

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

MATHIS K. WRIGHT, JR.,

Plaintiff,

vs.

SUMTER COUNTY BOARD OF
ELECTIONS AND REGISTRATION,

Defendant.

CIVIL ACTION

FILE NO. 1:14-CV-42(WLS)

DEPOSITION OF

FREDERICK GLENN McBRIDE

Friday, November 14, 2014

9:35 a.m.

2200 Midtown Proscenium

1170 Peachtree Street

Atlanta, Georgia

Linda C. Ruggeri, CCR-A-261

APPEARANCES OF COUNSEL

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On behalf of the Defendant:

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Also Present:

Reverend Mathis Kearse Wright, Jr.

Ms. Linda Wright

Dr. Karen L. Owen

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TABLE OF CONTENTS

DEFENDANT'S EXHIBIT	DESCRIPTION	PAGE
Exhibit 1	Report of Frederick G. McBride	16
Exhibit 2	Article entitled "Extreme Makeover: Racial Consideration and the Voting Rights Act in the Politics of Redistricting" Stanford Journal of Civil Rights & Civil Liberties August 2005	35
Exhibit 3	Document entitled "Georgia Secretary of State Voter Registration System Active Voters by Race and Gender" August 1, 2014	49
Exhibit 4	Summary Spreadsheet of Appendix C of Dr. McBride's Report	103
Exhibit 5	Response to Defendant's Expert Report of Karen L. Owen	134
Exhibit 6	Expert Report of Karen L. Owen	138
Exhibit 7	King Estimates for May 20, 2014, Board of Election District 2	170

(Original Exhibits 1 through 7 have been attached to the original transcript.)

1 (Reporter disclosure made pursuant to
2 Article 10.B of the Rules and Regulations of the
3 Board of Court Reporting of the Judicial Council
4 of Georgia.)

5 MR. TYSON: This will be the deposition of
6 Dr. Frederick McBride, taken by the Defendant
7 Sumter County Board of Elections and
8 Registration, for the purpose of discovery and
9 all purposes allowed under the Federal Rules of
10 Civil Procedure and the Federal Rules of
11 Evidence. All objections, except those going to
12 the form of the question and the responsiveness
13 of the answer, are reserved until trial or first
14 use of the deposition.

15 Is that agreeable, Mr. McDonald?

16 MR. McDONALD: Yes, it is.

17 MR. TYSON: And does Dr. McBride wish to
18 read and sign?

19 MR. McDONALD: I'm sorry?

20 MR. TYSON: Does he wish to read and sign?

21 MR. McDONALD: Do you want to read and
22 sign your deposition? You're able to do that.

23 DR. McBRIDE: Yes.

24 / / /

25 / / /

1 FREDERICK GLENN McBRIDE,
2 having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. TYSON:

6 Q. Dr. McBride, we met a few minutes ago; but
7 my name is Bryan Tyson. I and Anne Lewis represent
8 the Defendant Sumter County Board of Elections in this
9 case that Reverend Wright has brought. And our
10 purpose today is to take your deposition, kind of
11 study through the expert reports that you filed in
12 this case, learn about what your views are on those
13 things, what you found in your research.

14 My purpose isn't to confuse you, and I'll
15 warn you ahead of time that I sometimes will ask
16 questions that are so long that by the time you get to
17 the question mark I have no idea what I've asked and
18 you will have no idea what I've asked. And if that's
19 the case, just ask me to rephrase it and I'll reask
20 the question a different way.

21 A. Okay.

22 Q. Also, it's best for the court reporter if
23 we both speak clearly and not too fast.

24 MR. TYSON: I'm going to try to moderate
25 my pace for you, Linda.

1 Q. (By Mr. Tyson) She needs to be able to
2 you to hear you say an audible yes or no instead of
3 uh-huh or huh-uh or shaking our heads. So will that
4 work for you?

5 A. Yes.

6 Q. That's perfect. That's exactly what we
7 want to do.

8 So if you need a break at any point, just
9 let me know. But my only request is you answer the
10 last question I ask before we take a break.

11 A. Okay.

12 Q. All right. So the way we'll start this
13 out is, I'll start with some background information
14 about you and kind of your history; and then we'll dig
15 into some of the specifics on the case.

16 A. Okay.

17 Q. Can you state your full name for the
18 record, please.

19 A. My name is Frederick Glenn McBride.

20 Q. And what is your address, Dr. McBride?

21 A. My address is 465 Jefferson Chase Circle,
22 Southeast, Atlanta, Georgia 30354.

23 Q. And are you on any medication or have any
24 medical condition that would keep you from fully
25 participating in the deposition today?

1 A. Nothing that would keep me from fully
2 participating, no.

3 Q. Great. Have you ever been involved in a
4 lawsuit before as a plaintiff or as a defendant?

5 A. No.

6 Q. Okay. Have you ever been arrested?

7 A. No.

8 Q. So you have never been convicted of a
9 crime?

10 A. No.

11 Q. Have you ever made an administrative claim
12 against an agency or a government as a claimant in
13 some way?

14 A. No.

15 Q. Okay. Have you discussed this case with
16 anybody else besides Mr. McDonald?

17 A. One other individual, an expert witness by
18 the name of Steve Cole.

19 Q. Steve Cole. And where is Steve Cole
20 located?

21 A. He's in New York. He is the director of
22 Research Design Associates and a colleague of mine who
23 has been an expert for many voting rights cases.

24 Q. And Research Design Associates, is that
25 his company?

1 A. Yes.

2 Q. Okay. And what did you talk with Mr. Cole
3 or Dr. Cole about in this case?

4 A. Just how these depositions go. This is my
5 first one, so I just wanted some idea of the tenor and
6 just how they went. I wasn't sure.

7 Q. Okay. Did he give you any good insights?

8 A. He gave me a lot of anecdotes of his
9 20-plus years of depositions.

10 Q. Okay. Well, that's good. I've heard some
11 really crazy stories about depositions. We're not
12 going to have that today, hopefully.

13 All right. Have you discussed the case
14 with anybody else? Just Dr. Cole, is that the only
15 individual?

16 A. Just Dr. Cole.

17 Q. Okay.

18 A. And Mr. McDonald.

19 Q. Have you met Reverend Wright before you
20 came here today?

21 A. Yes.

22 Q. And have you talked to Reverend Wright
23 about the case at all?

24 A. Yes.

25 Q. And what did you talk to Reverend Wright

1 **about the case?**

2 A. Well, I was first introduced -- I think it
3 was two years ago when I was working for the American
4 Civil Liberties Union, and he and some other
5 individuals from Sumter County came to the Southern
6 Regional Office and that's where I met them. And we
7 discussed the issues there in Sumter County.

8 Q. And when you say the issues in Sumter
9 County, did it involve the redistricting plans?

10 A. Yes.

11 Q. And two years ago would have been 2010, so
12 that was after the census?

13 A. Yes, yes.

14 Q. And did Reverend Wright and the group that
15 came with him, were they expressing concerns about the
16 plans that were in place in 2012?

17 A. If I remember correctly, I know that I was
18 given the task to look at the current existing plan
19 and draw or develop -- possibly draw or develop an
20 alternative plan.

21 Q. Okay.

22 A. That was the very first task.

23 Q. And in 2012 isn't it correct that the
24 at-large seats, there were no at-large seats, is that
25 right?

1 A. If I remember correctly, I think so, yes.

2 Q. It was nine single-member districts?

3 A. That's what I remember.

4 Q. Okay. That's fine. You only have to
5 answer as best as you can remember. We don't require
6 you to have perfect recall.

7 A. Good.

8 Q. All right. So did you undertake to
9 develop any districts after that meeting with
10 Reverend Wright and the group?

11 A. Did I draw it?

12 Q. Yes.

13 A. Yes.

14 Q. Did you draw a number? Do you remember,
15 did you draw ten? Did you draw three? How many plans
16 did you draw?

17 A. I don't remember exactly. It could have
18 been an alternative plan with those nine single-member
19 districts. I don't remember. I know we drew a few of
20 them. And whenever I initially start to draw plans, I
21 submit them to the people or person in question, have
22 them share, and let them get back with me because I
23 don't know the community.

24 Q. Right.

25 A. So I don't remember exactly how many. I

1 don't remember.

2 Q. And then when is the next time you saw
3 Reverend Wright after that meeting two years ago?

4 A. I think today.

5 Q. Today, okay. And you haven't talked to
6 him in that intervening period?

7 A. Oh, we've talked a few times, yes.

8 Q. And talked about this case specifically?

9 A. The case or the maps, yes.

10 Q. And what have your conversations been
11 about the case?

12 A. From what I remember, shortly after I met
13 them, I think it was June of 2012, we discussed the
14 plans and submitting them, getting them back, my
15 asking do I need to alter something, communities of
16 interest, that sort of thing.

17 Then maybe about a year and a half later,
18 we discussed the upcoming elections. After a
19 series -- I think there was another court case there.
20 And then after a series of a plan -- we actually
21 developed a plan that Reverend Wright and others, I
22 think with the NAACP, supported; and we offered that
23 plan to the Court in that particular case. But the
24 defendants -- and I don't remember who they were right
25 now. But the defendants did not -- the only claim I

1 remember against our plan was that it was an ACLU
2 plan. So the Court decided to get the Georgia
3 Reapportionment Office to draw an alternative plan.

4 And after that we had a discussion about
5 the upcoming runoff election in June of this year.
6 One of the candidates was in a runoff. And that was
7 just a brief conversation about running another
8 election study after June and maybe a few times before
9 that about identifying the minority candidates.

10 Q. Okay. So in the case where you were
11 involved, do you remember if that was the one person,
12 one vote case?

13 A. I think it was.

14 Q. Okay.

15 A. I don't have all of those records anymore,
16 but I think it was.

17 Q. And so then you talked to Reverend Wright
18 about running a new election study. When you say
19 "determining the African American candidates," what do
20 you mean?

21 A. Because when I get the election returns,
22 some of these people I don't know. So in order to run
23 a racially polarized voting study, I need to know who
24 the minority candidates are. So I would have him -- I
25 think that he e-mailed Laughlin, and I got the e-mail

1 from him. But I know we spoke at least one time this
2 year, and it was prior to the June runoff.

3 Q. And then you said you had conversations
4 with him about maps as well. Have you talked to him
5 about the maps that you included in your report in
6 this case?

7 A. No, I have not.

8 Q. So you don't know whether there's
9 communities of interest properly represented, those
10 kind of things?

11 A. I think that when that plan was drawn
12 earlier this year, I think plaintiff's counsel -- I
13 think Mr. McDonald sent them a copy of the plan
14 because we always address it. And I think when I got
15 an okay, then I was able to include it in this report.

16 Q. Okay.

17 A. But I didn't do anything else with that
18 plan after that.

19 Q. Did you review any documents to help you
20 prepare for your deposition today?

21 A. I reviewed -- I've read several
22 transcripts of previous depositions where the ACLU was
23 involved. I've reread journal articles regarding
24 various methods. I've also read a lot of Bernard
25 Rothman, Morgan Kousser, some of the well-known people

1 from the field and certainly cases like I revisited
2 Thornburg, particularly Thornburg, the ACLU
3 redistricting manual, and just other general voting
4 rights literature, some other documents that I've
5 relied on in terms of the report, journal studies.
6 And that's all I remember.

7 **Q. And the journal articles and journal**
8 **studies, were those primarily by Rothman and Kousser?**

9 A. Primarily, but there are some others who
10 are unfamiliar to me, but I found the articles
11 through, you know, journal search of particular issues
12 or measures.

13 **Q. And were the transcripts of previous**
14 **depositions things that Mr. McDonald provided to you**
15 **or that Dr. Cole provided to you?**

16 A. Mr. McDonald provided.

17 **Q. Do you remember who the deponents were in**
18 **those cases?**

19 A. John Ruth and Steve Cole and William
20 Cooper.

21 **Q. Do you know Mr. Cooper personally?**

22 A. Yes.

23 **Q. What's your relationship with Mr. Cooper?**

24 A. Well, we have always conferred with one
25 another over maps. I regard him as sort of a mentor

1 because I think he knows everything there is to know
2 about mapping. And he did it long before computer
3 software programs. And we oftentimes just talk about
4 particular cases that we're working on.

5 **Q. The reason why I ask is Mr. Cooper has**
6 **been an expert in another case we have on the Voting**
7 **Rights Act in Fayette County.**

8 **A. I'm not surprised.**

9 **Q. So I had a good discussion with him. I**
10 **guess it was a couple years ago now.**

11 **Have you talked to Mr. Cooper about this**
12 **case at all?**

13 **A. We didn't talk. I e-mailed him. I**
14 **e-mailed him indicating to him that I may call on him**
15 **just the same way I did Steve Cole. But I didn't. He**
16 **e-mailed me back and said, hey, just know your -- just**
17 **know your data. And we just left it at that.**

18 **Q. Okay. There's not a lot of people, Linda**
19 **Meggers, Gina Wright. There's a very small group that**
20 **know how to do the redistricting kind of thing**
21 **computer-wise. Especially the people who have the**
22 **history before computers, that's so far beyond. I**
23 **know what that was, but I can't imagine having to draw**
24 **maps that way.**

25 **A. Yeah. I knew of him before I actually met**

1 him.

2 Q. All right. Well, what I want to do next
3 is walk through your education and employment history.
4 So I think the easiest way to do that is actually
5 going to be to refer to your CV. So I'm going to have
6 Linda mark your report as Exhibit No. 1.

7 (Defendant's Exhibit 1 was marked for
8 identification.)

9 Q. (By Mr. Tyson) Mr. McBride, I'm going to
10 hand you what I've marked as Defendant's Exhibit 1 and
11 ask you if you recognize that document.

12 A. Yes, I do.

13 Q. And is that the report you filed in this
14 case?

15 A. Yes, it is.

16 Q. All right. So what I want to do, I think
17 your CV is an exhibit to that, Appendix A -- if you
18 need to unclip it, you're welcome to do that, too. It
19 may be easier.

20 So the first section you have on there is
21 your education, and I just wanted to walk kind of
22 starting at the bottom and working our way up. What
23 high school did you graduate from?

24 A. Gulfport High School.

25 Q. What year was that?

1 A. 1984.

2 Q. Okay. And so then did you immediately
3 enroll at LSU?

4 A. Yes, I did.

5 Q. The Tigers are having a pretty good year
6 football-wise?

7 A. Well, I guess so.

8 Q. Better than Georgia.

9 A. Until last week.

10 Q. Yes. And that was a close game. I'm
11 sorry.

12 So then you went to LSU immediately and
13 you received a B.A. in political science, is that
14 right?

15 A. Yes, I did.

16 Q. And then did you immediately enroll in
17 Southern University or did you do something else in
18 between?

19 A. I'm trying to remember. I enrolled at
20 Southern a year later.

21 Q. Okay. What did you do for the year
22 between LSU and Southern?

23 A. I looked for work.

24 Q. I'm assuming unsuccessfully?

25 A. Unsuccessfully, yes.

1 Q. And so then you studied at Southern. Did
2 you work at all while you were at Southern?

3 A. About two years later, I got a job as an
4 admissions counselor at LSU.

5 Q. Okay.

6 A. So I did that while pursuing my Master's
7 degree at Southern.

8 Q. And you were in that position at LSU for
9 the remainder of your time at Southern or did you stay
10 there after that?

11 A. The remainder of my time at Southern.

12 Q. Then you graduated from Southern in 1993.
13 And then what did you do next?

14 A. I came here to Clark Atlanta that August.

15 Q. And so you began your Ph.D. program?

16 A. Yes, I did.

17 Q. And I see you finished your Ph.D., it
18 says, in May 2002?

19 A. Yes. I did the coursework first. Then I
20 got a job.

21 Q. I understand that. All right. So let's
22 talk a little bit about -- we'll circle back to your
23 dissertation. Let's talk a little bit about your kind
24 of work history. So you had your job as an admission
25 counselor at LSU. Then what was your next employment

1 **after that?**

2 A. After LSU, I left -- I left admissions
3 counselor. After leaving LSU, I came to Clark
4 Atlanta. During that time, I worked -- I didn't
5 include it in here because it was miniscule, but I
6 worked at the Department of Family and Children
7 Services. After leaving LSU, two years after my
8 coursework, I was a teacher at a charter school in
9 Lansing, Michigan.

10 **Q. Okay.**

11 A. After leaving there after a year, because
12 after a year I was an instructor at Eastern Michigan
13 University in Ypsilanti, Michigan, for two years.

14 **Q. And what courses did you teach at Eastern**
15 **Michigan?**

16 A. I taught American government and public
17 administration courses, urban and local politics,
18 state politics, budgeting, organizational theory.

19 **Q. And those were undergraduate courses you**
20 **were teaching?**

21 A. Some were graduate.

22 **Q. Okay. And then what did you do next?**

23 A. I moved to the Washington, D.C. area; and
24 I worked for an organization that was then called the
25 Center for Voting and Democracy but they changed their

1 name to Fair Vote. And they were an organization
2 geared toward alternative election systems and
3 promoting that across the county.

4 **Q. And when you say "alternative election**
5 **systems," what kind of election systems did Fair Vote**
6 **promote?**

7 A. Cumulative voting, limited voting, and
8 single transferable voting.

9 **Q. I know I've heard all those terms. Can**
10 **you give me a brief description of those?**

11 A. Well, cumulative voting is a situation
12 where in Texas -- Alabama actually was the first.
13 They, voters, are multiseat elections. A voter can
14 clump their votes toward any number of candidates they
15 want. So if there are seven people running for a
16 seat, you could vote seven times for one candidate or
17 you could spread that number between other candidates.

18 Single transferable vote, I think it's in
19 Massachusetts, a little bit more complicated. But
20 it's a series of ranking candidates. So you could
21 have a first choice, second choice, third choice in a
22 multiseat election. When the first-choice candidate
23 receives the required number of votes, then all the
24 votes going for that would transfer over to your
25 second choice. So you actually rank candidates.

1 **Q. So it's different than instant runoff**
2 **voting because --**

3 A. It's kind of the same, but it's a little
4 different.

5 **Q. Okay.**

6 A. It's kind of the same, but it's a little
7 different. And, of course, limited voting, then you
8 don't exercise -- I guess it's sort of like single
9 shot, but you don't exercise all of your options in
10 the election process.

11 **Q. So if there were seven candidates, you**
12 **would only vote for one or would --**

13 A. You can select as you want, but you
14 typically would vote for less.

15 **Q. Interesting. So what were your**
16 **responsibilities with Fair Vote, then?**

17 A. To try and convince groups, individuals
18 that were mainly interested in single-member
19 districts, that this was a viable option to gain
20 electoral -- minority electoral success. So you work
21 with a lot of groups and a lot of individuals who
22 are -- they basically wanted single-member districts,
23 so it was my task to convince them that there's
24 another alternative.

25 **Q. Did that include any work with court cases**

1 **where you were trying to get these alternative systems**
2 **imposed as remedies?**

3 A. I did not have that option during the time
4 I was there. I did not have that option.

5 **Q. And then why did you decide to leave Fair**
6 **Vote?**

7 A. The director and I had, I guess you could
8 call it, philosophical differences. He is a -- he is
9 very geared toward these alternative election systems.
10 I saw them as remedial. I thought that they were
11 only -- I thought they only should be used in place
12 when you can't -- once all the other factors are met,
13 when you can't draw a majority-minority district. And
14 we differed, and it didn't work for me anymore.

15 **Q. And so you chose to resign, then?**

16 A. Yes, I chose.

17 **Q. And then where did you go next?**

18 A. A few months later, I worked for the
19 NAACP, the national office in Baltimore, where I was
20 involved in registration and get out the vote efforts
21 for the 2000 presidential election.

22 **Q. Hopefully not in Florida.**

23 A. Well, that came about during that time
24 period.

25 **Q. That seemed to be the birth of election**

1 law as its own practice.

2 A. That was.

3 Q. Yes. So you primarily were just helping
4 people register to vote, encouraging them to get out
5 and vote?

6 A. And trainings with all of the NAACP
7 affiliates.

8 Q. Nationwide?

9 A. Yes, nationwide.

10 Q. Did you work with the LDF? LDF is a
11 separate office?

12 A. It's separate.

13 Q. I thought it was separate, but I --

14 A. It's a separate organization.

15 Q. All right. So the 2000 election happened
16 and dragged on for months, I guess, and then --

17 A. Yes. But by that time, the opportunity to
18 work for the NAACP was limited. They had received a
19 very large grant from an unidentified donor, so they
20 were able to hire a lot of people. But it was just
21 until that election. But fortunately for me, the
22 Southern Regional Office of the American Civil
23 Liberties Union Voting Rights Project was looking for
24 a redistricting coordinator. So I had submitted and I
25 was awarded that job.

1 Q. Prior to going over to the ACLU to work on
2 redistricting, had you had any experience with
3 redistricting specifically or just with the election
4 system program you were assigned --

5 A. Just with the election system, but
6 concentrating on it during my graduate studies. So it
7 was more literature and just scholarly research.

8 Q. Scholarly research on redistricting?

9 A. Yes.

10 Q. And so you came to the ACLU. Is that when
11 you moved to Atlanta?

12 A. Yes.

13 Q. And I guess we're looking at beginning of
14 '01, is that right?

15 A. Yes, January 2001.

16 Q. So what were your responsibilities as the
17 ACLU Voting Rights Project redistricting coordinator?

18 A. Well, the first two years I worked with a
19 lot of groups that were interested in alternative
20 plans right around the redistricting cycle. So then
21 Bill Cooper was drawing the maps. So we would discuss
22 the maps. And I would go to anyone that contacted us.
23 So I traveled for two years presenting the maps at
24 hearings, redistricting meetings, discussing it with
25 groups. So I was the liaison between the ACLU Voting

1 Rights Project and Bill Cooper. So I was out
2 presenting the plans for the first two years.

3 Q. And is that also when you started working
4 with Mr. Cooper to learn how to draw plans or was that
5 later?

6 A. That came about around two years later
7 when redistricting slowed down. Then I was interested
8 in -- my terms of employment originally were just two
9 years at the height of the redistricting cycle. And
10 then meeting with Mr. McDonald, I expressed interest
11 in wanting to draw and do other types of work related
12 to voting rights. So we got into redistricting and
13 drawing. We got into the mapping and drawing, and
14 then later I got the opportunity to work on the
15 statistics.

16 Q. So when was the first time you think you
17 started drawing a plan, the first time you played with
18 Maptitude?

19 A. I want to say 2004.

20 Q. So in your testimony that you would do for
21 these plans that Mr. Cooper drew, was that just
22 primarily being a witness? Would you have to answer
23 demographic questions or do analysis at all or just
24 testify about them?

25 A. I would do analysis; but I would go to the

1 hearings and present it to these redistricting
2 commissions, the councils, the school boards, and
3 those kinds of things. And then you would take
4 questions sometimes, depending. But oftentimes they
5 give you five minutes and that's it.

6 **Q. That makes sense. So then you began to**
7 **work on drawing plans around 2004 and were those**
8 **primarily local plans?**

9 A. 2005, yes, basically local plans;
10 basically local plans.

11 **Q. And then when did you get started looking**
12 **at statistics?**

13 A. About -- there were two major cases that
14 the ACLU had that I was involved in, so I would say
15 maybe around 2007. Around 2007.

16 **Q. So I think from the timing, you got your**
17 **Ph.D. in 2002, started really getting more into map**
18 **drawing after that point. So by 2007 you were being**
19 **involved as kind of a -- were you an internal expert**
20 **for the ACLU?**

21 A. Yes, yes.

22 **Q. But not a testifying expert?**

23 A. No, no. I would do the preliminary
24 statistics and mapping. I would do all the initial
25 work to determine if the Gingles factors could be met.

1 Q. And then were there other experts that
2 came into the case to be the testifying experts in
3 those cases?

4 A. Yes. That was people like Steve Cole and
5 John Ruth, who I remember those two specifically.

6 Q. Now, you also in the list of things that
7 you did, I see that you also said you lobbied elected
8 officials on voting rights legislation?

9 A. Yes.

10 Q. Was that in the state legislature or
11 Congress or different places?

12 A. State legislature, state legislature.

13 Q. In Georgia?

14 A. Yes.

15 Q. And were you involved in the 2005
16 congressional redistricting at all in Georgia?

17 A. We looked at the alternative plans that
18 were drawn, but I don't think we really initiated
19 anything beyond that. But I know we were interested
20 in the mid-decade redistricting. So I analyzed the
21 plan and I think I shared whatever information with
22 Mr. McDonald and the other attorneys. But I don't
23 recall us really getting that involved in it.

24 Q. Now, in 2011 -- we'll get to this in your
25 report, but I know you mentioned that you drew some

1 plans for the Georgia General Assembly as well?

2 A. Yes.

3 Q. And so I think you said you did that with
4 another organization. What organization did you work
5 with in 2011?

6 A. The Southern Coalition for Social Justice.

7 Q. And who is the leadership of the Southern
8 Coalition for Social Justice?

9 A. Anita Earls.

10 Q. I know Ms. Earls. And were those plans
11 presented to the General Assembly?

12 A. Yes, they were.

13 Q. And do you know how much consideration
14 they got?

15 A. None.

16 Q. None?

17 A. Yes.

18 Q. Were they submitted early in the process,
19 late in the process?

20 A. We submitted them by the required
21 deadline, but they did not get any consideration.

22 Q. Did you get a chance to testify about
23 those plans at all?

24 A. No.

25 Q. So you mentioned that your work at the

1 **ACLU involved two major voting rights cases. Do you**
2 **recall what those voting rights cases were?**

3 A. We worked Fremont County, Wyoming. I
4 don't remember the exact case, but it was in Fremont
5 County, Wyoming. And I was able -- I was also able to
6 go out there and do some research. I had to study
7 their transcripts of their -- I think it was the
8 county commission minutes since the 1800s, I think
9 looking for historical evidence of discrimination
10 against Native American or Indians in the county.

11 And the other one was Lexington County
12 School Board, Lexington County, South Carolina. And I
13 did the same thing. I spent a significant amount of
14 time there doing research on history of
15 discrimination, newspaper, county school board
16 election minutes, as well as some socioeconomic data.

17 Q. And so the minority group in Fremont,
18 Wyoming, was Native Americans?

19 A. Yes.

20 Q. And the minority group in Lexington County
21 was African Americans?

22 A. Yes.

23 Q. All right. So how long did you work with
24 ACLU Voting Rights Project?

25 A. Twelve years.

1 **Q. And then what led to the conclusion of**
2 **that relationship?**

3 A. Well, the Southern Regional Office closed
4 in June of 2013. And I was not offered the ability to
5 stay on, but I was told that we may still would like
6 to use you. So I said sure. And that led to this.

7 **Q. Got it. That's good. And so I see you**
8 **also are an instructor at Perimeter College?**

9 A. Georgia Perimeter, yes.

10 **Q. And so you've been doing that for quite a**
11 **while as well?**

12 A. Yes. While at the ACLU, I was still able
13 to just pick up classes here and there because I have
14 a love for teaching.

15 **Q. And do you teach only American government?**

16 A. As an instructor there, yes. That's all
17 you're able to teach.

18 **Q. And that's an undergraduate-level course?**

19 A. Yes. It's a community college.

20 **Q. And are you currently just self-employed**
21 **as a consultant doing this type of work or do you have**
22 **other employment right now?**

23 A. I still -- I'm at Georgia Perimeter
24 College full-time now.

25 **Q. Okay. And are you still titled as an**

1 **instructor or assistant professor?**

2 A. Instructor.

3 **Q. Instructor, okay. So that gets us through**
4 **education and employment background. So I know you've**
5 **said that you have never testified in a Section 2 case**
6 **before, correct?**

7 A. Correct.

8 **Q. And you have never served as an expert**
9 **before, correct?**

10 A. I have, but the -- I submitted expert
11 witness document here -- report, I'm sorry. I
12 submitted a report in a Wolf Point, Montana, case last
13 year. But I was -- I have never been deposed. I have
14 never been deposed. The report was not -- there was
15 no argument over my findings, so I wasn't deposed.

16 **Q. And the Wolf Point, Montana, case, was**
17 **that a Section 2 case?**

18 A. It was a one person, one vote case.

19 **Q. And so there was no impacted minority**
20 **group; it was just a failure to redistrict?**

21 A. Yes.

22 **Q. All right. So besides the Wolf Point,**
23 **Montana, case, have you ever submitted an expert**
24 **report except for this case?**

25 A. No.

1 Q. Have you ever testified at a trial or been
2 deposed apart from an expert context?

3 A. No.

4 Q. Dr. McBride, do you have an opinion on
5 at-large voting generally?

6 A. I think in many instances it does not
7 offer the minority group in question equal opportunity
8 to elect candidates of choice.

9 Q. Now, I believe in your report you
10 mentioned that you had also done some work for the
11 NAACP at some point, is that correct?

12 A. That was the national office after leaving
13 Fair Vote.

14 Q. I'm sorry. That's right. I got mixed up
15 on my timeline.

16 You have never worked with the Legal
17 Defense Fund?

18 A. We have worked together -- well, I can't
19 really say worked together. We've conferred over
20 redistricting cases and voting rights cases, but I
21 don't think we've -- no, I have never had personal
22 involvement in us working together on one. And I
23 haven't worked for them independently, no.

24 Q. Do you know Ryan Haygood?

25 A. Yes.

1 Q. Okay. And what's your relationship with
2 Mr. Haygood?

3 A. Well, Ryan has asked me to present at
4 their Airlie conference; and we met sometime ago, more
5 friends than much else.

6 Q. I've been really impressed to see how much
7 media attention he's gotten. I've seen him all the
8 time now on Twitter and all different places, so I got
9 to know him in the Fayette case as well as I got to
10 know Mr. Cooper.

11 A. Right.

12 Q. All right. So what I want to do next, I
13 want to ask you about a journal article that you wrote
14 about Extreme Makeover: Racial Consideration. I'll
15 give you a copy in a second. But I wanted to ask you
16 specifically about Georgia versus Ashcroft. Are you
17 familiar with that case?

18 A. I've forgotten a lot of it. I've
19 forgotten a lot of it. So it may come back to me
20 while we're discussing it.

21 Q. Do you remember the discussion of
22 influence districts in Georgia versus Ashcroft?

23 A. Slightly, yes.

24 Q. Do you think influence districts are a
25 good policy method of addressing a lack of minority

1 **involvement in the political process?**

2 A. I'm not sure I have an opinion about it.
3 Originally I referred back to Lani Guinier, who did
4 not think so. And I sort of agreed that if you define
5 an influence district as what, somewhere between, I
6 don't know, low to mid-30s to low to mid-40s, are you
7 still allowing minority groups an equal opportunity to
8 elect candidates of choice; and I'm not necessarily
9 sure about that.

10 **Q. Are you aware of any political science**
11 **research or social science research that indicates**
12 **that once you get above 44, 45 percent minority in the**
13 **district that you get an equal opportunity?**

14 A. Not right offhand. I'm sure I've read it
15 but not -- I can't name you the articles or the
16 authors.

17 **Q. And so if a district is 45 percent or**
18 **higher, would you consider that a valid influence**
19 **district or would that still be a problem?**

20 A. I can't say it's valid without looking at
21 other considerations.

22 **Q. What other considerations would you want**
23 **to look at?**

24 A. Well, how many minority groups have been
25 elected in such district and are there -- is there

1 political cohesion and are nonminorities voting as a
2 bloc to try to prevent -- I would have to look at RPV
3 studies, so I would have to look at more than just the
4 percentage.

5 Q. Would you also look at registration and
6 turnout?

7 A. If that's available.

8 MR. TYSON: Okay. Let's mark this as
9 Exhibit 2, please.

10 (Defendant's Exhibit 2 was marked for
11 identification.)

12 Q. (By Mr. Tyson) Dr. McBride, I'm going to
13 hand you what I've marked as Defendant's Exhibit 2 and
14 ask you if can take a look at that document.

15 A. Okay.

16 Q. Do you recognize it?

17 A. Yes, I do.

18 Q. And what is it?

19 A. It is an article I wrote with Attorney
20 Meredith Bell-Platts for a Stanford starting
21 journal -- well, they were starting the Stanford
22 Journal of Civil Rights & Civil Liberties.

23 Q. And who is Meredith Bell-Platts?

24 A. She was an attorney that worked at the
25 Southern Regional Office of the ACLU Voting Rights

1 Project. Now she works for the Department of Justice.

2 Q. And she works in the voting section,
3 correct?

4 A. Yes, she does.

5 Q. I just wanted to ask you about two things.
6 There are page numbers down on the lower right corner.
7 It's Page 15.

8 A. Okay.

9 Q. At very top there, it begins: "A few
10 crucial questions remain unanswered. As already
11 noted, noted Georgia versus Ashcroft allows a state to
12 choose to create influence districts in order to
13 comply with Section 5 and the Court has found that
14 claims of unusually shaped districts for partisan gain
15 are nonjusticiable." So does that comport with your
16 recollection of what Georgia versus Ashcroft decided
17 about influence districts?

18 A. On that particular part, yes.

19 Q. And do you know if that's still good law
20 as far as the Voting Rights Act goes?

21 A. I don't understand your question.

22 Q. Is Georgia versus Ashcroft still a valid
23 court decision under Section 5 of the Voting Rights
24 Act?

25 A. I think it's valid. I think people still

1 have problems with the conclusions, but I can't argue
2 about it being viewed as valid.

3 Q. Okay. The only other question I have is
4 towards the very end. It's one of the footnotes, and
5 it is Page 19 on the bottom there.

6 A. Okay.

7 Q. And the Footnote 14, about halfway through
8 there, there's a list of places with alternative
9 election systems. And then there's a statement:
10 "Influence districts can be described as districts
11 with a significant minority share of the population to
12 sway or have some effect on candidates and policy
13 decision-making. The idea that blacks can form
14 coalitions with sympathetic whites has been asserted
15 as a viable remedy to enhance minority electoral
16 success or to help achieve the goal of substantive
17 representation where the policy choices of minorities
18 can be advanced by nonminorities."

19 Is that your opinion, that the idea that
20 black voters can form coalitions of sympathetic whites
21 is a viable remedy for minority electoral success?

22 A. That may have been my opinion -- it may
23 have been, but I said "has been asserted as a viable
24 remedy."

25 Q. Right. That's why I was asking. Is that

1 your opinion or are you just talking about what
2 somebody else said?

3 A. I think I recall that probably being a
4 combination of both.

5 Q. So do you believe that having sympathetic
6 white voters forming coalitions with minority voters
7 is a valid way to protect minority voting rights?

8 A. I think it can be. I can't say with all
9 certainty, but I think it can be because if you have
10 significant crossover voting then you certainly won't
11 have as strong a polarization argument.

12 Q. So, in essence, is it correct to say,
13 then, that when you're talking in this footnote or
14 generally about the idea that coalitions can exist
15 between white voters and black voters in a
16 jurisdiction you're talking about a lack of racial
17 polarization in voting?

18 A. I'm thinking that that can be asserted,
19 but here I'm advancing the notion that some see that
20 as a viable remedy. I don't think I necessarily see
21 that as some sort of a utopian concept. I don't.

22 Q. Do you think if racial polarization in
23 voting was eliminated that would be a utopian concept?

24 A. Well, if nonminorities did not vote as a
25 bloc to defeat the minority's chance of electing

1 someone of choice, then it wouldn't be a problem.

2 Q. Did you look at any sort of alternative
3 election method for this case as a remedy in Sumter
4 County?

5 A. No, I did not.

6 Q. Have you ever drawn any maps for a
7 political party?

8 A. Not for a party, no.

9 Q. Have you drawn it for a caucus or a party?

10 A. Yes. The African American or the black
11 caucus here in Georgia that was part of the 2011
12 statewide case.

13 Q. And I think we've already said this, but
14 you drew a house plan and a senate plan?

15 A. Yes. But that was in combination with the
16 Southern Coalition for Social Justice. So it was two
17 of us involved in that.

18 Q. Thank you. Dr. McBride, who first
19 contacted you about getting involved in this case?

20 A. I was working at the ACLU; so if I
21 remember correctly, I think I was informed by
22 Mr. McDonald that Reverend Wright and others were
23 interested in looking at particular issues in Sumter
24 County and then they came down that early -- that late
25 spring.

1 Q. And so that was the meeting that happened
2 about two years ago?

3 A. Yes.

4 Q. And so what I was asking was specifically
5 about this case that was filed in March of this year.
6 Were you involved with Reverend Wright and
7 Mr. McDonald throughout the period over the last two
8 years?

9 A. It stopped for a while, and then -- I
10 forgot when I was originally contacted. I want to say
11 earlier, maybe the spring of this year, I started
12 doing the polarization studies.

13 Q. And that was at whose request?

14 A. Mr. McDonald.

15 Q. And you believe that was in the spring of
16 this year?

17 A. I recall. I think so, yes.

18 Q. And do you know if Mr. McDonald was
19 representing Reverend Wright at that time?

20 A. I'm not sure.

21 Q. And you knew what Reverend Wright's
22 position on this case was, correct?

23 A. Yes, yes.

24 Q. That he was seeking single-member
25 districts in Sumter County?

1 A. Yes, yes.

2 Q. And you indicate you're being compensated
3 at \$100 an hour, correct?

4 A. Yes.

5 Q. And have you been paid in this case so
6 far?

7 A. Yes.

8 Q. Do you know approximately how much you've
9 billed so far? Ballparking is fine. You don't have
10 to be precise.

11 A. I would say probably somewhere around
12 60 hours, 60 to 70 hours.

13 Q. And do you have an expectation of how much
14 more you expect to bill?

15 A. I think it depends on this. But I think
16 after this, it's probably the trial, I imagine.

17 Q. So is your ordinary hourly rate for an
18 entity that hires you as an expert \$100 an hour or do
19 you have a special rate for government entities or
20 citizen groups?

21 A. I've only done \$100 an hour until very
22 recently, though.

23 Q. And when you say "until very recently,"
24 what do you mean?

25 A. I think my compensation has increased to

1 125.

2 Q. In this case?

3 A. All work, I think, with the ACLU.

4 Q. Now, we may have touched on this earlier,
5 but are you currently doing work for the ACLU in
6 litigated cases?

7 A. Not in litigated cases, no.

8 Q. Just in research?

9 A. In research.

10 Q. Do you have a written engagement agreement
11 with the ACLU?

12 A. In this case, yes. And in some possible
13 cases, but they're not cases yet. They're agreements
14 over compensation for the work.

15 Q. Do any of those agreements have any sort
16 of win bonus or some sort of incentive --

17 A. No.

18 Q. -- for the result of the case?

19 A. No.

20 Q. I didn't expect they would, but I have to
21 ask.

22 All right. So you have listed the facts
23 that you relied on in your report at the beginning,
24 correct? I believe those are listed on Page 2.

25 A. Under purpose, yes.

1 Q. Did Mr. McDonald provide with you any
2 facts or data that's not listed in your report that
3 you considered in forming your opinion in this case?

4 A. No.

5 Q. And did Reverend Wright provide you with
6 any facts or data that's not listed in your report
7 that you considered when forming your opinions in this
8 case?

9 A. No.

10 Q. Did Mr. McDonald or Reverend Wright tell
11 you to assume anything that you relied on when forming
12 your opinions in this case?

13 A. No.

14 Q. Have you gotten a chance to talk with
15 Reverend Wright or Mr. McDonald about
16 Reverend Wright's deposition yesterday?

17 A. Briefly with Mr. McDonald yesterday.

18 Q. And what did he say?

19 A. That it was four and a half hours and --
20 well, let's see. The timing and just a brief idea of
21 possibly what to expect today.

22 Q. I apologize. I think when I took
23 Mr. Cooper's deposition, I went up to seven hours.
24 I'm going to try not to do that today, so we'll see.

25 All right. So we've talked about

1 meetings. So you've reviewed Dr. Owen's declaration
2 in this case?

3 A. Yes.

4 Q. And did you know Dr. Owen before this
5 case?

6 A. No.

7 Q. Would you agree that Dr. Owen is an expert
8 on statistics and the Voting Rights Act?

9 A. Yes.

10 Q. All right. So what I want to do next,
11 then, is kind of walk through your report here and
12 just ask some questions about it.

13 A. Mine?

14 Q. Your report, yes, I'm sorry, Defendant's
15 Exhibit 1.

16 A. Okay.

17 Q. And some of this we've already covered, so
18 I'm going to try to abridge this a little bit. One
19 question I was going ask: The Atlanta City Council
20 redistricting hearing in 2011 at the bottom of Page 1,
21 what was the dilution of minority voting strength that
22 would have occurred in that city council plan?

23 A. They were attempting to reduce one of the
24 minority-elected council member's district. I don't
25 remember the exact figures, but it was a reduction for

1 no reason. It was just going to reduce. So I did
2 a -- I got to present to them, and they didn't follow
3 up with their original plan. So I'm asserting that I
4 may have had something to do with that. Maybe it's a
5 boast claim, but they didn't do it.

6 Q. Okay. It's good people can find out
7 problems before they happen.

8 All right. So I wanted to ask you on
9 Page 2 of the report about the socioeconomic data for
10 Sumter County.

11 A. Yes.

12 Q. And you say as it relates to black alone
13 or African American alone population, now, one of the
14 data points for the census is kind of black in
15 combination with other races.

16 A. Yes.

17 Q. Is there a reason why you focused on black
18 alone as opposed to black in combination with another
19 race?

20 A. Because much of the American community
21 survey data indicates black alone.

22 Q. Do you think that AP black or black in
23 combination with other races is useful in a Section 2
24 case?

25 A. Somewhat, but I don't -- somewhat.

1 Q. And when you say "somewhat," in what ways?

2 A. Because oftentimes there isn't a great
3 disparity. There isn't a great difference. It's very
4 minuscule.

5 Q. And so what would the benefit be if
6 there's really not that much difference?

7 A. I guess the benefit would be if you -- say
8 you're drawing and your district is 49.4 percent
9 African American alone, but you can get 50 with
10 African American and some other part. Then it's
11 helpful.

12 Q. And it would be helpful because it would
13 help you establish Prong 1 of Gingles?

14 A. I agree, yes.

15 Q. Item No. 4 of what you prepared for your
16 report, you have racial polarized voting analyses for
17 selected Sumter County board elections.

18 A. Yes.

19 Q. Did you make the selection of which
20 elections you would include in that analysis?

21 A. Yes.

22 Q. And how did you make that selection?

23 A. I opted to only look at races where there
24 was a racial contest, so to speak, where there was an
25 African American and a non-African American. And I

1 only chose endogenous elections because those are the
2 ones most probative.

3 Q. So would it be accurate to say that for
4 the period of 2002 to 2014 you selected each race
5 where there was a black/white contest for the Sumter
6 County School Board?

7 A. Yes.

8 Q. On the bottom of Page 3, you mention that
9 the Sumter County school district serves all
10 communities; and then Sumter has the list of schools
11 there. Do you remember what your source was for that
12 statement?

13 A. I think it was their Sumter County Board
14 of Education website.

15 Q. And you have a footnote there that
16 mentions that the high school is divided between two
17 schools. Do you know if all grades are at each
18 location?

19 A. No. And, again, that's coming from the
20 website. That's for descriptive purposes.

21 Q. Okay. So on Page 4, you discuss the fact
22 that Sumter County's population is 51.8 percent
23 African American alone in total population and
24 48.1 percent in voting-age population, is that
25 correct?

1 A. Yes.

2 Q. And so just out of curiosity, do you
3 encounter a lot of counties where you have a majority
4 African American on total population and not on
5 voting-age population?

6 A. It's most -- it's like that almost -- it's
7 pretty consistent as there tends to be a lower
8 voting-age population than the total population.

9 Q. True. And I guess what I was asking was:
10 Specifically for county makeups, do you find a lot of
11 counties where you have total population in VAP on two
12 different sides of the equation, on majority or not,
13 in the county itself?

14 A. As I recall it, I think so. I think so.
15 I think it's pretty consistent.

16 Q. When you were reviewing the voting-age
17 population of Sumter County, did you look at the most
18 recent estimates in the American Community Survey
19 about what the change would be in number of white and
20 black individuals or did you just rely on the 2010
21 census?

22 A. I think I indicated that in some of their
23 projected estimates -- yes, a slight decrease in the
24 county in terms of persons. But I think the African
25 American population -- I know it increased from 2000.

1 So I didn't just look at the census data. I looked at
2 their projections, too.

3 Q. And the reason why I ask is: If it was
4 48.1 percent in 2010, did you look to see whether it's
5 come over a majority in the more recent years, the
6 African American voting-age population?

7 A. I don't recall. They have some estimates.
8 And I'm thinking I would have put that in. Yes, a
9 slight increase -- on Page 6, only a slight increase
10 to 52.5 percent is estimated for the total African
11 American population in Sumter County.

12 Q. Do you think there would be a similar
13 increase in the voting-age population?

14 A. Since it's so slight, somewhat; perhaps
15 minuscule.

16 Q. But probably not enough to put it over a
17 majority?

18 A. Probably not.

19 Q. Did you look at the voter registration in
20 Sumter County?

21 A. I did not, no.

22 MR. TYSON: Mark that as No. 3.

23 (Defendant's Exhibit 3 was marked for
24 identification.)

25 Q. (By Mr. Tyson) Dr. McBride, I'm going to

1 hand you what's been marked as Defendant's Exhibit
2 No. 3 and ask you do you recognize this document or
3 know what it is?

4 A. I know what it is. I can't say I
5 recognize it.

6 Q. Okay. And what is it?

7 A. Active voters by race and gender, so I'm
8 taking it it's voter registration.

9 Q. And does it have a date to indicate when
10 this data is current?

11 A. August 2014.

12 Q. So if you turn to the third page there, I
13 think you'll see a total for Sumter County.

14 A. Yes.

15 Q. Now, I am not the world's greatest math
16 person; so I added these on a calculator beforehand so
17 I would know what these numbers were. It looks like
18 when you combine the black male not of Hispanic
19 origin, there's 2,822, is that correct, for Sumter
20 County?

21 A. I see it here, yes.

22 Q. And then for female 4,457?

23 A. Yes.

24 Q. And then when I totaled those, I got 7,279
25 individuals.

1 A. Okay.

2 Q. So I'm going to ask you to accept that my
3 number is calculated correctly.

4 A. Yes.

5 Q. Similarly, if you add the male and female
6 members of white not of Hispanic origin, I get 7,266
7 as the sum of that. So there's more black registered
8 voters in Sumter County as of August 2014 than white
9 registered voters in Sumter County in August 2014.

10 A. Okay.

11 Q. Would that have any impact on your
12 analysis at all of the racial makeup or the elections
13 in Sumter County?

14 A. I don't know about the -- it's difficult
15 to use that in terms of the elections because many of
16 the precincts in Sumter County are split. And they
17 have consolidated and merged and changed precinct
18 boundaries ever since 2002. And so you can't rely on
19 a total figure like that because, although you can use
20 census blocks and all to designate voting-age
21 population, you can't do it with registration or it's
22 going to be more problematic to do it with
23 registration.

24 Q. Could you take voter registration
25 information and geocode it to a census block?

1 A. Yes.

2 Q. And so would it be possible, then, to work
3 with voter registration at the block level?

4 A. Once you -- if you're able to get the
5 files and geocode the addresses, yes.

6 Q. And you didn't do that in this case, did
7 you?

8 A. No, no.

9 Q. Do you think it would have been helpful to
10 have the voter registration data?

11 A. It wouldn't hurt. But voting age
12 population and voter registration don't always differ
13 that drastically.

14 Q. Do they differ some?

15 A. Perhaps, perhaps.

16 Q. And how do they usually differ?

17 A. I would think that the registration, if
18 you can get registration turnout by race, it's
19 certainly better than voting-age population.

20 Q. And why is it better?

21 A. Because you actually have the race of a
22 registered person which typically, if you're looking
23 at decennial census data, that's just going to be a
24 better measure, I mean, just like turnout would be
25 better than that.

1 Q. And you did not use the registration
2 turnout data; you used the voting-age population data?

3 A. Yes.

4 Q. So when you looked at the American
5 Community Survey data for Sumter County, do you know
6 what the margin of error is for that? I know it's a
7 survey; it's an estimate. If you don't, that's fine.
8 But I didn't know if you knew what it was.

9 A. I have them indicated on all the tables in
10 the back.

11 Q. Okay.

12 A. So it's going to be -- there's a field for
13 margin of error. It's not going to be a percentage.
14 It's going to be people.

15 Q. There we go. I see that. Thank you.
16 Dr. McBride, do have any personal knowledge about kind
17 of the socioeconomic situation in Sumter County aside
18 from the census data?

19 A. Not aside -- not that much aside from the
20 data that was prepared for this analysis.

21 Q. Have you spent a lot of time in Sumter
22 County?

23 A. No.

24 Q. Have you been to Sumter County before?

25 A. I think I've been in the past, but not in

1 relation to this case.

2 Q. Okay. Do you consider yourself an expert
3 on the socioeconomic conditions in Sumter County?

4 A. I consider myself knowledgeable. An
5 expert about it specifically, I don't think I could
6 call myself that.

7 Q. Now, from the American Community Survey,
8 you looked at the education as kind of your first
9 category there. How did you select the categories
10 that you looked at from the ACS data?

11 A. I looked at previous reports where this
12 information was used in case, provided -- well,
13 previous reports from Bill Cooper, and I just pretty
14 much followed his method.

15 Q. So the categories that you selected were
16 based on the categories Mr. Cooper generally selected?

17 A. Over the course of a lot of years, yes.

18 Q. And a lot of different Section 2 cases,
19 I'm assuming?

20 A. Yes.

21 Q. So besides education, employment, income,
22 housing, and mobility access, those were all the
23 totality of the circumstances factors you considered,
24 correct?

25 A. Yes.

1 **Q. And you didn't consider any other factors**
2 **about the totality of the circumstances test?**

3 A. Not specifically. I think I mentioned --
4 but I mentioned one in a footnote, just minor detail
5 about the history of discrimination. Oftentimes it's
6 pretty much -- I don't know if "stipulated" is the
7 right word, but it's pretty much determined that
8 there's a history of racism in the former Confederate
9 states. So I did not include a lot of that
10 information.

11 I think I footnoted an encyclopedia
12 reference to a particular instance where they
13 indicated the number of, I think, slaves during a
14 particular time period. I footnoted that.

15 There's also a community there, I can't --
16 I'm not sure I'm pronouncing the name right, Koinonia.
17 But they were involved in some civil rights issues
18 there in the mid-20th Century. I think it's the
19 mid-20th Century. So I made some reference to them,
20 but I did not do a full analysis of the history of
21 discrimination. I just didn't think that it was
22 necessary.

23 **Q. So would it be accurate to say, then, that**
24 **there's no other totality of the circumstances issues**
25 **you considered except what's in your report?**

1 A. Yes.

2 Q. So now we can start getting into some of
3 the specifics on the Sumter County Board of Education
4 plan. Are you doing all right? Do you want to take a
5 break?

6 A. I'm okay.

7 Q. Okay. Take a deep breath. We're through
8 the biographical and background stuff; so now we get
9 to talk about statistics, which I don't know as much
10 about.

11 All right. Let's talk about the Board of
12 Education plan a little bit. You, first of all,
13 describe kind of the process by which everybody was
14 going to be elected. Do you know anything about the
15 Southern Association of Colleges and Schools
16 recommending the reduction in size of the Sumter
17 County Board of Education?

18 A. No.

19 Q. Okay.

20 A. I don't.

21 Q. And you know that Sumter County had nine
22 members before the new plan was put in place, correct?

23 A. Yes.

24 Q. And do you know why Sumter County included
25 two at-large members?

1 A. I don't know the history behind that
2 decision, no.

3 Q. Do you know whether the decision was
4 adopted by the Board unanimously or not?

5 A. I don't.

6 Q. On Page 12 you talked about that plans of
7 deviations under 10 percent are presumptively regarded
8 as complying with one person, one vote?

9 A. Yes.

10 Q. Is that true for court plans or just for
11 legislatively drawn plans?

12 A. I think it's -- I think it's all -- I
13 think it's all plans. At least that's how I
14 determined it.

15 Q. So it's your understanding of the law that
16 a Court could implement a plan with a deviation up to
17 10 percent and would be okay in doing that?

18 A. Yes, I think.

19 Q. Looking down at Figure 5, your Sumter
20 County Board of Education population summary, what I
21 count -- this is for the new plan, I'm assuming, is
22 that right? I'm sorry, for the current plan, the 5-2
23 plan that's currently in place?

24 A. Yes, yes.

25 Q. And so it looks like there's one

1 62 percent district on black percentage VAP, one
2 70 percent black VAP, and one that's at 43.9 percent?

3 A. Yes.

4 Q. And in that district I notice that the
5 total black percentage is higher than the total white
6 percentage, but the white VAP is higher than the black
7 VAP. Would you consider that an influence district?

8 A. Which district?

9 Q. District 4. I'm sorry. So in District 4
10 it indicates that the total white population is 44.8;
11 the total black population is 47.7, which is higher
12 than the white population; but then on the VAP
13 numbers, the white VAP is higher than the black VAP,
14 but neither are a majority.

15 A. So would I consider it an influence
16 district?

17 Q. Yes.

18 A. I'm not sure I can answer that. I'm not
19 sure I can answer that question as it being -- I'm not
20 sure I can answer that question as it being an
21 influence district based on just a percentage.

22 Q. Does the fact that the white VAP is below
23 50 percent impact your analysis at all of what's a
24 majority-minority district and what isn't?

25 A. I'm sorry. Could you repeat the question?

1 Q. So there are concepts in voting rights law
2 that -- have you heard the term a coalition district?

3 A. Yes.

4 Q. I'm trying to think what the other one
5 was. I'm sorry. There's one other kind. But,
6 anyway, when a district is 49.1 percent white VAP,
7 would that mean that it is 50.9 percent minority VAP
8 even if it's not all single-race black?

9 A. I think that's -- I think that's possible.
10 But there are other considerations, like one term,
11 non-Hispanic DOJ, which is white and black. So that
12 figure could bump to, what, 49.6 or something like
13 that. I think it's just a matter of how you derive a
14 lot of those different racial categories.

15 Q. So it wouldn't change your analysis, then,
16 of the existing plan, right?

17 A. If?

18 Q. The fact that the white VAP number in
19 District 4 is below 50 percent, that doesn't change
20 any of your analysis about who is the majority in a
21 particular district?

22 A. No.

23 Q. When you were drawing your illustrative
24 plan, which you begin discussing on Page 13, you said
25 you used census data. Did you have any political data

1 **that you used?**

2 A. No.

3 **Q. So it was just strictly census**
4 **information?**

5 A. Strictly census data.

6 **Q. Okay. What data is available at the**
7 **census block level that you mention on Page 14 your**
8 **plan was drawn at?**

9 A. All of the racial categories can be
10 delineated to the lowest level of census geography,
11 which is the block.

12 **Q. Is there any economic or other data**
13 **besides population and racial data at the block level?**

14 A. Not from the summary files I used for the
15 census, no.

16 **Q. And not for the files you used to draw**
17 **this plan, correct?**

18 A. Right.

19 **Q. You say at the bottom of 14 that you draw**
20 **the plan with traditional redistricting criteria**
21 **included. Did you ever run any compactness numbers to**
22 **measure compactness scores?**

23 A. I did not.

24 **Q. And why didn't you?**

25 A. Because oftentimes it's a -- they call it

1 an intraocular test. It's an eyeball test. And there
2 are districts that are extremely weird that the courts
3 haven't had problems with, and there are some that
4 they have. And it just becomes a subjective matter.
5 So I did not -- I did not rely a lot on that.

6 **Q. One of the things Maptitude allows is for**
7 **you to color districts or blocks by certain**
8 **demographic characteristics, is that correct?**

9 A. You can, yes.

10 **Q. You did have color-reserve data displayed**
11 **while you were drawing the plan?**

12 A. Ultimately after my first -- my first
13 draw, it's called a least change. So I'm trying to
14 draw it as close as I can to what exists. Then once I
15 work out the deviations, one person, one vote, of
16 course, I'm considering compactness and contiguity
17 because I'm not going to try -- I'm not going to try
18 to a draw a strange-looking district. And then once
19 all of those, then I may run a colorization, if you
20 will, to determine where minority groups are. But
21 that's much further down the process.

22 **Q. So would it be correct to say that when**
23 **you're first drawing a plan, what you start with is**
24 **the existing boundaries and you just adjust for**
25 **population?**

1 A. When I first draw them, yes. I do what I
2 call a benchmark plan. I want to see what it looks
3 like with 2010 or whatever census data I'm using.

4 Q. And when you have a situation like in
5 Sumter County where there's five districts and you
6 want to draw a seven-district plan, how do you work a
7 least changes plan then?

8 A. After I do the five, then wherever I can
9 try to make a change, because some of these districts
10 are going to be perhaps way over deviation. So I know
11 where I need to cut, so to speak.

12 Q. So would it be accurate to say that you
13 rerun the ideal population size for seven districts,
14 and then you see where the five districts are out of
15 kilter and then start adjusting from there? Would
16 that be accurate?

17 A. I'm sorry. Can you say that again?

18 Q. Yes. Let me try and see if I can phrase
19 that a little bit better.

20 So is it accurate to say that when you
21 start drawing a plan you put your five districts on,
22 you determine the ideal population size for a
23 seven-district plan, apply that, and then you can see
24 where the five districts need to be reduced in size?

25 A. I can try that, yes. Yes.

1 **Q. Is that what you did here?**

2 A. I did that after -- after the five, then I
3 saw where deviations were great. Then I would just --
4 actually, honestly, I just play around with as little
5 knowledge as I can before I get more specific.

6 **Q. And when you say as little knowledge as**
7 **you can, is it basically you're just looking at**
8 **population numbers?**

9 A. I'm just looking at population numbers.

10 **Q. No racial data, nothing else?**

11 A. No racial. It's going to pop up as I do
12 it. But in cores of concentrated areas, I don't want
13 to get to cutting and splitting that too much if I can
14 keep it.

15 **Q. In Figure 7 of your report, you have your**
16 **population summary for the illustrative plan you drew,**
17 **correct?**

18 A. Yes.

19 **Q. So the way I count this, it looks like you**
20 **have District 1 at 64 percent; District 5 at 75, on**
21 **black VAP 75 percent; District 6 at 54 percent. Then**
22 **you have two districts that are in the 40s as well.**
23 **District 3 and 7 are both 41.3.**

24 A. Yes.

25 **Q. And what I wanted to ask is: When you**

1 **were creating this plan, did you initially draw four**
2 **majority-minority districts or was it only ever three**
3 **majority-minority districts?**

4 A. I may have drawn four. I don't recall.
5 But oftentimes I'm drawing a number of them.
6 Oftentimes I'm drawing a number of them. So I can't
7 recall if I set out for three or if I possibly tried
8 to draw a fourth one. I just don't -- I just don't
9 know. I just -- I know that it would make no sense to
10 draw a seven-district plan and leave it at two like
11 the current plan. So I knew I was going to increase
12 by at least one or two districts if I could.

13 **Q. Do you think four majority-minority**
14 **districts is a remedy the Court could order in this**
15 **case if Reverend Wright is successful?**

16 A. Yes, I think they could. Yes, I do. I
17 mean, I think they could.

18 **Q. I also thought your deviations were**
19 **fantastic, by the way, getting down to very tight.**
20 **That's really well done.**

21 A. Thank you.

22 **Q. Did you have to split a lot of precincts**
23 **or did you even have the precincts on when you were**
24 **drawing?**

25 A. Yes. Sumter County doesn't have a lot of

1 precincts, so it's hard to not split them. And you
2 hate doing that, but it's difficult to not.

3 Q. One of the things I know that can arise in
4 a redistricting context is if you split a precinct and
5 end up only including a couple out of one precinct in
6 a district, you can have problems with voter anonymity
7 because these two people may be the only people who
8 vote in District 1 from this particular precinct.

9 A. It can happen, yes.

10 Q. Did you run any sort of analysis of the
11 precincts in this plan to ensure that there weren't
12 any anonymity issues?

13 A. I did not because I could basically see --
14 maybe around Americus -- Americus, Georgia, that's the
15 most concentrated area -- it gets a little shifty, but
16 I don't think that there are any small portions that
17 would exclude a significantly -- a significant number
18 of people to get that issue that you just -- that you
19 just brought up.

20 Q. So in the course of crafting your
21 district, I know you said you follow traditional
22 redistricting principles, how do traditional
23 redistricting principles play into your drawing
24 process, particularly in Sumter County. How did they
25 play in?

1 A. I always have to consider the one person,
2 one vote argument first, which is why it's so much
3 easier to start with the current plan the way it is
4 and to not know anything about race. So I'm not doing
5 the dot density or the coloring that you can do in
6 Maptitude because I don't -- race can't predominate my
7 factors. It can't predominate the factors. So as
8 long as I can stay away from it, I go as far as I can.
9 But you are drawing a plan for a minority member. So
10 at some point you're going to have to see -- and
11 Maptitude allows you to visualize where they are. I
12 just make sure that it's very, very late in my
13 process.

14 Q. Is it your opinion as an expert in this
15 area that if a map drawer sat down to draw a plan with
16 a blank county, colored every census block only by
17 race, turned off the precincts, and then proceeded to
18 click in each block that was a high minority
19 percentage that that would be a problem from a racial
20 predominant standpoint?

21 A. Yes.

22 Q. And why would that be a problem?

23 A. Because race is predominating your
24 process. And the courts have been very clear about
25 that issue. I think you can consider it. But if you

1 did that first, then I think that -- I don't think. I
2 know that would be a problem.

3 Q. In your contiguity discussion, you
4 mentioned that all parts of the district are connected
5 at some point. Did you use any point contiguity? Or
6 I should ask first, are you familiar with the term
7 "point contiguity"?

8 A. Yes.

9 Q. And did you use any point contiguity in
10 your plan?

11 A. No.

12 Q. On Page 17, about the middle of the page,
13 you mention the concentrated area of African American
14 population in Americus results in significantly higher
15 populations in Districts 1 and 5. And then you say:
16 "Neither district has unusually high or low deviations
17 to suggest any attempts to pack these districts, and
18 the overall deviation is well below 2 percent." Is it
19 your view that a high or low deviation is what
20 indicates packing that's improper?

21 A. I think it's -- I'll be careful how I say
22 this. I think it's defendant's view, so I ensured
23 that that's not what I'm doing.

24 Q. And when you say "defendant," the
25 government entities that draw, that have plans, is

1 **that who you're referring to?**

2 A. I refer to the opposing side, so I guess
3 I'm saying I think that's something you all may
4 assert.

5 Q. So if a district was drawn to 90 percent
6 black VAP, for example, but the deviation was
7 0.5 percent or less, would it be your opinion that
8 that's not a packed district or would that still be a
9 problem?

10 A. I wouldn't -- well, it depends on the
11 situation. But oftentimes you can have an area that
12 is densely populated with a particular minority group.
13 You're not packing. No matter how you draw that
14 district, it's going to come up that way.

15 I had that in Washington, D.C., very
16 densely populated area from -- represented by the
17 former mayor. And it was -- no matter what you did,
18 that district was over 90 percent. That's who lives
19 there. So I can't say that that's packing.

20 Q. Did you have a similar problem with your
21 Georgia General Assembly plans for house districts in
22 Fulton and DeKalb? Do you remember?

23 A. I don't -- I don't recall, but I remember
24 that plan was drawn -- it was two demographers there.
25 So there's an initial person who did the drawing,

1 sends me the files, I tweak, I move, I do that. I
2 know around areas with high or densely populated
3 minority populations, you run into -- the Atlanta
4 area, certain parts of Atlanta area. But the idea
5 around a lot of those statewide plans, it gets -- I
6 guess I don't particularly favor them.

7 It's very political because a minority
8 representative who comes from a 68 percent African
9 American district still wants that district 68
10 percent. So you run into those kinds of issues.

11 So I don't recall if that were the case,
12 but we never got fully -- we never really got that
13 deep into the plans because they never got any real
14 consideration.

15 **Q. Well, thank you. I was just curious about**
16 **your views on that, so that's helpful for me.**

17 **You also mentioned communities of**
18 **interest, core areas around different parts. If you**
19 **don't have a lot of on-the-ground knowledge of Sumter**
20 **County, what did you use to gauge communities of**
21 **interest?**

22 **A. They have a -- unlike many smaller**
23 **counties, they have a very good website; and I was**
24 **able to identify through the website activities and**
25 **interests that Sumter County residents have. And I**

1 knew that -- well, President Jimmy Carter was there.
2 And I knew his home could be an attraction or sort of
3 community. I knew about, of course, peanut farmers.
4 And on the website, I'm looking to identify those
5 kinds of concerns and where I can further do research
6 to see is this a particular community. And I did that
7 using their website, going into the program,
8 identifying the areas, and ensuring that I tried to
9 keep those areas intact.

10 **Q. And you were able from the website -- I**
11 **have never visited the Sumter County website. But**
12 **from the website you were able to determine where in**
13 **the county those particular things were happening,**
14 **peanut farming or other --**

15 **A.** Not necessarily peanut farmers. I just
16 knew that from Jimmy Carter. But I know the area
17 around Plains is widely dispersed, so I just
18 assumed -- actually, the southern part of the county
19 and around Americus, it seemed rural. I'm not sure.
20 I know that's a lot of land there. It seemed rural.
21 I was able to identify the civil rights community
22 through the website. I think I also identified things
23 like a large RV park and those kinds of things. So I
24 consider those communities of interest, although a
25 definition of it still doesn't exist. But I termed

1 that as groups that I wanted to do my best to keep
2 together.

3 Q. And then I know another consideration for
4 map-drawing is compliance with the Voting Rights Act.
5 How did you take that into account with this plan,
6 particularly in the context of a voting rights case?

7 A. In terms of there were two African
8 American districts under the existing plan. And the
9 opportunity to present an additional -- perhaps an
10 additional minority or African American district
11 where minority -- African American district where
12 minorities are given the opportunity to elect
13 candidates of choice. So we ended up with three.

14 Q. So you could increase that basically from
15 two to three?

16 A. Yes.

17 Q. And it's your opinion that on this plan
18 there are only three districts that give the minority
19 community an opportunity to elect a candidate of
20 choice?

21 A. I can't necessarily say that because under
22 those two districts where I think they're in the low
23 40 percent BVAP, minorities could possibly win in the
24 those districts. I don't know, although I'm not
25 certain. It may be very difficult.

1 Q. You would agree with me, wouldn't you,
2 that the current District 4, which the statistics are
3 on Page 12 of your report, has a black voting-age
4 population percentage that's higher than 41 percent on
5 your plans, right?

6 A. District 4, 43, yes.

7 Q. And so if African Americans have an
8 opportunity to elect a candidate of choice on a
9 41 percent district in 3 and 7 on your plan, wouldn't
10 that also hold true for District 4 of the current
11 plan?

12 A. I can't say that. I mean, I wouldn't -- I
13 mean, so many other factors go into the choices of
14 individuals, the number of candidates running. I
15 can't say that.

16 Q. So it's your testimony, then, that your
17 plan, your illustrative plan, only has three districts
18 where the minority community has the ability to elect
19 a candidate of choice, is that right?

20 A. I think it has -- I think there are three
21 districts where there's a better opportunity to elect
22 candidates of choice. But I can't necessarily exclude
23 the 41 -- the district with 41 percent.

24 Q. So just so I understand, so then would it
25 also be your testimony that on the current 5-2 plan

1 **there are three districts where the minority community**
2 **might have the ability to elect a candidate of choice?**

3 A. On the 5-2?

4 **Q. Yes.**

5 A. Because of District 4, not necessarily,
6 no. And then certainly the at-large plan, as recently
7 as this year, the candidate was unsuccessful. So I
8 certainly can't add the at-large. But you're saying
9 adding District 4 because it has 43.9 percent means
10 that minorities have an opportunity to elect
11 candidates of choice. I can't say yes to that.

12 **Q. And the reason why I'm asking is because**
13 **you mentioned that the 41 percent districts might have**
14 **the ability to elect districts on your plan, and I was**
15 **just trying to figure out would that hold true for the**
16 **current plan or not?**

17 A. It possibly can. I just can't say with
18 all certainty. I think that my ability to say yes
19 with a district -- with the three that are well over
20 50 percent -- well, not necessarily well over
21 50 percent -- create a better opportunity.

22 **Q. So would it be accurate to say that**
23 **basically going from the current 5-2 plan to your**
24 **proposed illustrative plan takes two districts where**
25 **the minority community has a better ability to elect a**

1 candidate of choice and makes that three districts
2 where the minority community has the better ability to
3 elect a candidate of choice?

4 A. Yes, because based on a lot of the results
5 that I'm sure we'll get into later, minorities are
6 more successful in districts where they are a
7 majority.

8 Q. And under your plan, though, minorities,
9 African Americans specifically, would still not be a
10 majority of the board assuming the plan voted where
11 only African Americans won majority minority
12 districts, is that right?

13 A. I'm sorry?

14 Q. Let me rephrase it. I'm sorry. That was
15 one of my long questions.

16 So on your plan, it has seven members.
17 There are three districts that have a majority
18 minority population?

19 A. Yes.

20 Q. If African Americans only were successful
21 in the districts with the majority of the population,
22 black voting-age population, they would still be a
23 minority of the Board of Education, correct?

24 A. Yes.

25 Q. And there would be, you would estimate,

1 four white members and three black members in that
2 scenario under your plan?

3 A. Likely, yes.

4 Q. All right. I'm ready to start getting
5 close to the analysis stuff, but I have few general
6 questions about Gingles. This might be a good break
7 point for us to take a quick break and then dive into
8 the specific numbers.

9 A. Okay.

10 Q. So on Page 18 of your report, you begin
11 your racial polarization analysis and you mention that
12 in Gingles there was three factors that must be
13 established to prove that an at-large election scheme
14 dilutes minority voting strength. If a plaintiff
15 fails to prove any one of those factors, what happens?

16 A. Then I don't think their claim can be
17 asserted. I don't think there's a section to claim or
18 remedy.

19 Q. And so from a plaintiff's perspective, if
20 you fail to get all three, you lose your case, is that
21 right?

22 A. I think that's the standard.

23 Q. And then after you prove those three, what
24 else has to be done, anything?

25 A. The totality of circumstances.

1 Q. Does the court ever reach the totality of
2 the circumstances test before it's completed its
3 analysis of the Gingles factors?

4 A. I'm not sure, but I would imagine they --
5 I think Gingles is first. But I think that, if I'm
6 using the term correctly, totality of circumstances,
7 it should be considered in conjunction with these
8 three prongs of the Gingles.

9 Q. On the bottom of Page 18, you say that
10 minority candidates are identified by the Sumter
11 County NAACP. What do you mean by that statement?

12 A. Reverend Wright, since I think he's the
13 chairperson of the Sumter County NAACP, I think.

14 Q. And you say they were identified. Does
15 that mean just the racial identification of the
16 candidates --

17 A. Yes.

18 Q. -- or the preference of the minority
19 community?

20 A. No, the racial identification of the
21 candidates based on the election returns.

22 Q. Okay. Did you consider analyzing a period
23 larger than 2002 to 2014?

24 A. I wanted to, but the Georgia Secretary of
25 State's office did not go past prior to 2002. And,

1 after much conversation with them, they revised their
2 website. It seemed very difficult to get that data
3 and even more so to -- even more so difficult to get
4 the precinct-level data. So then I called the County,
5 where I was also unsuccessful.

6 **Q. Unsuccessful in your attempt to get data**
7 **from before 2002?**

8 A. Yes, that and some other data that I was
9 asking for.

10 **Q. What other data were you looking for that**
11 **the County couldn't give you?**

12 A. Prior to 2010 -- Georgia passed a law in
13 2010 allowing absentee, early and advance voting
14 totals to be allocated back to their respective
15 precincts. But prior to 2010 on the election returns,
16 all of the early/advance and absentee voting totals
17 are all clumped together and they're not designated by
18 precincts. So I can't allocate those districts -- not
19 those districts. I'm sorry. I mean, I cannot
20 allocate those votes to any particular precinct.

21 So I tried to devise ways. One method was
22 to call them and say, hey, can you all provide this
23 data. The State doesn't have it. And after talking
24 with, I think, somewhere there at the Sumter County
25 Board of Elections, they said that there was no

1 standard prior to that law being passed in Georgia.
2 So they hand-did some of these totals. But they never
3 had to submit them to the State. So he said it was
4 impossible to get him that data. So I wasn't able to
5 include that in the findings.

6 Q. Was there any data that the Secretary of
7 State didn't have that you had to get from the County,
8 that you were successful in obtaining from the County?

9 A. The most recent elections, like the
10 July -- excuse me, the June or July, I can't remember,
11 runoff election. And I also received the elections in
12 March and May. I got those from the County, March and
13 May of this year.

14 Q. But all the prior years you were able to
15 obtain precinct-level data from the Secretary of
16 State?

17 A. Up until 2002, yes.

18 Q. How did you go about determining who the
19 minority community candidate of choice was in each of
20 these elections?

21 A. In looking at the estimates from
22 regression and King and identifying where a sufficient
23 number of minority members supported a candidate, I
24 identified that as the minority-preferred candidate.

25 Q. And what was a sufficient number?

1 A. It could be 50. One candidate has 50.5.
2 Some have 49, 48. And I still considered those
3 candidates of choice. One particular race has two
4 candidates that split, two minority candidates where I
5 think they split the estimates.

6 Q. So let's just talk hypothetically for a
7 minute. If you had a race where there were three
8 candidates and the allocation was 40, 40, 20, based on
9 your estimators, would you say the minority community
10 had a candidate of choice?

11 A. Were the two 40s minority candidates? You
12 said 40, 40, 20.

13 Q. Right. And you're asking the race of the
14 candidate?

15 A. Yes.

16 Q. And so it's your testimony you would need
17 to know the race of the candidate?

18 A. Well, no. I'm trying to identify whether
19 or not they are. It's not that their race is
20 important. I know that's not important. But 40/40,
21 those two 40 would then -- if they are both minority,
22 then as Grofman asserts, why can't you suggest that
23 the minorities in that community are preferring a
24 minority candidate? It's just that they're both --
25 well, he argues that they're still cohesive because

1 those two candidates are minority. His argument is
2 that you can -- why can't you clump the two 40s
3 together and say the minority in that community are
4 cohesive because they're both supporting a minority
5 candidate. That's his argument, which I don't have a
6 lot of fault with.

7 Q. So let me just make sure I understand. So
8 in a scenario where there are two African American
9 candidates and a white candidate --

10 A. Yes.

11 Q. -- and the two African American candidates
12 each receive 40 percent of the vote, of the African
13 American vote based on the estimators, they each get
14 40, the white candidate gets 20, it's your opinion
15 that both of the African American candidates are
16 preferred candidates; and so if they both lose,
17 Prong 3 of Gingles is met for that race?

18 A. Well, according to Bernard Grofman, he
19 would argue that they could be chosen as the
20 minority-preferred candidates. I don't know where the
21 courts stand with that. I don't particularly have a
22 particular issue with it. But it may be hard -- I
23 can't really say. I think they would, because the
24 minority community is certainly in support of a
25 minority candidate. It's just all of these candidates

1 are out trying to get votes. So I'm not sure if you
2 have to be 50 percent plus one absolutely designates a
3 minority-preferred candidate.

4 The courts may differ with me. But what
5 do you do if a candidate is 49 percent and no one else
6 is even close and why can't that person be a
7 minority-preferred candidate? That's a question that
8 I have. That's an issue I have.

9 Q. So, I mean, you're the expert in this
10 case. So in conducting your analysis in the scenario
11 I described with the three candidates that split it
12 40/40/20 and the African American candidates are both
13 defeated, you would have determined that both of those
14 candidates were preferred candidates?

15 A. Along with some other factors because, as
16 some other experts suggest, you cannot do
17 candidate-specific analysis. You have to look at
18 other factors, perhaps testimony or evidence from the
19 community, from the actual voters, besides just the
20 estimates from your statistics. It may require a bit
21 more investigation than just looking at a number and
22 going yes or no.

23 Q. In this case did you conduct any kind of
24 investigation like that for any races?

25 A. No.

1 Q. So let me alter my three-candidate
2 scenario. Now it's one African American candidate and
3 two white candidates.

4 A. Okay.

5 Q. The minority community is split the same
6 way, 40 percent to the African American candidate,
7 40 percent to the white candidate, and 20 percent to
8 the other white candidate. In that scenario would you
9 designate a candidate of choice of the minority
10 community?

11 A. That would be a bit more problematic in
12 that you still have 40 percent, 50, 60, 70, 80.

13 Q. I'm going to get to -- I'm sorry. It
14 should have been 40, 40, 20 is what I meant to do to
15 try to get to 100.

16 A. So the other 20 goes to a -- that one,
17 being 40 percent, I know you would have a problem
18 indicating a minority-preferred candidate.

19 Q. So in that scenario, would you select a
20 minority-preferred candidate?

21 A. Likely not. Well, I couldn't say that for
22 sure without some other investigation. I think it
23 requires more than just the estimates from the
24 statistics.

25 Q. I think that may be a good break point if

1 you want to take a quick break, and we'll take a few
2 minutes and go from there.

3 A. Okay.

4 (Recess from 11:13 a.m. to 11:29 a.m.)

5 Q. (By Mr. Tyson) Dr. McBride, now we're
6 ready to get into the statistical things here, social
7 science things. So you mentioned there were three
8 different methods you can use to determine racially
9 polarized voting in your report, correct?

10 A. Yes.

11 Q. And of the three methods, isn't ecological
12 inference the most robust method?

13 A. Yes.

14 Q. Now, on Page 20, you first, I guess, run
15 the numbers with the Goodman Single-Equation
16 Ecological Regression. And what I wanted to ask you
17 about first on that is in Figure 8 there at the
18 bottom, your Coley number on the left there for the
19 candidate, it doesn't go down to 0. Why doesn't that
20 resolve to a 0 on that axis?

21 A. I think it just takes -- well, I probably
22 needed to input that figure. But I think it just took
23 the lowest percentage and expanded to the highest
24 percentage because it doesn't go from 0 to 100. But
25 that's something that can be fixed.

1 **Q. It wasn't because you got negative results**
2 **on the regression analysis?**

3 A. It could be that as well. It could be
4 that as well.

5 **Q. If you get negative results on a**
6 **regression like this, does that mean that the estimate**
7 **is not very reliable?**

8 A. I don't think -- well, the literature is
9 broad with that. It doesn't mean it's not reliable.
10 It means they use terms -- well, terms are used like
11 aggregation bias, multicollinearity, although this
12 isn't multiple regression. It can be a lot of factors
13 that anchor your intercept below or above 100.

14 Grofman argues that one of those reasons
15 is an overabundance of -- well, a high correlation
16 between the independent variable, which is the black
17 voting-age population, and votes for a particular
18 candidate. So he's arguing that if a large number
19 of -- precincts with large numbers of African
20 Americans are voting for the African American
21 candidate, you could get these kind of derivations.
22 That's an argument he raises.

23 **Q. Is it correct to say that you don't assign**
24 **a lot of value to the single-equation ecological**
25 **regression?**

1 A. Well, lately, a lot of people -- well, the
2 debate is interesting about it. But everyone is
3 defaulting to ecological inference now when in many
4 instances EI and regression don't give you very
5 different estimates. But people have defaulted to
6 King. I go with -- I used -- and there are more than
7 three. I just used these three. But I use the ones
8 just to see how different they all play.

9 **Q. I know there's a debate in the social**
10 **science community. In your expert opinion, which one**
11 **should the Court be using in determining whether**
12 **there's racial polarization in Sumter County?**

13 A. I think they should use them all. I don't
14 think that they -- I mean, I understand that King
15 gives -- King gets more weight because King sets
16 bounds. You can't get negative numbers with King, and
17 you can't go over 100. And I think that's important.
18 I think that is important.

19 Again, I do consider Grofman's contention
20 that there are other reasons why you can get these
21 negative and these other numbers. But I just think
22 you just have to -- if you can use totality, I think
23 you just look at all of them to make some sort of
24 assertion rather than just relying on one.

25 **Q. It's correct, isn't it, that all three of**

1 these methods are really estimates, right?

2 A. They are estimates, yes.

3 Q. And so it's not necessarily a precision to
4 say we know for certain this is how things turned out,
5 but this is how we're estimating things turned out,
6 right?

7 A. Exactly, yes.

8 Q. And you have various levels of confidence
9 in the different types of analyses?

10 A. Yes.

11 Q. So what I want to ask you about on the
12 next page, Figure 9, I guess, is your output or your
13 regression analysis, is that right?

14 A. Yes.

15 Q. So just before the table, in Figure 9, you
16 say: P-values that are less than 0.05 are deemed
17 significantly significant and reject the possibility
18 that observed results would occur too frequently by
19 chance.

20 A. Yes.

21 Q. So when I look at this output, then, I see
22 a lot of P-values that are in excess of 0.05. Can you
23 explain why there isn't much statistical significance
24 on your outputs here?

25 A. In arguing the statistical significance,

1 the P-values, again, these are estimates. One of the
2 reasons why you're going to get a lot of this range is
3 because of the limited number of precincts you have.
4 You don't have a lot of observations in a lot of
5 those. So, of course, some of your results are going
6 to be deemed, if I could use this word, problematic.
7 I think it indicates that it's less reliable. I don't
8 think that it's unreliable.

9 **Q. And less reliable than what?**

10 A. Estimates where you have a greater number
11 of observations.

12 **Q. It's possible, isn't it, using the**
13 **historical election data to have the turnout by race**
14 **from Sumter County, right?**

15 A. If you can geocode those addresses
16 significantly, because everything doesn't geocode
17 well, significantly to precincts, then yes.

18 **Q. Have you reviewed the voter registration**
19 **lists or the voter lists from Sumter County?**

20 A. No. I only rely on the voting -- the
21 voting-age population from the census.

22 **Q. So if the county's voter list included the**
23 **voter's name, the district they voted in, the**
24 **precinct, and their race, would that enable you to get**
25 **a more precise estimate if you could use that**

1 information?

2 A. It could if you could get a significant
3 percentage of those geocoded. Oftentimes P. O. Boxes,
4 those kinds of things aren't going to help you.

5 Q. Well, what I'm asking is: If the county's
6 information includes the precinct, you wouldn't have
7 to geocode it, would you?

8 A. If it includes the precincts, yes.

9 Q. So if the county included the precinct
10 information, then you could get a much more precise
11 estimate?

12 A. Yes, you could. I mean, well, you could
13 get -- you could get a better estimate. I can't argue
14 if it's more precise because you're still going to
15 have the same number of precincts. I mean, you're
16 still going to have a limited number in some of these
17 races.

18 Q. Would it be correct that you wouldn't have
19 to, though, first estimate your turnout, that instead
20 you would just have to estimate -- you would have to
21 model the actual voting?

22 A. I don't understand.

23 Q. When you're building out your calculations
24 in your estimates, don't you first have to determine
25 what the turnout is, the estimated turnout?

1 A. It does that, yes.

2 Q. And then after you determined the
3 **estimated turnout, then you run your model to**
4 **determine what the vote share would be?**

5 A. It's doing it all sort of simultaneously,
6 but yes.

7 Q. Is it two separate calculations?

8 A. Well, it's two separate -- it's two
9 separate formulas, if you will. But today you don't
10 have to hand-do them. So it's presenting all this
11 data for you once you input all the variables.

12 Q. So then my question is: If you knew the
13 **exact turnout information by race, isn't that one less**
14 **formula that has to be calculated?**

15 A. I think it gives you better estimates. It
16 gives you better estimates, but it's still going to --
17 again, as you indicated, estimates, it's still going
18 to give you estimates. I think turnout -- turnout is
19 the best one.

20 Q. Would you have better confidence intervals
21 **if you had that voter turnout information by race?**

22 A. I can't say that because you still have
23 the same number of precincts. You still have very
24 limited number of precincts in some of these races.

25 Q. So when you say the Court should engage in

1 kind of a totality of the circumstances reviewed to
2 determine racial polarization in voting, does the fact
3 that most of the elections in your Figure 9 don't have
4 statistically significant P-values make any difference
5 in how much weight the Court should assign to this
6 particular method?

7 A. That's not necessarily why I indicated
8 that. Oftentimes I'm speaking to the above 100 and
9 below 0 estimates that any regression can give you.
10 It's gives you those and -- well, I'm sure we'll get
11 to that later. I think you have to look again. And
12 Grofman argues, even with these P-values and these
13 estimates, it's still good to look at other factors
14 besides the statistics alone. That can better explain
15 it because all we're trying to do is explain
16 phenomena, and this is a piece of it.

17 Q. I know Grofman says that, but did you do
18 any of that additional analysis?

19 A. No.

20 Q. And is it your opinion that it's useful to
21 do the initial analysis?

22 A. I think it's useful when you find that,
23 yes. But I didn't -- I didn't do -- I didn't do it,
24 no.

25 Q. And so would this have been a case where

1 **you would have done that to get a better picture?**

2 A. Well, it depends. A lot of this has
3 happened. I mean, oftentimes you can use something
4 like exit surveys during elections. But I didn't go
5 to Sumter County and the runoff race and perform exit
6 surveys and that sort of thing. So there's a
7 multitude of different things that you could do, but I
8 did not.

9 Q. And so on Page 23, the top there, when you
10 are saying further analysis must not be abandoned and
11 other contributing factors should be considered, are
12 you referring to these additional exit polling and
13 other things that could be done to determine the
14 connection between race and voting?

15 A. And to better explain it, yes.

16 Q. And so in determining how much weight the
17 Court should give to your regression analysis, you
18 would agree with me, wouldn't you, that further
19 analysis is required to kind of clarify these
20 statistical situations?

21 A. But there is some -- well, there is some
22 further analysis in terms of the King. But no matter
23 what measures you use in terms of statistics, you're
24 still dealing with a small number of precincts in
25 Sumter County.

1 Q. And the small number of precincts affects
2 your analysis how?

3 A. Because the lower observations you have,
4 the smaller -- the greater the standard error. And
5 that's just going to happen across -- that's just
6 going to happen. The more observations you have, the
7 less standard area you're going to have.

8 Q. And so for a layperson who's hearing, you
9 know, the term standard error, is the word margin of
10 error in a poll, for example, a corollary to that?

11 A. It is similar, yes.

12 Q. And so is it correct that -- you know, we
13 had polls, I guess, in Georgia that showed no
14 candidate getting above 50 percent for the governor's
15 race, for example, in November. But it had a margin
16 of error; and in the end, the candidate for governor
17 did receive more than 50 percent of the vote. So is
18 that an area where an estimate is at a different
19 number than within the margin of error?

20 A. Sure. And they weren't that wrong. If I
21 remember correctly, I think the governor got
22 52 percent. I think it was estimated 47 with maybe a
23 plus or minus 3. That's not terrible. But it's a
24 level of confidence.

25 Q. And so when you're coming in to Sumter

1 County and say we need to change the election system
2 that's put in place here, does the standard error tell
3 you how much confidence you have in the data we're
4 relying on to make that significant change in the
5 electoral system?

6 A. It can make that based on those particular
7 estimates and it can -- it can and the P-values and
8 even some of the standard errors in King are
9 significant. But not all of the P-values are -- a
10 good number of them are, but not all of them are,
11 particularly a lot of the ones with the African
12 Americans and the P-value estimates aren't above 0.05.

13 Q. And so I count on the first page, on
14 Page 21 there, I count 3 out of 12 on that page that
15 are statistically significant and then 4 out of 18 on
16 the next page that are statistically significant, is
17 that correct?

18 A. I'm following you, but I think so. But
19 I'd like to add that a lot of those lower values are
20 associated with the African American candidate.

21 Q. And what impact does that have on your
22 analysis?

23 A. I think it's showing -- to some degree,
24 it's showing the relationship between the independent
25 variable and the dependent variable. So it's showing

1 the relationship between the percentage of the black
2 voting-age population of a precinct and that
3 precinct's voter preferences. It's showing a
4 relationship because the regression is simply doing
5 that, indicating or attempting to indicate or answer
6 the question whether or not there is a relationship.

7 Q. And it's correct, isn't it, that when the
8 P-value is over 0.05 percent we're into then a
9 standard error that gives you less confidence in the
10 estimates?

11 A. It gives you less confidence in the
12 estimates.

13 Q. The next type of analysis you performed, I
14 guess the double-equation regression analysis that you
15 discussed on Page 23, is that correct?

16 A. Yes.

17 Q. And is that the BERA in your tables?

18 A. Yes.

19 Q. We've already discussed that you're
20 providing estimates of turnout by race using this
21 method. But you could have obtained the actual
22 turnout by race if you had consulted the county
23 records, is that right?

24 A. I suppose, yes.

25 Q. And then we have the King ecological

1 inference method is the third method, correct?

2 A. Yes.

3 Q. And you described that under the King
4 method there are bounds. What do you mean by that?

5 A. King doesn't allow you to get those above
6 100 or below 0 estimates. It has a procedure,
7 bifurcated normal distribution. It's going to cut off
8 those bounds, and it's going to place them within the
9 0 to 100. So you're not going to get a negative
10 number in King. You're not going to get an estimate
11 of 105 percent. You're not going to get that.

12 Q. Is there ever a situation where your King
13 number on a race would be above 140 percent, for
14 example, for all the candidates?

15 A. Not with King. King has a -- they call it
16 Duncan-Davis method that he uses that bounds you to 0
17 to 100.

18 Q. And if you saw a statistical report that
19 had King numbers that were over 100, what would you
20 think?

21 A. Probably it's just some specification
22 error. Maybe someone input a variable wrong or
23 something.

24 Q. At the bottom of Page 23, you mention that
25 election returns were obtained from the Elections

1 Division of the Secretary of State. And it's correct,
2 isn't it, that you also got some election returns, as
3 we discussed, from the county?

4 A. Yes.

5 Q. Did you ever consider running any
6 exogenous elections for Sumter County?

7 A. I did not. I did not. I thought -- I did
8 not.

9 Q. At the top of Page 24, you mentioned that
10 you did your analysis for the 2002 races using the
11 2000 census data and then 2004 and forward using the
12 2010 data. Why didn't you use the 20 census data for
13 the 2004 races?

14 A. I think when you get to the middle of the
15 decade, it's my understanding -- my understanding is
16 it's I guess it's a subjective matter being right at
17 almost the very midpoint of the decade. So typically
18 between 2000, 2004, I'll lean more toward the earlier
19 of the decade, 2004 maybe beyond the latter part. But
20 it's not -- I take it as more of a somewhat subjective
21 matter.

22 Q. And in this case for the 2004 elections,
23 you used 2010 census data?

24 A. Yes.

25 Q. Did you consider using the American

1 **Community Survey numbers?**

2 A. I never use that to run statistics. I
3 only use the voting-age population data because it's a
4 survey -- or at least the ACS is a survey. So it's
5 got that plus or minus at the end when you were going
6 the tables, 125 people or so. I have never run
7 statistics with ACS, not this type.

8 Q. And would your concern be that it wouldn't
9 be precise?

10 A. It would be less precise, and I think it's
11 problematic to use a survey when you have census data.

12 Q. Would it be similarly problematic to use
13 your estimates of turnout when you could get the
14 actual turnout?

15 A. I think it could give you -- perhaps one
16 would see if it's -- how different they are. But
17 oftentimes voting-age population and registration data
18 don't always yield drastically different estimates.

19 Q. But you haven't looked at the voter
20 registration information or turnout information for
21 Sumter?

22 A. No, I did not.

23 Q. All right. We'll get to the tables in
24 detail in a little bit, but I want to just talk
25 through kind of your summaries here.

1 You have A first, the May 2014 Board of
2 Elections Education District 6. And you note that the
3 African American candidate loses, but you haven't
4 referred to whether the preferred candidate of the
5 minority community lost. Why is that?

6 A. I'm not sure if I'm thinking that that
7 African American candidate is the preferred, is the
8 minority-preferred candidate. I'm not sure if I have
9 that indicated. I know it's somewhere. I'm not sure
10 if I have that indicated there. But in many of the
11 instances, many of the minority-preferred candidates
12 were African American. I think I found one instance
13 when the minority-preferred candidate was a
14 nonminority. So I think I'm just using the two
15 synonymously.

16 Q. Well, and I think this may be that
17 election. This is the election between Michael Mock
18 and Sarah Pride. And Michael Mock, I believe, is the
19 minority community's preferred candidate but is a
20 white individual?

21 A. Right, and I indicated him as the
22 minority-preferred candidate.

23 Q. So in your list here where you said the
24 African American candidate loses, that really doesn't
25 matter to the analysis because the African American

1 **preferred candidate won, right?**

2 A. In that particular instance, if that's the
3 case, yes.

4 **Q. Okay. Is there any particular reason --**

5 A. I remember one -- maybe I got -- I'm just
6 not specific there. There was one instance where the
7 minority -- that I indicated where the
8 minority-preferred candidate was not an African
9 American. So in doing the report, maybe I'm somehow
10 thinking that this was not one of those. But I know I
11 indicated that the white candidate was a
12 minority-preferred candidate. But I'm also indicating
13 I think overall and the overall picture is, I think
14 one question is are minorities winning elections. So
15 I'm indicating here one does not. So maybe I failed
16 to mention that that was not the minority-preferred
17 candidate.

18 **Q. Is it your opinion that whether minority**
19 **candidates are winning or losing is relevant to the**
20 **racial polarization analysis?**

21 A. No, because any -- any candidate can be a
22 minority-preferred candidate. I am in no way saying
23 that minority-preferred candidates have to be
24 minority. In this particular instance most of them
25 are or at least I inferred that most of them are.

1 Q. So you would agree with me, wouldn't you,
2 that for this Board of Education Election 6 that this
3 is a situation where you found polarized -- I'm sorry.
4 Strike that. I'm going to come back to that later.

5 A. And I think that should be -- I'm sorry.
6 I think that should be March 18th, but I'll mention
7 some corrections later.

8 Q. Let me skip down to Item (1) in your list
9 on Page 25, the 2002 Board of Election 3.

10 A. (1)?

11 Q. Page 25, Item (1).

12 A. Okay.

13 Q. So you have a reference that both African
14 American candidates lose, one African American
15 candidate received significant white support, and the
16 white candidate and the winner of the election has
17 significant black support. So are you saying there
18 that the white candidate and winner was the preferred
19 candidate of the minority community or were you just
20 noting that for the record?

21 A. I'm just noting that for the record. I'm
22 not sure that -- I may have to go through this. I'm
23 not sure if I made a reference to -- I did here to the
24 minority-preferred candidate here.

25 Q. Okay. Well, why don't we do this. We'll

1 get into the tables, and we'll discuss those things
2 specifically. Let me ask about the -- just a
3 follow-up on the King estimate situation. So 0 to 100
4 are our bounds. Does it change the reliability of the
5 estimates or the results if you're getting results
6 that are outside the bounds on King?

7 A. I'm still questioning getting the results
8 that are outside of the bounds. If you checked your
9 specification and you checked your variables,
10 according to the method, I don't think you're supposed
11 to get those estimates in the negative range because
12 it cuts those off with all of its iterations.

13 Q. And so if you've got an estimate that was
14 over 100, you would say that wasn't reliable, right?

15 A. Because King has a method in it that
16 doesn't allow for that. Regression does not.

17 Q. Okay. I just want to make sure. But you
18 would agree with me, wouldn't you, that if you got a
19 result that was over 100 you would consider that not
20 to be reliable if it was a King number?

21 A. I would consider there to be an error.

22 Q. Okay.

23 A. Some specification error, perhaps some
24 data input.

25 Q. I wanted to ask you, too, about on

1 Page 26, you have a statement at the bottom of that
2 first paragraph: "There are three instances where
3 black voters demonstrate some level of support for
4 white candidates, though this is rare in elections
5 analyzed and ecological regression and EI results
6 sometimes are inconsistent." I think earlier you said
7 that usually they're very similar. So when you're
8 talking about sometimes they're inconsistent, why
9 would that be?

10 A. Because you still get that. I can't help
11 but think that the number of -- the small number of
12 observations is affecting the estimates. Some of
13 these races, there are -- some of these elections,
14 there are three precincts. The ones with the most
15 precincts are the at-large elections where there's 11.
16 And you can still get high standard errors, but it's
17 more -- I mean, it's just more observations.

18 Q. In the second paragraph on that page, you
19 would say: "In most instances, white turnout is
20 higher than black turnout, but overall turnout in
21 Sumter County Board of Education races is dismal,"
22 which I think, unfortunately, is a common Georgia
23 problem?

24 A. Yes.

25 Q. But how did you determine the white and

1 **black turnout, that the white turnout was higher than**
2 **black turnout?**

3 A. It's indicated on -- well, the tables that
4 we'll get to later, as a percentage of votes cast
5 against the precinct, the white turnout in most of
6 these is higher; but overall, you don't get like --
7 well, national elections anyway, you don't get 40, 50,
8 60 in these elections. These school board elections,
9 that could be roll-off. I don't know. But the
10 turnout rates are low for both.

11 Q. Is it correct that you're modeling the
12 turnout for white and black in these races as part of
13 the estimate, right?

14 A. Yes. It's included, yes.

15 Q. Okay. I think that actually gets us into
16 the tables, so we'll dive into those. It's Appendix C
17 of Defendant's Exhibit 1. And I'm terrible about
18 keeping up with things like this, so I have a summary
19 spreadsheet I'm going to have marked and hand to you
20 kind of to use as a reference.

21 A. Okay.

22 (Defendant's Exhibit 4 was marked for
23 identification.)

24 Q. (By Mr. Tyson) All right. Dr. McBride,
25 I'm going to hand you what I've marked as Defendant's

1 Exhibit 4. I know this is a document that you haven't
2 seen before. But it's a document to help us kind of
3 walk through the summary table of the elections here.
4 So as we go through, I want us to refer to it and you
5 can tell me if it's accurate as to each one.

6 A. Okay.

7 Q. All right. So I guess we'll just start at
8 the top at the first page of Appendix C and we'll work
9 our way along here. So this first race is the
10 March 2014 District 6 race, is that correct?

11 A. Yes.

12 Q. Okay. So I want to get some understanding
13 across the top here. So when you have the different
14 categories on your table, you have your percent black
15 voter voting for each candidate, the estimate for
16 that. Then you have your percent nonblack voter. Is
17 that white voters only or is that just any who's not
18 black?

19 A. Anyone who's not black.

20 Q. Okay. Then you have two columns that are
21 90 percent HPA and 80 percent HPA. I didn't find any
22 numbers in those.

23 A. The homogeneous precinct analysis, I
24 didn't run those.

25 Q. Is that another method of determining

1 **racial polarization?**

2 A. It can be or it's used to back up your
3 estimates for regression.

4 Q. And then total votes, I understand that
5 one. Black-preferred candidate, it appears you've
6 made an "X" in the column when a particular candidate
7 is black-preferred, is that right?

8 A. Yes.

9 Q. And then you have the next column over,
10 black-preferred candidate defeated. Is there a reason
11 why you used the word "defeated" as opposed to
12 "successful" or some other formulation there?

13 A. No particular reason.

14 Q. And then you have a contest polarized that
15 indicates whether there was polarization?

16 A. In my opinion, yes.

17 Q. All right. So this first race is a race
18 where -- well, let me ask you one other general
19 question because I saw this kind of throughout.
20 There's a lot of situations where the BERA numbers
21 have just dashes there.

22 A. That's the over 100 and under 0. I didn't
23 exclude them. But to put in a figure of 137 percent
24 just in my opinion raises a different question.

25 Q. And so when you say you didn't exclude

1 **them, what do you mean?**

2 A. I mean, because the numbers bear something
3 that's not real, I didn't just not count them. Or in
4 some instances, for example, you have some
5 statisticians when they have an outlier, a precinct
6 that's way far from the observed, others that are
7 observed around the regression line, they just count
8 them out. They don't include them. I did not just
9 take anything out. I just put it there. I could have
10 very easily put the 100 or the negative something, but
11 it just didn't make a lot of sense.

12 Q. Okay. I'm sorry. I must not be
13 understanding, because it looks like there is nothing
14 there on like, for example, the nonblack voters voting
15 for candidates Mock and Pride.

16 A. No. What I'm saying is I didn't put a --
17 if that number for Michael Mock was negative 176, to
18 me it didn't make sense to put a number that's not
19 real, negative 176, in terms of this person's support
20 for nonblack candidates. It just didn't make sense.
21 So I used a dashed line. That shows the
22 inconsistencies in regression.

23 Q. And so is it accurate to say you did
24 exclude the numbers when they were out of those
25 bounds?

1 A. Well, when I say "exclude," I did not
2 exclude -- not perhaps the numbers, but the race. I
3 did not exclude that election. I didn't decide I'm
4 not going to look at it because it gives this
5 ridiculous number. Regression does this.

6 Q. I understand now. I'm sorry. I just
7 wanted to make sure I understood. So if you had a
8 regression number that was out of bounds, you still
9 included the rates; you just didn't report the
10 regression number because it --

11 A. I just didn't because it's under 0 or over
12 100. And from what I read from some other testimony,
13 sort of -- I can't remember the case, an expert that
14 had an estimate of over 100, it was almost laughable,
15 I think. So I just used the dashed line.

16 Q. Is it your opinion as the expert in this
17 case that when you have a regression number that's off
18 the charts like that that it just means that that
19 number is just completely unreliable and that's why
20 you didn't report it?

21 A. I didn't report it well. Again, Grofman
22 argues that it's showing a high correlation between
23 the precinct and the choice for voter. I just didn't
24 include it because in the world of 0 to 100 in terms
25 of preference, how can you prefer a candidate with

1 150 percent? It just did not seem -- I explained it
2 in the report, but I didn't include the number.

3 Q. I know you said that Grofman said that it
4 could still show this kind of evidence. Is it
5 accurate to say that it's your opinion in this case
6 that it isn't useful here in this race, for example,
7 because it's out of bounds?

8 A. I'm not sure. I didn't include it. I
9 have never included it in estimates that I've used
10 before. This time I thought if you include it, I'm
11 going to sit here and explain to you what negative
12 150 percent means. And if I don't include it, I'm
13 going to sit here and explain why I didn't include it.
14 So I just chose not to include it.

15 Q. Would it be accurate to say that since you
16 didn't include it that we really shouldn't be relying
17 on what anybody thinks about what it shows in a
18 precinct because you don't think it shows anything
19 that's useful enough for the Court's analysis?

20 A. I think it could. Again, I also noted
21 that you go back to other factors rather than a
22 candidate-specific analysis, but I also list the King
23 right below it.

24 Q. Did you rely in any way on the ecological
25 regression numbers that were out of bounds when making

1 your determinations about the black-preferred
2 candidate or whether they were defeated or the
3 polarization?

4 A. I'm sorry. I don't understand.

5 Q. I'm sorry. That was a long question. Let
6 me ask it a better way.

7 Because you have excluded the regression
8 numbers in some cases when they were out of bounds,
9 they're not on the table as you have listed, but did
10 they play any part in your analysis in determining
11 whether polarization existed or who the
12 black-preferred candidate was?

13 A. Not necessarily. I think I deferred more
14 so to the King.

15 Q. So it's accurate to say that the King
16 numbers are what you used to determine polarization
17 and black preference?

18 A. In this particular race?

19 Q. In all the races or was it different?

20 A. Not all of them, because there are some of
21 them -- some of them you have numbers, and the numbers
22 might -- there might be some disparity between them
23 and King which can happen, but not across the board
24 for all of these, no.

25 Q. So for each election we're going to talk

1 about whether you relied on regression or King, is
2 that right?

3 A. Or both of them. But I certainly looked
4 at both of them. I certainly considered both of them.

5 Q. So for that race, for Board of Education
6 race District 6 in 2014, did you rely on the
7 regression numbers in determining that Michael Mock
8 was the black-preferred candidate?

9 A. I relied more so on the 58 percent that
10 Michael Mock got from the King estimate.

11 Q. And you determined in this race that there
12 was no racial polarization, correct?

13 A. I think that's the one I indicated, yes.

14 Q. You don't have anything indicating it was
15 polarized? That's what I'm asking.

16 A. I think that's just an omission, but I
17 think it's mentioned either in this report or the
18 supplemental one.

19 Q. Okay. So on our little summary table
20 here, is it accurate to say you found there was
21 cohesion, the black-preferred candidate won, and there
22 was no racial polarization?

23 A. Yes.

24 Q. All right. Let's go to our next race,
25 then, 2014 Board of Education District 1. And in that

1 race we have a Ms. Green, it looks like, who is the
2 black-preferred candidate who was successful. You
3 found there was polarization, is that correct?

4 A. Yes.

5 Q. Hold on just a second. Let me see if I've
6 got my races right.

7 A. You're on May 20, 2014?

8 Q. May 20, 2014, yes. Okay. So did you rely
9 on the regression numbers or the King numbers or both
10 in making your determinations in this race?

11 A. I have both for Green and particularly
12 Elaina Lockhart.

13 Q. Is that because the numbers were so
14 similar for Lockhart?

15 A. Well, they are similar and I don't have
16 dashes for Green or -- for Allen Smith, there is an --
17 well, a number of probably below -- well, negative --
18 below 0 or above 100 for Allen Smith. But the King
19 estimates all look pretty consistent with -- except
20 for Green, though, for the nonblack voters voting for
21 candidate.

22 Q. But this is a case where the
23 black-preferred candidate succeeded, correct?

24 A. Yes, yes.

25 Q. Okay. Dr. McBride, are your King numbers

1 **always going to total up to 100 percent?**

2 A. They can come -- they should come close,
3 unless, again, these estimates -- and, again, these
4 estimates are -- there are some problems with the
5 number; but they typically get pretty close, I think.

6 **Q. Okay. But they would never exceed 100?**

7 A. I'm not necessarily sure about that
8 because of the standard errors.

9 **Q. So there can be situations where King**
10 **would exceed 100?**

11 A. I don't think -- if there are estimates,
12 it doesn't appear to me that they -- that they should
13 exceed 100. But, again, I'm looking at the number of
14 observations and the iterations that the -- the model
15 doesn't -- should not do that. But I can't say with
16 certainty that it can't.

17 **Q. Okay. But if it does, that would indicate**
18 **that there was a problem with the model or would it**
19 **mean the number was not reliable?**

20 A. I won't say the number is not reliable.
21 Again, there could be some issue with some
22 specification. Maybe there's some issue with the
23 input, maybe a data, a variable is input wrong,
24 something.

25 **Q. Well, the reason why I ask is, if you run**

1 down the King totals for the percent nonblack voters
2 for candidate, the 26.2 plus 14.6 plus 60.6, I get
3 101.4 --

4 A. Okay.

5 Q. -- as the total King number in that
6 scenario. And that's in excess of 100, right?

7 A. Yes. But each of these estimates also
8 have and you asked me to bring the output that shows
9 the standard errors as well.

10 Q. Is there a reason why you didn't include
11 your standard errors?

12 A. It was just an omission on my part.

13 Q. Okay. Since you have your outputs, maybe
14 over our lunch break or something do you think we
15 could get the standard errors and put them in as part
16 of your testimony or are they difficult to get?

17 A. I don't understand what you mean by "put
18 them in."

19 Q. Well, so when we say the May 2014 BOE 1,
20 the standard error for this number is "X," for this
21 number is "X," is that a difficult proposition?

22 A. It shouldn't be.

23 Q. Okay. We can revisit that. So it's your
24 testimony, then, that the standard error in the
25 estimate would take a King number over 100?

1 A. I'm not sure that it would. I have never
2 really looked that deep into it. I can't say for sure
3 yes or no.

4 Q. All right. So let's go to May 2014
5 District 2. And this is one I know we'll revisit a
6 little bit later because of the 50.5 number. This is
7 a situation where you found that there was
8 polarization in voting and that the black-preferred
9 candidate was defeated, is that correct?

10 A. Yes.

11 Q. And this is also a race, isn't it, where
12 the percent nonblack voter King numbers add up to more
13 than 100 percent, right, 30 plus 60 plus 13?

14 A. Yes.

15 Q. Is there a reason why the black voter King
16 numbers don't add up to 100? So I get 75 plus 8, I
17 guess, what is that, 83 percent roughly, 83.6?

18 A. Again, it could be a measure with the
19 standard of errors. I don't -- I don't know.

20 Q. Okay. Would your confidence in the 50.5
21 number for Ms. Pride be impacted by the standard error
22 at all?

23 A. It could be. It just depends on the
24 range. It could be.

25 Q. If that range could take that number down

1 below 40 percent in the standard error, would that
2 change your analysis about whether she was the
3 black-preferred candidate and whether the content was
4 polarized?

5 A. It possibly could. But, again, the number
6 of observations here is really affecting the results
7 of the analysis.

8 Q. And so can you describe for me a little
9 bit the number of observations affecting the analysis.
10 It's affecting the reliability of the analysis, that
11 it's not necessarily reliable?

12 A. It's affecting the estimates. It's
13 affecting the estimates. Again, less confidence or --
14 how can I say it. Less reliable but not necessarily
15 unreliable. It's just less reliable. And that's -- I
16 can't find a way to quantify that any better.

17 Q. Okay. You would agree with me, wouldn't
18 you, that it's the plaintiff's burden in this case,
19 right?

20 A. Yes.

21 Q. So let's go to Board of Education
22 District 3. And this is a race where you found
23 polarization and found that the black-preferred
24 candidate was defeated, right?

25 A. Yes.

1 Q. Okay. And Ms. Fitzpatrick was the
2 preferred candidate?

3 A. Yes.

4 Q. And I just wanted to ask how you made the
5 determination on preference because both J.C. Reid and
6 Ms. Fitzpatrick indicate having over 50 percent black
7 voting percentage in the race?

8 A. I went with the candidate that seemed --
9 well, there's going to be some error here because it's
10 over 100; but I went with the candidate that had the
11 greatest number.

12 Q. Okay.

13 A. Again, I would -- I guess after lunch I
14 will have looked at the standard errors there.

15 Q. All right. And then for Ms. Green in
16 2014, Board of Education 5, it looks like it was --
17 let's see. We have the black-preferred candidate was
18 successful in that race, right?

19 A. Yes.

20 Q. All right. BOE at-large, two-year from
21 May 2014, and this one we have Mr. Coley was the
22 black-preferred candidate and he was successful,
23 right?

24 A. Yes. Well, whether you're going to regard
25 that as success, that led to the runoff. So did he

1 win the election? He's in a runoff. So I can't
2 really say that he's -- he wasn't defeated, but he's
3 in a runoff. So it's one of those situations.
4 Because the 1584 and the 1575, Roland and Coley, led
5 to that June or July runoff.

6 Q. In your expert analysis, do you consider
7 this race to be relevant to the question of racial
8 polarization in voting?

9 A. I think it's relevant. But as a footnote,
10 it's a runoff race. And then he's going to lose in
11 the runoff.

12 Q. When you're performing a racial
13 polarization analysis, do you ever consider the
14 results of partisan primaries along the way to the
15 general election because sometimes people can win a
16 partisan primary but then lose a general, right?

17 A. Right, right. But I didn't here, no.
18 Sometimes I have, but I haven't here.

19 Q. So would that be similar to this scenario,
20 though, where you can have success at one level but
21 then none at the next level?

22 A. But these aren't all individuals within
23 his same party.

24 (Recess from 12:15 p.m. to 12:16 p.m.)

25 (The record was read by the reporter.)

1 Q. (By Mr. Tyson) Dr. McBride, I apologize
2 for that brief recess.

3 So in this scenario where you have an
4 election and then a runoff, would you view that as
5 akin to a primary and a general election scenario
6 where you would need to look at both?

7 A. I think you -- yes, I do. I think you
8 need to look at both, and I indicate that the
9 black-preferred candidate was not defeated because he
10 is in a runoff so it's not like he lost. But in
11 looking at this and then looking at the race that
12 comes two years later -- two months, a month or so
13 later, this isn't a primary where he's running against
14 members from his same party. It's a general election.
15 And the votes are so close, although he does have the
16 plurality votes, he does have that, I considered this.
17 But if I had to weight, I'm going to weight, I weight
18 the runoff election heavier.

19 Q. So it's your testimony, then, that this is
20 an example where Gingles Prong 3 isn't met, but it is
21 of not much weight?

22 A. Gingles Prong 3 isn't met?

23 Q. Well, because the black-preferred
24 candidate wasn't defeated.

25 A. But he doesn't win either. So he didn't

1 win or he -- he didn't win or loss. It's sort of a
2 stalemate because we have to do it again.

3 Q. So should this election be excluded from
4 your analysis?

5 A. Everything I looked at I placed in the
6 report. I didn't exclude anything. So I think you
7 have to look at -- anyone would have to look at what
8 happened to lead to the runoff. So when you see it's
9 a runoff election, the next question is going to be,
10 well, what happened in the general election.

11 So the general election results are here,
12 and he did win in the general election. He did win in
13 the general election, and there's significant minority
14 support for him in the general election. There are
15 also, what, four candidates. There are also four
16 candidates. So I have to add it in conjunction with
17 the next one.

18 But to say that he won and then just tag
19 it under this is a minority-preferred candidate that
20 won in a race, I can't do that because he hasn't
21 really won. It's almost like you have to take this
22 and the runoff in conjunction.

23 Q. So for purposes of the Court determining
24 what to do in this scenario, it's your testimony,
25 isn't it, that this is an example this race should be

1 included because it shows racial polarization,
2 Prong 2?

3 A. Yes.

4 Q. And then if it is being included to show
5 racial polarization under Prong 2, shouldn't it also
6 be included to show that the black-preferred candidate
7 wasn't defeated under Prong 3?

8 A. I have trouble with that because he wasn't
9 defeated, but he didn't win either. It's a -- it's a
10 draw in a sense. So if this race were a tie, how
11 would I record that? If it's racially polarized
12 voting and they both have the same number of total
13 votes that ended in a runoff, how do I say he lost or
14 do I say he won?

15 Q. If you and I were in a primary election
16 against each other and you won the primary and then
17 went on to lose to Dr. Owen in the general election,
18 would we in doing an analysis of racial polarization
19 and jurisdiction exclude our primary election because
20 you ultimately lost?

21 A. I don't think you exclude it. But in that
22 primary election, were you also included in that
23 primary with me?

24 Q. Yes. The scenario would be the two of us
25 are in the primary.

1 A. Okay.

2 Q. You're successful.

3 A. No one gets a majority, okay.

4 Q. You go to the general election against
5 Dr. Owen. She's successful. I would say the same
6 thing about our primary, that ultimately you didn't
7 win the election, so should we include that election
8 in an analysis?

9 A. But in your analysis it was you and I and
10 I defeated you. In here, his runoff is with someone
11 that's in the very race that he won in, unlike the
12 situation where you gave and I go in a race with
13 Dr. Owen. Dr. Owen wasn't included in the primary
14 with you and me. So it's like you and I get to do it
15 over again with the exclusion of two other candidates.

16 Q. So it's your testimony, then, that this
17 contest is relevant for purposes of Prong 2 and really
18 isn't relevant at all for purposes of Prong 3?

19 A. My testimony is that it's relevant. I
20 think it's relevant to look at all of the
21 circumstances here because it's going to lead to a
22 runoff. I can't say that he won and I can't say that
23 he lost. Neither can I say that with reference to
24 Patricia -- well, not Patricia -- Sylvia Roland. I
25 can't say there's a winner or loser here. He has more

1 votes than the other one. But if he really won the
2 election, why do we have a runoff? I can't say he
3 won.

4 Q. Well, let's move on to our four-year
5 at-large. This is one where there was a black
6 preference, and that candidate was defeated, correct?

7 A. Yes.

8 Q. Okay. So that leaves us to our runoff
9 that we've been discussing. So July we have the
10 two-year at-large runoff. In that election Mr. Coley
11 was the preferred candidate and he was defeated,
12 correct?

13 A. Yes.

14 Q. So then we go to 2010, District 3. And
15 this is a race where there is a clear black
16 preference; but the black-preferred candidate
17 succeeds, correct?

18 A. Yes.

19 Q. Okay. Then in 2008, Board of Education
20 District 1, this is another example where the
21 black-preferred candidate succeeds, correct?

22 A. Yes.

23 Q. Then in 2006, Board of Education
24 District 3, this is a scenario where the
25 black-preferred candidate is defeated, correct?

1 A. Yes.

2 Q. And let me just ask you, in that one do
3 King numbers on the black voter percentage for Harris
4 and Seay total to 136 percent, 137 percent?

5 A. I see it, yes.

6 Q. So your testimony is you don't know what
7 that means until you come to the standard error?

8 A. I'm pretty sure there's a -- I'm almost
9 certain there's a high standard error there.

10 Q. Okay. So we'll take a break shortly to
11 let you look at that in a little bit.

12 A. Okay.

13 Q. Then 2002, Board of Education District 3,
14 so this one there's not polarization, correct?

15 A. Yes.

16 Q. Actually, let me go back to the 2006 Board
17 of Education 3 real quick, I'm sorry. I have one more
18 question on that prior one. You found the race was
19 polarized, 2006 Board of Education 3, Page 51?

20 A. Yes.

21 Q. Okay. You found the race was polarized,
22 but there's this kind of out-of-bounds King number
23 that's happening?

24 A. Yes.

25 Q. So how did you determine polarization in

1 **this particular race?**

2 A. Because for the percent black voter voting
3 for the candidate, Darius Harris has a significant
4 King and BERA number; whereas, Donna Minich has a
5 significant King and -- well, definitely BERA, but
6 King as well as -- has a significant King and BERA
7 number. So I think in terms of the polarization, it
8 is showing a difference between black and white voter
9 preferences.

10 Q. And then in 2002 it looks like the same
11 people, the same candidates, are all running in that
12 race apparently?

13 A. Okay.

14 Q. And in this race, you have the
15 black-preferred candidate being defeated; but I'm a
16 little confused as to why because on the King numbers
17 it looks like Ms. Minich has the highest King number
18 for black voters, I mean.

19 A. Has the highest -- Minich has 41.

20 Q. 41. Ms. Seay has 24 and Mr. Harris has
21 35. So of the three of them, Ms. Minich received the
22 largest proportion of the black vote according to the
23 King number?

24 A. According to the King number. And then
25 it's almost flipped with reference to the Carolyn B.

1 Seay numbers.

2 Q. I don't understand flipped. What do you
3 mean?

4 A. By flipped, it's different. I mean,
5 Carolyn B. Seay has -- the black candidate has 46.5
6 BERA, 24.3 King; and then Donna Minich 30.8 BERA, 41.0
7 King. Then the other black candidate has 22 and 35.
8 I relied more so on the Carolyn B. Seay as being the
9 black-preferred candidate more so than Minich there.

10 Q. Why did you make that reliance?

11 A. Because when I look at the percent
12 nonblack voters voting for a candidate, there's almost
13 a consistent pattern with -- well, not consistent, but
14 there is nonblack voters voting for Donna Minich. And
15 I'm thinking, well, I guess it's just a judgment call
16 because of the estimates. And I just -- I indicated
17 Carolyn B. Seay because of the BERA. I just put more
18 weight on the regression estimate there.

19 Q. If it's a judgment call, could someone
20 reasonably say that Donna Minich was the
21 black-preferred candidate in that race?

22 A. I'm sure you can, yes.

23 Q. And if Ms. Minich was the black-preferred
24 candidate, she would have been successful, wouldn't
25 she?

1 A. If she were the black-preferred candidate,
2 she would have been successful, yes.

3 Q. The third prong of Gingles is that the
4 white community votes as a bloc to usually defeat the
5 minority community's preferred candidate, correct?

6 A. Yes.

7 Q. Do you feel like any of the numbers here
8 on the nonblack voters shows the white community
9 voting as a bloc? I don't see any over 50 percent on
10 any of the calculations for nonblack voters in that
11 race.

12 A. But I also stated that the contest wasn't
13 polarized.

14 Q. So it doesn't meet Prong 2?

15 A. So it does not meet -- Prong 2 is
16 cohesion.

17 Q. I'm sorry. You didn't find any evidence
18 of polarization. So I guess then my question is: How
19 did you find evidence of cohesion if you can't find
20 evidence of polarization?

21 A. Because I'm looking at -- again, I'm going
22 to Grofman's assertion that when you have two minority
23 candidates, that's showing significant support from
24 the minority community that there's a vote preference
25 there because there are two minority candidates. And

1 I know that's questionable, but I considered that in
2 this whole discussion.

3 Q. So for the 2002 Board of Education Race 3,
4 you would agree with me, wouldn't you, that it's
5 questionable at best whether or not the
6 black-preferred candidate was defeated?

7 A. Questionable, yes.

8 Q. And it's very possible that the
9 black-preferred candidate succeeded, right?

10 A. It's a matter of looking at the estimates,
11 yes. And I think it's going to require more in-depth
12 analysis.

13 Q. And you didn't perform a more in-depth
14 analysis about this race, did you?

15 A. No.

16 Q. So, Dr. McBride, then, as far as the
17 matter of counting up whether the black-preferred
18 candidate won a race or not, the way I've counted this
19 is that the black-preferred candidate succeeded in
20 2014 District 6, 2014 District 1, 2014 District 5,
21 we'll leave aside the at-large original election
22 because I know we've talked about that one. But then
23 the black-preferred candidate also succeeded in 2010
24 District 3 and 2008 District 1. Do you agree with me
25 about that?

1 A. Is that five?

2 Q. That's five.

3 A. Yes.

4 Q. And then, as we discussed here, there's
5 some question about whether or not the black-preferred
6 candidate really succeeded or not for 2014, the
7 two-year at-large, correct?

8 A. Yes.

9 Q. So that's a possibility. But that's up
10 for debate?

11 A. Up for debate.

12 Q. Okay. And then as we talked about the
13 2002 District 3, you said it's kind of questionable at
14 best that the black-preferred candidate was defeated.
15 So it's possible the black-preferred candidate
16 succeeded in that race, too, isn't it?

17 A. Based on the estimates, yes.

18 Q. So that would give us six, maybe seven
19 races where the black-preferred candidate succeeded,
20 correct?

21 A. With those questionable ones, yes.

22 Q. And that's out of the 12 elections you
23 analyzed, right?

24 A. Yes.

25 Q. So you would agree with me that at the

1 very least, I guess 5 out of 11 if we exclude the
2 two-year at-large, 5 out of 11 races that you analyzed
3 the black-preferred candidate succeeded and possibly
4 as many as 7 out of 12, correct?

5 A. 5 out of 11?

6 Q. If I exclude the 2014 two-year at-large,
7 that would take that original race out. We just have
8 11 races you analyzed?

9 A. Okay.

10 Q. So if we did that, you would have 5 of 11
11 races where the black-preferred candidate succeeded,
12 right?

13 A. Yes.

14 Q. And then if we put that race back in as a
15 questionable one and had the 2002 District 3 as a
16 questionable one, then we would have possibly as many
17 as 7 out of 12 where the black-preferred candidate
18 succeeded?

19 A. If it can be determined that those
20 candidates that you're -- those candidates that won
21 were minority-preferred candidates. That's still
22 questionable.

23 Q. And your report doesn't totally determine
24 that with certainty, right?

25 A. As certain as I can do it, yes. As

1 certain as my -- my looking and analyzing these races
2 and looking at all of the factors, I stand by the 5
3 out of 11 or 12, because that runoff is still out
4 there.

5 Q. And that is kind of still dependent on you
6 looking at why some of the King numbers were out of
7 bounds, is that right?

8 A. And if I can ascertain those errors and
9 those bounds over ten 0 to 100. But the estimates can
10 still be deemed problematic.

11 Q. Is it ultimately inconclusive, then?

12 A. No. I would not say it's inconclusive.
13 There is a problem in the fact that there are so few
14 precincts. And with so few precincts, I don't think
15 that you forego a voting rights claim simply because
16 there aren't 30 or 40 precincts.

17 So some of the BERA estimates are going to
18 anchor those intercepts above 100 and below 0. So do
19 you disclude that, no. I think that you consider that
20 along with a lot of other factors, maybe factors that
21 I didn't include in this time frame, but certainly
22 maybe some things that can be ascertained by other
23 voters in the community. The minority community in
24 question, I don't know.

25 But as Grofman asserts, it doesn't have to

1 be a candidate-specific looking at the numbers and
2 then determining okay, that's it, because there are
3 other players involved here. There are other factors
4 involved here.

5 Q. And what I'm asking is: You, obviously,
6 are the plaintiff's expert in this case; and it's the
7 plaintiff's burden to demonstrate that all three
8 prongs of Gingles are met, correct?

9 A. Yes.

10 Q. And so what we've discussed here is a
11 report that has several questionable items, several
12 uncertain items. And what I'm asking is: With the
13 standard errors factored in with these questionable
14 things that are there, how has the plaintiff
15 conclusively carried his burden under Prong 3 and
16 Prong 2 of Gingles?

17 A. In the belief that there are enough --
18 that's enough there, unless it's determined that your
19 number 7 out of 11 is accurate and correct, which is a
20 matter of debate. We're doing that now. If in enough
21 elections we've shown that minorities are cohesive and
22 then, third, that nonminorities vote as a bloc to
23 prevent minorities from winning and we determine that
24 5 out of 11 the minority candidate was successful,
25 then I don't see how we haven't made or asserted our

1 claim.

2 But it's also important to note that in
3 these races where the minority wins, a lot of -- those
4 what, four out of five of those races are in
5 majority-minority districts.

6 Q. Well, we'll talk about that in a minute.
7 But I want to ask about the -- so it is your
8 understanding of Gingles that if your report -- let's
9 set aside this report and let's just say your report
10 demonstrated that in 7 out of 11 races the
11 minority-preferred candidate succeeded that you
12 analyzed. Would you understand that to mean that
13 Gingles Prong 3 had not been met for the jurisdiction?

14 A. I wouldn't if -- if I had found that 7 out
15 of those 11 or well over a majority of them did not
16 meet those conditions, I don't -- I really don't think
17 we would be here.

18 Q. And would that be because Prong 3 wasn't
19 met?

20 A. It would be because -- well, if we get to
21 a definition of what usual is, then that would come
22 into play. But usual isn't 100 percent either. So
23 it's not like we have to stand here or sit here and
24 prove that all 11 or 12 races were that case. So then
25 I imagine later we'll get into a conversation about

1 what usual is. But right now, I stand by those 5 out
2 of the 11. The 7, it's debatable.

3 **Q. The 7 is debatable as to whether Prong 3**
4 **is met?**

5 A. Well, we're talking about the minority
6 candidate. Those other two races you're indicating
7 the minority candidate being the preferred -- not the
8 minority candidate, whomever is the minority-preferred
9 candidate. And you have a BERA number saying one
10 thing and you have a King number saying one thing and
11 we've got to ascertain standard errors and then get
12 the numbers within 100 and all of that. I stand by
13 the five.

14 **Q. And what I'd like to ask you to do is step**
15 **back from your report for a minute and let's say there**
16 **was a report where you had showed conclusively to your**
17 **satisfaction that 7 of the 11 races that you analyzed**
18 **had the minority-preferred candidate succeed. In that**
19 **scenario is it your expert opinion that Prong 3 of**
20 **Gingles is met or is it not?**

21 A. Out of those elections and that's all I
22 looked at, if 7 of those elections had the
23 minority-preferred candidate winning, I would have to
24 look at a lot of other things. I would have to look
25 at the districts that they won in and those kinds of

1 things. I can't really say. It's a hypothetical. I
2 can't really answer.

3 Q. If 10 out of 11 in the report showed
4 conclusively the minority-preferred candidate was
5 succeeding, would you say Gingles Prong 3 in your
6 opinion was met or not?

7 A. If it was 10 out of 11, I would doubt we
8 would have -- it seems to me it would be problematic
9 to even have this litigation.

10 Q. Well, my question is: As an expert, is it
11 your opinion that Prong 3 would be met or not if the
12 analysis showed in 10 out of 11 elections analyzed the
13 minority-preferred candidate succeeded?

14 A. If 10 out of 11 the minority-preferred
15 candidate succeeded, I'm not sure I could answer that.
16 I'm not sure. I'm not sure.

17 Q. And you can't answer it because why?

18 A. Because I'm dealing with a hypothetical.
19 I'm not looking at the -- I'm not looking at all the
20 circumstances. Right now we're just looking at a
21 number. And it's all hypothetical. I can't answer
22 it.

23 MR. TYSON: All right. Let me mark this.
24 (Defendant's Exhibit 5 was marked for
25 identification.)

1 Q. (By Mr. Tyson) Dr. McBride, I'm going to
2 hand you what's been marked as Defendant's Exhibit 5
3 and ask you if you have seen that document before?

4 A. Yes, I have.

5 Q. And what is this document?

6 A. That is response to defendant's expert
7 report that I prepared.

8 Q. And so this is the response that you
9 prepared to Dr. Owen's report?

10 A. Yes.

11 Q. I wanted to just walk through this with
12 you and ask a few questions. On the first page there,
13 you say there is no issue with Thornburg versus
14 Gingles and the three factors used to determine the
15 existence of minority vote dilution.

16 A. Yes.

17 Q. What do you mean about there is no issue
18 with Gingles?

19 A. Well, I mean there's no argument over
20 these are the three things that we have to consider.

21 Q. Got it. So we all agree we're at least on
22 the same legal footing?

23 A. Yes, there's no question about that.

24 Q. That's good. In second paragraph on
25 Page 2, you say: "However, in an effort to take a

1 **totality of the circumstances approach required by**
2 **Thornburg versus Gingles, I used not only statistical**
3 **evidence but also socioeconomic and historical**
4 **evidence to provide a more concise and broader view of**
5 **the possible hurdles faced by black voters in Sumter**
6 **County that may provide more explanation than**
7 **statistics alone." But you would agree with me,**
8 **wouldn't you, that the totality of the circumstances**
9 **doesn't mean anything if you can't show Gingles 1**
10 **through 3, right?**

11 A. Well, I can't say it doesn't mean
12 anything. I just consider it along with it. Maybe
13 there's more weight to the Gingles, but I can't say it
14 doesn't mean anything.

15 Q. So do you believe a Court gets to the
16 **totality of the circumstances before it finishes its**
17 **review of Gingles 1 through 3?**

18 A. I would hope they do.

19 Q. But you don't know?

20 A. I don't know for certain, no.

21 Q. Okay. On the bottom of Page 3 along that
22 **same line, you say: "Although Dr. Owen addresses only**
23 **statistical issues, I rely on statistics and the**
24 **totality of the circumstances approach." Why do you**
25 **feel like the totality of the circumstances approach**

1 is important when looking at Gingles 1 through 3?

2 A. Well, I think I'm stating that I'm not
3 just looking at Gingles. I'm also using those Senate
4 factors in my whole analysis of this entire thing. I
5 think that's what totality is.

6 Q. So is it your criticism that Dr. Owen
7 didn't look at the remaining Senate factors and just
8 looked at Gingles 1 through 3?

9 A. Well, I'm not necessarily criticizing her.
10 I'm just telling you what I did.

11 Q. So getting to Page 5, a discussion that
12 you very well anticipated earlier, "Dr. Owen furthers
13 her method of testing the Gingles factors by stating
14 that if the third prong, usual defeat of
15 minority-preferred candidate by a bloc of Anglo or
16 white voters, is not met, then black vote dilution is
17 not present," do you disagree with that first sentence
18 of how Dr. Owen stated the third prong of Gingles?

19 A. I'm sorry. Where are you?

20 Q. I'm sorry. Page 5, very top of the page.
21 And my question is: Do you agree or disagree with
22 just the first sentence?

23 A. I think I agree.

24 Q. Okay. You think you agree or you agree?

25 A. I mean, I agree. I understand Gingles.

1 Q. Okay. So then the next thing is the
2 definition of usual. And using most of the time or in
3 most cases a condition that occurs more often than not
4 is the definition that Dr. Owen gives. Do you have a
5 different definition of usual that would apply in
6 Gingles?

7 A. No.

8 Q. So you would agree with Dr. Owen that if a
9 condition occurs more often than not, it's usual?

10 A. More often than not, yes.

11 Q. Okay. Let me just depart from your
12 response just really quickly to get part of Dr. Owen's
13 report in. I want to ask you about a specific
14 statement she made.

15 (Defendant's Exhibit 6 was marked for
16 identification.)

17 Q. (By Mr. Tyson) So I'm going to hand you
18 what's been marked as Defendant's Exhibit 6. Leave
19 Exhibit 5 open because we're going to come back to
20 that. But, if you can, just look at Exhibit 6 and
21 tell me if you have seen that document before.

22 A. Yes.

23 Q. And what is that document?

24 A. Expert report of Karen L. Owen.

25 Q. And that's the expert report that Dr. Owen

1 **filed in this case?**

2 A. Yes.

3 Q. So if you could flip over with me to
4 Page 4, I just want to ask you about Dr. Owen's
5 description of how Gingles 2 and 3 interact. So
6 Dr. Owen explains in the middle of the page there
7 about halfway through the second paragraph: "The
8 first question is Gingles Prong 2. Is there an
9 obvious candidate of choice for black voters? If that
10 condition is met, then we proceed to determine whether
11 the electorate was racially polarized for that
12 election. If the condition is not met, then evidence
13 of black vote dilution is not present." Do you
14 disagree with that approach to Gingles?

15 A. Not necessarily, no.

16 Q. So you would agree with Dr. Owen that if
17 you cannot identify a candidate of choice for black
18 voters, then Gingles Prong 2 is not met?

19 A. Well, my problem is with "obvious
20 candidate of choice" because I think that's what we've
21 been arguing over -- well, not arguing, but
22 discussing.

23 Q. So let's take the word "obvious" out and
24 say would you agree that if there was not a candidate
25 or choice for black voters, then there is not vote

1 **dilution present in that election?**

2 A. I can't really answer that because, again,
3 a good amount of time has been spent trying to
4 determine the minority-preferred candidate when
5 someone has different estimates based on regression
6 and King. And so based on that -- and the numbers can
7 somewhat switch or change depending. I don't know if
8 I can really answer that.

9 Q. **So what would be your understanding, then,**
10 **of how you determine whether Gingles Prong 2 was met**
11 **or not?**

12 A. I agree with a minority-preferred
13 candidate. I understand that. I think the question
14 is arriving at that minority-preferred candidate.

15 Q. **Let's assume we all have a clear easy way**
16 **to identify a minority-preferred candidate. So**
17 **assuming that's true, if there's not a clear**
18 **minority-preferred candidate, then would you agree**
19 **that Gingles Prong 2 is not met as to that election?**

20 A. If you can ascertain with a high degree of
21 certainty that there is not a minority-preferred
22 candidate, then yes.

23 Q. **All right. So let's jump back over to**
24 **No. 5, then, Exhibit 5, and if you can turn with me to**
25 **Page 6. So for purposes of Gingles Prong 2, Dr. Owen,**

1 you've said, questions 4 of the 12 elections she
2 analyzed, is that right?

3 A. Yes.

4 Q. And under Dr. Owen's formulation if
5 Gingles Prong 2 isn't met, then we never get to
6 Gingles Prong 3 in those elections, right?

7 A. Under Dr. Owen's?

8 Q. Under Dr. Owen's description in her
9 report.

10 A. Yes.

11 Q. So the fact that she questioned 4 of 12
12 may be very relevant if there's an additional number
13 that she questioned under Prong 3, right?

14 A. Wait. I'm sorry. Say that again.

15 Q. So what I'm saying is: If you have to
16 cross Prong 2 to get to Prong 3 in a particular
17 election, if there are four elections that have a
18 problem with Prong 2, 4 of 12 may seem like a small
19 number, but if you add to it the problems with
20 Prong 3, that could be a very large number of
21 elections that don't meet both prongs, right?

22 A. Well, if you add to it and can pretty much
23 determine that the minority-preferred candidate in
24 question with a high degree of certainty that number
25 increases, then, yes, if. But that's debatable.

1 Q. All right. So in the first discussion
2 there you talk about 2014 District 3 and the
3 ecological inference and the regression numbers in
4 that race. And you quote there, obviously, referred
5 already to Professor Grofman and the minority-voting
6 share being over 100 or below 0 and how that could
7 lead to overwhelming support. I wanted to ask you
8 about that in light of -- if you flip over to Page 8
9 of that same report, Exhibit 5, you say there in the
10 first paragraph on that page: This contest presents a
11 rare but possible occurrence in statistics where a
12 large standard error yields inconsistent results.
13 Literature suggests that these unlikely occurrences
14 may be due to aggregation bias, sample size, number of
15 precincts involved, et cetera. Nevertheless, they
16 must be viewed with caution.

17 And so what I wanted to ask is: Isn't it
18 also equally as logical that these aggregation bias,
19 sample size, things could lead to these out-of-bounds
20 things and not that there is overwhelming support for
21 the minority candidate?

22 A. Well, it seems to suggest in the research
23 that oftentimes those out-of-bounds reach, those above
24 100 and below 0, have shown overwhelming support by
25 the minority community for the minority candidate or

1 the nonminority community for the nonminority
2 candidate. So they have shown these extremes. And
3 Grofman argues that that high extreme over 100 shows a
4 high correlation between the voting-age population --
5 well, the black voting-age population and the voter
6 preferences. Again, it's an issue.

7 Q. And so I guess what I'm trying to
8 understand is how in that scenario is it evidence of
9 overwhelming support, but then over on Page 8 it can
10 be due to all these other factors that may throw the
11 regression numbers off?

12 A. Because those factors are helping throw it
13 off in some instances. It's a variety of things
14 that's affecting the estimates. They're a variety of
15 things affecting the estimates.

16 Q. So is it correct to say, then, that you
17 can't place much confidence in those estimates when
18 there's all these issues that may be involved?

19 A. Again, I'll state that the fewer number of
20 observations make them less reliable but not
21 unreliable.

22 Q. Does it make them less conclusive?

23 A. I can't answer that. You have to deal --
24 this particular instance, you have to deal with the
25 data as it's presented. They don't have a lot of

1 precincts in Sumter County. There aren't a lot of
2 precincts. And this is the phenomenon. This is the
3 question.

4 **Q. Is there a situation in statistics where**
5 **when you get these very high out-of-bounds things that**
6 **you would then have a reason to reject those results**
7 **as not being valid if they're so far out of bounds?**

8 **A.** It depends on the -- it depends on the
9 research question. If this was polling, then of
10 course you could get these extremes and your data
11 wouldn't necessarily be reliable. But here there may
12 be some other qualitative research methods.
13 Everything is so heavy quantitative. There could be
14 some other qualitative measures. Unfortunately,
15 they're not applied here. But there could be some
16 other factors. So, again, I state also on Page 8 that
17 you don't merely just dismiss them.

18 **Q. That, instead, more research should be**
19 **done?**

20 **A.** Possibly, possibly research or -- again, I
21 don't know the plaintiff's list of other experts or
22 people who can come and talk to you about elections in
23 Sumter County. That would be, of course, anecdotal;
24 but it's all qualitative data which in my opinion is
25 important, although quantitative just seems to be all

1 people want to deal with. I think that you have to
2 talk to individuals. You had a deposition with
3 Reverend Wright yesterday. I think that people from
4 the community can tell you also. They can present a
5 very valid picture of what's going on in Sumter County
6 in terms of elections.

7 **Q. And when you say people only want to deal**
8 **with quantitative, who are you referring to?**

9 A. I mean, a lot of -- mainly a lot of
10 statisticians, a lot of researchers, everything is so
11 heavily quantitative that people tend to not really
12 even consider qualitative research much anymore. I
13 still think it's valid. I understand we use
14 quantitative because it gets you these numbers. But I
15 don't have a problem with using both or at least
16 considering both.

17 **Q. Why do you think so many statisticians are**
18 **so focused on quantitative research only?**

19 A. Because they're numbers people and they're
20 mathematicians. But there's even question about some
21 of the reliance on a lot of these things. So I just
22 think you have to use them. I think you have to
23 consider them both. And that's personal, but that's
24 just my opinion.

25 **Q. Are you aware of any Court that has ever**

1 **considered both in determining compliance with Gingles**
2 **Prong 2 and 3?**

3 A. I'm not aware per se, but I'm sure
4 people -- well, I'm sure experts -- well, witnesses
5 have been called. And I know before the onslaught of
6 King and BERA, you had to rely on people talking about
7 elections and experiences. That's all they had
8 before. And then we come with numbers and everyone
9 just wants to pay attention to numbers, which I
10 understand are important. I run the statistics. I
11 understand they are important. But I think they help
12 present a picture. They may not necessarily explain
13 the entire picture.

14 **Q. Is it accurate to say that you don't think**
15 **you can make a conclusive finding about Gingles**
16 **Prong 2 and 3 in Sumter County without qualitative**
17 **research?**

18 A. I'm not saying that. I'm certainly not
19 saying that. What I'm saying is: When you have these
20 results that we can't come to a consensus about, when
21 you have these things that we can't come to a
22 consensus about, it certainly does not hurt to use
23 other measures to come to some sort of conclusion or
24 understanding. I mean, it's all about trying to
25 understand phenomenon.

1 Q. And since we're dealing with estimates,
2 we're dealing with reliability, do you see your
3 estimates as being reliable on their face or
4 unreliable if they're getting all these out-of-bounds
5 numbers?

6 A. Given the number of observations we have,
7 I stand by what I ran. So do I think that they are
8 reliable, yes, I think they're reliable. Are there
9 problems when you get these out of bounds, well,
10 regression gives you that. There's no question. It's
11 going to give you that. And I think with the King,
12 I'm pretty much sure when you calculate the standard
13 errors and all, it gives you those bounds within that,
14 but -- I'm sorry. I forgot your question.

15 Q. That's fine. I'm asking about how
16 reliable you consider it. When we have the standard
17 error, we have these out-of-bounds numbers, all of
18 these things put together, do you consider what you
19 ran -- I'm sorry. Take that back. Let me strike that
20 and start over.

21 We're dealing with estimates in this
22 scenario. So when we're dealing with estimates and we
23 have King numbers that are beyond 100, below 0, when
24 we have regression numbers that are out of bounds,
25 does that mean those estimates are reliable or not

1 **reliable? I mean, the Court has to make a**
2 **determination of whether it's going to rely on the**
3 **statistics you ran.**

4 A. Right. And I can't -- I mean, of course,
5 I can't speak for the Court. What I can say is and
6 what I am saying is that given the number of
7 observations, they appear to be less reliable than if
8 we had a Section 2 case and there were 30 precincts in
9 Sumter County and we ran the analysis and, who knows,
10 you could possibly still get extremes, but -- it may
11 be less likely, but I know you can still get them. I
12 know you can still get them. It just depends.

13 **Q. Are they less reliable than they would be**
14 **if you had the actual voter turnout by race by**
15 **precinct?**

16 A. That I don't know, because even if you had
17 the turnout by race and voter precinct and you
18 aggregate it to precincts, who's to say you're going
19 to get better than 50 percent rate in terms of
20 matching the addresses. And then what do you do? You
21 can't disregard it. You're going to end up right back
22 with the voting-age population.

23 **Q. Well, what I was asking was specifically**
24 **if you had the voter turnout by race by precinct where**
25 **you already knew the precincts, you didn't have to do**

1 **any geocoding, would that make it more reliable?**

2 A. It doesn't change the number of precincts.
3 You will probably -- we would probably be having this
4 very same conversation because it doesn't change the
5 number of observances. It still doesn't change that.

6 Q. **So your testimony is that it would not be**
7 **any more reliable to have voter turnout by race by**
8 **precinct?**

9 A. My testimony is I don't know. I don't
10 know.

11 Q. **On Page 7 of your response to Dr. Owen,**
12 **you talk about the 2014 BOE District 2. This is the**
13 **race where Ms. Pride received 50.5 percent of the**
14 **vote.**

15 A. Yes.

16 Q. **Isn't it accurate to say that if she**
17 **received 50.5 percent of the vote that she was also**
18 **rejected by 49.5 of the black community?**

19 A. I'm trying to remember if there's another
20 minority candidate in that race. And that's 2014.

21 Q. **Page 43. I don't believe your report**
22 **indicates there was another minority candidate.**

23 A. So if this person receives 50.5 and if we
24 are back to what a majority is, that's a majority.
25 That's a majority. So if she was rejected by 49.5,

1 then that's going to bring that question again about
2 what is the minority-preferred candidate if they get
3 40 or 45. Well, if this person got 50.5, we're right
4 back at that same question.

5 Q. And aren't there scenarios where you
6 determine someone was the minority-preferred candidate
7 when they got in the 40's on the King number?

8 A. And I think that's -- in most of those, if
9 I remember correctly, that's where there was also
10 another minority-preferred candidate. And I said that
11 the -- when you add the two as Grofman suggests, why
12 don't you add the two and show the minority support
13 for those candidates. The minority-preferred
14 candidates, those two candidates, when you add their
15 estimates together overwhelmingly show that the
16 minority support it, these particular candidates. So
17 I bring that into question.

18 Q. At the end of that paragraph, you say:
19 "Nevertheless, black candidate Sarah Pride lost the
20 election." I believe you described that kind of
21 aggregation process there.

22 Isn't it true that her losing the election
23 is irrelevant if her minority support number was below
24 50 percent in that race?

25 A. I'm sorry?

1 Q. So you say in the last sentence,
2 "Nevertheless, black candidate Sarah Pride lost the
3 election," Board of Education District 2. If
4 Ms. Pride received less than 50 percent support from
5 the minority community and there was no other minority
6 in that race, isn't it irrelevant that she lost the
7 election if she was under 50 percent support?

8 A. I can't say that it's irrelevant because
9 one of the questions asked is are minorities winning.
10 And I understand that the estimate is that it may be
11 50 percent. But I guess I weighed heavier are
12 minorities winning there, because if minorities were
13 winning in Sumter County, again, we wouldn't be here.

14 Q. Let me ask my question a different way,
15 then. For purposes of Gingles Prong 3, wouldn't it be
16 irrelevant if Ms. Pride lost the election if she
17 received less than 50 percent minority support?

18 A. If we can determine that she was not the
19 minority-preferred candidate of choice.

20 Q. And it's your testimony that in a race
21 where there's a black candidate, only one black
22 candidate, and other white candidates, if the black
23 candidate received less than 50 percent of the
24 minority vote support, could that individual still be
25 the candidate of choice?

1 A. I think as Grofman asserts, you can't rely
2 on just the candidate-specific analysis. I think it
3 requires additional qualitative information maybe from
4 the community, maybe from the voters in the community,
5 other qualitative information.

6 Q. But you don't have any of that qualitative
7 information?

8 A. I do not.

9 Q. So for purposes of your report, you would
10 have marked that as the black-preferred candidate not
11 being defeated, right, but there was no
12 black-preferred candidate?

13 A. I can't remember how -- I don't --

14 Q. I'm asking you to assume that she got less
15 than 50 percent of minority support in the Board of
16 Education District 2 race. Wouldn't you then have
17 marked that race as a race where there was no
18 black-preferred candidate?

19 A. But to what degree of less than 50,
20 because I have to find it here.

21 Q. I'm sorry, there's so many papers.

22 MR. McDONALD: Let me find it for you,
23 Dr. McBride.

24 MR. TYSON: It's Page 43, Laughlin, of the
25 report.

1 THE WITNESS: Page 43?

2 MR. McDONALD: Here it is.

3 THE WITNESS: Okay. But here we're
4 talking about Sarah Pride, correct?

5 Q. (By Mr. Tyson) Correct.

6 A. And here I indicate 50.5.

7 Q. Right.

8 A. And, I'm sorry, your question again?

9 Q. So my question is: At the end of your
10 discussion about this, you mention that she lost the
11 election. My question is: If this 50.5 number was
12 less than 50 percent, wouldn't you have not indicated
13 she was the black-preferred candidate?

14 A. Not 50 meaning what number?

15 Q. Any number below 50, if it was 49, if it
16 was 40, because you don't have the qualitative
17 research that you said you needed if it was some other
18 range, right?

19 A. Right. I don't have the qualitative
20 information. But I may not indicate. It just could
21 be a situation where I can't determine. I can't
22 determine. I mean, I don't -- what do you do if it
23 was 44.4 -- I mean, excuse me, 49.4? I don't know.
24 And so maybe in some instances I can't really
25 determine based on the relevant factors based on the

1 data that I have.

2 Q. And when you say can't really determine,
3 you mean can't really determine if she was the
4 minority community preferred candidate?

5 A. I can't determine that she was not. And
6 that's the same thing. I know it's the inverse of
7 what you said. It may not be enough because there are
8 some instances where you get a candidate with 48. I
9 think it's here, 48 or 49. And to say so close to
10 50 -- in some literature I've seen an argument over
11 49. And I think the Courts have agreed upon that you
12 can't really base an assumption of not being a
13 minority-preferred candidate by that one percentage
14 point. So I don't know if -- I don't know if there's
15 necessarily a bright-line rule about absolute 50 or
16 50.5. I don't know.

17 Q. And earlier when we discussed that issue,
18 I believe what you said was if there were two minority
19 candidates in a race and they both received some
20 40 percent support that you would be willing to
21 aggregate both of them to say there's support in the
22 minority community for minority candidates?

23 A. For minority candidates.

24 Q. But in this scenario, there's only two
25 other white candidates. So if Ms. Pride, for example,

1 received, let's say, 49.5 percent of the black vote,
2 doesn't that mean that she was rejected by
3 51.5 percent of the black community?

4 A. If she received 50. -- I'm sorry?

5 Q. 49.5 percent. Doesn't that mean she was
6 rejected by a majority of the black community?

7 A. Rejected?

8 Q. Didn't they vote for other candidates?

9 A. Yeah. But when you said -- if you look at
10 it, if you quantify it as such, likely -- I know this
11 is hypothetical. If you quantify it as such, likely.
12 But then you also -- see, I don't ignore the fact that
13 when I look at the nonblack voters voting for a
14 candidate, there's a high percentage for Meda Krenson.
15 And so if we're going to quantify at 49 or 51, then if
16 you want to say the term rejection, okay, yes.

17 Q. And I'm just asking you as the expert --

18 A. Right.

19 Q. -- because you're saying if there's two
20 black candidates in a race and they're both in the
21 40s, you would be willing to say one or both of them
22 is the candidate of choice; but if there's only one
23 black candidate, are you drawing a line at 50 percent
24 or are you drawing a line at 49? Where you drawing
25 the line if there's only one?

1 A. I can't really say. I cannot really say.
2 And then when you look at the King, which I have to do
3 during the break, when you add the estimates, it's
4 going to show you over or below. So I can't really
5 say because this -- these numbers here are estimates.

6 But I failed to put the standard errors in
7 there which, again, we've already determined I need to
8 calculate. But then there's also going to be that
9 error -- there's going to be standard error there as
10 well because they're estimates. And we're dealing
11 with this whole world of mean and variances and all of
12 this.

13 So if we're going to quantify right now at
14 49 or 51 and you want to say that, then, yes, yes.
15 Then, the majority would reject that candidate in that
16 hypothetical.

17 Q. Okay. So on Page 9 of your response to
18 Dr. Owen, you discussed the 2002 Board of Education
19 District 3 contest, and it's identified with "deemed
20 not racially polarized as there are significant
21 estimates of minority share of votes for both black
22 candidates and the one white candidate." So my
23 question about that is: If the race wasn't polarized,
24 how did you determine the black-preferred candidate?

25 A. That's 2002 Board of Education?

1 **Q. That's Page 52 of your report.**

2 A. I based it on the percentage of regression
3 although her percentage of King is problematic, which
4 I'm thinking there's a higher standard error there.
5 It's 46. I don't know what the standard error is
6 there. It's not necessarily 50. -- it's not
7 necessarily over 50. But I just deemed that person
8 being the black minority-preferred candidate because
9 of the higher percentage of variable. But, again,
10 that goes back to what I was saying earlier about
11 there being two minority candidates in the same race.
12 I know there's no standard for that, but I just -- I
13 just consider it.

14 **Q. And I understand. My question**
15 **specifically is: If the race isn't polarized, if**
16 **there's no racial polarization, then how can there be**
17 **cohesion in the minority group under Prong 2?**

18 A. Because I think if I were to use Grofman's
19 analysis in adding the estimates for both black
20 candidates, it shows, again, he questions can you not
21 have cohesion if they're both minority-preferred
22 candidates and they're both minority. That's a
23 question that he raises.

24 **Q. And so it's a question he raises, but it's**
25 **your testimony that it is your opinion that there is**

1 cohesion if you have two minority-preferred candidates
2 and the total is over 50 percent of the minority vote
3 share?

4 A. I think there's a good indication that it
5 could be. Again, I go to other qualitative data,
6 which I know is not included here. But I think that's
7 something that you can consider in addition to the
8 estimates.

9 Q. And what I'm asking about specifically is
10 your report.

11 A. I understand.

12 Q. And you're the expert here, not Grofman.

13 A. I understand.

14 Q. So that's why I'm asking specifically is
15 is it your opinion that in the scenario where there
16 are two minority-preferred candidates and the total
17 minority vote share for those two candidates is over
18 50 percent, there is cohesion in the minority
19 community?

20 A. I think it's likely that could be. I
21 can't say definite. But I'll stand by that, yes.

22 Q. Okay. So your testimony about this race
23 particularly is there might be cohesion, you think
24 there is, but you're not sure?

25 A. I indicated that the black-preferred

1 candidate was Carolyn B. Seay at 46.5, 47. And if
2 voters are cohesive, I think 46, 47, given the range
3 of estimates and standard errors, I think so.

4 Q. So it's your testimony that in this race
5 in 2002 District 3, the minority community is
6 cohesive?

7 A. I would stand by that, yes.

8 Q. Okay. Even though the race is not
9 polarized?

10 A. I think minority voters can vote -- I
11 think under Thornburg, there's significant -- and
12 significant isn't defined, I don't recall, but
13 significant share of minority support. I think 46
14 under BERA is significant. It's different from King.
15 But 46.5, say 47, I think it's a significant share.
16 It's not a majority share. But the Court says
17 significant.

18 Q. And I understand that you're saying that
19 as to cohesion. I'm asking now about polarization.
20 So you said the race is not polarized, but you found
21 there was cohesion. So how is there cohesion but no
22 polarization?

23 A. Because minority voters, I think, are -- I
24 think minority voters are voting for the same
25 candidate; but I think my question here -- well, not

1 my question, but my determination here is some of the
2 issues with the estimate. Again, it's less reliable,
3 although it's not unreliable.

4 Q. This may just be me not understanding, but
5 you say there are issues with the estimate. So that
6 means the issues with the estimate show cohesion and
7 no polarization or don't properly show polarization
8 that's there?

9 A. Well, I indicated there's no -- that's
10 probably a better way. Polarization that's not there
11 but is the contest polarized, I indicated no, the
12 contest isn't polarized. So I think voters may be
13 cohesive. If I use -- and, again, I understand this
14 is me, not Grofman. But if I used his assertion, then
15 I'm indicating that those two candidates, that's
16 happening in this race.

17 Q. I don't want to beat a dead horse. I just
18 want to make sure I understand.

19 So are you saying that this race is
20 polarized; the statistics just don't show it?

21 A. I'm not saying that because I indicated
22 it's not polarized.

23 Q. Okay. So it's not polarized. We've got
24 that.

25 A. I understand it is not polarized.

1 Q. It's not polarized, but there is
2 sufficient cohesion to determine a minority-preferred
3 candidate, is that accurate?

4 A. I think it's possible. I think it's
5 possible.

6 Q. Is it your opinion here?

7 A. That it's polarized -- I'm sorry. That
8 there's cohesion?

9 Q. My question is: Is it your expert opinion
10 as to the 2002 District 3 election that the race is
11 not polarized but that there is sufficient cohesion in
12 the minority community to determine a
13 minority-preferred candidate of choice?

14 A. I'm sorry. Can you say that again?

15 Q. Sure. So my question is: For your expert
16 opinion as to 2002 Board of Education District 3, it's
17 your opinion, isn't it, that the race is not polarized
18 but that there is sufficient cohesion in the minority
19 community to coalesce around a candidate of choice?

20 A. The race is not polarized, but there is
21 sufficient cohesion. I think I need to look at the
22 standard errors. But I would probably argue that
23 there is some level of cohesion significant. But I
24 think there's some level of cohesion, even under
25 50 percent.

1 Q. Well, we can revisit, then, after you look
2 at the standard errors. That's fine.

3 A. Okay.

4 Q. Okay. So on the bottom of Page 9 of your
5 response to Dr. Owen, you discuss the discussion of
6 Gingles Prong 3, which maybe we're going to have a
7 little more clarity on than Prong 2. And you state
8 "Dr. Owen asserts that in six elections the
9 minority-preferred candidate succeeds." And I believe
10 earlier what we've determined is you agree that in
11 five elections the minority-preferred candidate
12 succeeds, right?

13 A. Yes, because I think Dr. Owen included the
14 race that ended in a runoff.

15 Q. And you would agree with me, wouldn't you,
16 that if the race that had to go to a runoff is
17 properly included in the analysis as a stand-alone
18 election that Dr. Owen's number would be correct, is
19 that right?

20 A. The six?

21 Q. Yes.

22 A. I'm sorry. You have to repeat that
23 question again.

24 Q. Sure. You would agree with me, wouldn't
25 you, that if the race that had to go to a runoff was

1 properly included as a stand-alone election in a
2 Gingles Prong 3 analysis that Dr. Owen's number of six
3 elections where the minority-preferred candidate
4 succeeds is correct?

5 A. I can't say that because if the candidate
6 in that race won the race, then that's a win. He had
7 more votes. But can I -- we're back to the argument
8 again. Can I declare him a winner, I cannot and I did
9 not.

10 Q. That's why I asked. If it was looked at
11 as a stand-alone election to be included where you
12 just look at who got first across the finish line and
13 it was included in the 12 elections, would you agree
14 with Dr. Owen's number six?

15 A. If I found that valid, then yes.

16 Q. So if the social science literature
17 supported that, you would agree with Dr. Owen?

18 A. I wouldn't have a choice. Well, you did
19 say social science. No, I mean, I may still have
20 problems with it. I think agreeing with social
21 science literature is a little bit different than
22 agreeing with a court. So I still would find that --
23 I would -- if that was the case in social science
24 literature, I would still have a problem because he
25 didn't win. If he won, there would be no runoff.

1 Q. Let's go to Page 11 on that front. You
2 say on the first bullet about the at-large two-year
3 election that Michael Coley cannot be designated the
4 winner because the race becomes a runoff, which we've
5 discussed at length here?

6 A. Yes.

7 Q. And my only question on this particular
8 point is: Why, then, did you include him as a race
9 where the black-preferred candidate was not defeated
10 in your original report?

11 A. Why did I include? Because he didn't win
12 or he didn't lose. So I can't say he was defeated.
13 He ended up in a runoff.

14 Q. If you can't determine who succeeded in a
15 an election, would that be a valid basis for excluding
16 that election from your analysis?

17 A. Well, I'm just not a fan of throwing out
18 an election. So I put it in there; and then we look
19 to see, well, what happens in the runoff. And so I
20 left it in there because, obviously, it's going to go
21 back to a question. It's a little bit different than
22 a primary, though.

23 Q. If you will, turn with me to Page 13 of
24 your response. I want to ask you about kind of the
25 absence of the term "special circumstances" in your

1 conclusion of this.

2 A. I'm sorry. That's on Page 13?

3 Q. Page 13, yes. Let me ask you one more
4 question about our favorite race, the two-year
5 at-large seat.

6 A. Okay.

7 Q. Even if it's not a win, do you think you
8 could categorize it as an electoral success by the
9 candidate? I mean, you made it to the next round?

10 A. If it were a primary, maybe; but a general
11 election, I just can't make that -- I just can't
12 assert that. I can't make that claim because here he
13 didn't win, he didn't lose. So it's sort of like a
14 draw, but it's not a draw. It's not like you can both
15 win. If both of them could have won the seat, it
16 would be different. So it's not a win, it's not a
17 lose, but it's not something I'm going to exclude.

18 Q. But it's not electoral success?

19 A. No, no. I don't think that it's electoral
20 success. I don't.

21 Q. All right. So in the first paragraph of
22 your conclusion on Page 13 near the end there, you
23 say: "Further, in all but one election the successful
24 minority-preferred candidate only won in districts
25 where there were no White majorities." Does that

1 **matter for the Prong 3?**

2 A. If a candidate -- I'm sorry?

3 **Q. So in the next-to-the-last sentence of**
4 **Paragraph 1 of your conclusion, you say: "In all but**
5 **one election, the successful minority-preferred**
6 **candidates only won in districts where there were no**
7 **white majorities." And my question is: Does it**
8 **matter for Prong 3 where the minority-preferred**
9 **candidates had success?**

10 A. I think that in terms of -- I think in
11 terms of that, of course, you have to look at
12 polarization. Polarized voting, that's Prong 3. But
13 I indicate that specifically because the rate of
14 success has been in the districts that were majority.
15 Does it matter? I think in the whole scheme of
16 things, it does. But is it the basis for it, I don't
17 know. But I think it matters, yes.

18 **Q. Do you think it's critical for a Prong 3**
19 **analysis? Is it a required element of determining**
20 **whether the minority community's candidate is usually**
21 **defeated? Where the defeat happened, I guess that's**
22 **what I'm asking, in essence.**

23 A. I don't think -- I don't think that's been
24 specified, and I don't think that's specified in
25 Gingles. But I looked at it because -- I'm sorry.

1 **Q. Go ahead.**

2 A. Go ahead. Well, no, because if I
3 remember, I'm thinking the third prong says where the
4 nonminority vote as a -- where they're majority? I'm
5 not sure. I'd have to look it up.

6 **Q. It's where the white voters vote as a bloc**
7 **to usually defeat the candidate preferred by the**
8 **minority community.**

9 A. Okay.

10 **Q. I think we tend to refer to it in**
11 **shorthand as polarization.**

12 A. Okay. But I'm thinking it's -- for some
13 reason I see the word where nonminorities are
14 majority. I could just be tired. I don't know.

15 **Q. That's fine. Do you want to take a break**
16 **for a minute?**

17 A. No.

18 MR. McDONALD: No, let's try to finish.

19 THE WITNESS: I want to keep going.

20 MR. McDONALD: We're getting very
21 repetitive, by the way.

22 MR. TYSON: We're getting close. We
23 really are. I know we need some time for you to
24 run your standard errors, so we can do that.

25 **Q. (By Mr. Tyson) All right. So in your**

1 conclusion, let's see, third paragraph, you mention
2 that there were two districts where black and
3 minority-preferred candidates won in districts that
4 were just under majority black voting-age population?

5 A. Yes.

6 Q. And you say that 48.4 percent and
7 49.5 percent black voting populations, there's still
8 no clear white majority in those districts. And I
9 guess I was confused by that last sentence. If 50.5
10 percent black is a clear majority, why isn't
11 51.6 percent white?

12 A. I think maybe "clear" is just synonymous
13 with a perhaps overwhelming. I think it's showing
14 that 48.4 and 49.5 are pretty close to almost 50/50.
15 They're rarely close. So I just make that -- I mean,
16 I just make that distinction there.

17 Q. Is that an evidence of cross-racial
18 coalitions in Sumter County?

19 A. I'm sorry?

20 Q. Is the success of the black candidates in
21 districts that are not majority black evidence of
22 cross-racial coalitions?

23 A. I mean, it could be. I would have to go
24 back and look. I could go back and look. But a lot
25 of these based on the estimates that we have show

1 strong support by nonminorities for the white
2 candidates, not in every race, but in a lot of them.

3 Q. I think I'm at a stopping point. So if
4 you want to go ahead and take some time to run your --
5 how long do you think you would need to run those
6 standard errors?

7 A. Well, I can't run them. I'm just going to
8 state them or --

9 Q. Oh, yes, state them or just write them
10 down or something like that.

11 A. Do you want this for every race or can I
12 just do a small sample?

13 Q. Let's see. We can just do a few of them.
14 Let me write them down for you. That's just four.
15 Hopefully that will be reasonable enough. I think
16 that's the ones that we identified that had the out of
17 bounds on the King numbers.

18 A. Okay.

19 (Recess from 1:27 p.m. to 1:52 p.m.)

20 Q. (By Mr. Tyson) Dr. McBride, while we were
21 on our break, I believe you were calculating the
22 standard errors for four elections out of the group,
23 is that correct?

24 A. Yes.

25 / / /

1 (Defendant's Exhibit 7 was marked for
2 identification.)

3 Q. (By Mr. Tyson) And so what I want to do
4 is hand you what we've marked as Defendant's
5 Exhibit 7. Do you recognize that document?

6 A. Yes, I do.

7 Q. And what is this document?

8 A. That's the King estimates for May 20,
9 2014, Board of Election District 2.

10 Q. And are there other pages attached to this
11 document? What are the pages? Are they all King
12 estimates?

13 A. They're all King estimates.

14 Q. Okay. And so can you tell me for the
15 standard error that you've been calculating where on
16 these numbers that comes from?

17 A. Okay. The first page is turnout. So if
18 you turn to the second page, it's labeled Page 1.
19 Turnout is the under BETAB and BETA -- not turnout.
20 I'm sorry. For Byrd for each candidate, the very last
21 estimate under BETAB and BETAW, the first is the
22 estimate. Below is that standard error.

23 Q. Okay. So let me just make sure I
24 understand. So on that page that's titled "BOE No. 2
25 RPV Byrd," the section that says "Estimates of

1 Aggregate Quantities of Interest," there's BETAB and
2 BETAW?

3 A. Yes.

4 Q. BETAB, the first number, which is 0.2513,
5 is the black voter support?

6 A. Yes. That's the fraction of black
7 support, yes.

8 Q. And the number under it is the standard
9 error?

10 A. Yes, it is.

11 Q. And then similarly for "W," that BETAW is
12 the white support?

13 A. Or nonminority, yes.

14 Q. Or nonminority. And then under it is the
15 standard error?

16 A. Yes.

17 Q. And is that true for all the outputs that
18 you have?

19 A. That's for all the outputs.

20 Q. All right. So let's walk through the
21 elections, then --

22 A. Okay.

23 Q. -- and work through those. So for the
24 first section, which is 2014 BOE District 2, can you
25 tell the standard errors?

1 A. Okay. I didn't list the candidates, but
2 they're in order the way they're listed on here. So
3 for 2014 BOE No. 2 -- first, let me make a correction.
4 For 18 on the report, that should be 13.4. That's an
5 error. It's listed as -- I think it's listed as 18 on
6 the expert report.

7 **Q. I'm sorry.**

8 A. 2014 BOE No. 2, I think that was your
9 first one.

10 **Q. And where is number 18? I'm sorry.**

11 A. That's the support for the second
12 candidate in BOE No. 2.

13 **Q. Ms. Krenson?**

14 A. Yes.

15 **Q. It indicates that it's 8 percent on that**
16 **report.**

17 A. I said 18. I'm sorry, 8. That should be
18 13.4.

19 **Q. Okay.**

20 A. So now you want to go through the standard
21 errors?

22 **Q. Yes.**

23 A. Okay. Where it indicates -- I'm doing
24 percentages. Where it indicates 25.1 or 0.2513, that
25 standard error is 0.05 or 5.

1 **Q. Okay.**

2 A. I'm going to go down the minority side
3 first, then the nonminority side, okay. Then 13.4,
4 that's 0.08. And then 50.5 -- I think that's 0.5 -- I
5 rounded off 0.04.

6 Now, on the nonminority side, 30.2 the
7 error is 0.02. 60.2 is 0.03. And then the last one,
8 13 is 0.01.

9 **Q. Okay. And then for the 2014 BOE**
10 **District 3?**

11 A. There are two candidates, the first
12 indicating 56.3, that's 0.20, and then 52.1 is 0.05.
13 Then on the nonminority side, 26.8 is 0.03 and 71.8 is
14 0.01.

15 **Q. And for 2006 BOE District 3?**

16 A. Okay. 93.4 has a standard error of 0.07;
17 the 0.5, 0.00; and 43.6, 0.29.

18 **Q. Okay.**

19 A. On the nonminority side, 32.2, 0.00; 57.7,
20 0.00; and 8.8, I think that's 0.01.

21 **Q. And then 2002 Board of Education**
22 **District 3?**

23 A. Okay. 35.4, standard error of 0.01; 41.0,
24 0.00; and 24.3, 0.00. The nonminority side, I don't
25 have it in front of me, but I think that's 49.4,

1 that's 0.05; and 43.7, 0.00; and 0.5, 0.00.

2 Q. Dr. McBride, when a standard error number
3 is low, does that mean there's more confidence in the
4 number, in the estimate?

5 A. Yes, more confidence.

6 Q. And when the number is higher, that means
7 there's less confidence in the estimate?

8 A. Yes.

9 Q. And from a standard error number, you can
10 calculate a competence interval, can't you?

11 A. Yes.

12 Q. And would you disagree -- Dr. Owen has
13 been doing some calculations over here. Would you
14 disagree about the competence interval on the Board of
15 Education District 2 election about for Sarah Pride
16 that 50.5 number had a standard error of 0.352 and
17 Dr. Owen has calculated the competence interval to be
18 between 43.6 and 57.4?

19 A. Okay. I'm going to the four you listed.
20 Did you name a different one?

21 Q. I'm sorry. No. This is Board of
22 Education District 2. What did I say, 0.0352, the
23 Pride race, Board of Education District 2.

24 A. 2014 Board of Education District 2?

25 Q. Yes.

1 A. Okay. I just have my figures here.

2 Q. Okay. So then the 50.5 number that
3 Ms. Pride received, that's one we spent a little bit
4 of time talking about earlier?

5 A. Yes.

6 Q. Dr. Owen calculated the competence
7 interval as being between 43.6 and 57.4. Does that
8 sound about right to you with a standard error of
9 0.0352?

10 A. I mean, I didn't calculate that; but I'll
11 accept that.

12 Q. And if that's the case, that means that
13 the number for Ms. Pride's support could be as low as
14 43.6 percent under the estimator, correct?

15 A. Under that estimator, yes.

16 Q. And, Dr. McBride, I know we talked about a
17 variety of different ways to calculate minority voting
18 percentages or strengths, King, BERA, and other
19 methods. Of those three methods that you considered
20 in your report, which one is the most reliable method?

21 A. I think even according to the courts, I
22 think King is most the reliable.

23 Q. Then for our races where we had the
24 out-of-bounds numbers that were over 1 00 or under,
25 you said that you believe that could be resolved from

1 the standard error? That may be a high standard
2 error?

3 A. Which one?

4 Q. So I wanted to ask specifically about 2006
5 Board of Education No. 3. It's Page 51.

6 A. Okay.

7 Q. This is the one where you had 136 percent
8 support in the black community.

9 A. Okay.

10 Q. With the standard errors that are in
11 there, do you believe that -- I mean, does that
12 account for that out-of-range kind of information?

13 A. Well, when you add the standard errors,
14 okay, the total -- are we talking the about -- we're
15 talking about Harris, Minich, and Seay?

16 Q. Yes, in 2006.

17 A. Okay. Board of Education, that came up to
18 like 137.5. But when you add the standard errors for
19 all of those candidates, the standard error is 37.

20 Q. And so what does that tell you as a
21 statistician about the King estimates in this case?

22 A. Well, it's still bounding these estimates
23 between 0 and 1. But those individual estimates are
24 against each candidate, not the overall picture. So
25 it's against each candidate. That's why we -- well,

1 we went through the specific estimates for each
2 candidate. So it's telling me that, well, that 29 is
3 a high -- I mean, that's a high standard. That's a
4 high estimate, that is. But when you add it against
5 the total for King, you're still within the bounds.

6 Q. Just so I understand, so being within the
7 bounds is 100 plus the standard error?

8 A. Well, no. The standard error can be plus
9 or minus.

10 Q. Okay. I guess I just want to make sure I
11 understand. So we have a King number that totals to
12 136 and then we have a standard error that totals to
13 36?

14 A. When I add all of those, the standard
15 errors for each one. But for each individual
16 candidate, like the 93.4 has a standard error of 0.7.
17 I don't know, I mean, is that 100 or is that 86?

18 Q. So when you said earlier that a King
19 number doesn't usually return a number beyond 100 --

20 A. I'm sorry.

21 Q. Well, maybe you can explain it. I'm still
22 a little confused.

23 A. I mean, you were adding all of the King;
24 and I'm looking at King individually. So individually
25 under regression, you can get below 0 and above 100.

1 Individually under King, none of these estimates are
2 giving you a negative or above 100. None of them are.

3 **Q. So each individual King number should be**
4 **looked at in isolation, not in combination with other**
5 **King numbers?**

6 A. I mean, I'm not sure about that; but I
7 looked at them in isolation, each one, because BERA
8 gives you these out of ranges. King doesn't give you
9 an out of range. It doesn't give you that. So I look
10 at them individually. And in many instances,
11 sometimes they're similar. They're are broad ranges
12 here. Again, we talked extensively about the number
13 of observations and the issues there.

14 MR. TYSON: Okay. That's all I have.

15 MR. McDONALD: Thank you very much.

16 (Deposition concluded at 2:06 p.m.)

17 (Pursuant to Rule 30(e) of the Federal
18 Rules of Civil Procedure and/or O.C.G.A. 9-11-30(e),
19 signature of the witness has been reserved.)

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1 CERTIFICATE OF COURT REPORTER

2

3 STATE OF GEORGIA:

4 COUNTY OF FULTON:

5

6 I hereby certify that the foregoing
7 transcript was reported as stated in the caption and
8 the questions and answers thereto were reduced to
9 writing by me; that the foregoing 178 pages represent
10 a true, correct, and complete transcript of the
11 evidence given on Friday, November 14, 2014, by the
12 witness, Frederick Glenn McBride, who was first duly
13 sworn by me.

10

11 I certify that I am not disqualified
12 for a relationship of interest under
13 O.C.G.A. 9-11-28(c); I am a Georgia Certified Court
14 Reporter here as an independent contractor of
15 JPA Reporting, LLC who was contacted by
16 Bryan P. Tyson, Esq. to provide court reporting
17 services for the proceedings; I will not be taking
18 these proceedings under any contract that is
19 prohibited by O.C.G.A. 15-14-37(a) and (b) or
20 Article 7.C. of the Rules and Regulations of the
21 Board; and by the attached disclosure form I confirm
22 that neither I nor JPA Reporting, LLC are a party to a
23 contract prohibited by O.C.G.A. 15-14-37(a) and (b) or
24 Article 7.C. of the Rules and Regulations of the
25 Board.

18

This 21st day of December, 2014.

19

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25

LINDA C. RUGGERI
CERTIFIED COURT REPORTER
GEORGIA CERTIFICATE NO. CCR-A-261

1 DISCLOSURE OF NO CONTRACT

2

3 I, Lynn Pyles, do hereby disclose pursuant
4 to Article 10.B of the Rules and Regulations of the
5 Board of Court Reporting of the Judicial Council of
6 Georgia that JPA Reporting, LLC was contacted by the
7 party taking the proceedings to provide court
reporting services for these proceedings and there is
no contract that is prohibited by O.C.G.A. 15-14-37(a)
and (b) or Article 7.C. of the Rules and Regulations
of the Board for the taking of these proceedings.

8 There is no contract to provide reporting
9 services between JPA Reporting, LLC or any person with
10 whom JPA Reporting, LLC has a principal and agency
11 relationship nor any attorney at law in this action,
12 party to this action, party having a financial interest
13 in this action, or agent for an attorney at law in
this action, party to this action, or party having a
financial interest in this action. Any and all
financial arrangements beyond our usual and customary
rates have been disclosed and offered to all parties.

13

14 This 21st day of December, 2014.

14

15

16 _____
LYNN PYLES, FIRM REPRESENTATIVE
JPA REPORTING, LLC

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