsman in the actual map?

8 A. Correct.

9 Q. Okay. Mr. Dunn spent a good deal of time discussing
10 with you the changes from draft 6 to draft 7.

11 Can we get that email back up?

12 I don't know. Do we even have a copy of that email?

13 MS. ALVAREZ: We do not.

14 MR. DUNN: It was used at the deposition, but I'm
15 happy to provide it to you.

16 MR. MORENOFF: No. I just meant I don't have a
17 copy to put up here.

18 BY MR. MORENOFF:

19 Q. I believe the language in this email that Mr. Dunn
20 focused on was in paragraph 2.

21 Yes.

22 Does this look familiar to you?

23 A. I'm not -- I really don't know if that's what he asked
24 me about, but --

25 Q. I believe he was honed in on the aim --

1 A. Yes, yes, I recall this.

2 Q. -- "to make it equal to or better than the 35.9 percent
3 H CVAP district in the enacted plan we're opposing."

4 Do you see that language?

5 A. Yeah.

6 Q. Okay. Is preserving the opportunities of another
7 community a traditional redistricting criteria?

8 A. Yes.

9 Q. Thank you.

10 Excuse me.

11 I'm now going to jump to Tom Bryan's transcript.

12 MR. MORENOFF: And can we get that up?

13 Thank you.

14 BY MR. MORENOFF:

15 Q. Mr. Dunn asked you whether you remembered that perhaps
16 there had been some census blocks that -- I'm sorry -- some
17 VTDS that may not have lined up as expected.

18 A. Correct.

19 Q. Do you remember that?

20 A. Yes.

21 Q. Okay. I believe that this is actually -- I know this
22 wasn't your deposition, but I believe this is where it was
23 actually discussed.

24 "My question is -- this appears to say that by version
25 7, city boundaries were something that were ... if not the

1 primary driving factor, might that also have been the case in
2 version 6?"

3 I'm sorry, is this where -- we'll use it anyway.

4 "It could have been a consideration."

5 This is talking about whether city boundaries were also
6 something that you considered?

7 A. Yes.

8 Q. It would have something perhaps Peter narrated to me to
9 the degree that is practicable --

10 REPORTER: I'm sorry.

11 MR. MORENOFF: I'm sorry for that.

12 Q. -- try not to violent city boundaries, but that was not
13 at the time of version 6 the factor that was driving his
14 direction.

15 Does this suggest that Mr. Bryan recognized that city
16 splits was also something he should consider?

17 A. Yes. I was telling him we're trying to avoid splitting
18 boundaries, but that's not the predominant consideration.
19 We're trying to achieve another objective, and we'll worry
20 about the boundary splits later and hope we didn't have to
21 make too many.

22 MR. MORENOFF: Sure. Could we also jump to page
23 49.

24 MS. ALVAREZ: This is the rest of that one. You
25 don't want that.

1 MR. MORENOFF: It continued.

2 "Might that suggest that you were in fact making an
3 effort at this point to adhere to city boundaries?

4 "It's possible.

5 And there are points in time in the development of these
6 districts where you may be asked to consider communities of
7 interest that have uniform characteristics that we need to
8 consider, that in short of the guidance of preserve all city
9 boundaries.

10 "Q. Okay. So you can't tell us specifically, yes, I was
11 trying to preserve as many city boundaries as possible, but
12 you may, in fact, have been looking at that as you were
13 pursuing the other issues you were chasing?

14 "A. It could have been a -- by phase 6, it could have been a
15 consideration."

16 MR. MORENOFF: Can we jump to 49.

17 Coming back to the VTD issue, and I apologize that we
18 had those in the wrong order.

19 BY MR. MORENOFF:

20 Q. Mr. Bryan had been asked about this issue.

21 MR. MORENOFF: No, go on down. This issue.

22 "It's possible there is a discrepancy in my assessment.
23 There is approximately a dozen split blocks. I don't know
24 how many of those splits your -- your expert identified. But
25 any discrepancy that they identified would have had to almost

1 perfectly conform with whatever the splits on the blocks were
2 in order to be an explanation.

3 "Q. In other words, some of the dozen splits that you
4 referenced could be census blocks that were divided into
5 different voting precincts?

6 "A. It's possible, yes."

7 So Mr. Bryan identified 12 split VTDs, yes?

8 A. That's my recollection, that those were the candidates
9 for us to investigate that had the telltale sign of
10 something -- of a split, but they needed to be verified.

11 Q. How many VTDs or census blocks are there in Dallas
12 County?

13 A. I have no idea. I had would be in the possibly range of
14 tens of thousands.

15 Q. So is 12 a material number regardless of whether we're
16 talking about VTDs or census blocks?

17 A. I think you've answered the question by raising it.

18 My point would be here that, yeah, there will be some
19 places where a block is split and it has no -- no discernible
20 effect on the statistics that I calculate, even when I
21 calculate them to the first decimal point.

22 So if something is 45.1 and we say, well, there are a
23 couple of split blocks take them out, it will still be 45.1.

24 Q. Okay. Mr. Dunn had specifically asked you about your
25 response in this email out to what wound up being the final

1 version of the map?

2 A. Yes.

3 Q. Where you said "outstanding slam I'll look at it
4 tomorrow -- sounds like we've got a winner."

5 why were you happy with that map?

6 A. I considered it a winner because it succeeded in
7 achieving every objective that I had rather than almost every
8 objective.

9 Q. Did Thomas Bryan need to know what every one of those
10 objectives were to accomplish this?

11 A. No. He had stumbled into it with his green eyeshade on
12 and he said I tried this what do you think and I said this
13 looks like it rings all the bells.

14 THE COURT: Just a moment.

15 MR. MORENOFF: Sorry.

16 BY MR. MORENOFF:

17 Q. At one point Mr. Dunn had asked you couldn't Mr. Bryan
18 have done all of this.

19 Is Mr. Bryan capable of doing all of this and being an
20 expert?

21 A. I would say he is capable of doing it if he appreciated
22 the subtleties that are suggested by each of these
23 traditional redistricting criteria. I think based on the
24 experience that he's had in this case I would say he could do
25 it almost as well as I could.

1 Q. Sure. But was he hired by the plaintiffs to do it?

2 A. He was hired by me.

3 Q. Correct. Who did the Plaintiffs hire?

4 A. They hired me.

5 Q. Okay. Thank you.

6 Just running back through the traditional redistricting
7 criteria we've been discussing and how the two maps compare,
8 the enacted plan and your proposed --

9 A. Yes.

10 Q. -- map.

11 Were you able to craft your map without worsening
12 population disparities between districts?

13 A. Yes.

14 Q. Okay. Were you able to do so while keeping the
15 districts reasonably compact?

16 A. Yes, I was.

17 Q. How would you compare the compactness in these two?

18 A. I can only submit the eye-- what we call the eyeball
19 test. You look at them and you say they both look about --
20 about as compact or not compact from the viewer's
21 perspective.

22 There are I should say quantitative measures that can
23 assess the overall compactness and come up with a number.

24 But in this case I don't think that those measures are
25 relevant, unless one's trying to document that there is a

1 big -- an obvious eyeball test difference.

2 Q. And from your expertise as a map maker, are they at
3 least comparable?

4 A. Yeah. I would say they're comparable. And certainly
5 they -- the -- the overriding significant is that the
6 remedial map accomplishes all the purposes I had in mind.
7 And the only thing you can say about it is if you measured
8 it, the measure might say it's just marginally uglier than
9 the other one, or vice versa.

10 I mean, the ugliness is a necessary product of achieving
11 the purposes that I was setting out to do.

12 Q. Sure. (Coughing) Excuse me.

13 Another factor you mentioned was community of interest
14 divisions. Yes?

15 A. Yes.

16 Q. Are you aware that the defendant's experts have analyzed
17 the divisions that have been discussed at length today?

18 A. No, I'm not. I'm not sure what you're referring to.

19 Q. Are you aware whether there is some number of city
20 splits you identified that, in fact, the defendants experts
21 agree exist?

22 A. You have informed me that there was an agreement by both
23 parties that these we agree do exist, and I don't know which
24 ones they are yet, but I know that they were some number like
25 nine I think.

1 Q. Okay. Is that roughly comparable to the number of city
2 splits in your plan?

3 A. I believe so. Yeah. The two plans don't differ in
4 terms of the sheer numbers of cities that suffer a split.

5 Q. Okay. On the other hand, you've also described the
6 severity of the splits in the enacted plan. I think you
7 referred to Garland as an example as a triple amputee; is
8 that accurate?

9 A. Yeah. Really the concept is not severity but it is the
10 unwarranted interchange of population, which is not what one
11 is trying to do in a neutral fashion when one is trying to
12 equalize population.

13 In that instance where you have an interchange of
14 population there is an underlying intent of some kind to
15 exchange one piece of territory for another piece of
16 territory, and there's no reason to do that except for some
17 further motive.

18 Q. Understanding that we're going to get to intent in just
19 a moment --

20 A. All right.

21 Q. -- their map divided Garland in how many districts?

22 A. I recall that it was -- Garland if I recall correctly
23 when I refer to it as a triple amputation is Garland ended up
24 with pieces in three different places in three different
25 districts.

1 Q. Now, understanding that your map also divides Garland,
2 does this division strike you as more or less egregious than
3 cutting the city into three?

4 A. This being the one that you're referring to as part of
5 the defendant's plan?

6 Q. No, this one is your map.

7 A. My map. Okay. My recollection of my way of handling
8 Garland was to say well we had to split it between two
9 districts, but we didn't have to split it between three.

10 Q. Sure. And there's just one split, yes?

11 A. If you can move up on the screen, I see the
12 orange-versus-purple part of Garland on the extreme western
13 side and, yes, I -- I managed to avoid the -- I think there
14 were two other splits that -- that existed in the enacted
15 plan, and that was what I was looking at and was able to get
16 rid of.

17 Q. Okay. So the -- your proposed plan has roughly the same
18 number of splits as the -- the enacted plan?

19 A. Yes.

20 Q. And it has fewer subdivisions of the same cities?

21 A. Fewer multiple splits.

22 Q. Thank you.

23 Does your -- do you think your plan adheres to
24 traditional redistricting principles?

25 A. Yes, I do. I think it represents a thoughtful,

1 carefully arrived at balance among traditional redistricting
2 considerations where I have given some priority to sort of
3 the most important ones and also managed to achieve
4 improvements on those that were not in that prime category of
5 most important, must do.

6 Q. Do you believe the enacted plan complies with the
7 traditional redistricting principles?

8 A. No, I do not.

9 Q. Okay. We've discussed briefly that there was a list of
10 criteria approved by the court. As long as those exist, I
11 would just like your expert opinion on how the two maps
12 compare in each of the seven identified criteria.

13 A. All right.

14 Q. The first criteria was equipopulation of districts.
15 How do you compare the two as an expert in this field?

16 A. My remedial plan was superior on that dimension.

17 Q. Okay.

18 A. It had a lower total deviation for my deal.

19 Q. Okay. The second criteria was -- and this is the actual
20 language, "Plans shall be constructed to" -- we lost it --
21 "to comply with all provisions of the Voting Rights Act in
22 order to avoid legal liability. Specifically, plans should
23 meet all requirements of section 5" skipping ahead "Section 2
24 requiring the configuration of districts that provide racial
25 and language minorities the opportunity to elect their

1 candidates of choice where their populations are sufficiently
2 large and compact."

3 Understanding that who is included as those minorities
4 is one of the key factors at issue in this litigation, how do
5 you compare the two in your expert opinion as a demographer?

6 A. I'll offer two comparisons. If you refer just to the
7 protected minorities, my remedial plan is superior. If you
8 were to take account of the white population and consider it
9 to be the population in question here, I would say that there
10 is no comparison between the two plans. It's a binary
11 choice.

12 The plan that I formulated cures a problem that is
13 endemic in the plan that was enacted

14 Q. The third criteria is "Districts should respect
15 population increases and take into account population
16 decreases in Dallas County over the last decade."

17 As an expert demographer, what does that mean?

18 A. That really refers to what I would have done if I had
19 taken the enacted plan and been told you need to adjust it by
20 equalizing the population in today's world as opposed to when
21 it was formed. So that's not a criterion that applied to
22 this case.

23 Q. As a functional matter, does that add anything that
24 wasn't already in the first criteria of equalizing
25 population?

1 A. No. It adds nothing. It's totally extraneous.

2 Q. Okay. The fourth is "To the extent possible,
3 commissioner precincts should be comprised of whole voting
4 precincts."

5 Did you do that?

6 A. No.

7 Q. Why?

8 I think we've covered this, but let's be clear.

9 A. I would say that was one of the trade-offs that had to
10 be made in order to preserve the existing established
11 communities of interest. I had to dispense with all the
12 existing precinct geography because precinct geography was
13 too large for me to accomplish what I accomplished. That was
14 the -- basically that was subordinate -- that was one of the
15 factors that had to be subordinated in order to achieve
16 success on all the others.

17 Q. The fifth criteria was "Plans should involve the
18 boundaries of all commissioner's districts. I'm rephrasing
19 because they used the word "precincts," and that's get
20 confusing here given it has multiple meanings, not just the
21 boundaries of one or several commissioners' districts.

22 Does your proposed plan address the county as a whole?

23 A. Yes.

24 Q. Okay. The sixth item, required where possible
25 subsidiary to equipopulation requirements of the U.S.

1 Constitution and requirements of the Voting Rights Act
2 municipal and other significant boundaries should be
3 respected.

4 Have you tried to comply with that?

5 A. Yes, I have.

6 Q. How -- again, as an expert in this field, would you
7 compare your compliance with this to the compliance of the
8 enacted plan?

9 A. I would say that I have -- the plan that I formulated is
10 preferable or better, superior, in that it -- it limits the
11 multiple splits on existing communities of interest. In
12 other words, if there is a split there's only one split, not
13 several And it also eliminates offsetting splits that are
14 unwarranted where population was being interchanged rather
15 than adjusted.

16 Q. So you did at least no worse and maybe better?

17 A. I would say I did better.

18 Q. Okay. And finally, "where possible, but subsidiary to
19 the equipopulation requirements of the U.S. Constitution and
20 requirements of the Voting Rights Act, precincts and
21 districts should be geographically compact and composed of
22 contiguous territory." Are the districts in your map
23 contiguous?

24 A. Yes, they are.

25 Q. And we've already discussed equalizing population, yes?

1 A. Yes.

2 Q. And we've already discussed compactness, yes?

3 A. Yes.

4 Q. Additionally, you mentioned that you stumbled into some
5 conclusions about intent. Yes?

6 A. Yes.

7 Q. Mr. Dunn spent a good deal of time discussing with you
8 whether that analysis was yet complete. Yes?

9 A. Correct.

10 Q. Okay. Am I correct in saying there has been no change
11 in your analysis of any of the other topics you addressed?

12 A. Correct.

13 Q. So your analysis of the deficiencies of the enacted
14 plan, complete?

15 A. Yes.

16 Q. Complete last fall?

17 A. Yes.

18 Q. Okay. Your assessment of whether an alternative plan
19 was possible, complete?

20 A. Yes.

21 Q. Complete last fall?

22 A. Yes.

23 Q. Have either of those analyzes changed in any way?

24 A. No.

25 Q. Okay. Mr. Dunn also asked you at one point if you would

1 confirm that district 4 in your map, that we've called RP
2 4 -- got that back on? He's asked you to confirm that its
3 Anglo population was now 52.9 percent of the district.

4 Do you remember him asking that?

5 A. Yes.

6 Q. Do you know where he got the number 52.9 percent?

7 A. And he was referring to my remedial plan?

8 Q. Yes.

9 A. No, I don't.

10 Q. Is it possible that he may be referring to figures
11 culled from the five-year data set of the American Community
12 Survey running through 2016?

13 A. I have no idea. I can only say that that number does
14 not agree with what I have in table 3 of my report.

15 Q. Yes. Have you had any opportunity to review the 2016
16 five-year ACS data set?

17 A. I know that the Census Bureau has issued data based on
18 the five-year data set they have in their sort of public fact
19 finder site, but the -- there's a special Department of
20 Justice file which is the one that we use for redistricting,
21 and it is posted every year on a redistricting web -- web
22 page that the Bureau has. And that file has not yet been
23 posted at that place.

24 Now, I can't rule out the possibility that the Census
25 Bureau may have posted it in the wrong place, but my

1 assumption is that they have not yet quite finished their
2 quality control such that they want to have people doing
3 redistricting with the file. Even though they create the
4 file much earlier, they still do some special anonymizing
5 with the file when they do the DOJ one. They round numbers
6 up or down so you can't quite tell what's going on. They
7 have not put that file where they put it every year, and so I
8 have held off making any update.

9 And really, there's no need to make an update because
10 we're really replacing 2010 or 2011 with 2016, four years
11 remain the same, one year at the beginning and one year at
12 the end are interchanged. So it's not going to -- it's not
13 going to make more than a fractional difference in anything
14 that I've calculated.

15 Q. Sure. So as of right now can you confirm or deny the
16 accuracy of that figure?

17 A. I'm not sure -- when he gave me that figure, I -- I
18 guess I didn't check it against my table 3, but I don't know
19 what -- I don't know where he got that figure.

20 Q. Can you discuss if the defendant's experts even analyzed
21 the right data to make a calculation?

22 A. It may be that they had the wrong version of a plan. It
23 may be one of the things that were -- that preceded the final
24 version that appears in my report, that's the only thing I
25 can think of.

1 Q. But you can't tell?

2 A. Pardon?

3 Q. But you can't tell -- yes?

4 A. No, I can't tell.

5 Q. Okay. And can you discuss if they analyzed data
6 correctly to come to that figure?

7 A. I can't say what they did. I don't know what they did.

8 Q. Sure. At one point there had been a deadline
9 established by the court for updates to reports to reflect a
10 new drop of American Community Survey data. That deadline
11 was January 12th. Do you know whether any new ACS data was
12 available by January 12th?

13 A. I do know that the -- there were -- the DOJ file was not
14 available as of that date and that it was scheduled in a
15 normal year to be available as in past years sometime during
16 February. That was their standard practice.

17 This year is a special year because they're running a
18 census, and they have a major funding crisis.

19 Q. Okay. I'm going to jump now to a different subject.

20 Mr. Dunn spent a little bit of time with you discussing
21 your rebuttal report; is that correct?

22 A. Yes.

23 Q. He wanted to hone in on a particular detail of your
24 analysis. Was there a central point to your rebuttal report?

25 A. Yes.

1 Q. What was the central point of your rebuttal report?

2 A. The central point was that none of the opposing experts
3 objected to any of the analyses that I had done, nor did any
4 of them challenge the conclusions that I had drawn.

5 Q. Did you decide that Mr. Lichthman's discussion of --
6 excuse me -- lingering effects of discrimination was
7 irrelevant to this case?

8 A. I couldn't -- let me just say I couldn't see its
9 relevance because this case was not about Hispanics. It was
10 about white voters, not Hispanics.

11 Q. And in addition to finding it irrelevant, you also
12 suggested it might be wrong.

13 A. Yes, I suggested that it was wholly irrelevant, but it
14 was also wrong and because, frankly, it was a problem I was
15 interested in, I thought here's an opportunity to figure out
16 why it's wrong in yet another instance where I'm trying to
17 apply the methodology that I had published earlier in a
18 peer-reviewed journal. So I took the opportunity to say,
19 well, even though what you've said is irrelevant, let me tell
20 you why what you've said is wrong.

21 Q. And understanding you did not pursue that full line of
22 inquiry, there are lots of other kinds of inquiry that you're
23 qualified to undertake?

24 A. Yes. And I also felt that I had better use for my time
25 and you probably had better use for your limited funding.

1 Q. Sure.

2 Finally, Mr. Dunn spent a good deal of time discussing
3 particular cases from your past. Do you remember that
4 discussion?

5 A. Yes, I do.

6 Q. He suggested in the DeBaca case -- do I have -- yeah.
7 He suggested in the DeBaca case that the court called into
8 question whether a particular opinion of yours was reliable.
9 Do you remember that discussion?

10 A. Yes.

11 Q. Okay. Do you remember what wound up happening in the
12 DeBaca case?

13 A. My recollection is that the judge eventually ruled in
14 favor of the party that I was testifying on behalf of.

15 Q. He granted summary judgment, didn't he?

16 A. I think he did. That's my recollection, yes.

17 Q. So would it be a fair characterization of that opinion,
18 that case, to say that the judge found you unreliable?

19 A. I don't see how he could have found me unreliable and
20 then ruled in favor of the party on whose behalf I was
21 testifying.

22 Q. Okay. He also -- Mr. Dunn also referred to the Baldus
23 case, Baldus versus Wisconsin. I believe he implied in that
24 case that you were submitting a new report -- well, he flatly
25 read from it that you had supplied a new report with the

1 implication that you had done something late and were curing
2 a problem. Do you remember any details of that case?

3 A. I remember it was on a very tight schedule, and the
4 question was can you within a week figure out a way to crack
5 this problem and come up with some way of estimating
6 something. And I recall saying this is a first time, but the
7 way a demographer would look at this is they would put the
8 data together and say this is the best we can tell you. It's
9 an approach that a demographer would formulate and say I
10 could get this done in a week, recognizing that other
11 approaches probably would -- would take several months.

12 Q. Had the court actually ordered you to produce a new map?

13 A. I don't believe --

14 Q. I believe we have the language up in front of you, if
15 that's helpful.

16 "On March 27th, 2012, we instructed the parties to
17 conduct at least one meet-and-confer conference to explore
18 the possibility of reaching an agreed-upon configuration of
19 Assembly Districts 8 and 9. In the event that the parties
20 were unable to agree upon a joint recommendation, we directed
21 them and any interested nonparties to submit suggested maps
22 that they believed would correct the VRA section 2 violation
23 the court has found, while also complying with the U.S.
24 Constitution, the Wisconsin Constitution, and associated case
25 law."

1 Is that the new report that you provided?

2 A. You know, I honestly don't recall whether that was the
3 new report I provided. I know it was on a very tight time
4 schedule.

5 Q. Okay. He also referred to the Gomez case.

6 A. Yes. That's the Watsonville case.

7 Q. Yes. Which I believe was from the -- the mid-1980s. Is
8 that accurate?

9 A. That's about right, yeah.

10 Q. Okay. Do you remember when the Gingles decision came
11 down?

12 A. My recollection is that the Gingles decision had come
13 down just about at the time that case was going to trial or
14 just before it. And as I recall, the Watsonville case was
15 notable because it was the first one that was tried in that
16 environment where data were very different and very sparse,
17 and there had been no use of that standard before. This was
18 I believe one of the first cases to apply it.

19 My recollection is the judge listened to what I had to
20 say, made a decision and was reversed on appeal by a higher
21 court because he had missed -- somehow not properly made use
22 of the information that I had provided

23 Q. We've got the language in front of you.

24 The Court of Appeals ruled that the District Court
25 appears to have misunderstood the proper legal inquiry after

1 the 1982 amendments. Because this circuit has not yet
2 decided a case interpreting the 1982 amendments to section 2
3 of the Voting Rights Act, we will begin with an analysis of
4 the legal standards that are to be applied to challenges to
5 at large electoral schemes under the newly amended section
6 2."

7 Yes?

8 A. After 30 years that's starting to line up neurons all in
9 the right direction. I do recall that's what happened.

10 Q. So was there anything wrong with your analysis?

11 A. Not that I know of. And apparently not that the judge
12 explicitly stated.

13 Q. And the Court of Appeals just said in fact, no, they got
14 the law wrong. Perhaps the law has been clarified in the
15 last 30 years?

16 A. Yes. A lot.

17 Q. Yes. If perhaps there was language here that Mr. Dunn
18 read in which the court said that "Based on Dr. Morrison's
19 projection that not all Hispanics are likely to vote alike
20 and on anecdotal lay testimony about the differences within
21 the Hispanic community, was clearly erroneous."

22 So I just want to make sure I've got this. You had
23 suggested in some way that how some Hispanics would vote
24 could be inferred from how other Hispanics had. Yes?

25 A. Yes. And --

1 Q. And the court said that you were wrong to do so?

2 A. That's what it sounds like.

3 Q. Okay. So are you in fact following this case? Now?

4 A. No.

5 Q. And then --

6 A. I mean, I'm not -- I'm not following it in the sense
7 that I'm relying solely on socioeconomic differences. That's
8 all we had data for at that time. Today we have far more
9 data to judge turnout. That would be basically like
10 horse-and-buggy-type analysis when all you had was a horse
11 and buggy. Now we have data that allow us to delve into this
12 much more deeply.

13 Q. I'll make my question a little differently. Mr. Dunn
14 seemed to be criticizing you for then having said not all
15 members of a racial group will necessarily vote the same way.
16 And the court said that that was not a legitimate position.

17 Today, on the other hand, are you taking the position
18 that different members of the same race may vote differently,
19 as you did then? Or are you saying, as the court did then,
20 we're not going the talk about that?

21 A. No. I acknowledged that different groups -- that each
22 group may have members that will vote in different ways.
23 That's an empirical question. Not every Hispanic votes
24 identically. Not every black voter votes identically. Not
25 every Anglo voter votes identically. And it's obvious they

1 differ in terms of their party affiliations internally as
2 well as within groups.

3 Q. And you simply said you're not going to opine on the
4 subject?

5 A. Yes. Not without the data.

6 Q. Finally, I believe Mr. Dunn addressed the Port Chester
7 case, criticizing you for having then expressed opinions on
8 turnout but not doing so today. Yes?

9 A. Yes.

10 Q. The court in the Port Chester case, on the other hand,
11 rejected your assessment of turnout as a factor. Yes?

12 A. Yes.

13 Q. So, again, you're actually now in this case doing what
14 the court there said. Correct?

15 A. Yes. I recognized that my area of expertise is not
16 political science but demographic analysis. So I refrain
17 from opining on issues that are best left to political
18 scientists who have the necessary expertise. That's not to
19 say I don't have any expertise, but I prefer to stay within
20 the confines of what my expertise is.

21 Q. Stay in your lane. Sure.

22 Okay. I believe I have no further questions for you
23 then.

24 MR. MORENOFF: And I will pass the witness for
25 recross.

1 MR. DUNN: Nothing further.

2 THE COURT: Any objection to excusing the witness?

3 MR. HEBERT: No. No, Your Honor.

4 THE COURT: All right. Thank you.

5 You may step down.

6 The plaintiffs may call their next witness.

7 MR. MORENOFF: Your Honor, as our next witness, if
8 you don't mind trying to fit in another before 5:00 o'clock.

9 THE COURT: Yes.

10 MR. MORENOFF: Then we would like to call Holly
11 Morse.

12 THE COURT: Raise your right hand, please.

13 (Witness sworn.)

14 THE COURT: All right. Be seated, please, and
15 speak into the microphone.

16 DIRECT EXAMINATION

17 BY MR. MORENOFF:

18 Q. Ma'am, would you state your name for the record.

19 A. Holly Lee Anne Morse.

20 Q. And would you spell your last name.

21 A. Morse, M-o-r-s-e.

22 Q. Thank you.

23 Ms. Morse, how do you describe your ethnicity?

24 A. I am white, Caucasian.

25 Q. Okay. And are you registered to vote?

1 A. Yes.

2 Q. Do you vote regularly?

3 A. Yes.

4 Q. Thank you.

5 Have you -- I'm sorry, do you know what Commissioners
6 Court district you currently live in?

7 A. In district 2.

8 Q. Okay. And do you know who you're represented by?

9 A. No.

10 Q. Okay. Have you seen the plaintiff's proposed map?

11 A. No.

12 Q. Okay. I'm going to put it up here.

13 A. Okay.

14 Q. What city do you live in?

15 A. Coppell.

16 Q. Okay. And in what district is your home in this map?

17 A. District 2.

18 Q. Okay.

19 MR. MORENOFF: I have no further questions. And
20 I'm going to pass the witness to defendants.

21 THE WITNESS: Okay.

22 THE COURT: Cross-examination?

23 CROSS EXAMINATION

24 BY MR. RIOS:

25 Q. Good afternoon, Ms. Morse.

1 My name is Rolando Rios and I think we met at your
2 deposition. Is that correct?

3 A. Yes, I think so.

4 Q. I have a few questions for you.

5 Isn't it true that you never attended any of the
6 Commissioners Court meetings that were considering the
7 redistricting plan?

8 MR. MORENOFF: Your Honor, I'm going to object that
9 this is beyond the scope of direct.

10 MR. RIOS: Your Honor, these are -- these are
11 relevant questions on the claim that they have, which is --
12 which has to do with vote dilution in section 2.

13 THE COURT: It appears to have some relationship to
14 the direct. I'll overrule the objection.

15 THE WITNESS: Can you ask it again?

16 BY MR. RIOS:

17 Q. Yes. Isn't it true that you never attended any of the
18 Commissioners Court meetings in which the issue of
19 redistricting was being discussed?

20 A. Yes.

21 Q. Isn't it also true that you never attended any of the
22 public hearings that were conducted by the Commissioners
23 Court to get input from the public?

24 A. That's correct.

25 Q. Isn't it true that at the time of your deposition, and

1 maybe even here today as well, you did not know who was a
2 commissioner in precinct 2?

3 A. That's correct.

4 Q. Do you know who it is today?

5 A. No.

6 Q. Isn't it true that you've never contacted --

7 A. Actually, it's Theresa Daniels.

8 Q. I'm sorry?

9 A. I thought it was Theresa Daniels. I may be wrong about
10 that.

11 Q. But at the time of your deposition you didn't know?

12 A. Right.

13 Q. Isn't it true that you have never contacted your
14 commissioner in precinct district 2 requesting any of
15 responsiveness to the needs of your community?

16 A. That's true.

17 Q. Have you ever worked in any elections having to do with
18 commissioner precinct elections?

19 A. Yes.

20 Q. What elections did you work on?

21 A. My representative, Matt Renaldi, worked on --

22 Q. Okay.

23 A. -- his campaign --

24 Q. But you never worked in any precinct commissioner
25 elections; is that correct?

1 A. No.

2 Q. Isn't it true that at the time that we did your
3 deposition you had not reviewed the redistricting plan that
4 was adopted by the commissioners?

5 A. I guess so. Yeah.

6 Q. I'm sorry, what was that?

7 A. Yes.

8 Q. It's true that you had not reviewed it?

9 A. Right. Yes, sir. Yes.

10 Q. Okay. Isn't it also true that at the time we took your
11 deposition I asked you what kind of changes would you want to
12 the redistricting plan that was adopted by the commissioners
13 and you said you didn't have any?

14 A. Okay. I don't agree with that, but if I said that . . .

15 Q. You want me to play the --

16 A. No. You don't have to play it.

17 Q. All right. Also at our deposition when I asked you
18 how -- how to define "minorities" of which you're a member
19 and who brought the lawsuit you described the minorities as
20 Caucasian?

21 A. Yes.

22 Q. Okay. So that if I tell you that Judge Jenkins,
23 Commissioner Daniels, and Commissioner Cantrell are all
24 Caucasians, they would be members of your -- of your class;
25 is that correct?

1 A. Yes. That's true.

2 Q. Your minority group?

3 A. Yes, that's true.

4 Q. Would you be in favor -- right now we have a
5 commissioner precinct plan that elects three Democrats and
6 one Republican. Right?

7 A. Right.

8 Q. Would you be in favor of a plan that elects -- that
9 would elect four Democrats and no Republicans?

10 A. I would not be in favor of that.

11 Q. I believe in your deposition you stated that you did not
12 like precinct 2 because it was insufficiently conservative.
13 And then I asked you why -- what you meant by it not being
14 insufficiently conservative and you said you did not know
15 that?

16 A. Yeah. I don't know.

17 Q. All right. And isn't it true that you've never
18 contacted your commissioner either by mail or phone call
19 or -- or email for requesting any particular needs. Is that
20 true?

21 A. That's true.

22 Q. Okay. Also, you cannot cite any events in which you
23 have been discriminated against; is that correct?

24 A. Any what?

25 I'm sorry, could you repeat --

1 Q. You personally have experienced any discrimination?

2 A. No.

3 Q. And you've never been discriminated against in the -- in
4 your efforts to vote; is that correct?

5 A. I do not believe so.

6 Q. Can you cite any examples of discrimination against
7 Caucasians in Dallas?

8 A. Can you repeat that for me?

9 Q. Can you cite any examples of a history of discrimination
10 against Caucasians in Dallas?

11 A. I don't -- I don't know.

12 Q. Okay. In your deposition you stated that you did not
13 believe that the commissioner representing precinct 2 did not
14 represent your values, and when we asked you what were those
15 values, you said that you did not know. Is that correct?

16 A. I believe so.

17 Q. Okay.

18 MR. RIOS: I'll pass the witness, Your Honor.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MR. MORENOFF:

22 Q. Ms. Morse.

23 A. Hi.

24 Q. Do you believe that your Commissioners Court district is
25 insufficiently -- I'm going to offer you two alternatives?

1 A. Okay.

2 Q. Okay. Do you believe that your commissioners court
3 district is insufficiently -- I'm going to offer you two
4 possibilities --

5 A. Okay.

6 Q. Do you believe that your commissioners court district is
7 insufficiently conservative or that your commissioners court
8 commissioner is sufficiently conservative?

9 A. I don't know.

10 Q. If you expressed an opinion do you think it was about
11 the district or the person?

12 A. I don't know.

13 Q. Do you have any sense of whether Clay Jenkins was
14 elected by or with the support of Anglos or Caucasians?

15 A. I would guess he did but I don't know how many.

16 Q. So you think he had some Anglos or Caucasians vote for
17 him?

18 A. Sure.

19 Q. Do you have any sense of whether he was probably
20 supported by most Anglos or Caucasians?

21 A. No.

22 MR. MORENOFF: Okay. Nothing further. Thank you.

23 THE COURT: Recross?

24 MR. RIOS: I have nothing, Your Honor.

25 THE COURT: Thank you. You may step down.

1 MR. MORENOFF: Your Honor, given how close it is to
2 5:00, we would like to stop at this point.

3 THE COURT: The way I do that is if you're willing
4 to accept the charge against your time from now until 5:00
5 o'clock, then you may.

6 MR. MORENOFF: Okay. In that case we'd rather not
7 be charged with wasted time, I'm going to go ahead and call
8 Johanes Peter Schroer to the stand.

9 THE COURT: All right.

10 (Witness sworn.)

11 THE COURT: All right. Be seated, please, and
12 speak into the microphone.

13 DIRECT EXAMINATION

14 BY MS. ALVAREZ:

15 Q. Mr. Schroer, how -- how would you like me to address
16 you?

17 A. Peter is fine.

18 Q. Peter, can you spell your last name for the court
19 reporter?

20 A. Schroer, S-c-h-r-o-e-r.

21 Q. And can you give us your address, please?

22 A. 2413 Nairobi place in Mesquite.

23 Q. And what county is that in?

24 A. Dallas County.

25 Q. Do you know what Commissioners Court district you

1 currently reside in?

2 A. Number 3.

3 Q. Do you know your commissioner -- your current
4 commissioner?

5 A. Yes.

6 Q. And who is that?

7 A. John Wiley Price.

8 Q. And did you vote for Mr. Price?

9 A. No.

10 Q. Why not?

11 A. He wasn't my preferred candidate.

12 Q. Now, have you seen the proposed redistricting map that
13 the -- If I gave you the map, would you be able to point out
14 where your address would be?

15 A. It would be in district 4 here.

16 Q. Do you need us to move the map over a little where you
17 can see it?

18 A. It's -- it would be in district 4, in this map, not far
19 from the capital M in Mesquite.

20 Q. All right. And what is your race, Mr. Schroer?

21 A. Caucasian.

22 Q. Do you consider Caucasians a minority in Dallas
23 County?

24 A. I've been made aware that it is.

25 Q. Do you attend Commissioners Court meetings?

1 A. No.

2 Q. why not?

3 A. I haven't had a chance to do that just yet.

4 Q. Do you make contact with your commissioner often?

5 A. No.

6 Q. why not?

7 A. Haven't had a whole lot of issues to go in front of the
8 court.

9 Q. Do you agree with Commissioner Prize on policy issues?

10 A. A lot of them, yes.

11 Q. Do you feel he would be receptive to any complaints or
12 concerns you might bring to him?

13 A. No.

14 Q. why not?

15 A. Just the attitude that I've seen in whatever the
16 meetings that we've seen televised.

17 Q. And by attitude, do you mean attitude towards people or
18 attitude towards you or --

19 A. It seemed like the court is a little bit on the hostile
20 side a lot of times or it just seems like that.

21 Q. And is that hostile towards citizens in general or
22 particular kinds of citizens?

23 A. Seems antagonistic towards citizens in general bringing
24 stuff up there.

25 Q. Have you ever seen your commissioner display antagonism

1 towards Caucasians?

2 A. I believe so.

3 MS. ALVAREZ: Thank you, Peter.

4 Pass the witness.

5 THE COURT: Cross-examination.

6 CROSS EXAMINATION

7 BY MR. DUNN:

8 Q. Hello, Mr. -- is it Schroer?

9 A. You can go by Peter.

10 Q. Well, I prefer to call you Mr. Schroer.

11 A. Schroer. Schroder without the D.

12 Q. I'm Chad Dunn. We met one time a long time ago; isn't
13 that true?

14 A. Yes.

15 Q. And you gave a deposition in this case?

16 A. Yes.

17 Q. You recall that?

18 I presume you looked at that in advance of testifying
19 today?

20 A. No, I didn't.

21 Q. Okay. Well, there were some things we talked about in
22 the deposition I'd just like to confirm with you.

23 You mentioned some answers to Mrs. Alvarez, but I just
24 want to make it clear in your testimony that you've not
25 spoken with the Commissioners Court or given public comments,

1 specifically you gave no comments to the Commissioners Court
2 on redistricting. Is that true?

3 A. Yes. I didn't -- I wasn't really aware that the
4 meetings were happening.

5 Q. Okay. And one of the -- so you're saying if you had
6 been aware of the meetings you might have given some public
7 testimony?

8 A. I might have gone, yes.

9 Q. Okay. But you didn't notice the public advertisements
10 or posting the county did?

11 A. I guess not.

12 Q. You don't dispute that was done?

13 A. No, I don't.

14 Q. One of the things you told me at your deposition is that
15 you didn't like jagged edges -- am I right about that -- in
16 your maps?

17 A. I like a more -- a smoother map, yes.

18 Q. Okay. And I'm not trying to put words in your mouth,
19 but what I recall you saying is you look at a map and you see
20 jagged edges, and that's worrisome to you. Is that true?

21 A. Well, fingers trying -- trying to balance things out
22 with fingers into areas where, yeah, streets that might be
23 broken up or things like that, it's a little bothersome.

24 Q. I see. I want to -- I want to show you this -- this map
25 of Dallas County Commissioners' districts. It should come up

1 there, sir, on your screen.

2 There we are, sir.

3 Do you see it there?

4 A. Yes.

5 Q. Do you see the boundaries of these lines? The black
6 lines I'll represent to you are Commissioners Court district
7 lines. If I need to bring you the screen I can do that.

8 A. No. I've got it here.

9 Q. All right, sir. Do you see it now?

10 A. Yeah.

11 Q. Would you describe these boundaries as jagged edges?

12 A. Somewhat, yes.

13 Q. And -- and so like your deposition testimony, this --
14 when you see that you get concerning about -- about the map.
15 Is that true?

16 A. Yeah. That's -- it's a little bit on the jagged side.

17 Q. Yeah. This map here is the map that -- that you've
18 offered as what you would like the court to enter in this
19 case. This is --

20 A. Right.

21 Q. -- Defendant's Exhibit 70-C.

22 A. Right. I realize that.

23 Q. And you testified to Ms. Alvarez that you had prior to
24 now looked at this map. Is that right?

25 A. I looked at it in different form, yes.

1 Q. I see.

2 well, there wasn't anything different in terms of the
3 characteristic of the district lines, was there?

4 A. The black highlighted is different from -- from what I
5 viewed before. The black highlighted lines --

6 Q. Is another way of saying that the bolded black lines?

7 A. The bold, the boldness of the lines.

8 Q. And so you're saying the version that Mrs. Alvarez
9 showed to you is different than the one you're looking at
10 here?

11 A. It didn't have bold black lines on it.

12 Q. well, I'm going to show you what's been admitted into
13 evidence as Dallas County's map, Exhibit 71 B. This is the
14 one that your lawsuit challenges. Again, it doesn't have the
15 black lines. It does it by colors. Do you see that?

16 A. Yes.

17 Q. And just in your sort of layman's view, you'd have to
18 agree with me the lines here on this map are less jagged than
19 the one we just looked at. would you agree?

20 A. They are less jagged, but they have like peninsulas.

21 Q. Now, you're not an expert in any way in redistricting to
22 be fair. Is that true?

23 A. Correct.

24 Q. when you reference these jagged lines or peninsulas you
25 don't know what, if any, justification there might be for

1 those effects in the map. Is that right?

2 A. Correct.

3 Q. And ultimately, you understand that there could be a
4 creek or a highway or a body of water or some other natural
5 effect that could create some of the jaggedness. Do you
6 agree?

7 A. Yes.

8 Q. And I'll just let you know that the law says that it is
9 an acceptable practice for the government to make sure
10 incumbents live in their district. And I presume you're not
11 able to explain whether any of these peninsulas are that way
12 because they need to go pick up an incumbent's home?

13 A. I don't know where they live.

14 Q. So the nature of your concern is that you don't support
15 Commissioner Price but he keeps getting elected. Is that
16 true?

17 A. I'm looking for fairness. If a good candidate is put
18 up, I want to see an ability to elect a good candidate.

19 Q. Can you take your -- you can use your finger on the
20 screen, sir, but -- but point to us here on this map roughly
21 where it is that your home is.

22 A. Can you enlarge, please?

23 The right hand, the eastern quarter.

24 Q. Over here, sir?

25 A. Yes. The eastern side.

1 Q. would that square catch it?

2 A. Yes. Could you go just a little larger?

3 Q. Yes, sir. Up here?

4 A. No. Down on the bottom.

5 Oh, shucks.

6 Can you get rid of the yellow I just put on there?

7 Q. Sure. Okay.

8 A. I might need a -- a little larger, but in the upper
9 left-hand corner.

10 Q. Up here, sir?

11 A. Yes. Up in that corridor.

12 I'm getting -- can you screen it out?

13 Q. Unfortunately, that's as big as I can get it. But we're
14 not trying to get down to your block. Just the general area
15 would be fine.

16 A. That's not enough of a -- I think I'm a little further
17 south from this -- this part.

18 Q. All right.

19 A. I'm sorry.

20 Q. That's fine.

21 why don't you give us two major roads that intersect
22 near your --

23 A. Lake June and 635. I think it's somewhere like right in
24 this area right in here (indicating).

25 Q. All right. So returning to your deposition, there was a

1 few other subjects we discussed. One of them I asked you was
2 you conceded you've never had a problem voting. Is that
3 true?

4 A. Never had a problem voting.

5 Q. And you've never been the target of government-based
6 discrimination?

7 A. No.

8 Q. At the time of your depositions you didn't know the
9 names of the other commissioners; is that true?

10 A. I think I knew one. I think I knew about Cantrell,
11 but . . .

12 Q. You did know that Clay Jenkins was a county judge, but
13 you didn't think he was Anglo.

14 A. I knew -- well, I don't think he's Anglo.

15 Q. Okay. You don't have any information about the extent
16 to which Blacks or Latinos in Dallas have suffered
17 discrimination?

18 A. I was raised in the '60s and '70s. I was in Dallas in
19 '69, since '69. I can't necessarily attest to a whole lot of
20 that.

21 Q. And you also can't tell us how it is that you would like
22 to change, in particular, the map that the Commissioners
23 adopted in 2011. Is that true?

24 A. I'm not sure how -- demographics, how you balance it.
25 It's a hard thing to balance.

1 MR. DUNN: I appreciate your time, sir.

2 Pass the witness.

3 THE COURT: Redirect?

4 MS. ALVAREZ: Yes, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. ALVAREZ:

7 Q. Peter, I'm going to show you two maps. Okay?

8 And the first map is the map the way it is now.

9 And the second map is the map that we're proposing
10 today. Okay?

11 A. Yes.

12 Q. I'm going to ask you to tell me -- first, you told
13 opposing counsel you don't like jagged edges. Is that right?

14 A. Yes.

15 Q. Which of these maps in your opinion do you think has
16 more jagged edges? This map which is the -- the map as it is
17 now or this map which is the proposed map?

18 A. I think I'd pick the first one.

19 Q. This one (indicating)?

20 A. Yes.

21 MS. ALVAREZ: Let the record reflect he's selected
22 Plaintiff's Exhibit 10, which is the enacted plan.

23 BY MS. ALVAREZ:

24 Q. Now, Peter, let me ask you just a couple more questions.
25 You said your race is Anglo; is that correct?

1 A. I said Caucasian. If that's Anglo, that's fine.

2 Q. Okay. So either one of those is fine?

3 A. Yes.

4 Q. If someone asked you what race you were, what would you
5 say?

6 A. Caucasian.

7 Q. Okay. Okay. And -- and you are a registered voter?

8 A. Yes.

9 Q. And you do vote?

10 A. Yes.

11 Q. So hypothetically speaking, if Dallas County had
12 hypothetically discriminated against Anglos or Caucasians
13 would that include you or not include you?

14 A. I would expect it to include me.

15 Q. Why?

16 A. Because I'm Caucasian. And, you know, in voting we need
17 to have a fairness in voting, and it's not a fairness if --
18 if the best candidate couldn't win.

19 Q. So in -- in your opinion -- in your opinion is it
20 possible for Anglos to have a say in who wins your
21 Commissioners Court district?

22 A. As currently drawn, no.

23 Q. Do you think that your current commissioner -- you said
24 Mr. Price is your current commissioner?

25 A. Yes.

1 Q. And you said you believe he exhibits hostility towards
2 Anglos?

3 A. I've seen things in media.

4 Q. Do you believe that Mr. Price wins his election with a
5 majority of the Anglo vote or a majority of another racial
6 group's vote?

7 A. Another racial group.

8 Q. And do you believe that if Anglo Americans had the
9 majority say in your district that Mr. Price would continue
10 to be elected?

11 A. No.

12 MR. DUNN: Your Honor, I must rise to object. This
13 is about the third time that it seems like plaintiffs have
14 waited for their second opportunity with a witness to
15 actually do the direct.

16 THE COURT: I'll sustain the objection, it is
17 exceeding the cross.

18 BY MS. ALVAREZ:

19 Q. Peter, do you have any -- anything else that you'd like
20 to add or any comments you have about the way you perceive
21 the Commissioners Court?

22 MR. DUNN: Objection, calls for a narrative.

23 THE COURT: Overruled.

24 THE WITNESS: No.

25 BY MS. ALVAREZ:

1 Q. And you just told opposing counsel in your last -- in
2 his last discussion with you that you -- that you would like
3 to see another -- a good candidate be elected. What did you
4 mean by that?

5 A. If the best candidate, whoever that person is, runs
6 against an incumbent and is not able to succeed, then we
7 haven't had a very good fairness.

8 MS. ALVAREZ: That's all.

9 Thank you, Peter.

10 Pass the witness.

11 THE COURT: Recross.

12 MR. DUNN: Nothing further.

13 THE COURT: Thank you, sir.

14 You may step down.

15 We're going to recess now until 9:00 o'clock in the
16 morning.

17 I understand there's a request for the time sheets, and
18 I'll have those brought up in just a few minutes.

19 So at this time we'll stand in recess until 9:00 in the
20 morning.

21 THE SECURITY OFFICER: All rise.

22 (End of proceedings.)

23

24 INDEX - VOLUME 2

25

WITNESS NAME

Page Line

1 ANNE HARDING

2 DIRECT EXAMINATION BY MS. ALVAREZ 6 21

3 CROSS EXAMINATION BY MR. HEBERT 9 1

4 REDIRECT EXAMINATION BY MS. ALVAREZ 17 17

5 RECROSS EXAMINATION BY MR. HEBERT 20 8

6 REDIRECT EXAMINATION BY MS. ALVAREZ 21 18

7
8 PETER A. MORRISON

9 DIRECT EXAMINATION BY NARRATIVE 27 7

10 CROSS EXAMINATION BY MR. DUNN 40 9

11 CROSS EXAMINATION (CONT.) BY DUNN 53 6

12 CROSS EXAMINATION (CONT.) BY MR. HEBERT 108 14

13 REDIRECT EXAMINATION BY MR. MORENOFF 171 25

14 HOLLY MORSE

15 DIRECT EXAMINATION BY MR. MORENOFF 216 23

16 CROSS EXAMINATION BY MR. RIOS 218 5

17 REDIRECT EXAMINATION BY MR. MORENOFF 223 1

18 PETER SCHROER

19 DIRECT EXAMINATION BY MS. ALVAREZ 224 19

20 CROSS EXAMINATION BY MR. DUNN 227 10

21 REDIRECT EXAMINATION BY MS. ALVAREZ 234 7

22
23
24 PLAINTIFF EXHIBITS

25 Exhibit Description Identified Admitted Denied

1	1 thru 12	En masse	4	4
2	15 thru 18	En masse	4	4
3	20	En masse	4	4
4	22	En masse	4	4
5	24-27	En masse	4	4
6	27-C	En masse	4	4
7	28 thru 48	En masse	4	4
8	55 thru 62	En masse	4	4
9	68 thru 76	En masse	4	4
10	DEFENSE EXHIBITS			
11	Exhibit	Description	Identified	Admitted Denied
12	26	En masse	5	
13	28	En masse	5	
14	31	En masse	5	
15	44 thru 59	En masse	5	
16	61 thru 63	En masse	5	
17	65 thru 69	En masse	5	
18	70A thru	En masse	5	
19	70C			
20	72 thru 73	En masse	5	
21	75	En masse	5	
22	77	En masse	5	
23	81	En masse	5	
24				
25				

< Dates >	10 3:19, 35:9,	16 3:20, 39:22,	31:6, 31:9,
06-18-107.	37:6, 39:7,	122:22	32:1, 32:5,
142:6	39:10, 39:16,	16. 38:1, 96:2	35:19, 35:20,
April 1, 2010	39:17, 87:5,	164 147:12	35:24, 38:25,
160:10	96:1, 149:6,	1645 2:19	42:14, 84:15,
April 11, 2012	166:9, 183:18,	165 147:12	110:10, 114:19,
158:23	185:12, 234:24,	16th 240:15	125:14, 125:20,
APRIL 16, 2018	238:43	17 3:20, 12:19,	144:3, 202:10,
1:18, 3:1	100 148:10	238:12	212:5, 213:10,
April, 2018.	105 148:10	17125 238:29	219:9, 219:21,
240:15	10814 238:27	1717 238:12	221:19, 222:19,
August 22nd	10:16. 53:1	18 3:20, 3:23,	238:1
100:15, 100:18	10:45. 52:23,	4:9, 4:19,	2. 114:8,
July 26, 2006	52:24, 53:2	12:20, 27:19,	115:3, 192:9,
133:25	11 3:19, 8:10,	150:17, 150:21,	213:13, 217:14,
March 27th,	39:16, 39:17,	238:16, 239:7	217:24, 218:19
2012 211:24	95:25, 98:5,	180 88:16	2.d 158:22,
November 8th	136:14, 166:9	188 145:8	160:9
101:16	1100 2:38	188. 145:8	20 3:20, 3:25,
November 8th,	115 2:18,	18: 79:19	4:9, 4:19,
2017 100:9	148:21	19 5:1, 5:13,	149:17, 239:9
October 25th,	117 148:21	238:41	200 1:37
2015 83:7	118 151:10	19. 3:24	2001 73:19
one may 32:22	12 3:20, 4:8,	19.1 36:14	2010 27:15,
#405 2:11	4:18, 37:6,	191 2:11	57:21, 73:19,
'69 233:21	96:3, 103:16,	1960s 128:3	148:8, 149:1,
'69. 233:21	150:17, 150:21,	1960w 2:3	160:5, 161:6,
.o. 1:29	195:20, 196:3,	1965. 136:18	207:18
	239:5	1969 172:14	2010. 149:7
	12. 39:23	1982 213:9,	2011 11:10,
< 0 >	120 148:14	213:10	42:12, 57:16,
0 39:10	123 148:13	1988 155:20,	61:20, 64:4,
	12347 1:29	157:6, 158:13	64:5, 64:6,
	12:02. 108:8	1988. 155:19,	65:16, 69:20,
< 1 >	12th 208:19,	158:12	71:13, 73:25,
1 3:19, 4:8,	208:20	1992 9:8,	75:4, 75:24,
4:18, 31:3,	13 10:3, 44:10,	153:21	76:1, 76:6,
32:1, 32:2,	47:5, 160:14	1992. 154:8	99:16, 107:13,
35:9, 36:8,	131 100:24	1995 153:24,	109:5, 109:11,
72:11, 72:12,	132 101:3	154:3, 154:9	112:8, 113:17,
73:15, 80:4,	14 10:16,	1995. 172:14	121:16, 124:24,
83:3, 84:15,	238:27	1:30) 108:9	125:12, 125:16,
89:17, 110:4,	1407 155:18	1:30. 108:5,	132:10, 207:18
123:25, 124:12,	15 3:20, 4:8,	108:6	2011. 233:25
124:25, 125:17,	4:18, 27:11,		2012 142:5
144:3, 188:23,	37:6, 149:6,		2012. 148:25,
238:10, 238:37,	239:7		149:3
239:5	15-CV-00131-D	< 2 >	2014 73:8
1. 96:21,	1:5	2 1:21, 3:1,	2014. 74:3
141:16, 142:15	1535 2:38	3:19, 4:25,	2015 132:10
		5:23, 8:17,	

2016 14:16, 15:2, 206:20, 206:23, 207:18 2017 89:20, 116:8 2017. 100:15 208 238:14 20th 89:20 21 3:25, 10:3, 10:16, 238:8 210-222-2102 2:21 210-222-2898 2:22 2118 238:16 214-504-1835 1:31 214.662.1557 2:40 21623 238:33 2185 238:35 22 3:20, 3:25, 4:9, 4:19, 239:11 22304 2:12 2231 238:37 22419 238:41 22710 238:43 23 3:25, 5:1, 5:13, 238:33 23. 12:20 2347 238:45 24 3:20, 3:25, 4:9, 4:19, 5:1, 5:13, 167:13 24-27 239:13 24. 10:4, 10:17 2413 225:2 25 3:25, 12:19, 238:29 26 3:25, 5:1, 5:24, 239:28 27 3:25, 4:9, 4:19 27-C 4:1, 4:9, 4:19, 239:15 277 238:21 28 4:1, 4:9, 4:19, 5:1, 5:24, 239:17,	239:30 281-580-6310 2:6 29 4:1, 5:1, 5:13 < 3 > 3 3:19, 31:3, 31:14, 32:2, 33:19, 34:2, 34:12, 34:14, 35:2, 35:4, 36:2, 38:15, 84:15, 206:22, 208:1 3. 33:22, 34:1, 34:21, 34:25, 44:10, 114:8, 225:7 30 4:1, 133:14, 138:20, 149:17, 213:15, 213:22 30,000 154:25 31 4:1, 5:1, 5:24, 239:32 32 4:1, 5:13 33 4:1 34 4:1, 5:1 34. 5:14 35 4:1 35.75 159:12 35.9 192:16 36 4:1, 128:19, 129:9, 130:2, 130:7, 130:18, 159:18 36-point 126:8, 126:10, 126:22, 127:8, 128:6, 128:24, 131:9 37 4:1 37.1 31:20, 36:10, 38:17, 123:17, 124:5, 124:17 37.6 36:9, 36:14, 38:17, 123:21, 124:5, 124:17	37.7 89:10 38 4:1 38.0 36:15 3808 7:8 39 4:1 3: 1:5 3:00. 171:19 3:30. 171:17, 171:20 < 4 > 4 3:19, 7:17, 31:20, 32:2, 35:19, 35:23, 35:25, 39:4, 73:17, 124:1, 206:9, 225:20, 225:23, 239:5, 239:7, 239:9, 239:11, 239:13, 239:15, 239:17, 239:19, 239:21 4. 124:14, 125:21, 151:10 4.29 35:11, 39:11 40 37:7 40. 4:1 409 238:23 411 160:9 42.8 32:3, 39:2, 124:11, 124:18, 124:22 4201 2:3 43 132:14, 132:23 44 5:1, 5:24, 239:5, 239:7, 239:9, 239:11, 239:13, 239:15, 239:17, 239:19, 239:21, 239:34 445,517 154:21 45. 37:5 45.1 196:10 45.1. 196:11 45.8 36:25, 37:1, 37:4, 37:6	47 176:23 48 4:2, 4:10, 4:20, 239:17 480,281 154:25 49 54:7 49. 194:11, 195:4 49.99 175:25 4:21 89:20 < 5 > 5 3:19, 38:1, 89:18, 95:23, 95:24, 96:21, 97:13, 108:22, 108:25, 122:25, 149:6, 149:19, 170:21, 238:35, 239:28, 239:30, 239:32, 239:34, 239:36, 239:38, 239:40, 239:43, 239:45, 239:47, 239:49 5" 202:10 5. 34:22, 110:4 50 31:15, 37:2, 50:11, 59:22, 59:24, 60:8, 135:13, 138:21, 144:12, 175:21, 176:23 50.1 54:6 50.5 177:9 500 190:5 50s 128:3 51 50:11, 51:25, 53:12, 53:16, 54:4, 54:5, 54:14, 79:18, 85:25, 125:6, 159:15, 176:24 51. 83:4 52 36:5, 53:12, 54:4, 55:1, 55:2, 78:15, 78:17, 80:3, 85:22
--	--	---	---

52.3 31:14, 38:9 52.9 55:23, 206:11, 206:14 53 36:5, 55:1, 55:2 530 2:4 536 238:25 55 4:3, 4:10, 4:20, 53:19, 53:21, 53:23, 54:1, 54:14, 239:19 55.1 35:23, 39:3, 124:12, 125:6 555 1:36 555,000 132:12 56 4:3 56.8 36:2, 36:5, 38:13 566 73:15 57 4:3, 142:14, 145:4 57.3 132:12 58 4:3, 177:11 59 4:3, 5:2, 5:24, 239:34 5:00 216:15, 224:8, 224:10	5:25, 239:36 635 110:6, 110:16 635. 110:11, 233:1 65 5:2, 5:25, 138:24, 239:38 65.2 35:20, 35:25, 38:25 67 4:4 68 4:4, 4:10, 4:20, 27:9, 239:21 68. 126:3 69 4:4, 5:2, 5:25, 239:38 69.8 31:9, 38:21 69.8. 38:25	73 4:5, 5:4, 5:15, 6:2, 239:43 74 4:5 75 4:5, 5:4, 6:1, 239:45 75074 1:38 75220. 7:8 75225 1:30 75242 2:39 76 4:11, 4:21, 239:21 76. 4:5 77 5:4, 6:1, 239:47 77068 2:5 78205 2:20 794 153:20 7:58 83:7	969,000 132:11 972-422-9152 1:39 98 145:25 99.99 71:3 990 153:21 9:00 237:17, 237:21 [sic] 166:14 `decant 88:24 `morenoff 162:17
< 6 > 6 3:19, 4:25, 5:24, 31:6, 78:17, 86:11, 86:14, 149:19, 191:24, 193:16, 194:2, 195:2, 238:25 6. 72:12 60 177:11 60s 233:20 61 5:2, 5:24, 239:36 62 4:10, 4:20, 239:19 62. 4:3 621 238:8 63 4:4, 5:2,	< 7 > 7 3:19, 35:13, 82:19, 82:23, 83:20, 86:12, 86:14, 149:19, 160:15, 193:14, 238:21, 238:45 7. 191:24 7.6 39:10 70 4:4 70-A 5:3, 5:25, 41:1 70-B 5:3, 5:25, 42:9, 92:10 70-C 5:3, 5:25, 44:3, 44:6, 93:14, 229:25 70. 138:24 703-628-4673 2:13 704 160:9 70A 239:40 70C 239:41 70s 128:3, 233:20 71 4:5, 230:16 71. 126:5 72 4:5, 5:4, 5:25, 239:43	< 8 > 8 3:19, 35:13, 47:5, 82:20, 82:23, 83:20, 83:24, 84:9, 85:2, 98:12, 108:22, 109:10, 109:25, 110:13, 116:17, 156:8, 212:2, 238:14 8. 99:11, 116:22, 154:13 81 239:49 81. 5:4, 6:1 860 158:22 862 158:22 863 155:18	< A > A. 1:23, 3:5, 27:6, 27:9, 162:7, 238:19 ability 31:18, 38:11, 49:25, 117:23, 124:7, 127:14, 140:14, 188:11, 188:15, 231:21 able 3:16, 36:18, 38:23, 38:24, 39:1, 42:2, 47:20, 51:12, 52:1, 54:12, 54:14, 54:16, 56:19, 63:21, 88:5, 114:3, 118:16, 119:5, 122:25, 146:15, 159:22, 161:7, 167:17, 168:11, 197:24, 198:2, 201:2, 225:18, 231:14, 237:8 above 66:20, 80:25 abroad 131:19 absent 184:21 abstract 134:23 academic 172:23, 173:2 accept 58:15, 64:10, 66:14, 145:3, 158:18,
		< 9 > 9 3:19, 98:12, 98:13, 126:7, 127:5, 161:16, 238:23 9. 127:6, 138:3, 212:2 90 139:5 90s 172:16 91 238:10	

224:10	201:15, 203:25	203:9, 236:22	230:15, 239:3,
acceptable	achieved 85:20	added 112:13	239:26
231:12	achieves 35:14	adding 39:21	adopt 119:19
accepted 50:5,	achieving	addition 209:19	adopted 42:6,
55:11, 104:13,	196:20, 198:22	additional	42:11, 43:1,
105:24	acknowledge	27:17, 59:21,	61:14, 61:24,
access 73:17,	70:24	60:7, 60:19,	64:7, 69:21,
174:12	acknowledged	145:19	76:6, 76:21,
accident 91:24	109:15, 215:3	Additionally	107:7, 107:14,
accomplish	across 28:6,	205:12	109:4, 118:12,
39:25, 47:13,	32:4, 36:22,	address 3:12,	119:13, 119:17,
47:20, 81:3,	66:3, 179:24,	7:7, 72:20,	124:25, 182:20,
187:25, 196:23,	188:11	118:24, 182:1,	220:11, 220:19,
203:23	ACS 55:23,	204:7, 224:21,	233:25
accomplished	56:8, 56:18,	225:1, 225:19	adopting 119:24
92:8, 203:23	56:24, 70:16,	addressed	adults 133:6
accomplishes	132:7, 132:10,	163:20, 163:21,	advance 76:5,
198:18	136:9, 159:2,	186:1, 205:19,	227:22
According 37:4,	206:24, 208:19	215:13	advanced 189:24
80:22, 132:13,	Act 31:17,	addresses 73:3,	advantage 62:12
154:24	107:20, 107:25,	73:7	advantages
accords 33:17	115:1, 115:2,	adds 102:9,	62:10
account 33:5,	121:8, 121:11,	203:11	advertisements
81:16, 146:15,	122:7, 140:19,	adhere 88:4,	228:13
146:21, 149:8,	165:21, 169:15,	194:16	advice 177:6,
202:20, 203:1	174:15, 174:22,	adhered 182:9,	178:22, 178:24,
Accountability	182:17, 202:8,	182:22	179:8, 181:1
158:22	204:11, 205:4,	adheres 201:10	advocating
accuracy	213:11	adjacent 110:9	44:21, 52:2,
161:24, 207:24	action 105:25	adjective 87:24	55:24, 84:24,
accurate 22:23,	actors 179:18	adjust 6:16,	115:14, 171:8
23:5, 56:16,	actual 64:6,	26:7, 81:23,	afar 131:14
57:6, 57:18,	97:22, 98:20,	203:5	affected 170:18
76:2, 97:23,	170:10, 190:25,	adjusted 204:24	affects 127:14
112:24, 125:13,	191:21, 202:6	adjustment	affiliate
125:22, 141:5,	Actually 46:1,	187:14	52:11, 52:12
141:22, 145:12,	47:7, 55:7,	administering	affiliations
158:24, 166:11,	110:15, 112:7,	19:22	215:8
199:20, 212:16	113:11, 115:15,	administration	afford 55:15,
accurately	151:13, 152:9,	21:25	176:5
101:8, 166:19,	161:1, 168:3,	admission 3:16,	affords 175:14
170:21	168:9, 171:9,	4:25	African 18:3,
accused 152:15,	178:12, 193:10,	admit 166:15	119:14, 120:13,
153:7	193:12, 211:20,	admits 5:23,	120:16, 121:2,
accused. 152:17	215:20, 219:14,	6:2	121:6, 121:18,
accustomed	236:16	Admitted 3:18,	176:15, 176:17,
65:21	ad 98:4	4:16, 5:16,	177:12, 187:17,
achieve 84:13,	Adam 18:11	40:25, 41:5,	188:18, 188:19
88:5, 88:9,	add 30:1, 30:4,	44:3, 92:11,	African-america
89:7, 194:8,	36:14, 95:12,	161:25, 162:9,	n 41:22, 57:24,

58:1, 66:23, 67:22, 68:1 African-america ns 58:14, 67:10, 67:15, 67:17, 67:23 afternoon 108:16, 171:15, 218:7 age 35:22, 56:14, 59:4, 138:16, 138:17, 138:24, 140:10, 148:14, 149:1, 162:17, 162:23, 163:8, 163:18, 165:2, 165:3, 165:15, 165:18, 165:24, 185:16, 185:19 aggregate 90:17, 90:20, 114:7 aggregation 175:8 aggregations 75:9 agnostic 51:22 ago 106:12, 133:15, 134:16, 135:13, 163:2, 168:15, 168:25, 178:14, 186:18, 187:3, 227:16 agreed 120:4 agreed-upon 212:1 agreeing 140:11 agreement 5:15, 199:9 ahead 34:20, 87:21, 202:10, 224:13 aid 77:24, 138:13 aim 192:14 air 85:17 al 1:17 Alexandria 2:12 alias 83:14,	83:15 align 7:24, 19:9, 65:19 aligns 19:11 alike 157:13, 157:19, 214:1 alike. 156:17 allege 110:1 alleging 169:6 allocated 32:11 allocates 29:8 allow 26:11, 75:17, 111:25, 123:22, 214:18 allowed 188:6 allowing 68:17, 123:18 almost 171:2, 195:13, 196:20, 197:12 alone 105:17, 168:3 alpha 72:22 already 89:7, 90:16, 91:21, 203:10, 205:8, 205:10 alternative 170:17, 174:7, 174:12, 179:22, 180:23, 181:19, 184:6, 206:1 alternatives 73:22, 79:25, 223:6 although 39:17, 51:13, 129:22 altogether 125:24 ALVAREZ 1:34, 1:35, 23:4, 34:10, 228:2, 230:2, 230:12, 238:8, 238:12, 238:16, 238:41, 238:45 ambiguity 92:3 amenable 12:22 amended 213:13 Amendment 32:17	amendments 213:9, 213:10 American 27:17, 56:8, 56:13, 58:10, 60:23, 70:15, 119:14, 120:13, 121:3, 121:7, 121:18, 132:1, 164:1, 187:17, 188:18, 188:19, 190:10, 206:19, 208:18 Americans 18:3, 176:15, 176:17, 177:12, 236:10 amicus 163:20 among 29:9, 33:15, 33:16, 35:8, 66:16, 114:17, 135:1, 148:14, 157:7, 158:2, 161:23, 168:17, 176:24, 201:13 amount 174:13 ample 107:19 amputation 32:10, 200:10 amputee 199:19 Analyses 116:10, 145:11, 209:11 analyze 49:25, 55:19, 63:13, 139:19, 170:9, 182:8 analyzed 62:20, 62:22, 106:17, 106:18, 170:11, 178:9, 199:3, 208:3, 208:13 analyzes 206:6 anecdotal 214:2 Angeles 163:1 angle 139:4 Anglo 7:12, 23:8, 23:16, 23:18, 24:17, 50:12, 53:11, 56:20, 56:25,	57:11, 57:18, 58:21, 59:4, 59:22, 60:7, 60:10, 60:14, 60:25, 61:7, 103:17, 103:25, 113:17, 115:15, 120:20, 120:21, 121:3, 124:10, 127:15, 137:15, 156:23, 159:16, 183:23, 206:10, 215:7, 233:15, 233:16, 235:2, 235:3, 236:7, 236:10 Anglos 13:6, 22:22, 23:6, 24:13, 24:21, 49:20, 50:22, 53:23, 55:2, 55:24, 58:13, 58:17, 59:14, 60:8, 66:25, 104:5, 104:6, 104:21, 104:22, 124:18, 131:18, 138:6, 138:10, 138:20, 140:9, 184:3, 223:20, 223:22, 224:1, 235:14, 235:22, 236:4 ANNE 1:5, 6:10, 6:20, 7:4, 217:1, 238:6 announced 81:16 anomaly 70:3 anonymizing 207:12 answer 15:6, 26:25, 61:6, 78:21, 111:6, 122:3, 125:9, 127:17, 129:4, 130:1, 135:23, 137:9, 137:20, 139:2, 146:1, 147:2, 147:16, 166:24, 167:2,
---	--	--	--

176:8	175:7	Arlington	associate
answered 196:5	apportioning	106:13, 106:17,	88:18, 189:16
answers 79:23,	165:22	163:5	associated
128:16, 147:25,	appraises 167:3	around 11:14,	9:15, 212:7
166:21, 167:4,	appreciate	35:13, 36:5,	Associates
228:2	6:24, 234:3	56:15, 61:4,	189:6, 189:15
antagonism	appreciated	90:14, 92:2,	assume 5:20,
227:4	197:9	127:23, 135:13,	41:21, 42:5,
antagonistic	approach 26:10,	141:18, 172:16,	50:21, 71:2,
227:2	27:2, 94:6,	172:23, 185:12	106:16, 112:20,
anticipated	126:24, 159:9,	arrivals 167:25	155:23
178:3	211:17	arrive 133:6,	assuming
Antonio 2:20	approaches	191:11	112:24, 112:25,
anybody 10:24,	211:18	arrived 155:9,	156:23
11:5, 11:21,	appropriate	168:17, 168:24,	assumption
105:13, 114:3,	5:21	201:13	207:9
135:12, 176:14	approved 201:22	article 116:7,	assumptions
anyway 193:17	approximate	133:16, 134:15,	156:25
apologize	101:8	134:24, 135:7	assure 31:18,
34:22, 35:3,	approximated	articulated	38:10
195:5	75:7, 101:4	87:2, 88:12,	attached 97:22
apparent 27:24,	approximately	163:1	attempt 120:19
28:22	46:5, 195:11	aspect 97:5	attempted
apparently	approximating	aspects 35:17,	117:15, 167:23
213:18	63:18	190:14	attempting
appeal 213:3	area 8:15,	assemble 106:8,	134:4
Appeals 213:7,	43:24, 65:22,	128:8, 174:10,	attempts 56:14
213:20	67:7, 67:11,	174:20	attend 11:16,
appear 101:3	67:13, 67:14,	assembled	11:19, 226:4
appeared 99:14,	90:25, 92:15,	129:18, 170:13,	attended 137:4,
181:8	93:16, 94:16,	175:2	218:12, 218:24,
appears 33:23,	103:12, 106:5,	assembling	219:3
34:4, 74:3,	110:15, 115:25,	174:16	attention 32:7,
95:2, 130:2,	148:17, 149:25,	Assembly 212:2	35:5, 64:23,
193:13, 208:7,	215:22, 232:17,	asserting	145:4, 150:1,
213:8, 218:20	233:2	89:23, 100:1	180:22, 185:24
appellee 156:10	areas 67:25,	assertion	attest 233:21
appendix 138:6,	96:9, 111:19,	103:13	attitude
138:11	229:1	assertions	226:19, 226:21,
apple 5:3	Arguably 73:18	135:10	226:22
Application	arguing 152:2,	assess 198:10	attorney
116:9	163:17	assessing	108:18, 152:20
applications	argument	165:24, 173:22	Attorneys 5:11,
134:24	119:18, 127:9,	assessment	9:5
applied 159:3,	129:22, 129:24,	195:10, 206:1,	attributable
203:7, 213:12	135:17, 165:17	215:18	128:2, 129:1,
applies 28:2	argumentative	assist 25:10	130:13, 130:14,
apply 77:14,	171:3	assistant	152:19, 157:10
209:25, 213:1	arise 146:19	172:11	attributed
apportioned	Arizona 133:13	assisted 173:21	128:6

August 89:20, 100:20 Austin 172:24 authored 116:1, 116:3 authority 188:4 authors 116:13 available 64:1, 64:2, 135:10, 158:16, 173:18, 174:18, 181:11, 208:19, 208:22, 208:23 availed 19:14 average 66:19 avoid 33:6, 33:10, 68:2, 88:1, 166:5, 170:17, 183:9, 194:6, 200:25, 202:9 avoiding 37:17, 191:15 avoids 28:21, 29:2 awarded 164:10 aware 11:11, 11:12, 11:13, 14:17, 70:19, 78:24, 100:2, 106:14, 106:18, 111:3, 119:20, 133:11, 199:3, 199:6, 226:3, 228:7, 228:10 away 58:13, 58:18, 58:22, 59:11	191:9, 191:12, 191:17, 201:13, 228:25, 234:1, 234:2 balanced 20:18, 24:11, 49:12, 186:2 balances 77:22 balancing 33:3, 39:1, 47:13, 79:7, 85:14, 85:21, 86:24, 88:11, 88:14, 88:15, 118:9, 125:9, 191:10 Baldus 158:17, 158:21, 211:5, 211:6 ballot 20:23, 20:25, 24:18, 180:15 banner 148:25 barrier 164:3, 164:4, 165:6 base 149:6 Based 6:3, 32:22, 47:12, 52:9, 59:8, 59:19, 70:14, 76:16, 82:4, 90:17, 105:17, 107:22, 114:7, 115:20, 115:22, 116:25, 122:7, 130:10, 131:2, 143:8, 146:7, 150:9, 158:1, 158:4, 168:11, 170:12, 174:18, 177:15, 178:25, 186:16, 197:11, 206:25, 213:25 basic 35:7 Basically 20:13, 29:16, 31:5, 146:25, 173:10, 178:20, 179:18, 183:7, 185:1, 190:1, 203:23, 214:16	basing 158:7 basis 90:14, 101:25, 104:24, 114:6, 114:19, 120:6, 140:11, 162:14, 168:21, 179:13, 186:17 beans 130:19, 130:22, 130:24, 131:12, 131:25, 132:9, 150:10, 159:22 bearing 78:11, 129:7, 135:16 became 102:5, 125:6 bedrock 91:14 beg 71:24 began 184:13 begin 213:11 beginning 80:3, 207:19 begins 91:15, 145:7 behalf 108:2, 210:22, 211:3 behavior 58:18, 127:11, 127:19 belief 33:2, 113:17, 123:24, 157:12 believed 212:5 bell 54:8, 176:1 bells 197:1 belonged 186:15, 186:16 below 37:7, 59:22, 59:24, 60:8, 66:19, 93:4 bench 5:20 benchmark 41:2, 41:15, 44:19, 73:19, 163:9, 175:18 benefit 94:14, 108:24, 181:4 benefiting 177:6	benefits 128:23 best 33:18, 39:23, 41:4, 109:9, 131:11, 146:21, 146:22, 173:11, 188:15, 189:10, 211:16, 215:24, 235:20, 237:7 better 19:9, 19:11, 24:8, 28:24, 38:18, 101:21, 144:22, 183:18, 183:19, 188:5, 192:16, 204:19, 204:25, 205:1, 210:7, 210:8 Beveridge 161:18 beyond 69:1, 69:2, 69:4, 114:14, 218:16 big 38:19, 190:3, 190:6, 198:13, 232:16 bigger 71:1 binary 202:22 birth 127:23 bit 29:15, 30:16, 36:14, 40:21, 99:15, 100:20, 103:12, 143:16, 173:4, 209:3, 226:23, 229:20 bizarre 89:14 black 29:11, 31:1, 31:14, 33:16, 36:15, 38:8, 44:14, 56:20, 107:18, 120:16, 122:13, 122:19, 182:13, 215:6, 229:9, 230:8, 230:9, 230:10, 230:14, 230:18 Blacks 31:18, 32:14, 36:2,
---	--	--	---

< B >

B. 156:5,
230:16

background 9:7

backing 172:4

backs 170:7

balance 33:18,

35:15, 37:17,

48:8, 68:4,

76:17, 86:23,

36:6, 37:13, 38:11, 38:15, 52:11, 114:22, 120:17, 138:6, 138:10, 140:9, 181:23, 182:15, 188:14, 233:18 block 62:13, 62:15, 62:18, 64:10, 65:13, 65:18, 65:19, 65:20, 65:21, 65:23, 66:3, 66:13, 68:13, 68:25, 69:3, 69:13, 69:16, 69:19, 70:7, 74:12, 74:18, 75:8, 75:11, 91:8, 109:16, 113:20, 113:21, 113:23, 184:24, 184:25, 196:7, 232:17 blocks 61:23, 62:7, 62:14, 62:17, 63:12, 64:4, 66:6, 68:7, 68:17, 68:22, 69:23, 70:6, 70:20, 70:21, 70:25, 71:3, 74:6, 74:14, 74:19, 75:10, 81:24, 89:5, 109:19, 109:20, 109:23, 193:5, 195:11, 195:14, 195:17, 195:24, 196:4, 196:11 blue 89:24, 90:5, 148:24, 187:4, 187:7 Board 9:22, 158:22 body 48:22, 231:7 bold 230:11, 230:14	bolded 230:10 boldness 230:11 boost 30:8, 39:2 boosts 38:13 born 57:9, 132:12, 132:24, 137:4, 137:8 bothersome 229:2 bottom 35:18, 36:25, 79:18, 86:21, 89:20, 142:12, 142:17, 232:7 bound 54:5 boundaries. 83:21, 83:25 boundary 30:4, 30:5, 42:21, 87:21, 87:22, 88:10, 88:17, 88:20, 89:14, 91:13, 112:12, 113:7, 188:5, 188:6, 188:7, 191:15, 194:9 Box 1:29, 166:22, 166:23 boy 5:3 Brazil 2:2 break 52:21, 52:22, 53:8, 83:25, 84:9, 84:12, 108:3, 171:15 breakdown 69:9, 69:13 breaking 83:21 brief 26:12, 26:19, 163:20 Briefly 21:16, 27:10, 30:19, 32:13, 201:21 bring 8:9, 10:3, 12:19, 94:5, 122:22, 130:25, 226:16, 229:11 bringing 227:2	broad 177:13 broken 229:1 brought 9:17, 91:23, 108:2, 180:22, 221:1, 237:20 brown 90:5 bucket 80:3 buckets 36:17 buggy 214:18 build 64:4, 80:1, 185:1 building 36:21 built 149:25 built-in 168:16 bulge 43:13 bullets 84:1 Bureau 45:1, 56:8, 65:18, 65:24, 70:17, 75:8, 132:4, 166:21, 166:25, 190:8, 190:10, 190:13, 190:17, 206:25, 207:5, 207:8 bureaus 29:19 Bush-quayle 9:8 business 54:20, 174:16, 189:24 byproduct 33:9 < C > calculate 56:19, 196:8, 196:9 calculated 99:21, 207:22 calculation 129:9, 208:4 calculations 83:1 California 131:20, 153:22, 172:10 call 3:11, 6:7, 6:10, 26:1, 26:3, 32:7, 67:6, 70:13,	85:20, 95:22, 115:8, 130:10, 144:19, 145:4, 146:2, 146:14, 148:11, 150:8, 163:19, 189:16, 190:20, 191:12, 198:6, 216:13, 216:17, 221:25, 224:13, 227:14 called 84:25, 106:13, 124:14, 133:23, 150:1, 158:17, 190:3, 206:9, 210:15 calling 121:21 calls 236:24 campaign 9:8, 220:5 candidate 9:25, 16:8, 18:17, 21:4, 21:9, 22:15, 22:18, 22:19, 23:8, 23:17, 24:16, 24:17, 24:19, 24:20, 24:21, 24:24, 41:17, 41:22, 50:12, 51:13, 51:18, 53:11, 54:15, 67:14, 67:25, 115:15, 118:8, 140:2, 177:4, 180:21, 188:25, 225:16, 231:20, 231:21, 235:20, 237:5, 237:7 candidates 16:17, 19:9, 21:2, 21:3, 31:12, 31:18, 38:11, 54:15, 54:21, 54:23, 55:6, 55:16, 55:18, 59:10, 59:15, 104:3, 104:21, 104:22, 176:6, 178:19, 195:21, 202:12
--	---	---	---

Cantrell 221:5, 233:12	Center 35:5, 92:19, 93:6, 172:19, 172:22, 173:2	205:18, 233:24 changed 57:6, 57:8, 176:17, 206:6	chosen 23:17, 152:10
capability 69:2	centers 172:23, 173:4, 173:12	changes 31:3, 46:22, 46:25, 84:15, 191:24, 220:18	chronological 136:17, 136:25, 137:6, 137:9
capable 136:22, 197:7, 197:9	central 127:13, 129:7, 129:18, 129:25, 135:21, 209:7, 209:9, 209:10	changing 81:24	chunk 90:5, 96:10
capacity 1:15	certain 17:23, 19:12, 38:14, 89:4, 101:19, 105:25, 113:22, 140:1, 155:4, 176:11	characteristic 230:7	chunks 90:9, 91:25, 92:1
capita 138:22	certainly 31:17, 36:21, 53:14, 58:9, 93:11, 98:2, 177:20, 198:16	characteristics 50:17, 194:20	circle 109:25, 112:3
capital 225:24	certainty 53:25	characterizatio n 210:25	circled 110:18, 111:4, 111:19, 111:21, 113:5
career 172:8, 172:9	certify 240:5, 240:10	characterize 32:9, 39:12, 41:14, 43:14, 45:12, 47:9, 49:10, 150:8, 157:14	circles 99:13, 100:5, 100:6
carefully 119:9, 144:24, 201:12	cetera 88:3	characterized 129:23	Circuit 155:19, 213:9
carried 14:10, 15:13	Chad 2:1, 40:11, 227:16	charge 224:10	circumstance 121:16, 155:10
carries 15:2, 15:18, 32:25, 33:11, 70:16	chad@brazilandd unn.com 2:7	charged 224:13	cite 151:5, 222:3, 222:12, 222:15
Carrollton 94:4	chain 86:8	chart 146:10	cites 154:16
carry 28:16, 135:20	challenge 67:9, 74:12, 99:15, 182:19, 209:12	charts 161:24, 162:18	cities 32:8, 68:3, 68:5, 88:3, 95:1, 95:6, 95:9, 101:20, 110:1, 187:23, 199:16, 201:7
cases 66:2, 74:17, 150:14, 150:18, 150:19, 150:22, 151:5, 151:11, 154:3, 173:17, 210:11, 213:1	challenged 14:3	chasing 195:1	citizen 28:16, 28:17, 56:14, 59:4, 162:17, 162:22, 163:8, 163:18, 165:2, 165:3, 165:14, 165:18, 165:23, 166:23, 185:19
cast 20:25, 32:14, 32:25, 33:1, 183:10	challenges 67:7, 213:12, 230:17	check 83:1, 85:4, 101:23, 143:5, 143:11, 147:18, 166:22, 169:20, 185:17, 208:1	citizens 27:19, 29:5, 29:10, 29:11, 35:21, 58:21, 59:22, 131:16, 141:5, 226:25, 227:1, 227:2
cat 5:4	challenging 136:4	checking 190:19	citizens. 166:14
catch 232:4	chance 24:17, 24:19, 55:1, 226:7	checks 144:25, 166:23	citizenship 166:12, 166:17
categories 48:25	change 12:22, 22:6, 22:8, 22:10, 34:8, 59:20, 61:3, 82:14, 91:10, 92:6, 96:15, 96:18, 132:11,	Chester 160:6, 166:8, 166:10, 166:17, 167:6, 167:14, 167:22, 168:3, 215:13, 215:17	
category 114:25, 201:16	changes 12:22, 22:6, 22:8, 22:10, 34:8, 59:20, 61:3, 82:14, 91:10, 92:6, 96:15, 96:18, 132:11,	choices 18:25, 19:1, 27:24	
Caucasian 7:12, 217:6, 221:2, 226:1, 235:3, 235:8, 235:18	change 12:22, 22:6, 22:8, 22:10, 34:8, 59:20, 61:3, 82:14, 91:10, 92:6, 96:15, 96:18, 132:11,	choose 24:18, 51:13	
Caucasians 221:6, 222:13, 222:16, 223:20, 223:22, 224:1, 226:2, 227:5, 235:14	change 12:22, 22:6, 22:8, 22:10, 34:8, 59:20, 61:3, 82:14, 91:10, 92:6, 96:15, 96:18, 132:11,	chose 49:14, 102:5	
cause 36:18, 130:14	change 12:22, 22:6, 22:8, 22:10, 34:8, 59:20, 61:3, 82:14, 91:10, 92:6, 96:15, 96:18, 132:11,		
cemetery 111:2	change 12:22, 22:6, 22:8, 22:10, 34:8, 59:20, 61:3, 82:14, 91:10, 92:6, 96:15, 96:18, 132:11,		

claim 108:1, 127:13, 218:18 claimed 131:17 claiming 178:16 clarified 213:21 clarify 14:14, 97:4, 155:13 class 221:6 classic 28:3, 170:19, 182:14, 182:18 classified 69:17, 69:18 Clause 32:16 Clay 1:14, 223:19, 233:14 clean 87:19, 87:20, 87:24, 88:20, 88:21, 145:18, 150:3 clean-up 82:21 cleaning 146:25 clear 28:12, 28:13, 29:6, 29:24, 31:24, 39:14, 39:24, 48:10, 55:5, 73:20, 87:24, 110:24, 115:6, 135:18, 175:17, 191:17, 203:18, 228:3 clear-cut 28:9, 183:3 clearer 93:15 clearly 27:22, 63:15, 71:4, 107:20, 112:5, 139:13, 155:8, 155:9, 214:3 CLERK 3:3 clerk-stamped 119:22 clients 174:7 Clinton 14:9, 14:10, 14:15, 15:2, 15:13, 15:16, 15:17 close 67:12,	187:1, 187:10, 224:7 closely 61:23 closer 29:8, 29:12, 35:15, 99:20 clue 143:18 co-counsel 118:22 coalition 36:16 coalitional 52:13 coalitions 36:14, 36:22, 52:9, 55:18 coauthor 116:16 cohesion 52:6, 52:8 cohesive 156:24 cohesively 157:23 coincidence 146:19 colleagues 163:21 collected 69:3 color 42:15, 44:15 colors 92:22, 93:2, 230:18 column 35:20, 36:9, 36:25, 38:4, 38:5, 145:8 columns 143:3 Com 145:12 combination 36:23 comes 50:14, 83:13, 128:5, 129:10, 139:8, 142:25 Coming 8:22, 77:14, 159:8, 180:10, 195:5 Comment 145:10 comments 228:4, 228:5, 236:22 Commerce 2:38 Commission	11:5, 11:11, 12:13, 14:8, 15:10, 15:11, 16:7 Commissioner 7:13, 7:20, 10:19, 11:2, 13:19, 15:3, 16:14, 20:1, 21:23, 22:5, 23:21, 23:22, 67:18, 69:10, 73:18, 81:13, 81:22, 142:15, 187:16, 203:13, 204:3, 219:9, 219:21, 219:25, 220:6, 221:5, 221:11, 221:25, 222:19, 223:14, 225:8, 225:9, 226:8, 226:13, 227:4, 231:18, 235:25, 236:1 common 36:17, 70:6, 169:2, 176:9 commonly 29:21 communicate 11:21, 46:21 communicated 10:22, 10:24, 47:23 communicating 12:10 communications 9:10 communities 28:14, 29:14, 29:17, 37:18, 39:12, 39:15, 39:19, 40:3, 88:2, 95:24, 97:14, 97:23, 98:5, 185:5, 188:10, 194:19, 203:20, 204:20 Community 27:17, 29:21, 30:5, 56:8,	56:13, 58:10, 60:23, 70:15, 132:1, 164:1, 167:24, 168:2, 168:25, 176:5, 178:17, 188:19, 188:20, 188:24, 190:11, 192:21, 198:25, 206:19, 208:18, 214:3, 219:22 community. 156:13 compact 186:5, 186:8, 198:3, 198:8, 205:5 compact. 202:14 compactness 198:5, 198:10, 205:10 company 190:5 comparable 198:15, 198:16, 199:13 comparative 71:12 comparatively 131:19 compare 197:20, 198:5, 201:24, 202:2, 202:17, 204:16 compared 65:15, 71:13 compares 36:10 comparing 49:12, 75:4 comparison 18:2, 38:2, 60:21, 110:4, 123:2, 124:4, 138:19, 202:22 comparisons 39:13, 107:17, 202:18 competent 77:12 competing 85:15, 191:18 competitive 22:12, 24:11
---	---	---	--

complaints 19:17, 226:15 Complete 16:21, 82:19, 205:16, 205:22, 205:24, 206:2, 206:4 completed 101:1, 101:23 completely 38:23 compliance 174:21, 204:16 complicated 29:15, 184:22 complied 78:20, 80:13 complies 201:18 comply 174:25, 202:8, 204:13, 240:10 complying 78:24, 212:6 composed 62:14, 74:15, 205:5 composition 27:18, 30:22, 31:4, 66:8, 82:20, 149:22 comprised 203:13 compromise 88:10 compromising 82:12 computer 2:45, 34:7, 61:20, 141:18, 189:25 conceded 233:5 conceding 71:5 concentrate 67:15, 89:6 concentrated 31:11, 38:24, 48:13, 67:7, 67:13, 89:7, 89:9, 114:16 concentrating 28:4 concentration 37:15, 39:2,	53:23, 67:17, 77:8, 91:3, 165:25 concentrations 184:16, 184:18 concept 199:21 concepts 124:9 Conceptually 124:8 concern 20:15, 20:16, 21:7, 21:8, 21:9, 22:3, 42:20, 231:17 concerned 75:6, 81:12, 167:2 concerning 107:3, 229:18 concerns 12:12, 183:5, 226:16 concisely 38:2 conclude 53:10, 113:12, 114:3 concluded 26:12, 90:17, 123:21, 156:16, 157:10 concludes 6:5 conclusion 21:4, 22:15, 51:10, 51:15, 90:13, 91:16, 113:1, 113:15, 116:2, 121:21, 131:23, 132:4, 132:6, 136:15, 189:13 conclusions 131:2, 131:3, 205:13, 209:12 concocted 170:22 concurrent 137:14 conduct 211:25 conducted 168:1, 219:4 confer 5:9, 5:10 confer. 5:11	Conference 26:9, 211:25, 240:11 confident 102:6, 103:4 configuration 65:22, 174:20, 202:11, 212:1 configuring 27:24 confines 216:1 confirm 41:21, 98:23, 98:24, 120:3, 183:22, 206:9, 206:10, 207:23, 228:1 confirmed 82:15, 92:1, 92:5, 109:22 confirming 122:17 conform 195:14 conformed 91:8, 92:4 confronted 145:1 confusing 204:5 Congressman 9:12, 18:13 connection 136:17, 136:25, 137:6, 137:9, 156:6 conservative 8:8, 19:11, 221:19, 221:21, 223:13, 223:14 Consider 19:1, 22:9, 44:19, 145:10, 147:3, 150:2, 161:12, 179:22, 180:6, 184:11, 188:10, 191:5, 191:6, 194:5, 194:19, 194:21, 202:20, 226:2 considerable 66:16, 66:19, 67:10	considerably 57:6 consideration 49:19, 87:1, 88:11, 141:4, 147:8, 160:17, 161:8, 161:11, 185:14, 194:7 consideration. 193:18, 195:3 considerations 88:12, 201:14 considered 76:23, 153:11, 179:20, 193:20, 196:19 considering 181:16, 218:13 consistent 105:9, 105:15, 106:9, 121:10, 146:12, 176:10 consistently 147:4, 147:16, 147:22 consists 102:18 constituent 74:14 constitute 31:20, 35:23, 175:19 constitutes 97:9 Constitution 204:10, 205:3, 212:7 Constitutional 87:4 constitutionall y 28:15 construct 70:5, 71:10, 75:13, 181:19 constructed 33:14, 62:7, 102:1, 202:7 construction 44:24 consult 178:6 consultant
---	---	---	--

172:15	74:14	133:4, 172:23	creating 35:17,
CONT. 108:14,	convincing	counts 136:7	35:18, 67:8
238:25, 238:27	179:5	countywide	creation 80:19
contact 12:5,	Coppell 110:6,	18:15, 18:18,	credited 151:6,
22:10, 226:8	111:16, 113:5,	60:16, 101:25	151:12
contacted	178:13, 178:18,	couple 142:1,	creek 231:7
21:11, 21:22,	178:22, 178:24,	168:18, 180:10,	crisis 209:1
169:4, 219:13,	217:22	196:11, 235:1	criterion 203:7
219:20, 221:24	copy 26:10,	course 27:1,	critical 56:3,
contacting 22:9	64:12, 108:18,	42:17, 56:4,	75:3
contains 60:2,	126:20, 156:7,	82:1, 139:24	criticism
92:15, 167:24	192:1, 192:5	courtesy 103:7,	117:20
contemporary	core 173:6	103:9	criticizing
135:1	corner 110:9,	courtroom	214:21, 215:14
context 30:16,	112:16, 148:24,	25:13, 25:18,	critique 31:7
67:18, 73:19,	232:12	25:19, 51:1,	CROSS 9:1,
135:24, 141:1	Corporation	160:3	40:9, 53:6,
contexts 134:22	172:10, 172:21	courts 152:9,	108:14, 218:5,
contiguous	corrected	153:7, 164:11,	227:10, 236:19,
205:5, 205:6	145:20	177:5	238:10, 238:23,
continue 30:18,	correctly 89:1,	courtsey 103:10	238:25, 238:27,
56:7, 60:5,	156:14, 166:18,	cover 27:10	238:35, 238:43
122:3, 236:11	187:12, 200:9,	covered 115:5,	Cross-examination 26:24, 40:8,
continued 53:6,	208:14	203:18	218:4, 227:9
120:13, 120:15,	correspond	crack 211:12	crossover
194:14	104:13, 111:1	cracked 104:4,	188:20, 188:24
continues 4:2,	corridor 232:14	104:12, 128:15	CRR 2:36,
80:10	cosmetic 191:13	cracking 28:3,	240:25
continuing 4:3,	Coughing 198:24	29:4, 31:24,	CSR 240:5
101:3, 173:6,	councilman	48:11, 61:15,	culled 206:18
173:17	18:11	102:2, 103:13,	cumulative
contribution	Counsel 3:10,	103:15, 103:18,	16:18, 179:23,
116:23	17:19, 18:2,	104:9, 104:14,	180:3, 180:12,
control 38:8,	19:14, 21:22,	114:18, 127:15,	180:16, 180:17
38:9, 38:14,	22:21, 25:10,	170:15, 181:21,	cure 33:8,
38:15, 38:21,	25:24, 52:18,	183:5	48:9, 181:19
39:4, 83:1,	52:20, 108:12,	craft 197:24	cures 35:16,
101:23, 111:25,	172:2, 234:15,	crafting	202:23
125:5, 125:13,	237:3	174:25, 190:23	curing 211:9
125:20, 125:21,	count 27:15,	create 28:21,	current 14:2,
143:9, 143:11,	48:22, 112:11,	45:3, 46:1,	15:12, 20:15,
144:25, 190:20,	131:13, 132:8,	75:20, 120:24,	20:22, 21:7,
207:10	132:9, 150:17,	122:13, 175:10,	22:20, 77:8,
controlled	178:11	184:6, 207:11,	174:17, 225:8,
124:10	counted 102:7,	231:8	235:25, 236:1
conversation	130:23, 131:12,	created 47:16,	currently
53:9	148:8	63:14, 75:5,	19:18, 19:25,
Conversely	counties 56:21	75:13, 80:8,	25:17, 217:13,
38:13	counting 59:3	109:12	225:6, 235:24
converting	country 66:3,	creates 186:8	

cut 96:10	decade. 203:2	deferred 162:12	16:8, 16:16,
cutting 200:15	decades 30:16,	deficiencies	16:17, 17:2,
CV 151:13,	43:4, 57:5,	205:21	58:23, 104:22
151:14	106:12, 127:20,	define 134:12,	Democrats 10:8,
CVAP 35:21,	127:24, 128:11,	220:25	13:7, 14:4,
38:6, 56:18,	137:3, 150:13,	defined 29:18,	17:13, 17:25,
56:20, 56:25,	163:2, 163:4	65:24	20:12, 50:23,
59:23, 60:6,	decant 89:3	definitely	104:17, 221:12,
61:7, 164:12,	deceive 65:8	38:15	221:16
164:23, 166:10,	decennial 57:17	definition	demographer
167:6, 167:9,	decide 104:8,	65:18	55:13, 55:19,
175:12, 176:4,	145:2, 146:2,	definitions	104:10, 105:3,
192:17	147:8, 163:23,	104:14	174:8, 174:9,
	209:13	degree 35:7,	202:17, 203:3,
< D >	decided 129:13,	36:7, 38:14,	211:15, 211:17
D1 88:24	143:13, 213:9	38:23, 45:22,	Demographers
D2 88:24	decimal 196:9	48:11, 48:12,	29:17, 33:4,
D3 88:25	decision 20:4,	55:17, 58:23,	49:23, 106:3,
dan.morenoff@mo	146:1, 147:11,	67:13, 102:15,	128:1, 138:15,
renoff-firm.com	164:4, 180:10,	104:1, 165:14,	144:21, 174:18,
1:32	212:18, 212:20,	166:1, 190:1,	174:24
danger 123:18	213:3	193:23	demographic
DANIEL 1:27	decisions	degrees 88:16,	15:8, 27:13,
Daniels 219:14,	75:24, 191:21	172:6, 189:24	52:10, 62:15,
219:16, 221:5	declaration	delay 168:16	104:15, 114:12,
darts 170:22	154:16, 159:6,	delegate 77:21	134:24, 135:19,
data. 162:1	159:8	delete 146:23,	159:8, 163:21,
date 82:13,	declaration.	147:9	170:14, 172:17,
154:3, 208:22	159:4	deleted 144:5	215:23
day 43:18,	decline 183:23	deleting 150:2	demographically
85:10, 102:20,	decreases 203:2	delve 214:18	182:1
134:6, 170:20,	deemed 159:25,	demand 111:19	demographics
171:7, 181:6,	160:1	demerit 95:17,	178:25, 179:1,
240:15	deeply 214:19	95:19	234:1
deadline	Defendant 1:18,	Democrat 8:3,	demography
152:21, 208:16,	2:1, 5:23, 6:2,	8:5, 8:7,	66:15, 173:8,
208:18	31:8, 41:1,	10:13, 13:9,	173:11
deal 70:24,	42:8, 44:3,	15:16, 15:17,	demonstrate
82:21, 172:2,	154:14, 179:10,	15:18, 16:12,	113:5, 114:13
191:23, 202:5,	199:3, 200:17,	16:14, 17:23,	demonstrated
205:15, 210:10	208:3, 229:25	18:4, 18:6,	176:18
dealt 145:1	Defendants	18:9, 18:12,	demonstrates
Debaca 153:15,	4:25, 9:6,	19:5, 19:11,	28:20, 28:23
153:20, 210:14,	27:20, 173:18,	20:20, 20:23,	demonstration
210:15, 210:20	173:19, 173:21,	22:13, 23:14,	17:7
debated 22:1	199:7, 218:2	23:15, 51:10,	Denied 239:3,
decade 41:3,	DEFENSE 17:19,	51:13, 52:4,	239:26
41:16, 43:2,	18:2, 19:14,	55:20	deny 116:3,
57:24	21:22, 22:21,	Democratic	207:23
	239:24	9:25, 15:23,	Department

207:2	143:21	214:25	140:11
depend 95:15,	determine 55:7,	difficult	disc 141:12
177:12	55:9, 106:8,	126:15, 130:12	discern 61:2,
dependent	106:13, 140:14,	difficulties	100:7, 181:9
188:20, 188:22,	168:2, 175:14	178:10	discernible
188:24, 189:1	determined	digit 70:19	182:1, 196:7
depending	58:4, 191:17	diluted 128:11	discerning
62:10, 166:2	determines	diluting 29:3	27:18
depends 83:15,	111:18, 112:6,	Dilution 28:22,	discharged
157:9, 176:20	176:21	108:1, 116:10,	181:2
depicted 170:21	Determining	129:19, 170:19,	discovered
depiction	52:6, 105:24,	182:14, 218:19	84:14
46:21, 109:4,	106:7, 114:23	dimension 202:3	discovery 64:22
109:11	devaluation	dimensions	discredit
depositions	32:14	38:2, 50:24	161:18
150:22, 233:10	devalued 33:6	diminish 48:11	discrepancies
depth 133:25	develop 131:7	diminishing	64:9, 66:1,
derivative	developed 14:8,	37:3	109:16
132:20, 132:25,	55:22, 131:16,	diminishment	discrepancy
134:1, 134:8,	134:3, 168:10	30:24	148:4, 195:10,
134:16, 166:1,	development	DIRECT 6:21,	195:13
183:5	194:18	11:24, 26:9,	discriminated
derive 27:13,	deviation 35:6,	27:7, 216:23,	169:6, 222:4,
107:11	35:12, 39:5,	218:16, 218:21,	222:9, 235:14
derived 105:25,	86:24, 87:1,	224:19, 236:17,	discrimination
133:3	87:8, 87:9,	238:8, 238:21,	95:5, 127:10,
describe 58:6,	87:10, 163:17,	238:33, 238:41	128:7, 129:2,
159:22, 189:22,	164:22, 175:4,	directed 212:3	131:16, 132:18,
217:5, 229:15	183:16, 183:20,	direction 37:8,	133:1, 133:2,
described 51:5,	185:11, 202:5	86:7, 169:4,	133:8, 133:9,
95:4, 199:17,	devise 73:22	189:7, 194:3,	133:17, 133:20,
221:1	di 128:13	213:16	134:2, 134:5,
Description	Diego 153:20	directions	134:8, 136:22,
98:1, 98:10,	differ 90:9,	191:10	137:1, 137:15,
239:3, 239:26	199:15, 215:8	directly 10:22,	169:16, 170:3,
designing	difference	128:6, 129:1,	209:14, 222:7,
184:11	70:4, 138:17,	158:15, 168:13	222:12, 222:15,
desire 51:12	138:22, 198:13,	director 9:13,	233:8, 233:19
despite 96:13	207:21	172:21, 173:13	discriminatory
detail 91:7,	differences	directors 9:22	101:19, 105:12,
95:1, 147:18,	65:14, 139:14,	Dirty 88:17,	105:14, 105:19,
209:6	156:12, 157:7,	88:18, 88:21	107:7, 107:14,
detailed 15:8,	158:2, 158:14,	disadvantage	111:17, 127:24
135:5	214:2, 214:14	177:8	discuss 20:3,
details 29:13,	differential	disadvantages	117:16, 126:4,
32:6, 43:17,	176:3, 185:20	62:10	126:8, 154:13,
211:10	differentials	disagree 13:5,	161:17, 208:3,
determination	67:5, 183:15	85:3, 95:8,	208:13
32:16	differently	137:13, 169:24	discussed 5:8,
determinations	19:2, 214:20,	disagreeing	22:1, 86:25,

97:15, 117:17, 138:1, 141:21, 155:23, 162:15, 193:12, 199:4, 201:21, 205:8, 205:10, 219:1, 233:4 discussing 84:4, 86:16, 179:18, 188:19, 191:23, 197:20, 205:15, 209:3, 210:10 discussion 126:12, 145:5, 176:2, 209:13, 210:12, 210:17, 237:4 disenfranchise 27:25, 28:2 disenfranchised 103:22, 113:2, 113:13, 113:18, 114:4, 114:6, 182:15 disenfranchisem ent 103:17, 113:6, 114:20, 181:22 disenfranchisin g 181:23 disparities 197:25 dispense 203:21 dispersed 48:13 display 227:4 dispute 100:11, 119:17, 123:6, 123:8, 167:12, 228:16 disputing 120:7 disregard 5:20 disregarded 28:14, 28:25 disrupt 185:3 disrupting 89:13, 91:13 distinct 124:8 distinction 136:7, 136:10	distinctive 173:1 distinguished 64:11 distracting 129:24 distributed 35:8 distributes 33:14, 33:15 distribution 32:23, 66:21 district. 89:25, 154:21 districting 32:18 districts. 73:18 diverse 158:5 divided 41:12, 66:3, 67:24, 68:18, 92:19, 104:23, 113:21, 195:17, 200:8 divides 200:13 dividing 66:7 Division 1:3, 187:23, 200:14, 240:28 divisions 32:8, 199:1, 199:4 doctor 45:21, 187:9 document 76:7, 158:15, 170:14, 174:21, 198:12 documented 135:19 documents 31:3, 107:1, 170:16 doing 33:2, 54:17, 65:8, 75:9, 76:5, 77:15, 82:25, 120:18, 121:1, 159:7, 164:4, 164:16, 165:6, 185:10, 197:7, 197:9, 207:10, 215:15, 215:20	DOJ 207:13, 208:21 done 18:7, 19:12, 26:12, 74:21, 101:16, 103:1, 115:8, 127:16, 135:21, 150:7, 163:12, 166:25, 173:11, 185:18, 185:22, 197:6, 203:4, 209:11, 211:9, 211:18, 228:16 dot 187:7 double-check 83:1 double-checked 147:15 doubt 114:13, 170:14 Down 3:21, 6:25, 25:4, 38:16, 47:19, 57:1, 57:2, 57:16, 60:12, 79:5, 82:3, 83:10, 98:6, 116:17, 136:10, 170:1, 184:24, 195:9, 207:13, 212:19, 212:21, 216:12, 224:6, 232:7, 232:17, 237:16 download 142:25, 144:2 dozen 170:2, 172:22, 195:11, 195:16 dozens 174:7 draft 77:14, 190:25, 191:2, 191:24 drafting 115:19 drafts 191:5 draftsman 191:21 dramatic 61:5 draw 35:5, 45:14, 62:23,	120:9, 120:19, 122:18, 125:19, 140:14 drawer 79:13 drawing 30:10, 40:1, 43:17, 44:11, 61:14, 63:6, 63:20, 113:7, 117:15, 121:4, 122:17 drawn 14:4, 15:13, 16:6, 18:14, 18:19, 23:13, 27:21, 28:21, 29:25, 56:20, 56:21, 62:2, 82:7, 114:15, 121:7, 174:5, 174:6, 177:23, 183:7, 209:12, 235:24 draws 60:8 drew 28:10, 29:1, 29:2, 44:2, 45:10, 47:7, 47:9, 47:21, 47:22, 68:23, 79:1, 82:4, 118:17, 125:3, 125:5, 132:6 Drive 1:36, 7:8, 141:11, 141:12, 141:15 driving 193:15, 194:2 drop 208:17 drove 48:3, 48:5 DUNN 2:1, 2:2, 4:23, 25:12, 26:22, 40:11, 40:24, 108:3, 171:2, 183:22, 191:23, 192:8, 193:4, 196:12, 197:5, 205:15, 206:8, 209:3, 210:10, 211:5, 213:24, 214:20,
---	---	--	--

215:13, 227:16, 238:23, 238:25, 238:43 during 53:15, 208:23 dying 58:5, 59:11, 59:14	effective 160:17, 161:10, 161:14 effectively 27:25 effects 127:10, 127:18, 127:19, 127:24, 132:18, 133:8, 133:16, 133:19, 134:4, 134:6, 134:8, 134:25, 137:2, 137:3, 137:15, 209:14, 231:4 efficacious 76:2 effort 81:15, 89:7, 92:2, 161:18, 194:16 efforts 51:17, 140:21, 222:10 egregious 200:14 egregiously 83:21 Eight 46:5, 46:9, 46:10, 81:6, 119:6 either 20:20, 45:4, 55:16, 68:20, 69:24, 88:24, 110:25, 113:25, 114:2, 124:1, 127:21, 127:22, 150:4, 151:24, 165:5, 180:11, 206:6, 221:25, 235:4 elaborate 173:4 Elba 7:17, 7:18 elect 12:14, 15:23, 17:2, 23:20, 31:12, 31:18, 38:11, 51:6, 51:18, 52:2, 52:4, 53:11, 54:15, 54:22, 55:3, 55:5, 55:16, 55:18, 59:9,	115:15, 117:23, 118:8, 123:19, 124:7, 127:14, 128:14, 140:2, 171:9, 171:11, 176:5, 177:4, 178:18, 188:11, 188:24, 202:12, 221:16, 231:21 elected 12:17, 13:3, 16:16, 20:17, 20:20, 22:14, 23:14, 23:15, 23:22, 24:25, 41:17, 41:22, 42:6, 55:20, 74:15, 81:16, 178:21, 180:21, 180:25, 187:18, 187:21, 223:19, 231:18, 236:12, 237:5 election 14:9, 14:18, 14:25, 17:9, 18:22, 49:16, 49:20, 51:24, 54:20, 63:8, 63:13, 63:25, 142:23, 142:24, 144:11, 144:16, 144:19, 144:20, 148:25, 180:9, 180:15, 180:20, 180:25, 181:6, 236:6 elections 41:24, 55:19, 115:10, 142:6, 142:21, 143:1, 143:17, 143:19, 143:22, 143:25, 144:3, 144:9, 144:10, 144:12, 144:20, 177:16, 219:24, 219:25, 220:2, 220:7 electoral 42:2, 127:19, 162:25, 164:7, 213:13 electorate	29:12, 30:22 elects 17:12, 221:12, 221:15 eligible 27:18, 29:9, 30:24, 31:10, 31:21, 32:23, 33:16, 35:21, 36:3, 36:10, 37:2, 38:7, 48:20, 55:15, 60:11, 61:1, 64:3, 121:1, 146:18, 158:3, 165:25, 175:20, 178:17 eliminates 204:22 Elizabeth 1:34, 1:35, 6:20, 7:4 Elizabeth@alvar eztxlaw.com 1:40 elsewhere 88:12, 97:8, 133:8, 180:2, 189:17 em 76:23, 125:4, 144:8 Email 1:32, 1:40, 2:7, 2:14, 2:23, 46:12, 46:14, 72:1, 72:16, 72:20, 73:3, 73:7, 74:11, 83:2, 83:6, 83:8, 83:16, 83:19, 84:8, 84:17, 85:5, 85:24, 86:2, 86:4, 86:6, 88:13, 89:16, 90:13, 91:19, 96:8, 96:14, 191:25, 192:1, 192:8, 196:13, 221:25 emails 72:5, 72:8, 85:22, 86:8, 89:19,
--	--	---	--

169:19	ended 85:16,	164:7, 164:8,	36:22, 48:20,
ember 90:23,	85:17, 172:16,	165:23	114:25, 149:22
91:3	200:10	equalize 48:23,	ethnicity
embers 169:21,	endemic 202:24	163:9, 185:8,	136:8, 217:5
169:22	enforcing 25:11	185:16, 199:24	evaluate 181:16
emerges 29:16,	engaged 181:12,	Equalizing	evaluated
95:10	181:14, 181:15	39:9, 40:2,	173:20
emphasis 27:23,	enhanced 83:20	185:9, 185:14,	Evanwell
167:23	enjoy 36:13	203:6, 203:10,	163:14, 164:18
emphasized	enjoyed 37:11	205:8	evenly 28:6
188:13	enlarge 93:22,	equally 32:17,	event 120:8,
empirical	231:25	35:8	122:12, 136:11,
90:16, 215:5	enlightenment	equipopulation	141:8, 165:13,
employ 139:19	91:14	202:1, 204:10,	212:2
employed 190:5	enough 12:14,	205:3	events 222:3
employee 45:2	38:19, 41:8,	equivalent	eventually
employment	41:9, 52:1,	43:14	188:9, 191:7,
172:16	60:4, 63:19,	erroneous.	210:21
empower 177:8	66:20, 66:21,	214:3	everybody
empowering 29:4	74:5, 77:12,	error 61:3,	111:13, 136:5,
empowers 29:10,	78:3, 93:13,	70:9, 70:13,	181:4
29:11	98:16, 102:6,	70:16, 185:2	everyone 25:18
En 239:5,	113:10, 122:11,	errors 70:12,	everything 6:25
239:7, 239:9,	122:16, 140:2,	70:14	everywhere
239:11, 239:13,	141:7, 167:5,	Epecially	147:14
239:15, 239:17,	168:11, 232:19	58:1, 131:20,	evidence 3:18,
239:19, 239:21,	enrich 88:25	136:4	4:17, 28:9,
239:28, 239:30,	ensure 118:6,	essentially	28:12, 31:24,
239:32, 239:34,	119:14	41:15, 95:25,	38:22, 39:24,
239:36, 239:38,	ensuring 191:13	145:22	48:10, 49:11,
239:40, 239:43,	enter 229:22	establish	90:16, 91:22,
239:45, 239:47,	entirely 101:1,	107:10, 107:19,	95:3, 101:19,
239:49	101:3, 149:5	177:7	102:2, 102:17,
encode 128:22	entitled 103:7,	established	107:19, 137:14,
encompassed	103:9, 116:8,	28:14, 29:13,	166:11, 166:16,
66:13	142:5, 240:7	29:17, 88:2,	169:15, 170:3,
encompassing	enumerated	107:25, 138:23,	176:11, 183:3,
63:17	80:25	185:5, 203:20,	230:16
encountered	enumerating	208:16	evidenced
65:17, 71:8,	65:25	estimate 128:1,	127:10
133:9	environment	128:5	evidencing
End 32:22,	212:24	estimated 127:8	51:12
41:16, 67:11,	envision 138:19	estimating	exact 97:19,
85:10, 85:25,	Equal 9:16,	126:22, 138:15,	111:25, 134:10,
125:19, 159:1,	32:16, 32:23,	211:13	150:17, 169:8,
170:20, 171:7,	38:12, 77:10,	estimation	178:11, 178:20
181:6, 181:22,	118:3, 124:5,	84:22	exactly 32:23,
207:20, 237:24	192:16	et 1:17, 88:3	65:19, 67:4,
endeavoring	equality	ethic 188:10	71:9, 77:3,
48:8, 122:13	162:25, 163:1,	ethnic 29:9,	82:8, 88:14,

99:6, 102:7, 123:7, 130:21, 131:22, 153:13 exaggerated 89:14 EXAMINATION 6:21, 9:1, 17:17, 20:8, 21:18, 26:10, 27:7, 40:9, 53:6, 108:14, 123:16, 171:25, 216:23, 218:5, 223:1, 224:19, 227:10, 234:7, 238:8, 238:10, 238:12, 238:14, 238:16, 238:21, 238:23, 238:25, 238:27, 238:29, 238:33, 238:35, 238:37, 238:41, 238:43, 238:45 examine 75:10, 134:1, 134:25 example 19:20, 19:21, 58:12, 65:22, 67:16, 68:8, 68:10, 136:16, 146:17, 148:20, 153:12, 170:19, 182:14, 199:19 examples 222:12, 222:15 exceeding 176:19, 236:19 exceedingly 70:3 exceeds 126:15 Excel 144:2 except 200:3 exceptions 113:7 excessively 28:4, 89:24, 114:16 exchange 102:9, 200:2 exchanged 72:5,	72:8, 169:19 exchanges 72:2, 83:2 exclude 145:18 excluded 90:5 excluding 145:10, 145:23 exclusively 119:10 excursion 129:12 Excuse 16:19, 44:5, 109:20, 166:9, 190:21, 192:24, 198:24, 209:14 excused 25:4 excusing 216:9 execute 77:17 executed 45:13, 48:2 executes 45:2 executing 74:23 exercise 127:11 exhaustive 98:1, 99:9 Exhibit 5:3, 5:15, 5:19, 6:2, 6:3, 8:10, 27:8, 41:1, 42:8, 44:3, 72:11, 72:12, 73:15, 83:3, 89:17, 89:18, 92:10, 93:14, 96:21, 126:3, 126:5, 141:15, 154:24, 229:25, 230:16, 234:24, 239:3, 239:26 EXHIBITS 3:12, 3:16, 3:18, 3:19, 4:4, 4:8, 4:14, 4:16, 4:18, 4:25, 5:13, 5:23, 236:3, 239:1, 239:24 exist 199:8, 199:10, 201:22	existed 41:7, 98:25, 201:1 existence 137:6, 156:11 existing 73:17, 185:4, 203:20, 203:21, 204:20 exists 102:12, 106:17 expect 59:19, 59:21, 60:6, 138:21, 156:16, 157:12, 157:18, 178:10, 235:16 expectation 37:7 expected 140:19, 193:6 expending 135:15 experience 23:7, 63:10, 76:3, 122:8, 150:9, 190:10, 197:11 experienced 222:7 experiment 185:1 experimentation 91:16 expert 25:20, 26:11, 26:20, 27:9, 45:1, 66:15, 97:12, 97:17, 106:6, 134:14, 137:19, 152:3, 152:6, 156:10, 157:10, 157:15, 157:16, 157:21, 157:23, 157:25, 158:6, 159:25, 160:3, 160:16, 161:5, 161:14, 164:10, 169:11, 170:1, 190:23, 195:12, 197:8, 201:23, 202:2, 202:17, 203:3, 204:15,	230:24 expertise 50:9, 115:25, 116:25, 172:5, 189:22, 190:21, 198:14, 215:22, 215:25, 216:1, 216:2 experts 25:8, 25:13, 25:24, 150:7, 152:2, 152:13, 163:7, 199:3, 199:7, 208:3, 209:10 explain 24:6, 24:7, 49:2, 73:12, 128:4, 128:20, 155:9, 167:21, 180:17, 231:14 explained 77:3, 180:2 explaining 180:7 explanation 35:11, 39:7, 73:14, 80:14, 92:7, 101:11, 130:6, 136:21, 148:5, 148:9, 195:15 explicitly 60:21, 182:2, 213:19 explore 189:12, 211:25 expressed 215:14, 223:16 expressing 157:16 extended 179:11 extends 93:16 extensive 65:1, 76:3, 122:8, 150:4, 190:9 extensively 164:1 extent 5:21, 47:25, 49:11, 50:22, 52:13, 68:5, 87:14,
---	--	---	--

113:18, 115:5,
138:15, 172:11,
177:1, 177:15,
178:2, 181:24,
181:25, 203:12,
233:17
extraneous
203:11
extreme 33:6,
33:10, 112:4,
149:13, 166:5,
183:9, 200:24
eye-- 198:6
eyeball 198:6,
198:13
eyeshade 196:24

< F >

F.2d 155:18
F.supp 153:20,
158:22, 160:9
face 6:12
faced 74:12
factor 59:15,
69:25, 70:1,
193:15, 194:2,
198:25, 215:18
factors 80:23,
80:24, 86:25,
105:10, 105:20,
106:16, 118:9,
118:11, 149:21,
184:11, 186:2,
202:16, 203:24
facts 174:3
fail 115:21
failed 71:9,
119:18
failing 152:22
failure 158:2
Fair 12:23,
13:2, 17:22,
20:11, 41:7,
41:9, 57:9,
60:4, 63:19,
66:21, 90:12,
93:13, 98:16,
105:23, 106:5,
117:23, 118:11,

122:11, 122:16,
141:7, 143:14,
152:8, 161:21,
165:15, 191:20,
210:25, 230:25
fairer 12:16,
13:20
fairly 27:21,
28:21, 138:14,
176:10
fairness 57:3,
79:17, 85:23,
231:20, 235:19,
237:9
faith 41:19
faithful 98:10
faithfully 65:7
fall 59:22,
60:8, 205:24,
206:4
familiar 74:5,
87:3, 106:11,
132:20, 163:3,
192:11
familiarization
29:15
far 11:24,
31:10, 31:11,
31:25, 116:21,
124:16, 151:17,
214:15, 225:23
farthest 110:9
Farvin 72:16,
72:19, 72:24,
73:13, 83:16
fashion 33:17,
181:2, 199:23
fashioned
188:12
faster 58:3
fault 176:14
favor 14:4,
14:11, 85:12,
183:20, 210:22,
211:3, 221:11,
221:15, 221:17
favored 31:12,
59:10, 62:13,
152:3, 152:13,
178:19

Fax 2:22
feasibility
164:15
feasible 28:21,
28:23, 125:8,
125:9, 181:18
features 33:13,
82:12
February 208:24
federal 16:14,
107:25, 121:17,
164:11
feel 19:25,
22:17, 23:16,
79:14, 101:10,
226:15
feeling 51:25,
55:8
fees 240:10
fellow 163:21
felt 79:9,
79:12, 123:17,
157:6, 180:22,
181:1, 210:7
fenced 186:15
few 5:12, 25:8,
39:20, 56:5,
71:3, 81:7,
81:24, 121:14,
145:16, 152:10,
168:15, 178:12,
180:14, 185:6,
218:11, 233:4,
237:20
Fewer 201:7,
201:8
field 9:13,
49:25, 50:9,
55:4, 173:8,
175:14, 202:2,
204:15
fifth 204:2
fighting 174:1
Figure 32:5,
42:14, 44:10,
53:17, 53:19,
207:24, 207:25,
208:2, 208:14,
209:23, 211:12
figured 82:6

figures 65:14,
69:21, 82:5,
98:9, 123:7,
154:20, 155:4,
155:6, 176:3,
177:2, 206:18
file 141:12,
142:5, 143:24,
144:3, 144:12,
146:4, 207:3,
207:5, 207:11,
207:13, 207:15,
208:21
files 141:19,
141:21, 141:25
final 37:22,
49:13, 76:10,
82:21, 84:5,
85:3, 85:10,
111:24, 185:21,
185:23, 191:12,
196:13, 208:6
Finally 5:15,
36:8, 47:4,
111:23, 167:13,
191:11, 205:2,
210:10, 215:13
find 54:17,
77:1, 105:18,
151:21, 156:16,
157:13, 159:21,
159:24, 168:24,
169:15, 179:19,
183:16
finder 207:2
finding 36:17,
154:20, 209:19
finds 32:24
fine 25:25,
26:23, 56:3,
185:23, 224:22,
232:18, 232:23,
235:3, 235:4
finest 167:9
finger 231:22
fingers 228:25,
229:1
finished 16:19,
128:17, 171:2,
191:7, 207:9

Firm 1:28	159:11	forth 110:4,	27:15, 210:4
firmly 107:10	followed 117:8,	121:11, 174:14,	full-time
first 3:11,	117:11, 119:6,	175:17	172:15, 189:14,
6:7, 35:14,	119:25, 156:22	Fortune 190:5	189:16
35:17, 38:6,	following 3:17,	forward 17:7,	fully 166:11
40:18, 43:18,	4:16, 5:23,	52:14, 76:18,	function
64:18, 64:20,	78:25, 122:15,	135:17	115:21, 138:16
72:3, 72:7,	147:23, 153:2,	found 159:10,	functional
77:11, 78:9,	165:17, 214:10,	164:24, 170:23,	115:9, 117:4,
78:13, 94:25,	214:13	182:3, 211:1,	203:9
96:17, 104:24,	foolish 167:5	211:2, 212:6	fundamental
129:10, 130:2,	footnote	foundation	164:6
134:3, 152:24,	161:16, 166:9,	102:17	funded 173:4
153:3, 155:20,	167:13	founded 172:19	funding 209:1,
159:21, 170:13,	footprint	founding	210:8
173:22, 175:17,	27:22, 30:10,	172:21, 173:13	furnished
180:19, 182:6,	39:13, 91:6,	four 14:9,	190:22
182:8, 196:9,	95:14, 96:6,	14:10, 15:1,	furnishes 27:17
202:1, 203:10,	102:4, 102:15,	15:3, 15:11,	
211:14, 212:23,	102:16, 103:6,	15:18, 15:22,	< G >
213:1, 234:10,	182:3	15:23, 16:7,	G-a-s-p-a-r 7:8
234:14, 234:20	foregoing	16:8, 16:17,	gap 126:8,
fiscally 8:8	240:5, 240:6	17:3, 24:10,	126:10, 126:22,
fit 216:15	foregone 21:4,	25:19, 28:1,	127:8, 127:25,
Fitzwater 1:23,	22:15, 51:10,	33:15, 33:16,	128:6, 128:19,
3:5	51:15	35:8, 41:12,	128:24, 129:1,
five 56:10,	form 47:2,	43:24, 74:20,	130:12, 130:13,
136:16, 136:24	52:9, 55:17,	142:6, 175:8,	130:18, 131:9,
five-year	168:11, 175:18,	207:18, 221:16	131:18, 159:19,
206:19, 206:24,	179:22, 182:21,	four. 15:14	176:17
207:1	183:14, 184:19,	Fourteenth	Garcia 7:17,
fix 159:6,	230:4	32:16	7:18, 7:20,
162:6	formal 172:15	fourth 203:12	10:19, 11:2,
fixed 177:14	format 154:3,	fraction 36:12,	20:1, 187:8,
flag 148:4	240:10	37:3, 184:1	187:13, 187:20
flagged 148:3	formed 140:6,	fractional	Garland 32:9,
flatly 211:7	203:7	60:25, 207:21	199:19, 200:8,
flourishing	former 16:4,	fractionally	200:9, 200:10,
173:10	45:1, 134:25	57:14, 58:2	200:13, 200:20,
FM 2:3	forming 36:13,	framework 185:9	200:24
focus 55:14,	42:23, 60:24,	frankly 153:24,	Gaspar 7:8
94:2, 112:17,	158:4, 188:16	209:22	gather 116:21
147:7, 182:2	forms 28:22,	front 136:13,	gave 51:2,
focused 192:9	166:14	211:22, 213:6,	64:13, 69:6,
focuses 51:16	formulate	226:11	85:12, 98:9,
folks 25:8,	211:17	froze 34:7	100:21, 106:12,
25:9, 157:22	formulated	frozen 33:24,	117:13, 131:11,
follow 68:10,	28:19, 35:4,	34:5, 34:11	141:4, 141:21,
114:5, 117:15,	88:7, 183:21,	fruition 135:20	153:23, 155:4,
154:5, 156:20,	202:23, 204:18	full 7:3,	

162:4, 162:11, 207:25, 225:18, 227:19, 228:5 gears 125:24, 140:20 general 117:14, 166:13, 168:19, 226:25, 227:2, 232:17 Generally 13:5, 41:6, 41:10, 43:21, 134:12, 167:2, 167:25, 175:13, 178:2 geographic 70:3, 174:20 geographically 205:5 geography 65:13, 65:19, 66:13, 69:18, 75:7, 174:10, 185:4, 188:16, 203:22 Georgia 141:2 Gerald 2:9, 2:10, 9:5 gets 55:20, 68:19, 95:17, 95:19, 167:4 getting 11:24, 58:8, 160:2, 167:20, 191:15, 231:18, 232:15 Gingles 212:18, 212:20 GIS 45:1, 45:3, 47:10, 47:11, 76:3, 76:4, 189:9, 189:20, 189:23 give 19:20, 26:11, 26:17, 30:16, 43:22, 51:17, 52:19, 53:11, 75:12, 85:11, 97:13, 97:22, 115:13, 126:1, 127:17, 141:8, 147:8,	150:17, 153:12, 154:15, 157:3, 161:7, 167:4, 167:5, 168:8, 178:11, 225:1, 232:24 Given 6:3, 9:24, 27:23, 36:23, 37:7, 37:16, 42:18, 49:19, 53:15, 76:3, 82:23, 95:11, 98:1, 124:4, 126:14, 138:22, 139:18, 144:1, 150:13, 158:10, 162:19, 188:1, 188:15, 201:14, 204:5, 224:7, 228:4, 228:10 gives 20:1, 62:18, 124:17, 173:5 giving 37:18, 86:7 goal 51:5, 118:6, 120:19 goals 78:18, 80:11, 120:9, 120:12 God 3:8 Gomez 155:15, 155:18, 212:13 gotten 71:2, 178:21 Government 14:22, 15:9, 18:21, 19:1, 19:13, 19:18, 19:24, 19:25, 21:21, 105:25, 158:22, 231:12 government-base d 233:7 governmental 11:1, 11:4, 11:7 governments 178:6, 178:9	grab 90:4 gradual 30:23 gradually 30:23, 57:13 granted 210:23 granular 170:23 granule 75:3 graphical 47:2, 109:4, 109:7 gravitating 149:24 great 42:18, 91:7, 167:23, 169:14 Greater 58:22, 59:13, 66:23, 66:24, 67:2, 67:16, 139:5 green 93:3, 93:16, 94:16, 187:5, 187:10, 187:12, 196:24 GREGORY 1:6 grew 57:24 ground 85:17 group 29:9, 37:9, 37:10, 37:16, 54:13, 67:2, 79:25, 104:3, 107:21, 115:20, 115:22, 157:18, 170:18, 173:6, 175:11, 175:15, 175:24, 177:1, 177:3, 177:9, 177:17, 214:22, 215:4, 221:9, 236:8, 236:9 groups 31:4, 37:12, 38:12, 50:1, 52:12, 109:16, 109:20, 109:23, 113:25, 127:19, 127:20, 176:3, 176:11, 176:25, 177:2, 184:17, 215:3, 215:9 growing 30:20	grown 173:9 growth 30:16, 30:21 guess 13:12, 41:11, 50:4, 53:18, 64:20, 71:25, 87:24, 95:20, 112:8, 130:19, 157:9, 207:25, 220:12, 223:21, 228:15 guidance 194:21 gun 90:3, 96:17, 96:20, 96:23, 96:24, 96:25, 97:1, 97:2, 97:5, 97:9 guns 169:21, 169:22 gut 51:25 < H > H-a-r-d-i-n-g 7:6 half 68:14, 112:7, 128:5, 128:25, 130:13, 130:23, 149:1, 170:4, 172:22, 187:3, 190:18 hallmarks 182:18 hand 6:13, 26:10, 174:19, 199:17, 214:24, 215:17, 216:19, 232:1 handle 83:12, 145:17, 146:3, 146:21, 147:9 handling 200:19 handy 126:21 happen 7:13, 66:5, 91:24, 149:20 happened 24:2, 28:17, 128:2, 133:3, 133:14,
---	---	---	--

136:17, 169:3, 180:19, 213:16 happening 153:14, 210:19, 228:8 happens 146:24 happy 40:6, 192:4, 196:18 hard 61:2, 64:12, 93:8, 128:20, 149:16, 181:10, 234:2 HARDING 1:5, 6:10, 6:20, 6:23, 7:4, 7:7, 7:11, 8:9, 8:23, 9:3, 17:19, 20:6, 20:10, 21:20, 24:7, 25:1, 51:2, 51:4, 238:6 hat 157:21 he'll 26:24 headed 36:25, 38:4, 38:5 header 154:7 heading 76:7 Health 173:5 hear 29:22, 50:10, 50:13, 51:6, 51:7, 76:19 heard 51:8, 51:15, 64:8, 117:16, 123:15, 151:1, 185:6 hearing 72:3, 72:7 hearings 11:14, 11:17, 219:4 heart 31:7 heavily 161:24 HEBERT 2:9, 2:10, 8:25, 9:5, 238:10, 238:14, 238:27 hebert@voterlaw .com 2:14 heed 28:15,	183:8 Heights 106:13, 106:17, 163:5 held 11:14, 148:25, 180:15, 207:15 Hello 40:11, 227:12 help 73:5, 173:25, 179:14 helpful 40:18, 181:1, 211:23 hemisphere 128:10 herring 129:23, 135:17 high 35:13, 67:22, 67:23, 68:13, 68:14, 120:17, 176:16, 176:19 high-level 43:19 higher 31:11, 31:25, 58:14, 98:8, 177:1, 177:17, 177:19, 177:20, 213:3 highlight 147:14, 148:21 highlighted 98:2, 99:10, 99:12, 116:19, 143:12, 145:5, 145:11, 146:11, 146:13, 147:3, 147:7, 148:13, 149:9, 149:11, 149:12, 149:15, 156:3, 161:22, 230:8, 230:9 highlighting 92:15, 145:16 highly 158:14, 189:8 highway 231:7 Hillary 14:8, 14:10, 14:15, 15:2, 15:13, 15:16, 15:17	hire 197:16 hired 197:14, 197:15, 197:17 Hispanic-rich 88:24 Hispanic 23:23, 29:10, 31:2, 33:16, 36:8, 38:16, 41:17, 56:20, 89:8, 123:12, 127:11, 133:12, 156:11, 156:12, 166:13, 167:22, 167:24, 168:2, 168:4, 187:21, 188:23, 214:3, 215:5 Hispanic/latino 137:11 Hispanics 18:4, 31:20, 36:9, 36:18, 37:13, 38:16, 52:11, 89:6, 89:8, 127:10, 127:14, 128:9, 129:20, 132:7, 132:11, 135:12, 136:5, 138:10, 138:19, 140:9, 156:17, 157:13, 158:2, 158:3, 158:4, 158:15, 166:12, 176:12, 177:9, 178:20, 188:13, 188:15, 209:17, 209:18, 214:1, 214:5, 214:6 Hispanics. 88:25 historical 128:7, 129:1, 131:16, 149:3 historically 187:17 history 41:24, 82:18, 178:19, 178:20, 222:15 hoc 98:4 Hold 34:23,	172:6, 172:7 holds 36:21 HOLLY 216:17, 217:1, 238:31 home 217:23, 231:15, 231:24 homogenous 67:6, 68:9, 158:6 homogenously 67:21 hone 172:4, 209:6 honed 192:14 honest 65:9, 65:10, 70:1 honestly 135:14, 212:10 Honorable 1:23, 3:5, 3:8 honored 65:7 Hood 116:15, 116:22, 116:24, 117:3, 117:9, 117:11, 140:22, 141:1, 141:4, 141:22, 143:20, 143:22, 144:8, 147:7, 150:2, 162:4, 162:11 hope 40:14, 47:25, 194:9 hoped 181:7 hoping 47:18, 128:23 horse 214:17 horse-and-buggy -type 214:17 Hospital 19:21, 19:22, 21:11, 21:12, 21:21, 21:25, 22:4 host 172:17 hostile 226:23, 226:25 hostility 236:3 house 8:12, 8:15 housing 66:16, 149:25
--	---	---	---

Houston 2:5
 How-to 116:9
 hundreds 174:6
 hunting 90:14
 hypothesis
 91:15, 92:5
 hypothetical
 15:11, 115:19,
 138:19
 hypothetically
 137:2, 235:13,
 235:14

< I >

I. 1:27
 idea 17:12,
 83:12, 119:16,
 119:20, 171:11,
 196:1, 206:21
 ideal 35:6,
 35:12, 39:6,
 86:24, 87:1,
 87:9, 88:4,
 88:6, 88:10,
 154:15, 175:4,
 183:16, 183:20,
 185:11
 identically
 215:6, 215:7
 Identified
 101:2, 112:7,
 195:12, 195:13,
 195:20, 199:7,
 201:24, 239:3,
 239:26
 identify 44:9,
 59:7, 89:4,
 101:8, 102:4
 identifying
 99:13, 103:5,
 146:14
 ignored 28:8
 II 137:8
 illustrate
 103:5, 134:24
 illustration
 137:1
 imagine 130:12,
 149:16

imbalance 33:7,
 33:11, 166:6,
 183:9, 185:18
 impact 176:4,
 184:3, 188:10
 impermissible
 28:22, 35:16,
 122:14, 122:18
 implication
 211:9
 implied 211:6
 imply 88:22
 important
 28:12, 37:14,
 76:10, 78:3,
 95:5, 98:10,
 156:2, 166:5,
 201:15, 201:17
 impressive
 180:21
 improve 80:4
 improved 118:3
 improvement
 82:9, 82:11
 improvements
 201:15
 improving
 188:14
 in. 155:21,
 166:3, 186:16
 inability
 128:14
 inclined 63:4,
 63:7
 include 46:17,
 142:20, 160:17,
 161:11, 191:13,
 235:15, 235:16
 included 46:14,
 110:16, 141:25,
 143:19, 143:24,
 191:4, 202:15
 includes
 138:11, 186:22
 including 4:4,
 82:21, 190:10,
 190:12
 inclusive 4:8,
 4:9, 4:10,
 4:11, 4:18,

4:19, 4:20,
 4:21, 5:1, 5:2,
 5:3, 5:24, 5:25
 incompetent
 160:1
 inconsistency
 146:16, 146:24
 inconsistent
 145:17, 146:19,
 153:10
 inconsistently
 147:6
 incorporated
 29:20, 32:8
 incorrect
 110:21, 110:22
 increase 30:25,
 31:1, 117:22
 increased
 138:23
 increases 203:1
 increasing
 91:2, 138:23
 incremental
 188:8
 Incumbency
 78:7, 78:18,
 79:20, 80:11,
 80:19, 81:15,
 81:22, 82:10,
 82:21, 186:10,
 186:11, 186:16
 incumbent
 81:12, 82:16,
 186:14, 186:18,
 187:4, 231:15,
 237:8
 incumbents
 82:6, 186:18,
 191:14, 231:13
 INDEX 238:1
 indicate 105:6,
 111:15, 166:13,
 167:1
 indicated
 173:24
 Indicating
 87:18, 94:17,
 96:22, 233:2,
 234:21

indication
 90:21
 indications
 102:7
 indirect 181:22
 individual
 45:10, 63:21,
 68:22, 74:13,
 74:15, 113:20,
 146:13, 164:21
 individuals
 32:17, 57:8,
 163:16, 168:14,
 187:10
 inferior 133:7
 inferred 214:6
 influence
 36:20, 38:16,
 39:3, 55:17,
 80:1, 80:5,
 117:21, 123:12,
 123:22, 124:2,
 124:6, 124:18,
 124:19, 124:23,
 124:25, 125:4,
 125:17
 influence/contr
 ol 124:21
 influenced
 31:22
 influencing
 127:19
 influential
 28:8
 influx 128:9,
 148:6, 149:6
 inform 42:2,
 68:24, 139:25
 informally 32:9
 information
 27:18, 42:23,
 59:17, 63:4,
 75:3, 79:9,
 79:12, 104:24,
 114:3, 153:4,
 153:6, 186:17,
 213:5, 233:17
 informed 199:9
 initial 26:11,
 122:22, 126:3,

126:13, 169:9	144:17	interpreting	195:8, 195:9,
initially 69:5,	intact 82:16,	213:10	202:16, 218:25
111:4	145:25, 147:10	intersect	issued 206:25
innumerable	integrating	232:24	issues 7:25,
164:11	146:20	interstate	82:21, 128:13,
input 47:8,	integrity	92:18, 93:5,	129:16, 145:1,
219:5	82:16, 113:7	93:17, 110:6,	174:11, 195:1,
inputted 47:10	intend 26:9,	112:19, 112:20	215:24, 226:11,
inquiry 80:7,	103:2	introduction	226:13
210:5, 213:8	intended 186:19	26:20	item 204:9
insofar 35:16	intent 39:14,	investigate	items 76:9
instance 95:15,	91:6, 101:20,	195:22	iterative 82:24
176:9, 199:25,	102:5, 103:6,	investigation	itself 67:24,
209:24	105:4, 105:6,	111:20, 139:17	97:8, 102:11,
instances 30:3,	105:8, 105:12,	invoke 25:7	134:11, 136:24,
30:9, 39:20,	105:14, 105:19,	involve 204:2	146:16
91:5, 92:4,	105:21, 105:25,	involved 64:19,	
102:8, 102:13,	106:4, 106:7,	107:21, 146:23,	< J >
112:12, 146:15,	106:8, 106:13,	150:19	J. 2:10, 2:36,
151:25, 152:3,	107:8, 107:10,	irrelevance	240:5, 240:23,
164:2, 173:23,	107:15, 182:1,	127:12, 129:13	240:25
191:14	182:2, 182:5,	irrelevant	Jackie 2:28
Instead 55:8,	200:1, 200:5,	209:15, 209:19,	JACOBS 1:6
157:23, 163:23,	205:13	209:21, 210:2	jagged 228:19,
170:18	intentional	irrespective	228:24, 229:15,
Institute 9:16,	95:4, 170:3	102:1	229:20, 230:21,
172:17	interact 168:3	Irving 90:4,	230:23, 231:2,
Institutes	interchange	92:15, 92:19,	234:15, 234:18
173:5	30:6, 91:9,	92:21, 92:24,	jaggedness
instruct 78:8,	91:12, 92:6,	92:25, 93:6,	231:8
122:2, 189:9	92:7, 97:5,	93:11, 93:19,	January 208:18,
instructed	199:22, 199:25	94:2, 94:9,	208:20
45:13, 76:1,	interchanged	94:19, 94:24,	jar 130:19,
77:20, 81:2,	204:23, 207:20	95:2, 95:17,	130:22, 131:12,
81:18, 211:24	interest 28:14,	96:9	131:24, 150:10,
instructing	29:14, 29:17,	isolation 97:8	159:22
76:16	37:18, 39:12,	issue 42:12,	jelly 130:19,
instruction	40:3, 88:2,	47:24, 69:15,	130:22, 131:12,
77:11	173:17, 185:5,	81:4, 101:22,	131:25, 132:9,
instructions	194:20, 198:25,	102:5, 102:6,	150:10, 159:22
45:3, 47:10,	203:21, 204:20	103:11, 110:25,	Jenkins 1:14,
47:11, 47:17,	interested	112:18, 129:7,	221:4, 223:19,
48:1, 65:6,	169:10, 209:23,	129:18, 129:22,	233:14
65:7, 77:17,	212:4	129:25, 130:11,	jeopardizing
78:25, 187:25	internally	132:10, 133:25,	185:22
insufficiently	215:8	135:14, 135:16,	Jingles 175:17
221:19, 221:21,	interpretation	135:21, 135:22,	job 55:10,
223:6, 223:9,	152:14	137:23, 137:25,	55:13, 77:17,
223:13	interpretations	146:3, 162:15,	77:21, 189:17
insurmountable	177:5	162:22, 195:5,	

Johanes 224:14	81:19, 147:10,	192:18, 202:7,	106:11, 121:18,
JOHANNES 1:8	186:4, 187:16,	202:12, 211:22,	122:6, 122:9,
John 225:12	187:20	213:6, 213:24	162:22, 162:25,
Johnson 72:17,	keeping 198:2	large 104:2,	164:7, 164:9,
72:19, 72:24,	keeps 231:18	177:15, 177:18,	166:4, 175:11,
73:13, 83:16	key 33:13,	178:21, 183:15,	177:7, 213:21,
joint 212:3	133:2, 202:16	183:17, 202:13,	231:11
journal 102:24,	kind 14:11,	203:22, 213:12	law. 212:8
103:2, 133:23,	15:15, 16:9,	larger 42:10,	lawsuit 14:3,
134:15, 210:1	16:23, 36:16,	104:2, 112:3,	56:5, 178:10,
Judge 1:16,	39:13, 40:17,	232:5, 232:11	221:1, 230:17
1:24, 6:12,	45:22, 54:11,	Las 163:1	lawyer 106:11,
11:8, 12:6,	70:9, 91:8,	last 7:5,	121:24, 122:5
122:1, 152:3,	140:5, 173:22,	30:16, 57:5,	lawyers 9:16
159:9, 163:3,	175:1, 185:9,	72:4, 89:16,	lay 156:11,
189:10, 210:21,	185:22, 189:8,	98:11, 159:2,	157:17, 162:19,
211:1, 213:2,	189:25, 190:22,	180:24, 203:2,	214:2
213:18, 214:16,	200:1, 220:18	205:24, 206:4,	layman 176:9,
221:4, 233:14	kinds 173:11,	213:21, 217:2,	180:3, 180:8,
judges 35:7	174:13, 210:5,	224:23, 237:3,	230:20
judgment 36:5,	227:1	237:4	layperson
48:5, 54:9,	knowing 113:20	late 152:16,	157:11, 157:14,
76:16, 105:11,	knowledge 15:5,	152:18, 152:20,	161:12
130:9, 130:10,	119:5, 120:6,	211:9	lead 49:13,
130:11, 146:14,	178:1	later 86:3,	113:12
148:11, 150:8,	knowledgeable	146:8, 159:6,	leading 89:14
162:12, 163:19,	190:12	180:24, 194:9	leads 113:14,
210:23	known 77:25,	latest 37:4,	113:15
Judicial 240:11	114:16, 114:18,	55:23	leaning 13:25
jump 184:5,	164:3, 168:13,	Latino 57:25,	learned 64:18,
189:2, 192:25,	172:18	58:1, 58:2,	78:13, 170:4
194:11, 195:4,	knows 95:20	117:18, 117:22,	learning 78:9,
209:2	Kozinski 163:1,	117:25, 119:14,	94:25, 96:13,
June 233:1	163:3	120:9, 121:2,	104:24
junk 160:1		121:7, 121:18,	least 28:1,
jurisdiction	< L >	122:13, 122:19,	28:8, 33:5,
50:1, 164:21,	label 125:20,	123:22, 128:14,	55:23, 66:15,
165:16, 165:17,	125:21	157:8, 157:22,	80:18, 80:22,
177:16	labeled 123:25,	178:17, 180:20,	81:10, 103:4,
Justice 163:1,	125:1, 142:11,	180:25	110:20, 120:17,
207:3	188:23	Latinos 58:14,	120:20, 120:21,
justification	labels 107:16,	66:24, 68:15,	134:5, 163:2,
135:15, 159:12,	182:12	114:22, 118:4,	185:24, 198:14,
159:15, 159:18,	lag 168:17	118:7, 124:1,	204:25, 211:25
231:3	laid 76:8	124:4, 124:17,	leave 136:21
justified 91:10	Lake 233:1	138:6, 178:16,	leaves 132:14
	land 111:7	233:18	led 103:16,
< K >	lane 216:3	Law 1:35, 2:10,	173:9
keep 70:21,	language 192:8,	2:17, 32:21,	Lee 217:1
		39:6, 87:4,	left 112:2,

112:4, 146:1, 162:5, 187:6, 187:8, 215:24 left-hand 112:16, 232:12 Legal 116:9, 116:10, 121:21, 154:3, 202:9, 213:8, 213:11 legitimate 123:18, 214:23 length 161:17, 199:4 LEO 2:16 less 28:5, 28:8, 39:17, 60:1, 104:23, 124:7, 128:25, 138:12, 160:3, 177:3, 188:19, 188:22, 188:24, 189:1, 200:14, 230:21, 230:23 lesser 118:2 level 14:22, 16:12, 16:13, 16:14, 16:15, 19:1, 19:12, 38:9, 59:24, 62:18, 65:13, 74:11, 74:12, 74:18, 75:4, 75:11, 75:12, 91:8, 102:25, 140:10, 176:4, 184:24, 184:25 levels 15:9, 18:21, 55:15 LEWIS 1:14 liability 202:9 liberal 23:15 Lichtman 135:17 Licthman 126:23, 127:9, 127:12, 129:12, 130:14, 135:11, 209:13 lied 155:8 light 126:15 like-minded	104:7 likely 54:14, 54:16, 103:3, 214:1 limit 187:23 limited 49:3, 210:8 limits 66:12, 134:5, 204:19 Line 12:20, 66:9, 68:20, 69:24, 70:22, 78:17, 79:19, 80:3, 93:9, 93:10, 104:11, 104:12, 104:18, 126:12, 132:4, 132:5, 148:13, 149:15, 151:10, 154:7, 191:16, 210:4, 213:15, 238:4 lined 193:6 lines 10:3, 10:16, 12:19, 12:20, 12:25, 36:22, 41:6, 46:1, 66:4, 93:6, 229:9, 229:10, 229:11, 230:7, 230:9, 230:10, 230:11, 230:14, 230:18, 230:21, 231:2 linger 135:1 lingered 137:3 lingering 127:9, 127:14, 127:18, 132:18, 133:8, 133:16, 133:19, 134:4, 136:21, 137:15, 209:14 list 5:8, 5:12, 76:13, 76:20, 84:2, 84:6, 96:7, 97:10, 97:22, 98:20, 99:7, 99:9, 101:16, 119:9,	119:10, 119:16, 119:19, 119:20, 119:21, 201:21 listen 138:25 listened 22:4, 213:2 literally 47:21, 89:12, 134:20, 165:12 literature 50:15, 168:21 litigants 3:10 litigation 178:7, 202:16 little 3:22, 42:10, 71:1, 93:15, 99:20, 100:20, 110:3, 110:17, 139:8, 143:16, 173:4, 185:24, 186:13, 187:9, 209:3, 214:20, 225:21, 226:23, 229:2, 229:20, 232:5, 232:11, 232:19 live 7:14, 7:17, 10:9, 45:18, 66:24, 66:25, 67:10, 67:12, 157:22, 183:12, 217:13, 217:21, 231:13, 231:16 lived 10:7, 10:19, 166:3, 186:25, 187:4 lives 66:23 living 184:3 local 16:15, 133:20 localities 56:15 locally 139:19 located 187:15 logic 180:2, 180:3 logical 146:16, 146:24 logically	145:17, 146:19 long 60:5, 71:7, 118:3, 172:13, 187:18, 201:22, 227:16 long-term 173:5 looked 14:9, 14:25, 15:1, 17:9, 47:24, 48:16, 61:16, 63:1, 66:18, 66:21, 91:1, 91:25, 96:17, 96:20, 130:10, 149:21, 178:25, 179:6, 180:24, 227:22, 230:3, 230:4, 230:22 looking 36:8, 42:13, 48:3, 48:6, 48:7, 51:8, 56:23, 57:17, 59:3, 81:21, 82:11, 85:7, 85:24, 87:10, 87:11, 90:16, 90:21, 91:23, 93:12, 106:2, 107:22, 130:19, 130:22, 131:24, 132:1, 159:22, 169:16, 186:12, 194:25, 201:2, 230:13, 231:20 looks 32:2, 32:12, 42:14, 64:5, 65:23, 110:12, 130:22, 167:6, 167:11, 174:19, 179:1, 179:11, 197:1 losing 174:2 lost 156:4, 156:6, 202:7 lot 16:12, 49:2, 111:8, 162:4, 175:5, 176:20, 177:23, 213:23, 226:11,
--	---	---	---

226:14, 226:24,
233:21
lots 210:5
low 54:10
lower 30:8,
35:24, 37:5,
38:25, 54:5,
89:10, 140:9,
167:13, 167:21,
168:24, 176:11,
176:13, 177:19,
177:22, 183:19,
185:24, 187:6,
202:5
lowered 39:10
lunch 108:3,
119:3
Lupe 16:2, 16:8

< M >

M-o-r-s-e 217:3
M. 145:12
Ma'am 216:25
mail 221:25
maintain 80:1,
80:4, 117:25,
120:16, 121:13,
173:6
maintaining
188:13
major 27:10,
102:6, 128:13,
209:1, 232:24
majority 23:17,
31:14, 36:1,
36:6, 36:19,
37:11, 53:14,
77:9, 80:2,
80:6, 80:20,
120:20, 120:25,
131:18, 140:15,
160:17, 161:11,
161:14, 172:9,
175:20, 176:23,
176:24, 188:16,
236:7, 236:11
majority/minori
ty 115:20,
115:22

make-up 13:6,
13:7, 46:18,
48:20, 62:15,
68:19, 68:24
maker 190:22,
198:14
managed 187:22,
200:25, 201:15
mandate 32:19
mandates 32:17,
122:6
manifest 146:24
maps 18:14,
29:16, 40:16,
44:18, 45:3,
56:23, 61:11,
61:12, 65:15,
77:14, 79:1,
94:24, 107:3,
108:17, 114:14,
125:11, 173:20,
174:5, 174:7,
177:23, 178:3,
197:20, 201:23,
212:4, 228:20,
234:9, 234:17
March 116:8
margin 61:3,
70:16
marginal 54:7
marginally
38:18, 38:19,
60:12, 198:20
Mark 18:12,
23:24, 141:15
marked 30:23
markets 80:1
Maryland 45:23
masse 239:5,
239:7, 239:9,
239:11, 239:13,
239:15, 239:17,
239:19, 239:21,
239:28, 239:30,
239:32, 239:34,
239:36, 239:38,
239:40, 239:43,
239:45, 239:47,
239:49
master 45:22

material
187:14, 196:3
materials 107:1
math 132:13
matrix 144:19,
150:5
Matt 220:3
matter 3:12,
54:9, 105:11,
112:9, 112:10,
113:9, 130:10,
163:24, 166:21,
167:3, 180:14,
203:9, 240:7
matters 20:3
MCCOMB 1:7
mean 12:23,
13:9, 15:16,
17:21, 19:7,
20:19, 22:13,
24:13, 24:16,
28:2, 43:13,
47:24, 50:18,
73:18, 83:15,
89:3, 89:4,
90:19, 110:19,
132:15, 132:17,
134:17, 134:20,
137:5, 153:9,
164:8, 175:23,
178:17, 179:10,
198:22, 203:3,
214:13, 226:21,
237:5
meaning 165:12
meanings
134:11, 134:22,
204:5
means 14:13,
35:6, 35:9,
88:14, 88:20,
134:9, 134:12,
134:18, 134:20,
134:21, 185:15
meant 88:21,
192:5, 221:20
measure 56:14,
58:9, 69:4,
75:18, 79:16,
134:1, 149:3,

160:17, 161:7,
161:10, 163:23,
164:5, 165:24,
166:1, 166:20,
168:12, 198:19
measured 57:20,
149:2, 174:10,
198:19
measurements
50:5
measures 106:4,
115:22, 198:9,
198:11
measuring 70:19
mechanical 2:44
mechanisms 28:3
media 236:5
Medrano 18:11
meet 84:10,
140:18, 152:22,
165:20, 202:9
meet-and-confer
211:25
meeting 174:14
meetings 22:1,
106:24, 218:13,
218:25, 226:4,
226:19, 228:7,
228:10
meets 31:16
member 120:4,
220:25
Members 114:25,
135:1, 157:18,
158:21, 214:22,
214:25, 215:4,
221:6
membership 9:20
mention 45:5
mentioned
21:11, 45:7,
53:16, 78:19,
79:21, 80:12,
87:14, 98:16,
106:10, 150:12,
162:16, 198:25,
205:12, 228:2
mentions 85:6
Mesquite 225:2,
225:24

met 40:11, 218:8, 227:16	175:19, 176:11, 177:9, 221:9, 226:2	123:16, 169:4, 193:25, 238:29, 238:33, 238:37	moving 4:4, 58:6, 58:13, 58:18, 58:21, 59:11, 59:14, 86:12
metaphor 89:12, 90:23	minority/majori ty 80:5	MORGAN 1:7	MR. HEBERT 9:2, 10:5, 10:10, 10:18, 12:2, 12:19, 13:22, 14:24, 16:19, 16:22, 17:15, 20:9, 21:14, 22:24, 24:1, 25:3, 108:15, 216:10
method 131:2	minus 70:18	morning 3:10, 4:24, 6:11, 9:3, 9:4, 52:21, 52:22, 118:15, 160:21, 237:18, 237:22	MR. RIOS 218:6, 218:17, 218:23, 222:24, 224:5
methodologies 129:17	minute 43:17, 61:10, 142:4, 167:19, 172:4	morphed 172:20	MS 6:23, 7:7, 7:11, 7:18, 8:9, 8:23, 9:3, 17:19, 20:6, 20:10, 21:20, 23:4, 24:7, 25:1, 34:10, 217:5, 218:7, 223:3, 230:2, 238:8, 238:12, 238:16, 238:41, 238:45
methodology 134:4, 209:25	minutes 27:11, 237:20	MORRISON 26:4, 27:6, 27:9, 40:11, 72:16, 79:22, 108:16, 126:3, 126:13, 150:12, 154:20, 156:6, 156:10, 156:16, 157:20, 159:4, 160:16, 161:18, 161:22, 166:8, 166:10, 166:15, 167:22, 168:1, 169:3, 171:1, 172:2, 189:6, 213:25, 238:19	MS. ALVAREZ 6:18, 6:22, 8:16, 8:22, 11:23, 14:21, 16:18, 17:18, 20:6, 21:16, 21:19, 23:3, 24:5, 25:1, 33:23, 34:4, 34:13, 34:17, 34:19, 118:19, 192:2, 194:12, 224:20, 227:7, 234:6, 234:8, 234:23, 234:25, 236:20, 237:2, 237:10
metric 165:10, 166:1	mischaracteriza tion 171:1	MORSE 216:18, 217:1, 217:3, 217:5, 218:7, 223:3, 238:31	multiple 39:19, 201:8, 204:5, 204:20
metrics 165:22, 174:21	misinterpreted 157:15	mortality 127:22	
Mexico 131:20, 133:7	missed 213:4	Mostly 173:19	
micro 132:2, 132:7, 136:9	mission 73:22	motivated 176:18	
microphone 6:16, 6:25, 26:7, 216:22, 224:18	misstates 118:19	motivating 32:12	
mid 172:16	mistake 65:9, 65:10, 70:23	motivation 62:11	
mid-1980s 212:15	mistakes 70:1	motive 200:4	
mid-50s 54:11	mister 187:7	mountain 39:8	
middle 83:6, 142:8	misunderstood 60:3, 213:8	mouth 228:22	
migration 127:23	model 91:18, 91:19	move 3:17, 4:25, 34:10, 97:10, 200:23, 225:21	
millions 66:2	modify 184:13	moved 57:9, 58:21, 92:1, 168:15	
mind 18:9, 24:23, 48:2, 77:6, 79:2, 79:3, 94:12, 198:18, 216:15	moment 5:9, 30:13, 58:15, 68:7, 73:5, 84:18, 96:7, 117:13, 151:18, 186:20, 189:2, 197:2, 200:6		
mindful 182:5	money 19:23		
minimal 54:6	Monica 172:10		
minimally 38:10	month 168:25		
minimize 68:5	months 168:15, 180:10, 180:14, 211:19		
minimum 31:16	moot 122:4		
minor 64:9	MORENOFF 1:27, 1:28, 3:13, 34:2, 34:9, 34:20, 57:4, 69:6, 98:20, 105:5, 107:2, 117:14, 119:22, 120:1, 120:14,		
minorities 13:7, 80:2, 131:18, 202:12, 202:15, 202:19, 220:25, 221:1			
minority 80:4, 80:19, 107:21, 108:2, 119:14, 170:18, 175:11,			

municipal 185:4, 204:11 myself 29:18, 33:4, 102:13, 116:4, 173:18, 182:3, 191:19	100:14, 101:10, 102:22, 174:20, 176:4, 188:3, 198:22, 215:25 need 12:3, 20:3, 30:1, 30:7, 34:1, 37:16, 39:7, 74:24, 76:15, 88:9, 91:11, 102:13, 105:10, 115:5, 118:22, 126:19, 139:23, 161:14, 169:15, 177:3, 177:18, 177:20, 180:17, 182:20, 194:20, 196:22, 203:5, 207:17, 225:21, 229:11, 231:15, 232:11, 235:18 needed 75:18, 79:9, 79:14, 130:17, 195:23 needing 100:25 needs 105:19, 190:14, 219:22, 222:1 nefarious 131:10 negotiate 3:15 neighborhood 54:25 Neither 63:24 net 57:11, 91:2 neurons 213:15 neutral 199:23 nevertheless 68:10, 118:6 New 15:1, 15:2, 20:16, 41:25, 55:24, 56:18, 132:16, 148:7, 149:25, 159:4, 159:6, 160:10, 161:7, 208:17, 208:19, 211:7, 211:8, 211:20, 212:9, 212:11 newcomers	127:22, 131:19 newly 168:17, 213:13 next 25:6, 26:1, 26:3, 38:16, 39:5, 88:23, 159:1, 161:22, 187:6, 216:13, 216:14 nine 199:12 Ninth 155:19 Nobody 95:19, 161:13, 167:5 non-hispanics 176:16 noncitizens 166:13 None 24:1, 32:2, 45:7, 83:18, 117:3, 169:21, 178:1, 209:10 nonetheless 100:5 nonhispanic 80:6, 120:25 nonparties 212:4 nor 117:12, 119:9, 209:11 normal 208:23 normally 10:14, 13:6, 63:1 north 43:12, 66:25, 110:10, 187:9 Northern 1:2, 3:4, 90:4, 110:15, 240:27 Northwest 110:6 notable 212:23 note 109:25, 110:9, 126:2, 145:7, 146:5, 154:4 noted 39:6 Nothing 12:9, 25:3, 59:10, 61:5, 62:4, 97:3, 105:2,	114:14, 114:24, 127:12, 127:13, 128:13, 129:14, 166:19, 190:6, 203:11, 216:8, 224:3, 224:5, 237:14 notice 99:12, 228:13 notion 160:16 November 100:21 nowhere 45:4, 97:21, 132:23 nth 102:15 nuance 176:20 numbered 84:1, 85:4, 160:15 numbers 31:5, 52:10, 52:14, 57:17, 59:7, 61:7, 77:10, 82:23, 84:5, 90:19, 124:15, 154:15, 155:8, 155:9, 175:6, 199:16, 207:13 numeric 72:22 numerous 28:10, 28:24, 37:17, 46:7 < O > o'clock 216:15, 224:11, 237:17 oath 75:2 object 22:24, 25:12, 121:20, 126:11, 170:25, 218:15, 236:14 objected 209:11 objection 4:15, 5:6, 5:17, 5:19, 6:3, 8:19, 11:23, 11:25, 14:21, 16:18, 24:4, 26:14, 26:15, 41:5, 118:19, 122:4, 126:16,
---	--	--	--

216:9, 218:21, 236:18, 236:24 objections 4:13, 118:23 objective 117:25, 120:24, 121:13, 125:8, 179:13, 194:8, 196:20, 196:21 objectives 196:23 obligation 152:23 observation 183:6 observe 61:15, 138:16 observed 177:15, 177:17 obtain 51:17 obtained 109:7 obvious 198:13, 215:7 Obviously 95:9, 152:2, 176:21 occur 65:11, 71:11 occurred 65:17, 71:5, 90:22, 99:14, 100:7, 131:10, 137:2, 137:3, 137:7 occurrence 70:8, 146:22 occurring 30:23, 127:24 occurs 139:19 October 100:20 offer 6:5, 24:8, 54:10, 171:12, 202:18, 223:6, 223:9 offered 4:7, 73:14, 134:14, 144:18, 159:4, 160:16, 229:22 office 1:35, 2:10, 2:17, 24:25 OFFICER 6:11,	52:25, 53:3, 108:7, 108:10, 171:18, 171:21, 237:23 Official 1:15, 115:1, 115:2, 119:22, 240:26 officials 42:6, 81:16 offsetting 39:20, 95:12, 96:3, 96:4, 97:8, 112:12, 204:22 Often 22:1, 23:8, 23:10, 67:11, 88:8, 159:25, 226:8 old 155:25 older 27:19 omitted 5:13 once 40:11, 56:10, 82:4, 180:12 one-half 68:13 one-hundredth 70:10 one-way 92:6 one. 86:20, 129:3, 164:6, 185:15, 194:12, 207:13, 233:12 ones 58:23, 76:17, 95:21, 103:4, 143:19, 147:7, 149:9, 149:11, 149:15, 173:19, 199:11, 201:15 ongoing 173:2 Oops 40:20, 93:25 open 142:4 opened 142:5 opens 45:25 operated 105:12, 105:13 opine 52:15, 215:10 opining 140:17,	215:24 opinions 27:20, 42:17, 61:17, 103:18, 128:23, 137:21, 152:10, 152:15, 154:13, 155:11, 161:7, 215:14 opponent 8:1, 23:25 opportunities 175:10, 192:20 opportunity 43:23, 51:18, 53:11, 54:22, 55:3, 55:5, 59:8, 60:7, 65:10, 68:1, 102:11, 104:5, 117:18, 118:1, 118:2, 118:3, 118:4, 118:8, 119:15, 120:10, 121:7, 121:18, 122:19, 123:18, 124:2, 124:3, 130:17, 146:2, 169:14, 175:14, 176:5, 177:4, 202:12, 206:23, 209:23, 210:1, 236:16 opposed 158:11, 168:18, 203:6 opposing 25:24, 152:3, 152:13, 209:10, 234:15, 237:3 opposing. 192:17 opposite 88:22 option 9:24, 19:8, 24:9, 147:9, 147:10 option. 10:15 orange 8:15, 93:4 orange-versus-p urple 200:24 order 17:4,	31:17, 76:9, 84:10, 89:6, 103:21, 104:8, 105:10, 119:23, 176:4, 177:3, 182:21, 195:6, 195:15, 202:8, 203:20, 203:25 ordered 211:20 ordinarily 91:10 organization 9:20 original 44:19, 80:10, 170:9, 170:11, 170:13 originally 143:24 originate 131:19 others 57:8, 85:8, 174:5, 186:9, 204:1 Otherwise 24:4, 56:21, 58:5, 96:14 ought 79:13, 105:18, 163:17, 164:12, 180:4 outcome 17:23, 124:2 outcome. 80:9 outcomes 42:3, 49:20, 63:9, 63:22 outline 100:5 outlines 91:6 outside 11:24, 59:17, 64:22, 115:11, 140:6, 173:2 Outstanding 84:18, 196:16 over-reporting 166:12, 166:16, 167:1 overall 29:5, 95:16, 113:6, 121:12, 175:3, 198:10
--	--	--	---

overlaid 74:6	panel 35:5,	127:7, 130:25,	passing 58:13,
overlooked	35:19, 38:6	137:18, 140:21,	58:18, 58:22
185:25	paper 71:17,	160:25, 161:23,	past 176:15,
overpopulated	135:24, 156:7	200:16, 200:24,	208:23, 210:11
30:2	paragraph	232:20	pattern 28:13,
overriding	73:20, 86:21,	participate	29:16, 41:10,
198:17	86:25, 87:2,	11:16, 11:18	41:11, 91:8,
overrule 11:25,	159:2, 160:15,	participated	95:10, 95:16,
126:16, 218:21	192:9	163:14, 163:16	113:7, 138:23
Overruled	paralegal 25:20	participating	patterns 105:8
14:23, 23:1,	parameter 35:7,	12:9	pause 5:9,
236:25	47:17, 47:19,	participation	189:22
overturned	48:18, 48:21,	138:23, 167:14,	Pause. 40:22
177:25	48:25, 49:8,	167:18, 167:22,	pay 64:23
own 67:7,	49:11, 54:12,	168:4, 168:20,	peculiar 65:21
75:24, 77:2,	68:23, 70:15,	168:24	peer 98:4
77:13, 135:16,	79:5, 79:16,	particular	peer-reviewed
143:21, 145:23	86:16	11:1, 42:24,	102:25, 133:23,
	Parameters	50:1, 60:18,	134:15, 210:1
< P >	47:15, 48:3,	102:10, 102:11,	penisulas
p.m. 83:7,	48:6, 48:7,	104:5, 109:7,	230:23, 231:2,
89:20	48:15, 49:4,	135:10, 137:2,	231:14
pack 89:24,	49:6, 49:11,	144:20, 146:17,	Pennsylvania
92:2, 105:15	49:15, 55:14,	168:1, 175:12,	172:12, 172:25
packed 36:6,	55:15, 70:5,	176:9, 176:12,	People 18:3,
48:12, 90:18,	75:18, 77:18,	177:1, 177:9,	29:22, 50:6,
128:15	82:15, 85:6,	209:6, 210:11,	54:13, 55:15,
Packing 28:3,	175:3, 187:14	210:16, 222:1,	58:21, 59:5,
29:3, 31:24,	Pardon 71:24,	227:1, 233:24	59:9, 59:11,
38:23, 48:10,	79:11, 99:23,	particularly	59:13, 91:11,
61:15, 90:22,	101:14, 103:8,	165:15	106:23, 114:6,
91:22, 92:8,	149:10, 178:23,	parties 3:15,	127:21, 128:15,
102:2, 102:18,	208:10	7:21, 25:8,	133:6, 134:11,
103:13, 103:15,	parenthetically	25:15, 25:23,	134:12, 134:22,
103:18, 104:9,	190:16	123:7, 173:21,	166:22, 167:2,
104:14, 114:17,	park 111:2	174:17, 199:10,	167:4, 168:17,
127:15, 170:15,	Parkland 19:21,	211:24, 212:2	168:18, 168:24,
181:21, 183:3,	21:11, 21:12,	partisan 50:24	175:13, 184:21,
183:4	21:21, 21:25,	party 155:5,	190:12, 207:10,
paid 28:14,	22:3	210:22, 211:3,	226:21
183:8, 185:24	part 17:19,	215:8	per 45:3,
pair 113:4	18:1, 19:9,	Pass 8:24,	60:13, 138:22,
palatable	24:1, 30:3,	40:7, 171:14,	184:1
179:19	42:22, 51:22,	216:6, 218:2,	perceive 236:22
pam_wilson@txnd	52:8, 56:13,	222:24, 227:8,	percentage
.uscourts.gov	61:13, 63:16,	234:4, 237:12	31:11, 36:12,
2:37	67:3, 67:14,	passed 44:20,	53:9, 56:25,
PAMELA 2:36,	68:1, 70:7,	57:8, 71:14,	60:13, 61:1,
240:5, 240:25	70:8, 110:15,	71:15, 73:21,	61:4, 70:10,
	111:16, 123:16,	182:20	89:10, 120:17,

123:11, 125:5, 128:19, 139:7, 140:1 percentages 117:22, 123:3 Perez 2:28 perfectly 101:4, 191:17, 195:14 perform 49:15, 50:11, 50:19, 52:7, 58:17, 98:4, 117:4, 120:13, 120:15, 120:21, 140:15, 140:17, 140:19, 145:14, 175:24 performed 135:23, 178:3 Performing 53:24, 116:10, 136:23 performs 17:10, 18:17, 115:9, 189:8 Perhaps 52:15, 61:2, 76:19, 172:22, 191:15, 193:4, 193:22, 213:21, 213:24 period 37:6, 82:1, 179:11, 179:16 peripheral 101:22, 103:11, 135:14 permissible 35:10, 186:12 permit 33:21 persist 135:1 persistence 133:20 persists 164:9 person 8:3, 8:8, 32:19, 47:7, 75:1, 91:12, 95:20, 137:4, 161:4, 166:23, 166:24, 175:21, 183:8,	183:12, 190:12, 223:17, 237:7 personal 7:24, 19:10, 23:7 personally 222:7 persons 27:19, 168:15 perspective 80:17, 198:8 persuasive 151:22, 159:10, 160:3, 179:2 pertained 127:8 pertaining 126:22 pertains 113:6 pervasive 134:5 Pete 9:12 PETER 1:8, 26:4, 27:6, 27:9, 72:16, 156:10, 193:22, 224:14, 224:22, 224:23, 227:7, 227:13, 234:9, 235:1, 236:21, 237:11, 238:19, 238:39 Ph 164:10, 172:7 Ph.d 167:5 phase 86:11, 86:12, 86:14, 195:2 phone 96:14, 221:25 phrase 162:23 physical 71:16 pick 144:3, 150:6, 231:15, 234:20 picked 149:17 picks 136:4 picture 75:12 piece 52:5, 65:24, 66:12, 71:16, 75:3, 79:9, 79:12, 90:24, 90:25,	111:1, 167:10, 200:2 pieces 32:10, 114:2, 174:10, 200:11 pin 136:10 pink 110:10 place 26:9, 29:19, 29:22, 71:4, 74:23, 86:22, 87:15, 87:19, 88:8, 88:17, 89:12, 112:13, 133:3, 134:5, 149:23, 153:16, 156:1, 167:23, 177:9, 207:6, 207:8, 225:2 placed 109:3, 170:10, 177:6 places 29:19, 46:1, 70:11, 88:9, 132:8, 172:25, 179:25, 186:13, 196:7, 200:11 PLAINTIFF 1:27, 3:18, 3:19, 4:8, 4:18, 8:10, 8:17, 27:8, 40:19, 107:13, 107:18, 126:3, 126:4, 153:17, 172:2, 174:1, 179:10, 217:17, 234:24, 239:1 Plaintiffs 1:9, 3:11, 3:17, 5:16, 6:3, 6:7, 25:19, 25:20, 26:1, 26:3, 51:16, 55:24, 84:23, 107:2, 115:7, 115:14, 154:24, 170:7, 171:8, 173:18, 173:22, 174:5, 179:1, 179:5,	179:6, 180:9, 181:12, 182:16, 197:14, 197:16, 216:13, 236:15 plan. 73:23 planning 26:15 Plano 1:38 Plans 38:17, 49:13, 95:2, 95:25, 97:15, 173:21, 174:13, 199:15, 202:7, 202:9, 202:22, 204:2 plausible 148:9, 149:5 play 220:22, 220:23 played 17:19, 64:15 playing 185:12 playing. 10:6, 10:12, 12:21 please 3:9, 6:13, 6:15, 7:3, 23:2, 26:6, 47:19, 53:4, 71:21, 108:11, 171:22, 216:19, 216:21, 224:17, 225:1, 231:25 pleased 181:3 plenty 43:22 PLLC 1:28 plus 70:18, 123:19, 175:21, 183:20 podium 53:16 point. 12:1, 14:23, 36:12, 50:20, 56:4, 62:17, 69:7, 81:9, 89:9, 89:11, 95:13, 97:7, 126:17, 196:9, 224:8 pointed 162:10, 162:11 pointing 8:17
--	--	--	--

points 27:10, 27:12, 37:22, 39:19, 83:24, 146:20, 194:18 policies 7:24, 8:8, 134:25 Policy 20:3, 133:21, 133:24, 226:13 politics 19:10 poor 133:13 pop. 86:23 popular 133:21 population. 135:2, 168:5 populations 57:23, 58:5, 67:6, 113:11, 134:6, 138:18, 139:24, 140:15, 163:9, 202:13 populations. 133:21 Port 160:6, 166:8, 166:10, 166:17, 167:6, 167:14, 167:22, 168:3, 215:13, 215:17 portion 90:4, 93:22, 104:2, 110:15, 112:14, 161:22 portions 141:12 posed 181:20 poses 174:11 posited 130:15, 163:8, 166:10 positing 128:12 position 22:6, 22:8, 22:10, 97:3, 214:23, 214:24 positioned 43:15 positions 7:24 possibilities 52:13, 52:16, 90:3, 96:17, 96:23, 155:7,	189:12, 223:10 possibility 33:5, 36:21, 66:1, 71:4, 96:20, 96:24, 97:9, 207:7, 212:1 possible 22:18, 35:16, 36:13, 36:22, 51:9, 58:25, 69:25, 70:1, 74:10, 80:4, 80:7, 89:4, 184:6, 184:9, 185:3, 185:24, 187:16, 187:20, 188:2, 194:17, 194:24, 195:10, 195:19, 203:12, 204:9, 205:2, 206:2, 206:18, 235:22 possibly 67:21, 128:6, 129:1, 130:23, 148:6, 149:25, 191:15, 196:1 posted 207:4, 207:5, 207:8 posting 228:14 potential 33:9, 148:5 pour 89:13 power 29:8 practicable 193:23 Practical 116:9, 124:5 practice 147:1, 208:24, 231:12 practices 105:24, 134:25 pray 3:7 preadmitted 3:12 preceded 208:6 precinct 13:13, 13:14, 13:16, 13:19, 13:25, 14:18, 66:4,	69:18, 70:7, 70:8, 74:11, 74:15, 74:18, 75:11, 75:12, 142:24, 146:17, 146:23, 148:2, 148:14, 149:4, 149:5, 149:16, 149:23, 203:21, 203:22, 219:9, 219:21, 219:25, 220:6, 221:12, 221:19, 222:19 precincts 62:3, 62:8, 62:13, 62:24, 63:22, 63:23, 66:7, 68:18, 69:10, 74:1, 74:7, 74:13, 75:9, 143:13, 143:16, 145:5, 145:16, 146:13, 147:3, 148:20, 150:6, 195:18, 203:13, 204:4, 205:4 precincts. 203:14 precise 128:25 precisely 99:18, 99:19, 99:24 precondition 175:17 predecessor 190:2 predominant 27:23, 194:7 predominantly 187:17, 187:20 prefer 26:21, 85:19, 104:21, 104:22, 216:1, 227:14 preferable 204:19 preference 26:19 preferred 161:4, 161:5,	176:6, 177:4, 188:11, 188:25, 225:16 prefers 26:22 preliminary 102:16 premise 161:12 prepare 46:11, 79:25 prepared 82:13, 189:4 prescribed 240:11 presence 29:9, 29:12, 70:6, 89:8 present 2:28, 51:1, 57:21, 102:8, 108:20, 134:6, 191:7 presented 33:19, 79:24, 102:19, 137:14, 146:16 presently 165:20, 190:5 presents 67:7 preserve 194:21, 194:24, 203:20 preserving 192:20 President 14:15 presidential 18:17, 142:20 presiding 3:6 presumably 84:10, 96:13 presume 69:6, 227:22, 231:13 presuming 65:7 pretrial 26:9 pretty 31:24, 39:6, 39:24, 110:19, 110:23, 175:17, 179:2 prevail 22:18, 22:20, 179:14, 182:16 prevalent 180:1
---	--	--	--

prevented 12:9	probably 22:22,	211:20	204:7, 217:17,
prevents 39:9	31:16, 37:5,	produced 2:45,	225:17, 234:19
previous 41:3,	37:6, 38:10,	46:9, 69:5,	proposes 60:19
43:2, 43:4,	66:2, 70:25,	69:23, 72:1,	proposing
57:24	98:12, 130:9,	72:5, 72:9,	59:22, 115:8,
previously	154:2, 157:14,	97:17, 98:19,	186:4, 234:11
13:23, 40:25,	174:7, 190:11,	100:14, 101:7,	proposition
44:3	210:8, 211:19,	107:2, 111:12,	66:24
Price 81:13,	223:25	115:7, 134:25,	prospect 36:13
187:6, 187:12,	problem 21:20,	141:11	protected
187:15, 187:16,	33:8, 33:9,	producing	28:15, 107:21,
225:12, 225:13,	40:21, 48:9,	100:21	108:2, 175:11,
231:18, 236:1,	61:2, 144:17,	product 198:22	175:19, 202:19
236:6, 236:11	159:5, 159:9,	professional	protecting
primarily 10:7,	184:19, 202:23,	181:2	81:12
23:22	209:22, 211:10,	Professor	Protection
primary 193:15	211:13, 233:5,	116:15, 126:23,	32:16, 78:7,
prime 201:16	233:6	127:9, 127:12,	78:18, 79:20,
Princeton	problems	130:14, 135:11,	80:11, 80:19
172:24	155:11, 162:1,	143:19, 147:7,	proud 180:22
principally	162:5, 162:9,	150:2, 172:11	provide 71:12,
75:15	162:12, 167:7,	projection	76:15, 76:20,
principals	181:20	158:1, 214:1	78:4, 78:5,
78:20	procedure	prominent 173:7	97:22, 101:15,
principle	126:14, 138:14	promising 173:8	137:20, 140:21,
28:15, 77:6,	procedures	prompted 129:12	144:15, 192:4,
79:3, 79:8,	105:24	prong 184:5	202:11
79:14, 79:16	proceed 6:18,	proper 160:16,	provided 69:6,
principles	24:4, 27:4,	161:7, 187:15,	73:24, 76:13,
49:8, 76:6,	30:15, 37:22,	191:11, 213:8	98:21, 104:4,
76:8, 76:14,	37:24, 53:5,	properly	104:13, 108:18,
76:15, 76:16,	74:22, 108:12	174:10, 175:7,	110:5, 146:4,
76:21, 77:13,	Proceedings	176:18, 213:4	150:5, 212:9,
77:22, 78:9,	2:44, 53:2,	proportion	212:11, 213:5
78:25, 79:21,	108:9, 171:20,	29:8, 29:12,	provides 35:25,
80:12, 81:1,	240:6	30:24, 30:25,	54:21, 75:8
81:2, 81:10,	proceedings.	31:2, 31:25,	providing
182:10, 182:23,	237:24	59:13, 60:2,	153:3, 153:6,
201:11, 201:19	process 11:10,	66:23, 66:25,	153:7
printed 47:22	30:21, 39:1,	67:23, 68:13,	provisions
printing 66:9	41:7, 61:11,	68:14, 128:1	202:8
Prior 41:19,	61:19, 64:22,	proportionally	public 11:14,
41:25, 136:18,	64:23, 65:1,	67:2	106:24, 132:7,
149:3, 177:16,	69:7, 77:24,	proposed 8:17,	136:9, 207:1,
190:6, 191:4,	81:14, 82:24,	17:6, 54:25,	219:4, 219:5,
230:2	99:1, 107:3,	56:25, 61:7,	228:4, 228:10,
priorities 78:1	174:8, 174:9,	122:18, 154:14,	228:13
priority 76:9,	185:18, 188:8	154:21, 174:6,	publication
201:14	produce 101:13,	181:7, 183:21,	116:1, 116:3,
Prize 226:13	101:15, 102:25,	197:21, 201:4,	116:13

publications
153:10
published 64:2,
133:16, 134:15,
135:7, 135:24,
154:12, 209:25
publishes 70:17
pull 74:19,
118:17
pulled 10:11,
54:24
puppet 118:17
purely 150:8,
166:20, 166:21
purple 94:4
purport 9:17
purpose 40:1,
79:2, 79:6,
84:13, 85:20,
92:8, 105:9,
105:15, 106:9,
107:12, 182:4,
182:5
purposes 48:2,
65:25, 87:4,
121:10, 122:7,
124:5, 164:22,
165:19, 174:21,
198:18, 198:23
pursue 102:5,
102:14, 210:4
pursuing 195:1
purview 49:22
push 66:11
pushing 69:3
putting 17:7,
140:23, 179:13,
185:23

< Q >

QC 143:5,
190:20
quadrants 41:13
qualified
116:24, 135:5,
157:3, 157:6,
161:1, 210:6
qualitative
129:3, 130:11

quality 82:25,
101:23, 102:24,
111:25, 139:11,
139:12, 143:9,
143:11, 144:25,
190:20, 207:10
quantified
135:9
quantify 134:4,
168:22
quantitative
129:3, 198:9
quarrel 116:25
quarter 232:1
Quarterly 116:8
questioning
126:12
questionnaires
167:4
questions 6:23,
21:15, 26:20,
30:14, 32:7,
40:5, 79:23,
79:24, 99:3,
146:11, 167:2,
172:3, 216:4,
218:1, 218:11,
218:18, 235:1
quite 37:2,
51:7, 54:8,
102:6, 117:24,
135:14, 177:10,
180:21, 207:9,
207:14
quote 134:19

< R >

R. 1:6
Race 7:11, 8:1,
14:18, 15:2,
18:15, 19:4,
27:23, 64:1,
64:3, 66:16,
75:21, 75:22,
82:4, 113:22,
113:23, 136:7,
140:1, 214:25,
225:25, 235:2,
235:6

racial 13:5,
13:6, 29:8,
36:22, 37:10,
46:17, 47:2,
48:17, 49:4,
50:1, 62:21,
62:25, 63:4,
66:8, 66:21,
68:19, 68:24,
75:15, 78:7,
82:5, 82:19,
84:6, 84:10,
85:7, 85:12,
86:17, 87:11,
114:25, 149:22,
188:10, 202:11,
214:22, 236:7,
236:9
railroad 65:23
Raise 6:13,
216:19
raised 233:20
raising 196:5
ran 14:15,
41:3, 180:20
Rand 172:9,
172:13, 172:17,
172:18, 172:19,
172:21, 173:1,
173:16
range 35:10,
39:8, 54:10,
155:7, 183:17,
196:1
ranges 177:8,
177:13
ranging 155:7
rapid 31:1
rapidly 30:20
rare 70:4,
70:8, 146:22,
165:13
rate 38:12,
58:14, 138:10,
159:12, 168:4,
176:11, 176:13,
176:16, 183:23,
184:2
rates 138:5,
139:25, 167:14,

167:21, 176:19
Rather 29:4,
48:13, 51:10,
51:14, 65:8,
67:24, 75:8,
92:6, 118:2,
158:5, 170:21,
174:1, 180:22,
182:4, 182:5,
196:20, 204:23,
224:12
rational 48:20
rationale 52:8
reach 136:15
reached 90:13,
131:23, 131:24,
151:1, 180:14
reaches 32:3,
91:16
reaching 61:16,
189:12, 212:1
read 17:19,
65:3, 71:25,
89:1, 93:23,
116:18, 116:22,
117:6, 117:12,
128:20, 128:22,
156:14, 166:18,
166:19, 167:19,
168:21, 173:10,
175:21, 211:8,
213:25
readily 28:7
reading 90:13,
154:2
reads 34:25
realignment
30:22
realistic 177:4
reality 50:14,
168:20
realize 71:10,
76:5, 126:21,
230:1
realized 82:11,
159:5
reallocate
30:11
Really 12:25,
15:5, 54:7,

92:21, 114:3, 128:3, 174:9, 176:8, 180:3, 181:11, 191:8, 192:12, 199:21, 203:4, 207:17, 207:18, 228:7 realtime 63:21 reason 69:21, 78:5, 85:3, 100:11, 111:16, 121:6, 131:6, 137:17, 144:7, 160:22, 160:24, 167:12, 168:23, 200:3 reasonable 46:10 reasonably 186:5, 198:3 reasons 161:24, 176:12, 176:13 rebuttal 103:16, 125:25, 126:4, 126:7, 126:13, 131:3, 136:14, 138:1, 209:4, 209:7, 209:9 recall 36:4, 71:24, 82:18, 97:12, 99:5, 118:13, 119:10, 119:12, 120:14, 123:10, 126:22, 140:23, 141:16, 141:19, 145:5, 151:8, 151:12, 151:25, 152:1, 152:19, 152:22, 155:15, 159:6, 159:8, 178:12, 183:25, 187:12, 192:15, 200:9, 211:14, 212:10, 212:22, 213:16, 227:21, 228:23 recalled 119:8 receive 56:7 received 56:18,	69:9, 133:6, 133:13 recent 137:15, 140:8, 160:5, 167:24 recently 18:12 receptive 226:15 Recess 53:1, 108:5, 108:8, 171:19, 237:17, 237:21 recognition 47:14, 55:12 recognize 25:9, 29:18, 33:8, 33:9, 42:11, 44:4, 55:11, 132:25, 160:6 recognized 29:21, 33:18, 50:14, 55:4, 115:1, 173:7, 194:4, 215:22 recognizing 211:18 recollection 53:18, 60:22, 65:5, 81:21, 82:22, 92:3, 98:22, 100:15, 109:9, 110:24, 111:6, 119:8, 120:1, 153:24, 154:10, 155:24, 164:25, 180:7, 180:8, 180:13, 187:2, 187:3, 187:13, 195:21, 200:19, 210:21, 210:24, 212:20, 213:2 recommendation 145:23, 212:3 reconstruct 71:1, 74:17, 76:1 reconstructed 61:23, 64:12 reconstructing	75:24 reconstruction 71:8 record 4:7, 8:10, 8:16, 8:21, 10:16, 71:20, 87:4, 126:2, 151:13, 158:21, 160:9, 167:21, 216:25, 234:23, 240:6 recordings 106:20 records 151:16 recreate 74:7 recreated 61:19 recreating 61:22 RECROSS 20:7, 20:8, 24:2, 24:3, 25:2, 216:7, 224:4, 237:13, 238:14 red 41:23, 99:12, 100:5, 100:6, 129:23, 130:23, 135:17 REDIRECT 17:17, 20:10, 21:18, 26:25, 171:23, 171:25, 222:25, 223:1, 234:5, 234:7, 238:12, 238:16, 238:29, 238:37, 238:45 redistricter 68:3 redraw 124:12 reduce 185:21 reduced 60:14, 60:20, 61:7 reducing 57:12 reduction 57:18, 57:19, 57:20, 60:25 refer 41:11, 81:1, 82:25, 87:8, 98:8, 98:12, 111:24, 126:10, 128:19,	142:11, 182:4, 200:10, 202:18 reference 86:19, 147:22, 231:2 referenced 97:13, 195:17 referred 32:18, 74:10, 95:14, 96:22, 96:24, 107:18, 129:20, 130:7, 143:5, 182:13, 199:19, 211:5, 212:13 referring 29:23, 57:20, 63:24, 67:9, 70:3, 87:25, 91:4, 93:10, 110:17, 111:22, 123:9, 124:22, 127:4, 135:12, 153:13, 199:5, 200:16, 206:15, 206:18 refers 203:4 refined 82:2 refinement 75:19, 79:7, 188:1 refinements 81:25, 191:6, 191:8, 191:13 refining 82:25, 99:9 reflect 8:16, 8:21, 76:10, 161:25, 162:8, 208:17, 234:23 reflects 32:20, 91:19, 161:3 refrain 215:23 regard 27:21, 38:3, 38:10, 38:22, 39:24, 75:25, 96:8, 96:25, 103:10, 132:15, 160:23 regarded 31:22, 54:8, 127:11,
--	--	---	---

170:19, 181:20, 190:2 regarding 49:20, 117:14 Regardless 28:17, 184:2, 196:3 regards 70:9 region 110:14 regional 139:14 register 118:1, 148:7, 168:16 registered 148:2, 148:7, 168:19, 168:25, 217:7, 235:9 registering 60:24 registers 35:11 registrants 146:18 registration 161:25, 162:9, 168:17 registry 158:3 regularly 217:9 reiterate 31:4 reject 152:10 rejected 152:12, 215:18 rejects 160:15 related 103:14, 112:17, 168:13 relates 24:3, 72:2 relating 79:22 relationship 218:20 relevance 5:19, 6:4, 14:21, 209:17 relevancy 5:16 relevant 38:3, 198:12, 218:18 reliable 174:17, 210:16 relied 42:23, 49:9, 151:6, 151:12, 151:15, 152:6, 161:24,	170:7 rely 75:15, 75:17, 119:10, 189:20, 190:15, 190:23 relying 48:19, 80:23, 214:14 remain 59:21, 112:12, 207:19 remaining 25:13, 42:3, 81:19, 128:6, 141:12 remains 111:11 remedial 27:15, 28:19, 29:2, 29:7, 33:13, 33:20, 34:14, 35:1, 35:4, 35:14, 38:5, 38:13, 38:15, 38:17, 38:18, 39:11, 39:18, 39:23, 53:21, 96:1, 96:2, 123:12, 198:17, 202:3, 202:19, 206:15 remedy 16:23, 17:3, 17:6 remember 46:7, 76:7, 76:12, 79:21, 97:19, 110:22, 153:14, 153:15, 153:17, 156:1, 156:2, 160:5, 178:20, 189:25, 193:8, 206:12, 210:11, 210:17, 210:19, 211:10, 211:11, 212:18 remembered 193:4 Renaldi 220:3 render 158:9, 158:10, 168:23 rendition 71:16 repeat 12:3, 23:2, 118:25,	222:6, 222:14 rephrase 63:19, 171:4 rephrasing 204:3 replaced 127:22 replacing 207:18 replicate 150:7 reported 2:44, 81:3, 84:13 Reporter 2:36, 3:22, 6:25, 7:5, 25:21, 73:6, 141:15, 193:24, 224:24, 240:26 reports 45:4, 49:16, 56:4, 56:24, 58:5, 117:4, 119:7, 125:25, 150:4, 165:14, 208:17 represent 9:17, 65:4, 72:1, 222:20, 229:10 representation 64:5, 109:7 representationa l 162:25, 164:7, 165:23 representative 220:3 represented 10:8, 217:15 representing 116:4, 222:19 represents 201:12 Republic 1:36 Republican 8:3, 8:4, 9:12, 9:25, 10:1, 10:13, 10:15, 13:9, 13:13, 13:25, 16:13, 18:3, 19:4, 19:8, 19:9, 20:20, 20:23, 22:13, 22:22,	23:6, 23:9, 23:10, 23:25, 51:9, 51:14, 51:18, 52:2, 52:4, 55:21, 59:15, 104:21, 171:9, 221:12 Republicans 12:14, 12:17, 13:3, 13:5, 13:6, 13:14, 13:17, 13:19, 17:13, 17:21, 17:25, 20:13, 20:17, 20:19, 51:6, 58:22, 104:18, 221:16 request 237:19 requested 143:20 requesting 219:21, 222:1 required 8:7, 87:4, 121:8, 121:9, 121:17, 204:9 requirement 33:17 requirements 165:20, 202:10, 204:10, 204:11, 205:3, 205:4 requiring 202:10 RES 133:21 Research 133:24, 172:19, 172:21, 172:23, 173:2, 173:10 researchers 173:7, 173:8 reside 28:18, 225:6 residence 168:18 resident 48:22 residents 54:22, 65:25, 77:10 resolution 98:8
--	---	--	--

<p> resolve 3:16, 111:23, 147:17, 164:17 resolved 111:5, 111:11, 150:23 resolving 121:14 resources 135:15 respect 28:24, 42:21, 68:22, 76:18, 81:15, 110:20, 129:19, 131:17, 154:5, 183:6, 183:19, 186:10, 186:16, 202:25 respected 81:23, 82:17, 204:12 respecting 37:18, 40:2, 82:10 respects 115:2, 155:12 respond 84:18, 154:14 responded 96:14 response 123:16, 196:13 responsibilities 181:2 responsible 133:12, 133:14 responsiveness 219:22 rest 194:12 restate 4:6 result 3:17, 57:11, 64:4, 80:8, 140:5, 155:7 resulted 65:14 results 18:22, 49:16, 49:20, 51:24, 55:23, 63:13, 145:22 resume 52:24, 108:6, 171:17 resumed 53:2, </p>	<p> 108:9, 171:20 retain 5:16 retained 137:18 retire 81:17, 186:19 retired 173:16 return 40:5 returning 233:3 returns 14:9, 14:18, 14:25, 17:9 reveal 66:12, 104:15, 104:16 reversed 213:3 Review 46:20, 84:16, 98:4, 133:22, 133:24, 206:23 reviewed 106:23, 107:1, 118:13, 118:16, 220:10, 220:15 revised 82:15 revisions 191:8 Richardson 96:9, 97:6, 97:7 Richardson. 90:6 rid 191:15, 201:3, 232:9 right-hand 148:24 Rights 9:16, 31:16, 107:20, 107:25, 115:1, 115:2, 121:8, 121:11, 122:7, 140:19, 150:14, 165:20, 169:15, 173:17, 174:14, 174:22, 182:17, 184:3, 202:8, 204:11, 205:4, 213:11 ringing 54:8 rings 197:1 RIOS 2:16, 2:17, 218:8, 238:35 </p>	<p> rise 3:3, 52:25, 53:3, 108:7, 108:10, 171:18, 171:21, 236:14, 237:23 river 39:8 RMR 2:36, 240:25 roads 232:24 robust 174:17 Rolando 2:16, 2:17, 218:8 role 174:8, 174:9 Room 2:38, 25:17, 39:10 roughly 41:13, 43:2, 43:24, 104:20, 154:25, 199:13, 201:4, 231:23 round 207:13 rounding 70:9, 70:12, 70:13 rounds 179:17 row 38:16, 39:5, 145:8 row.' 147:19 rows 145:10 RP 206:9 rrios@rolandori oslaw.com 2:23 rule 25:7, 25:11, 74:3, 122:9, 122:24, 207:7 ruled 164:20, 210:21, 211:3, 213:7 rules 121:11, 121:12 ruling 121:25, 152:4 run 19:25, 145:11, 145:20, 147:10, 178:21 rung 175:25, 176:1 running 5:19, 6:3, 10:13, </p>	<p> 19:18, 197:19, 206:20, 208:25 runs 21:21, 237:7 < S > S-c-h-r-o-e-r 224:25 S-h-a-p-e-f-i-l -e 71:22 s/pamela 240:23 Safe 40:14, 121:12, 122:8 sample 132:2, 132:7, 136:9 sample-based 61:4 sampling 70:14 San 2:20, 153:20 Santa 172:10 sat 57:16 satisfactory 38:10 satisfied 118:5 satisfy 102:13 save 3:8 saw 48:9, 78:5, 105:8, 119:16, 119:19 saying 21:6, 51:8, 53:12, 54:20, 84:8, 88:5, 94:24, 114:6, 116:22, 130:22, 133:5, 135:18, 140:18, 162:14, 163:25, 184:19, 186:14, 205:18, 211:14, 215:1, 228:9, 228:23, 230:10, 230:12 says 35:6, 36:25, 39:6, 70:17, 73:10, 83:19, 86:21, 92:14, 122:9, 134:23, 135:4, </p>
--	---	---	--

142:14, 145:10, 148:25, 153:24, 154:19, 154:24, 156:10, 157:23, 157:25, 159:9, 160:15, 161:17, 161:22, 162:8, 166:9, 167:21, 175:18, 183:8, 231:11 scale 35:9 scattered 32:4, 114:17 scenario 112:19 scenarios 80:8 schedule 64:21, 144:15, 211:11, 212:12 scheduled 208:22 schedules 97:21, 143:12 scheme 42:15 schemes 213:13 School 137:5, 178:13, 178:18 Schroder 227:15 SCHROER 1:8, 224:14, 224:21, 224:25, 225:25, 227:12, 227:14, 227:15, 238:39 science 45:22, 50:5, 50:15, 91:14, 102:24, 105:24, 116:8, 158:11, 168:21, 172:3, 215:23 scientific 131:2, 133:23 scientist 49:24, 49:25, 52:15, 54:9, 54:19, 91:15, 104:19, 115:18, 115:24, 116:5, 116:16, 117:1, 139:17, 140:16, 141:2, 144:22, 157:3, 157:17,	158:8, 160:2, 161:2, 175:23, 176:8, 180:4 scientists 49:23, 140:21, 177:7, 215:24 scope 11:24, 59:18, 115:11, 140:7, 218:16 score 81:8 scratch 74:16, 75:14, 184:13, 184:16 screen 33:23, 33:25, 34:4, 34:5, 34:6, 34:11, 42:9, 47:23, 108:24, 116:6, 122:23, 126:21, 133:19, 141:24, 148:12, 153:19, 200:23, 229:5, 229:11, 231:23, 232:15 seated 3:9, 6:15, 26:6, 53:4, 108:11, 171:22, 216:21, 224:17 second 13:14, 13:16, 13:24, 40:20, 52:2, 59:25, 86:21, 86:25, 125:17, 126:1, 129:11, 130:2, 130:3, 167:17, 180:25, 184:5, 202:6, 234:11, 236:16 Secondly 35:16 Section 202:10, 212:5, 213:10, 213:13, 218:19 sections 146:11 SECURITY 6:11, 52:25, 53:3, 108:7, 108:10, 171:18, 171:21, 237:23 seeing 56:24,	60:14, 60:19, 61:6, 76:7, 76:12, 91:6, 110:22, 119:8 seek 77:17, 98:20 seeking 191:9 seeks 51:4 seem 25:19, 100:1 seemed 181:3, 214:21, 226:23 seeming 146:16 Seems 15:8, 107:11, 166:7, 226:24, 227:2, 236:15 seen 17:6, 60:6, 65:2, 66:5, 78:15, 86:6, 95:1, 101:19, 140:12, 217:17, 225:17, 226:19, 226:20, 227:4, 236:5 seesaw 85:16 segment 136:4 segregated 68:10 segregation 66:16 select 164:21 selected 234:23 selecting 63:21 self 32:24 semantic 47:24, 81:4 send 46:11, 47:1 senior 190:9 sense 79:5, 89:15, 147:23, 166:1, 169:2, 176:9, 179:9, 183:22, 214:13, 223:19, 223:25 sent 85:5 sentence 88:23, 116:17 separate 32:11,	39:18, 39:22, 95:11, 96:1, 165:19, 184:18 separated 184:21 separately 111:15 September 100:20 serial 170:25 service 11:2, 11:4, 189:8 services 11:7, 19:15 session 3:5 Sessions 9:12 set 67:7, 72:22, 145:18, 145:21, 145:25, 146:25, 147:1, 148:13, 150:3, 150:6, 157:21, 163:17, 169:13, 174:14, 180:13, 206:19, 206:24, 207:1 sets 175:17 setting 173:3, 198:23 settle 179:21 settled 150:20 settlement 151:2, 179:15, 180:14, 181:3 settling 174:1 seven 175:9, 201:24 several 15:9, 57:5, 70:11, 73:3, 73:7, 97:17, 106:12, 128:11, 179:17, 189:24, 204:6, 204:21, 211:19 severity 199:18, 199:21 shading 44:15 shall 202:7 shape 43:2, 43:9, 71:20
---	--	---	---

shapefile	34:11, 72:12,	114:11, 131:4,	75:7
71:18, 71:19,	108:25, 120:1,	161:12	smoking 90:3,
73:17, 73:25,	144:4, 166:16	simply 24:17,	90:23, 91:3,
74:1, 74:2,	shown 17:2,	26:19, 29:25,	96:17, 96:20,
74:7, 74:10,	80:15, 80:25,	30:11, 40:2,	96:22, 96:24,
74:11, 74:13	97:13, 98:8,	52:14, 55:13,	96:25, 97:1,
shapefiles	102:18, 114:7,	60:10, 63:17,	97:2, 97:5,
98:24	114:12, 115:3,	74:18, 77:17,	97:9, 169:20,
share 35:21,	149:2, 170:12,	81:23, 105:1,	169:21, 169:22
36:11, 37:1,	175:2	105:14, 111:19,	smoother 228:21
54:14, 57:2,	shows 27:22,	113:6, 136:4,	Social 50:5,
60:10, 60:17,	31:9, 32:5,	140:18, 157:1,	102:24, 105:23,
60:25, 79:10,	38:6, 101:25,	168:22, 215:10	116:8, 139:17
79:13, 80:18,	110:14, 114:19,	single 70:19,	socioeconomic
115:20	140:8, 183:2	95:8, 95:15,	158:2, 158:13,
shares 38:6,	shrinking	96:25, 105:16,	214:14
38:7	57:13, 60:12	111:18, 113:4,	socioeconomical
sharing 18:10	shucks 232:8	147:18, 182:4	ly 158:5
sheer 199:16	sic 79:24	single-minded	sociology 172:7
sheets 237:19	side 25:18,	92:8, 105:9,	software 45:3,
sheriff 16:4,	25:19, 35:13,	105:15, 106:9,	45:25, 46:1,
18:15, 142:20	43:16, 66:9,	107:12, 182:4	47:10, 47:11,
shift 125:24,	68:20, 69:24,	sink 37:6	47:22, 47:23,
140:20	70:22, 93:17,	site 207:2	74:5, 76:3,
shifted 89:5	95:19, 104:11,	sitting 77:15	76:4, 189:9
shooting 54:11	104:12, 104:17,	situation	solely 214:14
short 194:21	112:20, 113:21,	32:25, 55:14,	somebody 39:25,
shot 131:11	113:22, 121:12,	68:12, 70:2,	66:14, 98:3,
shouldn't 37:14	122:8, 174:2,	71:8, 90:24,	103:21, 107:6,
show 8:11,	200:25, 226:24,	170:18, 176:20,	107:8, 162:10,
28:13, 30:9,	229:20, 232:3	178:15, 178:16	169:4
31:5, 37:5,	sides 112:25,	situations	somehow 46:21,
40:17, 40:25,	152:2, 163:16	108:1	213:4
47:19, 53:24,	Sidney 1:23,	sixth 204:9	someone 174:2,
69:16, 78:16,	3:5	skilled 189:8	235:6
85:23, 95:23,	sign 195:22	skip 4:2	Somerville 2:11
101:24, 113:2,	signature 83:11	skipped 3:23,	sometime 208:23
116:6, 119:22,	signed 119:23	3:24, 81:7	Sometimes
122:21, 133:19,	significance	skipping	65:18, 65:21
144:25, 188:4,	28:20	161:21, 202:10	Somewhat 29:14,
229:3, 230:15,	significant	slam 196:16	31:1, 58:2,
234:9	39:17, 57:17,	slight 30:25	88:11, 186:25,
showed 17:2,	57:19, 95:21,	slightly 36:11,	229:16
45:14, 47:23,	198:17, 204:12	57:2, 91:2,	somewhere
57:17, 92:12,	similar 43:2,	189:1	38:24, 87:21,
99:2, 100:13,	96:11, 130:6,	slow 3:21	94:3, 98:2,
100:14, 106:24,	163:7	slowly 6:24	233:1
128:8, 132:10,	similarly	small 90:24,	son 72:21
148:2, 230:12	25:23, 41:21	90:25, 148:4	sophisticated
showing 34:7,	simple 30:7,	smallest 62:15,	158:14

sore 110:23	58:6	150:5, 174:22,	1:24, 3:4, 3:8,
Sorry 24:6,	specifics 151:9	182:17, 186:7,	14:16, 56:15,
34:21, 34:25,	speech 26:17	190:17, 213:12	75:2, 128:10,
60:1, 72:4,	spell 7:5,	standpoint	132:12, 132:24,
86:20, 97:4,	71:20, 217:2,	63:3, 103:11,	153:21, 160:10,
108:22, 122:1,	224:23	104:15, 106:3,	161:6, 240:12
193:5, 193:17,	spend 190:18	124:6, 164:16	states. 131:20
193:24, 193:25,	spending 19:23,	stands 102:3,	statistic
197:3, 217:12,	22:4	102:12, 110:23	164:13, 182:3
219:15, 220:13,	spent 160:21,	star 187:7,	statistical
222:6, 232:22	172:2, 172:8,	187:9	27:22, 30:10,
Sort 35:10,	172:9, 190:8,	stark 90:19	39:13, 47:15,
39:24, 40:18,	191:23, 205:15,	start 18:1,	91:6, 95:3,
54:5, 85:6,	209:3, 210:10	40:16, 74:16,	95:14, 95:16,
130:19, 150:10,	splitting	76:17, 83:6,	96:6, 102:2,
159:15, 159:18,	37:17, 68:3,	108:16, 167:13,	102:4, 102:15,
183:9, 201:14,	88:1, 95:3,	172:4, 174:23,	102:16, 103:5
207:1, 230:20	95:17, 95:19,	182:6	statistically
sorts 149:8	188:5, 194:6	started 53:8,	53:10
sought 89:24	spoke 106:24,	74:2, 184:15	statistician
sound 132:13	180:8	starting 4:2,	190:9
Sounds 46:10,	spoken 228:3	43:19, 74:4,	statistics
75:23, 84:19,	sponsoring 75:1	89:20, 99:11,	54:24, 61:16,
97:19, 196:17,	spreading 28:5	213:15	65:15, 65:16,
214:9	square 92:19,	State 124:20,	66:18, 90:17,
source 42:22	110:17, 110:18,	125:11, 133:7,	105:6, 106:4,
south 41:23,	111:9, 111:22,	133:13, 138:7,	162:19, 183:2,
43:12, 66:23,	155:3, 232:4	155:8, 158:10,	196:8
232:20	squiggle 191:16	158:11, 163:22,	status 166:12,
Southern	squiggles	164:23, 165:10,	166:17
153:21, 160:10	186:13	165:11, 165:13,	Stay 216:1,
sparse 212:24	St 2:18	216:25	216:3
speaking	staff 10:24,	stated 67:4,	stayed 172:14
140:20, 178:2,	20:4	113:16, 132:6,	staying 27:10
235:13	stage 91:4,	152:1, 213:19,	steady 128:9
speaks 136:24	100:25	221:18, 222:18	stenography
special 207:2,	stand 6:10,	statement	2:44
207:12, 208:25	6:12, 101:24,	13:11, 22:23,	step 25:4,
specialist	108:5, 118:24,	23:5, 78:14,	47:4, 145:19,
189:20, 189:23	224:14, 237:21	115:23, 116:24,	188:1, 216:12,
specific 12:25,	standard 31:16,	117:1, 129:3,	224:6, 237:16
19:17, 151:25	55:4, 138:14,	131:4, 147:24,	step-by-step
specifically	146:25, 163:18,	161:10, 161:15,	77:20
29:2, 52:16,	174:24, 175:22,	162:21	steps 45:2,
81:2, 135:12,	177:14, 182:11,	statement.	81:7
194:23, 196:12,	208:24, 212:25	161:18	stick 186:13
202:9, 228:5	standardization	statements	stipulation
specifically.	138:14	129:17, 140:5,	183:8
166:17	standards	169:24	stood 141:18
specificity	88:10, 140:18,	States 1:1,	stop 3:21,

30:13, 224:8	152:20	38:12, 202:13,	surprised 74:21
story 29:15,	submitting	223:14	Survey 27:17,
179:4	152:15, 211:7	suggest 91:9,	56:8, 56:13,
straight 121:21	subordinate	91:24, 194:4,	58:10, 60:23,
strange 186:12	87:15, 87:17,	194:15	70:15, 132:1,
strategies	87:19, 203:24	suggested 3:15,	164:1, 190:11,
80:18, 159:23	subordinated	26:8, 70:20,	206:19, 208:18
Street 2:11,	28:10, 203:25	179:9, 197:10,	suspect 88:23
2:38	subsequent	209:20, 209:21,	suspicion 92:1
streets 229:1	43:13, 81:15,	210:14, 210:15,	sustain 24:4,
strength 188:13	81:21, 101:7	212:4, 214:5	236:18
strengthen	subsequently	suggesting 60:5	switch 107:16
173:6	73:9	suing 169:5	switched 7:20,
strengths	subsidiary	Suite 1:37,	182:12
121:13	204:9, 205:2	2:4, 2:19	switches 30:3
stretch 86:22	substantially	sum 111:8,	sworn 170:1
strict 175:16	42:19	124:19	sworn. 6:14,
strike 200:14	substantiate	summarize	26:5, 216:20,
strings 118:17	167:8	27:20, 38:2	224:16
strong 31:17,	substantive	summarized	system 61:14,
36:6, 36:20,	81:4	131:3	181:6
91:21, 117:22	subtleties	summary 26:12,	systematically
stronger 36:11,	197:10	26:23, 95:23,	39:25
89:8, 118:2	subtract 30:2,	126:15, 210:23	
structure	95:13	Sunday 89:20	< T >
117:14, 138:17	subtracted	superior 202:3,	Tab 142:11,
studied 41:19	30:6, 112:13	202:19, 204:19	142:13, 142:14,
studies 166:25,	subtracts	supplemented	145:4
168:2	102:10	27:16	Table 31:3,
study 42:5,	succeed 237:8	supplied 211:8	31:6, 33:19,
42:19, 119:9	succeeded	support 14:7,	33:22, 34:1,
stuff 24:2,	120:18, 121:1,	14:12, 15:3,	34:2, 34:7,
86:3, 227:3	121:3, 196:19	15:15, 15:19,	34:11, 34:12,
stumbled	success 203:25	15:22, 16:9,	34:14, 34:21,
196:24, 205:12	successful	16:23, 17:4,	34:22, 34:25,
stumbling 182:3	182:18	90:14, 136:2,	35:2, 35:4,
subdivision	succession	136:8, 167:7,	37:25, 38:1,
165:10	49:13	167:9, 173:6,	38:4, 46:14,
subdivisions	successive	173:9, 188:20,	46:17, 90:20,
201:7	75:19, 79:1,	188:24, 223:20,	95:23, 95:24,
subject 26:24,	191:6	231:17	97:13, 101:24,
122:21, 132:16,	successively	supported	114:8, 114:12,
136:15, 209:2,	82:24	59:15, 104:3,	114:19, 115:3,
215:11	succumbed	224:1	122:25, 142:2,
subjects 233:4	127:21	suppose 102:20,	157:21, 183:2,
submerged 28:6	suffer 132:25,	142:11	206:22, 208:1
submit 31:7,	133:3, 199:16	Supreme 32:15,	tables 46:20,
198:6, 212:4	suffered 233:18	106:12, 163:4,	56:2, 102:19,
submitted	suffering 133:8	163:13, 163:17,	170:12, 175:2
103:2, 152:18,	sufficiently	164:17, 164:20	

tabs 142:17, 142:23, 143:1, 144:4, 144:5	134:11, 134:17, 134:19, 147:21, 147:22, 165:12	Texas 1:2, 1:11, 1:13, 1:17, 2:39, 3:5, 42:6, 66:15, 133:4, 138:7, 164:23, 165:7, 165:10, 165:13, 178:12, 179:25, 180:1, 240:27	three-year 82:1
tabulated 30:9	terms 18:21, 41:11, 41:12, 47:7, 47:13, 52:6, 54:11, 64:1, 70:4, 74:22, 75:23, 78:8, 82:10, 86:8, 95:10, 98:3, 114:22, 136:22, 174:13, 174:19, 180:8, 199:15, 215:8, 230:6	them. 101:4	threshold 175:25
tabulates	territory 65:24, 88:24, 91:9, 92:6, 92:7, 93:3, 93:4, 97:6, 100:5, 102:9, 111:1, 112:13, 152:5, 175:8, 184:21, 200:2, 200:3	themselves 55:20, 161:9	thresholds 84:10, 174:24, 175:12, 175:16
tabulation	territory. 205:6	Theory 116:9, 116:10	throughout 67:24
62:24, 114:11	test 80:7, 169:14, 198:7, 198:13	thereafter 172:15	throw 170:22
talked 48:17, 57:4, 64:25, 103:14, 123:2, 179:15, 227:25	testified 13:23, 20:10, 49:7, 65:12, 78:6, 118:15, 120:13, 132:17, 146:12, 147:4, 150:18, 150:21, 154:1, 155:21, 156:11, 159:25, 164:10, 230:2	thereby 91:13	throws 63:20
talks 83:25	testifies 85:2	Theresa 219:14, 219:16	thumb 110:23, 141:11
tallied 111:13	testify 116:4, 117:2, 147:2, 161:5, 179:5	third 73:20, 86:25, 87:2, 104:22, 181:25, 202:25, 236:15	thumbs 186:13
tally 98:5, 113:10	testifying 77:16, 210:22, 211:4, 227:22	Thomas 44:25, 45:1, 45:5, 45:8, 45:10, 73:1, 73:10, 73:16, 89:17, 189:6, 196:22	tight 211:11, 212:11
tangent 129:21	testimonies 126:13	thorough 145:20	timing 97:19
tardy 152:22, 153:3, 153:5		though 43:5, 43:9, 44:14, 49:15, 78:4, 113:16, 137:7, 151:4, 157:22, 164:17, 207:11, 210:2	tiny 60:25, 66:1
target 233:7		thoughtful 201:12	title 116:7
Tarrant 110:10		thousands 70:25, 196:2	together 27:14, 29:6, 36:17, 36:19, 74:7, 74:19, 140:23, 144:18, 144:19, 179:4, 179:13, 185:2, 187:1, 211:16
task 57:16, 105:2		threatened 178:7	together 27:14, 29:6, 36:17, 36:19, 74:7, 74:19, 140:23, 144:18, 144:19, 179:4, 179:13, 185:2, 187:1, 211:16
technical 40:21, 45:2, 164:16, 165:6, 166:25, 174:11, 189:8, 190:14		three 28:6, 32:4, 32:11, 44:18, 81:19, 84:1, 200:11, 200:15, 200:21, 221:12	tolerable 71:5
technique 55:11			Tom 73:16, 83:8, 192:25
techniques 98:24, 139:18, 139:22			tomorrow 84:19, 196:16
technology 189:25			took 14:25, 64:16, 81:15, 90:24, 129:21, 157:20, 178:17, 184:24, 210:1, 220:17
tedious 144:23			tools 49:25
televised 226:20			top 85:23, 92:14, 142:8, 153:18, 154:7
telltale 95:3, 195:22			topic 169:10, 181:25
ten 134:16			topics 205:19
tend 176:12			totally 169:24, 185:25, 203:11
tens 70:25, 196:2			touch 32:13
tension 32:21, 162:24, 164:6, 164:9, 166:4, 166:7, 183:13			tough 179:2, 179:3, 179:12,
tenth 61:1			
term 88:20, 88:22, 89:3,			

186:6	50:21, 59:20,	37:25, 96:18,	ultimate 135:20
towards 41:16,	60:5	109:10, 137:25,	ultimately
159:1, 226:21,	TRIAL 1:22,	176:11, 176:13,	44:2, 45:10,
226:22, 226:25,	3:1, 5:20,	176:16, 176:18	46:4, 52:17,
227:2, 227:5,	43:18, 130:17,	turn-- 176:3	55:22, 56:18,
236:3	185:1, 212:21	turned 38:12,	57:15, 59:19,
town 29:20	triangles 41:13	84:23, 176:25,	64:25, 65:12,
townships 88:3	trick 41:6	180:20	76:13, 78:6,
traces 164:6	tricky 144:21	Turning 28:19,	82:18, 84:8,
Tracing 133:20	tried 29:7,	139:25	91:25, 92:18,
tracks 65:23	30:9, 38:1,	turnout 137:25,	96:10, 105:22,
trade-offs	65:8, 134:7,	138:1, 138:5,	112:6, 123:21,
203:19	163:11, 181:9,	138:10, 138:16,	130:18, 131:1,
traditional	191:10, 196:25,	138:21, 139:5,	131:15, 131:23,
28:11, 28:25,	204:13, 212:23	139:8, 139:15,	132:3, 132:15,
33:3, 33:18,	triple 32:10,	139:18, 139:19,	136:15, 141:4,
47:13, 48:8,	199:19, 200:10	140:5, 140:9,	146:10, 154:19,
49:7, 77:13,	trouble 129:21,	140:13, 148:14,	155:3, 155:22,
77:22, 78:8,	168:16, 170:23	160:22, 161:2,	156:20, 159:1,
80:25, 81:1,	troublesome	161:8, 161:11,	159:11, 164:17,
88:15, 118:10,	181:21	167:18, 176:2,	169:19, 170:1,
125:10, 182:10,	truthful 161:9	176:3, 176:21,	176:8, 231:6
182:22, 186:11,	try 33:10,	177:2, 177:17,	unable 50:17,
192:21, 197:10,	42:9, 47:19,	214:16, 215:15,	52:19, 66:8,
197:19, 201:11,	70:25, 84:13,	215:18	68:18, 68:24,
201:13, 201:19	127:17, 136:11,	turnout. 160:18	93:2, 115:13,
trained 190:17	136:12, 139:2,	turns 161:13	120:3, 178:18,
training 190:3	155:13, 159:6,	tweak 184:14	212:3
TRANSCRIPT	179:14, 180:12,	tweaking 185:23	unassailed
1:22, 2:45,	184:13, 185:8,	two- 82:1	102:3
100:9, 192:25,	185:16, 186:4,	two-tenths	unaware 79:6,
240:6, 240:10	186:10, 187:23,	60:12	80:22, 80:24
transience	187:25, 194:1	two-thirds	unclear 154:19,
168:12	trying 39:25,	104:20	155:6, 155:13
transient	41:6, 47:12,	TX 1:30, 1:38,	uncommon 165:9,
167:25, 168:2,	47:25, 48:11,	2:5, 2:20	165:12
168:14	48:23, 54:21,	type 24:7,	uncorrected
transition	67:15, 68:4,	24:8, 70:2,	145:21
61:10, 103:12,	71:10, 75:13,	91:12	underlying
105:4, 117:13	75:19, 81:3,	types 23:20	183:13, 200:1
transitioned	127:25, 144:17,	typical 49:24	understand
82:20	177:8, 185:3,	typically	20:15, 25:12,
transmitted	188:2, 194:6,	32:18, 51:14,	43:21, 48:15,
48:18	194:8, 194:24,	65:20, 174:16,	49:2, 50:6,
travels 40:14	198:12, 199:23,	175:1, 190:23	51:16, 51:19,
Travis 2:18	209:24, 216:15,		59:20, 66:14,
treat 114:21,	228:22, 228:25,		69:7, 74:6,
114:24	232:17		80:13, 103:13,
treating 124:6	tuning 185:23	< U >	103:21, 125:11,
trends 37:8,	turn 31:6,	uglier 198:20	130:18, 132:3,
		ugliness 198:22	

134:12, 134:16, 143:8, 149:19, 153:5, 154:2, 161:13, 187:24, 188:2, 190:14, 231:6, 237:19 Understanding 22:3, 26:18, 64:14, 107:24, 139:16, 165:8, 169:9, 176:10, 177:5, 189:14, 200:5, 200:13, 202:15, 210:4 understandings 104:14 understood 51:4 undertake 210:6 undertaken 41:7 undertaking 105:3 underwent 32:10 unequal 32:24, 37:20 unequally 166:2 unfinished 103:1, 112:14 Unfortunately 232:16 uniform 194:20 unincorporated 29:21 uninhabited 110:25 unique 50:17 unit 62:13, 62:15, 75:7 United 1:1, 1:24, 3:4, 3:8, 14:16, 56:15, 75:2, 132:12, 132:24, 153:21, 160:9, 161:6, 240:12 University 141:2, 172:11, 172:24 unless 32:6, 102:5, 198:12 unnecessarily	33:6, 33:10, 37:20, 68:6, 166:5, 183:9, 183:15, 183:17 unnecessary 37:15 unpack 38:23, 77:7 unpersuasive 160:1, 160:4 unpopulated 111:1 unquestionable 102:18 unquestionably 102:2 unreasonable 165:1 unreliable 211:1, 211:2 unresolved 32:21, 162:22, 164:9 unsubstantiated 153:8, 153:9 until 47:4, 52:22, 97:2, 108:5, 138:24, 224:10, 237:17, 237:21 unverified 102:17, 103:1 unwarranted 30:7, 91:9, 96:3, 96:5, 102:9, 199:22, 204:22 update 207:16, 207:17 updated 56:8 updates 208:17 upper 112:16, 148:24, 232:11 uses 72:22, 83:12, 165:7 using 45:2, 62:2, 62:23, 63:12, 63:17, 64:4, 66:6, 68:17, 73:8,	73:12, 75:7, 76:4, 90:23, 99:15, 99:17, 99:18, 99:19, 99:24, 100:2, 100:4, 105:21, 115:1, 124:13, 126:14, 153:7, 159:8, 162:24, 163:18, 170:23, 174:10, 189:9 < V > v8 84:25 va 2:12 valdez 16:2, 16:8 validating 166:24 value 70:18 values 222:20, 222:21 variety 10:7, 80:8 various 47:13, 56:15, 76:9, 115:9, 119:6, 119:24, 141:19, 169:19, 169:20 varying 55:17 veasey 18:12, 23:24 venture 158:10 verified 101:15, 195:23 verify 100:25, 101:9, 102:20, 103:3 versa 198:21 version 47:1, 47:5, 71:13, 82:19, 82:20, 83:20, 83:24, 84:5, 84:9, 85:2, 85:3, 110:13, 110:14, 124:1, 187:11, 193:13, 193:16, 194:2, 196:14,	208:5, 208:7, 230:12 versions 46:5, 46:7, 60:22, 81:6, 119:6, 191:4 VERSUS 1:11, 33:12, 39:16, 67:3, 153:20, 155:18, 158:21, 160:6, 183:11, 211:6 vice 198:21 victim 137:8 video 10:5, 10:6, 10:12, 12:21 view 31:23, 175:24, 230:20 viewed 106:20, 230:9 viewer 198:8 viewpoint 22:23, 23:5 views 7:25, 163:7 village 160:6, 167:24 violation 107:20, 212:5 violent 194:1 virtually 70:4 virtue 78:25 visible 110:17 visual 46:20 voice 20:1 VOLUME 1:21, 3:1, 238:1 voted 18:3, 18:4, 18:11, 18:12, 23:24, 78:1 Voter 20:21, 48:20, 52:5, 52:8, 60:11, 62:23, 63:22, 160:18, 161:8, 161:11, 183:10, 183:11, 215:6, 215:7, 235:9
--	---	--	--

votes 29:3,
32:14, 32:17,
33:5, 37:19,
51:14, 166:2,
166:6, 185:20,
215:5, 215:6,
215:7
VRA 212:5
VTD 63:3, 195:5
Vtds 62:23,
63:8, 63:17,
69:10, 193:6,
195:20, 195:24,
196:4

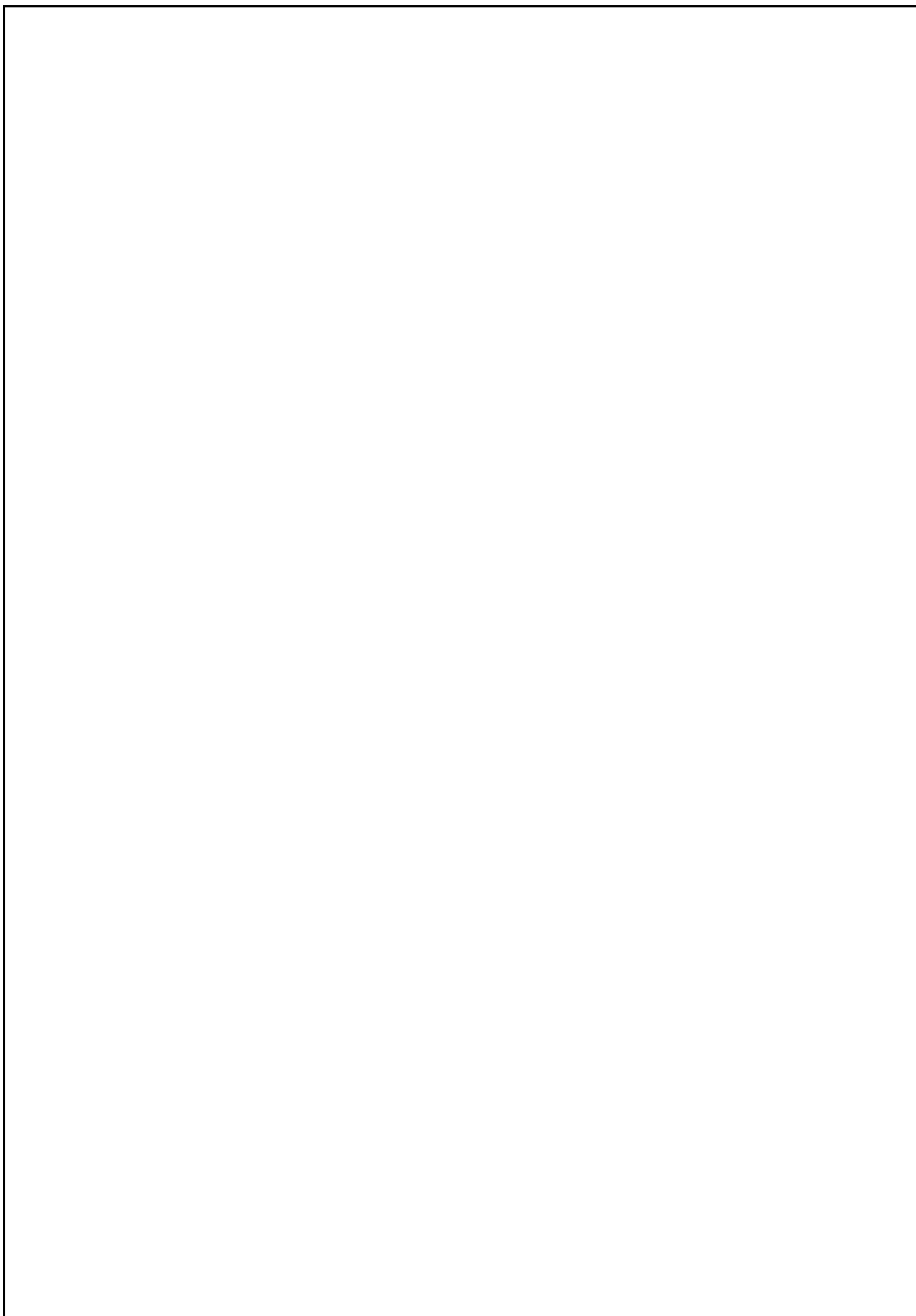
< W >

W. 2:1
waited 236:16
walk 33:22
wanted 13:12,
46:22, 62:14,
75:10, 75:17,
76:17, 77:3,
77:18, 77:19,
79:15, 82:5,
82:20, 84:16,
98:3, 107:10,
117:21, 120:16,
121:2, 123:19,
125:4, 125:7,
135:18, 144:19,
144:20, 145:19,
147:7, 147:8,
147:17, 148:17,
163:23, 164:22,
166:1, 167:7,
169:10, 191:7,
209:6
wants 34:17,
51:14, 104:16
war 137:8
warrant 37:10,
37:12
Washington
64:15, 99:2
wasted 224:13
water 231:7
Watsonville
155:17, 155:18,

156:1, 156:12,
156:17, 157:13,
158:5, 212:14,
212:22
ways 128:1,
134:13, 147:10,
175:5, 215:4
weaknesses
121:15
web 207:4
week 211:12,
211:18
weekend 86:3
weeks 97:17
weighed 186:17
weight 28:16,
33:1, 33:11,
37:18, 42:18,
183:10
weighted 32:18,
166:2, 166:6,
183:12
weighting
185:20
west 41:18,
43:1, 43:8,
43:11, 43:13,
66:24
Western 43:16,
110:16, 128:10,
200:24
whatever 26:22,
34:7, 54:12,
76:2, 106:16,
128:12, 137:5,
137:13, 144:4,
175:9, 185:10,
195:14, 226:19
whatsoever
28:15, 131:2,
136:17
whereas 35:12,
96:2, 96:4
wherein 14:8
wherever 185:3,
188:2
whites 32:3,
32:14, 35:23,
36:1, 37:1,
37:11, 38:24,

48:12, 51:25,
52:10, 52:12,
53:9, 68:14,
89:24, 90:18,
91:3, 91:22,
92:2, 92:8,
102:18, 104:11,
105:16, 114:16,
114:21, 120:25,
124:11, 124:25,
125:12, 125:16,
125:19, 169:5,
169:15, 170:18,
176:16, 176:19,
181:23
whoever 237:7
whole 60:11,
69:23, 70:21,
74:1, 74:18,
133:16, 165:3,
185:18, 203:13,
204:7, 226:11,
233:21
wholly 209:21
whom 104:16
widespread
70:6, 176:10,
179:24
wiggle 39:10
Wiley 225:12
willing 168:8,
224:9
WILSON 2:36,
240:5, 240:23,
240:25
win 16:8,
16:15, 17:21,
17:24, 20:12,
21:4, 22:13,
24:22, 51:9,
51:11, 54:20,
54:21, 235:20
winner 84:22,
196:19
winner. 84:19,
196:17
winning 24:17,
24:19
wins 16:12,
16:14, 18:15,

23:17, 235:22,
236:6
Wisconsin
158:20, 158:21,
158:23, 211:6,
212:7
withdraw 171:5
within 27:11,
28:4, 28:7,
32:18, 32:21,
48:22, 49:22,
50:9, 67:25,
68:12, 68:25,
87:5, 143:12,
162:25, 164:7,
164:9, 165:13,
166:4, 166:7,
178:17, 183:17,
185:10, 211:12,
214:2, 215:9,
216:1
without 35:10,
41:5, 47:18,
82:12, 83:21,
89:13, 114:13,
145:12, 170:14,
185:22, 188:5,
197:24, 215:12,
227:15
witnesses
156:11
wonders 32:12
word 42:1,
42:13, 43:5,
54:3, 56:1,
71:22, 85:6,
87:17, 88:18,
94:2, 94:23,
100:16, 105:21,
106:2, 142:7,
152:17, 157:9,
157:10, 187:7,
187:8, 191:1,
204:4
words 13:12,
41:2, 54:24,
70:5, 82:3,
83:17, 86:13,
103:25, 114:10,
114:21, 124:20,



C E R T I F I C A T I O N

I, PAMELA J. WILSON, CSR, certify that the foregoing is a transcript from the record of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

This the 16th day of April, 2018.

s/Pamela J. Wilson

PAMELA J. WILSON, RMR, CRR
Official Court Reporter
The Northern District of Texas
Dallas Division

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14
15
16
17
18
19
20
21
22
23
24
25